

Minutes of the Regular Meeting of the Ogden Valley Planning Commission for September 27, 2022. To join the meeting, please navigate to the following weblink at, <https://us02web.zoom.us/j/84958646850>, the time of the meeting, commencing at 4:30 p.m.

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

Absent/Excused: Commissioner Dayson Johnson

Staff Present: Rick Grover, Planning Director; Charlie Ewert, Principal Planner; Steve Burton, 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 Commissioner Johnson is absent, but all other Commissioners were present. He asked if any member had ex parte communications or conflict of interest to declare. Commissioner Wampler stated she will recuse herself from discussing or acting on any item related to Wolf Creek; this includes the administrative actions relating to The Bridges project and the work session item relating to the rezone of 2720 N. 1500 E.

1. Approval of Minutes for June 21, 2022.

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

2. Training – Making Motions.

Legal Counsel Erickson provided the Commission with training regarding the matter of making motions pertaining to matters presented to the Planning Commission. He provided examples of poor practices used by other public bodies and reviewed the Commission’s rules of order and procedure.

Petitions, Applications, and Public Hearings:

3. Administrative items:

3.1 CUP2022-11 Consideration and action on a conditional use permit application for a U-pick pumpkin patch and farm gathering agri-tourism operation. Presenter: Planner Felix Lleverino.

Planner Lleverino explained the applicant is requesting approval of a conditional use permit for an Agri-Tourism operation known as “McFarland Family Farms”. The agri-tourism operations will take place within a 30-acre area inside of a 38.82-acre agricultural parcel located on the corner of 1200 S and 9500 East in Huntsville. The property is owned by Huntsville Abbey Farm LLC. An agri-tourism operation of this nature is listed as a conditional use within the Forest Valley 3 zone. The McFarland Family Farms is preserved under a Monastery Conservation Easement for the “preservation of open space, aesthetic, historic, hydrologic, ecological, agricultural, and scientific values that are of great importance to the owner, the county State of Utah.” The land is currently agriculturally productive yielding an annual crop of heirloom and traditional orange pumpkins, and organic oats. The proposed use will allow the owner to continue utilizing the farm as it has been historically operated and allow for some additional commercial and education opportunities. Conditional use permits should be approved as long as any harmful impact is mitigated. The LUC already specifies certain standards necessary for mitigation of harmful impact to which the proposal must adhere. The proposed application meets these standards. He summarized staff’s evaluation of the request, including compliance with the General Plan and zoning regulations; design review; conditional use standards; traffic safety; standards relating to infrastructure, amenities, and services; and general standards. He concluded the Planning Division recommends approval of file# CUP 2022-11, a conditional use permit for an agri-tourism operation identified as McFarland Family Farms located at 1250 S. 9500 E., Ogden, UT. This recommendation for approval is subject to all review agency requirements and with the following conditions:

1. A farm stay and a commercial development agreement will be executed and recorded before any construction of any structure intended for accommodating non-agricultural uses.
2. The sign may be placed no closer than ten feet from the property line adjacent to a street.
3. If applicable, the Weber County Building Official shall inspect the agricultural building for related uses.
4. The owner applies for and keeps a valid business license
5. All Fire Marshal requirements are satisfied.
6. All Weber-Morgan Health Department requirements are satisfied.

This recommendation is based on the following findings:

1. The proposed use conforms to the Ogden Valley General Plan.
2. The proposed use will protect and preserve agricultural property in Weber County.
3. The proposed use will not be detrimental to public health, safety, or welfare.
4. The proposed use will comply with applicable County ordinances.
5. The proposed use will not deteriorate the environment or the general area to negatively impact surrounding properties and uses.

Commissioner Burton asked if it is correct that products not raised on the farm will be brought to this location to sell. Mr. Lleverino answered yes. Commissioner Burton asked if that is a violation of the County's agri-tourism ordinance. Mr. Lleverino stated he will need to research that matter before providing a definitive answer; if it turns out that the applicant is limited to only selling what is grown on site, there are some delineations in the agri-tourism code that apply direction to that issue.

Chair Shuman invited public input.

Applicant Jamila McFarland stated that when she met with Planning staff about her application, Planner Burton mentioned that because the McFarlands have two family farms in the County, they could sell any item grown at either location under the agri-tourism ordinance. She stated she is happy to wait for Mr. Lleverino to further research the issue, but she noted that because of the limitations the climate creates for the subject property in the Ogden Valley, they are unable to grow the same fruits and vegetables that will grow on their farm in western Weber County and that is why the produce grown at the other location will be brought to this location to give community members access to fresh, quality, locally grown produce.

Mr. Lleverino noted that there is a definition in the code of a harvest market; it provides opportunities for customers to purchase a wide variety of farm products at one farm location. The harvest market does not consist of multiple farm vendors; however, it offers for sale agriculture products and goods derived from the farm upon which the harvest market is located as well as other commonly owned or independent/unaffiliated Weber County farms. Commissioner Burton stated that addresses his concern.

Commissioner Wampler inquired as to the hours of operation for the market and what time of day the products from the other farm will be delivered to the subject property. Ms. McFarland stated that she plans to open the third or fourth week of September each year and delivery trucks will travel to the subject between noon and 3:00 p.m.; the pumpkin patch will be open from 3:00 p.m. to 9:00 p.m. rather than 4:00 p.m. to 10:00 p.m. as mentioned in the staff report. Commissioner Wampler asked for assurance that deliveries will not be made at midnight or odd hours of the night. Ms. McFarland stated that is correct; the only odd hours of operation will be related to harvesting as certain products must be harvested when the dew is at the right setpoint. She has worked with neighbors to notify them of when harvesting will occur. Commissioner Wampler stated the area surrounding the subject property has fairly low traffic levels and she is concerned about the increase in traffic associated with this operation. She wondered if there is a way to implement a temporary traffic mitigation plan during the months that the business is operating. Planning Director Grover stated that the Commission can include a condition of approval that the use comply with the County's engineering standards, which will allow the County Engineer to evaluate the impacts traffic will have on the area and recommend mitigations for increased traffic.

Chair Shuman acknowledged an additional member of the public wishing to provide input.

Ron Gleason, Eden, stated he thinks this is a great thing for the Ogden Valley; however, he is also concerned about traffic. He Googled the primary routes from the western Weber County location to the subject property and he cited the primary and secondary routes for delivery trucks to take. He suggested that heavy truck traffic be directed to use the roads with less residential properties.

Chair Shuman asked if the Commission could include a condition of approval responsive to Mr. Gleason's request. Mr. Grover answered yes.

