

### OGDEN VALLEY PLANNING COMMISSION

### **MEETING AGENDA**

### February 25, 2025

Premeeting 4:30pm/Regular Meeting 5:00 pm



- Pledge of Allegiance
- Roll Call:
  - 1. Minutes: 1/28/2025
  - 2. Administrative Items:
    - **2.1 UVS011222:** Consideration and action on preliminary subdivision approval of Sundown Condominiums Phase 2. **Staff Presenter: Tammy Aydelotte**
    - **2.2. UVS012325** Consideration and action on preliminary subdivision approval of Sundown Townhomes, a 22-unit development with private roads, in the DRR-1 zone. Located at approximately 6570 Powder Mountain Road, Eden, UT, 84310. **Staff Presenter: Tammy Aydelotte**
  - 3. Public Comment for Items not on the Agenda:
  - 4. Remarks from Planning Commissioners:
  - 5. Planning Director Report:
  - 6. Remarks from Legal Counsel

Adjourn

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

& Via Zoom Video Conferencing at <a href="https://webercountyutah.zoom.us/j/85864904525">https://webercountyutah.zoom.us/j/85864904525</a> Meeting ID: 858 6490 4525

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 January 28, 2025. To join the meeting, please navigate to the following weblink at <a href="https://webercountyutah.zoom.us/j/83472446252">https://webercountyutah.zoom.us/j/83472446252</a>, the time of the meeting, commencing at 4:30 p.m.

**Ogden Valley Planning Commissioners Present:** Janet Wampler (Chair), Jeff Barber (Vice Chair), Jeff Burton, Bryce Froerer, David Morby, Mark Schweppe, Trevor Shuman.

**Staff Present:** Charlie Ewert, Principal Planner; Felix Lleverino, Planner; Tammy Aydelotte, Planner; Courtlan Erickson, Legal Counsel; Marta Borchert, Office Specialist.

### Pledge of Allegiance

• Roll Call: Chair Wampler conducted roll call and indicated all Commissioners were present. She called for declarations of conflicts of interest or ex parte communications. She noted she has a personal conflict of interest related to item 2.1 and will be recusing herself from discussion and action on that item. She indicated Vice Chair Barber will be conducting that portion of tonight's meeting.

### 1. Minutes: November 19 and December 17, 2024.

Chair Wampler offered corrections to the title page of the November 19, 2024 minutes, changed names of speakers in the documents, and made additional typographical changes. There were no additional changes to the minutes and Chair Wampler declared them approved as amended.

### 2. Legislative Items:

2.1 ZMA2024-11: A public hearing on an application for a zone map amendment to create a Master Planned Development Overlay Zone and development agreement for the Bridges Development generally located north of Fairways Drive, and to consolidate the various base-zones from the RE-20, RE-15, FV-3, and FR-3 zones to the RE-20 zone to provide better assurance to the community that established historic development rights are limited. County Staff: Charlie Ewert.

Chair Wampler recused herself from discussion and action on this item.

A staff memo from Principal Planner Ewert explained this proposed rezone involves approximately 250 acres known as the Bridges development, which affects six parcels of land. Currently, the property is governed by four zoning categories: RE-15, RE-20, FV-3, and FR-3, with most of the land (205 acres) in the RE-15 zone. The property is also governed by the Wolf Creek Development Agreement established in 2002 and updated in 2015, which allocates 413 residential development rights. Of these, 94 rights have already been platted, leaving 319 rights available. An additional 13 rights are associated with the FV-3 zone, totaling 332 overall development rights for the subject property. The applicant's request can be summarized by three actions: remove the property from the Wolf Creek development agreement, apply the Master Planned Development Overlay Zone (MPDOZ) to guide development, and consolidate the four zones into a single zone to simplify administrative issues and align with the project's proposed single-family residential uses. The proposed rezone, if approved, offers the county a chance to guide development through the MPDOZ and ensure better community outcomes, including infrastructure improvements and open space preservation. Should there be desire to deny the rezone, the planning commission should weigh the decision against the applicant's vested development rights and the potential for continued development under the existing agreement and CUP. Staff is recommending approval of the rezone with specific considerations and recommendations.

Mr. Ewert reviewed his staff memo and summarized staff's analysis of the application, which discussed the following:

- Zoning guidelines;
- Conditional and permitted uses;
- Nonconforming (grandfathered) rights;
- Rezone negotiations;
- Development agreement; and
- Rezone objectives.

Mr. Ewert concluded After reviewing the proposal within the intended context of the Ogden Valley General Plan, existing zoning, and existing development agreements, it is staff's opinion that this rezone will help advance the vision and goals of the plan. Staff is recommending approval of the rezone. This recommendation is offered with the following considerations, which are intended to be incorporated into the zoning development agreement or executing rezone ordinance:

- 1. Rezone the entire property to the RE-20 zone.
- 2. The list of allowed uses (Exhibit D) and standards (Exhibit E) of the DA should be updated to provide the following:
  - a. More specifically address staff notes/comments.
  - b. Include the specific language found for each use in the RE-20 zone or provide alternative regulatory standards that serve the same purpose.
  - c. The uses that would otherwise require a conditional use permit should have specific aesthetic and safety standards written into the agreement if they are to be allowed as permitted uses. Standards such as building materials, fencing/wall materials and design, screening requirements including specific vegetation densities, if vegetation will be used for screening, and conditions or circumstances under which screening is required, and a long-term landscaping and maintenance plan.
  - d. Short-term rentals:
    - i. Should be limited to only the 364 units they were approved for by the 2016 CUP, including the 94 units already platted, giving the applicant a total of 270 more STRs.
    - ii. Should be prohibited from lots 51-57, 425-430, and 501-521, and from at least 50 percent of the cabin units. A reference to this restriction should be required on each subdivision plat.
    - iii. Should either be specifically limited to no more than two "sleeping rooms" as provided in the STR ordinance, or provide no less than three parking spaces.
  - e. The cabins:
    - i. Should be limited to no more than 1,100 square feet of livable space in an effort to provide more affordable housing options.
    - ii. Contain no more than two bedrooms.
    - iii. Parking lots should all be connected by means of a continuous five-foot sidewalk, including safe street crossings. The sidewalk connections should generally run parallel to the street unless a route that is more efficient for pedestrians and more likely to be used instead of the street can be provided otherwise.
    - iv. Proposed exterior design should be included in the design standards.
- 3. The street cross sections should be updated to include the final expected design of Fairways Drive, or reserve a place for it and provide an agreement to follow whatever it is for the portion of the street required of the applicant.
- 4. Staff's other comments and suggestions provided in the attached DA should be more fully addressed prior to county commission approval.
- 5. A homeowner's association is created to provide perpetual operations and maintenance of the open space areas and trails.

This recommendation is based on the following findings:

- 1. After the considerations listed in this recommendation are applied through a development agreement, the proposal generally supports and is anticipated by the vision, goals, and objectives of the Ogden Valley General Plan.
- 2. The project is not detrimental to the overall health, safety, and welfare of the community and provides for better project outcomes than the alternative.
- 3. A negotiated development agreement is the most reliable way for both the county and the applicant to realize mutual benefit.

Vice Chair Barber asked Mr. Ewert to discuss the concept of using outside resources for the subdivision review process. Mr. Ewert indicated that one land use regulation that can be employed by the County is the use of an outside consultant to perform different types of reviews, such as building permit application reviews, subdivision reviews, or building inspections. The applicant is asking to have the ability to trigger when an outside consultant will be used for certain review processes required for this project. He stated that Planning staff would like to retain control of that power and would recommend removing that section from the development agreement; the applicant has asked that the section of the agreement be considered by the Planning Commission and ultimately the County Commission.

