

Minutes of the Regular Meeting of the Ogden Valley Planning Commission for November 29, 2022. To join the meeting, please navigate to the following weblink at, <https://us02web.zoom.us/j/87243966732>, the time of the meeting, commencing at 4:30 p.m.

**Ogden Valley Planning Commissioners Present:** Jeff Burton, Dayson Johnson, Jared Montgomery, Justin Torman, and Janet Wampler.

**Absent/Excused:** Chair Trevor Shuman

**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:**

Commissioner Burton conducted roll call and indicated Chair Shuman was absent. He noted that Commissioner Stefanik recently resigned, and the County is working to fill the vacancy created by that resignation.

### 1. Approval of Minutes for August 2 and 23, 2022.

Commissioner Wampler cited a few typographical errors in the August 2 meeting minutes as well as a content error in the recording of a vote on a motion made in that meeting; a vote was recorded as 5-0 but should have been 5-2. For the August 23 meeting minutes, she also cited incorrectly recorded motions and lack of a statement about her recusal to participate in discussion and voting on a few items.

Planning Director Grover indicated he will reach out to the individual who transcribes the Planning Commission's meeting minutes; he is concerned about the number of errors in the minutes and would like for completion of the minutes to be turned around sooner as it is difficult to recall discussions that took place three months ago. He added that the recording of the meeting can also be considered to be part of the minutes of the meetings, and those recordings are full and complete.

Commissioner Wampler moved to approve the minutes of the August 2 and 23, 2022 meetings, as corrected. Commissioner Torman seconded the motion. Commissioners Burton, Johnson, Montgomery, Torman, and Wampler all voted aye. (Motion carried 5-0).

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. Approval of 2023 Calendar.

Planning Director Grover reported staff would like to hold some of the 2023 meetings in the Ogden Valley to make it easier for residents to attend in person; the only issue with that plan is that it is difficult to provide Zoom participation for those meetings, so agendas for Ogden Valley meetings will indicate that electronic participation via Zoom will not be an option.

Commissioner Burton called for a voice vote for approval of the 2023 Meeting Calendar for the Ogden Valley Planning Commission. Commissioners Burton, Johnson, Montgomery, Torman, and Wampler all voted aye. (Approved 5-0).

Commissioner Wampler then stated she will recuse herself from discussing and action on agenda item 3.1 due to a family relationship associated with the project.

### Petitions, Applications, and Public Hearings:

#### 3. Administrative items:

##### 3.1 UVM080922 – Request for a recommendation of final approval of Mountainside Phase 2 PRUD Subdivision, consisting of ten lots in the RE-15 zone, located at approximately 4554 N Seven Bridges Rd, Eden, UT, 84310. Planner: Tammy Aydelotte

Planner Aydelotte the applicant is requesting a recommendation of final 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; review by pertinent districts; culinary water, irrigation water, and sanitary sewage disposal; additional design standards and requirements, and tax clearance. She concluded the Planning Division recommends final 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 based on the following recommended preliminary conditions of approval:

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 invited input from the applicant; the applicant did not provide any input.

Commissioner Burton invited public input.

Jan Fullmer, Eden, stated The Bridges is a lovely development, but the conditional use permit (CUP) being requested is to allow for short term rentals (STRs); upon total buildout of the project, there will be a total of 330 single family homes that will all be used as an STR, and an additional 40 'glamping' cabins that will be used as STRs. This information is according to Eric Stanzic, who is part of the Wolf Creek project.

Commissioner Burton asked Ms. Aydelotte to address Ms. Fullmer's comments. Ms. Aydelotte stated that STRs are an entitlement that were approved as part of the CUP in 2016. Commissioner Montgomery asked if the applicant is still in compliance with the CUP, to which Ms. Aydelotte answered yes.

