

Minutes of the Regular Meeting of the Ogden Valley Planning Commission for December 6, 2022. To join the meeting, please navigate to the following weblink at, <https://us02web.zoom.us/j/83052170443>, the time of the meeting, commencing at 5:00 p.m.

Ogden Valley Planning Commissioners Present: Trevor Shuman, Chair (arrived at 5:50 p.m.), Jeff Burton, Dayson Johnson, Jared Montgomery, Justin Torman, and Janet Wampler.

Absent/Excused: None

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 October 27 and November 17, 2020.

Planning Director Grover indicated that his staff was reviewing past records to determine if all meeting minutes have been approved and posted; they discovered that there were no minutes for the October 27 and November 17, 2020 meetings and that the employee that was responsible for minutes at that time is no longer employed with the County. He asked a staff member to listen to the recordings of those meetings and transcribe the minutes.

Commissioner Burton stated he is the only member of the Commission who was part of the group during these meetings; however, he asked if there are any corrections to be made to the minutes as presented. No corrections were offered, and Commissioner Burton declared the minutes approved as submitted.

Commissioner Torman then moved to adjourn to the work session at 5:05 p.m. Commissioner Montgomery seconded the motion, all voted aye. (Motion carried 5-0).

WS1 Nordic Valley Rezone Discussion Revisitation

Principal Planner Ewert reported the Nordic Valley rezone was presented to the County Commission last week in a work session and there were two items they would like the Planning Commission to reconsider; they did not ask for a formal motion from the Commission, but a straw poll on a both items. Question number one relates to the property to the south of Viking Drive. The Planning Commission's recommendation was based upon an understanding of very little development above Viking Drive and the concept that was included in the staff report identified seven or eight homes on a cul-de-sac. He identified the area on a map and stated that the applicant has asked that a greater amount of development rights be preserved in that area based upon unknowns in the future. Their intention is to keep development low and within the minimum acreage rights for the zone, but he noted that with clustering, they could achieve 28 development rights and they want the development agreement for the project to state that 28 units could be built on that property or could be transferred into the base of the project area. Question number two relates to the 2008 ordinance that was relied upon to make zoning changes for the property; he identified a polygon shaped area of property within the project area and stated that it was rezoned to FR-3, which allows 21 to 28 units per acre. However, in staff's reading of the ordinance they understood the landowner would retire 16 development rights from the hillside and move them into the polygon area. Staff's understanding is that the legislative action that was taken did not include the full number of development rights for the area, which is 77 to 80 units based upon acreage. Staff's belief was that the intent was to create 16 development rights within the polygon area despite the fact that greater density could be achieved. The applicant has provided an argument that has been hard for himself and Legal Counsel to refute; if they proceed with development of that parcel only, given the ordinance that was adopted, and they asked for 77 development rights and not 16, the County would not have the legal ability to deny that application. He stated that when he and Legal Counsel considered that claim, they feel that the ordinance can be interpreted to state that all of the development rights are preserved on the property. The reason that staff only entertained 16 units on the parcel is that they felt the public perception was that there was a restriction on the property for only 16 units.

However, if there is a way for more than one person to interpret an ordinance in a different manner, the error in interpretation of that ordinance must favor the landowner. He stated that he and Legal Counsel can find an alternative interpretation of the 2008 ordinance that is reasonable and they believe that denial of an application of a 77 unit development on the property could be litigated and the courts would rule in the landowners favor. The question before the Commission is whether they feel it is appropriate to take the risk of being sued by maintaining the 16-unit restriction; or would they like to state that the 77 units must stay within the polygon area or be allowed to transfer to other areas outside of the polygon area. He invited discussion among the Commission regarding the two questions. Discussion centered on the total acreage of the project area and past communications between the Planning Commission and the applicant, with Mr. Ewert noting that if the applicant were to choose to cut the polygon area out of the total project area, he would be entitled to build 28 units on it based upon the current zoning of the property. However, the applicant is asking for flexibility and the opportunity to move those development rights away from that area to appease those that live in the area.