Commissioner Burton asked Mr. Ewert to discuss the short-term rentals (STRs) component of the project. Mr. Ewert indicated that the area 'left over' in the RE-15 zone could be used for STRs; given the size of that portion of the property, there could be 95

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units on the property. If the original approval of the project included 364 STRs, that number would be reduced by 95 upon approval of this application. Commissioner Burton then referenced recommended condition of approval 2.c, which discussed specific aesthetic and safety standards; he asked Mr. Ewert to expound on aesthetic standards. Mr. Ewert stated there are two uses the applicant has requested be tied to the property, left over from the RE-20 zone: water detention facility and public utility substation. Under the RE-20 zone, both of those uses are conditional and there will be unique circumstances that should be considered on a case-by-case basis. The applicant has requested those uses be permitted rather than conditional and staff felt it appropriate to require specific aesthetic and safety standards for the uses if they are no longer required to undergo a conditional use permit (CUP) application review. Aesthetic standards could include things like screening, fencing, and general visibility of a structure.

Vice Chair Barber invited input from the applicant.

Bruce Baird, counsel for the applicant, stated that he disagrees with Mr. Ewert on very few things, but one disagreement is the impetus for the application. He views this zone change as County driven, but he would like the zone change to be governed by a development agreement that sets the density for the project and most of the design/building standards with very few exceptions. Primarily, the project will be developed according to the RE-20 zone with some additional requirements identified in the development agreement. He expounded on the history of the project and zoning decisions and expressed a willingness to work with staff and the County Commission to finalize a development agreement that can govern the project in a responsible manner. He strongly cautioned the Planning Commission against requiring a CUP for the utility structures in the project area and, instead, include the aesthetic and safety standards for those improvements in the development agreement. This will help to prevent a situation where a CUP application is used to hold up the entire project, similar to what has happened in other jurisdictions. He then discussed the recommendation to allow the developer to trigger the use of outside consultants for certain review processes associated with the project; he feels this is appropriate because government entities have limited resources and when the new city is created as the result of a recent vote to incorporate the area of the County in which the subject property is located, there may be even fewer resources and he does not want his client to be in a situation where they are waiting for the city or the County to trigger the use of outside consultants. He does not want any weaponization of inspections to occur in this project. The final issue relates to the number of STRs allowed in the project; he does not agree with the requirements being placed on the STR uses. He feels that disclosure of the use will address issues with STRs internal to the project; external to the project, it has been his understanding that there have been no code enforcement issues with the existing STRs, and he does not feel it is appropriate to limit the STR use. He recognizes the Planning Commission can make an alternate recommendation to the County Commission if they believe it to be appropriate and correct, and he will discuss the matter further with the County Commission. He appreciates the Planning Commission's experience and expertise and will respect any input they provide to the County Commission. He currently does not feel that some of the recommendations made by Mr. Ewert are acceptable, but he is willing to address those issues with the County Commission. He concluded he believes the current plan will provide increased benefit to the County while providing for a project that is worthwhile for the developers.

High level discussion among the Commission, Mr. Baird, and County staff centered on the developers concerns about limitations on the number of STRs; the benefits the development agreement provides to both the developer and the County; transfers of development rights (TDRs); permitted and conditional uses; the benefits of combining the zones to create one zone; covenants, conditions, and restrictions (CCRs) that will be enforced in the project – specifically on STRs; and whether overlay zoning 'trumps' the base zone standards.

Commissioner Froerer moved to open the public hearing at 6:17 p.m. Commissioner Morby seconded the motion. All voted in favor.

Nicki Phipps, 4488 N. 4150 E., stated that the subject property abuts her home in Sheep Creek, and she would like the developer to reconsider their requests regarding STRs in the project; making the cabin area STRs is less frustrating to existing residents because they cannot be seen from Sheep Creek. Making the entire project a STR area is frightening and is very unfair to those that have lived in their homes for 20 years. The use would be very disruptive to the area; there is less control over the use and STR properties are typically not maintained as well as owner occupied or long-term rental properties. She asked that the County not allow STR areas to abut existing developments.

Don Stefanik, Eden, stated he would like to know if the existing CCRs associated with the master development agreement will continue for this new development. He asked if approval of this application would change or jeopardize the protection of the existing development in the area.

Richard Walton, 3597 N. Foothill Lane, stated that at the beginning of the meeting, Planning Director Grover indicated that tabling the application would not be allowed this evening and he asked for an explanation of that matter. He then stated he is not here tonight to address the pros and cons of the development, but he would like to express his and others' concerns regarding the fact that the residents have just a year to get the new city up and running and that should not mean that Weber County has that same amount of time to make as many zone changes as possible. When the residents voted to create a city in the Ogden Valley, it should not have created a land rush for developers to cement what they are trying to do before the new city takes control. The new city will represent the desires of the citizens and any permanent action that is proposed in Ogden Valley should not be finalized until the city is officially functioning. He stated this is a gray area, but he is concerned about the long-term implications of actions taken by the County for the city that may not want these projects in the future. He asked that this process be slowed down to allow the process to incorporate play out.

Jan Fullmer, Eden, stated she has an extensive email distribution list for Ogden Valley, and she had a difficult time weeding through the announcements of this meeting before sending that announcement to her distribution list. She has reviewed the data in the packet but would like Mr. Ewert to explain the total number of development units in The Bridges, including where the lots have been platted. She disagreed with the comments made about STRs by Mr. Baird. There are real issues with STRs in the Ogden Valley, especially when STR units are located adjacent to single-family home developments. There have been many disturbances associated with STRs and the HOA for development that she lives in has to spend money to repair damage to walking trails that was caused by illegal use of motorized vehicles on the trails. It is a far reach to say that 'glamping cabins' are some form of affordable housing, especially when looking at plans that have been approved in Western Weber County for affordable housing. She also understands that the overlay zoning for this project would allow for some commercial use, but the area is not designated as a commercial area in the Ogden Valley General Plan. If, for any reason, this is approved, the approval of commercial development must be removed because she can see the potential for storage units being built in the project. If the developer exists from the 2002 master development agreement, she wonders if that also means they are exiting from the Wolf Creek Master Homeowners Association. This is a master HOA that manages all development areas identified in the agreement. She also understands that if the master overlay is approved, there may not be as many development rights used and she asked if that meant the developer would plan to transfer those development rights out of the resort area.

There were no additional persons appearing to be heard.

Commissioner Morby moved to close the public hearing at 6:27 p.m. Commissioner Schweppe seconded the motion. All voted in favor.

Discussion among the Commission and staff centered on the development rights on the subject property and opportunities for clustering development if certain rights are transferred elsewhere or if the pond on the property is drained and eliminated; fencing regulations for the type of project the developer is pursuing; extension of Fairway Drive through the project; ensuring the development agreement runs with the land even in the event of a change of ownership of the property or the developed project; and overlay zoning and whether there is an allowance for commercial development in the overlay zoning. Mr. Ewert concluded that his recommendation would be that assignment of the MPD overlay zone to the project would have an expiration date that is the same as the expiration date of the development agreement. The Commission debated whether the RE-20 zoning is sufficient to accomplish the applicant's goals or if the overlay zoning is necessary.

