

Minutes of the Regular Meeting of the Ogden Valley Planning Commission for January 28, 2025. To join the meeting, please navigate to the following weblink at <https://webercountyutah.zoom.us/j/83472446252>, the time of the meeting, commencing at 4:30 p.m.

Ogden Valley Planning Commissioners Present: Janet Wampler (Chair), Jeff Barber (Vice Chair), Jeff Burton, Bryce Froerer, David Morby, Mark Schweppe, Trevor Shuman.

Staff Present: Charlie Ewert, Principal Planner; Felix Lleverino, Planner; Tammy Aydelotte, Planner; Courtlan Erickson, Legal Counsel; Marta Borchert, Office Specialist.

- **Pledge of Allegiance**

- **Roll Call:** Chair Wampler conducted roll call and indicated all Commissioners were present. She called for declarations of conflicts of interest or ex parte communications. She noted she has a personal conflict of interest related to item 2.1 and will be recusing herself from discussion and action on that item. She indicated Vice Chair Barber will be conducting that portion of tonight's meeting.

1. Minutes: November 19 and December 17, 2024.

Chair Wampler offered corrections to the title page of the November 19, 2024 minutes, changed names of speakers in the documents, and made additional typographical changes. There were no additional changes to the minutes and Chair Wampler declared them approved as amended.

2. Legislative Items:

2.1 ZMA2024-11: A public hearing on an application for a zone map amendment to create a Master Planned Development Overlay Zone and development agreement for the Bridges Development generally located north of Fairways Drive, and to consolidate the various base-zones from the RE-20, RE-15, FV-3, and FR-3 zones to the RE-20 zone to provide better assurance to the community that established historic development rights are limited. County Staff: Charlie Ewert.

Chair Wampler recused herself from discussion and action on this item.

A staff memo from Principal Planner Ewert explained this proposed rezone involves approximately 250 acres known as the Bridges development, which affects six parcels of land. Currently, the property is governed by four zoning categories: RE-15, RE-20, FV-3, and FR-3, with most of the land (205 acres) in the RE-15 zone. The property is also governed by the Wolf Creek Development Agreement established in 2002 and updated in 2015, which allocates 413 residential development rights. Of these, 94 rights have already been platted, leaving 319 rights available. An additional 13 rights are associated with the FV-3 zone, totaling 332 overall development rights for the subject property. The applicant's request can be summarized by three actions: remove the property from the Wolf Creek development agreement, apply the Master Planned Development Overlay Zone (MPDOZ) to guide development, and consolidate the four zones into a single zone to simplify administrative issues and align with the project's proposed single-family residential uses. The proposed rezone, if approved, offers the county a chance to guide development through the MPDOZ and ensure better community outcomes, including infrastructure improvements and open space preservation. Should there be desire to deny the rezone, the planning commission should weigh the decision against the applicant's vested development rights and the potential for continued development under the existing agreement and CUP. Staff is recommending approval of the rezone with specific considerations and recommendations.

Mr. Ewert reviewed his staff memo and summarized staff's analysis of the application, which discussed the following:

- Zoning guidelines;
- Conditional and permitted uses;
- Nonconforming (grandfathered) rights;
- Rezone negotiations;
- Development agreement; and
- Rezone objectives.

Mr. Ewert concluded After reviewing the proposal within the intended context of the Ogden Valley General Plan, existing zoning, and existing development agreements, it is staff's opinion that this rezone will help advance the vision and goals of the plan. Staff is recommending approval of the rezone. This recommendation is offered with the following considerations, which are intended to be incorporated into the zoning development agreement or executing rezone ordinance:

