



Staff Report to the County Commission

Weber County Planning Division

Synopsis

APPLICATION INFORMATION

Application Request: **ZMA 2022-04** A public hearing for an ordinance and development agreement to rezone 0.92 acres from A-1 to C-2. The proposal is located at approximately 2139 S 4300 West.

Agenda Date: Tuesday, January 21, 2025

Applicant: Joshua Skidmore, JKS Ventures LLC

PROPERTY INFORMATION

Zoning: The area to be rezoned is currently A-1

Proposed Land Use: Commercial C-2

ADJACENT LAND USE

North: High School	South: High School
East: Residential/Agriculture	West: High School

STAFF INFORMATION

Report Presenter: Felix Lleverino
fleverino@webercountyutah.gov
801-399-8767

Report Reviewer: CE

Applicable Ordinances

§ 102-5: Rezoning Procedures

§ 104-12: Residential Zones (R1-15)

Legislative Decisions

This is a legislative matter. There is wide discretion in making legislative decisions. Criteria for decisions on a legislative matter suggest compatibility with the general plan, existing ordinances, and best practices. Examples of legislative actions are general plan, zoning map, and land use code amendments.

Summary

The land owner requests to amend the zoning map from A1 to C-2 on 0.92 acres which would allow for various commercial uses including an indoor athletic or recreation center.

There is an existing single-family residence that will become a grandfathered use should the zoning change. There is also an existing 9360 SF outbuilding operating in violation of the zone Agricultural A-1 zone. A change to commercial zoning would serve as a means to bring the illegal recreation center use into compliance following the owner obtaining the appropriate permitting and licensing. If the legislative body approves the rezone as proposed, the development agreement attached as Exhibit B should also be approved, as it contains development standards specific to the property.

On December 13, 2024, the Western Weber Planning Commission unanimously forwarded a positive recommendation to the County Commission to rezone 0.92 acres.

Policy Analysis

A complete policy analysis is included in the attached staff report that was presented to the Western Weber Planning Commission.

Planning Commission Recommendation

Forward a positive recommendation to the County Commission. Before consideration by the County Commission, the owner will voluntarily enter into a development agreement with the County; that development agreement will include, but not be limited to, provisions listed below:

1. Prior to consideration by the County Commission, the owner will enter into a development agreement with the County, that development agreement will include provisions to ensure that 7 feet of right-of-way adjacent to 4300 W will be dedicated to the county. The agreement will also specify that the first 100 feet of front yard adjacent to 4300 West (after the 7-foot dedication) will be reserved for multi-use commercial. The agreement includes provisions to ensure that the allowed uses in the first 40 feet will be pedestrian-friendly.
2. The existing building in which the use will occur will need to receive approval from the Building Official and the fire marshal, as the building may not have been constructed to a commercial occupancy.

This recommendation comes with the following findings:

1. The proposal implements certain goals and policies of the West Central Weber General Plan.
2. The rezone is not detrimental to the overall health, safety, and welfare of the community.

Attachments

- A. Rezone Ordinance
- B. Development Agreement
- C. December 13 Planning Division Report Presented to Western Weber Planning Commission

Attachment A – Rezone Ordinance

See next page.

ORDINANCE NUMBER 2024-_____

AN ORDINANCE AMENDING THE WEBER COUNTY ZONING MAP FROM A-1 TO C-2 ON 0.92 ACRES

WHEREAS, the Weber County Board of Commissioners have adopted a zoning map for the unincorporated areas of Weber County; and

WHEREAS, the Weber County Board of Commissioners has received an application from Joshua Skidmore, to amend the zoning designation on property located at approximately 2129 South 4300 West in unincorporated Weber County; and

WHEREAS, after consideration, The Weber County Board of Commissioners desires to rezone the subject property from A-1 to C-2; and

WHEREAS, the Weber County Board of Commissioners and Joshua Skidmore mutually agree to the rezone; and

WHEREAS, the Weber County Board of Commissioners and Joshua Skidmore mutually agree to execute a development agreement that specifies certain terms of development and establishes a concept plan of the subject property; and

WHEREAS, on December 13, 2022, the Western Weber Planning Commission held a duly noticed public hearing to consider the rezone application, and, after deliberation, forwarded a positive recommendation to the Board of County Commissioners; and

WHEREAS, After reviewing the planning commission's recommendation and the Western Weber General Plan, and in consideration of the applicant's proposed voluntary public contributions and amenities accepted by Weber County Board of Commissioners by means of the associated development agreement, the Weber County Board of Commissioners desires to rezone the subject property from the A-1 zone to the C-2 zone; and

WHEREAS, The Parties mutually understand that the Weber County Board of Commissioners is not obligated to rezone the project, but desires to do so as a result of the applicant's voluntary contributions as set forth in the associated development agreement, without which the County would not realize the full benefits of this decision and would not rezone the Property; and

NOW THEREFORE, the Weber County Board of Commissioners ordains an amendment to the Weber County Zoning Map to change the zoning designation, as more precisely depicted in Exhibit A, and described in Exhibit B. In the event there is a conflict between the two, the legal description shall prevail. In the event the legal description is found by a licensed surveyor to be invalid or incorrect, the corrected legal description shall prevail as the description herein, if recommended by the County Surveyor, provided that the corrected legal description appropriately bounds the subject property and fits within the correct legal description of surrounding properties.

This ordinance shall become effective fifteen (15) days after publication or on the day the development agreement between Joshua Skidmore and Weber County is recorded, whichever is later.

Passed, adopted, and ordered published this _____ day of _____, 2024, by the Weber County Board of Commissioners.

BOARD OF COUNTY COMMISSIONERS OF WEBER COUNTY

By _____,
_____, Chair

Commissioner Harvey voted _____
Commissioner Froerer voted _____
Commissioner Bolos voted _____

ATTEST:

Ricky Hatch, CPA
Weber County Clerk/Auditor

Exhibit A

Graphic Representation of the Property

Joshua Skidmore from A-1 Zone to C-2 Zone
SKEEN SUBDIVISION 43-056

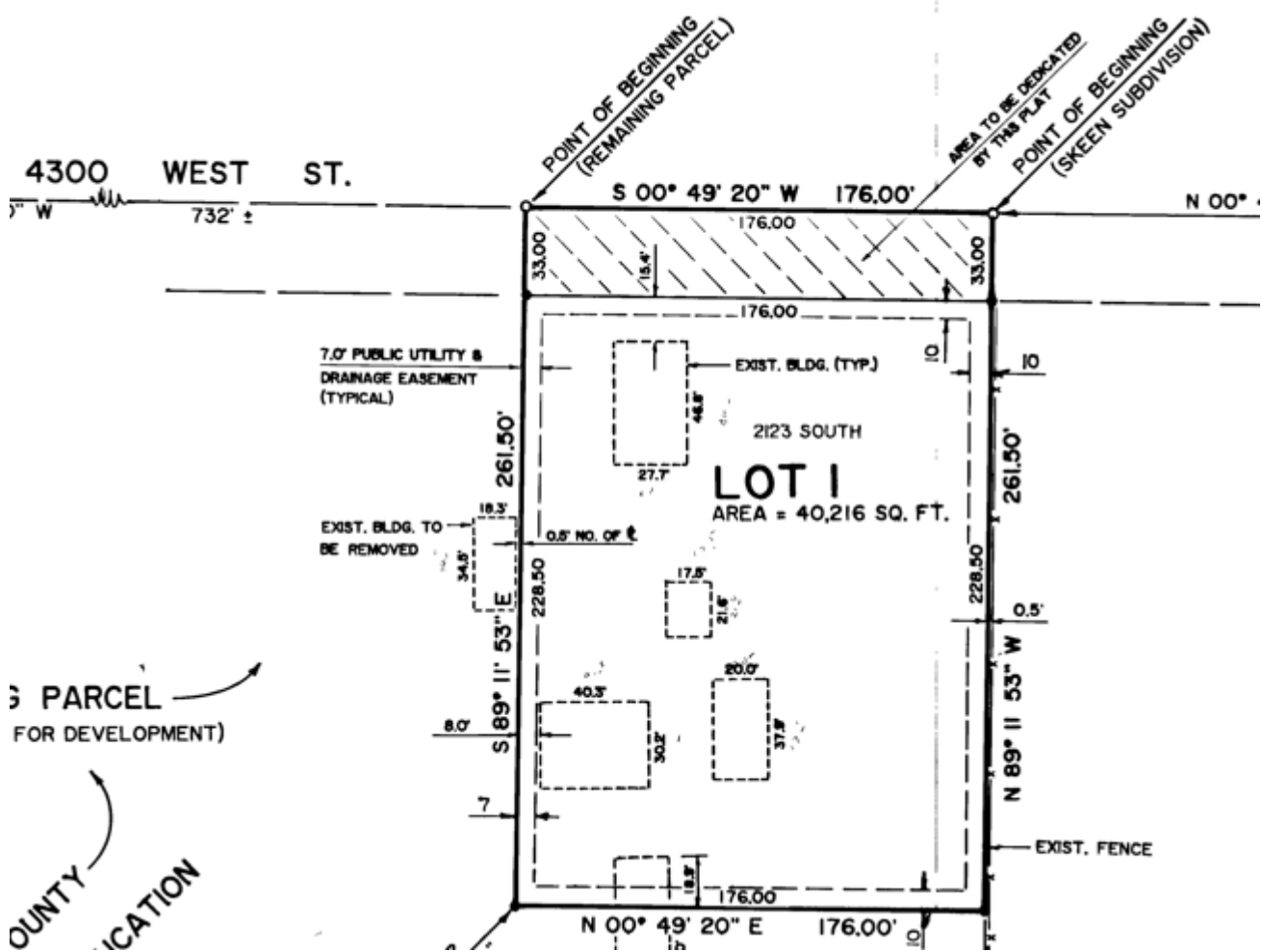


Exhibit B

Written Description

ALL OF LOT 1, SKEEN SUBDIVISION, WEBER COUNTY, UTAH.