Vice Chair Barber then invited Mr. Grover to respond to Mr. Walton's questions about the process that has been applied to this application and whether tabling this evening is an option. Mr. Grover indicated that in December there were some noticing issues with this application and the developer cited a provision in State Code that gives him the ability to request the decision to be made by the Planning Commission given unreasonable delays. This means that the Commission has the ability to make a recommendation to approve or deny the application tonight, but not table.

Commissioner Schweppe stated the applicant has indicated there have been no issues with STRs in the area around the subject property and he asked if that is correct. Mr. Grover stated the applicant is correct; County staff has not heard reports of any issues with STRs in this area. Those that have been reported in other areas of the County have been dealt with by the County's Code Enforcement Officer in a very timely manner. This led to discussion regarding the County's response to nuisances at STR properties and how enforcement and compliance is defined. Commissioner Schweppe asked if an STR license has ever been revoked as part of an enforcement action, to which Mr. Grover answered no. He also encouraged Ms. Fullmer to report nuisance issues that have occurred in her neighborhood, including driving motorized vehicles on trails.

Commissioner Burton stated that there seems to be some discrepancy related to the total number of development rights on the property; the County has a different number than the applicant has stated. Mr. Ewert stated that is correct. Commissioner Burton asked if there was ever any intent in the past to provide STRs in certain areas of the subject property. Mr. Grover stated that STR rights are dictated by zoning. Mr. Ewert indicated that he has not found any clear direction indicating that STRs or nightly rentals were allowed in all areas of the project, but he can review the earlier master development agreement that governed the property; if that document does indicate that nightly rentals are allowed anywhere in the Wolf Creek development, the applicant would be correct that he is entitled to have STRs in all 413 units. Commissioner Burton stated that would be important to know.

Mr. Ewert then attempted to answer additional questions asked during the public comment period; the first dealt with whether the existing Wolf Creek CCRs would apply to the subject property, and he needs to research that issue further to determine the applicability of those CCRs or if a completely new set of CCRs will be developed for this project. He then addressed the comment about glamping cabins being classified as affordable housing, clarifying that there is no use in this project that is considered glamping cabins. They are single family units that are at least 1,000 square feet in size with two bedrooms. He also addressed the question regarding the actual density of the project and opportunities for transferring development rights out of the project area. This issue is being addressed in the development agreement, with the intent being to keep the 426 development rights on the property and not transferred elsewhere in the future. However, the applicant may be able to work with the new city in the future to make amendments to the development agreement that could adjust TDR rights.

Vice Chair Barber then noted that he generally supports the application; he feels the overlay zoning makes sense as do other attempts to clarify the density and other development rights available on the property. He acknowledged the lengthy process of incorporating a new city and he feels that it is appropriate to take action on this application at this time rather than delaying.

Commissioner Burton stated he likes the idea of making the utility projects and buildings permitted uses and applying aesthetic and safety standards to them. He then noted that whoever develops the property should be required to abide by the development agreement. He also would like Planning staff to research past entitlements related to the number of development rights and whether STRs are allowed throughout.

Commissioner Shuman moved to forward a positive recommendation to the County Commission regarding application ZMA2024-11, an application for a zone map amendment to create a Master Planned Development Overlay Zone and development agreement for the Bridges Development generally located north of Fairways Drive, and to consolidate the various base-zones from the RE-20, RE-15, FV-3, and FR-3 zones to the RE-20 zone to provide better assurance to the community that established historic development rights are limited, subject to staff recommended conditions of approval and based upon the findings listed in the staff report, as well as the following additional conditions:

- Memorialize the development rights for the property;
- Leave permitted and conditional uses as they currently are;
- Changing the assignment language to the language that was described by Mr. Ewert rather than the assignment language in the staff report pertaining to STRs.

Commissioner Morby seconded the motion.

There was brief discussion about the findings provided in the staff report.

Vice Chair Barber called for a vote on the motion. Commissioners Barber, Froerer, Morby, Schweppe, and Shuman voted aye. Commissioner Burton voted nay. Chair Wampler recused herself from voting. (Motion carried on a vote of 5-1).

Chair Wampler provided any member of the Commission the opportunity to provide an explanation for the manner in which they voted on the application. Commissioner Schweppe stated that he felt that staff's recommendations make far more sense than what has previously been approved most recently in 2016. Vice Chair Barber agreed. Commissioner Shuman stated his only concern at this point relates to the STR use; he feels those matters can be researched further before a final decision is made by the County Commission. He also did not see a reason for delaying action on the application until the incorporation of the new city is complete. Commissioner Morby agreed; the newly incorporated city will need to follow any rules that have been imposed on the applicant. Commissioner Burton stated he voted in opposition because of concerns related to conditional uses versus permitted uses. He also supports the concept of the development agreement running with the land, regardless of ownership.

Commissioner Shuman stated his motion did not change that; it is his understanding that the development agreement will run with the land.

### 3. Election of 2025 Chair and Vice Chair:

Planning Director Grover summarized the requirement for the Planning Commission to select a new Chair and Vice Chair.

Commissioner Morby nominated Janet Wampler to continue to serve as the Chair of the Planning Commission. Vice Chair Barber seconded the nomination. Chair Wampler indicated she accepts the nomination and called for a vote. Commissioners Barber, Burton, Froerer, Morby, Schweppe, and Shuman voted aye. (Motion carried on a vote of 6-0).

Commissioner Morby nominated Jeff Barber to continue to serve as the Vice Chair of the Planning Commission. Commissioner Burton seconded the motion. Chair Wampler called for a vote. Commissioners Burton, Froerer, Morby, Schweppe, Shuman, and Wampler voted aye. (Motion carried on a vote of 6-0).

### 4. Public Comment for Items not on the Agenda:

Jan Fullmer stated she has been texting people during the meeting tonight and many have indicated they were unable to raise their hand to speak using the Zoom tool. They have gotten an error message indicating that raising their hand is disabled. Some have left the meeting but are still listed as participants. She stated there is something very strange with the Zoom feed for this meeting. Chair Wampler noted she saw a message from someone in the meeting who was unable to raise their hand, and she thanked Ms. Fullmer for letting her know about the issue.

Kay Hogelund stated that she was also unable to raise her hand to speak during the public hearing on their legislative item; she stated she is the President of the Master Homeowner's Association (HOA) for Wolf Creek and is very familiar with the 2002 Zoning Development Agreement. That agreement was recorded against the property and all parties agreed it runs with the land. It provides for other development agreements and also indicates that the CCRs run with the land. Legally, it would be very wise to look at that agreement before taking any final action on the application. She is reluctant to see the 2002 agreement cast aside.

Jim Hall used the Zoom chat feature to state that all of the County's promotion of development, including this at Nordic Valley, will add to the costs of Ogden Valley City. The new city will inherit these costs without making the decisions. For example, the County commissioned two water/sewer studies in 2019 and 2022, both of which said to not approve more development without addressing certain issues. Additionally, this development will increase the need for emergency services and other costs associated with infrastructure maintenance and support.

### 5. Remarks from Planning Commissioners:

Commissioner Shuman stated it is important to remember that the County Commissioners were elected to do a job, and they should continue to do that job until the new city is fully incorporated and there are new leaders for that city. He does not feel it appropriate to delay all pending applications for development of land within the area subject to the incorporation until that process is completed.

### 6. Planning Director Report:

Planning Director Grover reported on an upcoming Planning Commission dinner and training opportunities available to Planning Commissioners. He also reviewed a map to identify the areas of the Ogden Valley that will be left out of the new city to be created subject to the vote to incorporate.

