



OGDEN VALLEY PLANNING COMMISSION

AMENDED PLANNING MEETING AGENDA

February 07, 2017
5:00 p.m.

Pledge of Allegiance
Roll Call

1. Minutes: Approval of the May 03, 2016, July 05, 2016, January 03, 2017, and January 24, 2017 Meeting Minutes
2. Legislative Items:
 - a. Old Business: Public Meeting:
 1. Legislative Action Item: Action to Table the Ogden Valley Lighting and Signage Ordinance to a later date.
3. Remarks from Planning Commissioners
4. Planning Director Report
5. Remarks from Legal Counsel
6. Adjourn Public Meeting to Convene to a Work Session
 - WS1. TRAINING: Planning Commission Training
 - WS2. DISCUSSION: Ogden Valley Lighting and Signage Ordinance
 - WS3. DISCUSSION: Tiny Homes
 - WS4. DISCUSSION: Administrative Ordinance Amendments

*The meeting will be held in the Weber County Commission Chambers, Weber Center, 2380 Washington Blvd., Ogden UT
No pre-meeting is scheduled for a work session*

Please enter the building through the front door on Washington Blvd. if arriving to the meeting after 5:00 p.m.

(In compliance with the Americans with Disabilities Act, persons needing auxiliary services for these meetings should call the Weber County Planning Commission 24 hours in advance of the meeting at 801-399-8791)

Minutes of the Ogden Valley Planning Commission Regular meeting May 03, 2016 in the Weber County Commission Chambers, commencing at 5:00 p.m.

Present: Laura Warburton, Chair; Kevin Parson, Will Haymond, Stephen Waldrip, Jami Taylor

Absent/Excused: Greg Graves, John Howell

Staff Present: Rick Grover, Planning Director; Ben Hatfield, Planner; Courtlan Erickson, Legal Counsel; Kary Serrano, Secretary

Pledge of Allegiance

Roll Call:

**1. Petitions, Applications,
And Public Hearings:**

- 1.1. UVA032815:** Consideration and action on a request for final approval of Aspen Falls Cluster Subdivision 1st Amendment, located at approximately 4100 North River Drive in the Agricultural Valley (AV-3) Zone (Nate Boswell, Applicant)

Ben Hatfield said that the applicant, Nate Boswell came in for a discussion on December 1, 2015 about some options and concerns they were having as an HOA at the Aspen Falls Cluster Subdivision. The applicant was requesting final approval of an amendment to this subdivision. They focused on Lot 11 as there were currently ten lots to the subdivision, and with this application was to remove one of the lots, and Lots 2 and 3 would be combined. This would then give him the base of nine lots on 27 acres, which would meet the Agricultural Valley (AV-3) Zoning requirements. In the original design they were granted additional bonus density; and one of those was for having public open space, with some of the open space area was to become private open space instead of public access. By doing so, any additional amenities would be a benefit beyond the bonus density that was granted. Open space areas would be Area A that wraps around, and Area B that has a stream, a pond, and some landscaping. There is an open space Area C, that is 15 feet that runs on 4100 North with a public trail. One day 4100 North will expand and go over to Wolf Creek; that being one of the main routes to this neighborhood, and the importance of keeping that trail open to the public. The agricultural preservation parcel will be privately owned and access for private use. This application meets all the code requirements and any conditions for improvements that were approved as part of the past subdivision would be carried over to the requirements of this amendment. Staff recommends final approval Aspen Falls Cluster Subdivision 1st Amendment, based on the compliance with the land use codes.

Commissioner Haymond asked to clarify that portion under Background, where it states, *"Except for area F which will remain open to the public as it contains the trail adjacent to 4100 North."* Mr. Hatfield replied as a requirement from the Recorder's Office, there had been some title concerns about keeping old lot numbers, so they had them take the next new lot number. In this case they suggested changing the open space letters to the next sequenced letters; so A, B, and C would then be D, E, F, and so F would be that open space with the trail along the front.

Chair Warburton asked to clarify this open space and the way this was zoned. Would they actually be combining lots to make this one big lot; and they wouldn't be taking away any of the bonus density. Mr. Hatfield replied that they would be taking away that 10% that was granted for the public access open space, and the other 20% bonus density.

Commissioner Parson said they would basically be undoing a subdivision, and any type of precedence that this would set. Director Grover replied what would happen on the actual plat, the amendment would take care of the previous vacation of two lots and creating that one lot. It's been done many times and this would just clean up with the actual Mylar plat. Ben Hatfield said as far as amending a subdivision that is very common. The county code requires that anytime they have a subdivision lot, and they want to move the lot, they have to bring in a new plat to review. There was a question about precedence, reduction of open space, but they've had some cluster subdivisions that may adjust the open space. The question about giving up public access; Planning Staff felt that the reduction of the lot takes care of that. There is still an easement that would restrict future development, so there would not be any development in the open space areas.

Commissioner Parson said it's not like they are being granted what was already there in terms of codes, zoning, and Weber Pathways. Mr. Hatfield replied in looking at this and what are unique circumstances where it had a pond that could be a liability. So if the next time he sees this in a cluster subdivision, he would look at it to protect the owner and have that be a private area with only certain areas to be public.

Nate Boswell, applicant, asked if there were any questions for him.

Todd Stewart, who resides on River Drive next to the development, said on behalf of his neighbor who lives across the street who couldn't be at the meeting because he was on a mission. There are two ponds that were required to be put in as part of the covenants. It uses so much water for the ponds, that the water level across the street has dropped to where the septic pump no longer runs and it doesn't regenerate.

Jay Price, who resides on the corner of 4100, said in reference to the water issue; there is supposed to be enough water going across that ground to fill a water trough on the property across the street. He didn't know if they had taken that water for the pond but that's in the water rights.

Chair Warburton said that the Planning Commission could not decide on the matters of water, there are other agencies that overlook that if they would like to speak with them.

MOTION: Commissioner Parson moved to recommend approval to the County Commissioners of UVA032815, consideration on a request for final approval of Aspen Falls Cluster Subdivision 1st Amendment, located at approximately 4100 North River Drive In the Agricultural Valley (AV-3) Zone, subject to compliance of the AV-3 Zone to reduce the bonus density, and the development rights to carry along the 27 acres. Commission Haymond seconded. A vote was taken with Commissioner Parson, Haymond, Waldrip, Taylor, and Chair Warburton voting aye. Motion Carried (5-0)

2. Remarks from Planning Commissioners: None

- 3. Planning Director Report:** Director Grover said the first item he wanted to talk about is the training with Brant Bateman. The training is scheduled for May 24, 2016 at the regular meeting; with a couple of Planning Commissioners that would not be in attendance. The concern he has is with all the meetings they have with the General Plan; he didn't want to overwhelm this commission by creating another special meeting. There is a requirement that they have training once a year, and he wondered if they wanted to do it quickly or have it in the fall. He asked if they wanted to do another meeting, with all the late meetings that they are currently having, and how would they like to proceed. Commissioner Parson asked what the training was about. Director Grover replied it was more about the rules and procedures, proper protocol for conducting meetings, dealing with public forum, and conditional use. Mr. Bateman would be coming on the 24th for training with the Board of Adjustment and Western Weber Planning Commission. Staff could easily video that presentation, put on Miradi, and send copies out; or have them come back later in the season to accommodate their schedule. The Planning Commission had a discussion and decided to postpone for another time later in the fall.

Courtlan Erickson, Legal Counsel asked would that be included up in the public meeting training or would that be a separate topic for another time. Director Grover replied be with open public meeting as well. Mr. Erickson said that one of the requirements is annual training and as long as that would be included in that. Director Grover said that they will do both; post it Miradi and give them a copy, and then follow with training.

Director Grover said that the next item is that they almost have draft three of the General Plan ready for the commission to look at. Would they prefer to look at that draft before they send it out for the public to review; or would they prefer to look at it at the actual meeting? Chair Warburton said she would prefer to have it out sooner. Director Grover said that the way it is formatted; it will be highlighted where all their comments were, it will have strikeouts with previous language.

Director Grover said the next item is a map of the village centers. This commission had asked staff to look at all village centers, look at what is the maximum estimated dwelling units in that area, what the current estimated dwelling units, and what is remaining estimated dwelling units for those village centers. Right now they have those village centers identified as Nordic, Wolf Creek, Eden, Old Eden, East Huntsville, Trappers Loop, and Liberty. On the map they highlighted the amount of remaining and estimated dwelling units. Would they want to have this table in the actual General Plan, or would this just be an informational item that they wanted to understand how much density could happen. Commissioner Parson said the discussions they had with Mr. Langford, he was pushing for the table being in there. It would just clarify for the general public, especially for someone who has not been involved with the General Plan, to be able to look at that and have a visual take, with a general understanding of what is the potential and what is actual.

Director Grover said that typically with the General Plan, they don't get into those specifics because that may change down the road, and every time that changes they would need to come back and amend the plan. That could create a little bit of a problem for whoever is developing that area, when they need to go back and do a plan amendment. Chair Warburton said that if they moved forward with this, they wanted to make sure that they were amending ordinances, and make sure that had the correct language in the General Plan. Director Grover replied that was their understanding, and just wanted to make sure this commission understood how much was actually out there, but historically that is not what they do with the General Plan.

Courtlan Erickson said that he agreed with the concept of general, if they were to decide that they wanted it in there that wouldn't be a problem, but have it clearly labeled that this is helping where on such and such date, and this is part of the basis for why the General Plan was developed at this time. Chair Warburton asked the General Plan is like a report, so do these need to be stored somewhere so they can go back, but they don't have any legal bearing. Commissioner Taylor said what will be in there will show what the vision concept. Director Grover said that this map would definitely be in there and identifying the village nodes; if they noticed on the map it has 2015 Zoning on the left side, so that it referenced that to that year, so people knew that the zoning was for that time. This map would definitely be a part of that it would identify the villages. Chair Warburton said one of the reasons why they are looking at the node concept; was to encourage development in those areas, and to leave other spaces as open space. She asked the Planning Commission if they would like this map in the plan. It was decided to leave the map out.

4. **Remarks from Legal Counsel:** Courtlan Erickson said that a couple of months ago they looked at the Rules of Procedure for the commission, and the General Plan has taken more of this commission's time. It makes more sense to wait until they have had their training before they address the rules that currently exist right now.
5. **Adjournment:** The meeting was adjourned at 5:35 p.m.

Respectfully Submitted,

Kary Serrano, Secretary;
Weber County Planning Commission

Minutes of the Ogden Valley Planning Commission Regular meeting July 05, 2016, in the Weber County Commission Chambers, commencing at 5:00 p.m.

Present: Laura Warburton, Chair; Jami Taylor, John Howell, Kevin Parson, Will Haymond, Stephen Waldrip

Absent/Excused: Greg Graves

Staff Present: Rick Grover, Planning Director; Scott Mendoza, Assist Planning Director; Ronda Kippen, Principal Planner; Charlie Ewert, Principal Planner; Ben Hatfield, Planner; Courtlan Erickson, Legal Counsel; Kary Serrano, Secretary,

***Pledge of Allegiance**

***Roll Call:**

Chair Warburton asked if any member had ex parte communications to declare. Commissioner Taylor said she wanted to discuss a potential conflict of interest. She is a resident and member of the Springdale Homeowners Association and they can see in the application that they are mentioned several times. Chair Warburton said anytime there is a question of conflict and the Planning Commissioners will ask some questions and then they will vote to decide whether she should recuse herself or not.

Commissioner Waldrip asked if she had any financial interest in the applicant's proposed development. Commissioner Taylor replied there is no financial interest; they (Homeowners Association) have the right of way access road. Chair Warburton said what they want to know if she personally had any ex parte communication with the applicant or any of the people in the neighborhood. Because this is an administrative application; the applicant has the right to an impartial setting and there has been no conversation taken place that would guarantee him approval or take away his right of approval. Commissioner Taylor replied no she hasn't. Chair Warburton asked do you have any other agreements that you have not talked to other people to make sure that this application does not pass. Commissioner Taylor replied no. Chair Warburton said based on these questions; let's take a vote to see if Commissioner Taylor should stay on.

VOTE: A vote was taken to see if Commissioner Taylor should stay on and hearing the application. Commissioner Parson, Haymond, Waldrip, Taylor, Howell, and Chair Warburton voted aye. Motion Carried (6-0)

1. Administrative Items:

a. New Business:

- 1. CUP 2016-11:** Consideration and action on a request for a conditional use permit to operate a recreational lodge on Lot 6 of the Sanctuary Subdivision, located at 9686 East Maple Ridge Road, within the Forest 40 (F-40) Zones. (Tim Charlwood, Applicant)

Charlie Ewert said this is an application for a recreational lodge submitted by Tim Charlwood. The application is for a piece of property which is Lot 6 of the Sanctuary Subdivision. It is located at the top of the Sanctuary and the general location where the lodge will be placed. Lot 6 is accessed through Greenhills by a Private Right-of-Way that is the last Public Right-of-Way access located by the turn-around where the Private Right-of-Way ends. The applicant asserts that there is a judicative right-of-way that gives him the right to access. It is a private agreement between the Greenhill HOA and the applicant; and is nothing that the county can weigh in for the access. Staff did consider the access and the assertion from the applicant that he does have a right-of-way to the property. What the applicant wants to build is a ten room lodge, with natural setting and the natural vegetation in the area.

Charlie Ewert said that staff did a number of different analyses and in regards to the zoning analysis, they were able to find that a recreational lodge is permitted in the F-40 Zone by conditional use permit. A conditional use permit is an administrative action by the Planning Commission; if it's allowed as a conditional use, the harmful impacts and detrimental effects can be mitigated, the applicant is entitled for approval. As they went through the list of code criteria listed in the staff report; they did their evaluation, they added a number of conditions of approval to this application in order to help mitigate the concerns that staff had in regards to potential detrimental effects, and those conditions of approval are listed in the staff report.

Commissioner Parson asked in that site acclamation do they have the right (Storm Water Pollution Prevention Plan) SWPPP. Is some of material from that area used to build anything, or had they thought about where this was going? Charlie Ewert replied that he didn't know the history regarding what is currently been flattened out in this area; to his understanding that was done during the subdivision improvement, which they would have required to have a SWPPP

done at that time. When they get a building permit; they are required to pull a SWPPP Permit that defined the limit of disturbance, and Identify where the storm water pollution is going to be located. Currently there is not one there and he has been trying to work at getting something approved.

Commissioner Parson asked what the estimated square footage of the facility? Mr. Ewert replied that they didn't have the specific schematic for the building at this time. It could be up to 16 rooms, but they are only asking for 10 rooms.

Commissioner Waldrip said that 7,500 sq. ft. was what was proposed. Mr. Ewert replied on this subdivision plat there is a 7,500 sq. ft. building pad, and he has proposed to put the facility completely inside of the building pad. There is a height requirement of 35 feet and he has not asked for any modification to that height requirement. This is a proposal of this facility and it is not anticipated that it will be more than a single story.

Commissioner Waldrip asked when you say single story main level residence below grade; would that include parking. Charlie Ewert replied this single story would be from the ground level up; and there may be additional spacing.

Commissioner Howell asked if this would be the area where the helicopter would land. Mr. Ewert replied that there is a helicopter pad that is on the same lot, but just a little bit below. This area is the 7,500 sq. ft. in the black rectangle; and this area in the blue would be where the helipad is located.

In response to Commissioner Howell's question; Mr. Ewert said they have not received any complaints from the zoning office and neither has Mr. Charlwood. They saw the aerial three dimensional Imagery of the mountainside; and what he is doing is flying high on the mountainside, and coming down and landing.

Commissioner Taylor asked on Page 3 and Page 4, staff gave a specific recommendation, and she wondered where he got the information. Mr. Ewert replied that 14,001 is a class for gross vehicle weight under Federal Highway Administration. So they set the rating on trucks and they actually use this standard in the home office occupation code, which is a very simple standard to come back to because Mr. Charlwood is trying not to create something that acts or behaves anything different than residence.

Commissioner Taylor asked in regards to the water source on Page 4, she could not find more information and if he could elaborate. Mr. Ewert replied that this is one of the typical parts of the process in getting a building permit. He has to prove that they have water, the water has to be of a particular quality, and the Health Department governs that. What they are doing is putting in a condition, in order to say that they have to be good with the Health Department, to be a legitimate conditional use permit as listed in the conditions of approval.

Commissioner Taylor asked if the Health Department determined the water right. Mr. Ewert replied that is correct and they wouldn't give well approval without adequate demonstration of water rights, water quantity, and water quality before they give well signoff.

Commissioner Waldrip asked if he could provide information about the source protection issue. Mr. Ewert replied in Weber County they have adopted source protection zones. These are not technically zones in the traditional zoning standards; it's an application with strict standards similar to natural hazards zone. In these zones this particular project is in Zone 2; in that zone the traditional leach build is allowed to exist because it's uphill with a catch basin for a well that is downstream. The Health Department said that a packed-bed medium system, which has pretreatment and produces significant cleaner water discharge than a typical septic system does, and is adequate for a Zone 2.

Commissioner Parson said that it wasn't listed but they will require approval from the Fire Department. Mr. Ewert replied in the analysis; he mentioned that there is very specific fire review, and in the exhibits he provided failed to include them in the conditions related to final fire review being that building permit in the conditions of approval. He would recommend adding that in their provision.

Commissioner Waldrip said from staff's perspective, what concerns does staff have regarding the conditions of approval that would create a more palatable use of this type in this area. What issues does staff have that they should consider to make sure they fully examine those specific issues. Mr. Ewert replied as far as this particular use,

he hit all of the points in the staff report. It may be a benefit for the Planning Commission to think about as part of the decision whether or not his particular use of recreational lodge is appropriate in that particular area or an areas like this. They have the F-40 Zone; with 40 acres up there and is that the right place for recreational lodges.

Chair Warburton said to clarify in the simplest form what is a conditional use permit, and what control does this Planning Commission have. Mr. Ewert replied a conditional use permit is the same thing as a permitted use, but they can add condition to it. It's a type of use that is allowed in a zone; it's a land use right to all users of that zone, provided that they can mitigate certain detrimental effects. Those detrimental effects have to be specified by standards in the ordinance. These are identified in the staff report, and as long as these items are identified as standards, and the detrimental effects can be mitigated, there is not a lot of discretion to deny the conditional use permit.

Chair Warburton asked what happens if this Planning Commission says no. Mr. Ewert replied the applicant has the right to appeal. Quite frankly, if they say no without legitimate findings as to why detrimental effects cannot be mitigated; that has to be backed up by science, then the applicant has a very good case and legal counsel could address that.

Commissioner Taylor said she needed clarification beginning on Page 2, regarding access and circulation, could he explain how this agreement is a private agreement and if they could take that into account? Mr. Ewert replied that the applicant is going to try and get the county to make an assertion that they don't have a stake in that agreement. So they shouldn't make a comment on the legality of the access and the HOA. That is for the HOA, for the applicant, and ultimately the attorney's to figure that out.

Commissioner Haymond asked if this equates in density as one point. Mr. Ewert replied yes this is one point, but the ordinance is not clear and it doesn't define a recreational lodge any differently; then it defines an equivalent residential unit so they would say it is the same thing. Through the general planning process, they talked about the possibility of treating uses a little bit differently, and maybe recreational lodge could count as two points in the future. Currently one recreational lodge on a property that has 10 rooms and is essentially a very large residential facility is how they would count as density points.

Commissioner Waldrup said on geology there were two geological studies and an additional report that is forthcoming. What would be the standard for that report, for staff to require further review of the geologic report? Mr. Ewert replied what they would be looking for is the project geologist; write a letter of report that states that this site is safe to build on. That's the standard of review that they defer to the private market. If that report does give them reason for alarm, they would read the report to check the findings, and then the engineers has the discretions to check and address any concerns. In this particular case there was a 2007 Geologic Hazard Report, and in 2010 there was an update to that. He was comfortable knowing that it was in a known study area for geologists to review where the footings and foundations were the same.

Courtlan Erickson, Legal Counsel asked it may be worth discussing with the previous question about the access. If at some point where the county would have to take a look and decide whether the county is comfortable with the owner's access and legal right. Did it already happen and could it happen in the future. Mr. Ewert replied in platting the Sanctuary Subdivision, they had already looked at the access. It is an approved access and the comments from the Fire Chief in regards to the access; any new accesses being cut in can't be any greater than 10%, but he is comfortable grandfathering in whatever the old access standard was.

Courtlan Erickson said in other words from here on; they would not take a look whether the county thinks the owner has a legal right to get up to the property, through an easement or right-of-way. Mr. Ewert replied that is correct they are relying on the owner's assertion that they have a legal right to get to the property. That is actually one of the findings that the owner has asserted that there is a legal right. If they find out that there is not one; this permit would be held as invalid.

Timothy Charlwood, Applicant, who resides in Park City, said that the vision, and they have this in Europe, where they have home, a shed in the middle, and it's a shared home. It is the same rules that he has applied here where they have sort of expanded it; and they are trying to create something that would support the Sanctuary. To understand

the Sanctuary; he has put 89% of the land into a land trust. He has created trails; he has created equestrian areas, and spent a fortune in trying to create what is the most beautiful recreational ranch out there. He believes that the lodge will help to sustain the whole ambiance, feeding, and the service that they need to keep in it in there. To also encourage people to come in and stay and share what they have done. This is very high quality and probably not the same standards in the area and they are trying to raise the bar in quality and spoil people for what they have up there with the stunning views, fantastic trails, and just enjoy the environment. His objective is to keep simple and keep it low key; and trying to keep the balance so they don't overdo the environment and just make it a happy place to stay. There are a couple of issues; one being the geology that has been updated and no changes. The other issue being water rights; and it's been a year and a half getting with the Division of Water Right, over this tax base mound system. It has been signed off as totally none contaminant. It was a very big issue, very expensive, and making sure everything is green. They are making sure to apply geo thermal to the building, and making something that is sustainable and self contained. By putting the trust into the control of the land; it can never be messed up, and the integrity of what he has up there will be sustained forever under that agreement.

Commissioner Parson asked how many acres is in that trust. Mr. Charlwood replied that he has 527 in total, and 466 acres in the Ogden Valley Land Trust. The agreements are enforced by Sanctuary that everybody shares it; the open space is to be shared, no fences, and the habitant remains as it should be.

Commissioner Parson said he has built a lot of things; there is 416 cubic yards of concrete, so that is 46 trucks that each hauls 9 cubic yards of concrete. So his question what does he plan to do to remediate the damage that he is building up there, and what is he going to do with the roads. Mr. Charlwood replied there is an agreement that is very clear and specified. There is insurance for any building that goes up in the subdivision. There have been six new buildings in the last couple of years that have gone off the subdivision envelope, so the roads are that each owner that causes any damage has to put it right. The roads are in disrepair but they are looking at renewing them and there is a bond for that. When they did this subdivision; they went back repaired any damages that was done, it has been monitored, recorded, and that is part of taking responsibility as it should be.

Commissioner Waldrip said they need to talk about the flight path that he had indicated over 100 helicopter flights in and out of that helipad. Mr. Charlwood replied when he talks about the pilots coming in through the back; they come at high speeds from behind at 9,000 feet. It's root from behind and they go over the bluff in the back and then out.

Commissioner Waldrip asked if that was something that could be written into a contractual form with the County or with the HOA and if he felt comfortable entering into an agreement that this is the flight path. Mr. Charlwood replied that if there were complaints then it would be justified but he had not received any.

Open for Public Comment.

David Cram, 8916 Pineview Drive, Member of Greenhills HOA, said he would like to present the commission with a current petition with 84 signatures with members and homeowners that are opposing the conditional use permit. He also has some questions and concerns; that the permit request does meet requirements and does not benefit the majority of the citizens and taxpayers of Weber County. Nor take into consideration of the following; all requirements 2016 Ogden Valley General Plan, the Greenhills Water and Sewer District, and the Well Head Protection Plan for the Maple Canyon Well approved by the State of Utah. The county approved Sanctuary Subdivision requirements for constructing only 13 residential sites on F-40 Lots within the subdivision. The 2003 Second Judicial District Court for Weber County Judgment, known at the NAS Agreement between Greenhills HOA and former Sanctuary landowners. The adequate water and sewer facilities may not exist or are limited to provide the necessary water for fire protection and dwelling operation within the Sanctuary Subdivision. A 10-16 room recreational lodge is not a single family dwelling. It is a commercial business operation not permitted by the county approved requirements with the Sanctuary Subdivision; nor the NAS Agreement Judgment between Greenhill's HOA and Mr. Charlwood, who is the current owner of the property. With the petition presented with overwhelming opposition from the majority of Greenhills HOA residents and taxpayers; he proposed that this conditional use permit be tabled.

Commissioner Waldrip said the issue that Mr. Cram has of the NAS Agreement; and he understands the issues that surround that, but this commission cannot consider that as they are legally barred.

David Cram asked how a Second District Court could a judgment that can't be recognized. Courtlan Erickson, County Attorney replied it was a private agreement with the parties of the Greenhills HOA officers and the property owners at that time; it was recognized by the court as a resolution to a lawsuit that was going on at that time. It was not anything that bound the county; the county was not a party to that lawsuit. He agreed with Commissioner Waldrip, and that would not be something the county would rely on for not taking action.

Commissioner Parson said that was approved in the F-40 single family dwellings; but the current F-40 Zone does allow for what he applied for in the conditional use permit, that is why they put conditions on it, but it's a conditional use that allows up to 16. It wasn't in the original zone because it wasn't an idea back then and he was just trying to explain the reality of the F-40 Zone.

David Cram said that he didn't think that they should be giving the applicant anymore things that are outside of fairness. Chair Warburton replied he has property, the county has already said outside of his property they are not going to do spot zoning. Mr. Charlwood has walked the line and does exactly what he is supposed to do, he applied like he is required to do, have met all the requirements of what is required, and he is within the law. The 2016 General Plan has not been adopted yet so it's not law.

Commissioner Waldrip said the recourse in this action is to enforce the HOA which was a party to this settlement that is outside of this process completely. This commission is legally barred from considering that settlement in this application and they are not allowed to. That is the struggle that this commission has because they can read it, understand it, and see it; but by law they are prohibited from considering. Mr. Erickson said that he would recommend making it clear that this Planning Commission are not stating or implying that they believe that there is any violation of the private agreement.

Ron Gleason, 252 N 8750 E in Huntsville, said that in previous times he addressed this commission regarding the Sanctuary. As a previous resident of Greenhills and a previous member of Greenhills Water and Sewer Improvement District, he is here representing himself. For complete disclosure when he was a member of the water district; he did oversee a project for Mr. Charlwood that involved moving some waterlines. That was a project that was done correctly, on time, and was done professionally. There was mention of the 90,000 gallon water tank which would be needed for fire and other activities there. There was no indication of the site plan where that particular structure would be. He would like to know where it will be located, how is it going to be put there, and how is it going to be shielded. Is that tank going to be used for other lots for firefighting purposes or is it just for this specific lodge. As for the waste water system where will it be located and will it be used for the other lots. That particular well that is mentioned, has a throughput of 20 feet of 20 gallons per minute. This was done after the 1-1/2 horsepower pump was put in of approximately 140 feet below the surface. He would encourage this Planning Commissioner to go to the state and see if this one acre foot is enough for a facility of this size, throughput the number of people, and is a well which is currently producing 20 feet per minute to fill a 90,000 gallon tank, and that about 75 hours of pumping, able to deal with the activities that are being proposed for this facility. He suggested that the applicant to submit a lighting plan with the number of lumens, the amount of light being used, and reduce the glare with the number and type of windows that he will use.

Commissioner Waldrip asked you mentioned about the ridgeline sensitivity that was in his report. Mr. Gleason replied that Mr. Ewert called out the fact that what appeared to be on the ridgeline is not, and the closest view corridors are within two miles. But this is beyond the Sensitive Land Ordinance; this is the structure at the highest land elevation.

Zane Froerer, Representing Greenhills HOA, said his clients concern has to do with one thing and that's access. He is going to take some issues with the conclusion that have been drawn. He believed that this board's job is to look at whether or not the agreement provides access. He is going through the staff report to demonstrate this:

- Summary and Background:
 - Standards relating to Infrastructure, amenities, and services, including public Infrastructure and utility capacity: One of the considerations is there adequate infrastructure to support and conditional use permit for a Lodge. Inevitably that staff recognized one of those issues that had to be addressed was access and circulation. Under the county code in addressing circulation, specifically when reviewing a conditional use permit is often required that the commission consider that additional points of egress and ingress are required. That directs them to how is access being made and staff concludes the site is access to the Greenhills Subdivision along Maple Drive. That is a conclusion that is drawn from one of two sources which ultimately becomes one source.

- The first is that is what the agreement states; the agreement states that there is access through the Greenhill Subdivision. The second one is that the applicant has asserted this. The applicant's assertion is based one thing, his interpretation of the agreement.
- What staff has done in making the recommendation, rather than avoid drawing an opinion, they have done the exact same thing that the County Attorney, the Planning Commission, and staff have drawn an opinion about what the agreement means. If they want to stay true to not drawing an opinion on what the agreement says; they cannot draw the conclusion that the site is through Greenhills Subdivision. They have to rely upon the agreement and an interpretation of the agreement. If staff and the commission are going to get into what does the agreement mean; by concluding that the agreement gives them access, the staff and the commission better review the agreement. They better take the position on whether the agreement allows access.
 - After concluding that the agreement grants access because that's what this says that there is access through Greenhills. Staff says not to consider the agreement. If they are not going to take a position on the agreement, they cannot conclude that they have access. So the commission cannot draw any conclusion with respect to whether there is adequate ingress or egress for this building.
 - What the commission is reviewing right now is very narrow. There will be applications for building permits and land use permits; and all of that is going to happen. What he is trying to focus on right now are the mitigation issues. If they are going to the job of looking at how to mitigate things as per county code; they have to look at the scope of the agreement, and say does this agreement allow for the access that is necessary for a Recreational Lodge.
 - In their report, the staff does ask this commission to consider what one private agreement would say. That is respect to water rights. They make the approval of the conditional use permit on determining whether or not Sanctuary has water rights. Water Rights are done through private agreement; what happens they get water rights, they buy it, they share it, and apply for an agreement. It is also done through the State Engineer Office. If they are applying through the State Engineer Office, then they can get water rights there. If they are buying water shares, and they are going to do an exchange, those are private agreements that define the scope of water shares and water rights.
 - **Staff Recommendation:**
 - Findings: Rather than put this in recommendations, they put this in findings, and he thinks that this belongs in recommendations. 4. That the applicant asserts the private legal access exists from the public right-of-way to the site. Approval is contingent on legal access to the site.
 - He believes that if the commission is going to give approval; it should be conditioned or revocable that at some point, the applicant has to show that he has legal access to this lodge. The scope of that legal access is adequate and fits the lodge.
 - An example as to why this is important. Asserting that there is access, an agreement that there is access, without reviewing the scope of that agreement. Consider if it was horse access, the only access is by horse, it's a horse trail. If that's the access they are talking about, they are only going to know what that scope is if they review the agreement. Or if they ask the applicant to come back; demonstrate to them that this is an actual legal driving access.
 - They don't have a horse access here; they have whatever the agreement says. It's a court document, a settlement between the parties.
 - The commission at this point may not have to entertain defining what it says. What they should do, is ask the applicant to do more than assert that he has access. He needs to demonstrate as staff has recommended; demonstrate as he does with water rights, that he does have legal access that can be used for a 10 to 16 room Recreational Lodge.

