

Minutes of the Regular Meeting of the Ogden Valley Planning Commission for May 21, 2024, 5:00 p.m. To join the meeting, please navigate to the following weblink at <https://webercountyutah.zoom.us/j/84006219810>, the time of the meeting, commencing at 5:00 p.m.

Ogden Valley Planning Commissioners Present: Dayson Johnson (Chair), Jeff Burton (Vice Chair), Jeff Barber, Joe Paustenbaugh, Mark Schweppe.

Absent/Excused: Trevor Shuman and Janet Wampler

Staff Present: Rick Grover, Planning Director; Charlie Ewert, Planner; Felix Lleverino, Planner; Tammy Aydelotte, Planner; Bill Cobabe, Planner; Courtlan Erickson, Legal Counsel; Marta Borchert, Office Specialist.

- **Pledge of Allegiance**
- **Roll Call**

Chair Johnson conducted roll call and indicated Commissioners Shuman and Wampler were excused; all other Commissioners were present.

1. Minutes: April 23, 2024.

Chair Johnson asked if there are any corrections to be made to the minutes as presented. No corrections were offered, and Chair Johnson declared the minutes approved as presented.

Chair Johnson then called for any conflicts of interest to be declared. Vice Chair Burton referenced agenda item 2.2; he noted he owns a building across the street from the property subject to the application, but he does not believe that will impact his ability to correctly apply the law and any pertinent regulations to the application.

2. Administrative Items:

2.1 CUP 2023-15 Request for approval of a conditional use permit to bring an existing campground into compliance with conditional use standards regarding Forest Campgrounds in the F-5 zone. Project site is located at approximately 10455 E. Highway 39, Huntsville, UT. Staff Presenter: Charlie Ewert.

A staff report from Principal Planner Ewert explained original approval of a CUP for this campground was granted by the Planning Commission on November 9, 1971. The applicant is requesting approval of a conditional use permit for a 142-site forest campground on 72 acres, located in the F-5 zone at 10455 East Hwy 39. This request includes 142 camp/RV sites, 323 parking spaces, 2 green spaces, a pavilion, a multi-use space, restrooms, and sheds used for various purposes, as well as a future kitchen for use by the patrons of the campground. This proposal has an existing septic system and culinary water source, both of which have continued approvals from the Weber-Morgan Health Department. Seasonal operations will be from the last Friday in April through October 31 of each year. Early access, beginning April 1, will allow for the campground manager and assistant manager to begin preparing the site for seasonal use. Per the applicant, all trailers must be removed by 1:00 p.m. on October 31.

The report summarized staff's analysis of the application to determine compliance with the General Plan; zoning ordinance; conditional use standards; standards regarding parking; water supply and wastewater disposal; and design review standards. Staff recommends approval of this conditional use application subject to the applicant meeting the conditions of approval in this staff report and any other conditions required by County review agencies and the Ogden Valley Planning Commission. Planning conditions of approval:

1. The applicant shall obtain a valid permit for additional structures and any modifications on existing structures within the project site.
2. All trailers must be removed by October 31 of each season.
3. The site must remain free of garbage and all garbage must be properly disposed.
4. All human waste must be properly disposed of, and the restroom facilities remain clean and in good working order.

This recommendation is based on the following findings:

1. The proposed use is allowed in the F-5 Zone and meets the appropriate site development standards.
2. The criteria for issuance of a conditional use permit have been met because mitigation of potential detrimental effects can be accomplished.

Planning Director Grover reviewed Mr. Ewert's memo.

Chair Johnson invited input from the applicant. The applicant indicated they had no additional information to provide.

Vice Chair Burton clarified there is an existing CUP for this property. Mr. Grover stated that is correct; it is very old – dating back to 1971. He noted that the applicant is requesting approval of additional camp sites and trailer parking. Vice Chair Burton asked if this action would amend the original CUP or replace it. Mr. Grover stated it will replace the original CUP.

Commissioner Schweppe stated that it would be his preference or advice that the tin sheds on the site be replaced with a structure with more durable materials.

Vice Chair Burton moved to approve CUP 2023-15, conditional use permit to bring an existing campground into compliance with conditional use standards regarding Forest Campgrounds in the F-5 zone. Project site is located at approximately 10455 E. Highway 39, Huntsville, UT, based on the findings and subject to the conditions listed in the staff report. Commissioner Schweppe seconded the motion. Commissioners Barber, Burton, Johnson, Paustenbaugh, and Schweppe voted aye. (Motion carried on a vote of 5-0).