Chair Wampler noted that she has asked Mr. Grover to evaluate how operations will change over the coming months as the process of incorporation continues. Mr. Grover stated that it will be 'business as usual' until the incorporation is complete. There are decisions to be made related to the planning body that will handle the areas of the Valley that will remain unincorporated.

### 7. Remarks from Legal Counsel

Legal Counsel Erickson stated the comment that was made about looking into the 2002 Zoning Development Agreement that pertains to the property that was part of the legislative application on tonight's agenda is worth looking into. He will speak with Mr. Ewert about looking at that issue more closely because it may be a hurdle that the County and the developer must overcome. Chair Wampler asked Mr. Erickson and Mr. Ewert to discuss the issue further with Ms. Hogelund because she has historical knowledge of the contract, and any other past agreements related to the property.

Commissioner Burton moved to adjourn the meeting.

The meeting adjourned at 7:35 p.m.

Respectfully Submitted,

Cassie Brown

**Weber County Planning Commission** 

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# Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

### Synopsis

### **Application Information**

Application Request: Consideration and action on preliminary subdivision approval of Sundown Condominiums

Phase 2

**Type of Decision:** Administrative

**Agenda Date:** Tuesday, February 25, 2025

**Applicant:** Guy Williams, Authorized Representative

Owner: Mike Brenny File Number: UVS011222

### **Property Information**

**Approximate Address:** 6550 N Powder Mountain Road, Eden, UT, 84310

Project Area: 6.885 acres
Zoning: FR-3
Existing Land Use: Vacant

Proposed Land Use: Residential PRUD Parcel ID: 22-001-0014

Township, Range, Section: T7N, R1E, Section 01 Qtr NE

### **Adjacent Land Use**

North: Powder Mountain Road South: Sundown Condominiums Phase 1

East: Vacant/Summit Pass Road West: Vacant

### **Staff Information**

**Report Presenter:** Tammy Aydelotte

taydelotte@webercountyutah.gov

801-399-8794

Report Reviewer: SB

### **Applicable Ordinances**

- Title 101, Chapter 1 General Provisions, Section 7, Definitions
- Title 104, Zones, Chapter 17 Forest Residential Zone (FR-3)
- Title 104, Zones, Chapter 27 Natural Hazards Overlay Zone
- Title 104, Zones, Chapter 28 Ogden Valley Sensitive Lands Overlay Districts, Important Wildlife Habitat Areas
- Title 106, Subdivisions, Chapter 1-8 as applicable
- Title 108, Chapter 5 Planned Residential Unit Development
- Title 108, Chapter 18 Drinking Water Source Protection

### **Summary and Background**

8/31/1983 – Weber County Commission approved a conditional use permit for Sundown PRUD, consisting of 80 units, and an associated bond for some of the improvements. The PRUD consists of a landscaping plan, open space, and private roadways, in two phases.

4/27/1984 – Sundown Condominiums Phase 1, consisting of 20 units was recorded.

1/12/2022 - The Planning Division received an application to plat phase 2 of Sundown Condominiums PRUD Subdivision, consisting of 60 units. The existing conditional use approval for the PRUD is still valid and staff recommends preliminary approval of Phase 2, subject to the conditions outlined in the PRUD approval.

2/15/2022 – Preliminary approval granted with conditions.

1/11/2024 - Preliminary approval, with amended street layout, granted with conditions

There are some changes to the site layout, mainly the location of the secondary access to, and through the proposed Sundown Townhomes Phase, 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 minimus 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, since the last preliminary approval dated 1/11/2024: The relocation of a secondary access from the west, to the south, sharing the ingress/egress that is used to access Sundown Condos Phase 1. The proposed secondary access is proposed to be routed through a proposed Sundown Townhomes project to the west, and south through Sundown Condos Phase 1. There are no changes proposed to the previously 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 approximately 1.136 acres (16.5%) with a common area occupying 4.9684 acres (72%).

### Analysis

<u>General Plan</u>: The proposal conforms to the Ogden Valley General Plan by encouraging development within the existing resort-related areas.

**Zoning:** The Purpose and Intent of the Forest Residential Zone is included below:

LUC §104-17-1 "The purpose in establishing the Forest Residential, FR-3 zone is to provide for medium density residential uses of apartment clusters or condo-tels adjacent to and in conjunction with major recreational resorts, recreation areas and facilities in the mountain areas of Weber County on the basis that such medium density multiple-family housing is an integral and normal part of a recreational resort complex catering to the needs of both tourists and permanent home ownership. This zone is intended to be used in mountain locations in areas associated with major recreational resorts."

<u>Lot area, frontage/width and yard regulations</u>: Sundown Condominiums Phase 2 will offer 5 twelve-unit models. Lot sizes within Sundown Condominiums are proposed to be between 1079 and 1623 square feet, and widths are proposed to be 28.5 feet. Original widths (these are the same as what are currently proposed) and area are similar to the current proposal (current proposal has larger square footage for 1<sup>st</sup> floor units by approximately 74 feet and the 2<sup>nd</sup> floor units have an additional 122 square feet).

Ogden Valley Sensitive Lands Overlay Districts: This proposal does not lie within a sensitive lands overlay district.

<u>Common Area:</u> Sundown Condominiums Phase 2 will preserve 4.97 acres, which amounts to 72% of the total parcel area that the developer will preserve as landscaped and open space common area. The open space will also feature a footpath for residents and visitors to Sundown Condominiums.

Prior to receiving final approval from the County Commission, the applicant will need to provide CC&R's that comply with the provisions of the Condominium Ownership Act, U.C.A 1953, §57-8-1 et seq. per LUC §108-5-6(d)(3) for the preservation, maintenance, and ownership of the common area. The developer will escrow for all public improvements and improvements within the common area. The final plat will need to include language for the common area located within the subdivision in the form of an open space preservation easement.

<u>Natural Hazards Overlay Zone:</u> Sundown Condominiums is located in a Zone "D". County Engineering may have comments on whether or not this flood zone needs to be outlined on the final plat.

A geologic study has been performed by CMT Engineering Laboratories, Dated December 9, 2021, and project No. 17355. All recommendations contained in the submitted report shall be followed.

<u>Culinary water, irrigation water and sanitary sewage disposal:</u> A will-serve letter for culinary water services, and sanitary sewer services, has been submitted from Powder Mountain Water and Sewer, as required for preliminary approval.

<u>Review Agencies:</u> The Weber County Surveyor's Office will review this application once a final plat has been submitted. The Engineering Division has concerns with approved UDOT access from Powder Mountain Road, interior road width and grade, among other concerns with utility locations and easements. The Weber Fire District has reviewed the proposal and provided the applicant with a detailed review that includes, among other things, requirements for fire suppression systems, hydrant count and location, road width and grade, parking restrictions along the interior private roads proposed within this

subdivision. A condition of approval has been made part of the staff's recommendations to ensure that any conditions of the applicable reviewing agencies are strictly adhered to, and addressed prior to coming before the planning commission for a recommendation of final approval.

<u>Additional design standards and requirements:</u> The original conditional use approval showed a slightly different layout of the buildings and roadway. Typically, an amendment to the conditional use permit would require an application, however, if the planning commission feels the proposed changes are minimal, these changes may be approved in this meeting.

<u>Tax clearance:</u> The 2024 property taxes have been paid in full. The 2025 property taxes will be due in full on November 1, 2025.