Commissioner Wampler stated that the Commission took a vote based upon concept plans that were presented to them, but staff is now saying that the applicant has a right to 28 development units though that is different than what was approved. She stated this is somewhat confusing and she asked if the applicant or the County Commission are now asking the Planning Commission to indicate that the applicant has a right to 28 development units on the property. Mr. Ewert stated that is correct. Commissioner Wampler stated that the Commission approved between six and eight units on the property, but this change would give the applicant the ability to transfer the remaining development rights to other areas. Mr. Ewert stated that is correct.

Commissioner Johnson asked if a public hearing is required for the proposed changes. Mr. Ewert answered no and indicated a public hearing was already held. Commissioner Johnson stated the public hearing was for a different plan and he wondered if a new public hearing is necessary given the proposed adjustments to what was previously approved. Mr. Ewert stated that according to State Law, only one public hearing is required and once the Planning Commission has offered a recommendation to the County Commission, the County Commission has almost indefinite authority to make whatever changes they want to the Planning Commission's recommendations and then adopt such changes. The County Commission simply wanted to ask these questions because they did not want to do anything extemporarily different than what the Planning Commission recommended.

Commissioner Wampler stated that the Planning Commission represents the community and if the County Commission wants the Planning Commission to provide a new opinion, it would make sense to hear from the community that they represent. Mr. Ewert stated that the Planning Commission's role is to report to the County Commission and work at their behest; the Planning Commission does serve as a sounding board for the community and if the County Commission wanted them to seek additional community input, they can ask for that. However, they did not ask for that for this matter. Commissioner Wampler asked Mr. Ewert to identify the form-based village areas of the plan and to again highlight the areas in which the changes would occur. Mr. Ewert stated the form-based village area is contained within the polygon and he also identified open space areas nearby. Commissioner Wampler stated that her interpretation of the term 'open space' is that no building will occur within that area. Mr. Ewert used the aid of a map to identify the areas in which form-based village has been applied and noted that it is intended to cover areas where building is occurring.

Commissioner Torman stated that it was his understanding that there were certain development rights associated with the polygon property, but that the developer was willing to move those rights to another area because of concerns that had been expressed by existing residents in the area. He asked if that is correct. Mr. Ewert stated that is correct and reiterated that the developer already has certain development rights according to the current zoning of the property; they must meet the City's development codes, but they have rights to certain density.

Commissioner Montgomery asked if the developer has the ability to sell their development rights to have them moved to other areas of the Valley or if they must be kept within the resort area. Mr. Ewert stated that if another development area has been assigned the form-based village zoning, they do have the right to buy development rights and have them moved to their project area. If the Commission wants to restrict that action and keep the development rights within the resort area, that can be accomplished via a development agreement.

Commissioner Torman stated that he personally does not have an issue with transferring the rights, but would prefer that they be kept within the same resort area rather than another development in the Valley. It was his understanding that the rights would be transferred within the Nordic project area and he would like that to be memorialized in the development agreement. He stated that concept was also reviewed with the public and he does not want to make a significant change. Mr. Ewert asked Commissioner Torman if he would be comfortable allowing all 28 units to be built on parcel three rather than being moved to another area of

the resort. Commissioner Torman stated that the discussion among the applicant and the Planning Commission was that development on parcel three would be low density and he would prefer that be maintained and that some of the development rights be moved to another area; he would default to what was originally recommended, which was six to eight units. Commissioner Johnson added that he feels the developer is entitled to their development rights and he does not believe they intended to give up those rights as part of their development application.

Mr. Ewert stated that if for some reason it becomes more financially lucrative for the developer to build 28 units on parcel three, but the development agreement shows that the area has been designated as open space with the exception of six or eight units, he would expect the developer to come back to the County and ask for the property to be excluded from the development agreement and to be allowed to develop according to the FV-3 zoning designation. He stated that is a right that the developer has.