2.2 CUP 2024-03 a request for approval of a conditional use permit to operate as a package agency for DABS (Department of Alcoholic Beverage Services) in the Ogden Valley area. Located in the CV-2 zone, at 2612 North Highway 162, Unit 3, Eden, UT, 84310. Staff Presenter: Charlie Ewert.

A staff report from Principal Planner Ewert explained the applicant is requesting approval of a conditional use permit for a package liquor store located in the CV-2 zone at 2612 N. Highway 162 Unit 3, Eden, UT. This 800 square foot structure was built in 2013. The staff report summarized staff's analysis of the application to determine compliance with the General Plan; zoning ordinance; conditional use standards; and design review standards. Staff recommends approval of this conditional use application subject to the applicant meeting the following conditions of approval in addition to all conditions of County review agencies and the Ogden Valley Planning Commission. Planning conditions of approval include:

1. The owner shall obtain a valid Weber County Business License.
2. A conditional use permit shall be issued, along with the business license.
3. All requirements from the DABS must be followed

This recommendation is based on the following findings:

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

Planning Director Grover reviewed Mr. Ewert's memo.

Chair Johnson invited input from the applicant. The applicant indicated they had no additional information to provide.

Vice Chair Burton stated he has not patronized the "Simply Eden" business; he asked if will continue to operate or if it will be replaced by the proposed use. The applicant, Tom Ferguson, stated that he is the current owner of the Valley Market, and he has a contract to purchase Simply Eden contingent upon the County's approval of this application. He holds a beer license at the Valley Market and is very familiar with the State's liquor laws and is confident he can abide by those laws. Vice Chair Burton stated that he assumes people will come from throughout the Valley to purchase liquor given that it will be the only facility that will sell liquor; he asked if it is concerning that the site is near Snowcrest Junior High. Mr. Ferguson stated it is not concerning to him; there is currently a bar near the junior high, as well as the Valley Market, which sells beer. He stated that youth will not be permitted to purchase beer or liquor from either facility.

Commissioner Barber moved to approve CUP 2024-03, conditional use permit to operate as a package agency for DABS (Department of Alcoholic Beverage Services) in the Ogden Valley area. Located in the CV-2 zone, at 2612 North Highway 162, Unit 3, Eden, UT, 84310, based on the findings and subject to the conditions listed in the staff report. Commissioner Paustenbaugh seconded the motion. Commissioners Barber, Burton, Johnson, Paustenbaugh, and Schweppe voted aye. (Motion carried on a vote of 5-0).

3. Legislative items:

3.1 ZMA 2024-05: Public hearing on a request to rezone approximately 17 acres of land located at approximately 2773 North, Highway 158 from the AV-3 (agriculture) zone to the FB (form-based) zone. Staff Presenter: Charlie Ewert.

A staff memo from Principal Planner Ewert explained this is an application for a rezone from the Agricultural Valley (AV-3) zone to the Form-Based (FB) zone. There is also a small sliver of the property in the CV-2 zone that is proposed to be rezoned to the FB zone. The Planning Commission reviewed the proposal in a work session in their April meeting. This proposal appears to be anticipated by the general plan's Villages and Commercial Areas Map. It appears to substantially compliment the goals, policies, and implementation strategies of the Ogden Valley General Plan, not only by implementing the villages concept, but also by virtue of the regulations adopted in the Form-Based zone it will implement development design standards that are needed to create attractive villages and neighborhoods. Based on the currently adopted street regulating plan for this area, most of the property will be governed by the small-lot residential (SLR) street-type. Generally, small-lot residential allows lots as small as 3,000 square feet that can support up to four dwelling units. The southwestern part of the property that abuts Highway 158 is governed by the vehicle oriented commercial (VOC) street standards, in which there are minimal lot size and setback requirements and wide variety of allowed uses. The form-based zone is intended to focus planning efforts on the design of the buildings and streets and less on use-based requirements. Buildings along these street types can be anticipated to follow the design theme of the area and have street-level commercial uses. Other uses can occur above and behind the street-level commercial uses, including residential uses. Highway 158 is designated as a multi-family residential (MFR) street. Buildings along MFR streets have similar design requirements as those along VOC streets, except the street-level is not required, but allowed, to be occupied by a commercial use. Despite minimal lot standards, such as smaller or nonexistent setbacks, each building along the MFR and VOC streets must provide adequate parking within 500 feet for the eventual uses that occupy those buildings. The SLR uses will be required to provide onsite parking. All residential uses will be required to follow the transferable development rights requirements, and the developer will be required to provide workforce housing within the project to provide housing for workers that will work in the area. Because this proposal substantially complies with the general plan and will stimulate the transfer of development rights from the areas of the valley intended to remain rural into this planned village area, staff is recommending approval of the rezone.

