

Minutes of the Work Session of the Ogden Valley Planning Commission for August 22, 2023. To join the meeting, please navigate to the following weblink at, <https://us02web.zoom.us/j/81117637141>, the time of the meeting, commencing at 5:00 p.m.

Ogden Valley Planning Commissioners Present: Jeff Barber, Jeff Burton (Vice Chair), Jared Montgomery, Justin Torman, and Janet Wampler.

Absent/Excused: Trevor Shuman and Dayson Johnson.

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

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

Vice Chair Burton conducted roll call and indicated Chair Shuman and Commissioner Johnson were excused.

1. **Minutes: June 27, 2023.**

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

Petitions, Applications, and Public Hearings:

2. Legislative Items:

2.1 ZTA2023-03.1 A request for reconsideration of an amendment to the Form-Based zone to insert additional architectural styles, and enable various combinations of architectural styles within village areas. Planner: Charlie Ewert

Planner Ewert explained on May 23, 2023, the planning commission forwarded a negative recommendation to the county commission for a proposed text amendment to the Form Based Zone. The amendment proposal was twofold:

- Changing architectural standards and allowances within certain form-based village areas; and
- Changing the Eden area's street regulating plan.

The County Commission considered the Planning Commission's negative recommendation on June 12, 2023. At this time the County Commission requested that the two components of the proposal be divided into two separate items. The County Commission then remanded the proposed architectural standards back to the Planning Commission to see if the body would reconsider their recommendation specific to this item. He reviewed a document that included redline edits that were recommended by Commissioner Barber (sent to all Commissioners via email) and noted that the Commission can deliberate on the proposed edits, make additional edits, or make no changes and forward a recommendation to the County Commission. He concluded the public hearing for this item was already held on May 23, 2023 and no additional hearing is required for the Planning Commission to forward a new recommendation to the County Commission.

Vice Chair Burton asked if this matter is applicant driven or if it was initiated by the County. Mr. Ewert indicated it was originally applicant driven, but the text before the Commission tonight is different from what the applicant proposed.

Vice Chair Burton invited input from the applicant.

Eric Householder stated that he feels it is important for the Commission to go back and consider what he originally asked for; he was seeking to amend the Form Based zone and provide another architectural option for the New Eden area that would be consistent with the architecture of existing buildings. He would like to proceed with the design of the Eden Crossing project and that is why he is seeking these amendments.

Chair Shuman arrived at the meeting at 5:13 p.m.

Chair Shuman facilitated discussion among the Commission of the applicant's request as well as the text amendments recommended by Commissioner Barber. Commissioner Barber stated he is accepting of Mr. Householder's request for the new style to be added to the New Eden area; it is a well-accepted style in western mountain communities. He also supports the matrix that is included in the draft ordinance to provide guidance for the future, and it can be expanded to show the various ranges of architectural styles available to a developer who may pursue a project in the Valley in the future. Commissioner Burton stated that he does not feel it is the role of government to impose subjective views on a private landowner; he believes this type of ordinance stifles creativity and he does not view it as being 'rural' in nature. Creating a matrix with subjective architectural styles and allowing some designs while prohibiting others is not consistent with 'rural'; rural is not uniform. The main concern of government should be health, safety, and welfare and this matter does not fall into one of those categories. Chair Shuman stated that in this scenario, the Commission is considering architectural styles and would be imposed for a landowner seeking a certain zoning designation for his property. If a property owner wants to develop in a different fashion, they can pursue a different zone, but there should be a tradeoff for receiving the benefits of FB zoning. Commissioner Barber noted that if the land use authority does not impose some development standards and regulations, a community could potentially end up in chaos and he does not think that is what the residents of the Valley want. Commissioner Wampler expressed support for the matrix and agreed with Chair Shuman that a landowner must expect to abide by some type of regulation when seeking a zoning change for their property.

Commissioner Barber moved to forward a positive recommendation to the County Commission regarding application ZTA2023-03.1, amendment to the Form-Based zone to insert additional architectural styles, and enable various combinations of architectural styles within village areas, with adjustments to the matrix that were presented during the meeting. Commissioner Wampler seconded the motion. Commissioners Barber, Shuman, and Wampler all voted aye. Commissioners Montgomery, Torman, and Burton voted nay. (Motion failed on a 3-3 vote).

Commissioner Wampler asked that Commissioners Montgomery and Torman offer an explanation for their opposing votes given that they did not speak prior to the motion being made.