Attachment B – Development Agreement

See next page.

DEVELOPMENT AGREEMENT

Between

WEBER COUNTY, UTAH

And

JOSH SKIDMORE

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DEVELOPMENT AGREEMENT

JOSH SKIDMORE

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered into by and between Weber County, Utah ("County") and Josh Skidmore ("Developer"), known together herein as the "Parties."

RECITALS

WHEREAS, The Developer desires and intends to develop a residential subdivision (the "Project") in the unincorporated area of Weber County known as West-Central Weber; and

WHEREAS, The Developer's objective is to develop a residential subdivision that complements the character of the community and is financially successful; and

WHEREAS, The County's objective is to only approve development that supports and advances the health, safety, and welfare of the community, as generally described in the general plan and as otherwise determined appropriate by the Board of County Commissioners; and

WHEREAS, The general plan advocates, and the Board of County Commissioners hereby further affirm, that new development in the area resulting from a rezone should not only compensate for its impacts on the character of the community and the existing residents, it should also enhance and benefit the existing and future community using smart growth principles such as expansion of parks and open space areas, street and pathway connectivity, and other smart growth principles specified in the plan; and

WHEREAS, The Project is currently zoned A-1 and Developer desires to rezone the Project to the C-2 zone consistent with the terms and provisions contained herein; and

WHEREAS, Developer acknowledges that a rezone is not compulsory and that Developer is hereby volunteering to be rezoned. Developer understands that volunteering to be rezoned will result in the obligations and benefits set forth in this Agreement as well as in the new zone. Developer further acknowledges that some of the obligations and benefits set forth in this Agreement might not otherwise be applicable or enforceable without Developer volunteering to comply and benefit from this Agreement; and

WHEREAS, Developer understands that the Board of County Commissioners is not obligated to rezone the project, but does so as a result of Developer's voluntary contributions as set forth in this Agreement, without which the County would not realize the full benefits of this Agreement and would not have rezoned the Property.

WHEREAS, In consideration of Developer's voluntary contributions, the Board of County Commissioners desire to rezone the Project to the C-2 (Commercial) zone consistent with the terms and provisions contained herein, as generally depicted in **Attachment A**: Associated Rezone Area; and

WHEREAS, The Project will be located on land referred to herein as the "Project Site". The Project Site is as more specifically described in **Attachment A**. The concept plan depicting main-street commercial is illustrated in **Attachment B**. A concept plan showing the general location and layout of the Project is contained in **Attachment C**. A list of permitted uses in **Attachment D**.

NOW, THEREFORE, in consideration of the recitals (which are incorporated into the Agreement by this reference) and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. Effective Date, Expiration, Termination.

- 1.1. **Effective Date.** The Effective Date of this Agreement is the last date upon which it is signed by any of the Parties hereto.
- 1.2. **Expiration.** This Agreement shall be in full force and effect until (10) years from the Effective Date of this Agreement, at which point this Agreement shall expire.
- 1.3. **Termination.** This Agreement may be terminated by mutual written agreement of the Parties to this Agreement or terminated pursuant to Section 10 of this Agreement. This Agreement automatically terminates, without notice, in the following circumstances:
 - 1.3.1. The term of this Agreement expires;
 - 1.3.2. The Project is abandoned or the use is discontinued, as provided for by Weber County Code Chapter 108-12; or
 - 1.3.3. The Developer defaults on any provision of this Agreement and the default is not resolved as specified in Section 13 of this Agreement.

2. Definitions and Interpretation.

For purposes of this Agreement, the following terms, phrases, words, and their derivations shall have the meaning given herein where capitalized; words not defined herein shall have their ordinary and common meaning. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, words in the singular number include the plural number, and the use of any gender shall be applicable to all genders whenever the sense requires. The words "shall" and "will" are mandatory and the word "may" is permissive. References to governmental entities (whether persons or entities) refer to those entities or their successors in authority. If specific provisions of law referred to herein are renumbered, then the reference shall be read to refer to the renumbered provision.

- 2.1. **Agreement.** "Agreement" means this Development Agreement between County and Developer, approved by the Board of County Commissioners, and executed by the undersigned.
- 2.2. **County.** "County" means Weber County, Utah.
- 2.3. **Construction Buildout Period.** "Construction Buildout Period" has the meaning set forth in Section 7.9 of this Agreement.
- 2.4. **Developer.** "Developer" means Josh Skidmore, or any of their Assignees as provided in Section 11 of this Agreement.
- 2.5. **Development Standards.** "Development Standards" means the requirements stated in Section 7 of this Agreement.
- 2.6. **Effective Date.** "Effective Date" has the meaning set forth in Section 1 of this Agreement.
- 2.7. **Force Majeure Event.** "Force Majeure Event" means any event beyond the reasonable control of the affected Party that directly prevents or delays the performance by such Party of any obligation arising under this Agreement, including an event that is within one or more of the following categories: condemnation; expropriation; invasion; plague; drought; landslide; tornado; hurricane; tsunami; flood; lightning; earthquake; fire; explosion; epidemic; quarantine; war

(declared or undeclared), terrorism or other armed conflict; material physical damage to the Project caused by third Parties; riot or similar civil disturbance or commotion; other acts of God; acts of the public enemy; blockade; insurrection, riot or revolution; sabotage or vandalism; embargoes; and, actions of a governmental or judicial authority.

- 2.8. **Parties.** "Parties" means the Developer and the County.
- 2.9. **Project.** "Project" means the commercial site as set forth in the attachments hereto.
- 2.10. **Project Site.** "Project Site" means the land area on which the Project will actually be sited, as more specifically described in Attachment A: Project Area Legal Description and Graphic Depiction.
- 2.11. **Routine and Uncontested.** "Routine and Uncontested" means simple and germane to the Project or Project Site, having very little chance of effect on the character of the area, and not anticipated to generate concern from the public.
- 2.12. **Substantial Completion.** "Substantial Completion" means the Project is constructed, installed, and a valid business license has been obtained from the county.
- 2.13. **Transferee.** A party to which the Project is transferred or assigned in part or in whole. "Assignee" shall also mean the same.
- 2.14. **Vested Laws.** "Vested Laws" means the land use laws, Part II of the Weber County Code, in effect at the time of execution of this Agreement.

3. Omitted

4. Project Description.

The Project is a commercial site, for which Design Review applications will be submitted.

5. Project Location.

The Project is located on 0.92 acres at 2139 S 4300 W, Ogden.

6. Vesting.

- 6.1. Except as otherwise noted, this Agreement vests the Project and Project Site to the existing Vested Laws until the expiration or termination of this Agreement, or until the Developer has fully developed the Project as proposed herein, whichever is earlier.
- 6.2. Developer agrees that the intent of this vesting is to offer a predictable set of development standards related to the development and establishment of the use. To that effect, Developer agrees that if the County modifies its laws in the future to specifically regulate the use or any other related performance measure, after the time provided in Section 6.1, the Project shall be subject to the new laws. This shall not affect any established nonconforming rights of the use, location, method of construction, acreage requirement, setback requirement, or height requirement of any building, structure, or internal site roadway, as may be applicable.

7. Development Standards.

- 7.1. **Use of Property.** The property shall be limited to those uses listed in Exhibit D. The first 100 feet of front yard, as measured from the centerline of 4300 W street shall be reserved for main street

commercial uses that will be allowed in a future form based zone applicable to this area.