Commissioner Burton moved to grant approval of application CUP2022-11, conditional use permit application for a U-pick pumpkin patch and farm gathering agri-tourism operation, based on the findings and subject to the conditions listed in the staff report, as well as the following conditions:

1. The applicant follow requirements and recommendations of the Weber County Engineering Division with respect to traffic standards.
2. The applicant has requested a change to the hours of operation; hours will be 3:00 p.m. to 9:00 p.m.

Commissioner Montgomery seconded the motion. Commissioners Burton, Montgomery, Shuman, Stefanik, Torman, and Wampler all voted aye. (Motion carried 6-0).

3.2 CUP 2022-13: Consideration and action on a conditional use permit application for a short-term rental proposed at 4877 E. 3475 N., Eden Planner: Steven Burton.

Planner Burton explained The applicant is requesting a conditional use permit for a short-term rental in a residential dwelling located in the FR-3 zone in the Village at Wolf Creek Subdivision. The FR-3 Zone allows a “nightly rental” as a conditional use. The proposed use will occur within a single-family dwelling that is currently in the building permit review process. Two parking spaces will be made available in the attached 2 car garage. The application is being processed for an administrative review due to the approval procedures in Uniform Land Use Code of Weber County, Utah (LUC) §108-1-2 which requires the planning commission to review and approve applications for conditional use permits. She summarized staff’s evaluation of the request, including compliance with the General Plan and zoning regulations; conditional use standards; standards relating to infrastructure, amenities, and services; standards relating to the environment; standards relating to the current qualities and characteristics of the surrounding area; and compliance with the nightly rental ordinance. She concluded the Planning Division recommends approval of this application subject to the applicant meeting the conditions of approval in this staff report and any other reasonable conditions required by the Planning Commission. This recommendation is subject to all review agencies and is based on the following conditions:

1. A business license shall be obtained prior to issuance of this conditional use permit.
2. Parking shall occur only in the driveway and the garage associated with this lot.
3. The conditional use permit may be issued only when the construction of the dwelling is complete.

This recommendation is based on the following findings:

1. The proposed use is allowed in the FR-3 Zone and meets the appropriate site development standards.
2. The criteria for issuance of a conditional use permit have been met because mitigation of reasonably anticipated detrimental effects can be accomplished.

Commissioner Torman asked if it is premature for the applicant to secure a CUP before the structure is built. Mr. Burton stated that one of the recommended conditions of approval is that the permit not be formally issued until the structure is built because it is important to ensure that the construction of the home mirrors what has been represented by the applicant.

Commissioner Montgomery moved to grant approval of application CUP2022-13, conditional use permit application for a short-term rental proposed at 4877 E. 3475 N., Eden, based on the findings and subject to the conditions listed in the staff report. Commissioner Stefanik seconded the motion. Commissioners Burton, Montgomery, Shuman, Stefanik, Torman, and Wampler all voted aye. (Motion carried 6-0).

Commissioner Wampler stated her ‘aye’ vote was based upon the fact that planning staff will have the opportunity to inspect the property to determine that it complies with the conditions of approval before the permit is issued.

Commissioner Burton stated his ‘aye’ vote is based upon the fact that the Commission must approve CUP applications if any detrimental conditions associated with the application can be mitigated; he has not seen any evidence that any negative aspect of this project cannot be mitigated.

3.3 UVM080922 – Request for preliminary approval for Mountainside PRUD Phase 2 subdivision. This is a 10-lot subdivision in the Bridges PRUD, located in the RE-15 zone, at approximately 4554 North Seven Bridges Road, Eden, UT, 84310. Planner: Tammy Aydelotte.

Commissioner Wampler recused herself from discussing and voting on this application.

Planner Aydelotte explained the Conditional Use Permit (CUP) for The Bridges PRUD was approved on July 19, 2016; the Mountainside PRUD Phase 1 Plat was recorded on September 20, 2017. The applicant is requesting preliminary approval of Mountainside PRUD Phase 2 Subdivision, consisting of ten lots, in the RE-15 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). The following is a brief synopsis of the review criteria and conformance with LUC. She summarized staff's evaluation of the request, including compliance with the General Plan and zoning regulations; culinary water, irrigation water, and sanitary sewer disposal; review agencies feedback; additional design standards and requirements; and tax clearance. She concluded staff recommends preliminary approval of Mountainside PRUD Phase 2 Subdivision, consisting of ten lots located at approximately 4554 N Seven Bridges Rd, Eden, UT, 84310. This recommendation is subject to all review agency requirements and the following conditions:

1. In order to provide clear site standards, staff recommends adding the minimum yard setback standards on the final subdivision Mylar including the "Side; facing street on corner lot" setback.
2. A note providing adequate notice of the Important Wildlife Habitat area and the development standards that are required will be added to the final subdivision Mylar.
3. The dedication language on the final Mylar will need to include language to grant ownership of the common area to the applicable ownership.
4. A cost estimate for the improvements and a draft copy of any CC&R's will be required prior to receiving final approval from the County Commission.
5. Prior to recording the final Mylar, all lots that are impacted by a geologic hazard will be identified on the final Mylar a note to provide notice that the final geologic and geotechnical reports are on file with Weber County Planning Division. A "Natural Hazards Disclosure" document will be required to be recorded to provide adequate notice of any geotechnical and geological recommendations for future property owners.
6. A construct permit from the State of Utah Department of Environmental Quality Division of Drinking Water must be submitted to Weber County prior to approval by the County Commission.
7. If the applicant desires, a note will be added to the final Mylar to provide notice of the approved nightly rental option.

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.

Commissioner Burton stated that he has reviewed the map for the subject property and noticed that he and his wife own property adjacent to the proposed project; he recused himself from discussing and acting on the application.

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

Commissioner Montgomery moved to grant approval of application UVM080922, preliminary approval for Mountainside PRUD Phase 2 subdivision. This is a 10-lot subdivision in the Bridges PRUD, located in the RE-15 zone, at approximately 4554 North Seven Bridges Road, Eden, UT, 84310. Motion is based on the findings and subject to the conditions listed in the staff report. Commissioner Torman seconded the motion. Commissioners Montgomery, Shuman, Stefanik, and Torman, all voted aye. Commissioners Burton and Wampler recused themselves. (Motion carried 4-0).

3.4 UVP080922 - Request for preliminary approval for Parkside PRUD Phase 3 subdivision. This is a 16-lot subdivision in the Bridges PRUD, located in the RE-15 zone, at approximately 4843 Howe Drive, Eden, UT, 84310. Planner: Tammy Aydelotte.

Commissioners Burton and Wampler recused themselves from discussing and acting on this application.

