

Minutes of the Ogden Valley Planning Commission Meeting for July 27, 2021 held in the Weber County Commission Chambers, Weber Center 1st Floor, 2380 Washington Boulevard, and electronically via Zoom meeting ID 858 4537 1495, the time of the meeting, commencing at 5:00 p.m.

Ogden Valley Planning Commissioners Present: John Lewis, Chair; Shanna Francis, Vice Chair; Commissioners Jeff Burton, John (Jack) Howell, Ron Lackey, Trevor Shuman, and Justin Torman.

Absent/Excused: none.

Staff Present: Charlie Ewert, Principal Planner; Scott Perkes, Planner; Steve Burton, Planner; Felix Lleverino, Planner; Tammy Aydelotte, Planner; Cortland Erickson, Legal Counsel; Marta Borchert, Office Specialist.

- **Pledge of Allegiance**
- **Roll Call:** Chair Lewis conducted roll call and indicated Chair Lewis has been excused from the meeting.

Chair Lewis disclosed a conflict of interest he personally has with items 2.1 and 2.3 on the agenda; he indicated he will recuse himself from discussing or acting on these applications. He then asked if any other member of the Commission had any ex parte communication or conflict of interest to declare. No additional disclosures were made.

1. Approval of minutes for May 4, 2021.

Commissioner Torman moved to approve the minutes of the May 4, 2021 meeting as presented. Commissioner Burton seconded the motion. Commissioners Lewis, Francis, Burton, Howell, Lackey, Shuman, and Torman all voted aye. (Motion carried 7-0).

2. Petitions, Applications, and Public Hearings.

2.1 DR 2021-08: Consideration and action on design review approval of the Snowbasin Canyon Rim and Maples parking lot expansions to add a total of 346 parking stalls (Canyons Rim = 91 stalls, Maples = 255 stalls). *Staff Presenter: Scott Perkes*

Planner Perkes reported the applicant is requesting an administrative design review approval to expand the Maples and Canyon Rim parking areas at Snowbasin Resort. The proposed expansion will add a total of 346 parking stalls (91 stalls in Canyon Rim and 255 stalls in Maples). The project will expand each of the parking areas with asphalt pavement and landscaped areas. These two parking lots will be primarily seasonal in their use and temporary in nature as they will be replaced as part of the overall Snowbasin Resort master plan development. LUC Sec. 108-1 (Design Review) requires that all commercial projects that impact more than one acre in area be reviewed by the Planning Commission. The overall acreage of the proposed expansions totals 2.4 acres in area. Snowbasin made application in 2010 and received an approval to become the Ogden Valley Destination and Recreation Resort Zone on January 11, 2011. The resort, as a result of the rezone, is subject to Weber County Zoning Development Agreement #C2011-05 (E#2511941), dated January 19, 2011. The proposal conforms to the Ogden Valley General Plan by continuing development and improvements to Snowbasin Resort. The Planning Division recommends approval of DR 2021-08, subject to all review agency requirements and based on the following condition of approval:

1. An estimate for the proposed landscaping plan is required to be submitted for review. A cash escrow will be required for the approved estimated cost. This cash escrow is required to be deposited prior the issuance of a land use permit.

This recommendation for design review approval is based on the following findings:

1. The proposed project complies with applicable County codes.
2. The proposed project complies with the applicable Zoning Development Agreement and approved Snowbasin Master Plan.
3. The proposed project conforms to the Ogden Valley General Plan.
4. The proposed project will not negatively affect public health, safety, or welfare.
5. The proposed project will not deteriorate the environment of the general area so as to negatively impact surrounding properties and uses.

There was discussion about the amount of parking space included in the conceptual plan for the project and whether that amount is sufficient. There was also a brief focus on storm water improvements included in the project, with Mr. Perkes noting that the increase in impervious surface in the project area will necessitate storm water improvements to address additional runoff and those improvements will be incorporated into the landscape plan for the project. He then noted that LUC §108-2-3(b) allows the land use authority to modify the applicability of the Design Review chapter for DRR-1 projects by approving the landscaping, buffering, and screening plan created by the developer if the land use authority determines that the plan is consistent with the resort's approved master plan. Staff has found that the proposed parking lot expansions and associated landscaping plans are consistent with existing and adjacent temporary parking lots. Additionally, the proposed parking areas are consistent with the land use maps in the resort's master plan and can thereby be approved by the land use authority as proposed. The applicant has indicated that they *"will be making use of the surrounding natural vegetation for landscaping. All disturbed areas of cut and fill slopes will be re-seeded with drought resistant grasses and plantings. No irrigation system is planned."* As a condition of approval, an estimate for the proposed landscaping plan/revegetation is required to be submitted for review. A cash escrow will be required for the approved estimated cost. This cash escrow is required to be deposited prior the issuance of a land use permit. If the Commission is comfortable with the proposal, they could amend the recommended conditions of approve and waive the requirement that the applicant submit an estimate for the proposed landscaping plan and cash escrow for the approved estimated cost.