- 7.2. **Street Improvements.** The Developer agrees to dedicate seven feet of right of way to the County and install the street infrastructure as required by the C-2 zone before or in unison with design review approval.
- 7.3. **Access from 4300 West Street.** This property is allowed one access point to 4300 West in a location that does not disrupt access to the High School Student drop off. The County Engineer may require that the access is moved further south from existing to avoid conflict with the high school traffic at the time of design review or when the existing home is being demolished or remodeled to change the use to commercial.
- 7.4. **Site and use expansions.** Project improvements that alter more than 25% of the site shall require adherence to section 7.3.
- 7.5. **Cross Access Easement.** The special regulation from the C-2 zone code requires two points of ingress and egress, at least one of which shall be stubbed to adjacent property. At the time of design review of any further commercial uses on the property, the development plan shall include a cross access easement to the property to the south.
- 7.6. **Power and Communication Utilities.** Overhead power lines and communication utilities along the frontage of the site shall be placed underground. A deferral agreement for the burying of power lines may be accepted by the County Engineer.
- 7.7. **Fire protection.** If deemed necessary by the local fire authority, each building shall be fire-sprinkled such that each unit has at least one sprinkler head, or as may be otherwise required by the fire code or the local fire authority. If a fire hydrant is not already within an acceptable proximity from the site, as determined by the local fire authority, the Developer shall install a water trunk line no less than 8 inches in diameter, or as otherwise specified by the local fire authority or County Engineer, from the nearest hydrant to the site, and shall install a hydrant onsite or in the adjoining public right-of-way, as may be deemed appropriate by the local fire authority.
- 7.8. **Outdoor storage.** There shall be no outdoor storage permitted on the site.
- 7.9. **Construction Staging and Construction Buildout Period.** Developer agrees there will be no construction staging outside of the Project Site boundaries, except what is reasonable and necessary for the construction of the driveway access or to fulfill any requirements of law.
- 7.10. **Sanitary Sewer and Culinary Water.** Developer agrees to satisfy the requirements of the Central Weber Sewer District and the Taylor West Weber Water District regarding sanitary sewer and culinary water provisions for the site.
- 7.11. **Permits.** Developer agrees to obtain all necessary federal, state, and local permits required prior to any work onsite, including but not limited to building permits, storm water pollution prevention permits, right-of-way encroachment permits.

8. Amendments and Revisions.

This Agreement may be amended by mutual agreement of the Parties only if the amendment is in writing and approved and signed by Developer and County (an "Amendment"). The following sections specify what Project changes can be undertaken without the need for amendment of the Development Agreement, and what changes require Amendment to this Agreement.

- 8.1. **Project Facility Repair, Maintenance and Replacement.** Developer shall be permitted to repair, maintain and replace the Project and its components consistent with the terms of this Agreement without amending the Agreement.

8.2. Authorized Changes, Enlargements, or Alterations. As set forth below, County staff may review and approve certain minor changes, enlargements or adjustments ("Changes") to the Project in their respective administrative capacities. The following types of Changes are considered minor, provided that no such Changes shall directly or indirectly result in significantly greater impacts than those contemplated in the approval of this Agreement.

8.2.1. Changes Necessary to Comply with Other Laws. Any resulting changes as a consequence of obtaining or complying with a federal, state, or local permit or approval; provided that the changes are routine and uncontested and the application thereof does not materially affect the County's original intent, findings, or conditions on the Project in a manner that would have likely resulted in a different decision on this Agreement, as determined by the Planning Director.

9. Omitted.

10. Termination.

In addition to what is stated in paragraph 1.3, the following termination provisions apply:

10.1. Developer's Option. Developer shall have the option, in its sole discretion, to terminate this Agreement prior to Substantial Completion of the Project, provided such termination will not relieve the Developer of any obligation owed the County under the terms of this Agreement and outstanding at the time of such termination. If it elects to terminate this Agreement, Developer shall submit a Notice to this effect to County at least thirty (30) days prior to such termination.

10.2. Zoning Reversion. The Parties agree that this agreement and the rezone of the property from the A-1 zone to the C-2 zone are inextricably related. The Parties agree that the termination of this agreement shall result in the reversion of the Property back to the rights, standards, and regulations of the A-1 zone. At that time, any established nonconforming right may continue as provided by law, but no new right may be established unless it complies with the A-1 zone.

11. General Provisions.

11.1. Assignability. The rights and responsibilities of Developer under this Agreement may be assigned as provided herein.

11.1.1. Total Assignment of Project and Project Site. The Developer, as the landowner of the Project Site at the time of the execution of this agreement, may sell, convey, reassign, or transfer the Project Site or Project to another entity at any time, provided any division of land, if applicable, complies with County Laws.

11.1.2. Partial Assignment of Project Site. A partial assignment of the Project Site is prohibited under this Agreement. The Project Site shall be continuously owned under the ownership of Developer and assignees, until this agreement is Terminated.

11.2. Binding Effect. This Agreement shall be binding upon the Parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns, devisees, administrators, representatives, lessees and all other persons or entities acquiring all or any portion of the Project, any lot, parcel or any portion thereof within the Project Site, or any interest therein, whether by sale, operation of law, devise, or in any manner whatsoever.

11.3. Utah Law. This Agreement is entered into under the laws of the State of Utah, and the Parties hereto intend that Utah law shall apply to the interpretation hereof.

11.4. Authority. Each Party represents and warrants that it has the respective power and authority,

and is duly authorized, to enter into this Agreement on the terms and conditions herein stated, and to execute, deliver and perform its obligations under this Agreement.

- 11.5. **Duty to Act Reasonably and in Good Faith.** Unless otherwise expressly provided, each party shall act reasonably in giving consent, approval, or taking any other action under this Agreement. The Parties agree that each of them shall at all times act in good faith in order to carry out the terms of this Agreement and each of them covenants that it will not at any time voluntarily engage in any actions which frustrate the purpose and intent of the Parties to develop the Project in conformity with the terms and conditions specified in this Agreement.
- 11.6. **Communication and Coordination.** The Parties understand and agree that the process described in this Agreement depends upon timely and open communication and cooperation between the Parties. The Parties agree to use best efforts to communicate regarding issues, changes, or problems that arise in the performance of the rights, duties and obligations hereunder as early as possible in the process, and not wait for explicit due dates or deadlines. Each party agrees to work cooperatively and in good faith toward resolution of any such issues.
- 11.7. **Force Majeure Event.** A Force Majeure Event shall be promptly addressed by Developer. County agrees to offer a reasonable period for Developer to cure the effect of the event given the extent of the effect on the Project and the Developer's ability to redress the effect.

12. Notices.

- 12.1. **Written Notice.** Any notice, demand, or other communication ("Notice") given under this Agreement shall be in writing and given personally or by registered or certified mail (return receipt requested). A courtesy copy of the Notice may be sent by facsimile transmission or email.
- 12.2. **Addresses.** Notices shall be given to the Parties at their addresses set forth as follows:

<p style="text-align: center;">If to the County:</p> <p style="text-align: center;">Weber County Commission 2380 Washington Blvd, Ste #360 Ogden, UT 84401</p>		<p style="text-align: center;">With copies to:</p> <p style="text-align: center;">Weber County Attorney 2380 Washington BLVD, Ste. #230 Ogden, UT 84401</p> <p style="text-align: center;">Weber County Planning Director 2380 Washington BLVD, Ste. #240 Ogden, UT 84401</p>
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If to Developer:

Josh Skidmore
4202 W 2475 S
Ogden, UT 84401

- 12.3. **Notice Effect.** Notice by hand delivery shall be effective upon receipt. If deposited in the mail, notice shall be deemed delivered forty-eight (48) hours after deposited. Any party at any time by Notice to the other party may designate a different address or person to which such notice or communication shall be given.

13. Default and Remedies.

- 13.1. Failure to Perform Period.** No Party shall be in default under this Agreement unless it has failed to perform as required under this Agreement for a period of thirty (30) days after written notice of default from the other Party. Each notice of default shall specify the nature of the alleged default and the manner in which the default may be cured satisfactorily. If the nature of the alleged default is such that it cannot be reasonably cured within the thirty (30) day period, then commencement of the cure within such time period and the diligent prosecution to completion of the cure shall be deemed a cure of the alleged default.
- 13.2. Remedies.** The Developer's failure to comply with this agreement constitutes a violation of the Land Use Code of Weber County, and is subject to the enforcement provisions and remedies thereof. In addition, the County may withhold any permits from the Project Site.
- 13.3. Dispute Resolution Process.**
- 13.3.1. Conference.** In the event of any dispute relating to this Agreement, the Parties, upon the request of either Party, shall meet within seven (7) calendar days to confer and seek to resolve the dispute ("Conference"). The Conference shall be attended by the following parties: (a) the County shall send department director(s) and County employees and contractors with information relating to the dispute, and (b) Developer shall send Developer's representative and any consultant(s) with technical information or expertise related to the dispute. The Parties shall, in good faith, endeavor to resolve their disputes through the Conference.
- 13.3.2. Mediation.** If this Conference process does not resolve the dispute within the 7-day Conference period, the Parties shall in good faith submit the matter to mediation. The Parties shall send the same types of representatives to mediation as specified for the "Conference" process. Additionally, the Parties shall have representatives present at the mediation with full authority to make a settlement within the range of terms being discussed, should settlement be deemed prudent. The mediation shall take place within 45 days of the Parties submitting the dispute to mediation. If the dispute is not able to be resolved through the mediation process in the 45-day period, the Parties may pursue their legal remedies in accordance with Utah and local law.

14. Entire Agreement.

This Agreement, together with all Attachments hereto, constitutes the entire Agreement between the Parties with respect to the subject matter of this Agreement. This agreement is specifically intended by the Parties to supersede all prior agreements between them, whether written or oral.