Commissioner Montgomery stated that his concerns are that the applicant is making decisions for other areas of the Valley and he would prefer to wait to see the outcome of the street regulating plan issue and then vote on an application for architectural changes. Commissioner Barber stated he believes the County Commission will approve the street regulating plan exactly how the applicant has requested. He watched the County Commission's work session where the issue was discussed, and the issue was presented to them much differently than it was presented to the Planning Commission, and he believes it will be approved. Now, the Planning Commission does have the opportunity to vote on architectural styles and make a recommendation to the County Commission.

Commissioner Torman stated that the reason for his opposing vote is that there is already a street regulating plan and design standards for New Town Eden and Old Town Eden; it seems they are changing all the time, however, and it is his observation that this proposed change is not appropriate at this time given there is no approved project for the location that the applicant is interested in.

Commissioner Wampler asked if it is correct that County staff 'hijacked' this application and broadened the applicant's requests. Mr. Ewert stated staff does not take responsibility for that, but the Planning Commission has asked for changes to the applicant's proposals.

The Commission then debated the merits of the application and proposed text amendments; Commissioner Wampler stated that since this applicant drive, she wondered if it would be more appropriate to table this item and invite the applicant to submit their final proposal for consideration. Planning Director Grover stated that is an option, but the street regulating plan must be finalized before final action can be taken on the rezone. Mr. Ewert stated that it is appropriate to change the zoning ordinance, if there is support for doing so, before the rezone application is filed by the applicant. Developers have the right to understand zoning regulations before pursuing a zone change.

Commissioner Barber stated he feels the application can stand on its own and he feels the proposals that have been made will offer any landowner with FB zoning on their property more flexibility and development options in the future. He feels the mountain alpine architectural style is appropriate for the Valley regardless of whether the applicant pursues it. Mr. Ewert added that if a landowner within the street regulating plan area were to decide to move forward with development of their property, the only architectural style they would be entitled to is Agrarian under the current ordinance; the proposed ordinance

amendments would give any landowner more options. Commissioner Burton asked why the 'old west' style is being removed. Commissioner Barber stated he suggested the removal of old west because there are no old west buildings in the New Town Eden area. He added that he hopes that Old Town Eden and New Town Eden never merge together because there would be bigger problems associated with density aside from what the architecture will look like. He concluded he does not believe that anyone would spend the money to build an old west style building in New Town Eden. This led to debate of the definition of different architectural styles included in the matrix and ongoing discussion of whether it is appropriate for the County to dictate the manner in which a landowner can develop his property.

Commissioner Torman moved to table application ZTA2023-03.1, amendment to the Form-Based zone to insert additional architectural styles, and enable various combinations of architectural styles within village areas, with the understanding that the proposed changes or other changes could be evaluated with a proposed project in an approved area of the current Form Based zone as written. Commissioner Montgomery seconded the motion.

Commissioner Montgomery asked if there are any other applicant's or landowners waiting on this decision. Mr. Ewert stated this is the only applicant.

Commissioner Wampler inquired as to the intent of Commissioner Torman's motion. Commissioner Torman stated that if an applicant had property in the form-based zone that meets the criteria of the matrix and they are asking for changes in design standards to fit their project, that would be an appropriate time to make changes. Commissioner Wampler asked if that means that the Commission wants to table this application until the landowner has secured form-based zoning for his property, to which Commissioner Torman answered yes; he does not believe someone who does not have form-based zoning on their property should be proposing an amendment to the zone. Commissioner Wampler stated that when she looked at the matrix in the draft ordinance, she was considering it independent of any individual property because she feels it can stand alone. However, she understands the concerns of other Commissioners regarding whether this is the proper procedure.

Legal Counsel Erickson asked if the motion includes a date for the Commission to consider the issue or if there is a triggering event that will initiate the Commission's reconsideration of the application. Commissioner Torman stated that the matter should be tabled until any property owner in the form-based zone brings some kind of request for the change to the architectural standards in the zone.

Commissioner Barber indicated he will vote no to table the application because he feels the applicant deserves an answer and he feels that procedural issues are not a valid reason for tabling. Commissioner Wampler asked if the application fee can be held so that the applicant is not required to pay a new fee when this matter is revisited. Commissioner Torman stated he feels strongly that the procedure is backwards; he is not trying to punish one person or applicant, but he feels the steps that have been taken are out of order. Commissioner Montgomery agreed. He is not saying that the recommended changes are inappropriate, but they should not be acted upon until the applicant has secured the zoning.

Commissioner Wampler asked if there is a requirement for someone who is applying for a code change to be impacted by that code. Mr. Ewert answered no; any individual can pay for an application for a code amendment even if the code amendment would not impact them personally or apply to their property. Commissioner Wampler asked if that means that there is no procedural issue at play. Mr. Ewert stated there is no written procedure or policy that is being violated by the Planning Commission's consideration of this application; there may be a perceived procedure problem, but this is a legislative matter so the Commission can take any action they choose to take.