Chair Lewis invited input from the applicant. Applicant's representative, George Benford of Talisman Civil Consultants, indicated he had nothing to add to the staff report and Mr. Perke's summary of the application.

Commissioner Shuman asked Mr. Benford if he has any concerns about the significant grades included in the project area. Mr. Benford stated that the design is consistent with the Geotechnical Engineer's recommendation regarding side slopes and stabilization. For erosion protection, wildflower seed will be planted to assist in stabilizing the slope. The sloped area will also be used for snow storage from the parking lot.

Chair Lewis invited public input. There were no persons appearing to be heard.

Commissioner Burton moved approve DR 2021-08, design review approval of the Snowbasin Canyon Rim and Maples parking lot expansions to add a total of 346 parking stalls (Canyons Rim = 91 stalls, Maples = 255 stalls), based on the findings and subject to the conditions listed in the staff report, and with the additional amendment that the condition of approval regarding the landscape plan and associated escrow be removed. Commissioner Torman seconded the motion. Commissioners Lewis, Francis, Burton, Howell, Lackey, Shuman, and Torman all voted aye. (Motion carried 7-0).

2.2 UVA070821: Consideration and action on preliminary approval of the Asgard Heights Subdivision consisting of 6 lots at approximately 3460 Nordic Valley Road in Liberty. Staff Presenter: Scott Perkes

Planner Perkes reported the applicant is requesting preliminary approval of Asgard Heights Subdivision consisting of six residential lots. This subdivision is proposed as a traditional subdivision with 3-acre minimum lot areas and dedicated roadway to extend Nordic Meadows Drive eastwards to connect with Carrol St. The proposed subdivision and lot configuration are in conformance with the applicable zoning and subdivision requirements as required by the Uniform Land Use Code of Weber County (LUC).

The subject property is primarily located in the FV-3 Zone with a small portion of the northern tip in the AV-3 Zone. Single-family dwellings are a permitted use in both the FV-3 and AV-3 Zones.

Lot area, frontage/width and yard regulations: LUC § 104-2 (AV-3 Zone) & 104-14 (FV-3 Zone), require a minimum lot area of 3 acres for a single-family dwelling and a minimum lot width of 150 feet.

As part of the subdivision process, the proposal has been reviewed for compliance with the current subdivision ordinance in the LUC § 106, and the AV-3 and FV-3 zone standards found in LUC § 104-2 and 104-14. With exception to Lot 1, the proposed subdivision utilizes traditional subdivision requirements to create 3-acre lots as required in both the FV-3 and AV-3 zones. The applicant has agreed to allow Lot 1, consisting of 2.84 acres, to be substandard to the 3-acre lot minimum in order to allow the dedication and connection of Nordic Meadows Drive to Carrol Street. Newly adopted language in the subdivision ordinance (Sec.

106-2-4.30) allows for lots in the FV-3 and AV-3 zones to be reduced up to 50% of the zone's minimum lot size in order to allow desired connectivity to occur. At the request of County Planning staff, the applicant has agreed to dedicate and improve the Nordic Meadows Dr. extension at the time of subdivision, thereby allowing the applicant to utilize the Flexible Lot Standards of Sec. 106-2-4.30.

Relative to culinary and secondary water, the applicant has entered into a Water Service Agreement with Nordic Mountain Water Inc. for culinary water services for 6 lots. This letter indicates that each lot may utilize their culinary water for up to 5,000 sq. ft. of landscape watering until such time as secondary water may become available. Per LUC. Sec. 106-4-2.1(b)(2)c. (Secondary Water Exemption), *"A subdivision lot that is completely covered by pre-existing native wildland vegetation, and will remain so, is exempt from the secondary water requirements of this section as long as the pre-existing native wildland vegetation remains undisturbed in perpetuity, and is well-established in a manner that makes it relatively unlikely for noxious weed propagation."* Per this section, the applicant may utilize this secondary water exemption so long as the lot areas outside of the home sites and 5,000 sq. ft. landscaped areas served by Nordic Mountain Water's culinary service remain as native wildland vegetation.

