

OGDEN VALLEY PLANNING COMMISSION

MEETING AGENDA

February 27, 2024

Pre-meeting 4:30/Regular Meeting 5:00



- *Pledge of Allegiance*
- *Roll Call:*

1 Minutes: 11-14-2023, 12-19-2023, 1-11-2024

2. Rules of Order

Petitions, Applications, and Public Hearings:

2. Consent Items:

2.1 CUP 2023-16: Request for approval of a conditional use permit for Reuse Pump Station located at 4350 N 4450 E. Eden, UT 84310. **Presenter, Marta Borchert**

Petitions, Applications, and Public Hearings:

3. Administrative Items:

3.1 CUP 2022-14 – Request for approval of a conditional use permit for seven recreation lodges located in the F-5 zone, at approximately 10909 E Hwy 39, Huntsville, UT. **Planner: Tammy Aydelotte**

Petitions, Applications, and Public Hearings:

4. Legislative Items:

4.1 ZDA2022-02: Consideration of an applicant driven request to amend the development agreement between Weber County and CW The Basin to acknowledge transferrable development rights. **Staff: Charlie Ewert. Applicant: CW Land. Applicant's Agent: Chase Freebairn**

5. Public Comment for Items not on the Agenda:

6. Remarks from Planning Commissioners:

7. Planning Director Report:

8. Remarks from Legal Counsel

9. Vote on Chair and Vice Chair for 2024

Adjourn

The regular meeting will be held in person at the Weber County Commission Chambers, in the Weber Center, 1st Floor, 2380 Washington Blvd., Ogden, Utah.

& Via Zoom Video Conference <https://webercountyutah.zoom.us/j/86146520884> Meeting ID: 861 4652 0884

A Pre-Meeting will be held at 4:30 p.m. The agenda for the pre-meeting consists of discussion of the same items listed above, on the agenda for the meeting. No decisions are made in the pre-meeting, but it is an open public meeting.

In compliance with the Americans with Disabilities Act, persons needing auxiliary services for these meetings should call the Weber County Planning Commission at 801-399-8761

Meeting Procedures

Outline of Meeting Procedures:

- ❖ The Chair will call the meeting to order, read the opening meeting statement, and then introduce the item.
- ❖ The typical order is for consent items, old business, and then any new business.
- ❖ Please respect the right of other participants to see, hear, and fully participate in the proceedings. In this regard, anyone who becomes disruptive, or refuses to follow the outlined procedures, is subject to removal from the meeting.

Role of Staff:

- ❖ Staff will review the staff report, address the approval criteria, and give a recommendation on the application.
- ❖ The Staff recommendation is based on conformance to the general plan and meeting the ordinance approval criteria.

Role of the Applicant:

- ❖ The applicant will outline the nature of the request and present supporting evidence.
- ❖ The applicant will address any questions the Planning Commission may have.

Role of the Planning Commission:

- ❖ To judge applications based upon the ordinance criteria, not emotions.
- ❖ The Planning Commission's decision is based upon making findings consistent with the ordinance criteria.

Public Comment:

- ❖ The meeting will then be open for either public hearing or comment. Persons in support of and in opposition to the application or item for discussion will provide input and comments.
- ❖ The commission may impose time limits for comment to facilitate the business of the Planning Commission.

Planning Commission Action:

- ❖ The Chair will then close the agenda item from any further public comments. Staff is asked if they have further comments or recommendations.
- ❖ A Planning Commissioner makes a motion and second, then the Planning Commission deliberates the issue. The Planning Commission may ask questions for further clarification.
- ❖ The Chair then calls for a vote and announces the decision.

Commenting at Public Meetings and Public Hearings

Address the Decision Makers:

- ❖ When commenting please step to the podium and state your name and address.
- ❖ Please speak into the microphone as the proceedings are being recorded and will be transcribed to written minutes.
- ❖ All comments must be directed toward the matter at hand.
- ❖ All questions must be directed to the Planning Commission.
- ❖ The Planning Commission is grateful and appreciative when comments are pertinent, well organized, and directed specifically to the matter at hand.

Speak to the Point:

- ❖ Do your homework. Obtain the criteria upon which the Planning Commission will base their decision. Know the facts. Don't rely on hearsay and rumor.
- ❖ The application is available for review in the Planning Division office.
- ❖ Speak to the criteria outlined in the ordinances.
- ❖ Don't repeat information that has already been given. If you agree with previous comments, then state that you agree with that comment.
- ❖ Support your arguments with relevant facts and figures.
- ❖ Data should never be distorted to suit your argument; credibility and accuracy are important assets.
- ❖ State your position and your recommendations.

Handouts:

- ❖ Written statements should be accurate and either typed or neatly handwritten with enough copies (10) for the Planning Commission, Staff, and the recorder of the minutes.
- ❖ Handouts and pictures presented as part of the record will be left with the Planning Commission.

Remember Your Objective:

- ❖ Keep your emotions under control, be polite, and be respectful.
- ❖ It does not do your cause any good to anger, alienate, or antagonize the group you are standing in front of.

Minutes of the Regular Meeting of the Ogden Valley Planning Commission for November 14, 2023, 5:00 p.m. To join the meeting, please navigate to the following weblink at, <https://webercountyutah.zoom.us/j/83247091304>, the time of the meeting, commencing at 5:00 p.m.

Ogden Valley Planning Commissioners Present: Trevor Shuman (Chair), Jeff Burton (Vice Chair), Jeff Barber, Dayson Johnson, Jared Montgomery, Justin Torman, and Janet Wampler.

Absent/Excused: None.

Staff Present: Rick Grover, Planning Director; Charlie Ewert, Principal Planner; Steve Burton, Planner; Felix Lleverino, Planner; Tammy Aydelotte, Planner; Bill Cobabe, Planner; Courtlan Erickson, Legal Counsel; Marta Borchert, Office Specialist.

- **Pledge of Allegiance**
- **Roll Call**

Chair Shuman conducted roll call and indicated all Planning Commissioners were present and Commissioner Wampler was participating via electronic means.

1. Minutes:

Comments from Planning Commission Chair: Chair Shuman encouraged all Planning Commissioners, staff, and the public to be respectful in their dealings with one another. He referenced recent dialogue in the community that has led to misinformation and distrust; he encouraged all to move forward in a manner of mutual respect and abstaining from tactics that are disparaging and lacking decorum.

Petitions, Applications, and Public Hearings:

2. Legislative Items:

2.1 ZMA2023-09: A public hearing to discuss and take action on an application to amend the Weber County Zoning Map, rezoning approximately 20 acres of land at approximately 5204 East, HWY 166, from the AV-3 Zone to the FB Zone. Planner: Charlie Ewert.

Planning Director Grover provided a brief description of the Planning Commission's role relative to legislative items; when the Planning Commission is acting as a recommending body to the County Commission, it is acting in a legislative capacity and has wide discretion. Examples of legislative actions are general plan, zoning map, and land use code amendments. Legislative actions require that the Planning Commission give a recommendation to the County Commission. For this circumstance, criteria for recommendations in a legislative matter require a review for compatibility with the general plan and existing ordinances. He stated he has asked Legal Counsel Erickson to provide the Commission with a brief description of the reason the Planning Commission is hearing this application at this time.

Mr. Erickson stated that he was asked to address why there is a deadline for this application; under State law, UCA 17-27A-509.5, if a reasonable amount of time has lapsed since the submittal of an application the applicant may request a final decision be made within 45 days of the request for the decision. The County has received a request for a final decision from this applicant. This request was received on October 28, 2023. This rezone application was initially received by the County on April 5, 2023 and the application fee was receipted April 20, 2023. At that time the applicant had another application also submitted and requested that staff postpone review of this application until there was more clarity on the direction of the other application, as the two are related. Mr. Grover concluded the Commission has two options tonight, they can either recommend approval or denial. Tabling is not an option because the application needs to appear on the Legislative Body's agenda within 45 days of the date they filed their request for a decision. Chair Shuman stated it is his understanding that if the Planning Commission fails to act on this application tonight, it will still be included on the County Commission's next agenda, but without a recommendation or input from the Planning Commission. Mr. Grover stated that failure to act could create some legal issues for the County. Mr. Erickson added that the County's land use ordinance does not explicitly state that failure to act is equal to a recommendation of denial from the Planning Commission. The only clear path for complying with State Law is to make a recommendation for approval or denial.

Commissioner Barber stated this application was connected with another application from the same petitioner and he asked Mr. Grover to remind the Planning Commission of the action taken on the other application. Mr. Grover stated that the Planning Commission considered an application relating to the street regulating plan and recommended denial of the application to the County Commission; that item will be considered by the County Commission on December 5. They will also be considering the Planning Commission's recommendation regarding ZMA2023-09.

Planner Ewert then explained this is an application for a rezone. The Planning Commission has held several work sessions and meetings to discuss the property in relation to amendments to the Form Based (FB) Zone's street regulating plan, but this is the first time the Planning Commission will be reviewing this requested rezone. He then stated there has been extensive discussion about the purpose and intent of the Ogden Valley General Plan; there are many opinions and a lot of misinformation about the General Plan, and he will not spend time addressing that misinformation. He also will not address the personal attacks and vilification of County staff and the applicant. Rather, he will discuss County policy and the purpose of the General Plan. He cited changes/corrections to the staff report regarding this item, which have been addressed and updated for public review. He then noted the purpose of the General Plan is to correct trending growth patterns under existing zoning. He presented an image of the Ogden Valley and highlighted existing preserved open space (highlighted in green); these areas have been preserved in some manner to ensure they remain open and undeveloped for the future. He added an additional layer (highlighted in red), which included existing subdivisions in relation to existing preserved open space. A final layer (highlighted in brown) included areas that have development rights assigned to them, but development has not occurred yet or the area is underdeveloped. He stated that it is known that trending growth patterns need to be corrected to address where existing zoning could potentially lead. Under existing zoning at total Valley buildout, the number of dwelling units could be 12,622. There are 3,977 existing dwelling units and 2,459 existing vacant subdivision lots; the remaining development rights are 6,186 based upon current zoning. He noted these numbers are different and more accurate than those presented in the September 26, 2023 open house based upon a calculation error. He displayed the image of the Ogden Valley again and added more layers to represent the dwelling unit numbers identified above to illustrate how the Valley will look at buildout if trends are not corrected:

- The orange specks on the map are the actual footprints of the existing primary buildings on each lot or parcel in the Valley.
- The yellow specks represent residential buildings that could be constructed on an existing vacant subdivision lot, or with an approved master planned development.
- The white specks represent future unplanned residential development that is allowed by existing zoning. These are property rights that currently exist, and if any of these landowners apply to develop their land accordingly the County is prohibited by State Law from denying it (as long as it follows all existing development laws.)

He reiterated that the existing zoning leads to 12,622 total dwellings units (excluding Snowbasin and Power Mountain's mountain top units. This means dwelling units will be spread throughout existing open fields and each new development will lead to additional streets being built by a developer. He displayed the image of the Ogden Valley again and added red lines to identify the location of existing roads and dark blue lines to represent streets that are planned to eventually be constructed. He addressed the public outcry regarding the street regulating plans and noted that the desires of the public are not an option because landowners have development rights that would allow them to construct streets to serve their property and the County should be planning and preparing for such development, not trying to avoid it. He then presented maps from the Ogden Valley general Plan, which generally identify future growth areas as well as areas that should be preserved as open space. Mr. Ewert noted the General Plan also addresses rural residential development and housing vision for the Ogden Valley community and suggest residential development should be centered around villages and town centers; this will help to correct the eventual undesirable outcomes of growth in the Valley. The Plan also encourages new development to locate in areas where water and sewer service could be provided by a sewer system. This helps to minimize tax increases associated with infrastructure improvement and service provision. He then addressed misunderstandings about the General Plan; some believe the statement 'no new density' means open spaces will stay open, but it actually means that new residential development rights will not be added to the existing rights already allocated by existing zoning. The General Plan expects currently allocated development rights to remain in effect, even those not yet constructed. He noted that this application is not seeking any new density; rather, they are asking to be able to use transferrable development rights (TDRs) from other locations. He then stated that land use principle 1.1 in the General Plan stated "in general, additional density should not be authorized in the Ogden Valley planning area above that allowed by current zoning. Minimal density bonuses (the exact amount to be determined by ordinance, master plan, development agreement, etc.) should only be allowed when they are granted to incentivize significant contribution to the advancement of the goals and principles found in this plan." He noted another misunderstanding is that a village should not be bigger than a quarter mile radius; this is not true, and the General Plan identifies village areas as ¼ mile radius circles centered on each area. For these purposes, the study

area boundaries are not intended as growth boundaries but are areas within walking distance of each village center. Another misunderstanding is that residential development, through TDRs, should only occur inside commercial areas and villages. He noted the General Plan is clear that residential uses should be both within and encircling commercial areas and villages. He added the Plan also calls for a variety of residential uses in these commercial areas and villages. He added another misunderstanding is that the Plan says not to upzone. The opposite is true and the only way for the Plan to work utilizing TDRs is to upzone around growth areas in exchange for reducing growth in other important open space areas. This will not be easy to accomplish, but it is important. He stated that another misunderstanding is that the center of New Town Eden is the post office. The correction is that the Plan is clear that the center of New Town Eden is the center of Highway 158 and 162/166 intersection. He noted he has reviewed the current and the two previous versions of the General Plan and cannot find any mention of the post office being the center of New Town Eden. He stated another misunderstanding is that the Plan does not specify a priority village area. This is also incorrect, and he read text from page 29 of the General Plan: “The Eden town centers is considered the main commercial center in Ogden Valley. Oriented around the intersection of SR158 and SR162, this area consists of many service-oriented businesses, such as a dentist office, the post office, and the only grocery store in the Valley.”

Mr. Ewert then addressed misunderstandings about the FB zone:

- Misunderstanding: the FB zone will not help the Valley be rural.
 - Correction: the FB zone is designed to protect the more rural areas of the Valley by allowing areas for density to be transferred. In addition, the FB zone also enables rural residential and estate lot residential spaces. These areas are intended to stay rural.
- Misunderstanding: the FB zone is a commercial zone; allowing it to expand will only lead to expanding commercial and high-density village areas.
 - Correction: the FB zone allows commercial in certain locations, based on the specifics of the street regulating plan. The FB zone provides for more areas with single-family residential than for commercial or multi-family.
- Misunderstanding: expanding the FB zone only promotes sprawled development that will continue to expand in other areas.
 - Correction: because the FB zone has many different development types, from large lot residential to missed use commercial, the FB zone can provide for most, if not all, development types, rural and commercial alike. The key is in the designation of the streets in the street regulating plan.
- Misunderstanding: the FB zone’s street regulating plans are/will cause the expansion of new streets into areas currently without streets.
 - Correction: development rights, not the street regulating plan, will drive whether new streets are created. The street regulating plan gives the community the chance to plan where those streets will go. Without it, the developer will choose, and it may not be optimally beneficial to the future community.

Mr. Ewert then discussed staff’s analysis of the rezone application. The current zone of the subject property is AV-3 and the purpose and intent of the AV-3 zone is to “designate low-intensity farm areas, which are anticipated to develop in a rural residential development pattern; set up guidelines to continue agricultural pursuits, including the keeping of farm animals; and direct orderly low-density residential development in a continuing rural environment.” The proposed zone for the subject property is the Form-Based (FB) Zone. The purpose of the FB Zone is: “to provide a form-based regulatory tool that focuses on the public street design and the buildings that frame the public street. This de-emphasizes separation of land uses as is typically found elsewhere in this Land Use Code. Form-based regulations help enable a mixture of allowed uses, multimodal active transportation, and enhanced building design. Additionally [,] the Form-Based Zone regulations are intended to carry out the objectives of the 2016 Ogden Valley General Plan through the implementation of form-based small area zoning and transferable development rights. Each area affected by the Form-Based Zone shall be governed by a Street Regulating Plan. The purpose of the Street Regulating Plan is to address specific design and functionality of streets and building facades along these streets. The intent is to stimulate the creation of buildings and streets that frame the public rights-of-way with architectural and design elements that are unified under a common design theme whilst enabling unique building facades.” He presented images to orient the Commission to the location of the subject property and the implications of the zone change; the FB Zone is unlike other zones in the Land Use Code. It contains a variety of what could be viewed as “subzones” within it. These so-called “subzones” are identified by the specific street types and delineated in a street regulating plan. If the FB Zone is approved for the subject property, all of those uses and development types prescribed by the specific street type should be anticipated in a future development thereon. Weber County Code has six general decision criteria for determining whether a rezone is merited. They are as follows:

1. Whether the proposed amendment is consistent with goals, objectives, and policies of the County’s general plan.

2. Whether the proposed amendment is compatible with the overall character of existing development in the vicinity of the subject property, and if not, consideration of the specific incompatibilities within the context of the general plan.
3. The extent to which the proposed amendment may adversely affect adjacent property.
4. The adequacy of facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreation facilities, police and fire protection, stormwater drainage systems, water supplies, wastewater, and refuse collection.
5. Whether the proposed rezone can be developed in a manner that will not substantially degrade natural/ecological resources or sensitive lands.
6. Whether proposed traffic mitigation plans will prevent transportation corridors from diminishing below an acceptable level of service.

Mr. Ewert expounded on the matter of General Plan compatibility; relative to commercial development implementation, the General Plan "requires new commercial or mixed-use development to locate on property currently zoned for commercial uses. Avoid rezoning new property to commercial or manufacturing until such time that the community supports it. Future commercial or mixed-use rezoning should only be considered adjacent to existing commercial or mixed-use zoning in a manner that creates village clusters and avoids strip commercial along highway corridors." Relative to utilities and public services, the General Plan "encourages new development to locate in areas where water and sewer service could be provided by a sewer system. Encourage residential cluster developments with smaller building lots and larger areas of open space for most subdivisions." Additionally, "new developments in the village areas (reference Commercial Development Implementation 1.1.1) and the resort areas should connect to existing sewer facilities or provide limited-capacity sewage treatment facilities for identified service areas. The facilities should be designed to be expandable to accommodate additional development in the village or resort areas. New residential developments not proximate to existing sewer service areas should employ clustering and provide limited capacity advanced sewage treatment facilities." He presented a map to identify where the new sewer and culinary water lines would be installed for this project and noted that he has heard from some in the Valley that they do not support the location of the lines and they would prefer that they run through the commercial areas. He noted that to the applicant's credit, they could have pursued another project that would have allowed septic systems; they instead agreed to pursue installation of adequate sewer infrastructure that is 10 times the size of the system they need to build.

Mr. Ewert then discussed the street regulating plan, which is the cornerstone of FB zoning; he presented a map of the current Eden area street regulating plan, noting the plan includes vehicle oriented commercial streets, rural residential streets, estate lot residential streets, and general open space streets. This map has changed when compared to the original version of the map and some have claimed these changes are a result of the County trying to help the developer with his project. Rather, the County has approved changes that would help facilitate the TDR actions needed to preserve open space and locate density in village areas. Chair Shuman pointed out that the street regulating plan was approved as part of another action, not on its own merits. Mr. Ewert stated that is correct. He then expounded on the type of development the applicant can pursue if the FB zone is approved, but the street regulating plan is not approved. He presented the street regulating plan that is currently being considered by the County Commission and he identified the differences between the updated plan and the original plan.