Zane Froerer said that If the commission is going to take the position that there is access, they are implying they read the agreement, and they are interpreting the agreement. He cautions this commission on taking any position at this time if they are going to hold to the principal that they can't consider it at all.

Commissioner Howell said that the applicant has verified that he does have legal access and can prove it. Zane Froerer replied he is wrong; he has access for a single family dwelling. In their own ordinance, a single family dwelling is a single unit for a residential purpose. What he is asking for is a 10 to 16 room lodge. In the agreement says that his development is limited to 13 single family residents. All that they want is for the applicant to verify that he has the access that he testified here. He doesn't represent everybody from Greenhills, he represents the association. The position that his client is taking may be different; his client understand that the applicant has rights. What they are asking is in considering how to change as they exist now, the applicant has a plat for 13 single residences, and he is asking this commission to change that.

Commissioner Parson said no, he is not, it is a condition. It is what is legally within his right to do on an F-40 piece of property. Mr. Froerer replied if he already has that right, why are they here. It is a right if he can obtain that he meets the condition. The conditions that they are asking is to verify that if he is going to put this large lodge up there; that he will be able to get the access that he says he has. They are just asking to work with them.

Commissioner Waldrip asked legal counsel that one of the assertions that Mr. Froerer has raised is the difference between recommendations and findings in the staff report; which in this instance becomes a critical distinction. In making a recommendation versus a finding on whether or not the applicant has access, is in that burden back on county staff to verify that these conditions are met. Mr. Erickson replied that the distinction that he is asking about is between a condition and a finding. So the conditions in this type of situation need to be tied to the standards in the ordinances. There are different stages of the whole property development process, and the stage that they are right now, is the conditional use permit. They need to look at the ordinances; what the standards are, what conditions

need to be mitigated, and what conditions they want in there. Anything in there that relates to access, it would be appropriate to put a condition on the approval of this application. That states to the extent that access affects any of those standards that are in the ordinance; that needs to be established.

Zane Froerer said when he saw that there was a finding and not a recommendation; he thought the people in the neighborhood that he represents may not like a lot of things about this. His focus was what things they could ask this commission to verify, prove, and digest to make sure that the process is moving forward in an orderly form.

Toni Ure, 838 N Maple Drive, said when they asked the question about the construction truck going up and fixing the road, she wasn't clear on the answer that was provided. She didn't understand whether he was talking about the road damage to his property or all the way through Greenhill. Chair Warburton replied all the way through Greenhill. He made a verbal commitment; stated that in past experiences where he has spoken with the chair of the HOA, and has already demonstrated that he has done this, and has every intention to do this.

Toni Ure said that Mr. Charlwood mentioned that he had access. They haven't been granted access to go through a public grounds or anything like that, through the Sanctuary. She asked if they could clarify that and if that was a condition that they are allowed access to the public. She understands the no hunting, but the hiking, riding a horse up there, no motorized vehicles, and that kind of thing. Chair Warburton replied that is still private property and any access that he grants them he does it out of the kindness of his heart.

Courtlan Erickson said that under the conditional use standards; there are standards relating to infrastructure amenities and services, including mitigate material degradation of the level of service of any street, and to potentially mitigate any damage to a road. Commissioner Waldrup asked Is the road that is defined a public road or a private right-of-way. Mr. Erickson replied it states any street.

Teri Allen, 1211 North Maple, said when they talked about the water, and the leech fields, and the placement of the wells; he was wondering the exact location of his well. Is his well going to be in a higher elevation than his leech field? As they all know water is going to flow downhill and even sub-terrain annually. He is concerned about the Maple Well that has been referenced that is between his house and the Sanctuary. Any entrance to the Sanctuary has to go down 9000 East which is a county road part way to the entrance of Greenhills. When they talk about access to the Sanctuary; it's about a 1/3 of the mile off of 39 before the Home Owners Association takes over the Greenhills. He would like to see in the conditional use permit that monitors and measures because the county will require that road to be fixed if there has been any damaged. It would be a nice reference point that the subdivision take in this also. In reference to a comment about access to the Sanctuary; he rode his horse up there two weeks ago, the entrances are blocked off. He thinks everything needs to be above board with what they are looking at, and he claims that they have access and they don't, so what else is he telling this commission and not be true.

Commissioner Howell said in reference to the well and where it is located; the state makes that recommendation and the health department determines where the well is being placed.

Miranda Menzies, 3807 N Elkridge Trail, Eden said that she supports Ron Gleason's comments about light. The two things that will affect the whole valley are light and noise. Request that the commission consider putting restrictions in terms of the conditional use process; on night lighting and even though they have that downward facing light, that doesn't necessarily work if the rest of the valley is below. She would request that the lights be directed downwards towards the property, that the conditions be established with the number of lumens crossing the property line at the boundaries of the lot so that the light stays contained inwards on the property towards the facility. There is a lot of wildlife out there and the adverse lighting affects the wildlife; that there is a condition in place that when the facility is not in use that the lights be turned off be placed on security motion sensor. On the noise, she would request that there be some of barrier to noise, and glass is not always a barrier to sound, so be very considerate of neighbors and the valley as a whole. If they could request quiet times and the windows be closed in the event of night time party.

Closed for Public Comments

Tim Charlwood said the one consideration under the recreational use, they have been through the whole process with the helicopter permit, it was granted for access for ten flights a day, ten operations a day, access of vehicles have all

been approved, and there have been never been any complaints. In its own way it creates a precedence of proof of access that have been in place for years; aside of the mass agreement they have supplemented it with actual recreational use. Under this agreement it's very clear that they will not oppose any development under the F-40 Zone for use or density and it says no more than 13 dwellings. They are just complying with what was written in that agreement which they willingly signed back in 2004. Ron Gleason mentioned about water tank and they be putting this tank underground, and it will be into the underground carport, and will not be visible at all, and that is part of the Fire Chief's requirement and they will comply. There was mention about the 20 gallons per minute, but a single family home is actually committed to 1-1/2 gallons per minute, so they do have plenty of water there from the well permits. They don't have any issues over the lighting; he didn't believe they could be seen from Greenhills at all. Because of the ridgeline they have an 800 foot rock face behind them; he is only doing one floor above ground, so it's not a high rise and it's meant to be tasteful. The nearest line of site would be from the Pineview Reservoir and not from anybody within the residential areas. As for the noise, they are 9-1/2 miles from the nearest people. There has talk about access and he has created a trail between Greenhills and Sanctuary which is a 5-1/2 mile non-motorized trail that he built for everyone to use. That is the common access and he has allowed some people, and he has an understanding that if they ask, and are polite, he would give them permission. He has had major issues with people causing damage that he has had to deal with that. There was question about the septic systems; the Wisconsin Pack Bed Medium Mound System is actually a mound concept and that's how it all works. It actually ends up through UV and comes out virtually purified water. That is why the Division of Water Rights says that it resists contamination; and they even allow that to be 50 feet from a well, and the septic mound is on the surface and that's part of the health department.

Commissioner Parson said there was one question that he didn't address, and that was the helicopter landing below the structure and the sound echo effect. Mr Charlwood replied it's a mile and a half down to the nearest properties that is outside of their property. The topography is that they have hills and covers that they can't hear a helicopter.

Commissioner Waldrip asked there is an existing conditional use approved for helicopters and this could potentially cause a change in condition; and if the construction of a building affects that sound activity where it does become an issue. Is that something they can consider with this application on an impact on a previous approved use? Mr. Erickson replied that would depend upon the language of the previous conditional use permit that was granted; but certainly if there is something that is a change to the circumstance that impacts the previous conditional use permit. Where it talks about daytime uses related to the lodge, they could potentially change that or clarify make a condition that could lead to the review of the helicopter noise reflecting off the lodge.

Chair Warburton said that Ms. Menzies had talked about the glooming lanterns and can they turn off the lights at night. If they have the sound down at 10:00 p.m. could they turn off the lights? Mr. Charlwood replied that he thinks that in the architects designing of a building like this, have been dealing with homes in Park City, and they are very sensitive to issues like that.

Commissioner Warburton asked If they have special windows and special window coverings that would mitigate that. Even if he doesn't have coverings on the windows, there are films that go on the windows that would mitigate light. Mr. Charlwood replied that these windows have triple glaze with UV filters inside really to stop the light getting in and making it hot and keeping the ambience just right.

Commissioner Waldrip asked the issue that Ms. Menzies was talking about in the night time conditions when people are driving in when the lodge is visible from other areas of the valley; is there some condition where he could put in interior window coverings when they do have their lights at night because they are going to have to be on at night? Mr. Charlwood replied they are going to be automatic; there will be internal blinds that are in the plan as part of the design. As for the traffic being able to see, he is surrounded by large trees, and to have underground parking which they are planning on that and he is sensitive to what they are talking about.

Commissioner Waldrip asked for clarification on the ridgeline sensitive lands overlay zone and how this impacts that particular zone; could staff explain specifically how that ordinance is currently written and how that is to be interpreted in this circumstance? Mr. Ewert replied that the ordinance goes with the map; what was done in the past when the ordinance was created, it was determined that there needed to be a buffer along scenic view corridors near

the roadways. There are civic roadways that surround the lake and run through the valley. If they could view the ridge from that view corridor, that is protected by the ridge and they could not build on it. This particular property the closest scenic corridor that could be seen from the property where the house is going to be built is about three miles away so it is outside of that corridor.

Commissioner Taylor said in reference to what Mr. Froerer addressed that they approve this CUP subject to a demonstration that the agreement is verified upon the findings. Mr. Ewert replied on making a determination of whether or not that access exists and is legal. It's clear from the applicant's position and from the HOA's position; that there may be conflicts there. To convert that to a condition of approval; what they would say that provided that legal access does exist, he has a conditional use permit and they could go figure out whether or not legal access exists. If it turns out that he doesn't have access through judication or some other issue where it have been determined that it doesn't exist, then the CUP is invalid.

Commissioner Waldrip said that aren't they taking the position that legal access does exist at this point or the opinion of staff is that access does exist at this point. Mr. Ewert replied that idea is rooted in the supposition that they are by approving a permit, overruling or overriding other agreements, and they are not. Access is being provided by the applicant to the site, and staff is just taking it at his word without taking a position on whether or not.

Chair Warburton said if they approve it with the current language in the report, would that give him any legal standing. Mr. Erickson replied in the event there was a lawsuit or some other dispute between the parties; that decision based on a determination for their purposes was sufficient here would have a bearing there. He would defer to the parties; if they have a concern with the Planning Commission taking any action in that regard.

Chair Warburton asked if he doesn't have access, how does he drive up to his property. Mr. Ewert replied that he has legal access for a residential building.

Courtland Erickson said so at this point they are looking at a conditional use permit and if there are any conditions there; for instance the safety issue or a fire access issue, they would take a look and see if there is any concern there. They have some evidence that there is access, and staff has made the determination that there is access sufficient for the conditional use permit. If it turns out in the future that it is not true; because of litigation or some other evidence that is brought to staff or the Planning Commission, then they can take a look and determine whether or not the conditional use permit is still valid.

Commissioner Howell said when they approved the conditional use permit, access was not the problem, and it was the operation of the helicopter and the level of the noise.

Commissioner Waldrip said it seemed to him that in accepting this application; that they are making a presumption that access for this type of use currently exists. Is that presumption reasonable; what is the county standard for that determination. Have they met that standard, does that need to be a condition that they impose that staff meets that level or that standard of review so that they don't get held responsible down the road for one way or the other? What is that standard that staff and/or commission needs meet and have they met that standard or is it more appropriate to state that standard; or state that there is a standard that needs to be met prior to final approval. Put that as a condition rather than the presumption with see if it changes in the future then they go backwards. Mr. Ewert said going back to the private nature of the agreement; and attempting not to take a position on whether access exists. If access is determined to not exist through the Greenhills Subdivision along the subject road; the applicant is able to provide alternative access, that meets all county standards and fire standards, the permit would still be valid. He didn't know that it had to be specific to the particular agreement being determined valid at this time.

Commissioner Waldrip said the question is what is the standard of their review; and acceptance of somebody's assertion. Do they have no standard and if somebody comes in and states they have access and clearly they are not in the right faculties, do they simply accept that or do they have a duty to investigate that. He understand completely that is incumbent on them to understand by default by approving and default by accepting, but is that our standard. Mr. Ewert replied that as far as the review went, and as far as the threshold that the standard of verification, there is a platted subdivision with existing roads going to the site.

Chair Warburton said that she was concerned; because the more they talk about this the more clear it becomes that he has access; and if wanted to have 16 of his friends to have a picnic up there, that wouldn't be an issue. The issue here is that they don't want that built up there; so they are hanging this on access, and they found a loophole. She wants this commission to be very careful to be pulled into an HOA debate. It's clear that he does have access, and if they decide as a commission to put a condition that he has to prove it, then what they are doing is forcing him into an arbitration of some sort, then he cannot move on his property until that settles. Lawsuits can be continually stalled until the money runs out. So if they want to be lawyers, they need to think about what they are doing. Mr. Erickson said for this commission on whatever decision they reach; make sure there is substantial evidence in the record to support your decision. Staff has presented with its facts, its findings, and that it recommends conditions for approval.

Chair Warburton said that they have to make a decision based on the information before us. They do not have access to that information that was the previous findings. Mr. Erickson replied if they base their decision on substantial evidence in the record, it's more likely to be upheld if it's challenged. They do have two different viewpoints that have been presented; they take a look at all the facts as they know them with respect to this question, to the extent that it relates to the conditional use permit Apply those to the conditional use permit application, and whatever conditions they impose, and whatever finding they make.

Director Grover said when they look at subdividing land, they clearly look at the access whether that access or not, and they also look at what the uses are allowed in the zone. In this situation they have a private agreement and that's typically between those two to resolve those things. The access is always looked at when they deal with subdivision, and they do have standards in place at subdivision level for access requirements. Whether it is a standard access, a flag lot, access exception, and they have those standards in place that they look at and that is typically done at subdivision level.

Commissioner Waldrip said for clarification to their findings in this circumstance; it would have to be specific to the fact that the subdivision was created, access was determined to have existed at that time the subdivision was created, and that would be the standard that staff relied on to come up with this recommendation. Director Grover replied that when they look at Condition 11 it states, *"The proposal shall maintain compliance with all other local state and federal laws."* When they look at local laws they would be looking at; are there any violations of anything that happened at the subdivision level. With that and the findings of four, he would think they are within their purview to meet the requirements for access and those kinds of issues.

MOTION: Commissioner Howell said in reviewing the staff report; this petition meets the criteria of this conditional use permit, he moves to approval CUP 2016-11 located at 9686 East Maple Ridge Road, Lot Area 40.29 Acres, in the Forest (F-40) Zone which this type of building is permitted. This is subject to all the conditions and recommendations listed in the staff report, to include all county and state agency requirements. Commissioner Parson seconded.

FRIENDLY AMENDMENT: Commissioner Waldrip said he would agree with Commissioner Howell proposed; and add a friendly amendment to add all street repairs to private and public roads, following any construction be required as a condition of approval. That final approval from the Fire Department of all fire regulation requirements is required. That access through the Private Right-of-Way is a condition to access to the petitioner to his property for this specific use through Maple Drive as a condition of approval. That lighting whether it's from external or internal lighting; and they are shielded, downward, and inward lighting. Commissioner Howell accepted the friendly amendment.

FRIENDLY AMENDMENT: Commissioner Taylor she would like to add a friendly amendment that daytime noises were unreasonable, that the noise could be mitigated. Commissioner Howell accepted the friendly amendment.

DISCUSSION: There was a discussion between the Planning Commissioners, staff, and legal counsel in reference to right of access and private agreement. There were concerns with lighting such as; down and inward lighting, light crossing property line, shielded lighting, downward lighting, and inward facing lighting. Other concerns with noise pollution, noise control, traffic noise, construction noise, helicopter noise, and decibel readings. There were concerns with mitigation of noise, traffic noise and decibel reading, noise pollution, construction of the lodge.

VOTE: A vote was taken with Commissioner Parson, Haymond, Waldrip, Taylor, Howell, and Chair Warburton voting aye. Motion Carried (6-0).

2. CUP 2016-13: Amendment to the Summit at Powder Mountain Phase 1 PRUD to include a 27 unit development identified as the Horizon Neighborhood at Powder Mountain PRUD and amend the future conceptual design from a 5 unit development with a lodge to a 12 unit development with a lodge on Lot 76 identified as Spring Park at Powder Mountain PRUD. (Summit Mountain Holding Group LLC, Applicant)

Ronda Kippen said the application that they are looking at is the amendment to the Summit at Powder Mountain Phase 1 PRUD. Basically what they are doing is amending the overall PRUD that took up 594.23 acres and they are shrinking it down to 14 acres in 4 different areas in the Summit development. They will be amending the previous approvals for Lot 76 which did allow initially a lodge and 5 nest units. They will be adding PRUD areas which are called the Horizon Neighborhood PRUD; including the existing platted Summit Eden Ridge Nest PRUD and the Village Nest at Powder Mountain. Out of these development areas they will end up having a total of 73 Nests Units, and 2 Lodges. The Summit Ridge Nests has 15 Units over 3.14 acres; and they have 2.64 acres allocated as open space, which is approximately 86% PRUD area for the Ridge Nests. The Village Nest is a condo plat that has 20 Units in the development and is 1.3 acres in size; and has 1.04 acres identified as open space which is 5%. Spring Park at Powder Mountain was initially approved as 1 Lodge and 5 Nest Units; after the fact, they came in and removed 5 Nest Units. They would like to increase it from 5 Nest Units to 12 Nest Units; and is more of a Boutique Hotel type of development on Lot 76, with the 12 Nest Units outside of the conference area. The Horizon Neighborhood at Powder Mountain will consist of 26 Nest Units, over 5.43 acres and it will have approximately 83% open space.

Ronda Kippen said that she does have a couple of things on the display that shows the new overall areas: the Ridge Nest, the Village Nest, and Spring Park. Horizon is an existing four lots that they have done a plat amendment to bring the three development parcels; so they could move forward with a PRUD for Horizon Neighborhood. Spring Park conceptual plan layout is on Page 10 of the staff report; and this is where the lodge would be with 12 development units. She received one comment from a resident that owns Lot 41; and after talking with the applicant there is a 100 foot lower elevation; and as far as his views they should be protected and wouldn't see the nest units below. The conceptual plan for Horizon Neighborhood will have the lodge on one development parcel that will not be part of the PRUD. They will have the Nest Units with shared garages on the other two development parcels. The Horizon Neighborhood is kind of a unique design, on Page 12 of the staff report, and is more of a nest to come and enjoy the weekend of skiing. There will get more details on the Horizon and the Spring Park PRUD upon subdivision level. They will be asking for landscaping design, irrigation design, architectural detailed design as far as type of material board and things like that. The primary reason that they are doing this is because there were some discrepancies between the PRUD that was approved in 2013; and the developer's ongoing plan under the Zoning Development Agreement, which was recently amended and allowed them for some flexibility that the PRUD already offered.

Ronda Kippen said now that they have these text amendments made; the one thing that the PRUD will continue to offer the nests developments is not having to have frontage for every single unit on the parcel. They can still do the nest developments either by a PRUD or condo plat, depending on which way they would like to go. They didn't want to make the Ridge Nest or Village Nests noncompliance; they had initially discussed completely abandoning the PRUD, but they wanted to make sure they were still legal. The applicant wanted to move forward with these two other areas within the development. Staff recommends approval of the Summit Powder Mountain Phase 1 PRUD; amending the previously approval for Lot 76, and adding Horizon Neighborhood the amendment PRUD, that will reduce the overall PRUD area to the Summit Eden Ridge Nests PRUD Village Nests at Powder Mountain, Verizon Neighborhood at Powder Mountain, and Spring Park at Powder Mountain. This will take the overall area from 594.23 acres, and 154 units down to 14 acres and 73 units. Staff they will know which document is the governing document; whether it is the master plan, or if it is the PRUD, when they go in and enforce the subdivisions and architectural designs of development up at Powder Mountain.

MOTION: Commissioner Howell moved to approve the amendment to the Summit at Powder Mountain Phase 1 PRUD amending a previously approved of Lot 76 identified as the Horizon Neighborhood CUP 2016-13, of 14 acres, 73 nest units, Ogden Valley Destination Recreation Resort (DRR-1) Zone subject to all the conditions that are recommended and listed in the staff report, and all county and state agency requirements. Commissioner Waldrip seconded.

DISCUSSION: Commissioner Haymond said for clarification, they are not approving any more density, they are not approving any more lots, they are just moving from one area to another. Ms. Kippen replied basically they are not increasing density past what were already approved per Zoning Development Agreement. The PRUD went in prior to them asking for rezone and the PRUD just allocated the 154 units; they have since then gone in and negotiated approximately 2500 units. So this is not going to be 2573 units and this just included in that 2500 units. So when a plat amendment would come in, she would be reviewing it against the PRUD and the Zoning Development Agreement. There were a couple of times it met the Zoning Development Agreement, but it didn't meet the PRUD. So which is the governing body and which does she make sure that she holds them to; so they changed the text to identify these other things and they are just keeping the PRUD in the areas where the PRUD is relevant. Leaving the rest of it to be managed by the code and the development agreement.

VOTE: A vote was taken with Commissioner Parson, Haymond, Waldrup, Taylor, Howell, and Chair Warburton voting aye. Motion Carried (6-0).

3. **CUP 2016-12:** Consideration and action on a request for a conditional use permit for The Bridges at Wolf Creek Resort PRUD located within the approved Wolf Creek Resort Master Development. The application includes the request to run concurrently for preliminary subdivision approval of The Bridges at Wolf Creek Resort, PRUD in the Forest Residential (FR-3) and Residential Estate (RE-15) Zone. (WCU LLC and Bridges Holding Company LLC, Applicants; Eric Householder, Agent)

Ronda Kippen said this is a request for a conditional use permit for the Bridges at Wolf Creek Resort PRUD located within the approved Wolf Creek Resort Master Development. That application includes a request to run concurrently with preliminary subdivision approval of the Bridges at Wolf Creek Resort PRUD. This is located in two different zones with the overall 262.81 acres located primarily in the RE-15 Zone; and the minor amount located in the FR-3 Zone. The Wolf Creek Development Agreement allocated 413 Units to the RE-15 Zone; 73 Units to the FR-3 Zone and that gave them the overall entitlement of 486 Units. The applicant is only coming forward with 364 Units for this overall development. Wolf Creek Water and Sewer District will provide their culinary, irrigation, and waste water. They are proposing to have approximately 143 acres of open space, which is approximately 54.5% open space. During their discussion they hit on a couple of key factors: One of the issues was an alternative access, an alternative egress and ingress; and it was indicated that the strongest area was to run off Road M, linking into the future 4100 North Fairways Drive. Currently they have a road here that is roughed in and it runs along this area; and what this would do is provide another access out that is not going through all of this development area. It could easily drop down in this area and hit 4100 North; and head straight out toward the North Ogden Divide.

Ronda Kippen said that the applicant is proposing to have quite a bit of open space in community areas. There is going to be a homestead area, a homestead barn, and two neighborhood parks. One is going to be the Parkside Park and the other one is going to be the Grove Park. There is going to be residential development, as well as two areas identified as cabin development; that is the Grove Cabins and the Homestead Cabins. Those will facilitate the options of either a one or two bedroom depending on what the property owner would like to move forward with. Over by the Homestead Club and Barn there is going to be a Community Lake; they are going through the process with the state to receive dam approval for that lake. That lake would provide some recreation water amenities for the community, as well as secondary water source for Wolf Creek Irrigation Company. They will have an overall of seven communities in this development. The Parkside Community will include 72 Units, and will be developed in three different phases. The Mountainside Community will include 112 Units, and will be developed in four phases. The Homestead Community will include 51 Units, and will be developed in three phases. The North Fork Community will include 44 Units, and will be developed in two phases. The Hillside Community will include 41 Units, and will be developed in one single phase. The Grove Cabins will include 40 cabin sites, and the Homestead Cabins will include 11 cabin sites, and they will be developed in two separate phases. The common area does include a lot of the area that has been identified in the Ogden Valley Sensitive Lands Overlay as an Important Wildlife Habitat. There are some residential developments in this area; however, what they do in these areas where in with the wildlife, they try to maintain their migration path so it's not disrupting those things.

Ronda Kippen said that as part of each building permit, they will include something in there as far as their landscaping and the fencing so it's not blocking any migration path. When they actually hone down on each individual subdivision; they will be looking at how the open space is going to be dedicated. Whether it's going to be dedicated to parks, to the

HOA, to the County and exactly what they are going to do. If there is going to be an HOA ownership in one of these community areas; they will provide us with CC&R's. They will have their legal counsel look over those to make sure that there is proper maintenance plan and preservation plan. The plan is to keep as much of the native vegetation there; to protect and preserve their hillside. The applicant has gone through an extensive geologic reconnaissance study and are just winding that last bit up. They want to make sure that conditions of approval will be on each individual plat; identifying restrictions that may be due to slopes or other geological elements, and outlining how they would be addressed. With this large of a development; it's kind of hard to get an overall landscaping and irrigation plan, so plan to look at that on an individual phase. Right now the only sign that they have proposed is the entrance to the Bridges, and it is tastefully done and there is a sample in the packet. They have received approvals from the Surveyors, Engineering, and Weber Fire District, based on conditions that they have to meet during the subdivision process; and all of these requirements come in during the final subdivision. As a summary of their consideration; architectural design, buildings in relationship to the site, which streets will be made public and which will be made private, landscaping and screening. Staff recommends approval of the request based on the conditions and the findings in the staff report.

Commissioner Haymond asked so this whole project, with all phases combined refers to as the Bridges, and 51% is for open space. Ms. Kippen replied yes, all seven communities. The Homestead, barn, club, and Community Lake will be in this area. There is actually 54.5% for open space.

Commissioner Waldrip said as previously discussed, there is a huge accommodation for voluntary in access of 25% reduction; of in hand units to actual platted units, and that is a significant reduction. Ms. Kippen replied this is a big deal, for both this Bridges and Summit. This one was 95% and the other one was 87%. She received one comment on Summit and had not received anything for this one. They do neighborhood reach out, they get involved with the community, and they have already met with the residence to go over this plan with them.

Eric Householder, representing Wolf Creek, said he wanted to clarify in reference to the road coming out. They are happy to bring that stub out of this community, but there is an out parcel underneath between them and Fairways Drive. They could stub it out to the property line, but their intention was to go through and make that connection.

Commissioner Haymond said so they could stub a road out to the south but they can't connect with anything; and what are the plans for that road on 4100. Mr. Householder replied that it would go out through an out parcel that they don't control; and it's not a parcel that is even part of Eagles Ridge it's a privately owned deed. They previously talked about this; and are working with the county to come up with the design. They are waiting to hear back about the standards, the right-of-way width, curb and gutter, storm drains, and they have some feedback now so they are putting a package together and present it to the county. They have some feedback from the community and people want that access through there.

Commissioner Waldrip asked if there was any other path to get to 4100 in a reasonable way, or is it possible to get this other land that they could come around from where that cal-de-sac is on that hillside portion. Mr. Householder replied they have the main entrance that connects there and the other access goes through the Reserve and comes down that way. Ms. Kippen pointed out that even before they decided to put in those stubs that it would tough and depended on grades.

Commissioner Waldrip said that he didn't know if he would recommend to the commission with stub roads that lead to nowhere. He would prefer to have something that is planned and available; and some kind of a condition at the point where it makes sense that it can be connected. He doesn't want to have another Reserve that stubs to nowhere and never will. Mr. Householder replied that was what they heard last week, and if that is the direction they want to go, and they want to eliminate it.

Miranda Menzies, resident Wolf Creek, President of Highlands HOA, and serves as Master HOA, said because she hasn't met as a board to discuss this, she is only representing herself as a resident. She would like to commend John for having had multiple meetings that staff referred to, concerning the Bridges, and that includes those people they entrusted to take the time and talk through with us on what was going on. She looks forward to the continuation of this development. She would ask to clarify the lake; she believed that it was jointly owned/operated by the Wolf Creek District and Wolf Creek Irrigation Company.

Ronda Kippen said that for secondary water; she wasn't sure who would be the ownership of it, if it's going to be Wolf Creek Water and Sewer or if it's going to be private secondary water.

MOTION: Commissioner Parson recommend approval of the conditional use permit CUP 2016-12 for the Bridges at Wolf Creek located within the approved Wolf Creek Resort Master Development at it stands with all staff and other agency requirements. Commissioner Howell seconded.

DISCUSSION: Commissioner Parson said that his concern is ultimately with 4100 and the county being in a tight budget that it is, it would be nice to get something done right once, and have a road that is far away. Commissioner Howell asked if there were any current dialog about that road being connected. Mr. Householder replied that there has been dialog, but unfortunately it is taking longer than they had hoped; getting their design where it's at and they are working with the community on this. Commissioner Haymond asked if there was a possibility that the development would move forward without 4100 being in. Mr. Householder replied that their access is currently there, and they are working on the design and working with their neighbors on sharing the costs to get it ready. They would like to come in here at some point with a plan; make a pitch to work together and get it done. It's like 6200 bids, it's a pretty substantial project to get from Point A to Point B. Commissioner Haymond said they have that paved entrance on the east side they are already connected over. Mr. Householder replied the portion over in front of Hidden Oaks, the asphalt ends at the entry.

VOTE: A vote was taken with Commissioner Parson, Haymond, Waldrip, Taylor, Howell, and Chair Warburton voting aye. Motion Carried (6-0)

2. ZTA 2016-02: A public hearing to consider and take action on a request to amend the Planned Residential Unit Development (PRUD) Chapter (Title 108, Chapter 5) within the Weber County Land Use Code. (Brad Blanch, Applicant)

Scott Mendoza said what they have here before this commission is a request to amend the PRUD Code. They have amended a PRUD tonight, and they have taken an application and approved one, and there is their opportunity to discuss the text amendment. This is something that if he understands correctly as far as bonus density, the Ogden Valley Planning area is not too interested in. The applicant has come to the county and has asked the county consider bonus density potential in the Western Weber Planning area. He is also requested that the county adding opportunities for private ownership within PRUD as well. This language has been taken from their existing cluster code, that has been cut and paste right into the PRUD Code. In addition to his request, that has to do with Bonus Density and Private Ownership, just like their recent cluster. Planning Staff while they had the opportunity while the code was open, they are suggesting writing and a few other changes and most of it having to do with grammar. The other one has to do with eliminating the existing 10% bonus density potential that they have today. This amendment has to do with an open space plan approvals within their cluster, individual ownership and preservation methods of this open space preservation parcels, financial guarantee standards, open space parcel maintenance, and increasing the bonus density in the Western Weber Planning area.