Continued high-level discussion among the Commission and staff centered on the vision for the subject property and any unintended consequences of restricting transfer of development rights outside the resort area. Commissioner Johnson stated that most of the residents who have provided input on this project have asked for the lowest density possible and he is concerned that requiring the density rights to stay within the project area would result in increased density or overdevelopment of the property. Commissioner Wampler asked if Commissioner Johnson is referring to the applicant's ability to transfer the rights to other village projects in the Valley, to which Commissioner Johnson answered yes. Commissioner Torman stated that his interpretation of what the Commission has said tonight is that they are comfortable moving the 28 units into the lower area of the resort as long as those actions follow the plans that were presented to the public. Commissioner Wampler stated that is correct, but the applicant is now asking to keep the development rights on the subject property rather than moving them to another part of the project area for which the form based village zoning has been assigned. Mr. Ewert stated that is correct. Commissioner Torman stated he understood the property was part of the form-based village zone. Mr. Ewert presented the zoning map for the area and highlighted the areas to which the form-based zoning has been applied; the plan that was approved would have allowed the applicant to build six or eight units on parcel three and move the remaining development rights to another area of the resort. However, now the applicant has asked to carve out enough acreage to preserve 28 development rights. He stated this is due to survey work that has been performed; the applicant would like to carve out a certain amount of acreage that will not be part of the form based zone or open space zone, but will be zoned FV-3. However, they would like for that area to still be part of the collective resort project area so that they can move development rights to the base of the resort.

Commissioner Wampler asked if this reduces the open space that was agreed upon when the Planning Commission voted to support the rezone application. Mr. Ewert stated that is potentially correct and that is why these two questions have been asked of the Planning Commission from the County Commission. Commissioner Wampler stated that based upon the information presented tonight, she is not ready to support the requested changes; she feels she needs more information and hard copies of the proposals.

Commissioner Burton referred to the original development plan for the subject property, which included condominiums in the lower area of the resort. He asked how many condominiums were included in that plan. Mr. Ewert stated that he cannot remember. An applicant's representative indicated that it included 80 condominiums and 35 homes. Commissioner Burton discussed the evolution of the original proposal for the project and noted that he understands that further changes will be made as the applicant begins to 'drill down' on what can actually be built on the property. Based upon that work, the applicant now believes that they can build 28 units on the area for which six to eight units was recommended for approval by the Planning Commission. The applicant is entitled to those development units, but there is still a significant difference in density from 115 to 28.

Chair Shuman joined the meeting at 5:40 p.m. He stated that Commissioner Burton's explanation makes sense, but for the residents and neighboring property owners who heard the previous discussions and agreements upon six to eight units on the property, an increase to 28 is a significant change. He stated based on the information that has been presented, he is not willing to change the decision that was made by the Planning Commission. Commissioner Burton clarified that the point he was trying to make is that as the details of the project evolve, the actual buildout of an area will become more clear; when the Planning Commission made its recommendation, the level of detail was much lower than it is now. Chair Shuman stated an increase from six to 28 is nearly a 500 percent increase and that is not small or insignificant. Commissioner Wampler added that the information that has been presented by the applicant at this point is not exact; the applicant is saying he does not know if he wants to build 28 units on the property, but wants to ability to do so if he chooses to at some point in the future. Commissioner Burton stated that the applicant is working to negotiate the terms of their development agreement, which will put memorialize those details.

Chair Shuman stated that he does not think the Commission should consider what was originally proposed by the applicant; negotiations dictated the final recommendation that was made by the Planning Commission, and he does not think that there should be drastic changes as the development agreement is negotiated. Commissioner Burton stated the Planning Commission is prohibited by State Law from reacting to public clamor. Commissioner Torman stated that the applicant negotiated the layout of the project with the public; the decisions made by the Planning Commission were not based upon public clamor and, rather, the developer changed their plans after working with the public.