Mr. Ewert concluded that after reviewing the proposal within the intended context of the Ogden Valley General Plan, it is staff's opinion that this rezone will substantially advance the vision and goals of the general plan. Staff is recommending approval of the rezone. This recommendation is given to the Planning Commission with the following findings:

1. The proposal substantially advances the vision, goals, and objectives of the Ogden Valley General Plan.
2. Considering the direct context of the plan, the benefits that the proposal offers to the execution of the plan and to the long-term desirable community outcomes as specified in the plan overwhelm the proposal's conflict with Commercial Development Implementation Strategy 1.1.2.
3. The proposal will bring sewer to the Eden area, thereby creating further village and TDR opportunities for other landowners in the surrounding area in the future, further compounding the benefits of the proposal to the intended effects of the general plan.
4. The TDRs anticipated to be consumed by the development within the proposed rezone, or the TDRs that might be consumed by other properties in the area will help remove development rights from the remaining areas in the community that are intended to remain rural.
5. The project is beneficial to the overall health, safety, and welfare of the community, as provided in detail in the Ogden Valley General Plan.

Commissioner Montgomery asked if the Commission is voting on the application based upon the current version of the street regulating plan, or proposed amendments to the plan that have not been acted upon yet. Mr. Ewert stated the Commission should consider both and could include a finding in their recommendation to the County Commission to support the original or proposed street regulating plan. Commissioner Torman asked if the proposed amendments to the street regulating plan will be presented to the Planning Commission for a recommendation. Mr. Ewert answered no; the County Commission is planning to take final action on the proposed amendments to the street regulating plan on December 5.

Chair Shuman asked Mr. Ewert to address whether short term rentals (STRs) will be allowed in the proposed project. Mr. Ewert stated that STRs have been removed as an allowed use on every street type, except for multi-family, mixed-use commercial, and vehicle-oriented streets. He reviewed the street regulating plan map again and stated that STRs would be allowed on the streets highlighted in red and dark orange.

Commissioner Barber stated that he has seen renderings of the proposed project and has heard that the unit count could be in the hundreds. He asked Mr. Ewert to address parking requirements for these types of developments and if there will be requirements for trailer parking areas, overflow parking areas, and commercial parking. Mr. Ewert stated the FB zone has a robust chapter dealing with parking requirements. For commercial uses, adequate parking must be provided within 500 feet of the use. The majority of the parking will be in the rear of development to be hidden from public streets. Residential areas must meet the minimum parking requirements based on density; single family dwellings must have two parking spaces and the ratio can be reduced for multi-family uses, such as townhomes or apartments. Commissioner Barber inquired as to the parking requirements for hotels and restaurants. Mr. Ewert stated that a hotel requires one parking space per room and parking for a restaurant is based upon the seating capacity and square footage of the space. There is not a requirement for trailer parking, but all vehicles must be parked in a way that does not block the public right of way. This will be a self-regulating matter.

Discussion among the Commission and Mr. Ewert centered on the six decision criteria considered by staff when determining whether a rezone is merited. Mr. Ewert referred to opinion statements in his staff report that provide staff's explanation regarding how they felt each of the decision criteria have been satisfied. Chair Shuman stated that there have been concerns about traffic mitigation in the project area and whether the cost of traffic calming measures should be considered as part of the action on the zone change. Mr. Ewert stated that is something that could be addressed in a development agreement, though development agreements are less than desirable for a FB zone. If the development agreement strictly addressed one issue, such as traffic mitigation, it would be appropriate. However, the County could wait until after the zone change is granted and a specific development application is submitted and, at that time, ask for a transportation study to understand the impact the project will have on the roads in the long run. The County could ask for transportation improvements or a dedication of funding from the developer that could be used when the County pursues improvements in the future. He added that transportation impact fees can also be used to improve transportation; the Utah Department of Transportation (UDOT) and Nordic Valley have indicated they will be contributing to transportation improvements at the key intersection in the project area. Commissioner Burton stated that those types of negotiations typically occur before the rezone is acted upon; he asked how the City can ask for support from the developer after the zone change is approved. Mr. Ewert stated the County would rely upon the transportation/traffic study for the project and exact funding adequate to provide the desirable level of service for the area. This led to philosophical discussion and debate among the Commission and staff regarding the appropriate time to require a traffic study for the subject property and any agreement on the amount of funding the applicant will contribute to transportation improvements. Commissioners Burton and Wampler asked whether the negotiation for financial contribution to improve the existing four-way stop in the project area should happen now or at the time the development application comes forward. Mr. Ewert stated either option is acceptable; if the negotiation occurs at the time of the zone change, there is a different level of review available. If negotiation occurs at the time of the development application, the applicant would only be required to pay for improvements needed based upon the project's impact on the area. Chair Shuman stated that essentially the Planning Commission could recommend that the rezone only be approved if the applicant provides sufficient funding for desired traffic improvements at the four-way stop. Mr. Ewert stated that is correct, but the applicant would need to agree to that via contractual mechanism. Commissioner Burton asked if the County is prohibited from exacting something from a developer that is in excess of what is needed to cover the increased impact on the area. Mr. Ewert stated that is true for administrative applications, but not for legislative applications. When considering a rezone, there are many opportunities for negotiating these types of issues. Mr. Erickson provided his legal opinion; there is significant room for the ability to negotiate these types of issues when considering a legislative matter.

Commissioner Johnson asked if the General Plan addresses an increase in general commercial use in a FB project. Mr. Ewert stated the General Plan "requires new commercial or mixed-use development to locate on property currently zoned for commercial uses. Avoid rezoning new property to commercial or manufacturing until such time that the community supports it. Future

commercial or mixed-use rezoning should only be considered adjacent to existing commercial or mixed-use zoning in a manner that creates village clusters and avoids strip commercial along highway corridors.” This led to high level discussion and debate among the Council regarding the appropriate timing of commercial development throughout the Valley; there was a focus on the need for adequate infrastructure to support commercial development and the other types of development that commercial development will catalyze as well as the market demand for commercial development in certain areas of the Valley. Commissioner Wampler stated it is important to note that public American Rescue Plan Act (ARPA) funds have been used to facilitate some significant sewer infrastructure improvements in the Valley and the grant agreement for the use of those funds specifically states that the purpose of the improvements is to benefit the public, not any one private entity. This must be taken into account when considering this project because the sewer improvements would have been completed regardless of whether the project is approved and moves forward. Mr. Ewert noted that is a good point but added that the oversizing of the sewer line never would have been considered without the applicant volunteering to facilitate some of the sewer improvements. Commissioner Torman stated that is ‘putting the cart before the horse’ and should not be considered when considering an action on this application. Commissioner Wampler agreed and stated that she is concerned about approving an application that will result in significant TDRs without having seen any kind of proposal regarding where the development rights will be coming from. She added that the sewer improvements are not only benefiting the applicant for this application, but also for his other projects, including Cobabe, Eagle Ridge, and the Bridges projects.

Commissioner Burton stated that Mr. Ewert has provided the proposed street regulating plan and identified where STRs can be located, but he would like to see where STRs can be located on the existing street regulating plan in the event that the amended street regulating plan is not approved. Mr. Ewert presented the existing street regulating plan and highlighted a magenta line where STRs would be located.

Chair Shuman invited input from the applicant.

Brent Bateman stated he is an attorney representing the applicant; he is prepared to address any legal questions about his client’s application, but his client will be making the presentation about his project. He added that his client is aware of where the TDRs will come from as he has 150 units primarily from the Legacy Mountains Estates in Osprey that can be transferred to this area. If he is able to obtain more development rights, he will transfer those to the area as well. He addressed the conversation about negotiating certain concessions of the developer at the time of a zone change. He stated that anything the Commission wants to ask for at this time will be handled on a quid pro quo basis. However, anything requested after the zone change is approved is more of a requirement than a negotiation. The Commission has the full right to require everyone to pay their ‘fair share’ of needed improvements due to a development project. He stated that is typically handled at the subdivision application stage of a project because it is not possible to know the total impact until the subdivision is designed and the unit count is determined. A traffic impact study will be conducted based upon that information.

Chair Shuman asked if it would be fair to request a round-about at the four-way stop as part of the approval of the zone change. Mr. Bateman stated that the Commission could make a recommendation of approval with that condition and the applicant has the ability to either accept those conditions or reject them. Chair Shuman asked Mr. Bateman if he agrees with staff’s assessment of the decision criteria for this application. Mr. Bateman stated he does agree; he briefly expounded on development impacts and opportunities for mitigating those impacts.

Commissioner Barber asked if there have been serious discussions about including a community center in this project that could be turned over to a local service district to operate it. Mr. Bateman stated he has had conversations with his client about that request; nothing has been finalized, but his client feels that type of improvement may increase the value of his development.

Commissioner Burton stated that he has heard presentations about enacting multi-use zoning to prevent sprawl; he asked Mr. Bateman if he is familiar with that concept and, if so, if he would explain how multi-use zoning for the subject property could minimize sprawl. Mr. Bateman stated that development is coming, and it is important for the Ogden Valley to prepare for it. He discussed the development of Park City and Heber, both of which are geographically similar to the Ogden Valley. The two have developed, but in very different ways and the Weber County Planning staff is trying to learn from those areas and avoid some of the negative aspects of the way those areas have developed. He stated sprawl is a problem and Mr. Ewert is trying to get away from those problems by urging wise planning to allow for services and desired land uses within a reasonable distance from a resident’s home. Sprawl increases the amount of parking needed as well as drive time and it has a significant impact on air quality. If the density can be centralized into village areas, these negative issues can be avoided.

Commissioner Montgomery moved to open the public hearing. Commissioner Johnson seconded the motion, all voted aye.

Before inviting public input, Chair Shuman reiterated the Planning Commission's role as an advisory body to the County Commission. He asked each speaker to limit their comments to two minutes and avoid repeating the input of previous commenters.

Kelly Booth stated that Mr. Ewert's staff report indicated he only found one component of the proposed development that does not comply with the General Plan, but she found 11, including the reference that the post office is the center of the New Town Eden Village circle as well as the quarter-mile distance being used to define walkability. She stated that there has been no evidence of a public vote, public notice, or agenda regarding the street regulating plan for the Ogden Valley. She suggested the County do what is right and allow for public due process on the street regulating plan. The fact that this information cannot be found in any public minutes for a public meeting violates State Law. This shows a lack of transparency. The Commission is considering amending the street regulating plan to allow form-based zoning, yet the public was not aware of the first action on the street regulating plan. The County Attorney's advice conflicts with the information provided by Mr. Ewert regarding the ability to negotiate conditions placed on the subject property and subsequent development. She added that the General Plan commercial development principle 1.1 limits all new commercial development to resort and village areas as shown on map 8. This proposed development falls outside the designated area for commercial development and there are residential homes between the commercial zone and the proposed development, and this proposal has already been voted down. The General Plan also advises against rezoning property to commercial or manufacturing until such a time the community supports it. There is evidence that the community does not support the proposal tonight. She addressed other matters of non-conformity with the General Plan, including map 4, section 1.3, section 2.1, section 2.1.1, section 1.2, and section 1.2.4. She is concerned about the impact the project will have on nearby riparian wetlands and the increase in density resulting from the transfer of development rights (TDRs). She is opposed to the street regulating plan and the zone change to form based zoning because the community has been denied the opportunity to provide input. Her recommendation is that the Planning Commission encourage the County Commission to follow the General Plan and she noted that it likely needs to be updated.

Nickie Wolthuis stated that her family has been in the community for over 80 years, and she was raised here; her family has helped to build up the community and she is concerned about how this proposal will impact the community, especially due to the increase in short term rentals (STRs) in the area. She stated that the General Plan states that growth areas should be designed in a manner to compliment, not overwhelm or compete with the rural character of the Valley. She stated that is not the case with this growth area and she and many others are feeling very overwhelmed. The General Plan also states that as of 2017, Ogden Valley housing units have an approximate vacancy rate of 51 percent and if the growth trend continues, approximately 65 percent of housing units in the Valley will be vacant by 2024. She is not sure where these numbers came from, but she assumes it is related to the overall density estimate, which includes the resort areas of the Valley. She performed her own study of the area surrounding the Valley Market and found there are 240 homes in the area. Her neighborhood has 45 homes and just 43 of the homes are owner-occupied, and one is a long-term rental. This means that less than five percent of the homes are used as STRs. Owner-occupancy contributes to community building, and she is concerned about that being impacted by increased resort development in the area.

Talia Max stated she lives near the subject property, and she addressed water mitigation; her home flooded this year and when it was reported to the County, their response was that they knew exactly where the water was coming from. This is concerning to her because it means the County knows there are problems with the amount of water in the area, yet they are supporting development that will make it worse. Two ditches in the area funnel into her neighborhood and overflow and the County has done nothing to mitigate it. If 300 additional homes are allowed and all of them are pumping ground water into the ditches, the problem will only be worsened. She stated that in May she attended a Planning Commission meeting and she visited with a County Engineer about these water issues and TDRs, and she asked him if the zoning assigned to TDR units will be permanent or if it can be changed in the future if ownership of a project changes and the Engineer told her yes. She wants everyone to understand she heard that from Weber County and that TDR zoning is not permanent.

Hugh Shaw thanked the Planning Commissioners for their service. He stated he also attended the May 23 meeting and heard Mr. Ewert tell the Commission that Highway 166 would need to be expanded. He stated that to him this means eminent domain will be used and someone will lose some of their property. He stated that he looked out his back porch last night and it was a dark, starry night but if this project is approved, an additional 325 units will be built and there will be no more dark skies in the Ogden Valley. He referenced other uses included in the plan for the property, including a grocery store, hotel, retail space, a bank, condominiums, and single-family homes. He stated the Planning Commission has the power to say no to this development. He

stated that in 2016 there was no form-based zone in Weber County; a professor from Michigan State University wrote that form-based zoning is not advantageous for rural zoning districts; it is only advantageous for urban areas, including downtowns. He cited results of the research that yielded that finding. He asked the Planning Commission to vote their conscience and he thanked them for their time.

Shane Phelps asked how many surveys have been conducted regarding the nitrate levels in the Pineview Reservoir. Commissioner Burton stated he only knows of one and the conclusion was that no septic systems had failed and that the increased nitrates were a result of a concentration of animals on dairy farms. Mr. Phelps stated that he has heard many people comment that the nitrates are from septic systems in the Valley, and he is looking for clarification. He asked if the applicant could move forward if he plans to use septic systems to serve the project. Chair Shuman stated that the Planning Commission does not have that question at this point. Mr. Phelps stated that issue is very curious to him and should be investigated.

Chair Shuman encouraged the Commission to wait to answer questions at the end of the public hearing.

Keith Hill stated he owns property next to the subject property; he also thanked the Planning Commission for their service and stated he does not believe any of them got into their position for personal gain; he cannot say the same for the applicant who has served on the Planning Commission in the past. It is obvious that the residents of the Valley do not want what has been proposed and many especially do not want it in their backyard, including him. He stated that he has lived on the hillside where the applicant has indicated the development rights will be transferred from and that is improper because there is no way any type of dwelling unit could be built in that area. He stated he feels the applicant is manipulating the system to bring development rights onto the Valley floor.

Stacey Phipps stated that she is hopeful the Planning Commission will take into consideration how these types of projects impact the daily lives of Valley residents. She is concerned about her children; school aged children are required to walk, bike, or be transported by their parents if they live within 1.5 miles of the school. They are encouraged by the State of Utah to bike or walk; there is a large population of children who either walk or bike to Valley Elementary School and Snowcrest Junior High School. She printed the safe routes map for these two schools and both maps show that children will need to walk right by the subject property. When she provided this information to Mr. Ewert, his response was that the applicant would need to widen and improve the roads and pathways; her concern is that kids will be passing heavy traffic and more distracted drivers.

Irene German stated she has owned a home in Nordic Valley for over eight years; she read a letter from Richard Snyder regarding his family's past development efforts in the Ogden Valley and their relationship with Nordic Valley resort. The letter communicated that development is a must in order to keep the Ogden Valley from being left behind. They supported the Eden Crossing Development and feel strongly that now is the time to embrace the project and hammer out infrastructure upgrades that must happen here and on a larger scale throughout the Valley. Ms. German then stated that she agrees with Mr. Snyder; she also supports the Eden Crossing development after having studied it quite well. She has lived in many communities throughout the world, and she understands that growth is the natural order of things; nothing stays the same and the growth she would like to see in the Ogden Valley is the type of thing that has been included in this proposal; the Valley is missing retailers, cafes, and other services that could be a great asset to the Valley. A hotel is also needed, and she is delighted by the planned traffic routes; a walkable main street through the project would also be great. She lives near Osprey Ranch, and she appreciates the low-density development that has taken place there; it is a good example of the General Plan being implemented. She appreciates that local developers are proposing these improvements to provide greater living conditions and opportunities for the community. These are the people that understand the Valley and its needs.

Angela Dean stated that a critical goal of the village plan is to concentrate density by transferring development pressures from the Valley; while it is true that some of the proposed development will absorb TDRs, there is a large amount of commercial square footage that does not require TDRs and merely increases development acreage. As such, the proposal expands development in part without alleviating building pressures in the Valley. The definition of sprawl is unchecked growth radiating into rural areas; if this is approved, there will be no legitimate means to keep this scale of development from growing and growing. If sprawl is not controlled now, the County will not have grounds to deny future similar requests. The County has the opportunity to learn from other communities' mistakes without following suit. She supports the General Plan statement that growth areas should be designed in a manner to complement, not overwhelm or compete with the rural character of the Valley. As an architect who is often held to design guidelines and form-based codes, she knows that style labels alone leave the door wide open for interpretation. Effective codes provide specific requirements targeting the desired end result; otherwise, unintended consequences are guaranteed. For example, the large amount of glass shown in the design of the buildings may be appealing on

paper, but will result in beacons of light at night, with detrimental effects on night skies. The best plans are proactive, not reactive and they provide a vision for the future of the Valley and can be relied upon and trusted. The General Plan was developed with a great deal of collaboration and expertise and all development applications deserve critical analysis, especially those that deviate from the General Plan. The length of time spent on this application is a testament to the enormous impact such a decision will have on the future of the community in the near and long term. The applicant has been given fair consideration, but it is time to acknowledge that the proposal in its current form is not ready for approval. With a proposal to deny the application, the applicant will have an opportunity to revise their plans based upon the feedback received by the community and return with a viable proposal.

Trina White stated she attended a Weber River Partnership watershed planning conservancy meeting that was sponsored by the Weber urban area and an environmental company called Red Fish Environmental; there have been studies about the nitrates in the Valley and many have believed that it was related to dairy farms. However, the majority of the contamination is from construction sites that are not mitigating the debris exiting their sites during watershed/runoff. Red Fish would like to provide their presentation to the County Commission in the near future. If people would support the Weber River Partnership, the information that could be provided would be very helpful for the future planning of the Ogden Valley.

Sarah Roundy asked the Commission to consider the impacts of increased population in the Valley, especially the impact on safety and crime levels. Also, there is not sufficient parking for the potential increase in population. She asked if the entire Ogden Valley was informed of this meeting and noted she does not see representation from the entire Valley. She concluded she is also concerned about groundwater levels in this area; every year the area is flooded and that will only worsen when more ground water is displaced by this proposed project.

Robert Wadman stated he has lived in his home in Eden for 26 years and he supports the proposed project; increased property values and taxes have impacted him and many others in recent years and the Valley needs a tax base to fund needed services in the Valley. Specifically, he knows the cost of providing adequate public safety for a community and the quality of fire safety and law enforcement will be improved if the tax base is improved. He strongly supports the proposal for a hotel; he would like for his family to be able to visit and have a place to stay. He also agrees with that it is great that the project is proposed by a developer from the community who is familiar with the needs of the area; development is inevitable, and this is an opportunity to embrace a quality development from a local developer, rather than someone from New York looking to make money and leave.

Kirk Langford thanked the Planning Commission for their service and asked that they vote their conscience when forwarding a recommendation to the County Commission. He stated this project is 'too much in one place' and the Commission does not have enough information to make a decision. He recommended denial of the application and give the applicant time to revise his proposal before he appears before the Commission again. He stated that things like adequate parking and transportation improvements must be negotiated before a zone change is approved. He stated that this developer controls half of the Ogden Valley, but parks have not been improved and open space has not been increased. The major irrigation ditch in the Valley goes right across the subject property and was covered during the initial work that was done prior to the project being permitted. He stated that needs to be addressed. If the County approves a poor product, it will increase traffic, kill the local economy, and cause people to sell their farms and ranches to move. If the irrigation issues are not fixed, the Valley will die. The area is essentially a detention pond for Nordic Valley and water is being diverted east; the County needs to determine how the displaced groundwater will be handled.