In regard to floodplain, the subject property contains a seasonal stream corridor that traverses from the Northeast towards the Southwest. This corridor requires that base flood elevations (BFEs) be calculated and depicted on a final plat in order to determine safe finished floor elevations for future homes. These BFEs will need to be submitted, reviewed, and approved by the County Engineering Department prior to final approval. This stream corridor is depicted as a seasonal stream on the Ogden Valley Sensitive Lands Map. Per LUC Sec. 104-28-2(b)(1)c. (Ogden Valley Sensitive Lands Overlay Zone) the corridor requires a minimum 50-foot setback from high water mark for any future buildings. This setback will need to be depicted on the final plat. Additionally, the applicant is currently working through FEMA's Letter of Map Amendment (LOMA) to more accurately delineate the floodplain areas that encumber the property. This process is anticipated to be completed following the subdivision's recording and will help future lot owners to reduce their flood insurance requirements.

Staff recommends preliminary approval of Asgard Heights Subdivision consisting of 6 lots, located at approximately 3460 Nordic Valley Rd., Liberty. This recommendation is subject to all review agency requirements, and the following conditions:

1. A final plat meeting the requirements of LUC Sec. 106-1-8 must be submitted for agency review.
2. Prior to final subdivision approval, an updated septic feasibility letter will need to be submitted verifying each of the proposed 6 lots have undergone soils and percolation testing and are able to accommodate on-site wastewater systems.
3. Base Flood Elevations within the floodplain areas will need to be calculated and submitted for County Engineering review and approval. Once approved, these BFEs will need to be depicted on the final plat prior to final subdivision approval.
4. A 50-foot setback from high water mark of the stream corridor will need to be depicted on the final plat.
5. Civil plans and cost estimates for the Nordic Meadows Dr. extension will need to be submitted and approved by the Engineering Division.

This recommendation is based on the following findings:

1. The proposed subdivision conforms to the 2016 Ogden Valley General Plan.
2. The proposed subdivision complies with applicable county ordinances.

Chair Lewis invited input from the applicant. Dan Mabey, Owner, thanked staff for assisting him in moving through the application process. He indicated he feels that Mr. Perkes analysis of the flood plan issues on the property are accurate, and he has worked with the Federal Emergency Management Agency (FEMA) to address those issues. He thanked the Commission for their consideration of the application and requested that they approve it.

Vice Chair Francis inquired as to the most recent flood occurrence on the property. Mr. Mabey stated there have been no flooding issues for nearly 18 months; he has been told that the storm water infrastructure in the nearby road is adequate to handle drainage and containment of ground water and any water run-off on the property. He reiterated that any improvements in the area identified as a flood plan will require approval from the County Engineer and FEMA. Mr. Perkes agreed; the base flood elevations will be depicted on the final plat for the project, which will be reviewed by the County Engineer. Additionally, when building permits are pulled for the six lots in the project, staff will verify that finished floor elevations for the lowest floor will be above base flood elevations.

Commissioner Howell moved approve UVA070821, preliminary approval of the Asgard Heights Subdivision consisting of 6 lots

at approximately 3460 Nordic Valley Road in Liberty, based on the findings and subject to the conditions listed in the staff report. Commissioner Burton seconded the motion. Commissioners Lewis, Francis, Burton, Howell, Lackey, Shuman, and Torman all voted aye. (Motion carried 7-0).

2.3 UVP070821: Consideration and action on preliminary approval of The Point Subdivision, consisting of 48 lots, located at approximately 3850 North Wolf Creek Drive, Eden. Staff Presenter: Steve Burton

Chair Lewis declared a conflict of interest and recused himself from discussion and action on this application.

Planner Burton reported on June 29, 2021 the Ogden Valley Planning Commission approved a de minimis revision to the Worldmark PRUD (CUP #32-98) site plan, which expanded the site by approximately 0.57 acres. The owner is now proposing to plat the 48 condominium units that were assigned to this site as part of the original PRUD site plan approval. The subject property is located in the Forest Residential (FR-3) Zone. The purpose and intent of the FR-3 zone is identified in the LUC §104-17-1 as:

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.

