

Minutes of the Regular Meeting of the Ogden Valley Planning Commission for February 25, 2025. To join the meeting, please navigate to the following weblink at <https://webercountyutah.zoom.us/j/85864904525>, the time of the meeting, commencing at 5:00 p.m.

**Ogden Valley Planning Commissioners Present:** Janet Wampler (Chair), Jeff Barber (Vice Chair), Jeff Burton, Bryce Froerer, David Morby (via electronic means).

**Excused:** Planning Commissioners Mark Schweppe and 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.

## 1. Minutes: January 28, 2025.

Commissioner Froerer offered corrections to the minutes to correct the names of Commissioners. Additionally, Commissioner Morby had excused himself from the meeting prior to agenda item three and did not vote on the election of Chair and Vice Chair; his name should be removed from the list of votes cast.

Chair Wampler added that Commissioner Froerer is identified as Commissioner Morby throughout the minutes. She also made additional clerical changes to the minutes and declared them approved as amended.

## 2. Administrative Items:

### 2.1 UVS011222: Consideration and action on preliminary subdivision approval of Sundown Condominiums Phase 2.

**Staff Presenter: Tammy Aydelotte.**

A staff memo from Planner Aydelotte provided a review of previous applications and actions for the subject property:

- 8/31/1983 – Weber County Commission approved a conditional use permit for Sundown PRUD, consisting of 80 units, and an associated bond for some of the improvements. The PRUD consists of a landscaping plan, open space, and private roadways, in two phases.
- 4/27/1984 – Sundown Condominiums Phase 1, consisting of 20 units was recorded.
- 1/12/2022 - The Planning Division received an application to plat phase 2 of Sundown Condominiums PRUD Subdivision, consisting of 60 units. The existing conditional use approval for the PRUD is still valid and staff recommends preliminary approval of Phase 2, subject to the conditions outlined in the PRUD approval.
- 2/15/2022 – Preliminary approval granted with conditions.
- 1/11/2024 – Preliminary approval, with amended street layout, granted with conditions

There are some changes to the site layout, mainly the location of the secondary access to, and through the proposed Sundown Townhomes Phase, from the original approval that are subject to the Planning Commission review. If the Planning Commission determines that the proposed changes are de minimis revisions, the Planning Commission. The current PRUD ordinance states the following regarding amendments to non-conforming PRUDs:

*"A nonconforming PRUD may be amended from time to time under the same rules that governed its creation, provided that the amendment is a de minimis change that is routine and uncontested. The Planning Director or the Planning Commission has independent authority to determine what constitutes a routine and uncontested de minimis decision."*

The following changes have been submitted, since the last preliminary approval dated 1/11/2024: The relocation of a secondary access from the west, to the south, sharing the ingress/egress that is used to access Sundown Condos Phase 1. The proposed secondary access is proposed to be routed through a proposed Sundown Townhomes project to the west, and south through Sundown Condos Phase 1. There are no changes proposed to the previously proposed buildings house 4 units each, as in the original PRUD The proposed development area is zoned FR-3 and will consist of 60 units occupying 32,318 square feet (10.5%), roadways occupying approximately 1.136 acres (16.5%) with a common area occupying 4.9684 acres (72%).

Ms. Aydelotte reviewed her staff memo and summarized staff's analysis of the application, which discussed the following:

- General Plan;
- Zoning guidelines;
- Lot area, frontage/width and yard regulations;
- Ogden Valley Sensitive Lands Overlay Districts;
- Natural Hazards Overlay Zone;
- Culinary Water, irrigation water, and sanitary sewage disposal;
- Recommendations of review agencies;
- Additional design standards and requirements; and
- Tax clearance.

Ms. Aydelotte concluded staff recommends preliminary approval of Sundown Condominiums, consisting of 60 units. This recommendation for approval is subject to all review agency requirements and based on the following conditions:

1. A CUP amendment application shall be submitted, addressing changes in proposed building location, and roadway layout, if the planning commission determines proposed changes to be more than minimal.
2. A formal approval from UDOT, for all access off Powder Mountain Road, shall be submitted prior to appearing before Land Use Authority for final approval.
3. Applicant shall address any concerns from Engineering and Weber Fire District regarding slopes and proposed roads within the proposed development, prior to final approval.
4. A proposed trail/pathway layout will be required prior to coming before the Planning Commission for a recommendation of final approval.