Kate Ahlstrom stated she grew up in the Valley next to the property; she graduated from Utah State University and her architecture class studied the Ogden Valley regularly and she has seen a lot of concepts of what can happen in the Valley. She stated she agrees that development will come to the Valley no matter what and she wants the community to be involved in steering that growth to ensure that it blends in with the current conditions of the Valley. She is confused about allowing a village inside an existing village. She does not feel that the commercial development is located within the appropriate distance of the village center. Another issue she has observed is that renderings of the project have not been provided.

Chair Shuman briefly noted there will also be a public hearing regarding this application at the County Commission meeting on December 5.

Jessica Smith stated that she has heard many conflicts tonight; one was that the development will not turn the area into a city, but a statement was also made that the project will function like a city. She stated that people have come to the Valley to escape cities and she is concerned about the Valley being destroyed. She asked if any studies have been performed to determine how

the project will impact the local wildlife; once that is lost, it cannot be regained. She is also concerned about the economic impact; she asked how the project will impact the Valley Market that has supported the Ogden Valley for so many years.

Eric Langvardt read a statement from Roger Terry, which voiced his project for the Eden Crossing project, and more specifically the street regulating plan for the project. Mr. Terry is the managing partner of Morgan Valley Foods and Terry Phillips Property, LLC and owns 12 acres of property in the Eden Village area just north of the four-way stop. Having reviewed the Eden Crossing plan, he came to the conclusion that creating a walkable main-street mixed-use district is an idea that he can support. A well planned off-highway commercial and mixed-use development with well-planned infrastructure and feeder roads will help the Eden community to avoid some of the traffic problems and congestion that will be coming with the inevitable growth of the Valley. He supported the location chosen for the project as well as clustering around sewer infrastructure. The project will create opportunities for future community events and will become an important gathering place moving to 2030 and beyond.

Sawyer Monson stated that he is struggling with the change of the Valley after having been raised here; he understands that the Valley will be much different for his own children. He does not believe that anyone here is saying they are completely opposed to growth, but they want the growth to follow the guidelines provided in the General Plan. A lot of this proposed development is commercial in nature, and this will not help to achieve the desire of allowing future generations to live in the Valley or the current generation to retire here. He also does not see how the Valley can support so much new commercial without a significant population or tourism increase. There is already a hotel in Huntsville, and it is empty nearly the entire year. There are multiple restaurants that close for several weeks throughout the year because they cannot afford to pay their staff. He is confused about how more retail and commercial space will thrive when the existing commercial development is not being supported. He discussed businesses that have closed permanently because of a lack of commercial space and concluded by asking the Commission to consider how the proposed infrastructure will impact current businesses that are locally owned and have operated for many years.

Tina Allred stated she runs a Facebook page called Ogden Valley Civil Defense and she has a good relationship with the County Sheriff; currently there are two deputies patrolling the Valley and she monitors the scanner and is aware of their response times. Even with the increase in population over the last several years, the Valley has not received additional law enforcement support. To make the argument that improving the tax base will solve the problem is not accurate. The Sheriff has indicated he has had a very difficult time Officers because of the national public sentiment regarding law enforcement. She also addressed the existing development of the area and indicated that information cited by the applicant regarding the water and irrigation infrastructure in that area is not accurate. She referenced House Bill (HB) 349 passed by the State Legislature, which prohibits the reuse of water from a sewer system. Eden Waterworks has enacted policies that prevent the reuse of water for this project. She advised the Commission to investigate whether the water and sewer approvals that the applicant has been granted were issued prior to the adoption of HB 349. She added the current commercial property on the opposite edge of the proposed development is being shifted; if the quarter-mile radius circle is drawn from the post office to the far edge of where the existing commercial is located, it is problem that the center is the post office. Adding commercial in the opposite direction will negatively impact those existing businesses.

Kelly Roundy asked the Commission to consider how far they have strayed from the General Plan; he has heard from many who live in the Valley, but he has also heard input from those that do not live in the Valley, and it is mind boggling to him that they will have an impact on the future of his children. His father has been a rancher in Cache Valley for decades and when he discussed this project with him, his comment was that this developer will begin trying to purchase as much water as possible now that he owns so much land. If the County continues to let this happen, the applicant will continue to take as much as he can.

Shanna Francis reiterated the point that the County has approved much commercial development, but it has been largely unsuccessful. The ski resort areas have included commercial uses, such as restaurants and retail, in their future plans and if the Valley tries to compete with those plans, that is not smart because it is wiser to push tourism to the resort areas rather than neighborhoods. She stated the applicant already has a resort area in the Valley and he should focus on development in that area. The General Plan identifies five village areas in the Valley and the applicant is essentially asking for a whole new commercial center. She stated many have said that growth is inevitable, but the County has the ability to control it to ensure that the current and future generation can afford to live in the Valley.

Laura Warburton stated she is a member of the Weber County Board of Adjustments, but she is representing herself. She has also served as a member of the Planning Commission and as its Chair. She appreciates the staff and also Mr. Bateman, who has provided her with a great amount of training. Her signature is on the General Plan and before it was opened, she insisted that the

County hire a public relations (PR) firm to ensure adequate information upon which decisions could be based. She stated the PR firm helped to increase public participation in the process to update the General Plan. She stated someone asked why the entire Valley was not notified of this application and that is proof to her that the public does not understand the laws and requirements for public noticing; the County was not required to provide notice to everyone about this. She stated that there are many things the Planning Commission understands that the public does not. She encouraged them to consider the term “Not In My Backyard” (NIMBY) when considering this application. Her husband built an unsightly barn in her backyard, but she is pleased that she did not need to get permission from a committee to build the barn because the County has adopted appropriate administrative rules. Property owners have rights and development should be allowed so long as it complies with laws and regulations. She stated that if the Planning Commission says yes to this application, they are also preserving the rights of other property owners in the Valley. She stated that the applicant has spent or lost thousands of dollars per day due to the amount of time he has had to wait for a decision on this application. She believes a lot of lies and misinformation has been spread about this application and she understands the position that has put the Planning Commission in. She stated she knows this will be a very difficult decision, but she encouraged them to not be swayed by public clamor and to keep the County out of a lawsuit. There will be a time when applicants are pushed so far that they lose their patience and choose to sue the County.

The meeting was recessed briefly at 8:24 p.m. and reconvened at 8:30 p.m.

Heather Mercer stated she and her family moved from Layton four months ago to escape the city and increasing density around her former home. She stated that just because there is a law, does not mean it is right. She does not understand all the information that has been presented and discussed tonight, but she has a feeling that this project is not right and approving it would not be right. She stated that the community is present tonight because they do not want it. The voice of the community should count and honoring the community is not violating anyone’s property rights. The first speaker spoke about how the proposal violates the General Plan and the law.

Jerry Allred stated that for a number of years he worked on the Community Emergency Response Team (CERT), and he learned that the Valley will be isolated if a significant earthquake occurs during a ‘wet’ year; the Ogden Canyon, Trappers Loop, and North Ogden Divide will be closed. He noted that there is marshland on both sides of the highway where he lives, and it takes an act of Congress to deal with any kind of development in marshlands.

Jake Pantone stated he has been a Valley resident since he was 14 and he is also a big proponent of private property rights. When he bought his acre of land in the Valley, he understood what he could do with it based upon the zoning of the property. Someone in the development business should be expected to understand what they can do with their property when they buy it rather than try to change the land’s designation. The applicant is trying to sell everyone on this project being good for the community, but he struggles to see how that can be. Most residents drive outside the Valley for employment and certain services, and they accept that because they want the Valley to stay how it is. His family has built multiple houses in the Valley, and they understand growth is inevitable, but the County needs to carefully consider how this project will impact everyone else in the Valley. Residents have chosen the rural nature of the Valley because that is the kind of place they wanted to raise their kids. He has also travelled the world, and nothing feels better than coming home to the Ogden Valley.

Matt Cardon stated that he and his family have lived in the Valley for eight years and they own 800 acres and farm about 1,500 acres in Huntsville. They have been approached several times about selling their property or selling their development rights. He stated that he has firsthand knowledge that the TDR model does not work; it is not one that he, as a large property owner, sees being beneficial to the Valley in the long term because the zoning of the land is not locked permanently when the development rights are transferred. Also, the TDR benefits the initial property owner, but not subsequent property owners. It also encourages accelerated property development. He noted that his land is waterlogged and is not developable, so it is not appropriate to transfer development rights from it. He encouraged the Planning Commission to think about finding ways for property owners to achieve agricultural pursuits. There is not a proactive effort to encourage agricultural uses in the Valley.

Bruce Warburton stated that he is a huge property rights advocate and a constitutionalist, and he believes the County must follow the law; if the applicant follows the law, he will improve the community. If he can address the issues voiced by the public and the County, he should be able to do what he wants to do with his own land.

Brian White stated that he is opposed to the application, and he believes the Commission should oppose it as well; there are just a few people that are supportive of the project, but they are not acknowledging that the project does not conform with the General Plan. He stated that when the applicant purchased the property, he knew what it was zoned, and he understood the

rights under that zone. Many people have moved to the Valley for freedom; he knows that people like the applicant will continue to take and take from the Valley without caring about the impact of the other residents and that is why he is opposed to this application.

David Carver discussed the differences between the Ogden Valley and the Park City and Heber City valleys; both of those areas have a freeway running through them. He stated he opposes form-based zoning because it lacks stability. He also opposes the street regulating plan that has been proposed. He stated the applicant does have property rights, but those are the rights afforded in the AV-3 zone. He noted that before he came to the meeting tonight, he drove through the area where the subject property is located and there are 27 commercial uses in that area and 11 of them are vacant; this is a 41 percent vacancy rate. He hopes that the Commission is not allowing someone to build something on the idea that businesses will come.

There were no additional persons appearing to be heard.

Commissioner Montgomery moved to close the public hearing. Commissioner Torman seconded the motion, all voted aye.

Chair Shuman asked if the applicant would like to provide a rebuttal to the comments made during the public hearing. Mr. Bateman declined the opportunity to provide a rebuttal.

Chair Shuman asked if staff had additional input. Mr. Ewert stated he is willing to answer questions that the Commission has. Commissioner Johnson asked Mr. Ewert to respond to the comments made by the first speaker and her claims that the application violates the General Plan in 11 different ways. Mr. Ewert stated that his answer is that the document is a guiding document and is general in nature; it can be read and interpreted many different ways and it is not a surprise that someone can find that the application does not comply with their interpretation of the Plan. He stated that his staff report has addressed each of the points raised by the speaker specifically. He encouraged the Planning Commission to also read the General Plan, take into consideration the input of staff and the public, and draw their own conclusions. Commissioner Johnson stated that the speaker provided a map identifying sensitive lands and he asked if staff has analyzed that matter. Mr. Ewert stated that is something that will be evaluated as a development application moves forward; he communicated in his staff report that he is not aware of any ecological concerns related to the property.

Chair Shuman asked Mr. Ewert to address the claim that the New Town Eden map was approved without a public hearing or public input. Mr. Ewert stated his understanding is that there may be pending litigation regarding that matter, and it may not be appropriate to discuss it publicly; however, he feels the County is on solid ground and he is willing to have a conversation with anyone who feels differently.

Commissioner Wampler stated that Mr. Ewert indicated that any sensitive areas would be addressed at the development stage, but the Commission is being asked to recommend approval or denial of a rezone that would take land that is zoned AV-3 and change it to a much busier area. If the land that will be impacted is truly a sensitive area, she wondered if the Commission should be aware of that at the time of the rezone. Mr. Ewert stated that is not a requirement, but the Commission can ask for information regarding sensitive lands at the time of rezone. He described the process for determining if an area is actually a wetland as well as opportunities for mitigating or relocating the wetlands. He stated that if the Commission is certain the area is sensitive or is comprised of wetlands, that could be a finding supporting a recommendation of denial. Commissioner Johnson stated that he is familiar with the process for determining if a property is a wetland; it can be a lengthy and expensive process for a developer to navigate and they may not want to pursue that process without understanding if they are able to secure the desired zoning.

Chair Shuman asked Mr. Ewert to address the comments regarding HB 349 and the use of water at the property. Mr. Ewert deferred to the applicant. Mr. Bateman stated that he is familiar with the legislation but has not performed an analysis of this property's compliance with the law. He stated that the law relates to the flow of water into the Great Salt Lake, not a prohibition of the reuse of water as mentioned by the speaker. Mr. Ewert noted that the applicant will be required to provide evidence of water and sewer service to the property.

Commissioner Barber referenced another item on tonight's agenda regarding TDRs; never in the history of the Valley has a development right been transferred other than between internal or related parties. He has always wondered what the value of a transferrable developed right would be, and this applicant and another developer have assigned a value of \$1,975 per acre for the rights. It does not seem that prime land will be saved at that price point and for that reason he feels the TDR element of the General Plan is flawed and that must be fixed before the County proceeds with allowing TDRs. He added that he is also concerned

about County's codes being insufficient to regulate rental units in tight spaces where there is no overflow parking, and he feels the future for this kind of project could be brighter if the Ogden Valley General Plan were reevaluated and perhaps updated.

Commissioner Burton acknowledged this is a very complex issue and a difficult decision; he has been concerned about what TDRs have morphed into since the concept was first introduced. He noted there are conflicts within the General Plan that must be reconciled in order to proceed with meaningful development and appropriate buildout and density. However, the General Plan does call for density to be transferred to specific areas of the Valley and that has created expectations for those that have understood the directives of the Plan for the past several years. He acknowledged that many want the Valley to stay how it has been since they have lived here, but that is not reality, and everyone has their own property rights. It is un-American to try to strip someone of their property rights. This applicant has spent a significant amount of time and money to put forth an application in a reliance on the General Plan and it would be improper to tell them they cannot proceed.

Commissioner Wampler stated that existing property owners have also relied upon the General Plan for several years; they have held onto their commercial property and paid commercial tax rates with the expectation that their commercial property will eventually be developed, and they will benefit. However, this application will create additional commercial property in close proximity to their own and will create unexpected competition. Additionally, residents have relied upon the zoning identified in the General Plan, but this zone change will negatively impact them. She noted she is a staunch defender of property rights, but the applicant bought this property with the understanding of the zoning and the rules and regulations of that zoning. They have the right to ask for the zoning to be changed, but they are not entitled to approval of the zone change. She added she shares Commissioner Barber's concerns about TDRs, especially the fact that it is unknown where the transferred development rights will come from. If the Commission does not know where the TDRs are coming from, they do not know if the application is compliant with the General Plan. She could see supporting a zone change, but not the street regulating plan at this time. She noted the FB zone could be allowed within the current street regulating plan, but changing the street regulating plan is unfair to others that have relied upon the General Plan. She addressed sewer service; the claim was made that the current commercial area has not been successful because they did not have access to sewer service, but the sewer improvements are coming, and they will be able to connect to it. This should not be an argument for approving the zone change. She concluded that each time this project has been discussed she has communicated that it is 'piece meal' and 'back to front' and this encourages mistrust and makes it difficult for the Commission to do their job. The vote to change the zoning would help ensure support for the street regulating plan in the future. This is a non-transparent process and meaningful public participation has been denied.

Chair Shuman reminded the Commission they are making a recommendation to the County Commission and any recommendation should be based upon findings and the decision criteria included in Mr. Ewert's staff report.

Commissioner Barber moved to forward a negative recommendation to the County Commission for application ZMA2023-09 amending the Weber County Zoning Map, rezoning approximately 20 acres of land at approximately 5204 East, HWY 166, from the AV-3 Zone to the FB Zone with the findings that the proposal is not adequately supported by the General Plan. Given the uncertainty of the TDR Valuation process and whether that aspect will be valid with respect moving density to the valley corridors and open spaces. The proposal is not supported by the general public. The proposal runs contrary to the health, safety and welfare and other general public aspects of the concern that the county parking requirements are not adequate to address a facility like this. The short-term rental aspect of this area under current code provisions does not represent what the public wants to see for this area and the road issues be addressed and negotiated in advance of projects such as this.

Commissioner Torman offered a friendly amendment to include additional findings:

- (a) that the proposal fails to meet the implantation strategy of the Master Plan in part by adding significant commercial zoning; and
- (b) The proposed rezone adversely affects the surrounding property owners.

The Commission accepted the friendly amendment.

Commissioner Burton reviewed the decision criteria that the Commission must consider, and he disagreed with Commissioner Barber's findings on those decision criteria; he provided a brief explanation supporting this sentiment and reiterated he feels the rezone can and should be approved in conformance with the General Plan. Commissioner Johnson agreed; Commissioner Barber's motion is based on feelings and beliefs rather than facts and the decision criteria; he noted there is a property very near the subject property for which FB zoning has been approved and that should be taken into consideration. Commissioner Wampler stated that the FB zoning for the other property was approved with the understanding that it would be governed by the existing

street regulating map. She added that if the proposed development were going to be within the area where high density has been specified, it should be allowed according to the General Plan. However, this is a request to change the street regulating map, and therefore the density of this specific area, which has been zoned for large lot and estate lot homes for the most part. She stated that if the application were allowed based upon the General Plan, she would support it, but she does not believe that is the case. The other FB zoning approval was much different than this FB zoning application.

Commissioner Montgomery seconded the motion. Commissioners Barber, Montgomery, Torman, Shuman, and Wampler voted aye. Commissioners Burton and Johnson voted nay. (Motion carried on a vote of 5-2).

Commissioner Montgomery stated that he wished that this application would have been accompanied by the current street regulating plan so that he would have known exactly what he was voting for. If the zoning were going to work with the current street regulating plan, the Commission would have a clear understanding of the implications. Commissioner Johnson stated that is why he voted in opposition to the motion. Commissioner Torman added that he voted to recommend denial; this is not taking property rights away from someone but is asking for something different than what the applicant has asked for. Commissioner Burton stated that he voted in opposition because he is trying to follow the General Plan as it was written. Commissioner Barber stated that he disagrees that the TDR element of the proposed project does not comply with the General Plan. Chair Shuman stated that he feels more time is needed for the public and the Commission to consider this application. Commissioner Torman agreed; the Commission received the packet for this meeting yesterday and that was not enough time to digest all of the information included.

2.2 ZTA2023-03.1: Action on proposed amendments to the architectural theme requirements and standards of the Form-Based Zone to allow a wider range of style options. Planner: Charlie Ewert.

Planner Ewert explained the County adopted a Form Based zone in January 2022. The applicant is requesting to amend the zone to allow architectural standards that are different than was adopted. The text amendment and proposed example images are provided herein. The Planning Commission considered this item in work session on May 2, 2023. After due consideration, the Planning Commission desired to make larger amendments to the architectural standards of the FB zone. The amendments include allowance for the applicant's theme, but also extends additional design flexibility for others developing in the FB zone. The Planning Commission then heard the item in a public hearing on May 23, 2023. At the time, this item was combined with a proposed amendment to New Town Eden's street regulating plan. The Planning Commission recommended denial of the proposal primarily based on the street regulating plan proposal. On June 12, 2023, the County Commission considered the Planning Commission's negative recommendation. At that time, the County Commission requested the two components of the proposal be divided into two separate amendments. The County Commission then remanded the proposed architectural standards back to the Planning Commission for further consideration. On August 22, 2023, the Planning Commission considered the architectural amendments again. In that meeting the Planning Commission desired to table it until after the street regulating plan amendments are made, if ever. On October 8, 2023, the applicant, through a representative, requested a final decision on the proposed architectural standards. Under State law, if a reasonable amount of time has lapsed since the submittal of an application, then the applicant may request a final decision be made within 45 days of the request for the decision. The County has received a request for a final decision from this applicant. This request was received on October 28, 2023. This text amendment application was initially received by the County on April 5, 2023 and the application fee was receipted on the same day. In other words, this application was received approximately seven months ago, which should be a reasonable amount of time to make a final decision. As a result, the final decision on this rezone from the County Commission must be given by December 12, 2023. Given the Planning Commission's calendared meetings, in order to meet this 45-day period the Planning Commission will only have one meeting in which it can consider this item, so the decision on November 14 cannot result in the item being tabled.

