Minutes of the Ogden Valley Planning Commission Regular meeting June 25, 2019 in the Snowcrest Junior High School (GYM), located at 2755 N Hwy 162, Eden UT commencing at 5:00 p.m.

**Present:** John Lewis, Chair; Jami Taylor, John Howell, Chris Hogge, Shanna Francis, Bob Wood,

**Absent/Excused:** Steven Waldrip

**Staff Present:** Rick Grover, Planning Director;Charlie Ewert, Principal Planner; Steve Burton, Planner III, Tammy Aydelotte, Planner I, Courtlan Erickson,Legal Counsel; Kary Serrano, Secretary

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

**1. Petitions, Applications and Public Hearings**

**1.1. Legislative Items**

**a. New Business**

**1. ZMA 2019-04: A public hearing regarding an application to rezone approximately 14.15 acres located at approximately 4720 East 2650 North in Eden from the (Agricultural Valley Three Acre) AV-3 Zone to the (Gravel) G Zone for the purpose creating a gravel pit. Applicant: Robert Edwards.**

**Staff Presenter: Charlie Ewert**

Chair Lewis said before we get on to introducing Director Grover and the application; I would like to say give respect to the applicants as they deserve. We will open up for public comment as some point, and we will start off with questions no more than an hour. Then we will evaluate after an hour. We have a clock tonight, and we ask that you make your point within three minutes, and I would ask that you not repeat yourself, just make your point so you’re not repeating yourself. Obviously no outburst, no cheering, no booing, no fruit, and we’ll all be okay. He introduced Director Grover to explain the application, the decision type, and the flow and presentation of how this is going to go.

Director Grover thanked everyone for coming out. About two or three times a year, we try to bring a Planning Commission meeting up here to the valley. On this item, this is not a county driven petition; this petition has been submitted by the applicant. When an application is submitted for a possible rezone, it becomes a legislative item. On a legislative item, the Planning Commission is an advisory board, and they are going to make a recommendation to the County Commission either for or against this request. The applicant has due process, and it’s important as the chair indicated to show proper respect, whether you are for or against we want to make sure your voice is heard. We will have the applicant Rob Edwards, who will explain the project and what he is wanting to do. After that, we will have Mr. Charlie Ewert who will explain the project and how it does or does not meet the code and the General Plan.

Cody Holter, Applicant/Petitioner; and introduced Rob Edwards, Designated Agent who will handle most of the inerrancies related to engineering. He thanked all those who attended where everyone’s opinions matter. Anytime you submit an application that applies to all residents, that it has to be proven that it is in the best interest of the community and the General Plan. I would like to stick strictly to the facts and hopefully devoid of any emotional exchanges that is being presented here. We have reviewed and done extensive research; and have determined as we have done this in multiple locations, that this truly is the best location to provide a vital resource that we all consume. We don’t have the choice of choosing where these deposits have been placed. We hope to show you in our presentation, that by allowing this, it will directly result in a lower cost of living for the residents in the valley. We will also be reducing contaminants in the air, and hopefully provide better health for the residents and future residents of the county. Having this will provide the backbone for many of your vital industries of your valley. Just want to say that I am honored to be here; and we truly do believe that this is good for the community in the long term, and the growth that the General Plan calls for. It will truly be an asset and be mindful and respectful to all the residents in the valley.