The conditions below are from the Conditional Use approval, dated 8/27/2024, that apply to this subdivision:

1. The road(s) within this proposed development shall be private.
2. Any proposed trails shall allow public access, through open spaces. The final plat will need to include language for the common area located within the subdivision in the form of an open space preservation easement.
3. UDOT approval for any and all access onto Powder Mountain Road/Summit Pass Road shall be submitted prior to scheduling a recommendation for final approval with the Land Use Authority.

This recommendation is based on the following findings:

1. The proposed subdivision conforms to the Ogden Valley General Plan.
2. With the recommended conditions, the proposed subdivision complies with all previous approvals and the applicable County ordinances.
3. The proposed subdivision will not be detrimental to the public health, safety, or welfare.
4. The proposed subdivision will not deteriorate the environment of the general area so as to negatively impact surrounding properties and uses.

Vice Chair Barber stated the entire Powder Mountain Development is essentially on a dead-end road and it is his understanding the County has an ordinance that provides development guidance for a terminal street. There is a development agreement that addresses Powder Mountain, and he would like to have an understanding how the proposed development can be built on a terminal road. Ms. Aydelotte stated the development agreement specially asks for a secondary egress off the mountain, but the trigger for the construction of that road has not been clearly defined. Planning staff has been in discussions with the other party to the Powder Mountain development agreement regarding the secondary egress. The development that has occurred at the end of Summit Pass road includes private roadways. The requirement for a secondary egress is not waived at this point. Vice Chair Barber stated he wants to ensure the developer is not trying to side-step the County's ordinance or the development agreement requirement for a secondary egress point. Planning Director Grover stated planning staff will not allow the ordinance to be side-stepped; the purpose of the ordinance is to provide internal circulation within a development and there are concerns from the Fire District regarding accessibility and circulation. Planning staff will continue to work with the fire district to identify needed improvements, up to and including a new fire station when the large commercial building is constructed within the project.

Chair Wampler asked how the proposed application can move forward given the ordinance regarding the terminal road. Mr. Grover stated that staff is not considering Powder Mountain Road to be a terminal road; there are currently two access points coming out of the development onto Powder Mountain Road. However, on a grander scale for the entire Powder Mountain

development, planning staff is monitoring the need for an additional access or a fire station in the area. Chair Wampler asked if adding 80 homes to the area factors into that discussion. Mr. Grover answered yes, but noted the fire district has indicated they are comfortable with the development without requiring the secondary access or a fire station. Vice Chair Barber asked if this developer will be required to contribute to a secondary access or fire station, to which Mr. Grover answered no. Vice Chair Barber asked if future developers will be required to contribute financially to those improvements. Mr. Grover indicated each application will be considered independently to determine if any financial contributions will be required. Vice Chair Barber asked if the Commission can require a developer to be financially responsible for some portion of the improvements. Mr. Grover answered no; that is not in the Planning Commission's purview. However, the County Commission could impose that type of requirement. Vice Chair Barber asked who would ultimately bear the cost of the secondary access, to which Mr. Grover answered the developer, unless a public benefit of the road can be identified to warrant some financial support from Weber County. The County, however, is not in the business of participating in those types of improvements.

Commissioner Morby referenced the conceptual plan for the development and asked if the exit from phase two goes onto the existing road. Ms. Aydelotte stated that the other administrative application on tonight's agenda deals with land that will connect to this subject property; if both are approved, there will be a road connecting the two developments and exit onto Powder Mountain Road to the south. Commissioner Morby stated the other exit point is on a significant slope, and he asked if the Engineering Division has considered how complicated that will be. Ms. Aydelotte stated that Engineering has been in discussions with the developer and the developer has proposed retaining walls along that access. Ultimately, County Engineering will review the ingress/egress points with the developer and with the Utah Department of Transportation (UDOT). The developer will need to secure final approval of those improvements before securing final approval of the development. Commissioner Morby added that it appears there is only one construction access at this point. Ms. Aydelotte stated that is correct; however, the developer does own the property to the west and can use that for staging and access. Commissioner Morby stated it would be more comfortable with the access point being located on an area that is less steep. Chair Wampler added that the other access to the south already exists because it was part of phase one of the project. Ms. Aydelotte stated that is correct. Commissioner Morby stated he was simply addressing his concerns.