Chair Shuman called for a vote on the motion to table the application. Commissioners Montgomery, Torman, and Burton all voted aye. Commissioners Barber, Shuman, and Wampler voted nay. (Motion failed on a 3-3 vote).

Chair Shuman discussed the option of converting the application to County-driven and holding a public hearing at the Planning Commission level; the group discussed whether they would be supportive of the application if it were labeled as County-driven rather than applicant driven. Commissioner Burton indicated he would support approval of the matrix in the document if all architectural styles were allowed in all village areas listed in the ordinance. Commissioner Barber indicated that he feels that would be contrary to the General Plan. The Commission debated these two different points of view.

Commissioner Burton moved to forward a positive recommendation to the County Commission regarding application ZTA2023-03.1, amendment to the Form-Based zone to insert additional architectural styles, and enable various combinations of

architectural styles within village areas, with the exception that Section 104-22-6.020(c) (the matrix) be changed to allow all architectural styles in all village areas. The motion died for lack of a second.

Chair Shuman asked that the Commission consider a motion to table the issue to allow for continued discussion in a work session meeting; the Commission should revisit the land use code that has been adopted thus far for the FB zone and determine what changes are appropriate for landowners in village areas. Commissioner Montgomery stated it would be key for him to understand the status of the street regulating plan. Chair Shuman asked if the Commission would like to table this application until after the County Commission's final action on the street regulating plan.

Commissioner Torman moved to table application ZTA2023-03.1, amendment to the Form-Based zone to insert additional architectural styles and enable various combinations of architectural styles within village areas, until the County Commission takes action on the street regulating plan. Commissioner Montgomery seconded the motion. Commissioners Burton, Montgomery, Torman, and Shuman all voted aye. Commissioners Barber, and Wampler voted nay. (Motion carried on a 4-2 vote).

3. Public Comment for Items not on the Agenda:

John Bingham, 3483 North Willow Brook Lane, stated there is an item that has been placed on an agenda twice now, but it has been pulled. It is a conditional use permit (CUP) application for an agritourism operation within a residential zone. He asked that the Commission consider holding a public hearing regarding the application because there has not been an opportunity for public input on this matter. There are many residents who want to provide their input on this matter

4. Remarks from Planning Commissioners:

Commissioner Burton asked for a response on the suggestion that the County encourage the Utah Department of Transportation (UDOT) to install a runaway truck ramp on Trapper's Loop. Planning Director Grover indicated the request has been forwarded to UDOT, but staff has not received a response from them. Commissioner Barber noted that he heard the Mayor of the town of Huntsville contacted the Governor directly and the Governor referred the matter to UDOT and UDOT indicated the cost would be \$5 million and the project is not imminent.

5. Planning Director Report:

Planning Director Grover provided the Commission with a report of recent actions of the County Commission; he also discussed the format of the upcoming meeting scheduled to be held in Ogden Valley on September 26. The agenda for the evening has not been finalized. He concluded by reminding the Commission of upcoming training opportunities.

6. Remarks from Legal Counsel:

There were no remarks from Legal Counsel.

Adjourn to Work Session.

WS1: A work session to discuss ZMA2023-12, an applicant-requested zoning map amendment to change the zoning for a property in the Ogden Valley located at 2690 N 5600 E from Agricultural (AV-3) to Form-Based Code (FB). Planner: Bill Cobabe

Planner Cobabe presented a map identifying the location and current zoning of a proposed zoning map amendment. The proposed zone change would be from the current zone Agricultural (AV-3) to the Form Based Code (FB). He reviewed the applicant's narrative from their application:

"We propose to rezone the property located at 2690 N 5600 E in Eden Utah, comprised of parcels 22-050-0025 and 22-050-0012, to form based zoning. This rezoning would allow a development right located in an open, natural, and scenic area of the Ogden Valley to be reallocated to a village area where the property exists. The referenced property is immediately next to a housing subdivision (Eden Acres) that consists of dozens of parcels of 1 acre lots and a parcel that was recently rezoned (April 2023 to transfer development from Sunnyfield Farms area to the subdivision/village area of the property in question) from AV3 to form based zoning. Rezoning the lot in question would be consistent with the recent rezoning of the parcel across the street from the

2690 N. 5600 E. and consistent with the Ogden Valley General Plan by maintaining the village nature of the housing in the immediate vicinity while eliminating development in more natural and scenic areas."