Rob Edwards gave a brief history of residency, his qualifications in mining engineering, and areas where his has worked in Utah. I spent a great deal of time, and this is critical for me in understanding in commodities, and provided a list of commodities. In 1935, each person consumed 3.5 metric tons of sand and gravel; almost a 100 years later we all consume individually 22 thousand pounds a year. This is consumed in the buildings, the roadways, dams, schools; and all of those things come from sand and gravel. Concrete is the most used building product in the world; it’s about 70% of the structure, or made from reinforced concrete. I wanted to talk about the local community; and I understand that the census will be out next year, and we’re looking to have 8,000 people in the valley, and over 250 thousand in Weber County. He read a few articles about air quality in Utah. He showed different pictures of batch plants throughout the area. He showed a map of the travel time from various batch plants to deliver their materials. The valley consumes 80,000 tons of material that have to come from somewhere. He read some information from Fox 13 the prior week about air quality in Utah. This project will reduce road congestion, air quality emissions, improved air quality, lower prices, allow for affordable housing, safety on roadways, availability of a viable building product, opportunity for local contractors and homeowners, opportunity for new improved public utilities and roadways, and protecting the lives of families. Our proposal would cut the travel time, we would have the stock piled here, load the material and weigh out, and then distribute in the valley. He read an article about shutting down the canyon to repair three bridges. I have Doug Clements with American Eagle, one of the larger ready mix suppliers in Utah. He will answer any questions that you might have on ready mix.

Charlie Ewert said this is a rezone request that is legislative; essentially with the rezone you are creating new law. When you change the zoning map, you do so by ordinance. There’s a wide discretion in decision making on legislative action, with administrative you are required to approve, but with this one you are not required to approve. The two criteria that you will be looking at in determining whether or not to recommend approval to the County Commission; is whether or not it complies with the General Plan. Whether or not it enhances or promotes the health, safety, and welfare of the public. In the staff report, it’s voluminous and in depth; I tried to hit as much information on community impacts, in the event that the Planning Commission wants to recommend approval. Or in the end if the County Commission decides to approve; I did a full analysis of the community impacts, and plan accordingly as we move forward. What I have in front of you is the subject site, and its right over the fence line where the tennis courts are. He indicated the various zones on the map of the valley, and how this would impact those zones if this was changed to the Gravel (G) Zone. The county has a sensitive lands ordinance; that suggests that development should not occur within 100 feet of the high watermark of this particular part of the river. He showed the geologic hazards map and indicated the Ogden Valley North Fork fault that runs right through as indicated in the purple and orange color on the map.

Charlie Ewert said I am going to focus primarily to the impacts to the community as outlined in the staff report. There is a concern by the County Engineers about what the road is currently made of, would it support the additional truck traffic, and what changes would be made so the road can handle the additional traffic here. If this does get approved, we will be asking a Geotechnical Report to verify that the road can handle the additional traffic here. The engineers would like to see is test material; they are considering putting in the asphalt; this is essentially fiberglass material that goes into the overlay, that goes into the subgrade, and it has a mesh that lines both the asphalt and the subgrade. One thing I have suggested if this gets approved, is the noise impacts from the rock crushing operation. A recommendation to ensure that at the property boundaries, that you’re not hearing over the sound of 70 decibels, which would be the same as a vacuum cleaner. Future permits that the applicant would need in proximity of this use to the river would require more permits. Once the permit is in place, the applicants will need to go through the conditional use permit process. Once the zone is in place, it’s going to be difficult to deny the conditional use permit; provided the applicant can mitigate the detrimental impacts. They will have to do a site-design review; that shows where the batching plant will go, the road layout will be, the stacking lanes for all the trucks waiting to be filled, and where the crushers will be. Any type of sound mitigation like berms, walls, and vegetation.

Charlie Ewert said they will need get a flood-plain activity permit, and obtain an excavation permit if they work on a right-of-way. They will need to put together a Storm Water Pollution Prevention Plan for industrial. A stream alteration permit will need to be amended, they will need a 404 Permit from the Corp of Engineers. Air Quality compliance, Water Quality compliance, Animal Protection, and Drinking Water Protection from the Division of Drinking Water. This is in zone two of one of the drinking wells in the area. Eden Waterworks has a 60 ft. well just adjacent to where the extraction will be. It’s really important that the county, as well as any other agencies verify that whatever is happening onsite, is not causing material derogation of water quality of the drinking water. As for the General Plan, I tried to list the pros and cons. What are the cons for having it here, can those cons be minimized or mitigated, what are the pros having that here, and is there any drawbacks having that here. He went through the staff report concerning the vision of the General Plan. He talked about the trees, removal and replacement. He talked about the peace and quiet, with truck traffic and the crusher. He talked about clean air and water, and are there ways to mitigate that. He talked about abundance of wildlife, how that would affect that. He talked about views, being the most ideal location in the valley. He talked about Ogden Canyon, by reducing the amount of truck traffic, enhancing air quality. Staff’s recommendation is denial of the rezone as listed in the staff report, and based on the findings listed in the staff report.