1. Rezone the entire property to the RE-20 zone.
2. The list of allowed uses (Exhibit D) and standards (Exhibit E) of the DA should be updated to provide the following:
 - a. More specifically address staff notes/comments.
 - b. Include the specific language found for each use in the RE-20 zone or provide alternative regulatory standards that serve the same purpose.
 - c. The uses that would otherwise require a conditional use permit should have specific aesthetic and safety standards written into the agreement if they are to be allowed as permitted uses. Standards such as building materials, fencing/wall materials and design, screening requirements including specific vegetation densities, if vegetation will be used for screening, and conditions or circumstances under which screening is required, and a long-term landscaping and maintenance plan.
 - d. Short-term rentals:
 - i. Should be limited to only the 364 units they were approved for by the 2016 CUP, including the 94 units already platted, giving the applicant a total of 270 more STRs.
 - ii. Should be prohibited from lots 51-57, 425-430, and 501-521, and from at least 50 percent of the cabin units. A reference to this restriction should be required on each subdivision plat.
 - iii. Should either be specifically limited to no more than two "sleeping rooms" as provided in the STR ordinance, or provide no less than three parking spaces.
 - e. The cabins:
 - i. Should be limited to no more than 1,100 square feet of livable space in an effort to provide more affordable housing options.
 - ii. Contain no more than two bedrooms.
 - iii. Parking lots should all be connected by means of a continuous five-foot sidewalk, including safe street crossings. The sidewalk connections should generally run parallel to the street unless a route that is more efficient for pedestrians and more likely to be used instead of the street can be provided otherwise.
 - iv. Proposed exterior design should be included in the design standards.
3. The street cross sections should be updated to include the final expected design of Fairways Drive, or reserve a place for it and provide an agreement to follow whatever it is for the portion of the street required of the applicant.
4. Staff's other comments and suggestions provided in the attached DA should be more fully addressed prior to county commission approval.
5. A homeowner's association is created to provide perpetual operations and maintenance of the open space areas and trails.

This recommendation is based on the following findings:

1. After the considerations listed in this recommendation are applied through a development agreement, the proposal generally supports and is anticipated by the vision, goals, and objectives of the Ogden Valley General Plan.
2. The project is not detrimental to the overall health, safety, and welfare of the community and provides for better project outcomes than the alternative.
3. A negotiated development agreement is the most reliable way for both the county and the applicant to realize mutual benefit.

Vice Chair Barber asked Mr. Ewert to discuss the concept of using outside resources for the subdivision review process. Mr. Ewert indicated that one land use regulation that can be employed by the County is the use of an outside consultant to perform different types of reviews, such as building permit application reviews, subdivision reviews, or building inspections. The applicant is asking to have the ability to trigger when an outside consultant will be used for certain review processes required for this project. He stated that Planning staff would like to retain control of that power and would recommend removing that section from the development agreement; the applicant has asked that the section of the agreement be considered by the Planning Commission and ultimately the County Commission.

Commissioner Burton asked Mr. Ewert to discuss the short-term rentals (STRs) component of the project. Mr. Ewert indicated that the area 'left over' in the RE-15 zone could be used for STRs; given the size of that portion of the property, there could be 95

units on the property. If the original approval of the project included 364 STRs, that number would be reduced by 95 upon approval of this application. Commissioner Burton then referenced recommended condition of approval 2.c, which discussed specific aesthetic and safety standards; he asked Mr. Ewert to expound on aesthetic standards. Mr. Ewert stated there are two uses the applicant has requested be tied to the property, left over from the RE-20 zone: water detention facility and public utility substation. Under the RE-20 zone, both of those uses are conditional and there will be unique circumstances that should be considered on a case-by-case basis. The applicant has requested those uses be permitted rather than conditional and staff felt it appropriate to require specific aesthetic and safety standards for the uses if they are no longer required to undergo a conditional use permit (CUP) application review. Aesthetic standards could include things like screening, fencing, and general visibility of a structure.

Vice Chair Barber invited input from the applicant.

Bruce Baird, counsel for the applicant, stated that he disagrees with Mr. Ewert on very few things, but one disagreement is the impetus for the application. He views this zone change as County driven, but he would like the zone change to be governed by a development agreement that sets the density for the project and most of the design/building standards with very few exceptions. Primarily, the project will be developed according to the RE-20 zone with some additional requirements identified in the development agreement. He expounded on the history of the project and zoning decisions and expressed a willingness to work with staff and the County Commission to finalize a development agreement that can govern the project in a responsible manner. He strongly cautioned the Planning Commission against requiring a CUP for the utility structures in the project area and, instead, include the aesthetic and safety standards for those improvements in the development agreement. This will help to prevent a situation where a CUP application is used to hold up the entire project, similar to what has happened in other jurisdictions. He then discussed the recommendation to allow the developer to trigger the use of outside consultants for certain review processes associated with the project; he feels this is appropriate because government entities have limited resources and when the new city is created as the result of a recent vote to incorporate the area of the County in which the subject property is located, there may be even fewer resources and he does not want his client to be in a situation where they are waiting for the city or the County to trigger the use of outside consultants. He does not want any weaponization of inspections to occur in this project. The final issue relates to the number of STRs allowed in the project; he does not agree with the requirements being placed on the STR uses. He feels that disclosure of the use will address issues with STRs internal to the project; external to the project, it has been his understanding that there have been no code enforcement issues with the existing STRs, and he does not feel it is appropriate to limit the STR use. He recognizes the Planning Commission can make an alternate recommendation to the County Commission if they believe it to be appropriate and correct, and he will discuss the matter further with the County Commission. He appreciates the Planning Commission's experience and expertise and will respect any input they provide to the County Commission. He currently does not feel that some of the recommendations made by Mr. Ewert are acceptable, but he is willing to address those issues with the County Commission. He concluded he believes the current plan will provide increased benefit to the County while providing for a project that is worthwhile for the developers.