Commissioner Johnson moved to grant approval of UVM080922, final approval of Mountainside Phase 2 PRUD Subdivision, consisting of 10 lots in the RE-15 zone, located at approximately 4554 N. Seven Bridges Road, Eden, UT, based on the findings and subject to the conditions listed in the staff report. Commissioner Montgomery seconded the motion. Commissioners Burton, Johnson, Montgomery, and Torman all voted aye. (Motion carried 4-0). Commissioner Wampler recused herself from voting on this application.

Commissioner Wampler rejoined the meeting.

#### **4. Public comment for items not on the agenda.**

Jan Fullmer, Eden, provided an updated spreadsheet for all short-term rental (STR) in the Ogden Valley, noting they make up more than 25 percent of all dwelling units in the Valley. She stated she has also provided the spreadsheet to the County's Code Enforcement Officers. She then referenced a PowerPoint presentation that was used at a community meeting regarding STRs and fractional ownership; Commissioner Burton attended that meeting, and she thanked him for that. There were 120 people at the meeting and 32 people raised their hands to indicate issues they have experienced with STRs in the Valley; the land use is a

problem that has literally destroyed towns, neighborhoods, communities, and economies in different places. She cited examples of positive things that different communities in the State have done to combat the problem. The use is driving up the price of housing units and there are truly no affordable units in the Ogden Valley. One problem that is systemic in many organizations is disparate databases; she has submitted Government Records Access and Management Act (GRAMA) requests to several different divisions of the County and information about STRs was not readily available from some divisions or the information provided was incomplete. She stated that the County Commission discussed the issue yesterday and is considering hiring a third-party consultant to develop a STR ordinance; allowing STRs in all zones in the Valley will 'kill' the Valley. She then pointed to the current issue of Ski Magazine; it discussed a scenario in White Fish, Montana, which has nearly an identical population to the Ogden Valley and they have a medium ski resort that is near the entrance to Glacier National Park. They could not operate all their ski lifts last year to a lack of workers; super markets could not be staffed due to the same problem. People are leaving because they can no longer afford to stay there and the problem has killed occupancy in lodging businesses near the Park. The gist of the article was to alert ski resorts to this problem and the consequences of growth in the number of ADUs; a permanent population is needed to support a local economy. She added that transfer of development rights (TDR) actions are also problematic; there is no definition of what constitutes the 'Valley Floor' and what has been happening in terms of transfer to and from is being handled very 'loosey goosey'. She stated that she is not making up any of this data; she tries to get most of the facts directly from Weber County in order to support her statements.

Jim Bird, Huntsville, stated he had the pleasure of watching the Commission's October 4 meeting where they received a presentation from Principal Planner Ewert regarding transfer of development rights (TDRs); his main interest is a proposed development agreement for The Basin pertaining to selling 54 TDRs to John Lewis. The point of this transaction is to generate money to pay for the intersection improvements that the Commission failed to address before approving the developments in the area. He found the information about TDRs increasing, especially when Mr. Ewert indicated it is important to incentivize developers so they can receive 20 percent or more on their investment due to keeping TDRs affordable. He would like the Commission to consider whether the County incentivizes other businesses in the Valley, such as the grocery store that needs more money to pay employees because of the increase in STRs in the area. He is amazed that there is no health care facility in the Valley and he asked if the County will incentivize such a project. There are three ski resorts and a reservoir and when injuries occur there, people must be transported down the canyon to get medical attention. The question he has for the Commission to think about is whether developers are the only entity the County is concerned about incentivizing or if they will help to address increases costs for other businesses due to the increase in STRs.