Chair Lewis thanked Commissioner Froerer for taking time to attend the meeting. We all recognize that growth is coming, and we need something like this, but whether this is the right place or the right time is questionable. If we don’t recommend approval tonight, we need think about when and where something like this might be in the future.

Chair Lewis asked Mr. Edwards indicated that they would be producing about 30,000 cubic yards of concrete, and the other meeting we had he stated 50,000 cubic feet; so by my calculation that would be 3,000 to 5,000 trucks going past the junior high, pre-school, and old folk homes everyday. I know you’ve said either way this turns out, you’ve set lots of rules as how to contain that, and my experience has been because of lack of resources, so how reasonable is that to be able to put those kinds of restrictions to be upheld. Mr. Ewert replied that is one of the findings for denial that I am recommending; it’s going to a hard thing to ensure enforcement. There are a lot of parts and a lot of agencies that were listed there, and they will all have to come together. I don’t think it’s impossible to mitigate the detrimental effects, it would require a little more enforcement capabilities, a little more administrative attention which requires times in order to verify that we can keep a handle on this on a regular basis.

Commissioner Wood said when we went on that field trip we were pretty close behind that tennis court, and I realize that a vacuum cleaner doesn’t really make a lot of noise, but to have it there all day long when you’re trying to explain and teach concerns me. The second thing that concerns me is the dust; when they are out there playing. Can you address my concerns of the dust and the noise? Mr. Ewert replied the question about sound is going to be hard to avoid sound, and from what I’ve studied a typical rock crusher will produce 70 decibels at 300 feet away. What we are going to recommend 70 decibels at 600 feet away. We’re not going to know until we get the rock crusher up here how loud that actually is. As far as dust goes; if this is approved, there needs to be a recommendation for dust mitigation and it has be on a daily basis.

Commissioner Francis asked the applicant we can expect noises from the rock crusher, but what are some of the other noises that come to my mind, would be the backing of trucks, beeping, lowering of equipment, possibly air brakes, conveyor belts, squeaks and noises, machinery, excavation noises with backhoes. What other noises can we expect? Mr. Edwards replied everything you mentioned is going to create sound. There is a quantifiable measure that we have scientifically arrived at; I’ve measured sound and thankfully in our community we have strict ordinances, they have to be complied with. We wouldn’t be able to conduct business, we would be shut down if we were in violation of those ordinances; they would carry that out with enforcement for those city ordinances. We are confident that we can operate within those ordinances, or we wouldn’t have made the application and waste everybody’s time.

Chair Lewis asked Legal Counsel, with their current stream restoration permit that they seem to have, does that give them the right gravel out of the river and take it away, or just restore it on the banks of the river? Mr. Ewert replied I can give you a planning point of view. I did read through the permits, and I don’t see anything there that it can be exported from the site. Oftentimes we are looking at stream alterations, when we’re talking about moving material around onsite. That’s one of the reasons why I mentioned before that we need to ask the applicant to give an updated stream alteration permit, so we can verify with the state engineers that there’s going to be import/export materials out on the site.