Mr. Ewert then summarized staff's analysis of the proposed text amendment, which is fairly straightforward, but the application of the amendment has broader effects on the New Town Eden Area. The applicant is proposing a second set of architectural design standards that can be used for commercial and multifamily buildings in the New Town Eden area. If approved, a landowner within the New Town Eden area can choose between the existing architectural theme (Agricultural) or the new theme (Mountain Modern). The applicant has suggested that a mix of these themes within one village area may make for an overall complimentary community outcome that celebrates the history of the area while also looking to the future; and doing so without inducing so many different themes that the community looks hodge-podge. When reviewing the proposed new theme with the planning commission, it seemed the planning commission supported it. The planning commission also expressed concern over the current agricultural theme, suggesting perhaps that it is an ill-conceived style for street-front commercial buildings. To explore a way to

allow multiple themes within one area, staff assembled an architectural matrix. It is included in the attached proposal. In the matrix, each village area has at least one theme allowed. In the Eden area, staff is suggesting perhaps allowing multiple themes to blend. However, in certain areas, such as the square around Eden Park, the matrix only lists one theme as appropriate. The matrix enables ease of amendment as new themes are considered in the future. It also allows multiple themes to be shared by multiple village areas. In the proposal, staff included both the applicant’s requested “mountain modern” theme as well as a new theme titled “mountain rustic.” The differences between the two can be reviewed in the exhibit. He provided illustrations of the Mountain Modern design theme being proposed:



When reviewing the proposed amendments, it is important to keep the considerations within the context of the General Plan. The land-use vision written in the general plan is as follows:

- Commercial Development Goal 2: A goal of Weber County is to ensure that the design of retail and commercial development is consistent with Ogden Valley’s rural character.
- Commercial Development Principle 2.1: Require new commercial development to conform to community design standards to ensure compatibility with the character of Ogden Valley and to provide for aesthetic and functional transition to surrounding residential and agricultural areas.

- Commercial Development Implementation 2.1.1: As part of small area planning, revise County design standards to adopt more detailed and specific commercial design standards that specify building materials, style elements, colors, dark sky lighting, walkability, landscaping, signage, open spaces, public features, and building height and orientation. Acceptable style elements may include agrarian architecture, Old West or mine-town architecture, or mountain rustic architecture elements that are prevalent in Ogden Valley (Figure 16).

Implementation 2.1.1 specifically lists “agrarian, old west or mine-town, and mountain rustic architectural elements. Mountain modern is not listed on this list. It is also important to note that this sentence uses the permissive “may.” The Planning Commission should determine whether “may include” is intended to be permissive and open ended in this context, as in “may include, but may not be limited to...” Or if it should be restrictive, as in “may only include...”

Mr. Ewert presented the ordinance document that has been reviewed by the Commission in previous meetings; it includes highlights to reflect the changes made by staff based upon the input provided during the last work session meeting with the Commission.

Commissioners debated whether the proposed amendments are appropriate and whether a property owner will be limited to just one choice of architectural design. Mr. Ewert clarified that the proposed amendments are only applicable to the form based zoned areas and there are multiple architectural design choices in each of the areas for which FB zoning may be applied. Commissioner Burton stated he would rather allow an applicant make recommendations regarding the architectural design that is appropriate for their project based upon the location of their property and its surroundings.

Chair Shuman invited input from the applicant.

Eric Langvardt, Langvardt Design Group, stated that he was looking for options within the New Town Eden village areas; diversity is good, and he is asking for a few more options for the development he is pursuing.

Commissioner Burton stated that approval of the proposed amendments will create conflicts between existing and future architectural design of buildings in the Village areas.

Commissioner Johnson moved to forward a positive recommendation to the County Commission regarding ZTA2023-03.1, proposed amendments to the architectural theme requirements and standards of the Form-Based Zone to allow a wider range of style options, with staff option “D”. Motion is based upon the following findings:

1. The changes are supported by the Ogden Valley General Plan.
2. The proposal serves as an instrument to further implement the vision, goals, and principles of the Ogden Valley General Plan.
3. The changes will enhance the general health and welfare of Ogden Valley residents.
4. The changes are not detrimental to the general health, safety, and welfare of the public.

Commissioner Burton referenced the statement in Mr. Ewert’s staff report regarding implementation 2.1.1; the Planning Commission should determine whether the term “may include” is intended to be permissive and open ended in this context. Commissioner Johnson stated he is comfortable with the term “may include” and indicated he feels the land use authority can be trusted to interpret it in the appropriate way. Commissioner Burton asked if that should be included in the motion.

Commissioner Johnson amended his motion to include the term “may include” instead of “shall include”.

Commissioner Barber seconded the motion. Commissioners Barber, Burton, Johnson, Montgomery, Torman, Shuman, and Wampler all voted aye. (Motion carried on a 7-0 vote).

Chair Shuman moved to item 2.4 given that it has been noticed as a public hearing and some have attended this meeting for that reason. He indicated item 2.3, application ZDA 2022-02, will be continued to the next meeting.

2.4 ZTA2023-02: A public hearing and possible Planning Commission recommendation on a proposal to amend the Weber County Code. The amendments pertain to the standards and regulations for agritourism operations, allowance for

agritourism operations in the S-1, F-10, and F-40 zones, and allowing certain limited agricultural sales in agricultural zones.**Planner: Charlie Ewert**

Commissioner Johnson declared he is the co-applicant for this matter, and he recused himself from discussing and voting on this application.

Planning Director Grover explained decision on this item is a legislative action. When the Planning Commission is acting on a legislative item it is acting as a recommending body to the County Commission. Legislative decisions have wide discretion. Examples of legislative actions are general plan, zoning map, and land use code amendments. Typically, the criterion for providing a recommendation on a legislative matter suggests a review for compatibility with the general plan and existing ordinances.

Planner Ewert explained the County has received an application to amend the Shoreline Zone (S-1) to allow agritourism as a conditional use in the zone. In reviewing the request, the Ogden Valley Planning Commission became concerned with the significant flexibility of the currently codified Agritourism Ordinance, citing concerns about potential loopholes that could introduce undesirable land uses. The Ogden Valley Planning Commission seemed desirous to expand the allowance of the agritourism use into the S-1 zone, but only after tightening the language of the ordinance. Since the inception of the Agritourism Ordinance in 2012, an agritourism operation has been required to obtain a conditional use permit. The Agritourism Ordinance was initially adopted during a relatively transitional time as it relates to the county's understanding of conditional use permits. At the time, condition use permits were understood as being fairly discretionary in nature. With this discretion, it seemed as if the county had wider flexibility when approving or denying a conditional use permit. This perception was based on longstanding practices prior to the mid-2000's. Since then, however, the county has become more aware of court rulings which strip most of the discretionary decision-making out of the issuance of conditional use permits. Simply stated, a conditional use permit is a permitted use with conditions. As a result, in 2015 the county updated its Conditional Use Permit Ordinance to omit the discretionary language and focus decisions on objective facts and written standards. Changes to the Agritourism Ordinance were not proposed at the time, and thus the more flexible-appearing ordinance language is still present in codified code.

According to State code, if more than one reasonable interpretation of the code can be made, the county must read the code in a manner that favors the landowner. This means that flexible code language will always be required to be read in favor of the landowner, giving credence to the Ogden Valley Planning Commission's concern about potential unintended loopholes.

After review of the ordinance amendments suggested by the Ogden Valley Planning Commission, the Western Weber Planning Commission seemed tentatively in support of tightening the ordinance language. However, there was discussion about concerns over making the ordinance too restrictive to those farmers who want a simple alternative to earning supplemental farm income. To provide for this concern, staff is suggesting the addition of a couple of by-right permitted uses into the agricultural zones that allow certain types of sales to occur on farm-property without the need to obtain a conditional use permit for an agritourism operation. This should simplify access to those uses.

Mr. Ewert concluded staff is recommending approval of the proposed ordinance amendments. In addition to amending the Agritourism Ordinance and inserting it into the S-1 zone, staff is recommending inserting agritourism into the Forest Zones (F-10 and F-40 zones). Staff is also recommending taking this opportunity to standardize the formatting of the S-1, F-5, F-10, F-40, FR-1, and FR-3 zones to add clarity and better match the formatting, administration, and efficiencies of other zones in the Land Use Code. He facilitated a review of the proposed ordinance, which was also presented to the Western Weber County Planning Commission at their last meeting. He highlighted changes that the other Planning Commission body requested to the ordinance, as well as changes that have been made at the request of the Ogden Valley Planning Commission since their last review of the document.

He then noted that in general, land use code changes should be vetted through the filter of policy recommendations of the applicable general plan. In 2022, the Western Weber General Plan was adopted after a significant public involvement process. In 2016, the Ogden Valley General Plan was adopted, also after a significant public involvement process. The proposed amendments helps implement numerous goals and objectives of each general plan including the following for the Ogden Valley:

- Community Character Vision: The rural character of Ogden Valley is defined by its open fields, agricultural lands, stands of trees, peace and quiet, dark skies, clean air and water, abundant wildlife, and small villages; ...
- "Residents generally support the continuation of viable agricultural operations in Ogden Valley as one of the most significant contributions to the rural character of the Valley." (p. 5)
- Dark Sky Preservation Principle 1.2: Promote [...] and encourage astro-, agri-, and ecotourism development.
- Land Use Goal 2: A goal of Weber County is to support continued agricultural operations in Ogden Valley.

- Resource Management Vision: The Ogden Valley community desires responsible and sustainable growth while conserving the natural and social character of Ogden Valley. With this vision, Weber County in Ogden Valley is prepared to shape its future by preserving character; promoting sustainability; supporting agriculture, wildlife, habitat, and scenic vistas; and recognizing the importance of management of public lands.

Staff recommends that the Planning Commission consider the text included as Exhibit A and offer staff feedback for additional consideration, if any. Alternatively, when or if the Planning Commission is comfortable with the proposal, a positive recommendation should be passed to the County Commission.

Throughout Mr. Ewert's presentation, there was input from the Commission regarding technical adjustments to the text of the ordinance; permitted uses versus conditional uses.

Commissioner Burton moved to open the public hearing. Commissioner Wampler seconded the motion, all voted aye.

A resident, no name given, stated that the original goal of this ordinance has been lost in the discussion of proposed amendments. He stated that it is important to enact ordinances that will make it possible for people to retain ownership of large agricultural properties and make a profit on that property. This will help to reduce density, which seems to be a large concern in the Valley. He stated that each agritourism application could be considered on a case-by-case basis to determine if it will negatively impact neighboring property owners and if the answer is no, the application could be considered and permitted, even if the use is not necessarily complimentary to the primary agricultural use of the property.

Commissioner Burton moved to close the public hearing. Commissioner Torman seconded the motion, all voted aye.

Chair Shuman invited input from the co-applicant. Mr. Johnson stated the intent of the proposed ordinance amendments was to encourage those who have farm ground to preserve it by pursuing other opportunities for generating a profit at their land.

Chair Shuman stated that the reason this issue was raised was that there are loopholes in the current agritourism ordinance; there were instances where the existing ordinance was not strong enough to determine commercial uses of agricultural properties in manners never intended. Mr. Ewert stated that is correct. He noted that the ordinance amendments will place additional restrictions on overnight stays on farm properties, but it actually increases the number of uses that meet the definition of agritourism to give property owners additional opportunities for generating a profit on their land.

Commissioner Burton moved to forward a positive recommendation to the County Commission for application ZTA2023-02 amending the standards and regulations for agritourism operations, allowance for agritourism operations in the S-1, F-10, and F-40 zones, and allowing certain limited agricultural sales in agricultural zones, with the following conditions:

1. Proof of production requirements be amended to be consistent with the requirements of the Farmland Assessment Act and Urban Farmland Assessment Act; and
2. Language regarding 'farm sales' be amended to not require the parcels from which the products are produced to be contiguous or of the same ownership, but of the same farm operation.

The motion is based upon the findings listed in the staff report. Commissioner Barber seconded the motion. Commissioners Barber, Burton, Johnson, Montgomery, Torman, Shuman, and Wampler all voted aye. (Motion carried on a 7-0 vote).

2.3 ZDA 2022-02: Consideration of an applicant driven request to amend the development agreement between Weber County and CW The Basin to allow short term rentals and transferrable development rights. Property located at 947 E Old Snow Basin Rd, Huntsville. Planner: Steve Burton

This item was not heard due to the late hour of the meeting.

3. Public comments for items not on the agenda.

There were no public comments.

4. Remarks from Planning Commissioners.

There were no additional remarks from Planning Commissioners.

5. Planning Director Report:

Planning Director Grover reported the work session item that was listed on tonight's agenda will need to come before the Commission during their December business meeting as a public hearing because the County must take action on that issue by February 11, 2024.

6. Remarks from Legal Counsel:

There were no remarks from Legal Counsel.

WS1 Discussion on amending the Subdivision Ordinance to reflect State Code requirements on Land Use Authority, Financial Guarantees and Releases and Required Subdivision Improvements. Planner: Bill Cobabe

This item was not discussed.

**Meeting Adjourned: The meeting adjourned at 10:29 p.m.
Respectfully Submitted,**

Weber County Planning Commission

Minutes of the Regular Meeting of the Ogden Valley Planning Commission for December 19, 2023, 5:00 p.m. To join the meeting, please navigate to the following weblink at, <https://webercountyutah.zoom.us/j/84115804830>, the time of the meeting, commencing at 5:00 p.m.

Ogden Valley Planning Commissioners Present: Trevor Shuman (Chair), Jeff Burton (Vice Chair), Jeff Barber, Dayson Johnson, and Janet Wampler.

Absent/Excused: Jared Montgomery and Justin Torman.

Staff Present: Rick Grover, Planning Director; Charlie Ewert, Principal Planner; Steve Burton, Planner; Felix Lleverino, Planner; Tammy Aydelotte, Planner; Bill Cobabe, Planner; Courtlan Erickson, Legal Counsel; Marta Borchert, Office Specialist.

- **Pledge of Allegiance**
- **Roll Call**

Chair Shuman conducted roll call and indicated all Commissioners were present, with Commissioner Wampler participating via electronic means. He also noted that item 4.1 has been removed from tonight's agenda.

1. Minutes: August 22, 2023, September 26, 2023, and October 24, 2023

Chair Shuman asked if there are any corrections to be made to the minutes as presented. No corrections were made, and Chair Shuman declared the minutes approved as presented.

2. Planning calendar 2024

Planning Director Grover reviewed the calendar of Planning Commission meetings for 2024. The Commission briefly discussed the meeting schedule and identified any conflicts or the potential for a lack of quorum for specific meetings, including the January 2024 meetings. Mr. Grover indicated he will reach out to the Western Weber County Planning Commission to determine if they are willing to adjust their meeting schedule to accommodate the Ogden Valley Planning Commissions desires to change their January schedule.

Petitions, Applications, and Public Hearings:

3. Administrative Items:

3.1 CUP 2023-14: A request for approval of a conditional use permit for a conference/education center located at 6015 N 3100 E, Liberty. Planner: Felix Lleverino

Planner Lleverino explained the applicant is requesting approval of a conditional use permit for a conference/education center located in the F-5 zone at 6015 North 3100 East in Liberty, see Exhibit A for the site plan. This property has a main house and a 3-bedroom guest house. The guest house will be made available to visitors participating in stargazing and wildlife observation, please see Exhibit B for the owner's narrative. He summarized staff's analysis of the application to determine compliance with the General Plan, zoning ordinance, conditional use regulations, parking and loading/vehicle traffic and access regulations, and design review criteria and concluded staff recommends approval of this conditional use permit application subject to the applicant meeting the following conditions of approval in addition to any conditions of the various reviewing agencies or the Ogden Valley Planning Commission. Recommended conditions of approval include:

1. The owner shall obtain a Weber County Business License.
2. Any changes to the site or day-to-day operations, beyond what is presented in the applicant's submittal, shall be reviewed by the land use authority
3. The applicant shall provide written approval from the Weber-Morgan Health Department before issuance of a conditional use permit.
4. The site and all structures shall be kept and maintained for safety and good visual appearance
5. The proprietor or owner shall occupy the property.
6. Guest parking is maintained and accessible year-round
7. Parking on 3100 East Street and 3175 E Street is prohibited.

The recommendation is based upon the following findings:

1. The proposed use is allowed in the F-5 Zone and meets the appropriate site development standards.
2. The criteria for issuance of a conditional use permit have been met because mitigation of potential detrimental effects can be accomplished.

Chair Shuman addressed the applicant and asked how he has designed the property as a conference/education center. Mr. Cone stated that his home is located on this property, and he also has a second home there that he has remodeled and configured so that it is big enough for small families to stay there and engaged in stargazing and astronomy activities. He has telescopes on the property and wants to make the activity more accessible.

Commissioner Johnson asked Mr. Cone if he designed the second home with this use in mind. Mr. Cone answered no and indicated this is a newer idea; the geographical location of the property lends itself to stargazing and he wants to give people the opportunity to participate in that activity.

The Commission reviewed the site plan for the property and discussed the layout of the home and exterior improvements with Mr. Cone.

Commissioner Barber expressed concern that the proposed use does not meet the definition provided in the County's Land Use Code (LUC) for a conference/education center. He feels there are other opportunities for Mr. Cone to achieve his goals that are more straightforward, including a guest home or bed and breakfast. Mr. Lleverino stated that there are other permitted and conditional uses based upon the zoning of Mr. Cone's property, but the bed and breakfast use is not an option in the F-5 zone. He stated that staff has considered optional use designations for the property and felt that the conference/education center is appropriate.

Commissioner Burton moved to approve application CUP 2023-14, conditional use permit for a conference/education center located at 6015 N. 3100 E., Liberty, based on the findings and subject to the conditions listed in the staff report, and also based upon the input from the applicant that the exterior improvements to the home were constructed with the proposed stargazing use in mind. Additionally, the owner is required to obtain and maintain a Weber County business license. Commissioner Johnson seconded the motion. Commissioners Burton, Johnson and Shuman voted aye. Commissioners Barber and Wampler voted nay. (Motion carried on a vote of 3-2).

Petitions, Applications, and Public Hearings

4. Legislative Items:

4.1 ZDA 2022-02 Consideration of an applicant driven request to amend the development agreement between Weber County and CW The Basin to acknowledge transferrable development rights. Planner: Steve Burton

This item was removed from the agenda.

4.2 ZTA 2023-11 and ZTA 2023-12 – PUBLIC HEARING – Discussion and possible action on portions Section 106 of the Weber County Land Use Code regarding subdivision approval procedures and requirements for financial guarantees for public improvements. Planner: Bill Cobabe

Planner Cobabe explained in the 2023 Legislative Session, the Utah State Legislature passed a law known as SB 174. This bill requires counties in Utah to change their subdivision review procedure, including several significant process changes that will be discussed in detail below. At the same time, the County desires to amend the provisions in the financial guarantee portion of the subdivision code to ensure the viability of the improvements and bonds the County accepts from developers. These changes must be completed prior to February 1, 2023. The following is a brief explanation of the changes proposed:

1. Section 106-1-4 Subdivision Application Requirements, regarding the submittal requirements that the County needs. This is important because up to this point the County has had the option to receive partial submittals and the opportunity to work with developers to determine whether or not an application is complete. Due to the changes in State Code, this opportunity is being curtailed and the County must –from this time forward – only accept “complete” applications. More on that below.
2. Section 106-1-5.20 Agency Review and Determination of Completeness, regarding responsibility of the applicant to work with agencies outside of the County Planning Department/Engineering Department to obtain reviews prior to submitting

their application and all subsequent revisions, and the requirement for the County to review submittals within 15 days for not more than four review cycles.