Planner Aydelotte explained the Conditional Use Permit (CUP) for The Bridges PRUD was approved on July 19, 2016; the Parkside PRUD Phase 2b Plat was recorded on October 27, 2020. The applicant is requesting preliminary approval of Parkside PRUD Phase 3 Subdivision in the RE-15 Zone. The proposed development consists of 16 lots with common area surrounding each lot. The Parkside PRUD Phase 3 is part of the master planned community within the Wolf Creek Resort known as "The Bridges PRUD" which consists of a multi-phased development including six communities (364 units) with a variety of housing options and approximately 143 acres of open space. The proposed subdivision "Parkside PRUD Phase 3" is one of the three phases (72 units) in the Parkside community. The Uniform Land Use Code of Weber County (LUC) §106-1-8(f) identifies the approval process for final subdivision approval. The proposed subdivision exceeds the number of lots that can be administratively approved as part of a phasing process; therefore, the final plat must be considered and approved by the County Commission after receiving a recommendation from the Planning Commission, at final approval. The proposed subdivision and lot configuration is in conformance with the current zoning, the approved PRUD and the Zoning Development Agreement Conceptual Land Use Plan as

well as the applicable subdivision requirements as required in the LUC. She summarized staff's evaluation of the request, including compliance with the General Plan and zoning regulations; culinary water, irrigation water, and sanitary sewer disposal; review agencies feedback; additional design standards and requirements; and tax clearance. She concluded staff recommends preliminary approval of Parkside PRUD Phase 3 Subdivision, consisting of 16 lots located at approximately 4843 Howe Dr., Eden, UT, 84310. This recommendation is subject to all review agency requirements and the following conditions:

1. In order to provide clear site standards, staff recommends adding the minimum yard setback standards on the final subdivision Mylar including the "Side; facing street on corner lot" setback.
2. A note providing adequate notice of the Important Wildlife Habitat area and the development standards that are required will be added to the final subdivision Mylar.
3. The dedication language on the final Mylar will need to include language to grant ownership of the common area to the applicable ownership.
4. A cost estimate for the improvements and a draft copy of any CC&R's will be required prior to receiving final approval from the County Commission.
5. Prior to recording the final Mylar, all lots that are impacted by a geologic hazard will be identified on the final Mylar a note to provide notice that the final geologic and geotechnical reports are on file with Weber County Planning Division. A "Natural Hazards Disclosure" document will be required to be recorded to provide adequate notice of any geotechnical and geological recommendations for future property owners.
6. A construct permit from the State of Utah Department of Environmental Quality Division of Drinking Water must be submitted to Weber County prior to approval by the County Commission.
7. A geo report shall be submitted prior to scheduling for a recommendation of final approval with the Planning Commission.
8. If the applicant desires, a note will be added to the final Mylar to provide notice of the approved nightly rental option.

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

Commissioner Torman moved to grant approval of application UVP080922, preliminary approval for Parkside PRUD Phase 3 subdivision. This is a 16-lot subdivision in the Bridges PRUD, located in the RE-15 zone, at approximately 4843 Howe Drive, Eden, UT, 84310. Motion is based on the findings and subject to the conditions listed in the staff report. Commissioner Stefanik seconded the motion. Commissioners Montgomery, Shuman, Stefanik, and Torman, all voted aye. Commissioners Burton and Wampler recused themselves. (Motion carried 4-0).

3.5 UVG080922 - Request for preliminary approval for The Grove Cabins PRUD Phase 1 subdivision. This is a 22-lot subdivision in the Bridges PRUD, located in the RE-15 zone, at approximately 4553 North Seven Bridges Road, Eden, UT, 84310. Planner: Tammy Aydelotte.

Commissioners Burton and Wampler recused themselves from discussing and acting on this application.

Planner Aydelotte explained the Conditional Use Permit (CUP) for The Bridges PRUD was approved on July 19, 2016. The applicant is requesting preliminary approval of The Grove Cabins PRUD Phase 1 Subdivision in the RE-15 Zone. The proposed development consists of 11 lots with common area, four private drives, and public road dedication. The Grove Cabins PRUD Phase 1 is part of the master planned community within the Wolf Creek Resort known as "The Bridges PRUD" which consists of a multi-phased development including six communities (364 units) with a variety of housing options and approximately 143 acres of open space. The proposed subdivision "The Grove Cabins PRUS Phase 1" is one of the several phases (97 units) in the Grove Cabins community. The Uniform Land Use Code of Weber County (LUC) §106-1-5 identifies the approval process for preliminary subdivision approval. The proposed subdivision exceeds the number of lots that can be administratively approved as part of a phasing process; therefore, the subdivision final plat must go through a preliminary and final approval by the County Commission after receiving a recommendation from the Planning Commission, at final approval. The proposed subdivision and lot configuration is in conformance with the current zoning, the approved PRUD and the Zoning Development Agreement Conceptual Land Use Plan as well as the applicable subdivision requirements as required in the LUC. She summarized staff's evaluation of the request, including compliance with the General Plan and zoning regulations; culinary water, irrigation water, and sanitary sewer disposal; review agencies feedback; additional design standards and requirements; and tax clearance. She concluded staff recommends preliminary approval of The Grove Cabins PRUD Phase 1 Subdivision, consisting of 11 lots located at approximately 4553 N Seven Bridges Road, Eden, UT, 84310. This recommendation is subject to all review agency requirements and the following conditions:

1. In order to provide clear site standards, staff recommends adding the minimum yard setback standards on the final subdivision Mylar including the "Side; facing street on corner lot" setback.
2. A note providing adequate notice of the Important Wildlife Habitat area and the development standards that are required will be added to the final subdivision Mylar.
3. The dedication language on the final Mylar will need to include language to grant ownership of the common area to the applicable ownership.
4. A cost estimate for the improvements and a draft copy of any CC&R's will be required prior to receiving final approval from the County Commission.
5. Prior to recording the final Mylar, all lots that are impacted by a geologic hazard will be identified on the final Mylar a note to provide notice that the final geologic and geotechnical reports are on file with Weber County Planning Division. A "Natural Hazards Disclosure" document will be required to be recorded to provide adequate notice of any geotechnical and geological recommendations for future property owners.
6. A construct permit from the State of Utah Department of Environmental Quality Division of Drinking Water must be submitted to Weber County prior to approval by the County Commission.
7. If the applicant desires, a note will be added to the final Mylar to provide notice of the approved nightly rental option.

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

Commissioner Stefanik asked if the reduction in the number of cabin lots from 22 to 11 is permanent. The applicant, John Lewis, indicated that it is permanent in the sense that phase one will only consist of 11 lots. At some point in the future, he will submit an application to approve the other 11 lots, but that will not occur until he has secured access to water and sewer services.

Commissioner Torman referenced the setback requirements for this project; Ms. Aydelotte's staff report indicated there are no required side setbacks and he asked if that means the cabins could essentially touch one another. Ms. Aydelotte stated that none of the lot lines in the subdivision touch one another because there is common area surrounding each of them; when building permit applications are filed, Planning staff will ensure that no building will encroach beyond a lot line.