Commissioner Taylor said you mentioned that this doesn’t necessarily comply and your recommendation is denial, and you talked a little bit about the villages, was largely on that it’s not furthering the General Plan. I would like for you to explain how this does not comply. Mr. Ewert replied from my estimation of the General Plan; what we are going through here is a rural community that has recreational resources that don’t overwhelm the people that live here with property rights here. The Villages in the General Plan, there are eight different villages that are planned out that will come to flourish at some point in the future without a timeline. The idea that the General Plan puts forth; is a pedestrian oriented walkable streetscape, that has shopping opportunities, recreation opportunities, and maybe included housing opportunities when we figure out that elusive TDR. Having that right next door with heavy equipment and heavy trucks on a regular basis; is not the kind of traffic that I would anticipate seeing in a resort oriented mainstream and that would be a challenge. As far as the sound goes; I would anticipate if you’ve got buildings lining the street, and you’ve got walkable community, you may not hear sounds above and beyond what that street is doing, but I believe it would be the traffic that would be the challenge.

**MOTION:** Commissioner Wood moved to open for public comment. Commissioner Hogge seconded. A vote was taken with Commissioners Taylor, Howell, Hogge, Francis, Wood, and Chair Lewis voted aye. Motion Carried (6-0).

Wayne Pyle, 3746 E 2650 N, said the project does not meet the General Plan, the conditional uses, code enforcement, economic benefits, and the traffic benefits which have not been met. I recommend denial on this project.

Jan Fullmer, 3791 Red Hawk, said I am not pro or con. It is premature on the growth projection for the valley. We need to obtain the report of the water and septic system study being done by the state prior to the projected growth. We do not know if the aquafers will support the growth projection, and if growth continues with septic systems will that pollute the reservoirs. Need to review the health hazards reports pertaining to the silica and dust. I have 12 websites of research that is done by the CDC, NIA, and OSHA that needs to be forwarded to the County Commission prior to a decision being made.

Kellie Mackenzie, 4770 E 2650 N, said I do not support the changes of the gravel pit affect quality of life, with the traffic, air quality, safety and wellbeing of her family, and the wildlife in the area.

Stephanie Colquitt, 791 N Radford Lane, said this gravel pit will affect the clean air, the beauty of the area, the peace and the quiet, and I and my family are totally against this project.

Dee Staples, 4816 E 2800 N, President of Wolf Creek Irrigation, said their bylaws do not allow their water to be used for commercial operation. So if there are water shares for that gravel pit, all I can say is buyer beware.

Shawna Miller, resides in Nordic, said she had concerns with noise, public or private access, the expansion from the gravel pit, and air quality. She recommends denial of this project.

Kevin Parson, resides in Liberty, said he had concerns with the excess amount of water that will be used, sand being imported from Brigham City, not installing a catch basin, issues with the well near the site. Recommends denial.

Bryan Smith, 2920 Nordic Valley Drive, said he had concerns with the excessive noise that a gravel pit produces and this would impact his quality of life. If this gets approved, he will have to move, so he recommends denial.

H.A. Harris, representing Clark Farms, said there will irreversible consequences if you open up this area and rezone it for a gravel pit. This is an agricultural community and this project needs to be denied.

Terry Rasler, representing Utah Homes for Clean Air, said diesel trucks produce 26% emissions that will impact the Ozone Layer, as well as the children’s brain dramatically since this is so close to schools. Recommends denial.

Gail Maegan, representing Ogden Valley Land Trust, read a statement of their position against this application and recommends denial.

Ashley Cross, 4795 E 2600 N, Owner of New World Distillery, said her concerns is the water, dust, noise, eco system, and the trucks being used for that business. She recommends denial of this application.

Rebecca Skordas, 3682 N Foothill Lane, said this community values clean air, wildlife, clean water, the beauty of the valley, economic development, and see if this applicant has other businesses and what is their enforcement record.

Don Moral, resides in Eden, said there are a lot restrictions and requirements when operating a mining operation and he recommends denial of this mining operation.