Multi-family dwellings in the FR-3 zone require 7,500 square feet of net developable area plus 2,000 square feet of net developable area for each dwelling unit in excess of 2. This PRUD site plan was approved with three buildings, each with 7,875 square feet of area and 16 units.

Staff recommends preliminary approval of The Point Subdivision consisting of 48 condominium units. This recommendation for approval is subject to all applicable review agency requirements. This recommendation is based on the following findings:

1. The proposed subdivision amendment conforms to the Ogden Valley General Plan.
2. The proposed subdivision amendment complies with all previous approvals and the applicable County ordinances.

Vice Chair Francis invited input from the applicant. Eric Householder, applicant's representative, stated that the subdivision has been laid out based upon the findings of staff in their review of development options for the property. He stated there have been some water issues on the property in the past, but he feels those issues can and have been appropriately addressed with the design. Mr. Burton added that staff has no geological concerns regarding water issues on the property; a portion of the property is located in a potential geologic hazard area based upon a designation by the State agency that regulates those issues. The County has an ordinance requiring an applicant to provide a study of the geologic risks on the property when the property is located in a hazard area. The report indicates there are no potential hazards or elevated risks on the property and staff is comfortable basing their recommendation of preliminary approval upon the findings of that study. Any outstanding issues will be addressed as the application moves through the application process.

Vice Chair Francis invited public input.

Jan Fulman stated during last week's County Commission meeting, there was a developer seeking a zone change on his property and approval to build 13 short-term rental units there. The Commissioners voted to allow the zoning change to FR-3, but not to allow the short-term rentals. One of the reasons for that is that there is no record in the County that can clearly communicate the current number of short-term rental dwelling units in the Ogden Valley. And, more importantly, Weber County has not mechanism to enforce regulations on short term rentals, especially in unincorporate areas. She stated she feels that it is best to deny any request for short term rentals until the County is better equipped to address and regulate them. She submitted a Government Records Access and Management Act (GRAMA) request to the County Assessor's Office and learned they are unable to identify the number of dwelling units based upon zoning. She and a team of other residents have created their own spreadsheet identifying the total number of dwelling units in Ogden Valley and that document also includes information about the number of dwelling units that are also used as short-term rentals. They have identified 1,091 total short-term rentals; however, the County has only recorded 32 permits for short term rentals. She stated the County should not go forward and allow the developer of additional short-term rentals until some sort of policy is developed to regulate the existing short-term rentals.

Vice Chair Francis offered staff the ability to respond to Ms. Fulman's comments. Mr. Burton stated that Ms. Fulman is correct that the County Commission did consider a rezone request last week; the difference between that application and this application is that the subject property being considered by the Commission tonight is already zoned FR-3, and that zoning designation allows short-term rentals. The applicant currently has the right to pursue short term rentals. The applicant for the other project referenced by Ms. Fulman did not have that same right. He then noted that for this type of subdivision, there are a few ways to get approval of short-term rentals; one is for the developer to place a note on the subdivision plat indicating short term rentals have been approved for the entire development. Otherwise, each individual owner would be required to seek approval of short-term rental for their own unit. He anticipates the developer will include that type of note on the subdivision plat, though staff has not seen the final plat at this point.

Commissioner Shuman asked if the project will be condominium-ized, with each unit for sale individually, to which Mr. Burton answered yes; there are 16 units in each building, and each will be for sale individually.

Vice Chair Francis inquired as to the number of bedrooms in each unit. Mr. Householder stated that units will have two or three bedrooms. He then addressed Mr. Burton's comments about geologic hazards on the property; essentially all property in this area of the Valley has been identified by the State as having the potential for geologic hazards; however, he has hired a professional geotechnical engineer who has provided recommendations for building the project in a way that mitigates or addresses the hazards.

Commissioner Burton asked if this is the last phase of the development of this property. Mr. Burton answered no, there will be one final phase of development on the property. The initial site plan and number of units allowed on the property were approved and allocated in 1998.

Commissioner Howell moved approve UVP070821, preliminary approval of The Point Subdivision, consisting of 48 lots, located at approximately 3850 North Wolf Creek Drive, Eden, based on the findings and subject to the conditions in the staff report. Commissioner Torman seconded the motion.

Commissioner Torman stated he feels this is an appropriate location for a short-term rental use; if that type of use is clustered in one area, it is easier to regulate and take enforcement action against in terms of public safety and service provision.

