



PLANNING MEETING AGENDA

July 28, 2015
5:00 p.m.

Pledge of Allegiance
Roll Call:

1. Administrative Items:
 - Old Business:
 - 1.1. UVC 052115 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)
 - 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)
 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)
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.)*
 - 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.
 - 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.
 - 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.
 - 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.
 - 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
4. Public Comment for Items not on the Agenda
5. Remarks from Planning Commissioners
6. Planning Director Report
7. Remarks from Legal Counsel
8. Adjournment

The regular meeting will be held in the Weber County Commission Chambers, in the Weber Center, 1st Floor, 2380 Washington Blvd., Ogden, Utah. A pre-meeting will be held in the Commission Chambers Breakout Room beginning at 4:30 p.m. No decisions are made in this meeting



In compliance with the Americans with Disabilities Act, persons needing auxiliary services for these meetings should call the Weber County Planning Commission at 801-399-8791



Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

Synopsis

Application Information

Application Request: 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 at 6300 East Quail Hollow

Type of Decision: Administrative

Agenda Date: Tuesday, July 28, 2015

Applicant: Valley Enterprise Investment Company, LLC

File Number: UVC 052115

Property Information

Approximate Address: 6300 East Quail Hollow

Project Area: 17.81 Acres

Zoning: Forest Valley 3 Zone (FV-3)

Existing Land Use: Agriculture

Proposed Land Use: Residential Subdivision

Parcel ID: 20-035-0080

Township, Range, Section: T6N, R1E, NE ¼ of Section 23

Adjacent Land Use

North: Agriculture	South: Residential
East: Residential	West: Agriculture

Staff Information

Report Presenter: Jim Gentry
jgentry@co.weber.ut.us
801-399-8767

Report Reviewer: SW

Applicable Ordinances

- Weber County Land Use Code Title 104 (Zones) Chapter 14 Forest Valley (FV-3) Zone
- Weber County Land Use Code Title 106 (Subdivisions)

Background

The Chalets at Ski Lake received preliminary approval in 1999 as a cluster subdivision with an overall density based on one unit per acre in conjunction with open space. Seven of the eight phases in the subdivision have been recorded; final approval is now being requested for Phase 8. Based on an agreement with the Weber County Commission, the applicant has until January 22, 2016 to record the final phase in The Chalets at Ski Lake Subdivision or the preliminary approval of the remaining phase becomes void and the density decreases from one unit per acre to one unit per three acres. The Chalets at Ski Lake Phase 8 consists of 16 lots on 17.81 acres and approximately 5.8 acres of open space.

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 D 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 foot by 24 foot 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 gravel surface. The trails will last longer and be able to be used by people on horseback, bicycles, or walking.

Culinary Water is provided by Lakeview Water Corporation and Wastewater Service is provided by Mountain Sewer Corporation. An approval letter from the Water/Sewer Company approving the water/sewer line design is required by the

Engineering Division, as well as a letter from the State Division of Drinking Water with Plan Approval of the new water line extension.

The Weber Fire District letter stated that the spacing on the fire hydrants do not appear to be spaced appropriately.

Summary of Planning Commission Considerations

- Does this subdivision meet the requirements of applicable Land Use Codes?
- Should common area D remain undeveloped and left natural?
- Is the proposed open space plan for common area T better than what was approved in common area D?

Conformance to the General Plan

Subdivisions that meet the requirements of applicable Land Use Codes conform to the General Plan. This subdivision addresses water, wastewater, roads, and other issues which are discussed in the General Plan.

Conditions of Approval

- Engineering requirements
- Fire District Requirements
- Requirements in the Geotechnical report
- Requirements of the culinary water and wastewater service providers
- The trails in Chalets are to be four feet with recycled crushed concrete
- The revised open space plan for common areas T and D

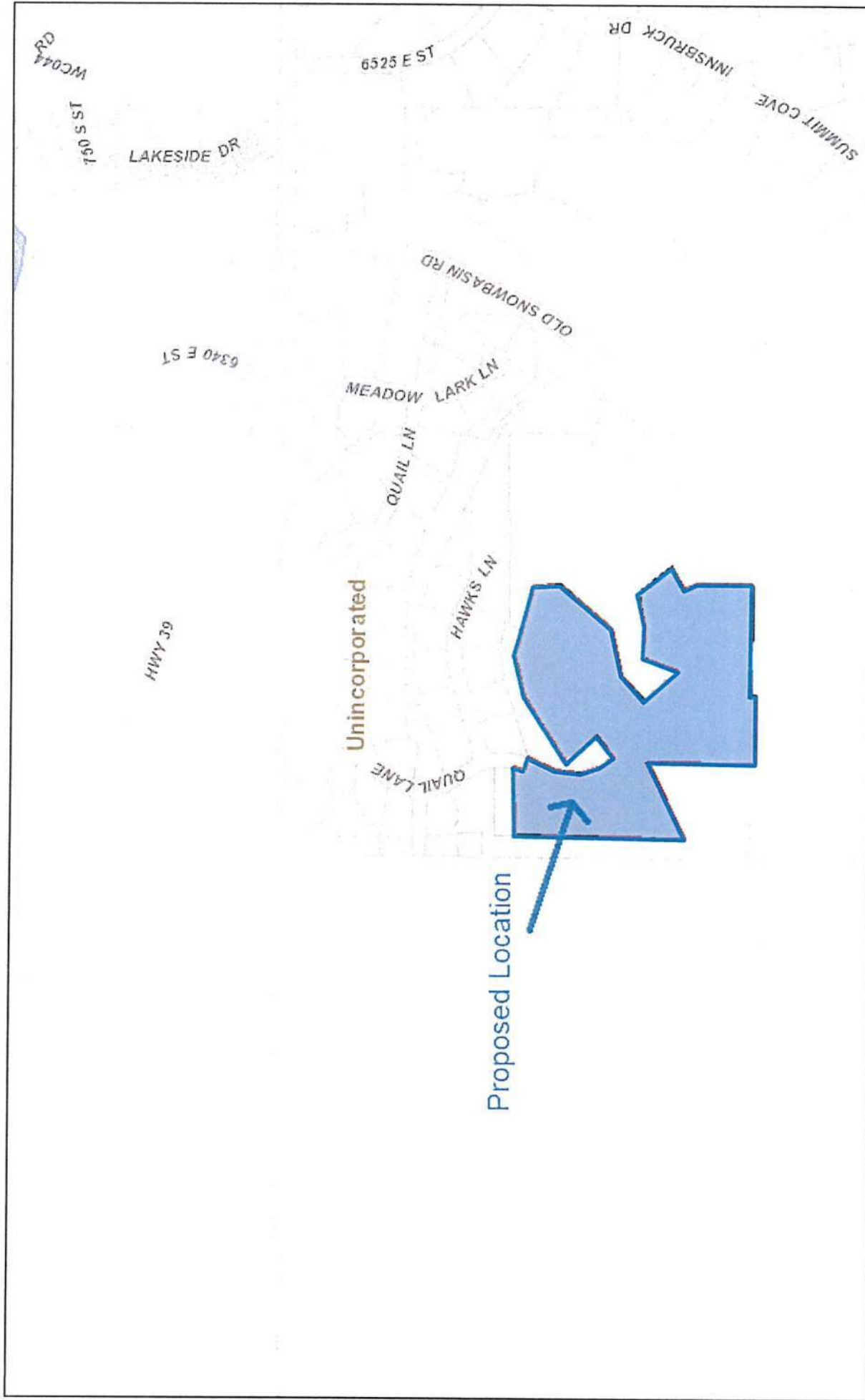
Staff Recommendation

Staff recommends final 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.

Exhibits

- A. Location Map
- B. Subdivision Plat
- C. Open Space Plan
- D. Trails plan

Location Map

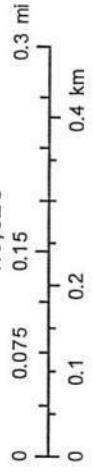


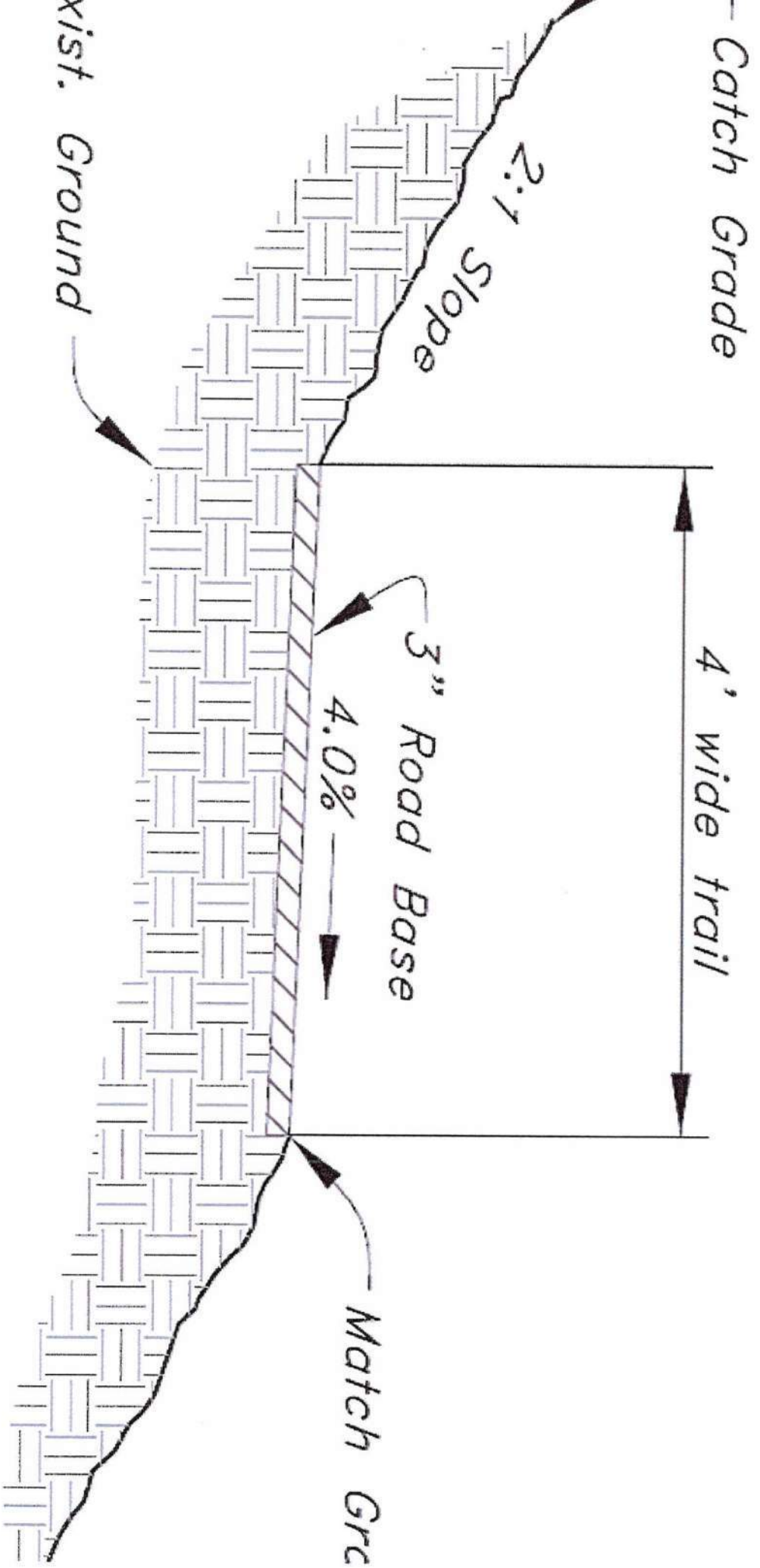
July 8, 2015

Street Labels

City Labels

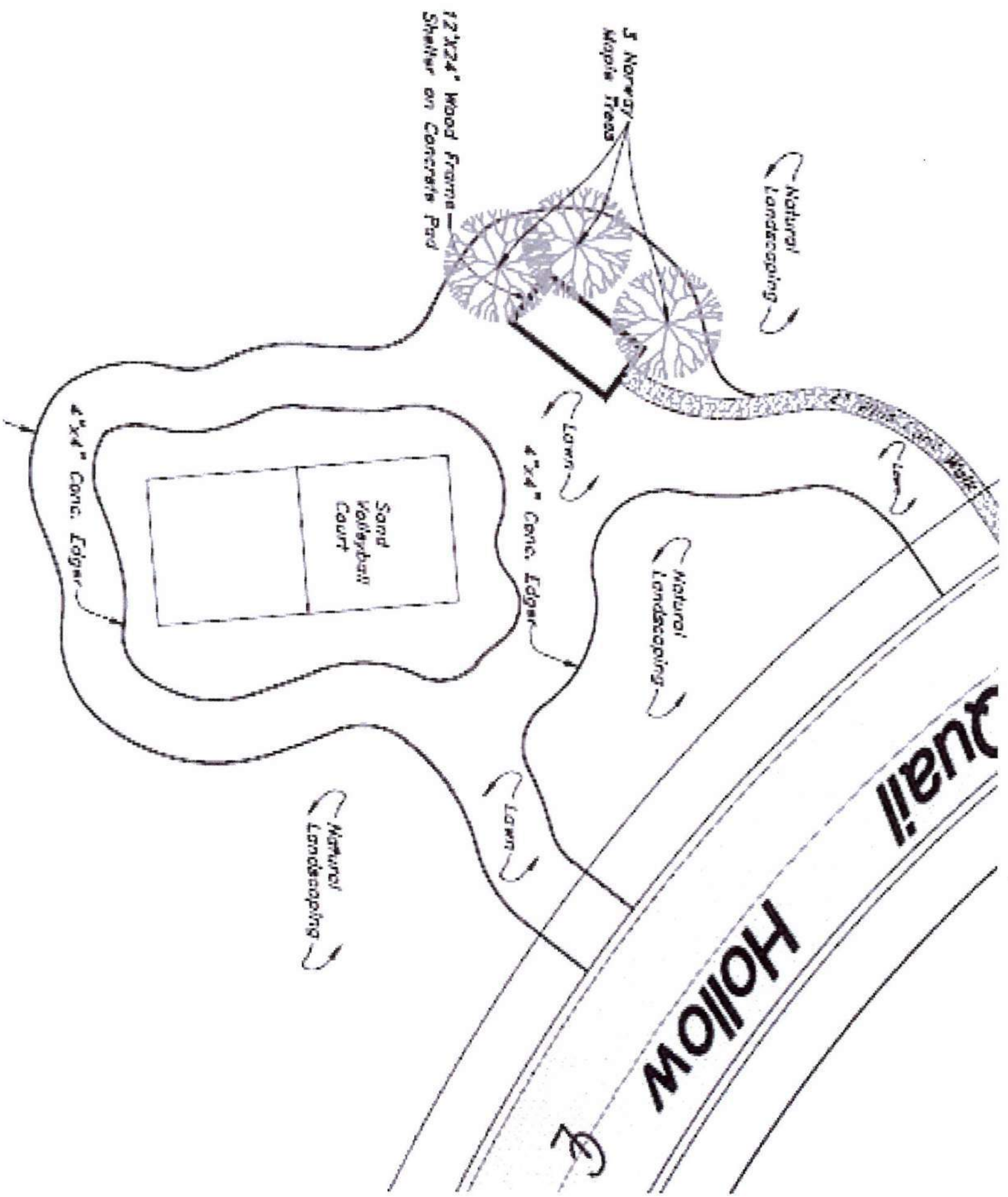
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Standard Trail Section

Not to Scale



12" x 24" Wood Frame Shelter on Concrete Pad

5 Norway Maple Trees

Natural Landscaping

Sand Volleyball Court

4" x 4" Conc. Edger

Natural Landscaping

Quail Hollow

Natural Landscaping

Lawn

E

A1

From: Paul Keeler [dld@deseretlanddesign.com]
Sent: Thursday, June 25, 2015 7:02 AM
To: a1pumping@readytek.net
Subject: Ski Lake trail system

Ray, in reviewing your development agreement with Weber County I see that you have specified a 2 foot wide bark mulch trail on top of a fabric. I would strongly recommend seeking approval to change this specification. In 30 years as a landscape architect I have come to realize what a short-term product landscape fabric is in a shrub and flower bed. On a trail where horses and mountain bikes may be utilizing it could never be a sustainable product. Another concern is how slippery the landscape fabric is with the bark mulch on it and could pose a safety and liability issue. I am also concerned with the 2 foot wide specification and believe the trail would function better at a 4 foot wide construction. I believe a trail of a crushed and recycled concrete could be a reasonable solution. I think it would help with future erosion control issues and would actually make a nice firebreak line which is always a concern in the foothills and mountain developments. Anyway if the county planners have any questions please have them contact me for a brainstorm session. Paul H Keeler, ASLA, landscape architect, president Deseret Land Design

6/25/2015



Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

Synopsis

Application Information

Application Request: Consideration and/or action on an amendment to a conditional use permit for Saddlebag Saloon a tavern, beer pub in the Commercial Valley 2 Zone.

Type of Decision: Administrative

Agenda Date: Tuesday, July 28, 2015

Applicant: Tiffany Brennan, agent for the Saddlebag Saloon

File Number: CUP 2014-21

Property Information

Approximate Address: 2612 N Hwy 162 Unit 7, Eden, UT

Project Area: 400 square feet

Zoning: Commercial Valley - 2 Zone (CV-2)

Existing Land Use: Condo Unit

Proposed Land Use: Tavern, beer pub

Parcel ID: 22-320-0007

Township, Range, Section: T7N, R1E, Section 34

Adjacent Land Use

North:	Commercial	South:	Commercial
East:	Commercial	West:	Commercial

Staff Information

Report Presenter: Ben Hatfield
bhatfield@co.weber.ut.us
801-399-8766

Report Reviewer: JG

Applicable Ordinances

- Weber County Land Use Code Title 104 Chapter 21 (CV-2 Zone)
- Weber County Land Use Code Title 108 Chapter 4 (Conditional Uses)
- Weber County Land Use Code Title 108 Chapter 2 (Architectural, Landscape, and Screening Standards)
- Weber County Land Use Code Title 108 Chapter 1 (Design Review)

Background

The applicant is requesting a reconsideration of the conditions approved of for CUP 2014-21 for the Saddlebag Saloon (tavern, beer pub) at 2612 Hwy 162 Unit 7 in Eden.

Site specifics: The CV-2 Zone allows a “tavern, beer pub” as a conditional use. The location is Unit 7 of the Little Bear Condominium (one of the small cabin units in the Eden Center commercial development). The site was designed with an outdoor deck area extending from Unit 7 which would be used by the tavern. An amendment to the condominium plat has been proposed which will limit access in the common areas. Outdoor signage, lighting, parking, landscaping and design of the site were approved with the design review of the Eden Center and meet the requirements of the Weber County Land Use Code. A majority of this development is complete, but the County has withheld funds for the unfinished portion of landscaping and improvements.

Current request: The owners of the Saddlebag Saloon have requested that the conditions regarding the sale and consumption of alcohol on the deck be reconsidered. The minutes from the September 2, 2014 meeting have been provided as a reference of the concerns the Planning Commission had when first approving CUP 2014-21. The commission had discussed many issues, but worked through to a motion. The motion included the following four conditions:

- That they will comply with all local and state agencies,
- That they are subject to the signage ordinance including only 25% window space and banners,

- That there is compliance with the sale and consumption of alcohol only within the airspace of Unit 7; and that the airspace does not include the deck, or in any other common area or limited common area,
- All of this should be in compliance within the seven days.

Within days of the decision the applicant requested an appeal of the decision to the County Commission. Staff worked for some time with the owners to confirm that the signage plan was in compliance. In the spring of 2015 staff and the owners went through their appeal options and what needed to be done as subdivision plat amendments. Before that work would be submitted, the owner has requested for 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 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 will need to be approved and recorded changing the common and limited common areas appropriately surrounding Unit 7.

Summary of Planning Commission Considerations

- Does the proposed use meet the requirements of applicable County Ordinances?
- Are there any potentially detrimental effects that need to 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 application meets these requirements.

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 tavern will have minimal negative impacts from smoke, dust, vibration, etc. As the site is centrally located with a large commercial area, impacts such as traffic and noise are already reasonably anticipated. The site is approximately 600 feet from any residence and 1,000 feet from the school.
2. The CV-2 Zone allows a "tavern, beer pub" as a conditional use and the site meets all site standards such as architectural style, setback and height regulations. As the site has been in operation in the community for 10 months the associated impacts have been demonstrated. This site operates much like surrounding restaurants and other like commercial businesses.

Conformance to the General Plan

As a conditional use, this operation is allowed in the CV-2 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

- Amendment to the plat limiting access in the common area around Unit 7
- Requirements of the Weber County Planning Division

- Requirements of the Weber County Engineering Division
- Requirements of the Weber County Building Inspection Division

Staff Recommendation

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.
- The applicant was not available to better explain the application and their point of view.

Exhibits

- A. Applicant's request of an appeal of the Planning Commission Decision
- B. Applicable portion of the minutes of the September 2, 2014 meeting by the Ogden Valley Planning Commission

Map 1



To whom it may concern

This letter is to inform the Weber county planners, we are appealing the decision of the Ogden valley planning commission sept,2 2014 meeting.to the Weber county commissioners. The approval of cup 2014-21 with conditions of not being able to use outside seating at the saddlebag saloon @2612 north hwy 162 Eden, Utah.

Pat Brennan owner saddlebag saloon

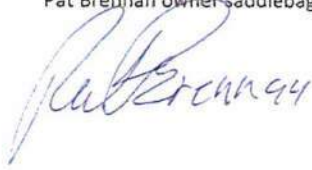
A handwritten signature in blue ink that reads "Pat Brennan 94". The signature is written in a cursive style with a large, stylized initial "P".

Exhibit A

Minutes of the Ogden Valley Planning Commission Regular meeting held on September 2, 2014, in the Weber County Commission Chambers, commencing at 5:00 p.m.

Present: Pen Hollist, Chair; Greg Graves, Will Haymond, Laura Warburton, Ann Miller

Absent/Excused: Kevin Parson, John Howell

Staff Present: Sean Wilkinson, Planning Director; Ben Hatfield, Planner, Ronda Kippen, Planner; Chris Allred, Legal Counsel; Kary Serrano, Secretary

Pledge of Allegiance

Roll Call:

Director Wilkinson introduced Ronda Kippen, a new Planner who replaced Steve Parkinson who transferred to Roy.

Chair Hollist asked if any member had ex parte communications to declare. No ex parte communications were declared.

MOTION: Commissioner Warburton made a motion to move Consent Item CUP 2014-21 to the regular agenda. Commissioner Graves seconded. A vote was taken with all members present voting aye and Chair Hollist indicated that the motion carried (5-0).

1. Consent Agenda:

- 1.1. CUP 2014-21:** Consideration and action on a conditional use permit application for Saddlebag Saloon a tavern, beer pub located at approximately 2612 N Highway 162 Unit 7, in the Commercial Valley-2 (CV-2) Zone (Tiffany Brennan; Agent for the Saddlebag Saloon)

Ben Hatfield said this application is from Pat Brennan for the Saddleback Saloon which is a conditional use in the CV-2 Zone. They are seeking a tavern; beer pub located at 2612 N Highway 162 Unit 7 in Eden. This development is known as the Eden Center of a commercial development and was part of a condominium there, with a series of small cabins that make up the development. There is some landscaping proposed around Unit 7 and a boardwalk that connected to the gazebo area. In constructing this site, they started to notice some differences between the design review and what they saw out in the field. The applicant had made a request to amend the site plan with a letter stating what minor changes were being made. There was a change in the color of the stain on the building; the chinking that was going to be used, as well as the architectural timbers on the front of the buildings, the doors, and in this case the site plan had changed slightly that included an outdoor decking around Unit 7 and more significantly the Gazebo. It was platted as a 16 x 16 square and they started to construct an octagonal building. With the change there will probably be some minor landscaping differences there around Unit 7 that will have to be worked out when they complete the landscaping. The county does hold a bond about \$5300 for the landscaping for this site. The applicant has proposed this plat which would be a seconded amendment, and would amend the different decking; the difference in the gazebo, Unit 8 did not have a limited common area as previously proposed. They have informed the applicant that it would require a plat amendment with subdivision fees, but they have not received anything from the applicant.

Ben Hatfield said in reviewing the application, typical items such as lighting, parking, and landscaping were obviously done as a whole as a design review for the Eden Center and continues to meet our code requirements. The outdoor signage including the sign above the door, meet the county requirement. Staff felt that the window signage was excessive and did not appear to meet code. There are multiple small widows located along the outside of the building measuring 2 ft. x 4 ft. and one large, three paneled window, located along the west side of the building measuring 4 ft. x 7 ft. Window screen signs have been placed on each of the windows along the outside of the building covering over half of the window pane with the signs. Staff was told that the signs had been placed in the windows to act as screening devices for the bar taps that are located on the inside of the large window. Staff verified the location of the taps to the large window on the inside of the tavern. The applicant stated that based on the location of the taps, the evening sun created a lot of glare and heat. Staff felt that different screening without signage can be placed in the window to deflect the glare and heat. According to Weber County Code window signs are permitted and they do not have to a sign permit to put signage on the window. The size limit of the window signage shall occupy no more than 25% the area of signage displayed. In no event shall signage exceed 16 sq. ft. in any one window. As for the reasonable detrimental effects, a tavern is located within a large commercial area, impacts such as noise are already anticipated and this site is approximately 600 feet from any residence and 1,000 feet from a school. The CV-2 Zone allows for a tavern, beer pub as a conditional use and it meets all the standards and it must comply with the applicable review agencies in order for this conditional use to be granted. He has not had any responses from Engineering and the Building Inspector.

Director Wilkinson said that they will probably not receive responses from the Engineering Division or anyone else because those inspections and reports were done as part of the construction. Where this use is coming in, there is not much for the engineers to say, but the Health Department and the DBAC will be involved.

Chair Hollist asked staff to clarify the amendment to the condominium plat that has been proposed which would limit access in the common area. Ben Hatfield replied the applicant has sent over a plat not the actual application. There seems to be an interpretation where he needs to go through an additional process. Director Wilkinson added that the amendment taking place is changing what was common area to limited common area. A restriction will be placed on the deck and a couple of other areas within the subdivision itself.

Commissioner Warburton asked if there was a private door from the condominium onto that deck, so they have to walk out of the pub as if they are leaving and walk on the deck. Chair Hollist added that they would have to walk out the door, down a side deck to the north of the building that is the width of a sidewalk, and onto a larger main part of the deck that is on the west of the building.

Commissioner Warburton said that there would be people drinking in that gazebo area and no one would enforce that. Director Wilkinson said that is where this Planning Commission can put conditions on the conditional use permit.

Chair Hollist moved to Agenda Item 3 so he could read information for public record.

3. Public Comment for Items not on the Agenda: Chair Hollist read the following information into the record regarding the following topics:

1. Center for Disease, Control, and Prevention called *Fact Sheet Underage Drinking*

Alcohol use by person under age 21 years is a major public health problem. Although drinking by persons under the age of 21 is illegal, people aged 12-20 years drink 11% of all alcohol consumed in the United States. More than 90% of this alcohol is consumed in the form of binge drinks. On average underage drinkers consume more drinks per drinking occasion than adult drinkers. In 2010, there were approximately 189,000 emergency room visits by persons under that age 21 for injuries and other conditions linked to alcohol.

a. The 2011 Youth Risk Behavior Survey found that among high school students, during the past 30 day:

- 39% drank some amount of alcohol.
- 22% binge drank.
- 8% drove after drinking alcohol.
- 24% rode with a driver who had been drinking alcohol.

b. Youth who drink alcohol are more likely to experience:

- School problems, such as higher absence and poor or failing grades.
- Social problems, such as fighting and lack of participation in youth activities.
- Legal problems, such as arrest for driving or physically hurting someone while drunk.
- Physical problems, such as hangovers or illnesses.
- Unwanted, unplanned, and unprotected sexual activity.
- Disruption of normal growth and sexual development.
- Physical and sexual assault.
- Higher risk for suicide and homicide.
- Alcohol-related car crashes and other unintentional injuries, such as burns, falls, and drowning.
- Memory problems.
- Abuse of other drugs.
- Changes in brain development that may have life-long effects.
- Death from alcohol poisoning.

c. Youth who start drinking before age 15 years are five times more likely to develop alcohol dependence or abuse.

d. Reducing underage drinking will require community-based efforts to monitor the activities of youth and decrease youth access to alcohol. Recent publications by the Surgeon General and the Institute of Medicine outlined many prevention strategies that will require actions on the national, state, and local levels, such as enforcement of minimum legal drinking age laws, national media campaigns targeting youth and adults, increasing alcohol excise taxes, reducing youth exposure to alcohol advertising, and development of comprehensive community-based programs.

2. Harvard School of Public Health called *11 Facts about Teens and Alcohol*:
 - a. By age 14, 41% of children have had at least one drink.
 - b. The average age at which Americans begin drinking regularly is 15.9 years old.
 - c. Teens who begin drinking before age 15 are five times more likely to develop alcohol dependence than those who begin drinking at age 21.
 - d. It's estimated that over three million teenagers are out-and-out alcoholics. Several million more have a serious drinking problem that they cannot manage on their own.
 - e. The three leading causes of death for 15- to 24-year olds are automobile crashes, homicides, and suicides – alcohol is a leading factor in all three.

SOURCE: Harvard School of Public Health

3. The FACTS about Youth & Alcohol:
 - a. Alcohol Use is Widespread Among Today's Teenagers:
 - Nearly 70% of 8th graders perceive alcoholic beverages as "fairly easy" or "very easy" to get.
 - By the time they complete high school nearly 80% of teenagers have consumed alcohol, 30% report having drunk in the past month, and 29% report having 5 or more drinks in a row in the past two weeks.
 - b. Alcohol Use Increases Substantially from Middle to High School:
 - Approximately 20% of 8th graders report having recently (within the past 30 days) consumed alcohol.
 - A little over 20% of 8th graders report having been drunk at least once in their life.

Chair Hollist said he focused on the advertising part because there is alcohol in the Valley; there are taverns that serve beer and having driven by that tavern he noticed that the advertising in the windows are excessive. The position of that tavern was deliberately set so that nobody in the Valley misses that when they pass by; that includes children, younger children, and the fact that there is a deck clearly visible from the road with sun umbrellas, all bearing logos and signage of some kind of beer. There are large banners that advertise other kinds of beer and a huge banner stating the name of the now open saloon which he feels is egregious.

Chair Hollist closed the item for Public Comment.

Commissioner Miller said if they are approving on a request for a conditional use permit, the applicant must have a business license. They are already open for business, so they are violating the order of the things they ought to be doing. Director Wilkinson replied that is correct, the order is not the way it should be done.

Chair Hollist said that he went to this tavern and knocked on the door, and Pat Brennan answered the door. He asked him what time it opened and the response was 5 o'clock. When he asked him how long it had been opened, his response was four days. This would coincide with the Labor Day Weekend.

Commissioner Warburton said that she knew they could not get license to sell their alcohol until they have their business license. She asked if they can have their business license without the conditional use permit. Director Wilkinson replied that is correct and they should not be opened without the conditional use permit and that issue will be fixed based on the decision by the Planning Commission if it was outright denied or approved with conditions.

Chair Hollist said if they can ignore as much of the Weber County Law as they have appeared to have ignored already, what evidence do they have that the applicant will not ignore the 21 year restriction on entrance and consumption?