Thom Summers, 6212 E 2100 N, said he is the Waterworks Operator that takes care of that well, and a perk tester for Weber County Health Department. My biggest concern after running a perk test; with that gravel structure using a large amount of water, that it would underneath my well into that aquifer, which serves this community and this school would be contaminated by cement water and I really don’t want anything to happen to our water sources.

Ron Lackey, resides in Eden, President of Eden Waterworks, said this is about being in the wrong location. If something should happen to this well, the financial consequences would be great for all of us. If this well is gone or contaminated, and we need to protect it. He recommends denial of this project.

Tom Stevens, resides in Eden, said his concern is the water that serves 60% of the people; and what will happen if this water becomes contaminated. The elderly and children in this area, deserves deserve to have peace, tranquility, clean air, and safety. This project is going hurt the other business in this area and the impacts are greater than it’s worth.

Frank Carl, resides in Eden, said there is a strong connection between public health and environmental health; because air, sound, and water pollutions and industrial sites. I don’t agree with on the decibel levels; because studies show that 110-120 decibels is psychologically damaging, and anything 140 and above, that causes auditory damage. To allow this zoning to occur, you open the door for future rezoning’s and future industry.

Shawn Hansen, Professor of Business Strategy Ethics at Weber State University and Direct the MBA Program; said I speak on my behalf, and my professional opinion of the applicants air quality and environmental impact analysis is inadequate. The data is there and it can cause emphysema, asthma, and other health issues that are scientific facts.

Beth Orchard, resides in Eden, asked during the snow season is that going to impact them if they are unable to do their work, and is that going to increase to makeup that lost time. At the Eden Store, as you’re headed this way, it says one mile limit for the weight of the vehicles, would there be additional roads as this construction increases. As far as safety of the canyon with additional workers, would there be an increase in traffic.

Jessica Smith, resides in Eden, said her concern is dealing with the mental health of the residents, is there going to be enough water for the residents. Is this going to be an industrial community driving the current residents out of their home?

Kimber McCafferty, resides in Eden, said none of this is new; it’s already there. I have lived with noise, trucks, dust, water, and health issues for over 20 years. There is an M1 Zone that is in place and this is where this needs to be.

Bill Christiansen, resides in Eden, said there are five restaurants that serve food outdoors. What protection is Weber County going to provide if my customers or the other customers are not going to get sick from the dust, contaminants, noise, and other issues related to that rock crusher?

Steve Erickson, resides in Eden, I have listened to petitioner, and I am not convinced. They are comparing 1935 with 2019, and that won’t work. They want to instill fear in the valley, and fear is not how we should be making choices. I do hope that you choose to reject this plan and pass that on to the County Commission.

Pat McCafferty, resides in Eden, said I got the permits in my name, and I have a permit from the DNR, and I can screw up that river over there, and do wherever I want and there is nothing anyone here can do anything about it.

Kim Wheatley, reside on Southfork River, said in 2008 we spent 2 years developing the recreation chapter of the General Plan. This is really a financial plan and a business plan for the long term in the valley. Then in 2016, we spent another 2 years updating the General Plan, and part of it was to bring the wholesale and the recreation element. When we were looking at the last rezone, the first question we asked was would this rezone substantially enhance the values and the outcomes, of the General Plan. Now we’re being asked to spot zone something that is inconsistent with our General Plan.

Chair Lewis read a letter written by Commissioner Waldrip’s opinion and recommendation.

**MOTION:** Commission Hogge moved to close for public comments. Commissioner Francis seconded. A vote was taken with Commissioners Taylor, Howell, Hogge, Francis, Wood, and Chair Lewis voted aye. Motion Carried (6-0).

Cody Holter indicated that they have anticipated a lot of the comments that were made and they have made contingencies for those items that were made by the County Planner. What I viewed as a positive that the community would embrace and there are many regulatory agencies that would be involved. Some of you would view that as an obstacle, I would view that as a check and balance that would be appropriate. I welcome all the comments, and I would treat of you with courtesy as you would like to be treated. Just want you know that I love this place and would not do anything to hurt it. There are views that this is not the appropriate place and yet it is appropriate for some and not appropriate for me. I hold no disrespect for the people who voiced their opinion, nor do I hold any disrespect for this commission upon their decision of this application.