Vice Chair Francis indicated there has been a motion and second to approve the application and she called for a vote. Commissioners Francis, Burton, Howell, Lackey, Shuman, and Torman all voted aye. (Motion carried 6-0). Commissioner Lewis abstained from voting.

2.4 CUP2021-10: Consideration and/or action on a conditional use permit for short-term rental use at 4782 E. 3925 N., Eden, UT 84310. Staff Presenter: Felix Lleverino

Planner Lleverino reported the applicant is requesting approval of a conditional use permit for short-term use in a residential dwelling located in the FR-3 zone at 4782 E 3925 N, Eden. The proposed use will occur within an existing dwelling. As such, there is no design review required. The applicant has submitted a project narrative detailing their intended use of the property as their primary residence and short-term rent the property while they are away. This narrative also addresses how they intend to accommodate noise, security, parking, and garage use. The applicant has also submitted a parking exhibit to help visualize the overall parking plan for The Fairway Oaks at Wolf Creek community. This application is being processed for an administrative review through the Ogden Valley Planning Commission as directed by the approval procedures outlined in LUC §108-4-3. This section of code indicates that a review of a conditional use permit application is intended to verify compliance with applicable ordinances and provide appropriate and reasonable mitigation of anticipated detrimental effects.

The subject property is located within the Forest Residential (FR-3) Zone. The purpose of the FR-3 Zone can be further described in LUC §104-17-1 as follows:

*"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 homeownership**. This zone is intended to be used in mountain locations in areas associated with major recreational resorts."*

The FR-3 Zone allows for a “nightly rental” as a conditional use. For comparison purposes, the FR-3 Zone also allows similar conditional uses such as condo-tels, group dwellings, lockout sleeping rooms, multi-family dwellings, timeshare buildings, and recreational lodges.

The staff offers the following analysis following review of the application against the conditional use standards:

1. Standards relating to safety for persons and property
 - Apart from the Fire Marshal’s review and conditions, the operation of a short-term rental is not anticipated to cause safety hazards to persons or property.
2. Standards relating to infrastructure, amenities, and services
 - The parking infrastructure for visitors includes two parking spaces in the garage and one parking space in the guest parking areas throughout the development. The guest parking areas highlighted with red clouds in Exhibit C serve as guest parking spots. The parking requirements are enforced by the members of a fully operational HOA. It is Staff’s opinion that parking should be limited to two spaces within the garage. A condition related to staff’s opinion is within the staff recommendation.
3. Standards relating to the environment
 - Staff does not anticipate any detrimental effects on the natural features of the site or surrounding areas.
4. Standards relating to the current qualities and characteristics of the surrounding area and compliance with the intent of the general plan
 - The current FR-3 zoning anticipates short-term rental use and the area has been developed for resort and lodging purposes. As such, staff does not anticipate the proposed use to be detrimental to the characteristics of the area. The zoning is consistent with the General Plan.
5. Standards relating to performance (bonds, agreements)
 - There is an existing dwelling, with a sufficient parking area. No performance bonds or agreements are necessary for the proposed use.
6. Standards generally (economy, other applicable LUC standards)
 - The proposed use is not anticipated to have detrimental effects on the local economy.
 - Before issuance of a conditional use permit, the applicant will need to apply for, and be issued with, a business license.
7. Voluntary contributions providing satisfactory compliance with applicable standards.
 - There are no voluntary contributions that are offered with this request.

Based on the staff analysis above and the findings listed below, staff recommends approval of this conditional use application. This recommendation is subject to the applicant meeting the conditions of approval listed below and any other conditions required by reviewing agencies and the Planning Commission:

1. There is a ten-person limit in non-sprinklered dwelling units. Please provide a fire extinguisher left in plain sight, CO and smoke detectors are required.
2. A business license shall be obtained before the issuance of this conditional use permit.
3. The dwelling’s attached garage shall be made available to the guests. Visitor parking is limited to two spaces within the garage.

The following findings are the basis for the staff’s recommendation:

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

Chair Lewis stated he understands the HOA for this project allows short term rentals, but he knows that the project also has encountered difficulty relating to parking. He asked if staff’s recommendation is based upon the condition that parking must be restricted to the garage. Mr. Lleverino stated that is correct. Commissioner Howell added that it is important to communicate that the short-term rental license can be revoked if the terms of the CUP are violated. Chair Lewis agreed and stated that may be an appropriate condition of approval.