Chair Wampler stated that the Commission has expressed several concerns about different aspects of the Powder Mountain Development, including the concerns that have been raised tonight, as well as additional concerns regarding other engineering aspects of the project, snow removal and storage, fire safety, and transportation issues. Should this application move forward, conditions of approval include the applicant providing a formal approval from UDOT for all access off Powder Mountain Road and to address concerns from Engineering and Weber Fire District. She then added that she has concerns regarding parking; some units have two garage parking spaces, and she asked if that correlates to two-bedroom units. Ms. Aydelotte stated garage parking requirements do not correlate to bedroom counts; rather, the ordinance states that for any dwelling, a minimum of two off-street parking spaces is required. Chair Wampler stated that she does not see any on-street parking in the project. While she has concerns about snow removal and storage, she is aware that residents of the project will have guests over, or other circumstances that necessitate some on-street parking and she is concerned about issues arising as a result of no guest parking or on-street parking accommodations. Vice Chair Barber added that the garages are not tall enough to accommodate taller vehicles or vehicles with racks or containers on top of them; the project must have parking in areas beside the garage or there will be cars parked all over the streets in the project. This led to a broad discussion of overall parking requirements for the proposed project; Mr. Grover indicated the Commission could address parking requirements as part of a conditional use permit for the project; a recommended condition may be something that addresses the design of garage parking spaces to accommodate taller/larger vehicles. Legal Counsel Erickson indicated that type of a condition would need findings to support it. Mr. Grover stated that he does not feel that type of condition would be appropriate for the current application, which is his preliminary subdivision approval. Chair Wampler stated that the first recommended condition of approval is that a conditional use permit (CUP) application shall be submitted, addressing changes in proposed building location, and roadway layout, if the Planning Commission determines proposed changes to be more than minimal. She asked if the Commission could consider a condition regarding parking at the time they are considering a future CUP application. Mr. Grover answered yes.

Commissioner Froerer asked if there is adequate space within the development to provide a guest parking area. Ms. Aydelotte stated it appears there would be sufficient space, but she deferred to the applicant to provide a clear answer on that matter. Commissioner Froerer then asked Ms. Aydelotte to identify a snow storage area for the project. Ms. Aydelotte stated that the County does ask that applicants identify snow easements on their plat; that has not been done on this preliminary subdivision application, but the developer has been notified of that requirement.

Chair Wampler invited input from the applicant.

Guy Williams, Engineer for the applicant, stated he is not sure how tall the garage doors are, but the ceiling height inside the garage is actually fairly high, 12 to 14 feet in height. He then attempted to address other questions about the project. He reviewed the conceptual layout of the project and identified the access points to the site, and elimination of a third access point that was included on the plan at the request of UDOT. They did not want three access points, but at the spot where the third access point was located, the developer can construct a guest parking lot. He added that he is working to identify a space for snow storage. These are matters that were raised after this initial application was submitted and he did not have time to change the subdivision plat before the packet for tonight's meeting was published.

Vice Chair Barber asked if the project area and roads will be fairly flat. Mr. Williams stated there is a separation between the two main groups of buildings north to south; there is road in the middle, and it slopes 3 to 3.5 percent to the east. It follows the contours of the mountain and the same goes for the building and road located to the upper right. He has been in discussions with the Fire District, and they have communicated that the maximum slope they can support is 10 percent, which is greater than the slope of the roads in the design of the project.

Discussion refocused on guest parking and snow storage locations, with Mr. Williams reiterating he needs to continue to adjust the design of the project to include those amenities. Discussion also shifted to any needed improvements on Powder Mountain Road, such as guard rails, to improve the safety of the road.

Ms. Aydelotte suggested that if visitor parking is a priority for the Commission, they should include a recommended condition of approval as part of their motion addressing that matter.