### **Staff Recommendation**

Staff recommends preliminary approval of Sundown Condominiums, consisting of 60 units. This recommendation for approval is subject to <u>all review agency requirements</u> 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. A formal approval from UDOT, for all access off Powder Mountain Road, shall be submitted prior to appearing before Land Use Authority for 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 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 conditions below are from the Conditional Use approval, dated 8/27/2024, that apply to this subdivision:

- 1. The road(s) within this proposed development shall be private.
- 2. Any proposed trails shall allow public access, through open spaces. The final plat will need to include language for the common area located within the subdivision in the form of an open space preservation easement.
- 3. UDOT approval for any and all access onto Powder Mountain Road/Summit Pass Road shall be submitted prior to scheduling a recommendation for final approval with the Land Use Authority.

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

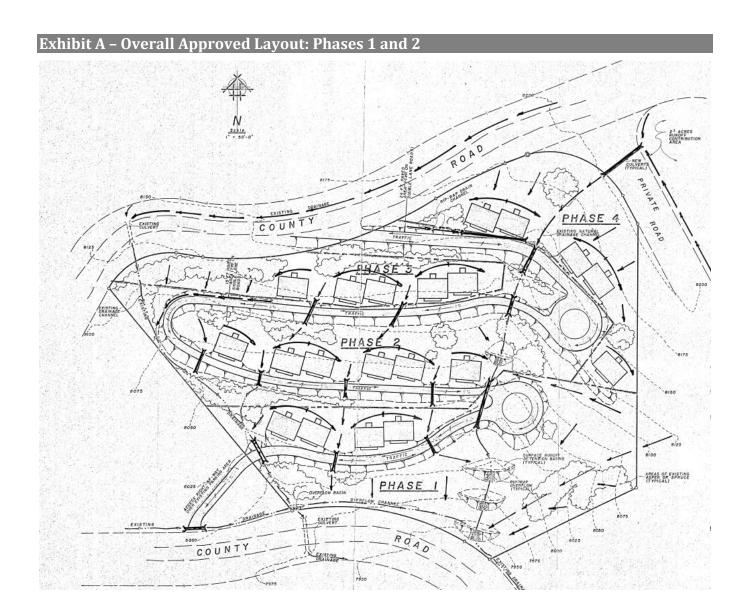
- 1. The proposed subdivision conforms to the Ogden Valley General Plan.
- 2. With the recommended conditions, the proposed subdivision complies with all previous approvals and the applicable County ordinances.
- 3. The proposed subdivision will not be detrimental to the public health, safety, or welfare.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

### Exhibits

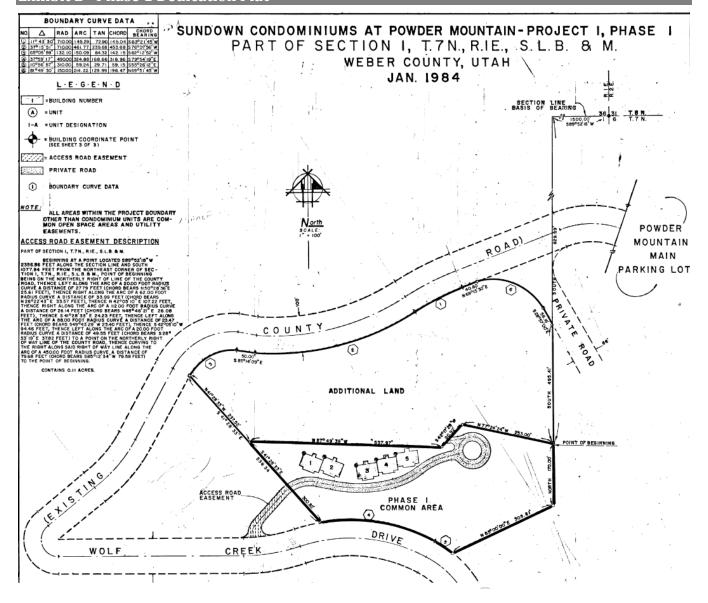
- A. Overall Layout: Phases 1 and 2
- B. Phase 1 dedication Plat
- C. Proposed Plat and Changes from the Original Site Plan
- D. Proposed Renderings
- E. Floor Plan
- F. Water/Sewer Will Serve

# Area Map

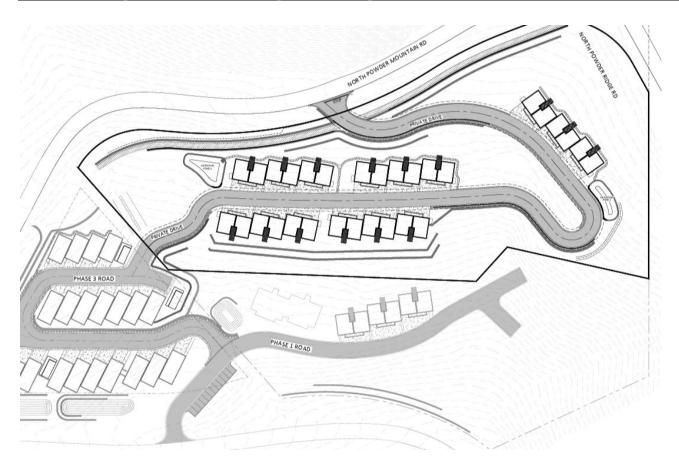


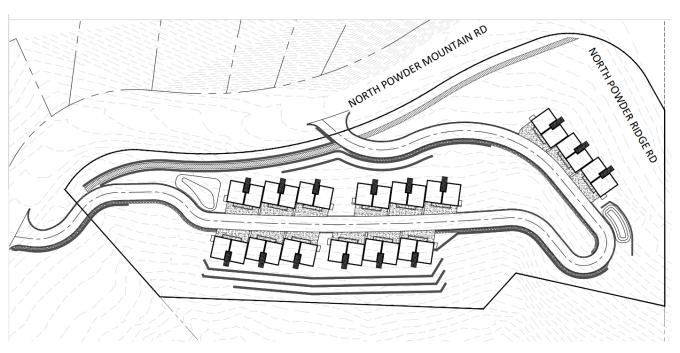


### **Exhibit B- Phase 1 Dedication Plat**

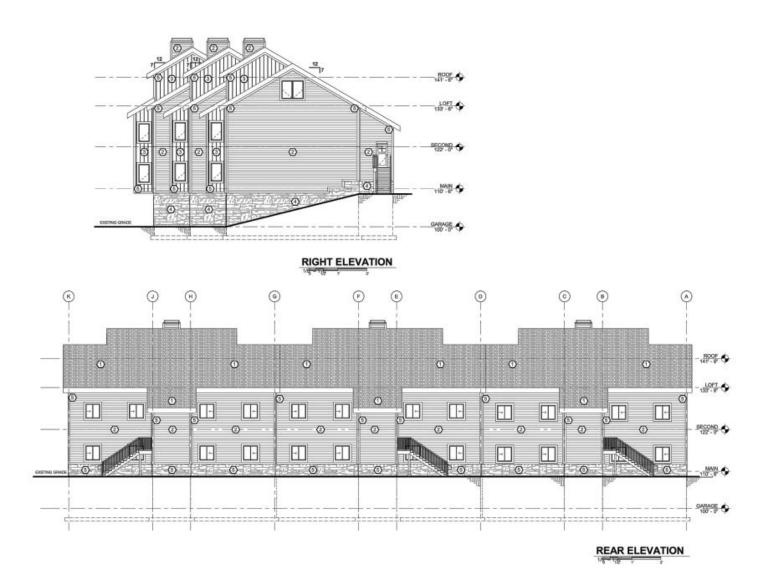


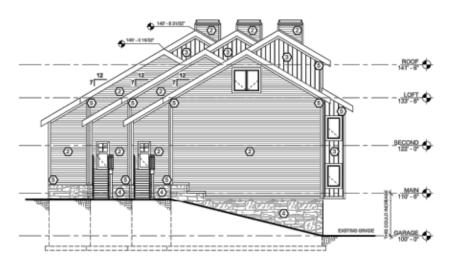
# Exhibit C- Proposed Plat, and Changes from Original Site Plan



