



## OGDEN VALLEY PLANNING COMMISSION AGENDA

### PLANNING MEETING

September 22, 2015

5:00 p.m.

*Pledge of Allegiance*

*Roll Call:*

1. Minutes: Approval of the July 28, 2015 and August 04, 2015 meeting minutes
2. Consent Agenda:
  - 2.1. UVR112513 Consideration and action on final approval of Phase 2 of The Ridge Townhomes at Wolf Creek PRUD, 8 units, in the Forest Residential (FR-3) Zone located at approximately 3400 North Moose Hollow Drive. (John Lewis agent for Capon Capital)
3. Administrative Items:
  - a. Old Business
    1. CUP 2012-02 Consideration and action to revoke a conditional use permit for a surface boulder collection operation located at approximately Avon Divide-Weber/Cache County Line in the Forest (F-40) Zone (Dan Lockwood agent for Pine Ridge Products)
4. Elections: Vice Chair for the remainder of 2015
5. Public Comment for Items not on the Agenda
6. Remarks from Planning Commissioners
7. Planning Director Report
8. Remarks from Legal Counsel
9. Adjourn to Convene to a Work Session

**WS1. DISCUSSION:** Cluster Subdivision Discussion

*The meeting will be held in the Weber County Commission Chambers, Weber Center, 2380 Washington Blvd., Ogden UT  
Work Session will be held in the Commission Chambers Breakout Room. A pre-meeting will be held in the Commission  
Chambers Breakout Room beginning at 4:30 p.m.*



*(In compliance with the Americans with Disabilities Act, persons needing auxiliary services for these meetings should call the  
Weber County Planning Commission 24 hours in advance of the meeting at 801-399-8791)*

Minutes of the Ogden Valley Planning Commission Regular & Work Session Meeting August 04, 2015 in the Weber County Commission Chambers commencing at 5:00 p.m.

**Present:** Laura Warburton, Chair; John Howell, Greg Graves, Will Haymond, Kevin Parson, Stephen Waldrip, Jami Taylor

**Absent/Excused:**

**Staff Present:** Sean Wilkinson, Planning Director; Scott Mendoza, Principal Planner, Ronda Kippen, Planner; Courtlan Erickson, Legal Counsel; Kary Serrano, Secretary

**Pledge of Allegiance**

**Roll Call:**

**1. Administrative Items**

**a. New Business**

**1. SPE2015-01: Discussion and action on a conceptual sketch plan endorsement request for the Holley Farm Cluster Subdivision located at 800 N 7800 E in the AV-3 Zone (Richard and MaryAnn Holley, Applicants)**

Ronda Kippen said that the item up for discussion is a sketch plan for endorsement by the Ogden Valley Planning Commission of the Holley Farm Cluster Subdivision. The property is located off of 7800 E 800 N, and is currently used as agricultural property and there is an existing barn on the property. There is a water pond on the property the developer is in the process of digging a joint well for this subdivision. This property is part of the 77 acre parcel, is zoned AV-3, and the cluster subdivision will take in approximately 12 acres, on the proposed four residential building lots and a five acre open space parcel. They will be using a private septic system and joint culinary well, and as part of the subdivision, it will be require a joint well agreement for access to the well for maintenance, as well as easements to get the waterline to the property.

Ronda Kippen said that there is an overall conceptual plan that was submitted, and there are a few items that will need to be modified when the preliminary plan comes in. The first item will be that the word cluster needs to be in the title of the subdivision. The item that needs to be changed is they are seeking an access exception; they are seeking access for two of the lots by private right-of-way, and Lots 3 and 4 will be granted a private access exception. They will be modifying the frontage of the agricultural piece of property and then they will be doing an easement over Lot 2 and Lot 3 for the access exception on Lots 3 and 4. These are some points to be discussed with the Holley's: access, right of way, access exception if it is acceptable or not, access exception if it is feasible and desirable, the block length that currently is 2,600 feet, existing structures, lot sizes, open space, and wetlands. Staff is requesting a decision; for the Planning Commission to either approve this concept sketch plan, approve this concept sketch plan with recommendations, or deny this concept sketch plan with some findings so that the applicant can come back with something more feasible.

Commissioner Waldrip asked where the referenced 2,600 block length was located. Mrs. Kippen replied that basically it is found at about 100 South.

Commissioner Howell asked if the Fire District prefers to have a turn around. Mrs. Kippen replied that they would be required to have turnouts every 100 feet, so as part of the improvements that would go in for the subdivision; they would be required to do a hammerhead every 100 feet along that lane.

Commissioner Taylor said that if each lot needs to be 1.75 acres, but they also need 60% of open space, how would they rectify that? Mrs. Kippen replied that their open space would need to be 7.26 acres, which was 60%. There would need to be more acreage dedicated in addition to the 12 acres.

Chair Warburton asked staff to clarify as to why the Health Department is mandating that the lots stay where they are at. Ronda Kippen replied that on the plat there are multiple test pits. The first two tests failed; the Holley's initial design was to come in with a road that would separate the barn from the agricultural parcel; however they need to keep the barn an agricultural parcel. The Health Department wanted room on each lot for a conventional mound septic system, plus an area for an alternative septic system, and in the event the joint well failed, they need enough area for each lot to drill their own well.

Commissioner Waldrip asked on the roadway that is coming off of the highway, will that be a 30 foot right-of-way shown there? Mrs. Kippen replied that is a 33 foot egress/ingress. The private right-of-way, the improved surface can be as minimal as 12 feet depending on the number of homes but they can't serve more than five homes.

Commissioner Waldrip asked if the road would be extended to the east to serve additional property, or has this not been discussed? Mrs. Kippen replied that is what is being discussed tonight; whether this commission thinks there will be additional development needed to the east, or whether they should steer away from a wider private right-of-way access, so there won't be any problems with properties abutting the new road. Director Wilkinson replied that in this case, there are some pro's and some con's. There is a large area of land that could be developed to the east, but a large portion of that land is marginal at best. Wetlands are not good for development. This happens to be in the middle where a road should go through according to the block length, but the question is do they really anticipate much development?

Richard Holley, applicant, 12B7 N 7000 E, Huntsville, said that it was their desire to subdivide four lots for their children on their property. He doesn't anticipate developing the other property; they plan to put that in a conservation easement on the remainder of the property so they can continue to farm it and have his four children live there. They met with the Fire Marshal that was given the information of what was required. They understand that there would be a pullout on the main road going from 7800 east back to the barn. He required a 10 foot by 40 foot pull out on the road, and the stubs off Lots 3 and 4, they gave us options of a Y, a hammerhead, or a cul-de-sac. They decided a hammerhead that would continue Lot 4, and the boundary of Lots 3 and 4, because it's wide open space and there is nothing encumbering a large turnaround, and the two homes on Lots 3 and 4 would access themselves. His children liked it because they have large trailers and would be able to pull in and turn around. In the beginning, he had envisioned much smaller lots because his children didn't want larger lots because it encumbered them by farming the open space that they didn't want to take care of. It was his understanding from the Health Department that, he needed to be willing to designate a huge area to replace the joint with four individual wells if the joint well failed, but it didn't make sense to him because to replace one well would cost them \$60,000 versus adding four new wells at a cost of \$200,000. In reference to that well, they have purchased from Weber Basin, 32 acre feet of water, the pond would irrigate the open space, and the other part would be for the homes. They are in good standing with the state as far as the well; they have plenty of shares designated to each lot with a well agreement. The Fire Marshal laid out the requirements needed to start improving the road and having it certified by an engineer and hold the 75,000 pounds. They have some work to do to finish the water system. They have to create frontage; the portion in front of Lot 2, the length of that entire road to where it reaches Lot 3, would be deeded to Lot 2. Then it would revert over all the back to Lot 4, then the frontage and the road would be dedicated to lots 3 and 4 to create frontage for those two lots. It would be part of the access exception that they are requesting.

Commissioner Waldrip asked the applicant if he was aware of the 1,300 foot road requirement. Mr. Holley replied that he met with staff and discussed the property on the south. There is an easement for the future, and staff suggested going further north to avoid opening that up to having future development crossing through their property. They have chosen to have a private right-of-way because they don't want any development further back to the east of their property. They did have the Army Corps of Engineers come to their property and they didn't see any problems other than with the drainage ditch that runs to the north of the road. It's not an irrigation ditch, but is drainage from surrounding properties.

Commissioner Howell asked how deep they had to go from their well before they got good water. Mr. Holley replied that they drilled down to 275 feet because they wanted to have ample water and that is when they applied for a pond permit to irrigate a portion of that land. He is not sure the distinction between good well drinking water and pond water.

Commissioner Waldrip referred to the wetlands delineation, when the Army Corp of Engineers came to the property, did they delineated both Lots 1 and 2 as wetlands? Mr. Holley replied that he was not aware of this. Mrs. Kippen said this is in the County GIS Map as wetlands delineation, but staff has not verified it. Commissioner Grave said most likely that came from an aerial photo.

Director Wilkinson said that there was an access to the south coming out to 7800 E. when Bison Creek Was proposed so the property that borders the Holley property is not landlocked. If the access exception were to be approved, it's not going to stop development to the other property; they have access from Highway 39 and from 7800 E. In the code for an access exception to be approved, it states, "the landowner of record or outhorized representative shall agree to pay a proportionate amount of the cost associated with developing a street. If at any time in the future the county deems it necessary to have the landowner replace the private right-of-way or eosement with the street that would serve as a required access to additional lots." If there is a real

need in the future for a road to be developed, the county would work with the Holley's, and they would be required to pay their proportionate share of the property that they have fronting on that street. It's an agreement in the future. Commissioner Graves said that in order for that to kick in, there has to be a trigger such as adding a lot that will cause their private access to turn into a road. Director Wilkinson replied that is correct or the county could just say they need it and then they would work with the Holley's to get a road there.

Ronda Kippen said the code states, "that a private right-of-way or access easement shall have a minimum width of 16 feet and a maximum width of 50 feet" that's the standards for the road turn outs. The travel surface can go down to 12 feet, but the dedicated width has to be 14 feet. It further states, "that the improved travel surface of the private right-of-way or access easement shall be a minimum of 12 feet, if the access serves fewer than five dwellings, and a minimum of 20 feet at the access serves five or more dwellings."

**MOTION:** Commissioner Parson moved for approval of SPE2015-01 with no recommendations needed for the request of the Holley Farms Cluster Subdivision for the endorsement of the sketch plan site located at 800 N 7800 E, in the AV-3 Zone. Commissioner Graves seconded.

**DISCUSSION:** Commissioner Waldrip asked if they needed to note the nonconforming road issue in the motion. Director Wilkinson replied that the applicant has submitted an access exception application, and what staff wanted from the commission is for them to say they like it the way it is. From what was heard today, based on the sketch plan showing the access exception, they are okay with that.

**VOTE:** A vote was taken with Commissioner's Parson, Howell, Graves, Haymond, Taylor, Waldrip, and Chair Warburton voting aye. Motion passed unanimously (7-0).

- 2. Public Comment for Items not on the Agenda: None
- 3. Remarks from Planning Commissioners: None
- 4. Planning Director Report: None
- 5. Remarks from Legal Counsel: None
- 6. Adjourn to Convene to a Work Session

**WS1. DISCUSSION: Regarding Agri-Tourism operating in cluster subdivision open space**

Scott Mendoza referred to the Discussion/Question worksheet. Staff has had some discussions related to the current Agri-tourism Ordinance. When they created the Weber County Agri-Tourism Code; they basically said that Agri-Tourism is allowed in any zone where it's listed as a use; that's the AV-3, FV-3, and the F-5 Zones in the Ogden Valley. In those three zones someone can participate or come to this commission for approval of a conditional use permit for Agri-Tourism. These farms were categorized as small, medium, and large farms; and the small farm was categorized as three to five acres. In the Ogden Valley in the AV-3, FV-3, and the F-5 Zones, they can do Agri Tourism, as long as it's not in a cluster subdivision, and on the common area or open space parcel. In the definition provided where it states, "Agri-tourism businesses are permitted conditionally in designated zones, excepting those areas within residential subdivisions that are dedicated for the purpose of open space or common area" is the exception. They could do it in all those zones except for a cluster subdivision open space. The discussion for tonight is if they would like to change that definition in a way that would allow Agri-Tourism in the cluster subdivision open space. Would it be appropriate to have Agri Tourism going on in that open space parcel, whether it's dedicated as common area or possibly a private owned agricultural space parcel?

Chair Warburton asked for the sake of Commissioner Taylor, to further define cluster subdivision, or what this might look like. Mr. Mendoza said that this was solely about cluster subdivision, and the best way to describe that, is a large piece of property, where typically it would be divided into three acre lots, that front on a privately or dedicated road, a basic standard subdivision is what they would call it most of the time. A cluster subdivision in the Ogden Valley has to have a minimum of 60% of the overall area reserved as open space or common area. The lots can be reduced in size; if there is a sewer system in place they can go down to 6,000 sq. ft., when there is a large piece of property with smaller lots clustered most of the time in one area to reduce infrastructure costs and the rest of the property is open space, sometimes dedicated as common area, and sometimes dedicated as privately owned open space.

Scott Mendoza said the things that they will get into if they were to consider allowing Agri Tourism in a cluster subdivision open space, what the impacts would be. How would that impact the neighbors with small lots right next to a farm, if they were to allow Agri Tourism in an open space parcel in a cluster subdivision? If that were in place today, would the neighbors that bought into the cluster subdivision, feel that they were noticed appropriately, even though they were aware of the fact that Agri Tourism could go on in that open space behind them? If they were to consider allowing Agri Tourism in a cluster subdivision open space, the neighbors would receive as much notice as anybody else on any other property across the valley. Somebody that is not in a cluster subdivision, but are near a farm, Agri Tourism can occur on that farm. When they are thinking about impacts, the impacts could be throughout the valley, and the reason they have been comfortable allowing Agri Tourism at all, is because they did the best they could when they created that ordinance section, to mitigate as much as they could with anticipated impacts. There are buffer standards, screening standards, hours of operation standards; and even though this is a conditional use, they can assign conditions to regulate the hours of operation, that standard is already in the code.

Commissioner Parson asked if there is a cluster subdivision, is there anything in place for someone in the subdivision to have the ability to agree or disagree on that, and if they approved it, then would it be a Homeowner's Association? Commissioner Warburton replied think of how many times they have had to tell people that they can't make a decision based on their HOA. It's either allowed or not allowed. Mr. Mendoza said in private agreements like CC&R's; they could restrict and limit the uses on an open space parcel. Privately, they could restrict, even though the county were to agree and say yes, Agri Tourism is okay in a cluster subdivision open space, the land owners can go a step further, and they can say no, that is not something they see in their cluster subdivision code.

Commissioner Howell said on a cluster subdivision that is less than three acres, the problems that people would have, is what is listed for special occasions; including weddings, family reunions, special events, harvest festivals, and music events. Mr. Mendoza replied that they may not; but what they may like is that if Agri-Tourism is allowed, it could be a second source of income to support and sustain a genuine farm. What they anticipate seeing in the future are projects coming to this commission that are parts of an operating farm. Farms that are operating today and family has an interest in keeping that farm, and continuing to operate it.

Scott Mendoza said as part of the discussion when they were creating this code, they were under the impression that cluster, smaller lots, had more people, and the impact might be great. For right now, let's not allow it in cluster subdivisions, because there may be impacts to the neighbors, and the other reason was creating competition. Why would they want to allow another Agri Tourism operation on a piece of property where the county has already been able to go and check that off as being dedicated open space? Cluster Subdivisions allow someone to divide in a way that also allows an open space preservation tool.

Commissioner Waldrip said right now for example the Holley Farm 12 acres in a standard subdivision; they could come in and get a four lot, three acre per lot subdivision. In those three acre lots, they would have the ability to do Agri Tourism activities within those three acre lots by current code. So what they are saying is now, they have 1.75 acre lots plus some open space, and the only difference, is that the open space becomes the site for the potential Agri Tourism, rather than having four individual lots have the ability within the 12 acre parcel to have. Rather than having 4 three acre lots with the ability to do Agri Tourism, now they have one space, with the potential to have Agri Tourism on it, but the Agri Tourism use would be governed by one of two things. If the open space is owned by an HOA, the HOA would control whether or not that's used for Agri Tourism. If it's owned by a single owner or a dedicated owner that's dedicated it to open space, that would be solely in the judgment of that owner, that that space would be used for Agri Tourism. Mr. Mendoza said except that when a new property owner comes to you for approval for a cluster subdivision; staff will have to present to this Planning Commission an open space preservation plan. That plan to have Agri Tourism; that plan and eventually that easement, will go on that property should include Agri Tourism as one of the continuing uses.

Commissioner Waldrip said so even prior superseding CC&R's, conditions, covenants, or private agreements in the easement that is recorded against that property, they need to have Open Space Agri Tourism in that open space dedication. Mr. Mendoza replied yes, there would be a list of uses that would be able to continue to be used on that property. Common in a conservation easement where they would list the uses that would be able to continue, Agri Tourism would need to be one of those which would enable the HOA or an individual to come to them for approval for Agri Tourism.

Chair Warburton said who would be willing to move forward with it being retroactive? Courtlan Erickson, Legal Counsel said the only way an existing cluster subdivision could have Agri Tourism as a use today, assuming that this gets passed retroactive to everything that is out there, the only way that happens is if in the easement it specifically states Agri Tourism as a permitted use or it has language or any approved use per code in the easement.

Scott Mendoza said they would have to carefully read that easement, and they would most likely come back, say a cluster subdivision was approved three years ago, this wasn't something to consider then, it wasn't part of their open space plan. Several years ago they didn't have to encumber the lots with an easement, and maybe after 2006 they did, either way the easements or the open space preservation that has been put in place, there is language that states approved open space uses, and that language is on the dedication plat. With that said, staff would bring the Planning Commission the subdivision because that wasn't something that was presented originally, he didn't think an approval of a conditional use with an application, would meet that approval. They would have to come in with a subdivision and that open space request, and if they are comfortable approving the open space plan, which could include that, then they would bring in the conditional use.

Chair Warburton asked if they want to put those conditions on that process. Mr. Mendoza replied that they do not have a choice; the dedication is what it is. Commissioner Waldrip said the county has to comply with the dedication.

Chair Warburton said as she understood staff to say, there is wording in every dedication that whatever is approved by the county is allowed. Mr. Mendoza replied it depends on how that is interpreted, that dedicated language approved for open space purposes. Is that approval at subdivision time or is that approval at conditional use time. Courtlan Erickson said that his initial thought was approved for open space purposes; he would expect that to be not frozen in time when that was created expect it to be at anytime in the future if it was approved for open space, it would be allowed there.

Chair Warburton said if she was a disgruntled resident that wanted to sue the county, and said that she bought her house on the approved uses, she would not have bought the house in this subdivision, if she had known this was going to be approved, what would the rebuttal be for that? There are all kinds of things that are approved after the fact; there are things that could affect people, and land use is not stagnant. Courtlan Erickson replied that he would have to look into that; laws change all the time, and that's a broad open ended language and not specific.

Commissioner Parson asked what the cost would be for them to rededicate the plat. Director Wilkinson replied that it would require a plat amendment at the cost of at least \$525. Commissioner Waldrip indicated that engineering fees would also be added to that cost. Also, who would write that amendment? Commissioner Graves said that it would be basically a language change and not much else. Mr. Mendoza replied that he didn't think it would be an actual plat amendment; it's just going to require an approval and that could be a separate process. On the dedicated plats they use standard language and it just talks about an approved open space focus. The file is where they would find easements and if someone comes in and they granted the county an easement, and guaranteed the county that it would only be used for uses A, B, and C, but they wanted to change that, they would come in and request an amended easement.

Chair Warburton said it looks like staff has some homework, to see about protecting people that already live there, and see what is required to change the easement.

**DISCUSSION:** Commissioner Graves said that he is not in favor of applying the use retroactively. He struggles for the person who comes into the cluster subdivision, because they are able to take advantage of that open space and then suddenly or after a period of time someone comes in and drastically changes the nature of that open space.

Chair Warburton said it's been her dream to have open space that has the covered light area; people move in and have their own areas but go down there to ride. Commissioner Graves said that would be use that would disappear. If it were dedicated common area for a park area or a meadow, that's what he enjoyed looking at. Then they build because that was part of the what was approved, and suddenly now there is going to be all these activities like the Farmer's Market, a corn maze, etc. he would be very irritated with that. He does not feel that it's fair to retroactively impose on somebody. If they can do it in the future, then people buying in realize this is a possibility, but people already settle in a place and they didn't know that was going to happen. Mr. Mendoza said that they could take baby steps and start out slowly going forward from today, and then if there is a request in the future, they will come back and tackle this. Chair Warburton asked Commissioner Graves if he was okay with that, so they will do it but not retroactively. Commissioner Howell and Commissioner Waldrip agreed with Commissioner Graves.

**WS2. TRAINING:** Planning Commission – Rules of Order Training  
Director Wilkinson reviewed the rules of order with the board members.

**Page 2: B: Conduct of members of the Commission:**

**1. Addressing Members:** Director Wilkinson said that all of the members have good conduct, but sometimes they are addressed by their first name to the public. As commissioners he asked that they please address each by Commissioner or Mr. or Mrs. so that it has a more formal appearance. They don't have a problem with attendance, and staff appreciates when they call and let Kary or Sherri know when they cannot attend a meeting.