Legal Counsel Erickson and Ms. Aydelotte then offered clarification about the timing of a CUP amendment application versus the current application for preliminary approval. If the Commission feels any changes to the project plan are minimal, they can grant preliminary approval, which will allow the application to proceed to the final approval phase of the project. However, if changes are not minimal, and the Commission wants to amend the previously approved CUP, they can require an amendment CUP application to be submitted to address the topics of visitor parking, snow storage, and the site access issues.

Vice Chair Barber stated that given the other application on tonight's agenda deals with the same project area, he does not feel the changes are minimal. Ms. Aydelotte stated that the other application on tonight's agenda is a separate property and is not subject to a CUP but is subject to the Powder Mountain Development Agreement. The two applications are related only in the fact that planning staff have considered transportation connections between the two project areas. She acknowledged that the applicant for both applications is the same, but the applications are different in nature.

Legal Counsel Erickson then offered guidance on whether the Commission should approve the preliminary subdivision application or require the applicant to proceed with an application to amend the CUP. The Commission discussed the changes they would like to see in the project area; this led to high level debate about whether a CUP amendment is needed and whether the proposed changes were de minimus in nature.

Chair Wampler invited public input.

Mr. Williams re-approached and stated that he was under the impression that only the Planning Director could request or require a CUP amendment. Mr. Grover stated that is an option, but he also has the option of referring the matter to the Planning Commission if he did not feel comfortable acting on the proposed changes. Mr. Williams asked if that is spelled out in the County's LUC. Mr. Erickson stated that the Code states the Planning Commission is the land use authority for CUPs; di minimum revisions to a previously approved CUP may be approved by the Planning Director provided it can be determined changes are slight and inconsequential and not in violation of any substantive provisions of the LUC. He stated that the Code does not indicate whether the Planning Director has the authority specifically to refer the matter to the Planning Commission for determination on that point, but that is what Mr. Grover has chosen to do. Mr. Williams stated that he is hopeful the Commission can consider the current application based upon its merits and not consider other developments or aspects that may have been problematic or missed in the past.

There were no additional persons appearing to be heard.

Chair Wampler and Ms. Aydelotte discussed the options available to the Commission tonight.

Commissioner Burton moved to approve application UVS011222, preliminary subdivision approval of Sundown Condominiums Phase 2, based on the findings and subject to the conditions listed in the staff report, with the additional finding that the road configuration changes is di minimum and, therefore, a CUP amendment application is not necessary.

Commissioner Froerer stated that he agrees with Commissioner Burton's motion but would like to offer a friendly amendment requiring the applicant to submit a CUP amendment application to show the guest parking and the snow storage area on the site.

Commissioner Burton accepted the friendly amendment.

Legal Counsel Erickson asked for clarification on the amendment; he asked if the Commission truly wants a CUP amendment application, or if the information regarding guest parking and snow storage can be shown on the subdivision plat before it moves to the final application stage. He asked Commissioner Froerer if he is asking for a certain number of guest parking spaces or a specific size for the snow storage area, to which Commissioner Froerer answered no. Mr. Erickson stated that he does not believe a CUP amendment is required and Commissioner Froerer's concern could be addressed by showing those amendments/amenities on the subdivision plat.

Commissioner Froerer stated if that is the case, he would withdraw his friendly amendment for asking for a CUP amendment.

Chair Wampler restated the motion and called for a vote. Commissioners Burton, Froerer, and Morby voted aye. Vice Chair Barber and Chair Wampler voted nay. (Motion carried on a vote of 3-2).

Vice Chair Barber stated that he could not, in good conscience, vote to approve the application having seen developments like this and knowing that the Weber Fire District has failed to deal with a catastrophic fire event in a similar area. If something similar were to happen in the proposed project given its density, structure of the road, uncertainty with respect to parking and snow storage, it would be much more catastrophic. He does not believe the road change is di minimus.

Chair Wampler added the reason she voted nay is that she finds the change in the exit point to be large enough that a CUP amendment would be required. She felt a CUP amendment application would have been more appropriate and that would have given the Commission an additional opportunity to address other issues with the project.