3. 106-1-5.30 Approval Procedure, regarding the designation of the Planning Director as the “Administrative Land Use Authority” to review and approve subdivision plats.
4. 106-1-8.10 Final Plat Required, regarding the determination of complete applications for final plat and the requirement for the County to review submittals within 20 days for not more than four review cycles.
5. 106-1-8.30 Final Plat Approval Process, regarding the designation of the Planning Director as the Administrative Land Use Authority for final plat approvals.
6. Section 106-4-1 (d) Improvements to be installed prior to the issuance of permits, regarding the required improvements to be installed prior to issuance of permits and a financial guarantee.
7. Section 106-4-2 Specific Requirements, regarding specific requirements for improvement, including driveway aprons, and sidewalks and pathways.
8. Section 106-4-3 Guarantee of Improvements, regarding financial guarantee of improvements, including financial guarantee cost estimates, financial guarantee expiration and default, partial releases of financial guarantees, warranty guarantees (at conditional acceptance), and final acceptance of guarantees and release of the warranty guarantee. A new provision is added to allow for the authority of the County to use remaining funding to bring the subdivision improvements into compliance with the requirements.

Mr. Cobabe summarized staff’s analysis of the proposed amendments, concluding staff recommends that the Planning Commission consider ZTA 2023-11 and -12 and if the Planning Commission approves, the Planning Commission may forward a positive recommendation to the County Commission for the proposal. This recommendation may come with the following findings:

1. The proposal helps to accomplish amendments to the subdivision ordinance as required by State statute as well as clarifying and modifying other subdivision requirements.

Mr. Cobabe facilitated a review of the proposed amendments (in redline to signify text removal and blue text to signify text additions) for the Planning Commission; there was a focus on the approval authority for several different types of planning applications, with Mr. Cobabe emphasizing that the County does not have discretion to deviate from the Utah State Code regarding approval authority for specific applications. The Commission also discussed the timing of bonding and contingencies for specific development projects that have multiple phases.

Commissioner Johnson moved to open the public hearing. Commissioner Barber seconded the motion, all voted aye.

There were no persons appearing to be heard.

Commissioner Burton moved to close the public hearing. Commissioner Johnson seconded the motion, all voted aye.

Commissioner Burton referenced section 106-4-1, General Requirements, and stated that sub-paragraph ‘d’ indicated that improvements to be installed prior to the issuance of permits previously did not apply to street trees and other required landscaping, asphalt, chip and seal, landscaping, street monuments, or curb, bugger and sidewalk as long as a sufficient financial guarantee of improvements exists or is provided as required for the incomplete improvements. He stated that the amendments removed asphalt and curb and gutter from that list of items, and he asked why those improvements must now be included prior to the issuance of permits. Mr. Cobabe stated that the County has dealt with significant issues of noncompliance related to those improvements and staff felt they should be addressed before any land use permit is granted. He added that landscaping was removed from the list of exceptions due to the changes to State Code. This led to discussion and debate of the improvements that must be completed before different types of permits are issued for a specific development.

Commissioner Barber moved to forward a positive recommendation to the County Commission regarding applications ZTA 2023-11 and ZTA 2023-12, amendments to portions of Section 106 of the Weber County Land Use Code regarding subdivision approval procedures and requirements for financial guarantees for public improvements, based on the findings and subject to the conditions listed in the staff report, and including the proposed changes from the Western Weber County Planning Commission regarding approval authorities. Commissioner Wampler seconded the motion. Commissioners Barber, Burton, Johnson, Shuman, and Wampler voted aye. (Motion carried on a vote of 5-0).

5. Public comments for items not on the agenda.

Jan Fulmer asked why item 4.1 was removed from the agenda. Chair Shuman stated it was pulled at the request of the applicant. Ms. Fulmer asked if an amended agenda was published, to which Planning Director Grover answered no and indicated the applicant requested the item be removed earlier today. Ms. Fulmer then thanked the Ogden Valley Planning Commission members for their service; she has watched the Commission meetings for years and has never seen a group of Commissioners be so focused on the issues that impact the Valley and doing their best to come up with the best recommendations. What is so sad is that the Planning Commission puts in so much work, but only has the authority to make recommendations and not a final decision on items that are important to the Valley.

Phil Imers stated he and his wife moved their family to Eden 30 years ago to raise their children here; they both felt the stress and expense of their daily commutes to Salt Lake City was a fair trade for the solace they would have during their retirement. He noted that the recent limitations on their access to Highway 158 has cost them missed doctor's appointments, undelivered insulin, and general inconvenience and they have yet to realize the true cost of the new development in Eden. He realizes this is not the fault of the Ogden Valley Planning Commission, but the fault of the County Commission. In their last meeting they put on a disgusting bit of theater when trying to convince attendees that decisions had not been made in advance. They invited residents of the Valley to attend their meeting and pour out their feelings, and they pretended to be listening. But then they made a unanimous vote, and it was perfectly clear that the majority of the input provided went right over their heads. He appreciates very much what the Ogden Valley Planning Commission has done and their efforts to follow the General Plan. He will do what he can to address his concerns in the next Weber County election.

6. Remarks from Planning Commissioners.

Commissioner Barber stated he feels strongly that the Ogden Valley General Plan is in jeopardy of becoming a failure; it is twisted to favor pre-determined objectives. Early in his term on the Commission he suggested that the Plan be updated, but significant decisions have been made without needed updates and this reflects a lack of leadership. He stated that two Commissioners recently left the body due to their frustrations and he has been tempted to do the same; it is difficult for the Commission and the community to accept decisions from the County Commission that are contrary to the recommendations made by the Planning Commission. He stated that he does not feel that the past year has been great in terms of application of the General Plan.

7. Planning Director Report:

Planning Director Grover reported Principal Planner Burton is moving to Ogden City as a policy analyst in their City Council office; he wished Mr. Burton the best in his future endeavors. He reiterated Commissioner Barber's comments that Commissioners Montgomery and Torman have resigned, and he also wished them the best and thanked them for their service. Advertisements for the vacancies will be posted soon. He also noted that staff will include a discussion item on a future meeting agenda regarding the Eden Crossing development agreement. Chair Shuman asked who wrote the development agreement. Mr. Grover indicated Planner Charlie Ewert and the developer wrote the agreement together and it was reviewed by the County Attorney's office. This led to discussion among the Commission regarding their concerns about certain components of the development agreement, such as building heights and transfers of development rights. Mr. Grover noted Commissioner Barber asked staff to request a meeting with the County Commission regarding his concerns and Commissioner Froerer indicated he wanted to see how the TDR ordinance works for a least a year before discussing it and considering any changes. He then concluded that with Mr. Burton's departure and the retirement of an Administrative Assistant in January, staff will not be taking on any special projects for the time being. Any ordinance changes will need to follow the petition process to help keep the workload on staff at a manageable level.

8. Remarks from Legal Counsel:

There were no remarks from Legal Counsel.

**Meeting Adjourned: The meeting adjourned at 6:22 p.m.
Respectfully Submitted,**

Minutes of the Regular Meeting of the Ogden Valley Planning Commission for January 11, 2024, 5:00 p.m. To join the meeting, please navigate to the following weblink at <https://webercountyutah.zoom.us/j/86351578885>, the time of the meeting, commencing at 5:00 p.m.

Ogden Valley Planning Commissioners Present: Trevor Shuman (Chair), Jeff Burton (Vice Chair), Jeff Barber, Dayson Johnson, and Janet Wampler.

Absent/Excused:

Staff Present: Rick Grover, Planning Director; Charlie Ewert, Planner; Felix Lleverino, Planner; Tammy Aydelotte, Planner; Bill Cobabe, Planner; Courtlan Erickson, Legal Counsel; Marta Borchert, Office Specialist.

- **Pledge of Allegiance**
- **Roll Call**

Chair Shuman conducted roll call and indicated all Commissioners were present, with Commissioner Wampler participating via electronic means. He called for any conflicts of interest to be declared.

Commissioner Johnson stated he consults with a separate applicant that is related to the sundown Condominiums project, but he does not have a conflict and he will participate in discussion and action on agenda item 2.1.

1. Minutes:

Chair Shuman announced there were no minutes to review and approve.

Petitions, Applications, and Public Hearings:

2. Administrative Items:

2.1 UVS011222: Request for preliminary subdivision approval of Sundown Condominiums Phase 2. This is a second request for preliminary approval with a new roadway alignment. Planner: Tammy Aydelotte

Planner Aydelotte summarized historical actions/approvals that have been granted for previous phases of the Sundown PRUD, the most recent being preliminary conditional approval in February of 2022; there are some changes to the site layout, mainly the location of the secondary access to the proposed Phase 2, from the original approval (See Exhibit A) that are subject to the Planning Commission review. If the Planning Commission determines that the proposed changes are de minimis revisions, the Planning Commission. The current PRUD ordinance states the following regarding amendments to non-conforming PRUDs:

“A nonconforming PRUD may be amended from time to time under the same rules that governed its creation, provided that the amendment is a de minimis change that is routine and uncontested. The Planning Director or the Planning Commission has independent authority to determine what constitutes a routine and uncontested de minimis decision.

The following changes have been submitted: The removal of a turn, a roundabout, as well as access through Phase 1. The proposed second access has been relocated further west, along Powder Mountain Road (Weber Fire and Engineering will have to approve this), and the buildings are grouped together differently. Instead of grouping of four or eight units together, the current proposal is grouping twelve units (three buildings) together. The proposed buildings house 4 units each, as in the original PRUD The proposed development area is zoned FR-3 and will consist of 60 units occupying 32,318 square feet (10.5%), roadways occupying 1.136 acres (16.5%) with a common area occupying 4.9684 acres (72%).

Ms. Aydelotte then summarized staff’s analysis of the application to determine compliance with the General Plan; zoning ordinance; lot area, frontage/width and yard regulations; Ogden Valley Sensitive Lands Overlay Districts regulations; common area regulations; the Natural Hazards Overlay Zone; culinary water, irrigation water, and sanitary sewage disposal; review agency recommendations; additional design standards and requirements; and tax clearance. Staff recommends preliminary approval of Sundown Condominiums, consisting of 60 units. This recommendation for approval is subject to all review agency requirements and based on the following conditions:

1. A CUP amendment application shall be submitted, addressing changes in proposed building location, and roadway layout, if the planning commission determines proposed changes to be more than minimal.
2. An approval from UDOT, for all accesses off of Powder Mountain Road, shall be submitted prior to appearing before the Planning Commission for a recommendation of final approval.
3. Applicant shall address any concerns from Engineering and Weber Fire District regarding slopes and proposed roads within the proposed development, prior to coming before the Planning Commission for a recommendation of final approval.
4. A proposed trail/pathway layout will be required prior to coming before the Planning Commission for a recommendation of final approval.

The following findings are the basis for the planning staff's recommendation:

1. The proposed subdivision conforms to the Ogden Valley General Plan.
2. With the recommended conditions, the proposed subdivision complies with all previous approvals and the applicable County ordinances.
3. The proposed subdivision will not be detrimental to the public health, safety, or welfare.
4. The proposed subdivision will not deteriorate the environment of the general area so as to negatively impact surrounding properties and uses.

Chair Shuman stated there have been concerns about snow sloughing off the roofs of units and he asked if anything can be done to mitigate that. Planning Director Grover stated that can be looked into.

Commissioner Wampler asked when the applicant will need to show additional parking areas for short term rental (STR) units in the project. Ms. Aydelotte stated that would be identified on the final approval plat for the project. Snow storage areas will also be identified on that plat. The Planning Commission could include a condition of approval to require those parking areas be included on the plat.

There was a brief review of the setback requirements for the internal condominium units, with Ms. Aydelotte noting there is a great deal of flexibility relative to setbacks in PRUD projects.

Commissioner Burton asked who would be responsible to determine measures for preventing or mitigating snow shedding problems for the new units in the project. Ms. Aydelotte stated that the Engineering Division can work with the Planning Division and the applicant; she suggested a condition of approval requiring that review and efforts to mitigate problems with snow shedding.

Chair Shuman invited input from the applicant. The applicant indicated they had nothing to add.

Commissioner Burton moved to approve application UVS011222, preliminary subdivision approval of Sundown Condominiums Phase 2, based on the findings and subject to the conditions listed in the staff report, and subject to additional conditions related to a mitigation plan for snow shedding from roofs of units and requiring the project to meet all parking requirements for STRs. Commissioner Johnson seconded the motion. Commissioners Barber, Burton, Johnson, Shuman, and Wampler voted aye. (Motion carried on a vote of 5-0).

Petitions, Applications, and Public Hearings

3. Legislative Items:

3.1 ZDA 2023-06 - Public Hearing – Discussion and possible action on amending the Weber County Land Use Code Section 106-4-2.080 – Street Trees, modifying the requirement for street trees in the public right-of-way and creating new requirements for their installation and maintenance. Also, Section 108-7-7.040 – Public Tree Care, modifying the regulations regarding the care, maintenance, and removal of trees on County-owned property. Planner: Bill Cobabe

Planner Cobabe explained that due to ongoing concerns related to the installation and maintenance of street trees throughout the County, County Commissioners have directed Planning Staff to review our procedures and requirements. On September 12, 2023, the Western Weber Planning Commission held a work session to discuss proposed changes and review the species list, and on October 24, 2023, the Ogden Valley Planning Commission held a similar work session. The proposed changes allow for a more orderly and efficient development standard for street trees in the County. The following is a brief explanation of the changes proposed:

1. Section 106-4-2.080 – Street Trees – The purpose of the section is explained.
2. Section 106-4-2.080 (a) – The requirement for street trees is set forth, including a financial guarantee.
3. Section 106-4-2.080 (b) – Specific regulations for planting trees, including replacement, spacing, irrigation required, an approved species list, and deviations from required landscaping plans.
4. Section 108-7-7.040 – Public Tree Care – Explaining the County’s right to maintain/remove vegetation from public property.
5. Section 108-7-7.040 (a) – Making it illegal to remove or top trees without permission.
6. Section 108-7-7.040 (b) – Providing for keeping sidewalks and corners clear of obstructions.
7. Section 108-7-7.040 (c) – Outlining the responsibilities for adjacent property owners’ removal of trees.
8. Section 108-7-7.040 (d) – Setting forth the requirements for obtaining a tree removal permit.

Mr. Cobabe reviewed staff’s analysis of the policy implications of the ordinance to determine compliance with the General Plan. Staff recommends that the Planning Commission consider ZTA 2023-06 and if the Planning Commission approves, the Planning Commission may forward a positive recommendation to the County Commission for the proposal. This recommendation may come with the following findings:

1. The proposal helps to accomplish a general plan goal or policy related to development in the County.

Chair Shuman asked who is responsible to replace a dead tree that was originally planted by a developer, to which Mr. Cobabe answered the adjacent property owner. These are only areas in which street trees are required based upon the General Plan and zoning ordinances. However, a development agreement could take precedence and if a development agreement does not require street trees, that would be the governing document. If the development agreement does not include specific details regarding street trees, the zoning ordinance will be the governing document and there will be an adopted list of street trees that can be used by staff and developers.

Commissioner Burton stated that he does not believe the requirement for street trees and other street plantings is appropriate in a rural setting like the Ogden Valley. Additionally, in times of drought, it is not appropriate to require so many street trees that will require water. He added he has looked at the list of street trees and many of them will not grow in the Valley due to its weather conditions. He concluded he does not feel that this ordinance is needed in the Ogden Valley, though it may be appropriate in Western Weber County. Planning Director Grover stated that street trees will be imposed in the more densely developed areas of the Valley, but 99 percent of developments – anything larger than acre lots – in the Ogden Valley will be subject to a deferral agreement. He added there is a wide variety of plants/trees included in the list to ensure that the developer can choose trees that can survive in the Valley. Commissioner Burton recommended that language be added to the ordinance to communicate that street trees will not be required for rural areas of the Valley, or anything larger than acre lots. Mr. Grover and Mr. Cobabe indicated they are not opposed to including that language in the ordinance.

Commissioner Johnson moved to open the public hearing. Commissioner Burton seconded the motion, all voted in favor.

There were no persons appearing to be heard.

Commissioner Burton moved to close the public hearing. Commissioner Johnson seconded the motion, all voted in favor.

Legal Counsel Erickson stated that he has reviewed the ordinance and made minor clerical changes to the document, but nothing of substance. If the Commission chooses to forward a recommendation to the County Commission, he suggested that the version that he has reviewed and edited be sent to that body.

Commissioner Burton moved to forward a positive recommendation to the County Commission regarding application ZTA2023-06, amending the Weber County Land Use Code Section 106-4-2.080 – Street Trees, modifying the requirement for street trees in the public right-of-way and creating new requirements for their installation and maintenance. Also, Section 108-7-7.040 – Public Tree Care, modifying the regulations regarding the care, maintenance, and removal of trees on County-owned property. Motion is based on the findings listed in the staff report, but the Planning Commission recommends the following changes:

1. In 106-4-2.080(a), specify that street trees are not required on lot sizes of larger than one acre.
2. The species list, exhibit b.5, be less restrictive for the Ogden Valley and broadly accommodate trees that can survive in zones two and three.
3. Permits related to street trees will be at no cost.

Commissioner Johnson seconded the motion. Commissioners Barber, Burton, Johnson, Shuman, and Wampler voted aye. (Motion carried on a vote of 5-0).

5. Public comments for items not on the agenda.

There were no public comments.

6. Remarks from Planning Commissioners.

There were no remarks from Planning Commissioners.

7. Planning Director Report:

Planning Director Grover reviewed the schedule for upcoming Planning Commission events and meetings.

8. Remarks from Legal Counsel:

Legal Counsel Erickson stated that in a recent meeting, the Planning Commission made a recommendation to the County Commission regarding changes to the County’s Land Use Code in an effort to comply with legislation adopted by the State Legislature in their 2023 session, State Bill (SB) 174. The Planning Commission included in their recommendation that the Planning Commission continue to be the approval authority for subdivisions that are not small subdivisions. He stated that yesterday he had a chance to speak with the Attorney who is contracted with the Utah Association of Counties and also a member of the Legislature, Curt Cullimore. He is helping counties draft their laws to comply with the legislation and he provided input regarding the County’s action. He stated that the biggest takeaway is that the Legislature is likely to make additional adjustments in the upcoming 2024 Legislative Session. He is planning to still submit the recommendation to the County Commission, but Mr. Cullimore indicated that providing two different approval authorities for subdivisions based upon their size is contrary to the State Law. He stated he does not know how the County Commission will act on the Planning Commission’s proposal, but he wanted to provide them with that information. This led to brief discussion among the Planning Commission and staff regarding the position that other counties have taken and how that has changed with the knowledge that the State Legislature will make additional changes in the 2024 Session.

**Meeting Adjourned: The meeting adjourned at 5:40 p.m.
Respectfully Submitted,**

Weber County Planning Commission



Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

Synopsis

Application Information

Application Request: Request for approval of a conditional use permit for Reuse Pump Station located at 4820 E Willowbrook Lane. Eden, UT 84310.