Director Grover said that on Page 3, they are allowing Bonus Points on 1A and 2A, Line Item 91 and 113. He would recommend that they strike out bonus points, if the PRUD meets the purpose and intent of this chapter, they should already be doing that. Chair Warburton said so they are going to strike out Line 91 and 92 and also Line 113 and 114.

Courtland Erickson said starting on Line Item 106, Subsection 108-5-5, Subsection 2, as he read it there appears to be some inconsistent or unclear provisions, and he had mentioned this to Mr. Mendoza, there could be some cleanup of the language there. He also had questioned that granting bonus density for meeting with purpose and intent of this chapter, and there are some additional things that that could be clarified. He didn't know if they wanted to get into some detail right now or if they would like for him to work with Mr. Mendoza to clarify the context and he would be relying on Mr. Mendoza to stick with the intent here. Assistant Director Mendoza said that they are not please with the way this reads as it is, grammar and other clarifying opportunities doesn't cross that in here. They are just trying to address the applicants request at this point, and he would like to come back with some better language throughout.

MOTION: Commissioner Waldrip moved to recommend approval to the County Commission that ZTA 2016-02 to amend the Planned Residential Unit Development (PRUD) Chapter within the land use code, subject to staff's recommendations specifically to remove Section 108-5-5, subsection C, 1A and 2A in addition for legal and staff to work on the language changes to clarify and further improve the substantive intent of the revised provision. Commissioner Taylor Seconded.

VOTE: A vote was taken with Commissioner Parson, Haymond, Waldrip, Taylor, Howell, and Chair Warburton voting aye. Motion Carried (6-0)

2. Legislative Items:

a. New Business: Public Meeting:

- 1. ZTA 2016-01:** A public hearing to consider and take action on a request to amend Natural Hazards Overlay District and Hillside Development Procedures Standards within the Weber County Land Use Code.

This item was not heard.

- 3. Public Comment for Items not on the Agenda:** Miranda Menzies said one of the reasons she came to the meeting was because there was a public hearing to amend the Natural Hazards Overlay District Standards which Mr. Ewert has been working diligently for a month, and there are things happening with the Planning Department that were depending on their timing tonight. Chair Warburton replied that she understood.

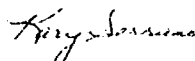
- 4. Remarks from Planning Commissioners:** None

- 5. Planning Director Report:** None

- 6. Remarks from Legal Counsel:** None

- 7. Adjournment:** The meeting was adjourned at 8:45 p.m.

Respectfully Submitted,



**Kary Serrano, Secretary;
Weber County Planning Commission**

Minutes of the Ogden Valley Planning Commission Regular meeting January 3, 2017, in the Weber County Commission Chambers, commencing at 5:00 p.m.

Present: Laura Warburton, Chair; Greg Graves, John Howell, John Lewis, Will Haymond; Robert Wood, Jami Taylor

Absent/Excused:

Staff Present: Rick Grover, Planning Director; Scott Mendoza, Assist Planning Director; Charles Ewert, Principal Planner; Ronda Kippen, Principal Planner; Steve Burton, Planner II; Courtlan Erickson, Legal Counsel; Kary Serrano, Secretary

Pledge of Allegiance

Roll Call:

Director Grover said he would like to introduce the first item. On the agenda is a consideration and action of a conditional use permit for a public utility substation. Then Steve Burton, our new Planning will give a quick outline of the item. Then we'll have a presentation by Mr. Pen Hollist where this commission will make some collaboration. Then Steve Burton will come back and indicated how this meets the ordinance and also staff's recommendations on this item.

Chair Warburton asked the Planning Commission if there were any ex parte communication on this item. There were none.

1. Petitions, Applications and Public Hearings

1.1. Administrative Items

a. New Business

1. CUP 2016-20: Consideration and action on a conditional use permit application for a public utility substation (250,000 gallon water storage tank) for Liberty Pipeline Company located at 7970 North Durfee Way in the Forest 5 (F-5) Zone. (Liberty Pipeline Company c/o Pen Hollist, Director; Applicant; Mike Durtschi, Project Engineer, Agent)

Steve Burton said this is a consideration and action on a conditional use permit application for a public utility substation for a water storage tank for Liberty Pipeline Company. They have included a scenario and a proposal which is the site plan that was submitted. It is located in the F-5 Zone which allows "water pumping plants and reservoirs" as well as "public utility substations and transmission lines" only when authorized by a conditional use permit. This proposal is in conformance with the minimum lot area, width, and yard regulations of the F-5 Zone. Standards to consider under safety for persons and property; considerable traffic congestion or delays is not anticipated as this proposal is not considered large scale construction. A condition of approval has been added to the Planning Division recommendation, to ensure the contractor cleans all equipment prior to exiting this site, and sweeps the road as needed. Removing of any material tracked from the site onto the asphalt, in order to provide safe vehicular traffic along the County roads.

Steve Burton said that consideration for persons and property, a proposed easement of approximately 4.2 acres will surround the property area, and the project area is .95 acres. Amenities, service, and infrastructure, 250,000 gallon water tank with 1,100 linear feet of distribution piping will be buried with six inches of top soil. These improvements will provide emergency storage to the entire system and will increase Liberty Pipeline Company's upper area storage and flow capacity needed to meet state requirements for fire events. In considering for the environment, the applicant has provided the following considerations in their Storm Water Protection Plan. As far as the General Plan, the proposed use is in conformance with the Ogden Valley General Plan as it provides additional water sources to meet the demand of the valley existing water system throughout the developing areas. The applicant has provided a technical specification report outlined on work to be performed on the project. This proposal upon meeting with the Planning Division recommendations, it is in conformance with the Land Use Code. The Planning Division recommends approval of CUP 2016-20 is subject to all review agency requirements and with the following conditions:

1. Prior to the issuance of the conditional use permit, a final signed copy of the easements and/or lease agreement for the access, location and affiliated construction for the proposed water storage tank will need to be provided to the Planning Division.
2. Prior to commencing work, Liberty Pipeline Company will need to receive the approval from the applicable agencies for the new water storage tank and distribution line, including all permits outlined in the Engineering Division's review.
3. All equipment leaving the site will be cleaned prior to entering the County right-of-way and the contractor will be responsible for sweeping the County roadway, as needed, removing any material tracked from the site onto the asphalt, in order to provide safe vehicular traffic along the County right-of-way.

Pen Hollist, resides in Liberty UT, Vice President of Liberty Pipeline Company, and representing Durfee Creek Homeowners Association for Brent Olson who is unable to attend. He stated that the Liberty Pipeline Board and the Durfee Creek Board have entered into the easement agreement; which is really an expanded easement agreement, and there is already one of their tanks there. They have in the easement agreement positioned three more tanks and that is why they are talking about nine acres. The homeowners have agreed to all the terms and conditions the Board has agreed to the terms and conditions. Liberty Council has approved the language and Durfee Creek Council is currently reviewing the language. There is no conceptual difference between the two boards. They are doing this because at present; the North West corner of their service area has one source of water, which in February and March comes down to 46 gallons per minute. When the snow starts to melt and the rains come, it goes up to an excess of 250 gallons per minute.

Pen Hollist said it is critical in those winter months before the aquifer starts to discharge. Right now they are down to 61 gallons per minute, and he would anticipate that it would continue to fall. That is about two times our daily average need, so they need more storage and they need an additional source of water. If they recall in 2015, they came and asked for a conditional use permit to drill the Camp Lomondi Well; it turned out that was on the wrong side of the fault and it yielded neither the quantity nor quality of water. So they are going to be back in the next month or so, asking for another conditional use permit. This time to refurbish the existing Durfee Creek Well and filter the water, and it's not high quality water but they will filter it at a cost about \$100,000. They don't intend to remove any material from the site; the cut that they make on the uphill side will be used for the fill on the downhill side, and then they will cover topsoil through the whole thing. So they are not removing material; they will be removing the tracks, track hoses, and parts that come off there, and they will clean the road as specified.

Chair Warburton asked could he explain how this works with the state; does he have more rights to the water, is he not collecting it currently? Mr. Hollist replied yes, they have more than enough acre feet. They have Parson Lady Latimer has audited their water rights, and they are also using those water rights as collateral for all of this that they are doing. Those rights are worth about \$2.5 million dollars.

Chair Warburton asked because this is a CUP, and because he is representing the owners of the land, are there any conditions that he would like to be put on there that would be helpful. Mr. Hollist replied no, he didn't think so.

MOTION: Commissioner Tyler moved to approve CUP 2016-20 which is a conditional use permit application for a public utility substation for Liberty Pipeline Company. This motion for approval is based on the accompanied staff report and the recommendation findings and conditions listed there within. Commissioner Howell seconded. A vote was taken with Commissioners Graves, Howell, Lewis, Haymond, Wood, Taylor, and Chair Warburton voting aye. Motion Carried (7-0)

Director Grover said this item is a legislative item; as such they will be having a public hearing associated with this item. The item that is before you is a public hearing to consider a request to amend the side yard setbacks in the Ogden Valley Destination and Recreation Resort Zone. The individual who will be presenting this is Ronda Kippen. The applicant is not here, and she will be representing him as his request at the same time.

1.2. Legislative Items

a. New Business

1. ZTA 2016-07: Public hearing to consider a request to amend the side yard setbacks in the Ogden Valley Destination and Recreation Resort Zone Chapter §104-29 in the Uniform Land Use Code of Weber County Utah. (Summit Mountain Holding Group, L.L.C., Applicant; Jeff Werbelow, Summit Mountain Holding Group, Agent)

Ronda Kippen said the item that is being presented tonight is a request to amend the development standards outlined in Land Use Code §104-29; which is the development standards in the Ogden Valley Destination and Recreation Resort (DRR-1) Zone. The applicant is requesting that the side yard setbacks be reduced from an 8 foot minimum side yard setback; with a minimum overall side yard setback of 18 feet to a 5 foot setback with no minimum combinations. The applicant does intend on maintaining in the CC&R's and 8 foot minimum side yard setback with a minimum overall side yard setback of 18 feet. However, the applicant would like the ability to vary these standards on a case by case basis in order to protect and preserve the natural habitat on the mountains. On May 24, 2016, the Weber County Commission passed a text amendment that included this area of the land use code; that modified the lot sizes, the lot widths, the

setbacks, and maximum building height. Since that time they have now issued 8 building permits, so they are actively constructing homes and starting to run into some setbacks.

Ronda Kippen said one of the setbacks is on one specific lot that the developer has identified as a "century trees" which is basically trees that are over 100 years old, and they want to protect these trees. In order to allow the homeowner to build the home they would like to build in this location, the need to move the home over 3 feet. This is not something that staff could support as a variance as this is a self imposed hardship. So they have petitioned the county to reduce the side yard setback by 3 feet, to allow for them to grant on a case by case variances. In this evaluation she was able to read their brand new 2016 Ogden Valley General Plan, and she was able find in numerous areas in the code that supported of such as request. In the Community Character it states, *"The rural character of the Ogden Valley is defined by its open fields, agricultural lands, stands of trees, peace and quiet, dark skies, clean air and water, and abundant wildlife and small villages."* By protecting these groves of trees it will preserve the natural habitat on the mountain. The other thing they don't want to do is tear down trees in these areas that can be sensitive to the slopes stability, so maintaining these trees up there it would help keep the mountain in tack. The Ogden Valley community desires physical development to complement, not overwhelm or compete with, the rural character of the Valley. Residents want to ensure that new development enhances, not detract from Ogden Valley's character by encouraging creative development designs that preserve natural, agricultural, and other open spaces, including clustered and mixed-use developments; therefore, *"a goal of Weber County is to protect the Valley's Sense of openness and rural Character" by "encouraging and preservation and maintenance of significant trees, shrubs, and other natural vegetation in riparian and other natural areas."*

Ronda Kippen said based on this evaluation the proposal conforms to the 2016 Ogden Valley General Plan; by providing flexible development standards that could be used to preserve physical features and create development patterns that are compatible with and complement the natural environment and rural character of the Valley. Under the Ogden Valley destination and Recreation Resort (DRR-1) Zone is: *"The purpose and intent of that zone is to provide flexible development standards to resorts that are dedicated to preserving open space and creating extraordinary recreational resort experiences while promoting the goals and objectives of the Ogden Valley general Plan."* Based on this evaluation, staff feels that the text amendment is supported by the language in the DRR-1 Zone and in the General Plan. By concentrating the residential uses to preserve the open landscape and wildlife habitat, in addition a very important goal in the DRR-1 development is the preservation of the open space and the maintenance of the Ogden Valley's rural character and natural system. The Planning Division supports this request to amend the side yard setbacks in the Ogden Valley Destination and Recreation Resort Zone from 8 feet for a total two required of not less than 18 feet to a minimum of 5 feet due to the support found in the 2016 Ogden Valley General Plan and by meeting the proposal of the intent DRR-1 Zone. This recommendation is based on the findings listed in the staff report.

Commissioner Lewis said that he wanted to understand the rural character part and what they are trying to accomplish. He understands the grove of trees but is conflicted with the worst case; that they end up with stuff that is literally 10 feet apart, 2 feet ease fronts, and they barely have 6 feet between roofs. That didn't seem very rural either. Those are the two conflicts, and he did want to see a bunch of trees, but he didn't want to see a bunch of worst cases, and it is possible that it might not happen that way, but it something to think about.

Chair Warburton asked staff if they ran this by the engineers, and if someone chose to build that close, they would not be in danger in anyway. Ms. Kippen replied yes, they have no concerns, and with the Building Department anything 10 feet apart wouldn't require a fire wall, so they had no concerns with it being 5 feet.

Chair Warburton opened for Public Hearing.

Ron Gleason, 252 N 8750 E in Huntsville, said they are making a change to an ordinance and they know that making a change to an ordinance is difficult choice to make, that has consequences for anything that comes down the line. This is the first resort but they know there are other resorts that may or should come online at some point. His question is do they need to change the ordinance or can the applicant go to the Board of Adjustment for the individual lots that this affects. The packet said that there are possibly three areas that are affected by groves of trees and the example given was one single lot. Wouldn't it be better to go to the Board of Adjustment for this one, or would it be to change the whole ordinance.

Kim Wheatley, who resides in Huntsville, said he liked the idea of being flexible in the area, but tangling that with having this available outside the general character of comments. They wouldn't want this to apply in all other subdivisions because it would also lend to that rural character. The idea of the CC&R's that are drafted and applied by Summit would not necessarily be in place for any of the other future resorts. They've always had a policy to stay independent with CC&R's, and he didn't know if this is the time to say their CC&R's could handle this, because that would be a big leap and should be something they ought to consider.

Chair Warburton closed for Public Hearing

Ronda Kippen said that was something they approached staff; requesting a variance and if that could take place. There are five different standards that have to be met in order to be granting a variance, and they have to meet all five standards. In order for a variance to be granted, all five of those have to be met. Basically where this gets thrown out in determining whether or not, enforcement of the land use code will cause unreasonable hardship, the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic. Basically they would tell them to build a smaller house to design around the tree.

Chair Warburton said in her experience as stated earlier, they wouldn't get a permit. Ms. Kippen replied they would not get a variance for this. That is what the court has come down to; they have to meet all five criteria in order to be granted a variance. The courts have come out with five items and all five have to be met. There is not just one area that has "century trees" on the mountain; there are multiple areas that are there. They need the flexibility to be able to locate the houses a little closer in different areas. All of the subdivisions that went in up there do have building envelopes and they are quite a ways from the side yard setbacks. So they have to remove the building envelope and push the house over. So as far as seeing the houses close together that is not something they anticipate seeing. Just because they have 100, maybe 40 of the lots have already been platted with building envelopes on them.

Chair Warburton said this doesn't change the unit that they have rights to build the development units, and in future properties like Mr. Wheatley brought up, they will have the same thing that will be limited by years, but they will also have the Development Agreement to look at it when they decide how to plan and it just gives flexibility. Ms. Kippen replied no it doesn't change the units, and it really does after these subdivisions come in, the first thing they do is go through the zoning development agreement. They look at the conceptual plan to make sure that it meets to what was approved. If it doesn't meet that and they can't see that there is supposed to be some houses there, or townhomes, or large lodge, then they would have go back to the developer and say there is just no way to have these things. There are ways that they are processing that application, making sure that it is in conformance with the general conceptual plan that was adopted for the Zoning Development Agreement.

Chair Warburton said in the best case scenario, they can have a resort zone come in and they have certain units they can build, and they will put them all together and they will have a lot more open. Ms. Kippen replied that this commission would have that legislative decision in designing that. If they wanted to see them all clustered together, and all of this open space over there, they have the legislative right to say they don't like that.

Commissioner Howell asked when they make an application for a variance like this, does the Planning Department go out there and inspect this. Ms. Kippen replied no, because this is a text that would affect all of Ogden Valley Destination Resort Zones. It is not just specific to one site; as far as going out and inspecting that, as far as staff they can look at the plats that have been recorded, and see that there is building envelopes on those. They are going to keep those homes further away than 10 feet.

Commissioner Howell asked if this would this be on a case by case. Ms. Kippen replied yes when a building permit comes in from Summit, they have to have their architectural review committee approval. If something comes in showing less than 8 feet, there is going to be findings in there as to why they granted them that variance on there. It's just not something that we will typically see 5 feet coming through because they do have their CC&R's and they don't enforce that. So we have to make sure that they have approved the siting of the house, the architectural details of the house, and everything. So we get a letter from them on every building permit saying that they have approved the site plan, the architectural detail, everything, and that is part of the development agreement that they would do that. On those case by case situations, she would anticipate that they would give them an explanation as to why they are allowing this site to go as close as 5 feet.

Chair Warburton said she thought what Commissioner Howell was asking was other developments outside of Summit. The only other development that is a deal one is Snow Basin or whoever applies for and was granted that zoning with three acres or more. Then they have to come forward with a plan that goes into a development agreement so it's quite a process. Ronda Kippen replied they take these conceptual plans to heart.

Commissioner Wood said that he was concern about the 8 to 10 feet, and if they have 4 feet of snow on the roof, and it gets pushed off they are not going to get it within 5 feet. It's going to go into the neighbor's yard and his will go into their yard and that's not a good situation. Ms. Kippen replied just to give them an idea of their development standards are already like. As far as their front yard, they have no setbacks, as far as their rear yard they have 10 foot setbacks. Other zones throughout Weber County both in Ogden Valley and Western Weber planning areas; for outbuildings they can be as close as one foot. There is a criterion in the code to allow for structures to be very close to property lines; and those are something that they have let the neighbors work out. So you could have a detached garage one foot away from you neighbors one foot away, so technically two feet away separating the structures.

Commissioner Lewis said that he needs to point out, that this will apply to every other resort that goes to get a DRR-1 Zone; so Wolf Creek for instance could go get that done if they bought a few more acres, and have it up to 1,000 acres like it was. There is already a development agreement in place, they wouldn't be able to stop them from putting thing 10 feet apart, so it will affect everything that is up in that zone.

Director Grover said when they look at the intent of the resort zones; it is meant for clustering and to create a different type of experience that they would have in other areas in the valley. So reducing setbacks and things like that probably isn't uncommon in those types of zones. Chair Warburton said that their job is to ask is it safe, does it comply with the General Plan, and then they let people do what they have to do to be successful. Her main concern is it safe, yes it is limited, are they going to have a rash of houses all built that close together, she didn't think so.

Ronda Kippen said they will have some townhomes and those have to deal with setbacks; so they build right next to each other. The definition for recreation resort is to create something different, something unique, and something will draw people there. As for the single family residence that they talking about going down to 5 feet, they are going out there for some elbow room. She doesn't think they want to be that close to their neighbor, but they do have the right. It is definitely something different, and unique, and to preserve.

MOTION: Commissioner Taylor moved to recommend approval to the County Commission for ZTA 2016-07 on a request to amend the side yard setbacks in the Ogden Valley Destination and Recreation Resort Zone Chapter §104-29 in the Uniform Land Use Code of Weber County Utah. This is based on determination that this is in conformance with the General Plan, and it is also based on a public hearing, and the accompanied staff report and the findings listed there with them. Commissioner Howell seconded.

DISCUSSION: Commissioner Graves said that the 5 feet does seem pretty close 10 foot wall to wall, but they do have the engineer's report which doesn't indicate a safety issue there as far as they're concerned. He realized that a pile of snow could get in between there and that may cause some griever between neighbors and that is something they would have to work out. He wished there was some other way to grant them this flexibility; without having to changed the ordinance. There are two places right now that have this, and he is willing to at this point to concede that. If they do find that this is a problem that it can always be changed back or change that to something different. He is sure that staff would own up what they said, and review future phases and future projects that come in that they are looking closely at how things are spaced. He finds it ironic to have vast amount of property and have to quibble over three feet because they can't find the right kind of envelope. They could solve these kinds of problems before they come up. But you have to get out of their truck and walk on the site in order to do that. Commissioner Howell said the only concern that he had at Snowbasin is that their annual snowfall can to 500 inches. Commissioner Haymond said that he was struggling with it too. They are looking at changing law based on two specific instances to allow it to have a 5 foot setback and everywhere it's been said a couple of times that their CC&R will prohibit that and allow them some flexibility. He has a hard time changing the law because a couple of people didn't plan correctly and I want to save trees too. Chair Warburton said that it's important that they are not adding density; and they are not giving them the right to build more, it's giving them the right to do with their land what they want, based on safety and it's already been determined.

VOTE: Commissioner Taylor, Howell, Graves, Lewis, and Chair Warburton voted aye. Commissioner Wood and Commissioner Haymond voted nay. Motion Carried (5-2)

Director Grover said this item they have looked at this in work sessions before and now they have detailed language for this commission to look at. They would also like for them to look at other consideration that would be presented to them on this. So they item they will be looking at will be dealing with the public hearing to discussed the proposed amendment to the following sections of Weber County Code: Definitions (§101-1-7), Ogden Valley Lighting (§108-16), and Ogden Valley Signs (§110-2) to provide clearer standards for outdoor light and outdoor lighting devices in the Ogden Valley in order to support dark sky-viewing, astrotourism, the Dark Sky accreditation of North Fork Park, and the Ogden Valley. Charlie Ewert will be presenting this item and after that they can open it up for public hearing.

Chair Warburton asked the audience how many wanted to speak on this issue and several raised their hands. She indicated that the staff report states that they can make a decision tonight, but they wanted to hear from those that wanted to speak. This commission understands that they won't be making any decision tonight; especially the signage until they could delve into it, get some facts, and much later they would make a decision on that outside the ordinance.

b. Old Business

1. ZTA 2016-06: Public Hearing to discuss and take public comment on a proposal to amend the following sections of Weber County Code: Definitions (§101-1-7), Ogden Valley Lighting (§108-16), and Ogden Valley Signs (§110-2) to provide clearer standards for outdoor light and outdoor lighting devices in the Ogden Valley in order to support dark sky-viewing, astrotourism, the Dark Sky accreditation of North Fork Park, and the Ogden Valley General Plan.

Charlie Ewert said asked if they would like to go back to the slideshow that they've already seen, if so he could bring that up, otherwise he would just jump into the text. Chair Warburton suggested to the audience for them to take notes so when they spoke they could refer to the line number and whatever else you have an issue with. Mr. Ewert asked if she wanted him to through the images from the slide show; it sets the baseline for why they are looking at Dark Sky.

Charlie Ewert talked about the following from his slideshow presentation:

- Direct Artificial Light – reflection, glare, artificial source
- Good Neighbor Lighting –direct light source and shielding
- Light Pollution – what causes light pollution
- Light Trespass – what it is and how to shield it
- Color Temperature – medical recommendations
- Canopy Lighting – related to commercial and different lighting
- Parking Lot Lighting – light being consistent
- Recreation Activity Area Lighting – having flood light with shielding
- Sign Lighting – external lighting and reflective lighting

Charlie Ewert said the primary reason they are looking at this is to keep the Dark Sky Accreditation of North Fork Park but also keep a little bit of Astro-Tourism dollars coming in to the Ogden Valley. They've got recreation, destination in areas in which they went through the General Plan process; they kept hearing don't kill the goose that laid the golden egg. When they asked what that statement meant, some people thought it meant, they really love their valley and they didn't want it to change. Other people thought it meant, if this is going to be a competitive recreation destination they need to have a unique product that other places don't have. This speaks more to the latter part of the conversation.

Charlie Ewert said that he would like to go through the changes in the proposed text from what the Planning Commission looked at last time. Chair Warburton said they should go through it and they would like to hear what they are proposing.

Charlie Ewert said that a couple of new definitions have come out:

- Artificial Light Source: Means the part of the lighting device that produces light. See Section 108-16-9 for graphic depiction

- **Light Trespass:** Means the projection of any light from a direct artificial light outside the lot or parcel boundary or street right-of-way where the artificial light source is located, unless the projection outside the lot or parcel boundary or street right-of-way is intended, wanted, and lawfully permitted. See also Section 108-16-11 for a graphic depiction
- **Outdoor Lighting:** Means the illumination of an outdoor area or object by any outdoor artificial light source. Outdoor lighting also includes the illumination of an outdoor area or object by direct artificial light projected from an indoor artificial light source through a window, door, or similar opening.
- **Outdoor Lighting Recreation Facility:** Means outdoor lighting used to illuminate the recreation activity area of a stadium, sports field or court, rink, ski area, swimming pool, theater, amphitheater, arena, or any similar use intended for recreational activity. See also Section 108-16-15 for a graphic depiction

Charlie Ewert said that they did a little bit of administrative work in sign definition and they off at conservation property signs. Here is an area that is a little bit new, they wanted to catch this and it seemed like an easy fix to get into their code. There was a request recently for a sign to go up on a large farm that had a conservation easement on it. Our ordinance didn't have the support for that kind of a sign that it needed, and they just wanted to make sure that it got in here. As they discussed in the last meeting there is some sensitivity on regulating the content of what's on a sign. So what they did here is they defined what a conservation property sign is.

- **Conservation Property Sign:** Means a sign that is placed on a parcel with a minimum area of ten acres that is encumbered by a conservation easement held by an organization or government entity as authorized by UCA§57-18-3

Charlie Ewert said these other three sign definitions here were definitions that were already in the code with the exception of Pole Sign which they had two definitions which they combined so line item 107 was combined with line item 100. He reviewed Section 108-16-1. Purpose and Intent: Line Item 111 through Line Item 123.

Charlie Ewert said you see the underline is one of the changes from last time, from the last Planning Commission meeting to this Planning Commission meeting. What they heard from the last Planning Commission Meeting when they went back to the General Plan; and saw some of the descending comments, they heard that there may be a desire to think about it a little bit differently. So the proposing language is to think about this differently and they are just seeing if it sticks. In the last version, that section of the single-family, two-family, or three-family residential was not there; and the lighting ordinance would have been applicable to all residential. He reviewed Section 108-16-3. General Standards: Line Item 146 through Line Item 157.

Charlie Ewert said those are the four standards, when they get into 108-16-4 they get into some specific standards. These specific standards are intended to be applied to non-residential uses. In reference to Section 108-16-4-5d, that light is typically more daylight and they talked to the ski resorts about this and both ski resorts said this was more than they needed so they were comfortable with the regulations. He reviewed Section 108-16-4. Specific Standards: Line Item 158 through Line Item 190.

Charlie Ewert said now they get into the exemptions, and those standards were so simple and a big blanket that just wanted to make sure they carved out some exemptions so that it wasn't quite so rigid. It is important to note that the Ogden Valley Starry Nights Association has committed to \$1,000.00 to help farmers retrofit their light sources with shielding which is about \$30.00 per shielding device. He reviewed Section 108-16-5. Exemptions: Line Item 191 through Line Item 277.

Charlie Ewert said those were the exemptions to the rules. The next section talks about procedures for compliance. This gets into the question about enforcement. How is the county going to ensure that this is appropriately enforced or implemented? If you look at Line Item 279 on implementations. He reviewed Section 108-16-6. Procedures for Compliance: Line Item 279 through Line Item 292.

Charlie Ewert said that they are trying to make the ordinance simple to administer and simple to apply. Staying away from the hard terminology that only lighting engineers understand; but also to the best of their ability staying away from the requirements for the applicant to go and hire a professional. The only time they would require an applicant to hire a professional lighting engineer to light their site; if what they provide just doesn't give us enough evidence that it complies. He reviewed Section 108-16-7. Required Replacement of Nonconforming Outdoor Lighting: Line Item 294 through 321.

Charlie Ewert said violations and enforcements, they can see that he has some notes and with changes to the next draft. He reviewed Section 108-16-8. Violations and Enforcement: Line Items 323 through Line Items 356.

Charlie Ewert said they wanted to make sure that the ordinance that they are working on was easy to use and easy to understand. They tried to use plain language and anywhere they didn't use plain language, they would be happy to go back. Sometimes they use more words to say something plainly and they tried to not do that either. In trying to make it easier to read, they wanted to put in some graphic depictions on how to appropriately comply. So they have the different definitions of what a direct light source is. He showed examples of unshielded light, unshielded versus shielded light, examples of light trespass. He gave reasons of why something is or isn't in compliance.

Charlie Ewert said now get into the chapter of the Ogden Valley Signs. The only reason they got into the Ogden Valley Sign Ordinance in the first place was to talk about lighting. They took the liberties of making some administrative corrections as they did and he will walk through those. The Planning Commission in the last meeting asked them to propose some language; if they are going to amortizing or phasing out nonconforming lighting over a seven year period, why wouldn't they do the same thing with signs. The Planning Department and possibly the Planning Commission have had complaints from business owners; complaining that there is not a level playing field, because they get that sign but they no longer get it. Just because theirs has been grandfathered and his isn't; people can't see their business than his, so they need to find a way to phase some of those things out. They can see that in the language here; none of this language that he has been reading has to happen. They just need to let him know where they want some modifications.

Chapter 2 – Ogden Valley Signs

Section 110-2-2. Applicability: Charlie Ewert said there are no changes in that. He reviewed Section 110-2-4. Nonconforming Signs: Line Items 386 through Line Items 415.

Charlie Ewert said the only change to prohibited signs that they put in here is electronic change copy signs that is permitted in 110-2-9(b)(13) and manual change copy signs is permitted in Section 110-2-10. What this except is permitted in 110-2-9(b)(13) reference to signs that are put up for traffic control purposes as authorized by government or agencies. They talked about that at the last Planning Commission meeting. The Virtual Message Sign (VMS) that say "Road to Powder Mountain to slick, tire chains require." He wanted to make sure those happened.

Charlie Ewert said in the other sign section, what this section previously had was a list of other signs that aren't already regulated by sign codes. The leader line for that section is, *"In addition to being regulated by other ordinances and state or federal law, the following signs are only regulated in the following manner:"* This section used to say they are "only regulated" in the following manner. He didn't think that was the intent of the original author. Basically they are exempt from any requirements except for whatever is written here. He reviewed Section 110-2-9. Other Signs: Line Items 426 through Line Items 509.

Charlie Ewert said in the temporary sign usage they are not changing what the code says, but they are taking a table that took five pages and they are reducing the table that is one and a half pages, and trying to make the code a little bit easier to use. So Sign materials and display standards; these are the standards that he was talking about earlier. He reviewed Section 110-2-12. Sign Material and Display Standards: Line Item 516 through Line Item 590.