**2.2. UVS012325 Consideration and action on preliminary subdivision approval of Sundown Townhomes, a 22-unit development with private roads, in the DRR-1 zone. Located at approximately 6570 Powder Mountain Road, Eden, UT, 84310. Staff Presenter: Tammy Aydelotte**

A staff memo from Planner Aydelotte explained the applicant is proposing a 22-unit townhome development on approximately 3.35 acres in the DRR-1 zone, at approximately 6570 Powder Mountain Road, Eden, UT, 84310. The applicant is proposing to use the existing access to Sundown Condos PRUD Phase 1, off Powder Mountain Road, as the primary access, with the secondary access through Sundown Condos PRUD Phase 2, to the north, off Summit Pass Road. The proposed 26' wide private roadways will connect three phases of this development, two of which are within a previously approved PRUD in the FR-3 Zone, and the third (the townhomes) is in the DRR-1 Zone and subject to the recorded development agreement for Powder Mountain.

Ms. Aydelotte reviewed her staff memo and summarized staff's analysis of the application, which discussed the following:

- General Plan;
- Zoning guidelines;
- Lot area, frontage/width and yard regulations;
- Ogden Valley Sensitive Lands Overlay Districts;
- Common area;
- Natural Hazards Overlay Zone;
- Street configuration and circulation;
- Culinary Water, irrigation water, and sanitary sewage disposal;
- Recommendations of review agencies;

- Additional design standards and requirements; and
- Tax clearance.

Ms. Aydelotte concluded staff recommends preliminary approval of Sundown Townhomes, consisting of 22 dwelling units. This recommendation for approval is subject to all review agency requirements and based on the following conditions:

1. Formal approval from UDOT, for accesses and retaining wall designs, shall be submitted prior to appearing before the Land Use Authority for final approval.
2. A proposed trail/pathway layout will be required prior to appearing before the Land Use Authority for final approval.
3. More detailed elevations, of all sides, shall be required prior to final approval.

The following findings are the basis for the planning staff's recommendation:

1. The proposed subdivision conforms to the Ogden Valley General Plan.
2. With the recommended conditions, the proposed subdivision complies with all previous approvals and the applicable County ordinances.
3. The proposed subdivision will not be detrimental to the public health, safety, or welfare.
4. The proposed subdivision will not deteriorate the environment of the general area so as to negatively impact surrounding properties and uses.

Commissioner Froerer asked if the additional parking mentioned in the staff report is in addition to the 12 spaces required. Ms. Aydelotte stated that if the Commission feels additional parking is needed, they should include a condition of approval to require that. She stated that there are 22 townhomes, and two additional units were added after the staff report was prepared. Commissioner Froerer inquired as to the difference between a condominium and townhome. Planning Director Grover stated a condominium is 'air space' and the townhome is the physical land under the unit that is being sold. Ms. Aydelotte added the platting requirements are different for condominiums versus townhomes.

Vice Chair Barber asked if each unit will have its own garage. Mr. Grover stated that each unit will be required to have two side-by-side parking stalls.

Commissioner Morby asked if this is a request for a zone change. Ms. Aydelotte answered no; it is a request for preliminary subdivision approval.

Chair Wampler stated page three of the staff report discusses LUC 106-2-2.020 pertaining to ownership and street parcel dedication waivers; staff recommends waiver to the requirement of dedicating the land under the Private Street to the County for the purpose of a future conversion to a public street. She asked Ms. Aydelotte to explain what that meant. Ms. Aydelotte stated that typically when private roads are proposed and the Planning Commission or County Commission considers and approves them, one of the conditions of approval is that the land underneath the private road is dedicated. So, at some point in the future, when a need for connectivity is identified, the County would have a way to require connectivity through the private road. In this case, the road would be owned and maintained by the homeowner's association (HOA) for the project and the County sees a minimal public benefit to requiring the road to be dedicated to the County and the Commission can consider a waiver of that requirement.