Commissioner Warburton said that she heard there were administrative decisions made; where the applicant was led to believe by the Planning Division, that they could go ahead and open. She asked if there was anything said to them. Director Wilkinson replied they may have had the impression; however, they did not say, "Yes go ahead and open."

Chair Hollist said then why don't they deny the application and have the applicant come in to answer the questions. Commissioner Warburton responded they could table this but they could not deny them because this is an allowed use. They could table this with very specific recommendations and they have cause for specific recommendations in that they don't trust the applicant. Director Wilkinson said to say that they don't trust someone can't be a reason to deny an application.

Commissioner Graves said that in order to table this, they would need information that they currently don't have.

Director Wilkinson said that the trust issue is a valid point but the fact is if they are disobeying the alcohol laws, the DABC will come in and shut them down.

Chair Hollist said let's focus on the deck coming down and the signage having to comply; could they disapprove this as it is presently? Commissioner Graves said they could approve this and add the condition that the deck be eliminated.

Director Wilkinson said as to the deck, as stated by Mr. Hatfield, as part of that administrative approval, they showed the deck on that building, not what the deck was going to be used for. The condition would be not to eliminate the deck but limiting the use to the actual condominium area. Right now, it is a common area and the applicant is trying to make it limited. Staff would prefer it to be limited common area.

There was a discussion as to how people would exit the tavern from the deck into the gazebo to the common area and questions were asked regarding the limited common area and how the Planning Commission could mitigate the detrimental effects of alcohol consumption in public view.

Director Wilkinson said that the applicant did not seek approvals before operating. Now if you say they can't have it, then they have to get rid of it. The deck can stay there and it would be just a deck. They could possibly put anything on their deck, but people can't go out and drink alcohol if that is one of the conditions placed on the permit. Commissioner Warburton stated that the deck is part of Unit 7. Commissioner Miller replied no, they have been told that it doesn't. Director Wilkinson said Unit 7 is strictly the airspace within that condominium building.

Questions were asked about the limited common area and the deck access from the Saloon.

Director Wilkinson said that the deck was approved in the administrative approval that took place and it was recorded on the plat so it is already there.

Commissioner Warburton believed that there should have been a design review forwarded to the Planning Commission. Director Wilkinson replied that is what they are going to talk about today because minor amendments are made all the time. Chair Hollist said he could stand with that. Commissioner Graves said that they have to have some trust with our staff.

Director Wilkinson said it's similar to the Blacksmith Shop when they put a door and then they moved it and they changed the roof from a pitched top. At that time, they sent something out to the Planning Commission asked if anyone had a problem with it; if not, they would approve it. That's the process they typically go through with what they consider to be a minor amendment.

Chair Hollist said that he is okay with the administrative approval that you have given but he is with Commissioner Warburton; if people can access the deck, they are going to take the beer and drink in the gazebo. Director Wilkinson said if they did that, they would probably get shut down very quickly. He agreed with their point, but that's where they have the ability to make some conditions on this approval.

Commissioner Graves said a condition could be to have no consumption of any alcohol from that business on that deck. Chair Hollist added or in the gazebo or in front of any other business or any of the walkways or any public property. Director Wilkinson said this is not a liquor store.

Commissioner Miller said that they can say this is approved limited to consumption of alcohol or sale of alcohol in the tavern or on the air space that they have in Unit 7. Mr. Hatfield said it would be limited to the sale and consumption contained within the use of the condominium. Director Wilkinson said the use will be allowed within Unit 7. Regardless whether it's common area or limited common area, you can say the use is approved within Unit 7 only; it doesn't matter if it's common or limited. Commissioner Warburton said they won't consider the deck as part of Unit 7. Director Wilkinson replied no, the deck is not part of Unit 7.

Much discussion was held which centered on the concern of alcohol being consumed on the deck outside of Unit 7; and the use of alcohol advertisement on the table umbrellas without being screened from public view. Concerns were raised

regarding the possible promotion of advertising alcohol to minors that might occur when minors walk or drive by the tavern. If this were the case, how could they legally mitigate these detrimental effects?

Chair Hollist said under the law they can say no consumption of alcohol outside of the airspace in Unit 7. Director Wilkinson said no alcohol that has been purchased as part of this business is allowed outside of the airspace of Unit 7. If they want to allow someone to bring in some alcohol to there, it's a limited common area and there is nothing that they do about that.

Commissioner Warburton said they could have people bring their own six-pack and sit on that deck and party. Director Wilkinson replied that they could do that.

Commissioner Miller said that could be the rule of the condominium. Director Wilkinson replied that is correct; we don't have say over what they do in their common area. Commissioner Miller said so basically they have to limit the sales of consumption of alcohol when they approve this. Director Wilkinson replied you are correct; that's what the application is for in Unit 7.

Commissioner Warburton said staff approved the deck which is essentially part of Unit 7 even though it's not. Commissioner Miller said but then you have to have the screening. Director Wilkinson said that Unit 7, in the future, might be a doctor's office or something else; that's where the conditional use aspect comes in. It's listed as a conditional use because it's anticipated that there are some detrimental effects that you'll be concerned about.

Commissioner Graves said can compare about Coca Cola signs to the alcohol signs; the alcohol advertisement is the detrimental effect that we are trying to mitigate and you can't say Coca Cola is a detriment. Commissioner Miller said that she could say that Coca Cola is detrimental and its advertisements could have the same influence on young people. Director Wilkinson said he had asked legal counsel previously if there is basis to call this a detrimental effect. Commissioner Graves said that he believed they do. Chair Hollist said that he felt more comfortable with Chris Allred telling him that.

Chair Hollist asked if they could table the application until the owner was present so that this is not a one dimensional argument. Commissioner Warburton replied no, the owner had a chance to be here and he is not; they are not obligated to table. Director Wilkinson said the applicant was informed about the meeting. Commissioner Warburton said we have to follow the law.

Chair Hollist said all they have to do is follow the law. We can enforce the window signage. Mr. Hatfield replied that he thought they could enforce that regardless of who the advertiser is. Chair Hollist said that they could enforce that no consumption of alcohol purchased from the Saddlebag Saloon could be consumed outside of the Saloon. Mr. Hatfield replied that is correct.

Commissioner Haymond said didn't they want to speak about the alcohol consumption only being within the airspace of Unit 7 or hit the whole alcohol matter because that is a DBAC issue. The applicant could say that it's part of the pack on the alcohol use. Commissioner Warburton said that is okay because that's what conditional use is for is to mitigate that and we have determined that it is a possible detrimental effect and as counsel said, they can address that.

Commissioner Graves said the advertising is the detrimental effect and they are able to mitigate that by requiring screening. Commissioner Miller said that they can stick with 25% of area for signage. Director Wilkinson replied that is correct. Commissioner Miller said we have to follow the code. Commissioner Warburton said that they can require that the alcohol is consumed only within Unit 7.

Chair Hollist asked if they screen the deck, can they put advertising on the outside of the fence. Director Wilkinson replied no. They have to meet the sign requirements.

Commissioner Warburton said requiring screening; they are basically saying they can only consume alcohol within the walls. Commissioner Miller said what she understood was they are focusing on the umbrellas and tables. They can put any kind of table there with umbrellas so she didn't know how they could say no to them. Besides she knows that they could find umbrellas with advertisement in other places.

Commissioner Warburton asked what the screening would be for. Commissioner Miller replied that the screening would be for the advertisement on the umbrellas, on the tables, or they could move the umbrellas from there. Commissioner Graves said the only reason that he brought up the tables, was that like it or not it is advertisement. Most of what they focused on and specifically emphasized was the fact that this advertising of alcohol has a detrimental effect. The umbrellas are viewed as advertisement and he didn't see why they don't have the ability to mitigate against that.

Commissioner Warburton said in other words they are about mitigating the signage and they are not saying that signage is out of compliance or needs to be in compliance with our ordinance. They are saying that it has a detrimental effect and are mitigating against it. Commissioner Graves said that's where he is coming from, if he doesn't have a legal basis for that, then someone needs to tell him.

Commissioner Warburton said that they are going to require them to put up screening and it's really a small area so those umbrellas aren't going to fit behind the screening. Chair Hollist said that he was thinking of an eight foot wall. Commissioner Graves said he was thinking of big fat Evergreen trees all across the front of it.

Director Wilkinson said the problem that you're going to run into is when it comes to the other uses that are going to come into that condo unit, this owner is going to say, *"wait a minute right in front of their limited common area which is right in front of their door, I want screening, because you made me screen my area."* The deck is not an issue and he has a hard time screening the deck, because that's all it is, it's just a deck.

Chair Hollist said looking at it from the road, the first thing that his eyes see are the umbrellas advertising Coors and Budweiser around the rims. There are black and white and red and white umbrellas, and so on. Commissioner Warburton said that they picked an ideal spot for their business. Commissioner Miller said of course that's what they are marketing. Chair Hollist said they did it deliberately. Commissioner Warburton said that she didn't think they wanted to offer alcohol to the kids, but they wanted a successful business.

Director Wilkinson asked if this was a restaurant coming in and they served Coors, etc., and they may use similar umbrellas what would the conversation be.

Commissioner Warburton said that there is a lot of discussion about this at the State, and she thinks when there is food involved, it becomes more responsible, because they aren't drinking on an empty stomach. It's not a bar, it is a tavern. This is a place where someone is going to get drunk, sloppy drunk and hopefully they have someone as a designated driver which is a whole different topic. If they were having dinner out there that would be nice but that is not what she is hearing, it's a tavern. Director Wilkinson said but if those same umbrellas were out there for a use that was determined to be a restaurant, that's where they would run into the same issue.

Director Wilkinson said that they should focus on what's inside, because that's where the alcohol is going to be. Commissioner Miller said you're inside plus you're going to limit the amount of signage. Commissioner Warburton said she would like to see how they access the deck, as it's really important.

Chair Hollist asked if the ordinance carried something about the size and shape of banners. Director Wilkinson replied yes, banner signs are not allowed except for a grand opening. Mr. Hatfield added that he looked at the banner sign and it seemed to meet our requirements for now. They are allowed for a grand opening for the first 30 days and then it goes away. The one they have there currently would be okay from the day they opened. Chair Hollist said the one that he is talking about is the banner that is facing to the south, tied to the railing of the deck, and that gets 30 days, and he is okay with that.

Chair Hollist said under the law they have three things that they can legally deal with: The 25% window space, the consumption of alcohol within the airspace of Unit 7, and banners as part of the sign ordinance. Is there anything else in the law that they can use to protect the young people. Mr. Hatfield replied there is a requirement on the distance from the schools.

Chair Hollist asked if there was anything in the law about adult responsibility. The definition of being an adult is responsibility and he thinks that this is irresponsible behavior. Commissioner Warburton said it's against the law to legislate people's morality. Chair Hollist said there are three conditions that we can put in the motion and the fourth concern is why they are open and operating when this Planning Commission has not approved the conditional use permit.

Director Wilkinson said you can add the fourth concern but when you approve the conditional use permit the fourth condition goes away but what you may want to do is set a time limit for compliance. Commissioner Graves asked what would be a reasonable time limit; and how fast can this be done. Director Wilkinson said typically they allow 14 days to address the issue, have people meet with us to come up with a plan to get this done by a certain time, and there is no reason why this couldn't be done within a week or two. Commissioner Graves suggested seven days.

Commissioner Warburton said that is why she suggested tabling so it gives them notice that they need to get into compliance and motivates them to move forward. Commissioner Graves said but tabling is because they don't have information that they need and they have all the information.

Commissioner Warburton said she didn't have all the information that everything's complete. Director Wilkinson replied that tabling could be seen as a punitive action and he didn't think that's the reason for it.

Commissioner Graves said that he would like for them to comply as fast as possible and not make it a leisurely thing for them skirting the law. Commissioner Warburton said in other words if they say compliance within seven days, then staff would follow-up until it's done.

Chair Hollist asked if there was any advantage to disapproving the permit because of windows, consumption of alcohol, banners, and operating without a conditional use permit. Director Wilkinson replied that he didn't think so.

Commissioner Graves said those are things they can fix within the seven days.

Discussion was held regarding the property findings and wording of a possible motion.

MOTION: Commissioner Warburton moved to approve CUP 2014-21 for a tavern, beer pub located at approximately 2612 N Highway 162 Unit 7 in Eden with the following conditions: That they will comply with all local and state agencies, that they are subject to the signage ordinance including only 25% window space and banners, compliance with the sale and consumption of alcohol within the airspace of Unit 7; that the airspace does not include the deck, or in any other common area or limited common area, and all of this should be in compliance within the seven days. Commissioner Graves Seconded.

VOTE: A vote was taken with all members' present voting aye and Chair Hollist said motion carried (5-0).

Chair Hollist said that he was disappointed that legal counsel was not at the meeting even though he had asked them to be there. He appreciated that Ben Hatfield and Director Wilkinson were there to help guide him in the right direction.

2. **Communication Policy:** No Communication Policy.
4. **Remarks from Planning Commissioners:** Chair Hollist asked what happened to the dog kennels application. Director Wilkinson said it was approved with conditions. Commissioner Graves asked if anything happened with the wall in the canyon. Director Wilkinson replied that is ongoing and they have met with Mr. Perry and his attorney's. The County Commission has been involved and Chris Allred is directly involved with that. Things have been complicated, but the matter is moving forward.
5. **Report of the Planning Director:** Sean Wilkinson said asked if everyone had a chance to respond to Sherri about the APA Conference. They have a Powder Mountain Tour date coming up so they could drive on roads and see everything onsite and where things actually are. Right now they are looking at the 17th or the 18th of September. If it was on the 17th it would be earlier in the day around 2:00 p.m. The majority of the Planning Commissioners present stated that the 18th would be best date and it would be after 3:00 p.m. We will plan to meet the Planning Commissioners at the Powder Mountain Park and Ride at 3:30 p.m. on September 18 and that is a Thursday and we should allocate at least 3 hours for that. We will also send this information to Commissioner Parson and Commission Howell and let them know as well.
6. **Remarks from Legal Counsel:** No Legal Counsel remarks.
7. **Adjourn to a Work Session:**



Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

Synopsis

Application Information

Application Request: Consideration and/or action for a conditional use permit for Eden Junction a liquor store in the Commercial Valley 2 Zone.

Type of Decision: Administrative

Agenda Date: Tuesday, July 28, 2015

Applicant: William Christiansen, owner

File Number: CUP 2015-17

Property Information

Approximate Address: 2595 N Hwy 162, Eden, UT Suite #8

Project Area: 800 square feet

Zoning: Commercial Valley - 2 Zone (CV-2)

Existing Land Use: Commercial Unit

Proposed Land Use: Liquor Store

Parcel ID: 22-046-0072

Township, Range, Section: T7N, R1E, Section 34

Adjacent Land Use

North: Commercial	South: Commercial
East: Commercial	West: Commercial

Staff Information

Report Presenter: Ben Hatfield
bhatfield@co.weber.ut.us
801-399-8766

Report Reviewer: JG

Applicable Ordinances

- Weber County Land Use Code Title 104 Chapter 21 (CV-2 Zone)
- Weber County Land Use Code Title 108 Chapter 4 (Conditional Uses)
- Weber County Land Use Code Title 108 Chapter 2 (Architectural, Landscape, and Screening Standards)
- Weber County Land Use Code Title 108 Chapter 1 (Design Review)

Background

The applicant is requesting consideration and/or action of approval of a conditional use permit for CUP 2015-17 Eden Junction (liquor store) at 2595 N Hwy 162 Suite #8 in Eden. The CV-2 Zone allows a "liquor store" as a conditional use. The location is Suite #8 of the Eden Junction commercial development. Suite #8 is a separate small building behind the other commercial suites on the south side of the site. The applicant has made a request to the Utah Department of Alcohol Beverage Control (DABC) as desired site as they consider re-issuing permits for a state contracted package liquor store.

In 2009 a similar store opened on this property in Suite #4. When that store closed in 2010, the applicant was approved administratively to move the use to Suite #8 with a condition that the state grants the permit. After 18 months that approval expired.

The applicant is requesting that a reduction to the parking requirements for a liquor store be reduced much like the other liquor store sites in Eden have all been reduced due to the small size.

Summary of Planning Commission Considerations

- Does the proposed use meet the requirements of applicable County Ordinances?
- Are there any potentially detrimental effects that need to 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 application meets these requirements.

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 liquor store will have minimal negative impacts from smoke, dust, vibration, etc. As the site is centrally located with a large commercial area in Eden, impacts such as traffic and noise are already reasonably anticipated. The site is more than 600 feet from the nearest residence and 1,000 feet from the school.
2. The CV-2 Zone allows a "liquor store" as a conditional use and the site meets all site standards such as architectural style, setback and height regulations. As the site has once been in operation on the site the associated impacts have been previously demonstrated. This site operates much like other commercial businesses as customer transactions occur within a few minutes.

Conformance to the General Plan

As a conditional use, this operation is allowed in the CV-2 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 Building Inspection Division

Staff Recommendation

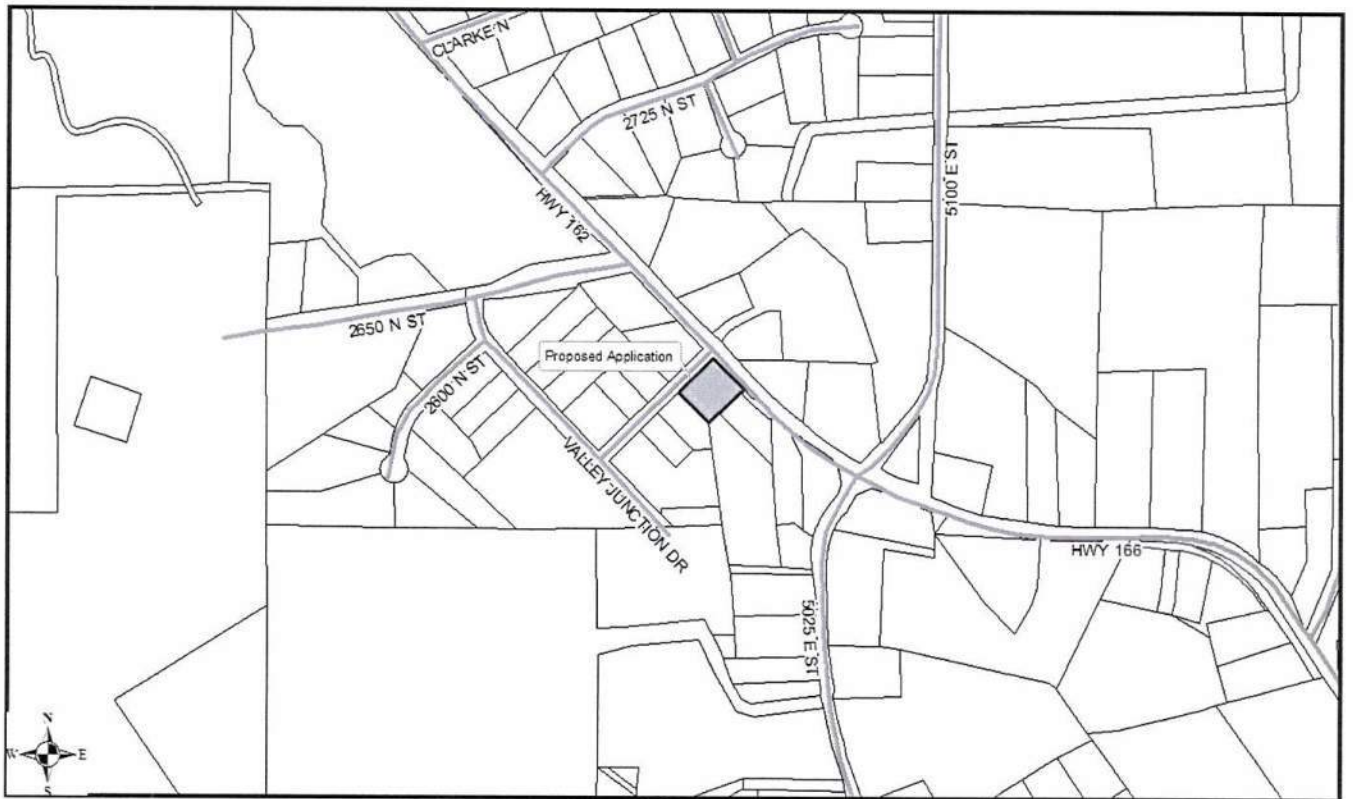
Staff recommends approval of this conditional use application subject to the applicant meeting the conditions of approval in this staff report and any other conditions required by the Planning Commission. This recommendation is based on the following findings:

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

Exhibits

- A. Application
- B. Site Plan and parking layout

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	Fees (Office Use)	Receipt Number (Office Use)	File Number (Office Use)
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Property Owner Contact Information

Name of Property Owner(s) William Christensen Family Trust		Mailing Address of Property Owner(s) 3941 River Drive Liberty, Utah 84310
Phone 801-564-1871	Fax 801-745	
Email Address WChris2427@hotmail.com		Preferred Method of Written Correspondence <input checked="" 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) William Christensen		Mailing Address of Authorized Person 3941 River Drive Liberty, Utah 84310
Phone 801-564-1871	Fax 801-745-2478	
Email Address WChris2427@hotmail.com		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail

Property Information

Project Name Eden Junction	Total Acreage 1	Current Zoning CV2
Approximate Address 2595 N Hwy 162 Eden, Utah 84310 Suite #8		Land Serial Number(s) 220460072
Proposed Use packaging agency type #3		

Project Narrative

renewal of conditional permit # CUP2009-08
index # CUINDX5-2009

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:

The previous packaging agency proved to be needed and accepted by the community. It was supported by locals as well as tourists.

Many people ask if there will be another packaging agency allowed in the area because of the convenience.

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:

The new packaging agency will occupy an existing space that has already been approved for a conditional permit. The building is handicap accessible and easy to get to for the public.

It will have no new impact on landscaping, or need for improvements to surrounding buildings.

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

The packaging agent will be working with the DABC to insure that it is following local and state requirements.

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

The proposed space has previously been approved for a conditional permit.

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:

No pollutants or toxins will be produced.
Very little impact on environment as most of the waste produced (boxes) will be recyclable.

This business will cut down on the amount of traffic as residents will not have to go down the canyon, thus cutting pollution and potential for accidents and congestion.

Property Owner Affidavit

I (We), William Christiansen / For the Christiansen Family TRUST 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.

[Signature]
(Property Owner)

(Property Owner)

state: Utah
county: Weber
Subscribed and sworn to me this 24 day of June 2015



NOTARY PUBLIC
EILEEN SAWYER
680764
My Commission Expires
January 26, 2019
STATE OF UTAH

[Signature]
(Notary)

Authorized Representative Affidavit

I (We), William Christiansen / For the Christiansen Family TRUST, the owner(s) of the real property described in the attached application, do authorized as my (our) representative(s), _____ 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)

state: Utah county: Weber

Dated this 24 day of June 2015, personally appeared before me William Christiansen, the signer(s) of the Representative Authorization Affidavit who duly acknowledged to me that they executed the same.



NOTARY PUBLIC
EILEEN SAWYER
680764
My Commission Expires
January 26, 2019
STATE OF UTAH

[Signature]
(Notary)



2595 162

Google

Summary of Planning Commission Considerations

The CVR-1 Zone is intended to provide suitable areas that provide locations in the Ogden Valley and at major recreation resort areas, where service facilities and goods normally required by the public in the pursuit of general recreation activities can be obtained. The zone accommodates a range of other commercial activities that are of similar intensity, such as beer parlors and liquor stores. This business type is also consistent with the zoning goal of providing a diversified employment base for the community while limiting traffic, noise, dust, fumes, odors, smoke, vapors, vibration, or waste disposal problems.

The Planning Commission should consider the following questions in making a recommendation to the County Commission:

- Is the proposed amendment consistent with other uses in the (Commercial Valley Resort Recreation) CVR-1 Zone?
- Are there any major detrimental effects that may come from approving this amendment?
- Should the use be required to be part of a food or liquor establishment to meet the commercial intent of the CVR-1 Zone?

Conformance to the General Plan

The Ogden Valley General Plan, as adopted in 1998, states that Weber County “supports the continued development of resort-related commercial areas” (OVGP, p.12).

Conditions of Approval

Not Applicable

Staff Recommendation

Staff recommends approval of the proposed amendment to add small brewery and distillery as conditional uses in the CVR-1 Zone.

The recommendation is based on the following:

- The use is consistent with other uses within the CVR-1 Zone.
- The use is required to be part of a food or liquor establishment.
- The use is regulated by the state and federal government.

The Planning Commission’s decision should be made as a recommendation to the County Commission.

Exhibits

- A. Applicant’s proposal.
- B. Weber County Land Use Code Title 104 (Zones) Chapter 11 (Commercial Valley Resort Recreation) CVR-1 Zone Section 4 (Conditional Uses) with the text inserted and new numbers.

Weber County Land Use Code Weber County Land Use Code Title 104 (Zones) Chapter 11 (Commercial Valley Resort Recreation CVR-1 Zone) Section 4 (Conditional Uses) is hereby amended as follows:

Sec. 104-11-4. - Conditional uses.

The following uses shall be allowed only when authorized by a Conditional Use Permit obtained as provided in [title 108](#), chapter 4 of this Land Use Code.

- (1) Beer parlor, sale of draft beer.
- (2) Bed and breakfast inn.
- (3) Bed and breakfast hotel.
- (4) Recreation lodge.
- (5) Dry cleaning pickup station.
- (6) Recreation resort complex.
- (7) Horse rentals (up to ten horses per acre, if stabled) horse feed store and haystack yard.
- (8) Indoor facilities for rental to clubs, private groups, parties and organizational groups for recreation activities, including dancing.

- (9) Liquor store.
- (10) Medical/dental office.
- (11) Outfitters base camp.
- (12) Pet grooming and supply store.
- (13) Public utility substations.
- (14) Real estate office.
- (15) Ski equipment, snowmobile, boat, and bicycle rentals.
- (16) Outdoor skating rink (ice or roller).
- (17) Skateboarding course.
- (18) Snowmobile and Nordic ski trails.
- (19) Equestrian trails.
- (20) Public parks.
- (21) Golf courses, including miniature golf as part of a recreation resort.
- (22) Conference/education center.
- (23) Condominium rental apartment, including lockout rooms.
- (24) Gazebo, pavilion.
- (25) Time share condominiums including lockout rooms.
- (26) Travel agency.
- (27) Planned residential unit development (PRUD) as part of a recreation resort complex subdivision, where part of a PRUD in a recreation resort complex.
- (28) Dwelling unit as part of a commercial building for proprietor or employee who also serves as a night watchman provided that an additional 3,000 square feet of landscaped area is provided for the residential use.
- (29) Residential property rental and management agency for recreation resort complexes.
- (30) Off road vehicle and recreation equipment sales and service, and rental.
- (31) Service stations.
- (32) Ski resort and ski schools.
- (33) Hotel/motel including lockout rooms.
- (34) Restaurants, including those with drive-up windows.
- (35) Accessory uses to the above listed.
- (36) Small Brewer as part of a food or liquor establishment
- (37) Distillery as part of a food or liquor establishment



Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

Synopsis

Application Information

Application Request: Consideration and 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.

Type of Decision: Legislative

Agenda Date: Tuesday, July 28, 2015

Applicant: John Lewis

File Number: ZMA 2015-01

Property Information

Approximate Address: Wolf Creek

Project Area: Wolf Creek Commercial Core

Proposed Land Use: Open space and development of the commercial core

Adjacent Land Use

North: Not Applicable	South: Not Applicable
East: Not Applicable	West: Not Applicable

Staff Information

Report Presenter: Jim Gentry
jgentry@co.weber.ut.us
(801) 399-8767

Report Reviewer: SW

Applicable Land Use Code

- Weber County Land Use Code Title 102 (Administration) Chapter 5 (Rezoning Procedures)
- Weber County Land Use Code Title 104 (Zones) Chapter 11 (Commercial Valley Resort Recreation) CVR-1 Zone
- Weber County Land Use Code Title 104 (Zones) Chapter 13 (Forest Residential) FR-1 Zone
- Weber County Land Use Code Title 104 (Zones) Chapter 17 (Forest Residential) FR-3 Zone
- Weber County Land Use Code Title 104 (Zones) Chapter 21 (Commercial Valley Zones) CV-1 and CV-2
- Weber County Land Use Code Title 104 (Zones) Chapter 26 (Open Space) O-1 Zone

Background

The applicant is proposing to rezone three different areas of Wolf Creek Resort. The rezones are in line with the Zoning Development Agreement that was approved in 2002. The first rezone area to discuss is 30.65 acres of FR-3 land on the back nine of the golf course to O-1. This area is identified as Parcel 3 on the Wolf Creek Parcel Number map and has 73 units. This area is currently being used as the back nine of the golf course. The applicant's proposal is to rezone the property to the Open Space O-1 Zone. Staff's question is where will the 73 units be absorbed within Wolf Creek? The County Commission approved an addendum to the Wolf Creek Zoning Development Agreement and if it is signed and recorded then 56 units would transfer to Parcel 1 and the property that is owned by America First.

The second area to be rezoned is in the commercial core of Wolf Creek. The applicant is proposing to rezone approximately 15.97 acreage of Open Space O-1, Commercial Valley Resort Recreation CVR-1, and Commercial Valley CV-2 Zone, to a Commercial Valley Resort Recreation CVR-1 Zone. There is 4.68 acres zoned Commercial Valley Resort Recreation CVR-1 and another 2.11 acres of Commercial CV-2 Zone leaving approximately 9.18 acres of Open Space that will be rezoned to the Commercial Valley Resort Recreation CVR-1 Zone. In the 2002 Zoning Development Agreement, there were 250 units assigned to the Commercial CV-2 Zone, even though the CV-2 Zone doesn't allow residential units. Because of the error in the Zoning Development Agreement, a requirement has been in place requiring the property owners to rezone the property to a Commercial Valley Resort Recreation CVR-1 Zone which allows the residential units. The Wolf Creek Parcel Number map has identified this area as the commercial core area. Since this is in the commercial core of Wolf Creek, the

applicant has been working with the residents, home owners associations, and other interested parties in developing the concept plan for this area. The concept development plan shows additional amenities that will be part of Wolf Creek. The Concept Development plan is Exhibit B, and the applicant will explain the vision for this area.

The final area being rezoned is the 9.11 acres of Forest Residential FR-1 to Open Space O-1 Zone. This area is identified as Parcel 4 on the Wolf Creek Parcel Number map, and has one unit. This rezone is being done to compensate for the approximately 9.18 acres of open space that is being rezoned to the Commercial Valley Resort Recreation CVR-1 Zone discussed above. Staff's question is where will this one unit be reassigned to?

Summary of Planning Commission Considerations

The purpose of zoning regulations is to promote the general welfare, safety, health, convenience and economic prosperity of the county, it is county policy that rezoning of property, should further this purpose, by complying with the county's general plans. The Rezoning Procedures Section 3 - Approval criteria is listed below:

- (a) To promote compatibility and stability in zoning and appropriate development of property within the county, no application for rezoning shall be approved unless it is demonstrated that the proposed rezoning promotes the health, safety, and welfare of the county and the purposes of this chapter.
- (b) The planning commission and the county commission will consider whether the application should be approved or disapproved based upon the merits and compatibility of the proposed project with the general plan, surrounding land uses, and impacts on the surrounding area. The commissions will consider whether the proposed development, and in turn the application-for rezoning, is needed to provide a service or convenience brought about by changing conditions, and which, therefore, promotes the public welfare. The county commission may require changes in the concept plan in order to achieve compatibility and may impose any conditions to lessen or eliminate adverse impacts.