15. Counterparts.

This Agreement may be executed in several counterparts and all so executed shall constitute one agreement binding on all the parties, notwithstanding that each of the parties are not signatory to the original or the same counterpart. Further, executed copies of this Agreement delivered by facsimile or by e-mail shall be deemed originally signed copies of this Agreement.

IN WITNESS HEREOF, the Parties hereto, having been duly authorized, have executed this Agreement.

(Signatures on following pages)

SIGNATORIES

“County”

Weber County, a body corporate and politic of the State of Utah

By: _____

Chair, Weber County Commission

DATE: _____

ATTEST: _____

Ricky D. Hatch, CPA
Weber County Clerk/Auditor

“Developer”
Josh Skidmore

By: _____

Print Name: _____

Title: _____

DATE: _____

Developer Acknowledgment
(Individual)

State Of _____)

)ss.

County Of _____)

On the ____ day of _____, 20__, personally appeared before me _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

My Commission Expires:

Notary Public, residing in

Attachment A

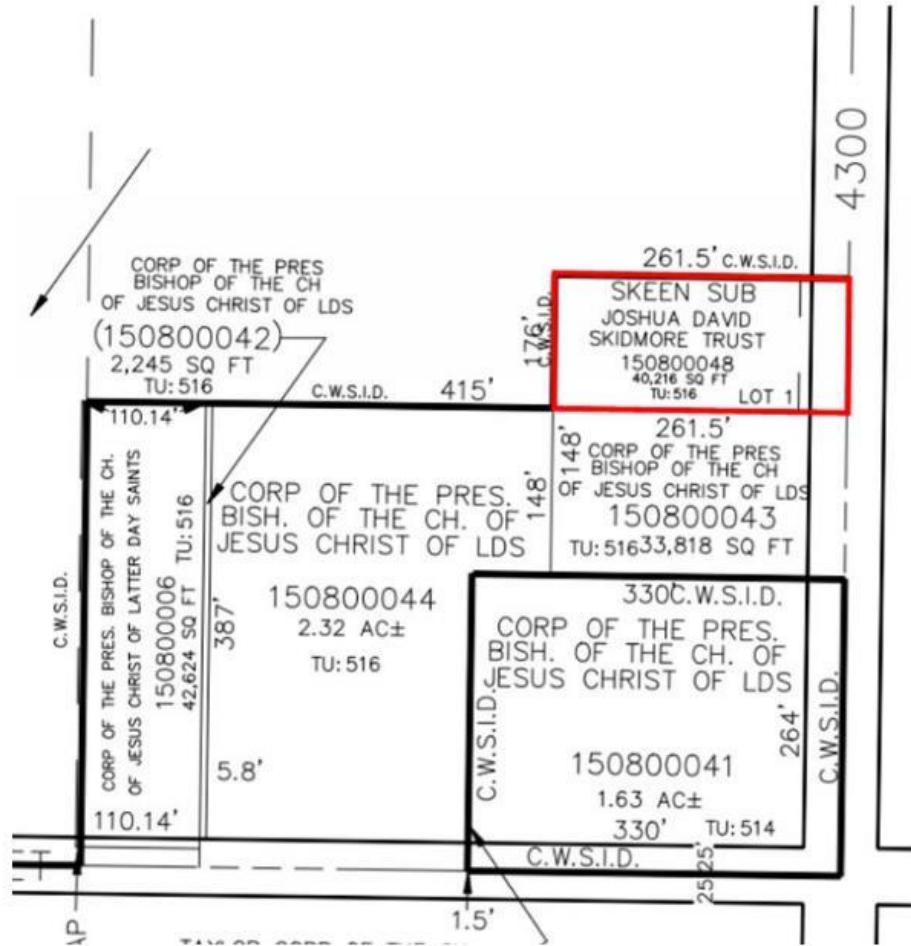
Project Area Legal Description and Graphic Depiction

All of the property described as follows:

ALL OF LOT 1, SKEEN SUBDIVISION, WEBER COUNTY, UTAH.

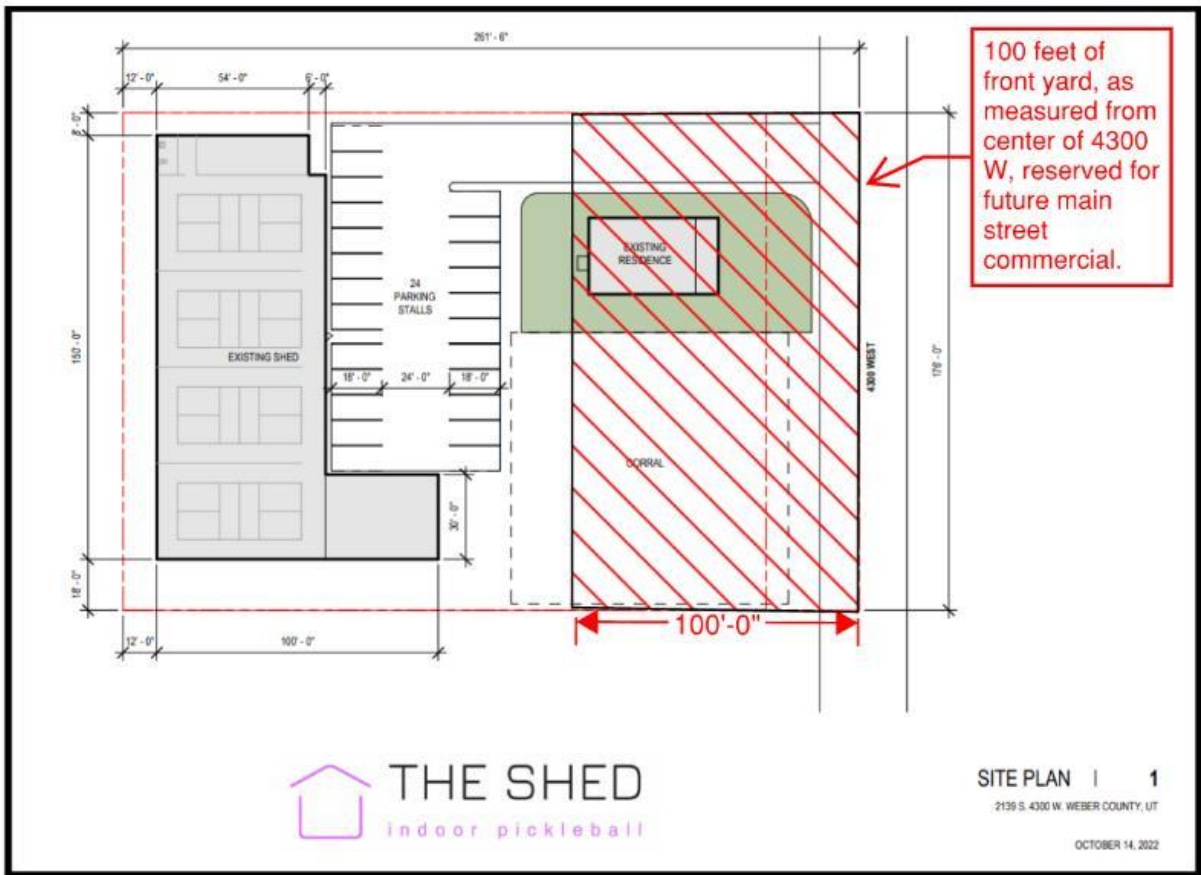
Attachment A (Cont.)