High level discussion among the Commission, Mr. Baird, and County staff centered on the developers concerns about limitations on the number of STRs; the benefits the development agreement provides to both the developer and the County; transfers of development rights (TDRs); permitted and conditional uses; the benefits of combining the zones to create one zone; covenants, conditions, and restrictions (CCRs) that will be enforced in the project – specifically on STRs; and whether overlay zoning 'trumps' the base zone standards.

Commissioner Froerer moved to open the public hearing at 6:17 p.m. Commissioner Morby seconded the motion. All voted in favor.

Nicki Phipps, 4488 N. 4150 E., stated that the subject property abuts her home in Sheep Creek, and she would like the developer to reconsider their requests regarding STRs in the project; making the cabin area STRs is less frustrating to existing residents because they cannot be seen from Sheep Creek. Making the entire project a STR area is frightening and is very unfair to those that have lived in their homes for 20 years. The use would be very disruptive to the area; there is less control over the use and STR properties are typically not maintained as well as owner occupied or long-term rental properties. She asked that the County not allow STR areas to abut existing developments.

Don Stefanik, Eden, stated he would like to know if the existing CCRs associated with the master development agreement will continue for this new development. He asked if approval of this application would change or jeopardize the protection of the existing development in the area.

Richard Walton, 3597 N. Foothill Lane, stated that at the beginning of the meeting, Planning Director Grover indicated that tabling the application would not be allowed this evening and he asked for an explanation of that matter. He then stated he is not here tonight to address the pros and cons of the development, but he would like to express his and others' concerns regarding the fact that the residents have just a year to get the new city up and running and that should not mean that Weber County has that same amount of time to make as many zone changes as possible. When the residents voted to create a city in the Ogden Valley, it should not have created a land rush for developers to cement what they are trying to do before the new city takes control. The new city will represent the desires of the citizens and any permanent action that is proposed in Ogden Valley should not be finalized until the city is officially functioning. He stated this is a gray area, but he is concerned about the long-term implications of actions taken by the County for the city that may not want these projects in the future. He asked that this process be slowed down to allow the process to incorporate play out.

Jan Fullmer, Eden, stated she has an extensive email distribution list for Ogden Valley, and she had a difficult time weeding through the announcements of this meeting before sending that announcement to her distribution list. She has reviewed the data in the packet but would like Mr. Ewert to explain the total number of development units in The Bridges, including where the lots have been platted. She disagreed with the comments made about STRs by Mr. Baird. There are real issues with STRs in the Ogden Valley, especially when STR units are located adjacent to single-family home developments. There have been many disturbances associated with STRs and the HOA for development that she lives in has to spend money to repair damage to walking trails that was caused by illegal use of motorized vehicles on the trails. It is a far reach to say that 'glamping cabins' are some form of affordable housing, especially when looking at plans that have been approved in Western Weber County for affordable housing. She also understands that the overlay zoning for this project would allow for some commercial use, but the area is not designated as a commercial area in the Ogden Valley General Plan. If, for any reason, this is approved, the approval of commercial development must be removed because she can see the potential for storage units being built in the project. If the developer exists from the 2002 master development agreement, she wonders if that also means they are exiting from the Wolf Creek Master Homeowners Association. This is a master HOA that manages all development areas identified in the agreement. She also understands that if the master overlay is approved, there may not be as many development rights used and she asked if that meant the developer would plan to transfer those development rights out of the resort area.

There were no additional persons appearing to be heard.

Commissioner Morby moved to close the public hearing at 6:27 p.m. Commissioner Schweppe seconded the motion. All voted in favor.

