

Minutes of the Joint Work Session of the Ogden Valley Planning Commission and Western Weber Planning Commission, for April 6, 2021. To join the meeting, please navigate to the following weblink at <https://us02web.zoom.us/j/83820876133>, the time of the meeting, commencing at 5:00 p.m.

Ogden Valley Planning Commissioners Present: Shanna Francis, Vice Chair; Jeff Burton, Chris Hogge; John (Jack) Howell, Ron Lackey.

Absent/Excused: Jeff Burdon, Ron Lackey, and John Lewis

Staff Present: Rick Grover, Planning Director; Charlie Ewert, Principal Planner; Scott Perkes, Planner; Courtlan Erickson, Legal Counsel; Marta Borchert, Office Specialist.

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

Chair Lewis asked if anyone had any ex parte communication or conflict of interest to declare. No disclosures were made.

1. Approval of Minutes for March 2 and 23, 2021.

Commissioner Hogge moved to approve the minutes of the March 2 and 23, 2021 meeting as presented. Commissioner Waldrip seconded the motion. Commissioners Francis, Hogge, Howell, and Waldrip all voted aye. (Motion carried 4-0).

2. Petitions, Applications, and Public Hearings.

2.1 CUP 2021- 04: Request for approval of a conditional use permit for a PRUD in the FV-3 zone, consisting of 48 lots, entitlements for up to 25 detached accessory dwelling units, as well as 48.66 acres of common area. Staff Presenter: Tammy Aydelotte; Representative: Eric Householder

Planner Aydelotte reported this request consists of 48 lots, ranging in sizes from 2.00 acres to 30.16 acres. Lot widths vary from 85.5' to 874'. Applicant is citing development rights for up to 25 detached accessory dwelling units. This proposal consists of 288.37 acres. After taking into account 15.10 acres of roadway, 37.50 acres of slopes over 40%, and 14.79 acres of sensitive lands, there is 220.98 acres of net developable area, which translates to 73 entitlements. The applicant is proposing 54.35 acres of common area, and public roads are proposed throughout the development. PRUD's as a conditional use require approval from both the Planning Commission and the County Commission. The applicant is currently in the process of acquiring additional acreage through a road vacation. This request will go before the County Commission once a recommendation is made by the Planning Commission, and the road vacation process has been completed. Once the County Commission approves of the proposed changes the applicant will be able to receive subdivision approvals reflecting the changes to the plat. Following are the potential Planning Commission considerations:

- Does this proposal comply with the applicable PRUD ordinance?
- In considering the proposed Planned Residential Unit Development, the planning commission shall review and consider the following, as applicable:
 - *The architectural design of buildings and their relationship on the site and development beyond the boundaries of the proposal.*
 - *Which streets shall be public and which shall be private; the entrances and exits to the development and the provisions for internal and external traffic circulation and off-street parking?*
 - *The landscaping and screening as related to the several uses within the development and as a means of its integration into its surroundings.*
 - *The size, location, design, and nature of signs if any, and the intensity and direction of area of flood lighting.*
 - *The residential density of the proposed development and its distribution as compared with the residential density of the surrounding lands, either existing or as indicated on the zoning map or general plan proposals of the county as being a desirable future residential density.*
 - *The demonstrated ability of the proponents of the planned residential unit development to financially carry out the proposed project under total or phase development proposals within the time limit established.*

Staff recommends approval of the conditional use permit for the Legacy Mountain Estates PRUD (CUP 2021-04). This recommendation for approval is subject to all review agency requirements and is based on the following conditions:

1. The roads within this proposed development shall be private.

2. The proposed trails shall allow public access, through open spaces.
3. The road vacation will need to be complete prior to scheduling for final approval with the County Commission.
4. The table regarding accessory dwelling units must be shown on the final plat.
5. All signage must be compliant with Title 110, Chapter 12 Ogden Valley Signs, and shall be located such that no obstruction of sight visibility shall occur. A site plan showing location of all signs shall be submitted prior to scheduling County Commission approval.
6. All exterior lighting must comply with Title 108, Chapter 16 Outdoor Lighting.