The Planning Commission should consider the following questions in making a recommendation to the County Commission:

- The FR-3 Zone has 73 units. What parcel will the units be reassigned to?
- The FR-1 Zone has 1 unit assigned to the 9.11 acres. What parcel will this one unit be reassigned to?
- Are there any major detrimental effects that may come from approving this amendment?

Conformance to the General Plan

The Ogden Valley General Plan, as adopted in 1998, states that Weber County "supports the continued development of resort-related commercial areas" (OVGP, p.12). In December of 2005, Weber County adopted the Recreation Element of the General Plan and within that document it suggests that Weber County "accommodate expected demand for second home, year-round home, and resort-related development without generating suburban/resort sprawl" by "encouraging the creation of new resort villages."

Conditions of Approval

- Legal descriptions of the properties being rezoned. The Planning Division has received the legal descriptions for the properties and is having them checked by the County Surveyor's Office.

Staff Recommendation

Staff recommends approval of the 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; rezoning approximately 15.97 acres of Open Space, and Commercial Valley CV-2 to a Commercial Valley Resort Recreation Zone CVR-1; and rezone 30.65 acres of Forest Residential FR-3 to Open Space O-1.

The recommendation is based on the following:

- Compliance with the Ogden Valley General Plan.
- The proposal is consistent with the 2002 Zoning Development Agreement for Wolf Creek.
- Provides the necessary land use code that the 2002 Wolf Creek Resort Zoning Development Agreement intended.
- This petition does not reduce the acreage of Open Space O-1 Zone.
- The applicant is proposing additional amenities and recreational opportunities at Wolf Creek.
- There are 250 units assigned to the Commercial CV-2 Zone, which doesn't allow residential units. Wolf Creek in the past has been required to rezone to the Commercial Valley Resort Recreation CVR-1 Zone.

The Planning Commission's decision should be made as a recommendation to the County Commission.

Exhibits

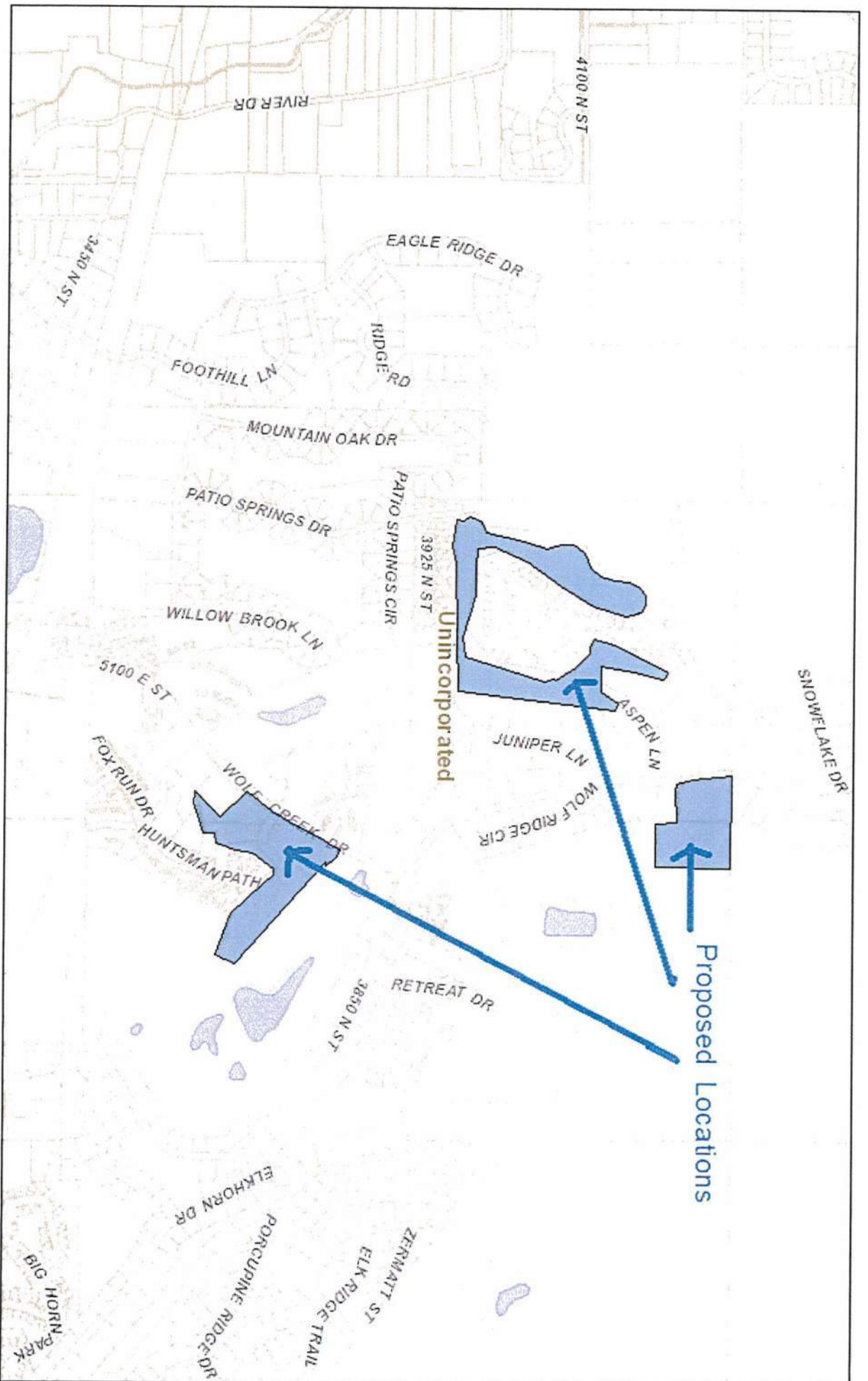
- A. Applicant's narrative
- B. Location map
- C. Wolf Creek Resort Village Development plan
- D. The 2002 Zoning Development Agreement
- E. Wolf Creek Parcel Number map

Wolf Creek Resort Village
Resort Core Zoning and Concept Development Plan
07.2015

Application Sections

1. Describing the project vision
 - The Zoning Development Agreement (ZDA) for Wolf Creek Resort was first established with Weber County in the early 1980s. One purpose of this application is to provide land use zoning in the village core area of the resort that will support a blend of commercial and residential uses (mix use). The most recent ZDA from 2002 identified certain allowable uses in the CV-2 zone that are not allowed by the current commercial land use ordinance. We feel that the CVR-1 zone gives us the most flexibility as we move forward with the attached concept development plan. The overall vision is to provide both guests and the local community a combination of services. The 15.975 acre resort core plan includes retail opportunities, professional office space, restaurants and eateries, recreation facilities, a hotel and privately owned condos. The site data table in the exhibit breaks down the square footages by use types as well as the purposed parking. Trails will feed the village from the surrounding communities and the "market street" will have the ability to close down to host various events. In addition, a community center would provide a new neighborhood and resort amenity.
 - The concept development plan illustrates architectural examples and the layout for the different building locations. Building heights will vary, step with the elevation grades and will be established by final design. We are projecting the highest structure to the hotel at the south end of the project at an estimated 45 to 50 feet. The proposed concept has 68 condominiums along with 93 hotel rooms. Storm Water runoff can be easily mitigated at the Resort Village location and will be incorporated into the subdivision/Conditional Use Permit design. Additional details will be presented at the Ogden Valley Planning Commission meeting.
 - As illustrated in the concept development plan exhibit, the proposed amendment to the Weber County zoning map is as follows;
 - 9.11 acres of FR-1 to O-1
 - Approximately 15.975 acreages of O-1, CV-2 and CVR-1 zoned property to become CVR-1
 - 30.65 acres of FR-3 land on the back nine of the golf course to O-1
2. How is the change in compliance with the General Plan?
 - The General Plan for the upper Ogden Valley supports resort communities and clustered development in identified areas such as Wolf Creek Resort. The site of the proposed rezone has been planned for mix use development for some time and this action puts the proper zoning in place to support the concept plan.
3. Why should the present zoning be changed to allow this proposal?
 - Will provide the necessary land use code that the 2002 Wolf Creek Resort ZDA intended. Within the overall master plan, this petition does NOT reduce acres of O-1 zoning but technically increases it by 30.65 acres. The new proposed CVR-1 boundary incorporates existing commercial zoning, built resort structures and provides expansion for a community amenity.
4. How is the change in the public interest?
 - Supports the General Plan and is consistent with previous concepts. The development plan will provide additional local services and amenities to the community. The commercial component will provide local employment and provide economic development to the valley.
5. What conditions and circumstances have taken place in the general area since the General Plan was adopted to warrant such a change?
 - The county is requiring CVR-1 zoning to utilize the entitlements assigned to the undeveloped commercial zoning as identified in the 2002 ZDA for Wolf Creek Resort. This action is consistent with rezoning that occurred at this site in 2006, from CV-2 to CVR-1.
6. How does this proposal promote the health, safety and welfare of the inhabitants of Weber County?
 - Will provide commercial, residential and recreational opportunities that will be used by the local community. Long term, we hope to attract a medical service such as an "instacare" facility.

Location Map



WOLF CREEK RESORT VILLAGE CONCEPT DEVELOPMENT PLAN EXISTING ZONING



THIS EXHIBIT REPRESENTS THE CURRENT DESIGN INTENTIONS AND REPRESENTATIONS OF WOLF CREEK. THE INFORMATION SHOWN HEREON IS CONCEPTUAL AND SUBJECT TO CHANGE AT ANY TIME. WOLF CREEK IS NOT LIABLE FOR ANY MISREPRESENTATIONS.

WOLF CREEK RESORT VILLAGE CONCEPT DEVELOPMENT PLAN PROPOSED ZONING



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WOLF CREEK RESORT VILLAGE CONCEPT DEVELOPMENT PLAN

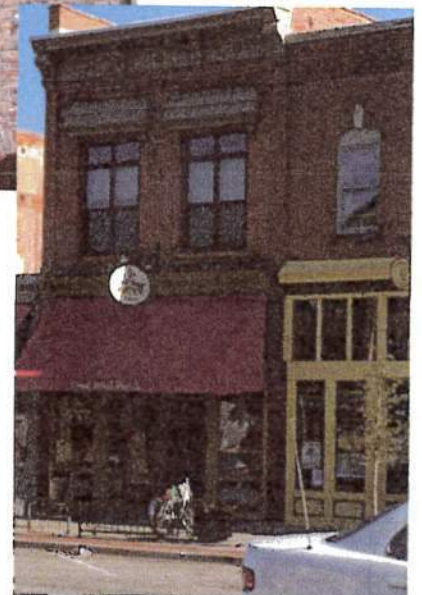


SITE DATA

PROJECT AREA	15.975 ACRES
RETAIL	39,670 SF (NET)
OFFICE	8,900 SF (NET)
RECREATION	6,650 SF (NET)
EXISTING CLUB	13,680 SF (NET)
CLUB EXPANSION	5,200 SF (NET)
HOTEL ROOMS (350 SF)	93
CONDOMINIUMS (750 SF)	68
PARKING	356 STALLS

THIS SHIRT REPRESENTS THE CURRENT DESIGN INTENTIONS AND REPRESENTATIONS OF WOLF CREEK. THE INFORMATION SHOWN HEREON IS CONCEPTUAL AND SUBJECT TO CHANGE AT ANY TIME. WOLF CREEK IS NOT LIABLE FOR ANY MISREPRESENTATION.

VILLAGE ARCHITECTURE MERCANTILE



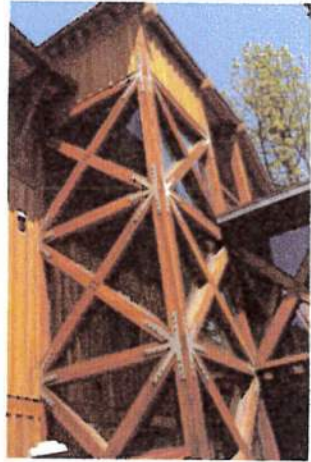
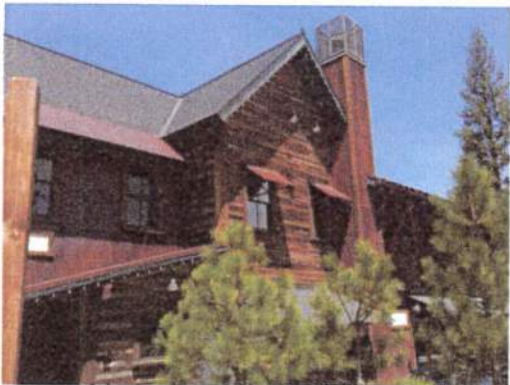
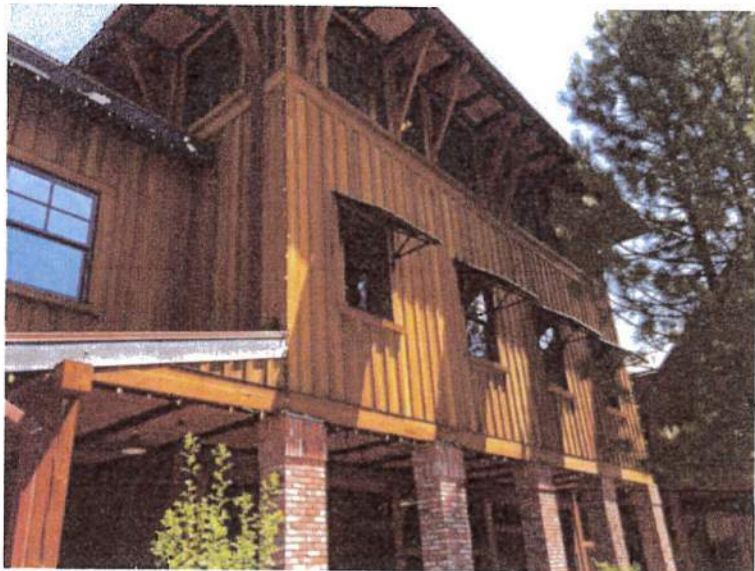
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VILLAGE ARCHITECTURE RESTAURANT/CAFE/BREWERY



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VILLAGE ARCHITECTURE HOTEL



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VILLAGE ARCHITECTURE THE BARN

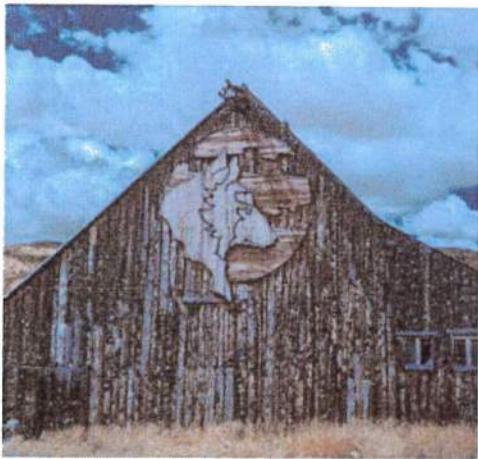


PHOTO CREDIT: DORNY PETERSON



PHOTO CREDIT: CELESTE PARKER



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C2002-139
WEBER COUNTY

ZONING DEVELOPMENT AGREEMENT



PARTIES: The parties to this Zoning Development Agreement ("Agreement") are Wolf Creek Properties, L.C. ("petitioner") and Weber County Corporation ("the County").

EFFECTIVE DATE: The effective date of this Agreement shall be the date that this document is signed by all parties and recorded.

RECITALS: Whereas, the petitioner seeks approval for the amended Master Plan for the Wolf Creek Resort which includes the re-zoning of property within the Wolf Creek Resort, generally located in the Eden area of the Ogden Valley, and more specifically as described in the legal descriptions attached hereto and incorporated herein by this reference ("the property"); and, as shown on the attached Master Plan Map, within the unincorporated area of Weber County, Utah for the purpose of continuing the future development of the Wolf Creek Resort as follows:

ZONE	DENSITY	TOTAL ACRES	UNDEVELOPED ACRES	UNITS
O-1	***Open Space	1731.45	1731.45	0
CV-2	Limited Commercial	21.12	21.12	250
FR-3	*6.0 DU/acre	160.47	136.92	704
RE-15	**1.75 DU/acre	517.56	444.35	664
RE-20	1.5 DU/acre	46.94	35.75	28
FV-3	1 DU/3 acres	40.00	40.00	13
AV-3	0	84.74	84.74	0
FRC-1	1	9.11	9.11	1
<u>TOTAL</u>		n/a	2503.44	1660
<u>PROJECT TOTAL</u>		2611.39		2152

* DU/acre is an average for all parcels zoned FR-3
 ** DU/acre is an average for all parcels zoned RE-15
 ***An additional 190.00 acres of open space will be required within zones FR-3, RE-15 and FV-3.
 Total Open Space including AV-3 = 2006.19 acres

AND WHEREAS, the 21.12 acres re-zoned to the CV-2 designation shall be limited to the following uses:

- Arts and Crafts Store
- Health and Fitness Club
- Cafe
- Medical/Dental Office
- Sporting Goods Store
- Dry Cleaning Pick up Station
- Ice Cream and Coffee Shop
- Pet Grooming and Supplies
- Legal Office
- Music and Video Store
- Real Estate Agency
- Travel Agency
- Art Gallery
- Bank
- Community Center/Meeting Room
- Deli/Small Grocery Store
- Salon/Barber Shop
- Florist Shop
- Local Artist Shop
- Insurance Agency
- Book Store
- Office Supply
- Restaurant
- Interior Decorator Establishment
- Bed and Breakfast Inn
- Bed and Breakfast Hotel
- Liquor Store
- Beer Parlor, sale of draft beer
- Antique, import or souvenir
- Hotel, Condo/Hotel
- Temporary building for uses incidental to
- Construction work. Such buildings shall be
- Removed upon the completion of the
- work.

WHEREAS, the developer agrees to submit a Landscape Plan for the Sewer Pond area which includes plans for the irrigation and maintenance for such landscaping, shall be approved administratively and installation of such landscaping materials shall be completed within six (6) months of the signing and recordation of this document; and

F:\FORMSMAN\3-ZONS\208

E# 1883524 BK2276 PG990/
 DOUG CROFTS, WEBER COUNTY RECORDER
 22-OCT-02 4:27 PM FEE \$.00 DEP JPM
 REC FOR: WEBER COUNTY PLANNING

WHEREAS, the County seeks to promote the health, welfare, safety, convenience and economic prosperity of the inhabitants of the County through the establishment and administration of Zoning Regulations concerning the use and development of land in the unincorporated area of the County as a means of implementing adopted Land Use Master Plans of all or part of the County; and

WHEREAS, the Petitioner has requested that certain property be re-zoned for purposes of allowing the Petitioner to develop the property in a manner which has been outlined to the Planning Commission; and

WHEREAS, the Petitioner considers it to its advantage and benefit for the County to review its petition for re-zoning based upon having prior knowledge of the development that is proposed for the property so as to more completely assess its compatibility with the County's General Plan and for the area and the existing land use surrounding the property.

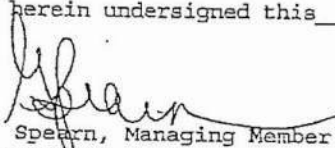
NOW THEREFORE, for good and valuable consideration in receipt of which is hereby acknowledged and accepted by both parties, the parties hereto mutually agree and covenant as follows:

1. The County will re-zone the property described in attached legal descriptions and as described above, for the purpose of allowing the Petitioner to construct the allowed uses on the property.
2. The petitioner shall develop the subject property based on development plans submitted and reviewed as proscribed in the Weber County Zoning and Subdivision Ordinances and any other applicable State or Federal law or regulation.
3. No other uses shall be approved until or unless this Agreement and the approved Master Plan are amended or voided.
5. The responsibilities and commitments of the petitioner and the County as detailed in this document, when executed shall constitute a covenant and restriction running with the land and shall be binding upon the petitioner/owner and shall be recorded in the Office of the Weber County Recorder.
6. Both parties recognize the advantageous nature of this Agreement which provides for the accrual of benefits and protection of interests to both parties.
7. The County will issue Land Use and Conditional Use Permits for only those uses determined to be within the general land use types listed above and more specifically on more detailed development plans for the project or major phase thereof submitted to and approved by the County.
8. The following conditions, occurrences or actions will constitute a default by the petitioner:

A written petition by the petitioner, filed with the County seeking to void or materially alter any of the provisions of this Agreement.

- 9. In the event that any of the conditions constituting default by the petitioner, occur, the County finds that the public benefits to accrue from re-zoning as outlined in this Agreement will not be realized. In such a case, the County shall examine the reasons for the default and proposed major change of plans, and either approve a change in the Master Plan or initiate steps to revert the zoning designation to its former zone.
- 10. The parties may amend or modify the provisions of this Agreement, the Master Plan and list of use types only by written instrument and after considering the recommendation of the Planning Commission, which may hold a public meeting to determine public feeling on the proposed amendment or modification.
- 11. This Agreement with any amendments shall be in full force and effect until all construction and building occupancy has taken place as per approved development plans or until the property covered herein has been reverted to its former zone designation as a result of default.
- 12. Nothing contained in this Agreement constitutes a waiver of the County's sovereign immunity under any applicable state law.
- 13. In the event that legal action is required in order to enforce the terms of this agreement, the prevailing party shall be entitled to receive from the faulting party any costs and attorney's fees incurred in enforcing this agreement from the defaulting party.
- 14. This agreement constitutes the entire agreement between the parties. No changes or alternatives may be made in this agreement except in writing signed by both parties.

Approved by the parties herein undersigned this 11th day of October, 2002


 Greg Spearn, Managing Member
 Wolf Creek Properties, L.C.

CORPORATE ACKNOWLEDGMENT

STATE OF UTAH)

Et 1883524 BK2276 P6992

COUNTY OF WEBER)

) ss

On this 11th Day of October, 2002, Chris Spear personally appeared before me, duly sworn, did say that he is the Managing Member of the corporation which executed the foregoing instrument, and that said instrument was signed in behalf of said corporation by authority of a Resolution of its Board of Directors that the said corporation executed the same.

[Signature]
NOTARY PUBLIC



My commission expires 6-1-04

[Signature]
Glen H. Burton, Chair
Weber County Commission
Kenneth A. Bischoff, Vice Chair

ATTEST:

[Signature]
Linda G. Lunceford, CPO
Weber County Clerk/Auditor

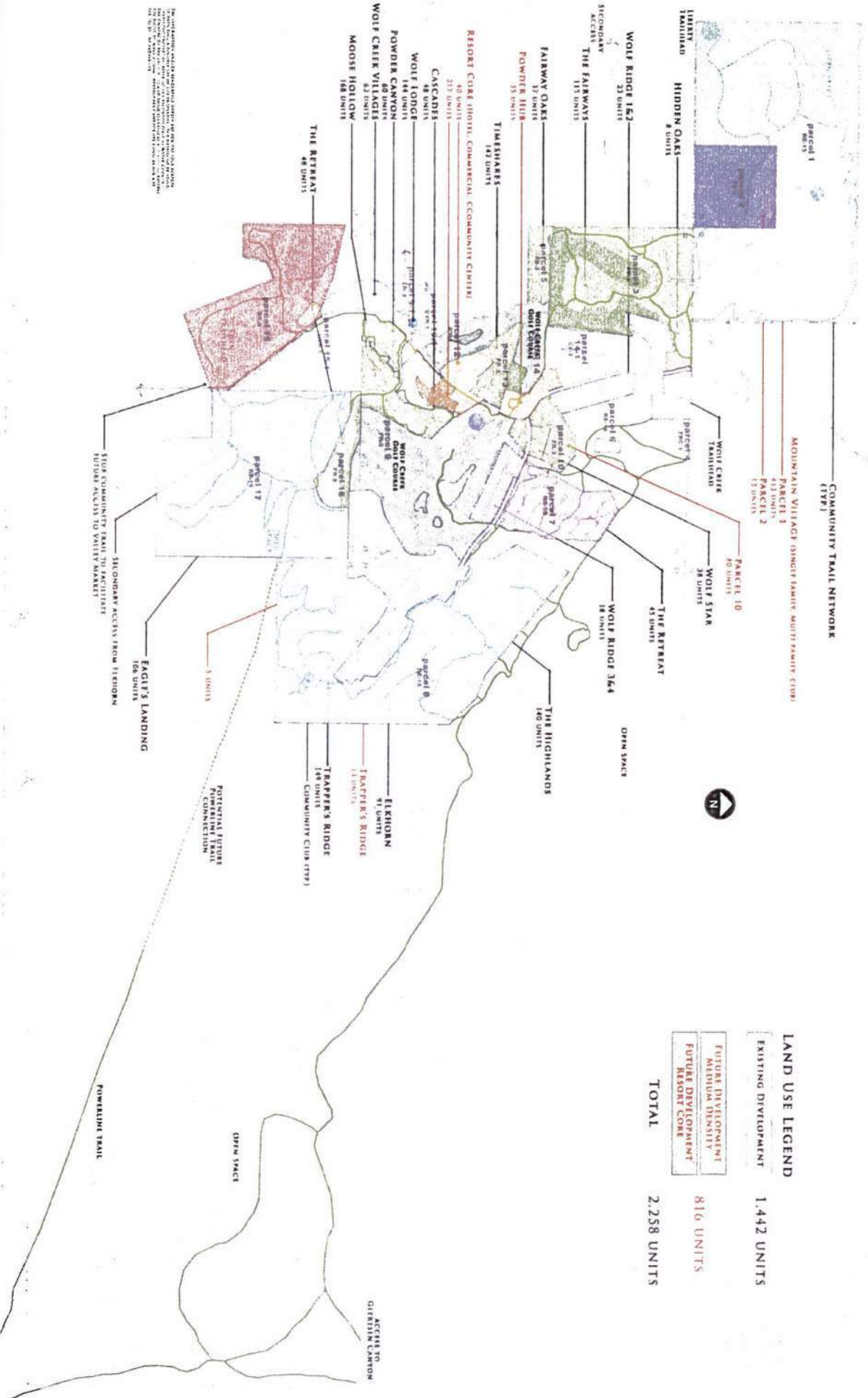
Documents Attached:

Exhibit A: Copy of legal descriptions

E# 1883524 BK2276 PG993

[Handwritten mark]

WOLF CREEK RESORT



LAND USE LEGEND

EXISTING DEVELOPMENT	1,442 UNITS
FUTURE DEVELOPMENT MEDIUM DENSITY RESORT CORE	816 UNITS
TOTAL	2,258 UNITS

ENVIRONMENTAL DESIGN GROUP

MASTER LAND USE PLAN



Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

Synopsis

Application Information

Application Request: Consideration and recommendation on a proposal to amend 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.

Agenda Date: Tuesday, July 28, 2015
Staff Report Date: Thursday, July 15, 2015
Applicant: Planning Division
File Number: ZTA 2014-07

Property Information

Approximate Address: Not Applicable
Project Area: Not Applicable
Zoning: Not Applicable
Existing Land Use: Not Applicable
Proposed Land Use: Not Applicable
Parcel ID: Not Applicable
Township, Range, Section: Not Applicable

Adjacent Land Use

North: Not Applicable
East: Not Applicable
South: Not Applicable
West: Not Applicable

Staff Information

Report Presenter: Charlie Ewert
cewert@co.weber.ut.us
(801) 399-8763
Report Reviewer: SW

Applicable Ordinances

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)

Legislative Decisions

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

Background

The Planning Commission has been working with staff for the last six months to provide changes to the conditional use ordinance. The attached ordinance changes reflect this collaborative process. Both of the County's Planning Commissions have been instrumental in providing these changes.

The ordinance is being changed because the current ordinance does not comply, in part, with state code. It is also being changed because it lacks substantive standards from which to review a conditional use permit.

Policy Analysis

Compliance with state code. Under state statutory requirements¹ a conditional use permit “shall be approved” provided the use complies with applicable standards of an ordinance. This statute presumes approval. However, the County’s current conditional use ordinance presumes denial unless it complies with certain standards. The County code also fails to provide any substantive standards.² In theory, pursuant to state code, without substantive standards in the code all conditional use permits should be approved with limited or no review. This is counter to the purpose of providing for conditional uses in the land use code, which is to allow more land uses than are otherwise permitted in each zone, provided that the unique characteristics of those uses that may lead to detrimental effects on surrounding land owners are mitigated.

A permitted use is a land use for which a zone may be specifically written. For example, consider a residence in a residential zone. The zone is intended for residences and residential impacts. Obtaining a permit for a residence is straightforward. On the other hand, there are many other uses that can be allowed in that zone that have lesser known intended impacts. Providing for these uses by conditional use permit is intended to give a level of flexibility in the types of uses that can occur in the zone. Because some uses are notoriously detrimental to others or because the effect of some uses on others cannot be determined until a specific proposal has been made, allowing for these uses but requiring a heightened level of review and additional standards for them is imperative to reducing incompatibility between uses.

Best management practices. Regulating conditional uses has historic context. Historically, it was not uncommon for the conditional use process to be used to determine whether a specific use/proposal is appropriate for an area. If it was, then the permit was approved. If not, the permit was denied. This process usually involved significant public involvement, and decisions were usually based on the opinions of the neighbors.

Conditional use permit practices have changed (or perhaps better stated: conditional use permit practices have been clarified). The changes are primarily due to various court cases [and subsequent state law changes] in which the courts have decreed that the approval of a conditional use permit is an administrative approval,³ and as such an owner is entitled to the approval provided compliance with adopted codes.^{4,5} An administrative approval means that the permit is not subject to the legislative process. If it is a use allowed by the ordinance, and it complies with the standards of the ordinance, then the use is a right, and the owner is entitled to the use. Essentially, this means that the decision on a conditional use permit is not subject to the same level of discretionary decision making that a legislative decision like making a new law is; and it means that the opinions of the neighbors with respect to whether they like/dislike the proposed use is irrelevant unless their like/dislike is based on some related standard of an adopted law.⁶

Review of the proposed ordinance. The changes presented in the proposed ordinance generally fall into four categories: general clarifications, enhanced application and review provisions, the creation of new conditional use standards, and revocation provisions.

General clarifications. The general clarifications you will see throughout. They are being provided to clarify and supplement current regulations in a manner that compliments the new substantive changes.

Applications review provisions. The enhanced application and review provisions, Section 108-4-3 provides two things. First, they provide clearer application submittal requirements for conditional uses. These clearer requirements will help set the expectation for the applicant on what exactly they need to anticipate when applying for a permit. They will also help the County ensure that the correct amount of information is submitted with the application to initiate a complete review. Second, they provide clearer governmental review procedures. The County’s review has to comply with these procedures. This provides transparency for the applicant in what is occurring during the review of their permit. It also provides a level of responsibility and accountability on the County to conduct a thorough, objective, and complete review of every application.

Conditional use standards. The new standards, Section 108-4-5, provide the County with needed conditional use standards from which to review conditional use permit applications. These standards have been written to specify

¹ See UCA § 17-27a-506(2)(a).

² County code provides a list of examples of negative impacts, but fails to give standards for mitigating them.

³ See Salt Lake County Cottonwood Sanitary District v. Sandy City.

⁴ See Krejci v. Saratoga Springs.

⁵ See UCA § 17-27a-508(1)(a)(i).

⁶ Davis County v. Clearfield.

a comprehensive list of detrimental effects that conditional uses may have. They require that those detrimental effects be mitigated.