Discussion among the Commission and staff centered on the development rights on the subject property and opportunities for clustering development if certain rights are transferred elsewhere or if the pond on the property is drained and eliminated; fencing regulations for the type of project the developer is pursuing; extension of Fairway Drive through the project; ensuring the development agreement runs with the land even in the event of a change of ownership of the property or the developed project; and overlay zoning and whether there is an allowance for commercial development in the overlay zoning. Mr. Ewert concluded that his recommendation would be that assignment of the MPD overlay zone to the project would have an expiration date that is the same as the expiration date of the development agreement. The Commission debated whether the RE-20 zoning is sufficient to accomplish the applicant's goals or if the overlay zoning is necessary.

Vice Chair Barber then invited Mr. Grover to respond to Mr. Walton's questions about the process that has been applied to this application and whether tabling this evening is an option. Mr. Grover indicated that in December there were some noticing issues with this application and the developer cited a provision in State Code that gives him the ability to request the decision to be made by the Planning Commission given unreasonable delays. This means that the Commission has the ability to make a recommendation to approve or deny the application tonight, but not table.

Commissioner Schweppe stated the applicant has indicated there have been no issues with STRs in the area around the subject property and he asked if that is correct. Mr. Grover stated the applicant is correct; County staff has not heard reports of any issues with STRs in this area. Those that have been reported in other areas of the County have been dealt with by the County's Code Enforcement Officer in a very timely manner. This led to discussion regarding the County's response to nuisances at STR properties and how enforcement and compliance is defined. Commissioner Schweppe asked if an STR license has ever been revoked as part of an enforcement action, to which Mr. Grover answered no. He also encouraged Ms. Fullmer to report nuisance issues that have occurred in her neighborhood, including driving motorized vehicles on trails.

Commissioner Burton stated that there seems to be some discrepancy related to the total number of development rights on the property; the County has a different number than the applicant has stated. Mr. Ewert stated that is correct. Commissioner Burton asked if there was ever any intent in the past to provide STRs in certain areas of the subject property. Mr. Grover stated that STR rights are dictated by zoning. Mr. Ewert indicated that he has not found any clear direction indicating that STRs or nightly rentals were allowed in all areas of the project, but he can review the earlier master development agreement that governed the property; if that document does indicate that nightly rentals are allowed anywhere in the Wolf Creek development, the applicant would be correct that he is entitled to have STRs in all 413 units. Commissioner Burton stated that would be important to know.

Mr. Ewert then attempted to answer additional questions asked during the public comment period; the first dealt with whether the existing Wolf Creek CCRs would apply to the subject property, and he needs to research that issue further to determine the applicability of those CCRs or if a completely new set of CCRs will be developed for this project. He then addressed the comment about glamping cabins being classified as affordable housing, clarifying that there is no use in this project that is considered glamping cabins. They are single family units that are at least 1,000 square feet in size with two bedrooms. He also addressed the question regarding the actual density of the project and opportunities for transferring development rights out of the project area. This issue is being addressed in the development agreement, with the intent being to keep the 426 development rights on the property and not transferred elsewhere in the future. However, the applicant may be able to work with the new city in the future to make amendments to the development agreement that could adjust TDR rights.

Vice Chair Barber then noted that he generally supports the application; he feels the overlay zoning makes sense as do other attempts to clarify the density and other development rights available on the property. He acknowledged the lengthy process of incorporating a new city and he feels that it is appropriate to take action on this application at this time rather than delaying.

Commissioner Burton stated he likes the idea of making the utility projects and buildings permitted uses and applying aesthetic and safety standards to them. He then noted that whoever develops the property should be required to abide by the development agreement. He also would like Planning staff to research past entitlements related to the number of development rights and whether STRs are allowed throughout.

Commissioner Shuman moved to forward a positive recommendation to the County Commission regarding application ZMA2024-11, an application for a zone map amendment to create a Master Planned Development Overlay Zone and development agreement for the Bridges Development generally located north of Fairways Drive, and to consolidate the various base-zones from the RE-20, RE-15, FV-3, and FR-3 zones to the RE-20 zone to provide better assurance to the community that established historic development rights are limited, subject to staff recommended conditions of approval and based upon the findings listed in the staff report, as well as the following additional conditions:

- Memorialize the development rights for the property;
- Leave permitted and conditional uses as they currently are;
- Changing the assignment language to the language that was described by Mr. Ewert rather than the assignment language in the staff report pertaining to STRs.

Commissioner Morby seconded the motion.

There was brief discussion about the findings provided in the staff report.

Vice Chair Barber called for a vote on the motion. Commissioners Barber, Froerer, Morby, Schweppe, and Shuman voted aye. Commissioner Burton voted nay. Chair Wampler recused herself from voting. (Motion carried on a vote of 5-1).