Charlie Ewert said the next section is examples of sign illumination. They just did what they did on the other page with things that apply and things that don't comply; with each of these sign types and how to help identify what their signage is. He described Section 110-2-15. Examples of Sign Illumination: Line Item 593 through Line Item 595:

Commissioner Howell asked if they had any plans for any presentation in the future for schools and for education of the valley people. Mr. Ewert replied that is a good idea but they don't have plans right now, but as part of the educational campaign they will start making plans.

Chair Warburton said what should like to see in this code, the County shall create a financial incentive for businesses, if they comply before the deadline of March 1st. Whatever that financial is, it would have to be created with the input from the County Commissioners and everybody. She would like to see that incentives also be given to single, double,

and multi-family residences to do the same, and that would be ongoing. Along with the educational campaign, there should be some financial incentives and that should be ongoing.

Charlie Ewert said that Weber County Basin Conservancy has an incentive that if you buy the smart sprinkler control module; they would offset the difference in cost between the standard to the smart. If they go to home depot and you buy the \$100.00 computer versus the \$50.00 computer, the \$100.00 dollar computer connects to the internet and it would tell them what type of weather. Chair Warburton said there are all kinds of ways, whether it is private or public, rather than mandate through an ordinance.

Chair Warburton opened for Public Hearing.

Ron Gleason, 252 N 8750 E, in Huntsville, said for the commissioner's that weren't here for the last meeting. He would like to review that he supports this ordinance, but he would like to see the residential portion mandated. It's important and it's the only way they are going to achieve the objective that is laid out in the general plan and to keep the accreditation of North Fork Park. It states that it was a goal but there is nothing in the changes mentioned by planning to figure out how they are going to track that. They went over the incentives and he didn't think that incentives should be in the equation, particularly the height incentive and increase in density. They said not to change these things; do not increase density or the maximum height allowed by structures. Specifically line items 132 through 139; Section 108-16-2 Applicability, this has to do with the education program, and it states may educate, may require, and this needs to be tightened up to state will educate, will require. If they are going to put something in the ordinance it needs to be clear and tightened up. Lines 459 to 460, Section 110-2-12(b)(8) Athletic Field Scoreboard Sign, where it talked about 120 square feet maximum. He believed there are current signs there is current athletic in the valley; one in Eden Park and the other one at Snow Crest Middle School. He asked if someone had gone to look at those and checked to size and if they needed to be changed. If they are going to put sizes, they need to enforce them. The General Plan shows that they have 3,762 built units already, another 7,863 platted that could go up at any time with another 4,000 more there. They need to get all the residents covered, and they need to start the seven year compliance and get those done and covered as soon as possible.

Ashley Cross, 3790 E 1950 N, in Nordic Valley, said she was the owner of New World Distillery, she is a destination distillery, and her building is 100% compliance with the IDA lighting standards. If she were offered an incentive for putting lights there were in compliance with the building and drafting a plan to be in compliance, she would refuse the incentive. She didn't want anybody to think that her building, her practices, and her products are in compliance because she is receiving incentives to do that. She is would ask the Ogden Valley Business Association be involved in future discussions related to signage; be uniform so they could have attractive signage and still advertise for their businesses.

Miranda Menzies, 3807 North Elkridge Trail in Eden, said she was pleased with moving forward with the Lighting Ordinance. She sent an email to Mr. Ewert, and she has been involved with the HOA in Highlands and the Wolf Creek overall. She would merely observe that she didn't think this lighting ordinance would be effective unless they include residences. The 3,760 Units in the valley and she would be guess that it would be 3,500 that are houses. They could use some sense on how it works; Highlands and Wolf Creek in general, have attempted to use the old commercial lighting ordinances to residential buildings for the last six years. They can still see Wolf Creek from all over the valley, and it isn't just those portions of Wolf Creek. Moose Hollow is visible from the entire valley, and it's not just from the exterior lighting, but also the interior lighting shining through those windows. All of these can lights that are up on the ceiling, because of these bench homes in Nordic Valley, Green Hills, and Wolf Creek are above the valley floor direct illumination towards the valley floor, the can lights in the cathedral ceilings become direct illumination out of the windows, and down to the valley floor. That is the sort of education they need and she would strongly suggest, trying to bring all of the exterior lighting on the residences into the education part for the interior lighting, which appears that the light fixtures they put in to the residences around Wolf Creek, what she sees what is described in this ordinance, she doesn't think they need them. Even though they were put in as Night Sky lighting compliance, because they have light bulbs inside of translucent fixtures, and now it appears to be nonconforming. They see it potentially from the other direction because out here people don't freak out in the dark, because they can be seen with lights, with moonlight, and all of these light sources, they are trying to be dark and not trying to be lit, so it's a different objective. She thinks they need education on interior lighting coming out through the windows including the ceiling light, but she does think they need to bring the businesses which are very few, felt that they are not being picked on; they need to

bring the residences into it on their exterior lighting and the entry lighting. One of the key things that we show our guests they come from the eastern part of the county, we take them outside and show them the Milky Way. You cannot see it in any of the eastern half of the country, but here they can and it's special so let's try to keep it.

Richard Menzies, 3807 North ElkrIDGE Trail in Eden, said he fully supports what his wife said. He fully supports what was said before, if they have all of these houses that are increasing and they know that, if they don't address the residential thing with the outdoor lighting, they are going to lose their Dark Sky Accreditation.

Janet Muir, 6908 East Elkhorn Drive in Eden, said she didn't know about dark sky lighting until four years ago. One of the pleasant discoveries was that dark sky lighting gives you a lot better security. As Matt Bell said glare is the sheriff's enemy, you cannot see what is going on. A motion detector is your friend, a shielded light is your friend, so you actually get dark sky lighting that is neighbor friendly, good neighbor lighting, and it gives you better security so that's a triple win. This whole other undertaking with several chapters; with one of them being with Director Grover and Mr. Ewert, where they talked about the APA Utah Conference, with some of these ordinances that was being presented. Some of that was in coordination the University of Utah, the committee with Dark Sky studies and she and others were involved in that. The model ordinances they collect at the University of Utah, and just recently Eagle Mountain, Torrey, and Moab, Springdale, Kanab, and Jackson are all going dark sky. Ketchum is becoming dark sky community as craters of the moon go into accreditation. Springdale is doing the same thing to Zion. Page Arizona with that substation and it's been amazing to her how that APA Presentation has unfolded. She has spent a couple of years looking at dark sky ordinances, and Mr. Ewert just absorbed it. There is a standard and what the standard is, Weber State University and their team finds every fall when they go to 25 locations in North Fork Park and take ten readings at each location. They have 250 readings and those are histogram, analyzed, and if they fall below a certain point they lose it. She didn't if incentives work for single-family residences, and multi-family residences have been covered since 2000. We are at a Gold Standard and that's Death Valley. We're not silver we're bronze and we keep saying we're bronze and we're proud of it. We were the first in the world that served in adjacent. Now Antelope Island is in the process and they are doing the west side of the island. The Wasatch Front is at the center, is where this is happening in this great corridor of International Dark Sky Parks. Below Bronze Accreditation and they could go to Plan B, and create a Dark Sky Corridor and try to buy a couple of more years, but the readings don't lie. They are analyzed by Jeremy Bryson, Professor of Geography at Weber State, so all this doesn't matter if they start getting 19 readings. For example, Springdale if you are a certain amount feet altitude and your interior light shine down, and you need to cover those windows, because the atria are lanterns. The Board of the IDA is filled with astronomers. She is all for education, and "shall" is a better word than "may", and she is all for incentives. At some point with all deliberate speed, most of these communities are covering residences, and there was no seven year period.

Tom Ferguson, part owner of the Valley Market, 2555 North Wolf Creek Drive, said that he came here for an educational process, and learning what this is all about. This is fairly new to him and his partner, so they are just trying to learn what is going on. He does appreciate all the comments and the education that Mr. Ewert gave. He doesn't live in Ogden Valley but it is important to him and his partner, to keep the residents that are there that shop at their store is happy, and they want to be involved in anything with that. He would support some funding and some incentives to come into compliance. He has no idea where they are at with their compliance at their store. Would be happy to get into compliance but some incentives would make sense. Education would continue to be important and necessary for them to understand and the education would be important and necessary for them to understand and feel good with all the changes that are proposed.

Commissioner Lewis said that as a business owner up there with a lot of commercial potential; Ms. Muir has done an unbelievably good job of educating us, and he in particular. He has gone from this is not good, they just can't turn the light out, to okay there is a practical side to this. Just given a little bit of education and digging into this, they would find that the Valley Market is a great establishment, and they all want to be safe and go there. They would be surprised how close they are already with complying. A lot of it was if I look at and feel like bulb or not. A lot of time it is here and it could easily be there and it wouldn't take much. You would be how close you are in compliance and it wouldn't take much, and he has really embraced this and fully supports it.

Chair Warburton said that she appreciated that he has good neighbors, and they support so many things in the valley. Mr. Ferguson replied that they love being part of the valley and want to come in compliance with the feelings of the valley. Change is a good thing, for instance the digital signs, and that's how they came about being at this meeting

tonight. They wanted to put a digital and they came across the ordinance that didn't allow it up there. As a business owner that would help his business. Chair Warburton suggested that he contact Mr. Ewert for more information or get on Miradi.

Mike Seguin, 3752 East Viking Drive in Nordic Valley, Owner of Mad Moose Cafe, said that he is a big supporter of the Night Sky Program and there are a lot of good things that can come out of it, if everybody's concerns could be addressed. He has been a beneficiary of Mr. Ewert effort in Weber County being able to get his sign issue addressed and changed. His proposal is one that he is not hearing, associated with the sign ordinance changes. That is one of public safety relative to the changes that are forthcoming in the way the ordinance is written now. What that comes from is the United States Sign Counsel; and they have done a lot of work with Pen State University, on identifying sign sizes, sign lighting, and the speed in which traffic moves past signs, businesses, and so forth. He has seen a lot of changes in the valley; and he has seen the growth as well. It also seems since he has taken over Mad Moose, several accidents in front of his place. What he sees happening is a 50 MPH speed limit past a business like his with restrictions on sign sizes, it create a public safety issue/concern. He thinks that makes a difference because if they are seeing accidents up there because the sign is too small or poorly lit; and people are rear ending each other and things like that. That is something to address in this ordinance changes and he wanted to propose that. Along with that and it might be worth that, and there are other issues to address, because they are just talking about night sky. There are many issues in the ordinance that he has taken a very close look at it; and he wondered if there is merit, are they tackling all the issues at once, or are they deciding not to and just addressing night skies right now. There is scientific data that can help support the changes that are being made, that address these safety issues. If they going to do down light from where it's at now, do they need to look at maybe a night sky compliance sign that is actually larger. For example, if you are driving by his place at 50 miles per hour, and he only has a 10 x 10 sign, and they are using whatever to look for his place, they are slowing down, and he sees these close calls coming out of his parking lot. He would urge not just to look at night skies in the ordinance, why not put a committee together and tackle all of the issues and some of the incongruency in the sign ordinance. But more specifically make sure they are considering the public safety aspect of this not directly being addressed in the ordinance.

Gaye Creager, 1539 N 5900 E, in Eden UT said this was very educational but she did want to address the safety, health, and welfare here and she didn't feel it was there. One thing is that elementary school, her daughter lives west of it, and the lights have been enforced to come down. She said that there were kids on the roof, hanging around the elementary school. He son was jogging by at night when he heard voices, and he couldn't see them, but there were shadows, and the kids were all over the place. They do need lighting in certain places; let's not forget safety, health, and welfare. Mr. Ewert said that agriculture was exempt, that the lighting needed to be shield. She wanted to see her barn yard and her corral, and she doesn't want something that gives her a radius of something. Her mother heard a knock on the door and there was a questionable person at the door and she didn't answer the door. When the Sheriff came, he wanted to know about him, and she said he was there. The Sheriff looked around the yard and couldn't find him and as he was driving out, in his rear view mirror he saw this fellow climbing out through the corral. She is big on this safety issue.

Verl Creager, 1539 N 5900 E, Eden UT said fully support what his wife just said. It bothered him to drive past the elementary school and there is hardly any light on there and he doesn't like that. He knows the people on the east side of it and they have complained about the lighting and that could be cut down, and turn some lights on the other parts of the school and in the parking lot. If you go over to Snow Crest and those lights are on in the parking area and the lights are on in the schools. He thinks that the elementary needs to have those lights on as well. As far as their yard lights go, it is unshielded, and that is the way he would want it to stay. He doesn't like going out in the yard at night; about a year ago there was a mountain lion that was killed from their most west corral. He doesn't like going out there thinking that if something is coming up behind him scratching him as he is walking around his yard. A year ago and something as be able to see around and have as much lighting and in the barnyard is where they need it.

Vickie McKinney, 3688 N Elkridge Trail, in Eden UT, said that she is very much in support of the dark sky that Ms. Muir has and her committee has put together. She wanted to speak to the Astro Tourism; and if they look at the website in Sedona Arizona, there are numerous comments about people coming from California and from the east coast because they don't see stars on the east and west coast. They have supported this and they are a dark sky compliant community. She felt that if this was advertised that they are a dark sky compliant community; where people are able to come out and be able to see the stars that they haven't been able to see before.

Kim Wheatley, 3984 S 2000 E, in Huntsville UT, said that about 16-17 years ago, he was on the same committee with Craig, when the original dark sky ordinance was passed. They said let's see if they can maintain the dark skies. They had the political was with all of that time to only go for commercial. That's really why it's kind of limited for not having it for single residences and more for commercial consideration and they knew they could make it happen there but not on the residential side. Now 16 years later; what they really have statistics so they can see what is going to happen, and what their potential is. And more importantly for our economic development plan which is being rolled out by the county soon, is the Ogden Valley their anchor for this tourism kind of thing and that plan. It is central to our General Plan idea, of rural atmosphere with kind of a prime in it with the dark skyline. You have experts here, and he has watched these people for the last 30 years working on this. If there is anybody that is an expert here, and they are telling you that we won't have a prayer for maintaining this Dark Sky Certification if they put in another 7,000 houses out there and have it that anybody can do what they want, because a few people will do a lot if they can. So he would encourage them at this time to have the political support of the County Commission. Now is the chance to either say let's do it, or they should just quietly quit talking about dark skies because it will be gone quickly.

Janet Muir said that one of the reasons they don't have more Ogden Valley Business Association here; was because Ashley and Mike worked to coordinate a meeting that they had and the Planning Staff came to this meeting. We want them to fit in with the rural character of the community so people will come and patronize their establishment and we firmly believe it. These are wonderful businesses that they have up here and they can make themselves distinctive. That meeting was quite a full meeting and at the end of it, they were simply in a different place and it was great. The other thing that she was very glad to hear, because the security issue is huge; and what those light blockers on the agricultural lights do, they keep it from shooting up to the sky where there are no bad guys. So they get a huge radius, and the most affective crime stopper is a motion detector. It's when they talked to some very nice folks, the beautiful Pioneer Memorial in Liberty, where the light was on until 1:00 a.m. You would never know that someone was there stealing because the light was always on, but when you have a motion detector, and when you have directed light, you can actually see what's going on. That is part of the public safety education is security. She also wanted to say with the Mad Moose Café and the Valley Market has retrofitted their lighting to meet the dark sky and they did it voluntarily. The question on the voluntarily side, can it happen in such way, that they don't lose their accreditation.

Commissioner Howell said when they have this presentation sometime down the line; they could have a list of lighting companies that handle this type of lighting. Janet Muir replied the International Dark Sky Association in Tucson, darksky.org has a data base that they can search residential, commercial, Ballard type, manufactured, it's expensive, and it will give you many options. It's under find a fixture in darksky.org is the largest dark sky fixture database in the world.

Chair Warburton closed for Public Hearing

Commissioner Graves said he is support of the Dark Sky Concept here, and he realized how important it is to get single family residence in particular to participate to make this work. To be honest he struggles a little bit mandating people what to do with their own property. He struggles with that and he thinks the cause is good, and what they are trying to accomplish is more than admirable. There has to be a way that they can do this without and he likes the incentives. He sees a lot of this in the water conservation arena, where there are all kinds of incentives to change out your indoor fixtures, or change out your sprinklers, and the kind of landscape that you have to conserve water. It is effective in terms of water conservation if the significance and the importance of having a Dark Sky up there were universally known; he thinks they would have more compliance than what we imagine.

Chair Warburton said that she would like to change Line Item 132 through Line Item 139 to shall, she support that. She said in her recommendation that the county shall create incentives. Somehow that turned into Dark Sky Compliance and so that exits, with very little regulations and she likes that it's there. She knows that there is a sense of urgency, but she would like to try the incentive way and education because obviously that's working. Even with the fact that you are saying with a little bit of education, there weren't that many Christmas lights up and that's valuable. I am for that education and incentives.

Commissioner Wood said he was born and grew up in the valley but his wasn't from here. She pointed out the benefit of having to see the stars, and he has taken it for granted all his life. It just seems odd that they are directing everything towards the businesses and nothing to the residences. Obviously there are more residences than there are

businesses in the valley. It's probably easier not to pick on the private homeowner, if we leave them out of it, then they are only dealing with a few businesses. That's what the people talked about there are so many more residents, and he wondered can we just not worry about private residents.

Chair Warburton said that for her it's a matter of principal. If they can encourage, educate, and recommend that's a better way to go. It has to do with health and safety. Anything that causes danger to a human being inside the house, that she is okay with regulating. She is okay with education because she thinks that people would really do this. It has been demonstrated that they are doing this. So if they keep doing that, and they really put in an education concept and then every person that comes in and applies for a permit to build a house, a barn, or whatever and they hand them the steps and say if you do this you'll get this. Then for the ones that are already existing, and she doesn't really see it as being lazy, or don't want to make the extra effort, or picking on businesses and they always are always getting mandated.,

Commissioner Wood said that he didn't know where he stood exactly, but it does seem that if they are worrying about Night Sky, do they have to weigh it against the right for everybody to have lights that shine up in the sky because they want them or they don't want to change them. If it comes down to if we don't change it are we going to end our Dark Sky, and how important is that to us, and having meetings in the schools and how important is that to the people. Chair Warburton said what would happen if they would lose their night sky accreditation and they come back and do this again.

Commissioner Howell said that if they mandate the businesses and educate the residents, he believed that they would come around. With new construction they can tell them this is what they have to have, and go from there.

Commissioner Haymond said that he agreed with Commissioner Howell; when they are building a new home, the cost difference to go dark sky friendly is miniscule compared to retrofitting this same house. He thinks with the new construction and moving forward; they really need making that a regulation. The sticky part with the seven year retrofit requirement; but the ratio of residential to commercial in the valley is huge.

Commissioner Lewis said that he agreed with Commissioner Haymond, he didn't believe that this is going to work if they don't somehow mandate the residential in some way; if you go forward its really easy. It used to be that you didn't have a gallon and a half toilet now; but it used be that you didn't have that, and it's no different. It's no different, you just buy that kind of light fixture versus this, and it's really going forward. It's the next six years, ten years, and twenty years from now; they need to start, but if they don't start doing something, they are not going to have that Milky Way anymore.

Commissioner Taylor said that is a compromise that she would be willing to do, and felt that some of us have some political dogma attached to it. She just listens to what everybody had to say and open houses for the General Plan what they put together. The majority of the people that kept appearing have said, and it really leans toward do you want it or not. It's different when we're getting as local as we can, and say this is what we want, and from she hears this is what they want. If they are going to do it, she would say that the majority of the residents do support some sort of residential regulations, and if they grandfather it in, any residents that are here now that helped us vote, unless they make a change to the exterior are good to go and she thinks it should be regulated and mandated for future residents.

Chair Warburton said that when she read the notes that they put out at the open house, nowhere did it say mandate residential. She thinks it was an entirely different discussion, and why there wasn't a full disclosure of what the intention was and what could possibly happen, but definitely support the dark sky, and it would have been different if they had more input.

Commissioner Taylor asked what about agricultural. The residents really want to support agriculture no matter what, and so does she and that's what they are losing. At the same time it's good to understand both sides, what can be done and she is not sure and residential she is pretty much set.

Commissioner Graves said that would be one that he thinks would be really nice to have heavily incentivized; to actually demonstrate those who have them, it makes a good experience certainly for fears of walking in a narrow line whether or not with that property showing this beam of light that shines of everything they need to see. He really

thinks that if they saw it, they would be how surprised how defective without it having bay out into a crowd in the middle of the night.

Commissioner Howell said if they could put together this presentation; maybe they could have some exhibits there to show what they do, and people relate to that.

Commissioner Taylor said educations would be good, but if they are going to support agricultural, they would actually have to really listen. There are a lot of issues there that we don't understand because we're not farmers and we're not doing this and we really need to listen and with education it would take care of parts of it.

Chair Warburton said with the education aspects of it would then educate and then they would have the choice to change it or not. Commissioner Taylor replied that she understood that but with the new residential coming in, it's just not ideal and she didn't think it's going to accomplish what needs to happen. The valley wants to keep it dark skies. Chair Warburton replied to what extent and what cost, that's why she questioned because she didn't see that specific question in there. You need to know if you were to mandated right now on what you have, especially when they were first talking, those definite one kinds. They started out by talking about regulating what people could have residential inside their houses; and even Janet Muir said she was not in favor of that. Commissioner Taylor said that she agreed that they need to know where to draw the line.

Chair Warburton said there are three things going on in here, they have mandating for new houses moving forward, incentivizing current homes, and leaving the incentivizing farms for agricultural, and business is business, and they have that. The other one is incentivizes homes period, and she would also like to incentivize business as well, and do it before the set fee and just get everybody excited about it. She asked if anybody was in favor of that one, where it's no education for residential, and who likes that.

Commissioner Graves said that he didn't want them to decide right now, but he did appreciate her articulating the options that they have, and let that ferment a little bit because they aren't making any decisions. Chair Warburton said that they need to give Mr. Ewert direction. The next scenario is that current homes are incentive, homes that are residential going forward are mandated and that one case. The other scenario is where residential is only incentives, and everything else would stay the same. They could also do residential that would include multi-family up to three, and Wolf Creek is commercial and that's four or more, and it comes down to mandating residential from this time forward versus incentivizing residential from this time forward.

Commissioner Graves and there is a third one mandating everything. They may have the seven years to get stuff done but its still mandating that they get it done. The Planning Commission did not want this.

Chair Warburton said the other one is where it's half and half moving forward, mandating residential new construction, and current residential would be incentivized. The sticky point is residential, is that what you would rather have. Commissioner Howell said mandating new business, and mandating new construction, present residential is requesting. Chair Warburton said that is the direction that he is going to go. That is the will of the majority of the commission.

Charlie Ewert said he had a question about incentivizing or mandating agricultural. Commissioner Taylor replied that she would like to hear form more people that have agricultural. Chair Warburton said that they said not incentivized. Commissioner Taylor said she didn't know. Chair Warburton said that she didn't have but she could call people and talk to people that have farms, but what they don't want to do is have so many meetings, because they will always have someone new, and they would have to start all over again. Mr. Ewert said may he reiterate the question. What they are asking him to do is that current homes get incentive to comply, new construction is mandated, agricultural is incentive, and also over that seven year implementation, everything is incentive.

Chair Warburton said that she would like to see it all incentivized, and as long as it is done before that seven years. Charlie Ewert said that incentivized per the seven year period, would be applicable to all those that aren't changing out their lights already, that aren't changing their building phases, and they aren't changing their site plan.

Courtland Erickson said if they were done with that topic on the agenda. Just to be very clear, you may want to either ask some to make a motion, and no one wants to make a motion, they could move one. Chair Warburton said they could either table to a time certain, and she would recommend that, or they could make another motion. In the past they have been told to table it to a time certain, so the public knows that it's going to continue on, which is probably the more respectful thing to do.

MOTION: Commissioner Taylor moved to table ZTA 2016-06 to the first meeting in February. Commissioner Wood seconded. A vote was taken with Commissioners Graves, Howell, Lewis, Haymond, Wood, Taylor, and Chair Warburton voting aye. Motion Carried (7-0)

2. Elections: Chair and Vice Chair for 2017

MOTION: Commissioner Taylor nominated John Lewis for vice chair. Chair Warburton seconded. A vote was taken with Commissioners Graves, Howell, Haymond, Wood, Taylor, and Chair Warburton voting aye. Commissioner Lewis voted nay. Motion Carried (6-1)

MOTION: Commissioner Howell nominated Commissioner Taylor for chair. Commissioner Wood seconded. A vote was taken with Commissioners Graves, Howell, Lewis, Haymond, Wood, Taylor, and Chair Warburton voting aye. Motion Carried (7-0)

3. Meeting Schedule: Approval of the 2017 Meeting Schedule

MOTION: Commissioner Graves moved to approve the meeting schedule. Commissioner Wood seconded. A vote was taken with Commissioners Graves, Howell, Lewis, Haymond, Wood, Taylor, and Chair Warburton voting aye. Motion Carried (7-0)

4. Public Comment for Items not on the Agenda: None

5. Remarks from Planning Commissioners: Commissioner Graves thanked Commissioner Warburton for being Chair and it was not an easy position to be in. It does take awhile to do it but it is a good experience. Chair Taylor said thank you and she agreed with Commissioner Graves.

Commissioner Howell thanked Mr. Ewert for an incredible job that he is doing on this.

6. Report from Planning Director: Director Grover said he wanted to thank Commissioner Warburton from the planning staff, and he has learned a lot in the past year. They are having a Planning Commission dinner on January 11th, and would like to see their spouse or significant other. On January 12th will be Sherri's Retirement party, and he is trying to keep them all straight. Right now he is still trying to work out some things in the budget; he is not sure they will be able to get the Planning Commissioner to the New York Conference. Typically they have one from each commission to that; and he is trying to balance those things just right. Tomorrow registration open to everyone and he will be sending an email out to this commission on that; but he is hoping that he can work something out. We have a new employee and her name is Tammy Aydelotte. They are reclassifying Sherri's position to a Planner I/Office Manager, and she will be doing the minutes for the Western Weber Planning Commission meetings and the Board of Adjustment meetings. She will start working in the Planning Division beginning on January 13, 2017. They are stealing her from the Assessor's Office.

Director Grover said the dialogue on Dark Skies was handled very well. He knows that there are some conflicting issues, and you discussed that in a very diplomatic and professional manner.

7. The meeting was adjourned at 8:20 p.m.

Respectfully Submitted,
Kary Serrano, Secretary
Weber County Planning Commission

Minutes of the Ogden Valley Planning Commission Regular meeting January 24, 2017, in the Weber County Commission Chambers, commencing at 5:00 p.m.

Present: Jami Taylor, Chair; Laura Warburton, John Howell, Greg Graves, John Lewis, Robert Wood,

Absent/Excused: Will Haymond

Staff Present: Rick Grover, Planning Director; Scott Mendoza, Assistant Planning Director; Ronda Kippen, Principal Planner; Steve Burton, Planner II, Felix Lleverino, Planning II, Courtlan Erickson, Legal Counsel; Kary Serrano, Secretary

Pledge of Allegiance:

Roll Call:

Chair Taylor asked the Planning Commissioners if they had any ex parte communication or any conflict of interest that they had to declare on any of the items on the agenda. Commissioner Lewis said he would like to disclose a potential conflict of interest. He is currently in an eviction with Summit and he could be declared on his impartiality, but felt that he could make an impartial decision. Chair Taylor said the eviction could apply to anything in regards to Summit; and they would be looking at the second administrative item UVS102816 and the first legislative item EV2016-07. She needed to ask him some questions before they could take a vote. Did he or his family have a direct financial interest in the proposal or the application? Commissioner Lewis replied no. Chair Taylor asked if he had any other reason that he determined his participation couldn't be done in an impartial manner. Commissioner Lewis replied none.

Chair Taylor asked if any of the other commissioners had any questions. Commissioner Warburton said that she didn't know if it was appropriate to ask, but did the petitioner have an issue. Courtland Erickson, Legal Counsel said under the rules of order it doesn't state anything about that, it just states that the commission shall vote to decide. Whether an actual or apparent reason or unforeseeable conflict does exist, she could take additional information to determine that. Commissioner Warburton replied that she did and asked if there was someone here from Summit. Rick Everson, Project Representative for Summit said that he didn't see this eviction being a conflict for Commissioner Lewis as these are two different issues and it shouldn't sway his decision one way or another. Chair Taylor asked for a vote if there was conflict and there were none. A vote was taken that there was no conflict with Commissioners Warburton, Howell, Lewis, Wood, Graves, and Chair Taylor voting aye. Motion Carried (6-0).

Chair Taylor asked if any of the other commissioners wanted this pulled off the consent agenda. There were none. She asked the audience if they wanted this pulled off consent agenda.

Ernest Rowley, Landmark Surveying, said he was the surveyor on record for this particular plat. One of the things that had come to his attention was that there may be some discussion over individual property lines within this particular plat. He may need to make some small adjustments on those during this process, and hoped that the Planning Commissioners would approve the plat subject to some small minor adjustments. Staff would still review those changes so it complied with the ordinance.

Less Maddock, who resides in Eden, asked his concern was any action taken, would that affect his side of the river. Mr. Rowley replied no; the boundary of the subdivision and all of the properties has always been the middle of the river, and that's where it's staying.

Chair Taylor asked Mr. Rowley even though he had some concerns in regards with the specific plat line, he asked for approval of this in that ultimately his concerns would be dealt with, whether this commission approved or not approved this particular administrative item. Mr. Rowley replied yes, and part of it has to do with questions with some of the location of the fencing within the area itself. He was not aware of these issues prior to this meeting, and was not sure if they were serious issues. The people that brought up the issues are at the meeting; and they would be willing to discuss this and work through it.

Chair Taylor said that it seemed that this item has been answered with some general questions and that they could move forward with this on the consent agenda. Commissioner Graves said he thought so and this is a preliminary approval; so those issues would have to be finalized, so all those minor adjustments could be on the plat.

1. Consent Agenda:

- 1.1. UVL101816:** Consideration and action on a request for preliminary approval of the Ella O Fowles Subdivision consisting of six lots, located at 148 N 10630 E, Huntsville In the Forest (F-5) Zone. (Rondell B Hanson, Applicant)

MOTION: Commissioner Howell moved to approve consent agenda item UVL101816 located at 148 N 10630 E, Huntsville UT, 2.3 Acres, Forest (F-5) Zone Residential. This is subject to all the conditions and recommendations listed in the staff report and to the county and state agencies requirements. Commissioner Wood seconded. A vote was taken with Commissioners Warburton, Howell, Lewis, Wood, Graves, and Chair Taylor voting aye. Motion Carried (6-0).

Director Grover said this is a consideration and action on a request for preliminary plan of Old Town Eden Condominiums located at 5510 E 2200 N in Eden, in the CV-2 Zone. This is an administrative item, and you can choose to take public comment on this and that's up to the commission if they so choose. He will have Steve Burton who will introduce the item, and then Ben Toone will present his item. Then Mr. Burton will come back and give his analysis.