Commission discussion centered on general parking issues in the project area and the manner in which the County will enforce parking requirements associated with the CUP. There was also general discussion of the dimensions of the driveway and garage

of the subject property and the number of vehicles that can reasonably be parked on the property in a fashion that will avoid enforcement action from the County.

Commissioner Burton noted that each unit in this project has one guest parking space, but staff's recommendation is that the guest space not be used by short term renters. Mr. Lleverino stated that is correct and that recommendation is based upon staff's site visit and observation of the variance in size of the different guest parking spaces. Mr. Burton added that recommendation was also based upon uncertainty about whether each unit in the project truly has one guest parking space assigned to it. This led to continued high-level philosophical discussion/debate regarding the appropriate conditions for the County to impose on short term rentals – specially regarding parking requirements.

Chair Lewis invited input from the public.

Jan Fulmer stated that if this is the owner's primary residence and the unit will only be rented out when the owner is out of town, she wondered who will be available on-site to take care of any issues that may arise. Also, if the owner is going to be away during rental periods, the only way for enforcement action to take place is if someone calls the County to complain. She feels more conditions should be placed on this short-term rental. Many of the residents living in the project have designed the unit as their full-time home and they should not be negatively impacted by activities associated with short term rental. Someone should be located onsite to be accountable for any nuisance associated with the short-term rental use and she believes there should be a stiff fine for the first occurrence or violation of the CUP.

Jan Woods stated she is a member of the HOA Board for the subject development, and she appreciates staff and the Commission recognizing parking issues in the community. It is a fairly small community that was intended to be primary residences for the people living there, rather than short term rentals. She stated she bought her home in the development based upon that understanding and she is concerned about living next to units that constantly have different occupants. She stated the applicant has been a responsible owner of her unit, but when the property has been rented recently, there have been up to six cars associated with the rental and there simply is not enough parking space in the development to handle that. On-street parking is prohibited, and she is happy to hear that staff has recommended that parking associated with the short-term rental be restricted to the garage space.

There were no additional persons appearing to be heard.

Chair Lewis noted that this development was built nearly 20 years ago and at that time short term rentals were not a popular use; they have gained popularity since that time and the applicant is following the process for securing a permit for short term rentals. However, the HOA can govern uses in the project. Legal Counsel Erickson noted that is correct, but if the County's zoning designation allows the desired use, the matter of the HOA prohibiting the use would become a private one that the County would not become involved in. Chair Lewis asked Ms. Wood to address whether the Covenants, Conditions, and Restrictions (CCRs) for the project restrict short term rentals. Ms. Wood stated the HOA's CCRs do specify that short term rentals are allowed in the project; however, the Board voted on an action to prohibit short term rentals at a recent meeting due to the problems that have ensued. The HOA does not have the ability to police the project or to take enforcement actions. The issues that have arisen are mainly related to visitor parking.

Chair Lewis asked Mr. Lleverino if the applicant asked for a certain number of parking spaces for visitors to the unit. Mr. Lleverino answered yes; they asked for parking space not attached to the unit, but he reiterated staff recommends visitor parking be limited to the two spaces within the garage.

Commissioner Howell moved to approve CUP2021-10, conditional use permit for short-term rental use at 4782 E 3925 N, Eden, UT 84310, based on the findings and subject to the conditions in the staff report, noting that any violations of the defined conditions could result in termination of the CUP. Commissioner Torman seconded the motion. Commissioners Lewis, Francis, Burton, Howell, Lackey, Shuman, and Torman all voted aye. (Motion carried 7-0).

2.5 CUP 2021-11: Consideration and/or action on a conditional use permit for short-term rental use at 3571 N Creekside Way, #72, Eden, UT, 84310. Staff Presenter: Tammy Aydelotte

Planner Aydelotte reported the applicant is requesting a conditional use permit for short term rentals in a residential dwelling located in the FR-3 zone at 3571 N Creekside Way, #72, in Eden. The FR-3 Zone allows a “nightly rental” as a conditional use. The proposed use will occur within an existing dwelling. As such, there is no design review required. Parking will be made available in the existing attached garage. Additional vehicles may park in designated guest parking along Wolf Lodge Drive. The application is being processed for an administrative review due to the approval procedures in Uniform Land Use Code of Weber County, Utah (LUC) §108-1-2 which requires the planning commission to review and approve applications for conditional use permits. The subject property is located within the Forest Valley (FR-3) Zone. The purpose of the FR-3 Zone can be further described in LUC §104-17-1 as follows:

“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.”