Project Area Legal Description and Graphic Depiction

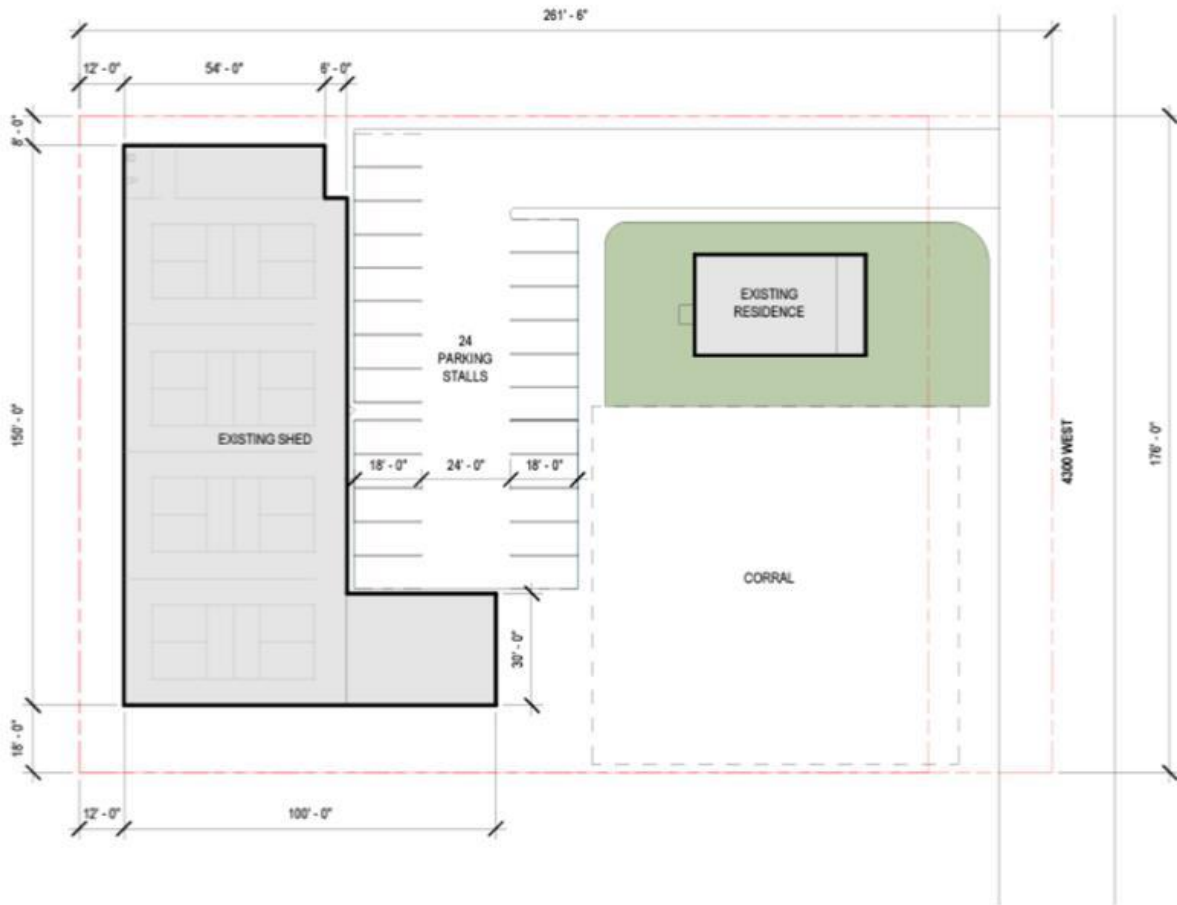


Attachment B

Concept Plan with Main Street Commercial Area



Attachment C
Concept Plan



Attachment D
List of permitted uses

Academies/studio for dance, art, sports, etc.
Accessory building incidental to the main use
Antique, import or souvenir shop
Art and artists supply store
Athletic and sporting goods sale
Bakery, limited to goods retailed on premises
Barbershop
Beauty parlor for cats and dogs
Beauty shop
Bicycle sales and service
Brewery, micro; in conjunction with a restaurant
Cafe or cafeteria
Camera store
Candy store, confectionery
Catering establishment
Clinics, medical or dental
Clothing and accessory store
Convenience store
Costume rental
Daycare center
Delicatessen
Detective agency
Drug store
Educational institution
Employment agency
Fitness, athletic, health, or recreation center, or gymnasium
Florist shop
Fruit or vegetable store or stand
Furniture sales and repair
Gift store
Grocery store
Gunsmith
Gymnasium
Hardware store
Health food store
Hobby and crafts store
Ice cream parlor
Insurance agency
Interior decorator and designing establishment
Jewelry store sales and service
Laundromat
Lawn mower sales and service
Leather goods, sales and service
Legal office

Locksmith
Meat, fish and seafood store
Medical office
Medical supplies
Music store
Office in which goods or merchandise are not commercially created, exchanged or sold
Optometrist, optician or oculist
Pharmacy
Photographic supplies
Photo Studio
Professional office
Public building
Real estate agency
Restaurant
Shoe repair or shoe shine shop
Sign, business
Sign, flat
Sign, construction project
Sign, directional
Sign, freestanding
Sign, identification and information
Sign, marquee
Sign, nameplate
Sign, off premises
Sign, projecting
Sign, roof
Sign, temporary
Sign, wall
Toy store, retail
Travel agency
Upholstery shop
Vendor, short term, in compliance with the requirements of Section 108-13-3

Exhibit C – December 13 Report to the Western Weber Planning Commission

See next page



Staff Report to the Western Weber Planning Commission

Weber County Planning Division

Synopsis

APPLICATION INFORMATION

Application Request: A public hearing for consideration of a requested rezone from A-1 to C-2 on approximately 0.92 acres.
Agenda Date: Tuesday, December 13, 2022
Applicant: Joshua Skidmore
File Number: ZMA 2022-04

PROPERTY INFORMATION

Approximate Address: 2139 S 4300 W
Zoning: The area to be rezoned is currently A-1
Proposed Land Use: Commercial, C-2

ADJACENT LAND USE

North: New High School
East: Residential
South: Future Nilson Homes project
West: Residential (Plain City)

STAFF INFORMATION

Report Presenter: Steve Burton
sburton@webercountyutah.gov
801-399-8766
Report Reviewer: CE

Applicable Ordinances

§ 102-5: Rezoning Procedures

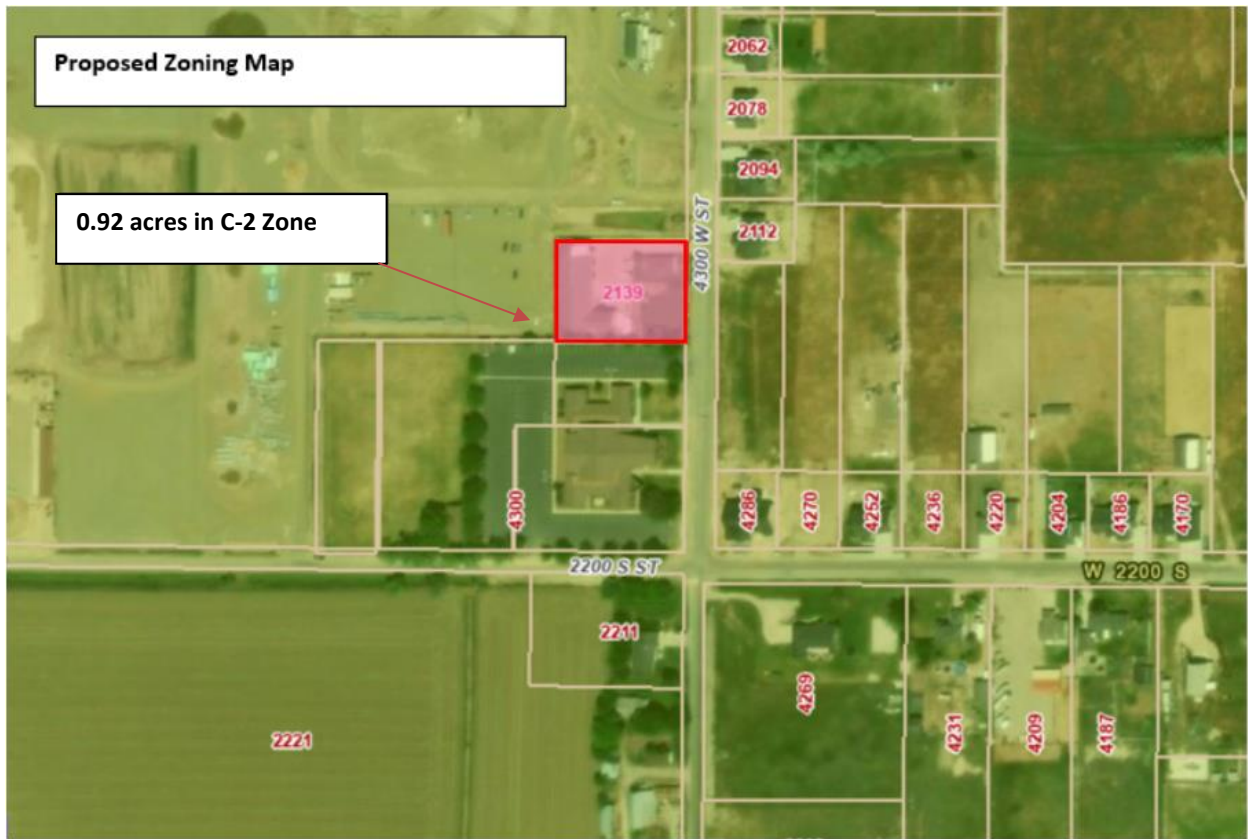
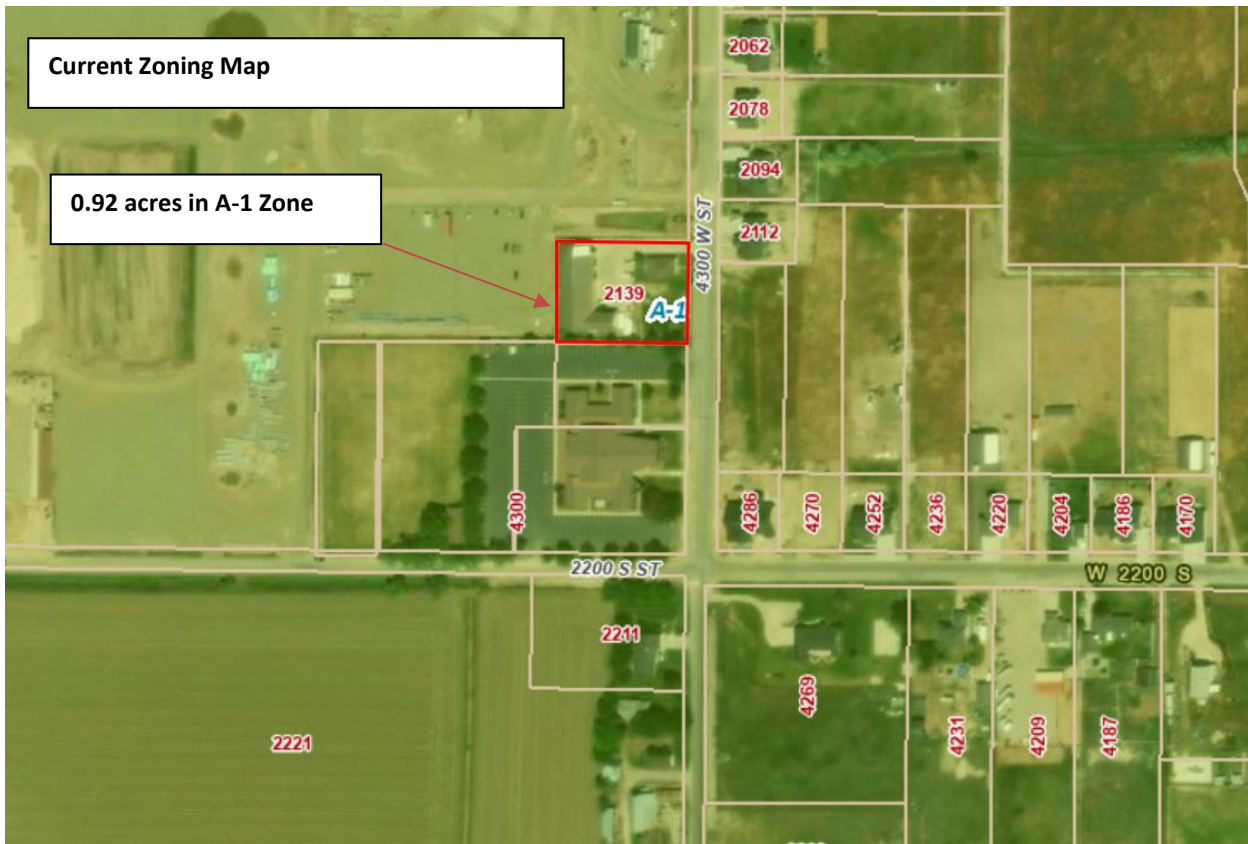
§ 104-20: Commercial Zones (C-2)

