

Minutes of the Work Session of the Ogden Valley Planning Commission for August 2, 2022. To join the meeting, please navigate to the following weblink at, <https://us02web.zoom.us/j/86965330751>, the time of the meeting, commencing at 5:00 p.m.

Ogden Valley Planning Commissioners Present: Trevor Shuman, Chair, Jeff Burton, Dayson Johnson, Jared Montgomery, Don Stefanik, Justin Torman, and Janet Wampler.

Absent/Excused: None

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

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

Chair Shuman conducted roll call and indicated Commissioners Johnson, and Montgomery were excused. He welcomed newly appointed Commissioners Stefanik and Wampler and also recognized former Commissioner Shanna Francis and thanked her for her service. He then asked if any member of the Commission has a conflict of interest or ex-parte communications to declare. Commissioner Johnson stated he will recuse himself from participating in discussion and action on the Osprey Ranch item because his company has purchased a lot in that project area. Commissioner Wampler noted there is an item on the work session agenda dealing with Wolf Creek and she will recuse herself from participating in discussion of that item. Commissioner Stefanik stated that he will also recuse himself from discussing and acting on the Osprey Ranch item; before being appointed to the Commission he has participated in many discussions with the applicant and Planning staff regarding the project. Legal Counsel Erickson indicated it may not be necessary for Commissioner Stefanik to recuse himself given that his discussions occurred prior to him being appointed as a member of the Commission. He stated that is largely dependent on the content of those discussions, however. The most important consideration for Commissioners is if they can be impartial in their consideration of any matter before them.

1. Approval of Minutes for May 24 and June 7, 2022.

Chair Shuman asked if there are any corrections to be made to the minutes as presented. Commissioner Johnson offered corrections to the section of the May 24 minutes during which he discussed his potential conflict of interest. Chair Shuman declared the minutes approved as amended.

2. Vote for new Vice Chair.

Commissioner Torman nominated Commissioner Burton to serve as Vice Chair. Commissioner Johnson seconded the motion. Commissioners Burton, Johnson, Montgomery, Stefanik, Shuman, Torman, and Wampler all voted aye. (Motion carried 7-0).

For the benefit of the two new Commissioners and visitors present, Planning Director Grover provided an explanation of the Planning Commissions role in considering and acting on administrative items and legislative items.

Petitions, Applications, and Public Hearings:

3. Administrative items:

3.1 UHV042622 – Consideration and action on a request for a positive recommendation from the Planning Commission for final approval of Hidden Brook Estates Subdivision, consisting of 8 lots. Presenter: Felix Lleverino.

Planner Lleverino reported the Commission granted preliminary approval of Hidden Brook Estates with certain conditions as follows:

1. The developer shall obtain and submit a capacity assessment letter from Nordic Mountain Water before receiving a recommendation for final approval from the Planning Commission.
 - Nordic Mountain Water has provided a letter stating that it has sufficient capacity to serve all 8 lots of this subdivision and that the developer has fully paid for water connections to the NMWI system.
2. A development design verification is required because of the geologic hazards present within the site.
 - Exhibit C contains a letter from Christensen Geotechnical verifying that the Hidden Brook site plan follows the recommendations presented in the project geotechnical report.
3. The developer shall show compliance with the secondary water exemption requirements in LUC 106-4-2.1(b)(2)c.

- The developer is required to enter into a restricted-landscape covenant that shall be recorded with the subdivision plat. The covenant shall restrict the removal or addition of living vegetation from the lot unless the owner acquires the secondary water required by this section; and
 - A note shall be placed on the final recorded plat as required in Section 106-1-8.20.
4. The County Engineer inspect the condition of Big Sky Drive road and provide review comments on potential safety issues.
- “Big Sky Drive is a private road and is owned and maintained by a private association. The developer has entered an agreement with the association to assist in the maintenance.” The County Engineering Department placed this comment to clarify that any repairs, maintenance, liability, and responsibility falls on the Big Sky HOA.

The applicant is requesting final approval for an eight-lot subdivision that will gain access from Big Sky Drive, a private road within Big Sky Estates. The private right-of-way is proposed to be 50 feet in width that will provide frontage for eight of the nine lots. The developer has extended 2050 N street to create frontage for all eight lots within the Hidden Brook Development. The subdivision improvements begin at the intersection of 2050 North and Big Sky Drive. be required to construct the Hidden Brook road to a County standard for a private road. The road improvements will extend from the intersection of 2050 North Street and Big Sky Drive to a turnaround area that also stubs to the adjacent property to the east. 2050 North Street will serve as the primary access for residents within the Hidden Creek Development. In an emergency, the residents will have access to an alternate exit through a break-away gate. The fire access road connects with Osprey Ranch and may be used for Hidden Brook residents and Osprey Ranch residents. Where the Hidden Brook Road terminates, Weber County Fire and Engineering will require a turn-around. The Fire District and County Engineer require that the entire length of 2050 North is built to a county standard. As part of the approval process, the proposal has been reviewed against the current Weber County Land Use Code (LUC), and the standards of the FV-3 zone found in LUC §104-14 and Mr. Lleverino reviewed staff’s analysis of the application. Based upon this analysis, staff recommends that the Planning Commission give a positive recommendation for final approval of Hidden Brook Estates Subdivision, consisting of 8 lots.