This recommendation is based on the following findings:

1. The proposed conditional use amendment conforms to the Ogden Valley General Plan.
2. With the recommended conditions, the proposed conditional use amendment complies with the applicable County ordinances.
3. The building uses, locations, lot area, width, yard, height and coverage regulations proposed are acceptable as shown on the conditional use amendment.
4. The proposed conditional use amendment will not be detrimental to the public health, safety, or welfare.
5. The proposed conditional use will not deteriorate the environment of the general area so as to negatively impact surrounding properties and uses.
6. Planning Commission has determined that unique circumstances exist that warrant an adjustment in the required number of parking spaces.

Commissioner Howell asked if there is sufficient space in front of each home for off-street parking. Ms. Aydelotte answered yes, the applicant is not proposing to include any designated guest parking in the project; each unit will include a two-car garage and the assumption is that there will be two additional parking spaces in front of the garage for each unit. Commissioner Howell asked if on-street parking will be allowed. Ms. Aydelotte deferred to the applicant's representative, Mr. Householder. She noted that the streets in the project will be private streets. Commissioner Howell then asked if the roads that intersect with the entrances to the subdivision are public or private, to which Ms. Aydelotte answered public. Commissioner Howell asked if the roadways within the proposed project meet the criteria for designating them private. Ms. Aydelotte answered yes, noting that is staff's assessment. Planning Director Grover added the County's PRUD ordinance allows for private or public roads in this type of project and the applicant has chosen private roads. Public roads are the only option in a cluster subdivision, but this project is a PRUD rather than a cluster subdivision.

Commissioner Waldrip stated that the paved road width appears to be 26 feet and he asked if that is a typical residential road width. Ms. Aydelotte stated that 24 feet wide is the standard road width for a 60 foot right of way.

Vice Chair Francis asked if construction of the private roads must conform with County construction standards. Ms. Aydelotte stated that the City does have minimum engineering standards for road construction and the applicant is working with County Engineering to ensure that the roads in his project conform to those standards.

Commissioner Waldrip inquired as to outstanding issues for the application that need to be addressed. Ms. Aydelotte stated that architectural style of the home needs to be addressed; she presented renderings that have been submitted by Mr. Householder to communicate the desired architectural style for the project, but that is a matter for the Commission to determine. Commissioner Waldrip referenced additional outstanding issues that were highlighted in the staff memo and asked if it is appropriate for the Commission to take action to make a recommendation to the County Commission before those outstanding issues are resolved. Ms. Aydelotte stated that so long as conditions of approval are part of the motion, those outstanding issues would need to be addressed before the application is presented to the County Commission for an action.

Vice Chair Francis asked if the landscape plan calls for minimal landscaping throughout the project given the limited access to water in this area of the valley. Ms. Aydelotte stated that this matter will be addressed in greater detail at the subdivision level, but she noted the project will be serviced by Lakeview Water and Mountain Sewer; there will not be any wells or septic systems in the development and the applicant would be required to provide information regarding irrigation water provisions as the application moves further through the process. She added that County staff is working on a potential code amendment that would address secondary water requirements. Mr. Grover agreed, but noted he is unsure when the text amendment will be acted upon. Ms. Aydelotte stated that the County's current secondary water ordinance requires a property owner to adhere to water district requirements for the district they belong to; if the water district does not allow their water to be used for anything other than

culinary purposes, they will require secondary water to be accessible prior to supporting final approval of the subdivision.

Commissioner Waldrip referenced storm water; in steep areas of the valley there have been issues created by storm water runoff and he asked if there is any requirement for onsite retention or detention in this project. Ms. Aydelotte stated that the applicant has been working with County Engineering to develop onsite storm water retention, but she will defer to the applicant to provide more details about those efforts. Mr. Grover added that is also something that will be addressed at the subdivision level for this project.

Vice Chair Francis then invited input from the applicant.