2. Petitions, Applications and Public Hearings**2.1. Administrative Items****a. New Business**

- 1. UVO080116:** Consideration and action on a request for preliminary plan approval of Old Town Eden Condominiums located at 5510 E 2200 N, Eden in the Commercial (CV-2) Zone. (Ben Toone, Applicant)

Steve Burton said he would be presenting a brief outline of this application. It is an administrative decision and the applicant is Ben Toone. The approximate address is 5510 E 2200 N in Eden. Project area is 1.37 acres and it's in the CV-2 Zone. The existing land use is commercial and the proposed use is commercial. All 4 units are within the subdivision are existing buildings, 3 of the units are currently commercial businesses and 1 unit is a closed shop/garage for storage. That is all he has for his brief outline.

Ben Toone, applicant said he tried to sell this in one piece for about five years and finally got an offer two years ago but it failed over a year ago. He came to the conclusion that the only way that he could get this sold before he died, was to break it up into individual buildings. He went to the Planning Staff, Ben Hatfield and Jim Gentry to talk about his concept. They told him that there didn't appear to be any problems. He started this process over a year ago, thinking that it would take 90 days and it's been over a year. He had two offers pending this approval to sell two of the buildings and a tentative offer on the third one; but he planned to keep one building. The taxes that are delinquent and would have been paid a year and a half ago, had he been able to get these buildings sold. He has been waiting for this approval so he can pay the delinquent taxes. As soon as he can get this approved; he could get serial numbers identifying each of those buildings and get these taxes paid. He would appreciate any support from the Planning Commission.

Commissioner Howell asked if these units are going to be in the existing buildings. Mr. Toone replied each building is a unit; the general store is one unit, the house is one unit, the Old Town Eden Office is in one unit, and the metal building is one unit. In the process of getting it surveyed, it cost him more than the delinquent taxes to get the engineering, surveying, and all the other things done to get it to this point.

Steve Burton said just to give a brief staff analysis; this proposal does meet the purpose of the CV-2 Zone, which is to provide suitable areas for the location of the various types of commercial activity needed to serve the people and commerce of the Ogden Valley. It also meets the zoning requirements in the Weber County Land Use Code; for the CV-2 Zone there are no minimum lot area, minimum lot width requirements, and minimum side yard setback requirements for the zone. It does encroach to the county's right-of-way, to remedy that there is an existing recorded encroach agreement between the applicant and Weber County. It meets the subdivision requirements of the preliminary plan. As for agency reviews; they have received approval from the Weber Fire District, Weber Morgan Heath Department, and a condition of approval has been added to ensure that all conditions of the review agencies would be addressed prior to final plat. Staff recommends preliminary plan approval of the Old Town Eden Condominiums consisting of 4 lots based on the following conditions:

- 1 A deferral agreement for curb and gutter, and sidewalks must be filed and recorded with the final Mylar.
- 2 The proposed subdivision must comply with the Complete Street standards as outlined in LUC 104-21-4(c)

This recommendation is based on the findings listed in the staff report.

Chair Taylor opened for Public Comments. There were none and Chair Taylor closed for Public Comments.

Commissioner Lewis said the he would personally commend the Toone Family for many years and decades of providing the valley with small amount of commercial that they do have. He thinks that taking the buildings and cutting it into smaller parts, is going to make it easier for him to accomplish what he has been trying to get to.

MOTION: Commissioner Lewis moved to approve UVO080116 on a request for preliminary plan approval of Old Town Eden Condominiums located at 5510 E 2200 N, Eden in the Commercial (CV-2) Zone subject to all conditions and recommendations listed in the staff report, and all of the county and state agency requirements. Commissioner Graves seconded. A vote was taken with Commissioners Warburton, Howell, Graves, Lewis, Wood, and Chair Taylor voting aye. Motion Carried (6-0)

Director Grover said this is a consideration and action for the final plat approval of Summit Eden Phase 1C Amendment 4 located at 8553 East Copper Crest, Eden in the Ogden Valley Destination and Recreation Resort (DRR-1) Zone. This is an administrative item, and they can choose to take public comment as they did in the previous application. He will have Ronda Kippen who will introduce the item, and then Rick Everson will present his item. Then Ms. Kippen will come back and give her analysis.

2. UVS120816: Consideration and action for the final plat approval of Summit Eden Phase 1C Amendment 4 located at 8553 East Copper Crest, Eden in the Ogden Valley Destination and Recreation Resort (DRR-1) Zone. (SMHG Phase 1 LLC, Applicant)

Ronda Kippen said the item for consideration is final plat approval of Summit Eden Phase 1C Amendment 4. This is an amendment to the previously platted Phase 1C up in the Powder Mountain Development. The property overall consists of 1.375 acres in the DRR-1 Zone. This is quick synopsis, this is plat amendment of 19 lots and 4 open space parcel. This amendment asks for additional lot along the northern Copper Crest and two additional open space parcels to the development.

Rick Everson, Project Representative, said they have this subdivision amendment with a couple of other minor amendments; such as lot line adjustments and lot combination within Phase 1C that was originally recorded in 2014. The slide shows the proposed plat; the lots on the east side exist now, there are eight of them over there. On the slide to the right shows the proposed plat, the lots on the east side of the page existing now and there are eight of them over there now. There is just minor lot line shifts to equal out the square footage of each lot in the townhomes with zero setbacks that aren't changing much. The ones on the north side that go along Copper Crest on that road that bends around the project. The other row of proposed townhome lots is referred to Copper Crest West, and currently it is six single family lots with five foot setbacks. They are proposing to make that 11 lot townhomes with zero setbacks. This would be in Phases 3, 4, and 5 of the whole project. Copper Crest East is broken into two phases; and if they notice the stripes between the block of lots would be a breezeway. There is an open space sliver that will be separate buildings to be connected by one eave with stairs in between. They planned to have two stories with street level and a lower rock level on the rear side. The plat is recorded with five lots and they are expanding it to eleven lots; so they can have sewer and water in the center of the lots, and proposing the amendment to make it official. The original Phase 1 of Powder Mountain PRUD had 154 Units was approved. They have a will serve letter through the water and sewer district for those 154 units; but with various plat amendments that has been shrunk down to 150 instead of 154.

Ronda Kippen said in reviewing this application against our zoning and subdivision ordinance, and also against the zoning development agreements, they have found that it conforms to all three standards and the Planning Division is recommending final approval for Summit Eden Phase 1C Amendment 4, 16, and 19 Units. It does meet the intent of the DRR-1 Zone which is the purpose to provide flexible development standards to resorts. Allowing these townhomes in here would allow that flexible development that they are looking for on that village core. In our regulations they looked at natural hazard areas, culinary water and sewer, and they have also had all review agencies have reviewed and approved the proposed amendments. They did some design standard and requirements, and the taxes have all been paid on this property. The County Commission did approve the text amendment to amend the side yard setbacks in the DRR-1 Zone to five feet. The front yard setback is zero, the side yard setback is zero, and the rear setback is 10 feet. The average building height is 35 feet and this is for single family 2, 3, and 4 dwelling units. For multi-family they are looking at townhomes with front yard setbacks, side yard setbacks, and rear yard setbacks at zero, and the average building

height can be 55 feet if the elevation is lower than 6,200 feet. If the elevation is higher than 6,200 feet, then the height requirement is 65 feet.

Ronda Kippen said they have a Geologic/Geotechnical Review done on this property; based on one area of the development having slopes that exceed 25%. The Geologic/Geotechnical Report came back with two separate reports. The Copper Crest East came back saying that no geologic hazards were observed on or adjacent to the property during the recent field mapping exercises. There are specific recommendations within the geologic/geotechnical report that they will make sure to follow suit during the building portion of the townhomes. They want to ensure the Geologist/Geotechnical Engineers are onsite during the construction just in case a natural hazard is actually excavated and they could stop and evaluate it at that point. On the Copper Crest West project the only major geologic hazard that was identified was shallow ground water. During excavation they will be doing mitigating measures to make sure they don't open any land drains and different things like that. As far as all the other landslides and tree slopes, there were no problems on either one of these sites. Based on our code, it is required that due to these areas being in a potential hazardous area, that they file a natural hazard disclosure with the plat map. In this plat amendment, they are vacating the areas within the boundary; that will be vacated with the plat amendment. These areas outside of the subdivision area, and they did not want to include these parcels that were outside the subdivision, because they have been sold to individual property owners. It just was simpler to do an ordinance vacation for these areas outside the proposed amendment.

Commissioner Howell asked if there were other fault lines running through here and is that the reason the Geologic/Geotechnical Engineers were up there. Ms. Kippen replied they weren't up there. The UGS actually released an updated map that they have been working on since 2001; and finally published it last May. The UGS actually identified areas within Weber County that have the potential for geologic hazards. Those geologic hazards are everything from expansive soils, to landslides, to debris flow, to faultline, to liquefaction, and there is a lot in this area. It really impacted the Ogden Valley and all of the development going on, so it was a very painful year last year getting everything put in place. It was identified by UGS as having a potential for hazard in this area that they are looking at; so they require a geologist to go out on site and look at it. If there could be a potential, they will test it and bores, evaluate it and give them their report and recommendations.

Commissioner Lewis asked if staff had reviewed with zero setbacks, and did it seem that snow removal would be an issue. Ms. Kippen replied this is a private property that they couldn't plan on setbacks for snow storage; and they shouldn't be relying on utilizing people's front yards for snow storage. They would want to look for snow storage easement on some parcels; especially at the end of cul-de-sacs, and those were some of the items that unfortunately were not addressed. The zero foot setbacks doesn't necessarily cause concern especially in the village cores; where they are trying to bring that development up and make a walk-able community. They've been going back and forth with snow storage because it is a huge concern with snowplows and there could be damage that way; but they want to move forward that they have adequate roadway width and snow storage.

Commissioner Howell asked due to this Geology Report, do they need to make adjustments in the building code up there as a result of their report? Ms. Kippen replied there are recommendations, especially where they have shallow water for some more substantial footings that would go in and the land drain to keep the water away from the foundation. All of that would be engineered in their current design.

MOTION: Commissioner Lewis moved to approve UVS120816 for the final plat approval of Summit Eden Phase 1C Amendment 4 located at 8553 East Copper Crest, Eden in the Ogden Valley Destination and Recreation Resort (DRR-1) Zone subject to all the conditions and recommendations listed by the staff report and to the county and state agency requirements. Commissioner Howell seconded. A vote was taken with Commissioners Warburton, Howell, Graves, Lewis, Wood, and Chair Taylor voting aye. Motion Carried (6-0)

Director Grover said this is a public hearing to consider and take action on a request to vacate a 10 foot drainage easement and a 10 foot sewer easement running north to south from Copper Crest, a private road to Spring Park, and a public record located in the Summit Eden Phase 1C Subdivision. This is a public hearing and you will need to open up for public comment and close the public hearings. They will have Ronda Kippen will do a brief overview, then Rick Everson will present the item, and then Ms. Kippen will do the staff presentation.

2.2. Legislative Items**a. New Business**

1. EV2016-07: Public Hearing to consider and take action on a request to vacate a 10 foot drainage easement and a 10 foot sewer easement running north to south from Copper Crest, a private road to Spring Park, a public record located in the Summit Eden Phase 1C Subdivision. (SMHG Phase 1 LLC, Applicant)

Ronda Kippen said this runs hand in hand with the Plat Amendment for Summit Eden Phase 1C Amendment 4. This ordinance is for consideration of vacating a 10 foot drainage easement and a 10 foot sewer line easement in the previously platted subdivision. What they are considering is if there are any public interests in these easements. This is a legislative action that requires a recommendation from the Planning Commission for State Statute §17-27a609.5, the legislative body may adopt an ordinance granting petition to vacate some or all of the public street, right-of-way, or easement. If the legislative body finds that good cause exists for the vacation; and the public interests or any person will not be materially insured by the proposed vacation.

Rick Everson said this is a proposal to vacate the sewer and drainage easement, both of which are not currently being used during the construction of Copper Crest road. There are two reasons for that; on the map both the sewer and drainage were rerouted, and they were originally planned in this area highlighted. On the original road designed the low point of the road was more towards the East Crest. The idea was to have these become townhomes; but during the construction of that road, they had to stop because of the soils in the middle of the road. This made it easy to remove the low point more towards the center so design changes were made. The sewers and the storm drains now come down through the open space parcel. They have discussed that with the sewer and water district, and have had sessions with Paul Harris that shared their view to the District Engineer, who shared the As-Built Construction drawing with him. They've done that on surveying and set up to verify that is where it is; those other easements aren't being used, and they just needed to verify that with a vote from the board. They would like a separate exclusive easement to where the sewer is located; and expect at the next board meeting, that it would be approved with that as a condition of approval.

Greg Graves said in their drawing the purple line is located on Parcel H, so it's not technically in the open space. Rick Everson replied that is correct, and there is also a 10 foot wide public utility easement, that drove that outside lot line of Parcel H with a shared lot line between Parcel H and those two lots. The sewer wasn't quite defined and that was the purpose of the blanket easement, so there is a two-step easement in the same document.

Ronda Kippen said that technically the sewer district easement is a private easement with a private entity. They are just looking to make sure there's no public interest in either one of these easements. Our Engineering Division had a chance to review and approve the location of both of these easements, and they have also confirmed that the structure is where it is supposed to be. This ordinance is taking care of the areas outside this area, and is the drainage easement. That is what is being vacated by this ordinance, and the only area that is not included in Amendment 4 is that area. The Powder Mountain Water and Sewer District had the opportunity to speak to Paul Hurst who does not see an issue with this; it just needs to be a formal motion from them. Based on the state statute and review agencies; staff recommends approval of their request to vacate a 10 foot drainage easement, and a 10 foot sewer easement fronting north to south from Copper Crest, a private road to Spring Park, a public road located in Summit Eden Phase 1C Subdivision. This recommendation for approval is subject to all review agencies requirements and is based on the following conditions listed in the staff report and based on the findings listed in the staff report.

Chair Taylor opened for Public Comments. There were none and Chair Taylor closed for Public Comments.

MOTION: Commissioner Howell moved to recommend to the County Commission for approval of petition EV2016-07, at approximate address located at 8525 East Copper Crest and 8545 East Copper Crest, 3,614 square feet, in the Ogden Valley Destination and Recreation Resort zone (DRR-1) Zone subject to all the conditions and recommendations listed in the staff report, and to all county and state agencies requirements. Commissioner Wood seconded.

DISCUSSION: Commissioner Warburton said she thought they needed to include additional requirements to include in the motion from Powder Mountain Water and Sewer District. Ms. Kippen replied that is a private agreement and is not required.

VOTE: A vote was taken with Commissioners Warburton, Howell, Graves, Lewis, Wood, and Chair Taylor voting aye.
Motion Carried (6-0)

Director Grover said this is consideration and approval on an application to vacate all of Lot 2 in the Lakeside View Subdivision located at 1034 N 7100 E in the Agricultural Valley (AV-3) Zone. This is a legislative item so they will be making a recommendation to the County Commission on this. Felix Lleverino would be doing a brief over, then Judy Reeves will present the item, the Mr. Lleverino will do the staff presentation. This is a public hearing and you will need to open up for public comment and close for public comment.

2. SUBVAC16-01: Consideration and approval on an application to vacate all of Lot 2 in the Lakeside View Subdivision located at 1034 N 7100 E in the Agricultural Valley (AV-3) Zone. (Judy Reeves, Applicant)

Felix Lleverino said the applicant is requesting approval to vacate all of Lot 2 in the Lakeside View Subdivision. This vacation is being executed by way of ordinance and is supported by a plat amendment that will be processed as a small subdivision by the Planning Division following the completion of the subdivision vacation. The current acreage of this lot is 13.8 acres and the applicant has expressed that the purpose of the vacation and plat amendment is to create a 3 acre lot, leaving the remaining 10.8 acres as an agricultural parcel. That is all he has for his brief presentation.

Judy Reeves, Applicant said is trying to break up the three acres with the home that she is trying to purchase; and she is trying to go through the correct process. She owns the parcel for this lot and is trying to get it changed over to her name. She is purchasing the property from a Family LLC that owns Lakeside.

Felix Lleverino said the property is located in the AV-3 Zone and the purpose of the zone is to designate farm areas, which are likely to undergo a more intensive urban development, to set up guidelines to continue agricultural pursuits, including the keeping of farm animals, and to direct orderly low-density residential development in a continuing rural environment. The 10.8 acres will remain an agricultural parcel that will be labeled as "Remaining Parcel Not Approved for Development." in order to meet the Utah State Code requirements; Judy Reeves who resides in the home on Lot 2, has obtained signatures from the executor of Lakeside Acres LLC and the owners of Lot in the Lakeside View Subdivision. A legislative body may vacate a subdivision or a portion of a subdivision by recording in the county recorder's office an ordinance describing the subdivision or the portion being vacated. A Vacation Ordinance has been created and reviewed by the County Attorney. Staff recommends approval to vacate all of Lot 2 in the Lakeside View Subdivision subject to all review agency requirements, and is based on the condition and recommendations based on the findings listed in the staff report.

Chair Taylor opened up for public hearing.

Jill Goff, representing Ralph Hansen who rents the farm ground to the east of Lakeside Acres, said that he has no issue with the building and things like that. He just wanted it known that he owns the secondary waterline that services this property. There is to be no modification, alternation, or anything of this waterline without his written approval. If anybody does damage to the line in any way, shape, or form; or tries to hook on to it; they would need to get his permission before they do anything. When the first house went in, the plat didn't have record of this waterline on it. He wanted to ensure that it was annotated somewhere that is already exists and is already there.

Chair Taylor closed for public hearing.

Commissioner Graves asked if that Irrigation line on that easement now on the plat. Mr. Lleverino replied that would be something that would be addressed when the project further down when they are actually reviewing the plat amendment.

Chair Taylor said to her understanding that would be addressed further along in the process, and would definitely be taken care of. Commissioner Graves said that is something they can make a condition of approval.

Commissioner Wood asked if that line was part of the house or did it belong to his line. Jill Goff replied that this is a private line from Ralph Hanson that supplies the water and it was designed for x amount of shares. He rents to anybody

that hooks on to it and there is a yearly rental fee that includes a policy that if it breaks, it needs to be fixed, and that is part of the rental agreement.

Judy Reeve said that she was aware of this line and pays the rental that Lakeside does for the open space property. In the past Lakeside has had some hay on that and have used the secondary line for that. She has seen on the plat that runs along the part of the open space to the east of the three acre parcel.

Jill Goff asked so the lot that Ms. Reeve is wanting is the rental on the main road with old home. That home Ralph Hanson said that he did not believe that there is a line that goes up to that home. Chair Taylor said that Planning Department does a good job to make sure that is taken care of so it can move forward.

MOTION: Commissioner Lewis moved to recommend to the County Commission for approval on legislative item SUBVAC 16-01 to vacate all of Lot 2 in the Lakeside View Subdivision located at 1034 N 7100 E in the Agricultural Valley (AV-3) Zone subject to all the conditions and recommendations listed in the staff report, and to all county and state agencies requirements, and subject to the annotation of any waterline easement found to exist on the plat. Commissioner Graves seconded. A vote was taken with Commissioners Warburton, Howell, Graves, Lewis, Wood, and Chair Taylor voting aye. Motion Carried (6-0)

3. Public Comment for Items not on the Agenda: None

4. Remarks from Planning Commissioners: Commissioner Warburton on UVS051216 for the DRR-1 the vacation there was an amendment. She would like to see staff start annotating those things, and felt that staff could be doing those administratively especially on something like this. It just seemed like it would be so much easier just to do it administratively. There are several things that could be done and maybe have a meeting. Director Grover replied that he agreed.

5. Planning Director Report: Director Groves did a great job on the first meeting. Just an FYI that he noticed; in a couple of the recommendations that were made, they had indicated based on staff's recommendations. That is good and probably covers everything, but if they can also indicate the findings in with staff's recommendations as well so it's a little bit clearer. If they were ever challenged, it's just good to mention those findings for legal purposes. He was not sure if they have to mention those individually, just indicate the findings and it just makes it clearer.

Director Grover said that the next meeting on February 7th they plan on having a couple of items there; if they recalled they did table to a time certain date the Dark Skies to that meeting. However, they are not quite ready they wanted to meet with Ogden Valley Business Association (OVBA) and they haven't had a chance to do that. They also wanted to meet with some of the Sign Companies which they haven't been able to get that information as well. They would like to have a little bit of discussion about some of the proposals they had as far as language. They are probably are going to recommend that they table to another time at a certain date, or just recommend that they table it so they could re-notice it for another public hearing.

Director Grover said that they would also like to talk about Tiny Homes; as mentioned by Commissioner Taylor that they would like to explain their current ordinance. The current ordinance does allow for a very small type of homes and he wanted to see if that meets the needs; they are also looking at what tiny homes are out on the market, and if there needs to be an ordinance amendment. Those are the two things that they will be looking at on February 7th meeting, and if there are other things they would like for them to look at, they can do that as well.

Commissioner Warburton suggested having apartment buildings that are not attached to the house or detached apartments, with the upcoming view of the market. It seemed that more families are coming together and staying together. Director Grover replied if she was thinking of accessory dwelling units, because that was definitely in their radar. They might be able to get something put together for that meeting, and if not they could look at the following meeting.

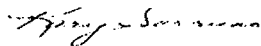
Commissioner Wood asked if the meeting would start at five. Director replied that would start at five and they would also entertain a public forum because they did table the public hearing to a time certain date on February 7th. They will just need to explain that they are looking at tabling to a time certain date or another date, and then go right into a work

session. They may have a few items that may become consent or urgent. They are trying to make sure that the last meeting of the month is geared toward administrative and the first of the month being geared towards work session.

Commissioner Howell said that he has been to a number of stores where they sell lighting. Those lights that will be required in the valley, where do they go buy them. Director Grover replied that was a discussion that Janet had, and she indicated that there some but that's going to require more of an education for the business owner to carry those types of items.

6. **Remarks from Legal Counsel:** Courtland Erickson said he wanted to apologize on the last item about public hearing, but in the end it didn't materially impact anything.
7. **Adjournment:** The meeting was adjourned at 6:30 p.m.

Respectfully Submitted,



Kary Serrano, Secretary;
Weber County Planning Commission



Weber County Planning Division

MEMORANDUM

To: Ogden Valley Planning Commission
From: Charles Ewert, AICP
Date: February 1, 2017
Subject: Proposed Ogden Valley Outdoor Lighting Ordinance Amendments

In the January 3, 2017 Planning Commission meeting the Planning Commission held a public hearing and received input on a proposal to amend the Ogden Valley Lighting ordinance. The Planning Commission tabled any action on the item until the February 7, 2017 meeting so that staff had more time to rework parts of the ordinance, conduct further research, and receive input from the sign industry regarding sign lighting. We are working with the sign industry at this time and are not yet prepared to offer a recommendation. We respectfully request that the Planning Commission table the ordinance to a date uncertain. At that time we will renote it as a public hearing.

In lieu of a formal meeting item, we are requesting this ordinance be reviewed in a work session for an overview of the two alternatives that the Planning Commission desired to see. More information will be disseminated shortly.

Feb. 2017 Training

- Board of Adjustment
- Planning Commissions



- By Christopher Crockett and Courtlan Erickson,
Deputy County Attorneys

Topics

- Open and Public Meetings
- Public Hearings
- Public Comments
- Motions
- Conflicts of Interest
- Ex Parte Communications

Open and Public Meetings Act

UTAH CODE ANN. Title 52, Chapter 4

Annual Training

“The presiding officer of the public body shall ensure that the members of the public body are provided with annual training on the requirements of this chapter.”

UTAH CODE ANN. § 52-4-104

Purpose of the Act

“(1) The Legislature finds and declares that the state, its agencies and political subdivisions, exist to aid in the conduct of the people’s business.”

“(2) It is the intent of the Legislature that the state, its agencies, and its political subdivisions: (a) take their actions openly; and (b) conduct their deliberations openly.”

UTAH CODE ANN. § 52-4-102

1. Transparency. Everyone knows what we are doing and why.
2. Provide information to the public on important issues.
3. Level of accountability.
4. It helps figure issues out. Public perspective can be very useful.

How is the Act interpreted by the courts?

"The Open and Public Meetings Act should be interpreted broadly to further the declared statutory purpose of openness; therefore, it follows that the exceptions to open meetings be strictly construed."

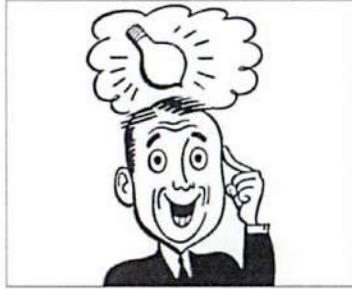
Kearns-Tribune Corp. v. Salt Lake County Commission, 2001 UT 55, 28 P.3d 686.

The courts are going to interpret it broadly. There is going to be a presumption to having the information be open and available to the public.

This is often referred to as Sunshine Laws.

Pop Quiz

1. During your meeting, you remember that you wanted to discuss a potential ordinance change, but you forgot to ask that it be placed on the agenda. Can you mention it and then discuss it as a board or commission, as long as you hold off on any action until the next meeting?



No.

A public body shall give not less than 24 hours' public notice of each meeting.

The notice shall include: the agenda, the date, the time, and the place of the meeting.

Each topic to be discussed at the meeting "shall be listed under an agenda item on the meeting agenda."

UTAH CODE ANN. § 52-4-202

Quick, informative mention with intent to discuss in the future is probably okay. Full-blown, detailed discussion is probably not okay.

Possible consequences?

- Court may void action.
- Possible award of attorney fees and costs to successful plaintiff.

Pop Quiz

2. A member of the public comes to the meeting and asks the planning commission to make a change to the general plan. Can the commission discuss the proposal in the meeting even though it isn't on the agenda?



Yes.

"[A]t the discretion of the presiding member of the public body, a topic raised by the public may be discussed during an open meeting, even if the topic raised by the public was not included in the agenda or advance public notice for the meeting."

However, "a public body may not take final action on a topic in an open meeting unless" it is listed as an agenda item and included with the advance public notice.

UTAH CODE ANN. § 52-4-202

Pop Quiz

3. Can you include vague items on the agenda such as having an "other" category as a catch all for issues that may have been forgotten?



No.

"A public notice that is required to include an agenda . . . shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting."

UTAH CODE ANN. § 52-4-202 (emphasis added)

Pop Quiz

4. You want to openly discuss your feelings about an application that is before you, but you don't want the public to know what you have to say. Can you close the meeting to have the discussion?



Maybe.

Not under the exceptions in the open meetings statute itself.

Possibly under an exception approved by our state courts:

So long as the information gathering procedures are conducted in the open, the deliberation "of a public body during a judicial process may be held in private and is exempt from the requirements of the Act."

(From *Dairy Prod. Servs., Inc. v. City of Wellsville*, 2000 UT 81, ¶¶ 58-61, 13 P.3d 581, 595-96.)

There is also a case authority exception to the closure of public meetings. This exception is relevant to administrative decisions, which are considered *quasi-judicial* in nature. The Utah Supreme Court has interpreted the Open and Public Meetings Act and stated as follows:

[I]t is clear that the legislature intended that any official meeting of the [public body], wherein it performs the "information obtaining" phase of its activities, should not be held in private or in secret, but should be open to the public. However, once the "information obtaining" procedure has been completed, it is essential that during the "decision making" or judicial phase, those charged with that duty have the opportunity of discussing and thinking about the matter in private, free from any clamor or pressure, so they can calmly analyze and deliberate upon questions of fact, upon the applicable law, and upon considerations of policy, which bear upon the problems with which they are confronted.

Common Cause of Utah v. Public Serv. Comm'n, 598 P.2d 1312, 1315 (Utah 1979). So long as the information gathering procedures are conducted in the open, the deliberation "of a public body during a judicial process may be held in private and is exempt from the requirements of the Act." *Dairy Prod. Servs., Inc. v. City of Wellsville*, 2000 UT 81, ¶¶ 58-61, 13 P.3d 581, 595-96. The rule presents a balancing of interests. First, it provides "the fullest possible degree of knowledge of the matter under consideration, and of affording the opportunity to supply information and to engage in dialogue and the exchange of ideas."

Black's Law Dictionary provides the following definition:

"**quasi-judicial**" *adj.* (1820) Of, relating to, or involving an executive or administrative official's adjudicative acts. • Quasi-judicial acts, which are valid if there is no abuse of discretion, often determine the fundamental rights of citizens. They are subject to review by courts.

"Quasi-judicial is a term that is ... not easily definable. In the United States, the phrase often covers

judicial decisions taken by an administrative agency — the test is the nature of the tribunal rather than what it is doing.” George Whitecross Paton, *A Textbook of Jurisprudence* 336 (G.W. Paton & David P. Derham eds., 4th ed. 1972).

Pop Quiz

5. Can you send an email to the other board or commission members about an issue that is going to be discussed in the upcoming meeting?



Yes.

“Nothing in this chapter shall be construed to restrict a member of a public body from transmitting an electronic message to other members of the public body at a time when the public body is not convened in an open meeting.”

UTAH CODE ANN. § 52-4-210

Still subject to disclosure under GRAMA.

Keep in mind that you are doing the public's business, and openness is important. Self-govern yourselves.

Pop Quiz

6. Is it okay for members of the board or commission to hold an informal discussion about agenda items, either right before or right after the meeting?



(Note: This question refers to informal, off-the-record discussions, and not to the pre-meetings that are held with proper notice.)

It depends.

If a quorum is participating, then it probably violates the law.

If it is less than a quorum, then it is okay.

Utah Code Ann. § 52-4-103

"Meeting" means the convening of a public body or a specified body, with a quorum present, including a workshop or an executive session, whether in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body or specific body has jurisdiction or advisory power.

"Convening" means the calling together of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.

Pop Quiz

7. I won't get in trouble for violating the Open and Public Meetings Act, right?



Wrong!

Action challenging a closed meeting:

- The court will review the record *in camera* to decide the legality of the closed meeting. If there is a violation, the judge will order the information to be disclosed publicly.
- Any final action found to be in violation of the Act is voidable by a court.
- The court may award attorney's fees and court costs to a successful plaintiff who challenges an illegal action.
- It is a Class B Misdemeanor to knowingly or intentionally violate closed meeting provisions.

Utah Code Ann. § 52-4-302 through -305

Public Hearings

General Principles

- Gives interested people the chance to provide input on legislative decisions.
- The notice must call it a public hearing.
- Anyone who wants to speak should be allowed to speak.
- The public body may limit the time each speaker is given.