1. The final plat is approved by all applicable county review agencies before scheduling for final approval from the County Commission.
2. The civil drawings are approved by the applicable county review agencies.

This recommendation is based upon the following findings:

1. The proposed subdivision conforms to the Ogden Valley General Plan.
2. The proposed subdivision complies with the applicable County codes.

There was brief discussion among the Commission and Mr. Lleverino regarding the implications of the recommended conditions of approval, with a focus on the road, emergency access, and water infrastructure improvements associated with the project.

Chair Shuman invited input from the applicant. Brandon Janis addressed the location of the emergency access on the southern corner of the project, which will exit into Osprey Ranch. Mr. Lleverino indicated Planning staff has requested the access point and would like for it to be maintained year-round. Planning Director Grover stated that condition is listed on page four of the staff report. An additional condition of approval could be that approval of this application is contingent on approval of the Osprey Ranch project. Senior Planner Burton clarified that Planning staff would actually require the emergency access and crash gate regardless of the action taken on the Osprey Ranch project based upon the belief that the Osprey Ranch property will eventually be developed. Mr. Grover stated that the Commission can determine their comfort level regarding that recommended condition of approval.

Chair Shuman asked if the Commission would like to consider a motion to accept public comment.

Legal Counsel Erickson advised public input is not required for this type of administrative item and he discussed pros and cons associated with accepting public input; in general, most comments that will be provided may not have applicability whether the application meets the County’s land use ordinances and general plan and should not have any bearing on the Commission’s consideration and decision. Public input could lead to the Commission making a decision based upon improper factors.

Chair Shuman then called for a vote from the Commission regarding whether they would like to accept public input. Commissioners Burton, Johnson, Montgomery, Stefanik, Shuman, Torman, and Wampler all voted aye. (Motion carried 7-0).

Jan Fulmer stated she lives in Eden, and she is not in favor or opposed to the application, but she asked the Commission to consider the sequenced of development in the area as she is not sure the subject development and the Osprey Ranch development are in sync with one another. She asked that contingency plans be put in place to ensure proper ingress/egress for the residents in the area. She stated that in her neighborhood there is just one access point and residents were forced to turn on sprinklers when a fire was approaching the area.

Scott Bracken used the Zoom chat feature to communicate that it appears the subdivision is being approved with only culinary water though in other areas of the valley, culinary and secondary water access are required prior to issuance of a building permit.

Chair Shuman asked staff to address that comment. Mr. Lleverino stated that in this case, the culinary water district – Nordic Mountain Water – is unable to provide secondary water. The County Land Use Code includes a secondary water exception, and it provides for a subdivision lot that is entirely covered by preexisting native wildlife vegetation and will remain so to be exempt from secondary water requirements. Clearing minimal areas for buildings, driveways, accessory uses is allowed as long as it does not result in the need for outdoor watering. He cited the Code requirements for the information that must be included on the subdivision plat before recording.

There were no additional persons appearing to be heard and Chair Shuman closed the public input period.

Commissioner Torman moved to approve UHV042622, final approval of Hidden Brook Estates Subdivision, consisting of 8 lots, based on the findings and subject to the conditions listed in the staff report as well as additional conditions as follows:

3. Dedication language shall be corrected to state that the roads are private, and the County Commission signature block should be corrected to remove the reference to public road dedication.
4. Emergency access is required from North Street to Osprey Ranch.

Commissioner Stefanik seconded the motion.

Commissioner Johnson asked if the approval and requirement for connection will run with the land in the event that ownership of the land or development plans change. Mr. Erickson suggested that the motion language cite connection to the property to the east rather than naming Osprey Ranch specifically.

Commissioner Torman amended his motion to adjust condition of approval number four to require connectivity to future development rather than Osprey Ranch. Commissioner Stefanik seconded the amended motion. Commissioners Burton, Johnson, Montgomery, Stefanik, Shuman, Torman, and Wampler all voted aye. (Motion carried 7-0).

3.2 UVB040422 – Request for a recommendation of final approval of Bright Acres Subdivision, a four-lot subdivision consisting of 14.06 Acres in the AV-3 zone. Located at approximately 5638 N 3100 E, Liberty, UT, 84310. Presenter Tammy Aydelotte

Planner Aydelotte explained the applicant is requesting a recommendation of final approval of Bright Acres Subdivision, a single-phase subdivision consisting of four lots, in the AV-3 Zone. The proposed subdivision and lot configuration are in conformance with the applicable zoning and subdivision requirements as required by the Uniform Land Use Code of Weber County (LUC). She briefly referenced preliminary conditions of approval and concluded staff recommends final approval of Bright Acres Subdivision, consisting of four lots located at approximately 5638 N 3100 E, Liberty. This recommendation is subject to all review agency requirements prior to recording of the subdivision, and the following conditions:

1. All improvements shall either be installed or escrowed for prior to appearing on a County Commission agenda for final approval.
2. A 12-foot-wide public trail easement shall be shown on the final plat along the southern boundary of lots 3 and 4, per the approval of the application for AAE2021-10
3. The proposed access shall comply with safety, design, and parcel/lot standards as outlined in LUC, and will be verified prior to issuing certificate of occupancy for the first residence within this subdivision.
4. An alternative access covenant, per the approval for an alternative access dated 10/28/2020, shall be recorded with the final plat.
5. An onsite wastewater disposal covenant shall be recorded with the final plat
6. A private well covenant shall be recorded with the final plat.
7. A covenant, specifying the allowed amount of non-drought tolerant landscaping, shall be recorded with the final plat.