Most of the standards do not provide specific methods of mitigation. The various ways the effects may be mitigated are really up to the applicant or the County. The applicant may propose ways to mitigate detrimental effects. In the event the applicant does not, or does not do so effectively, the Land Use Authority may apply conditions of approval that the applicant must meet in order for the permit to be valid.

The realm of possible conditions is not infinite. Conditions must be reasonable; they must be related to the effects listed in the relevant standard;⁷ they must be based on credible evidence;⁸ and in most cases they should not be used for the purpose of regulating a use out of existence. Rather, conditions should be used to affirmatively help a conditional use fit into its surroundings. They should be used to help break down the conflicts between the use and other uses. To this end, Section 108-4-5 begins with a requirement to help the Land Use Authority understand how to temper decisions.

This temperance is imperative given that the Planning Commission continues to desire to hold public comment for all conditional use permits. It will be tempting to make a decision based on the will of the public rather than the merits of the proposal when reviewed against the adopted ordinance. The ordinance is written in such a way to help keep the decision at the administrative review level.

A note about objectivity in the conditional use standards: if any portion of the proposed ordinance changes turn out to be too vague or unspecific that no amount of credible evidence, relevant standard, or reasonable condition can be fairly or objectively applied, the Land Use Authority should interpret the provision in favor of the property owner.⁹ If this becomes a continual problem then we will address it with further legislative clarification.

Revocation provisions. Finally, the proposal provides procedures for permit revocation, in Section 102-4-3. This section is not part of the conditional use code. It is generally applicable to any land use that otherwise requires a permit. Revocation procedures are sparse in the current code, and are not always clear or consistent. This code section provides a clear due process for revocation of a permit. Revocation should always be a last resort to obtaining ordinance compliance.

Conformance to the General Plan

State code requires that a general plan governs four critical elements: land use, transportation, low-moderate income housing, and county resource management.¹⁰ The proposed ordinance changes touches in some manner on all of these elements. For example, a conditional use is a land use that is otherwise listed in respective zones. The proposed conditional use standards touch on traffic, circulation, and related safety concerns. Two, three, four, and multiple family housing are listed as conditional uses in several zones, which help provide for low-moderate income housing. And the proposal provides standards related to the environment and its resources.

However, the changes in this proposal go a little beyond the current general plans. The changes are really more about improving an existing provision of the land use code. However, one standard to take note of is Section 108-4-5(4)(f). This standard will help the Land Use Authority verify that a conditional use permit generally complies with the policies of the general plan. Keeping in mind that the general plan is a guiding document and not everything in it can be applied as a requirement, items like architectural or design controls can be used to help support a condition of approval for a conditional use permit.

Conditions of Approval

Not Applicable

Past Action on this Item

No action has occurred on this item yet. Both Planning Commissions have considered it in work session only.

⁷ See *Uintah Mountain, RTC v. Duchesne County*.

⁸ See *Uintah Mountain, RTC v. Duchesne County*.

⁹ See *Patterson v. Utah County Board of Adjustments*.

¹⁰ See UCA § 17-27a-403(2).

Noticing Compliance

A hearing for this item before the Planning Commission has been posted for public notice in compliance with UCA §17-27a-205 in the following manners:

- Posted on the County's Official Website
- Posted on the Utah Public Notice Website
- Published in a local newspaper

Staff Recommendation

Staff recommends approval of the text included as Exhibit B and Exhibit C with the following findings:

1. The changes will bring the conditional use code into compliance with state code.
2. The changes will provide standards necessary for a complete and objective review of conditional uses.
3. The clarification will provide for a more efficient administration of code.
4. The changes comply with the intent of the land use code.
5. The changes are supported by the general plan(s), and support the general plan(s).
6. The clarifications are not detrimental to the health, safety, and welfare of County residents.

The Planning Commission's decision should be made as a recommendation to the County Commission.

Exhibits

- A. Summary, List, and Key to Proposed Changes.
- B. Code Change [Redlines] – Conditional Uses.
- C. Code Change [Clean] – Conditional Uses.
- D. Land Use Code Revision Process Flowchart.
- E. Conditional Use Permit Deliberation Worksheet.

Exhibit A: Summary, list, and key to proposed changes

The following code changes are being proposed due to a current lack of standards in the conditional use code, and general nonconformity to current state statutes.

This change addresses the following code sections:

§ 101-1-7. Definitions: "Use, conditional."

§ 102-4. Land use permit, building permit, and certificate of occupancy.

§ 108-4. Conditional uses.

§ 108-7-26. Land use applications involving lots/parcels with existing violations.

Key to reading track changes:

Three periods (...) indicates that there are codes sections that have been left out of the proposed changes. These code sections will remain unchanged.

Language that has been added is shown in blue underline

~~Language that has been moved to a new location is shown in green double strikeout~~

~~Language that has been deleted is shown in red strikeout~~

Language that has been moved from an old location is shown in green double underline

Exhibit B: Code Change [Redlines] – Conditional Uses

1 Title 101 - GENERAL PROVISIONS

2 ...

3 Sec. 101-1-7. - Definitions.

4 ...

5 Use, conditional. ~~The term "conditional use" means a use, because of characteristics peculiar to it, or~~
6 ~~because of size, technological processes, or type of equipment, or because of the exact location with~~
7 ~~reference to surroundings, streets and existing improvements or demands upon public facilities, requires~~
8 ~~a special degree of control that mitigates or eliminates any detrimental impacts the use might have on the~~
9 ~~county, surrounding neighbors, or adjacent land uses and makes such uses consistent and compatible~~
10 ~~with other existing or permissible uses in the same districts, and assures that such uses shall not be~~
11 ~~adverse to the public interest. "Conditional use" means a land use that, because of its unique~~
12 ~~characteristics or potential impact on the county, surrounding neighbors, or adjacent land uses, may not~~
13 ~~be compatible in some areas or may be compatible only if certain conditions are required that mitigate or~~
14 ~~eliminate the detrimental impacts.~~

15 ...

16 Title 102 - ADMINISTRATION

17 ...

18 CHAPTER 4. PERMITS REQUIRED AND ENFORCEMENT ~~LAND-USE PERMIT,~~ 19 ~~BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY~~

20

21 Sec. 102-4-1. - Purpose and intent.

22 The purpose of this chapter is to establish the requirements for land use permits from the Planning
23 Division and building permits from the Building Division. This chapter identifies the responsibilities for
24 enforcing the requirements of this Land Use Code.

25 (Ord. of 1956, § 30-1; Ord. No. 33-78; Ord. No. 22-2001; Ord. No. 2009-28)

26 ~~Sec. 102-4-2. - Building permit required.~~

27 ~~Building permits, as specified by the county, are required for any construction, alteration, repair,~~
28 ~~removal, or occupancy of any structure. Construction shall not be commenced, except after the issuance~~
29 ~~of a written permit by the county building official.~~

30 (~~Ord. of 1956, § 30-2; Ord. No. 33-78; Ord. No. 22-2001; Ord. No. 2009-28~~)

31 ~~Sec. 102-4-3. - Certificate of occupancy required.~~

32 ~~No land shall be used or occupied and no building hereafter structurally altered or erected shall be~~
33 ~~used or changed in use, except for agricultural purposes, until a certificate of occupancy has been issued~~

Comment [c1]: Taken straight from state code.
Being proposed for the new conditional use code.
17-27A-103

Comment [c2]: Moved to after Land Use Permit
regulations.

Comment [c3]: Remove this whole section to
keep CoFO from being a land use decision. Also add
changes necessary in 108-12-9, and in 108-1-2(a).
Search term "Certificate of Occupancy" to see if any
other damage will be caused.

34 ~~by the building official stating that the building or the proposed use thereof or the use of the land,~~
35 ~~complies with the provisions of this chapter. A certificate of occupancy either for the whole or part of a~~
36 ~~building or structure shall be applied for coincidentally with the application for a building permit, and shall~~
37 ~~be issued within ten days after the erection or structural alteration of such building or structure or part~~
38 ~~thereof, shall have been completed in conformity with the provisions of this chapter.~~

39 (~~Ord. of 1956, § 30-3; Ord. No. 33-78; Ord. No. 22-2001; Ord. No. 2009-28~~)

40 **Sec. 102-4-24. - Land use permit required.**

41 ~~(a) In order to verify zoning requirements and setbacks compliance with applicable regulations, all land~~
42 ~~uses that require a land use permit or conditional use permit by this Land Use Code are prohibited~~
43 ~~until a land use permit or conditional use permit has received final written approval from the~~
44 ~~appropriate Land Use Authority.~~

Comment [c4]: Reference new LUA section (future changes).

45 ~~(b) No for permitted or conditional uses, no~~ structure, including agricultural structures, shall be
46 constructed, changed in use, or altered, as ~~provided or as restricted in~~ regulated by this Land Use
47 Code, until and unless a land use permit ~~or, if applicable, a conditional use permit,~~ has received final
48 ~~written approval from the appropriate Land Use Authority.~~ ~~is approved and issued by the planning~~
49 ~~director or designee.~~

Comment [c5]: Reference new LUA section (future changes).

50 ~~(c) No application for permits or approvals governed by this Land Use Code shall be approved for any~~
51 ~~lot or parcel until all unresolved zoning, subdivision, building, business license, nuisance, or other~~
52 ~~violations on the lot or parcel, or on any parcel included in any manner as part of the application, are~~
53 ~~resolved, unless approval of the application will resolve all of the existing violations.~~

Comment [c6]: Moved from Supplementary Regulations Section 108-7-26, with minor text clarifications.

54 **Sec. 102-4-3. - Land use permit revocation.**

55 ~~A land use permit or conditional use permit may be revoked for violation of any part of this Land Use~~
56 ~~Code related to the specific use or permit in accordance with the following:~~

57 ~~(1) Revocation shall be conducted by the Land Use Authority that is authorized to approve the~~
58 ~~permit.~~

59 ~~(2) Prior to permit revocation, the land owner shall be given reasonable opportunity to resolve the~~
60 ~~violation by bringing the property into compliance or by diligently pursuing an amendment or~~
61 ~~modification to the permit, as may be allowed by this Land Use Code.~~

62 ~~(3) In the event compliance cannot be attained the land owner shall be given a notice of the~~
63 ~~impending permit revocation 14 days prior to final revocation. The notice of the impending permit~~
64 ~~revocation shall specify the violation, and inform the land owner of the right to request a~~
65 ~~hearing.~~

66 ~~(4) The land owner shall have a right to a hearing with the Land Use Authority to show cause for~~
67 ~~why the permit should not be revoked, if a written request for such is submitted prior to a final~~
68 ~~written revocation decision. If a hearing is requested, final revocation of the permit shall be~~
69 ~~stayed until after the hearing. The hearing shall be scheduled at a time specified by the Land~~
70 ~~Use Authority.~~

71 ~~(5) Revocation of a permit is final upon the issuance of a final written decision. The final written~~
72 ~~decision may be appealed pursuant to Title 102, Section 3.~~

Comment [c7]: Verify reference.

73 ~~(+)(6) Revocation of a permit shall not prohibit prosecution or any other legal action taken on~~
74 ~~account of the violation, as provided in this Land Use Code or any other applicable law.~~

75 (~~Ord. of 1956, § 30-4; Ord. No. 33-78; Ord. No. 22-2001; Ord. No. 2009-28~~)

76 **Sec. 102-4-45. - Code enforcement.**

77 ~~The P~~lanning ~~D~~irector is designated and authorized as the official charged with the enforcement of
78 ~~this c~~hapter ~~L~~and Use Code.

79 (Ord. of 1956, § 30-5; Ord. No. 33-78; Ord. No. 22-2001; Ord. No. 2009-28)

80 Sec. 102-4-52. - Building permit required.

81 Building permits, as specified by the county, are required for any construction, alteration, repair,
82 removal, or occupancy of any structure. Construction shall not be commenced, except after the issuance
83 of a written permit by the County Building Official.

84 (Ord. of 1956, § 30-2; Ord. No. 33-78; Ord. No. 22-2001; Ord. No. 2009-28)

85

86 **Sec. 102-4-6. - Permits to comply with ordinance.**

87 The Building Official shall not grant a permit for the construction or alteration of any building or
88 structure if such construction or alteration is in violation of any provision of this ~~chapter~~ Land Use Code;
89 nor shall any county official grant any permit or license for the use of any building or land if such use
90 would be in violation of this ~~chapter~~ Land Use Code.

91 (Ord. of 1956, § 30-6; Ord. No. 33-78; Ord. No. 22-2001; Ord. No. 2009-28)

92 **Sec. 102-4-7. - Powers and duties of building official.**

93 It shall be the duty of the building official to inspect or cause to be inspected all setbacks of buildings
94 in the course of construction or repair. The building official shall assist in the enforcement of all provisions
95 of this chapter. The building official shall not issue any permit unless the plans of, and for, the proposed
96 erection, construction, reconstruction, alteration and use fully conform to ~~all zoning regulations~~ this Land
97 Use Code.

98 (Ord. of 1956, § 30-7; Ord. No. 33-78; Ord. No. 22-2001; Ord. No. 2009-28)

99 ...

100 **Title 108 - STANDARDS**

101 ...

102 **CHAPTER 4. - CONDITIONAL USES**

103

104 **Sec. 108-4-1. - Purpose and intent.**

105 (a) The purposes of this Chapter are to:

106 (1) provide for the purpose and intent of the respective zones, and to provide for the vision, goals,
107 and objectives of the respective general plans, by specifying general standards that may be
108 applied by the Land Use Authority to a use listed as a conditional use in this Land Use Code;
109 and

110 (2) provide a reasonable process for the application for, and timely review of, a conditional use
111 permit.

112 (b) The intent of providing conditional use regulations is to provide allowance for additional uses in each
113 zone and give the Land Use Authority flexibility in applying reasonable conditions to effectively
114 manage unique characteristics or detrimental effects of those uses, on a case by case basis.

Comment [c8]: Future change: reference the new land use table here.

115 Conditions shall be related to the standards of this Chapter, or other applicable requirements of this
116 Land Use Code.

117 ~~(a) The purpose of this chapter is to establish standards for land uses listed in each zone as a~~
118 ~~conditional use, and to provide for a reasonable application, review, and approval process for land~~
119 ~~uses that are specified as "conditional."~~

120 ~~(b) Conditional uses are intended to allow greater flexibility by providing a wider variety of uses in a~~
121 ~~zone, while at the same time allowing conditions to be applied, due to their unique characteristics or~~
122 ~~potential impacts on surrounding uses. These may be appropriate only in certain locations and/or~~
123 ~~under specific conditions that mitigate potential impacts. If impacts cannot be mitigated, the~~
124 ~~conditional use may be deemed incompatible in some areas.~~

125 (Ord. of 1956, § 22C-1; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

126 **Sec. 108-4-2. - Conditional use permit.**

127 (a) A conditional use permit shall be required for all uses listed as a conditional use in the Weber
128 County this Land Use Code. ~~The conditional use permit shall list all requirements determined~~
129 ~~appropriate to mitigate the impacts created by the use in order to make it acceptable at the specific~~
130 ~~location.~~

Comment [c9]: See new CUP definition

Comment [c10]: Future change: reference the Land Use Table.

131 (b) In the event a change is proposed ~~anticipated~~ from the originally approved proposal or conditions of
132 the original approval, an amendment to the original conditional use permit shall be required as
133 provided herein.

134 ~~(b)(c)~~ A conditional use permit shall run with the property, unless the permit has expired, or has been
135 revoked or the use has been abandoned.

136 (Ord. of 1956, § 22C-2; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

137 **Sec. 108-4-3. -- Application and Rreview procedure.**

138 Applications for a conditional use permit shall be submitted to the Planning Division.

139 (1) ~~An application shall include:~~ The application shall include the information in the following list. For
140 those applications where no changes are proposed to an existing site or structure, or where the
141 application requirements are unnecessary to demonstrate compliance with applicable
142 ordinances and standards, the application requirements may be modified or consolidated by the
143 Planning Director or designee.

144 a. a completed application form signed by the property owner or certified agent;

145 b. a An application fee. The payment of a partial application fee, or the submittal of plans for a
146 pre-submittal review, does not constitute a complete application;

147 c. a written narrative ~~addressing the criteria of issuance section 108-4-4~~ explaining the
148 proposal. The narrative shall include, at a minimum, the following information:

149 1. the name of the project;

150 2. the name, home address, and, if applicable, business address of the applicant;

151 3. as applicable, the name and business address of the project designer or engineer;
152 and

153 4. a written explanation of how the proposal complies with the applicable standards
154 of Section 108-4-5, and those applicable standards of Title 108, Chapter 1, and
155 Title 108, Chapter 2, and

Comment [c11]: Check reference

Comment [c12]: Check reference

156 d. a detailed location vicinity map. The map shall include, at a minimum, the following
157 minimum information:

- 158 1. the name of the project;
 159 2. a north arrow;
 160 3. all significant natural and manmade features and existing structures within 200 feet
 161 of any portion of the proposed project area;
 162 4. the property boundaries of the proposal; and
 163 2-5. the names and site addresses of adjacent property owners; and
 164 e. a site plan of the proposal. The site plan shall be designed to provide, at a minimum, the
 165 following information:
 166 1. the name of the project;
 167 2. the name, home, and, if applicable, business address of the applicant;
 168 3. if applicable, the name and business address of the project designer or engineer;
 169 4. a scale, which shall be sized appropriately to make the site plan easily and clearly
 170 legible;
 171 5. a north arrow pointing to the left or top of the sheet;
 172 6. the boundary of the site, including any building pad, public and private easements,
 173 and other areas affected by the proposal;
 174 7. the existing uses and ownership information for adjacent parcels;
 175 8. existing zoning;
 176 9. total acreage of the entire affected property and, if the property is split by zoning,
 177 the total acreage of property in each zone;
 178 10. the location and width of existing and proposed roads, driveways, and parking
 179 areas, as may be applicable;
 180 11. the location of any existing and proposed manmade features, including, but not
 181 limited to, bridges, railroad tracks, trails and pathways, structures, and fences;
 182 12. the existing and, if applicable, proposed culinary water, irrigation water, and
 183 sanitary sewer or septic infrastructure;
 184 13. the existing and proposed topographic contours, including, if applicable, any details
 185 necessary to explain proposed grade changes, fills or excavations, or any other
 186 earth work, together with any applicable drainage plans, storm water pollution
 187 prevention plans, and revegetation plans;
 188 14. the location and type of existing landscaping and vegetation, and proposed
 189 changes thereto, if any. If applicable, location and type of new landscaping and
 190 vegetation;
 191 15. The location of flood plain boundaries, if applicable; and
 192 3-16. Any other proposed site improvements showing details and other applicable
 193 design and architectural requirements specified in Title 108, Chapter 1, and Title
 194 108, Chapter 2; and

195 ~~Detailed building plans and site plans-Detailed building plans and site plans specifications shall be~~
 196 ~~drawn to scale including electronic copies showing details and other applicable zoning requirements as~~
 197 ~~which are outlined in chapter 1 of this title, Design review, and chapter 2 of this title, Ogden Valley~~
 198 ~~Architectural, Landscape and Screening Standards.~~

199 ~~a. Accompanying documents including water and wastewater feasibility letters.~~

- 200 ~~b. Any additional pertinent information needed to adequately describe the proposal.~~
- 201 f. culinary water and sanitary sewer or septic verification, as may be applicable for the
- 202 specific use. Culinary water and sanitary sewer or septic verification shall include feasibility
- 203 letters from the applicable water and sanitary sewer or septic entity or agency;
- 204 ~~g. A requirement that the applicant submit~~ applicable impact studies or other technical studies
- 205 ~~that may be necessary to provide evidence of anticipated detrimental effects of the~~
- 206 ~~proposal or evidence of compliance with the applicable standards, as may be required by~~
- 207 ~~the Planning Director or County Engineer; regarding grading, drainage, traffic, geologic~~
- 208 ~~hazards, etc. and~~
- 209 ~~e. Any additional pertinent information needed to adequately describe the proposal, or~~
- 210 ~~provide evidence of compliance with the applicable standards, as determined by the~~
- 211 ~~Planning Director.~~
- 212 ~~d.h. For those applications where no changes are proposed to an existing structure, the~~
- 213 ~~application requirements may be modified by the planning director.~~
- 214 (2) Application submittal and review.
- 215 a. ~~The application review procedure for proposed conditional uses~~ Review of a conditional use
- 216 ~~permit application and the site plan will ensure~~ is intended to verify compliance with all
- 217 applicable ordinances and provide appropriate and reasonable mitigation of anticipated
- 218 detrimental effects.
- 219 b. The application review procedure ~~shall contain the following components~~ is as follows:
- 220 1. Pre-application meeting. Prior to submission of a complete application, a pre-
- 221 application meeting is required to be held with Planning Division staff, in which the
- 222 applicant will provide preliminary site plans are reviewed and for Planning Division
- 223 staff to review and discussed discuss with the applicant. This meeting is intended
- 224 to provide the applicant with a better understanding of the conditional use process
- 225 and requirements in order to assist with the submission of a complete
- 226 application, prior to finished plans being submitted for review;
- 227 2. Complete application submission. Upon assembling a complete application, the
- 228 applicant shall submit it for substantive review. Incomplete applications shall not be
- 229 accepted. Staff will review the application for completeness. In the event the
- 230 application is incomplete, staff will return it to the applicant with a list of
- 231 deficiencies. A review of the application for completeness;
- 232 3. Referral of the application to reviewers. Upon acceptance of an application,
- 233 planning staff shall transmit it to applicable reviewers as may be determined
- 234 necessary to verify compliance with the standards of this chapter, or any other
- 235 relevant requirements of this Land Use Code.
- 236 4. Reviewer's recommendations. Within a reasonable timeframe, applicable reviewers
- 237 shall forward to Planning Division staff reasonable recommendations for conditions
- 238 necessary to substantially mitigate the reasonably anticipated detrimental effects of
- 239 the proposed use in accordance with applicable standards.
- 240 5. Planning staff review and recommendation to the Land Use Authority. Planning
- 241 staff shall review the application, together with any reasonable recommendations
- 242 from applicable reviewers, to determine compliance with this Land Use Code.
- 243 Planning staff shall assemble a staff recommendation, with conditions and findings,
- 244 for the application, then forward the recommendation with the application to the
- 245 Land Use Authority for a final decision.
- 246 ~~3.6. Land Use Authority review and decision. Upon receipt of the application and staff~~
- 247 ~~recommendation the Land Use Authority shall make final decision on whether the~~
- 248 ~~application complies with this Land Use Code, in accordance with the requirements~~

249 of Section 108-4-4. Final decisions shall be accompanied by any applicable
250 conditions and relevant findings.

251 7. The Planning Commission is the Land Use Authority for conditional use permits. De
252 minimis revisions to a previously approved conditional use permit may be approved
253 by the Planning Director provided it can be determined that the changes are slight,
254 inconsequential, and not in violation of any substantive provision of this code. The
255 Planning Director's written approval of a de minimis revision shall be appended to
256 the written decision of the Planning Commission. Revisions that are de minimis
257 shall not require public notice.

258 1. ~~A review of the proposed site plan for compliance with applicable sections of the~~
259 ~~Land Use Code;~~

260 2. ~~A review of the proposed use and site plan to ascertain potential negative impacts~~
261 ~~and whether reasonable conditions can be imposed to mitigate those impacts.~~

262 (Ord. of 1956, § 22C-3; Ord. No. 4-71; Ord. No. 2002-20; Ord. No. 2010-26, 11-16-2010)

263 **Sec. 108-4-4. -- Decision requirements. Criteria for issuance of conditional use permit.**

264 ~~Conditional uses shall be approved on a case-by-case basis. The planning commission shall not~~
265 ~~authorize a conditional use permit unless evidence is presented to establish:~~

266 (a) A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to
267 substantially mitigate the reasonably anticipated detrimental effects of the proposed use in
268 accordance with the standards of this chapter, or relevant standards or requirements of any other
269 chapter of this Land Use Code. When considering any of the standards, the Land Use Authority shall
270 consider the reasonably anticipated detrimental effects of the proposed use in the context of current
271 conditions and, to the extent supported by law, the policy recommendations of the applicable general
272 plan.

273 (b) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be
274 substantially mitigated by the proposal or the imposition of reasonable conditions to achieve
275 compliance with applicable standards, the conditional use may be denied.

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

280 ~~(2) That the proposed use will comply with the regulations and conditions specified in the Land Use~~
281 ~~Code and other applicable agency standards for such use.~~

282 (Ord. of 1956, § 22C-4; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

283 **Sec. 108-4-5. -- Conditional use standards.**

284 (a) The Land Use Authority may apply conditions of approval related to any of the standards of this
285 section, provided that credible evidence exists that:

286 (1) the application of the standard is relevant to the use; and

287 (2) the conditions are reasonable and necessary to substantially mitigate detrimental effects of the
288 use as specified in the standard.

289 (b) The Land Use Authority shall consider the expertise and experience of applicable reviewers and
290 qualified professionals to help determine credible evidence, relevant standards, and reasonable
291 conditions.

292 (c) Conditional use standards are as follows:

Comment [c13]: This is a placeholder until the Land Use Authority matrix is completed and the land use table is completed. It may change after that.

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Comment [c14]: Definition of "mitigate";

1: to cause to become less harsh or hostile : mollify <aggressiveness may be mitigated or ... channeled — Ashley Montagu>
2a : to make less severe or painful : alleviate
b : extenuate

Comment [c15]: From State Code. UCA §17-27a-506.

In essence: find a way to enable the use, but mitigate the negative effects. Use standards to help mitigate the effects.

Comment [c16]: Straight from State Code. UCA §17-27a-506.

- 293 (1) Standards relating to safety for persons and property.
- 294 a. Mitigate injury, loss of life, property damage, or other disproportionate demand for services
- 295 on applicable fire fighting agencies.
- 296 b. Mitigate injury, loss of life, or other disproportionate demand for services on applicable
- 297 emergency medical service agencies.
- 298 c. Mitigate injury, loss of life, property damage, criminal activity, the need for added peace
- 299 keeping activities, or other disproportionate demand for services on the County Sheriff's
- 300 Office.
- 301 d. Mitigate injury, loss of life, or property damage of any known geologic hazard or flood
- 302 hazard, if credible evidence of such a detrimental effect is present.
- 303 e. Mitigate the creation of traffic hazards and right-of-way conflicts, including mitigation of
- 304 traffic hazards caused by:
- 305 1. the location, massing, size, or height of buildings, structures, and other facilities,
- 306 including signage, fencing, and landscaping;
- 307 2. the frequency of heavy truck traffic to and from the site (i.e. import and export of
- 308 materials, deliveries, etc.) to minimize right-of-way conflicts with regular vehicle and
- 309 pedestrian traffic.
- 310 f. Substantially mitigate the likelihood that the proposed use or facility may cause bodily
- 311 injury or property damage to potential persons or property in the area.
- 312 (2) Standards relating to infrastructure, amenities, and services.
- 313 a. Mitigate undesirable vehicle or pedestrian traffic patterns or volumes.
- 314 b. Mitigate internal vehicle or pedestrian circulation inefficiencies onsite, and provide for
- 315 adequate onsite parking given the unique specificities of the proposed use or the proposed
- 316 site plan.
- 317 c. Mitigate material degradation of the level of service of any street.
- 318 d. Mitigate material degradation of the level of service of any storm water drainage facility or
- 319 infrastructure, and adequately provide for storm water drainage from the site.
- 320 e. Mitigate material degradation of the level of service of any culinary and irrigation water
- 321 facility or infrastructure, and, if applicable, provide adequate culinary and irrigation water
- 322 service to the site. To help determine adequacy of culinary water provisions the Land Use
- 323 Authority may require, but are not limited to, the following as a condition of approval of the
- 324 conditional use permit:
- 325 1. written verification that the culinary water source of any new public water system can
- 326 meet the requirements of the Utah Division of Drinking Water and/or the Weber
- 327 Morgan Health Department; or
- 328 2. a capacity assessment letter from the Utah Division of Drinking Water for additional
- 329 connections to any existing public water system; or
- 330 3. written verification that the source of any non-public well providing culinary water for
- 331 the use meets the requirements of the Weber Morgan Health Department. This
- 332 verification shall be based on a test of a new or existing well.
- 333 f. Mitigate material degradation of the level of service of any sanitary sewer service, and, if
- 334 applicable, provide adequate sanitary sewer service to, or septic system on, the site.
- 335 g. Mitigate material degradation of the level of service of any other utility, and, if applicable,
- 336 adequately provide such utility services to the site.

Comment [c17]: Examples of conditions for mitigation may include any reasonable method of fire hazard avoidance or fire fighting, including, but not limited to: coordination and cooperation with the local fire authorities, site design and layout; building, structure, or other facility design and layout; defensible space; ingress and egress; emergency evacuation; fire fighting facilities; fire flow capacity; fire apparatus access; fire fighting staging; and other related fire hazards mitigation as authorize by local, state, and federal laws.

Comment [c18]: Examples of conditions for mitigation may include coordination and cooperation with the fire and EMS agencies, and compensation for the need for additional fire and EMS presence beyond typical service levels.

Comment [c19]: Examples of conditions for mitigation may include coordination and cooperation with the Sheriff's Office, and compensation for the need for additional Sheriff's Deputy presence beyond typical service levels.

Comment [c20]: Examples of conditions for mitigation may include appropriate design, construction, and location of structures, buildings and facilities.

Comment [c21]: This standard is intended to be the "umbrella" standard to catch what the others do not. Much more difficult to track the outcomes, and the resulting conditions are going to be more difficult to defend without really good findings, but it may be useful when a proposal is presented that other standards do not catch.

Comment [c22]: Examples of conditions for mitigation: this may include provision for, relocation of, or protection of infrastructure or amenities. Mitigation may take into consideration the existing and, if applicable, proposed configuration and size of streets, driveways, driveway and parking lot approaches, parking lots and/or parking spaces, and pedestrian pathways. Mitigation may also consider peak traffic demands, and other applicable infrastructure constraints.

Comment [c23]: Examples of conditions for mitigation may include the provision for infrastructure or amenities for the reduction of vehicle and pedestrian conflicts; the provision of sufficient space for loading and unloading; the provision of sufficient space and access to waste collection facilities; and the provision for additional parking lot standards beyond those required in Section 108-8, including, but not limited to, number of parking spaces, parking space dimensions, parking lot isle dimensions, parking lot isle and driveway connections and configuration, and cross access easements or agreements for adjacent properties.