**4. Conflict of Interest:** Director Wilkinson said if they have conflict of interest, typically it's going to be because they have a direct or substantial financial interest in the proposal or for some reason they feel they cannot be impartial. If either of those are the case, they do have a conflict and they will need to recuse themselves from the meeting for an item while its being heard, and they will have to leave the Commission Chambers while that item is being discussed and voted on. For example, Commission Waldrip is developing a subdivision right now in the Ogden Valley and when that comes back before the Planning Commission, he will need to recuse himself. Chair Warburton asked if he would be emailing them when that gets on the agenda. Director Wilkinson said in his case, because he is the applicant, he does not have to recuse himself from the meeting. He comes down, and sits with the audience, and acts as the public. It's also possible for the members of the Planning Commission if they so choose, to give public comment. If they choose to do that, they give up their spot on the Planning Commission for the item. They come down and sit with the audience, give their comment, and then they will have to leave the room until the item has been heard and voted on. On Administrative Items, don't speak with people. On Legislative Items, there is more discretion there. If someone approaches them or they have a conversation, they need to disclose it in the public meeting. On conflict of interests, the Planning Commission will vote as to whether they feel there is a conflict of interest. On Gifts and Favors, they should not take gifts and favors from people. In some special circumstances, no pecuniary gifts having a value of less than \$50 or an award publically presented with recognition of public service can be accepted. Political Activities as members of the Planning Commission they are not restricted; however, please refrain from bringing the politics to the meeting.

**C. Meetings:** Director Wilkinson said on occasion staff can call special meetings at the discretion of the Chair as they have in the past for Powder Mountain and Snow Basin. For larger projects that require more work, staff has called for a special meeting; typically they will not, they will use the work sessions and the regular meetings to address all of their items. The length of their meetings, 6:30 p.m. is when they will finish the item presently being considered, and all remaining items will be heard on the next agenda. If they are close, and there is another item, they can suspend that rule. As a general rule, he likes that time frame as it helps move things along.

**D. Order of Business:** Director Wilkinson said they have seen how this works; the chair introduces an item, staff gives a presentation, and then the applicant gives their presentation. The member, are welcome to ask questions of staff for the applicant at any time, then it's open for public comment. They are welcome to ask questions of anyone during the public comment, and that is typically when the questions should be asked. Once the public comment closes, it's time to make a motion, and then the members discuss that motion. Chair Warburton said once the motion has been made, it can be amended; they just need a motion on the table in order to discuss. Director Wilkinson said that one other item, the Open Meeting Statement that just needs to go away.

**F. Procedure – Motions:**

**1. Making of Motions:** Director Wilkinson read the following: *"Upon review of the full public record on a request and due deliberation among the members of the Planning Commission, any Planning Commissioner, except for the Chair, may make a motion; however, any Planning Commissioner may second a motion and that includes the Chair. The motion shall include not only the direction of the motion, but shall also include the recitation of specific findings of fact supporting the motion. A second shall be required for each motion citing compatible findings. Other members of the Commission may support the motion adding compatible findings. A motion shall die in the absence of a second. Discussion of the motion should not take place until it has been seconded and the Chair has stated the motion and called for discussion."* Commissioner Warburton said that as a commission they have not been good at that, and as a Chair she should be calling for that, and she will give better attention to that. Commissioner Parson said do they say, "I would like to make a motion on CUP 2015-35." Commissioner Graves said that's perfect then he adds whatever conditions that are recommended usually as found in the staff report. Director Wilkinson said that in some cases, they have seemed to just adopt staff findings, and that is fine; if they don't feel they have anything to add, they can adopt

those things that are listed, and those are sufficient. Typically, there will be a staff's recommendation section; staff recommends approval based on the following and here are the reasons why. There are also conditions of approval section; where they say on the condition or upon the following reasons. They want to make sure that the motion has a base. Commissioner Warburton said they can still make an amendment afterwards and the person making the motion can withdraw their motion and have a second motion made. Director Wilkinson said the motion must be germane; it has to relate to the subject. A motion to deny is where a motion to deny has been defeated; a member of the Commission shall make another motion to dispose of the issue. If the motion fails, then they make another motion. Substitute Motions, he has not seen this one happen, but believes that some motions need to be rewritten. Substitute motions are basically where they are striking out an entire section or paragraph of the main motion, and inserting a different section or paragraph in its place. Amendments are more complicated than friendly amendments because they actually require a motion and a second then they have to take action on that motion, amendment are then voted on the original motion, and it gets all complicated. Chair Warburton said that the friendly amendment seems to work for them. Director Wilkinson said that friendly amendments can be done without a formal motion, with unanimous consent of the members present; typically such motions are appropriate for clean-up items or an issue discussed but inadvertently neglected by the maker of the motion.

**H. Procedure for Debate:** Director Wilkinson read the following, *"No member of the Commission shall interrupt or question another Commissioner without obtaining the Commissioner's consent. To obtain such consent, the Chair shall be addressed requesting to interrupt or ask a question; e.g. "Chair (name) I would like to ask Commissioner (name) a question or make a comment." The Commissioner speaking has the discretion to allow or interrupt."* Director Wilkinson said that this Planning Commission does not interrupt each other. Chair Warburton replied that she agreed.

**I. Procedure for Voting:** Director Wilkinson said regarding Roll Call on Final Passage, they do not do a roll call vote, that was changed to a voice vote, so they just need to change the heading on this section.

**2. Minute Approvals:** Director Wilkinson read the following, *"The Chair shall ask the Commission if they have had the opportunity to read the minutes and if there are any additions or corrections. Upon hearing from the Commission, the Chair shall declare the minutes approved either as presented or amended."* No motion is necessary to approve the minutes and the minutes can be declared approved once the Chair has asked for comment from the Commission.

**3. Voting or Changing Vote:** Director Wilkinson said that they can change their vote before the decision is announced, not after.

**5. Commission Members Required to Vote:** Director Wilkinson said that everyone is required to vote. They cannot abstain from a vote. If they have the conflict of interest, or in some cases if they come in late during a discussion they can choose to abstain from voting because they feel they have lack of information.

**K. Amendment:** Director Wilkinson read the following, *"The Rules of Order may be amended at any meeting of the Commission held after not less than fourteen days written notice of the proposal to amend the Rules, upon a majority vote of all the members of the Commission. Adopted Rules of Order may be amended at any regular meeting by a vote of the majority of the entire membership, or if the amendment was submitted in writing at the previous meeting, then they may be amended by a two-thirds vote of those voting, a quorum being present."* Director Wilkins asked the members to review the Rules of Order and then they can discuss them in a future meeting. Chair Warburton asked if it has always been like that, because they revised the rules in the first meeting of the year. Director Wilkinson replied that is correct but they can amend throughout the year as well.

7. **Adjournment:** The meeting was adjourned at 7:10 p.m.

Respectfully Submitted,

Kary Serrano, Secretary;  
Weber County Planning Commission

Minutes of the Ogden Valley Planning Commission Regular meeting July 28, 2015, in the Weber County Commission Chambers, commencing at 5:00 p.m.

**Present:** John Howell, Greg Graves, Will Haymond, Kevin Parson, Stephen Waldrip

**Absent/Excused:** Laura Warburton; Jami Taylor

**Staff Present:** Sean Wilkinson, Planning Director; Scott Mendoza, Principal Planner; Jim Gentry, Principal Planner; Charlie Ewert, Principal Planner; Courtlan Erickson, Legal Counsel; Kary Serrano, Secretary

***Pledge of Allegiance***

***Roll Call:***

Commissioner Graves nominated Commissioner Parson as Chair Pro-tem. Commissioner Haymond seconded. A vote was taken with Commissioners Howell, Haymond, Waldrip, Graves, and Parson voting aye. Motion Carried (5-0)

**1. Administrative Items:**

**Old Business:**

- 1.1. UVC052115:** Consideration and action on a request for final approval of The Chalets at Ski Lake Phase 8, a Cluster Subdivision (16 Lots) and the revised pathway and open space plan within the Forest Valley 3 (FV-3) Zone located at 6300 East Quail Hollow (Valley Enterprise Investment Company, Applicant)

Jim Gentry said this is Phase 8 of the Chalets at Ski Lake, 16 lots, and is the last phase. The applicant is requesting final approval. There have been some modifications to the open space plan and the trails. As part of the approval of Phase 2 of the Chalets, Common Area D was planned to be used as a neighborhood recreation area with basketball and volleyball courts, barbeque pits, picnic tables, and pavilions. Common Area is located in Phase 1, near the main entrance into the project. The applicant is revising this proposal by leaving Common Area D in a natural state and developing Common Area T in Phase 8 with a 12 ft. by 24 ft. covered pavilion and picnic tables, a small lawn area that is watered by a sprinkler system, and a sand volleyball court. The original trails were approved as 2 feet wide with a bark/mulch surface. The applicant is proposing to widen the trails to four feet with a crushed recycled concrete and a gravel surface. The trails will last longer and be able to be used by people on horseback, bicycles, or walking. Staff recommends approval of the Chalets at Ski Lake Phase 8, 16 Lots, at 6300 East Quail Hollow, subject to staff and other review agency requirements, based on its compliance with applicable Land Use Codes. Staff also recommends approval of the revision to the open space plan for Common Areas T and D, and the new design of the trails in the Chalet project.

Commissioner Howell asked what will become of the area that they are not going to build on. Mr. Gentry replied that they are going to leave it as natural grass open space.

Commissioner Waldrip asked if there was a possibility of changing the use in the area that they are not going to develop in the future. Mr. Gentry replied that they could come back and show what they plan to do in that area. They are proposing 16 lots and this is part of the cluster subdivision.

Clark Duellman, 5354 Elkhorn Circle, Eden, applicant, said that the change is being made as far as open space; it's going to be better not to have basketball courts with chainlink fence around it; with barbeque pits and fire pits that are a potential liability to that homeowner's association, and move everything into the back where it ties into the trails in a more natural way. This property is visible at the intersection where Lakeside Village Condo's and that could be attractive to people who aren't members of that HOA that would be going up to Eden and those facilities and from a visual and liability standpoint it's going to be better for everyone.

**MOTION:** Commissioner Howell moved to approve UVC052115 final approval of The Chalets at Ski Lake Phase 8, a Cluster Subdivision (16 Lots) located at 6300 East Quail Hollow subject to staff and other agency requirements, subject to compliance with the land use code to include the revision of the open space plan, Common Areas T and D, and the new design of the trails in the Chalet project. Commissioner Haymond seconded. A vote was taken with Commissioners Howell, Graves, Haymond, Waldrip, and Chair Pro-Tem Parson voting aye. Motion passed unanimously (5-0).

- 1.2. CUP 2014-21: Consideration and action on an amendment of a conditional use permit for the Saddlebag Saloon a tavern, beer pub located at approximately 2612 N Hwy 162 Unit 7, within the Commercial Valley-2 (CV-2) Zone (Tiffany Brennan, representing the Saddlebag Saloon)

Ben Hatfield said that the owners are requesting that the conditions that were placed on them be reconsidered or clarified, particularly with the consumption and sales of alcohol outside of the building and on the deck area. Staff has provided the minutes for September 2, 2014; and the Planning Commission had four conditions listed in the staff report for this conditional use permit. Within days after the decision, the applicant did request an appeal to the County Commission. Since that time, staff has worked with the owners to confirm the signage plan. In the spring of 2015, staff and the owners went through their appeal options to see what needed to be done as subdivision plat amendments. Before that work would be submitted, the owner has requested an additional consideration and review to clarify the Planning Commission's position on the consumption of alcohol on the deck. The applicant would like to know what makes his use of a tavern different than a restaurant which can allow the consumption of alcohol in public view. By the Planning Commission clarifying their position, the applicant would know the specific reasoning behind the condition and could provide the applicant adequate findings to base an appeal. If this condition is removed, an amended subdivision plat would need to be approved and recorded changing the common and limited common areas appropriately surrounding Unit 7. Staff recommends that the Planning Commission either reconsider the conditions of the permit or clarify their position and reasoning regarding the conditions of the permit. This recommendation is based on the following two items that were not available in the previous meeting; an attorney was not available for the Planning Commission to counsel with and the applicant was not available to explain the application and their point of view.

Pat Brennan, owner of Saddleback Saloon and resident of Eden, said he was not available at the last meeting, and the Planning Commission put a condition upon not being able to consume alcohol on the deck. When they had the design drawn, they had limited and common space for uses of the private building. The deck that is attached to this building was limited but when the designers put it in there they forgot to address it that way. It changed the spot where the gazebo is to make that limited; and the part where the deck is attached to Building 7 is common. They redefined and clarified all of that. This Planning Commission made the ruling of the condition upon him with the school children walking by and being able to see it, which is a moot point, because they don't open until after 5 p.m., and most of the kids that go past there are bused. There is an establishment across the street that can consume alcohol out on their patio, and a restaurant around the corner can also consume alcohol on their patio. He does not know why he is restricted to do what he does. He complied with the sign ordinance, all of the signage is there, he could have a banner up for 30 days, and they try to comply with everything else.

Commissioner Graves asked the applicant if he was currently in compliance with the sign ordinance. Mr. Brennan replied that he is and he currently has a banner out. Director Wilkinson said he needed to clarify the confusion on the part of the banner. The grand opening banner is allowed for 30 days but that is just once, so the banners are technically in violation of the code.

Commissioner Graves said so that does not mean that they have it up for 30 days, take it down, and up for 30 days more. The banner should be gone from this point forward. Director Wilkinson replied that is correct. Mr. Brennan replied that he would remove the banner.

Commissioner Howell said that there is a sign indicating beer for \$2.00, and then he asked about the banner on the railing. Mr. Brennan replied that if it is required, they would remove them. Commissioner Howell said he did not know if the A-Frame signs were in compliance with the ordinance. Director Wilkinson replied that A-Frames signs are not allowed currently by the code.

Commissioner Waldrip asked if they had sufficient clarity from legal counsel as to what the standards are and where they are going with this change. He thinks there needs to be something on record indicating they have talked about this and dealt with it, and they are moving forward based on that understanding. Courtlan Erickson, Legal Counsel, said that the ordinance talks about reasonably anticipated detrimental effects of a proposed conditional use. This is when they can preview if a conditional use permit can be substantially mitigated by the proposal or by reasonable conditions to achieve compliance with applicable standards. It gives some examples, such as odor, vibration, light, smoke, and noise. The further that they get from those concrete measurable things that are potentially detrimental impacts, the greater the risk if challenged; they may be found to have improperly denied a conditional use permit, or imposed restrictions on the use.

They are free to find that there is a detrimental effect as a result of a certain use, and the best course would be to clearly define what the detrimental effects are and how those relate to those standards in the ordinances, and why they think those conditions they are putting on that use, will be reasonable, and will substantially mitigate those detrimental effects. These are the things to consider when making a decision.

Commissioner Graves said that one big issue was whether or not the potential exposure to use advertisement of alcohol would be considered a detrimental effect. There was a bunch of information read into the record, with studies showing that advertisement does have some effect based on the research done. This was the basis in the original concern. Courtlan Erickson said in considering something like that, they need to look at the level of the evidence; how substantial is the evidence, and the various detrimental effects. If it's pretty clear there is substantial evidence, they are going to have a higher likelihood of prevailing against any kind of a challenge; if it's less clear, or hypothetical, or speculative, it's going to be more risky. He reviewed the minutes and looked for any cases in the Utah courts that would address that, but he didn't find any direct rulings. There was a case in Murray involving a club with restrictions of drinking in parking lot and surrounding properties but that wasn't the issue mentioned. They are free to consider that detrimental effect and to put conditions on there that they think bear a relationship to mitigating that detrimental effect. Another thing to consider is what other property owners are allowed within the same area; is that a condition that is being imposed likewise on other similar properties, or are similar things happening in the nearby area within that zone, that could have the same effect but there are not any other conditions imposed.

Commissioner Howell asked staff if the Department of Alcohol has any problem with outside drinking. Mr. Hatfield replied no; they don't have any specific regulations as a tavern.

Commissioner Graves asked if the fact is that the other businesses are restaurants versus a tavern. Courtlan Erickson replied that he didn't know but he could look into that. Director Wilkinson said they would defer back to the DBAC on that issue, but as far as he was aware, there are no regulations against that.

Chair Pro-Tem Parson asked for clarification if they do provide food. Mr. Brennan replied that they do, people can order at the bar and his sandwich shop brings it over. In reality 95% of his patrons come over to eat, which is not much different than a restaurant that serves alcohol. He applied for a tavern license because he thought they would fill a need up there, but it didn't work out so they serve more food than they do beer. They just had their DABC audit, and the only restrictions that they have outside tavern versus a restaurant, is to have signage that no one under 21 is allowed on the premises. He does have signage on the railings, and on the walkway, that's where they get back to the limited and common areas on the premises.

Commissioner Graves said that there was not a distinction about what was limited or common area the first time this was heard, which had a lot to do with the discussion that took place. Mr. Brennan replied that was an error on his plans and he didn't catch that when he reviewed and submitted those plans. They have clarified all of that and put in the proper language to be able to record so they could proceed.

Commissioner Waldrip said whether intentional or unintentional, there has been a very loose following of county ordinance and knowing the procedure as one of the concerns. He is hearing tonight that the applicant is still not clear on the standards for signage. To his understanding, this body can recommend approval if the approval will resolve those issues. He is not sure that by giving this approval it will resolve the signage issues and that is a separate enforcement discussion. Director Wilkinson said that with the word from the applicant is that those signs will be gone and staff would follow up to verify that.

Commissioner Waldrip said his suggestion to staff is to have a meeting to make sure that the applicant understands the types of issues that enforcement may have a concern, so they put the applicant in a position of moving forward with a full understanding of what the applicable standards are for signage and all the other issues.

**MOTION:** Commissioner Haymond moved to approve CUP 2014-21 to amend a conditional use permit for the Saddlebag Saloon, a tavern, beer pub within the Commercial Valley-2 Zone to allow the sale and consumption of alcohol on the deck directly connected to Unit 7 based on conditions of approval and being in compliance with the signage ordinance, and in compliance with all state agencies. Commissioner Waldrip seconded. A vote was taken with Commissioners Howell, Graves, Haymond, Waldrip and Chair Pro-Tem Parson voting aye. Motion passed unanimously (5-0).

**2. New Business:**

- 2.1. CUP 2015-17:** Consideration and action for approval of a Conditional Use Permit for Eden Junction for a liquor store located at approximately 2595 N Hwy 162, Suite #8, within the Commercial Valley-2 (CV-2) Zone (William Christiansen, Applicant)

Ben Hatfield reviewed the staff report and said that this is a commercial complex which housed a state operated liquor store for a period of time. When that store closed, the existing conditional use permit for this site had expired; the landowner had gone back and proposed another liquor store at the same location with the conditions being the same. Staff is recommending final approval of this conditional use application subject to the applicant meeting the conditions of approval listed in this staff report and any other conditions required by the Planning Commission. The parking standards portion in the Weber County Land Use Code required that the liquor store have a minimum of 20 parking spaces. Previously there was a reduction granted by the Planning Commission as to the number of parking stalls due to the small size of the store.

Commissioner Graves asked the number of the stalls approved previously. Mr. Hatfield replied that it was eight and they currently have more than 8 additional spaces for this use.

Commissioner Howell said on the last page of the staff report in the staff report it shows 18 on one side, 8 on the back side, and there's 8 additional spaces so parking should not be an issue. Mr. Hatfield replied that the plan shows a total of 49 parking spaces.

William Christensen, applicant, and a resident of Liberty, and that they were allowed 10 parking spaces on the final variance; however, this business is going to be in the back building. The last business went out of business because of financial misappropriation so it's been about four years since a permit has been issued for a liquor store. It went out for a bid about two months ago, and people were willing to do applications for a location. That is when he found out that the variance had expired and that is why he is before this Planning Commission. He had asked the first owner to put the parking in the back, but he wanted it in the front; the businesses are both the same size at approximately 5,800 sq. ft. He can live with ten parking spaces, from seeing a year's worth of business; people don't shop, they come in and get what they want, pay for it and are gone in no more than 20 minutes, and that location allows for drive in and drive out. They have plenty of parking in the back. He wanted to clarify the signage issue; they have Weber County ordinances and DBAC ordinances, and they are not the same. Someone asked about the \$2.00 beer sign; the rule is that they can advertise different beers and they can advertise beer price. It can't be a special price; it has to be the same price as on the menu.

**MOTION:** Commissioner Howell moved to approve CUP2015-17 for Eden Junction for a liquor store located at approximately 2595 N Hwy 162, Suite #8, within the Commercial Valley-2 Zone subject to all the conditions listed in the staff report and all county agency requirements. Commissioner Haymond seconded. A vote was taken with Commissioners Howell, Graves, Haymond, Waldrip and Chair Pro-Tem Parson voting aye. Motion passed unanimously (5-0).

**3. Legislative Items:****New Business: Public Hearings:**

- 3.1. ZTA 2015-05:** Public Hearing to consider and take action on a request to amend the Weber County Land Use Code Title 104 (Zones) Chapter 11 (Commercial Valley Resort Recreation Zone CVR-1) Section 4 (Conditional Uses) by adding distillery and small brewery as a conditional use. (This item will be tabled and the public hearing on this item will be continued to the August 25, 2015 meeting, at 5:00 p.m.)