State Law Highlights

Public hearing required for:

- General Plan adoption or amendment (planning commission)
- Land use ordinance adoption or amendment (planning commission)
- Zoning map adoption or amendment (planning commission)
- Vacating public street, right-of-way, or easement (county commission)
- Plat amendments (sometimes) (land use authority)

CLUDMA search for “hearing”

17-27a-204—implies that county shall hold a “first public hearing” to consider adoption or amendment of general plan

17-27a-205(1)(a)—implies that county shall hold a “first public hearing” to consider adoption or amendment of a land use ordinance

17-27a-205(4)(a)—“If a county plans to hold a public hearing in accordance with Section 17-27a-502 to adopt a zoning map or map amendment”

17-27a-205(4)(b)(v)—mentions a “first public hearing” for a zoning map or map amendment

17-27a-208—county commission must hold a public hearing before vacating a public street, right-of-way, or easement

17-27a-404—planning commission must hold a public hearing for adoption or amendment of a general plan

17-27a-502—planning commission must hold a public hearing on a proposed land use ordinance or zoning map

17-27a-602—planning commission must hold a public hearing on proposed subdivision ordinance or amendment

17-27a-608—in some circumstances, the land use authority must hold a public hearing before approving the vacation or amendment of all or part of a recorded subdivision plat

17-27a-609.5—county commission must hold a public hearing before vacating a public street, right-of-way, or easement

County Ordinance Highlights

Public hearing required for:

- Legislative amendments to county land use code (county commission)
- Rezone application (county commission)
- Modification of official public street map (county commission)
- Appeal of building permit denial related to official street map (board of adjustment)
- Preliminary subdivision review (planning commission)

County code search for “hearing”

102-1-5—county commission must hold a public hearing for legislative amendments

102-5-6—county commission must hold “the required public hearing” for a rezone application

32-7-1—county commission must hold a public hearing before modifying an official public street map

32-7-3—board of adjustment hears appeals of building permit denials related to official street maps, and it must hold a public hearing before taking action

106-1-6—planning commission holds a public hearing on proposed subdivisions at the preliminary review stage, with notice to owners within 500 feet
other results don’t appear to be relevant

Public Comments, When Not in a Public Hearing

Eight-minute clip

<http://luau.utah.gov/2016/12/03/mismanagement-101-a-mock-public-meeting/>

15:30 to 23:25

Public Comments

When not in public hearing:

- Not required by law.
- Chair decides, unless rules of order dictate otherwise.
- BOA Rules of Procedure and Ethical Conduct, part IV.A
 - In hearing each application, the Board shall receive public comments in favor of the application and public comments against the application.
- Planning Commission Rules of Order
 - Part D(1)—the order of business includes time for public comment for items not on the agenda.
 - Part E(1)—the order of consideration of agenda items includes public comment *if* it is a public hearing; otherwise, it doesn't list public comment.

Public Comments

Helpful tip:

- Read prepared statement at the beginning, explaining that public comment will not be allowed and why it will not be allowed.

Public Comments

Pros?

Cons?

Other thoughts?



Pros:

- Makes people feel heard, even if they don't like the ultimate decision.
 - Can increase trust in the openness and fairness of the process.
- Can sometimes lead to discovery of relevant information that benefits the decision making process, especially if it is factual, supported information.
- Can lead to resolution of issues and creative solutions by lowering defenses.

Cons:

- Can decrease efficiency of meeting.
 - Takes more time.
 - Increases possibility of sidetracks, tangents, etc.
- Gives people the impression that the public body can and must take their input into account in making the decision, which isn't always true.
 - E.g., public clamor, opinions, other non-factual or unsupported comments.
- Can increase risk of improper decision, and therefore, risk of being overturned on appeal.

Helpful Public Comments

Evidence regarding the following:

- FACTS
- Staff reports
- Reports from other agencies/departments (e.g. fire, water, sewer, engineering)
- Plans, studies and analysis from the applicant,
- Plans, studies, etc., submitted by affected landowners,
- Personal testimony (e.g. "This will personally affect me and the enjoyment of my property because . . .")

Public Comments that are not helpful

- Comments that do not provide relevant evidence:
 - Public opinion
 - Clamor or discontent
 - "Think about the children!"
 - Speculation on:
 - Economic viability
 - Property values
 - Possible future development in the area
 - Expressions of emotion, positive or negative.
 - General support for or opposition against a particular application or development in general.
 - Unknowns.

Motions

Example—Ineffective Handling of Motions

<https://www.youtube.com/watch?v=rFeA-pM0o8Y>

0:00 to 2:30

4:05 to 6:50

8:00 to 9:35

Example—Ineffective Handling of Motions

http://www.record-eagle.com/news/local_news/poorly-worded-motion-nullifies-planners-vote/article_5816caff-0625-5c09-bf9b-ddb7e724bdc9.html

TRAVERSE CITY — City planning commissioners will revisit plans for two nine-story buildings downtown after officials realized there was a mistake in a motion . . .

The board, because of that motion, voted to "recommend" the city commission approve the site plan.

But city commissioners don't vote on site plans . . . because they are either approved or denied by planners.

Key Points

- Clearly state the proposed action.
 - Possibly the most important thing you can do!
- If applicable, include any conditions being imposed.
- State the findings supporting the action.

The motion describes the official action of the public body and is what a court will review. We don't get a chance to go back and explain what we really meant to say or do.

If you agree with the findings and the conditions listed in the staff report, then a reference to the staff report will suffice to state those findings and conditions, because the staff report will be part of the record if the decision gets challenged.

Compare unclear motion to unclear legislation or unclear contract term. Result may be the same: job security for lawyers (i.e., disputes, possible litigation).

Examples—approvals

- I move that we approve this application, based on the findings listed in the staff report, with the conditions listed in the staff report.
- I move to approve petition #_____, filed by _____, (then state other pertinent identifying information, such as address, project area, zoning, and existing land use), subject to all conditions and recommendations listed in the staff report, and subject to all county and state agency requirements. This motion is based on the findings listed in the staff report.

Example—denial

- I move that we deny this application, based on the following findings: (Then state the specific findings that support denial.)
- Note: Detailed, specific findings will often be more important in denials than in approvals, especially if the staff report recommends approval.

Conflicts of Interest

Farcus

by David Waisglass
Gordon Coulthart



"What conflict of interest?!
I work here in my spare time."

General Definition

An interest or relationship, including a financial interest or a personal or family relationship, with persons or entities regulated by or directly affected by decisions of the decision maker.

Examples

Relationships or interests based on

- Employment
- Ownership interest
- Creditor or debtor relationship
- Family relationship



Why Avoid Conflicts?

- Thoughts?
 - Protect everyone's right to fair treatment
 - Protect public funds
 - Avoid damaging public trust
- Protect you!
 - No hard feelings
 - Open disclosure builds trust



Protect everyone's right to fair treatment

Protect public funds

Avoid damaging public trust

Protect you!

If the board or commission determines that you have a conflict of interest, it is not a negative thing. It is a recognition that the board or commission wants to be fair and wants to make sure things are not called into question later. It protects both you and the board or commission from potential criticism, and it reduces the possibility of the decision being overturned if challenged.

Gray Area Abounds

- Conflict of interest is hard to define with specificity.
- Quote from BOA Rules of Procedure and Ethical Conduct:
“The existence of a code simply puts a challenge, to some, to find a gap or loop-hole.”
- Is the relationship or interest close or distant?
- Is it direct or indirect?
- What would a reasonable person say about your ability to make an objective, unbiased decision?
- Appearance and perception matter.

•With some interests and relationships, a reasonable person would conclude that the decision maker would not be able to easily make an objective, unbiased decision.

•With other interests and relationships, a reasonable person would conclude that the decision maker would likely be able to make an objective, unbiased decision.

•The mere appearance or perception of a conflict of interest, even when it is so remote or minor as not to affect the decision maker, can still damage the perceived integrity of the decision making process.

See judicial conduct rules.

Utah Code Chapter 17-16a

Includes rules regarding:

- Disclosure and use of confidential information
- Use of official position
- Gifts and loans
- Compensation from outside sources

Officers (including BOA and planning commission members) may not:

- disclose confidential information acquired by reason of the officer's official position or use that information to secure special privileges or exemptions for themselves or others
- use or attempt to use the officer's official position to secure special privileges for the officer or for others
- knowingly receive, accept, take, seek or solicit, directly or indirectly, any gift or loan for the officer or for another, if the gift or loan tends to influence the officer in the discharge of the officer's official duties
- receive or agree to receive compensation for assisting any person or business entity in any transaction involving the county in which they are an officer, unless they make certain disclosures required by statute

Utah Code Chapter 17-16a

Additional provisions:

- Interest in business entities
- Personal interests and investments
- Consequences
 - Class A misdemeanor
 - Removal from office
 - Some transactions may be voided or rescinded

- If officers have certain types of interest in, or are employed by, a business entity that is regulated by, or does business with, the County, then they must make certain disclosures required by statute.
- “Any personal interest of or investment by any elected or appointed official of a county which creates a potential or actual conflict between the official’s personal interests and his public duties shall be disclosed in open meeting to the members of the body” in the way specified by statute.
- “In addition to any penalty contained in any other provision of law, any person who knowingly and intentionally violates this part is guilty of a class A misdemeanor and shall be dismissed from employment or removed from office.”
- Certain transactions may be voided or rescinded if entered into in violation of the provisions of this chapter.

Bottom Line—Conflicts

- Check your body's rules.
- Disclose any actual or potential conflict of interest during the meeting in which it may be an issue.
- When in doubt, it is usually safest to err on the side of not participating in the discussion or voting on an issue in which you have an actual or potential conflict of interest.
- However, not every actual or potential conflict of interest requires disqualification; there is room for the exercise of judgment, as long as proper disclosure is made.

BOA Rules of Procedure and Ethical Conduct, part V.A

Planning Commission Rules of Order, part B.4

Ask if they have questions or want to go through their rules.

Ex Parte Communications

General Definition

- Communications between interested persons and the decision maker, made outside the presence of other interested persons



General Principles

- Not okay for administrative decisions
 - Applications that are to be reviewed for compliance with existing law.
 - E.g., subdivision reviews, conditional use permit applications, variance requests
- Okay for legislative decisions
 - Deciding what the law should be.

Why Avoid Improper Ex Parte Communications?

- Protect everyone's right to fair treatment
- Protect public funds
- Avoid damaging public trust
- Protect you!
 - Reputation



Protect everyone's right to fair treatment

Protect public funds

Avoid damaging public trust

Protect you!

Fair consideration of an application may be jeopardized if a decision maker considers evidence or argument that was not openly presented to all, so that it could be subject to questions and contrary evidence or argument.

Even if the decision makers are fair, there can be an appearance of bias.

Consequences

- Lost Trust
- Possibility of overturned decision if challenged
 - Lack of fairness
 - Arbitrary and capricious?
 - Lack of due process

Bottom Line—Ex Parte Communications

- Check your body's rules.
- Avoid if possible.
- If they occur, disclose them in the meeting when the application is to be considered.
- Abstain from participating if you cannot act fairly and impartially.



BOA Rules of Procedure and Ethical Conduct, part V.C.4

Planning Commission Rules of Order, part B.4(c)

Questions?

If you have any questions in the future, please contact staff or your assigned deputy county attorney.

Disclaimer: This presentation contains the presenter's personal views and does not necessarily reflect the views of any other person or organization. Additionally, the contents of this presentation are generally applicable principles and do not constitute legal advice for any particular situation.

1 Sec. 101-1-7. - Definitions.

2 When used in this Code, the following words and phrases have the meaning ascribed to them in this
3 section, unless the context indicates a different meaning:

4 | ...

5 *Custom exempt meat cutting.* The term "custom exempt meat cutting" means the cutting, wrapping,
6 and preparation of meat for human consumption; provided, however, that the source of meat shall be
7 limited to animals that are part of one or more livestock operation(s) in Weber County, and/or wild game.

8 *Dark sky.* The term "dark sky" means a night-time sky that is substantially free of interference from
9 artificial light.

10 *Dairy.* The term "dairy" means a commercial establishment for the manufacture or processing of
11 dairy products.

12 ...

13 *Glamorous camping (glamping), agri-tourism.* The term "agri-tourism glamorous camping (glamping)"
14 means an agri-tourism use/activity that provides the opportunity for agri-tourists to rent, on a nightly basis,
15 fully furnished tents and/or rustic cabin sites that are characterized by furnishings, amenities, and
16 comforts offered by that of a luxury hotel room. Furnishings, amenities, and comforts may include but not
17 be limited to, luxurious decor, beds, linens, baths, veranda, spa services, concierge, dining, and chef.

18 *Glare.* The term "glare" means light, originating from a direct artificial light source, or any light
19 reflected off a reflective surface, that causes visual discomfort or reduced visibility.

20 *Grade, natural/existing (adjacent ground elevation).* The term "grade, natural/existing (adjacent
21 ground elevation)" means the lowest point of elevation of the finished surface of the natural ground,
22 paving or sidewalk within the area between the building and the property line or, when the property line is
23 more than five feet from the building, between the building or structure and a line five feet from the
24 building or structure.

25 ...

26 *Landscape plan.* The term "landscape plan" means:

- 27 (1) Detailed plans depicting the layout and design for landscaping, including, but not limited to
28 location, height and materials of walls, fences, hedges and screen plantings;
- 29 (2) Ground cover plantings or other surfacing to break monotony of building materials, concrete and
30 asphalt;
- 31 (3) Number, type and mature and planted size of all landscape plantings; method of irrigation,
32 location of water meter, piping, pumps, timers, point of connection and any blow-out or
33 winterizing system; location, type and size of any existing trees over four-inch caliper;
- 34 (4) Location, type and size of any existing landscaping not planned for removal; location, type and
35 size of any decorative lighting systems.

36 *Light, direct artificial.* The term "direct artificial light" means any light cast directly to an illuminated
37 area from an artificial light source, as defined by this section, or from any surface on or within the artificial
38 light source's luminaire that is intended to reflect, refract, or diffuse light from the artificial light source.
39 This does not include light reflected, refracted, or diffused from other surfaces such as nonreflective
40 surfaces on or within the luminaire, or the ground or adjacent walls, provided those surfaces are not
41 primarily intended for the reflection, refraction, or diffusion of the artificial light source. See also Section
42 108-16-9 for a graphic depiction.

43 *Light pollution.* The term "light pollution" means any artificial light that is emitted either directly or
44 indirectly by reflection that alters the appearance of the night-time sky; interferes with astronomical
45 observations; interferes with the natural functioning of native wildlife, or disrupts the community character
46 as defined in the applicable general plan for the area.

Comment [c1]: Check reference

47 *Light source, artificial.* The term "artificial light source" means the part of a lighting device that
48 produces light. See also Section 108-16-9 for a graphic depiction.

49 *Light trespass.* The term "light trespass" means the projection of any light from a direct artificial light
50 outside the lot or parcel boundary or street right-of-way where the artificial light source is located, unless
51 the projection outside the lot or parcel boundary or street right-of-way is intended, wanted, and lawfully
52 permitted. See also Section 108-16-11 for a graphic depiction.

53 *Lighting, outdoor.* The term "outdoor lighting" means the illumination of an outdoor area or object by
54 any outdoor artificial light source. Outdoor lighting also includes the illumination of an outdoor area or
55 object by direct artificial light projected from an indoor artificial light source through a window, door, or
56 similar opening.

57 *Lighting, recreation facility.* The term "recreation facility lighting" means outdoor lighting used to
58 illuminate the recreation activity area of a stadium, sports field or court, rink, ski area, swimming pool,
59 theater, amphitheater, arena, or any similar use intended for recreational activity. See also Section 108-
60 16-15 for a graphic depiction.

61 *Livestock feed yard.* The term "livestock feed yard" means a commercial operation on a parcel of
62 land where livestock are kept in corrals or yards for extended periods of time at a density which permits
63 little movement and where all feed is provided for the purpose of fattening or maintaining the condition of
64 livestock prior to their shipment to a stockyard for sale, etc.

65 ...

66 *Qualified professional.* The term "qualified professional" means a professionally trained person with
67 the requisite academic degree, experience and professional certification or license in the field or fields
68 relating to the subject matter being studied or analyzed.

69 ...

70 *Sign area.* The term "sign area" means the area of a sign that is used for display purposes, including
71 the minimum frame and supports. In computing sign area, only one side of back to back signs covering
72 the same subject shall be computed when the signs are parallel or diverge from a common edge by an
73 angle of not more than 45 degrees. In relation to signs that do not have a frame or a separate
74 background, sign area shall be computed on the basis of the least rectangle, triangle or circle large
75 enough to frame the display.

76 *Sign face.* The term "sign face" means the area of a sign that is designed to present or convey a
77 message or attract attention, exclusive of structural support members.

78 ...

79 *Sign.* The term "sign" means any object, device, display, or structure, or part thereof that is used to
80 advertise, identify, display, direct or attract attention to an object, person, institution, organization,
81 business, product, service, event, or location by any means, including, but not limited to words, letters,
82 figures, designs, symbols, fixtures, colors, illumination, or projected images.

83 *Sign, advertising.* The term "advertising sign" means an off-premises sign 20 square feet or less in
84 area.

85 *Sign, animated.* The term "animated sign" means a sign employing actual motion, the illusion of
86 motion or light and/or color changes achieved through mechanical, electrical or electronic means.

87 *Sign, athletic field scoreboard.* The term "athletic field scoreboard sign" means a sign which is
88 erected at a public or private park or public or private school for the purpose of providing game scores or
89 other information about the game in progress. Advertising by the sign donor shall be limited to 50 percent
90 of the total sign area.

91 ...

92 *Sign, conservation property.* The term "conservation property sign" means a sign that is placed on a
93 parcel with a minimum area of ten acres that is encumbered by a conservation easement held by an
94 organization or government entity as authorized by UCA §57-18-3.

Comment [c2]: Check reference

Comment [c3]: Check reference

Comment [c4]: Check reference

Comment [c5]: See standards/exemptions in 108-16-5

Comment [c6]: Check reference

Comment [c7]: Check reference

Comment [c8]: Corrected and moved to here.

95 ...

96 *Sign, development.* The term "development sign" means a temporary business sign identifying a
97 construction project or subdivision development. The sign may contain the name of the project, name and
98 an address of the construction firms, architect and developer.

99 ...

100 *Sign, freestanding (pole sign).* The term "freestanding sign " or "pole sign" means any sign supported
101 by one or more poles or a support that is placed on or anchored in the ground and that is independent,
102 unattached, or not braced from any building or other structure.

103 ...

104 *Sign, illuminated.* The term "illuminated sign" means a sign which has characters, letters, figures,
105 designs, or outline illuminated by electric lights or luminous tubes as a part of the sign.

106 ...

107 *Sign, pole.* See sign, freestanding.

108 ...

109 CHAPTER 16. - OGDEN VALLEY OUTDOOR LIGHTING

110 Sec. 108-16-1. - Purpose and intent.

111 The purpose and intent of this chapter is to promote the community character of the Ogden Valley,
112 as provided for in the Ogden Valley General Plan, by providing regulations and encouragement for the
113 preservation of a dark sky. This chapter is also intended to promote the health, safety, and general
114 welfare of Ogden Valley residents and visitors by:

- 115 (1) Reducing, eliminating, or preventing light trespass;
- 116 (2) Reducing, eliminating, or preventing unnecessary or inappropriate outdoor lighting;
- 117 (3) Reducing, eliminating, or preventing the effects of outdoor lighting on wildlife;
- 118 (4) Preventing unsightly and unsafe glare;
- 119 (5) Promoting energy conservation;
- 120 (6) Maintaining nighttime safety, utility, and security;
- 121 (7) Encouraging a minimal light footprint of land uses in order to reduce light pollution; and
- 122 (8) Promoting and supporting astrotourism and recreation, including the pursuit or retention of
123 accreditation of local parks by the International Dark Sky association.

124 Sec. 108-16-2. - Applicability.

125 (a) *New outdoor lighting.* ~~All~~ Except as provided in subsection (c) below, all outdoor lighting installed
126 after January 1, 2017, shall conform to the requirements established by this chapter. This
127 chapter does not apply to indoor lighting except as defined by "outdoor lighting" in Section 101-1-7.

128 (b) *Existing outdoor lighting.* ~~All~~ Except as provided in subsection (c) below, all existing outdoor lighting
129 that does not meet the requirements of this chapter and is not exempted by this chapter shall be
130 considered a nonconforming use and as such shall be phased out as outlined in Section 108-16-7 of
131 this chapter.

132 ~~(e)~~ (c) *Lighting for residential use.* [Except as may be provided in Section 108-16-2.] ~~If the lighting~~
133 ~~standards of this section~~ chapter are not mandatory for a single-family, two-family, or three-family
134 dwelling [in existence on March 1, 2017]. The county ~~may~~ shall employ educational methods and
135 incentives to encourage voluntary compliance for these residential uses. For the purpose of
136 facilitating education and for tracking the effect of not applying a mandate, the county may require

Comment [c9]: New definition in 101-1-7.

Comment [c10]: Check reference.

Comment [C11]: This would be used for Alternative 2 where all *existing* residential is grandfathered/incintivized forever, but *new* residential is required to comply.

Without this, the paragraph supports Alternative 1

Comment [C12]: This would be used for Alternative 2 where all *existing* residential is grandfathered/incintivized forever, but *new* residential is required to comply.

Without this, the paragraph supports Alternative 1

submittal of final lighting plans for these residential uses pursuant to 108-16-6(b)(1); if required, final lighting plans shall be submitted either at the time of application submittal or prior to certificate of occupancy, at the Planning Director's determination. The county may also require the applicant to sign an acknowledgement of review of educational materials.

Comment [c13]: Thoughts?

(d) *Conflict.* Should this chapter be found to be in conflict with other sections of this code, the more restrictive shall apply.

Sec. 108-16-3. - General standards.

(a) *Light shielding and direction.* Unless specifically exempted in Section 108-16-5, all outdoor lighting shall be fully shielded and downward directed in compliance with the following, examples of which are graphically depicted in Section 108-16-10:

- (1) No artificial light source shall project direct artificial light into the night-time sky;
- (2) No artificial light source shall be placed at a location, angle, or height that creates a light trespass, as defined in Section 101-1-7 and graphically depicted in Section 108-16-11.
- (3) The shielding shall be made of completely opaque material such that light escapes only through the bottom. Shielding that is translucent, transparent, has perforations or slits of any kind, or allows light to escape through it in any other manner is not permitted.
- (4) Shielding may be attained by light fixture design, building design, or other site design features such as fencing, walls, landscaping, or other screening, provided it is in strict compliance with (1) through (3) of this subsection.

Comment [c14]: Check reference

(b) *Light color.* Unless otherwise specified in this chapter, the color of any outdoor lighting artificial light source shall be equal to or less than 3000K, in accordance with the standard Kelvin temperature chart, as graphically depicted in Section 108-16-12.

Comment [c15]: Check reference

Sec. 108-16-4. - Specific standards.

In addition to the general standards of Section 108-16-3, The following are specific standards that apply to all commercial, industrial, manufacturing, public and quasi public, institutional, multifamily, recreation, and resort uses:

- (1) *Light curfew.* Unless exempt in Section 108-16-5, and except for residential uses, all outdoor lighting shall be turned off by 10:00pm, or, if applicable, within one hour after the close of business, whichever is later, except the following:
 - a. Lighting to illuminate the entrance of the building;
 - b. Safety lighting of parking lots and pedestrian areas;
 - c. Lighting necessary for after-hours business.
- (2) *Flashing or flickering light.* No flickering or flashing lights shall be permitted.
- (3) *Canopy lighting.* All direct artificial light sources shall be sufficiently recessed so as not to project direct light greater than five feet from the outside perimeter of the canopy, and shall not produce more than a ratio of 8 lumens per square foot of canopy area. This ratio shall be calculated by combining the total lumen output of each artificial light source and dividing by the square footage of the canopy. See Section 108-16-13 for a graphic depiction.
- (4) *Parking lot lighting.* All artificial light sources in open-air parking lots shall not exceed a ratio of two lumens per square foot of parking lot area. This ratio shall be calculated by combining the total lumen output of each artificial light source divided by the square footage of the parking lot area. See Section 108-16-14 for a graphic depiction.
- (5) *Recreation facility lighting.* Recreation facility lighting, as defined in Section 101-1-7, shall comply with the following:

Comment [c16]: Measurable

Comment [c17]: Measurable.

The rough equivalent of "rural light" from the IDA model code.

Comment [c18]: Check reference

Comment [c19]: Check reference

- a. The lighting for the recreation activity area shall only be directed onto the area where the recreation activities are occurring. It shall not be allowed to illuminate surfaces that are not essential to the function of the recreation activity.
- b. The lighting shall not exceed a ratio of 10 lumens per square foot of recreation activity area. This ratio shall be calculated by combining the total lumen output of each artificial light source divided by the square footage of the recreation activity area. See Section 108-16-15 for a graphic depiction.
- c. The recreation activity area shall be lit only when it is in use.
- d. The light color standard of 108-16-3 does not apply to lighting for the recreation activity area.
- (6) *Sign lighting.* Sign lighting shall comply with the requirements of 110-2-12.

Sec. 108-16-5. - Exemptions.

The following artificial light sources are exempt from the requirements of this chapter:

- (1) ~~Covered deck and patio~~ Agricultural and residential lighting. — Lighting for agricultural and residential uses.
- (2) *Federal and state flag lighting.* The outdoor lighting of a United States or State of Utah official flag, provided it is in compliance with the following:
 - a. The light shall be downward directed from the top of the flag pole;
 - b. The light shall be as narrow a beam as possible and aimed and shielded to illuminate, to the best effort practicable, only the area which the flag occupies in all wind conditions; and
 - c. The light level shall be minimized to create the least amount of impact on the dark sky, while still offering noticeable illumination of the flag;
- (3) *Federal and state facilities lighting.* Federal and state facilities are exempt from the requirements of this chapter. However, they are encouraged to cooperate and to coordinate with the County the construction of their facilities in compliance with this chapter;
- (4) *Fossil fuel lighting.* Fossil fuel light, produced directly by the combustion of natural gas or other utility-type fossil fuels;
- ~~(5) *Historic antique lighting.* Outdoor lighting devices designed to preserve the historic nature of a site, based on historically accurate recreations of antique light devices, provided the light output of each artificial light source is equal to or less than nine hundred lumens;~~
- (5) *Holiday or festive lighting.* Holiday or festive outdoor lighting for residential uses, provided it is in compliance with the following:
 - a. That the lighting shall not create a hazard or glare nuisance; and
 - b. That the lighting shall be temporary in nature and not permanently installed. It shall be removed within a reasonable time after the end of the holiday or festive event, but at least once per year.
- ~~(6) *Low output light source.*~~ An artificial light source having an output equal to or less than one hundred five lumens, provided that the cumulative lumen output of all low output light sources shall not exceed a ratio of one and a half lumens per square foot of cumulative area intended to be illuminated. This ratio shall be calculated by combining the total lumen output of each low output light source divided by the square footage of the area intended to be illuminated. Each low output light source shall be distributed across the area intended to be illuminated and not organized in a focused location;
- ~~(6) *Mobile lighting.*~~ Lighting affixed to a vehicle, provided the lighting is not intended for the stationary illumination of an area;

Comment [c20]: This is typical of non-professional/non-semi-professional courts/fields/etc.

Comment [c21]: Discussed standard with ski areas. It is more than enough for their purposes.

Comment [c22]: Check reference

Comment [C23]: This would be for Alternative 1

Comment [C24]: This would be for Alternative 1

Comment [c25]: Measurable

Comment [c26]: Measurable

Comment [c27]: 7 watts incandescent bulbs

This will allow some flexibility for pathway lights and string lighting.

Comment [c28]: Measurable

Comment [c29]: Measurable

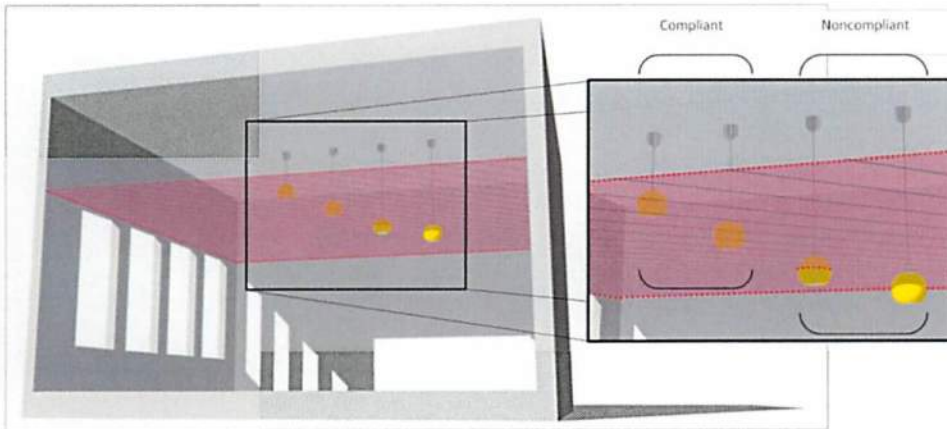
(7) *Motion sensor controlled light source.* An artificial light source that has a light output equal to or less than nine hundred lumens and is controlled by a motion sensor, provided it is in compliance with the following:

- a. That the motion sensor is set to turn the artificial light source off 10 minutes after the last detection of motion; and
- b. That the artificial light source is sufficiently shielded in a manner that prevents glare on adjacent properties or roadways;

~~(8) *Outdoor lighting projected from indoors.* An artificial light source that is projected from indoors to outdoors through windows, doors, or similar openings, for:~~

- ~~a. Residential and agricultural uses; and~~
- ~~b. All other uses, provided that this exemption only applies to direct artificial light when it passes through a cumulative area of these windows, doors, or similar openings that is equal to or less than 50 percent of the face of the building, excluding roof area, on which these windows, door, or similar openings are located.~~

(9) *Outdoor lighting projected from indoors.* An artificial light source that is projected from indoors to outdoors through windows, doors, or similar openings, provided that this exemption only applies to direct artificial light when it is positioned above an imaginary line that extends horizontally from the top of any window, door, or similar opening. Light-blocking shades, blinds, or similar coverings may be used to satisfy this standard. In the following example the two pendant lights on the left are above the horizontal, while the two pendant lights to the right extend below the horizontal and are not permitted:



(10) *Safety or security lighting.* For the sole purpose of mitigating legitimate and verifiable safety or security hazards, the Land Use Authority may exempt an artificial light source if it is shown to be necessary. The Land Use Authority may apply reasonable conditions to ensure optimal compliance with the purpose and intent of this chapter. Evidence demonstrating that it is necessary shall be one or both of the following:

- a. Submitted proof of lighting requirements from a property insurance company that demonstrates that compliance with this chapter will render the property uninsurable. The

Comment [c30]: 60 watt incandescent

Comment [c31]: Measurable

Comment [c32]: Measurable

minimum amount of lighting required by the property insurance company shall be considered the maximum for the purposes of this chapter; or

- b. Submitted reasonable research findings, from a qualified professional, as defined by Section 101-1-7, that offer a compelling argument for the need for the exemption. However, if the Land Use Authority is aware of other research findings that refute what is submitted, then the Land Use Authority must determine which research findings are more persuasive under the circumstances. If the Land Use Authority grants the exemption, then the minimum amount of lighting necessary to ensure appropriate safety or security, as recommended by the qualified professional, shall be considered the maximum for the purposes of this chapter;

~~(10) Special~~ (11) Occasional event lighting. Outdoor lighting intended for an ~~an special~~ occasional event, such as a wedding, party, social gathering, or other similar event that occurs on an occasional basis, provided it is in compliance with the following:

- a. Occasional event lighting shall be turned off by 10:30pm and any remaining lighting shall comply with this chapter; and
- b. Occasional events shall not occur more than twice per month;

Comment [c33]: Measurable

Comment [c34]: Measurable

(12) Underwater lighting. Underwater lighting in a swimming pool or other water feature provided it is not intended to illuminate features above water;

~~(12)~~ (13) Temporary public agency lighting. Temporary outdoor lighting in use by law enforcement or a government agency or at their direction;

~~(13)~~ (14) Tower lighting. Tower lighting required by the FAA or the FCC, provided that it shall not exceed the minimum requirements of those agencies. Collision markers shall have a dual mode for day and night to minimize impact to the night sky and migrating birds; and

~~(14)~~ (15) Traffic control devices. Traffic control devices and signals.