The applicant's representative asked for the opportunity to address the Commission. Chair Shuman allowed the applicant to speak. Laurent Jouffray discussed earlier iterations of the proposed project plan and the manner in which plans have evolved; the applicant did agree to six or eight units on the parcel in question, but as they began negotiating the development agreement they wanted to determine what would become of the remaining development rights. They either wanted to transfer all or part of the development rights, but they would also like some flexibility to build more units in the parcel in the event it becomes feasible or practical to build 15 units rather than six or eight. The applicant will either leave the parcel out of the development agreement, or keep it in, but with a request for flexibility in terms of the number of development units to be built there and the number to be transferred. He stated that the applicant is not seeking to increase density or consume open space above Viking Drive, but if they could cluster units on the extreme southern end of the parcel, they want that possibility to remain intact.

Commissioner Burton stated he is supportive of offering flexibility because he feels flexibility is needed to ensure the best planning of the entire area. He feels the applicant is sensitive to the concerns of the neighborhood and he hopes that sensitivity will continue. He hates to tie anyone's hands so tightly, especially given that there are already 28 development rights associated with the property due to its current zoning.

Chair Shuman stated that he would like for Commissioner Burton to conduct the rest of the meeting as the Vice Chair.

Commissioner Burton asked Mr. Ewert to continue with his straw poll. Mr. Ewert noted that Commissioner Wampler and Chair Shuman have indicated they are not in favor of the changes. He added Commissioner Burton has offered support for the changes and providing some flexibility to the applicant. He then polled the remaining Commissioners. Commissioner Johnson stated that he is in favor of including the property in the development agreement, so he is in favor of providing some flexibility. Commissioner Montgomery stated that while he feels that this situation is a 'bait and switch', he does not believe the County should take their development rights and he is comfortable supporting the flexibility to move them or use them on the subject property. Commissioner Torman stated that he initially felt he would be opposed to the changes, but after hearing the explanations that have been presented, he is supportive of providing flexibility as requested. Chair Shuman stated that he wants to be clear that he is in favor of what was proposed, which is closer to six units or a small amount of development in that area. He is not in favor of the applicant 'getting it both ways'; he is in favor of allowing them to transfer within the development agreement area, but he is not in favor of them leaving the property outside of the project area in order to build all units on it. He is hopeful the applicant will honor the agreements they have made, which includes building approximately six units on the property. Commissioner Wampler agreed and stated that is what her position is also based upon. She noted that increasing the number of units from six or eight to 28 would be too significant. Mr. Ewert asked Commissioner Wampler if she would be comfortable with as many as 12 units in the area. Commissioner Wampler answered yes; she feels that it appropriate flexibility but jumping from six to 28 is too extreme. Mr. Ewert stated he will report this feedback back to the County Commission. Chair Shuman stated it would be his preference that the final development plan is as close to what was supported by the Planning Commission as possible. There was brief concluding discussion about the position of the Commission, centering on feasible and practical development of the area, including clustering to achieve the desired density while preserving the greatest amount of open space possible. Mr. Jouffray stated that the applicant is trying to preserve as much forest area as possible and would cluster on the south side of the project. Commissioner Wampler and Chair Shuman both indicated that their position on the matter has not changed.

Discussion among staff and the Commission moved to question number two, with Legal Counsel Erickson citing the Section of State Code that provides for plain interpretation of land use ordinances in a manner that favors the land use application. Mr. Burton stated that given the language included in the ordinance, Planning staff believes a court would likely support the applicant were they to make a request to develop all 77 units. Mr. Erickson noted that the concept plan that was attached to the 2008 ordinance clearly identifies 16 units, so someone could reasonably argue that the rezone was limited to 16 units. However, the issue is that it was not plainly enough stated in the ordinance that the remaining development rights would not be honored. He does not believe the intent of the ordinance is plainly enough stated and that is why staff is not comfortable restricting the number of developments rights to 16.

Commissioner Montgomery asked if the applicant wants to build 77 units or transfer them to another location. Mr. Ewert stated that he believes that the applicant's desire is to transfer the development rights; currently, County ordinance limits the number of units on a dead-end road to 15, so if the applicant wanted more than 15 they would need to provide a loop road. They own enough property to build a loop road, but that would become a financial issue for them to consider. They are considering building 15 units in the area and then moving the rest of the development rights to another area.