This recommendation is based on the following findings:

1. The proposed subdivision conforms to the Ogden Valley General Plan.
2. The proposed subdivision complies with applicable county ordinances.

Chair Shuman invited input from the applicant. The applicant indicated he had nothing to add to Ms. Aydelotte's presentation.

Chair Shuman called for a vote on accepting public input on this application. Commissioners Burton, Johnson, Montgomery, Stefanik, Shuman, Torman, and Wampler all voted aye. (Motion carried 7-0).

Beth Austin asked if Planning Commissioners have received their four hours of annual training required by State Law. Chair Shuman stated that question does not pertain to the application, and he asked Ms. Austin to hold her comment until later in the meeting.

There were no additional persons appearing to be heard.

Commissioner Burton moved to forward a positive recommendation to the County Commission for application UVB040422, final approval of Bright Acres Subdivision, a four-lot subdivision consisting of 14.06 acres in the AV-3 zone, located at approximately 5638 N. 3100 E., Liberty, UT, based on the findings and subject to the conditions listed in the staff report. Commissioner Johnson seconded the motion.

Commissioner Montgomery referenced the requirement for an easement in the project area and asked if water infrastructure will be relocated to the easement. Scott Hale, applicant, indicated that the pipe that serves the area is in a state of disrepair; he has spoken with neighboring property owners and plans to reroute the pipe within the easement once cost sharing agreements with other users can be reached.

Commissioner Johnson asked if the approval and requirement for connection will run with the land in the event that ownership of the land or development plans change. Mr. Erickson suggested that the motion language cite connection to the property to the east rather than naming Osprey Ranch specifically. This led to discussion of the condition of the existing pipe, with Planning Director Grover indicating the Commission can include an additional condition of approval that the applicant work with owners downstream to make sure that pipe issues are resolved. Mr. Hale stated that he has conducted extensive research to determine legal ownership of the pipe and none of the irrigation companies have noted water rights associated with the pipe. Planning staff indicated it is their understanding that the pipe is owned by the Liberty Irrigation Company and abutting property owners are entitled to water within the pipe. Mr. Erickson advised the Commission against overstepping their purview relative to their ability to impose conditions that are not specifically addressed in the County's LUC. Chair Shuman stated that it would be 'silly' for the Commission to recommend approval of development that would result in elimination of a pipe that is relied upon by existing residents. Mr. Erickson agreed but indicated that there are other conditions of approval that address water matters on the site. Commissioner Burton agreed; the applicant is not precluding other property owners' ability to access the water. He is sensitive to the counsel from Mr. Erickson and stated he is comfortable moving forward with action on the application. He restated his motion.

Chair Shuman called for a vote on the motion. Commissioners Burton, Johnson, Montgomery, Stefanik, Shuman, Torman, and Wampler all voted aye. (Motion carried 7-0).

3.3 UVO111221 – Consideration and action on a request for preliminary approval of Osprey Ranch Subdivision Phase 1, a 31-lot subdivision consisting of 283.78 acres, in the FV-3 zone. Located at approximately 1385 N Hwy 158m Eden, UT, 84310. Presenter Tammy Aydelotte.

Commissioners Johnson and Stefanik recused themselves from participating in discussion and action on this application.

Planner Aydelotte referenced previous actions taken regarding this project, noting the preliminary subdivision plat request consists of 31 lots, ranging in sizes from 3.12 acres to 18.57 acres. Lot widths vary from 100 feet to 1972.35 feet. This proposal consists of 283.78 acres, with two open space parcels totaling 30.20 acres, 1.27 acres of trail area, in Phase 1. Public roads, and paved trails within the dedicated right-of-way, are proposed throughout the development. She discussed staff's analysis of the application to determine compliance with the General Plan and zoning ordinances; she presented the plat to orient the

Commission to lot area, frontage/width and yard regulations, after which she concluded staff recommends preliminary approval of Osprey Ranch Subdivision Phase 1, consisting of 31 lots and two open space parcels. This recommendation for approval is subject to all review agency requirements and is based on the following conditions:

1. A proposed final plat for Phase 1 shall be submitted prior to going before Planning Commission for recommendation of final approval.
2. There are lots within Phase 1 that show an average slope that exceeds 25%. As such, every lot with average slopes that exceed 25% shall either have a buildable area shown on the final plat, or a Geotech study shall be submitted for each of these lots.
3. A Natural Hazard Notice shall be recorded with the plat, and a note on the final plat shall be required which states that the parcel is located within a natural hazard study area.

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 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.

Chair Shuman invited input from the applicant. John Lewis stated he is very proud of this project, and he hopes that similar projects will be proposed in the future. He stated that the Webb Family was very instrumental in the development of the current proposal, which includes 61 lots in 600 acres. He indicated that he has fought hard against a septic sewer system on the property and millions will be spent to route the sewer to the Wolf Creek area. He feels the development is being done in a very responsible way and, most importantly, the density is half of what it could be according to the zoning of the property.