Commissioner Montgomery moved to grant approval of application UVG080922, preliminary approval for The Grove Cabins PRUD Phase 1 subdivision. This is a 22-lot subdivision in the Bridges PRUD, located in the RE-15 zone, at approximately 4553 North Seven Bridges Road, Eden, UT, 84310. Motion is based on the findings and subject to the conditions listed in the staff report. Commissioner Torman seconded the motion. Commissioners Montgomery, Shuman, Stefanik, and Torman, all voted aye. Commissioners Burton and Wampler recused themselves. (Motion carried 4-0).

Petitions, Applications, and Public Hearings:

4. Legislative items:

4.1 ZDA 2022-02: A public hearing to consider a request for a recommendation to the County Commission regarding an amended development agreement to allow the transfer of development rights from the CW Basin property at Old Snowbasin Road and Highway 39 to other properties in the Ogden Valley. Applicant is CW the Basin. Planner: Steven Burton

Planner Burton reviewed the history of the development; on January 25, 2022, the CW Basin property was rezoned from CVR-1 to FR-3 through an ordinance and development agreement approved by the County Commission. The current development agreement restricts the use of the property to ten detached single-family dwellings with short term rentals prohibited. Since the time the original development agreement was recorded, the property owner and a third party have discussed the possibility of transferring some of the development rights that originally existed under the CVR-1 property. Under this proposal, the county will receive funds from the third party for the improvement of the intersection of Old Snowbasin Road and Highway 39. The request is to specify in the development agreement that the owner has 54 density rights that will be banked on a specific property, that the developer owns, that will be transferred to a third party. The third party has agreed to provide the county with the funds for the intersection improvements that are needed as a result of several recent developments. The 54 density rights are based off a density of 20 units per acre from the original CVR-1 zoning, which ended up totaling 64 units. Since the owner has already platted 10 units, they are requesting the ability to bank 54 units. Recently, there have been public discussions about what the Utah State Code allows when it comes to transferable development rights. Section 17-27a-509.7 states the following:

- (1) A county may adopt an ordinance:
 - (a) designating sending zones and receiving zones within the unincorporated area of the county; and

(b) allowing the transfer of a transferable development right from a sending zone to a receiving zone.

(2) A county may not allow the use of a transferable development right unless the county adopts an ordinance described in Subsection (1).

Under this proposed development agreement, the use of a transferrable development could not happen until the county has adopted an ordinance that designates sending and receiving zones. The proposed development agreement amendment would simply allow the developer to bank development rights. Mr. Burton summarized staff's evaluation of the request; when legislative amendments such as development agreements, are proposed, the Planning Commission and County Commission should consider the goals and policies of the general plan as well as public benefits to such agreements. When this property was rezoned earlier this year, a finding was that the proposed area was designated as a village on the general plan village location map. The County Commission deemed the project to be a residential village, and the rezone from commercial to residential was approved. The County Commission restricted this portion of the village to only 10 detached single-family dwellings. It is recommended that the Planning Commission and County Commission consider whether allowing a developer to bank their units, and not yet develop them, complies with the general plan. The general plan states the following regarding TDR's:

"Land Use Implementation 1.1.1: Weber County will support the transfer of existing development rights (TDRs) as the primary means to increase densities in suitable project areas while proportionately decreasing density in other areas. Incentives – such as reduced road cross sections and other cost-saving measures for master-planned developments – should be proposed to reduce development intensities and as the primary means to incentivize the purchase and transfer of development rights. Bonus density should be used sparingly, and only in the event minimal bonuses can be leveraged for significant and meaningful advancement of the goals and principles of this plan. Development rights include residential (e.g., townhouses, single family detached units, etc.) and non-residential development rights (e.g., hotel units, accessory dwelling units, retirement center units, etc.)."

The legislative body may find that, by originally restricting the CW subdivision to 10 lots, the county effectively decreased density in this area. If the developer can bank the 54 unused dwelling rights, they may be able to transfer them to a suitable area that can be defined once the sending and receiving areas are established. The legislative body may also find that, the 54 units should remain in this village area and can be sent to the parcel to the east, as that parcel is zoned appropriately for a residential village and is currently undeveloped. Several nearby residents originally opposed the rezone to FR-3, but stated they support a village conceptually. If this area is intended to be a residential village, then the development rights should not be sent outside of this village. Further, the legislative body may find that by restricting the CW subdivision to 10 lots, the county effectively retired the remaining development rights, which would mean no development rights exist to be able to transfer. Mr. Burton concluded in reviewing a proposed development agreement, the Planning Commission and County Commission may consider, but shall not be limited to considering the following:

1. Whether the proposal advances the goals and policies of the Ogden Valley General Plan.
2. Public impacts and benefits.
3. Adequacy in the provision of all necessary public infrastructure and services.
4. Appropriateness and adequacy of environmental protection measures.
5. Protection and enhancements of the public health, welfare, and safety, beyond what is provided by the existing land use ordinances.

Mr. Burton concluded that staff offers the following as optional recommendations to the Planning Commission in making their recommendation to the County Commission:

- Option 1. The Planning Commission recommends denial of the proposal based on the following findings:
 - The banking of development rights to send outside of this village does not comply with the general plan because this area is considered a residential village and needs rooftops to support that designation.
- Option 2. The Planning Commission recommends approval of the proposal based on the following findings:
 - The proposal is in the public interest because it will result in intersection improvements along Old Snowbasin road and Highway 39.
 - The proposal complies with the general plan by allowing the owner to bank units and build them in areas that the county deems appropriate in the future. The County Commission decreased the built density in this village by limiting development potential on this piece to 10 units because this area was deemed unsuitable for village-type density. The only other area to be developed in this "village" is 1.78 acres across the street (east) which cannot currently support village-type density, therefore the remaining units should be transferred outside of this village and built when the county codes allow it.

- Option 3. The Planning Commission recommends denial because they feel the density rights expired when the original rezone limited the built rights to 10 units.

He added that Planning staff has heard the claim from the public that the County cannot allow this type of transfer because sending and receiving areas have not been formally created. He stated he and Legal Counsel Erickson disagree with that statement based upon the Utah State Code Section 17-27a-509.7, highlighted above.