Planning Director Grover reviewed Mr. Ewert's staff memo and discussed staff's analysis of the zoning application to determine compliance with the General Plan, the Form Based Zoning ordinance, and the Street Regulating Plan for the Ogden Valley. He used the aid of a PowerPoint presentation to orient the Commission to the location of the subject property as well as the existing use of the surrounding properties, as well as to summarize the terms of a proposed development agreement that will accompany the rezone. He concluded that After reviewing the proposal within the intended context of the Ogden Valley General Plan, it is staff's opinion that this rezone will substantially advance the vision and goals of the general plan. Staff is recommending approval of the rezone on the basis of the developer entering a development agreement with the county to account for the following:

1. The developer should provide a 60,000 square-foot public park between the VOC and SLR/MFR areas, as generally shown on the street regulating plan. The park should include pathways that generally run along the existing canal/ditch, a landscaped public plaza with no less than 10 benches or picnic tables. The development agreement should include a concept park design acceptable to the county commission. Unless conveyed to the local park district, the project's owner's association should be responsible for maintaining the park.
2. The developer should provide a public trailhead located next to Highway 158 and adjacent to the Weber Basin canal. The trailhead should have one public restroom building with two separate toilet rooms, connected to public sewer.
3. The developer should work with Weber Basin Water Conservancy District to construct a trail adjacent to the conservancy canal. If the conservancy district will not allow it, the developer should be required to install the trail adjacent to the canal property. The trail should be at least 10-feet wide and asphalt, and meet the county's minimum engineering standards. Fences lining the trail, if any, should be no taller than four feet tall or if taller, setback from the trail at least five feet with a drip irrigation and landscaping installed in the five-foot setback. Sufficient area should be provided along the trail to allow for the installation of one bench every 150 feet, and trees planted along the trail of a species and at intervals such that the crowns of the average mature trees abut each other. Unless conveyed to a local trail or park entity, the landscaping along the trail should be maintained by the project's owner's association.
4. Septic systems should not be allowed in the development.

5. Prior to any development occurring adjacent to Highway 158, the developer should cooperatively work with both UDOT and the county to agree on a street cross section for Highway 158 that supports the intent of the general plan and generally complies with the FB zone's street cross sections.
6. The developer should be required to pay the county their proportionate share of the intersection improvements that the county and UDOT have planned for the intersection of Highway 158 and Highway 162/166.

This recommendation is given to the Planning Commission with the following findings:

1. The proposal substantially advances the vision, goals, and objectives of the Ogden Valley General Plan.
2. The proposal will provide residential development opportunities, through TDRs, that are "centered around villages and town centers" as prescribed by the general plan.
3. Considering the direct context of the plan, the benefits that the proposal offers to the execution of the plan and to the long-term desirable community outcomes as specified in the plan overwhelm the proposal's conflict with Commercial Development Implementation Strategy 1.1.2.
4. The proposal will help contribute toward sewerage the Eden area, thereby creating further village and TDR opportunities for other landowners in the surrounding area in the future, further compounding the benefits of the proposal to the intended effects of the general plan.
5. The TDRs anticipated to be consumed by the development within the proposed rezone, or the TDRs that might be consumed by other properties in the area will help remove development rights from the remaining areas in the community that are intended to remain rural.
6. The project is beneficial to the overall health, safety, and welfare of the community, as provided in detail in the Ogden Valley General Plan.

Chair Johnson invited input from the applicant.

Chris Zarek of Cowboy Partners referenced a recent work session meeting, during which he discussed the proposed project with the Commission, as well as an open house at the Huntsville Library last week, which was very beneficial in terms of learning of the public's concerns and ideas regarding the site design. He presented a site plan for the properties, which are two sites that are 7.4 and 9.64 acres in size; in total there is 4.5 acres that will become public in some way, whether that is public streets and sidewalks, landscape, green space, or a park. He provided an illustration of how the project complies with the street regulating plan and highlighted the relationship between the commercial/retail uses and housing uses. His vision is to create a commercial village that will benefit from and add to the commercial gravity at the nearby intersection; it can become an amenity for residents of the project as well as the community at large. He will seek users that fit in the area and will benefit the neighborhood. He discussed buffering between the proposed development and existing residential neighborhoods, the character of the residential aspect of the proposed project, the density of the workforce housing area of the project, parking accommodations, and design elements that will make the progress indistinguishable from a market rate project.