Mr. Ewert stated that Mr. Erickson is advising the County Commission and he should not have asked the Planning Commission if they are comfortable assuming any legal risk; rather, his question to the Planning Commission is whether they would like to restrict the total number of units (90+) to the subject property or to move them to another area with the form based zoning designation. Commissioner Wampler stated that a third option is to indicate that the 2008 zoning ordinance should stand as written, which means that the development of the property should be restricted to 16. Mr. Ewert stated that he believes that the 2008 ordinance was not clear enough to restrict the development to 16 units; this was unintentional, but he believes that the developer has the right to build over 90 units. Commissioner Wampler asked Mr. Ewert what changed his mind; she noted she spoke with both Mr. Ewert and Mr. Jouffray a few months ago about these discrepancies, and at that time Mr. Ewert indicated that while he was aware of the developer's proposal, he felt secure going with the lower and more conservative number included in the 2008 zoning ordinance. Mr. Ewert stated that after the applicant explained his proposal in a different manner, he recognized that the decision has shifted from legislative to administrative and the legislative rule is not clear enough to allow the County to restrict development to 16 units. He added that he has spent a great deal of time discussing this issue with Mr. Erickson and while it is not definite that the County would lose this argument if it were litigated, other jurisdictions have lost similar arguments when legal action was taken.

Chair Shuman stated that regardless of the risk, he feels that the Planning Commission has already made their decision and he does not think they should be asked to weigh in on this matter. It may be that the applicant has made a compelling argument that has changed staff's mind and will be presented to the County Commission with that disclaimer, but the Planning Commission should not be asked to reconsider their decision. Commissioner Wampler agreed.

Commissioner Torman stated that the thing that is concerning to him is that he believes the applicant was aware of this situation several months ago, but they waited until the Planning Commission made a recommendation regarding the form based village zoning for their project to raise the issue with staff. He stated he feels they got what they wanted before raising this point. Mr. Ewert stated he agrees and shares that same concern; he interpreted the 2008 zoning ordinance to restrict the development to 16 units and now it is being presented differently. Because of that, and also because of the opinion of Legal Counsel, he has been compelled to reconsider his original interpretation of the ordinance. Mr. Jouffray stated that he always looked at the parcel as being zoned FR-3, which allows 20 units per acre. His understanding has always been that he could get 93 units on the parcel. When he purchased the property, it was 4.65 acres in size with zoning that allowed 20 units per acre. The text of the ordinance does not reference the number of units that can be built; there is a concept plan attached to the text that identifies 16 units, but the text itself does not reference a number of units. He stated that during the meeting the Planning Commission had regarding the latest proposals, there were two different development numbers presented, with a difference of 77 between the two. Those 77 units are associated with this parcel. He stated that his opinion about the number of development rights has never changed, and he does not feel there is any other way to interpret the zoning ordinance.

Commissioner Montgomery stated he agrees with Chair Shuman about the Planning Commission's role in question number two; he does not feel the Planning Commission should be involved in evaluating whether to assume the risk associated with attempting to uphold the number of 16 units referenced in the 2008 zoning ordinance. Mr. Ewert stated that he should not have asked the Commission to consider the legal risk associated with imposing the 2008 zoning ordinance; however, he would like the Commission to weigh in on distributing those 77 units throughout the project area or isolating them to the parcel that they were originally assigned to. The Commission discussed and debated the appropriate location of the 77 additional units, after which Commissioner Wampler stated she feels a legal judgement may be valuable in this situation; she knows that it would be costly to litigate such a matter, but this is the second time since she has been appointed to the Commission that this type of situation has occurred. There is a great deal of value associated with these properties and allowing the developer do whatever they want is costly to the Valley and residents. Commissioner Burton stated he would agree if the issue were not as clear as this one is to him; the State Law indicates that when the land use ordinance is not clear, the land use shall interpret and apply the land use regulation to favor the land use application. Mr. Erickson added that he wants to be clear that he is only expressing an opinion and it may be that a court of law would find differently than him. He noted that the County Commission will make the final decision on this matter, but his job is to point out what the law says and to provide an predictions as to possible outcomes of decisions. He