**MOTION:** Commissioner Graves moved to table ZTA 2015-05 for August 25, 2015 meeting at 5:00 p.m. at the request of the applicant. Commissioner Waldrip seconded. A vote was taken with Commissioner Howell, Graves, Haymond, Waldrip and Chair Parson voting aye. Motion passed unanimously (5-0).

- 3.2. ZMA 2015-01:** Public Hearing to consider and take action on a proposed amendment to the Weber County Zoning Map, Wolf Creek area by rezoning 9.11 acres of Forest Residential FR-1 to Open Space O-1; rezone approximately 15.97 acres of Open Space, and Commercial Valley CV-2 to a Commercial Valley Resort Recreation CVR-1 Zone; and rezone 30.65 acres of Forest Residential FR-3 to Open Space O-1.

Jim Gentry said the applicant is proposing some rezones in the Wolf Creek area. The first rezone to discuss is the 30.75 acres on the back nine of the golf course that is zoned FR-3 and is being proposed to be rezoned to Open Space; resulting in an additional 30 acres of Open Space. Staff is having the legal description checked to make sure that it doesn't encroach into the Fairways Subdivision development. The second rezone proposal is out in the commercial core; CVR-1, CV-2, and some Open Space (O-1); and the applicant is looking at rezoning this area to the CVR-1 for commercial core type of development and he is here to explain his vision for this area. There is about 9.18 acres of Open Space that is going to be rezoned from Open Space to CVR-1. In exchange for that Open Space going from O-1 to CVR-1, the applicant is proposing to rezone 9.11 acres that is zoned FR-1 to Open Space as a trade off to make sure that O-1 stays the same. This property has one unit assigned; the question of where is this unit going, the answer is it's going to the commercial core.

Jim Gentry said that there was a Zoning Development Agreement done in 2002 which assigned 250 units to the CV-2 Zone; and the CV-2 Zone does not allow residential units. Previously in 2006, Wolf Creek did a rezone and some of this property was changed to CVR-1 so they could do a condominium condo/hotel. That is why the applicant is doing a CVR-1 Zone so they could use the residential units that were assigned back then. The proposal is also in compliance with the 2002 Zoning Agreement. There was an addendum that was approved by County Commission in December or January of this year. It hasn't been recorded as of yet, the addendum would transfer approximately 56 units to other residential property. The Ogden Valley General Plan, as adopted in 1998, states that Weber County *"supports the continued development of resort-related commercial area."* The 2005 Recreational Element with the General Plan with the document suggests that Weber County, *"accommodate expected demand for second home, year-round home, and resort-related development without generating suburban/resort sprawl."* Staff is recommending to the County Commission approval as it complies with the Ogden Valley General Plan. The plan is consistent with the 2002 Zoning Development Agreement, and provides the necessary land use codes effective 2002 Wolf Creek Resort Development Agreement intended. The petition does not reduce the acreage of open space. The applicant is proposing additional amenities and recreational opportunities; and there were 250 units assigned to this CV-2 Zone which doesn't allow it, so it needs to be rezoned to the CVR-1 Zone. This Planning Commission may want to consider seeing the Zoning Development Agreement as part of that process. Staff received emails for and against the proposal. The emails were given to this Planning Commission.

John Lewis, applicant, who resides at Wolf Creek, said that on Friday they had an open house with approximately 250 friends and neighbors attending; they had a Latin Jazz band, and everyone had a great time. Wolf Creek's Bankruptcy created a huge mess and over the last six months they have spent a considerable amount of time coming up with a revised master plan and they considered plans for their commercial core. He has learned in the last 20 years living at Wolf Creek that whatever people do there, whether it's a business, golf, shop, or a liquor store, it has to appeal to all three groups that are there. It has to work for that person who is renting there for the weekend for skiing or vacationing. It has to work for someone who owns real estate especially at that resort but lives somewhere else. It also has to work for the locals and if they don't hit all groups, their business won't stay open. His main concern is twofold; get the viability of the golf course and the resort back to sustainable and moving forward. The key to that is the sense of community. They have spent a lot of time talking to community groups, getting the various HOA's together and getting input to find out what they want. They have tried to come up with a product from the communities input, and their vision is to come up with some kind of commercial core in the middle of their resort that somehow got overlooked. In the middle of the residential area, they need a place to do more concerts; they have received a lot of inspiration from 25<sup>th</sup> Street.

John Lewis said that he measured various buildings on 25<sup>th</sup> Street, and everything 25 feet or smaller, is full and doing just fine, and everything 50 feet and larger like Ogden Blue is vacant. He was measuring the building of Lucky Slice; and had a conversation with the owner, and he asked him if he would like the building wider, deeper, or bigger. He said that from his personal perspective, he opened his business in Layton that is larger than the building on 25<sup>th</sup> Street, and he spends twice as much in that place, and makes half as much as what he does on 25<sup>th</sup> Street, and he would never do that again. So in the future they would like to see smaller businesses, a single or two story building, with walkable areas, nice streets with light going across it, and have some concerts or other things in that area. He has lived there for twenty years and would like to see a very well done community center there that the entire community could participate in, and that would probably take about three years for that to happen. Whatever they do, it's about scale and if they really want to have that community center, parking has to be included. Last night they had a meeting with old and new members; and they talked about how they would modify the driving range. They came up with a plan that they wanted to put in this area; and this could be a satellite practice facility that could double as a trail head. They already have a road coming out of the retreat, where they could improve on that and have an all-terrain road, and years from now when they get to the community center, that would be a Plan B for the driving range. They would like to try and clean up there; they have two different

zones, with commercial in one spot. If they want to add some acreage to this so they can make sure they can do the community center and also fix the commercial aspect of their current community center, they need to fix that so they can rent things during the day. He would like to set this up for the next 10 years so they can walk through this plan as the market dictates.

Commissioner Howell said that he liked the design of their buildings and sees that they are maintaining that rural atmosphere. John Lewis replied that he did say he was going to do a second barn, make it look old, and make it an amphitheater, and get families involved, and that has been done. They do put action where their words are instead of the other way around. They are fully committed to having that put into a Development Agreement, should something happen to him, and the next person has to do it that way; this is his and everyone's legacy.

Commissioner Graves moved to open public comment.

Kim Wheatley, who resides in East Huntsville, said that he commends John Lewis and his crew for being involved with the community with this plan. They had an informal meeting last night to talk about what their vision is and opening the dialogue and letting the process work with the community that is affected by this; however, he worries any time they change anything to the CVR-1 Zone because they know there are capabilities should Mr. Lewis go bankrupt as the previous predecessors did before. They can see that the First America Credit Union has plans for that piece of property and they can see what the financial institute thinks, by putting the maximum amount of houses they possibly can and then flip it. If this goes into receivership with the CVR-1 Zone, they are looking at 75 foot buildings, and unlimited hotels, so he would encourage this commission to take Mr. Lewis up on his offer; build this plan into a development agreement, so that legacy will continue even if it goes into receivership.

Jan Fullmer, who resides in Eden and in one of the developments in Wolf Creek, said she is speaking for the 12 communities that are within Wolf Creek and surrounding Wolf Creek, and the input that more than 220 people provided on what they would like to see in the future development of Wolf Creek because it went bankrupt. There was no longer a single developer but multiple developers. Kudos are definitely in line to John Lewis and his staff; he has done tremendous improvements and the next phase he is proposing will not happen overnight; it's part of the total plan, and it meets many of the requests of the majority of the people, and it would be nice to have in Wolf Creek. In the hometown meeting that was held last September 2014, Weber County Planning and Weber County IT created a web page of the entire process, presentations of everything, raw data, various links; the outcome was passed to the developer, and she submitted the information of the web page to staff.

Jan Fullmer said in looking at the floor plan for Ogden Valley for the small commercial area that John Lewis is proposing; it is consistent with what the Logan Simpson consultants have been discussing at the workshops they've had with members in Ogden Valley. They have identified five commercial areas; if they are going to have various businesses, they want to cluster them to ensure a certain amount of traffic; it also helps support the success of the businesses. There needs to be a follow-up because there were 68 development units that were supposed to be transferred to the America First parcel which Eric Langvardt has laid out plans for that. The development plan for Eagles Landing; that could be put onto the map of Wolf Creek that John Lewis' group has put together. That total development plan could be there and then that whole plan as Mr. Wheatley could be recorded with Weber County to stay that way even if there is a new owner. They highly recommend that this Planning Commission approve this request.

Miranda Menzies, 3807 North Elkwood Trail in Wolf Creek, President of the Wolf Creek Master Home Owners Association (MHOA), said the MHOA covers all of the development land within Wolf Creek. She has been talking to John Lewis and Eric Householder and she would like to commend John and his team for the way they have reached out to the community. They have had in excess of 150-200 people in various meetings, with various emails, and phone contacts that she and Jan Fullmer have received. Mr. Lewis came out and asked us what they thought, and there was a range of views, and she agreed with Mrs. Fullmer that the reaction is positive. The negative was with the early version of the driving range, and there is now a new version, which is Plan B and where the driving range would be moved to. Some people have questioned the overall amount of parking; whether it is really necessary, and she would ask that this commission consider in the future moving in the strand of an existing trail that was created some time ago; however, there are parts of that go downwards to the Welcome Center that Summit is occupying. This parking lot will become a split between that road and the buildings. If they look at a walkable street design, a lot of architects like to move buildings closer to the street because it creates a good feel. That is a comment they have received from some people. There was also a question about where the 68 units of

residential development would go, because to her understanding they are in a couple of buildings, and that seems to be quite a lot. She concurs that this be part of a development agreement.

Gary Fullmer, 3741 Red Hawk Circle, Eden, said a year ago when the idea of a general plan for Wolf Creek was raised, there were five different developers, there was a lot of discussion, and the Planning Commission recommended that there be a general holistic plan for what was Wolf Creek, and it turned out to be 5-6 different ideas. At last night's meeting, there was a map that basically showed the entire Wolf Creek Resort, America First's property, the Eagles Landing property, the ownership that John Lewis has, and it showed a holistic plan which he would like for this commission to consider that. He would like for them to consider what Wolf Creek could be; and that would lend itself to more of a general plan. Mr. Lewis has reached out to the various other developers; Summit, Eagles Landing, America First has been briefed on this, and there seems to be a large support there. They are looking at something more than just a rezoning; it's much larger, and that is amenities for the population. If population comes in and America First does take those 413 units and develops them on acre lots, people have to have something to do; John Lewis has a condo/hotel up here and it's a potential, also there is something going on in Nordic Valley. This is one of those answers for those amenities that people can do besides just playing golf. There was a discussion of the Ogden Valley Land Trust and there were preventative at the meeting last night; they have now agreed there is an equal part. The piece that is being asked to change from FR-1 to O-1 is probably a better piece of property for open space.

Bill Christiansen, who resides in Eden, asked staff how many acres of commercial are available in the valley and if there is a need for more commercial. The reason everybody is in the central part of Eden is that Weber County designated this area as the spot for commercial. So people paid their money and put their businesses where Weber County said that they should; and now somebody comes in late to the game, and wants to change the game. Are they going to continually create spot zoning all over just so some developer can make more money? Now this Planning Commission is being asked to create a new commercial area so that somebody can take business from where Weber County had indicated that the commercial area should be. If the Planning Commission is going to keep creating commercial areas all over the place, then he will get out and sell his place, because he believes there is no reason for that. All they are going to do is create more and more places for commercial, and there is more than enough spaces in the valley now, and the valley doesn't need more commercial space.

Chair Pro-Tem Parson closed the public hearing.

Commissioner Waldrip asked legal counsel, if a request for a development agreement is to accompany any type of rezone. What latitude does this commission have to place that as a condition on any kind of a rezone? Director Wilkinson replied that they actually have that in the Land Use Code, where they can require a zoning development agreement as part of the rezone application.

Commissioner Waldrip stated that one of his concerns is the relocation of the driving range to somewhere that is beyond cart friendly driving. Is that a concern that they had discussion with the golfing community? Mr. Lewis replied that they would definitely have to be able to get there by cart and car. They have to be able to get there through the 9<sup>th</sup> fairway, and then turn up where they have the open space and the existing corridor.

Commissioner Waldrip asked Mr. Lewis to respond to the comment of various issues in the valley beyond just Wolf Creek what does the valley look like, and how much is enough or too much? By doing something like this, are they detracting from taking the focus out of a traffic standpoint, that from a visibility standpoint might make more sense, and are they relocating to an area that is more difficult to get to, that creates more traffic issues and is more removed from the general population, that would otherwise be served as commercial? John Lewis replied that is a valid concern. Coming from his perspective where he is used to owning buildings in that commercial area, he was frustrated with the lack of planning as far as subdivisions with no HOA's, with a different owner who has a different vision. The people he sells to, his neighbors want a little more sense of cohesion. They have competing architectural styles, and what it comes down to is looking fractured and somewhat scattered. What they get at a resort is different than what they get at a commercial intersection. There seems to be a different set of needs at Wolf Creek; the way they look at planning, they really look at this in terms of nodes, residential around it, as the way they used to look at it, which were satellite neighborhoods with centralized cores of commercial. They wanted to move forward in the direction that the county is going now, where there is some sense of cohesion. Mr. Langvardt could add more information to this

Eric Langvardt, Eric Design Group, Salt Lake City, said he wanted to point out that this is already commercial; and what they are asking for is the ability to go to the CVR-1 Zone because of the residential compliance. In effect they could actually have less square footage there when they are done. This portion is a recreation base that has to be CVR-1 so it could be operated as a club and not just for golf members. Its commercial, and they are not just talking about a liquor store or a restaurant in this area; it's the same square footage that they currently have zoned commercial.

Commissioner Waldrip said what they are proposing to take would be open space driving range open space; and replacing it with something different, and he asked Mr. Lewis to talk more about his vision. Mr. Lewis explained his vision on the map including where the proposed parking and community center would be located. Some of the existing community center would be a component with some retail and office space, and that's the majority of the commercial that they are talking about. They are looking at this as more of a mixed use. This is already zoned commercial; they are trying to minimize, and one way that can be done is to put condos above the businesses. In terms of the nine acres for nine acres, everything is just common recreational use except for one area.

Commissioner Waldrip asked Mr. Lewis how close he is to the point where he would feel comfortable going to county staff and starting a defined development agreement discussion where he could lock in on some of these issues. Mr. Lewis replied that they have been asked to come back within a year with the overall plan that they could lock in and have an updated master plan that didn't get into the record before. The two big holes in the master plan that was left was the commercial core and that is something they can focus on. America First has drawn their 413 lots on the map, but he doesn't believe that it will end up that way. The next step is to get back on the agenda and come back with the big plan. They would like to have a series of meetings with the neighborhood next month to discuss that plan, present their core approved by the county, showing what America First's plan looks like, with the other neighborhoods drawn in. He sees this happening within the next 30 to 60 days.

Commissioner Waldrip asked Mr. Lewis if he would be comfortable with an approval based upon a development agreement being entered into with the county. Mr. Lewis replied yes, if there was a way they could get it subject to a development agreement to be developed over the next two or three months. The county would retain the ability to pull the approval if they aren't satisfied. Mr. Gentry said that staff could draft up a zoning development agreement just for this commercial core on what he is proposing tonight and staff would present this to the County Commission as part of this rezone. Then they could come back with another zoning development agreement for the rest of the area. Director Wilkinson added that is what they were anticipating; if this rezone were to be approved, there would be a zoning development agreement specific for what is being proposed right now with the rezones that have been described, and at a later date, the overall master plan, including the numbers of units, would be clarified and that would be the new Wolf Creek Master Plan.

**MOTION:** Commissioner Howell moved to recommend approval to the County Commission ZMA 2015-01 to amend the Weber County Zoning Map, Wolf Creek area by rezoning 9.11 acres of Forest Residential FR-1 to Open Space O-1; rezone approximately 15.97 acres of Open Space, and Commercial Valley CV-2 to a Commercial Valley Resort Recreation CVR-1 Zone; and rezone 30.65 acres of Forest Residential FR-3 to Open Space O-1. This is subject to all conditions listed in the staff report and to the county agencies requirements, and also the acceptable land use codes mentioned in staff report. Commissioner Waldrip seconded.

**FRIENDLY AMENOMENT:** Commissioner Graves said to include a county approved Zoning Development Agreement, based on the concept development plan and other exhibits that they provided which incorporated the height restrictions. Commissioner Waldrip seconded.

**VOTE:** A vote was taken with Commissioner Howell, Graves, Haymond, Waldrip and Chair Pro-Tem Parson voting aye. Motion passed unanimously (5-0).

- 3.3. ZTA 2014-07:** Public Hearing to consider and take action on a proposed amendment of the following sections of the Weber County Land Use Code: Definitions (§ 101-1-7), Land Use Permit, Building Permit, and Certificate of Occupancy (§ 102-4), Conditional Uses (§ 108-4), and Supplementary and Qualifying Regulations (§ 108-7) to update and clarify provisions related to conditional use permitting and procedures.

Charles Ewert said that the Planning Commission have reviewed these proposed amendments in many work sessions dating back to November of last year; and he hopes this to be the final product on the new conditional use code. There are a

couple of minor tweaks and changes, and a whole new section that's been added to the proposal, and he needed to walk through and then touch on some finer points in the rest of the context of the conditional use. One thing that was not addressed is the definitions of conditional use. They have taken the old definitions out and added a new definition in, taking it verbatim from state code so there is no confusion, and this helps us stay there. The next one is a new section, Chapter 4, Title 102, Administration Chapter. When this code was discussed with Western Weber Planning Commission, they discussed enforcement, revocation, and how they make this work when it comes to revoking a conditional use permit. In looking at this code, it was clear that due process was spelled out for the landowners who may be in violation, and they wanted to make those that the due process was spelled out in our code. When looking at building permits, that was moved to another section for administrative efficiency. Certificate of Occupancy was stricken out from the land use code. It is still required by the building code, but they don't want that to be part of the land use code, because that is subject to land use requirements under the building codes.

Charles Ewert said that a land use permit required is not a new section but some new changes; so if they are going to use their land, a permit is required at least for the things that a permit is required. There are permitted use permits which are land use permits, and there are conditional use permits. The next amendment is Title 102, Chapter 4, Section 3, Permit Revocation, and this is where they clarify how to revoke a land use permit. The land use revocation is done by whatever land use authority to issue the permit. If the Planning Director has the authority under the current code to issue a land use permit, the Planning Director has the authority to revoke the permit. In the case of the conditional use permit, it's the Planning Commission. Prior to the revocation, they will work with the landowner, and often the landowner doesn't realize that they are in noncompliance; they will work with the landowner to bring them into compliance, bringing them through the process to amend the conditional use permit, land use permit, site plan, or go through the enforcement procedures, and amend whatever they are in violation of. In the event that compliance can't be obtained, they will send them a notice 14 days as due process prior to revocation. The notice will say they have a right to a hearing before the authority who is doing the revocation, giving someone the due process right to come in and state their case. Following that, they will give them a hearing, if they ask for it, and stay their final decision until after the hearing, and revoke their permit if they can't come into compliance. They do not want to revoke their permits; these are land use rights they are dealing with, and the point here is to establish process to get someone into compliance. Revocation is not a final legal option; County Legal Staff and the Code Enforcement Officer can still go after them for other remedies.

Courtlan Erickson, Legal Counsel, referred to Title 102, Section 3, and commented on C7 asking what that was referring to because it was not the standard legal format. Mr. Ewert replied that would be the appeals section on Title 102, Chapter 3, under Board of Adjustment.

Commissioner Graves was excused from the meeting.

Charles Ewert said on the context of the conditional use code; everything seen here on the first several pages, is nothing different than what has been proposed in the past. In Section 10B-4-5, line 283, on page 12 of 26, he reformatted this differently; this actually fits right into the contexts, of what they were talking about with the conditional use permits. The land use authority may apply conditions of approval, related to any of the standards of the sections, and provided that credible evidence that the application of the standard is relevant to the use. If they have a standard that they need to apply to a conditional use permit, that standard must be relevant to the uses and the conditions that they are then applying to it is based on that standard and are reasonable and necessary to substantially mitigate detrimental effects. The land use authority shall consider the expertise and experience of the applicable reviewer and qualified professional to help turn credible evidence well within the standards and the reasonable conditions. This falls within what Legal Counsel was saying; that threshold of defensibility if it goes to court.

Charles Ewert said there was a lot of discussion about water and whether or not the standards were beefed up enough, where water should be asked for, what should they be asking for; are they talking about wet water or paper water? He wanted to add something to help settle some of those questions. They talked about 1, 2, and 3 to verify adequacy of water, they may require these things to happen, but not be limited to only requiring these items. Essentially it has gone back to what is verifiable, credible; what are the facts, what science lies behind it, and can they find good conditions to apply that aren't part of this list.

Commissioner Haymond moved to open the public hearing.

Keith Wheatley, who resides east of Huntsville, said this all got started when the GEM Committee asked Mr. Ewert whether the whole conditional use permit process would be looked at during the update of the general plan. The response was that it was not part of the scope; but he knows that staff has had to go out of their way to address this. This Planning Commission had endless workshops addressing this, and there is now a basis from which they can now look at the land use table, and have a credible foundation to work with. He commends Mr. Ewert for doing such good work and note that even Miranda Menzies was happy with the water section.