Commissioner Barber asked Mr. Zarek the differentiation between moderate income housing, affordable housing, and workforce housing. Mr. Zarek stated they are somewhat similar; workforce housing is targeted to those in the 60 to 100 percent area median income (AMI) bracket. Any project that utilizes subsidies or credits to restrict rental rates is considered affordable housing, but workforce housing is often used to create a preference for people who work in a particular area. Commissioner Barber asked how many market rate units and subsidized units there will be in the project. Mr. Zarek stated he anticipates 80 to 100 workforce housing units and 50 to 70 market rate single-family, for-rent units. Commissioner Barber stated that means Cowboy Partners will receive subsidies for the majority of the housing units in the project. He asked if that means there will be some ability to define the area in which the residents of the housing units can work. Mr. Zarek answered yes; the marketing plan for the project will be submitted to the Housing and Urban Development (HUD) Department of the Federal Government and it will communicate a preference for people who may work in a certain geographic area of the Ogden Valley. The marketing plan must also address how the project will serve the senior population, disabled persons, and other protected classes in terms of housing regulations. Preference cannot be given to a specific employer. There was a brief discussion about the screening process Cowboy Partners would use to determine preference for applicants desiring to live in the project area, as well as the price points and how the market rate of the different types of units in the project will be determined. Commissioner Barber asked Mr. Zarek if he would be able to deliver a better project to the community if it were not necessary to abide by the Street Regulating Plan. Mr. Zarek answered yes, because he would have more flexibility in terms of design of the site; however, his job is to consider all regulations imposed on these 17 acres and he understands that in the long run, it will benefit the Valley to have considered connectivity to surrounding properties. He is not sure that three 60-foot-wide roads are needed in what is a fairly constrained area, but he does not have other significant concerns or oppositions to the Street Regulating Plan. Commissioner Barber asked Mr. Zarek his current

thoughts on any TDR action associated with the subject property. Mr. Zarek stated that he feels it would behoove everyone if there were some way to create a TDR market, perhaps through a land trust mechanism that would give landowners the ability to sell development rights while preserving their property for open space or agriculture. Or, the owners of the development rights could even be allowed to donate those rights in favor of receiving a tax credit for their property, which may be a greater financial benefit than selling the development right. It is more difficult for an individual developer to reach out to all property owners who have development rights to determine their position on selling or transferring those rights.

Commissioner Paustenbaugh referenced the road in the northern corner of the project site, which is identified as a dashed line that goes through the adjacent property and very close to an existing home. He asked for an explanation of that layout. Mr. Zarek stated the original Street Regulating Plan identified the road as going along the north edge of the property, but he moved it onto his property, and he does not intend to pave on any other property.

Commissioner Barber asked Mr. Zarek if there is any other section of the FB zone ordinance that he would seek a variance for, or suggest an amendment. Mr. Zarek stated that the workforce housing will function as a single entity and it makes sense to create just one parcel for all of that housing; however, the FB zone requires individual platting for small-lot residential uses. Beyond that, he may have suggested different language relating to building heights – such as a certain number of stories with architectural expression rather than a firm measurement figure. Commissioner Barber asked if the garage heights will accommodate taller vehicles with accessory racks. Mr. Zarek answered yes, but noted in many mountain communities, residents choose to park outside of their garage for whatever reason. Commissioner Barber asked if the garages will be wired to accommodate electric vehicle chargers, to which Mr. Zarek answered yes.

Continued discussion among the Planning Commission and Mr. Zarek focused on the manner in which housing units in this project will compare with similar units in Ogden and other mountain communities; the manner in which a workforce housing tenant will be dealt with in the event they are no longer employed in the required workforce; other FB zoned developments that have been completed by Cowboy Partners in other communities; and the areas of the project in which attached housing and detached housing will be located.

Commissioner Barber inquired as to the mechanism that will be used to determine or track the number of transferred development rights that will be needed to provide for the density Mr. Zarek has communicated to the Commission. He asked if there will be a ratio to determine the number of development rights that will be needed in order to provide for a certain number of units and if that ratio will be adjusted when considering work force housing. Mr. Grover stated that a ratio will be defined, but it will need to be adjusted for workforce housing. He stated he will need to report back to the Commission on such a ratio at a later date. Mr. Zarek stated it is his understanding that affordable rent restricted units do not require a development right to a maximum of 15 percent of the overall project. This means that he would need 128 development rights. Mr. Grover stated he will need to review that information in conjunction with the FB zone and confirm whether it is correct.