Commissioner Wampler stated that she is concerned about hazards associated with the slope of the subject property and she asked Mr. Lewis to address that matter. Mr. Lewis stated that rigorous geologic and topography hazard studies have been conducted and the slope issues are being mitigated by the reduction of density and assuring that homes will only be constructed in the areas with much lesser slopes and where the building is safe. Commissioner Wampler asked about landscaping of the steep slopes area; the FV-3 zone calls for natural environment and reduced irrigated areas. Mr. Lewis stated that the plan conforms with and even exceeds those requirements; the covenants, conditions, and regulations (CCRs) for the project indicate that no more than half the footprint of a home on a given lot can be covered in sod and drip irrigation must be used for a landscaping that cannot exceed 5,000 square feet. This is intended to promote natural landscaping of the area.

Commissioner Burton asked about proper separation between a dwelling and wooded areas to ensure proper fire protection. Mr. Lewis stated that the setbacks are appropriate and compliant with directives from the Fire Marshall. Xeriscaping between a home and wooded areas can serve as fire protection.

Chair Shuman asked about the ingress/egress of the subject property and connectivity to Big Sky Drive; existing residents are concerned about that connectivity, and he asked Mr. Lewis to expound on that matter. Mr. Lewis stated that he is trying to respect the wishes of existing residents and he understands their concerns about public roads connecting to the private roads in their subdivision; he will provide proper emergency access roads with crash gates.

Commissioner Burton referenced a rectangular shape in the middle of the plat, and he asked if that property is landlocked. Ms. Aydelotte stated it is not owned by the developer and is not part of this project.

Chair Shuman called for a vote on accepting public input on this application. Commissioners Burton, Johnson, Montgomery, Stefanik, Shuman, Torman, and Wampler all voted aye. (Motion carried 7-0).

Planning Director Grover discussed the Planning Commission's purview on this type of application.

Elizabeth Eswick stated she is a member of the Nordic Mountain Water Board, and she lives in Nordic Valley; speaking for the Board, it is true that the Water Company can provide service to 65 lots, but it is important to clarify those are residential hookups and there will not be any additional water for further development or improvements to include accessory dwellings or other types of units. The Company does not have a mechanism to measure the amount of culinary water that is being used for secondary purposes and she does not want the County to place an expectation on the Board that is not possible to meet; the Company

cannot police the amount of water being used in the development. As a private citizen, she communicated that the property is an 'eyesore' right now and she hopes that the landscaping will be restored in conjunction with this development.

Ron Gleason, Eden, discussed secondary water and restrictions on landscaping of the area; those restrictions are only effective until such time secondary water becomes available, and he asked the applicant to explain what steps, if any, are being taken to obtain secondary water. He also noted that typically culinary water is allocated to two uses: domestic and stock water and he feels that is relevant in this instance because many of the lots are being marketed as 'horse property'. He asked the applicant to address how the CCRs for the project will delineate between those two uses.

Blake Green stated that he represents his family, which owns property adjacent to the proposed development. He identified his family's property on the map of the area and stated that they have a great interest in the manner in which this project will impact their property. He understands that change will occur, but it is important that his family's access to their property be preserved as they plan to continue to run cattle on their land. Looking forward to phase 2 of the project, access will be impacted significantly, and it is also important that his family have the ability to connect to necessary infrastructure in the area. He highlighted the existing access points to the property and the point that he believes to be the natural connection point for sewer. He wants the Commission to be aware of these issues when they are making their decision on this application and future phases of development.

Suzanne Frey stated she appreciates the Commission's thoughtfulness regarding this and other applications; the Ogden Valley has two problems: water and access. She cautioned the Commission against approving additional development that will make accessibility very difficult and that will tax the water resources of the area. Traffic is already very bad, and the County should have a right to put a stop to development that will make it worse and impact the quality of life of residents.

Lee Shooshman asked for clarification regarding secondary water provision to the project; she asked if Nordic Valley's only mechanism for capping culinary water usage is financial rather than an actual mechanism that can be used to control usage. Chair Shuman stated that is a question for the water company. Ms. Shooshman stated that the Commission is being asked to grant preliminary approval of a subdivision with no limits on the amount of water that can be used there. Chair Shuman stated he does not believe that is accurate.

Scott Bracken stated that it appears the Commission has moved from approval of developments in one community to another, but the most important issue is water availability and usage, and it may be up to the Utah Division of Water Rights to make appropriate determinations regarding access to water. Chair Shuman agreed and stated that the County looks for approvals from water companies for that purpose.

Kathy Fronzier referenced a road that is labeled for emergency access only and she asked for clarification on whether it will be used for construction access. She asked if it will be used to maintain the water tank that will be installed above the property. She then stated that as a Nordic Valley Water User, she can speak to the fact that prices are increased as a mechanism for controlling water usage.

There were no additional persons appearing to be heard.

Chair Shuman invited Ms. Aydelotte and the applicant to address the comments that were made.

Shane Dunlevy referenced concerns about using Big Sky as a construction access road; the road will be repaved and gated, and all construction traffic will stay on the highway. In regard to the concerns regarding water, the project is simply a customer of Nordic Valley Water Company, and they must abide by the same rules and regulations as other users; the Company does allow limited irrigation usage and the CCRs for the project will further restrict the usage of water for secondary purposes until a point in the future if/when additional secondary water is available. He discussed other water sources that may be utilized in the future and noted that some properties currently have streams running through them that can accommodate horses and small livestock. There are significant water rights available for the property that can be made available for purchase if someone wants to apply and drill a well for stock water. He then addressed Mr. Green's comments about his family's property; he has been in discussions with them and plans to help them preserve their access or provide new access points in the future with development of phase 2 of the project.