Commissioner Burton asked if the creation of sending and receiving zones has essentially been accomplished due to the adoption of the Accessory Dwelling Unit (ADU) ordinance, which requires transfers of development rights (TDRs). Planning Director Grover answered no; while that ordinance allows for the possibility of creating a receiving area, an actual TDR ordinance has not been adopted. Planning staff is in the process of creating a formal TDR ordinance, which will be presented to the Planning Commission in the near future. Commissioner Burton acknowledged historical discussion of the TDR concept in the Ogden Valley and indicated this is not a new issue that should be surprising to anyone. There has been an expectation that landowners will have the right to transfer unused development rights, even though there may not be a formal ordinance identifying sending and receiving areas. Mr. Grover stated that is correct and noted that Mr. Burton has identified three options for the Commission to consider; these options are based upon the development agreement for the property, which provides the legislative body to give accommodations deemed appropriate so long as they comply with the General Plan.

Chair Shuman stated the goal of a TDR action is to slow down development and preserve open space; the assessment that the transferrable development units on Old Snow Basin Road still exist is contrary to the General Plan and will go against the concept of reducing density. On the other hand, the transfer would move that density to a more appropriate area. Commissioner Burton stated that he feels that the intent of the TDR concept is density neutrality; there are so many development rights in the Valley and those should not be exceeded, but also not reduced. If the transfer is denied, which would essentially be the elimination of development rights, he worries about a claim of the County taking those rights. Certainly, the rights can be banked, but if they are never allowed to be used, they will be lost or taken.

There was discussion and debate among Commissioners regarding the goals of the General Plan and whether a TDR action would conform with that document as well as whether the TDRs are contemplated within or consistent with the original development agreement for the property. Mr. Grover clarified that in this case, the applicant is seeking an amendment to the development agreement, which was approved in order for a rezone to be granted; he feels there should have been more specificity in the development agreement regarding the total number of development rights on the property, but that was not the case. This is why staff has provided the Commission with three different options in terms of recommendations that can be made to the County Commission. He asked that any motion made by the Commission include findings supporting the motion.

Commissioner Burton stated he spoke with the Utah Property Rights Ombudsman today regarding this issue and he assured him there is a great deal of case law on this type of matter and legislative matters that have ultimately been litigated. There are constraints on the County that are created by local, State, and Federal laws and one of those constraints relates to a property taking action. The Ombudsman referred to the development rights as an economic benefit associated with the property and that should not be taken away from the property owner. He stated that those rights should not be eliminated just because no one thought to reference them in the original development agreement for the property. Chair Shuman noted that another point of view is whether the transferrable development right had been created at the time the development agreement was executed; the development rights were not taken advantage of in the past.

Commissioner Torman asked if the rezone action allowed for the transfer of density rights. Mr. Grover stated there may have been some consideration of a TDR that was not included in the development agreement. Commissioner Torman asked if the previous zoning would have allowed for the total number of units in the area. Mr. Grover answered yes. Commissioner Torman stated that means there were some rights previously assigned to the property that have not been acted upon. Chair Shuman asked if that means that any property owner has the same ability to sell their development rights because they are in a sending or receiving zone. Mr. Grover stated that issue is somewhat vague, and he would be willing to visit with the Ombudsman to get his opinion on that matter. He stated that the options that have been communicated to the Commission for consideration tonight are viable options that would comply with the County LUC.

Commissioner Stefanik asked who owns the 54 development rights at this time. Mr. Grover stated that the first question is if those rights exist. Chair Shuman added that the applicant is CW Basin.

Commissioner Burton suggested a finding supporting a positive recommendation of the development agreement amendment could be that the original development agreement did not preclude, nor include, the idea of banking development rights. This led to debate regarding the possible outcome or unintended consequences of approving the development agreement amendment without a formally adopted TDR ordinance to support that decision.

Commissioner Torman stated it is his opinion that development rights contained in a village area should only be transferred within the village; if they are transferred to another village, the result will be an increase in density in one village in order to decrease the density in another. Mr. Grover stated the TDR ordinance will spell that out specifically; the intent of the General Plan is to preserve open space and certain farmland areas on the valley floor by transferring those development rights to the village areas. Commissioner Torman added that none of the village areas in the Valley are equipped to handle the density that is being proposed because they lack appropriate infrastructure.

Legal Counsel referenced the comments about whether the development rights evaporated when the original development agreement was executed and noted that if the development agreement were taken out of the picture and the landowner chose to develop their land in a way that was less than allowed by the zoning of the property, the landowner could later demolish the homes built on the property or amend the subdivision of the property to capture the total development rights. The only thing complicating this matter is that there is a development agreement on the property; the development agreement granted the rezone based upon a commitment of the developer to only build a certain number of development units. The applicant wants to now get those development rights back through a development agreement amendment, but there is some gray area on whether the development rights still exist. It is a hard question for the County Commission to decide upon and the Planning Commission is being asked to make a recommendation to the County Commission based upon this information. They should decide if they want to eliminate the density on the property or allow it to exist.

Commissioner Wampler asked if there is a document stating that there are 64 development rights on the subject property. Mr. Erickson answered no; that number is based upon zoning of the property.

The Commission debated the options before them, with a focus on the counsel provided by Mr. Erickson.

Commissioner Montgomery moved to open the public hearing. Commissioner Torman seconded the motion. All voted in favor.

Gary Fullmer stated he has enjoyed the Commission's discussion of this issue, but there are two things that strike him. First was Commissioner Torman's input as to how TDRs should be used or moved within a village area. He stated he was intimately involved with the development of the current General Plan and the idea behind TDRs is to move them from the valley floor to a higher area and there was no reference about them moving from one place to another on the valley floor. However, he feels that is what is happening in this instance. He stated it looks to him like the applicant is performing a magic trick; they have already agreed to development rights for the property and ignorance of the law is no excuse. When signing a development agreement, the other party should know what the terms mean, and he feels that the development rights on the property were eliminated when the development agreement was executed.

Kevin Irwin stated that in terms of moving from the CVR-1 to FR-3, the value that was given to CW Land is that they would not be required to complete any commercial development; they got something of value as a result of the zone change and development agreement. He added that based upon the May 9 conversation, the property is on a State highway, not a County road and the road improvement requirements are dictated by the State. The agreement entered into by CW Land is a 10-year agreement and they agreed to 10 units; they knew what they were getting when they signed the agreement and that is why there is no language in the agreement about the other 54 units. He added that if the 54 units are recognized as valid and transferrable, the applicant will be given a 'gift' equal to 10 or 15 percent of the value of the property to subsidize the million-dollar homes that will be built on the property, and he does not think that is a good use of County funding. He converted that dollar amount to a monthly amount that the developer or future homeowners will benefit from.