Applicant's representative, Mr. Householder, first thanked staff for their efforts as this project has changed since the application was first filed; he discussed the acquisition of several properties that have been combined to create the parcel that is now subject to the application. The current proposal includes 48 homesites and up to eight accessory dwelling units (ADUs). He has removed the cabin concept from the project and is not pursuing short term rentals and the main entrance to the project has been relocated. He addressed the comments regarding public versus private roads and reiterated Ms. Aydelotte's comments that the applicant has opted for private roads; the homeowners association (HOA) will own and maintain the roads. He then refocused on the ADU; with the net developable area of the site, the applicant has 73 entitlements after removing areas for roadways, common areas, and slopes and he is trying to create a 'bank' for the ADUs. With the commitment that the applicant will only use eight ADUs, which will leave 17 entitlements. The applicant hopes to be able to pursue the additional entitlements if the County's transfer of development rights (TDR) ordinance is amended in the future, or the entitlements could be retired. Regarding trails, there has been some confusion about whether they will be publicly or privately owned, and he communicated that they will be privately owned and maintained by the HOA, but they will be open for public use. There will be no improved trailheads or on-street parking dedicated to the trails. Final location of the trails could change as the design of the project progresses. He then discussed utility service to the project; as Ms. Aydelotte mentioned, there is water and sewer service to the property, but the culinary and secondary water will come from the same source. The applicant is very mindful of the need to conserve water and is limiting turf areas to 4,000 square feet for each home site. Additionally, there is an old phone line that runs across the north side of the Wadman property and into a nearby development and the applicant has committed to bury that line underground to beautify the area. He then addressed parking accommodations; the home sites are large and he feels there will be adequate parking onsite, which should address the concerns about parking on the private streets.

Commissioner Howell asked if there will be any public parking areas at the trailheads for the private trails. Mr. Householder answered no; the applicant envisions the trail to be one that would offer 'pass through' access for people who are getting on the trail at another trailhead. This is an amenity for the homeowners in the project and they can access it locally from within the subdivision. Commissioner Howell asked where people should park who want to use the trail. Mr. Householder reiterated that the applicant is not proposing to build trailheads or public parking areas as the trail will be private, but accessible to the public.

Vice Chair Francis invited public input.

James Bird, 1052 Meadowlark Lane, stated he is a member of the Board of Trustees for The Chalets development. He addressed the request for ADUs in the project area and cited a letter he received in March from Legacy Mountain Estates in which it was very clear that the project would only have eight ADUs. He is not sure what Mr. Householder means when he talks about 'banking' entitlements for future ADUs and he wondered if that means that the number of ADUs could increase at some point in the future.

Jan Fulmer asked about wastewater treatment for the project; the County has contracted with consultants to evaluate wastewater treatment in the Ogden Valley, and she wondered if the current treatment facilities can handle this project. She also wondered if the project could potentially pollute the nearby reservoir.

Alar Elken stated he also lives in The Chalets and asked if the private roads in this project will be gated.

Roger Dutson stated he represents a large number of property owners in the vicinity of the subject property, especially those living along Snow Basin Road; he has spoken with other developers associated with this project. He and others were initially invited to hear information about this project several months ago and he appreciated that greatly. However, as Mr. Householder has mentioned, the scope of the project has changed several times since its inception, yet he and others still have substantial objections to the density of the project. The area is zoned for three-acre minimum lot sizes, but quite a number of the homes in this proposed project are smaller as is usually the case with a PRUD project. He appreciates the willingness of the applicant to

adjust his plan to remove some of the very small lots and homes in the project; many of the existing homes in the area are multi-million-dollar homes on very large lots and while there is nothing wrong with smaller homes, he is concerned about the proposal to allow ADUs in the project. There is a potential for many of the units to be used for short term rentals and that is also very concerning to residents living near the project. He stated that the resident group reached an agreement with the applicant to ensure that there would never be more than eight ADUs in the project and he and others are not willing to renegotiate that term to provide the opportunity for additional ADUs and other types of rental units in the future. There are three other PRUDs in the area and quite a number of new homes being built in the area, all of which are high scale in nature and he is concerned about the potential for this project to cause a negative impact on those projects and existing homes. The proposed trail will pass right by an existing home in close proximity to the subject property and the owner of that home is very concerned about that matter; since newer roads have been built in the area, people have begun exploring the hillside and have even entered private properties, which has been very problematic. He is worried that this new trail that is open to the public will worsen those conditions. He is not opposed to a public trail, but he is opposed to building public parking areas that encourage public use of the trail. He concluded he will continue to communicate his concerns as the project moves through the approval process.

Alar Elken re-approached and stated that he would like more information on the culinary and secondary water access in the project area. Vice Chair Francis noted that issue will be addressed in the subdivision approval phase of this application process.