Application Type: Administrative

File Number: CUP 2023-16

Applicant: Rob Thomas-Authorized Representative

Agenda Date: Tuesday, February 27, 2024

Approximate Address: 4820 E Willowbrook Lane., Eden UT 84310

Project Area: 21.24 Acres

Zoning: AV-3

Existing Land Use: Sewer Improvement

Proposed Land Use: Sewer Improvement

Parcel ID: 22-021-0133
22-021-0130
22-021-0131
22-021-0141

Township, Range, Section: Township 7 North, Range 1 East, Section 27

Adjacent Land Use

North: Vacant	South: Vacant
East: Storage Units	West: Irrigation Pond

Staff Information

Report Presenter: Marta Borchert
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801-399-8761

Report Reviewer: FL

Applicable Ordinances

- Weber County Land Use Code Title 104 Chapter 2 (Agriculture Zone)
- Weber County Land Use Code Title 108 Chapter 4 (Conditional Uses)
- Weber County Land Use Code Title 108 Chapter 10 (Public Utility Substations)
- Weber County Land Use Code Title 108 Chapter 2 (Ogden Valley Architectural, Landscape, and Screening Standards)
- Weber County Land Use Code Title 108 Chapter 1 (Design Review)

Background and Summary

The applicant is requesting approval of a conditional use permit for the installation of a Reuse Pump Station a “public utility substation” The proposed pump will move treated effluent from the treatment plant through a new pipeline to a new reuse pond. The AV-3 Zone allows a “public utility substation” as a conditional use. The proposal has demonstrated that the operation will comply with the applicable regulations, with reasonable conditions imposed.

The application is being processed as an administrative review due to the approval procedures in Uniform Land Use Code of Weber County, Utah (LUC) §108-1-2 which requires the planning commission to review and approve applications for conditional use permits and design reviews.

Analysis

General Plan: As a conditional use, this operation is allowed in the AV-3 Zone. With the establishment of appropriate conditions as determined by the Planning Commission, this operation will not negatively impact any of the goals and policies of the General Plan.

- a) **Zoning:** The subject property is located within the Agricultural (AV-3) Zone. The purpose of the Agricultural Zone can be further described in LUC §104-2-1 (a) as follows: *The AV-3 Zone and A-1 Zone are both an agricultural zone and a low-density rural residential zone. The purpose of the AV-3 Zone and A-1 Zone is to:*
1. *Designate low-intensity farm areas, which are anticipated to develop in a rural residential development pattern;*
 2. *Set up guidelines to continue agricultural pursuits, including the keeping of farm animals; and*
 3. *Direct orderly low-density residential development in a continuing rural environment.*

The following setbacks apply, to a public utility substation in the AV-3 zone:

- Front: 30 feet
- Side: 10/14 feet
- Rear: 10 feet

Conditional Use Review: A review process has been outlined in LUC §108-4-3 to ensure compliance with the applicable ordinances and to mitigate anticipated detrimental effects. Thus far, the applicant has received approval from the County Engineering Division, for the proposal.

The following is an analysis of the proposal reviewed against the conditional use standards:

- (1) **Standards relating to safety for persons and property.** The proposal is not anticipated or expected to negatively impact this property, surrounding properties, or persons.
- (2) **Standards relating to infrastructure, amenities, and services:** The proposal is part of the infrastructure related to adjacent development, and is not anticipated or expected to negatively impact any existing infrastructure, amenities, or services in the area.
- (3) **Standards relating to the environment.** The proposal is not anticipated or expected to negatively impact the environment.
- (4) **Standards relating to the current qualities and characteristics of the surrounding area and compliance with the intent of the general plan.** The property on which the conditional use permit is sought will support future residential development. The proposal complies with and supports the intent of the general plan.

Design Review: The AV-3 zone and the proposed conditional use mandate a design review as outlined in LUC §108-1 to ensure that the general design, layout, and appearance of the building remain orderly and harmonious with the surrounding neighborhood. The submitted plans show that the exterior finishes and new infrastructure are compatible with the existing infrastructure. As part of this review, the Planning Commission shall consider the applicable matters based on the proposed conditional use and impose conditions to mitigate deficiencies where the plan is found deficient. The matters for consideration are as follows:

Considerations relating to traffic safety and traffic congestion. The proposal includes a site plan that identifies the location of the proposed building(s) as well as the access to the proposed lift station site.

Considerations relating to landscaping. The applicant has indicated that the landscaping of this site will remain consistent with the surroundings.

Considerations relating to buildings and site layout. The existing buildings meet the site development standards of a public utility substation within the AV-3 Zone.

Staff Recommendation

Staff recommends approval of this conditional use application subject to the applicant meeting the conditions of approval in this staff report and any other conditions required by the Planning Commission. This recommendation is subject to all review agency requirements and is based on the following condition:

1. Any work within the ROW will need an excavation permit.

This recommendation is based on the following findings:

- The proposed use is allowed in the AV-3 Zone and meets the appropriate site development standards.
- The criteria for issuance of a conditional use permit have been met because mitigation of potential detrimental effects can be accomplished.

Exhibits

- A. Project Narrative
- B. Site Plan
- C. Photos of Proposed Pump Station

Map 1



Exhibit A - Project Narrative

Proposed Use
Irrigation pump station

Project Narrative

It is proposed to construct a pump station as a permitted use under Weber County Ordinance 104-2-3(a), accessory to a conditional use (conditional use is the Wolf Creek Water and Sewer Improvement District's wastewater treatment facility, permitted under Weber County Ordinance 104-2-3(h)). The proposed pump station will move treated effluent from the treatment plant through a new pipeline up to a new reuse pond.

Basis for Issuance of Conditional Use Permit

Reasonably anticipated detrimental effects of a proposed conditional use can be substantially mitigated by the proposal or by the imposition of reasonable conditions to achieve compliance with applicable standards. Examples of potential negative impacts are odor, vibration, light, dust, smoke, or noise.

Possible detrimental effects include:

Construction traffic during an anticipated construction period less than 12 months.

Construction activities will be typical of what might be experienced during construction of a new residential subdivision: Underground pipelines, a new pump house structure (equivalent to a small garage with a basement), site grading, a new access road. Adherence to standard County requirements for site construction (SWPPP, dust control, etc.) will be required of the contractor to mitigate impacts due to construction activities.

Long-term operation impacts:

It is anticipated that operation and maintenance of the proposed pump station would make no noticeable impacts to the way the wastewater treatment site is currently operated, from an adjacent landowner's perspective. It is anticipated that the proposed pump station would not significantly increase the number of trips in/out of the treatment plant site. The proposed pump station would become another piece of equipment for the operators to check on their daily review of plant operation and additional movement due to the pump station's operation would be internal to the site. Infrequent visits by equipment servicers would add a minimal (anticipated: 0-20 trips) number of vehicle trips per year to site traffic.

Since the project deals with movement of treated effluent (post plant: clean water), there will be no odor impact.

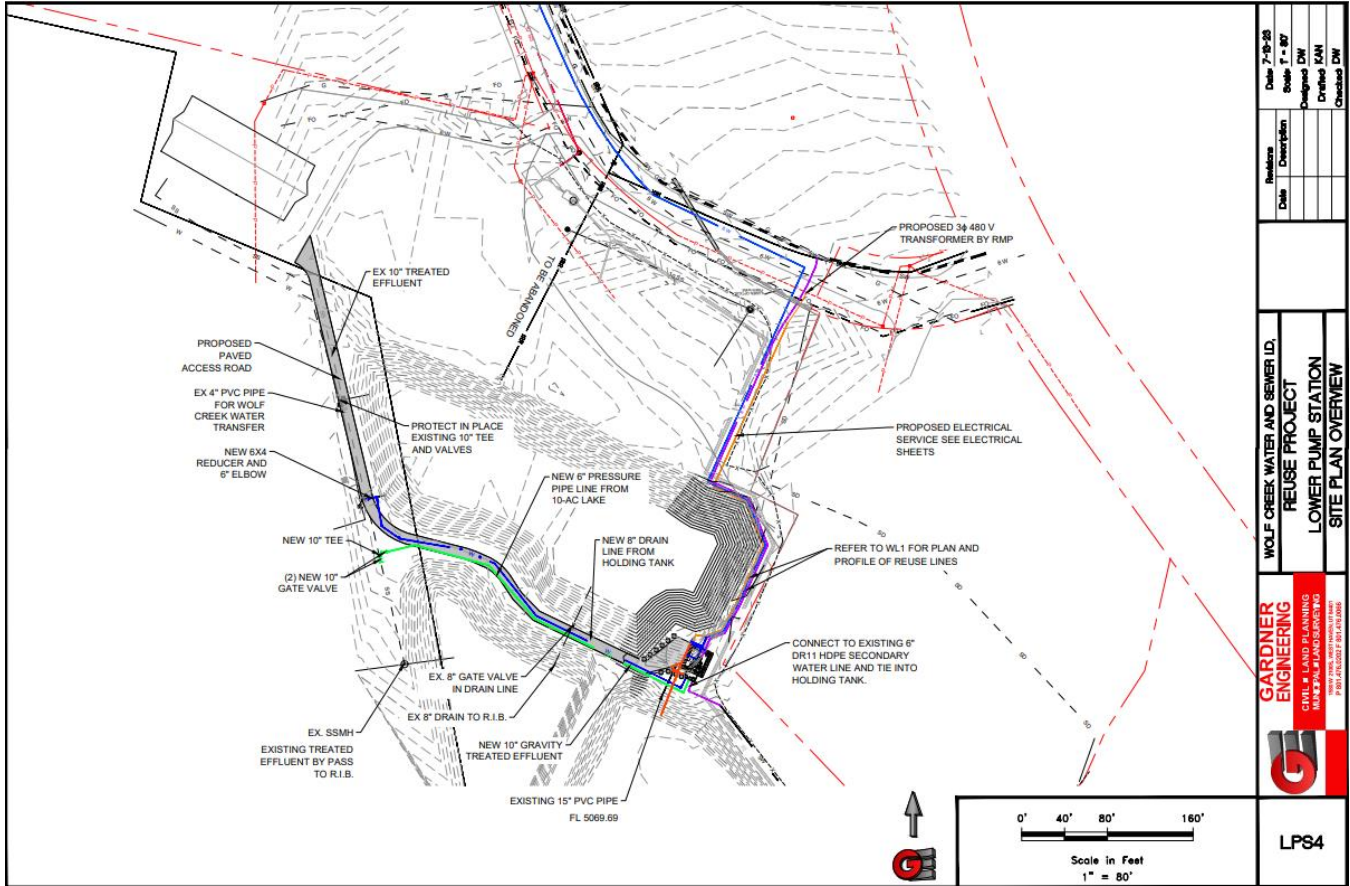
An entrance door light will meet the Valley's lighting requirements. No other lights are anticipated.

Pump motors will operate at any time. All Motors will be inside the concrete masonry pump station and as such, the sounds of the motors will be well-attenuated.

That the proposed use will comply with the regulations and conditions specified in the Zoning Ordinance and other applicable agency standards for such use.

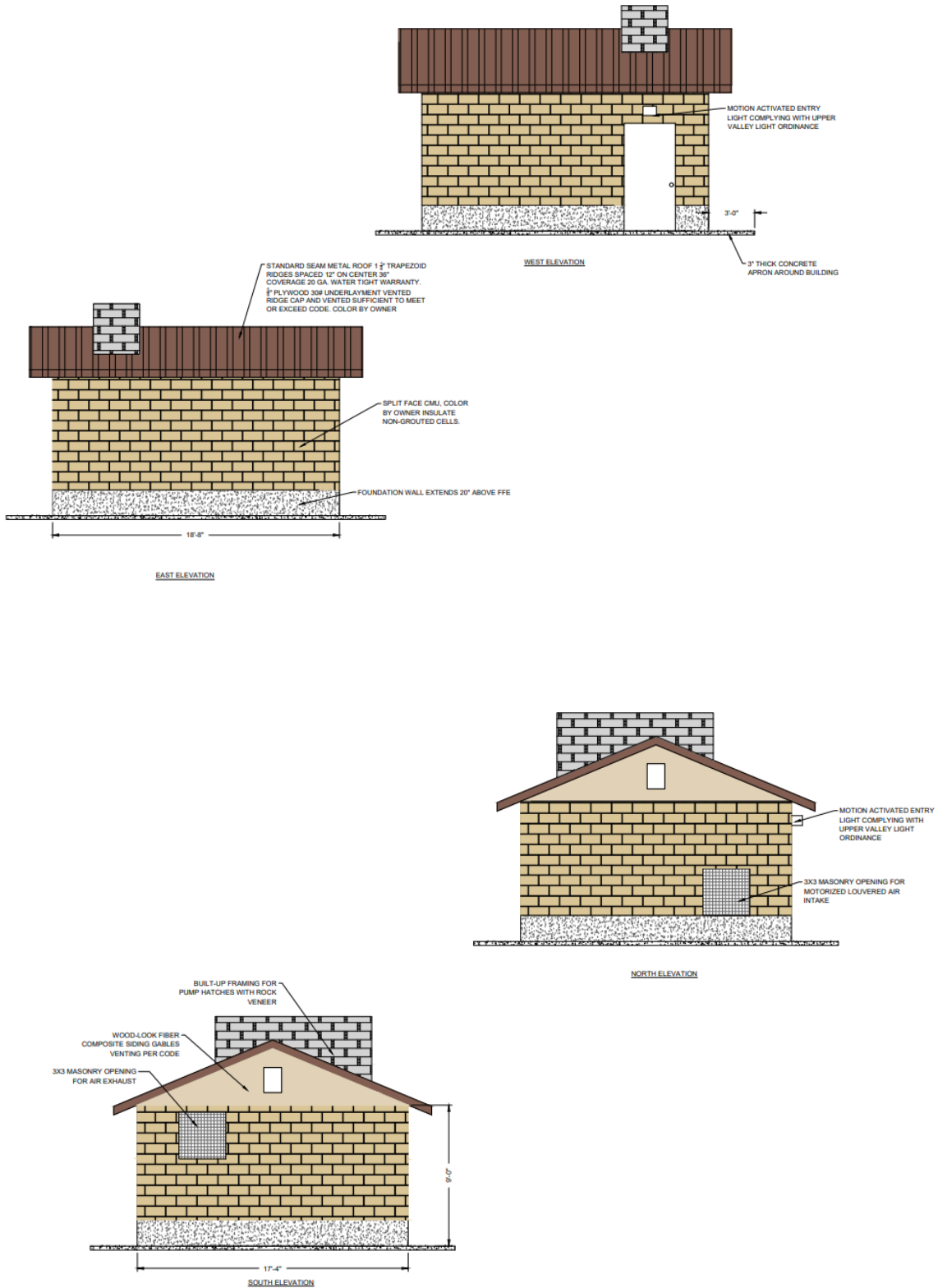
The proposed use will be on property zoned AV-3. Immediately adjacent property is zoned CV-2. Applicant commits to comply with the regulations and conditions specified in the Zoning Ordinance and other applicable agency standards for such use in the AV-3 zone.

Exhibit B – Site Plan



WOLF CREEK WATER AND SEWER ID. REUSE PROJECT LOWER PUMP STATION SITE PLAN OVERVIEW	
GARDNER ENGINEERING CIVIL & LAND PLANNING 1000 W. 10TH AVENUE, SUITE 100 DENVER, CO 80202 PHONE: (303) 733-4400 FAX: (303) 733-4401	Date: 7-16-20 Scale: 1" = 80' Designed: DM Drawn: JCN Checked: DM
LP84	

Exhibit C – Sketch of Proposed Pump house





Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

Synopsis

Application Information

Application Request: File Number CUP 2022-14 – Request for approval of a conditional use permit for seven recreation lodges located in the F-5 zone, at approximately 10909 E Hwy 39, Huntsville, UT.

Agenda Date: Tuesday, February 27, 2024

Applicant: Louis and Matthew Meyer, Owners

Property Information

Approximate Address: 10909 E Hwy 39, Huntsville, UT, 84317

Project Area: 35.04 acres

Zoning: Forest Zone (F-5)

Existing Land Use: Residential

Proposed Land Use: Recreation Lodge

Parcel ID: 21-013-0002

Township, Range, Section: T6N, R1E, Section 14 SW

Adjacent Land Use

North: Hwy 39	South: Forest
East: Forest/Residential/Recreation	West: Forest/Recreation

Staff Information

Report Presenter: Tammy Aydelotte
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801-399-8794

Report Reviewer: FL

Applicable Ordinances

- Weber County Land Use Code Title 101 Chapter 1 General Provisions, Section 7 Definitions
- Weber County Land Use Code Title 104 Chapter 9 (F-5 Zone)
- Weber County Land Use Code Title 108 Chapter 4 (Conditional Uses)
- Weber County Land Use Code Title 108 Chapter 8 (Parking and Loading Spaces)

Summary and Background

The applicant is requesting approval of a conditional use permit for 7, 16-unit recreation lodges on 35.04 acres, located in the F-5 zone at 10909 East Hwy 39. This request proposes 112 total sleeping rooms, summer and winter amenities such as sports courts, trails, and a clubhouse. The applicant is including a 50-seat restaurant in this proposal. This proposal will include a septic system and well water for sewer and culinary water service.

Analysis

General Plan: As a conditional use, this operation is allowed in the F-5 Zone. With the establishment of appropriate conditions as determined by the Planning Commission, this operation will not negatively impact any of the goals and policies of the General Plan.

Zoning: The subject property is located within the Forest Valley (F-5) Zone. The purpose and intent of the Forest Zones can be further described in LUC §104-9-1 as follows:

1. The intent of the forest zones is to protect and preserve the natural environment of those areas of the county that are characterized by mountainous, forest or naturalistic land, and to permit development compatible to the preservation of these areas.
2. The objectives in establishing the forest zones are:
 1. To promote the use of the land for forest, fish and wildlife and to facilitate the conservation of the natural resources, vegetation and attractions;

2. To reduce the hazards of flood and fire;
3. To prevent sanitation and pollution problems and protect the watershed;
4. To provide areas for private and public recreation and recreation resorts; and
5. To provide areas for homes, summer homes, and summer camp sites.

A recreation lodge is defined by LUC §101-2-3 as follows:

The term "recreation lodge" means a lodge constructed in a mountainous or forested location, which may include up to 16 guest sleeping rooms for short-term rental lodging, and facilities for guest's meals, providing on-site winter sports amenities such as cross country ski trails, snowmobile trails, ice skating and/or similar activities, and, if open year-round, offers summer recreation amenities such as equestrian trails, mountain biking trails, hiking trails, rock climbing training stations, golf course, putting green, and/or tennis courts. Accessory uses, such as sports equipment rental and repair may be included. The number of horses allowed, in the case of a riding stable, shall be calculated and may be permitted based upon acreage and site plan review, and recommended by the planning commission. Limited day use may be allowed based upon site plan review and approval of the overall project as a conditional use by the planning commission.

The Recreation Lodge doesn't list development standards regarding parking. The Planning Commission may make parking requirements, however, the applicant is proposing 184 parking spaces for 116 sleeping rooms, and 50 restaurant tables. The proposed restaurant is limited to use by patrons of the recreation lodge resort. Further parking standards are mentioned later in this report.

Signs are limited to a nameplate identification sign not exceeding two square feet in area per dwelling;

All proposed signage will require approval from Weber County Planning.

A business license shall be obtained.

The applicant will be required to obtain a business license as a condition of conditional use permit approval.

Conditional Use Review: A review process has been outlined in LUC §108-4-3 to ensure compliance with the applicable ordinances and to mitigate anticipated detrimental effects. Thus far, the applicant has received conditional approval from the Weber Fire District, for the proposal. Meeting Weber Fire District requirements is a condition of approval for this application.

The following is an analysis of the proposal reviewed against the conditional use standards:

- 1) Standards relating to safety for persons and property.

The Weber Fire District and Weber County Engineering have requested the following:

- a) *The Weber Fire District requires a secondary access, which can be an emergency access. A turn-around at the caretaker's house will be required. All conditioned structures shall be fire sprinklered, and fire flow/hydrants will need approval. The County Engineering Department requires that a traffic impact study will need to be done and any required improvements to the access will need to be incorporated into the site design.*

- 2) Standards relating to infrastructure, amenities, and services.