Legislative Decisions

This is a legislative matter. When the Planning Commission is acting on a legislative matter, it is acting to make a recommendation to the Board of County Commissioners. There is wide discretion in making legislative decisions. Criteria for recommendations on a legislative matter suggest compatibility with the general plan, existing ordinances, and best practices. Examples of legislative actions are general plan, zoning map, and land use code amendments.

Summary

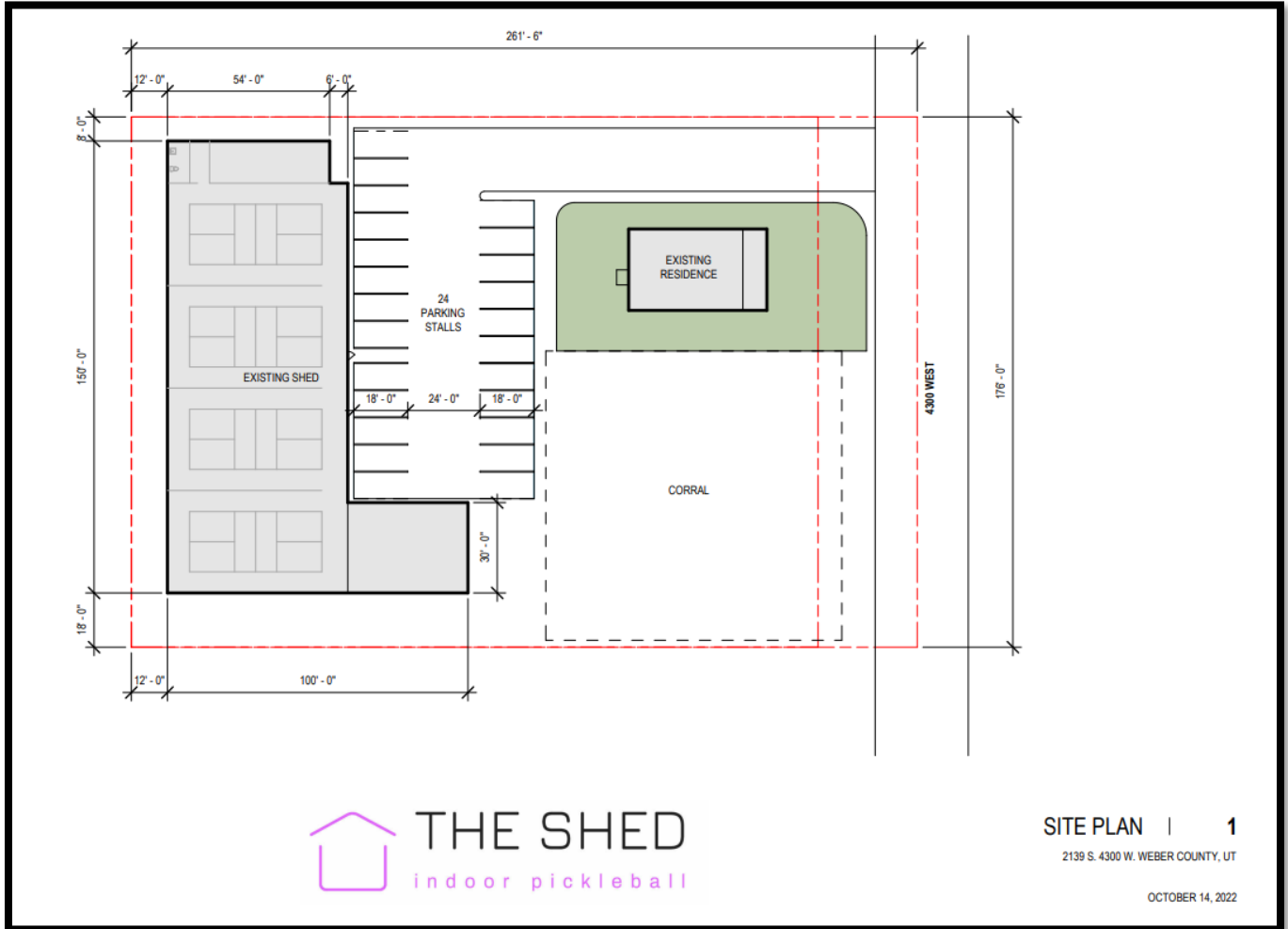
This item is an applicant-driven request to amend the zoning map from A-1 to C-2 on 0.92 acres. The owner seeks this zoning to allow a commercial pickleball court on the property. The C-2 zone lists "fitness, athletic, health, or recreation center, or gymnasium" as a permitted use in the C-2 zone. The following maps show the existing zoning and the proposed zoning for this project.



Policy Analysis

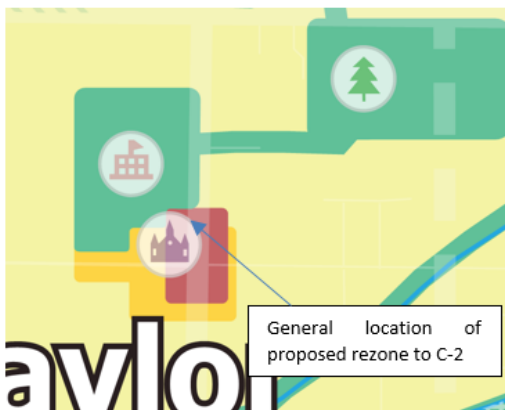
Concept Plan

The concept site plan that was provided with this application is below.



Western Weber County General Plan

The Western Weber County General Plan Future Land Use Map shows this site in a future “mixed-use” commercial area. The general plan states the following regarding mixed-use commercial, “The areas of the future land use map designated as mixed-use commercial are intended to provide a village center in which a variety of land uses can occur nearby....In each mixed-use area there should be at least one community “main street.” The main street should provide retail sales, services, eateries, and related activities that make the street interesting to use. These uses should be located behind building facades that are at the level of the street and directly adjacent to the street’s sidewalk, with plenty of window and door openings facing the street to capture the attention and interests of pedestrians as they engage their public spaces, browse, shop, eat, and play” (Western Weber Planning Area General Plan (2022), pg. 35).



This proposal is not considered ‘mixed-use commercial’, however, a rezoning to C-2 with a covenant (or development agreement) to reserve the first 40 feet of front yard adjacent to the street would establish an

area for a future mixed-use commercial street anticipated by the general plan. Reserving the first 40 feet of front yard and restricting the allowed C-2 uses to only those that are not automobile-intensive will preserve a corridor for the planned mixed-use, pedestrian friendly, commercial street in this location.