Jim Branch, 5856 Snow Basin Road, stated that he has been involved in the ongoing negotiations with the applicant regarding the impact this project will have on nearby existing residences. He applauded their efforts to adjust the project plans responsive to the comments they have received but noted there are still some outstanding issues. He thanked the applicant for capping the number of lots to 48 and limiting the number of ADUs to eight, but he is also concerned about the comments regarding the potential for an increase in the number of ADUs in the future. He would like to pursue documentation that would prevent an increase in ADUs in the future. He thanked the applicant for addressing the access points for the project in a way that addressed the concerns expressed by those living in The Chalets. He noted that existing residents who live on the mountainside rely upon private wells to serve their homes and they are concerned about an additional 40 or 50 wells being drilled and impacting their access to water. He stated that he knew the roads were originally going to be public, but he supports them being designated as private for a number of reasons and he would prefer that the community be gated. He also would prefer that the trails be private and to be used by residents in the area only; the trails will be built on easements across private property and that is the reason he believes they should be reserved by those living in the development.

Vice Chair Francis asked that staff respond to the questions raised during the public comment period; she indicated several speakers had questions about the concept of 'banking' entitlements to allow for an increase in the number of ADUs in the future and she asked that staff address that matter and whether it is possible to enter into an agreement with the developer to prohibit any future growth of ADUs or short-term rentals in the future. Ms. Aydelotte stated that when the application was first initiated, staff was presented with a site plan that identified where each of the ADUs would be located. In an effort to provide some flexibility to the applicant, staff advised that the concept plan be adjusted to remove the locations of the ADUs and rethink the number of ADUs to be included in the project with the idea of banking their remaining entitlements. She stated staff is currently working to develop an ordinance that allows for transference of development rights, which would allow property owners to place their entitlements in a 'bank' to sell in the future to another property owner. The idea behind a TDR program is to minimize further development on the valley floor and move some development up to village areas or recreational resort areas that have been identified in the General Plan. However, there may be property owners who live on the valley floor who do not have enough acreage to apply for an ADU and they could seek to purchase a density right from another property; in this case, Legacy Mountain Estates would have a 'bank' of development rights that could be purchased for that purpose. Mr. Grover added that it is important to note that none of the banked development rights would be transferred back into this development.

Commissioner Waldrip asked if TDR ordinance would apply to non-internal – or detached – ADUs given the recent adjustments to State laws governing ADUs. Planner Perkes stated that the legislation recently adopted by the Utah Legislature allows for ADUs that are internal to the existing footprint of a home in at least 75 percent of residential areas within a jurisdiction. The County can protect 25 percent of its area from internal ADUs and HOAs cannot prevent a homeowner from creating an ADU and renting it for long term use. Short term rentals are not allowed in internal ADUs. For that reason, it is important to differentiate between an internal and external ADU on an individual property. Vice Chair Francis asked if it is correct that there will be no external ADUs in the development. Commissioner Waldrip stated that the eight ADUs identified by Mr. Householder are external ADUs. Ms. Aydelotte stated that is correct, the eight ADUs are detached. Commissioner Waldrip stated that the new legislation provides inherent rights to single family homeowners to create an internal ADU and there are no TDR options for those units. When dealing with internal ADUs, the primary residency units must be owner occupied and the ADU can only be rented long term rather than

short term or overnight. Mr. Perkes stated that is correct; those same restrictions do not apply to detached ADUs according to the State legislation. Mr. Grover stated that may be the case, but the County ordinance does have those same restrictions for detached ADUs; the primary residence must be owner occupied and the ADU can only be used for long term rentals, not short-term rentals.

Ron Gleason used the Zoom chat feature to provide input. He noted access to the trail system needs to be clarified; if they are publicly accessible, that should be clearly communicated even if the trails are owned and maintained by the HOA. Additionally, he asked if there are any ridge lines in the proposed development that are covered by the County's sensitive lands ordinance.

Vice Chair Francis asked for staff to address those questions. Ms. Aydelotte stated there are ridge lines contained in the project area and County ordinance does prohibit development upon ridge lines; this ordinance was taken into account in the calculation of the number of units allowed in the project.