- 337 h. Mitigate material degradation of the level of service, functionality, capacity, or usability of
 338 the existing open spaces, public features, or recreational amenities in the area, and, if
 339 applicable, adequately provide additional open spaces, public features, or recreational
 340 amenities.
- 341 i. Mitigate any disproportionate demand for government services, generally.
- 342 (3) Standards relating to the environment.
- 343 a. Mitigate detrimental effects on the natural features of the site, and the surrounding affected
 344 areas, if credible evidence of such a detrimental effect is present; including, but not limited
 345 to, rivers and creeks, lakes, ponds, reservoirs, wetlands, drainage ways, ground water
 346 protection, and slopes.
- 347 b. Mitigate detrimental effects on the natural environment of the site, and the surrounding
 348 affected areas, if credible evidence of such a detrimental effect is present; including, but
 349 not limited to, wildlife, air quality, water quality (including erosion control), local natural
 350 resources, natural vegetation (including protection against noxious or invasive species),
 351 and wildland areas.
- 352 (4) Standards relating to the current qualities and characteristics of the surrounding area and
 353 compliance with the intent of the general plan.
- 354 a. Provide buffering, screening, or fencing of the use or site, or provide other landscape
 355 features, sufficient to mitigate the proximity of incompatible uses, objectionable site
 356 features, and disharmony with existing and future land uses in the area.
- 357 b. Provide hours of operation appropriate for the general nature and character of existing land
 358 uses in the area to mitigate conflict or incompatibility with surrounding uses.
- 359 c. Provide reclamation, restoration, clean-up, or beautification of the site as the use evolves,
 360 or as the use is terminated, in order to mitigate aesthetic and nuisance effects.
- 361 d. Mitigate nuisance factors including, but not limited to, light and glare, noise, vibrations,
 362 smoke, dust, dirt, odors, gases, noxious matter, heat, electromagnetic disturbances, and
 363 radiation, if credible evidence of such a nuisance is present.
- 364 e. Mitigate detrimental effects of the use considering the combined effect of it and other main
 365 uses on the property.
- 366 f. To the extent supported by law, mitigate other general detrimental effects in a manner that
 367 sustains the objectives and intentions of the County's general plan, future land use map (or
 368 proposed land use map), and this Land Use Code.
- 369 (5) Standards Relating to Performance.
- 370 a. Mitigate potential noncompliance or poor performance by providing appropriate
 371 performance measures, including, but not limited to, completion or performance bonds,
 372 completion agreements, and development agreements.
- 373 b. Mitigate potential noncompliance or poor performance by requiring regular review or
 374 monitoring of certain specified detrimental effects by an appropriately qualified
 375 professional.
- 376 (6) Standards Generally
- 377 a. Mitigate unsustainable effects on the economy of the surrounding area or County,
 378 generally, if credible evidence of such negative effects is present.
- 379 b. Provide appropriate mitigation of detrimental effects as required in standards found
 380 elsewhere in this Land Use Code in a manner that complies with this Land Use Code, and
 381 any other federal, state, or local regulation, as may be applicable.

Comment [c24]: There can be a lot of subjectivity in this determination. Stick to the facts. Try not to be tempted to deny a permit because it does not comply with your interpretation of this. Try not to use this to overdesign the proposal so much that it is cost prohibitive. Instead, find reasonable ways to help the proposal fit in better. Look to existing design features in the area. Look to the design review standards for help. Strengthen the design review standards if necessary.

Comment [c25]: Rather than denying an application because "it doesn't fit," help it fit by requiring these types of site features.

382 ~~(1)~~(7) Voluntary contributions providing satisfactory compliance with applicable standards.
383 When considering a conditional use the Land Use Authority has discretion to determine
384 satisfactory compliance with any applicable standard, requirement, provision, or restriction of
385 this Chapter if the applicant has voluntarily offered a more desirable alternative to mitigate the
386 reasonably anticipated detrimental effects of the use than those otherwise specified here. The
387 Land Use Authority may require a development agreement to execute the voluntary alternative.

388 **Sec. 108-4-65. - Appeal.**

389 (a) ~~The decision of the planning commission~~The decision of the Land Use Authority may be appealed to
390 the ~~county commission~~Appeal Authority, in accordance with Title 102, Chapter 3 of this Land Use
391 Code.

Comment [c26]: Verify reference.

392 (b) The Board of Adjustment is the Appeal Authority for conditional use permits.

393 ~~A conditional use permit may be revoked by the planning commission upon failure to comply with the~~
394 ~~conditional use permit.~~

Comment [c27]: This is a placeholder until the Appeal Authority section has been re-written. It may change after that.

395 (Ord. of 1956, § 22C-5; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

396 **Sec. 108-4-76. - Permit and improvement guarantee.**

397 (a) Prior to the issuance of a conditional use permit the applicant shall submit the appropriate required
398 letters and/or permits from the appropriate review agencies.

399 (b) Prior to the issuance of a certificate of occupancy permit, a business license or any other permit
400 required by the county, the developer shall deposit funds into an escrow account with the county
401 engineering division for all off-site improvements and on-site landscaping, as may be allowed by law,
402 as per the approved site plan, and for the completion of any ~~un~~incompleted improvements or
403 conditions of approval.

404 (Ord. of 1956, § 22C-6; Ord. No. 4-71; Ord. No. 21-83; Ord. No. 2002-20; Ord. No. 2010-26, 11-16-2010)

405 **Sec. 108-4-87. -- Revocation and Expiration.**

406 (a) A conditional use permit may be revoked by the Land Use Authority upon failure to comply with the
407 applicant's approved proposal, or any applied standard, or applicable requirement, provision,
408 restriction, or condition of approval. Violation of any condition of approval of a conditional use permit
409 shall constitute a violation of this Land Use Code. Rules for revocation are provided in Section 102-
410 4-3.

Comment [c28]: Verify reference.

411 (a)(b) Unless there is substantial action under a conditional use permit within a maximum period of one
412 year of its approval from the ~~planning commission~~Land Use Authority, the conditional use permit
413 shall expire. The ~~planning commission~~Land Use Authority may grant a maximum extension of six
414 months. Upon expiration of any extension of time granted by the ~~planning commission~~Land Use
415 Authority, the approval for the conditional use permit shall expire and become null and void.

416 (Ord. of 1956, § 22C-7; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

417 **Sec. 108-4-98. - Discontinued Abandoned use.**

418 When an approved conditional use has been discontinued and/or abandoned for a period of one
419 year, the conditional use permit becomes null and void. In order to restore the conditional use, a new
420 application shall be filed for review and consideration by the ~~planning commission~~Land Use Authority.

421 (Ord. of 1956, § 22C-8; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

422

Exhibit C: Code Change [Clean] – Conditional Uses

1 Title 101 - GENERAL PROVISIONS

2 ...

3 Sec. 101-1-7. - Definitions.

4 ...

5 Use, conditional. "Conditional use" means a land use that, because of its unique characteristics or
6 potential impact on the county, surrounding neighbors, or adjacent land uses, may not be compatible in
7 some areas or may be compatible only if certain conditions are required that mitigate or eliminate the
8 detrimental impacts.

9 ...

10 Title 102 - ADMINISTRATION

11 ...

12 CHAPTER 4. – PERMITS REQUIRED AND ENFORCEMENT

13

14 Sec. 102-4-1. - Purpose and intent.

15 The purpose of this chapter is to establish the requirements for land use permits from the Planning
16 Division and building permits from the Building Division. This chapter identifies the responsibilities for
17 enforcing the requirements of this Land Use Code.

18 (Ord. of 1956, § 30-1; Ord. No. 33-78; Ord. No. 22-2001; Ord. No. 2009-28)

19 Sec. 102-4-2. - Land use permit required.

20 (a) In order to verify compliance with applicable regulations, all land uses that require a land use permit
21 or conditional use permit by this Land Use Code are prohibited until a land use permit or conditional
22 use permit has received final written approval from the appropriate Land Use Authority.

23 (b) No structure, including agricultural structures, shall be constructed, changed in use, or altered, as
24 regulated by this Land Use Code, until and unless a land use permit or, if applicable, a conditional
25 use permit, has received final written approval from the appropriate Land Use Authority.

26 (c) No application for permits or approvals governed by this Land Use Code shall be approved for any
27 lot or parcel until all unresolved zoning, subdivision, building, business license, nuisance, or other
28 violations on the lot or parcel, or on any parcel included in any manner as part of the application, are
29 resolved, unless approval of the application will resolve all of the existing violations.

30 Sec. 102-4-3. – Land use permit revocation.

31 A land use permit or conditional use permit may be revoked for violation of any part of this Land Use
32 Code related to the specific use or permit in accordance with the following:

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

51 (Ord. of 1956, § 30-4; Ord. No. 33-78; Ord. No. 22-2001; Ord. No. 2009-28)

52 **Sec. 102-4-4. - Code enforcement.**

53 The Planning Director is designated and authorized as the official charged with the enforcement of
54 this Land Use Code.

55 (Ord. of 1956, § 30-5; Ord. No. 33-78; Ord. No. 22-2001; Ord. No. 2009-28)

56 **Sec. 102-4-5. - Building permit required.**

57 Building permits, as specified by the county, are required for any construction, alteration, repair,
58 removal, or occupancy of any structure. Construction shall not be commenced, except after the issuance
59 of a written permit by the County Building Official.

60 (Ord. of 1956, § 30-2; Ord. No. 33-78; Ord. No. 22-2001; Ord. No. 2009-28)

61 **Sec. 102-4-6. - Permits to comply with ordinance.**

62 The Building Official shall not grant a permit for the construction or alteration of any building or
63 structure if such construction or alteration is in violation of any provision of this Land Use Code; nor shall
64 any county official grant any permit or license for the use of any building or land if such use would be in
65 violation of this Land Use Code.

66 (Ord. of 1956, § 30-6; Ord. No. 33-78; Ord. No. 22-2001; Ord. No. 2009-28)

67 **Sec. 102-4-7. - Powers and duties of building official.**

68 It shall be the duty of the building official to inspect or cause to be inspected all setbacks of buildings
69 in the course of construction or repair. The building official shall assist in the enforcement of all provisions
70 of this chapter. The building official shall not issue any permit unless the plans of, and for, the proposed
71 erection, construction, reconstruction, alteration and use fully conform to this Land Use Code.

72 (Ord. of 1956, § 30-7; Ord. No. 33-78; Ord. No. 22-2001; Ord. No. 2009-28)

73 ...

74 **Title 108 - STANDARDS**

75 ...

76 **CHAPTER 4. - CONDITIONAL USES**

77

78 **Sec. 108-4-1. - Purpose and intent.**

79 (a) The purposes of this Chapter are to:

80 (1) provide for the purpose and intent of the respective zones, and to provide for the vision, goals,
81 and objectives of the respective general plans, by specifying general standards that may be
82 applied by the Land Use Authority to a use listed as a conditional use in this Land Use Code;
83 and

84 (2) provide a reasonable process for the application for, and timely review of, a conditional use
85 permit.

86 (b) The intent of providing conditional use regulations is to provide allowance for additional uses in each
87 zone and give the Land Use Authority flexibility in applying reasonable conditions to effectively
88 manage unique characteristics or detrimental effects of those uses, on a case by case basis.
89 Conditions shall be related to the standards of this Chapter, or other applicable requirements of this
90 Land Use Code.

91 (Ord. of 1956, § 22C-1; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

92 **Sec. 108-4-2. - Conditional use permit.**

93 (a) A conditional use permit shall be required for all uses listed as a conditional use in this Land Use
94 Code.

95 (b) In the event a change is anticipated from the originally approved proposal or conditions of the
96 original approval, an amendment to the original conditional use permit shall be required as provided
97 herein.

98 (c) A conditional use permit shall run with the property unless the permit has expired or has been
99 revoked or the use has been abandoned.

100 (Ord. of 1956, § 22C-2; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

101 **Sec. 108-4-3. – Application and review procedure.**

102 Applications for a conditional use permit shall be submitted to the Planning Division.

103 (1) The application shall include the information in the following list. For those applications where
104 no changes are proposed to an existing site or structure, or where the application requirements
105 are unnecessary to demonstrate compliance with applicable ordinances and standards, the
106 application requirements may be modified or consolidated by the Planning Director or designee.

107 a. a completed application form signed by the property owner or certified agent;

108 b. an application fee. The payment of a partial application fee, or the submittal of plans for a
109 pre-submittal review, does not constitute a complete application;

110 c. a written narrative explaining the proposal. The narrative shall include, at a minimum, the
111 following information:

- 112 1. the name of the project;
- 113 2. the name, home address, and, if applicable, business address of the applicant;
- 114 3. as applicable, the name and business address of the project designer or engineer;
- 115 and
- 116 4. a written explanation of how the proposal complies with the applicable standards
- 117 of Section 108-4-5, and those applicable standards of Title 108, Chapter 1, and
- 118 Title 108, Chapter 2; and
- 119 d. a detailed vicinity map. The map shall include, at a minimum, the following information:
- 120 1. the name of the project;
- 121 2. a north arrow;
- 122 3. all significant natural and manmade features and existing structures within 200 feet
- 123 of any portion of the proposed project area;
- 124 4. the property boundaries of the proposal; and
- 125 5. the names and site addresses of adjacent property owners; and
- 126 e. a site plan of the proposal. The site plan shall be designed to provide, at a minimum, the
- 127 following information:
- 128 1. the name of the project;
- 129 2. the name, home, and, if applicable, business address of the applicant;
- 130 3. if applicable, the name and business address of the project designer or engineer;
- 131 4. a scale, which shall be sized appropriately to make the site plan easily and clearly
- 132 legible;
- 133 5. a north arrow pointing to the left or top of the sheet;
- 134 6. the boundary of the site, including any building pad, public and private easements,
- 135 and other areas affected by the proposal;
- 136 7. the existing uses and ownership information for adjacent parcels;
- 137 8. existing zoning;
- 138 9. total acreage of the entire affected property and, if the property is split by zoning,
- 139 the total acreage of property in each zone;
- 140 10. the location and width of existing and proposed roads, driveways, and parking
- 141 areas, as may be applicable;
- 142 11. the location of any existing and proposed manmade features, including, but not
- 143 limited to, bridges, railroad tracks, trails and pathways, structures, and fences;
- 144 12. the existing and, if applicable, proposed culinary water, irrigation water, and
- 145 sanitary sewer or septic infrastructure;
- 146 13. the existing and proposed topographic contours, including, if applicable, any details
- 147 necessary to explain proposed grade changes, fills or excavations, or any other
- 148 earth work, together with any applicable drainage plans, storm water pollution
- 149 prevention plans, and revegetation plans;
- 150 14. the location and type of existing landscaping and vegetation, and proposed
- 151 changes thereto, if any. If applicable, location and type of new landscaping and
- 152 vegetation;
- 153 15. The location of flood plain boundaries, if applicable; and

- 154 16. Any other proposed site improvements showing details and other applicable design
 155 and architectural requirements specified in Title 108, Chapter 1, and Title 108,
 156 Chapter 2; and
- 157 f. culinary water and sanitary sewer or septic verification, as may be applicable for the
 158 specific use. Culinary water and sanitary sewer or septic verification shall include feasibility
 159 letters from the applicable water and sanitary sewer or septic entity or agency;
- 160 g. applicable impact studies or other technical studies that may be necessary to provide
 161 evidence of anticipated detrimental effects of the proposal or evidence of compliance with
 162 the applicable standards, as may be required by the Planning Director or County Engineer;
 163 and
- 164 h. Any additional pertinent information needed to adequately describe the proposal, or
 165 provide evidence of compliance with the applicable standards, as determined by the
 166 Planning Director.
- 167 (2) Application submittal and review.
- 168 a. Review of a conditional use permit application is intended to verify compliance with
 169 applicable ordinances and provide appropriate and reasonable mitigation of anticipated
 170 detrimental effects.
- 171 b. The application review procedure is as follows:
- 172 1. Pre-application meeting. Prior to submission of a complete application, a pre-
 173 application meeting is required to be held with Planning Division staff, in which the
 174 applicant will provide preliminary plans for Planning Division staff to review and
 175 discuss with the applicant. This meeting is intended to provide the applicant with a
 176 better understanding of the conditional use process and requirements in order to
 177 assist with the submission of a complete application.
- 178 2. Complete application submission. Upon assembling a complete application, the
 179 applicant shall submit it for substantive review. Incomplete applications shall not be
 180 accepted. Staff will review the application for completeness. In the event the
 181 application is incomplete, staff will return it to the applicant with a list of
 182 deficiencies.
- 183 3. Referral of the application to reviewers. Upon acceptance of an application,
 184 planning staff shall transmit it to applicable reviewers as may be determined
 185 necessary to verify compliance with the standards of this chapter, or any other
 186 relevant requirements of this Land Use Code.
- 187 4. Reviewer's recommendations. Within a reasonable timeframe, applicable reviewers
 188 shall forward to Planning Division staff reasonable recommendations for conditions
 189 necessary to substantially mitigate the reasonably anticipated detrimental effects of
 190 the proposed use in accordance with applicable standards.
- 191 5. Planning staff review and recommendation to the Land Use Authority. Planning
 192 staff shall review the application, together with any reasonable recommendations
 193 from applicable reviewers, to determine compliance with this Land Use Code.
 194 Planning staff shall assemble a staff recommendation, with conditions and findings,
 195 for the application, then forward the recommendation with the application to the
 196 Land Use Authority for a final decision.
- 197 6. Land Use Authority review and decision. Upon receipt of the application and staff
 198 recommendation the Land Use Authority shall make final decision on whether the
 199 application complies with this Land Use Code, in accordance with the requirements
 200 of Section 108-4-4. Final decisions shall be accompanied by any applicable
 201 conditions and relevant findings.
- 202 7. The Planning Commission is the Land Use Authority for conditional use permits. De
 203 minimis revisions to a previously approved conditional use permit may be approved

204 by the Planning Director provided it can be determined that the changes are slight,
205 inconsequential, and not in violation of any substantive provision of this code. The
206 Planning Director's written approval of a de minimis revision shall be appended to
207 the written decision of the Planning Commission. Revisions that are de minimis
208 shall not require public notice.

209 (Ord. of 1956, § 22C-3; Ord. No. 4-71; Ord. No. 2002-20; Ord. No. 2010-26, 11-16-2010)

210 **Sec. 108-4-4. – Decision requirements.**

- 211 (a) A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to
212 substantially mitigate the reasonably anticipated detrimental effects of the proposed use in
213 accordance with the standards of this chapter, or relevant standards or requirements of any other
214 chapter of this Land Use Code. When considering any of the standards, the Land Use Authority shall
215 consider the reasonably anticipated detrimental effects of the proposed use in the context of current
216 conditions and, to the extent supported by law, the policy recommendations of the applicable general
217 plan.
- 218 (b) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be
219 substantially mitigated by the proposal or the imposition of reasonable conditions to achieve
220 compliance with applicable standards, the conditional use may be denied.

221 (Ord. of 1956, § 22C-4; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

222 **Sec. 108-4-5. – Conditional use standards.**

- 223 (a) The Land Use Authority may apply conditions of approval related to any of the standards of this
224 section, provided that credible evidence exists that:
- 225 (1) the application of the standard is relevant to the use; and
226 (2) the conditions are reasonable and necessary to substantially mitigate detrimental effects of the
227 use as specified in the standard.
- 228 (b) The Land Use Authority shall consider the expertise and experience of applicable reviewers and
229 qualified professionals to help determine credible evidence, relevant standards, and reasonable
230 conditions.
- 231 (c) Conditional use standards are as follows:
- 232 (1) Standards relating to safety for persons and property.
- 233 a. Mitigate injury, loss of life, property damage, or other disproportionate demand for services
234 on applicable fire fighting agencies.
- 235 b. Mitigate injury, loss of life, or other disproportionate demand for services on applicable
236 emergency medical service agencies.
- 237 c. Mitigate injury, loss of life, property damage, criminal activity, the need for added peace
238 keeping activities, or other disproportionate demand for services on the County Sheriff's
239 Office.
- 240 d. Mitigate injury, loss of life, or property damage of any known geologic hazard or flood
241 hazard, if credible evidence of such a detrimental effect is present.
- 242 e. Mitigate the creation of traffic hazards and right-of-way conflicts, including mitigation of
243 traffic hazards caused by:
- 244 1. the location, massing, size, or height of buildings, structures, and other facilities,
245 including signage, fencing, and landscaping;

- 246 2. the frequency of heavy truck traffic to and from the site (i.e. import and export of
 247 materials, deliveries, etc.) to minimize right-of-way conflicts with regular vehicle and
 248 pedestrian traffic.
- 249 f. Substantially mitigate the likelihood that the proposed use or facility may cause bodily
 250 injury or property damage to potential persons or property in the area.
- 251 (2) Standards relating to infrastructure, amenities, and services.
- 252 a. Mitigate undesirable vehicle or pedestrian traffic patterns or volumes.
- 253 b. Mitigate internal vehicle or pedestrian circulation inefficiencies onsite, and provide for
 254 adequate onsite parking given the unique specificities of the proposed use or the proposed
 255 site plan.
- 256 c. Mitigate material degradation of the level of service of any street.
- 257 d. Mitigate material degradation of the level of service of any storm water drainage facility or
 258 infrastructure, and adequately provide for storm water drainage from the site.
- 259 e. Mitigate material degradation of the level of service of any culinary and irrigation water
 260 facility or infrastructure, and, if applicable, provide adequate culinary and irrigation water
 261 service to the site. To help determine adequacy of culinary water provisions the Land Use
 262 Authority may require, but are not limited to, the following as a condition of approval of the
 263 conditional use permit:
- 264 1. written verification that the culinary water source of any new public water system can
 265 meet the requirements of the Utah Division of Drinking Water and/or the Weber
 266 Morgan Health Department; or
- 267 2. a capacity assessment letter from the Utah Division of Drinking Water for additional
 268 connections to any existing public water system; or
- 269 3. written verification that the source of any non-public well providing culinary water for
 270 the use meets the requirements of the Weber Morgan Health Department. This
 271 verification shall be based on a test of a new or existing well.
- 272 f. Mitigate material degradation of the level of service of any sanitary sewer service, and, if
 273 applicable, provide adequate sanitary sewer service to, or septic system on, the site.
- 274 g. Mitigate material degradation of the level of service of any other utility, and, if applicable,
 275 adequately provide such utility services to the site.
- 276 h. Mitigate material degradation of the level of service, functionality, capacity, or usability of
 277 the existing open spaces, public features, or recreational amenities in the area, and, if
 278 applicable, adequately provide additional open spaces, public features, or recreational
 279 amenities.
- 280 i. Mitigate any disproportionate demand for government services, generally.
- 281 (3) Standards relating to the environment.
- 282 a. Mitigate detrimental effects on the natural features of the site, and the surrounding affected
 283 areas, if credible evidence of such a detrimental effect is present; including, but not limited
 284 to, rivers and creeks, lakes, ponds, reservoirs, wetlands, drainage ways, ground water
 285 protection, and slopes.
- 286 b. Mitigate detrimental effects on the natural environment of the site, and the surrounding
 287 affected areas, if credible evidence of such a detrimental effect is present; including, but
 288 not limited to, wildlife, air quality, water quality (including erosion control), local natural
 289 resources, natural vegetation (including protection against noxious or invasive species),
 290 and wildland areas.

- 291 (4) Standards relating to the current qualities and characteristics of the surrounding area and
 292 compliance with the intent of the general plan.
- 293 a. Provide buffering, screening, or fencing of the use or site, or provide other landscape
 294 features, sufficient to mitigate the proximity of incompatible uses, objectionable site
 295 features, and disharmony with existing and future land uses in the area.
- 296 b. Provide hours of operation appropriate for the general nature and character of existing land
 297 uses in the area to mitigate conflict or incompatibility with surrounding uses.
- 298 c. Provide reclamation, restoration, clean-up, or beautification of the site as the use evolves,
 299 or as the use is terminated, in order to mitigate aesthetic and nuisance effects.
- 300 d. Mitigate nuisance factors including, but not limited to, light and glare, noise, vibrations,
 301 smoke, dust, dirt, odors, gases, noxious matter, heat, electromagnetic disturbances, and
 302 radiation, if credible evidence of such a nuisance is present.
- 303 e. Mitigate detrimental effects of the use considering the combined effect of it and other main
 304 uses on the property.
- 305 f. To the extent supported by law, mitigate other general detrimental effects in a manner that
 306 sustains the objectives and intentions of the County's general plan, future land use map (or
 307 proposed land use map), and this Land Use Code.
- 308 (5) Standards Relating to Performance.
- 309 a. Mitigate potential noncompliance or poor performance by providing appropriate
 310 performance measures, including, but not limited to, completion or performance bonds,
 311 completion agreements, and development agreements.
- 312 b. Mitigate potential noncompliance or poor performance by requiring regular review or
 313 monitoring of certain specified detrimental effects by an appropriately qualified
 314 professional.
- 315 (6) Standards Generally
- 316 a. Mitigate unsustainable effects on the economy of the surrounding area or County,
 317 generally, if credible evidence of such negative effects is present.
- 318 b. Provide appropriate mitigation of detrimental effects as required in standards found
 319 elsewhere in this Land Use Code in a manner that complies with this Land Use Code, and
 320 any other federal, state, or local regulation, as may be applicable.
- 321 (7) Voluntary contributions providing satisfactory compliance with applicable standards. When
 322 considering a conditional use the Land Use Authority has discretion to determine satisfactory
 323 compliance with any applicable standard, requirement, provision, or restriction of this Chapter if
 324 the applicant has voluntarily offered a more desirable alternative to mitigate the reasonably
 325 anticipated detrimental effects of the use than those otherwise specified here. The Land Use
 326 Authority may require a development agreement to execute the voluntary alternative.

327 **Sec. 108-4-6. - Appeal.**

- 328 (a) The decision of the Land Use Authority may be appealed to the Appeal Authority, in accordance with
 329 Title 102, Chapter 3 of this Land Use Code.
- 330 (b) The Board of Adjustment is the Appeal Authority for conditional use permits.

331 (Ord. of 1956, § 22C-5; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

332 **Sec. 108-4-7. - Permit and improvement guarantee.**

- 333 (a) Prior to the issuance of a conditional use permit the applicant shall submit the appropriate required
 334 letters and/or permits from the appropriate review agencies.

335 (b) Prior to the issuance of a certificate of occupancy permit, a business license or any other permit
336 required by the county, the developer shall deposit funds into an escrow account with the county
337 engineering division for all off-site improvements and on-site landscaping, as may be allowed by law,
338 as per the approved site plan, and for the completion of any incomplete improvements or conditions
339 of approval.

340 (Ord. of 1956, § 22C-6; Ord. No. 4-71; Ord. No. 21-83; Ord. No. 2002-20; Ord. No. 2010-26, 11-16-2010)

341 **Sec. 108-4-8. – Revocation and expiration.**

342 (a) A conditional use permit may be revoked by the Land Use Authority upon failure to comply with the
343 applicant's approved proposal, or any applied standard, or applicable requirement, provision,
344 restriction, or condition of approval. Violation of any condition of approval of a conditional use permit
345 shall constitute a violation of this Land Use Code. Rules for revocation are provided in Section 102-
346 4-3.

347 (b) Unless there is substantial action under a conditional use permit within a maximum period of one
348 year of its approval from the Land Use Authority, the conditional use permit shall expire. The Land
349 Use Authority may grant a maximum extension of six months. Upon expiration of any extension of
350 time granted by the Land Use Authority, the approval for the conditional use permit shall expire and
351 become null and void.

352 (Ord. of 1956, § 22C-7; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

353 **Sec. 108-4-9. - Abandoned use.**

354 When an approved conditional use has been discontinued and/or abandoned for a period of one
355 year, the conditional use permit becomes null and void. In order to restore the conditional use, a new
356 application shall be filed for review and consideration by the Land Use Authority.

357 (Ord. of 1956, § 22C-8; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

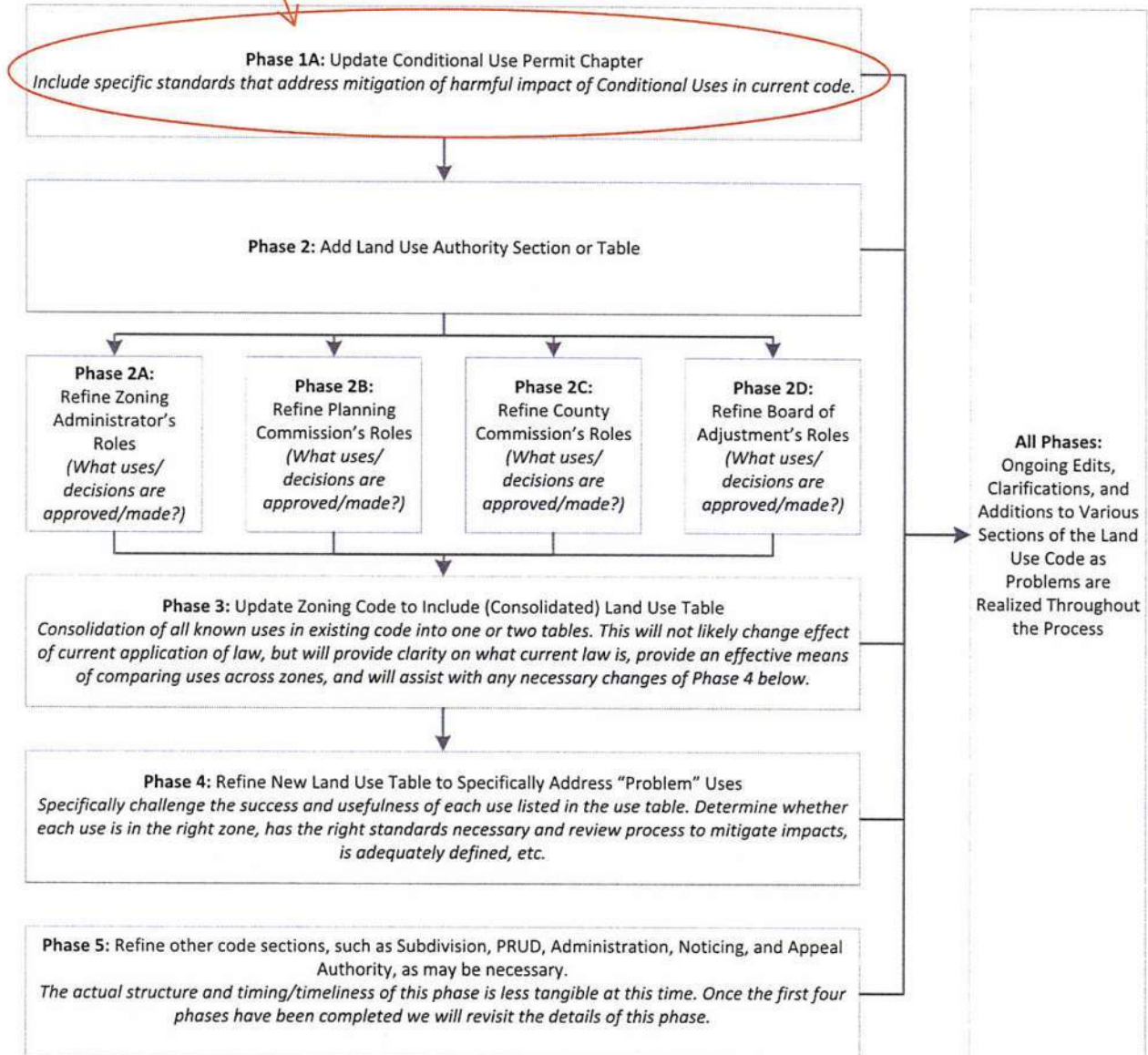
358

Exhibit D: Land Use Code Revision Process Flowchart

Weber County Land Use Code Revision Process Workflow

This flowchart is intended to illustrate the intended course of the revision process. It is not an absolute plan, and deviations may occur as more information is gathered, but it will provide the Planning Commission with an idea where we are in the process at any given time. Staff will refer to this structure regularly.

The proposed edits fall here



Conditional Use Permit Deliberation Method

This simple exercise outlines the four-step deliberation process for approving a conditional use permit. The Planning Commission may find it useful to help establish a consistent, predictable, efficient, and defensible method for conditional use decisions.