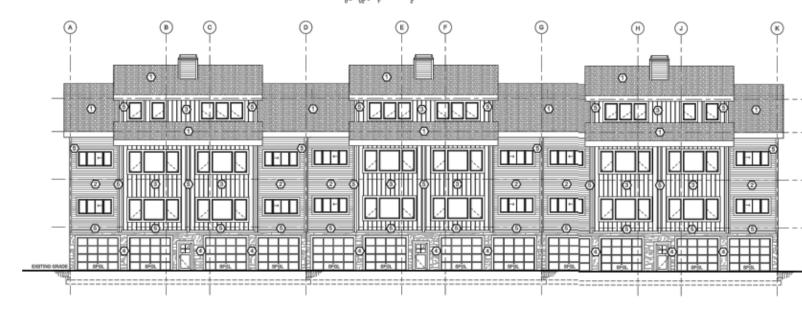


# Exhibit D - Proposed Elevations



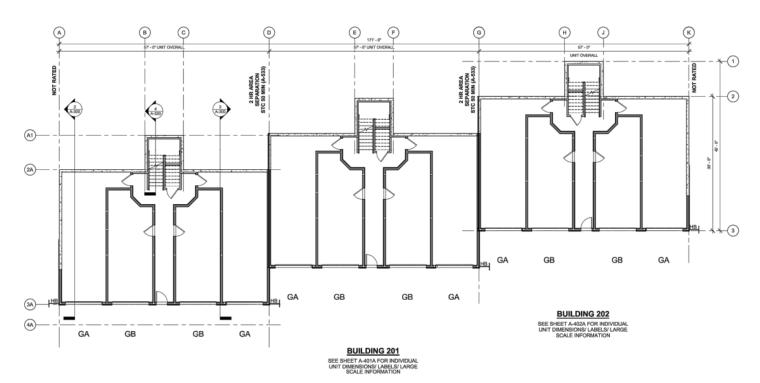


## LEFT ELEVATION



FRONT ELEVATION

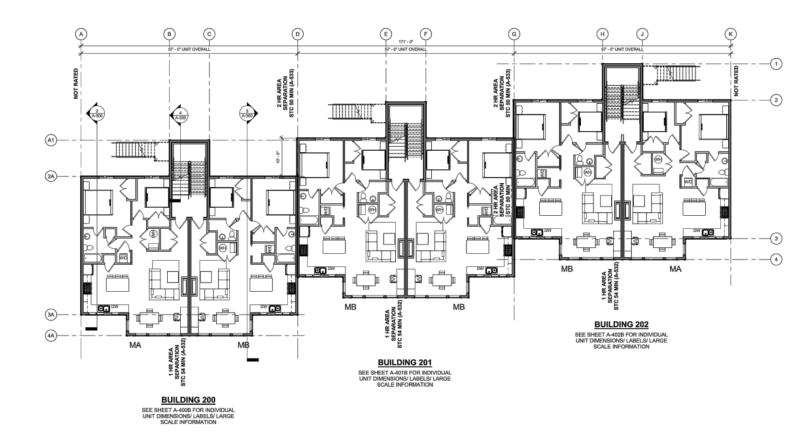
# Exhibit E - Floor Plan

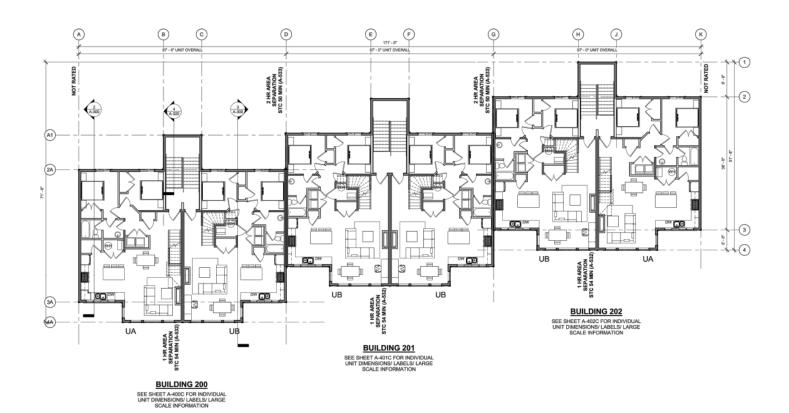


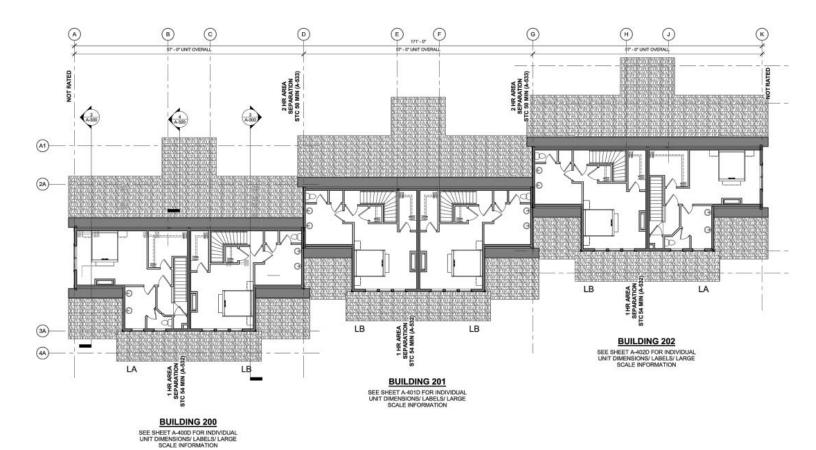
**BUILDING 200** 

SEE SHEET A-400A FOR INDIVIDUAL UNIT DIMENSIONS/ LABELS/ LARGE SCALE INFORMATION









LOFT FLOOR PLAN

1/8' = 1'-0"

1/2 8' 16' 20' 32'

32



March 14, 2024

Sundown Condominiums Phase 2 Mike Brenny 6550 N. Powder Mountain Road Eden, Utah 84310

Ogden Valley Township Planning Commission 2380 Washington Blvd., Suite 240 Ogden, Utah 84401

> Re: Commitment to provide culinary water and sanitary sewer services for the Mike Brenny Sundown Condominiums Development Phase 2 Parcel #22-001-0014

### CAPACITY ASSESSMENT LETTER

This capacity assessment letter is issued by the Powder Mountain Water and Sewer Improvement District (the "District"), in connection to a certain real estate project proposed to be developed by Mike Brenny

The district confirms that it has adequate capacity to provide water and sewer services to serve 60 Equivalent Residential Units ("ERUs") in connection with the Sundown Condominium Phase 2 plat, requested by Mike Brenny.

Building permits shall not be issued without final approval by the district. Final approval is subject to Sundown Condominium Development Phase 2-Mike Brenny meeting all applicable requirements of the district and payment of all applicable fees.

The district's commitment set forth in this letter is effective as of the date of this letter.