recognizes there is not a clear answer, but the final decision should be left to the County Commission. Commissioner Burton stated it would be wise for the County to perform a cost benefit analysis regarding this matter; risking a great deal – perhaps a couple hundred thousand dollars – on litigation only to prevent the transfer of 77 units within the village project area does not make sense to him. Mr. Erickson clarified that he does not believe litigation of this type of issue would be that costly. Chair Shuman added that he can appreciate the appropriateness of a cost benefit analysis, but it is irrelevant to the Planning Commission and should not play into their decision. He acknowledged that it may be appropriate for the County Commission to consider it, but the better argument should be focused on the appropriate location of the additional 77 units. He stated he feels it would be very difficult to keep it on the 4.65 acre parcel given the impact that would have on surrounding property owners. He feels that the applicant should be allowed to move the 77 units to another area of the project. Commissioner Torman stated that if the question relates to the movement of the 77 units, he would favor moving them rather than keeping them on the 4.65-acre parcel. Commissioner Montgomery asked if the question truly relates to keeping the units within the Nordic Village or possibly moving them to other Village areas. Mr. Ewert stated that there is not currently a prohibition on moving development rights to other village projects, but at present this is the only form based area. Commissioner Montgomery stated he can support moving the development rights within the Nordic area. Commissioner Johnson agreed and noted he would be willing to allow them to move to other village areas as they are created. Chair Shuman stated he would like to communicate a desire for the 16 unit restriction, but if the decision is made that they are entitled to more units, he believes they need to stay within the Nordic village rather than being transferred to other villages. He would recommend the Commission support that position.

Commissioner Wampler stated that she is confused on what land use regulations will apply to the additional 77 units. Mr. Ewert stated that all of the regulations that were included in the original recommendation from the Planning Commission would apply to the additional units; the developer will need to figure out how to compress the 77 units into the form-based village project. Commissioner Johnson asked what would occur if the County Commission decided to keep the additional units on the 4.65 acre parcel. Mr. Ewert stated the applicant will need to figure out how to compress over 90 units into buildings that are no taller than 35 feet and provide multiple points of access. Commissioner Wampler stated that she is not comfortable providing support for the location of 77 development rights that she believes do not exist based upon the 2008 zoning ordinance. Whatever decision is made regarding the number of units, she would support those being transferred within the form based village areas. This position is based upon County ordinances.

Mr. Ewert polled the Commission to determine who would be in favor of taking the question to a judge and asking them to make a decision regarding the number of development rights that actually exist. It may be helpful for the County Commission to hear how passionate the Planning Commission is about this issue. It may also give him some room to negotiate the number of development rights with the applicant. Commissioners Burton and Wampler stated they do not believe that negotiation of that number is appropriate; the applicant either has 16 or 93 development units, not something in between. Mr. Ewert stated that if the applicant knows the Commission is passionate enough about the issue to ask the question of a judge, and if the County Commission agrees, the applicant may perform a cost benefit analysis and propose a compromise at somewhere in the middle that both parties might be comfortable with. Chair Shuman stated he feels that is absolutely what the Commission should do; he feels that a legal decision is necessary and could spur some compromise that would benefit both parties, however he would not be fully supportive of such a compromise. Commissioner Torman asked Mr. Ewert if he is suggesting actually litigating the matter or simply asking the opinion of a judge. Mr. Ewert stated that he is suggesting going before a judge. Commissioner Torman stated he thinks it is bad any time something is litigated. Commissioner Burton stated that it is the proper role of government to support landowners and citizens in the exercise of their private property rights; not to try to coerce them into giving up those rights, but figuring out what those rights are and helping them exercise their rights. He does not believe the Planning Commission should be trying to decide whether this matter should be litigated; but, they are in the position to make a recommendation regarding the transfer of the number of units that are associated with the parcel. Commissioner Wampler stated that she is not trying to get anyone to give up property rights; the argument is whether the rights exist and that is what a judge would decide. Commissioner Burton agreed and stated that what ever decision is made regarding the number of rights that are associated with the property, the Commission should only be making a recommendation based on the location of or transfer of those rights. He asked if the Commission wants to put a restriction on the location of the development rights. Mr. Ewert stated that based on the current language of the form based zoning ordinance, transfers can be made from most of the zones on the Valley floor into the form based zone or from one form based zone to another. If the Commission were to apply a condition that the development rights can only be transferred within the Nordic form based project, it would be unique to a development agreement for the property. He stated he feels it would be nice to allow transfer to other form-based villages because he wants to preserve the opportunity for transfers to happen based upon the market, but that is up to the Commission.