Mr. Cobabe noted the property to the west was recently rezoned from AV-3 to FB, and the Code does call for this area to be a part of the Form Based Code according to the street regulating plan. The street type calls for this area to be developed as a "Rural Residential" area, allowing for 40,000 square foot lots. Because the property in question is about 2.5 acres, this would allow for one additional dwelling unit to be permitted on the property if the land were to be subdivided, as well as the remaining anticipated uses allowed in the FB zone - Rural Residential areas.

The Commission discussed the nature of the area surrounding the subject property; the reasoning behind subdivision of properties and the potential to realign properties and clean-up problematic property lines; and staff's analysis of the application.

Chair Shuman invited input from the applicant.

Seth Herway indicated that he is seeking a zoning designation that has been assigned to other properties in close proximity to his; he would like to proceed with development of 44,000 square foot lots and he understands he must pursue a zoning change to handle that. He discussed efforts to address ground water issues on the property and noted that he will continue to study the area to determine what type of development can occur and if septic systems can be used on the property.

Commissioner Torman asked staff if they feel the property qualifies for FB village zoning, to which Mr. Ewert answered yes. Mr. Cobabe indicated that it was clearly anticipated that this area would develop as the applicant has represented this evening. Mr. Ewert indicated that if the Planning Commission is comfortable moving this item forward to a business meeting, staff will perform a thorough analysis of the application and determine if it complies with the zoning ordinance and General Plan. Mr. Cobabe agreed; the only question before the Commission is whether they feel the applicant can proceed with formally submitting his application to the County. The Commission indicated they would like some details about whether assigning the FB zone to a flag-lot property is in line with the intent of the FB village ordinance and the General Plan.

A neighbor of Mr. Herway stated that she is confused by the intent of the FB zone and how her neighbor's property could be developed if he is granted the zoning; she is concerned that approval of FB zoning for this property will allow the use to creep further into other undeveloped areas of her neighborhood. Chair Shuman advised the individual to attend the County Commission's meeting when they discuss and act on the street regulating plan. Mr. Ewert also referred to the General Plan directives for the area surrounding Mr. Herway's property. He also offered to visit with the individual to discuss the General Plan and zoning map for the area.

Discussion then shifted to the need to communicate with the public regarding actions that have been taken to create village areas, plans for transfers of development rights (TDRs), inform the public of the type of development that can occur in those areas, and how they may be personally impacted. Mr. Ewert indicated that staff is working on that type of information and plans to discuss these topics during the upcoming community meeting and town hall scheduled in the Valley on September 26.

WS2: A work session to continue the Planning Commission's review of proposed changes to the Agritourism ordinance, and the proposal to add agritourism as a conditional use in the S (shoreline) and F (Forest) zones. Planner: Charlie Ewert.

Principal Planner Ewert explained that in the Planning Commission's last work session, the group reviewed the proposed amendments to the Agritourism chapter of the land use code. The group also reviewed the Shoreline and Forest zones to determine whether agritourism should be allowed there. In that meeting the Planning Commission gave staff direction to make the following additional changes:

- Allow small uses such as educational classes on agritourism operations as small as three acres, but eliminate the allowance of more intense uses. These operations will retain the "Garden" designation. The following are uses that the planning commission may find desirable for these smallest of operations:
 - Children's camp
 - Rental garden or rental row(s)
 - Educational classes
 - Farm tours

- Fee fishing
- Change the acreage of “small” operations to no less than nine acres. Making this change also eliminates the intermediate designation of a “family operation.”

In addition to the above changes requested by the Planning Commission, staff is also proposing a use table that is re-alphabetized to accommodate all of the previously discussed proposed changes. This involves deleting the old use table in favor of inserting a reorganized table. Last, after a review of the Farmland Assessment Act, it appears one of the qualifiers of the current ordinance may be unnecessarily redundant. The Farmland Assessment Act is also attached. Mr. Ewert reviewed the newly proposed changes, which were highlighted in yellow. All other changes previously proposed remain unchanged and are no longer highlighted in the updated version.

The Planning Commission engaged in discussion about current activities occurring in the Valley that may be considered agritourism use, but for which the property owner or business operator has not obtained a permit. Mr. Ewert stated the County is only aware of three current agritourism uses in the Valley; minimum property size that would qualify for an agritourism use and the percentage of an agricultural property that must still be used for agricultural purposes; and the need to ensure that the County’s ordinance does not conflict with other agricultural laws. Mr. Ewert indicated he will use the feedback provided to make additional changes to the proposed ordinance.

Meeting Adjourned: The meeting adjourned at 8:51 p.m.

Respectfully Submitted,

Cassie Brown

Weber County Planning Commission