Commissioner Paustenbaugh stated that after the initial work session discussion of this project, it was his understanding that there would not be short term rental units in this project, but it is his understanding that the zoning could permit short term rentals. Mr. Grover stated that the FB zone does allow short term rentals and if that use is to be prohibited in this project, it would be appropriate to utilize the development agreement to restrict that use. Mr. Zarek stated it was his understanding that short term rentals are not permitted in small-lot residential units, but they may be allowed in vehicular oriented development. Mr. Grover stated that is correct. Mr. Zarek stated that one thing he said during the work session was that Cowboy Partners has not managed short term rental projects in other communities; his properties are operated on a long-term lease arrangement, and he has not thought too much about short term rental uses.

Vice Chair Burton asked if HUD restricts lease terms for subsidized housing. Mr. Zarek stated that they do not limit the length of a lease and there is no premium associated with a shorter lease term. Vice Chair Burton asked if HUD restricts subletting. Mr. Zarek stated that Cowboy Partners restricts subletting via very detailed rules package that each renter must abide by. Vice Chair Burton asked if the total number of units at the site will be 170. Mr. Zarek stated that will be the maximum number of units; however, he believes it will be closer to 150 units with a range of square footage sizes and bedroom counts.

Mr. Grover then referred to Commissioner Barber's question about the TDR ratio and indicated that Mr. Zarek's communication of not requiring a development right to a maximum of 15 percent of the overall project for rent restricted units is correct. Language could be included in the development agreement to prevent the developer from transitioning from rent restricted units to market rate units after using the TDR calculation ratio to their benefit.

The Commission reengaged in discussion of past Cowboy Partners projects with Mr. Zarek, after which Chairman Johnson called for a motion to open the public hearing.

Vice Chair Burton moved to open the public hearing. Commissioner Paustenbaugh seconded the motion, all voted aye.

Kay Hogeland stated she is speaking on her own behalf, though she is the President of the Wolf Creek Master Association, which represents the homeowners' associations (HOAs) within Wolf Creek. She thanked Cowboy Partners for considering issues that are important to the Ogden Valley. However, she is concerned about the evolution of a patchwork of development proposals, and she asked that Planning staff and the Planning Commission look at this property and the surrounding area more holistically to determine how the projects relate to one another. This is especially important in terms of preservation of open space, and she encouraged all parties and community partners to coordinate with one another to fulfill the broader goals and vision of the Ogden Valley General Plan.

Shanna Francis stated that County staff is asking the Planning Commission to make a decision on this application and the staff report states that the recommendation to approve is based upon the currently adopted Street Regulating Plan for the area. She wished to point out for the record and for the Commission's consideration, that according to due process and State Law, the Planning Commission was to hold a public hearing and make a recommendation to the County Commission regarding the Street Regulating Plan before it was approved. The Planning Commission never held a public hearing on the Street Regulating Plan and the Valley residents had no opportunity to provide input and concerns regarding the Plan. The County Commission adopted it without requiring that public hearing. She asked that the Planning Commission petition the County Commission to refer the matter back to the Planning Commission for a public hearing before any decisions are made regarding the current application. She asked that the Planning Commission table action on the application that is before them tonight in order to abide by State Law.

Gary Fullmer stated likened this issue to 'getting the cart before the horse'; based upon the maps he has seen for this project, he understands there are several exits and entrances onto Powder Mountain Road – at least four. Additionally, there is an egress point onto John Lewis's property and the impact that this additional traffic will have on the four-way stop intersection will be incredible. He suggested further consideration of traffic mitigation and he also echoed Ms. Hogeland's suggestion to consider the entire area holistically. He then noted that he has a daughter moving to the Valley in two weeks and she is employed by Powder Mountain full-time, but cannot find housing in the Valley for under \$4,000 per month. He stated this project has its merits, but it should be considered further to determine if this is the appropriate location for it.

Jan Fullmer also thanked Cowboy Partners for their public outreach efforts. The idea of workforce or affordable housing in the Valley is one that is needed; people who work in businesses in the Valley also need places to live. There are some really good things about the proposed development, but more detail is needed regarding overall density as well as infrastructure improvements and utility services before a zone change should be granted for the property. She stated this project will potentially locate an additional 170 dwelling units in an area that is already very congested. The location of parks and other public spaces on either side of Powder Mountain Road is not wise because that road is and will continue to be very dangerous. She added that the TDR issue must be resolved because it is key to securing the total number of development rights Cowboy Partners is pursuing. She echoed Ms. Hogeland's comments about a patchwork of development in the area and she asked that the Planning Commission consider these concerns before taking action. She then referenced the County Commission's excitement about a housing project in Western Weber County that would include a mixture of affordable and moderate housing and a HOA that is self-governing. She advised the Planning Commission to review the video of that meeting to get more information about it.