Vice Chair Francis then asked staff to respond to Ms. Fulmer's questions about whether the existing water treatment facilities can handle this new development. Ms. Aydelotte stated that is typically an issue that is addressed at the subdivision level of the application process. She asked Mr. Householder if he has had in depth conversations with Mountain Sewer Corporation. Mr. Householder stated he has received letters of commitment from the service providers to service the project; there may be some minor improvements that will need to take place, but that will be addressed as the application moves forward. Mark Babbott, Great Basin Engineering, added that he is working with the engineers for the service providers relative to this project; the existing water system has adequate capacity to handle this project. He is considering the option of using an existing well as a back-up source for the water system. To serve the development, it will be necessary to build a reservoir above the homes; water will be pumped into that reservoir and then gravity fed to homes below. The sewer system has been designed and approved by the State of Utah based upon defined levels of usage; as additional homes are constructed, it will be necessary to pursue certain improvements to handle increased growth.

Vice Chair Francis asked Mr. Householder to respond to the questions about whether the private roads will be gated. Mr. Householder indicated that there are no plans to gate the roads at this point.

Vice Chair Francis asked for staff to respond to the questions about whether the County can employ some type of mechanism to restrict the total number of ADUs to eight in perpetuity. Mr. Grover stated that is part of the applicant's proposal and, if approved, this application will stand as the legal and approved document for the project. This will also govern the layout of the lots and roads and it is not necessary to consider additional documentation that would limit the number of ADUs in the project.

Vice Chair Francis then asked staff to address the questions regarding the trail and whether it is possible to restrict public access to the trail. Ms. Aydelotte stated the County ordinance indicates the trails shall be constructed and designated for public use. Commissioner Waldrip added that it would not make sense to have the trail tie into other trail systems if they were not going to be available for public use.

Legal Counsel Erickson stated he feels it would be appropriate to further discuss the nature of the ADU entitlement for the project; the limit of eight ADUs is states in the application and if the application is approved tonight, that limit will be included in the covenants, conditions, and restrictions (CCRs) for the project. That means that if the developer seeks to amend that condition in the future, he will need to formally pursue an amendment to legal approvals responsive to the application. Mr. Householder stated that he agrees with Mr. Erickson's assessment; his initial plan is for the CCRs for the project to allow up to eight ADUs.

Vice Chair Francis recognized Mr. Bird, who indicated a desire to provide additional input.

Mr. Bird stated that if the limitation on the number of ADUs is only included in the CCRs, that is concerning; the CCRs for a project can be changed at whim and this has occurred in The Chalets project three times in the past. Property owners and the County have no input on the CCRs or potential amendments whatsoever. That is why Mr. Dutson is asking that some for of documentation be filed and recorded permanently to restrict the number of ADUs to eight. Ms. Aydelotte stated that the Planning Commission has the ability to provide a recommendation to the County Commission limiting the number of detached ADUs in this development. Mr. Erickson added that the Planning Commission can explicitly state a condition of approval limiting the number of ADUs in the motion they make on this application tonight. Mr. Grover added the developer has agreed to that limitation and, therefore, staff supports such a condition of approval.

Commissioner Waldrip moved to recommend approval of, CUP 2021- 04, request for approval of a conditional use permit for a PRUD in the FV-3 zone, consisting of 48 lots, and no more than eight detached accessory dwelling units, as well as 48.66 acres of common area, based on the findings and subject to the conditions listed in the staff report, and based on the following additional conditions:

- Limiting the number of detached ADUs to no more than eight.

Commissioner Hogge seconded the motion.

Commissioner Howell stated that he is still concerned about making the trails available for public use, but not providing any public parking areas at the trail heads.

Vice Chair Francis called for a vote on the motion; Commissioners, Francis, Hogge, Howell, and Waldrip all voted nay. (Motion carried 4-0)

3. Public Comment for Items not on the Agenda

There were no additional public comments.

4. Remarks from Planning Commissioners

Commissioner Howell stated that he would like for staff to carefully examine parking provisions for subdivision and village applications.

5. Planning Director Report

Planning Director Grover stated that with the Governor's softening of the State-wide mask mandate, it may be possible to resume in-person meetings in the near future. Commissioner Waldrip asked if the County will still hold meetings via Zoom to allow for electronic participation. Mr. Grover stated that staff is exploring that option; a recent Board of Adjustment meeting was held using a hybrid in-person/electronic format and it was difficult to effectively conduct the meeting under that format. Commissioner Waldrip stated he is interested in providing electronic participation options for the public so that it is easier for them to participate in public meetings. Mr. Grover stated that would be great; he is more concerned about a hybrid meeting format for members of the public body.