Chair Pro-Tem Parson moved to close the public hearing.

**MOTION:** Commissioner Haymond moved to recommend to the County Commission approval of ZTA 2014-07 to amend the following sections of the land use code as outlined in the staff report including all conditions and recommendations listed in the staff report. Commissioner Howell seconded. A vote was taken with Commissioner Howell, Haymond, Waldrip and Chair Pro-Tem Parson voting aye. Motion passed unanimously (4-0).

- 3.4. ZTA 2015-01:** Public Hearing to consider and take action on a proposed amendment of the following sections of the Weber County Land Use Code: Home Occupations; Short Term Vendors; Temporary Outdoor Sales; Farmers Markets (§ 108-13) to enable a home occupation to provide limited instructional activities in yard area or accessory buildings and to update and clarify provisions related to home occupation permitting and procedures.

Charles Ewert said this was an applicant-driven change and they came in for consideration of the code to allow them to use what they have on their property, an accessory building with a basketball court inside for the purposes of making a little bit of commercial revenue. After several discussions with them, staff decided that the best way to handle this was through the Home Occupation Code. They went through this proposed amendment in the work session and most of this is unchanged, except for a couple of changes that he would like to go through Section 108-13-2, Line Item 134, (13). Mr. Ewert read through that section and said originally, this started out as athletic instruction but after going to both Ogden Valley and Western Weber Planning Commission's work sessions, they both agreed to open that a little bit more. He was concerned about opening that up because they didn't have a lot of impact. Opening that up to any kind of instruction, then they start talking about a few more different kinds of impacts especially in residential zones. To help with those, they have a minimum lot size of three acres but there are several small acre developments, including Wolf Creek and a few others that have instructional activity outside. Some people who own property wouldn't be able to get a permit. A noise standard and lighting standard was added and one of the exhibits shows some science behind decibels, how to understand what a decibel is, and what increases in decibels are. Also on the lighting standards, it shows what a foot candle is, how to measure a foot candle, and what it means when measuring from the property line.

Charles Ewert said that important part is when they are talking about 60 decibels; it's not that the home occupation itself is 60 decibels. It's that the delta between the standard ambient noises in the neighborhood and the new use is no more than the 60 decibel increase. The same thing with lighting, the delta increase in light from home occupation is no more than two foot candles as measured on the property line. He could use his iPhone to actually capture the two measurements on the property line. Truck traffic and regulation of truck traffic was added but is not relevant to outdoor instruction. If the home occupation is confined to the inside of the home, they allow customers to come to the site, they allow sales of goods, and this could encourage truck traffic. They added a standard about heavy trucks; the Planning Commission was concerned with what a heavy truck is, and he went to UDOT to find out their regulation on heavy trucks, and wrote this standard in the ordinance. There was concern from the public and they talked about this in the work sessions; the way the employee section was written did not adequately cover contractors who are working for the business. They are not talking about employees but a person employed. In the final discussion, Western Weber didn't want to limit it to three-acre lot sizes; they know they have a lot of one acre lot sizes there, and did not want to put a limit of three acres in the ordinance. They wanted to give a conversation starting point. They are experimenting with home occupations outside the home, and they didn't want this allowed everywhere. Putting this on larger acreages would allow a buffer between these kinds of uses and the neighboring residential uses. When they discussed this with the Western Weber Planning Commission, they said whatever the minimum lot size in the zone is should be the standard. The conversation with the Ogden Valley Planning Commission was a minimum of three acres, and if they wanted to split the two, then his recommendation to the County Commission is to split the two.

Chair Pro-Tem Parson asked if the Planning Commission wanted to discuss the acreage size and it was agreed that Ogden Valley should stay with three acres and have Western Weber Planning Commission determine their own acreage.

Commissioner Waldrip said that on the foot candle measurement, there should be a height standard, whether it is three feet or two feet. Mr. Ewert replied that he will look into this and do some further research on the height.

Chair Pro-Tem Parson moved to open the public hearing.

Kim Wheatley asked said in reference to the decibels, if he understood its 60 decibels above whatever the ambient level is. Chair Pro-Tem Parson replied yes. Mr. Wheatley said when he checked the ambient levels, it's often at 60 and that pushes it to 120 and that is higher than steel mills; that's jet air take off, and 120 decibels is really loud. They need to seriously think about what the decibel levels are. Even the levels they ended up at Wolf Creek Sewer Plant, ended up annoying neighbors 1,000 feet away, and he didn't know exactly what they were, but they were under 100.

Chair Pro-Tem Parson moved to close for the public hearing.

Commissioner Waldrip said if the ambient noise levels are impacted by one use, does that now reset the neighborhood ambient levels, so when somebody else comes in and they are another 60 decibels above that first use. It might make sense to put a cap on the noise such as a maximum level of a Boeing 737. Mr. Ewert said that he did more research on this and found that decibel ratings are not linear, so when they double a decibel, they are going up ten; they are doubling the sound. The policy perspective on this is that the noise level should not be more than a typical conversation which is about 60 decibels.

Chair Pro-Tem Parson asked if 60 decibels is typically considered conversation. Commissioner Waldrip replied that they would cap it at 60 decibels being measured at the property line. Mr. Ewert said that they could cap it at 60 decibels but they don't want to because they don't want to run someone out of business because they started running the lawnmower. If they are comfortable with no more than a conversation in restaurant, office, background music, or air conditioning unit at 100 feet threshold. This being the additional noise that this business can add to a neighborhood; he will make sure that he gets the math correctly and have a standard there that is measureable once this gets to the County Commission.

Courtian Erickson, Legal Counsel, said that as he interprets the way it is written, if the ambient level is 60, this is saying it can go up to 120. He would agree that this is worth clarifying. Mr. Ewert said that his anticipation with something like this; what staff would do upon receiving an application, is ask all the questions, and get them noted on the land use permit that the noise level can't be beyond a certain noise threshold. Right now, it is based on complaint enforcement, they issue a permit and wait for a complaint to come in, and then go out and check on it. He encouraged further review with other attorneys to further clarify the intent.

**MOTION:** Commissioner Howell moved to table ZTA 2015-01 until they get more information on the noise levels. The motion died for lack of a second.

**MOTION:** Commissioner Haymond moved to recommend to the County Commission approval of ZTA 2015-01 to amend the following sections of the Land Use Code as outlined in the staff report with all recommendations and modifications that the noise level not exceed 60 decibels as measured from the property line, equal to a conversation in a restaurant, office background music, or air conditioning unit at 100 feet, and to include the measurement of light, of two a foot candle measured at three feet above grade of the property line. Commission Howell seconded. A vote was taken with Commissioner Howell, Haymond, Waldrip and Chair Pro-Tem Parson voting aye. Motion passed unanimously (4-0).

- 3.5. ZTA 2015-02:** Public Hearing to consider and take action on a request to amend Title 108 (Standards), Chapter 15 (Standards for Single Family Dwellings), of the Weber County Land Use Code by eliminating some standards, exempting specific projects types from some standards, and improving overall organization.

Scott Mendoza said this is an amendment to Title 108-15 Standards for Single Family Dwellings. They are proposing to add some clarity to the existing chapter, be less repetitive and group a lot of these standards. There was a section that allowed an exception or modification to the rules, and that was in a list of standards, now they have put that into its own section within the code and labeled it Exceptions. They are eliminating some of the standards and exempting specific types of developments from some of the standards in the code. The exceptions have to do with architectural features or mapping,

and in Exhibit C. This is the final draft that will be proposed to County Commission with more organization. There is a requirement where a home has to have a 72 square foot storage closet somewhere and that standard is not necessary.

Chair Pro-Tem Parson opened and closed the public hearing.

**MOTION:** Commissioner Howell moved to recommend approval to the County Commission to amend ZTA 2015-02 Weber County Land Use Code, Title 108-15 Standards for Single Family Dwellings with notations listed in the staff report. Commissioner Haymond seconded. A vote was taken with Commissioner Howell, Haymond, Waldrip and Chair Pro-Tem Parson voting aye. Motion passed unanimously (4-0).

- 3.6. **ZTA 2015-04:** Public Hearing to consider and take action on a request to amend Title (Standards), Chapter 7 (Supplementary and Qualifying Regulations) of the Weber County Land Use Code by adding a new section that would allow buildings, in certain situations, to encroach into private road rights-of-way.

Scott Mendoza said this is a proposed amendment to Title 108, Chapter 7, Supplementary and Qualifying Regulations, and this is the catch all chapter and these things apply to different situations in all zones. Within that chapter is Section 108-7-2, Projections Permitted into Required Yard Setbacks. What is being proposed is adding a new section titled Projections Permitted into Private Streets Rights-of-Way; this will allow a resort main street, with architectural features in front of the building that will project into a private right-of-way or into a privately dedicated road right-of-way. There is a limitation as to what those projections are and there is a list of standards and requirements. If a developer were to building a building, they would have to come in and present to the county prior to getting approvals. They would have to have a letter from the owner of that privately owned right-of-way. Today this would only be allowed Ogden Valley Destination Recreation Resort Zone, and potentially could be in the Commercial Valley-2 Zone. These are standards that allow zero front yard setbacks; this is allowed in the resort zone, and in the CV-2 the setback is 20-30 feet, but if a developer comes in and presents a complete street plan, the developer has some flexibility and in a case with zero front yard setbacks propose these projections in resort zones and only on private streets.

Chair Pro-Tem Parson opened and closed the public hearing.

**MOTION:** Commissioner Howell moved to recommend approval to the County Commission on ZTA 2015-04 Weber County Land Use Code, Title 108, Chapter 7, Supplementary and Qualifying Regulations of the Weber County Land Use Code by adding a new section that would allow buildings, in certain situations, to encroach into private road rights-of-way. Commissioner Haymond seconded. A vote was taken with Commissioner Howell, Haymond, Waldrip and Chair Pro-Tem Parson voting aye. Motion passed unanimously (4-0).

- 4. **Public Comment for Items not on the Agenda:** Kim Wheatley thanked everyone for all their hard work on these ordinances.
- 5. **Remarks from Planning Commissioners:** None
- 6. **Planning Director Report:** Director Wilkinson said coming on October 1-2, 2015 they have the Utah Fall APA Conference at Thanksgiving Point in Lehi, and that is on a Thursday and Friday. Staff would like for this commission to look at their schedule, and get back with Sherri or Kary with their availability. The county will provide transportation if needed. There will be an email sent out and they need to register by early September.
- 7. **Remarks from Legal Counsel:** Courtlan Erickson said he is looking forward to working with everyone for a long time.
- 8. **Adjournment:** The meeting was adjourned at 7:50 p.m.

Respectfully Submitted,

Kary Serrano, Secretary  
Weber County Planning Commission



## Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

### Synopsis

#### Application Information

|                             |  |
|-----------------------------|--|
| <b>Application Request:</b> | Consideration and action on final approval of Phase 2 of The Ridge Townhomes at Wolf Creek PRUD, 8 units, at approximately 3400 North Moose Hollow Drive |
| <b>Type of Decision:</b>    | Administrative   |
| <b>Agenda Date:</b>         | Tuesday, September 22, 2015  |
| <b>Applicant:</b>           | Capon Capital, John Lewis  |
| <b>File Number:</b>         | UVR1125-13   |

#### Property Information

|                                  |                                |
|----------------------------------|--------------------------------|
| <b>Approximate Address:</b>      | 3400 North Moose Hollow Drive  |
| <b>Project Area:</b>             | 1.575                          |
| <b>Zoning:</b>                   | Forest Residential (FR-3)      |
| <b>Existing Land Use:</b>        | Vacant                         |
| <b>Proposed Land Use:</b>        | PRUD Development / subdivision |
| <b>Parcel ID:</b>                | 22-281-0001                    |
| <b>Township, Range, Section:</b> | T7N, R1E, Section 27           |

#### Adjacent Land Use

|               |                           |               |                         |
|---------------|---------------------------|---------------|-------------------------|
| <b>North:</b> | Condominiums, Golf Course | <b>South:</b> | Agriculture, Open Space |
| <b>East:</b>  | Residential               | <b>West:</b>  | Agriculture             |

#### Staff Information

|                          |  |
|--------------------------|--|
| <b>Report Presenter:</b> | Jim Gentry<br>jgentry@co.weber.ut.us<br>801-399-8767 |
| <b>Report Reviewer:</b>  | SW   |

### Applicable Ordinances

- Weber County Land Use Code Title 104 Chapter 17 (Forest Residential FR-3)
- Weber County Land Use Code Title 104 Chapter 28 (Ogden Valley Sensitive Lands)
- Weber County Land Use Code Title 106 (Subdivision)

### Background

The applicant is requesting final approval of Phase 2 of The Ridge Townhomes at Wolf Creek PRUD. Phase 2 has 8 units on 1.57 acres with 31,280 square feet in landscape area. This property is located in the FR-3 Zone which requires group dwellings to have 7,500 square feet of net developable area for each dwelling plus 2,000 square feet of net developable area for each dwelling unit in excess of two in each building. Using this formula, the buildings in Phase 2 require 23,000 square feet, which fits within the total Phase 2 area. These units will be used for nightly rentals.

The applicant has modified and increased the unit footprints in this phase by replacing the single car garages with double car garages. This change has also caused the road to shift into the open space that was platted in Phase 1. Phase 1 and Phase 2 will be modified to meet the open space requirements. The HOA will sign the plat for the road that is in the Common Area. There is still sufficient common area/open space for Phases one and two. The phasing plan that was part of the CUP is not being followed. Attached is a new site plan with the buildings labeled correctly.

The buildings are required to have a 15 foot setback from Moose Hollow Drive. The driveway approaches need to be 16 feet wide. The site plan shows 12 parking stalls at 8 feet by 22 feet (176 square feet). Parking standards require the parking stalls to be at least 180 square feet. Since the trash dumpster area is going to be hard surface, this, and the rest of the items need to be shown on the subdivision plat. The site plan also shows a 4 foot concrete walk way along Moose Hollow Drive with bollard lights.

Wolf Creek Water and Sewer will provide services for this project. The Capacity Assessment letter from the Utah State Department of Environmental Quality Division of Drinking Water indicates that there are 209 additional units that can be supplied by Wolf Creek Water and Sewer. A construction permit from the Utah State Department of Environmental Quality Division of Drinking Water for expansion of the water system and water lines serving the subdivision is required prior to the subdivision receiving final approval from the County Commission.

The Weber Fire District has approved the fire hydrant locations for this phase. The Engineering Division has reviewed the subdivision plat and provided comments to the applicant. The recommendations in the Geotechnical report need to be followed. The cut and fill slopes will need to have easements. A Wet Land Delineation needs to be submitted as this may affect the main road that goes through with the future phase.

### Summary of Planning Commission Considerations

The planning commission may wish to consider the following questions:

- Are there any potential negative or detrimental effects that have not been considered and need to be addressed with this subdivision approval?
- Does the Planning Commission have other questions that have not been addressed?

### Conformance to the General Plan

The proposed subdivision conforms to the Ogden Valley General Plan and complies with all applicable land use codes.

### Conditions of Approval

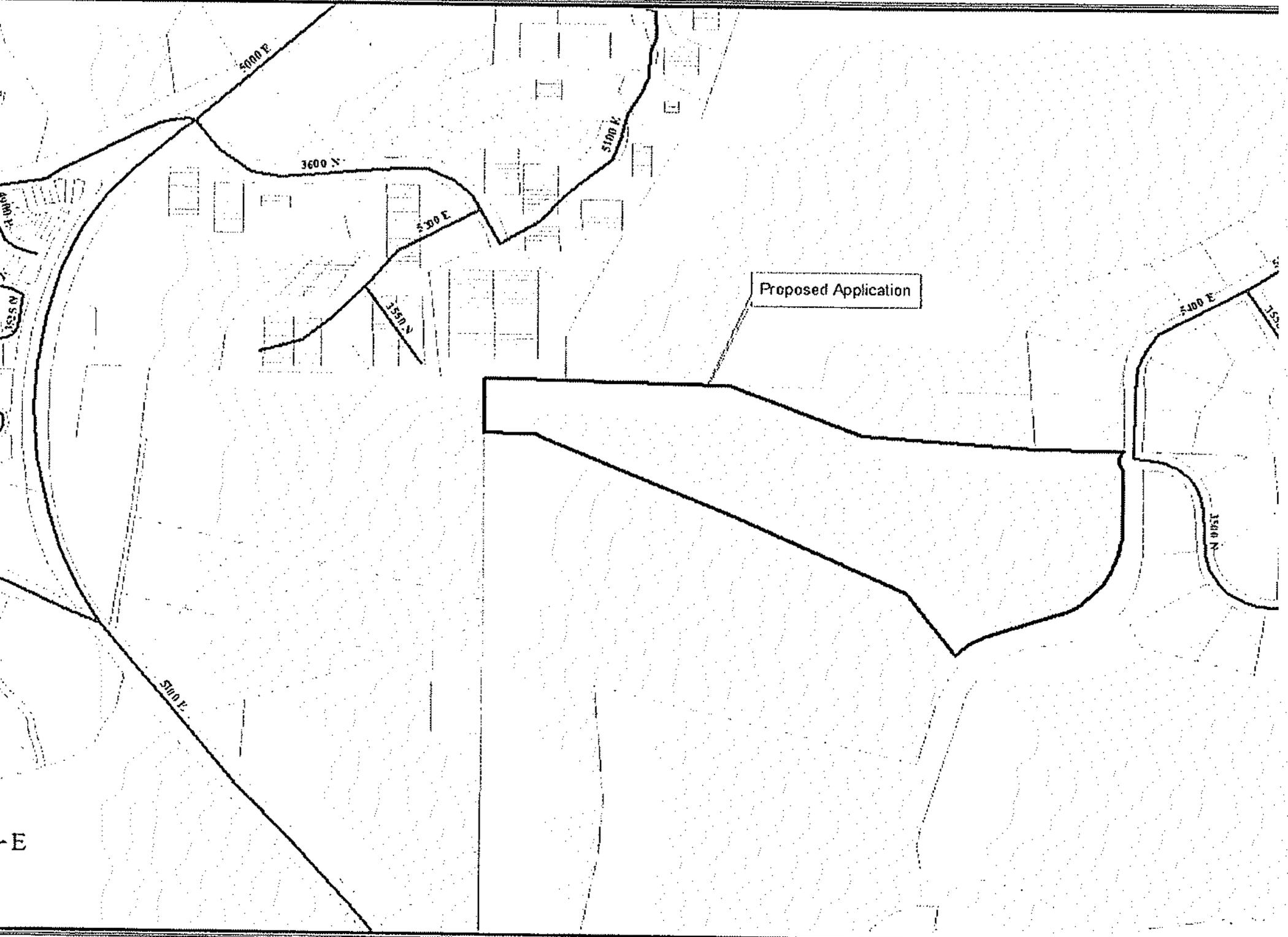
- Requirements of the Weber County Land Use Code
- Requirements of the Weber County Engineering Division
- Requirements of the Weber Fire District

### Staff Recommendation

Staff recommends final approval of Phase 2 of The Ridge Townhomes at Wolf Creek PRUD, 8 units, subject to staff and other agency requirements.