Ray Bertoldi expressed his concerns about this project having unintended negative consequences related to density, street layout, and inadequate planning for setbacks and snow storage areas; he compared it to another dense condominium project in the Wolf Creek area and noted that it will be at the gateway of the Wolf Creek Area, meaning it is important to be careful to consider high quality design and appropriate building heights and density. He stated more detail on the design is needed before action should be taken.

Craig Orem stated he lives on Wolf Creek Drive and his home and property would be surrounded by this proposed development. He stated he is not sure how the area can be rezoned until the applicant is able to secure a commitment for sewer and water service to the site. He noted he has lived in his home for 28 years and assumed that this property would eventually be developed, but he did not think it would be high density and that it was more suitable for single-family development. If the project does go

forward, he asked for consideration of locating the park or other open space amenities closest to his home in order to avoid the outcome of 150 new housing units being located around his property.

Tina Allred stated she is the newly elected President of Eden Waterworks and she provided the Planning Commission with a letter regarding this project. She read the letter for the record, the intent of which was to inform the County that Eden Waterworks has not agreed to provide culinary water for the proposed project; the Board of Directors has not been formally approached by the developer and no discussions have taken place about the project. There is also a moratorium in place that would likely prohibit company shares from being offered to Cowboy Partners. A recent study indicated there is insufficient water available in Ogden Valley to meet buildout projections of the Valley. She expounded on laws that impact water provision from Eden Waterworks and discussed plans to drill a large well in the Cobabe area that will impact the Eden Waterworks source. She then added her personal comments, emphasizing that there is not enough capacity in the area to provide service to this property without impacting the water rights of others in the valley. She has been dismissed by the County Commission when she has expressed her concerns and she was also threatened with a lawsuit by the developer. It is concerning to her that when a citizen approaches the County to point out critical infrastructure issues, their opinion is dismissed because the Valley is definitely at a point where every well that is being drilled is impacting an existing water source. She added that she owns a shuttle company in the Ogden Valley, and she has found streets to be very narrow with insufficient room to contain snow that is being removed from the streets. She addressed the low-income housing element and stated it is undisputed that low-income housing brings more crime to an area; additionally, law enforcement is called for service more frequently for multi-family developments than single-family and Ogden City has gone so far to implement a good landlord program that charges those managing multi-family developments to pay fees to offset public safety impacts of the development.

Miranda Menses stated she is the President of Wolf Creek Water and Sewer Improvement District; the District has passed a resolution that states, in part, that the District will not accept any applications for sewer service unless the entity has water or a commitment to provide water from a recognized public water provider, or a water right that has been approved. She added that as the Chair of the Board, she believes the Board will stand with Eden Waterworks regarding their position on this application. The District has worked with Eden Waterworks and Wolf Creek Irrigation Company on water rights issues and will do so again; typically, when one source is impacted, others are also impacted, and all service providers will work together to deal with that issue through a process defined by the State Engineer. She then noted that her personal opinion regarding the application is that a park is a fine amenity, but what the area really needs is a decent playground. She recently spent six weeks in Ohio and took her grandchildren to playgrounds that were so much better than anything she has seen anywhere in Utah. They are Americans with Disabilities Act (ADA) compliant and have great equipment for users of all ages. She concluded she was happy to hear that Mr. Zarek is considering sustainable building materials for the project.

Janice Campbell stated she is the block captain for her neighborhood as part of the local CERT program and she is responsible for 60 houses in her neighborhood. She can confirm the water situation in the area is dire. Liberty Water has informed her that they have 81 letters for service to fulfill, which will extend water to the northern end of her neighborhood, which will leave the rest of the community without water pressure for fire protection. This is a serious concern as there has already been fire in the area and fire retardant cannot adequately protect the area. She has made arrangements with a company in California that builds a material that helps to protect homes from fires in light of learning that there will not be adequate water to protect the area. She urged the Planning Commission to consider the long-term implications of planning of the Ogden Valley in terms of impacts on the water sources; there is just one-tenth of the water needed for the area that is actually available, but buildout potential was only cut back to 60 percent. The problems the Valley is facing have been created by the planning efforts for the Ogden Valley. She advised the Planning Commission to further research the water issues in the Ogden Valley and the entire State of Utah before taking any action on this and other applications; the County must consider where its loyalties lie – to the ski resorts and developers seeking to profit from the resources in the Valley or to the residents and private property owners who have made their lives in the Ogden Valley.

There were no additional persons appearing to be heard.

Commissioner Barber moved to close the public hearing. Commissioner Paustenbaugh seconded the motion, all voted in favor.

Chair Johnson called for a five-minute recess at 6:48 p.m. The meeting reconvened at 6:52 p.m.

Chair Johnson invited input from Planning staff.