POWDER MOUNTAIN WATER AND SEWER IMPROVEMENT DISTRICT

By: Robert Behrendt-Chairman



# Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

### Synopsis

### **Application Information**

Application Request: Consideration and action on preliminary subdivision approval of Sundown Townhomes, a

22-unit development with private roads, in the DRR-1 zone. Located at approximately 6570

Powder Mountain Road, Eden, UT, 84310.

**Type of Decision:** Administrative

Agenda Date: Tuesday, February 25, 2025

**Applicant:** Guy Williams, Authorized Representative

Owner: Mike Brenny File Number: UVS012325

### **Property Information**

**Approximate Address:** 6550 N Powder Mountain Road, Eden, UT, 84310

Project Area: 3.349 acres
Zoning: DRR-1
Existing Land Use: Vacant
Proposed Land Use: Residential

Parcel ID: 22-001-0045 & 22-001-0046 Township, Range, Section: T7N, R1E, Section 01 Qtr NE

### **Adjacent Land Use**

North: Powder Mountain Road South: Powder Mountain Road East: Sundown Condos Ph 1 & 2 West: Powder Mountain Road

### **Staff Information**

**Report Presenter:** Tammy Aydelotte

taydelotte@webercountyutah.gov

801-399-8794

Report Reviewer: FL

### **Applicable Ordinances**

- Title 101, Chapter 1 General Provisions, Section 7, Definitions
- Title 104, Zones, Chapter 29 Forest Residential Zone (DRR-1)
- Title 104, Zones, Chapter 27 Natural Hazards Overlay Zone
- Title 104, Zones, Chapter 28 Ogden Valley Sensitive Lands Overlay Districts, Important Wildlife Habitat Areas
- Title 106, Subdivisions, Chapter 1-8 as applicable
- Title 108, Chapter 18 Drinking Water Source Protection

### **Summary and Background**

1/23/2025 – Application accepted by Weber County.

The applicant is proposing a 22-unit townhome development on approximately 3.35 acres in the DRR-1 zone, at approximately 6570 Powder Mountain Road, Eden, UT, 84310. The applicant is proposing to use the existing access to Sundown Condos PRUD Phase 1, off Powder Mountain Road, as the primary access, with the secondary access through Sundown Condos PRUD Phase 2, to the north, off Summit Pass Road. The proposed 26' wide private roadways will connect three phases of this development, two of which are within a previously approved PRUD in the FR-3 Zone, and the third (the townhomes) is in the DRR-1 Zone and subject to the recorded development agreement for Powder Mountain.

### **Analysis**

<u>General Plan:</u> The proposal conforms to the Ogden Valley General Plan by encouraging development within the existing resort-related areas.

Zoning: The Purpose and Intent of the Ogden Valley Destination and Recreation Resort Zone is included below:

LUC §104-29-1 "The purpose of this chapter is to provide flexible development standards to resorts that are dedicated to preserving open space and creating extraordinary recreational resort experiences while promoting the goals and objectives of the Ogden Valley general plan. It is intended to benefit the residents of the county and the resorts through its ability to preserve the valley's rural character, by utilizing a mechanism that allows landowners to voluntarily transfer development rights to areas that are more suitable for growth when compared to sensitive land areas such as wildlife habitats, hazardous hillsides or prime agricultural parcels. Resorts within an approved destination and recreation resort zone shall, by and large, enhance and diversify quality public recreational opportunities, contribute to the surrounding community's well-being and overall, instill a sense of stewardship for the land."

<u>Lot area, frontage/width and yard regulations</u>: The Sundown Townhomes project is proposing 22 dwelling units. There are no minimum lot width or area requirements in the DRR-1 Zone. Proposed footprints are 1400 square feet, with approximately 3,000 total square feet of each unit.

Ogden Valley Sensitive Lands Overlay Districts: This proposal does not lie within a sensitive lands overlay district.

<u>Common Area:</u> Per the DRR-1 Zone, a minimum of 60% of the net developable acreage shall be designated as open space. Powder Mountain Resort has designated acreage that exceeds this amounts in other areas of the resort. Sundown Townhomes Phase 2 will preserve common area with native landscaping, and public pathways that will connect to Sundown Condos Phase 2, to the north east. The pathway in Sundown Condos Phase 2 is a condition of approval.

Prior to receiving final approval from the County Commission, the applicant will need to provide CC&R's that comply with the provisions of the Condominium Ownership Act, U.C.A 1953, §57-8-1 et seq. per LUC §108-5-6(d)(3) for the preservation, maintenance, and ownership of the common area. The developer will escrow for all public improvements and improvements within the common area. The final plat will need to include language for the common area located within the subdivision in the form of an open space preservation easement.

<u>Natural Hazards Overlay Zone:</u> Sundown Townhomes is located in a Zone "D". County Engineering may have comments on whether or not this flood zone needs to be outlined on the final plat.

A geologic study has been performed by CMT Engineering Laboratories, Dated December 9, 2021, and project No. 17355. All recommendations contained in the submitted report shall be followed.

<u>Street Configuration and Circulation:</u> The developer is proposing private roadways throughout. These roadways will connect to Powder Mountain Road to the south, and Summit Pass Road to the north, through Sundown Condos Phases 1 & 2. The developer will need to address concerns and requirements from Weber County Engineering, Weber Fire District, and Weber County Planning, prior to final approval. Some of these requirements may address parking within the private right-of-way, turn radii for emergency vehicles and residents pulling into driveways, as well as retaining wall designs that are proposed throughout this development. A layout for the public pathway shall be submitted and approved by Weber County prior to final approval.

<u>Culinary water, irrigation water and sanitary sewage disposal:</u> A will-serve letter for culinary water services, and sanitary sewer services, has been submitted from Powder Mountain Water and Sewer, as required for preliminary approval.

<u>Review Agencies</u>: The Weber County Surveyor's Office will review this application once a final plat has been submitted. The Engineering Division is requiring formal approval from UDOT for access from Powder Mountain Road and Summit Pass Road, as well as approval of retaining wall design, for those proposed retaining walls that run adjacent to the UDOT ROW's (Powder Mountain Road). Weber Fire District has reviewed the proposal and may have requirements for fire suppression systems, hydrant count and location, road width and grade, parking restrictions along the interior private roads proposed within this subdivision. A condition of approval has been made part of the staff's recommendations to ensure that any conditions of the applicable reviewing agencies are strictly adhered to and addressed prior to coming before the Land Use Authority for final approval.

<u>Additional design standards and requirements:</u> The proposed 26'-wide private ROW's will need to be approved by applicable County Review Agencies. Per Weber County LUC § 106-2-2.020 (a) Private Street Open for General Public Use "A private street that is perpetually open to the public for use and through-passage is allowed only under the following circumstances:

1. The Private Street shall never be closed to the public and no signage shall be erected to indicate or insinuate that the street is not open for public use or passage, except to allow for occasional and routine maintenance necessary to ensure the longevity of the street.

- 2. The Private Street shall be owned, operated, and maintained in perpetuity by a homeowners association that has a least 40 Dwelling Units, as evidenced by an approved preliminary subdivision plat and recorded homeowners association declaration. If final plat recordation is phased, the homeowners association declaration shall be recorded to the entire legal description of the preliminary subdivision plat at the time the first plat is recorded. The declaration shall include the approved preliminary plat. Special provisions or deviations from this requirement may be approved in a development agreement.
- 3. At no time shall a Private Street conflict with or create non-routine operations and maintenance demand on any Public Street.

Under LUC § 106-2-2.020 (b) (4) "Ownership. The final plat shall dedicate the land under the Private Street to the County for the purpose of future conversion to a Public Street at a time the governing body determines a Public Street is necessary, if ever.