### Exhibits

- A. Location Map
- B. Subdivision plat
- C. Site Plan





# THE RIDGE TOWNHOMES PHASE 2

PART OF THE NORTHEAST 1/4 OF SECTION 27  
T7N, R1E, S1B & M, U.S. SURVEY  
WEBER COUNTY, UTAH  
SEPTEMBER 2005

| LINE TABLE |        |               |
|------------|--------|---------------|
| LINE #     | LENGTH | BEARING       |
| L183       | 4.416  | S8° 20' 38"E  |
| L193       | 12.711 | S84° 26' 01"E |
| L184       | 11.881 | S22° 36' 34"W |
| L184       | 11.813 | N02° 21' 13"W |
| L200       | 8.914  | N84° 28' 01"W |
| L201       | 2.000  | S4° 06' 21"W  |
| L202       | 3.003  | N84° 18' 01"W |
| L203       | 8.244  | N08° 09' 23"W |
| L200       | 4.011  | N84° 28' 01"W |
| L206       | 11.117 | S22° 36' 34"W |
| L206       | 12.684 | S08° 09' 23"E |
| L209       | 2.000  | S30° 30' 21"W |
| L210       | 6.997  | S58° 00' 23"E |
| L211       | 23.538 | N08° 09' 23"W |
| L212       | 23.147 | S42° 32' 43"W |
| L214       | 3.018  | N84° 04' 13"W |
| L225       | 4.279  | S4° 30' 38"E  |
| L219       | 25.151 | S84° 28' 01"E |

| CURVE TABLE |        |        |        |               |              |
|-------------|--------|--------|--------|---------------|--------------|
| CURVE #     | LENGTH | RADIUS | DELTA  | CHORD BEARING | CHORD LENGTH |
| C1          | 15.60  | 30.60  | 29.60  | S8° 21' 15"W  | 15.43        |
| C2          | 23.90  | 23.48  | 55.85  | S4° 42' 42"E  | 22.00        |
| C3          | 12.60  | 10.20  | 77.82  | S45° 28' 18"E | 12.58        |
| C4          | 23.78  | 13.00  | 104.82 | S75° 04' 10"W | 20.60        |
| C5          | 8.47   | 17.00  | 31.81  | N88° 28' 20"W | 9.23         |
| C6          | 4.28   | 3.00   | 81.82  | S18° 15' 00"E | 3.83         |
| C7          | 22.88  | 14.50  | 25.27  | N07° 47' 47"W | 22.60        |
| C8          | 18.78  | 15.00  | 84.10  | S88° 47' 20"W | 15.92        |
| C9          | 27.21  | 20.00  | 77.96  | S81° 51' 34"W | 23.14        |

### LEGEND

|  |                         |
|--|-------------------------|
|  | METEORIC                |
|  | EDITIONS                |
|  | BOUNDARIES              |
|  | PROPERTY BOUNDARY       |
|  | PLANNED VEHICULAR DRIVE |
|  | DRIVE WAY               |
|  | DRIVE                   |
|  | UNIMPROVED DRIVE        |
|  | DRIVEWAY                |



SHEET 5 OF 5

Prepared by:



1100 WEST 1000 SOUTH, SUITE 100  
SALT LAKE CITY, UTAH 84119  
www.gardnereng.com

COUNTY RECORDER

SUBMITTAL FEE PAID

FILED FOR RECORDING

RECORDED \_\_\_\_\_ AT

M \_\_\_\_\_ BOOK OF OFFICIAL

RECORDS, PAGE \_\_\_\_\_

DATE \_\_\_\_\_

COUNTY RECORDER

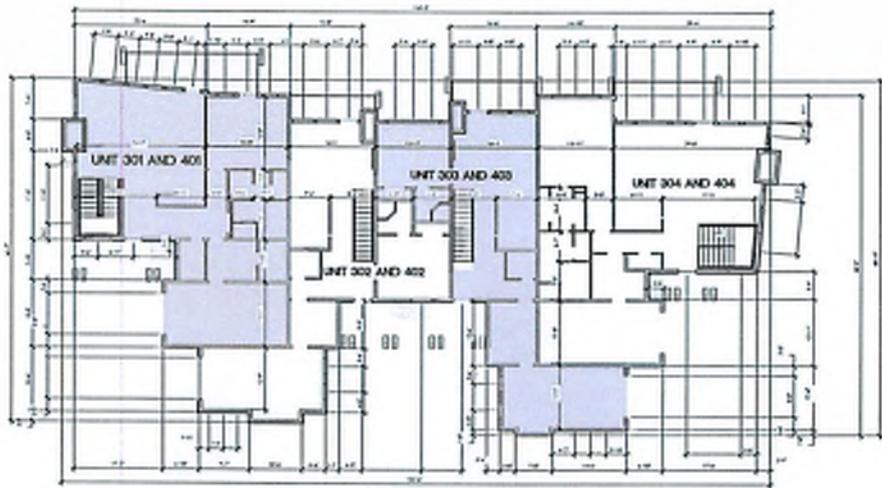
BY \_\_\_\_\_

DATE \_\_\_\_\_

# THE RIDGE TOWNHOMES PHASE 2



LOWER LEVEL  
FLOOR PLAN

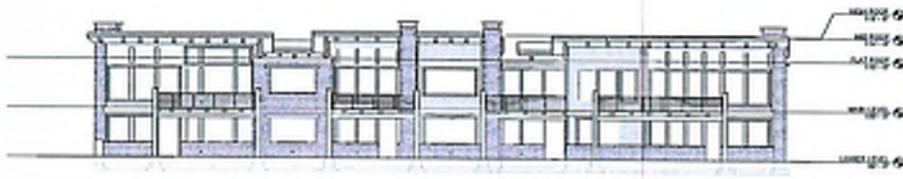


MAIN LEVEL  
FLOOR PLAN

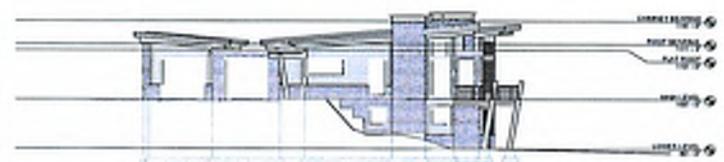
SHEET 3 OF 4

|   |   |
|---|---|
| <br>GARDNER ENGINEERING<br>LEVEL 10, 1000 E. UNIVERSITY AVENUE<br>DENVER, CO 80202<br>TEL: 303.733.8888<br>WWW.GARDNERENGINEERING.COM | County Recorder   |
|   | DATE: _____ FILED FOR RECORDING: _____                      |
|   | RECORDED: _____ BOOK OF OFFICIAL RECORDS: _____ PAGE: _____ |
|   | COUNTY RECORDER   |

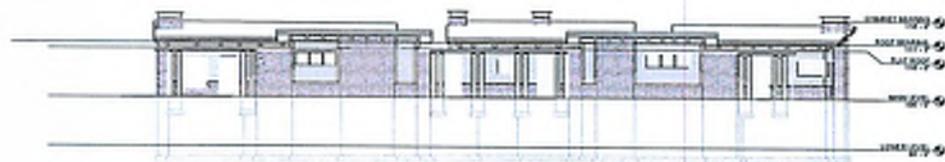
# THE RIDGE TOWNHOMES PHASE 2



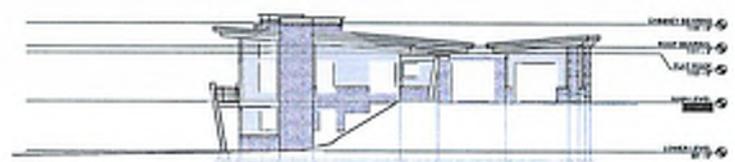
SOUTH ELEVATION  
BUILDINGS 301-304 100'-00" = 5242.50  
BUILDINGS 401-404 100'-00" = 5245.00



WEST ELEVATION  
BUILDINGS 301-304 100'-00" = 5242.50  
BUILDINGS 401-404 100'-00" = 5245.00



NORTH ELEVATION  
BUILDINGS 301-304 100'-00" = 5242.50  
BUILDINGS 401-404 100'-00" = 5245.00



EAST ELEVATION  
BUILDINGS 301-304 100'-00" = 5242.50  
BUILDINGS 401-404 100'-00" = 5245.00

SHEET 4 OF 4

|   |   |
|---|---|
| Prepared By:<br><br><small>LEVEL 3 LAND PLANNING<br/>COMMUNITY DEVELOPMENT &amp; ENVIRONMENTAL SERVICES</small><br><small>11710 N. HANCOCK AVENUE, SUITE 100, DENVER, CO 80241<br/>303.733.8888   www.gardnerengineering.com</small> | COUNTY RECORDER                                 |
|   | DATE RECORDED: _____ FILED FOR RECORDING: _____ |
|   | RECORDED: _____ PAGE _____ OF _____             |
|   | RECORDING FEE: _____                            |
| COUNTY RECORDER<br>_____<br><small>DENVER</small>   |   |



# THE RIDGE TOWNHOMES

APRIL 2014



## Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

### Synopsis

#### Application Information

|                                    |  |
|------------------------------------|--|
| <b>Application Request:</b>        | Consideration and action to revoke a conditional use permit for a surface boulder collection operation |
| <b>Type of Decision:</b>           | Administrative   |
| <b>Agenda Date:</b>                | Tuesday, September 22, 2015  |
| <b>Applicant/Authorized Agent:</b> | Dan Lockwood, Pine Ridge Products  |
| <b>Property Owner:</b>             | Reed C. Jensen and Karl A. Jensen Land Holding Co.   |
| <b>File Number:</b>                | CUP# 2011-02   |

#### Property Information

|                                  |   |
|----------------------------------|---|
| <b>Approximate Address:</b>      | Avon Divide-Weber/Cache County Line             |
| <b>Project Area:</b>             | 820 acres                                       |
| <b>Zoning:</b>                   | Forest 40 Zone (F-40)                           |
| <b>Existing Land Use:</b>        | Agriculture                                     |
| <b>Proposed Land Use:</b>        | Surface Boulder Collection                      |
| <b>Parcel ID:</b>                | 23-044-0007                                     |
| <b>Township, Range, Section:</b> | Township 8 North, Range 1 East, Section 32 & 33 |

#### Adjacent Land Use

|               |              |               |        |
|---------------|--------------|---------------|--------|
| <b>North:</b> | Cache County | <b>South:</b> | Forest |
| <b>East:</b>  | Forest       | <b>West:</b>  | Forest |

#### Staff Information

|                          |   |
|--------------------------|---|
| <b>Report Presenter:</b> | <b>Ronda Kippen</b><br>rkippen@co.weber.ut.us<br>801-399-8768 |
| <b>Report Reviewer:</b>  | SW  |

### Applicable Ordinances

- Title 101, Chapter 1, General Provisions, Section 7, Definitions
- Title 104, Chapter 9, Forest Zones
- Title 104, Chapter 28, Ogden Valley Sensitive Lands Overlay Districts
- Title 108, Chapter 4 Conditional Uses
- Title 110, Chapter 2, Ogden Valley Signs

### Summary and Background

In 2010, rock collection operations began on the property located along the Weber and Cache County line, located to the east of the Avon Divide, as a temporary use gathering rocks for the Ogden River restoration project. The applicant petitioned the County in 2011 for a conditional use permit to allow for surface boulder collection in the F-40 zone for which "mine, quarry and gravel pits" are conditionally permitted. The applicant stated in the application under the project narrative that "Pine Ridge Products and Jensen Bros Livestock have been partnering on a rock project to improve grazing on the ranch. We have gone and recognized areas that have heavy concentrations of rock and had removed them remediated the site to improve vegetation production" and "This is an agricultural use much like our timber or our sheep it is a natural rock on the surface and conforms to collections rules set by the State of Utah" (see Exhibit A for the 2011 CUP application). The subsequent reviews and approvals were done based on the applicant's description of the proposed work being agricultural in nature with no excavation or disturbance to the existing soils and vegetation (see Exhibit B for the 2011 staff report). On July 13, 2011, the Weber County Planning Division issued Conditional Use Permit# CU INDX21-2011 based on the conditions of approval granted by the Ogden Valley Planning Commission on February 22, 2011 (see Exhibit C for the Notice of Decision and CUP).

Since that time, the code enforcement officer for the Weber County Planning Division has received several complaints of heavy truck traffic, working outside of the prescribed hours, and mass excavation of the site (see Exhibit D for site photos). After Planning Division staff performed multiple site visits and met with the applicant, Mr. Lockwood, on several occasions

In an attempt to bring the project into compliance with County ordinances, Mr. Lockwood, on behalf of Pine Ridge Rock Products Mine, submitted an application to the Planning Division on July 31, 2015, seeking a conditional use permit to allow for "rock collection and excavation." On August 26, 2015, the attorney for the property owner, Karl A. Jensen, notified the Planning Division that all activities on the property that exceed mere removal of surface boulders are unauthorized and asked that the requested permit for rock collection and excavation be withdrawn (see Exhibit E for letter from property owner's attorney).

On September 1, 2015, a site visit was made by the Planning Division staff along with representatives from the Utah Department of Natural Resources (DNR). A Citation for Non-Compliance was issued by DNR to Pine Ridge Excavation and Landscapes on September 3, 2015 ordering a cessation of all mining activities. DNR has ordered reclamation of the site to begin immediately with re-grading to be completed by October 16, 2015 and reseeding to be completed by November 13, 2015 (see Exhibit F for Citation from DNR).

The Planning Division staff has made every attempt to work with the applicant to resolve the violations by bringing the project into compliance with the criteria and conditions of approval. The Uniform Land Use Code of Weber County (LUC) §108-4-8 allows for a conditional use permit to be revoked by the Land Use Authority upon failure to comply with the applicant's approved proposal, or any applied standard, or applicable requirement, provision, restriction, or condition of approval.

At this time, the Weber County Planning Division is forwarding a request for revocation of the conditional use permit (CU INDX21-2011) to the Ogden Valley Planning Commission based on the following violations derived from the criteria and conditions of approval:

- Mass grading, mining and rock excavation without the proper permits from Weber County.
- Stockpiling of material onsite.
- Signage has been placed at the entrance to the site without receiving the proper permits from Weber County.
- A minimum of three dump trucks with pups and one tractor with side dump trailer have been exporting material from the site.
- Working outside of the prescribed hours.
- Failure to provide a current Storm Water Pollution Prevention Plan (SWPPP) to the Weber County Planning and Engineering Divisions.
- Failure to provide an escrow for restoration to the Weber County Planning Division.
- Failure to provide a restoration plan for the upper site to the Weber County Planning Division.

#### Summary of Planning Commission Considerations

The Ogden Valley Planning Commission may revoke a conditional use permit per LUC §108-4-8 "upon failure to comply with the applicant's approved proposal, or any applied standard, or applicable requirement, provision, restriction, or condition of approval." The rules for the revocation process are outlined in LUC §102-4-3 as follows:

- (1) Revocation shall be conducted by the Land Use Authority that is authorized to approve the permit.
- (2) Prior to permit revocation, the land owner shall be given reasonable opportunity to resolve the violation by bringing the property into compliance or by diligently pursuing an amendment or modification to the permit, as may be allowed by this Land Use Code.
- (3) In the event compliance cannot be attained the land owner shall be given a notice of the impending permit revocation 14 days prior to final revocation. The notice of the impending permit revocation shall specify the violation, and inform the land owner of the right to request a hearing.
- (4) The land owner shall have a right to a hearing with the Land Use Authority to show cause for why the permit should not be revoked, if a written request for such is submitted prior to a final written revocation decision. If a hearing is requested, final revocation of the permit shall be stayed until after the hearing. The hearing shall be scheduled at a time specified by the Land Use Authority.
- (5) Revocation of a permit is final upon the issuance of a final written decision. The final written decision may be appealed pursuant to Title 102, Chapter 3.
- (6) Revocation of a permit shall not prohibit prosecution or any other legal action taken on account of the violation, as provided in this Land Use Code or any other applicable law.

The Planning Commission will need to determine if the applicant has continued to operate outside of the approved proposal and conditions of approval of the conditional use permit for surface boulder collection.

## Staff Recommendation

The Planning Division recommends revocation of file# CUP 2011-02, a conditional use permit for surface boulder collection located to the east of Avon Divide along the Weber and Cache County line issued as conditional use permit CU INDX21-2011. This recommendation for revocation is based on the following findings:

1. The applicant has repeatedly operated outside of the prescribed hours of operation.
2. The applicant has continually performed mass excavation without required permits from Weber County.
3. The applicant is in violation of the approved proposal including stockpiling material, signage, and excess heavy equipment on site.
4. The applicant has exceeded the allowed use given to him by the property owner.
5. The applicant is in violation with State permits and requirements.

## Exhibits

- A. 2011 CUP Application
- B. 2011 Staff Report
- C. Notice of Decision and Conditional Use Permit
- D. Site Photos of Violations
- E. Letter from Jensen's attorney
- F. DNR Cessation Order

## Map 1



Exhibit A- 2011 CUP Application

**Weber County Conditional Use Permit Application**

Application submittals will be accepted by appointment only. (801) 399-8791. 2380 Washington Blvd. Suite 240, Ogden, UT 84401

|   |                            |                                      |  |
|---|----------------------------|--------------------------------------|--|
| Date Submitted / Completed<br>1/28/2011 | Fees (Office Use)<br>\$225 | Receipt Number (Office Use)<br>20628 | File Number (Office Use)<br>CUP2011-02 |
|---|----------------------------|--------------------------------------|--|

**Property Owner Contact Information**

|  |     |   |  |
|--|-----|---|--|
| Name of Property Owner(s)<br>LAWI JENSEN |     | Mailing Address of Property Owner(s)<br>7015N 6800W<br>TROMONTON, UT  |  |
| Phone<br>435 257-7972                    | Fax |   |  |
| Email Address                            |     | Preferred Method of Written Correspondence<br><input type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail |  |

**Authorized Representative Contact Information**

|   |                     |   |  |
|---|---------------------|---|--|
| Name of Person Authorized to Represent the Property Owner(s)<br>K. DAN LOCKWOOD |                     | Mailing Address of Authorized Person<br>4205N 2150 E<br>LIBERTY UT 84310  |  |
| Phone<br>435-994-2061   | Fax<br>801 745 9527 |   |  |
| Email Address<br>DLCK52067@gmail.com  |                     | Preferred Method of Written Correspondence<br><input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input checked="" type="checkbox"/> Mail |  |

**Property Information**

|  |                       |
|--|-----------------------|
| Project Name<br>AVON ROCK - PINE RIDGE products                    | Current Zoning        |
| Approximate Address<br>Avon Drive Weber County<br>CACH County Line | Land Serial Number(s) |

Proposed Use  
SURFACE BOULDER COLLECTION

Project Narrative  
PINE Ridge products and JENSEN Bros Livestock have been partnering on a Rock project to improve grazing on the Ranch. we have gone and Recognized areas that have heavy concentrations of Rock and have Removed them Remediated the site to improve vegetation production.

## Exhibit A- 2011 CUP Application

### Basis for Issuance of Conditional Use Permit

That the proposed use of the particular location is necessary or desirable to provide a service or facility which will contribute to the general well being of the community:

- \* OUR ROCK project provides 8-15 jobs to the local community. THE ROCK is purchased locally at a more reasonable price
- \* Less traffic into the valley (ie dump trucks coming up the canyon)
- \*

That such use will not, under the circumstances of the particular case and the conditions imposed, be detrimental to the health, safety and general welfare of persons nor injurious to property or improvements in the community, but will be compatible with and complimentary to the existing surrounding uses, buildings and structures when considering traffic generation, parking, building design and location, landscaping and signs:

OUR ROCKS are collected in a remote area of our Ranch - out of view from on lookers. Hauled down a low traffic area and have been for 6 years without incident. It is a low impact use of our land - and as a small company (one dump truck) we occupy little traffic. We will require NO parking  
NO BUILDINGS  
and as we do not service retail clients  
NO LANDSCAPING OR SIGNAGE

Exhibit A- 2011 CUP Application

That the proposed use will comply with the regulations and conditions specified in this Ordinance for such use:

This is an agricultural use much like our timber or our sheep it is a natural Park on the surface and conforms to collection's Rules set by the state of Utah.

We wish to continue with the states & county blessing and will address any issues the county may deem necessary

That the proposed use conforms to the goals, policies and governing principles and land use of the General Plan for Weber County:

The economic impact is positive producing jobs in the local community. It aids in preserving open space by creating a profit center for the landowners. Thereby creating a real/true agricultural base preserving the heritage of the county and its founders.

## Exhibit A- 2011 CUP Application

That the proposed use will not lead to the deterioration of the environment or ecology of the general area, nor will produce conditions or emit pollutants of such a type or of such a quantity so as to detrimentally effect, to any appreciable degree, public and private properties including the operation of existing uses thereon, in the immediate vicinity of the community or area as a whole:

All areas under construction are protected consistently using the best management practices - the greater ecology of the area based on better grazing and farms for domestic animals as well as wildlife.

No endangered species have been identified or are impacted due to this practice

### Property Owner Affidavit

I (We), \_\_\_\_\_, depose and say that I (we) am (are) the owner(s) of the property identified in this application and that the statements herein contained, the information provided in the attached plans and other exhibits are in all respects true and correct to the best of my (our) knowledge.

\_\_\_\_\_  
(Property Owner)

\_\_\_\_\_  
(Property Owner)

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
(Notary)

### Authorized Representative Affidavit

I (We), Paula Rode Executive Candidate (the owner(s) of the real property described in the attached application, do authorized as my (our) representative(s), R. Don Lockwood, to represent me (us) regarding the attached application and to appear on my (our) behalf before any administrative or legislative body in the County considering this application and to act in all respects as our agent in matters pertaining to the attached application.

Paula Rode  
(Property Owner)

\_\_\_\_\_  
(Property Owner)

Dated this 28 day of \_\_\_\_\_, 20 \_\_\_\_\_, personally appeared before me \_\_\_\_\_, the signer(s) of the Representative Authorization Affidavit who duly acknowledged to me that they executed the same.

ALPINE DESIGN LANDSCAPES INC

3080 E 4100 N  
LIBERTY, UT

84310-

LOCKWOOD R DAN

3080 E 4100 N  
LIBERTY, UT

84310-

LANDSCAPE DESIGN & CONST.

1547





Weber County

Weber County Planning Division  
www.co.weber.ut.us/planning  
2380 Washington Blvd., Suite 240  
Ogden, Utah 84401-1473  
Voice: (801) 399-8791  
Fax: (801) 399-8862

## Conditional Use Permit Application

A conditional use application is required for conditional uses listed in the Weber County Zoning Ordinance zone regulations. This Conditional Use application identifies submittal requirements and processes for each desired conditional use.

### 22C-2. Conditional Use Permit

A Conditional Use Permit shall be required for all uses listed as Conditional Uses in the zoning regulations.

The applicant of a conditional use proposal shall be the recorded owner(s) or an authorized agent. The applicant must demonstrate that the contemplated use is compatible with the zoning ordinance standards and that the use would be essential or desirable to the public convenience or welfare in that area, that it will not impair the integrity and character of the surrounding property, or that the use can be made compatible by imposing conditions. These conditions may include, but are not limited to, the size, shape, location and topography of the site, the hours and days of operation, how to minimize environmental impacts such as noise and air pollution, location of vehicle access points, outdoor lighting, landscaping standards, fencing, water and wildlife protection, etc.