Planning Director Grover stated that when Planning staff reviews a rezone application, they must only determine whether there is a certificate of notice from the service providers in the area; this lets Planning staff know that the developer has informed the service providers of their plans, but does not mean that services have been committed to the project area. He stated Planning staff and the developer both know that there are many issues that must be addressed in terms of utility services and those must be addressed before a subdivision application can be acted upon. He then addressed Ms. Hogeland's comments about the 'patchwork' nature of the area in terms of planning. He noted that when the Street Regulating Plan was created for the area, the intent was to ensure connectivity between different properties and the applicant has followed that Plan to ensure connectivity to Eden Crossing and other future developments on surrounding properties. The Street Regulating Plan was created to avoid a patchwork element in the Valley.

Commissioner Paustenbaugh asked Mr. Grover to address Ms. Francis's comment about the County failing to follow a defined public process as part of adopting the Street Regulating Plan. Mr. Grover stated that he has reviewed the process that was followed and conferred with Legal Counsel, and they feel the County fully complied with the law. Legal Counsel Erickson noted there is an active lawsuit regarding that matter, and it is yet to be resolved by the court.

Chair Johnson asked what would need to be done to ensure that water and sewer issues are dealt with earlier in the process. Mr. Grover stated the County would need to amend its land use ordinance to require service commitment letters at the rezone step in the process. He noted such an amendment would not apply to this application as the current application is vested under the current ordinance.

Commissioner Barber referenced the staff report, which includes a condition of approval pertaining to sewer service. He asked if a similar condition could be included regarding water, such as that the project must be connected to a rural water system rather than drilling a well. Mr. Grover stated that the developer could drill a well if they receive approval from the State of Utah, but they cannot get approval for a septic system for the proposed number of lots. He stated the Commission can include a condition of approval, however, relating to water service.

Chair Johnson invited rebuttal from the applicant.

Mr. Zarek reapproached and stated he appreciates the comments that were made during the public hearing; he focused on the diligent planning efforts for the project in an effort to avoid a 'patchwork' type of development and to provide quality housing and commercial elements that will help to retain quality residents and tenants alike. He stated that he understands the concerns regarding water and sewer resources in the area; there are unique challenges to developing in the Ogden Valley and he will dedicate a great deal of time, attention, and money to address those issues, but he cannot do that until he knows that he has secured the zoning designation that is needed in order to pursue the project. He has never represented that he has secured a commitment of service from any utility company, but he does believe it makes sense for the project to receive service from Eden Waterworks because the property is within their service area. However, he does understand they are a private water company and they have enacted a moratorium, which means they are not obligated to provide service. That particular matter will take time and money to address, and he is committed to doing that in the appropriate way. He has also engaged with Wolf Creek Water and Sewer Improvement District, and they have also been very clear they are at capacity at their current treatment plant; in order to receive support from them, they will need to increase their capacity and that is also something that will take a great deal of time and money. He stated he hopes to work with these service providers and the County to move forward in a responsible manner. He concluded his intent is to be a good neighbor to other property owners and he does not want to build or develop in a way that will create problems for anyone else.

Commissioner Schweppe asked what will happen if the application is approved, but the current developer does not proceed with a development under the Form Based Code. Mr. Grover stated there will be a development agreement for this project and if the property is sold to another developer, that new developer would need to negotiate a new development agreement for their project. Commissioner Barber asked if the Form Based zoning approval will remain in place, to which Mr. Grover answered the Form Based zoning approval is connected to a development agreement and if that agreement expires, the zoning designation could also expire. Commissioner Barber stated that there is no reference of a development agreement in the model motions for this application; he asked if the development agreement will be negotiated later. Mr. Grover answered yes; the development agreement will be negotiated and approved by the County Commission.

Commissioner Barber stated that approval of this application is complicated, but he has learned a lot of information this evening regarding the implications of approving the rezone. If he were going to support approval of the zone change, he would want to

add up to seven additional conditions of approval, but he does not think it fair to try to identify those conditions tonight without allowing the applicant to review them first. For that reason, he would like to table the application.

Vice Chair Burton stated he has spent time reviewing the application, staff's recommendations, and the Form Based ordinance and he has some real concerns about the application. Primarily, he does not believe the proposed development is consistent with the General Plan. The General Plan identifies small village areas and the development that is proposed as part of this application is not small. He was involved in the development of the General Plan dating back to 2015 and he recalls how it was presented to the community in terms of preserving the culture and open space of the Ogden Valley and this project does not accomplish those goals. He disagrees with some of the conclusions included in Mr. Ewert's staff report and he expounded on his concerns related to design, layout, and density of the project; parking; the relationship between the subject property and surrounding properties; the impact this type of project will have on schools in the area; and the artificial construct of the TDR concept. He ultimately concluded he does not believe the project is consistent with the General Plan and he cannot support the application for the zone change and he recommends denial of the application. Commissioner Barber stated he also struggles with the size of the project and whether it can be defined as a small village area. This led to high-level philosophical discussion among the Commission regarding whether the Form Based Zone – or another zoning designation – is appropriate for the area and whether approval of this application will be a catalyst for other similar projects in the area.