Chair Shuman asked Mr. Grover or Legal Counsel Erickson to discuss the County's role in terms of regulating water usage on various projects. Mr. Grover stated the County will not have any role in monitoring the amount of water being used and that is the responsibility of the Water Company. If any property owner wishes to pursue accessory dwelling units within the project, the County would need to ensure that they have proper water access to do so.

Mr. Dunlevy added that the architectural review committee for the project will also review all landscaping plans to aid in promoting water conservation. He then addressed the comment regarding the increased in development of properties in the Valley; he sympathizes with concerns of existing residents and noted that he fully intends to restore the subject property and improve its appearance to its native state.

Commissioner Burton asked Mr. Grover if a water connection takes into account consumption of the unit it being connected to; he stated that some homes may be occupied by 15 family members while others may be occupied by a married couple. Mr. Grover deferred to Mr. Erickson to summarize the ordinance relating to water quantity. Mr. Erickson stated that the ordinance indicates that each developable lot shall be connected to a system that provides sufficient water quantity, quality, flow, rights/shares, and storage if applicable; the quantity and quality of culinary water shall meet the minimum standards required by the culinary water authority, applicable agency, or applicable service provider. This would be proven through a capacity assessment and written verification from the provider. Commissioner Burton stated that there may be an instance where a retired, elderly couple lives in a single-family home and they desire to build an ADU to house visitors; that type of scenario would likely use much less water than a single-family home with many children. Ms. Aydelotte stated that if someone wishes to construct an ADU, they must submit proof that they have secured additional water and sewer capacity. Or the applicant could submit a letter from the water company indicating there is sufficient capacity for such improvements.

Chair Shuman allowed for additional public input.

Jan Fulmer stated she could not clearly hear what Mr. Grover was saying about water available for the project; she asked if the development is defined as a Planned Residential Unit Development (PRUD) for which future short-term rentals are planned. Mr. Grover answered no.

Nate Carver stated he owns the property adjacent to the Greens and also adjacent to Osprey Ranch and he referenced a right of way on the southeast side of his property that should connect to an access point of some kind; in the past, the intention as for the property to connect to the old West Road and he wondered where his access point will be in the future.

Mr. Dunlevy stated that Mr. Carver's right of way will remain where it has always been; he has a 42.5-foot easement and he identified the area that will be left as open space on the plat, which will include Mr. Carver's right of way. It will provide for connectivity through to the Hidden Brook Subdivision.

There were no additional persons appearing to be heard.

Commissioner Wampler stated that in the training she has received thus far there has been a focus on the Commission's role pertaining to water issues; it is her understanding that those are matters for local water boards to determine and given that the Commission has received information from the water board pertaining to their ability to serve this project, the Commission should be considering whether the application is compliant with the LUC and the General Plan. She stated she understands there are rules and restrictions the Commission must follow for administrative items, and she asked if that is correct. Mr. Grover answered yes and noted that prior to a preliminary approval application being presented to the Planning Commission, planning staff requires the applicant to provide will serve letters from utility providers.

Commissioner Burton moved to grant approval of application UVO111221, preliminary approval of Osprey Ranch Subdivision Phase 1, a 31-lot subdivision consisting of 283.78 acres in the FV-3 zone, located at approximately 1385 N. Highway 158, Eden, based on the findings and subject to the conditions listed in the staff report. Commissioner Montgomery seconded the motion. Commissioners Burton, Montgomery, Shuman, Torman, and Wampler all voted aye. Commissioners Johnson and Stefanik recused themselves. (Motion carried 5-0).

Petitions, Applications, and Public Hearings:**4. Legislative items:****4.1 ZDA 2022-01, public hearing to consider and take action on a request for approval of the 2nd amendment to the Powder Mountain Development Agreement to update concept area maps and to add language allowing staff and Planning Commission to approve minimal changes to area maps. Applicant Rick Everson. Presenter Steve Burton.**

Planner Burton explained the Powder Mountain Resort was rezoned to the DRR-1 zoning on January 13, 2015, and a Zoning Development Agreement was recorded on January 14, 2015. The first amendment to the Development agreement was approved on June 26, 2019, and was recorded on July 12, 2019. On May 5, 2022, the developer submitted a request for approval of the 2nd Amended Development Agreement. This proposed amendment has two parts, and no density is proposed to change and no unit count methods are proposed to change. Part one amends the language of the development agreement contract to allow administrative changes to the Area Plans to be approved by the land use authority (A, B, C, D, E, and F). He presented a map illustrating the layout of the plan areas. Part two amends the exhibits within the master plan document. The changes to the exhibits in the master plan begin on page 19 with a proposal to replace the 'overall land use plan'. It should be noted that the proposed changes to the overall land use plan are not major modifications, and only affect areas C and D. The changes include removing specific street locations and replacing a small area of residential to mixed use in area D. Page 20 includes the overall master plan map, which is proposed to be removed from the document. The developer feels that all of the other remaining maps illustrate to the county (and other readers of the master plan) what buildout will look like generally.