Commissioner Froerer asked if that means that the connection of the top of Powder Mountain Road to the bottom will be private in nature, to which Ms. Aydelotte answered yes. Commissioner Froerer asked if this means the developer or HOA will maintain the road, to which Ms. Aydelotte answered yes. Vice Chair Barber asked if the HOA could install gates on the road. Ms. Aydelotte answered no. Chair Wampler asked if that would still be the case if the County grants the street parcel dedication waiver. Ms. Aydelotte stated she did not consider that and asked Mr. Grover or Legal Counsel Erickson to address that matter. Mr. Erickson stated that at the bottom of page two of the staff report, it states "the Private Street shall never be closed to the public and no signage shall be erected to indicate or insinuate that the street is not open for public use or passage, except to allow for occasional and routine maintenance necessary to ensure the longevity of the street." However, there is another provision that would allow for a private street with public use. It appears the waiver would supersede the private street statement involved in additional design standards and requirements. Chair Wampler suggested the Commission could simply act to deny the waiver in order to address the issue and prevent closure or gating of the private street. The Commission and staff engaged in high level discussion of the matter, after which Commissioner Froerer asked the applicant if there is a plan to gate the private roads.



Guy Williams, applicant's representative, stated there are no plans to gate the private roads. Chair Wampler asked if there is guest parking included in the proposed development, to which Mr. Williams answered yes. Chair Wampler asked if there are off-street paths for those that park on the exterior of the row homes but need to access a unit on the interior. Mr. Williams stated that his client is still working to address that matter; covenants and easements have been drafted and are being reviewed by the owners in the project area to ensure that cross connectivity is not limited to any one person.

Commissioner Froerer asked Mr. Williams where the snow storage area will be in this project. Mr. Williams stated that is still being considered; the idea is to provide as much guest parking and snow storage space as possible.

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

Commission discussion refocused on staff's recommendations regarding the street parcel dedication waiver.

Commissioner Morby moved to table UVS011222, preliminary subdivision approval of Sundown Condominiums Phase 2, until the applicant can provide significant answers from the Fire District and be more specific about where the snow storage areas will be located on the site. Vice Chair Barber stated he will send the motion, with the friendly amendment that the applicant will also identify the area where visitor parking will be located. Commissioner Morby accepted the friendly amendment. Commissioners Barber and Morby voted aye. Commissioners Burton, Froerer, and Chair Wampler voted nay. (Motion failed on a vote of 2-3).

Commissioner Froerer stated he believes the direction from the Fire District will come after the Commission has granted preliminary approval of this project. Mr. Grover stated that is correct; Fire District comments are typically addressed at final approval. Chair Wampler stated that was the reason for her nay vote; she agreed with the other two conditions upon with the motion to table was based.

Commissioner Burton asked if the land use authority that would grant the street parcel dedication waiver if the final land use authority, and not necessarily the Planning Commission. Mr. Grover stated the waiver could be granted at preliminary or final approval, so the land use authority could be either the Planning Commission or the County Commission. Mr. Erickson agreed; if the Commission is comfortable with the waiver, he would encourage them to include that approval as part of their motion on the preliminary subdivision application.

Commissioner Froerer moved to approve UVS011222, preliminary subdivision approval of Sundown Condominiums Phase 2, based on the findings and subject to the conditions listed in the staff report, and with the additional conditions:

- That the applicant identify snow storage areas and guest parking on the final subdivision application;
- Propose that the street parcel dedication waiver be granted in order for the road to be privately owned and maintained;
- Prohibiting the owner or HOA from blocking or gating the private road in a manner to prevent public access.

Commissioner Burton seconded the motion. Commissioners Burton, Froerer, Morby, and Chair Wampler voted aye. Vice Chair Barber voted nay. (Motion carried on a vote of 4-1).

### **3. Public Comment for Items not on the Agenda:**

There were no public comments.

### **4. Remarks from Planning Commissioners:**

There were no remarks from Planning Commissioners.

### **5. Planning Director Report:**

There were no remarks from the Planning Director.

### **6. Remarks from Legal Counsel**

There were no remarks from Legal Counsel.

Commissioner Froerer moved to adjourn the meeting.

The meeting adjourned at 7:03 p.m.

**Respectfully Submitted,**

***Cassie Brown***

**Weber County Planning Commission**