The Planning Division recognizes that this proposal will increase traffic thereby placing impacts upon Highway 39. Requirements from the Fire District, the County Engineering Department, and requirements from the UDOT are in place to mitigate unsafe conditions that may result. Other impacts to infrastructure include an increased demand upon garbage services, the Waste Management Company will be contracted with for garbage waste services. Requirements from the Weber-Morgan Health Department regarding the creation of a Large Underground Wastewater Disposal System will need to be met before issuance of a conditional use permit.

The existing access from Highway 39 will also require improvements to accommodate the increased impact. Weber County Engineering has required a traffic impact study, and modifications to the access, based on the results of the traffic study. All access modifications will need to be reviewed and approved by UDOT. Weber County Engineering has also required that the floodplain along the river be shown on all drawings and that FEMA requirements will need to be met during the improvement process.

Weber Fire District has required that the existing bridge be brought up to standard to allow for a 75,000 lb. fire apparatus to access the area south of the river.

Weber County Planning is recommending conditional approval, based upon meeting all review agency requirements, in addition to requirements from Code Enforcement to complete the removal of debris from the site. A detailed review from Weber County Code Enforcement is in Frontier, and all conditions of this review shall be met before the issuance of a conditional use permit.

The Weber-Morgan Health Department, Weber County Engineering, Weber Fire District, and Weber County Planning have reviewed this proposal, and issued conditional approval.

- 3) Standards relating to the environment.
- 4) Standards relating to the current qualities and characteristics of the surrounding area and compliance with the intent of the general plan.

This proposal proposes disturbing minimal landscaping on this parcel, in order to protect the existing environment and topography. The clustering of the recreation lodges near the Highway allows for minimal development near the stream setbacks and seeks to preserve the natural landscape for users to enjoy. Weber County Engineering has required a traffic impact study. Their most recent review requires that any modifications to the existing access, based upon this study, will need to be reviewed and approved by UDOT.

Design Review: In addition to the conditional use review, a design review is required for Recreation Lodges, because of their commercial nature. The following design review standards were considered and an analysis of the project against the design review standards is in the italicized text below each standard.

Sec 108-1-4 Considerations in the review of applications

- (a) Considerations relating to traffic safety and traffic congestion.

Traffic safety concerns are not anticipated with this proposal, as long as the access issues are addressed satisfactorily with Weber Fire District, Weber County Engineering, and UDOT (owner may need an access permit from UDOT, with the additional, commercial impact at this access). The guests will enter the property off of Highway 39.

Where there are no parking standards for a recreation lodge within the Weber County Code or Ordinances, the Planning Commission may advise or make parking requirements. As a matter of information, Weber County Land Use Ordinance (LUC 108-8) requires minimum number of parking spaces for a hotel to be one space per two sleeping units. For a restaurant, one space per eating booth or table. The applicant is proposing 184 parking spaces total. Per Weber County LUC 108-8-7, all parking facilities must be improved with a hard surface such as concrete or asphalt and must be sloped and graded to prevent drainage of storm water onto adjacent properties. The setback requirements in the F-5 zone are as follows: front/rear – 30', side – 20'. The submitted site plan appears compliant with minimum setback requirements. Maximum building height in the Forest zones is 35' from finished grade. The applicant is proposing two-story buildings.

- (b) Considerations relating to outdoor advertising.

The applicant has not proposed any additional signage. All proposed signage shall be approved through Weber County Planning and shall comply with standards outlined in Weber County LUC 110-2.

- (c) Considerations relating to landscaping.

The commercial design standards require a minimum of 20 percent of the site to be landscaped. The project site consists of several acres of the site landscaped with evergreen trees and rock, as shown in the site plan. There are cleared areas to accommodate activities such as pickle ball courts, horse shoe pits, and walking trails.

- (d) Considerations relating to buildings and site layout.

All existing structures, where any type of human occupancy is anticipated, shall be compliant with Weber County Building requirements. Building Inspection will need to give approval of the existing structures prior to issuance of a conditional use permit. The existing structures meet the current zoning setbacks and site development standards. All existing structures that may have any type of human occupation will need to be inspected by the Weber County Building Official for final occupancy prior to issuance of a conditional use permit.

- (e) Considerations relating to utility easements, drainage, and other engineering questions.

Weber-Morgan Health has requirements relative to the location and type of septic and culinary water facilities. Weber County Engineering has concerns regarding the existing floodplain, access improvements, including possible improvements to the on-site bridge. Approvals from all review agencies shall be obtained and submitted

to Planning prior to issuance of a conditional use permit. A conditional use permit is required prior to submittal of any building permit applications for new structures.

- (f) Considerations relating to prior development concept plan approval associated with any rezoning agreement planned commercial or manufacturing rezoning, or planned residential unit development approval.

There are no prior development approvals or rezoning development agreements that apply to the subject property.

Staff Recommendation

Staff recommends approval of this conditional use permit application subject to the applicant meeting the following condition of approval in addition to all conditions of County review agencies and the Ogden Valley Planning Commission.

Planning conditions of approval:

- 1) The applicant shall obtain a valid Weber County Business License, prior to operating as a recreation lodge(s).
- 2) The applicant will obtain a traffic study and any improvements to the existing access shall receive approval from UDOT.
- 3) A second access, per Weber Fire District, shall be secured, and meet any requirements from Weber Fire District and Weber County Engineering prior to issuance of a conditional use permit.
- 4) All existing structures, where any type of human occupancy is anticipated, shall be inspected and deemed up to building code, by the Weber County Building Official.
- 5) All conditions from the Weber-Morgan Health Department are satisfied.

This recommendation is based on the following findings:

- 1) The proposed use is allowed in the F-5 Zone and meets the appropriate site development standards.
- 2) The criteria for issuance of a conditional use permit have been met because mitigation of potential detrimental effects can be accomplished.

Exhibits

- A. Narrative
- B. Site Plan

Map 1



Reeve & Associates, Inc.



Project: Proposed Resort Development – Ruby Resort
Subject: Conditional Permit Application

Reeve and Associates has prepared the following project narrative for the proposed Ruby Resort Development to be located at 10909 UT-39, in Huntsville, Utah. The total project area consists of 35.04 acres. Improvements will include 7 lodge buildings each with 16 resort-type units, a 50-seat restaurant, and on-site caretaker's dwellings with associated drive aisles and parking stalls. Additional amenities such as a pool, sports facilities, horseshoe area, etc. will also be part of the site.

The existing site has historically been a campground and meeting area and has minimal improvements in place. The existing access from UT-39 will be improved and utilized for site access. The South Fork Ogden River divides the planned areas for development. An existing bridge will be utilized for access between the two sides.

An existing on-site spring will provide the water demand for the development. A separate conceptual water report has been prepared and included with this submittal. Please refer to this document for additional information on the design flows, system layout, etc. Wastewater will be treated onsite through the use of a Large Underground Wastewater Disposal System (LUWDS). A separate conceptual wastewater report has been prepared and included with this submittal. Please refer to this document for additional information on the design flows, system layout, etc. Storm water infrastructure will be installed to collect and convey stormwater runoff generated from the site. The final site design will determine the swales, pipes, and grading needed to convey the stormwater flows to the planned basin areas. An area on each side of the river has been designated for the 100-yr detention storage volume that will be discharged in South Fork Ogden River at a reduced rate.

A preliminary site plan has been prepared and included with this submittal. Please refer to this document for additional information on the site layout. If you have any questions, or we can be of further assistance, please let us know.

Nate Reeve, P.E.
Principal Engineer
Reeve & Associates
Nate@reeve.co

Blake Gaiser, E.I.T.
Project Engineer
Reeve & Associates
blake@reeve.co

Exhibit B - Site Plan







Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

Synopsis

Application Information

Application Request: ZDA2022-02: Consideration of an applicant driven request to amend the development agreement between Weber County and CW The Basin to acknowledge transferrable development rights.

Application Type: Legislative

Agenda Date: Tuesday, February 27, 2024

Applicant: CW The Basin

File Number: ZDA 2022-02

Property Information

Approximate Address: 947 E Old Snow Basin Rd

Zoning: FR-3

Existing Land Use: Residential and Vacant

Proposed Land Use: Residential

Adjacent Land Use

North: Residential	South: Residential and Commercial (CVR-1)
East: Vacant (FR-1)	West: Residential

Adjacent Land Use

Report Presenter: Charles Ewert
cewart@webercountyutah.gov
 801-399-8763

Report Reviewer: RG

Development History

On January 25, 2022, the CW Basin property was rezoned from CVR-1 to FR-3 through an ordinance and development agreement approved by the County Commission. The current development agreement restricts the use of the property to ten detached single family dwellings with short term rentals prohibited. Since the time the original development agreement was recorded, the property owner and a third party have discussed the possibility of transferring some of the development rights that would otherwise exist under the current FR-3 zoning if the development agreement did not restrict the development rights to ten. Under this proposal, the applicant is requesting that the county acknowledge that there are 64 development rights assigned to the property (the subdivision), with 10 of them reserved to be constructed onsite, and 54 of them reserved to be sold by means of a transferable development right program.

On September 27, 2022, when this revision was originally proposed to the Ogden Valley Planning Commission, they tabled a decision on this item because the third party TDR purchaser did not have land to which the rights could be lawfully transferred.

The third party now has property in the FB zone (Eden Crossing), and the applicant would like to now proceed with this proposal.

Summary

The request is to specify in the development agreement that the owner has 54 development rights that will be banked to the property, which the developer owns, until it is transferred to the third party. In exchange, the third party has agreed to provide the county with the funds for improvements to the intersection of Highway 39 and Old Snowbasin Road.

The intersection of Highway 39 and Old Snowbasin road is in need of improvements. Several recent developments have pushed the traffic demand at this intersection over the threshold that UDOT deems appropriate for intersection improvements to be made. However, no one development is the single cause of the need for those improvements. Needed improvements are the result of many different developments occurring

along Old Snowbasin Road over time, including impacts from residents who have lived in existing developments for years.

The fairest way to fund the needed intersection improvements is to find a way to extract the needed funds from all lot owners that contribute to the impact. The county could do this by means of applying a special taxing tool such as a special assessment area. However, the applicant's proposal provides an innovative alternative to providing these funds without increasing the tax-burden of those existing residents in the area.

The 64 development rights are based off a density of 20 units per acre from the FR-3 zone. It is important to note that these development rights have been included in each build-out calculation for the Ogden Valley.

Since the owner has already platted 10 development lots, they are requesting the ability to transfer 54 units. When the FR-3 zone was originally granted, it would have entitled the developer to the 64 development rights. At the time the developer was only asking for 13 development rights, citing limited access to sewer and water. Given the sewer and water limitations and neighborhood outcry against the development, by means of a development agreement restriction, the county commissioners limited the developer's ability to build on the property to no more than 10 units, cutting their request by 3.

The question at hand is whether that restriction limited the developer's ability to transfer the 54 remaining rights away from the property to be built elsewhere.

Analysis

When legislative amendments such as development agreements, are proposed, the Planning Commission and County Commission should consider the goals and policies of the general plan as well as public benefits to such agreements.

When this property was rezoned from CVR-1 to FR-3 in early 2022, a finding was that the proposed area was designated as a village on the general plan village location map. The County Commission deemed the project to be a residential village, and the rezone from commercial to residential was approved. The County Commission restricted this portion of the village to only 10 detached single family dwellings. It is recommended that the Planning Commission and County Commission consider whether allowing a developer to bank their units, and not yet develop them, complies with the general plan.

The general plan states the following regarding development rights (staff commentary provided in *italics*):

Land Use Goal 1: A goal of Weber County is to reduce the overall amount and impact of future land development in the Ogden Valley planning area.

This goal suggests the county should not only be looking at reducing the overall impact, but also the overall amount of development. Moving development rights to a more suitable location will help reduce the impact of it. Deleting development rights will reduce both the overall amount and the overall impact. The planning commission and/or county commission may find that this perspective may not support the applicant's request.

Land Use Principle 1.1: in general, additional density should not be authorized in the Ogden Valley planning area above that allowed by current zoning. Minimal density bonuses (the exact amount to be determined by ordinance, master plan, development agreement, etc.) should only be allowed when they are granted to incentivize significant contribution to the advancement of the goals and principles found in this plan.

The 54 development rights in question are a part of the overall build-out calculations found in the general plan, and as otherwise updated by staff from time to time. Allowing these rights to be transferred does not net any increase to the overall buildout previously calculated. The planning commission and/or county commission may find that this supports the applicant's request.

On the other hand, determining that these rights no longer exist (retiring them) will reduce them from the overall buildout calculations. The planning commission and/or county commission may find that this perspective may not support the applicant's request.

Land Use Implementation 1.1.1: Weber County will support the transfer of existing development rights (TDRs) as the primary means to increase densities in suitable project areas while proportionately decreasing density in other areas. incentives – such as reduced road cross sections and other cost-saving measures for master-planned developments – should be proposed to reduce development intensities and as the primary means to incentivize the purchase and transfer of development rights. Bonus density should be used sparingly, and only in the event minimal bonuses can be leveraged for significant and meaningful advancement of the goals and principles of this plan. Development rights include residential (e.g. townhouses, single family detached units, etc.) and non-residential development rights (e.g. hotel units, accessory dwelling units, retirement center units, etc.).

The first part of this strategy suggests that transfers should be supported when occurring from less suitable areas to more suitable areas. It could be argued that sending these transfers from the subject property is in conflict with the general plan, since the area is designated as a village area and is therefore the most appropriate area for it. However, when the commission restricted the use of the rights on the subject property it was done with full knowledge that the area is shown as a village area in the general plan, and thus the restriction was perhaps done for the purpose of limiting the amount of growth in this specific village area. The planning commission and/or county commission may find that this does not support the applicant's request.

The second part of this strategy suggests that bonus density could be allowed – sparingly – to meaningfully advance the goals and principles of the plan. This suggests that even if it is determined that the 54 development rights in question were “retired,” it could be appropriate to resurrect them if it serves to the benefit of implementing the general plan. The planning commission and/or county commission may find that this supports the applicant's request. More on this perspective under the Transportation Goal 1 below.

...

Land Use Principle 1.3: Encourage and promote a voluntary reduction in overall development units in the Ogden Valley planning area by such measures as conservation easements, donations of development rights, voluntary downzoning, purchases of development rights, and land purchases.

While the restriction of the 54 rights from the property was imposed by the county commission, it was imposed by means of a development agreement. As a mutually beneficial development tool, entering into a development agreement is voluntary – not compulsory. This means that the developer (CW Land) voluntarily entered into this agreement with the county in order to be able to realize the other benefits of the FV-3 zone. Thus, it could be construed that my means of agreeing to the development agreement, the developer volunteered to “retire” the remaining 54 development rights. In the context of this land use principle, it may not be appropriate to determine that these units still exist for transfer purposes.

...

Transportation Goal 1: A goal of Weber County is to ensure that Ogden Valley has a transportation system that enhances mobility and connectivity, reduces congestion, and meets air quality standards without disturbing existing land uses.

As aforementioned in Land Use Implementation 1.1.1, bonus densities may be appropriate if it advances a meaningful component of the general plan. Improvements to Highway 39 and Old Snowbasin Road may very well be deemed an important action supported by this transportation goal, as its improvement will enhance mobility and reduce congestion for those entering and existing Highway 39 from Old Snowbasin Road. The planning commission and/or county commission could use this as supporting evidence in favor of the applicant's request.

Summary of Planning Commission Considerations

As can be reviewed above, the general plan may not offer a hard-and-fast answer to the applicant's request. The answer is a matter of perspective when determining the request's overall good to the community as provided in the general plan.

In summation, the planning commission and county commission should consider the following when making a decision:

- By originally restricting the CW subdivision to 10 lots, the county effectively decreased density in the valley.
- If the developer can transfer the unused rights, they may be able to transfer them to a suitable area such as the areas with form based zoning.
- Perhaps the 54 units still exist and are transferrable, but should remain in this specific village area. The neighboring parcel to the east of this one (other side of Old Snowbasin Road) is zoned FR-3 and could potentially support these units if they are transferred there. When the property was rezoned to FR-3, several nearby residents opposed the rezone, but stated that they support a village conceptually. If this area is intended to be a residential village, then the development rights should not be sent outside of this village.
- If the 54 development rights no longer exist, or are reserved for possible later transfer within the same village, it should be noted that the funding sources for needed improvements to the intersection may not materialize as quickly or efficiently as is currently at hand.

Staff recommendation

Staff recommends that the planning commission recommend denial of the proposed development agreement amendment, ZDA 2022-02. This recommendation is based on the following finding:

1. The FR-3 rezone and development agreement, restricting the property's development rights to 10, was the county's declaration that no additional development rights exist on the property.
2. It appears that an overarching goal of the general plan is to reduce both development impacts and development in general in the Ogden Valley. Allowing the rights to remain and be transferred may not be optimal for the intended overall intended outcome of the plan.

If the planning commission is inclined to recommend approval of the proposal, staff recommends the approval be contingent on the attached draft amended development agreement (Exhibit A). This agreement is crafted to allow the applicant to transfer the 54 units to a qualifying receiving parcel.

Model Motion

The model motions herein are only intended to help the planning commission provide clear and decisive motions for the record. Any specifics provided here are completely optional and voluntary. Some specifics, the inclusion of which may or may not be desired by the motioner, are listed to help the commission recall previous points of discussion that may help formulate a clear motion. Their inclusion here, or any omission of other previous points of discussion, are not intended to be interpreted as steering the final decision.

Motion for positive recommendation **as-is:**

I move that we approve File # ZDA 2022-02, an applicant driven request to amend the development agreement between Weber County and CW The Basin to acknowledge transferrable development rights on property located at 947 E Old Snowbasin Road, Huntsville, as provided in Exhibit A. **I do so with the following findings:**

Example findings:

- The proposal is supported by the General Plan.
- [_____ add any other desired findings here _____].

Motion to **table:**

I move that we **table** action on File # ZDA 2022-02, an applicant driven request to amend the development agreement between Weber County and CW The Basin to acknowledge transferrable development rights, property located at 947 E Old Snowbasin Road, Huntsville, as provided in Exhibit A, **to [_____ state a date certain _____], so that:**

Examples of reasons to table:

- We have more time to review the proposal.
- Staff can get us more information on [_____ specify what is needed from staff _____].

- The applicant can get us more information on [_____ specify what is needed from the applicant _____].
- More public noticing or outreach has occurred.
- [_____ add any other desired reason here _____].

Motion to recommend denial:

I move that we deny File # ZDA 2022-02, an applicant driven request to amend the development agreement between Weber County and CW The Basin to acknowledge transferrable development rights, property located at 947 E Old Snowbasin Road, Huntsville. **I do so with the following findings:**

Examples of findings for denial:

- The findings in the staff recommendation.
- The proposal is not adequately supported by the General Plan.
- The proposal is not supported by the general public.
- The proposal runs contrary to the health, safety, and welfare of the general public.
- The area is not yet ready for the proposed change to be implemented.
- [_____ add any other desired findings here _____].

Exhibits

Exhibit A – Proposed Draft Development Agreement Amendment

EXHIBIT A:

Draft Amended Development
Agreement

AMENDMENT 1 TO THE

DEVELOPMENT AGREEMENT

Between

WEBER COUNTY, UTAH

and

CW THE BASIN, LLC,

List of Attachments

Attachment A: Project Area Legal Description and Graphic Depiction

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AMENDED DEVELOPMENT AGREEMENT (AMENDMENT 1)

The Basin

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered into by and between Weber County, Utah ("County") and CW The Basin, LLC ("Developer"), as well as all other owners of land within The Basin subdivision ("Owners"), known together herein as the "Parties."