Kay Hogan also addressed STRs on the Ogden Valley; she noted that she will build upon what Ms. Fullmer has said. She stated Ms. Fullmer is data driven, but she is a lawyer and she tends to be more argumentative, but the data indicates that 'we don't know what we don't know'. She attended a work session of the County Commission yesterday and they were discussing hiring third-party consultants to 'scrape' the internet to find STR listings for the Ogden Valley. The County had estimated there were maybe 400 STRs in the County, the Code Enforcement Officer estimated there were possibly 1,000, but the third-party consultant believes there are 700 to 800. As a corporate lawyer, she would not move ahead without having the necessary data and she would encourage the County to be more cautious when adopting new regulations to replace old regulations. Before taking such an action, data must be available and she suggested in this case that the County use the third-party consultant to gather that data. She stated the Ogden Valley Planning Commission was very foresightful last year when they authorized a proof of concept approach that would allow for an attempt at enforcement of STR regulations before the use was expanded. She suggested that license fees and penalty amounts could be increased as well. She stated there are a lot of best practices and benchmarking that can be done, but she is concerned that the current proposal the County Commission is considering is not data based or based upon any best practice. One element of the current proposal is that anyone can create a nightly rental at their property if it has been owner occupied for two years; she inquired as to the definition of owner-occupancy and noted there are several different definitions of that term at the State level and leaving the matter open and arbitrary could create an opportunity where outside investors with no long term interest in the Valley to buy properties and rent them on a long term basis for two-years before flipping them to STRs. This would destroy neighborhoods in the Valley, create transient populations, and erode schools. One of the unintended consequences of the two-year owner occupancy proposal is that the tax impact is unknown. She noted that County Commissioner Jenkins asked if someone who uses their home as a STR should be paying commercial taxes and she is grateful that he was being inquisitive and thinking of those types of issues. She likened the two-year owner occupancy regulation to an open door that investors can 'drive a semi-truck through'. She then stated that it would be very difficult for the County to enforce the regulation as well. She suggested that a testing period be implemented and that the third-party consultant be given time to gather data, determine prevalence of owner-occupancy, and then apply best practices that have been used in other communities to develop a STR policy that can be regulated and enforced.

Angela Dean, Liberty, stated she wanted to follow-up on Mr. Bird’s comments relating to incentivizing individual businesses. She read from a document listing the expectations of the Ogden Valley Planning Commission, one of which is that the Commission is not to address the financial woes of those that become involved in bad business deals or other self-imposed difficulties. She stated she often hears developers claim that if they are not given certain concessions, their development will not be feasible. She stated that should not be an argument in their favor, but it does seem to be working for them in many cases. She is curious about why that would be the case given the very direct language in the Commission’s expectations. Further, the Utah League of Cities and Towns (ULCT) has developed a handbook for Planning Commissions, which also discusses the role of individual Commissioners and that they should not represent a specific neighborhood, business, or interest, but should be responsible to protect the public good as defined by the General Plan. She stated she cannot find any duties that require Commissioners to consider private property rights that would override the public good. She also attended the October work session in which TDRs were discussed and it seems there were more incentives to trade for increased density in certain areas; one Commissioner asked if that would actually increase the overall density in the Valley and the answer from staff was ‘no’, but she is not sure how that can be true if the Commission were to consider a three to one trade in terms of TDRs. She encouraged the Commission to consider the greater good rather than private business interests, which seem to take precedence sometimes.

**5. Remarks from Planning Commissioners.**

Commissioner Wampler referenced the fact that there is one vacant position on the Commission, leaving current membership at an even number. She asked if there may be items on the next meeting agenda for which a tie vote could be possible and if staff takes that into consideration when setting the agenda. Planning Director Grover stated that one difficulty with appointing a new Commissioner immediately before scheduling action on issues that have been discussed over several months is that it can be difficult to educate that new member on the matter and expect them to vote. He noted that Planning staff would suggest holding a few more work session meetings on STRs and TDRs before asking the group to vote. He stated that many of the current Commissioners were not part of the Commission the last time action was taken on both issues and it will be necessary to educate those new members on the history of the issues.

**6. Planning Director Report.**

Planning Director Grover indicated he nothing additional to report.

**7. Remarks from Legal Counsel.**

There were no remarks from Legal Counsel.

**Meeting Adjourned: The meeting adjourned at 5:44 p.m.  
Respectfully Submitted,**

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**Weber County Planning Commission**