The FR-3 Zone has specific standards identified in the LUC §104-17-5, as well as additional standards that are outlined throughout the LUC that shall be met as part of the development process. The applicable standards, for single-family dwellings, are as follows:

Parking shall occur only in designated areas

The current property has one parking space in the garage, with additional guest parking in designated areas along Wolf Lodge Drive, that were approved as part of the Villages at Wolf Creek Development. A review process has been outlined in LUC §108-4-3 to ensure compliance with the applicable ordinances and to mitigate anticipated detrimental effects. Prior to issuance of a conditional use permit, the applicant will need to apply for a business license, and approval from the applicable agencies for the proposal, will need to be obtained. A condition has been made part of the Planning Division’s recommendations to ensure that this standard is met. Nightly Rental Ordinance: Under the current land use code, the section titled ‘Nightly Rentals’ states the following:

The rental of a sleeping room, apartment, dwelling unit, or dwelling for a time period of less than 30 days is considered a nightly rental. Nightly rentals are allowed only when listed as either a permitted or conditional use in a specific zone or when approved as part of a planned residential unit development (PRUD).

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

1. A business license shall be obtained prior to issuance of this conditional use permit.
2. Parking shall occur only in designated areas within the development; there shall be no parking along any interior streets within this development.

This recommendation is based on the following findings:

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

Commissioner Howell inquired as to the size of the garage. Ms. Aydelotte stated it is a one car garage; the unit has two bedrooms and a great room that could be converted to a third bedroom. The owner has indicated rentals will be restricted to single families, though she is not sure how that is being regulated. She added there is some additional visitor on-street parking available, though restrictions have been placed on the roads that serve as the entrance to the development.

Commission discussion centered in previous applications for short term rental CUPs in this same project. Ms. Aydelotte stated the Commission considered two applications in February and both were denied based upon parking concerns. Both decisions were appealed to the Board of Adjustment, and that body found that the parking issues could be mitigated and that the CUPs should have been granted. The decision was ultimately reversed, and the CUP was granted. This led to discussion among the Commission and Legal Counsel regarding appropriate conditions that can be placed on the applicant relative to parking.

Chair Lewis invited public input. There were no persons appearing to be heard.

Vice Chair Francis then inquired to the size of the garages of the other two units for which CUPs were granted. Ms. Aydelotte stated that some have two car garages, and some have one.

Commissioner Burton referenced the applicant's narrative for their short-term rental; it includes the following statement: "The use by renters should provide no noticeable difference from our personal use. Most renters will be a single family with one vehicle." He suggested that a condition of approval be derived from that language and that rental of the unit be restricted to single family use and one associated vehicle. Chair Lewis stated the use of the word 'most' allows for some subjectivity. Commissioner Torman agreed but wondered if the Commission could include a condition of approval restricting the maximum occupancy of the unit. Mr. Erickson stated that maximum occupancy should be based upon safety recommendations provided by the Fire District. Mr. Burton stated that the Fire Marshal has provided maximum occupancy recommendations in the past based upon whether a unit has fire suppression sprinklers; for a non-sprinklered dwelling unit, the maximum occupancy has been defined as 10 and the owner is required to provide a fire extinguisher in plain sight as well as operational carbon dioxide and smoke detectors. Ms. Aydelotte stated that not all units in the project have fire sprinklers; the Fire District will review the application and that is why staff's recommendation is subject to the recommendations from all review agencies.

Vice Chair Francis moved to approve CUP 2021-11, conditional use permit for short-term rental use at 3571 N Creekside Way, #72, Eden, UT, 84310, based on the findings and subject to the conditions in the staff report, and that all parking shall be restricted to the space available in the garage space, which has a one-car capacity. This is based upon the finding that the narrow interior streets are not conducive to on-street parking and that guest parking has been restricted to the exterior streets. Commissioner Howell seconded the motion. Commissioners Lewis, Francis, Burton, Howell, Shuman, and Torman all voted aye. (Motion carried 5-0).