There was brief discussion regarding the intention behind removing the map on page 20. Mr. Burton stated there are other maps in the agreement that basically duplicate the map on page 20. Commissioner Johnson stated there is also a key map that references the map on page 20, and he asked if that key map will be removed. Mr. Burton stated that the key map references other maps in the document. He noted that if the Commission wants the overall buildout plan to remain in the agreement, they can direct the applicant accordingly. Chair Shuman stated that the document is only seven years old, and the map was included in the original agreement for a reason, and he cannot understand the purpose of removing the map. Mr. Burton stated that if the Commission feels keeping the map in the document is necessary, staff will support that directive. Rory Murphy, representative of Powder Mountain, stated that he is not opposed to keeping the map on page 20; he was simply seeking some flexibility to consider administrative changes to the area plans. This led to brief high-level discussion among the Commission, Planning staff, and Mr. Murphy regarding the intention behind several of the requested amendments, with Mr. Murphy pointing out that he is not attempting to be non-transparent and is willing to consider any adjustments to currently requested amendments. Chair Shuman stated he is willing to consider amendments to individual maps or pages of the document, but he is not personally willing to remove entire pages/maps.

Mr. Burton then continued his review of the proposed amendments; page 21 includes the existing phase 1 approvals, and the developer is proposing to remove the future lifts and the illustrative background from this exhibit but to keep it in the master plan document. The phase 1 approvals will need to be verified by staff, as this exhibit should have changed from 2015. Page 22 currently contains the 'mid-mountain (area A) slope map & aerial photo' map. The developer is proposing to eliminate this map because it is identical to the map on page 23. Page 23 currently contains the 'mid-mountain master plan' map and is proposed to remain, but to be renamed 'concept development plan -Area A: Mid-mountain'. None of the land uses are proposed to change in this area from the previous approvals. Page 24 currently contains the 'mid-mountain illustrative plan' map which is proposed to be removed from the document. Page 25 currently includes the 'ridge slope map and aerial photo' map which is proposed to be taken out. This map is identical to the map on page 26, with the exception of shaded slopes and aerial imagery. Page 26 currently includes the 'ridge master plan' which shows the general locations of the mixed use and residential uses. Page 26 is proposed to be replaced by the 'concept development plan-Area B: The Ridge' map. The uses and general locations remain the same as before. The same changes are proposed for all remaining areas (C, D, E, and F) in the master plan document. Page 44 currently includes the 'recreation plan' map and is proposed to be replaced with the 'overall land use plan map. The proposed rec map does show the rec elements on a legend. Page 45 currently contains the 'open space with trails plan' map and is proposed to be replaced with an identical map that shows the changed land use (slight) in area D. Mr. Burton summarized the staff analysis; there are two primary benefits with the proposed changes to the master plan and development agreement text. The first is that the proposed changes will eliminate redundancies in the existing master plan document. There are several maps that are similar or identical, creating several unnecessary pages in the document. The second benefit is the flexibility it offers the developer in platting streets and subdivisions. By not indicating exactly what each area will look like at build out, the developer would receive flexibility as development occurs. This flexibility is necessary to the developer because their development market may change over time and may call for slight changes to each development area. The developer's proposed changes to the text of the development agreement would solidify this flexibility and allow the land use authority the ability to approve slight and uncontested changes to

each development area. Before this proposal is presented before the County Commission, language will need to be added to the text, that clarifies the land use authority has the authority to deny any proposed changes that are not determined to be slight and uncontested. The added language will also say that if a proposed change is not approved, the developer may apply for a legislative amendment to the master plan.

In reviewing a proposed development agreement, the Planning Commission and County Commission may consider, but shall not be limited to considering, the following:

1. Public impacts and benefits.
2. Adequacy in the provision of all necessary public infrastructure and services.
3. Appropriateness and adequacy of environmental protection measures.
4. Protection and enhancements of the public health, welfare, and safety, beyond what is provided by the existing land use ordinances.

Staff recommends that the Planning Commission forward a positive recommendation to the County Commission regarding ZDA 2022-01. This recommendation is based on the following findings:

1. The amendment is not detrimental to the public health, safety, or welfare.
2. The proposal will not deteriorate the environment of the general area so as to negatively impact surrounding properties and uses.
3. The agreement was considered by the Legislative Body, in conformance with Chapter 102-6 of the County Land Use Code.

Planning Director Grover referenced the earlier discussion among the Commission and Mr. Murphy regarding the intention behind several of the proposed amendments; he suggested the Commission hold the public hearing and accept public input, after which they can provide direction to staff regarding continued discussion/negotiation between Planning staff and the applicant. Commissioner Burton asked if the Commission could accomplish the intent of the proposed development agreement amendments if they were to leave the maps as they are, fix the conflict between the terms 'master plan' and 'conceptual plan' and adopt the second amendment to the zoning agreement to allow flexibility of approval with the Planning Director. Mr. Grover stated that would be satisfactory, but there are some other maps that the applicant has asked for amendments to. Mr. Burton agreed.

Chair Shuman opened the public hearing.

There were no persons appearing to be heard.

Commissioner Burton moved to close the public hearing. Commissioner Montgomery seconded the motion. Commissioners Burton, Johnson, Montgomery, Stefanik, Shuman, Torman, and Wampler all voted aye. (Motion carried 7-0).