A pre-application meeting is required prior to application submittal; please call (801) 399-8791 to make an appointment. Date of pre-application review meeting: Jul 27 Time: 10:00

- Staff member assigned to process application: \_\_\_\_\_

APPLICATION DEADLINE: Thirty (30) days prior to the applicable Planning Commission meeting

The Western Weber County Township Planning Commission holds their meetings on the 2<sup>nd</sup> Tuesday of the month.

The Ogden Valley Township Planning Commission holds their meetings on the 4<sup>th</sup> Tuesday of the month.

### Application Submittal Checklist

The Planning Division will only accept complete applications with supporting documents as outlined below. Submitting an application does not guarantee that this application will be placed on the next Planning Commission agenda.

The following is required as part of the application form submittal:

- Complete Application Form
- A non-refundable fee made payable to Weber County (See *Fee Schedule*)
- Obtain signature of the owner(s) on the application and any authorized representatives
- All documents submitted in the application shall be accompanied by a PDF file of the respective document. All plans (including but not limited to site plans, architectural elevations/renderings, etc), and subsequent submittals and revisions, shall be accompanied by a full scale set of PDF files of the respective plans.

## Exhibit A- 2011 CUP Application



Weber County

Weber County Planning Division  
www.co.weber.ut.us/planning  
2380 Washington Blvd., Suite 240  
Ogden, Utah 84401-1473  
Voice: (801) 399-8791  
Fax: (801) 399-8862

- A site plan showing details and other requirements as outlined in the Weber County Zoning Ordinance Chapter 22C (Conditional Uses) Chapter 36 (Design Review), Chapter 24 (Parking and Loading Spaces), Chapter 25 (Motor Vehicle Access) Chapter 18C (Architectural, Landscape and Screening Design Standards).
- Written information demonstrating how the proposed conditional use permit meets the criteria found in 22C-5 and other review criteria (see *Review Criteria*).

### Fee Schedule

| Property Zoning _____   | Fee Required _____             |
|---|--------------------------------|
| • <u>Conditional Use Permit</u> (Less than 5,000 sq. ft.) in any Forest, Shoreline, Agricultural, Residential, Mobile Home Park, Gravel, Commercial, or Manufacturing Zone  | \$225                          |
| • <u>Conditional Use Permit</u> (5,000 sq. ft. or greater) in any Forest, Shoreline, Agricultural, Residential, Mobile Home Park, Gravel, Commercial, or Manufacturing Zone | \$225 + \$15 per 1,000 sq. ft. |
| • <u>Conditional Use Permit</u> for Planned Residential Unit Development (P.R.U.D.)   | \$500                          |
| • <u>Conditional Use Permit</u> for Home Occupation   | \$85                           |
| • <u>Conditional Use Amendments</u>   | \$125                          |

### Purpose and Intent of Conditional Uses

The purpose and intent of Conditional Uses is to provide for additional review of uses to ensure compatible integration with the surrounding area.

### Review Criteria

The Planning Commission shall approve, approve with conditions, or deny an application for a conditional use based on findings of fact with respect to each of the following criteria found in the Weber County Zoning Ordinance 22C-5-1-5 as follows:

#### 22C-5. Basis for Issuance of Conditional Use Permit

The Planning Commission shall not authorize a Conditional Use Permit unless evidence is presented to establish:

1. That the proposed use of the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the community, and
2. That such use will not, under the circumstances of the particular case and the conditions imposed, be detrimental to the health, safety and general welfare of persons nor injurious to property or improvements in the community, but will be compatible with and complimentary to the existing surrounding uses, buildings and structures when considering traffic generation, parking, building design and location, landscaping and signs, and
3. That the proposed use will comply with the regulations and conditions specified in this Ordinance for such use, and
4. That the proposed use conforms to the goals, policies and governing principles and land use of the General Plan for Weber County



Weber County

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Ogden, Utah 84401-1473  
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Fax: (801) 399-8862

5. That the proposed use will not lead to the deterioration of the environment or ecology of the general area, nor will produce conditions or emit pollutants of such a type or of such a quantity so as to detrimentally effect, to any appreciable degree, public and private properties including the operation of existing uses thereon, in the immediate vicinity of the community or area as a whole.

---

#### Appeal Process

The decision of the Planning Commission may be appealed to the County Commission by filing such appeal within 15 days after the date of the decision of the Planning Commission.

The County Commission may uphold or reverse the decision of the Planning Commission and impose any additional conditions that it may deem necessary in granting an appeal. The decision of the County Commission shall be final.

---

#### For Your Information

Other Weber County Zoning Ordinance chapter requirements may apply to this Conditional Use as determined in the pre-application meeting.

Unless there is substantial action under a Conditional Use permit within a maximum period of one (1) year of its issuance, the Conditional Use Permit shall expire. The Planning Commission may grant a maximum extension of six (6) months under exceptional circumstances. Upon expiration of any extension of time granted by the Planning Commission, or failure to complete all conditions and requirements of the Conditional Use Permit within an eighteen (18) month period of time, the approval for the Conditional Use Permit shall expire and become null and void.

When an approved Conditional Use has been discontinued and/or abandoned for a period of one (1) year, the Conditional Use Permit becomes null and void. In order to restore the Conditional Use, a new application shall be filed for review and consideration by the Planning Commission.

This application can be filled out online at the following Planning Division web site: [www.co.weber.ut.us/planning](http://www.co.weber.ut.us/planning). Copies of the applicable Weber County Zoning Ordinances and other helpful information are also available at this web site.



# Weber County Public Works Department Official Receipt

Receipt Date 28-JAN-2011

09:55:40 AM

Description CUP

From Client DAN LOCKWOOD

CURRENCY 225

Total Received: 225

Empl Id / Receipt Nbr: CB - 20628

---

Signature

\*\*\* Please Retain This Receipt For Your Personal Records \*\*\*

## Exhibit B-2011 CUP Staff Report



### Staff Report to the Ogden Valley Planning Commission Weber County Planning Division

#### Synopsis

##### Application Information

**Application Request:** Consideration and action on a conditional use application for a surface boulder collection operation near Avon Divide  
**Agenda Date:** Tuesday, February 22, 2011  
**Applicant:** Reed C Jensen & Karl A Jensen Land Holding Company, Applicant; Dan Lockwood, Agent  
**File Number:** CUP 2011-02

##### Property Information

**Approximate Address:** Avon Divide area near Weber/Cache County line  
**Project Area:** 820 Acres  
**Zoning:** Forest 40 Zone (F-40)  
**Existing Land Use:** Agriculture  
**Proposed Land Use:** Surface boulder removal operation  
**Parcel ID:** 23-044-0007  
**Township, Range, Section:** T8N, R1E, Sections 32 & 33

##### Adjacent Land Use

|                            |                                 |
|----------------------------|---------------------------------|
| <b>North:</b> Cache County | <b>South:</b> Forest/Recreation |
| <b>East:</b> Agriculture   | <b>West:</b> Forest/Recreation  |

##### Staff Information

**Report Presenter:** Sean Wilkinson  
swilkinson@co.weber.ut.us  
801-399-8765  
**Report Reviewer:** JG

#### Applicable Ordinances

- Weber County Zoning Ordinance Chapter 8 (F-40 Zone)
- Weber County Zoning Ordinance Chapter 22C (Conditional Uses)

#### Background

The applicant is requesting approval of a conditional use permit to allow a surface boulder collection operation. The F-40 Zone allows a "mine, quarry, and gravel pit" as a conditional use. The purpose of the operation is to remove boulders from the applicant's property to make it more suitable for agricultural purposes. This proposal does not include a rock crusher or stockpiling of materials. The operation is conducted on private property near the Cache County line and the Avon Divide. The Avon Divide Road is used as the access to the property.

This operation began in 2010 as a temporary use gathering rocks for the Ogden River restoration project. The applicant now wants to make the use permanent. The applicant has met with the Weber County Planning and Engineering Divisions about requirements for allowing this use on the proposed site. The existing requirements include:

- The boulders may be removed from the property only on Monday through Friday between 7:00 AM and 6:00 PM. No work is to take place on weekends or outside of the prescribed hours.
- A Storm Water Pollution Prevention Plan (SWPPP) and an escrow for restoration of the site must be submitted.
- The current stockpile site at the base of Avon Divide must be cleared and restored by March 29, 2011. The restoration includes repair of the County road at the entrance to the site.

There are no structures, lighting, signage, parking, or landscaping associated with this use. The boulders are removed from the site in a dump truck and there is no rock crushing associated with this operation. The applicant is required to follow an approved storm water pollution prevention plan and obtain excavation permits if necessary. Excavation permits are not required for collecting surface boulders, but if rocks below the surface are being excavated, a permit is required. The

## Exhibit B-2011 CUP Staff Report

applicant has not proposed specific days and hours of operation. A restoration plan for the site has not been submitted, but should be required as a condition of approval.

The property owner has informed staff that the applicant does not have a current lease agreement for use of the land. However, the owner wants this application to move forward pending agreement on a new lease. The Planning Division will not issue the Conditional Use Permit until a new lease agreement is signed and a copy is provided to staff.

### **Summary of Planning Commission Considerations**

- Does the proposed use meet the requirements of applicable County Ordinances?
- Are there any potentially detrimental effects that need be mitigated by imposing conditions of approval, and if so, what are the appropriate conditions?

In order for a conditional use permit to be approved it must meet the requirements listed under "Criteria for Issuance of Conditional Use Permit." The Planning Commission needs to determine if the proposed surface boulder collection operation meets these requirements. The applicant has provided a response to the criteria below which is attached as Exhibit A.

#### **22C-4. Criteria for Issuance of Conditional Use Permit**

Conditional uses shall be approved on a case-by-case basis. The Planning Commission shall not authorize a Conditional Use Permit unless evidence is presented to establish:

1. Reasonably anticipated detrimental effects of a proposed conditional use can be substantially mitigated by the proposal or by the imposition of reasonable conditions to achieve compliance with applicable standards. Examples of potential negative impacts are odor, vibration, light, dust, smoke, or noise.
2. That the proposed use will comply with the regulations and conditions specified in the Zoning Ordinance and other applicable agency standards for such use.

After reviewing this conditional use request staff has determined that the criteria listed above have been met in the following ways:

1. The site is remote so the boulder collection operation will have minimal negative impacts from noise, dust, vibration, etc. However, removing boulders from the site will cause noise and dust from the dump truck traveling up and down the unimproved road. This issue can be mitigated by limiting the days and hours of operation, limiting the number of trips that can be made in one day, or limiting the type and number of trucks that are used for the operation. The dump truck operation appears to be the only impact that may require mitigation.
2. The F-40 Zone allows a "mine, quarry, and gravel pit" as a conditional use. The conditions established by the Weber County Planning and Engineering Divisions must be complied with in order for this conditional use permit to be granted.

### **Conformance to the General Plan**

As a conditional use, this operation is allowed in the F-40 Zone. With the establishment of appropriate conditions as determined by the Planning Commission, this operation will not negatively impact any of the goals and policies of the General Plan.

### **Conditions of Approval**

- Requirements of the Weber County Planning Division
- Requirements of the Weber County Engineering Division
- Requirements of the Weber County Health Department
- A new lease agreement with the property owner must be signed and provided to staff

### **Staff Recommendation**

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

## Exhibit B-2011 CUP Staff Report

- The proposed use is allowed in the F-40 Zone
- The applicant can meet the conditions of approval by the March 29<sup>th</sup> deadline
- The criteria for issuance of a conditional use permit have been met because mitigation of potential detrimental effects can be accomplished

### **Exhibits**

- A. Applicant's narrative and response to criteria
- B. Letter from Weber County Code Enforcement with requirements of Planning and Engineering Divisions

### **Map 1**



## Weber County Conditional Use Permit Application

Application submittals will be accepted by appointment only. (801) 399-8791. 2380 Washington Blvd. Suite 240, Ogden, UT 84401

|  |                                   |   |   |
|--|-----------------------------------|---|---|
| Date Submitted / Completed<br><i>1/28/2011</i> | Fees (Office Use)<br><i>\$225</i> | Receipt Number (Office Use)<br><i>20628</i> | File Number (Office Use)<br><i>CUP2011-02</i> |
|--|-----------------------------------|---|---|

### Property Owner Contact Information

|  |     |   |  |
|--|-----|---|--|
| Name of Property Owner(s)<br><i>Lance Jensen</i> |     | Mailing Address of Property Owner(s)<br><i>7015 N 6800 W</i>  |  |
| Phone<br><i>435 257-7972</i>                     | Fax | <i>Trounman, UT</i>   |  |
| Email Address                                    |     | Preferred Method of Written Correspondence<br><input type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail |  |

### Authorized Representative Contact Information

|  |                            |   |  |
|--|----------------------------|---|--|
| Name of Person Authorized to Represent the Property Owner(s)<br><i>R. Dan Lockwood</i> |                            | Mailing Address of Authorized Person<br><i>4205 N 3150 E</i>  |  |
| Phone<br><i>435-994-2061</i>   | Fax<br><i>801 745 9527</i> | <i>Liberty UT 84310</i>   |  |
| Email Address<br><i>DLOCK52667@gmail.com</i>   |                            | Preferred Method of Written Correspondence<br><input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input checked="" type="checkbox"/> Mail |  |

### Property Information

|  |                       |
|--|-----------------------|
| Project Name<br><i>Aval Rock - Pine Ridge products</i>                       | Current Zoning        |
| Approximate Address<br><i>Aval Divide Weber County<br/>Caché County Line</i> | Land Serial Number(s) |

Proposed Use  
*Surface Boulder collection*

Project Narrative  
*Pine Ridge products and Jensen Bros Livestock have been partnering on a rock project to improve grazing on the Ranch. we have gone and recognized areas that have heavy concentrations of rock and have removed them Remediated the site to improve vegetation production.*

**Basis for Issuance of Conditional Use Permit**

That the proposed use of the particular location is necessary or desirable to provide a service or facility which will contribute to the general well being of the community:

- \* OUR Rock project provides 8-15 jobs to the local community. The Rock is purchased locally at a more reasonable price
- \* less traffic into the valley (ie dump trucks coming up the Canyon)
- \*

That such use will not, under the circumstances of the particular case and the conditions imposed, be detrimental to the health, safety and general welfare of persons nor injurious to property or improvements in the community, but will be compatible with and complimentary to the existing surrounding uses, buildings and structures when considering traffic generation, parking, building design and location, landscaping and signs:

Our Rocks are collected in a Remote area of our Ranch - out of view from on lookers. Hauled down a low traffic area and have been for 6 years without incident. It is a low impact use of our land - and as a small company (one dump truck) we occupy little traffic. We will require no parking

no Buildings

and as we do not service Retail clients  
no Landscaping or signage

Exhibit B-2011 CUP Staff Report

That the proposed use will comply with the regulations and conditions specified in this Ordinance for such use:

This is an agricultural use much like our timber  
or our sheep it is a natural Park on the surface and  
conforms to collections. Rules set by the state of Utah.  
we wish to continue with the states & county blessing  
and will address any issues the county may deem necessary

That the proposed use conforms to the goals, policies and governing principles and land use of the General Plan for Weber County:

The economic impact is positive producing jobs in the local  
community. It aids in preserving open space by creating  
a profit center for the landowners. thereby creating a healthier  
Agricultural base preserving the heritage of the county  
and its founders.

Exhibit B-2011 CUP Staff Report

That the proposed use will not lead to the deterioration of the environment or ecology of the general area, nor will produce conditions or emit pollutants of such a type or of such a quantity so as to detrimentally effect, to any appreciable degree, public and private properties including the operation of existing uses thereon, in the immediate vicinity of the community or area as a whole:

All areas under construction are protected consistently using the best management practices - the greater ecology of the area based on better grazing and plans for domestic animals as well as wildlife.

No endangered species have been identified or are impacted due to this practice

**Property Owner Affidavit**

I (We), \_\_\_\_\_, depose and say that I (we) am (are) the owner(s) of the property identified in this application and that the statements herein contained, the information provided in the attached plans and other exhibits are in all respects true and correct to the best of my (our) knowledge.

\_\_\_\_\_  
(Property Owner)

\_\_\_\_\_  
(Property Owner)

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_  
(Notary)

**Authorized Representative Affidavit**

I (We), Pine Ridge Excavation & Landscapes the owner(s) of the real property described in the attached application, do authorized as my (our) representative(s), Mr. David Lockwood to represent me (us) regarding the attached application and to appear on my (our) behalf before any administrative or legislative body in the County considering this application and to act in all respects as our agent in matters pertaining to the attached application.

[Signature]  
(Property Owner)

\_\_\_\_\_  
(Property Owner)

Dated this 28 day of \_\_\_\_\_, 20 \_\_\_\_\_, personally appeared before me \_\_\_\_\_ the signer(s) of the Representative Authorization Affidavit who duly acknowledged to me that they executed the same.



**Code Enforcement**  
Weber County Planning Division

**Synopsis**

**Basic Information**

Date: Thursday, January 27, 2011

Applicant: Dan Lockwood

File Number: 027012011

**Land Information**

Approximate Address: above Avon divide 820 acres

Company Name and address:

Pine ridge Excavation and Landscapes

3080 East 4100 North

Liberty, Utah 84310

Zoning: Forest Zone F-40

Parcel Identification Number: 23-044-0007

**Violation**



**Information**

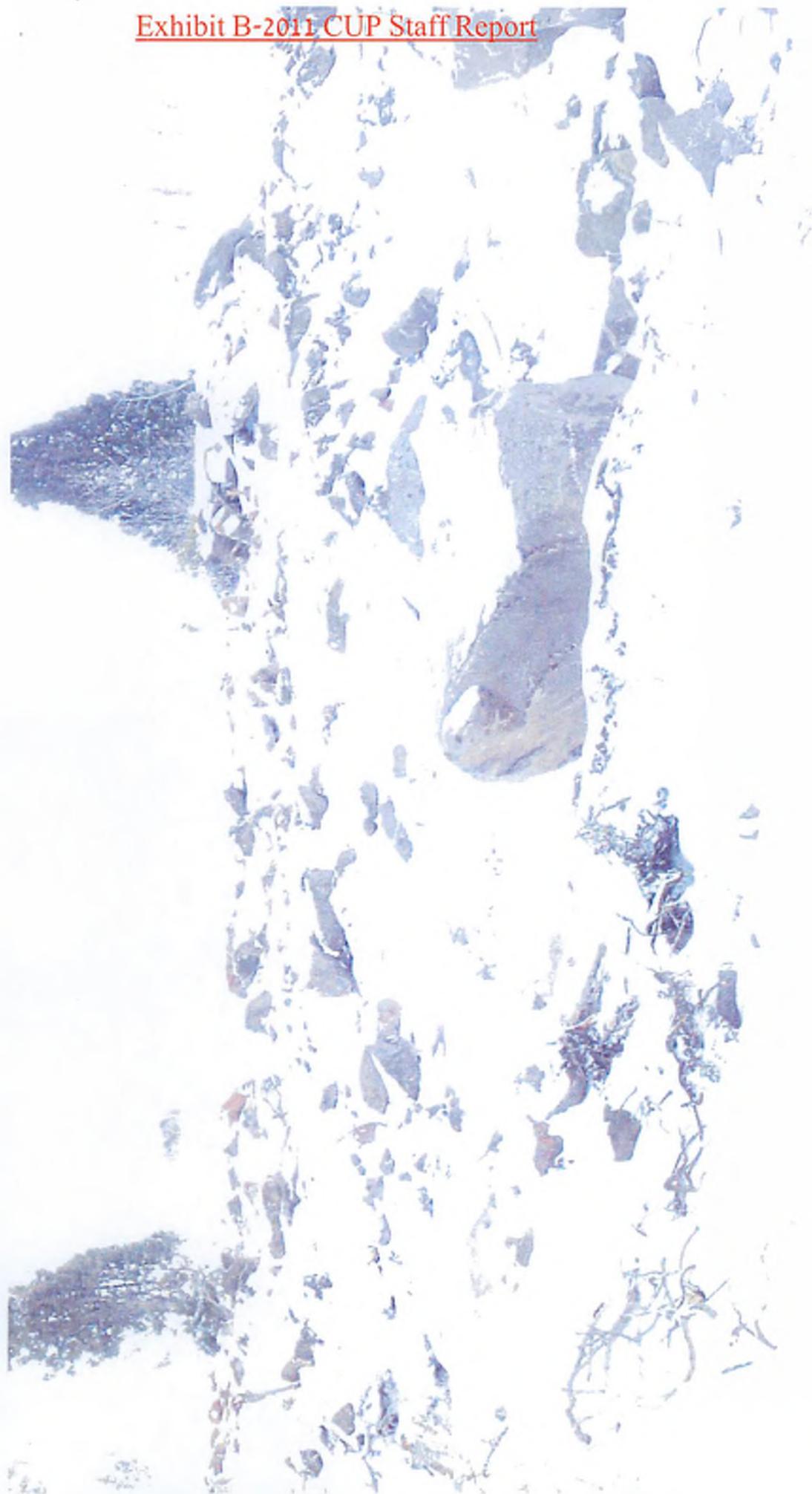
Dear Mr. Lockwood,

This letter is a summary of our meeting on January 27, 2011 with the Weber County Engineering Division and Planning Division. The following items were discussed in the meeting:

1. Hours of operation.  
The rock that has been harvested on the upper property for the Ogden River project may be removed from the property only; on Monday through Friday between the hours of 7:00 AM and 6:00 PM. No work is to take place on weekends or outside of the prescribed hours.
2. Required permits from the Engineering and Planning Divisions.  
The Planning Division requires a Conditional Use Application for the rock harvesting operation. The Engineering Division requires a Storm Water Pollution Prevention Plan (SWPPP) and an escrow for restoration of the upper property. A current business license is also required for the operation.
3. Abandonment and restoration of the lower property and restoration of the upper property.  
The lower property needs to be cleared of rock and restored by March 29, 2011. Part of the restoration includes the entrance from the County road that has been damaged. The restoration is a condition of any approvals given by the County.
4. Short and long term goals of the project, if additional uses are proposed in the future, for example, a rock crusher, such uses will require the proper permits at that time.