Chair Wampler provided any member of the Commission the opportunity to provide an explanation for the manner in which they voted on the application. Commissioner Schweppe stated that he felt that staff's recommendations make far more sense than what has previously been approved most recently in 2016. Vice Chair Barber agreed. Commissioner Shuman stated his only concern at this point relates to the STR use; he feels those matters can be researched further before a final decision is made by the County Commission. He also did not see a reason for delaying action on the application until the incorporation of the new city is complete. Commissioner Morby agreed; the newly incorporated city will need to follow any rules that have been imposed on the applicant. Commissioner Burton stated he voted in opposition because of concerns related to conditional uses versus permitted uses. He also supports the concept of the development agreement running with the land, regardless of ownership.

Commissioner Shuman stated his motion did not change that; it is his understanding that the development agreement will run with the land.

3. Election of 2025 Chair and Vice Chair:

Planning Director Grover summarized the requirement for the Planning Commission to select a new Chair and Vice Chair.

Commissioner Morby nominated Janet Wampler to continue to serve as the Chair of the Planning Commission. Vice Chair Barber seconded the nomination. Chair Wampler indicated she accepts the nomination and called for a vote. Commissioners Barber, Burton, Froerer, Morby, Schweppe, and Shuman voted aye. (Motion carried on a vote of 6-0).

Commissioner Morby nominated Jeff Barber to continue to serve as the Vice Chair of the Planning Commission. Commissioner Burton seconded the motion. Chair Wampler called for a vote. Commissioners Burton, Froerer, Morby, Schweppe, Shuman, and Wampler voted aye. (Motion carried on a vote of 6-0).

4. Public Comment for Items not on the Agenda:

Jan Fullmer stated she has been texting people during the meeting tonight and many have indicated they were unable to raise their hand to speak using the Zoom tool. They have gotten an error message indicating that raising their hand is disabled. Some have left the meeting but are still listed as participants. She stated there is something very strange with the Zoom feed for this meeting. Chair Wampler noted she saw a message from someone in the meeting who was unable to raise their hand, and she thanked Ms. Fullmer for letting her know about the issue.

Kay Hogelund stated that she was also unable to raise her hand to speak during the public hearing on their legislative item; she stated she is the President of the Master Homeowner's Association (HOA) for Wolf Creek and is very familiar with the 2002 Zoning Development Agreement. That agreement was recorded against the property and all parties agreed it runs with the land. It provides for other development agreements and also indicates that the CCRs run with the land. Legally, it would be very wise to look at that agreement before taking any final action on the application. She is reluctant to see the 2002 agreement cast aside.

Jim Hall used the Zoom chat feature to state that all of the County's promotion of development, including this at Nordic Valley, will add to the costs of Ogden Valley City. The new city will inherit these costs without making the decisions. For example, the County commissioned two water/sewer studies in 2019 and 2022, both of which said to not approve more development without addressing certain issues. Additionally, this development will increase the need for emergency services and other costs associated with infrastructure maintenance and support.

5. Remarks from Planning Commissioners:

Commissioner Shuman stated it is important to remember that the County Commissioners were elected to do a job, and they should continue to do that job until the new city is fully incorporated and there are new leaders for that city. He does not feel it appropriate to delay all pending applications for development of land within the area subject to the incorporation until that process is completed.

6. Planning Director Report:

Planning Director Grover reported on an upcoming Planning Commission dinner and training opportunities available to Planning Commissioners. He also reviewed a map to identify the areas of the Ogden Valley that will be left out of the new city to be created subject to the vote to incorporate.

Chair Wampler noted that she has asked Mr. Grover to evaluate how operations will change over the coming months as the process of incorporation continues. Mr. Grover stated that it will be 'business as usual' until the incorporation is complete. There are decisions to be made related to the planning body that will handle the areas of the Valley that will remain unincorporated.

7. Remarks from Legal Counsel

Legal Counsel Erickson stated the comment that was made about looking into the 2002 Zoning Development Agreement that pertains to the property that was part of the legislative application on tonight's agenda is worth looking into. He will speak with Mr. Ewert about looking at that issue more closely because it may be a hurdle that the County and the developer must overcome. Chair Wampler asked Mr. Erickson and Mr. Ewert to discuss the issue further with Ms. Hogelund because she has historical knowledge of the contract, and any other past agreements related to the property.

Commissioner Burton moved to adjourn the meeting.

The meeting adjourned at 7:35 p.m.

Respectfully Submitted,

Weber County Planning Commission