Sec. 108-16-6. - Procedures for compliance.

(a) *Applications.* Any application for a permit or approval required by this Land Use Code shall contain evidence that the proposed work complies with this chapter.

(b) *Contents of application or submittal.*

(1) In addition to the specific application requirements elsewhere in this Land Use Code, the application submittal shall contain the following:

- a. Plans indicating the location of all artificial light sources on the premises, including their height above the ground.
- b. Description of each artificial light source device, and supporting structure. This description may include, but is not limited to, device specifications from the manufacturer, drawings, details, and cross sections, when available.

(2) The required plans and descriptions set forth in subsection (b)(1) of this section shall be complete and shall be presented in a manner that clearly demonstrates compliance with this chapter. The Land Use Authority may require the applicant to submit photometric schematics and attestation from a qualified professional that the submittal complies with this chapter.

Sec. 108-16-7. – Required replacement of nonconforming outdoor lighting.

After the effect of this chapter, which is March 1, 2017, all outdoor lighting that does not comply with the requirements of this chapter shall be considered nonconforming outdoor lighting. All nonconforming outdoor lighting shall be phased out in accordance with the following schedule:

(+) Lighting conversion. Except for outdoor lighting for residential uses in existence on March 1, 2017, any nonconforming outdoor artificial light source shall be terminated, replaced, or retrofitted to conform to the requirements of this chapter within seven years after the effect of this chapter. The County shall provide frequent public notice of the effect, but no less than one per year. After the effect of this chapter, The county shall employ educational methods and incentives to encourage voluntary compliance prior to this seven year period and to assist the public in understanding and complying with this chapter.

Comment [C35]: This would be used for Alternative 2 where all existing residential is grandfathered/incinized forever, but new residential is required to comply.

Comment [c36]: Measurable

(2) Lighting replacement. The replacement of any nonconforming outdoor artificial light source shall comply with the requirements of this chapter;

(3) Building exterior modification. When the replacement of a building's exterior materials exceeds 25 percent of the building's exterior area, excluding roof area, whether by a single modification project or by an accumulation of separate modification projects, all nonconforming outdoor lighting on or within 25 feet of the building shall be brought into compliance with the requirements of this chapter. This shall not include repainting or re-roofing,

Comment [c37]: Measurable

Comment [c38]: Measurable

(4) Building expansion. When a building's expansion exceeds the threshold established in this subsection, whether by a single expansion project or by an accumulation of separate expansion projects, all nonconforming outdoor lighting on or within 25 feet of the building shall be brought into compliance with the requirements of this chapter. The established threshold of expansion shall be the smaller of the following:

Comment [c39]: Measurable

a. 25 percent of the total area of the building as it exists on March 1, 2017; or

Comment [c40]: Measurable

b. 2,500 square feet; and

Comment [c41]: Measurable

(5) Site improvements. When a site improvement which requires a land use permit, conditional use permit, or design review approval, modifies an area that exceeds the threshold established in this subsection, whether by a single modification project or by an accumulation of separate modification projects, all nonconforming outdoor lighting on the premises shall be brought into compliance with the requirements of this chapter. The established threshold of modification shall be the smaller of the following:

a. 25 percent of the site area; or

Comment [c42]: Measurable

b. 20,000 square feet.

Comment [c43]: Measurable

Sec. 108-16-8. – Violations and enforcement.

(a) Violations. The following constitute violations of this chapter:

(1) The installation, maintenance, or operation of any outdoor artificial light source not in compliance with the provisions of this chapter.

(2) The alteration of any outdoor artificial light source after a certificate of occupancy has been issued without the review and approval of the Land Use Authority when such alteration does not conform to the provisions of this chapter.

(3) Failure to shield, correct, or remove lighting that is installed, operated, maintained or altered as required by this chapter in a manner that does not comply with this chapter.

(b) Enforcement. Violations of this chapter are subject to enforcement and penalties as outlined in this Land Use Code, Section 101-1-13. If the violation constitutes a safety hazard, typical enforcement measures shall be employed. Unless the violation constitutes a safety hazard, enforcement of a violation of this chapter shall first be addressed as follows:

(1) A courtesy letter shall be sent to the land owner that suggests that there may be noncompliant outdoor lighting on the premises. A second and third courtesy letter shall be sent at least 20 calendar days after the previous courtesy letter if a previous courtesy letter does not either cause the resolution of the violation or cause the landowner to initiate resolution with the County as provided in subsection (b)(3) of this section. Educational information about how to

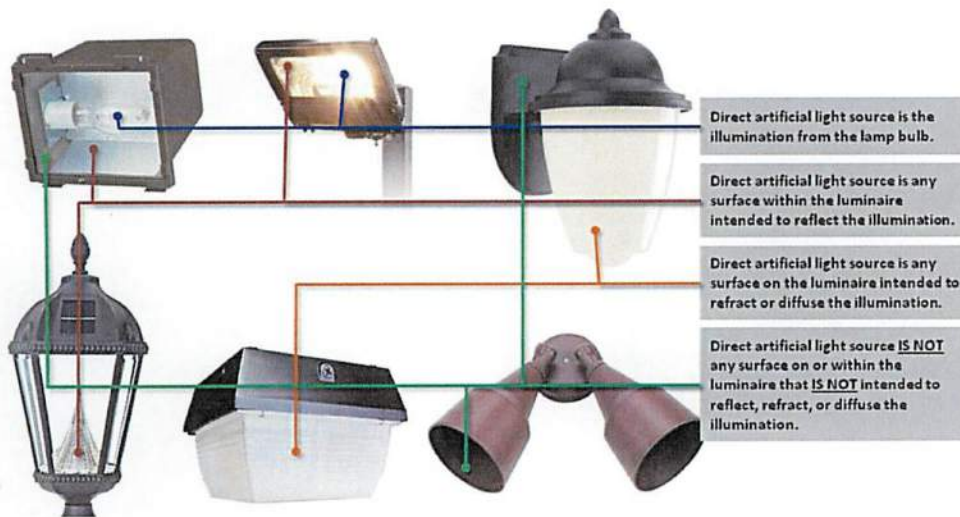
appropriately comply with this chapter shall also be sent and a method of contacting the county for discussion shall be provided in each courtesy letter. The third courtesy letter shall state that it is the last courtesy letter, and future contact will be in the form of a notice to comply.

(2) No sooner than 30 days after the third courtesy letter is sent, if ~~it did not either cause the resolution of the violation or cause the landowner to initiate resolution with the County as provided in subsection (b)(3) of this section,~~ a notice to comply shall be sent to the land owner. The notice shall include, with specificity, the violation, and shall give the landowner ~~at least 30 days to bring the property into compliance~~ comply with this chapter or initiate resolution with the County as provided in subsection (b)(3) of this section. The notice shall also include educational information about how to appropriately comply with this chapter.

(3) If a landowner initiates resolution of a violation of this chapter with the County, the County shall give the landowner ~~at least six months~~ no less than six months and no more than 12 months to comply with this chapter ~~provided, however, that if it is~~ the landowner clearly demonstrateds that good faith efforts ~~to resolve the violation can be implemented~~ will resolve the violation within the six month period given. If the landowner does not clearly demonstrate that good faith efforts will resolve the violation a notice to comply shall be sent to the landowner. The notice shall include, with specificity, the violation and shall give the landowner 30 days to comply with this chapter.

(4) If, after steps 1-3 of this subsection have been satisfied, a landowner fails to initiate resolution of a violation of this chapter, or fails to comply within ~~six months~~ the period specified in subsection (b)(3) of this section ~~after a resolution has been initiated,~~ typical enforcement measures shall be employed. Additionally, the final approval of current or future plans, the issuance of a certificate of occupancy, or the acceptance of new applications authorized by this Land Use Code may be withheld until compliance with this chapter is demonstrated.

Sec. 108-16-9. – Examples of direct artificial light.



Sec. 108-16-10. – Examples of unshielded and shielded light sources.

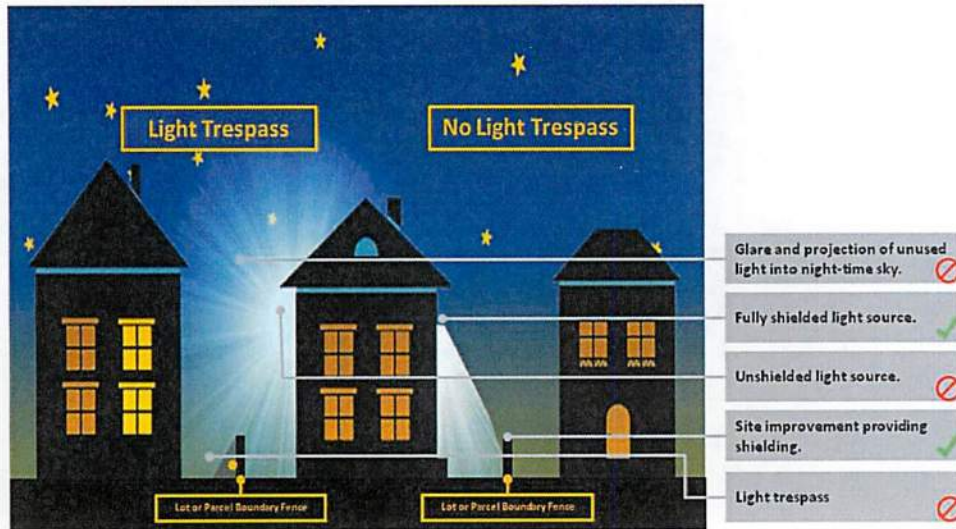


373



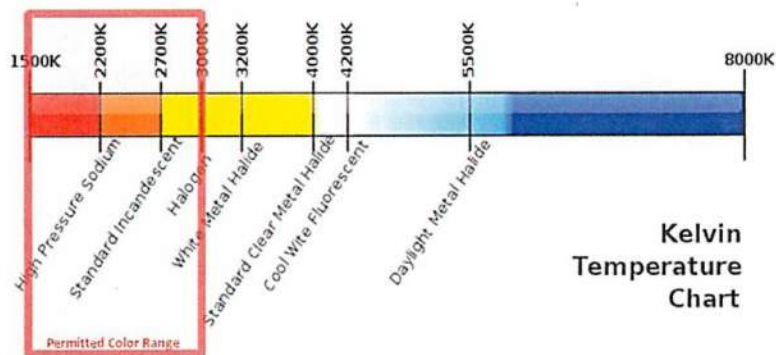
374
375

Sec. 108-16-11. – Example of light trespass.



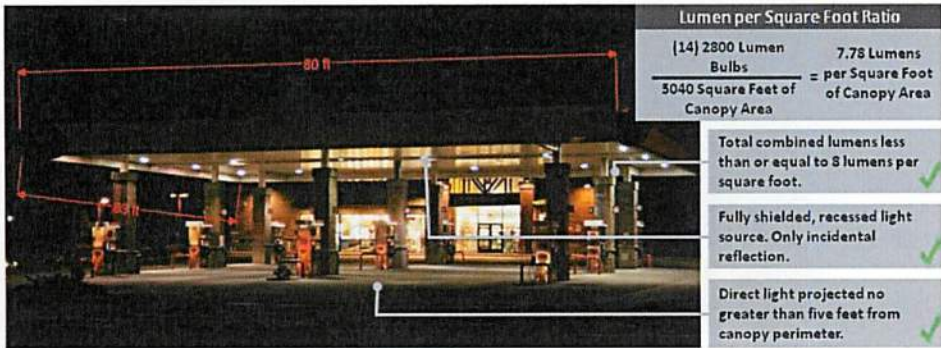
376

377 Sec. 108-16-12. – Standard Kelvin temperature chart.



378

379 Sec. 108-16-13. – Example of canopy lighting.



Sec. 108-16-14. – Example of parking lot lighting.



Sec. 108-16-15. – Example of recreation facility lighting.



431 ...

432 (7) Changeable copy signs. Electronic changeable copy signs, except as permitted in 110-2-
 433 9(b)(13). Manual changeable copy signs except as permitted in section 110-2-10, ~~Special~~
 434 ~~purpose signs.~~

435 ...

436 **Sec. 110-2-9. - Other signs.**

437 ~~In addition to being regulated by other ordinances and state or federal law, the following signs are only~~
 438 ~~regulated in the following manner:~~

439 (a) The following signs are allowed in any zone:

440 (1) Conservation property sign. A conservation property sign, as defined in Section 101-1-7, may
 441 be erected on any property complying with the minimum provisions of the definition. The sign
 442 shall either be a monument sign or a freestanding sign (pole sign) in compliance with the
 443 following:

444 a. Monument sign. For a monument sign the width shall be no greater than ten feet and the
 445 height shall be no greater than eight feet, with a sign face no greater than 24 square feet.

446 b. Freestanding sign (pole sign). For a freestanding sign (pole sign) the width shall be no
 447 greater than eight feet and the height shall be no greater than ten feet with a sign face no
 448 greater than 24 square feet. The sign face shall be mounted between the sign poles, which
 449 shall be constructed of timbers that measure at least eight inches by eight inches and
 450 extend from the ground to the top of the sign face. The top of the sign face and the bottom
 451 of the sign face shall be completely bounded by timbers that have a minimum vertical
 452 height of eight inches.

453 c. Example. The following images are examples of each:



454

455 (2) Gate or arch sign. A gate or arch sign situated over the primary entry of a lot or parcel of land,
 456 provided that the sign face does not exceed 30 square feet and that the sign provides a vertical
 457 clearance of at least 14.5 feet from the driving surface, not to exceed 18 feet in height and a
 458 minimum passable width of 20 feet, not to exceed 30 feet pole to pole. Depth of the Arch shall
 459 not exceed two feet. A land use permit, to verify compliance with applicable standards, and a
 460 building permit to verify proper installation of footings and to ensure wind tolerance, is required.

461 (3) Subdivision entry signs. An approved, recorded subdivision may locate one sign at each
 462 entrance. The sign shall be a ground or monument sign, and shall meet all
 463 specifications/requirements for monument signs in Section 110-2-5. In the event the location of
 464 the subdivision entry sign is in a zone not governed by Section 110-2-5, the dimensions of the

Formatted: Font: Italic

Comment [c53]: Moved from list below

Comment [c54]: Moved from list below

386 CHAPTER 2. - OGDEN VALLEY SIGNS

387 ...

388 Sec. 110-2-2. - Applicability.

389 (a) *Permit required.* No person shall erect, alter or relocate any sign without first obtaining a land use
 390 permit, and meeting the standards set forth in this section. Signs conforming to the requirements of
 391 this section which identify seasonal business may be removed for the seasons during which the
 392 business is not in operation, and may be reinstalled without a new permit. All applications for land
 393 use permits shall be accompanied by plans, designs, specifications and drawings stating specifically
 394 all dimensions, lighting (see also Section 108-16-6), colors and plan of installation stating clearances
 395 and setbacks. Land use permits expire six months after issuance if the sign is not erected or altered
 396 pursuant to the permit.

397 ...

398 Sec. 110-2-4. - Nonconforming signs.

399 ~~A sign may be reinstalled which duplicates the original nonconforming sign in dimensions and~~
 400 ~~location. Any changes in size or location shall require conformance to this chapter and the current lighting~~
 401 ~~ordinance. After the effect of this chapter, which is March 1, 2017, any sign that does not comply with the~~
 402 ~~requirements of this chapter shall be considered a nonconforming sign. A nonconforming sign that is not~~
 403 ~~defined as a billboard under UCA 17-27a-103 shall be phased out in accordance with the following~~
 404 ~~schedule:~~

Comment [c44]: This is all borrowed from the phase-out in the proposed lighting chapter.

405 ~~(1) Sign conversion. Any nonconforming sign shall be terminated, replaced, or retrofitted to conform~~
 406 ~~to the requirements of this chapter within seven years after the effect of this chapter.~~

Comment [c45]: Measurable

407 (12) *Sign replacement.* The replacement of any nonconforming sign shall comply with the
 408 requirements of this chapter;

409 (23) *Building exterior modification.* When the replacement of a building's exterior materials exceeds
 410 25 percent of the building's exterior area, excluding roof area, whether by a single modification
 411 project or by an accumulation of separate modification projects, all nonconforming signs on or
 412 within 25 feet of the building shall be brought into compliance with the requirements of this
 413 chapter. This shall not include repainting or re-roofing.

Comment [c46]: Measurable

Comment [c47]: Measurable

414 (34) *Building expansion.* When a building's expansion exceeds the threshold established in this
 415 subsection, whether by a single expansion project or by an accumulation of separate expansion
 416 projects, all nonconforming signs on or within 25 feet of the building shall be brought into
 417 compliance with the requirements of this chapter. The established threshold of expansion shall
 418 be the smaller of the following:

Comment [c48]: Measurable

419 a. 25 percent of the total area of the building as it exists on March 1, 2017; or

Comment [c49]: Measurable

420 b. 2,500 square feet; and

Comment [c50]: Measurable

421 (45) *Site improvements.* When a site improvement which requires a land use permit, conditional use
 422 permit, or design review approval, modifies an area that exceeds the threshold established in
 423 this subsection, whether by a single modification project or by an accumulation of separate
 424 modification projects, all nonconforming signs on the premises shall be brought into compliance
 425 with the requirements of this chapter. The established threshold of modification shall be the
 426 smaller of the following:

427 a. 25 percent of the site area; or

Comment [c51]: Measurable

428 b. 20,000 square feet.

Comment [c52]: Measurable

429 ...

430 Sec. 110-2-8. - Prohibited signs.

sign shall be no greater than allowed in the AV-3 zone. The planning commission shall approve location and design style. A double entry sign may be approved by the planning commission where there is a divided center island entry street.

(b) The following signs are allowed in any zone and are exempt from the standards of Section 110-2-12(a):

- (1) Addressing numbers. Addressing numbers shall be no more than 12 inches in height. An addressing number sign is also exempt Section 110-2-12(b)(8).
- (2) Athletic field scoreboard signs. An athletic field scoreboard sign shall not exceed 120 square feet in any zone. An athletic field scoreboard sign is also exempt from Section 110-2-12(b)(3). The planning commission shall approve the location of all scoreboard signs in all zones except commercial and manufacturing zones.
- (3) Business signs. No more than one "Open/Closed" and one "Vacancy/No Vacancy" sign, one "Hours of Operation" sign, and one "Credit Card Acceptance" sign, not to exceed a total of four square feet in area, displayed for each business.
- ~~(4) Gate or arch sign. A gate or arch sign situated over the primary entry of a lot or parcel of land, provided that the sign face does not exceed 30 square feet and that the sign provides a vertical clearance of at least 14.5 feet from the driving surface, not to exceed 18 feet in height and a minimum passable width of 20 feet, not to exceed 30 feet pole to pole. Depth of the Arch shall not exceed two feet. A land use permit, to assure standards are in compliance, and a building permit for proper installation of footings and to ensure wind tolerance, are required.~~
- (45) ~~Governmental~~ Flags. Official governmental flags of the United States, the State of Utah or Weber County, and which are properly displayed, and provided they are not mounted on a roof or atop other signs. One corporate flag may be displayed along with a proper display of any or all of the official flags listed in this subsection. Flagpole height may not exceed the maximum height allowed in the zone for which it is being placed. If over the height allowed in the zone, the flagpole shall have a conditional use permit approved by the planning commission. Governmental uses, such as libraries and schools, shall be exempt from height requirements of this sub-section.
- ~~(56)~~ Grand opening signs. On a one-time basis, a business establishment shall be permitted one banner not to exceed 12 square feet, to be displayed for a period of not more than 30 days.
- ~~(67)~~ Guidance signs. Guidance and other informational signs authorized by the Utah Department of Transportation or other governmental agency. A guidance sign is exempt from all of the standards of Section 110-2-12.
- ~~(78)~~ Historical signs. Historical name signs for sites and/or structures designated by the board of county commissioners as having historical significance to the county (and as identified in the Ogden Valley Master Plan).
- ~~(89)~~ Murals. Murals, when depicted on the sides or rear of a building or storefront, provided that the mural has no connection or advertising context to any business conducted or any product or service offered therein.
- ~~(409)~~ Nameplate signs. Nameplate signs not to exceed four square feet that identify the occupants/owners and/or home occupation of a residential property. ~~Larger residential signs shall comply with the provisions of this Land Use Code.~~
- ~~(4410)~~ Private warning signs. Private warning signs, provided they do not exceed four square feet.
- ~~(4211)~~ Signs on vehicles. Signs for business identification which may include name, address, and telephone number, not to exceed two feet by three feet upon the side door of a vehicle.
- ~~(4312)~~ Statuary and sculptures. Freestanding statuary and sculptures which are considered to be works of art and which are placed on private property clearly for the benefit and interest of the general public.

~~(14) Subdivision entry signs. An approved, recorded subdivision may locate one entry sign at each entrance. The sign shall be of the monument type and meet all specifications/requirements for monument signs in section 110-2-5, Allowable signs by zoning district. The name of the subdivision shall be the only text included on said sign. The planning commission shall approve location and design style. A double entry sign may be approved by the planning commission where there is a divided center island entry street.~~

~~(+513)~~ Traffic signs. All signs erected in or adjacent to a public right-of-way by a public agency or in a private road right-of-way for the purpose of controlling or directing traffic. A traffic sign is exempt from all of the standards of Section 110-2-12.

...

Sec. 110-2-11. - Temporary sign usage.

...

(3) *Additional standards.* The following table applies to temporary sign use:

	General Standards in all Zones			Specific Standards for the Agricultural, Forest and Residential Zones			Specific Standards for the Commercial, Manufacturing and Resort Zones		
Sign Type	Display Period	Removal Required 3 Days After	Land Use Permit or Special Event Permit Required	Maximum Area per Sign Face	Maximum Height of Freestanding Signs (includes support structure)	Number of Signs Permitted per Sign Type	Maximum Area per Sign Face	Maximum Height of Freestanding Signs	Number of Signs Permitted per Sign Type
Occasional Signs:									
Campaign signs	60 days prior to the election	Completion of the election	N	32 square feet	6 feet	No limit	32 square feet	8 feet	No limit
Construction signs	Duration of construction	Completion of construction	N	32 square feet	6 feet	1 per street frontage	64 square feet	12 feet	1 per street frontage
Property/real estate sign	Duration of listing	Closing/lease commencement date	N	8 square feet	6 feet	1 per street frontage	64 square feet	12 feet	1 per street frontage
Short-term vendors § 108-13-3	120 days	End of event	Y/LUP	Not Applicable	Not Applicable	Not Applicable	16 square feet	6 feet if set in the ground or anywhere on the building	2 total per frontage, either a ground sign or on vendor trailer, mobile store, tent, or kiosk
Temporary outdoor sales § 108-13-4	Per state code if applicable or 30 days prior to the event	End of event	Y/LUP	Not Applicable	Not Applicable	Not Applicable	16 feet	6 feet if set in the ground or anywhere on the building	2 per street frontage
Temporary real estate sales office	Duration of construction	Completion of construction	Y/LUP	32 square feet	6 feet	1 per street frontage	Not Applicable	Not Applicable	Not Applicable
Temporary real estate sales office wall sign	Duration of construction	Completion of construction	Y/LUP	20 square feet	N/A	1 sign attached to the office	Not Applicable	Not Applicable	Not Applicable

Continued...	General Standards in all Zones			Specific Standards for the Agricultural, Forest and Residential Zones			Specific Standards for the Commercial, Manufacturing and Resort Zones		
Seasonal Signs:									
Farmer's markets § 108-13-5	June through October	End of event	Y/LUP	32 square feet	10 feet	1 per street frontage	32 square feet	10 feet	1 per street frontage
Fruit and vegetable stand § 104-5-3 (8)	June through October	End of event	Y/LUP	16 square feet	10 feet	1 per street frontage	32 square feet	10 feet	1 per street frontage
Political sign	No limit	No limit	N	16 square feet	10 feet	1 per street frontage	32 square feet	10 feet	1 per street frontage
Event Signs:									
Public event sign	30 days prior to the event	End of event	Y/SEP	4 square feet	3 feet	1 per street frontage	4 square feet	3 feet	1 per street frontage
Public event banner (on public property, over public streets or sidewalks)	30 days prior to the event	End of event	Y/SEP	12 square feet	N/A	1 per street frontage	12 feet	N/A	1 per street frontage
Public event directional sign	30 days prior to the event	End of event	Y/SEP	8 square feet	4 feet	No limit off- premises directional signs	8 square feet	4 feet	No limit off- premises directional signs
Special event sign	60 days prior to the event	End of event	Y/SEP	16 square feet on-site	6 feet	No limit onsite signs, either ground or banner signs	16 square feet onsite	6 feet	No limit on- site signs, either ground or banner signs
Special event banner (on public property)	30 days prior to the event	End of event	Y/SEP	12 square feet	N/A	1 per street frontage	12 square feet	N/A	1 per street frontage
Special event directional sign	1 day prior to the event	End of event	Y/SEP	8 square feet offsite	4 feet	No limit off- premises directional signs	8 square feet offsite	4 feet	No limit off- premises directional signs
Special event off-site sign	30 days prior to the event	End of event	Y/SEP	32 square feet	10 feet	2 offsite per event either a ground sign or banner	32 square feet	10 feet	2 offsite per event either a ground sign or banner

527 **Sec. 110-2-12. - Sign materials and display standards.**

528 | ---

529 (a) Sign materials. All materials used to construct signs, supports or fasteners shall conform to the
530 following standards:531 (1) Signs may be constructed of painted, stained, sandblasted or carved wood, brick, stone,
532 textured concrete or similar material. Glass (including plexi-glass), metal, or metallic leaf, which
533 is painted, anodized, or otherwise treated to prevent reflective glare may also be used. Copper,
534 brass, wrought iron, and other metals may remain untreated and allowed to develop a natural
535 patina.536 (2) Support structures may be constructed of painted, stained, sandblasted or carved wood, brick,
537 stone, textured concrete or similar material. Glass, metal, or metallic leaf, which is painted,
538 anodized, or otherwise treated to prevent reflective glare may also be used. Copper, brass,
539 wrought iron, and other metals may remain untreated and allowed to develop a natural patina.
540 Support structures shall use natural, muted earth-tone colors including browns, black, grays,
541 rusts, etc. White shall not be used as a predominant color, but may be used as an accent.542 (b) *Display standards.* The display of all signs regulated by this Land Use Code shall conform to the
543 standards of this section.544 (1) *No obstruction permitted.* No sign shall obstruct a clear view to and from traffic along any street
545 right-of-way, entrance or exit.546 (2) *No projection within right-of-way.* No signs, except traffic signs and similar regulatory notices
547 shall be allowed to project or be located within a public right-of-way.548 (3) *Illumination.* An illuminated sign, as defined in Section 101-1-7, shall comply with the
549 requirements of Chapter 108-16 and the following provisions, examples of which are graphically
550 depicted in Section 110-2-15.551 a. Unless otherwise specified in this subsection, all exterior lighting of a sign shall be
552 downward directed from the top of the sign, and oriented so as to illuminate only the sign
553 area, as defined in Section 101-1-7, excluding the supports.554 b. No direct artificial light, as defined in Section 101-1-7, shall be projected from the sign area
555 or beyond the sign area, including by means of diffusion or refraction through a translucent
556 or transparent surface. However, direct artificial light, excluding diffused or refracted light,
557 for a sign area that does not have a frame or separate background, as in the case of a logo
558 or individual lettering mounted to a wall without a defined sign perimeter, may illuminate or
559 reflect onto a background surface, such as a wall, beyond the exterior perimeter of the sign
560 area, provided that:561 1. It shall not exceed **six inches** beyond the sign area,

562 2. It shall be shielded so as not to project light onto any other surface.

563 d. Exterior lighting of a sign shall not exceed a ratio of **50 lumens** per square foot of sign area.
564 This ratio shall be calculated by combining the total lumen output of each artificial light
565 source divided by the square footage of the sign area. See Section 110-2-15 for a graphic
566 depiction.567 e. The Land Use Authority may require the applicant to submit photometric schematics and
568 attestation from a qualified professional that the submittal complies with this chapter.569 (4) *Wall signs mounted on parapets.* A wall sign mounted on a parapet wall shall be mounted six
570 inches or more below the top of the parapet wall.571 (5) *No imitation of traffic signs.* Signs shall not resemble, imitate or approximate the shape, size,
572 form or color of traffic signs, signals or devices. Signs shall not obstruct or interfere with the

Comment [c55]: Check reference

Comment [c56]: Measurable

Comment [c57]: Measurable. This measurable is
still being reviewed by the sign industry to help
determine whether it works .

Comment [c58]: Check reference

effectiveness of traffic signs, signals or devices, not be lighted in a way that can cause glare or impair driver visibility upon roads.

(6) *No prevention of ingress/egress.* Signs shall not be erected, relocated or maintained in such a way that prevents free ingress or egress from any door, window or fire escape, and no sign shall be attached to a standpipe or fire escape.

(7) *No mounting on natural features.* No signs shall be painted or mounted on trees. No land-form or naturally occurring land feature (rocks, cliff faces, etc.) shall be defaced for purposes of displaying a sign.

(8) *Clearance.* The clearance of a projecting, canopy or wall sign shall be measured from the lowest edge of the overhang eight feet to the driving or walking surface below.

(9) *Sign setbacks.*

a. *Monument and/or ground signs.* Any monument sign or ground sign shall be set back a minimum of ten feet from any property line. Signs fronting on state highways shall be set back ten feet from the right-of-way.

b. *Projections into public right-of-way.* Projections into the public right-of-way are not allowed, except for signs set by public agencies for safety purposes, such as the state department of transportation.

c. *Clear view triangle.* Signs shall not be placed within the clear view triangle as defined in title 108, chapter 7 of the Weber County Land Use Code.