RECITALS

WHEREAS, The Project is currently zoned CVR-1, with a Base Density of 64 residential rights, and Developer desires to rezone the Project to the FR-3 zone, which carries an identical Base Density, consistent with the terms and provisions contained herein; and

WHEREAS, The Developer desires and intends to develop a residential subdivision (the "Project") in the unincorporated area of Weber County known as Huntsville. Key components of the Project include ~~thirteen (13)~~ ten (10) detached single-family residential dwellings; and

WHEREAS, The Developer's objective is to develop ~~thirteen (13)~~ ten (10) single family lots that complement the character of the community and is financially successful; and

WHEREAS, The Developer desires to reserve the remaining residential development rights, equaling 54 rights, for potential transfer to another receiving parcel(s), as provided for in the Code; and

WHEREAS, The County's objective is to approve only development that supports and advances the health, safety, and welfare of the community, as generally described in the general plan and as otherwise determined appropriate by the Board of County Commissioners; and

~~WHEREAS, The Project is currently zoned CVR-1 and Developer desires to rezone the Project to the FR-3 zone consistent with the terms and provisions contained herein; and~~

WHEREAS, The Project will be located on land referred to herein as the "Project Site". The Project Site is as more specifically described in **Attachment A**: Project Area Legal Description and Graphic Depiction. A preliminary plan showing the general location and layout of the Project is contained in **Attachment B** Preliminary Plan.

NOW, THEREFORE, in consideration of the recitals (which are incorporated into the Agreement by this reference) and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. Effective Date, Expiration, Termination.

- 1.1. **Effective Date.** The Effective Date of this Agreement is the last date upon which it is signed by any of the Parties hereto.
- 1.2. **Expiration.** This Agreement shall be in full force and effect until (10) years from the Effective Date of this Agreement, at which point this Agreement shall expire. ~~After the expiration of this agreement, the development and use restrictions of Section 7 herein shall prevail as legislatively adopted land use restrictions. Typical legislative action shall be required to make changes thereto.~~

- 1.3. Termination.** This Agreement may be terminated by mutual written agreement of the Parties to this Agreement. This Agreement automatically terminates, without notice, in the following circumstances:
- 1.3.1.** The term of this Agreement expires;
 - 1.3.2.** The Project is abandoned or the use is discontinued, as provided for by ~~Weber County~~the Code Chapter 108-12; or
 - 1.3.3.** The Developer defaults on any provision of this Agreement and the default is not resolved as specified in Section 13 of this Agreement.
- 1.4.** After the expiration or termination of this agreement, the development and use restrictions of Section 7 herein shall prevail as legislatively adopted land use restrictions. Typical legislative action shall be required to make changes thereto.

- 2. Definitions and Interpretation.** For purposes of this Agreement, the following terms, phrases, words, and their derivations shall have the meaning given herein where capitalized; words not defined herein shall have their ordinary and common meaning. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, words in the singular number include the plural number, and the use of any gender shall be applicable to all genders whenever the sense requires. The words "shall" and "will" are mandatory and the word "may" is permissive. References to governmental entities (whether persons or entities) refer to those entities or their successors in authority. If specific provisions of law referred to herein are renumbered, then the reference shall be read to refer to the renumbered provision
- 2.1. Adjacent Property.** "Adjacent Property" means that existing subdivision located to the South and West of the Project.
 - 2.2. Agreement.** "Agreement" means this Development Agreement between County and Developer, approved by the Board of County Commissioners, and executed by the undersigned.
 - 2.3. Association.** "Association" shall have the meaning given to such term in Utah Code Ann. §57-8a-102(2).
 - 2.4. Base Density.** "Base Density" means the same as defined in the Code.
 - 2.3-2.5. Code.** "Code" means the adopted Weber County Land Use Code.
 - 2.4-2.6. County.** "County" means Weber County, Utah.
 - 2.5-2.7. Developer.** "Developer" means CW The Basin, LLC, or its Assignees as provided in Section 11 of this Agreement.
 - 2.6-2.8. Effective Date.** "Effective Date" has the meaning set forth in Section 1 of this Agreement.
 - 2.7-2.9. Force Majeure Event.** "Force Majeure Event" means any event beyond the reasonable control of the affected Party that directly prevents or delays the performance by such Party of any obligation arising under this Agreement, including an event that is within one or more of the following categories: condemnation; expropriation; invasion; plague; drought; landslide; tornado; hurricane; tsunami; flood; lightning; earthquake; fire; explosion; epidemic; pandemic; quarantine; war (declared or undeclared), terrorism or other armed conflict; material physical damage to the Project caused by third Parties; riot or similar civil disturbance or commotion; material or supply delay; other acts of God; acts of the public enemy; blockade; insurrection, riot or revolution; sabotage or vandalism; embargoes; and, actions of a governmental or judicial authority.
 - 2.8-2.10. Parties.** "Parties" means the Developer and the County.

~~2.9-2.11.~~ **Project.** "Project" means The Basin subdivision as set forth in the Attachment B hereto.

~~2.10-2.12.~~ **Project Site.** "Project Site" means the land area on which the Project will actually be sited, as more specifically described in Attachment A: Project Area Legal Description and Graphic Depiction.

~~2.11-2.13.~~ **Routine and Uncontested.** "Routine and Uncontested" means simple and germane to the Project or Project Site, having very little chance of effect on the character of the area, and not anticipated to generate concern from the public.

~~2.12-2.14.~~ **Substantial Completion.** "Substantial Completion" means the Project is constructed, installed, and a valid business license has been obtained from the county.

~~2.13-2.15.~~ **Transferee.** A party to which the Project is transferred or assigned in part or in whole. "Assignee" shall also mean the same.

3. Omitted

4. Project Description.

~~Thirteen (13)~~ Ten (10) detached single-family residential lots.

5. Project Location and Illustration.

The Project is as described herein, and illustrated in Attachment B.

6. Vesting.

6.1. To the maximum extent permitted under the laws of the County, the State of Utah, and the United States, the Parties hereto intend that this Agreement grants to Developer the right to develop and use the Project, as outlined in and subject to the requirements set forth in this Agreement, without modification or interference by the County (collectively, the "Vested Rights"). The Parties intend that the rights granted to Developer under this Agreement are contractual and also those rights that exist under statute, common law, and at equity. The Parties specifically intend that this Agreement grants to Developer "vested rights" as that term is construed in Utah's common law and pursuant to Utah Code Ann.

6.2. The Parties agree that the Base Density of the Project Site, upon rezone to the Forest Residential Zone (FR-3), equals 64 residential development rights.

6.3. Neither the County nor any department or agency of the County shall impose upon the Project (whether by initiative, or other means) any ordinance, resolution, rule, regulation, standard, directive, condition or other measure (each a "New Law") that reduces or impacts the development rights provided by this Agreement or the Vested Rights. Without limiting the generality of the foregoing, any New Law shall be deemed to conflict with this Agreement and / or the Vested Rights if it would accomplish any of the following results in a manner inconsistent with or more restrictive than applicable law, either by specific reference to the Project or as part of a general enactment that applies to or affects the Project: (i) change any land uses or permitted uses of the Project; (ii) limit or control the rate, timing, phasing or sequencing of the approval, development or construction of all or any part of the Project in any manner so long as all applicable requirements of this Agreement, and the applicable zoning ordinance are satisfied; or (iii) apply to the Project any New Law otherwise allowed by this Agreement that is not uniformly applied on a County-wide basis to all substantially similar types of development projects and

project sites with similar zoning designations. Notwithstanding the foregoing, if Developer considers any New Law to be beneficial to the Project, this section does not require Developer to comply with the superseded ordinance, but rather in such cases, Developer may with County approval, which approval may not be unreasonably withheld, conditioned, or delayed, elect to request that the New Law apply to the Project.

- 6.4.** The Developer acknowledges that the County is restricted in its authority to limit its police power by contract and that the limitations, reservations, and exceptions set forth herein are intended to reserve to the County all of its police power that cannot be so limited. Notwithstanding the retained power of the County to enact such legislation of the police powers, such legislation shall not modify the Developer's vested right as set forth herein unless facts and circumstances are present which meet the exceptions to the vested rights doctrine as set forth in Section 17-27a-509.5 of the County Land Use, Development, and Management Act, as adopted on the Effective Date, *Western Land Equities, Inc. v. County of Logan*, 617 P.2d 388 (Utah 1980), its progeny, or any other exception to the doctrine of vested rights recognized under State or Federal laws.
- 6.5.** The parties mutually acknowledge that any use lawfully established under vested laws and this Agreement replaces and supersedes any previously approved development agreements pertaining to or recorded against the ~~Property~~ Project Site and Project including.

7. Development and Use Restrictions.

7.1. Use of Property. The use of the Project shall be limited to ~~thirteen (13)~~ ten (10) detached single-family residential lots.

~~7.1.7.2.~~ **Use of Residential Development Rights.** The use of the remaining 54 residential development rights may not be developed anywhere on the Project Site, but may be transferred to a qualifying parcel as provided in the Code. Any such transfer shall not be used for the creation of detached single-family dwellings, but may be used for other types of dwelling units on the transfer property. The transfer notice for both the sending parcel and receiving parcel shall note this restriction.

~~7.2.7.3.~~ **Short-Term Rentals.** Short-Term Rentals are expressly prohibited.

8. Amendments and Revisions.

This Agreement may be amended by mutual agreement of the Parties only if the amendment is in writing and approved and signed by Developer and County (an "Amendment"). The following sections specify what Project changes can be undertaken without the need for amendment of the Development Agreement, and what changes require Amendment to this Agreement.

- 8.1. Project Facility Repair, Maintenance and Replacement.** Developer shall be permitted to repair, maintain and replace the Project and its components consistent with the terms of this Agreement without amending the Agreement.
- 8.2. Authorized Changes, Enlargements, or Alterations.** As set forth below, County staff may review and approve certain minor changes, enlargements or adjustments ("Changes") to the Project in their respective administrative capacities. The following types of Changes are considered minor, provided that no such Changes shall directly or indirectly result in significantly greater impacts than those contemplated in the approval of this Agreement.
- 8.2.1. Changes Necessary to Comply with Other Laws.** Any resulting changes as a consequence of obtaining or complying with a federal, state, or local permit or approval; provided that the changes are routine and uncontested and the application thereof does not materially affect the County's original intent, findings, or conditions on the Project in

a manner that would have likely resulted in a different decision on this Agreement, as determined by the Planning Director.

- 8.2.2. De Minimis Changes.** Other de minimis changes requested by the Developer, which are reasonably consistent with the intent of this agreement and the FR-3 rezone, and are routine and uncontested.

9. OMITTED

10. OMITTED

11. General Provisions.

- 11.1. Assignability.** The rights and responsibilities of Developer under this Agreement may be assigned as provided herein.
- 11.1.1. Total Assignment of Project and Project Site.** The Developer, as the landowner of the Project Site at the time of the execution of this Agreement, may sell, convey, reassign, or transfer the Project Site or Project to another entity at any time, provided any division of land, if applicable, complies with County Laws.
- 11.2. Binding Effect.** This Agreement shall be binding upon the Parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns, devisees, administrators, representatives, lessees and all other persons or entities acquiring all or any portion of the Project, any lot, parcel or any portion thereof within the Project Site, or any interest therein, whether by sale, operation of law, devise, or in any manner whatsoever.
- 11.3. Utah Law.** This Agreement is entered into under the laws of the State of Utah, and the Parties hereto intend that Utah law shall apply to the interpretation hereof.
- 11.4. Authority.** Each Party represents and warrants that it has the respective power and authority, and is duly authorized, to enter into this Agreement on the terms and conditions herein stated, and to execute, deliver and perform its obligations under this Agreement.
- 11.5. Duty to Act Reasonably and in Good Faith.** Unless otherwise expressly provided, each Party shall act reasonably in giving consent, approval, or taking any other action under this Agreement. The Parties agree that each of them shall at all times act in good faith in order to carry out the terms of this Agreement and each of them covenants that it will not at any time voluntarily engage in any actions which frustrate the purpose and intent of the Parties to develop the Project in conformity with the terms and conditions specified in this Agreement.
- 11.6. Communication and Coordination.** The Parties understand and agree that the process described in this Agreement depends upon timely and open communication and cooperation between the Parties. The Parties agree to use best efforts to communicate regarding issues, changes, or problems that arise in the performance of the rights, duties and obligations hereunder as early as possible in the process, and not wait for explicit due dates or deadlines. Each Party agrees to work cooperatively and in good faith toward resolution of any such issues.
- 11.7. Force Majeure Event.** A Force Majeure Event shall be promptly addressed by Developer. County agrees to offer a reasonable period for Developer to cure the effect of the event given the extent of the effect on the Project and the Developer's ability to redress the effect.

12. Notices.

- 12.1. Written Notice.** Any notice, demand, or other communication ("Notice") given under this Agreement shall be in writing and given personally or by registered or certified mail (return receipt requested). A courtesy copy of the Notice may be sent by facsimile transmission or email.
- 12.2. Addresses.** Notices shall be given to the Parties at their addresses set forth as follows:

If to the County:

Weber County Commission
2380 Washington Blvd, Ste #360
Ogden, UT 84401

With copies to:

Weber County Attorney
2380 Washington BLVD, Ste. #230
Ogden, UT 84401

Weber County Planning Director
2380 Washington BLVD, Ste. #240
Ogden, UT 84401

If to Developer:

CW The Basin, LLC
1222 W. Legacy Crossing Blvd., STE 6
Centerville, UT 84014

12.3. Notice Effect. Notice by hand delivery shall be effective upon receipt. If deposited in the mail, notice shall be deemed delivered forty-eight (48) hours after deposited. Any Party at any time by Notice to the other Party may designate a different address or person to which such notice or communication shall be given.

13. Default and Remedies.

13.1. Failure to Perform Period. No Party shall be in default under this Agreement unless it has failed to perform as required under this Agreement for a period of thirty (30) days after written notice of default from the other Party. Each notice of default shall specify the nature of the alleged default and the manner in which the default may be cured satisfactorily. If the nature of the alleged default is such that it cannot be reasonably cured within the thirty (30) day period, then commencement of the cure within such time period and the diligent prosecution to completion of the cure shall be deemed a cure of the alleged default.

13.2. Remedies. The Developer's failure to comply with this agreement constitutes a violation of the ~~Land Use Code of Weber County~~, and is subject to the enforcement provisions and remedies thereof. In addition, the County may withhold any permits from the Project.

13.3. Dispute Resolution Process.

13.3.1. Conference. In the event of any dispute relating to this Agreement, the Parties, upon the request of either Party, shall meet within seven (7) calendar days to confer and seek to resolve the dispute ("Conference"). The Conference shall be attended by the following parties: (a) the County shall send department director(s) and County employees and contractors with information relating to the dispute, and (b) Developer shall send Developer's representative and any consultant(s) with technical information or expertise related to the dispute. The Parties shall, in good faith, endeavor to resolve their disputes through the Conference.

13.3.2. Mediation. If this Conference process does not resolve the dispute within the 7-day

Conference period, the Parties shall in good faith submit the matter to mediation. The Parties shall send the same types of representatives to mediation as specified for the "Conference" process. Additionally, the Parties shall have representatives present at the mediation with full authority to make a settlement within the range of terms being discussed, should settlement be deemed prudent. The mediation shall take place within forty-five (45) days of the Parties submitting the dispute to mediation. If the dispute is not able to be resolved through the mediation process in the 45-day period, the Parties may pursue their legal remedies in accordance with Utah and local law.

14. Entire Agreement.

This Agreement, together with all Attachments hereto, constitutes the entire Agreement between the Parties with respect to the subject matter of this Agreement. This agreement is specifically intended by the Parties to supersede all prior agreements between them or recorded to the property, whether written or oral.

15. Counterparts.

This Agreement may be executed in several counterparts and all so executed shall constitute one agreement binding on all the Parties, notwithstanding that each of the Parties are not signatory to the original or the same counterpart. Further, executed copies of this Agreement delivered by facsimile or by e-mail shall be deemed originally signed copies of this Agreement.

IN WITNESS HEREOF, the Parties hereto, having been duly authorized, have executed this Agreement.

(Signatures on following pages)

SIGNATORIES SIGNATURES

“County”

Weber County, a body corporate and politic of the State of Utah

By: _____

~~Scott K. Jenkins~~ James (Jim “H”) Harvey

Chair, Weber County Commission

DATE: _____

ATTEST: _____

Ricky D. Hatch, CPA
Weber County Clerk/Auditor

**“Developer”
CW The Basin, LLC**

By: _____

Print Name: _____

Title: _____

DATE: _____

Developer Acknowledgment

State of Utah)
)ss.
County of Davis)

On the ____ day of _____, 20__, personally appeared before me _____, who being by me duly sworn, did say that he is the _____ of _____, a limited liability company, and that the foregoing instrument was signed in behalf of said limited liability company by authority of its members or its articles of organization; and said person acknowledged to me that said limited liability company executed the same.

My Commission Expires:

Notary Public, residing in

“Owner”

By: _____

Print Name: _____

DATE: _____

Owner Acknowledgment

State of Utah _____)

_____)ss.

County of Davis _____)

-

On the _____ day of _____, 20____, personally appeared before me _____, who being by me duly sworn, did say that each said person is the person with proper authority and duly acknowledged to me that she/he executed the same

My Commission Expires _____

Notary Public, residing in _____

“Owner”

By: _____

Print Name: _____

DATE: _____

Owner Acknowledgment

State of Utah _____)

_____)ss.

County of Davis _____)

-

On the _____ day of _____, 20____, personally appeared before me _____, who being by me duly sworn, did say that each said person is the person with proper authority and duly acknowledged to me that she/he executed the same

My Commission Expires _____

Notary Public, residing in _____

Attachment A

Project Area Legal Description and Graphic Depiction

PART OF THE NORTHWEST QUARTER OF SECTION 24, TOWNSHIP 6 NORTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN, U.S. SURVEY. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY RIGHT-OF-WAY OF STATE HIGHWAY 39, SAID POINT BEING S89°36'46"E 477.61 FEET AND S00°23'14"W 2.34 FEET FROM THE FOUND MONUMENT AT THE NORTHWEST CORNER OF SAID SECTION 24; THENCE ALONG SAID SOUTHERLY LINE, A NON-TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 1959.86 FEET, AN ARC LENGTH OF 254.84 FEET, A DELTA ANGLE OF 07°27'01", A CHORD BEARING OF S80°41'48"E, AND A CHORD LENGTH OF 254.66 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF OLD SNOW BASIN ROAD; THENCE ALONG SAID WESTERLY LINE THE FOLLOWING TWO (2) COURSES: (1) S04°48'23"W 313.97 FEET; (2) ALONG A TANGENT CURVE TURNING TO THE RIGHT WITH A RADIUS OF 1134.18 FEET, AN ARC LENGTH OF 117.20 FEET, A DELTA ANGLE OF 05°55'15", A CHORD BEARING OF S07°46'00"W, AND A CHORD LENGTH OF 117.15 FEET TO THE NORTH LINE OF CHALETS AT SKI LAKE PHASE 1; THENCE ALONG SAID NORTH LINE THE FOLLOWING TWO (2) COURSES: (1) N77°56'06"W 194.61 FEET; (2) N77°56'13"W 271.39 FEET TO THE EAST LINE OF CHALETS AT SKI LAKE PHASE 3; THENCE ALONG SAID EAST LINE THE FOLLOWING THREE (3) COURSES: (1) N12°03'47"E 156.02 FEET; (2) S77°56'13"E 158.81 FEET; (3) N13°01'42"E 260.03 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE HIGHWAY 39 AND TO THE POINT OF BEGINNING.

And also including half of the street right-of-way immediately adjacent to the legal description

CONTAINING 144,146 SQUARE FEET OR 3.309 ACRES MORE OR LESS.