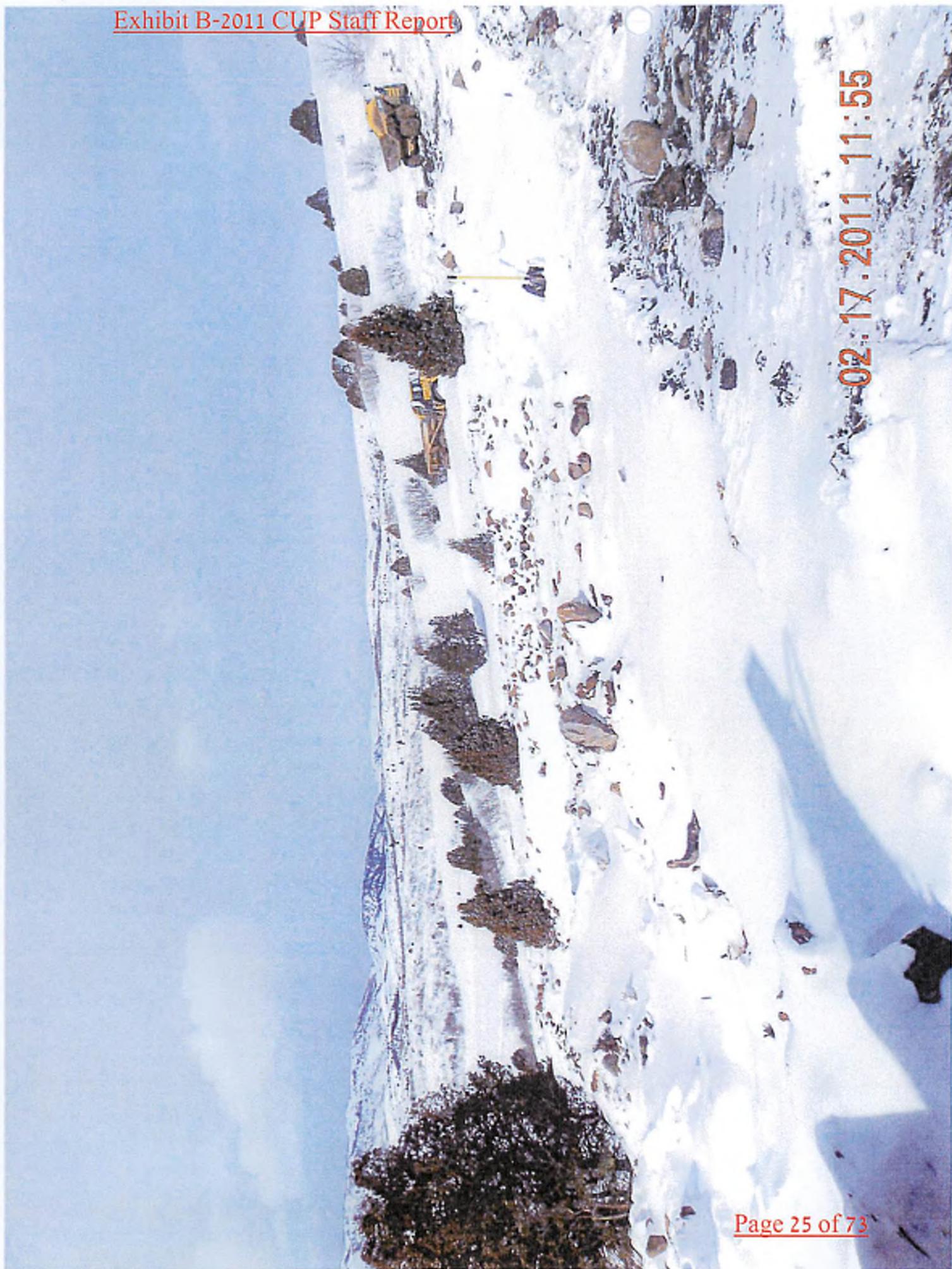
Iris Hennon, Code Enforcement Officer  
Weber County Planning Division





02.17.2011 11:53

02.17.2011 11:54

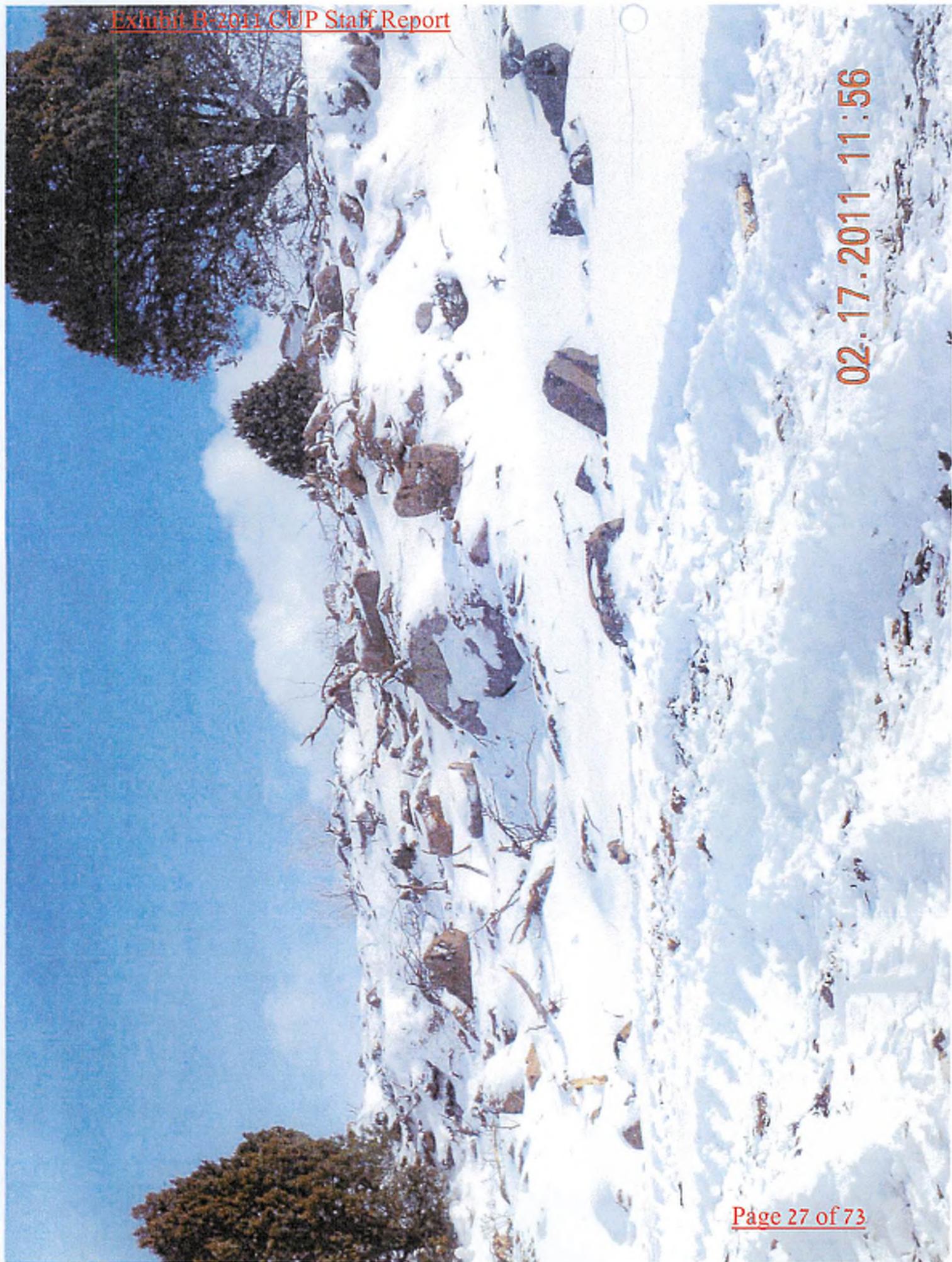


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02.17.2011 11:56

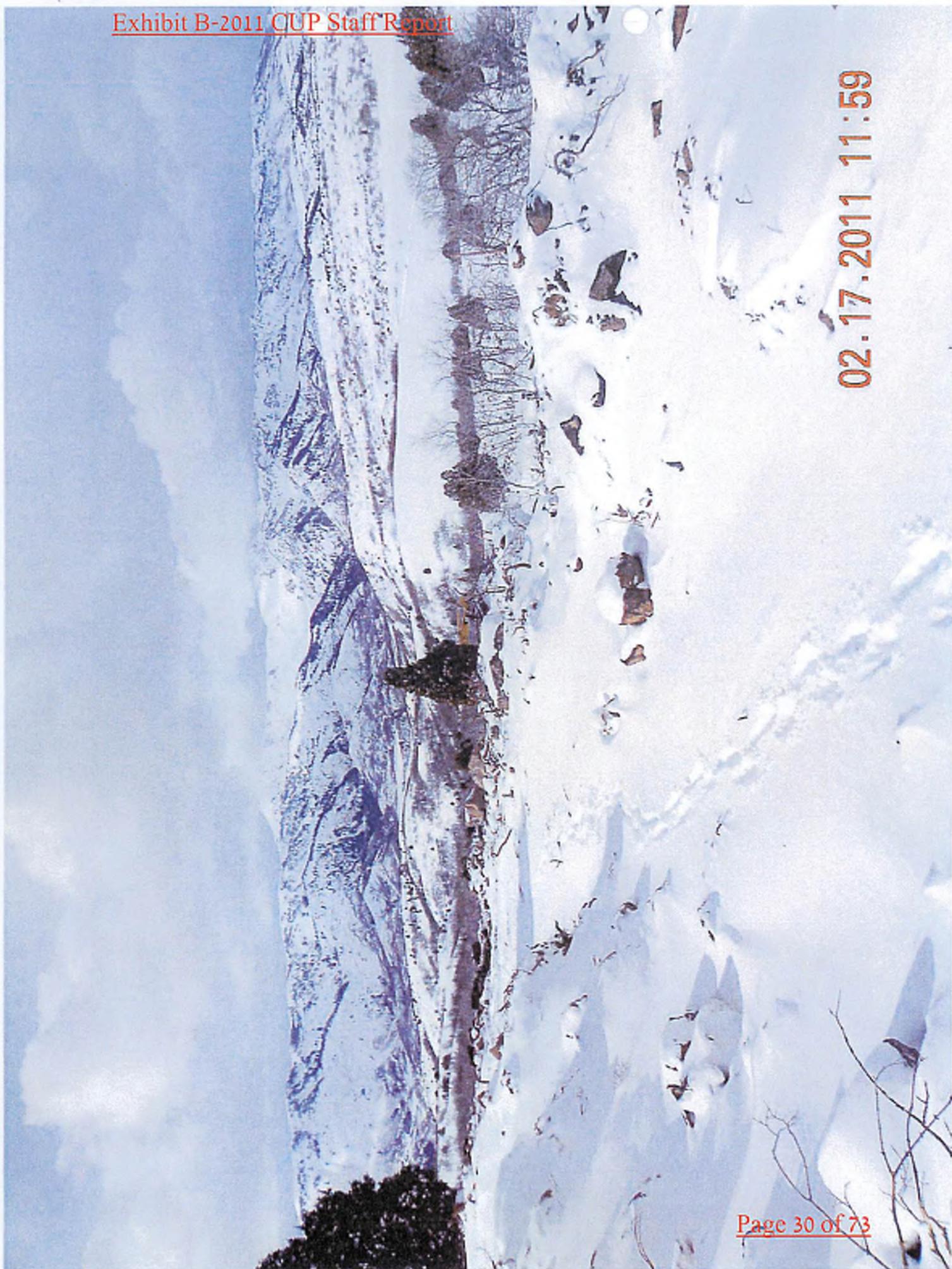
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02.17.2011 11:58

02.17.2011 11:59



02.17.2011 11:59

02.17.2011 11:59

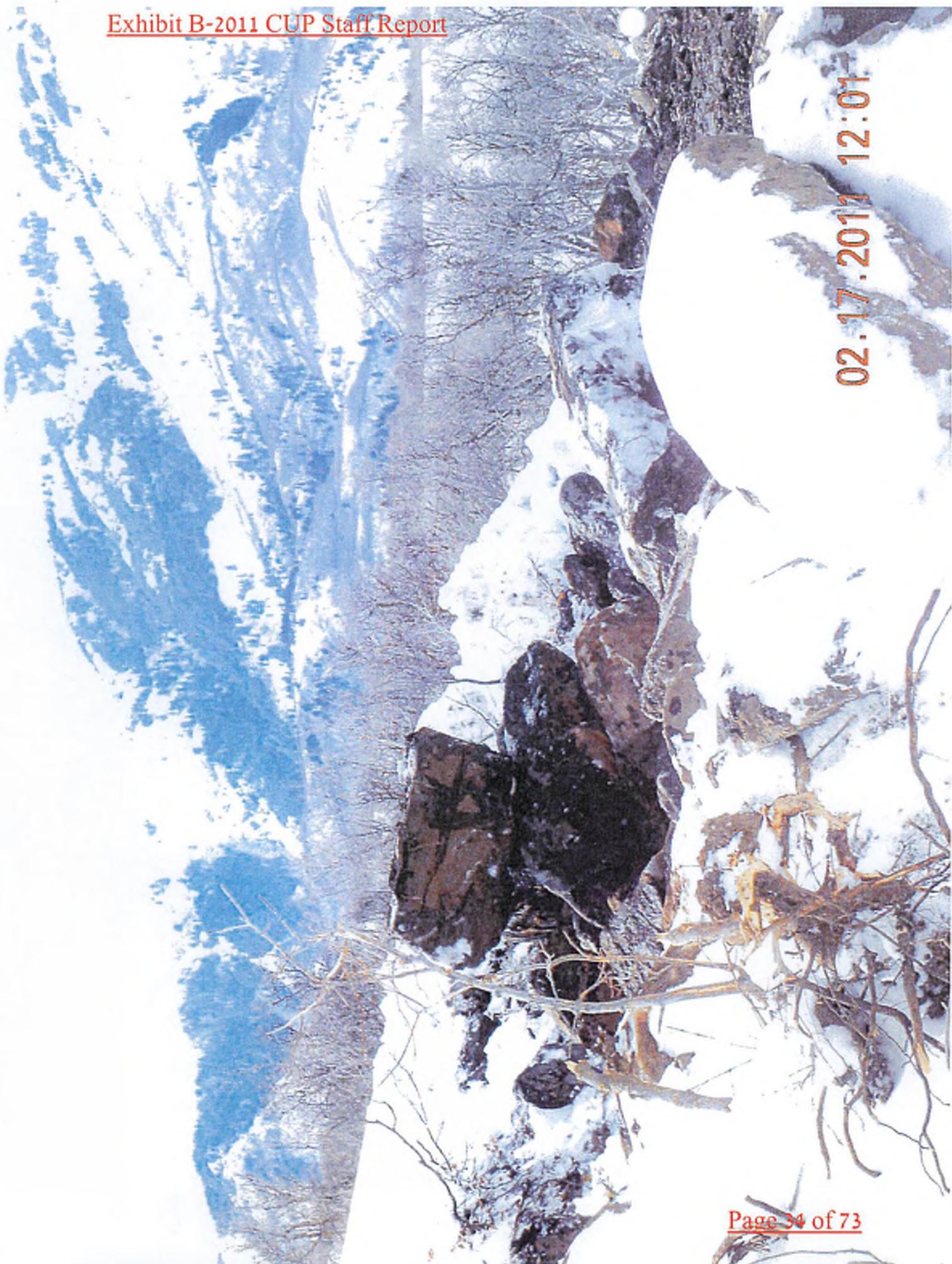


02.17.2011 11:59



02.17.2011 12:00

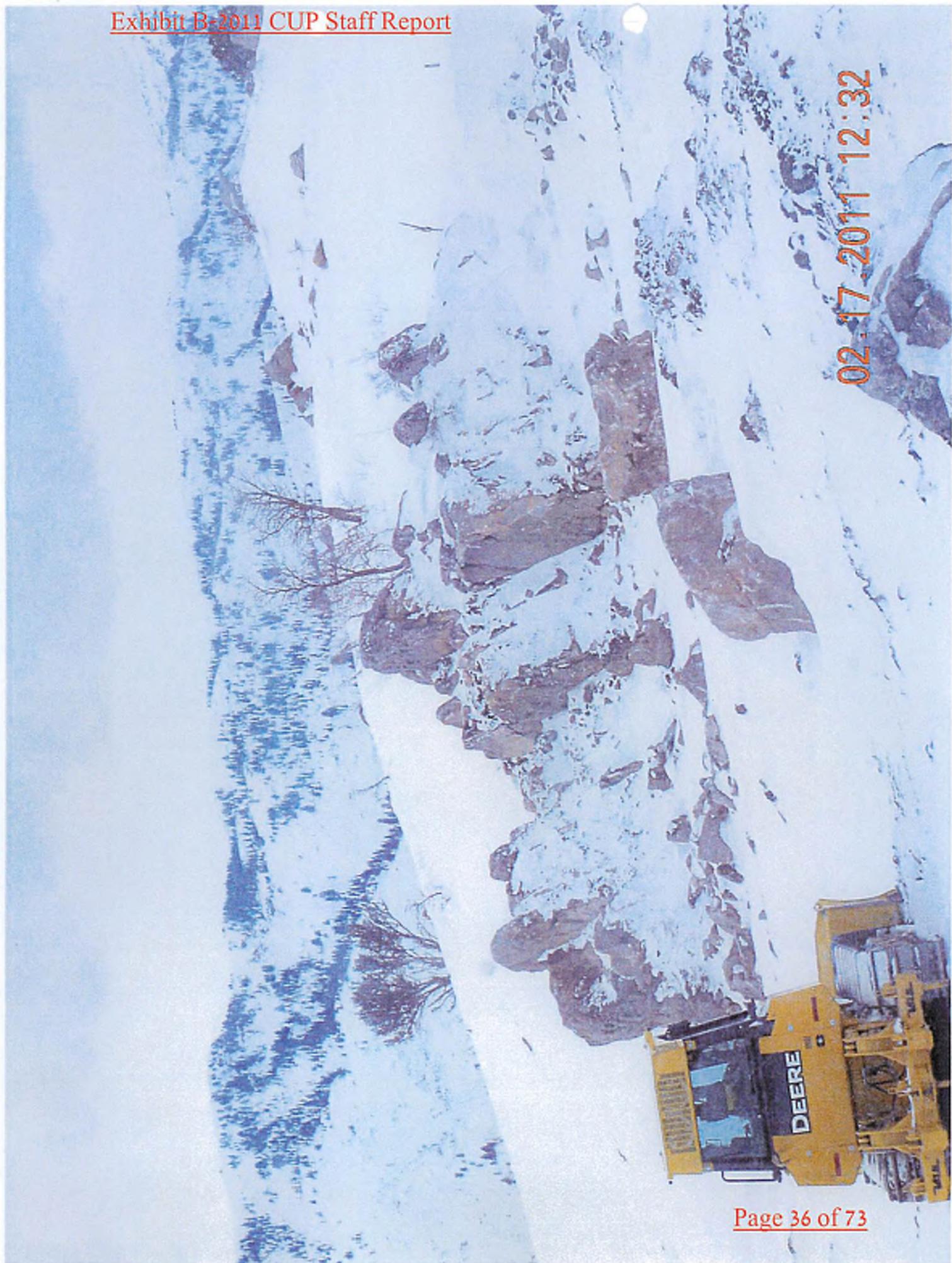
02.17.2011 12:01



02.17.2011 12:03



02-17-2011 12:32



## Exhibit C- 2011 Notice of Decision & Conditional Use Permit



Weber County Planning Division  
www.co.weber.ut.us/planning\_commission  
2380 Washington Blvd., Suite 240  
Ogden, Utah 84401-1473  
Voice: (801) 399-8791  
Fax: (801) 399-8862

### Ogden Valley Township Planning Commission NOTICE OF DECISION

March 1, 2011

R. Dan Lockwood  
4205 North 3150 East  
Liberty, Utah 84310

Case Number: Conditional Use Permit (CUP 2011-02)

You are hereby notified that your Conditional Use Permit application for a surface boulder collection operation near Avon Divide and the Weber/Cache County line, was heard by the Ogden Valley Township Planning Commission in a public meeting on February 22, 2011, after due notice to the general public.