6. Remarks from Legal Counsel

Mr. Erickson stated the County will be using another attorney in the Civil Division to advise the Western Weber Planning Commission; his name is Liam Keogh.

WS1: Culinary and secondary water ordinance discussion.

Principal Planner Ewert used the aid of a PowerPoint presentation to facilitate a review of the red-line edits of the culinary and secondary water ordinance as proposed by staff and responsive to feedback that has been provided by both this Planning Commission and the Western Weber Planning Commission in recent meetings. Rather than having separate culinary and secondary water sections in the County's ordinance, staff has chosen to combine the two together in one section to reduce redundancy and conflicts. He highlighted major changes to ordinance regulations, including:

- Changing the distance requirement for connection to an existing secondary or culinary water system from 300 feet multiplied by the number of lots in a subdivision to a flat distance of 300 feet for any lot within the subdivision:
 - Each lot within the subdivision shall be connected to the service provider's water delivery system;
 - A lateral shall be stubbed from the service provider's main supply line to each lot; and

- A main supply line shall extend through the subdivision and stubbed to adjacent undeveloped or underdeveloped property, if applicable.
- Placement on each subdivision plat of signature authority block from both the culinary and sanitary sewer service provider;
- Secondary water quantity provided must be sufficient to regularly water planted areas unless restricted landscape covenants are recorded on the property to restrict the amount of outdoor watering on a given property based upon the water allocation dedicated for the property.

The Commission deliberated regarding the sharp adjustment to the distance measurement for requiring connectivity to an existing public culinary or secondary water service provider and wondered if it would be more appropriate to consider smaller adjustments to that distance requirement. Mr. Ewert stated that staff is willing to consider different regulations, but noted that if any part of a subdivision is situated in an expansion area of an existing culinary or secondary water service provider delivery system, the existing service provider is entitled to require the newer service provider system to be created in a manner and with sufficient rights or shares to enable easy and efficient future consolidation of the newer existing system; this means that if someone beyond 300 feet from an existing service provider opts to create their own water system, they can, but they must do so in accordance with the standards of the existing service provider. This will ensure that as growth fills in, the systems will mesh with one another. Commissioner Waldrip stated that seems reasonable.

Mr. Ewert stated he will send via email the redlined document to the Planning Commission for their own detailed review prior to an action item being placed on a future business meeting agenda.

WS2: TDR transfer and receiving areas.

Principal Planner Ewert shared the open lands map from the Ogden Valley General Plan and facilitated discussion among the Commission regarding appropriate transfer of development right (TDR) transfer and receiving areas in the Ogden Valley. Staff would like for the agricultural and open lands, or ‘green areas’, to be sending areas and for village areas to be ‘receiving areas’; all other areas marked in white on the map could be sending and receiving areas. Mr. Ewert stated he has spoken with the County Commission about the TDR ordinance and they are concerned about limiting some areas to being ‘sending areas’ only; they want those property owners to have the option to develop in place or develop a portion of their land and send some of their entitlements to a receiving area. He wishes to present three options to the County Commission for consideration; first will be to limit green areas to be sending areas only, which he does not think they will accept. Second would be to reduce the density in the green areas by half and allow property owners to sell half of their development rights and send them to receiving areas. Third would be to either develop 100 percent of their rights in place, sell 100 percent of their rights to a receiving area, or a combination of the two. He feels that the third option will be best received by the County Commission. He hopes to develop a TDR program that is simpler than the current program. He provided an example of how base density would be calculated for parcels subject to a TDR transaction as well as an accounting ledger that would be maintained by the County to ensure proper record keeping of entitlements that have been transferred among properties.

The group engaged in high level discussion about the importance of preserving open lands while balancing a property owner’s rights to develop their land; they acknowledged the vital role that cluster and PRUD subdivisions serve in allowing for higher density developments in village areas while preserving larger open space and creating recreational amenities, such as increased trail offerings. Mr. Ewert stated he will use the feedback provided tonight to create a first draft of an updated TDR ordinance and accompanying sending/receiving map to present to the Planning Commission at a future meeting.

Meeting Adjourned: The meeting adjourned at 8:08 p.m.

Respectfully Submitted,

Weber County Planning Commission