Ron Gleason asked that the Commission forward a recommendation based on option one or three; he does not feel the request conforms with the General Plan and he believes the applicant agreed to elimination of the development rights when they secured the zoning and executed the development agreement. He stated that the CVR-1 zone focuses on commercial with no mention of single-family homes, but the FR-3 zone is a residentially focused zone and there is no way to come up with 64 units being placed on the property. When looking back at what the applicant has submitted to the County over the time frame that they were

working on the development agreement, there was no mention of anything other than single family homes on the property. He concluded by referencing the comments made tonight about the TDRs preserving open space; there is no more than a couple hundred yards of open space on the subject property and transferring the rights would go against the objectives of the General Plan. There is one other example of TDRs existing in the Valley and that is related to the Snow Basin development agreements, which transferred development rights from Wind Surfer Beach for a commercial hotel up to the resort. These plans and activities were clearly stated in the development agreement for that project, and this should serve as an example of how to handles these issues correctly.

Kay Hope stated her comments are consistent with those that have expressed by the individuals who spoke before her; she added that from a contract law perspective, CW Land should be viewed as a sophisticated business entity that is not unaware of these types of issues. They should be held to a higher standard and the County should not consider the development agreement amendment. She believes the development rights on the property have expired. She concluded that this area should not be a 'sending area', but the Commission is laboring under the fact that there is no formal TDR ordinance to spell out how development rights should be transferred. If anything, the area should be a receiving zone and not a sending zone.

Commissioner Montgomery moved to close the public hearing. Commissioner Torman seconded the motion. All voted in favor.

Chair Shuman invited input from the applicant.

Chase Weaver, CW Development representative, stated that CW Land worked in good faith with neighboring property owners to reduce the density in the area; moving the development rights into another area of the Valley will help to ensure density remains low. He stated that the development of the property could have been more dense, but CW Land wanted to address the concerns that were being expressed by other property owners. He acknowledged that this issue should have been more clearly addressed in the development agreement, but regretfully that did not occur. He asked that the County now work in good faith with CW Land to help provide an opportunity to cover the cost of required improvements of the property and transfer the development rights to another area of the Valley that could be more valuable in achieving planning goals for the Valley.

The Commission and Planning staff then discussed the terms of the development agreement and what will occur in the future if the property is not developed when the agreement expires; they also debated whether the development rights were erased as a result of the execution of the development agreement.

Commissioner Burton moved to forward a positive recommendation to the County Commission regarding application ZDA 2022-02, amended development agreement to allow the transfer of development rights from the CW Basin property at Old Snowbasin Road and Highway 39 to other properties in the Ogden Valley, based upon the following findings:

1. The proposal is in the public interest because it will result in intersection improvements along Old Snowbasin road and Highway 39.
2. The proposal complies with the general plan by allowing the owner to bank units and build them in areas that the county deems appropriate in the future. The County Commission decreased the built density in this village by limiting development potential on this piece to 10 units because this area was deemed unsuitable for village-type density. The only other area to be developed in this "village" is 1.78 acres across the street (east) which cannot currently support village-type density, therefore the remaining units should be transferred outside of this village and built when the county codes allow it.
3. The proposed amendment is consistent with General Plan Implementation 1.1.1, which states Weber County will support the transfer of existing development rights as the primary means to increase densities in suitable project areas while proportionately decreasing densities in other areas.
4. If the once existing and still remaining 54 development rights are extinguished, this would be inconsistent with finding three listed above. The densities may be moved around the Valley to promote better development in the Valley as a whole.

Commissioner Montgomery seconded the motion.

Commissioner Burton stated there was mention of certain things being done in good faith and he feels it would not be an act of good faith for the County to eliminate development rights because they were not clearly mentioned in the development agreement for the subject property. The County should respect the economic benefits of development rights rather than looking for excuses to extinguish them.

Commissioner Wampler stated there is a general acknowledgement that the development agreement is vague, yet Mr. Grover has indicated that the contract is actually uniquely specific in that it does not reference a reversion back to the previous zone upon its expiration; the unit count will remain at 10 even if the development agreement expires, which means to her that the other 54 development rights have been eliminated.

Chair Shuman called for a vote on the motion. Commissioners Burton, Montgomery, and Torman voted aye. Commissioners Shuman, Stefanik, and Wampler voted nay. The vote was a 3-3 tie.

Chair Shuman stated that a tie vote is deemed a failure and he asked if there is another motion.

Commissioner Wampler moved to forward a negative recommendation to the County Commission regarding application ZDA 2022-02, amended development agreement to allow the transfer of development rights from the CW Basin property at Old Snowbasin Road and Highway 39 to other properties in the Ogden Valley, based upon the following findings:

1. The Planning Commission feels that the development units expired with the original rezone and the number of development rights associated with the property were reduced to 10.

Commissioner Stefanik seconded the motion.

Chair Shuman stated that he agrees with the need to preserve property rights, but he feels that the 54 development units were essentially traded for the zoning that was granted upon execution of the development agreement. He feels that denial of the development agreement amendment conforms with the goals of the General Plan.

Chair Shuman called for a vote on the motion. Commissioners Shuman, Stefanik, and Wampler voted aye. Commissioners Burton, Montgomery, and Torman voted nay. The vote was a 3-3 tie.

Commissioner Burton moved to table action on ZDA 2022-02, amended development agreement to allow the transfer of development rights from the CW Basin property at Old Snowbasin Road and Highway 39 to other properties in the Ogden Valley, and encourage Planning staff to consult with the State of Utah Property Rights Ombudsman to seek guidance on how to address this issue.

Commissioner Montgomery offered a friendly amendment; he asked that action on this application be scheduled for a time after action is taken on a formal TDR ordinance for the Ogden Valley. Commissioner Burton accepted the friendly amendment.

Commissioner Torman seconded the motion.

Chair Shuman stated he is concerned that staff is being asked to reach out to the Ombudsman as he does not feel it is necessary. Commissioner Burton stated his suggestion is based upon a concern about potential future litigation associated with this application.

Chair Shuman called for a vote on the motion. Commissioners Burton, Montgomery, Shuman, Stefanik, Torman, and Wampler all voted aye. (Motion carried 6-0).

5. Public comment for items not on the agenda.

Gary Fullmer stated that he is speaking for his wife, who has written up a fairly extensive document regarding short term rentals. He will provide the Commission with the document. He stated it is their belief that short term rentals are a land use that can have drastic negative effects on the Valley if the land use is expanded. There are already many units operating as short-term rentals, and it has been stated by one of the Commissioners that the problem with short term rentals is the lack of enforcement of the short-term rental agreements. Everyone that operates a short-term rental should have a license, but currently there are just 40 licenses in the entire County. There is a particular home in the Patio Springs development that has been advertised as being available for short term rentals; it has 14 homes and is being marketed as available to host families and even large conventions and it is degrading the neighborhood. It has been cited three times and fined twice, but the owner of the home continues to advertise the home. He suggested that the County consider how other communities are handling this issue; some have created zones to provide short term housing for residents and workers.