Note: CUP denial should be rare. Discretion is limited. Pursuant to UCA §17-27a-508 "an applicant is entitled to approval of a land use application if the application conforms to [the County's] requirements..." In other words, if it is listed in the code, it is allowed. With every conditional use review the Land Use Authority should take note of whether the allowance of the use in the zone is conducive to the intent of the zone and the intent of the General Plan. If it is not, then the code and/or plan should be changed. This provides for the continual evaluation of the codes and general plan – as is the prerogative of the Planning Commission under UCA §17-27a-302.

Step one: Identify the use to be evaluated. The use must be listed as a conditional use in the zone in which the use is located. The applicant will have likely already specified the use; however, the Land Use Authority should be familiar with the uses permitted in each zone. Some uses do not fit within the tightly defined parameters of what is listed in the code. Some uses may fall into multiple categories of regulation. It is up to the Land Use Authority to find that the request aligns with the intent of the code and is reviewed in accordance with the applicable process and applicable standards.

Use: _____

Step two: Identify the potential detrimental effects of the use. General detrimental effects of the use should be spelled out in the land use code (i.e. , vibration, light, dust, smoke, noise, etc.). More specific effects may be listed as long as the land use code enables the Land Use Authority to regulate them.

Detrimental Effects:

Step three: Identify the reasonable conditions that can substantially mitigate the detrimental effects. Keep in mind, "substantial mitigation" is not "total elimination." General conditions should be listed in the land use code, but the Land Use Authority may formulate more specific requirements for the conditional use permit as long as they address standards of the land use code.

Reasonable Conditions:

Step Four: Provide findings. You have already found that there are detrimental effects. You have also found reasonable conditions to apply that will substantially mitigate the effects. These are all findings. Other findings to help support your decision beyond these are findings about the use's compliance with the land use code, whether the use will protect the general health, safety, and welfare of the County's residents, and how the use complies with the vision, goals and objectives of the General Plan. Your findings are intended to provide clear and defensible support for your decision.

qualify as a home occupation or another business use listed as a permitted or conditionally permitted use in the zone. To qualify as a home occupation current code dictates that all business activities must be 100 percent confined to the interior of the residence. There is no allowance for any business activities in yard area or in accessory buildings.

The applicant's originally requested¹ to change the listed conditional uses in the A-1 zone to allow private recreational parks for commercial gain. Upon staff consultation, it was mutually determined that the ordinance change may be better suited for the Home Occupation code, which would better provide for the intent of their request.

Policy Analysis

Policy considerations, generally. This proposed ordinance change is comprised of both staff recommended changes and applicant requested changes to the home occupation code. If at any time the staff recommended changes start to affect the expediency of a decision on the applicant's request the Planning Commission should consider separating the issues in order to get the applicants a quicker answer. For this purpose, the policy analysis below helps provide such a separation.

It is currently possible for athletic instruction to occur within a residence, provided the home owner can comply with requirements and standards of the home occupation code. These kinds of activities are limited to 400 square feet of the home (smaller if the main floor area is less than 1600 square feet) and may not be conducted outside. This proposed ordinance change has a non inconsequential policy shift to allow instructional activities outside the residence, in yard area and in accessory buildings. Under current laws, a person desiring to teach swimming lesson in their private pool, tennis lessons on their backyard tennis court, or, in the case of the applicant, basketball lessons in their accessory building, is not allowed to do so if it is done for remuneration.

Originally, staff recommended to limit the outdoor activities to "athletic instruction," however, both Planning Commissions saw value in extending the right to any instructional activities, with examples ranging from individual art lessons to group instruction. Upon evaluation of allowing "any" kind of outdoor instruction, staff felt the need to provide some additional limiting language so as not to create a loop hole in restricting industrial and commercial activities from residential areas. Those additions are better explained below.

Best management practices. Staff reached out to other counties to see who else allows home occupation activities to occur outside the main home. All had limitations and certain processes, but it appears that Cache County, Box Elder County, Morgan County, and Summit County allow some yard area to be used for a home occupation. Davis County and Wasatch County do not. We did not hear back from Salt Lake County.

Box Elder, Morgan, and Summit all have a different process for outdoor activities that Weber does not. For each of them, once a home occupation reaches an ordinance specified threshold (for example, when clientele are accessing the home, or when activities are conducted in a garage or accessory building) the permit review becomes subject to greater scrutiny. Morgan and Box Elder require conditional use permit review. Summit requires a higher impact review.

In Weber County, home occupations are permitted uses. No heightened review is required for any type. Given that current regulations completely restrict any home occupation activity to the interior of the home there does not seem to be a need for any heightened review. The Planning Commission should be aware of this when adding allowances. Staff are not recommending any change in review process/requirements with this new proposal; however, because this is a big policy shift, we recommend carefully monitoring how these uses evolve in order to determine whether additional review standards/processes are necessary.

Review of the proposed ordinance. The changes presented in the proposed ordinance generally fall into three categories: applicant requested changes, general clarifications, and missing provisions or necessary changes.

Applicant requested changes. Together, with the certain home occupations being added to the list of prohibited home occupation in §108-13-2(b), the modified standards in §108-13-2(d)(3) and (13) provide for instructional activities in yard space or in accessory buildings. The standards of §108-13-2(d)(3) are intended to keep the instruction restricted to personal or group lessons that do not involve heavy commercial or industrial activities, and

¹ See Exhibit E for a complete review of the application and supplemental correspondence with the applicant.

§108-13-2(13) limits the number of people that can be at the home occupation at any one time, which will help keep the instructional activity from becoming an incompatible nonresidential use. To further ensure that outdoor activities maintains a residential character, noise and lighting standards have been added in §108-13-2(d)(6) and (7).²

General clarifications. The general clarifications you will see throughout. They are being provided to clarify and supplement current regulations in a manner that compliments the new substantive changes.

Missing provisions or necessary changes. The current code gives a list of examples of home occupations that are prohibited, and a list of examples of home occupations that are permitted. These lists of examples do not work when trying to determine whether a use that is not listed is permitted or prohibited. Typically a home occupation code will specifically list prohibited home occupations, and leave the permitted home occupations open ended, but regulated by requirements and standards. This proposal makes this change in §108-13-2(b). Some of the new standards are derived from the current list of examples of permitted home occupations. The Planning Commission should review the list of proposed prohibited home occupations to determine whether it is sufficiently complete. This list was derived after review of other jurisdiction's home occupation codes.

The current code jumbles application and procedural requirements into the same list of 'required conditions.' This proposal separates them into two separate sections: § 108-13-2(c) Requirements; and § 108-13-2(d) Standards.

The current code lists parking requirements three different times in three different locations. The proposal consolidates them into one standard, § 108-13-2(d)(10). This section loosens the parking requirements for home occupations that deal with non-driver aged children. It also provides a new standard regarding truck traffic, wherein trucks over a certain size must be provided off street loading and unloading areas. The current code is silent on this subject.

And finally, the proposal references the revocation process that is proposed with the conditional use code rewrite. In the event this proposal gets adopted prior to that proposal then that section will need to be advanced with this proposal instead.

Conformance to the General Plan

Generally, land use code changes should be vetted through the filter of policy recommendation of the applicable general plan. There is somewhat vague but general support for this change in the current general plans.

The West Central Weber General Plan vision statement indicates a desire for more community services³. It also explains that two out of seven key issues that were considered going into the plan were "developed ... recreation facilities," and provisions for "neighborhood commercial services."⁴ While the specificity of the rest of the plan does not detail provisions for home occupations, it may be determined by the Western Weber Planning Commission that the proposed changes are generally supported by these statements.

The Ogden Valley General Plan neither specifically opposes nor supports the proposed changes. It does contain a general goal to recognize and respect private property rights, with an objective to "engage creating zoning solutions that protect private property rights while ensuring that development is compatible with the valley's character."⁵ The Ogden Valley Planning Commission should determine whether this proposal complies with this statement, or other relevant sections of the general plan.

Conditions of Approval

Not Applicable

Past Action on this Item

The Western Weber Planning Commission heard this item in public hearing on July 14, 2015. They recommended approval of the ordinance with one requested change. They were hesitant to restrict the instruction conducted

² See Exhibit F to review supplemental information about noise and lighting.

³ West Central Weber General Plan (2003), pg 1-6.

⁴ West Central Weber General Plan (2003), pg 2-1.

⁵ Ogden Valley General Plan (1998), pg 7.

outdoors or in accessory buildings to three acre lots or greater. They requested that section 108-13-2(d)(13) be modified in a manner that restricts instructional activities conducted outdoors or in accessory buildings to the lots that comply with the minimum area requirement of the zone. This will allow the use on smaller lots in the smaller zone. This will prohibit the use on nonconforming lots and in most cluster subdivisions, and in PRUD's. The Ogden Valley Planning Commission will need to consider the change and determine whether their recommendation will favor or reject it. Staff will send both recommendations to the County Commission for a final decision.

Noticing Compliance

A hearing for this item before the Planning Commission has been posted for public notice in compliance with UCA §17-27a-205 and UCA §17-27a-502 in the following manners:

- Posted on the County's Official Website
- Posted on the Utah Public Notice Website
- Published in a local newspaper

Staff Recommendation

Staff recommends approval of the text included as Exhibit B and Exhibit C with the following findings:

1. The changes are necessary to enhance certain property rights.
2. The changes are necessary to provide clarity and consistency in the land use code.
3. The clarification will provide for a more efficient administration of code.
4. The changes comply with the intent of the land use code.
5. The changes are generally supported by the vision statements and goals of both of the County's general plans.
6. The changes are not found to be detrimental to the health, safety, and welfare of County residents.

The Planning Commission's decision should be made as a recommendation to the County Commission.

Exhibits

- A. Summary, List, and Key to Proposed Changes.
- B. Code Change [Redlines] – Home Occupation Code.
- C. Code Change [Clean] – Home Occupation Code.
- D. Land Use Code Revision Process Flowchart.
- E. Application to change the Land Use Code.
- F. Supplemental information regarding truck sizes, decibel levels, and foot-candles.

Exhibit A: Summary, list, and key to proposed changes

The following code changes are being proposed to clarify and supplement existing codes regarding home occupations, and to provide for instructional activities outdoors or in accessory buildings.

This change addresses the following code sections:

§ 108-13: Home Occupation; Short Term Vendors; Temporary Outdoor Sales; Farmer's Markets

Key to reading track changes:

Three periods (...) indicates that there are codes sections that have been left out of the proposed changes. These code sections will remain unchanged.

Language that has been added is shown in blue underline

~~Language that has been moved to a new location is shown in green double strikeout~~

~~Language that has been deleted is shown in red strikeout~~

Language that has been moved from an old location is shown in green double underline

Exhibit B: Code Change [Redlines] – Home Occupation Code

1 CHAPTER 13. - HOME OCCUPATION; SHORT TERM VENDORS; TEMPORARY
2 OUTDOOR SALES; FARMER'S MARKETS
3

4 FOOTNOTE(S):

5 --- (1) ---

6 **Editor's note**—This chapter originally pertained solely to home occupations and was derived from Ord. of
7 1956, chapter 34. It was replaced in its entirety by Ord. No. 2011-17, passed 10-11-2011.

8 **Sec. 108-13-1. - Purpose and intent.**

9 (a) The purpose and intent of this chapter is to allow persons residing in dwellings in zones in which
10 home occupations are permitted ~~in residential, forest, and agricultural zones,~~ to provide a service,
11 operate certain kinds of small businesses, or maintain a professional, or business office while not
12 changing the character of the neighborhood.

13 (b) This chapter also addresses short term vendors, temporary outdoor sales, and farmers markets.

14 (Ord. No. 2011-17, § 1(34-1), 10-11-2011)

15 **Sec. 108-13-2. - Home occupations.**

16 (a) Use regulations. Unless otherwise prohibited herein, a home occupations ~~are is allowed in~~
17 specified zones as specified in respective zones in accordance with the regulations and restrictions of
18 this ordinance, provided it maintains compliance with the requirements and standards listed in this
19 chapter.

Comment [c1]: Marked for future change:
Reference land use table here.

20 (b) The following uses are ~~not allowed prohibited~~ as home occupations, ~~and~~:

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Numbering Style: a, b, c, ... + Start at: 1 +
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0.3", Tab stops: Not at 1"

- 21 (1) tanning salons;
- 22 (2) and body piercing, body art, or tattoo parlors;
- 23 (3) clinic or hospital;
- 24 (4) animal and veterinary clinic;
- 25 (5) restaurant;
- 26 (6) auto, truck, or recreational vehicle repair or sales;
- 27 (7) ambulance service; or
- 28 (8) Sexually oriented business.

- 29 ~~(1) The following uses are examples of allowable home occupations:~~
- 30 ~~(2) Barber with not more than 2 stations on the premises.~~
- 31 ~~(3) Business office to include book keeping and phone calls.~~
- 32 ~~(4) Child day care of not more than eight children, including care giver's children under six years of~~
33 ~~age.~~
- 34 ~~(5) Computer information services.~~
- 35 ~~(6) Group instruction or motivational meetings as a forum for sales presentations held not more~~
36 ~~than once every month.~~

Comment [c2]: Remove the list of examples and
rely on impact standards.

- 37 ~~(7) Massage therapy salons.~~
- 38 ~~(8) Musical instruction.~~
- 39 ~~(9) Nail salons.~~
- 40 ~~(10) Phone order or mail order services.~~
- 41 ~~(b)(c) Requirements~~ Required conditions. A home occupation ~~must~~ shall ~~meet~~ comply with all of the
- 42 following ~~conditions and~~ requirements:
- 43 ~~(1) An application for a~~ land use permit ~~with a site plan depicting the site boundaries and relevant~~
- 44 ~~buildings or facilities onsite~~ ~~is~~ shall be required in order to verify zoning requirements, ~~and~~
- 45 ~~setbacks.~~
- 46 ~~(1)(2) The property owner's written authorization shall be submitted as part of the application for~~
- 47 ~~the home occupation.~~
- 48 ~~(3) The home occupation shall obtain an annual business license.~~
- 49 ~~(e)(d) Standards.~~ A home occupation shall comply with the following standards:
- 50 ~~(1) A home occupation shall be conducted by the resident(s) who reside on the premises. Up to two~~
- 51 ~~additional persons may be employed by the home occupation provided the residence is on a lot~~
- 52 ~~with a minimum of one acre in area.~~
- 53 ~~(1) A home occupation may be carried on in a dwelling unit by the resident(s) who actually reside~~
- 54 ~~on the premises; except that two non-resident employees may be allowed having complied with~~
- 55 ~~the following standards:~~
- 56 ~~a. The minimum lot size shall be one acre.~~
- 57 ~~b. Parking standards will comply with chapter 24 the parking ordinance for residential~~
- 58 ~~dwellings and in addition shall require one parking space for each non-resident employee~~
- 59 ~~and one for each visiting clientele.~~
- 60 ~~(2) The home occupation shall retain the general character and appearance of a residential~~
- 61 ~~dwelling and not change the general character of the neighborhood except for approved~~
- 62 ~~signage and vehicle parking.~~
- 63 ~~(3) Except as specified herein, the home occupation shall only be carried on inside a dwelling unit.~~
- 64 ~~The home occupation shall not use any space in an attached or unattached garage, accessory~~
- 65 ~~building, yard, or any space on the premises outside of the dwelling. This does not apply for the~~
- 66 ~~following:~~
- 67 ~~a. A child day care or preschool, or an adult day care may use outdoor facilities for outdoor~~
- 68 ~~recreation or leisure.~~
- 69 ~~b. Instructional activities may be conducted outdoors or in an accessory building provided that~~
- 70 ~~the instruction is limited to lessons and lesson-related equipment, materials, or objects in~~
- 71 ~~such a manner that maintains compliance with 108-13-2(d)(2). Instructional activities~~
- 72 ~~conducted outdoors or in an accessory building shall not involve any of the following:~~
- 73 ~~1. manufacturing, industrial processes, or the use of heavy equipment or machinery;~~
- 74 ~~2. commercial scale assembly or creation of goods or materials;~~
- 75 ~~3. commercial scale construction or contractor activities; or~~
- 76 ~~4. outdoor storage.~~
- 77 ~~(i) —~~
- 78 ~~(4) The extent of a H~~home occupations shall be ~~allowed provided that the home occupation is~~
- 79 ~~limited in extent,~~ incidental and secondary to the use of the ~~dwelling unit~~property for residential

Comment [c3]: Verify reference

80 purposes, ~~and~~. The part of the residence occupied by the home occupation shall not be more
81 than 500 square feet or 25 percent, whichever is less, of the total floor area of the home.

Comment [c4]: Requested by OVPC

82 (5) The home occupation shall ~~does~~ not substantially increase the demand for public services in
83 excess of those usually and customarily provided for residential uses. It shall not substantially
84 increase foot and vehicular traffic, parking, noises, lighting, vibration, smoke, ~~dust or airborne~~
85 ~~particulate matter, refuse, or anything else~~ that is uncommon to the established character of the
86 neighborhood to such a degree as to constitute ~~an annoyance~~ a nuisance to the residents of the
87 immediate area.

88 (6) The home occupation shall not create noise in excess of 60 decibels over ambient noise levels,
89 as measured from the property line.

Comment [c5]: Requested by OVPC

90 (2)(7) Outdoor lighting used for the home occupation shall be downward directional and one
91 hundred percent shielded from view from adjacent properties. Reflected light resulting from
92 lighting used for the home occupation shall not be in excess of two foot-candles of illumination
93 over ambient light levels, when measured at the property line.

Comment [c6]: Borrowed from 108-16-6

94 (3) ~~The home occupation shall not occupy more than 400 square feet or 25 percent, whichever is~~
95 ~~less, of the ground floor area of the home. This does not apply for child day care.~~

96 a. ~~The home occupation shall not use any space in an attached or unattached garage,~~
97 ~~accessory building, yard or any space on the premises outside of the dwelling. Child day~~
98 ~~care may have an outdoor yard space.~~

99 (4) ~~The home occupation must obtain an annual business license.~~

100 (5)(8) The home occupation shall not be open to the public at times earlier than 8:00 a.m. or
101 later than 9:00 p.m. The hours of operation for child day care shall not begin any earlier than
102 6:00 a.m., or operate later than 10:00 p.m. seven days a week.

103 (6)(9) Home occupations with visiting clientele will be subject to the following standards:

104 a. ~~Parking standards will comply with chapter 24 the parking ordinance for residential~~
105 ~~dwellings and in addition shall require one parking space for each visiting clientele.~~

106 b.a. No more than one home occupation with visiting clientele shall be permitted ~~within any~~
107 ~~single dwelling on any property.~~

108 e.b. No home occupation with visiting clientele shall be allowed in multi-family dwelling units
109 consisting of four units or more.

110 (10) Home occupations shall provide adequate off-street parking for residential dwellings, as
111 specified in ~~Title 108, Chapter 8 24 of the Weber County Zoning Ordinance~~ of this Land Use
112 Code, and in compliance with the following:-

113 a. One parking space shall be required for each driver-age patron or clientele, or one space
114 per two nondriver-age patrons or clientele.

115 b. One parking space shall be required for each non-resident person employed by the home
116 occupation.

117 d.c. Delivery or pickup in a 14,001 pound or greater truck (Class 4 GVWR or greater, pursuant
118 to 49 CFR 565.15), except for package delivery service at times and in intervals typical for
119 a normal residential use, shall be limited to one delivery or pickup per week between the
120 hours of 8:00 am and 5:00 pm, Monday through Friday. A loading and unloading area,
121 adequately sized to accommodate the type of truck and the size of the delivery or pickup,
122 shall be provided on the site. No loading or unloading shall be permitted in the right-of-way.

123 (11) There shall be no storage or parking on the premises or on the adjacent streets in the vicinity of
124 the premises of tractor trailers, semi-trucks, or other heavy equipment used ~~for~~ in an off-premise
125 business for which the dwelling is being used as a home occupation office except that not more
126 than one 14,000 pound or less truck (Class 3 GVWR or less, pursuant to 49 CFR 565.15) truck

127 | ~~of one-ton capacity or less~~ may be parked on premise during off work hours at night. A work
128 | trailer up to 22 feet in length may be parked at night as part of the home occupation business.
129 | All trucks and trailers used as part of the home occupation business shall be licensed and
130 | registered, and parked in accordance with Title 108, Chapter 8 of this Land Use Code~~chapter~~
131 | ~~24 of the Weber County Zoning Ordinance.~~

132 | (12) Barber or beautician services shall be limited to two stations per residence.

133 | ~~(7)~~

134 | (13) Child day care or preschool, adult day care, or instructional activities, shall be limited to eight
135 | pupils or participants at any one time. Any instructional activity, except child day care or
136 | preschool, or adult day care, that is conducted outdoors or in an accessory building shall require
137 | a minimum lot size of three acres. Instructional activities shall not include recitals, competitions,
138 | tournaments, shows or performances that may draw spectators.

139 | ~~(8) The home occupation approval may be revoked by the planning commission if the home~~
140 | ~~occupation does not remain in compliance with this chapter.~~

141 | ~~(9) The property owner's written authorization shall be submitted as part of the application for home~~
142 | ~~occupation.~~

143 | ~~(10)~~(14) The home occupation shall maintain compliance with all applicable local, state, and
144 | federal regulations. Home occupations that require bodily contact with patrons or equipment
145 | that create a potential for contamination between residents and clients are not allowed, e.g.,
146 | tanning salons and tattoo parlors.

147 | (e) Home occupation sign~~Signs~~. One flat sign or name plate not exceeding two square feet attached to
148 | the house or mail box may be permitted. A land use permit is required for the sign. Any modification
149 | made to the permitted sign requires a new land use permit. No freestanding or banner signs shall be
150 | permitted.

151 | (f) Inspections. Inspection during reasonable hours by county officials may occur as necessary to
152 | assure compliance with these regulations.

153 | ~~(d)~~(g) Revocation. A home occupation approval may be revoked pursuant to Section 102-4-3.

154 | (Ord. No. 2011-17, § 1(34-2), 10-11-2011)

155 | ...

Comment [c7]: Requested by the WWPC

Comment [c8]: OVPC Combined instructional activities with this section.
Also eliminated 'group instruction.'

Comment [c9]: Moved to prohibited uses.

Comment [c10]: Verify that the revocation process proposed in the conditional use ordinance changes gets adopted before this, otherwise, include them with this ordinance.

Exhibit C: Code Change [Clean] – Home Occupation Code

1 CHAPTER 13. - HOME OCCUPATION; SHORT TERM VENDORS; TEMPORARY 2 OUTDOOR SALES; FARMER'S MARKETS 3

4 FOOTNOTE(S):

5 --- (1) ---

6 **Editor's note**—This chapter originally pertained solely to home occupations and was derived from Ord. of
7 1956, chapter 34. It was replaced in its entirety by Ord. No. 2011-17, passed 10-11-2011.

8 **Sec. 108-13-1. - Purpose and intent.**

9 (a) The purpose and intent of this chapter is to allow persons residing in dwellings in zones in which
10 home occupations are permitted to provide a service, operate certain kinds of small businesses, or
11 maintain a professional, or business office while not changing the character of the neighborhood.

12 (b) This chapter also addresses short term vendors, temporary outdoor sales, and farmers markets.

13 (Ord. No. 2011-17, § 1(34-1), 10-11-2011)

14 **Sec. 108-13-2. - Home occupations.**

15 (a) Use regulations. Unless otherwise prohibited herein, a home occupation is allowed as specified in
16 respective zones provided it maintains compliance with the requirements and standards listed in this
17 chapter.

18 (b) The following uses are prohibited as home occupations:

- 19 (1) tanning salons;
- 20 (2) body piercing, body art, or tattoo parlor;
- 21 (3) clinic or hospital;
- 22 (4) animal and veterinary clinic;
- 23 (5) restaurant;
- 24 (6) auto, truck, or recreational vehicle repair or sales;
- 25 (7) ambulance service; or
- 26 (8) Sexually oriented business.

27 (c) Requirements. A home occupation shall comply with the following requirements:

- 28 (1) An application for a land use permit with a site plan depicting the site boundaries and relevant
29 buildings or facilities onsite shall be required in order to verify zoning requirements.
- 30 (2) The property owner's written authorization shall be submitted as part of the application for the
31 home occupation.
- 32 (3) The home occupation shall obtain an annual business license.

33 (d) Standards. A home occupation shall comply with the following standards:

- 34 (1) A home occupation shall be conducted by the resident(s) who reside on the premises. Up to two
35 additional persons may be employed by the home occupation provided the residence is on a lot
36 with a minimum of one acre in area.

- 37 (2) The home occupation shall retain the general character and appearance of a residential
38 dwelling and not change the general character of the neighborhood except for approved
39 signage and vehicle parking.
- 40 (3) Except as specified herein, the home occupation shall only be carried on inside a dwelling unit.
41 The home occupation shall not use any space in an attached or unattached garage, accessory
42 building, yard, or any space on the premises outside of the dwelling. This does not apply for the
43 following:
- 44 a. A child day care or preschool, or an adult day care may use outdoor facilities for outdoor
45 recreation or leisure.
- 46 b. Instructional activities may be conducted outdoors or in an accessory building provided that
47 the instruction is limited to lessons and lesson-related equipment, materials, or objects in
48 such a manner that maintains compliance with 108-13-2(d)(2). Instructional activities
49 conducted outdoors or in an accessory building shall not involve any of the following:
- 50 1. manufacturing, industrial processes, or the use of heavy equipment or machinery;
51 2. commercial scale assembly or creation of goods or materials;
52 3. commercial scale construction or contractor activities; or
53 4. outdoor storage.
- 54 (4) The extent of a home occupation shall be incidental and secondary to the use of the property for
55 residential purposes. The part of the residence occupied by the home occupation shall not be
56 more than 500 square feet or 25 percent, whichever is less, of the total floor area of the home.
- 57 (5) The home occupation shall not substantially increase the demand for public services in excess
58 of those usually and customarily provided for residential uses. It shall not substantially increase
59 foot and vehicular traffic, parking, noises, lighting, vibration, smoke, dust or airborne particulate
60 matter, refuse, or anything else that is uncommon to the established character of the
61 neighborhood to such a degree as to constitute a nuisance to the residents of the immediate
62 area.
- 63 (6) The home occupation shall not create noise in excess of 60 decibels over ambient noise levels,
64 as measured from the property line.
- 65 (7) Outdoor lighting used for the home occupation shall be downward directional and one hundred
66 percent shielded from view from adjacent properties. Reflected light resulting from lighting used
67 for the home occupation shall not be in excess of two foot-candles of illumination over ambient
68 light levels, when measured at the property line.
- 69 (8) The home occupation shall not be open to the public at times earlier than 8:00 a.m. or later than
70 9:00 p.m. The hours of operation for child day care shall not begin any earlier than 6:00 a.m., or
71 operate later than 10:00 p.m. seven days a week.
- 72 (9) Home occupations with visiting clientele will be subject to the following standards:
- 73 a. No more than one home occupation with visiting clientele shall be permitted on any
74 property.
- 75 b. No home occupation with visiting clientele shall be allowed in multi-family dwelling units
76 consisting of four units or more.
- 77 (10) Home occupations shall provide adequate off-street parking for residential dwellings, as
78 specified in Title 108, Chapter 8 of this Land Use Code, and in compliance with the following:
- 79 a. One parking space shall be required for each driver-age patron or clientele, or one space
80 per two nondriver-age patrons or clientele.
- 81 b. One parking space shall be required for each non-resident person employed by the home
82 occupation.

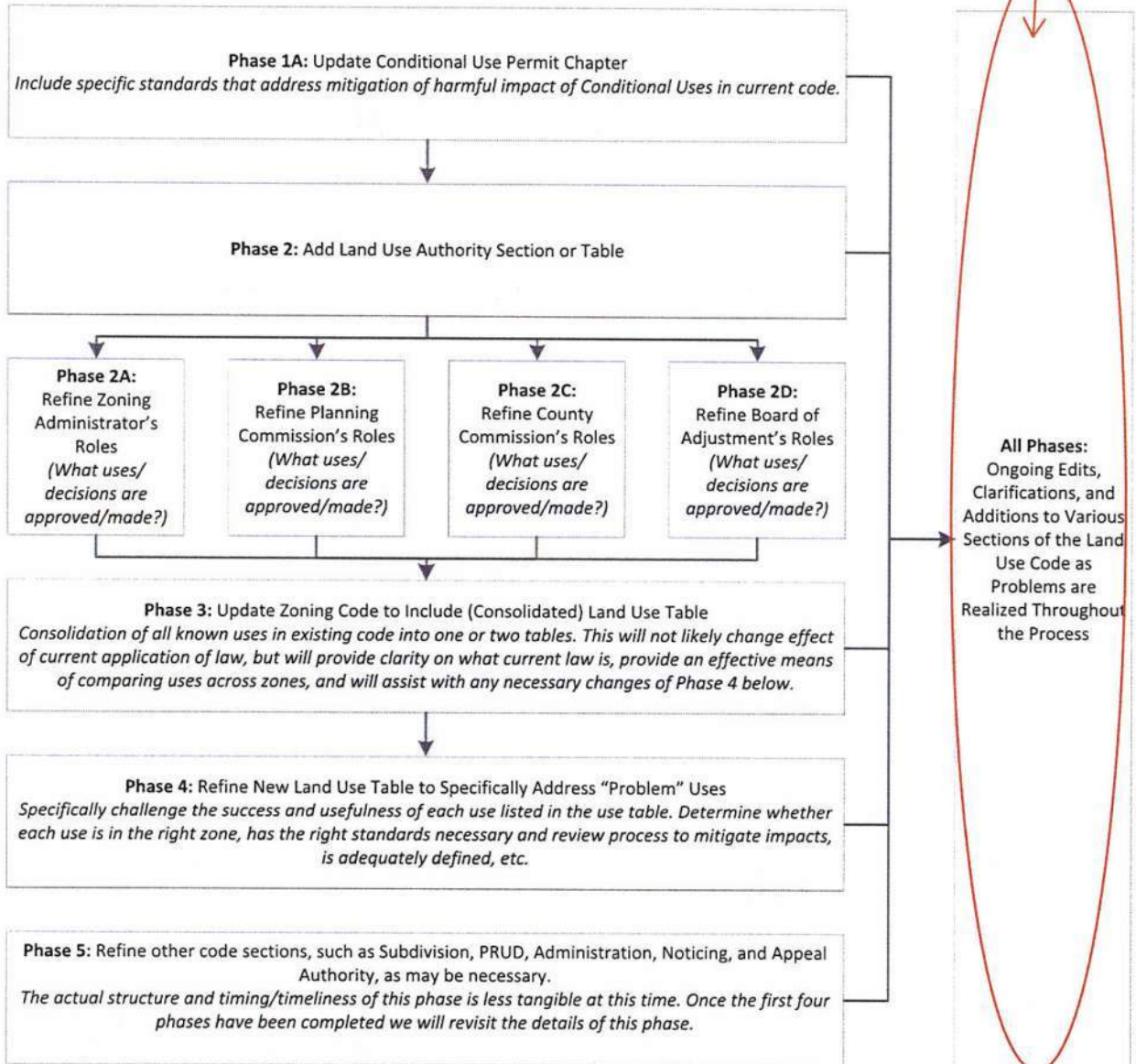
- 83 c. Delivery or pickup in a 14,001 pound or greater truck (Class 4 GVWR or greater, pursuant
84 to 49 CFR 565.15), except for package delivery service at times and in intervals typical for
85 a normal residential use, shall be limited to one delivery or pickup per week between the
86 hours of 8:00 am and 5:00 pm, Monday through Friday. A loading and unloading area,
87 adequately sized to accommodate the type of truck and the size of the delivery or pickup,
88 shall be provided on the site. No loading or unloading shall be permitted in the right-of-way.
- 89 (11) There shall be no storage or parking on the premises or on the adjacent streets in the vicinity of
90 the premises of tractor trailers, semi-trucks, or other heavy equipment used for an off-premise
91 business for which the dwelling is being used as a home occupation office except that not more
92 than one 14,000 pound or less truck (Class 3 GVWR or less, pursuant to 49 CFR 565.15) may
93 be parked on premise during off work hours at night. A work trailer up to 22 feet in length may
94 be parked at night as part of the home occupation business. All trucks and trailers used as part
95 of the home occupation business shall be licensed and registered, and parked in accordance
96 with Title 108, Chapter 8 of this Land Use Code.
- 97 (12) Barber or beautician services shall be limited to two stations per residence.
- 98 (13) Child day care or preschool, adult day care, or instructional activities, shall be limited to eight
99 pupils or participants at any one time. Any instructional activity, except child day care or
100 preschool, or adult day care, that is conducted outdoors or in an accessory building shall require
101 a minimum lot size of three acres. Instructional activities shall not include recitals, competitions,
102 tournaments, shows or performances that may draw spectators.
- 103 (14) The home occupation shall maintain compliance with all applicable local, state, and federal
104 regulations.
- 105 (e) Home occupation sign. One flat sign or name plate not exceeding two square feet attached to the
106 house or mail box may be permitted. A land use permit is required for the sign. Any modification
107 made to the permitted sign requires a new land use permit. No freestanding or banner signs shall be
108 permitted.
- 109 (f) Inspections. Inspection during reasonable hours by county officials may occur as necessary to
110 assure compliance with these regulations.
- 111 (g) Revocation. A home occupation approval may be revoked pursuant to Section 102-4-3.
- 112 (Ord. No. 2011-17, § 1(34-2), 10-11-2011)
- 113 ...