Vice Chair Burton moved to forward a negative recommendation to the County Commission for application ZMA2024-05, request to rezone approximately 17 acres of land located at approximately 2773 North, Highway 158 from the AV-3 (agriculture) zone to the FB (form-based) zone, based on the following findings:

1. The proposal is not adequately supported by the General Plan.
2. The proposal runs contrary to the health, safety, and welfare of the general public.
3. It is possible to create attractive villages and neighborhoods without form-based design standards.
4. The FB proposal is contrary to the intent of the concept of the General Plan for the Ogden Valley developed in 2016.
5. The FB zone is not appropriate for the concentration of residential uses or to replace a commercial zone as this is not consistent with the General Plan.
6. The General Plan concept is for small villages; because this proposal would join two existing larger areas, this would not be a small village, but a very large village that would be inconsistent with the General Plan.
7. The six general decision criteria defined in the Weber County Land Use Code for determining whether a rezone is merited are not met by this application; specifically, sub-items a, b, c, and d in the criterion list are not met by this application.

The motion died for lack of a second.

Commissioner Paustenbaugh moved to table application ZMA2024-05 to provide additional time to explore the concerns discussed during and after the closure of the public hearing. Commissioner Barber seconded the motion.

Mr. Grover asked if the Commission could provide a date for when the application will be discussed further. Commissioner Barber stated he would like to table the application until the next work session meeting.

Commissioner Barber offered a friendly amendment to list the date certain for the tabling as June 4, 2024. Commissioner Paustenbaugh accepted the friendly amendment.

Vice Chair Burton noted that action cannot be taken in a work session, and he advised the public that the application will ultimately be listed on another business meeting agenda following the work session. Mr. Grover stated that will be determined at the conclusion of the work session discussion. Legal Counsel Erickson noted that the best way of stating the date certain for the tabling is to list the next business meeting during which action could be taken on the application.

Chair Johnson offered an additional friendly amendment to identify the date certain of the tabling as June 25, 2025. Commissioner Paustenbaugh accepted the friendly amendment.

Chair Johnson called for a vote on the motion. Commissioners Barber, Burton, Johnson, Paustenbaugh, and Scheweppe voted aye. (Motion carried on a vote of 5-0).

4. Public comments for items not on the agenda.

Jan Fullmer thanked the Commission for their time and efforts.

Tina Allred

5. Remarks from Planning Commissioners.

Vice Chair Burton expressed his concerns about the Form Based (FB) zone; it has created a lot of divisiveness in the Ogden Valley because of the idea that anything can happen in a FB project once the zoning is approved. This may be contributing to the conversation about incorporation in the Valley, which would lead to higher taxes for residents in the Valley. The public needs to be able to read a zoning ordinance and understand its implications and permitted uses and that is not the case for the FB zone. He would like for the County to take under advisement the option of revising the FB zone ordinance. This led to broad discussion among the Commission regarding amendments to the FB zone that may be appropriate, as well as to consider the General Plan map to determine where the FB zone would be appropriate and adds the County should consider making an R-3 zone applicable in the Valley as in the lower valley. Burton suggested that the county should consider creating a traditional "R-3" zone for the Valley to allow more dense uses and the transfer in of development rights, this without the uncertainty and unknowns of the FB zone which is creating much stress and concern to Valley residents. Chair Johnson stated that more discussion of this issue as well as of the prior agenda item would be appropriate during the June 4 work session.

6. Planning Director Report:

Planning Director Grover did not make a report.

7. Remarks from Legal Counsel:

Legal Counsel Erickson did not make a report.

4. Public comments for items not on the agenda, continued.

Chair Johnson recognized a member of the public wishing to make a comment.

Tina Allred referenced the Commission's discussion of the FB zone; it seems that the FB zone can be assigned to any property in the Ogden Valley. The first FB zone approval granted by the County was nowhere near any of the village areas designated on the General Plan map and it included a TDR action. If that approval does not conform with the General Plan, it was approved in error.

Meeting Adjourned: The meeting adjourned at 7:50 p.m.

Respectfully Submitted,

Cassie Brown

Weber County Planning Commission