Ronda Kippen, Morgan Utah, addressed the item listed on the work session agenda for this evening; she has been contacted by someone who has been following the Nordic Valley project and they asked that she represent them in a form-based zone application in the Wolf Creek Area. She mentioned to this individual that the Commission would be discussing this issue in tonight's work session, and she informed the Commission that whatever they discuss tonight will potentially inform future applications.

Valerie Fowler stated she is from the Wolf Creek area, and she noted she appreciated the Commission's discussion of TDRs tonight. She asked that the Commission remember the wonderful points made about TDRs as they begin their work session discussion this evening, such as the importance of transferring existing development rights to increase densities in suitable project areas, such as villages, while proportionally lowering densities in other areas, such as the Valley floor. She understands that TDRs are part of the discussion regarding the Cobabe Ranch project and as someone who believes in preserving the rural nature of the Valley floor, she hopes that this matter will remain prominent in the Commission's thoughts. She then applauded the comments made by Mr. Fullmer regarding short term rentals; residents look forward to an enforcement mechanism for unlawful short term rental units.

6. Remarks from Planning Commissioners.

Chair Shuman referenced agenda item 4.1, which was tabled; he asked if it is accurate that the County Commission will hold off on making a decision on that application until they receive a recommendation from the Planning Commission. Mr. Grover answered yes.

Commissioner Wampler reiterated that she will recuse herself from discussion of the work session item; she is concerned about missing the opportunity to learn information that may not necessarily be directly related to the application, and she wondered if it is necessary for her to leave the room during the discussion. Mr. Grover asked Mr. Erickson to advise on whether it is appropriate for a Commissioner to listen to a discussion so long as they are not participating in a discussion. Mr. Erickson stated that the Commission's rules of order and procedure state that a Planning Commissioner with a conflict of interest shall state their conflict and withdraw from participation in the public hearing, work session, or regular meeting on such matter. He stated it is clear that the Commission should leave the setting in which the issue is being discussed. Chair Shuman suggested that the Commission can read the minutes regarding the matter. Mr. Erickson added there may be some gray area in that the rules state that the recusal shall take place at the time of discussion and voting on a matter; where an item is only being discussed, it may not be necessary for the Commissioner to leave the room.

The Commission debated the matter to determine their position on interpretation of the rules; they concluded that they feel that a Commissioner should be physically present during a meeting when a topic they have recused themselves on is being discussed. However, if they join the meeting via Zoom, or other electronic means, for the purposes of listening to the conversation, that would be allowed. All Commissioners voted in support of this interpretation of the recusal section of the rules.

7. Planning Director Report.

Mr. Grover referenced Mr. Fullmer's comments earlier in the meeting regarding short term rentals, and specifically the property in the Patio Springs subdivision; the County has taken enforcement action against that property owner and the matter will eventually end up in court if the property owner does not comply with the County's ordinance. He noted the County Commission has indicated they want to discuss short term rentals again and they have asked staff to research third party fees being charged in other communities. They will consider amendments to the short-term rental ordinance and fee schedule based upon that information; the matter will also be presented to the Planning Commission for a recommendation to the County Commission. He then addressed the Powder Mountain project; the last time the Planning Commission considered that project, their motion included a condition that any changes to the development agreement come back to the Planning Commission before being approved by the County Commission or Planning Director. The County Commission questioned this condition and indicated they would like to be consistent with other similar applications, such as the Snow Basin project. He noted that the application has not been approved, but that was the County Commission's most recent discussion of the project.

8. Remarks from Legal Counsel.

Mr. Erickson had no additional remarks.

The meeting was recessed for five minutes.

WS1 ZMA 2022-01: Rezoning properties near 2720 N 5100 E (Cobabe Ranch) to the Master Planned Development Overlay Zone. Applicant is John Lewis. Planner: Steven Burton

Planner Burton indicated that the Planning Commission discussed this application at their August 23 meeting and concluded that a work session regarding the project would be appropriate before considering action on the zoning request. He suggested the Commission hear from the applicant, John Lewis, and allow any public comment regarding the subject property.

Chair Shuman invited the applicant to address the Commission.

Mr. Lewis stated his application is very large and covers three different areas and he hopes that specific areas, such as Cobabe or Eagle Crest, are not considered independent of the entire project because doing so would not be doing the project justice. He stated that this is a very complicated issue, but one that is done every few years at Wolf Creek as the existing number of units/density is considered and balanced with ongoing attempts to develop the remaining property within the boundaries of the project area. For the last 25 years, plans have shifted in response to demands and desires of the community. One of the questions that came up at the last meeting was whether it would be possible for the development to creep across properties outside the Wolf Creek area, including Cobabe. He stated that he reviewed the plans and records of the County and noted Cobabe has already been designated as Wolf Creek property. He stated he wants clustering to occur in the project; the newspaper coverage of this project has focused on up-zoning of the area but does not make mention of the downzoning that has occurred. It is very important that people realize that no new units are being added to what has been approved for Wolf Creek in the past; rather, the approved numbers are being shifted around to other areas within Wolf Creek. This application also includes 80 more units being brought from the Valley floor, so he will still need to find other opportunities to locate those 80 units on other properties, such as Eagle Crest. He stated that if he did not proceed with this application, he would be stuck relying on the original master plan, which includes 174 condo or hotel units in the core and the images that he has shown his neighbors over the years are for two-story units with garages and if he is forced to locate the 80 units in the core, he will need to increase the building heights. The ordinances allow for 50-foot building heights, but he does not want to build that tall as he feels that type of height is more appropriate next to Trappers, but he believes the people there would disagree with that plan. He is trying to figure out how to locate the units in the project area in the least offensive manner. He referenced discussions he has had with existing residents in the area, and he has tried to adjust his plans responsive to the concerns he has heard, including complaints about nightly units, storage units, roads connecting from Eagle Ridge or Patio through the project. He feels he has compromised, and the outcome has not been bad. He has also volunteered to pay for the extension of Fairway Drive, which serves as a connection from Powder Mountain to North Ogden Divide. This will cost him \$1.5 million, and it has not been done until now because the developers he has bought out were not willing to complete the project in the past. This is a benefit to the taxpayers of the County and the residents, and it complies with the General Plan. He acknowledged another goal of the General Plan to preserve open space and noted that the Cobabe area has 70 acres of dedicated open space with a pedestrian and horse trail through the area. In order for Cobabe or Osprey to work, he will spend millions of dollars connecting to the Wolf Creek sewer system. This is not just Cobabe, but part of a larger project that fixes a lot of problems that are identified in the General Plan.

Chair Shuman asked Mr. Lewis to describe the alternative to what he has described for the Cobabe area. Mr. Lewis stated that he could proceed with a previously approved plan that would eliminate the open space and increase the density of the area and each unit would rely upon a septic system for sewer. He stated he feels that would be irresponsible and he will not do that.