Rob Edwards stated that on the consumption; these are materials that we are consuming, and they do have to come from somewhere. I do understanding that the community has been since 2002, trying to locate a source here in the valley. Everybody that’s in this building knows that it’s not okay that we have a source that is close, to haul 45 miles away and pollute the air of everybody else in Weber County. There is 250,000 people that live in this county, those people rights are important as well. Those emissions affect those children in the lower valley and the people that live in the canyon. We have to be responsible to find local resources, keep it at local market, and that’s how we eliminate emissions.

**MOTION:** Commissioner Taylor said this application is to request to rezone approximately 14.15 acres in the Agricultural Valley Three Acre Zones located at approximately 4720 East 2650 North to a Gravel Zone for the purpose of gravel excavation and cement batching plant. Before I give my recommendation, the staff summary states, *“It may be more appropriate and significantly simpler for the Planning Commission to focus on the policy merits and community impacts of allowing a gravel pit on the subject property rather than questioning whether the science or other agencies, over which the county has no control, will support the use.”* So with the rezone we’re asked to consider the following questions:

1. How does this rezone apply to the General Plan.

2. Is this rezone enhance the overall intent of the Health, Safety, and General Welfare of the Community.

With all this in consideration; I move to forward our recommendation to the Weber County Commissioners, a denial of the application ZMA 2019-04. This denial is based on the five following findings:

1. This application is not in line with the vision of Ogden Valley General Plan and does not advance the overall intent of this plan. Specifically, this gravel pit proximity to the valleys most prominent Village Area, could hamper the county’s ultimate goals in regards to this area. This application could create potential transportation and noise impacts.

2. This rezone does not advance or protect the overall health, safety, and general welfare of the community. Specifically, the county lacks sufficient administrative capability to ensure adequate oversite compliance of a gravel pit in this proposed location. The potential health and safety to the nearby school, homes, and businesses. The potential of water and fire impact.

3. This is based on the emails sent by the public and the public hearing; that it’s just clear that the residents overwhelming don’t support it.

4. Based on the findings of the research findings as indicated in the staff report during this meeting.

5. The general constantly out-weight the pro’s.

With that being said; should the Weber County Commissioners choose to approve the rezone; we would recommend you do so with the 21 recommendations, that the staff indicated in the staff report starting on Page 17. In conclusion, I would agree with Commissioner Lewis, that growth is inevitable and I am not against growth. I do believe that our community has natural incredible scenery, and I know that we have a planning staff and County Commissioners that are capable of continuing to enable our sceneries to match it residents, and I just don’t think this would be able to do it. Commissioner Wood seconded. A vote was taken to recommend denial of this application to the County Commission with Commissioners Taylor, Howell, Hogge, Francis, Wood, and Chair Lewis voted aye.

Motion Carried (6-0).

**2. Public Comment for Items not on the Agenda:** A member of the audience asked what this commission was going to do if they continued to pursue with the application. Would there be any enforcement on that issue.

**3. Remarks from Planning Commissioners:** Chair Lewis stated that it is up to the County Commission to decide if they approve this or deny this application. We recommended to deny to the county Commission. I would suggest that you attend that meeting and voice your opinion to them. Director Grover can speak to you on the enforcement issue.

**4. Planning Director Report:** Director Grover said part of our staff looks at code enforcement and we will keep an eye on it and monitor possible violations and take care of it.

**5. Remarks from Legal Counsel:** None.

**6. Adjournment:** The meeting was adjourned at 8:00 p.m.

 **Respectfully Submitted,**

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 **Kary Serrano, Secretary;**

 **Weber County Planning Commission**