Commissioner Burton asked Planning staff if it would be appropriate to table this item to allow staff to make the adjustments that have been requested and provide an updated recommendation at a future meeting. Mr. Grover answered yes.

Commissioner Burton moved to table action on ZDA2022-01, request for an amendment to the Powder Mountain Development Agreement. Commissioner Torman seconded the motion.

Commissioner Torman asked that Planning staff expedite the work to be done regarding this item in order to get it before the Commission as soon as possible.

Commissioners Burton, Johnson, Montgomery, Stefanik, Shuman, Torman, and Wampler all voted aye. (Motion carried 7-0).

4.2 ZDA 2022-03: A public hearing to consider and take action on a request for approval of the 2nd amendment to the Snowbasin Development Agreement, to exempt the Resort from certain provisions of the subdivision ordinance. Applicant is Snowbasin. Presenter Steve Burton

Planner Burton explained Snowbasin Resort received the Destination Recreation Resort-1 zoning designation in January of 2011. During that process, a master plan and development agreement were approved to outline density rights as well as the timing and location of future development at Snowbasin. On December 14, 2021, the Weber County Commission approved the first

amendment to the Snowbasin Development Agreement. On July 1, 2022, Snowbasin submitted a request to add language to the development agreement, exempting the resort from certain subdivision requirements. Snowbasin is proposing to add language to the development agreement with the County that allows subdivisions to be recorded without installing or bonding for subdivision improvements including water, secondary water, and sewer improvements. The proposal is intended to allow Snowbasin to subdivide land, while infrastructure like water and sewer lines are brought up to the resort. This option would save the resort time, as installing these improvements on the mountain can take several years. The County Commissioners discussed this proposal in a work session earlier this year. A general consensus during that work session was that the county may be comfortable allowing Snowbasin to plat lots and start building without critical infrastructure installed, as long as it was installed before the four-way inspection. When legislative amendments such as development agreements, are proposed, the Planning Commission and County Commission should consider the public benefit to such agreements. Snowbasin was rezoned in 2011 to DRR-1 based on their recreational benefits and future residential and commercial tax benefits to the county. The current proposal is a benefit to the county as it helps the resort begin the development process that will result in the residential and commercial tax benefits. During the subdivision process, the need for improvement to Old Snowbasin road as an emergency egress will be considered. The resort will likely be responsible for improving a portion of Old Snowbasin road. An improvement to Old Snowbasin road would be a public safety benefit to the county if the resort can begin the subdivision process earlier. In reviewing a proposed development agreement, the Planning Commission and County Commission may consider, but shall not be limited to considering, the following:

1. Public impacts and benefits.
2. Adequacy in the provision of all necessary public infrastructure and services.
3. Appropriateness and adequacy of environmental protection measures.
4. Protection and enhancements of the public health, welfare, and safety, beyond what is provided by the existing land use ordinances.

Staff recommends that the Planning Commission forward a positive recommendation to the County Commission regarding ZDA 2022-03. This recommendation is based on the following findings:

1. The amendment is not detrimental to the public health, safety, or welfare.
2. The proposal will not deteriorate the environment of the general area so as to negatively impact surrounding properties and uses.
3. The agreement was considered by the Legislative Body, in conformance with Chapter 102-6 of the County Land Use Code.

Commissioner Torman stated he is concerned about the timing of inspections in conjunction with actual building within the project area; if some building is completed before proper inspections are completed, this could create a life/safety issue, which is concerning. Mr. Burton stated that is a matter to be addressed in future actions to amend LUC regulations relating to timing of inspections and access to utilities.

Chair Shuman invited input from the applicant. Jim Hill, Vice President of Development with Grand America Hotels and Resorts, stated that at this stage there is no lodging at Snow Basin and the first step is to install infrastructure to provide connectivity to utilities. This is quite a significant investment, and he is trying to be prudent and not launch that work until a user of the land is secured. He has been working very closely with Club Med and he anticipates subdividing the land to sell to them and they are very aware of the challenges on the site. The notion would be to build simultaneous with the hotel; adjustments to the development agreement are necessary to allow for that path forward. Commissioner Burton stated the County's current process would require all installation of infrastructure before someone can apply for a building permit; the request of the applicant is to amend their development agreement to allow for infrastructure work and actual building to occur simultaneously. Mr. Hill stated that is correct. However, he and other users will not seek to secure a certificate of occupancy before all required infrastructure improvements are completed. This led to brief discussion regarding any risk involved with completing building improvements before infrastructure improvements are completed; Mr. Grover indicated that some language could be included in the agreement to require any improvements to be removed if a project does not ultimately receive approval or if infrastructure improvements cannot be completed. High level discussion among the Commission and Mr. Murphy continued, with the Commission noting that they are invested in trying to ensure that the same thing that occurred at Powder Mountain does not occur with this development.

Chair Shuman opened the public hearing.

There were no persons appearing to be heard.

Commissioner Burton moved to close the public hearing. Commissioner Stefanik seconded the motion. Commissioners Burton, Johnson, Montgomery, Stefanik, Shuman, Torman, and Wampler all voted aye. (Motion carried 7-0).