Zoning

The C-2 zone does not have a minimum lot area or lot width requirement. The current buildings comply with the front yard setback of the C-2 zone, which is 50 feet from the centerline of 4300 W, a collector street. The existing building that the pickleball court will be located in does not comply with the side yard (north property line) setback of 10 feet. The building is currently eight feet to the north side property line. The owner has an option to be closer than 10 feet to the side property line if they obtain a perpetual building maintenance agreement, as outlined in 104-20-4(e). The existing building meets the rear yard requirement of 10 feet.

The C-2 zone allows a maximum building height of 35 feet. The existing building height is 26 feet.

The C-2 zone does not list “single-family dwellings” as an allowed use. If the proposed rezone is approved, then the existing single-family dwelling will be considered a non-conforming use. Attached to this report as Exhibit A is the county’s non-conforming use chapter.

Public Roads and Trails

The Western Weber General Plan shows 4300 West as a minor collector street that should be 80 feet wide. The parcel on which the rezone is proposed has dedicated a 33 foot half width to 4300 W, and an additional 7 feet should be dedicated so that enough right-of-way exists for 40 foot half width.

County Rezoning Procedure

The land use code lists the following as considerations when the Planning Commission makes a recommendation to the County Commission:

A decision to amend the zoning map is a matter committed to the legislative discretion of the County Commission and is not controlled by any one standard. However, in making an amendment, the County Commission and Planning Commission are encouraged to consider the following factors, among other factors they deem relevant:

- a. Whether the proposed amendment is consistent with goals, objectives, and policies of the County’s general plan.*
- b. Whether the proposed amendment is compatible with the overall character of existing development in the vicinity of the subject property.*
- c. The extent to which the proposed amendment may adversely affect adjacent property.*
- d. The adequacy of facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreation facilities, police and fire protection, schools, stormwater drainage systems, water supplies, wastewater, and refuse collection.*
- e. Whether the proposed rezone can be developed in a manner that will not substantially degrade natural/ecological resources or sensitive lands.*
- f. Whether proposed traffic mitigation plans will prevent transportation corridors from diminishing below an acceptable level of service.*

Staff Recommendation

Staff recommends that the Planning Commission forward a recommendation to the County Commission to approve the proposed rezone of approximately 0.92 acres from A-1 to C-2, File #ZMA 2022-04. This approval is based on the following conditions:

3. Prior to consideration by the County Commission, the owner will enter into a development agreement with the County, that development agreement will include provisions to ensure that 7 feet of right-of-way adjacent to 4300 W will be dedicated to the county. The agreement will also specify that the first 40 feet of front yard adjacent to 4300 West (after the 7 foot dedication) will be reserved for multi-use commercial. The agreement will also include provisions to ensure that the allowed uses in the first 40 feet will be pedestrian friendly and not vehicle intensive.
4. The existing building in which the use will occur will need to receive approval from the building Official and the fire marshal, as the building may not have been constructed to a commercial occupancy.

This recommendation comes with the following findings:

3. The proposal implements certain goals and policies of the West Central Weber General Plan.
4. The development is not detrimental to the overall health, safety, and welfare of the community.

Exhibits

Exhibit A: County's nonconforming use ordinance.

Chapter 108-12 Noncomplying Structures, Nonconforming Uses, And Nonconforming Lots

[Sec 108-12-1 Purpose And Intent](#)

[Sec 108-12-2 Maintenance, Repairs, And Alterations](#)

[Sec 108-12-3 Additions And Enlargements](#)

[Sec 108-12-4 Alteration Where Parking Insufficient](#)

[Sec 108-12-5 Moving Noncomplying Structures](#)

[Sec 108-12-6 Restoration Of Damaged Buildings](#)

[Sec 108-12-7 One-Year Vacancy Or Abandonment](#)

[Sec 108-12-8 Change Of Use](#)

[Sec 108-12-9 Expansion Of Nonconforming Use](#)

[Sec 108-12-10 Legal Use Of Nonconforming Lots](#)

[Sec 108-12-11 Subdivision Plat Requirements For Nonconforming Lots; Exemptions](#)

[Sec 108-12-12 Reconfiguring Nonconforming Lots](#)

[Sec 108-12-13 Setback Requirements For Nonconforming Lots](#)

[Sec 108-12-14 Parcels Previously Combined For Tax Purposes](#)

[Sec 108-12-15 Effect Of Public Right-Of-Way Expansion](#)

Editor's note—Ord. No. 2015-8, Exh. A, adopted May 5, 2015, substantially amended portions of ch. 12 to add provisions for nonconformities due to public right-of-way expansions, including retitling ch. 12 from "Noncomplying Structures and Nonconforming Uses/Parcels" to read as herein set out.

Sec 108-12-1 Purpose And Intent

The purpose and intent of this chapter is to provide standards for the development and use of noncomplying structures, nonconforming uses, and nonconforming lots. These structures, uses, and lots are considered legal, despite not meeting the current requirements of the zone in which they are located.

(Ord. of 1956, § 28-1; Ord. No. 2010-22, § 1, 9-14-2010; Ord. No. 2015-8, Exh. A, 5-5-2015)

Sec 108-12-2 Maintenance, Repairs, And Alterations

- (a) Maintenance, repairs, and structural alterations may be made to noncomplying structures on lots of record.
- (b) Dwellings or other structures built on lots or parcels which were once legal, but have since been modified in a manner that is in violation of applicable laws, shall not be issued land use or building permits, unless the structure is being strengthened or restored to a safe condition, or the lot or parcel is made to conform to current zoning regulations. In restoring the structure to a safe condition, no expansion of the structure is allowed.

(Ord. of 1956, § 28-2; Ord. No. 2009-2; Ord. No. 2010-22, § 1, 9-14-2010; Ord. No. 2015-8, Exh. A, 5-5-2015)

Sec 108-12-3 Additions And Enlargements

- (a) Except as provided in subsection (c), a structure which is occupied by a nonconforming use shall not be added to or expanded in any manner, unless such expansion is made to conform to all yard and use regulations of the zone in which the structure is located.
- (b) Except as provided in subsection (c), a noncomplying structure (main or accessory) shall not be added to or enlarged in any manner, unless such addition or enlargement conforms to all the

regulations of the zone in which it is located, or conforms to the reduced yard setbacks as allowed in section 108-12-13.

- (c) A legally constructed dwelling or other structure on a lot of record, which has yard setbacks that are less than the required yard setbacks for the zone in which it is located, shall be allowed to have an addition, provided that:
 - (1) The addition does not encroach into the required yard setbacks further than the existing dwelling or other structure; and
 - (2) The addition is located completely on the same property as the existing structure and does not encroach into a road right-of-way or on to adjacent property.

- (d) A legally constructed dwelling or other structure on a lot of record, which is located within a stream corridor setback (as defined by the Weber County Land Use Code sections 108-7-23 and/or 104-28-2), may be added to or enlarged, provided that:
 - (1) The addition does not encroach into the stream corridor setback further than the existing dwelling or other structure; and
 - (2) The addition meets the yard setback requirements of the zone in which it is located or conforms to the reduced yard setbacks as allowed in section 108-12-13; or
 - (3) The addition does not encroach into the required yard setbacks further than the existing dwelling or other structure.

(Ord. of 1956, § 28-3; Ord. No. 2008-7; Ord. No. 2009-2; Ord. No. 2010-22, § 1, 9-14-2010; Ord. No. 2015-8, Exh. A, 5-5-2015; Ord. No. 2018-2, Exhs. A, B, 2-6-2018)

Sec 108-12-4 Alteration Where Parking Insufficient

A structure lacking sufficient automobile parking space as required by this chapter may be altered or enlarged, provided additional automobile parking space is supplied to meet the requirements of the Weber County Land Use Code.

(Ord. of 1956, § 28-4; Ord. No. 2010-22, § 1, 9-14-2010)

Sec 108-12-5 Moving Noncomplying Structures

A noncomplying structure shall not be moved in whole or in part to any other location on a lot or parcel, unless every portion of such structure is made to conform to all regulations of the zone in which it is located, or made to conform to the reduced yard setbacks as allowed in section 108-12-13.

(Ord. of 1956, § 28-5; Ord. No. 2008-7; Ord. No. 2009-2; Ord. No. 2010-22, § 1, 9-14-2010; Ord. No. 2015-8, Exh. A, 5-5-2015)

Sec 108-12-6 Restoration Of Damaged Buildings

A noncomplying structure which is damaged or partially destroyed by fire, flood, wind, earthquake, or other calamity, act of God, or the public enemy, may be restored and the occupancy or use of such structure or part thereof, may be continued or resumed, provided that such restoration is started within a period of one year, by obtaining a land use permit, and is diligently pursued to completion.