Commissioner Burton took a straw poll of the Commission regarding whether the development rights should be restricted to the Nordic form-based village or to other villages. Commissioner Montgomery stated that he can support moving the rights to other village projects but feels that the City's Legal Counsel should be sure that the County would lose this fight before conceding to the 93 development rights. Commissioner Johnson agreed. Commissioner Torman stated he initially felt they should be kept within the same village, but it makes sense to locate more density in other village areas based upon infrastructure improvements and market demand. Commissioner Wampler stated that she would support transfer that is in line with the form-based village ordinance.

Mr. Ewert stated this discussion has been very helpful and he will communicate the Commission's feelings about the legal issues surrounding the matter to the County Commission. He asked if the Commission wishes to entertain input from the applicant. Chair Shuman stated he appreciates Commissioner Montgomery's comments about the importance of Legal Counsel being sure that the County would not prevail in a court of law before agreeing that there are 93 development rights for the property. He then referenced the issue of transferring development rights to other villages; if rights are transferred elsewhere, the Nordic village could be impacted in the long term and quality growth will not occur due to too few households to support commercial and service improvements. Mr. Ewert agreed that critical mass is needed to support a vibrant development; he believes the market will stimulate the applicant to use all of his development rights and possibly ask for the transfer of more development rights from other areas. The applicant has indicated an interest in creating a public improvement district to improve infrastructure in the area and in order to create a district and issue a bond, he must achieve a certain number of units to support debt service of the bond.

Commissioner Burton invited input from the applicant. Mr. Jouffray thanked the Commission for their discussion and debate of the matters before them. He stated he wishes to uphold agreements he has made in the past both with the Planning Commission and residents. He intends to transfer units from the upper area to keep the density low at approximately six or eight units. Relative to the second question, for the 4.65 acres he does not believe he is bound by the concept plan from 2008 and he shares the same legal opinion as Mr. Erickson. He feels that he has 93 development rights and thanked the Commission for communicating their feelings regarding the appropriate locations of those rights.

Commissioner Wampler then discussed the format of Planning Commission work sessions; for tonight's work session subject matter, it would have benefited her and other Commissioners to have had information about what they would be discussing and asked to take a vote on. She was surprised by the agenda as it was different than what the Commission was led to believe would be on the agenda; she did not know Commission would be talking about this issue until she started getting emails from the public. She would have benefitted from having documentation supporting the discussion points. The reason for creating meeting packets is to provide the Commission with background information on agenda items and she reads through them thoroughly when they are provided. She would have liked to have more information in advance of the meeting. Mr. Ewert stated those concerns are noted; the County Commission only recently asked for this feedback from the Planning Commission and staff did not have time to prepare a thorough packet before the meeting. Planning Director Grover stated that he will try to ensure that Planning staff is more efficient in preparing materials that can be used for preparation.

Mr. Grover then provided an overview of the meeting schedule of the County Commission; they will be holding a work session on December 12 at 1:00 p.m. and they will discuss short term rentals (STRs) during that meeting. Later that evening, Planning staff will be holding an open house at the Huntsville Library from 6:00 to 7:00 p.m.; this is not a meeting of a public body, but rather Planning staff making themselves available to provide information to the public. The County Commission will meet on December 20 and may hold a public hearing to consider the Planning Commission's recommendations regarding STRs. He stated that a press release will be issued about this matter and Commissioners are welcome to reach out to staff to get more information.

**Meeting Adjourned: The meeting adjourned at 7:25 p.m.
Respectfully Submitted,**

Weber County Planning Commission