Commissioner Montgomery stated that Mr. Cobabe is asking to move density rights from one area to another, but the County has not yet adopted an ordinance regulating that process and identifying sending and receiving areas. Mr. Lewis stated that the County has been essentially approving transfer of development rights (TDR) actions in Wolf Creek for 25 years; he is suggesting that should happen again, but the 80 units are from the Valley floor. He will not secure those rights until an ordinance has been adopted. He then expounded on the utility infrastructure projects that he is completing in and around the area in order to be able to move forward with this project and to fix existing water and sewer problems in the community. He then addressed the comments that have been made by other residents about expectations for the Trappers property; some have said that he has lived next to the property and has looked at it for several years and he should have understood that it was zoned for 16 units, and he should not have expected approval of more than that. He stated what people do not seem to understand is that the field is part of the Cobabe family ownership that was there long before Wolf Creek and they have roughly 200 density units on their land. At any point over the last decade, they could have clustered the entire area being Trappers and there would have been no way to

stop it. If his current application is denied, he could go back to the Cobabe family and buy more land and still do that type of project, but he is trying to do something more reasonable and locate the clustering downhill and 1,000 feet away from Trappers. However, at no point should have anyone expected just 16 units on that property.

Chair Shuman stated the Commission received an email about the Eagle Ridge area and the road connection there; there seems to have been some discrepancy about what has been communicated about that matter and he asked Mr. Burton to address that issue. Mr. Burton stated that a resident expressed concerns with Mr. Lewis's Eagle Crest proposal and the impact that the project would have on Fairway Oaks or Patio Springs. Chair Shuman asked if the roads would connect. Legal Counsel Erickson stated that unless this matter is connected to the item that has been listed on the agenda, it should not be discussed because it was not properly noticed. The agenda describes consideration of rezoning properties near 2720 N. 5100 E. This led to discussion regarding why just Cobabe Ranch is listed on the agenda rather than all properties included in the application. Planning Director Grover noted that it was staff's understanding that the greatest concerns were related to the Cobabe Ranch area and that is why staff noticed the matter as they did. He stated that staff can get back to the Planning Commission regarding the road connectivity issue referenced by Chair Shuman. Mr. Lewis briefly referenced the conceptual layout for the project and indicated that Eagle Crest does not connect to Eagle Ridge or Patio Springs; it only connects to Fairway Drive.

Chair Shuman stated that his thoughts are that the proposed project does establish a fairly good outline for where Wolf Creek could end and a boundary for where high density would end and a point from which density would be 'feathered out'. Mr. Lewis agreed and noted that two points have been raised since the last discussion of the application; first is whether he would support a crash gate or some kind of impediment between the two properties and the answer to that question is that he would if the County will allow it. He stated the second is that he would be willing to move the units up to 500 more feet down the hill to try to maximize the distance between the two properties.

Commissioner Stefanik asked who would need to approve the crash gate. Mr. Grover stated the approval authority would be the County Commission, but the Planning Commission can make that recommendation to them. Commissioner Stefanik stated that he was hoping that Mr. Lewis would bring to this meeting a revised plan or 'plan B' for the project given the concerns that were expressed at the last meeting. He stated that the project layout has not changed, though he appreciates that Mr. Lewis would be willing to move the units another 500 feet down the hill. He asked why Mr. Lewis could not take the 17 four-plexes to the other side of the property and separate them from the area in which most residents have expressed concern. Mr. Lewis stated he could do that, but that defeats the clustering plans. Additionally, that would locate the units closer to other residents who also do not want them close to them. He stated that the Valley needs to cluster its dense spaces in order to preserve open spaces. No one in a village area wants their village to be more dense, but that has been identified in the Ogden Valley General Plan. Commissioner Stefanik stated that this is not a village area. Mr. Lewis argued it is; the Wolf Creek area is a village area based upon designations made by the County. Mr. Burton referenced a map in the Ogden Valley General Plan and stated that small area planning is to occur in the Wolf Creek area. Commissioner Stefanik stated there is a master Homeowners Association (HOA) that governs the area. Mr. Burton stated that they do not govern the zoning or the private property rights of the owners. Commissioner Stefanik stated that there are filed covenants, conditions, and restrictions (CC&RS) for the master HOA, and it has boundaries that do not match what are included on the General Plan Map. Mr. Burton stated that the County does not acknowledge private CCRs; it does acknowledge land use rules, zoning, and plans, and the General Plan Map identifies Wolf Creek as a small area for the purposes of planning. Mr. Erickson attempted to reconcile the points being made by Commissioner Stefanik and Mr. Burton; the County understands that HOAs adopt CCRs that they enforce, but they are not binding upon the County. Mr. Burton then noted that he is not advocating for Mr. Lewis to receive approval of his application, but he is advocating for the Commission to consider the General Plan and based their decisions upon the directives of that Plan. He stated he feels that the information that has been provided by Mr. Lewis tonight has been helpful; he has identified the type of development he could proceed with at present without changes to the zoning of the property. He noted that today's zoning does not technically conform with the General Plan for that area.

Chair Shuman referenced clustering, open space preservation, and creep and stated that one thing that concerns him is the relocation of the four-plexes because that would actually encourage creep. He stated Mr. Lewis's current plan actually creates a buffer between Eden village and Wolf Creek village and keeps it in line with the General Plan.

General high-level discussion centered the area of the project in which short term rentals would be allowed; Mr. Lewis stated that the County has not received complaints in the past three years for any short-term rental at Wolf Creek and this may be evidence that there is not a problem with the use in this project and the HOA is managing the issue. Commissioner Stefanik state that he is the managing agent for the property and anything that goes wrong in Trappers Ridge is brought to his attention. He can attest to

the fact that there are problems with short term rentals, most of which he has resolved with the help of the Sheriff’s Department. When the CCRs for the project were revised four years ago, there was a contingent that pushed for changing the short-term rental period from one night to a minimum of 30 nights. He stated that the final decision was for the minimum number of nights for a short-term rental to be 30. He stated he does not understand Mr. Lewis’s hesitation to a request for an adjustment to the number of nights for a short-term rental.

Discussion then refocused on whether the Wolf Creek area is a village area. Mr. Burton stated that it has been identified as a small area plan and planning staff is working on form-based planning for all of the small areas. He added that all small areas include a village. Wolf Creek will have a village inside of it. The density should be located in the center of the village area, and that is what Mr. Lewis is trying to accomplish with the proposed clustering. The Commission debated the merits of the zone change application and ultimately concluded they feel the information presented tonight has been helpful and they are comfortable with the application being presented to them again during a future voting meeting.

**Meeting Adjourned: The meeting adjourned at 11:18 p.m.
Respectfully Submitted,**

Weber County Planning Commission