Exhibit D: Land Use Code Revision Process Flowchart

Weber County Land Use Code Revision Process Workflow

This flowchart is intended to illustrate the intended course of the revision process. It is not an absolute plan, and deviations may occur as more information is gathered, but it will provide the Planning Commission with an idea where we are in the process at any given time. Staff will refer to this structure regularly.

The proposed edits fall here



Weber County General Plan or Text Amendment Application

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

Date Submitted

Received By (Office Use)

Added to Map (Office Use)

Property Owner Contact Information

Name of Property Owner(s)

Kregg and Kami Thomassen

Mailing Address of Property Owner(s)

2293 S. 3500 W.
Taylor, UT 84401

Phone

801 726 8070

Fax

Email Address

kreggt@gmail.com

Preferred Method of Written Correspondence

Email Fax Mail

Ordinance Proposal

Ordinance to be Amended

Describing the amendment and/or proposed changes to the ordinance:

amendment to sec 104-5-6 #B = Recreation grounds and buildings to include Private Recreation facility, for commercial gain, accessory to a dwelling unit.

possibly limited to parcel with at least three acres.

Ewert,Charles

From: Kregg [kreggt@gmail.com]
Sent: Monday, May 11, 2015 5:57 PM
To: Ewert,Charles
Subject: Re: Recreation facilities and home occupations

Charles,

Yes we would like to proceed that way that would be great. I think the home occupation option with the gym and pool along with other recreation training and development could provide the best option. Keep in mind if a team training is needed then we may have multiple kids at once but again I think it would normally be small numbers. We would like the option of possibly doing a skills type "camp" possibly. If we could do something where we could word it to a "reasonable" number of participants for the event it might be good. We will be standing by and thanks in advance for your help on all of this.

Kregg Thomassen

On May 11, 2015, at 4:17 PM, "Ewert,Charles" <cewert@co.weber.ut.us> wrote:

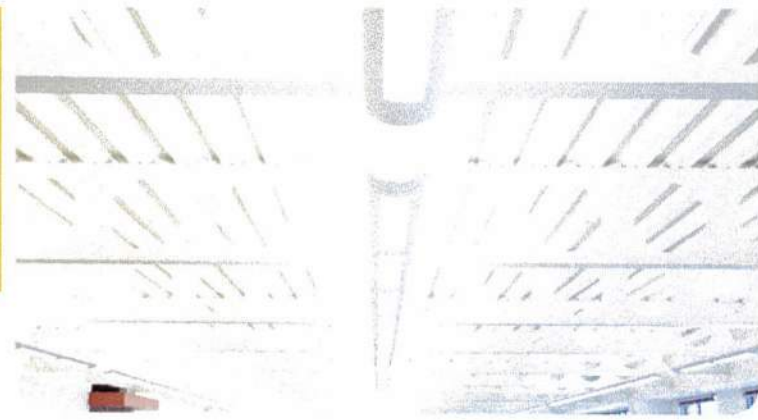
Kregg and Kami,

I am working on your requested code amendment. As I discussed with you on the phone, there may not be enough support to allow the use of a recreation facility for commercial gain in the zone, but I may get you close to what you want with an amendment to the home occupation code.

If that suits your need and you want me to proceed with this will you send me a quick response to this email and indicate that you are okay with amending the application to do so?

<image001.jpg>

Charlie Ewert, AICP
801-399-8763
cewert@co.weber.ut.us
<image002.jpg>



FOOT CANDLE LIGHT GUIDE

Foot candles are the most common unit of measure used by lighting professionals to calculate light levels in businesses and outdoor spaces. A foot candle is defined as the illuminance on a one-square foot surface from a uniform source of light. The Illuminating Engineering Society, IES, has recommended the following foot candle levels to ensure adequate illumination and safety for occupants. Below is a guideline for common areas to assist in achieving appropriate light levels with the greatest energy efficiency.

Building Area & Task	Average Maintained Foot-Candles (Horizontal) (FC)	Range of Maintained Foot-Candles (Horizontal) (FC)	Average Maintained Foot-Candles (Vertical) (FC)	Range of Maintained Foot-Candles (Vertical) (FC)	Comments
WAREHOUSING & STORAGE					
Bulky Items—Large Labels	10		5		
Small Items—Small Labels	30		15		
Cold Storage	20	10 - 30	10	5 - 15	
Open Warehouse	20	10 - 30			
Warehouse w/Aisles	20	10 - 30	10	5 - 15	
COMMERCIAL OFFICE					
Open Office	40	30 - 50			@30" Above Finished Floor (AFF)
Private Office	40	30 - 50			@30" AFF
Conference Room	30				Matte surface reflectance for the table 40% recommended
Restroom	18	7.5 - 30			
Lunch & Break Room	15	5 - 20			
EDUCATIONAL (SCHOOLS)					
Classroom	40	30 - 50			@30" AFF
Gymnasium					
Class I (Pro or Div. 1 College)	125		30		
Class II (Div. 2 or 3 College)	80		20		
Class III (High School)	50		150		
Class IV (Elementary)	30		100		
Auditorium	7.5	3 - 10	5	2.5 - 10	
Corridor	25	10 - 40			

This guide is a collaborative effort of Energy Trust of Oregon and the Lighting Design Lab in Seattle, Washington.



Building Area & Task	Average Maintained Foot-Candles (Horizontal) (FC)	Range of Maintained Foot-Candles (Horizontal) (FC)	Average Maintained Foot-Candles (Vertical) (FC)	Range of Maintained Foot-Candles (Vertical) (FC)	Comments
INDUSTRIAL/MANUFACTURING					
Assembly					
Simple (Large Item)	30	15 - 60	30	15 - 60	
Difficult (fine)	100	50 - 200	100	50 - 200	
Component Manufacturing					
Large	30	15 - 60	30	15 - 60	
Medium	50	25 - 100	50	25 - 100	
EXTERIOR					
Parking (Covered)	5				1FC min, 10:1 Max to Min Uniformity
Parking (Open) (Medium Activity)					
Lighting Zone 3 (Urban)	1.5	.75 - 3	.8	.4 - 1.6	
Lighting Zone 2 (suburban)	1	0.5 - 2	.6	.3 - 1.2	
Gas Station Canopy	12.5	10 - 15			
Safety (Building Exterior)	1	0.5 - 2			If security is an issue—raise average level to 3
RETAIL					
General Retail (Ambient)					
Department Store	40	20 - 80	15	7.5 - 30	
Perimeter			75	35 - 150	
Accent Lighting (Displays)					3 - 10 times greater than ambient light levels
AUTOMOTIVE					
Showroom					
Service Area	50	25 - 100	10	5 - 20	
Sales Lot (Exterior)					
Lighting Zone 3 (Urban)	20	10 - 40	20	10 - 40	
Lighting Zone 2 (Suburban)	15	7.5 - 30	15	7.5 - 30	
GROCERY					
Circulation					
General Retail	50	25 - 100	20	10-40	
Perimeter			50	25-100	
BANKING					
ATM					
ATM	20	10-40	15		Vertical at face of ATM

NOTES:

- This guide is based on information gathered from the IES 'The Lighting Handbook' 10th Edition. It is highly recommended that all lighting professionals refer to the full IES guide when specifying lighting projects.
- At least half of users are in the 25 - 65 age range
- Horizontal—horizontal plane that average maintained foot-candles are measured
- Vertical—vertical plane the average maintained foot-candles are measured
- It is the responsibility of the specifier to determine and provide appropriate lighting levels for each space

Noise Sources and Their Effects

Noise Source	Decibel Level	comment
Jet take-off (at 25 meters)	150	Eardrum rupture
Aircraft carrier deck	140	
Military jet aircraft take-off from aircraft carrier with afterburner at 50 ft (130 dB).	130	
Thunderclap, chain saw. Oxygen torch (121 dB).	120	Painful. 32 times as loud as 70 dB.
Steel mill, auto horn at 1 meter. Turbo-fan aircraft at takeoff power at 200 ft (118 dB). Riveting machine (110 dB); live rock music (108 - 114 dB).	110	Average human pain threshold. 16 times as loud as 70 dB.
Jet take-off (at 305 meters), use of outboard motor, power lawn mower, motorcycle, farm tractor, jackhammer, garbage truck. Boeing 707 or DC-8 aircraft at one nautical mile (6080 ft) before landing (106 dB); jet flyover at 1000 feet (103 dB); Bell J-2A helicopter at 100 ft (100 dB).	100	8 times as loud as 70 dB. Serious damage possible in 8 hr exposure
Boeing 737 or DC-9 aircraft at one nautical mile (6080 ft) before landing (97 dB); power mower (96 dB); motorcycle at 25 ft (90 dB). Newspaper press (97 dB).	90	4 times as loud as 70 dB. Likely damage 8 hr exp
Garbage disposal, dishwasher, average factory, freight train (at 15 meters). Car wash at 20 ft (89 dB); propeller plane flyover at 1000 ft (88 dB); diesel truck 40 mph at 50 ft (84 dB); diesel train at 45 mph at 100 ft (83 dB). Food blender (88 dB); milling machine (85 dB); garbage disposal (80 dB).	80	2 times as loud as 70 dB. Possible damage in 8 h exposure.
Passenger car at 65 mph at 25 ft (77 dB); freeway at 50 ft from pavement edge 10 a.m. (76 dB). Living room music (76 dB); radio or TV-audio, vacuum cleaner (70 dB).	70	Arbitrary base of comparison. Upper 70s are

		annoyingly loud to some people.
Conversation in restaurant, office, background music, Air conditioning unit at 100 ft	60	Half as loud as 70 dB. Fairly quiet
Quiet suburb, conversation at home. Large electrical transformers at 100 ft	50	One-fourth as loud as 70 dB.
Library, bird calls (44 dB); lowest limit of urban ambient sound	40	One-eighth as loud as 70 dB.
Quiet rural area	30	One-sixteenth as loud as 70 dB. Very Quiet
Whisper, rustling leaves	20	
Breathing	10	Barely audible

[modified from <http://www.wenet.net/~hpb/dblevels.html>] on 2/2000. SOURCES: Temple University Department of Civil/Environmental Engineering (www.temple.edu/departments/CETP/environ10.html), and *Federal Agency Review of Selected Airport Noise Analysis Issues*, Federal Interagency Committee on Noise (August 1992). Source of the information is attributed to *Outdoor Noise and the Metropolitan Environment*, M.C. Branch et al., Department of City Planning, City of Los Angeles, 1970.

manufacturer and type of the motor vehicle if the manufacturer is a high-volume manufacturer. If the manufacturer is a low-volume manufacturer, positions one through three (1-3) along with positions twelve through fourteen (12-14) in the VIN shall uniquely identify the manufacturer and type of the motor vehicle. These characters are assigned in accordance with § 565.16(a). A "9" shall be placed in the third position of the VIN if the manufacturer identifier is six characters. A "9" in the third position always indicates the presence of a six-character manufacturer identifier. The National Highway Traffic Safety Administration offers access to manufacturer identifier assignments via its search engine at the following Internet Web site: <http://www.nhtsa.dot.gov/cars/rules/manufacture>.

(b) The second section shall consist of five characters, which occupy positions four through eight (4-8) in the VIN. This section shall uniquely identify the attributes of the vehicle as specified in Table I. For passenger cars, and for multipurpose passenger vehicles and trucks with a gross vehicle weight rating of 4536 kg (10,000 lb) or less, the fourth character (position 7) of this section shall be alphabetic. The characters utilized and their placement within the section may be determined by the manufacturer, but the specified attributes must be decipherable with information supplied by the manufacturer in accordance with § 565.16(c). In submitting the required information to NHTSA relating gross vehicle weight rating, the designations in Table II shall be used. The use of these designations within the VIN itself is not required. Tables I and II follow:

TABLE I—TYPE OF VEHICLE AND INFORMATION DECIPHERABLE

Passenger car: Make, line, series, body type, engine type, and all restraint devices and their location.
Multipurpose passenger vehicle: Make, line, series, body type, engine type, gross vehicle weight rating, and for multipurpose passenger vehicles with a gross vehicle weight rating (GVWR) of 4536kg (10,000 lb) or less all restraint devices and their location.

TABLE I—TYPE OF VEHICLE AND INFORMATION DECIPHERABLE—Continued

Truck: Make, model or line, series, chassis, cab type, engine type, brake system, gross vehicle weight rating, and for trucks with a gross vehicle weight rating (GVWR) of 4536 kg (10,000 lb) or less all restraint devices and their location.
Bus: Make, model or line, series, body type, engine type, and brake system.
Trailer, including trailer kits and incomplete trailer: Make, type of trailer, body type, length and axle configuration.
Motorcycle: Make, type of motorcycle, line, engine type, and net brake horsepower.
Incomplete vehicle other than a trailer: Make, model or line, series, cab type, engine type, and brake system.
Low speed vehicle: Make, engine type, brake system, restraint system type, body type, and gross vehicle weight rating.
Note to Table I: Engine net brake horsepower when encoded in the VIN shall differ by no more than 10 percent from the actual net brake horsepower; shall in the case of motorcycle with an actual net brake horsepower of 2 or less, be not more than 2; and shall be greater than 2 in the case of a motorcycle with an actual brake horsepower greater than 2.

TABLE II—GROSS VEHICLE WEIGHT RATING CLASSES

Class A—Not greater than 1360 kg. (3,000 lbs.)
 Class B—Greater than 1360 kg. to 1814 kg. (3,001–4,000 lbs.)
 Class C—Greater than 1814 kg. to 2268 kg. (4,001–5,000 lbs.)
 Class D—Greater than 2268 kg. to 2722 kg. (5,001–6,000 lbs.)
 Class E—Greater than 2722 kg. to 3175 kg. (6,001–7,000 lbs.)
 Class F—Greater than 3175 kg. to 3629 kg. (7,001–8,000 lbs.)
 Class G—Greater than 3629 kg. to 4082 kg. (8,001–9,000 lbs.)
 Class H—Greater than 4082 kg. to 4536 kg. (9,001–10,000 lbs.)
 Class 3—Greater than 4536 kg. to 6350 kg. (10,001–14,000 lbs.)
 Class 4—Greater than 6350 kg. to 7257 kg. (14,001–16,000 lbs.)
 Class 5—Greater than 7257 kg. to 8845 kg. (16,001–19,500 lbs.)
 Class 6—Greater than 8845 kg. to 11793 kg. (19,501–26,000 lbs.)

§ 565.15

49 CFR Ch. V (10-1-11 Edition)

TABLE II—GROSS VEHICLE WEIGHT RATING CLASSES—Continued

Class 7—Greater than 11793 kg. to 14968 kg. (26,001–33,000 lbs.)
Class 8—Greater than 14968 kg. (33,001 lbs. and over)

(c) The third section shall consist of one character, which occupies position nine (9) in the VIN. This section shall be the check digit whose purpose is to provide a means for verifying the accuracy of any VIN transcription. After all other characters in VIN have been determined by the manufacturer, the check digit shall be calculated by carrying out the mathematical computation specified in paragraphs (c) (1) through (4) of this section.

(1) Assign to each number in the VIN its actual mathematical value and assign to each letter the value specified for it in Table III, as follows:

TABLE III—ASSIGNED VALUES

A = 1
B = 2
C = 3
D = 4
E = 5
F = 6
G = 7
H = 8
J = 1
K = 2
L = 3
M = 4
N = 5
P = 7
R = 9
S = 2
T = 3
U = 4

TABLE III—ASSIGNED VALUES—Continued

V = 5
W = 6
X = 7
Y = 8
Z = 9

(2) Multiply the assigned value for each character in the VIN by the position weight factor specified in Table IV, as follows:

TABLE IV—VIN POSITION AND WEIGHT FACTOR

1st	8
2d	7
3d	6
4th	5
5th	4
6th	3
7th	2
8th	10
9th	(check digit)
10th	9
11th	8
12th	7
13th	6
14th	5
15th	4
16th	3
17th	2

(3) Add the resulting products and divide the total by 11.

(4) The check digit is based on either the Fractional Remainder or the Decimal Equivalent Remainder as reflected in Table V. All Decimal Equivalent Remainders in Table V are rounded to the nearest thousandth. The check digit, zero through nine (0-9) or the letter "X" shall appear in VIN position nine (9).

§ 565.15

49 CFR Ch. V (10–1–11 Edition)

(5) A sample check digit calculation is shown in Table VI as follows:

(d) The fourth section shall consist of eight characters, which occupy positions ten through seventeen (10-17) of the VIN. The last five (5) characters of this section shall be numeric for passenger cars and for multipurpose passenger vehicles and trucks with a gross vehicle weight rating of 4536 kg. (10,000 lbs.) or less, and the last four (4) characters shall be numeric for all other vehicles.

(1) The first character of the fourth section shall represent the vehicle model year. The year shall be designated as indicated in Table VII as follows:

TABLE VII—YEAR CODES FOR VIN

Year	Code
2005	5
2006	6
2007	7
2008	8
2009	9
2010	A
2011	B
2012	C
2013	D
2014	E
2015	F
2016	G
2017	H
2018	J
2019	K
2020	L
2021	M
2022	N
2023	P
2024	R
2025	S
2026	T
2027	V
2028	W
2029	X
2030	Y
2031	1
2032	2
2033	3
2034	4
2035	5
2036	6
2037	7
2038	8
2039	9

Note to Table VII: For passenger cars, and for multipurpose passenger vehicles and trucks with a gross vehicle weight rating of 4536 kg (10,000 lb) or less, if position 7 is numeric, the Model Year in position 10 of the VIN refers to a year in the range 1980-2009. If position 7 is alphabetic, the Model Year in Position 10 of the VIN refers to a year in the range 2010-2039.

(2) The second character of the fourth section shall represent the plant of manufacture.

(3) The third through the eighth characters of the fourth section (positions 12 through 17) shall represent the number sequentially assigned by the

manufacturer in the production process if the manufacturer is a high-volume manufacturer. If a manufacturer is a low-volume manufacturer, the third, fourth, and fifth characters of the fourth section (positions 12, 13, and 14), combined with the three characters of the first section (positions 1, 2, and 3), shall uniquely identify the manufacturer and type of the motor vehicle and the sixth, seventh, and eighth characters of the fourth section (positions 15, 16, and 17) shall represent the number sequentially assigned by the manufacturer in the production process.

§ 565.16 Reporting requirements.

The information collection requirements contained in this part have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq*) and have been assigned OMB Control Number 2127-0510.

(a) The National Highway Traffic Safety Administration (NHTSA) has contracted with the SAE International to coordinate the assignment of manufacturer identifiers to manufacturers in the United States. Manufacturer identifiers will be supplied by SAE at no charge. All requests for assignments of manufacturer identifiers should be forwarded directly to: SAE International, 400 Commonwealth Drive, Warrendale, Pennsylvania, 15096, Attention: WMI Coordinator (telephone: 724-776-4841). Any requests for identifiers submitted to NHTSA will be forwarded to SAE. Manufacturers may request a specific identifier or may request only assignment of an identifier(s). SAE will review requests for specific identifiers to determine that they do not conflict with an identifier already assigned or block of identifiers already reserved. SAE will confirm the assignments in writing to the requester. Once confirmed by SAE, the identifier need not be resubmitted to NHTSA.

(b) Manufacturers of vehicles subject to this part shall submit, either directly or through an agent, the unique identifier for each make and type of vehicle it manufactures at least 60 days before affixing the first VIN using the identifier. Manufacturers whose unique identifier appears in the fourth section

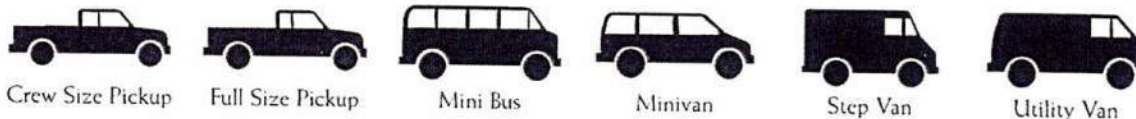
TRUCK TYPE AND WEIGHT CLASS

The vehicle icons on the following page depict examples of vehicles in each DOT classification 1-8 with corresponding load ranges. These classifications are guidelines in understanding the type of vehicle used for different applications by vehicle class.

CLASS ONE
6,000 lbs. or less



CLASS TWO
6,001 to 10,000 lbs.



CLASS THREE
10,001 to 14,000 lbs.



CLASS FOUR
14,001 to 16,000 lbs.



CLASS FIVE
16,001 to 19,500 lbs.



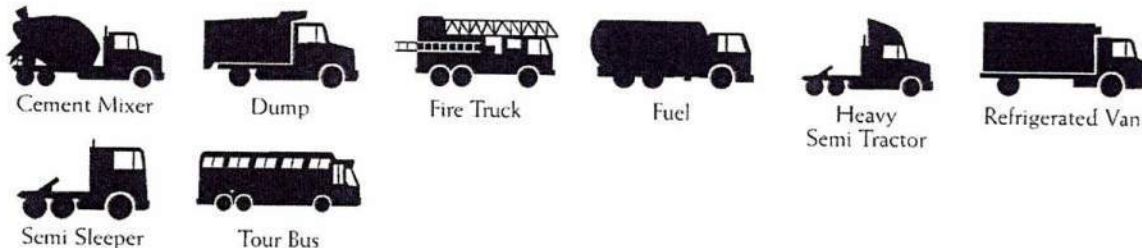
CLASS SIX
19,501 to 26,000 lbs.



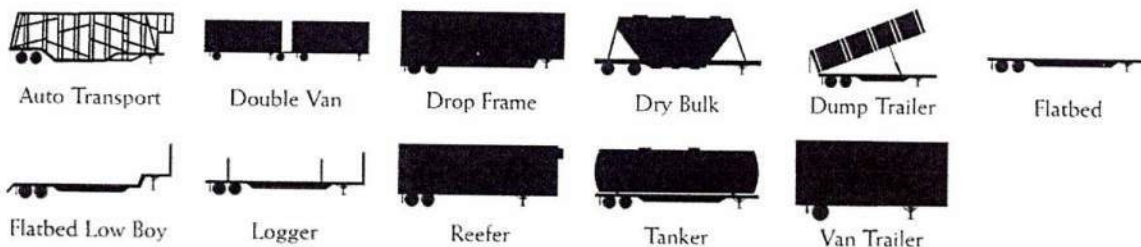
CLASS SEVEN
26,001 to 33,000 lbs.



CLASS EIGHT
33,001 lbs. & over



TRAILERS





Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

Synopsis

Application Information

Application Request: Public hearing to consider and take action on a request (ZTA 2015-02) 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 project types from some standards, and improving overall organization.

Agenda Date: Tuesday, July 28, 2015

Applicant: Weber County Planning Division Staff

File Number: ZTA 2015-02

Staff Information

Report Presenter: Scott Mendoza
smendoza@co.weber.ut.us
(801) 399-8769

Report Reviewer: SW

Applicable Codes

- Weber County Land Use Code, Title 108 (Standards) Chapter 15 (Standards for Single Family Dwellings).

Legislative Decisions

When the Planning Commission is acting as a recommending body to the County Commission, it is acting in a legislative capacity and has wide discretion. Examples of legislative actions are general plan, zoning map, and land use code text amendments. Legislative actions require that the Planning Commission give a recommendation to the County Commission. Typically the criteria for making a recommendation, related to a legislative matter, require compatibility with the general plan and existing codes.

Background

For many decades, Weber County's land use code restricted manufactured homes to only certain zones. The code, in June of 1991, was amended reclassifying these homes as "single-family dwellings" which meant that they would be permitted in any zone that allowed the construction of a dwelling. The main part of this amendment was in the form of a newly created chapter that established building design standards that applied to all homes including conventional "frame-style" homes. These standards related to permanent foundations, taxation as real property (as opposed to personal property), exterior materials, roof pitch, width, and parking. The chapter, until now, has remained unchanged except for a minor amendment, in 2006, that updated some terms so that they would conform to the International Building Code.

Today's proposed amendment is intended to provide clarity, less repetition, and more organization. It also eliminates some standards and offers exceptions to specific types of development projects and to individuals on a case-by-case basis. The reason for eliminating some of the standards is because they have become outdated and the reason for allowing architecturally related exceptions is due to a desire for allowing some flexibility in design. See Exhibit A for the proposed draft with comments and explanations in the right column (~~stricken~~ text represents proposed deleted language and red underlined text represents proposed new language). See Exhibit B for the proposed draft without comments and explanations (larger, easier to read text). See Exhibit C for the proposed final draft in a new organizational and preferred format.

Summary of Planning Commission Considerations

- Is the proposed amendment consistent with the Ogden Valley General Plan?

Conformance to the General Plan

The Ogden Valley General Plan (pg. 5) states that one of the community's goals is to *"require that development is compatible with the Valley's rural character and natural setting."* It also guides the County to *"determine the types of residential and commercial building materials that are compatible with the Valley's rural character."*

The Recreation Element of the Ogden Valley General Plan (pg. 152) states that *"the future of Ogden Valley's character is dependent on the future development success of its resort areas."* To preserve the Valley's character, the Plan also states that Weber County should adopt a "variety of progressive resort development guidelines."

The proposed amendment is consistent with guidance given in the Ogden Valley General Plan due to its ability to guide exterior material choices and home design in a way that ensures that development is compatible with the Valley's rural character. The amendment also allows design flexibility in resort areas.

Staff Recommendation

Based on the proposal's conformance to the Ogden Valley General Plan, the Planning Division Staff suggests that the Ogden Valley Planning Commission recommend that the Weber County Commission approve and adopt the proposed amendments to Title 108 (Standards), Chapter 15 (Standards for Detached Single Family Dwellings) of the Weber County Land Use Code.

Exhibits

- A. Proposed draft of Chapter 15 (Standards for Single Family Dwellings) with comments and explanations in the right column.
- B. Proposed draft of Chapter 15 (Standards for Single Family Dwellings) **without** comments and explanations to provide larger, easier to read, text.
- C. Proposed final draft of Chapter 15 (Standards for Single Family Dwellings) in a new organizational and preferred format.

Exhibit A

1 CHAPTER 15. - STANDARDS FOR **DETACHED** SINGLE-FAMILY DWELLINGS

2 Sec. 108-15-1. - Codes and standards.

3 Any dwelling or other structure which is designed or intended for human habitation, which is to be
4 located in the county outside of a mobile home park, mobile home subdivision or manufactured home
5 subdivision or PRUD, must meet the standards of the uniform building and other codes as adopted by the
6 county, or if it is a manufactured home, it must meet the standards of, and be certified under the National
7 Manufactured Housing and Standards Act of 1974 and must prominently display an insignia approved by
8 the United States Department of Housing and Urban Development and must not have been altered in
9 violation of such codes.

10 Any structure that is designed to be lived in by one family, and is located outside of a mobile or
11 manufactured home park, camp, court, subdivision, or Planned Residential Urban Development (PRUD),
12 shall meet all applicable standards including those listed below and the International Building Codes, as
13 adopted by Weber County. If a structure, designed to be lived in by one family, is constructed as a mobile
14 or manufactured home, it shall also meet all applicable standards and be certified as meeting the U.S
15 Department of Housing and Urban Development's (HUD) Manufactured Home Construction and Safety
16 Standards including the clear display of all necessary signage, insignias, labels, tags and data plates.

17 (Ord. of 1956, § 37-1)

18 Sec. 108-15-2. - **Additional Other standards and requirements.**

19 In addition to the above codes and standards, the following requirements standards shall also be
20 met:

21 (1) The Single-family dwellings must shall be permanently connected and attached to a site-built
22 permanent foundation which meets all applicable codes including the International Code
23 Council (ICC) Guidelines for Manufactured Housing Installations if the dwelling is a
24 manufactured home. Installation or transportation components, consisting of but not limited to,
25 lifting shackles or hooks, axles, wheels, brakes, or hitches, shall be removed or hidden from
26 view. Any running gear shall be removed and stored out of sight. Exterior walls or surfaces, that
27 enclose or create a crawlspace area, shall Any enclosure must be anchored secured to the
28 perimeter of the dwelling and be constructed of materials that are weather resistant and
29 aesthetically visually mimic consistent with concrete and masonry foundation materials. These
30 exterior walls may also be constructed of or faced with the same material used on the portion of
31 exterior wall that encloses or creates the habitable space of the dwelling.

32 (2) The Single-family dwellings must shall be permanently connected to and approved for all
33 required utilities.

34 (3) The Single-family dwellings must shall be taxed as real property. If the dwelling is a mobile or
35 manufactured home that has previously been issued a certificate of title, an affidavit the owner
36 must shall follow and meet all applicable Utah State Code titling provisions that result in the
37 mobile or manufactured home being converted to an improvement to real property, be filed with
38 the state tax commission pursuant to U.C.A. 1953, § 59-2-602 and qualified therefor as an
39 improvement to real estate.

40 (4) The dwelling must provide a minimum of 72 square feet of enclosed storage with the minimum
41 height of six feet located in a basement or garage area or in an accessory storage structure.
42 Such structure shall conform to all applicable building codes.

43 (5) Porches and landings for ingress and egress to the dwelling must be built in accordance with
44 chapter 3 of the International Residential Code as adopted by the State of Utah.

Comment [s1]: Added because "standards" are referred to above.

Comment [s2]: Is there a need for this?

Comment [s3]: Outdated and addressed in the building code.

Exhibit A

45 (6) At least 60 percent of the roof must be pitched at least 2:12 pitch and shall have a roof surface
46 of wood shakes, asphalt, composition, wood shingles, concrete, metal tiles, slate, built up gravel
47 materials or other materials approved by the International Residential Code.