Commissioner Burton asked if it is correct that the normal process would be to require an applicant to bond for necessary improvements to a property before subdividing. Mr. Grover stated a developer would be required to put up a financial guarantee for improvements or choose to install the improvements before subdividing. Commissioner Burton stated he understands the reason for this request is that bonding or paying for those improvements in advance of subdividing is going to be very expensive. Mr. Grover stated that is correct.

Commissioner Wampler asked if there is any history of approving an arrangement like this outside of Powder Mountain. Sean Wilkinson, Weber County Community Development Director, stated that the County Commission has expressed some support for the requests from this applicant. However, it is incorrect that if the applicant puts up an escrow, they can start building, because in order to build the infrastructure must be in place. Water and sewer must be available on the site and putting up escrow is only enough to subdivide, but not to build. That is why this amendment is being requested. Chair Shuman stated he is concerned that about the precedent that would be set by approving this adjustment.

Commissioner Johnson asked if Planning Staff is recommending that this matter be forwarded to the County Commission. Mr. Burton stated that staff recognizes that there are very specific details that must be worked out regarding this matter; staff is willing to work with the developer and the County Commission on those issues, but if the Planning Commission wants to be involved, that is acceptable. If the Planning Commission trusts staff and the County Commission enough to work out those details, they can forward a recommendation to the County Commission at this time. Commissioner Burton stated that it is important to put some mechanism in place to prevent something like what occurred at Powder Mountain from occurring here.

Continued philosophical debate centered on the prudence of providing a recommendation to the County Commission at this time and whether a problematic precedent would be set by that action.

Commissioner Burton moved to forward a positive recommendation to the County Commission for application ZDA 2022-03, request for approval of the 2nd amendment to the Snowbasin Development Agreement to exempt the resort from certain provisions of the subdivision ordinance, based on the findings listed in the staff report, and based upon the additional findings that there is benefit to the County as it helps the resort begin the development process that will result in residential and commercial tax benefits being accelerated and that public safety will be enhanced if Old Snow Basin Road can be brought up to standards sooner rather than later. Staff is encouraged to work with the developer to address risks of performing building improvements without all required approvals. Commissioner Montgomery seconded the motion. Commissioners Burton, Johnson, Montgomery, Stefanik, and Torman voted aye. Commissioners Shuman and Wampler voted nay. (Motion carried 5-2).

Commissioners Torman, Montgomery, and Johnson indicated they trust staff and the County Commission to work out the details of this matter to ensure responsibility in development. Commissioner Burton stated the same explanation can be used for the reasoning behind his motion and vote; the Snow Basin resort has and will continue to provide a great benefit to the County, and he would like to facilitate acceleration of the process.

Chair Shuman stated he voted nay out of concern for the precedent set by this action; he believes processes and rules must be followed because they are in place for a reason. Commissioner Wampler stated that is the same reason for her nay vote. She is concerned that the community at large may be concerned about this process adjustment as well.

5. Public comment for items not on the agenda.

Jan Fulmer, Eden, stated that she is grateful for the volunteerism of the Planning Commission. She reported she has been working with the County's Code Enforcement Officer to continue to address problems with short term rentals; currently there are 1,089 dwelling units in Ogden Valley where short-term rental is allowed and she assumes a majority of them are actively operating. However, there are just 40 active short term rental licenses. She then referenced recent water and sewer studies; she noted there are two distinct differences between the presentations that were provided to the public and the information that was provided to the Commission. One is that drilling new wells is not recommended and the other is the statement that if the County does not wish to lead the efforts to secure more water, they must significantly limit approval of additional improvement in Ogden Valley. That last statement was taken out of the presentation. If no one is going to take the lead in resolving water issues, she asked

how it will be addressed. Consultants were hired to perform these studies and it is concerning that those statements were removed from their public documents. In the Ogden Valley general Plan, the intention behind transfers of development rights (TDRs) was to take development rights from large parcels on the Valley floor and transfer them to development areas. This gave the people that own the large parcels compensation for giving up their development rights. But, in the case of the Snow Basin project, TDRs have not been handled as intended in the General Plan. There are also two ordinances that address bonus development units, but this was never discussed in the development of the Ogden Valley General Plan. She asked that the Commission address these matters because they are problematic. If a new modified ordinance comes up for Commission review, they should ask themselves if the ordinance is enforceable; if the answer is no, the ordinance should not be adopted.

6. Remarks from Planning Commissioners.

There were no additional remarks from Planning Commissioners.

7. Planning Director Report.

Mr. Grover addressed the water study; the County Commission is very concerned about some of the emails they have received from the public and they want to be sure that there is discussion between the County Commission and the Planning Commission, and they want to hold a joint meeting on August 23 to discuss the study and the public concerns. The meeting will begin at 3:30 p.m. and there will be one hour dedicated to the water study. He then stated he really appreciated the Commission's deliberation on the items on their agenda tonight, specifically the last item and he thanked them for providing the reasoning behind their votes. He concluded by noting that former Planning Commissioner Howell, who passed recently, will be honored at the August 23 meeting as well. He noted Planner Perkes is leaving his employment with Weber County for a new opportunity in Logan.

8. Remarks from Legal Counsel.

Mr. Erickson had no additional remarks.

Meeting Adjourned: The meeting adjourned at 8:52 p.m.

Respectfully Submitted,

Cassie Brown

Weber County Planning Commission