- a. Street-Parcel dedication waiver. The Land Use Authority may waive this requirement if development or further development on adjacent Lots or Parcels to which the street could be extended is extremely unlikely, or to which future public access offers very little public benefit, or future development benefit, as determined by the Land Use Authority.
  - 1. **No Street-Block waiver.** A street needed to satisfy the Street-Block requirements of Section 106-2-3 is not eligible for this waiver unless there is no way in which that street can be configured in the subdivision to support the creation of the Street-Block.
  - 2. Pathway in lieu waiver. In circumstances where current or future public access by vehicle is unwarranted, the Land Use Authority may grant a waiver and in lieu require the dedication and installation of a 12-foot wide public easement and pathway or trail connection. The minimum pathway or trail design shall provide for either a 10-foot wide hard-surface pathway with a maximum average grade of 10 percent, or a single-track dirt trail with a maximum average grade of 18 percent.
  - 3. **Waiver requires joint ownership.** If a waiver is granted, the street-Parcel shall be held in joint ownership of the owners of all Lots that gain access from it."

Planning Staff would recommend a waiver to the requirement of dedicating the land under the Private Street to the County for the purpose of a future conversion to a public street.

This development is subject to a recorded development agreement, dated 1/14/2015. Per the Mid-Mountain Master Plan, these parcels are designated as multi-family with a potential of 80 units. The sales contract between the developer and Summit Mountain Holding Group allows for no more than 22 residential units on this corner (pg 38 of 113 in the recorded development agreement – See **Exhibit C**).

<u>Tax clearance:</u> The 2024 property taxes have been paid in full. The 2025 property taxes will be due in full on November 1, 2024.

### **Staff Recommendation**

Staff recommends preliminary approval of Sundown Townhomes, consisting of 22 dwelling units. This recommendation for approval is subject to <u>all review agency requirements</u> and based on the following conditions:

- 1. Formal approval from UDOT, for accesses and retaining wall designs, shall be submitted prior to appearing before the Land Use Authority for final approval.
- 2. A proposed trail/pathway layout will be required prior to appearing before the Land Use Authority for final approval.
- 3. More detailed elevations, of all sides, shall be required prior to 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.

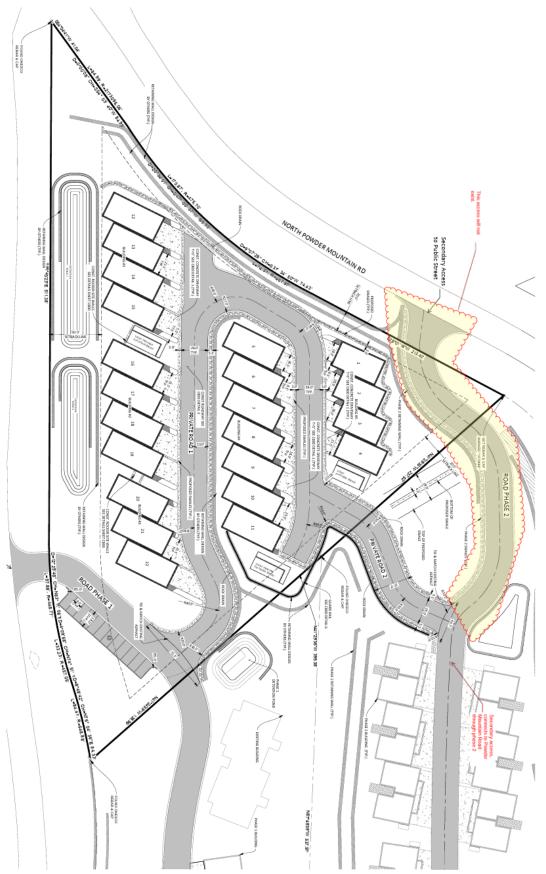
### **Exhibits**

- A. Proposed Preliminary Plat showing connectivity to Adjacent Development.
- B. Will-Serve for Water and Sewer
- C. Mid-Mountain Master Plan Map
- D. Proposed Elevations

# Area Map



Exhibit A - Proposed Preliminary Plat Showing Connectivity to Adjacent Development



### Exhibit B- Capacity Assessment for Water and Sewer



August 9, 2024

Sundown Condos at Powder Mountain PRUD Mike Brenny 6550 N. Powder Mountain Road Eden, Utah 84310

Ogden Valley Township Planning Commission 2380 Washington Blvd., Suite 240 Ogden, Utah 84401

> Commitment to provide culinary water and sanitary sewer services for the Mike Brenny Sundown Condos at Powder Mountain PRUD Development Parcel #22-001-0045

### CAPACITY ASSESSMENT LETTER

This capacity assessment letter is issued by the Powder Mountain Water and Sewer Improvement District (the "District"), in connection to a certain real estate project proposed to be developed by Mike Brenny

The district confirms that it has adequate capacity to provide water and sewer services to serve 22 Equivalent Residential Units ("ERUs") in connection with the Sundown Condos at Powder Mountain PRUD plat, requested by Mike Brenny.

Building permits shall not be issued without final approval by the district. Final approval is subject to Sundown Condos Development Phase 3-Mike Brenny meeting all applicable requirements of the district and payment of all applicable fees.

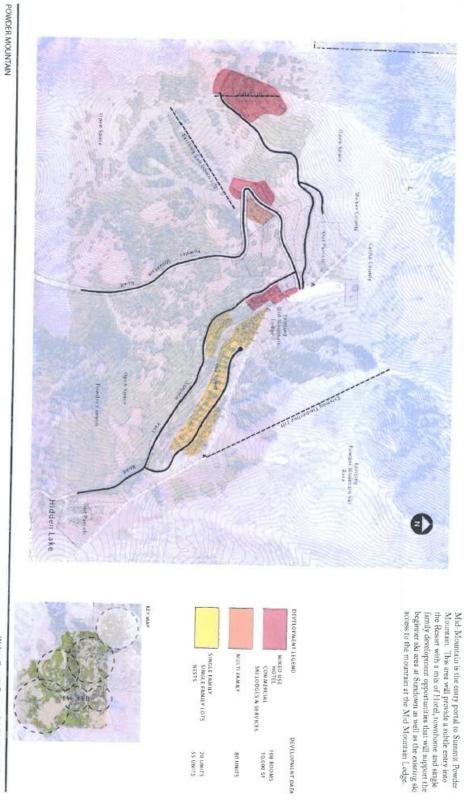
The district's commitment set forth in this letter is effective as of the date of this letter.

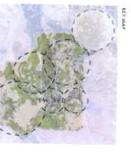
POWDER MOUNTAIN WATER AND SEWER IMPROVEMENT DISTRICT

Robert Behrendt-Chairman

By: Rolus Beles

# Mid-Mountain Master Plan





DEVELOPMENT LEGEND MIXED USE
COMMERCIAL
SKI LODGES & SERVICES MULTI FAMILY DEVELOPMENT DATA 108 ROOMS 10,000 SF

SINGLE FAMILY LOTS NESTS

20 UNITS 55 UNITS

8

# DEVELOPMENT LEGEND

# DEVELOPMENT DATA

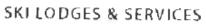


MIXED USE HOTEL

108 ROOMS

COMMERCIAL

10,000 SF





MULTI FAMILY

80 UNITS



SINGLE FAMILY

SINGLE FAMILY LOTS
NESTS

20 UNITS

55 UNITS

# Exhibit D - Proposed Elevations