48 Single-family dwellings, except for those located within a mobile or manufactured home park,
49 camp, court, subdivision, or Planned Residential Urban Development (PRUD), or those located
50 within a non-mobile or manufactured home PRUD, a master planned community, or the
51 Destination and Recreation Resort Zone, shall have a roof pitch of not less than a 2:12 ratio.

52 (7) The dwelling shall have exterior siding consisting of wood, masonry, concrete, stucco, masonite
53 or metal or vinyl lap. The roof overhang, including rain gutters, shall not be less than one foot,
54 measured from the vertical side of the building, but not including bay windows, nooks, morning
55 rooms, etc.

56 Single-family dwellings shall have exterior siding constructed of wood, masonry, concrete,
57 stucco, masonite, metal, or vinyl lap. Roof overhangs, including rain gutters, shall not be less
58 than one foot as measured from the vertical side of the building. Roof overhangs are not
59 required on bay windows, nooks, morning rooms, or other similar accessory wall projections.

60 (8) The width of the dwelling shall be at least 20 feet at the narrowest point of its first story for a
61 depth of at least 20 feet exclusive of any garage area. The width shall be considered the lesser
62 of two primary dimensions. If the width of the dwelling faces a street and is less than one half
63 of the length, the required off-street parking shall be in a two-car garage attached to the length of
64 the dwelling.

65 Single-family dwellings, except for those located within a mobile or manufactured home park,
66 camp, court, subdivision, or Planned Residential Urban Development (PRUD), or those located
67 within a non-mobile or manufactured home PRUD, a master planned community, or the
68 Destination and Recreation Resort Zone, shall have a width, not including garage area, of at
69 least 20 feet or more. The width of the dwelling is determined by indentifying the lesser of two
70 dimensions when comparing a front elevation to a side elevation.

71 (9) Required off-street parking spaces shall be side by side. (See section 108-8-2.)

72 (10) The county building inspector, as the zoning enforcement officer in concert with the county
73 planning commission, may approve deviations from one or more of the development or
74 architectural standards provided herein on the basis of a finding that the architectural style
75 proposed provides compensating design features and that the proposed dwelling will be
76 compatible and harmonious with existing structures in the vicinity. Together, they may also
77 require other deviations to achieve the overall goals and purposes of this chapter. These
78 requirements may be appealed to the board of adjustment.

79 Sec. 108-15-3. - Exceptions.

80 The Planning Director, or his/her designee, may waive any of the above architectural and/or massing
81 standards if the dwelling owner can provide a letter, from a professionally licensed architect, that:

- 82 1. Explains their agreement to the waiver of any particular standard; and
- 83 2. Certifies that, in the absence of the subject standard(s), the dwelling will be considered
84 architecturally compatible with the surrounding neighborhood due to the integration and use of
85 compensating materials and/or architectural features.

86 (Ord. of 1956, § 37-2; Ord. No. 2008-6)

Comment [s4]: This standard could be eliminated if the Planning Commission chose to do so. This paragraph has been re-written to provide flexibility in some circumstances. Also below, the Planning Director can waive standards for added flexibility. Also, where this standard allows "other materials" that are permitted by the building code, there is no need for it here.

Comment [s5]: This standard prohibits standard shipping containers and "Earth-ships" constructed of exposed rubber tires. The building code does not require eaves or overhangs.

1 CHAPTER 15. - STANDARDS FOR DETACHED SINGLE-FAMILY DWELLINGS

2 Sec. 108-15-1. - Codes and standards.

3 Any dwelling or other structure which is designed or intended for human habitation, which is to be
4 located in the county outside of a mobile home park, mobile home subdivision or manufactured home
5 subdivision or PRUD, must meet the standards of the uniform building and other codes as adopted by the
6 county, or if it is a manufactured home, it must meet the standards of, and be certified under the National
7 Manufactured Housing and Standards Act of 1974 and must prominently display an insignia approved by
8 the United States Department of Housing and Urban Development and must not have been altered in
9 violation of such codes.

10 Any structure that is designed to be lived in by one family, and is located outside of a mobile or
11 manufactured home park, camp, court, subdivision, or Planned Residential Urban Development (PRUD),
12 shall meet all applicable standards including those listed below and the International Building Codes, as
13 adopted by Weber County. If a structure, designed to be lived in by one family, is constructed as a mobile
14 or manufactured home, it shall also meet all applicable standards and be certified as meeting the U.S
15 Department of Housing and Urban Development's (HUD) Manufactured Home Construction and Safety
16 Standards including the clear display of all necessary signage, insignias, labels, tags and data plates.

17 (Ord. of 1956, § 37-1)

18 Sec. 108-15-2. - ~~Additional~~ Other standards and requirements.

19 In addition to the above codes and standards, the following requirements standards shall also be
20 met:

- 21 (1) The Single-family dwellings must shall be permanently connected and attached to a site-built
22 permanent foundation which meets all applicable codes including the International Code
23 Council (ICC) Guidelines for Manufactured Housing Installations if the dwelling is a
24 manufactured home. Installation or transportation components, consisting of but not limited to,
25 lifting shackles or hooks, axles, wheels, brakes, or hitches, shall be removed or hidden from
26 view. Any running gear shall be removed and stored out of sight. Exterior walls or surfaces, that
27 enclose or create a crawlspace area, shall Any enclosure must be anchored secured to the
28 perimeter of the dwelling and be constructed of materials that are weather resistant and
29 aesthetically visually mimic consistent with concrete and masonry foundation materials. These
30 exterior walls may also be constructed of or faced with the same material used on the portion of
31 exterior wall that encloses or creates the habitable space of the dwelling.
- 32 (2) The Single-family dwellings must shall be permanently connected to and approved for all
33 required utilities.
- 34 (3) The Single-family dwellings must shall be taxed as real property. If the dwelling is a mobile or
35 manufactured home that has previously been issued a certificate of title, an affidavit the owner
36 must shall follow and meet all applicable Utah State Code titling provisions that result in the
37 mobile or manufactured home being converted to an improvement to real property. be filed with
38 the state tax commission pursuant to U.C.A. 1953, § 59-2-602 and qualified therefor as an
39 improvement to real estate.
- 40 (4) The dwelling must provide a minimum of 72 square feet of enclosed storage with the minimum
41 height of six feet located in a basement or garage area or in an accessory storage structure.
42 Such structure shall conform to all applicable building codes.
- 43 (5) Porches and landings for ingress and egress to the dwelling must be built in accordance with
44 chapter 3 of the International Residential Code as adopted by the State of Utah.

45 (6) At least 60 percent of the roof must be pitched at least 2:12 pitch and shall have a roof surface
46 of wood shakes, asphalt, composition, wood shingles, concrete, metal tiles, slate, built-up gravel
47 materials or other materials approved by the International Residential Code.

48 Single-family dwellings, except for those located within a mobile or manufactured home park,
49 camp, court, subdivision, or Planned Residential Urban Development (PRUD), or those located
50 within a non-mobile or manufactured home PRUD, a master planned community, or the
51 Destination and Recreation Resort Zone, shall have a roof pitch of not less than a 2:12 ratio.

52 (7) The dwelling shall have exterior siding consisting of wood, masonry, concrete, stucco, masonite
53 or metal or vinyl lap. The roof overhang, including rain gutters, shall not be less than one foot,
54 measured from the vertical side of the building, but not including bay windows, nooks, morning
55 rooms, etc.

56 Single-family dwellings shall have exterior siding constructed of wood, masonry, concrete,
57 stucco, masonite, metal, or vinyl lap. Roof overhangs, including rain gutters, shall not be less
58 than one foot as measured from the vertical side of the building. Roof overhangs are not
59 required on bay windows, nooks, morning rooms, or other similar accessory wall projections.

60 (8) The width of the dwelling shall be at least 20 feet at the narrowest point of its first story for a
61 depth of at least 20 feet exclusive of any garage area. The width shall be considered the lesser
62 of two primary dimensions. If the width of the dwelling faces a street and is less than one-half of
63 the length, the required off-street parking shall be in a two-car garage attached to the length of
64 the dwelling.

65 Single-family dwellings, except for those located within a mobile or manufactured home park,
66 camp, court, subdivision, or Planned Residential Urban Development (PRUD), or those located
67 within a non-mobile or manufactured home PRUD, a master planned community, or the
68 Destination and Recreation Resort Zone, shall have a width, not including garage area, of at
69 least 20 feet or more. The width of the dwelling is determined by indentifying the lesser of two
70 dimensions when comparing a front elevation to a side elevation.

71 (9) Required off-street parking spaces shall be side-by-side. (See section 108-8-2.)

72 (10) The county building inspector, as the zoning enforcement officer in concert with the county
73 planning commission, may approve deviations from one or more of the development or
74 architectural standards provided herein on the basis of a finding that the architectural style
75 proposed provides compensating design features and that the proposed dwelling will be
76 compatible and harmonious with existing structures in the vicinity. Together, they may also
77 require other deviations to achieve the overall goals and purposes of this chapter. These
78 requirements may be appealed to the board of adjustment.

79 **Sec. 108-15-3. - Exceptions.**

80 The Planning Director, or his/her designee, may waive any of the above architectural and/or massing
81 standards if the dwelling owner can provide a letter, from a professionally licensed architect, that:

- 82 1. Explains their agreement to the waiver of any particular standard; and
83 2. Certifies that, in the absence of the subject standard(s), the dwelling will be considered
84 architecturally compatible with the surrounding neighborhood due to the integration and use of
85 compensating materials and/or architectural features.

86 (Ord. of 1956, § 37-2; Ord. No. 2008-6)

1 **CHAPTER 15. - STANDARDS FOR DETACHED SINGLE-FAMILY DWELLINGS**

2 **Sec. 108-15-1. – Codes and standards.**

3 Any structure that is designed to be lived in by one family, and is located outside of a mobile or
4 manufactured home park, camp, court, subdivision, or Planned Residential Unit Development (PRUD),
5 shall meet all applicable standards and requirements including the International Building Code and
6 those others listed below. If a structure, designed to be lived in by one family, is constructed as a
7 mobile or manufactured home, it shall also meet all applicable standards and, if appropriate, be certified
8 as meeting the U.S. Department of Housing and Urban Development's (HUD) Manufactured Home
9 Construction and Safety Standards including the clear display of all necessary signage, insignias, labels,
10 tags, and data plates.

11 (Ord. of 1956, § 37-1)

12 **Sec. 108-15-2. – Other standards and requirements.**

13 In addition to the above, the following standards and requirements shall also be met:

14 (1) Single-family dwellings shall:

- 15 a. Be attached to a site-built permanent foundation which meets all applicable codes; and
- 16 b. Have all installation and transportation components, consisting of but not limited to, lifting
17 shackles or hooks, axles, wheels, brakes, or hitches removed or hidden from view; and
- 18 c. Have an exterior finish made of wood, engineered wood, masonry, concrete, fiber cement,
19 stucco, masonite, metal, or vinyl; and
- 20 d. Be permanently connected to all required utilities; and
- 21 e. Be taxed as real property. If the dwelling is a mobile or manufactured home that has previously
22 been issued a certificate of title, the owner shall follow and meet all applicable Utah State Code
23 titling provisions that result in the mobile or manufactured home being converted to an
24 improvement to real property.

25 (2) Single-family dwellings, except for those located within a mobile or manufactured home park, camp,
26 court, subdivision, or PRUD or those located within a non-mobile or non-manufactured home PRUD,
27 a County approved master planned community, or the Ogden Valley Destination and Recreation
28 Resort Zone, that have exterior walls or surfaces, that enclose or create a crawlspace area shall have
29 those walls anchored to the perimeter of the dwelling. The walls shall be constructed of or faced
30 with the following:

- 31 a. Concrete or masonry materials; or
- 32 b. Weather resistant materials that aesthetically imitate concrete or masonry foundation
33 materials; or
- 34 c. Materials that are the same as those used on the portion of the dwelling's exterior walls that
35 enclose and create the habitable space of the dwelling.

36 (3) Single-family dwellings, except for those located within a mobile or manufactured home park, camp,
37 court, subdivision, or PRUD, or those located within a non-mobile or non-manufactured home

- 38 PRUD, a County approved master planned community, or the Ogden Valley Destination and
39 Recreation Resort Zone, shall have:
- 40 a. A roof pitch of not less than a 2:12 ratio; and
 - 41 b. Eaves that project a distance of not less than one foot as measured from the vertical side of the
42 building. Eaves are not required on exterior bay windows, nooks, morning rooms, or other
43 similar architectural cantilevers; and
 - 44 c. A width, not including garage area, of at least 20 feet or more. The width of the dwelling is
45 determined by identifying the lesser of two dimensions when comparing a front elevation to a
46 side elevation.

47 **Sec. 108-15-3. – Exceptions**

48 The Planning Director, or his/her designee, may waive any of the above architectural and/or massing
49 standards if the dwelling owner can provide a letter, from a professionally licensed architect, that:

- 50 (1) Explains his/her agreement to the waiver of any particular standard; and
- 51 (2) Certifies that, in the absence of the subject standard(s), the dwelling will be considered
52 architecturally compatible with the surrounding neighborhood due to the integration and use of
53 compensating materials and/or architectural features.

54 (Ord. of 1956, § 37-2; Ord. No. 2008-6)



Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

Synopsis

Application Information

Application Request: Public hearing to consider and take action on a request (ZTA 2015-04) to amend Title 108 (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-ways.

Agenda Date: Tuesday, July 28, 2015

Applicant: Weber County Planning Division Staff

File Number: ZTA 2015-04

Staff Information

Report Presenter: Scott Mendoza
smendoza@co.weber.ut.us
(801) 399-8769

Report Reviewer: SW

Applicable Codes

- Weber County Land Use Code, Title 108 (Standards) Chapter 7 (Supplementary and Qualifying Regulations).

Legislative Decisions

When the Planning Commission is acting as a recommending body to the County Commission, it is acting in a legislative capacity and has wide discretion. Examples of legislative actions are general plan, zoning map, and land use code text amendments. Legislative actions require that the Planning Commission give a recommendation to the County Commission. Typically the criteria for making a recommendation, related to a legislative matter, require compatibility with the general plan and existing codes.

Background

Where Weber County has reviewed and approved a resort master plan in an Ogden Valley Destination and Recreation Resort (DRR1) Zone or where the County is reviewing a commercial development in a Commercial Valley (CV1 or CV2) Zone, the preference is to allow, in certain situations, the flexibility necessary to design and create recreational destinations and commercial projects with interesting building form and character. Because neighborhood or "urban" design can significantly influence a development's physical scale, ambience, and economic success, the Planning Division is initiating an amendment to Title 108 (Standards), Chapter 7 (Supplementary and Qualifying Regulations) of the Weber County Land Use Code.

The proposal is to amend the County's Supplementary and Qualifying Regulations Chapter by adding a new section (§108-7-3) that allows a building (or some of its architectural elements) to project into a private street right-of-way. This new section includes a list of specific limitations, requirements, and standards that have to be met prior to a projection being approved. See pages 1 and 2 of Exhibit A for proposed language.

The amendment, if approved, will only apply to development in the Ogden Valley Destination and Recreation Resort (DRR-1) Zone and possibly the Commercial Valley (CV-1 or CV-2) Zone. Projections will be limited to buildings that front on privately dedicated streets and will have to meet, in addition to other requirements and standards, Chapter 32 (Encroachments into the Public Right-of-Way) of the International Building Code (IBC). See Exhibit B for Chapter 32 of the IBC.

Summary of Planning Commission Considerations

- Is the proposed amendment consistent with the Ogden Valley General Plan?

Conformance to the General Plan

The Recreation Element of the Ogden Valley General Plan (pg. 152) states that *“the future of Ogden Valley’s character is dependent on the future development success of its resort areas.”* To preserve the Valley’s character, the Plan also states that Weber County should adopt a “variety of progressive resort development guidelines.”

The proposed amendment can be thought of as “progressive” and is consistent with guidance given in the Ogden Valley General Plan due to its ability to encourage creative building design that can replicate authentic and historic main streets. Also, flexibility in design guidelines can act as an incentive for a developer to acquire a relatively large amount of property and develop it according to the requirements and standards provided in Ogden Valley Destination and Recreation Resort Zone.

Staff Recommendation

Based on the proposal’s conformance to the Ogden Valley General Plan, the Planning Division Staff suggests that the Ogden Valley Planning Commission recommend that the Weber County Commission approve and adopt the proposed amendment to Title 108 (Standards), Chapter 7 (Supplementary and Qualifying Regulations) of the Weber County Land Use Code.

Exhibits

- A. Proposed Section 108-7-3 (Projections permitted into private street rights-of-way) within Chapter 7.
- B. Existing Chapter 32 (Encroachments into the public right-of-way) of the International Building Code.

1 CHAPTER 7. - SUPPLEMENTARY AND QUALIFYING REGULATIONS

2

3 Sec. 108-7-1. - Purpose and intent.

4 The regulations hereinafter set forth in this chapter qualify or supplement, as the case may be, the
5 zoning regulations appearing elsewhere in this title.

6 (Ord. of 1956, § 23-1; Ord. No. 2009-14)

7 Sec. 108-7-2. - Projections permitted into required yard setbacks.

8 Every part of a required yard setback shall be open to the sky, unobstructed except for accessory
9 buildings meeting the required setbacks of the zone in which the building is located. Setbacks for all
10 buildings are measured from the property line to the outermost surface of a building's foundation wall.
11 However, the following projections into the required yard setbacks are permitted for single-family
12 dwellings (including attached garages) only:

- 13 (1) Belt courses, sills, and lintels may project 18 inches into required front, rear and side yard
14 setbacks.
- 15 (2) Cornices, eaves and gutters may project three feet into a required front yard setback, five feet
16 into a required rear yard setback, and two feet into a required side yard setback.
- 17 (3) Outside stairways, fire escapes, flues, chimneys and fireplace structures not wider than eight
18 feet measured along the wall of a building, may project not more than five feet into a required
19 front yard setback, ten feet into a required rear yard setback, and three feet into a required side
20 yard setback.
- 21 (4) Unwalled porches including roof-covered patios, terraces, and balconies may project five feet
22 into a required front yard setback. Where the required rear yard setback is 30 feet or greater, a
23 projection of ten feet into the rear yard setback is allowed. Where the required rear yard setback
24 is less than 30 feet, a five-foot projection into the rear yard setback is allowed.
- 25 (5) Cantilevers may project no more than two feet into the required front and rear yard setback.
26 Cantilevers are not allowed in the required side yard setback.

27 (Ord. of 1956, § 23-2; Ord. No. 1-2008; Ord. No. 2009-14)

28 Sec. 108-7-3. – Projections permitted into private street rights-of-way.

29 When a two-family dwelling, three-family dwelling, four-family dwelling, multi-family dwelling,
30 condominium, or commercial structure is proposed to be built, and where the County's development
31 standards allow a zero front yard setback, projections into private street rights-of-way may be
32 permitted when the following limitations, requirements and standards are met:

- 33 (1) Projections shall be defined as and limited to architraves, awnings, balconies, bay
34 windows, belt courses, canopies, columns, cornices, eaves, footings, gutters, lintels,
35 marquees, pedestrian walkways, pediments, pilasters, railings, signs, sills, steps, and
36 terraces.

- 37 (2) As determined by Weber County review agencies, the appropriate codes shall be
- 38 applied and all projections shall be demonstrated as compliant with those codes.
- 39 (3) The Weber County Building Official shall apply International Building Code standards
- 40 related to encroachments into public rights-of-ways.
- 41 (4) Where a public utility easement does not strictly prohibit the location of a structure
- 42 immediately adjacent to or within a private road right-of-way, a letter approving the
- 43 projection(s), whether above grade or below, shall be provided by all utility service
- 44 providers that have located utilities on the related side of the right-of way or have plans,
- 45 within two years, to locate utilities on the related side of the right-of-way.
- 46 (5) A letter approving the projection(s), whether above grade or below, shall be provided by
- 47 the owner of the right-of-way.
- 48 (6) In addition to all required street improvements, high-back curb or other barrier,
- 49 determined appropriate by the Weber County Engineer, shall be installed to separate
- 50 and sufficiently protect pedestrian areas or sidewalks from dangers associated with
- 51 street travel lanes.
- 52 (7) Pedestrian areas or sidewalks shall not be less than 4.5 feet in width.

53 Sec. 108-7-~~34~~. - Fencing requirements.

- 54 (a) A wall, fence or hedge not exceeding four feet in height may be located and maintained anywhere on
- 55 a lot except as required by section 108-7-7. A wall, fence, or hedge not more than six feet in height
- 56 may be located anywhere on an interior lot except within the area comprising the required front yard
- 57 setback. A wall, fence, or hedge not more than six feet in height may be located anywhere on a
- 58 corner lot except within the areas comprising the required front yard setback and the required side
- 59 yard setback which faces the street. A wall, fence, or hedge on a corner lot shall comply with the
- 60 requirements of section 108-7-7
- 61 (b) Notwithstanding the requirements of subsection (a) of this section, residential subdivisions and
- 62 projects may be encompassed in whole or in part by a perimeter fence of not more than six feet in
- 63 height, subject to design review and provided that access to lots is allowed only from approved
- 64 interior public or private streets that are part of the approved subdivision or project. In addition, a
- 65 permanent means of landscaping and maintaining the parking strip between the fence and the street
- 66 curb shall be provided.
- 67 (c) Where a retaining wall protects a cut below the natural grade, such retaining wall may be topped by
- 68 a fence, wall or hedge of the same height that would otherwise be permitted at the location if no
- 69 retaining wall existed. Where a retaining wall contains a fill, the height of the retaining wall built to
- 70 retain the fill shall be considered as contributing to the permissible height of a fence, solid wall, or
- 71 hedge, provided that in any event a protective fence or wall not more than four feet in height may be
- 72 erected at the top of the retaining wall. These provisions shall comply with the requirements of
- 73 section 108-7-7
- 74 (d) Fences for uses such as tennis or sport courts may be a maximum of 12 feet high, provided the
- 75 fence meets all of the required setbacks for an accessory building in the zone in which it is located
- 76 and a land use and building permit are obtained.
- 77 (e) The provisions of this section shall not apply to fences required by state law to surround and enclose
- 78 public utility subdivisions and public schools.

79 (Ord. of 1956, § 23-3; Ord. No. 18-90; Ord. No. 2009-14)

80 Sec. 108-7-4. - Area of accessory building.

81 No accessory building or group of accessory buildings in any residential estates zone, cluster
82 subdivision, or PRUD shall cover more than 25 percent of the rear yard.

83 (Ord. of 1956, § 23-4; Ord. No. 2009-14)

84 Sec. 108-7-~~56~~. - Exceptions to height limitations.

85 (a) Penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar
86 equipment required to operate and maintain the building, and fire or parapet walls, skylights,
87 cupolas, solar panels, steeples, flagpoles, chimneys, smokestacks, water tanks, wireless or
88 television masts, theater lofts, silos or similar structures may be erected above the height limit of the
89 zone in which they are located, but no space above the height limit shall be allowed for the purpose
90 of providing additional floor space, and if in proximity to an airport, no heights exceptions are
91 permitted above the maximum allowed under airport height regulations.

92 (b) All exceptions to height shall be subject to design review and all mechanical equipment shall be
93 screened by materials consistent with those used on the exterior of the building.

94 (Ord. of 1956, § 23-5; Ord. No. 2009-14)

95 Sec. 108-7-~~67~~. - Minimum height of dwelling.

96 No dwelling shall be erected to a height less than one story above natural grade.

97 (Ord. of 1956, § 23-6; Ord. No. 2009-14)

98 Sec. 108-7-~~78~~. - Clear view of intersecting streets.

99 In all zones which require a front yard setback, no obstruction to view in excess of three feet in
100 height shall be placed on any corner lot within the area designated as the clear view triangle, except
101 those noted below. The clear view triangle is a triangular area formed by the front and side (street facing)
102 property lines and a line connecting them at points 40 feet from their intersection.

103 (Ord. of 1956, § 23-7; Ord. No. 2009-14)

104 Sec. 108-7-~~89~~. - Setbacks for animals and fowl.

105 No animals or fowl shall be kept or maintained closer than 40 feet from any dwelling and not closer
106 than 75 feet from any dwelling on an adjacent lot. Any barn, stable, coop, pen, corral, or enclosure for the
107 housing or keeping of animals or fowl shall be kept, constructed, or maintained not less than 100 feet
108 from a property line adjacent to a street and not less than 25 feet from any lot line.

109 (Ord. of 1956, § 23-8; Ord. No. 2009-14)

110 Sec. 108-7-~~910~~. - Water and sewage requirements.

111 (a) In all cases, where a proposed building or use will involve the use of sewage facilities, and a public
112 sewer is not available, and in all cases where a proposed supply of piped culinary water is not
113 available, the sewage disposal and the domestic culinary water supply shall comply with
114 requirements of the county board of health and/or state board of health and the application for a

115 building and land use permit shall be accompanied by a certificate of approval from the board of
116 health.

117 (b) Building permits shall not be issued by the building inspector or county official unless private water
118 supply and private sewage disposal is approved in accordance with the requirements of subsection
119 (a) of this section.

120 (Ord. of 1956, § 23-9; Ord. No. 4-83; Ord. No. 2009-14)

121 Sec. 108-7-~~10~~11. - Required building setback from designated collector or arterial streets.

122 Where a street is designated on the master street plan of the county as a collector or arterial (major)
123 street and where the existing street right-of-way requires widening to meet the right-of-way standards of
124 such collector or arterial (major) street, the minimum front and side yard setback for all buildings shall be
125 based upon the future designated right-of-way width as shown on the county master plan and shall be
126 measured from the future lot line of the collector or arterial (major) street designated right-of-way instead
127 of the existing lot line of the present street right-of-way.

128 (Ord. of 1956, § 23-10; Ord. No. 15-72; Ord. No. 2-89; Ord. No. 2009-14)

129 Sec. 108-7-~~11~~12. - Group dwellings.

130 (a) Yard regulations. Group dwellings shall be considered as one building for the purpose of front, side,
131 and rear yard requirements, the entire group as a unit requiring one front, one rear, and two side
132 yards as specified for dwelling structures. The minimum distance between structures shall be ten
133 feet for single-story buildings, 15 feet for two-story buildings and 20 feet for three- or more story
134 buildings.

135 (b) Group dwelling PRUD. A group dwelling complex shall be developed as a PRUD if the area of the
136 complex is equal to or exceeds the minimum number of units or area required for a PRUD for the
137 zone in which the complex is located. (See section 108-5-5(a))

138 (Ord. of 1956, § 23-11; Ord. No. 7-78; Ord. No. 2009-14)

139 Sec. 108-7-~~12~~13. - Towers.

140 (a) No commercial tower installation shall exceed a height equal to the distance from the base of the
141 tower to the nearest overhead power line by less than five feet.

142 (b) A tower that exceeds the height limitation of the zone in which it is to be located as permitted by
143 section 108-7-5, shall be considered a conditional use.

144 (c) In all zones, except in commercial and manufacturing zones, towers shall not be located within the
145 minimum front yard setback of any lot, nor within the minimum side yard setback facing a street on a
146 corner lot, nor on the roof of a residential structure.

147 (d) A building permit shall be required for a tower. An application for a permit shall include construction
148 drawings showing the method of installation and a site plan depicting structures on the property and
149 on any affected adjacent property and a structural engineering certification by a registered structural
150 engineer from the state.

151 (Ord. of 1956, § 23-12; Ord. No. 2008-8; Ord. No. 2009-14)

152 Sec. 108-7-~~13~~14. - Residential facility for persons with a disability facility requirements.

CHAPTER 32

ENCROACHMENTS INTO THE PUBLIC RIGHT-OF-WAY

SECTION 3201
GENERAL

3201.1 Scope. The provisions of this chapter shall govern the encroachment of structures into the public right-of-way.

3201.2 Measurement. The projection of any structure or portion thereof shall be the distance measured horizontally from the *lot line* to the outermost point of the projection.

3201.3 Other laws. The provisions of this chapter shall not be construed to permit the violation of other laws or ordinances regulating the use and occupancy of public property.

3201.4 Drainage. Drainage water collected from a roof, *awning*, canopy or marquee, and condensate from mechanical equipment shall not flow over a public walking surface.

SECTION 3202
ENCROACHMENTS

3202.1 Encroachments below grade. Encroachments below grade shall comply with Sections 3202.1.1 through 3202.1.3.

3202.1.1 Structural support. A part of a building erected below grade that is necessary for structural support of the building or structure shall not project beyond the *lot lines*, except that the footings of street walls or their supports which are located not less than 8 feet (2438 mm) below grade shall not project more than 12 inches (305 mm) beyond the street *lot line*.

3202.1.2 Vaults and other enclosed spaces. The construction and utilization of vaults and other enclosed spaces below grade shall be subject to the terms and conditions of the applicable governing authority.

3202.1.3 Areaways. Areaways shall be protected by grates, *guards* or other *approved* means.

3202.2 Encroachments above grade and below 8 feet in height. Encroachments into the public right-of-way above grade and below 8 feet (2438 mm) in height shall be prohibited except as provided for in Sections 3202.2.1 through 3202.2.3. Doors and windows shall not open or project into the public right-of-way.

3202.2.1 Steps. Steps shall not project more than 12 inches (305 mm) and shall be guarded by *approved* devices not less than 3 feet (914 mm) in height, or shall be located between columns or pilasters.

3202.2.2 Architectural features. Columns or pilasters, including bases and moldings shall not project more than 12 inches (305 mm). Belt courses, lintels, sills, architraves, pediments and similar architectural features shall not project more than 4 inches (102 mm).

3202.2.3 Awnings. The vertical clearance from the public right-of-way to the lowest part of any *awning*, including valances, shall be not less than 7 feet (2134 mm).

3202.3 Encroachments 8 feet or more above grade. Encroachments 8 feet (2438 mm) or more above grade shall comply with Sections 3202.3.1 through 3202.3.4.

3202.3.1 Awnings, canopies, marquees and signs. *Awnings*, canopies, marquees and signs shall be constructed so as to support applicable loads as specified in Chapter 16. *Awnings*, canopies, marquees and signs with less than 15 feet (4572 mm) clearance above the sidewalk shall not extend into or occupy more than two-thirds the width of the sidewalk measured from the building. Stanchions or columns that support *awnings*, canopies, marquees and signs shall be located not less than 2 feet (610 mm) in from the curb line.

3202.3.2 Windows, balconies, architectural features and mechanical equipment. Where the vertical clearance above grade to projecting windows, balconies, architectural features or mechanical equipment is more than 8 feet (2438 mm), 1 inch (25 mm) of encroachment is permitted for each additional 1 inch (25 mm) of clearance above 8 feet (2438 mm), but the maximum encroachment shall be 4 feet (1219 mm).

3202.3.3 Encroachments 15 feet or more above grade. Encroachments 15 feet (4572 mm) or more above grade shall not be limited.

3202.3.4 Pedestrian walkways. The installation of a pedestrian walkway over a public right-of-way shall be subject to the approval of the applicable governing authority. The vertical clearance from the public right-of-way to the lowest part of a *pedestrian walkway* shall be not less than 15 feet (4572 mm).

3202.4 Temporary encroachments. Where allowed by the applicable governing authority, vestibules and storm enclosures shall not be erected for a period of time exceeding seven months in any one year and shall not encroach more than 3 feet (914 mm) nor more than one-fourth of the width of the sidewalk beyond the street *lot line*. Temporary entrance *awnings* shall be erected with a clearance of not less than 7 feet (2134 mm) to the lowest portion of the hood or *awning* where supported on removable steel or other *approved* non-combustible support.