3. Public Comment for Items not on the Agenda

Carol Campbell, 7378 E. 1450 N., Huntsville, stated she received a post card about the Westwood Homes subdivision with some indication that it would be discussed tonight. However, it was not on tonight's agenda. She asked when it will be discussed. Mr. Burton stated the application was originally scheduled for discussion tonight, but it was removed from the agenda. He indicated Ms. Campbell can provide her comments now or attend a future meeting when the application is discussed. Ms. Campbell stated she will come to the meeting when the application is eventually discussed.

Steven Clark, 7378 E. 1450 N., Huntsville, stated that he is constantly reminded of comments written by Aldo Leopold, which are "One of the penalties of an ecological education is that one lives alone in a world of wounds. Much of the damage inflicted on land is quite invisible to laymen. An ecologist must either harden his shell and make believe that the consequences of science are none of his business, or he must be the doctor who sees the marks of death in a community that believes itself well and does not want to be told otherwise." He stated that he noticed one of the objectives of the Commission is to try to stay abreast of changes and to maintain a secure environment. He suggested, in the spirit of progress and cooperation, that this Commission and previous Commissions have failed in that responsibility. His experience with County Commissions is that they tend to ignore science; they even tend to refuse to investigate science in spite of the fact that it may be very overwhelming in terms of climate change. He is not sure the Commission has stayed abreast of those changes or has made themselves aware of the scientific climate change information that should be guiding their decisions. He encouraged the body to look into the issue and consider studies that indicate the treacherous path everyone is on. Whenever the Commission considers certain types of development without taking into consideration environmental issues, such as availability of water or changes in temperature, they are doing so like someone who is heading off into the desert without enough gas in their tank. He stated his father was born in the Ogden Valley in 1887; though he himself was gone from the area for some time, he got the chance to move back after a number of years and his observations over the past few years have been that the decisions made by this and other Commissions have ultimately made the area less and less desirable for current residents and others that choose to move here in the future. Allowing short term rentals and other types of impactful uses have made the area a much less desirable place to live. He challenged the Commission to consider these issues. He then stated that another matter he would like the Commission to consider is that he and his neighbors are constantly dealing with target shooters in his backyard. He asked that the Commission consider prohibiting target shooting and 'plinking' in the Ogden Valley. He is not suggesting prohibiting hunting opportunities, but development in the foothills does impact and destroy wildlife habitats.

4. Remarks from Planning Commissioners

Vice Chair Francis stated she wished to address Ms. Fulmer's comments; she asked if the Weber County Commission could legally place a moratorium on short term rentals in the County if they had the will to do so. Mr. Erickson stated the Commission could legally consider a moratorium, but such a 'pause' on a certain type of development can only be in place for six months and it must be based upon work being done to address a problem with a certain use. He added the County does have the flexibility to consider adjustments to existing short term rental ordinances.

Commissioner Burton stated Ms. Fulmer indicated there are only 32 licensed short-term rentals in the County. Chair Lewis stated that makes no sense as he personally owns and manages more than 32 rentals. He is not sure where that number comes from. He understands that there are illegal short-term rentals and a moratorium or amendments to the existing short-term rentals would not address those situations.

Chair Lewis offered kudos to emergency responders who responded to a wildfire in the Ogden Valley that was caused by plinking. They 'saved the day' for many residents living in the vicinity of the wildfire. He then stated that the comments made tonight are appreciated and well received and he does have a great deal of faith in this Commission; they have the best of intentions and take their volunteer role very seriously. He asked that the residents continue to stay involved.

5. Planning Director Report

In Mr. Grover's absence, Mr. Burton provided comments. He thanked the Commission for their service and also thanked the public who attended tonight's meeting. Staff encourages public involvement and believes it is beneficial for them to witness the volunteer work being provided by this Commission. He added it is important for the public to understand this Commission is a recommending body and that final decisions regarding ordinances and policies are made by the elected County Commissioners. He noted that when a property owner makes application for a use that is allowed under the zoning designation for their property, the Commission has not other choice than to approve it. He believes the Commission considers each application in great detail and he has full confidence in their abilities.

Commissioner Howell referenced Mr. Clark's comments; the impact on the State's water sources has been created by a great deal of people leaving other states and relocating to Utah. Appropriate efforts have not been implemented to preserve water as the State's most valuable resource.

6. Remarks from Legal Counsel

There were no additional comments from Legal Counsel.

Meeting Adjourned: The meeting adjourned at 6:47 p.m.

Respectfully Submitted,

Cassie Brown

Weber County Planning Commission