The Ogden Valley Township Planning Commission voted to approve this application, subject to review agency requirements, with the following conditions:

- The boulders may be removed from the property only on Monday through Friday between 7:00 AM and 6:00 PM. No work is to take place on weekends or outside of the prescribed hours.
- A Storm Water Pollution Prevention Plan (SWPPP) and an escrow for restoration of the site must be submitted.
- The current stockpile site at the base of Avon Divide must be cleared and restored by March 29, 2011. The restoration includes repair of the County road at the entrance to the site.
- A restoration plan for the upper site must be submitted to the Planning Division.
- A new lease agreement with the property owner must be signed and provided to staff prior to issuance of a Conditional Use Permit.

The minutes from the February 22, 2011 Ogden Valley Township Planning Commission meeting will be available from the Weber County Planning Division Office in approximately one month. To obtain the minutes please contact Sherri at 801-399-8794.

Sincerely,

Sean Wilkinson  
Weber County Planning Division

*Sent by mail*

*3/1/11*

## Exhibit C- 2011 Notice of Decision & Conditional Use Permit

Ogden Valley Township

February 22, 2011

Commissioner Parson indicated that he agrees with Commissioner Howell and Warburton. He cited 22C-5.2 "...but will be compatible with and complimentary to the existing surrounding uses." He believes it is not compatible or complimentary to the existing uses and therefore, he opposes the application.

Commissioner Allen indicated he also agrees that it could be located in the Ogden Valley but at another location that is accessible and safe.

Commissioner Graves said he struggles with the proposal because a heliport is a conditional use in the ordinance. He believes the applicant has submitted enough information and the safety concerns could be mitigated. If the reason to deny was based on the location, they should have said that from the beginning and not continued it for a year.

Commissioner Howell believes the noise cannot be mitigated because helicopters are noisy and safety is a concern in the community center. Commissioner Warburton stated that based on their ordinances, she believes the question is whether the detrimental effects can be mitigated. Commissioner Graves said that is a judgment call. Commissioner Howell indicated that there are numerous areas in Ogden Valley that could be used as emergency landing areas.

**VOTE:** A vote was taken and Chair Siegel indicated the motion carried (5-2) with Commissioners Allen, Howell, Parson, Warburton and Chair Siegel voting aye and Commissioners Banks and Graves voting nay.

### New Business

**3-1. CUP 2011-02** Consideration and action on a request for a Conditional Use Permit for a surface boulder collection operation near Avon Divide (Reed C. Jensen & Karl A Jensen Land Holding Company, Applicant; Dan Lockwood, Agent

Sean Wilkinson presented the staff report. A written copy is on file in the Planning Division office. He added that the proposal does not contain a rock crusher. The operation is on private property and the Avon Divide is used as access to that property. The County Engineer has indicated that for surface work there should not be any excavation permits necessary, only if they are mining. The applicant has not submitted a restoration plan, but has a storm water prevention plan.

There was a former lease agreement for the temporary use of taking boulders for the Ogden River Project; however, the property owner reported that the lease agreement needs to be updated. Staff could not issue the conditional use permit until that updated lease agreement is in place with the property owner.

The County provides minimal maintenance of Avon Divide Road in the summer. Chair Siegel asked if road maintenance was considered for the wash boarding of the road that has and will occur. Sean Wilkinson reported that the County Engineer said any road damage would have to be addressed.

Commissioner Howell asked if there is a truck weight limit and staff replied no. He questioned whether a truck weight limit condition could be placed on the permit and Monette Hurtado, Legal Counsel replied no, but they could recommend it to the County Engineers.

Commissioner Allen said he has not seen a truck of the proposed weight travel over North Fork Road. Commissioner Banks indicated that the trucks have traveled on North Fork Road for a couple of years.

Dan Lockwood, Liberty, indicated that removal of the rock has been ongoing for approximately five years. The temporary use has been in place for approximately 14 months. After March 29, 2011, they will stockpile the rocks on the property that they would be excavating. They will escrow for the site restoration.

Commissioner Banks said they have approved requests based on saving trips up the Ogden Canyon and now this request is to take the trucks down the Canyon.

Dan Lockwood indicated that they have hauled 120 loads out of there to date. Chair Siegel asked how many accidents have occurred, and Mr. Lockwood replied none.

## Exhibit C- 2011 Notice of Decision & Conditional Use Permit

Ogden Valley Township

February 22, 2011

Commissioner Howell asked how much of their customer base is in the Ogden Valley. Mr. Lockwood indicated that before the Ogden River project, most of their customer base was in the Ogden Valley.

Sarah Bair said she lives right below the site and sees the trucks on the road every day. The trucks are larger than a regular sized dump truck. The regular dump trucks will go up her road incessantly, it is not safe to walk or ride bikes, and it is a major safety issue. She was knocked down and her grandchild was knocked off his tricycle on the road last year. She has had to call the Sheriff because of trucks starting at 5-5:30 a.m. There were also dump trucks coming off the mountain at 12:00 p.m. She has spoken several times to Sean Wilkinson and Iris Hennon. The applicant has also operated during the weekends and she has a problem with people blatantly breaking the law. There are no turnouts on Avon road and the trucks will be traveling over state roads so there should be a scale. The road is very dusty. Consideration should be made to others that also use Avon road. The applicant should be required to follow the rules.

Mike Formica, Liberty, indicated that he has jogged on Avon road. The heavy trucks have done some major damage to the road. He is concerned with the large trucks and safety for the other people who use that road. He and his wife have heard the trucks late at night. Ramone Quintana, Liberty, said he has also seen the trucks traveling down Avon in the evening.

Dan Lockwood indicated that he was unaware that he could not operate on weekends. Before they started the project and since then he visited the homeowners he thought could hear their trucks. All the loads are weighed at the transfer station and there has only been one truck over weight. None of the property owners came to him and complained only the Sheriff. They were under a 60-day deadline to finish (two weekends) and did work round the clock until they found out they could not work on Sundays. He asked Iris Hennon last week whether they could drive to the site before 7:00 a.m. and she indicated everyone has a right to drive to work. They have been grading the road in the spring and in the winter and have channelized the water in order to prevent drainage onto the road. He has noticed the increased road use in the summer.

Commissioner Warburton said after March 29, 2011, how many times per day would they be using the road. Dan Lockwood said from March until the end of May he does not anticipate any trips. If the economy was better, he believes they would be only on the road 3-4 hours during the weekdays. They will be using only regular dump trucks. It is a two-lane road but approximately 50% of the road is only one lane.

Mrs. Bair said the applicant started the truck at 5:30 a.m. this morning.

**MOTION:** Commissioner Warburton moved to approve CUP 2011-02 with time limits between 7 a.m. and 3 p.m. (8 hours per day) M-F and all other requirements as outlined by the County with a review in one year. Commissioner Graves seconded the motion

### **DISCUSSION:**

Commissioner Banks indicated he believes the time should be changed to 4 p.m. Commissioner Warburton indicated that she recommended 7 a.m. to 3 p.m., which is 8 hours. Originally, she was going to say 4 p.m. Commissioner Graves indicated he does not have a problem with 7 a.m. to 6:00 p.m., which is not that late in the summer.

Chair Siegel said after March 29, 2011, it could be a condition of approval that the gigantic truck could not be used in conjunction with any of his operations on the mountain. Commissioner Banks indicated that the large truck could not be driven on the highway. Commissioner Warburton indicated that if she could amend her motion she would add the condition that after March 29, 2011, no gigantic trucks can be used in conjunction with any of Mr. Lockwood's operations on the mountain. Commissioner Graves indicated he would second the amendment, however, he believes that they are spending too much time on items that other agencies regulate. Commissioner Warburton withdrew her amendment.

Commissioner Graves withdrew his second of the original motion because he does not agree with 7 a.m. to 3 p.m. hours.

Commissioner Parson seconded the original motion.



Pine Ridge  
ROCK PRODUCTS  
314.785.3150





































Copyright © 2015 by [unreadable]













Exhibit E- Letter from Jensen's Attorney



KATHRYN J. STEFFEY  
ksteffey@smithlawonline.com

August 26, 2015

Via U.S. Mail and Email (rkippen@co.weber.ut.us)

Ronda Kippen  
WEBER COUNTY PLANNING DIVISION  
2380 Washington Blvd, Suite 240  
Ogden, Utah 84401

Re: CUP Application for Karl A. Jensen Land Holding Co. Property, Serial No. 230440007

Dear Ronda:

Thank you for the phone call yesterday. As we discussed, Mr. Jensen has not authorized any mining activity to be performed on the above-referenced property. Rather, Mr. Jensen has given Mr. Dan Lockwood and his company authority to enter the property solely for the purpose of "haul[ing] rocks" from the property. It is my understanding that this permission is consistent with the CUP issued by Weber County in 2009, which authorizes the removal of surface boulders. Any activities presently performed by Mr. Lockwood and/or his company on the property that exceeds mere removal of surface boulders is unauthorized. As you will see from the attached correspondence to Mr. Lockwood's legal counsel, I have demanded, on behalf of Mr. Jensen, that all such unauthorized activities cease immediately.

Although Mr. Lockwood submitted a Conditional Use Permit ("CUP") Application this month, requesting a permit for rock collection and excavation, Mr. Jensen, the property owner representative, has not consented to such activities on the property. Accordingly, Mr. Jensen requests that the CUP be withdrawn immediately. Furthermore, please note that Mr. Lockwood is not an authorized representative for either Mr. Jensen or the property and as such has no authority to act on behalf of Mr. Jensen.

Finally, please be advised that Mr. Jensen has submitted a request to the Division of Oil, Gas, and Mining to revoke the Small Mine Activities Permit issued to Mr. Lockwood's company, Pine Ridge Excavation and Landscapes, on August 13, 2015.

If you have any questions regarding this matter, please contact me at 801-413-1600.

4841-0518-2247/JE032-002

1

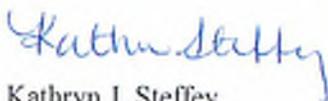
175 SOUTH MAIN STREET SUITE 300 SALT LAKE CITY, UTAH 84111  
TELEPHONE 801-413-1600 TOLL FREE 877-825-2064 FACSIMILE 801-413-1620  
WWW.SMITHHARTVIGSEN.COM

LAND WATER LIFE

Page 66 of 73

Exhibit E- Letter from Jensen's Attorney

Sincerely,  
SMITH HARTVIGSEN, PLLC

  
Kathryn J. Steffey

cc: Karl Jensen  
4841-0518-2247, v. 1

Exhibit F-DNR Cessation Order

|  |  |   |   |
|--|--|---|---|
|   | <b>Citation for Non-Compliance</b><br><b>Utah Minerals Regulatory Program</b><br>1594 West North Temple, Salt Lake City, UT 84114<br>Phone: (801) 538-5340 Fax: (801) 359-3940 |   | <b>Citation #:</b> MC-2015-68-02  |
|  |  |   | <b>Permit Number:</b> S/057/0010  |
|  |  |   | <b>Date Issued:</b> 09/03/2015  |
| <input type="checkbox"/> NOTICE OF VIOLATION   | <input checked="" type="checkbox"/> CESSATION ORDER (CO)   | <input type="checkbox"/> FAILURE TO ABATE CO      |   |
| <b>Permittee Name:</b> Pine Ridge Excavation and Landscapes  |  | <b>Inspector ID and Number:</b> Mike Bradley, #68 |   |
| <b>Mine Name:</b> Pine Ridge Rock Products   |  | <b>Date of Inspection:</b> 09/01/2015             |   |
| <b>Certified Return Receipt Number:</b>  |  | <b>Date and Time of Service:</b>                  |   |
| <b>Nature of condition, practice, or violation:</b><br>Exceeding permitted area; Failure to revise permit to show expansion and concurrent reclamation.  |  |   |   |
| <b>Provisions of Act, regulations, or permit violated:</b><br>Utah Code Title 40-8-9(3) - Violation of permit conditions<br>Rule R647-3-114 - Mine Enlargement; Rule R647-3-115 - Revisions        |  |   |   |
| For Cessation Orders and Failure to Abate CO's, check appropriate box(es) below:   |  |   |   |
| <input checked="" type="checkbox"/> This order requires Cessation of ALL mining activities.  |  |   |   |
| Or   |  |   |   |
| <input type="checkbox"/> This order requires Cessation of PORTION(S) of the mining activities.   |  |   |   |
| <b>Mining activities to be ceased immediately:</b><br>All mining activities.   |  |   |   |
| <input checked="" type="checkbox"/> Condition, practice, or violation is creating an imminent danger to health or safety of the public.  | <input type="checkbox"/> Permittee/Operator is/has been conducting mining activities without a Permit.   |   |   |
| <input checked="" type="checkbox"/> Condition, practice, or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources. | <input type="checkbox"/> Permittee has failed to abate Violation included in Citation # _____ within time for abatement originally fixed or subsequently extended.             |   |   |
| <b>Abatement/corrective action(s) required (for all Citations):</b><br>Reclamation required to begin immediately.  |  |   | <b>Abatement Times (if applicable)</b><br>Regrading completed by October 16, 2015.<br>Reseeding to be completed by November 13, 2015. |
| _____<br>Permittee Representative (Print)  |  | _____<br>DOGM Representative (Print)              |   |
| _____<br>Permittee Representative's Signature  |  | _____<br>DOGM Representative's Signature          |   |
| _____<br>Date  |  | _____<br>Date                                     |   |
| SEE REVERSE SIDE Of This Form For Instructions And Additional Information  |  |   |   |

## Exhibit F-DNR Cessation Order

### *IMPORTANT – READ CAREFULLY*

Pursuant to the Utah Mined Land Reclamation Act, Utah Code Ann. § 40-8-1 et. seq. (Act), the undersigned authorized representative of the Division of Oil, Gas, and Mining (DOGGM) has conducted an inspection and found that a Citation in the form of a Notice of Violation or Cessation Order must be issued.

This Citation shall remain in effect until it is modified, terminated or vacated by written notice of an authorized representative of DOGM.

#### **1. PENALTIES.**

**Assessment.** For each violation included in this Citation, a penalty of up to \$5,000 may be assessed for each separate day the violation continues.

**Proposed assessment.** DOGM assesses fines based upon a proposed recommendation by an assessment officer. If there is additional information you wish DOGM to consider regarding the citation and proposed fine, please submit that to DOGM within *15 days of the date this citation is served on you or your agent*. Such information will be used by the assessment officer in determining facts surrounding the violation(s) and amount of penalty. Once DOGM has determined the proper penalty, it will serve the proposed assessment on you or your agent, within 30 days of the issuance of this citation. See Utah Admin. Code R647-7-105 et. seq.

The penalty will become final unless you or your agent file, within 30 days of receipt of the proposed assessment, a written request for an informal conference before an assigned conference officer.

If you fail to abate any violation within the time set for abatement or for meeting any interim step, you will be issued a Failure to Abate Cessation Order requiring cessation of mining operations on the portion of the operations relevant to the violation, and you will be assessed an additional minimum penalty of \$750 for each day of continuing violation beyond the time set for abatement.

#### **2. STOP WORK CONFERENCE.**

On the reverse side of this page, an authorized representative has made a finding as to whether or not this citation requires cessation of mining. If this citation requires cessation of mining, expressly or in practical effect, you may request that a stop work conference be held at or near the mine site. If you wish such a conference to be held, send your request to:

Administrative Secretary  
Associate Director of Mining  
1594 West North Temple, Suite 1210  
PO Box 145801  
Salt Lake City, Utah 84114-5801

See Utah Admin. Code R647-6-102.4 et seq. Once a stop work conference is scheduled, you will be notified of the date, time, and location of the conference. You must request the stop work conference within 30 day after service of this cessation order. The conference will be held within 5 days of your request.

#### **3. FORMAL REVIEW AND TEMPORARY RELIEF.**

You may appeal this citation to the Board of Oil, Gas, and Mining by submitting: a) a petition for hearing to the Board within 30 days of receipt of this notice, order or proposed assessment; and b) an amount equal to the proposed, reassessed or affirmed penalty to the Division. See Utah Admin. Code R647-7-107 et. Seq. Please submit the application for hearing to:

Secretary  
Board of Oil, Gas, and Mining  
1594 West North Temple, Suite 1210  
PO Box 145801  
Salt Lake City, Utah 84114-5801

If applying for a formal board hearing, you may submit with your petition for review a request for "*temporary relief*" from this citation. Procedures for obtaining a formal board hearing are contained in the Board's Rules of Practice and Procedure and in Utah Admin. Code R647-5 et. seq.

#### **4. INDIVIDUAL CIVIL PENALTIES.**

An additional Individual Civil Penalty of up to \$5,000 per day may be assessed against a corporate director, officer or agent who knowingly and willfully authorizes, ordered or carried out a violation or who fails or refuses to comply with an order. For further information, consult Utah Code Ann. § 40-8-9 through 40-8-9.1 and Utah Admin. Code R647-6 through R647-8 et. seq., or contact the Division of Oil, Gas, and Mining at (801) 538-5340.



GARY R. HERBERT  
Governor  
SPENCER J. COX  
Lieutenant Governor

# State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA  
Division Director

## Minerals Inspection Report

Reviewed MSB

Report Date: 06/23/2014

|  |                             |                           |
|--|-----------------------------|---------------------------|
| Mine Name: Pine Ridge Rock Products                      | Permit Number: unpermitted  | Mine Status: Not Approved |
| Operator Name: Pine Ridge Excavation and Landscapes, LLC | Inspection Date: 06/17/2014 | Permit Fees: unpaid       |
| Inspector(s): M. Bradley                                 | Inspection Time: 9:30 am    | Bond Amount:              |
| Attendee(s): See below                                   | Weather: rain, cold         | Bond Escalation:          |
| Inspection Purpose: Complaint                            |                             | Prior Inspection: none    |

### Conclusions and Recommendations

Location: 427980mE, 4582705mN, UTM 12N; Attendees: Sean Wilkinson, Iris Hennon, Ben Hatfield - Weber County.  
Received complaint of unpermitted mining activity. Rain had turned roads and site muddy, with mud up to the axles of the truck in some places. The site was difficult to travel over, therefore limiting extent of inspection. Weber County officials said operator verbally asked DOGM if permit was needed for collecting surface rock in 2009, and again in 2011. According to verbal communications, operator was told no permit was needed for surface rock collection. This operation has gone far beyond surface rock collection with excavation and screening of bedrock now involved. Aerial extent of disturbance in 2013 was approximately 16 acres, but upon inspection it was evident that disturbance has spread beyond that, now possibly 20 acres, qualifying the site as a Large Mining Operation. There is a highwall excavated into bedrock with what appears to be a pile of soil and rock above, but no safety berm. Height is approximately 20'. There was no evidence of topsoil salvage or stockpiling. The secondary containment around the fuel storage tank is missing the drain plug and is therefore ineffective and out of compliance. There were several locations where empty 1- and 5-gallon vehicle fluid containers (oil and others) are laying around. Upon returning to the office, it was determined that a Cessation Order was warranted and one was issued.

| Elements of Inspection  | Evaluated & Commented               | Enforcement                         |
|---|-------------------------------------|-------------------------------------|
| 1. <i>Permits, Revisions, Transfer, Bonds</i><br>Unpermitted mine site, no surety; Cessation Order issued   | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. <i>Public Safety (shafts, adits, trash, signs, highwalls)</i><br>~20' highwall, no berm above; empty vehicle fluids containers at various locations          | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 3. <i>Protection of Drainages/Erosion Control</i><br>No perimeter controls for runoff   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 4. <i>Deleterious Material</i><br>Empty vehicle fluids containers lying around; fuel storage tank secondary containment ineffective due to unplugged drain hole | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| 5. <i>Roads (maintenance, surfacing, dust control, safety)</i>  | <input type="checkbox"/>            | <input type="checkbox"/>            |
| 6. <i>Reclamation</i><br>No reclamation done at any disturbed sites   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 7. <i>Backfilling/Grading (trenches, pits, roads, highwalls, shafts)</i>  | <input type="checkbox"/>            | <input type="checkbox"/>            |
| 8. <i>Soils</i><br>No evidence of topsoil salvage or stockpiling; site has no permit, therefore no site map showing where it might be                           | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 9. <i>Revegetation</i>  | <input type="checkbox"/>            | <input type="checkbox"/>            |
| 10. <i>Other</i>  | <input type="checkbox"/>            | <input type="checkbox"/>            |

Inspector's Signature: Michael P. Bradley

CC: Sean Wilkinson, Weber County (swilkinson@co.weber.ut.us), Iris Hennon, Weber County (ihennon@co.weber.ut.us), Dan Lockwood, Operator Pine Ridge Excavation and Landscapes, LLC, P.O. Box 1108, 4776 East 2600 North, Eden, UT 84310-9535

File: /nrwegm61/OGM/GROUPS/MINERALS/WP/M057-Weber/PineRidgeInsp-06172014.pdf





Sign at entry to site



According to Weber County officials, this is the site where the operation started collection of surface rock in 2009



Excavator in operation



Stockpiles of sized rock



~20' highwall. Grizzly in foreground is approximately 8-9' high



Stockpiles of sized rock/gravel



Fuel storage tank with 5-gallon containers



Fuel storage tank secondary containment with missing drain plug



Empty 5-gallon containers next to fuel storage tank



Empty 1-gallon containers lying on ground



Empty 1-gallon container and trash lying on ground



Container parts lying in runoff stream