(Ord. of 1956, § 28-6; Ord. No. 2010-22, § 1, 9-14-2010)

Sec 108-12-7 One-Year Vacancy Or Abandonment

- (a) A legal structure, or portion thereof, which is occupied by a nonconforming use, and which is or hereafter becomes vacant and remains unoccupied for a continuous period of one year, except for dwellings and structures to house animals and fowl, shall not thereafter be occupied except by a use which conforms to the use regulations of the zone in which it is located. Wherever a nonconforming use has been discontinued for a period of one year, such use shall not thereafter be re-established and any future use shall be in conformance with the current provisions of the Weber County Land Use Code.
- (b) Any building or structure for which a valid building permit has been issued and actual construction was lawfully begun prior to the date when the structure became noncomplying, may be completed and used in accordance with the plans, specifications and permit on which said building permit was granted. The term "actual construction" is hereby defined to be the actual placing of construction materials in their permanent position, fastened in a permanent manner, actual work in excavating a basement or the demolition or removal of an existing structure begun preparatory to rebuilding; provided that in all cases actual construction work shall be diligently carried on until the completion of the building or structure involved.

(Ord. of 1956, § 28-7; Ord. No. 2008-7; Ord. No. 2010-22, § 1, 9-14-2010)

Sec 108-12-8 Change Of Use

The nonconforming use of a legal structure may not be changed except to a conforming use. Where such a change is made to a conforming use, the use shall not thereafter be changed back to a nonconforming use.

(Ord. of 1956, § 28-8; Ord. No. 2008-7; Ord. No. 2010-22, § 1, 9-14-2010)

Sec 108-12-9 Expansion Of Nonconforming Use

A nonconforming use may be extended to include the entire floor area of the existing legal structure in which it was conducted at the time the use became nonconforming; provided, however, that a land use permit is first obtained for such extension of use.

(Ord. of 1956, § 28-9; Ord. No. 2009-2; Ord. No. 2010-22, § 1, 9-14-2010; Ord. No. 2015-8, Exh. A, 5-5-2015)

Sec 108-12-10 Legal Use Of Nonconforming Lots

Development on a nonconforming lot is permitted. Development on a nonconforming lot is limited to only those permitted and conditional uses allowed on the smallest minimum lot size for the applicable zone. A new use on a nonconforming lot is prohibited if the proposed use requires a lot size larger than the smallest lot size permitted in the zone. A legally established use may continue on a nonconforming lot regardless of the lot size requirements of the use.

(Ord. of 1956, § 28-10; Ord. No. 2001-9; Ord. No. 2008-7; Ord. No. 2010-22, § 1, 9-14-2010; Ord. No. 2015-8, Exh. A, 5-5-2015)

Editor's note—Ord. No. 2015-8, Exh. A, adopted May 5, 2015, retitled § 108-12-10 from "Legal use of parcels" to read as herein set out.

Sec 108-12-11 Subdivision Plat Requirements For Nonconforming Lots; Exemptions

All lots and parcels shall be platted as part of a subdivision in conformance with the requirements of title 106 of this Land Use Code, unless otherwise exempted by state code or this Land Use Code. The

platting of nonconforming lots, and the amendment to a platted subdivision containing nonconforming lots are governed as follows:

- (a) The following rules govern the treatment of an unplatted lot that does not conform to the current lot standards and may not have complied with the requirements of the subdivision code in effect at the time of the lot's creation:
- (1) If the existing lot can be defined as a lot of record, as defined in section 101-1-7, the lot shall be exempt from subdivision platting requirements.
 - (2) If the existing lot was created prior to July 1, 1992 and contained a lawfully permitted single family dwelling unit, then the lot shall be exempt from subdivision platting requirements, and is a nonconforming lot.
 - (3) If the existing lot was created prior to July 1, 1992, and does not qualify for the provisions of subsections (a)(1) and (a)(2), then the lot shall be platted in accordance with title 106 of this Land Use Code. Lot standards applicable for such subdivision lot may be reduced to meet the minimum standards of the zone in effect at the time of the lot's creation so long as it does not create any more lots than currently exist, and the current lot size is not materially reduced from its current acreage, except for minor adjustments necessary to facilitate a more accurate legal description. All such platted lots that do not conform to current zoning standards shall thereafter be considered nonconforming lots. A lot that does not meet the minimum standards of the zone in effect at the time of the lot's creation may be reconfigured upon platting to comply with such standards as long as the reconfiguration does not cause any other lot to become nonconforming or more nonconforming. A lot platted pursuant to this subsection may be further reduced in size to accommodate any right-of-way dedication as may be required by title 106 of this Land Use Code. No unplatted lot or parcel governed by this subsection shall be granted a land use permit prior to subdivision platting.
- (b) Any lot legally platted within the bounds of a subdivision that was created pursuant to the standards of the zoning code and subdivision code in effect at the time of its creation, but no longer complies due to subsequent changes to these codes, may be amended pursuant to the minimum standards in effect at the time of its creation. The amendment shall not create any new lots. An amended plat shall be required.

(Ord. of 1956, § 28-11; Ord. No. 2003-17; Ord. No. 2008-7; Ord. No. 2008-19; Ord. No. 2010-22, § 1, 9-14-2010; Ord. No. 2015-8, Exh. A, 5-5-2015; Ord. No. 2018-2, Exhs. A, B, 2-6-2018)

Editor's note—Ord. No. 2015-8, Exh. A, adopted May 5, 2015, retitled § 108-12-11 from "Parcels in areas subjected to change in zoning" to read as herein set out.

Sec 108-12-12 Reconfiguring Nonconforming Lots

Nonconforming lots may be reconfigured in a manner that complies with the standards of the zone in effect at the time of the lot's creation if the reconfiguration does not create any more lots than currently exist. The reconfiguration shall not cause any other lot to become nonconforming or more nonconforming. If the nonconforming lot is part of a platted subdivision an amended subdivision plat is required.

(Ord. of 1956, § 28-12; Ord. No. 2007-4; Ord. No. 2008-7; Ord. No. 2009-2; Ord. No. 2010-22, § 1, 9-14-2010; Ord. No. 2015-8, Exh. A, 5-5-2015; Ord. No. 2018-2, Exhs. A, B, 2-6-2018)

Editor's note—Ord. No. 2018-2, Exhs. A, and B, adopted Feb. 6, 2018, retitled § 108-12-12 from "Enlarging nonconforming lots" to read as herein set out.

Sec 108-12-13 Setback Requirements For Nonconforming Lots

A nonconforming lot that has a smaller width than is required for the zone in which it is located may be developed in a manner that does not exceed the following allowed reduction in side yard setbacks:

- (a) A nonconforming lot's actual width (v) may be divided by the current required frontage/width (w) in order to formulate a ratio or proportional relation (x). (Formula: "v" divided by "w" equals "x".)
- (b) The ratio may then be multiplied by the current zone's side yard setback requirement (y) in order to establish a reduced setback (z). (Formula: "x" multiplied by "y" equals "z".)
- (c) The reduced side yard setback is subject to the conditions listed below.
 - (1) Under no circumstances shall an interior lot be allowed to reduce the side-yard setback requirement below five feet on one side and eight feet on the other.
 - (2) Under no circumstances shall a corner lot be allowed to reduce the side-yard requirement below ten feet when the side yard fronts on a street.

(Ord. of 1956, § 28-13; Ord. No. 2009-2; Ord. No. 2010-22, § 1, 9-14-2010; Ord. No. 2015-8, Exh. A, 5-5-2015)

Editor's note—Ord. No. 2015-8 Exh. A, adopted May 5, 2015, retitled § 108-12-13 from "Small lots/parcels created prior to zoning" to read as herein set out.

Sec 108-12-14 Parcels Previously Combined For Tax Purposes

- (a) Parcels that have been combined by the county recorder's office for tax purposes shall be allowed to separate one or more of the combined parcels on an approved and recorded form if:
 - (1) The parcels that are being separated were originally created prior to July 1, 1992;
 - (2) The properties as configured prior to the combination met area and frontage/width requirements for the zone in which they were created, or were considered nonconforming lots;
 - (3) The combination was done by the current owner or same owner acting as trustee, and was done by a quit claim, combination form, or other instrument, which states the consolidation of parcels is for tax purposes;
 - (4) No new lots are being created; and
 - (5) The separation of parcels results in a configuration consistent with the original parcels and conforms to the ordinance that was in place prior to the recording of the combination form, and the resulting lots conform with the provisions of section 108-12-11.
- (b) The separation of combined parcels authorized under this section does not authorize a change in the configuration of an approved and recorded subdivision or lots within such subdivision. Any change to the configuration of a subdivision must comply with title 106 of the Land Use Code, and any applicable state law.

(Ord. No. 2015-8, Exh. A, 5-5-2015)

Sec 108-12-15 Effect Of Public Right-Of-Way Expansion

- (a) Any structure that legally existed with conforming or nonconforming setback prior to the expansion of a public right-of-way where the expansion of such public right-of-way makes the

structure noncomplying or more noncomplying to the setback requirements of this Land Use Code shall be deemed a legal, noncomplying structure.

- (b) Any lot that legally existed in a conforming or nonconforming status prior to the expansion of a public right-of-way where the expansion of such public right-of-way makes the lot nonconforming or more nonconforming to the standards of this Land Use Code shall be deemed a legal, nonconforming lot.
- (c) This section does not excuse or exempt any past or future action that creates or modifies a lot in a manner that is in violation of applicable laws.

(Ord. No. 2015-8, Exh. A, 5-5-2015)