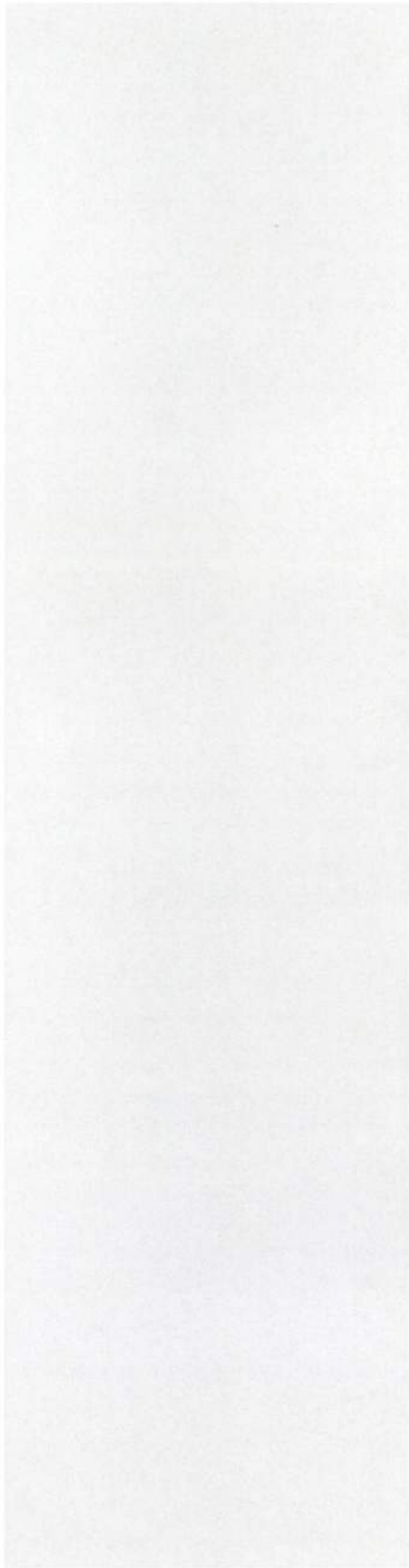
(10) *Landscaping.* The ground area around the base of all ground/monument signs shall be landscaped in accordance with the requirements of applicable chapters of the Weber County Land Use Code. The planning commission may exempt some monument/ground signs from this standard where it is demonstrated, by the owner/developer, that the landscaping would unduly interfere with pedestrian or vehicular traffic, interfere with traffic visibility or for other reasons be impractical.

(11) *No street frontage.* When a freestanding building, complex or storefront does not face a public street or approved private road, and is accessed via a pedestrian area or common parking and driveway area, the linear footage of building or storefront facing the pedestrian area or common parking area shall substitute for purposes of determining allowable signage.

(12) *Sign area.* The area of a sign shall be measured as provided in the definition of "sign area" as provided in Section 101-1-7.

...

Sec. 110-2-15. – Examples of sign illumination.



Lumen per Square Foot Ratio
1650 Lumen Bulb
50 Lumens per
Square Foot of
Sign Area
33 Square Feet of Sign
Area
Total combined lumens less than or
equal to 50 lumens per square foot.
Acceptable color temperature.
Light only illuminates sign area.
No visible direct artificial light.



Unacceptable color temperature.
Fully shielded artificial light source.
No visible direct artificial light.
Light buffers no more than six inches
around perimeter of sign area.
Acceptable color temperature.
Direct artificial light source projected
by means of diffusion through
translucent surface.
Light buffers no more than six inches
around perimeter of sign area.



Unacceptable color temperature.
Fully shielded artificial light source.
No visible direct artificial light.
Light buffers no more than six inches
around perimeter of sign area.



General Definitions Amendments:

TITLE 101 – GENERAL PROVISIONS

...

Sec. 101-1-7. - Definitions.

...

Lot of record (lawfully created lot). A lot of record is defined as any one of the following circumstances:

- (1) A parcel of real property identified as a building lot on an unrecorded subdivision plat that has been approved by Weber County and is on file in the Weber County Planning Office; or
- (2) A parcel of real property identified as a building lot on a subdivision plat that has been approved by Weber County and recorded in the office of the Weber County Recorder; or
- (3) A parcel/lot described in a deed, sales contract or survey that was recorded in the office of the Weber County Recorder before January 1, 1966; or
- ~~(4) A parcel/lot described in a deed, sales contract or survey that was recorded in the office of the Weber County Recorder in between January 1, 1966, and June 30, 1992, which complied with the zoning requirements in effect at the time of its creation and has undergone and successfully completed the Weber County subdivision process; or~~
- (45) A parcel/lot described in a deed, sales contract or survey that was recorded in the office of the Weber County Recorder in between January 1, 1966, and June 30, 1992, which complied with the zoning requirements in effect at the time of its creation and was shown to be the first or second division of a larger parent parcel; or
- ~~(6) A parcel/lot that is the subject of a land division where Weber County, in compliance with Utah State Code, has expressly approved the division in anticipation of further land use approvals conditioned upon and as authorized by the Weber County Zoning Ordinance; or~~
- (57) A parcel/lot that does not fall within any one of the previously listed circumstances but has received a variance from the Weber County Board of Adjustment which has otherwise deemed a particular parcel/lot as a lot of record.

~~There are parcels/lots within Weber County that may have been created and subsequently recorded in the office of the Weber County Recorder, but were not lawfully created in accordance with Utah State Code or Weber County Ordinances/Policy as described herein. Weber County is not able to issue a land use permit and/or building permit for such parcels/lots.~~

...

Recreation lodge. The term "recreation lodge" means a lodge constructed in a mountainous or forested location, which may include up to 16 guest sleeping rooms for nightly accommodations, and facilities for guest's meals, providing on-site winter sports amenities such as cross country ski trails, snowmobile trails, ice skating and/or similar activities, and, if open year-round, offers summer recreation amenities such as equestrian trails, mountain biking trails, hiking trails, rock climbing training stations, golf course, putting green, and/or tennis courts. Accessory uses, such as sports equipment rental and repair may be included. The number of horses allowed, in the case of a riding stable, shall be calculated and may be permitted based upon acreage and site plan review, and recommended by the planning commission. Limited day use may be allowed based upon site plan review and approval of the overall project as a conditional use by the planning commission.

.....

Township Amendments

Part I

...

Title 2 – Administration

...

CHAPTER 17. - RESERVED TOWNSHIP PLANNING DISTRICTS

~~Sec. 2-17-1. -- Appointment of township planning commission members.~~

~~Appointment preference shall be given to encourage geographic representation on each township planning board.~~

~~Sec. 2-17-2. -- Jurisdiction.~~

~~Upon the appointment of all members of a township planning commission the township shall immediately begin to exercise the powers and perform the duties as provided for in the Utah Code.~~

~~Sec. 2-17-3. -- Policies and procedures.~~

~~The board of county commissioners shall adopt such policies and procedures as it deems necessary to provide for:~~

- ~~(1) The planning division support staff;~~
- ~~(2) The funding of necessary and reasonable expenses of townships;~~
- ~~(3) The townships will be governed by state law, county ordinances and the county planning commission rules of procedure and ethical conduct. If conflicts exist, state law and county ordinances will prevail over the county planning commission rules of procedure and ethical conduct; and~~
- ~~(4) Any other purposes considered necessary to the functioning of the township.~~

~~Sec. 2-17-4. -- Township planning commissions meetings.~~

~~The township planning commissions will meet on the second and fourth Tuesday of each month, at a time to be scheduled by staff, in the Weber County Commission Chambers, 1st Floor, 2380 Washington Blvd., Ogden, Utah.~~

~~Sec. 2-17-5. -- Vacancy on township planning commissions.~~

~~The board of county commissioners may remove for cause a member of a township planning commission which the county commission has appointed upon the filing of written charges against the member and after a hearing on the charges if requested by the member.~~

...

TITLE 102 – ADMINISTRATION

...

CHAPTER 5. – REZONING PROCEDURES

Sec. 102-5-5. - Concept development plan.

- (a) The concept development plan shall be submitted with a rezoning application, and shall supply sufficient information about the development to assist the ~~township~~-planning commission and county commission in making a decision on the rezoning application. Seven copies of plans shall be submitted on 11 by 17 inch paper and two copies of plans shall be submitted on 24 by 36 inch paper, at a readable scale. All concept plans (including but not limited to architectural elevations/renderings, etc.), and subsequent submittals and revisions, shall be accompanied by a full-scale set of PDF, DWF and JPEG files of the respective plans. Information supplied shall include text and illustration:

.....

Land Use Permit Expiration Amendments

TITLE 101 – GENERAL PROVISIONS

...

Sec. 101-1-7. - Definitions.

...

Commencement of construction. The term "commencement of construction" means the excavation for structural footings on a site or the recontouring of a site in preparation for construction activities, as determined by the Planning Director.

Commencement of use. The term "commencement of use" means either the commencement of construction when that construction has been approved for a specific use as provided in this Land Use Code, or the actual beginning of a specific land use as provided in this Land Use Code.

...

Sec. 102-4-3. - Land use permit revocation.

- (a) A land use permit or conditional use permit may be revoked for violation of any part of this Land Use Code related to the specific use or permit in accordance with the following:

- (1) Revocation shall be conducted by the land use authority that is authorized to approve the permit.
- (2) Prior to permit revocation, the land owner and, if different, permittee shall be given reasonable opportunity to resolve the violation by bringing the property into compliance or by diligently pursuing an amendment or modification to the permit, as may be allowed by this Land Use Code.
- (3) In the event compliance cannot be attained the land owner and, if different, permittee shall be given a notice of the impending permit revocation 14 days prior to final revocation. The notice of the impending permit revocation shall specify the violation, and inform the land owner and, if different, permittee of the right to request a hearing.
- (4) The land owner and, if different, permittee shall have a right to a hearing with the land use authority to show cause for why the permit should not be revoked, if a written request for such is submitted prior to a final written revocation decision. If a hearing is requested, final revocation of the permit shall be stayed until after the hearing. The hearing shall be scheduled at a time specified by the land use authority.
- (5) Revocation of a permit is final upon the issuance of a final written decision. The final written decision may be appealed pursuant to title 102, chapter 3.

(6) Revocation of a permit shall not prohibit prosecution or any other legal action taken on account of the violation, as provided in this Land Use Code or any other applicable law.

(b) A land use permit, conditional use permit, or design review approval shall expire and become null and void if commencement of construction, as defined in 101-1-7, or commencement of the use does not occur within one year of the issuance of the permit or approval, together with payment of applicable fees. One one-year extension may be granted by the Planning Director if it can be demonstrated that good faith efforts are being executed to commence construction. Additional extensions may be granted at the discretion of the Planning Director provided the following:

(1) Applicable ordinances governing the original approval of the permit have not changed; and

(2) Site, neighborhood, or general area conditions and circumstances related to applicable ordinances governing the original approval have not changed;

(3) The findings made, if any, for the original approval still hold true; and

(4) The conditions applied, if any, to the original approval are still relevant and enforceable in the same context as they were for the original approval.

...

TITLE 108 – STANDARDS

...

CHAPTER 4. – CONDITIONAL USES

...

Sec. 108-4-8. - Revocation and expiration.

(a) Revocation. A conditional use permit may be revoked by the land use authority upon failure to comply with the applicant's approved proposal, or any applied standard, or applicable requirement, provision, restriction, or condition of approval. Violation of any condition of approval of a conditional use permit shall constitute a violation of this Land Use Code. Rules for revocation are provided in section 102-4-3.

(b) Expiration. Rules for expiration are provided in Section 102-4-3. ~~Unless there is substantial action under a conditional use permit within a maximum period of one year of its approval from the land use authority, the conditional use permit shall expire. The land use authority may grant a maximum extension of six months. Upon expiration of any extension of time granted by the land use authority, the approval for the conditional use permit shall expire and become null and void.~~

.....

Timeframe between application submittal and Planning Commission Agenda

TITLE 106 – SUBDIVISIONS

...

CHAPTER 1. – GENERAL PROVISIONS

...

Sec. 106-1-8. - Final plat requirements and approval procedure.

...

(b) Final plat required.

...

- (2) The final plat and accompanying information shall be submitted to the planning division at least ~~30~~ 45 days prior to a regularly scheduled planning commission meeting.

...

.....
Special event code

PART I

...

TITLE 38 – SPECIAL EVENTS

...

Sec. 38-1-6. - Same—Application process.

- (a) ~~Special event permit application forms may be obtained from the Weber County Special Events Office, located inside the Golden Spike Arena at the Weber County Fairgrounds, 1000 North 1200 West, Ogden, Utah 84404 or online at http://www.webercountyutah.gov/special_events/.~~ All applications for special event permits shall be made to the Weber County Planning Division on a special event permit application form and shall include the following information:

.....
Restricted Lot Amendments:

TITLE 101 – GENERAL PROVISIONS

...

Sec. 101-1-7. - Definitions.

...

Lot, restricted. The term "restricted lot" means:

~~(1) — A~~ a lot or parcel of land which has an average slope of 25 percent or more and does not contain a buildable area as defined in this section. ~~;- or~~

~~(2) — A lot or parcel of land that has been identified as having potential geologic or other environmental hazards or constraints, as determined by the county engineer, which require further investigation prior to issuance of a building permit.~~

...

Sec. 104-29-3. - Transferable development right (TDR) eligibility.

Real transfer from parcels contiguous or noncontiguous to the resort and not included as part of DRR-1 Zone. A landowner may transfer development rights from any lot of record or described parcel of land that is contiguous or noncontiguous to the resort and meets or exceeds the minimum (single-family dwelling) area requirement for the zone in which it located. A landowner may also transfer development rights from any parcel that has been described in a document (e.g., deed, sales contract or survey) and subsequently recorded in the office of the Weber County Recorder in between January 1, 1966 and June 30, 1992. This parcel must have complied with the zoning requirements in effect at the time of its creation but not necessarily undergone or successfully completed the county subdivision process. Development rights transferred from parcels, as described above, shall be considered eligible to receive TIMUs and DBUs as described in section 104-29-2(c) (Maximum permitted units). A resort that transfers development rights shall do so by conforming to the requirements of this chapter and shall finalize and record all necessary transfers (for a particular phase or part thereof) prior to submitting any application for subdivision or plan approval for any site within the destination and recreation resort zone.

- (1) At the discretion of the resort, development rights required to be transferred in order to establish an initial number of transferred base units (TBUs), as described in section 104-29-2(c) (Maximum permitted units), may be acquired through a purchase of real property or through private negotiation and purchase of transferable development rights only.
- (2) Refer to section 104-29-4 (Calculating transferable density) for transferable density calculation requirements. Refer to section 104-29-5 (Transferable development right procedure) and section 104-29-6 (Transferable development right easement) for procedural and content requirements relating to a transfer of development right easement.

(Ord. of 1956, § 44-3)

Sec. 104-29-4. - Calculating transferable density.

- (a) Transferable density calculation for real transfers. Except for the circumstances and/or conditions listed below, every lot of record; and every described parcel of land exceeding the minimum (single-family dwelling) area requirement, for the zone in which it is located; and every parcel/lot that has been described in a deed, sales contract or survey that was recorded in the office of the county recorder, in between January 1, 1966, and June 30, 1992, and met the zoning requirements in effect at the time of its creation but has not necessarily undergone and successfully completed the county subdivision process shall be granted transferable development rights based upon the parcel/lot's record description/area and current or other applicable zoning. Transferable development rights shall be excepted from and/or not granted to the following:
 - (1) Areas within a described parcel of land containing slopes of 40 percent or greater in forest zones and 30 percent or greater in all other zones.

- (2) Areas within a described parcel of land and/or proposed irrevocable transfer of development right easement (ITDRE) reserved for future development or designated as a reserved future development area (RFDA) on an approved transferable development right site plan.
 - (3) Areas within a described parcel of land or lot of record restricted by conservation easement or similar instrument restricting residential or commercial development.
 - (4) Areas or tracts of land owned by federal government and/or state government agencies.
 - (5) Areas or tracts of land lying outside of the Ogden Valley area as defined by the Ogden Valley general plan, recreation element project area map adopted December 27, 2005 (OVGPPE; Figure 1, pg 4).
 - (6) Lot of record subject to the payment of fees for operation and/or maintenance of common areas, open space, amenities and/or private facilities.
 - (7) Fractional and/or noncontiguous portions of a lot of record or parcel of land that does not meet or fully exceed the minimum (single-family dwelling) area requirement for the zone in which it is located.
- (b) The following provides an example of calculating the development rights associated with a typical parcel of land that exceeds the minimum (single-family dwelling) area requirement.
- (Ord. of 1956, § 44-4)

Sec. 104-29-5. - Transferable development right procedure.

- (a) Real transfer from parcels contiguous or noncontiguous to the resort but not included as part of DRR-1 Zone. At the discretion of the resort, development rights required to be transferred in order to establish an initial number of transferred base units (TBUs), as described in section 104-29-2(c) (Maximum permitted units), may be acquired through a purchase of real property or through private negotiation and purchase of transferable development rights only. In either situation, the property owner or his representative who wishes to transfer development rights shall complete the following:
- (1) *Registration.* A property owner or his representative who is interested in transferring development rights from their property shall register to do so by declaring his intent and desire, to transfer development rights, on an official county request to register transferrable development rights form. The transferrable development right register shall be maintained by the county planning division and shall be made available to any resort upon request.
 - (2) *Certification request.* A property owner or his representative who has chosen/agreed to make a real transfer of development rights to a proposed DRR-1 Zone shall obtain an Ogden Valley certificate of transferable development rights by providing the county planning division with the following:
 - a. Payment of a certification fee.
 - b. Complete county request to certify transferrable development rights form.
 - c.

Map of the property in the form of a county recorder's plat or record of survey map filed in accordance with USC 17-23-17.

- d. Legal description, including total acreage, as it appears in the county recorder's office or as it is described on a record of survey map on file in the county surveyor's office.
- e. Transferable development right site plan, drawn to a scale no smaller than 100 feet to one inch, that demonstrates the location and dimensions of all important features including, but not limited to, reserved future development right areas, water bodies or courses, easements and buildings within the subject parcel (transferring parcel) of land.
- f. Slope analysis, performed by a professionally licensed engineer or land surveyor, that identifies developable acreage as described in the section 106-2-9 of this Land Use Code. This requirement may be waived by the county engineer upon finding that the subject parcel of land (transferring parcel) is not affected by steep terrain as defined in section 106-2-9.
- g. Preliminary title report demonstrating that the subject parcel of land (transferring parcel) has clear title; or a preliminary title report identifying any interested party making claim to the property and/or any beneficiary of an easement or encumbrance that exists in the form of a mortgage, deed of trust or other instrument that either secures the property and its unrestricted value as collateral or restricts development in any manner.
- h. Title report summary letter prepared by the property owner or his representative who has chosen/agreed to make a real transfer of development rights to a proposed DRR-1 Zone. The letter shall, in the form of an outline, list all interested parties and provide contact information and details describing interest and/or encumbrance types and order of subordination if applicable.
- i. Subordination agreement, provided by each and all interested parties with rightful claims and/or beneficiaries of existing encumbrances, that clearly states that the interested party and/or beneficiary acknowledges and agrees to a subordinate position to the grantee of an irrevocable transfer of development right easement (ITDRE) and the enforcement of its terms. The letter shall also clearly state that the interested party and/or beneficiary, by exercising any right granted to them under a mortgage, deed of trust or other instrument, cannot and will not modify, extinguish or affect the grantee's right to enforce the terms of the ITDRE.
- j. Proposed transfer of development right easement meeting the requirements of section 104-848.
- k. Proposed transfer of development rights deed.

(3) *Certification.* The county planning division, after consideration of all relevant information, shall issue a certificate of transferable development rights, based on an official request and its conformance to the standards of this chapter. The certificate shall state the number of transferable development rights approved and available for transfer and shall be valid for a period of time not to exceed 60 days from the date of issuance.

Transfer. Prior to the expiration of a certificate of transferable development rights and prior to or at the time of application for a specific land use (e.g., subdivision or site plan approval) within a destination and recreation resort zone, all transfer documents, including an approved transfer of development rights deed and an approved transfer of development right easement, shall be executed by appropriated signature and recordation in the office of the county recorder. Recording of the transfer of development rights deed and a transfer of development right easement shall constitute a complete transfer, therefore, enabling resort land use applications to be accepted and processed through the county planning division.

(Ord. of 1956, § 44-5)

Sec. 104-29-6. - Transferable development right easement.

Irrevocable transfer of development right conservation easement. To ensure consistency and the perpetual protection and preservation of a parcel's conservation values, a parcel that is the subject of a proposed development right transfer shall be encumbered by an irrevocable transfer of development right conservation easement that meets the requirements described in section 57-18-1 et seq. of Utah Code and consists of but is not be limited to the following content and/or requirements:

- (1) *Title/form.*
 - a. The easement shall be entitled as an "Irrevocable Transfer of Development Rights (TDR) Conservation Easement."
 - b. The easement shall be in a form considered appropriate and acceptable to the office of the Weber County recorder.
- (2) *Grantor/grantee.* The easement shall name Weber County and one other qualified conservation organization, which is authorized to hold interest in real property, as the grantees. The qualified conservation organization, named as grantee, shall meet the requirements described in section 57-18-3 of Utah Code and shall require the approval of the county.
- (3) *Recital.* The easement shall recite and explain all matters of fact, including a parcel/boundary description, which are necessary to make the transaction intelligible.
- (4) *Nature of easement.* The easement shall explain its perpetual, irrevocable, inheritable and assignable nature.
- (5) *Purpose.*
 - a. The easement shall explain its purpose in terms of how it is intended to protect, preserve, enable the creation or continuation of an anticipated use and prevent certain conditions or uses upon the land that may diminish its open space qualities.
 - b. It shall be acknowledged, within this section, that the above "statements of purpose" are intended to be a substantive provision of the easement and that any ambiguity or uncertainty regarding the application of the terms of the easement will be resolved so as to further its

purpose.

(6) *Permitted uses and activities.*

- a. The easement shall list the property rights that have been retained by the grantor, including the right to allow or restrict public access, and shall acknowledge that these rights are consistent with the applicable zoning for the area in which the parcel is located.
- b. In the event that a residential development right has been retained on the subject parcel (transferring parcel), a statement shall be made, within this section, which explains the remaining number and type of development rights associated with the parcel. An exhibit shall also be referenced, within this section, which restricts and graphically demonstrates the general location of any future development.

(7) *Prohibited uses and activities.* The easement shall list the property rights that have been voluntarily relinquished by the grantor and acknowledge that any exclusion does not constitute an approved use or imply that uses may be inconsistent with the applicable zoning for the area in which the parcel is located.

(8) *Water rights.*

- a. Agricultural parcels, when the subject of an irrevocable transfer of development rights (TDR) conservation easement, shall maintain a sufficient right to water in order to preserve agricultural production, therefore, it shall be required that the easement state that the grantor is legally prohibited from conveying, transferring, encumbering, leasing or otherwise separating or changing any historic water use on the parcel.
- b. In the event that an agricultural parcel requires flexibility in its use of water to protect historic water rights, the grantor may make such statement that will allow the temporary lease of water rights for a period of time not to exceed two years. Such statement shall acknowledge that the temporary lease will conform to all state requirements and will not permanently separate any historic water right from the agricultural parcel. Such statement shall also acknowledge that the grantees of the easement shall be notified prior to entering into any short-term water lease.

(9) *Monitoring and enforcement.*

- a. The easement shall state that the grantee will have the right to enforce the terms of the easement by entering the property, provided that an advance notice of 24 hours is provided to the grantor, for the purpose of inspecting the property for suspected/reported violations. Additionally, it shall state that the grantee shall have the right to enter the property at least once a year, at a mutually agreed time for the purpose of inspection and compliance monitoring regardless of whether grantee has reason to believe that a violation of the easement exists. In order to establish a monitoring baseline, an exhibit shall also be referenced, within this section, which inventories, graphically demonstrates and photo documents relevant features and the existing condition of the parcel.
- b.

For the purposes of correcting any violation, condition or circumstance that is not consistent with the terms of the easement, it shall be stated that the grantee or assigns may, at their discretion, use any available legal or equitable remedy to secure and restore compliance with the standards set forth in the easement. Legal and/or equitable remedies may include but not be limited to injunctive relief, entering the property to perform restorative activities and/or recorded lien.

- (10) *Termination and extinguishment.* The easement shall state under which conditions and/or circumstances that the easement could be terminated. These conditions may include but not be limited to grantee consent, court action or eminent domain.
- (11) *Subordination.* Prior to granting the easement the grantor shall submit a title report and certify, within this section, that the subject parcel of land (transferring parcel) has clear title and is not encumbered by a mortgage, deed of trust or other instrument securing the property and its unrestricted value as collateral. If the subject property (transferring parcel) has been encumbered by a mortgage, deed of trust or other instrument that has secured the property and its unrestricted value as collateral, the grantor shall declare all encumbrances, within this section, and reference an exhibit, provided by any and all beneficiaries, that acknowledges and agrees to their subordinate position as it relates to the easement and the enforcement of its terms. The agreement/exhibit shall also clearly state that the beneficiary, by exercising any right granted to them under a mortgage, deed of trust or other instrument, cannot and will not modify, extinguish or affect the grantee's right to enforce the terms of the easement.
- (12) *Costs and liabilities.* The easement shall state that the grantor will continue to be responsible for and bear all costs and liabilities of any kind related to ownership, operation, upkeep and maintenance of the subject property (transferring parcel).
- (13) *Conveyance or transfer of property.* The easement shall state that any document intended to transfer or convey the subject property (or any interest in the subject property) will specifically refer to the easement and disclose its perpetual nature and the fact that it runs with the land. It shall also state that any failure to comply with this requirement shall not adversely affect the grantee's right to enforce the terms of the easement in any way.
- (14) *General provisions.* This section shall describe provisions for but not limited to easement amendments, controlling law and interpretation.

(Ord. of 1956, § 44-6)



Weber County Planning Division

MEMORANDUM

To: Ogden Valley Planning Commission
From: Charles Ewert, AICP
Date: February 4, 2017
Subject: February 7th Work Session Discussion Items

Planning Commissioners,

I apologize this is coming to you so late in the week. Included herein are the discussion items for Tuesday's work session:

1. Ogden Valley Lighting and Signage – *Update: The copy attached takes in the changes we discussed last time. It also proposes two alternatives:*

Alternative 1: All residential uses are grandfathered forever. Commercial to comply after seven years. Education and incentives for voluntary compliance for residential; the same for commercial that volunteer prior to the seven years.

Alternative 2: Only existing residential grandfathered forever. New residential and commercial to comply after seven years. Education and incentives for voluntary compliance for existing residential; the same for new residential and commercial that volunteer prior to seven years.

2. Utility Setback Code – *This is an ordinance that we began working on early last summer. It's been sidelined until now.*
3. Tiny House – *A discussion about tiny homes was requested a few meetings ago. The county's existing ordinance is included herein (with the applicable part highlighted).*
4. Accessory Dwelling Units and Transferable Development Rights – *There has been a request to discuss the possibility of allowing accessory dwelling units in the valley. Because this will likely include a discussion about transferable development rights. Ordinance examples of both are attached.*
5. General Code Amendments – *Also attached are general, and simple, code amendment discussion items if there is time to discuss them.*

DRAFT 2/2/17

1 **Sec. 101-1-7. - Definitions.**

2 When used in this Code, the following words and phrases have the meaning ascribed to them in this
3 section, unless the context indicates a different meaning:

4 ...

5 *Custom exempt meat cutting.* The term "custom exempt meat cutting" means the cutting, wrapping,
6 and preparation of meat for human consumption; provided, however, that the source of meat shall be
7 limited to animals that are part of one or more livestock operation(s) in Weber County, and/or wild game.

8 *Dark sky.* The term "dark sky" means a night-time sky that is substantially free of interference from
9 artificial light.

10 *Dairy.* The term "dairy" means a commercial establishment for the manufacture or processing of
11 dairy products.

12 ...

13 *Glamorous camping (glamping), agri-tourism.* The term "agri-tourism glamorous camping (glamping)"
14 means an agri-tourism use/activity that provides the opportunity for agri-tourists to rent, on a nightly basis,
15 fully furnished tents and/or rustic cabin sites that are characterized by furnishings, amenities, and
16 comforts offered by that of a luxury hotel room. Furnishings, amenities, and comforts may include but not
17 be limited to, luxurious decor, beds, linens, baths, veranda, spa services, concierge, dining, and chef.

18 *Glare.* The term "glare" means light, originating from a direct artificial light source, or any light
19 reflected off a reflective surface, that causes visual discomfort or reduced visibility.

20 *Grade, natural/existing (adjacent ground elevation).* The term "grade, natural/existing (adjacent
21 ground elevation)" means the lowest point of elevation of the finished surface of the natural ground,
22 paving or sidewalk within the area between the building and the property line or, when the property line is
23 more than five feet from the building, between the building or structure and a line five feet from the
24 building or structure.

25 ...

26 *Landscape plan.* The term "landscape plan" means:

- 27 (1) Detailed plans depicting the layout and design for landscaping, including, but not limited to
28 location, height and materials of walls, fences, hedges and screen plantings;
- 29 (2) Ground cover plantings or other surfacing to break monotony of building materials, concrete and
30 asphalt;
- 31 (3) Number, type and mature and planted size of all landscape plantings; method of irrigation,
32 location of water meter, piping, pumps, timers, point of connection and any blow-out or
33 winterizing system; location, type and size of any existing trees over four-inch caliper;
- 34 (4) Location, type and size of any existing landscaping not planned for removal; location, type and
35 size of any decorative lighting systems.

36 *Light, direct artificial.* The term "direct artificial light" means any light cast directly to an illuminated
37 area from an artificial light source, as defined by this section, or from any surface on or within the artificial
38 light source's luminaire that is intended to reflect, refract, or diffuse light from the artificial light source.
39 This does not include light reflected, refracted, or diffused from other surfaces such as nonreflective
40 surfaces on or within the luminaire, or the ground or adjacent walls, provided those surfaces are not
41 primarily intended for the reflection, refraction, or diffusion of the artificial light source. See also Section
42 108-16-9 for a graphic depiction.

43 *Light pollution.* The term "light pollution" means any artificial light that is emitted either directly or
44 indirectly by reflection that alters the appearance of the night-time sky; interferes with astronomical
45 observations; interferes with the natural functioning of native wildlife, or disrupts the community character
46 as defined in the applicable general plan for the area.

Comment [c1]: Check reference

47 *Light source, artificial.* The term "artificial light source" means the part of a lighting device that
48 produces light. See also Section 108-16-9 for a graphic depiction.

49 *Light trespass.* The term "light trespass" means the projection of any light from a direct artificial light
50 outside the lot or parcel boundary or street right-of-way where the artificial light source is located, unless
51 the projection outside the lot or parcel boundary or street right-of-way is intended, wanted, and lawfully
52 permitted. See also Section 108-16-11 for a graphic depiction.

53 *Lighting, outdoor.* The term "outdoor lighting" means the illumination of an outdoor area or object by
54 any outdoor artificial light source. Outdoor lighting also includes the illumination of an outdoor area or
55 object by direct artificial light projected from an indoor artificial light source through a window, door, or
56 similar opening.

57 *Lighting, recreation facility.* The term "recreation facility lighting" means outdoor lighting used to
58 illuminate the recreation activity area of a stadium, sports field or court, rink, ski area, swimming pool,
59 theater, amphitheater, arena, or any similar use intended for recreational activity. See also Section 108-
60 16-15 for a graphic depiction.

61 *Livestock feed yard.* The term "livestock feed yard" means a commercial operation on a parcel of
62 land where livestock are kept in corrals or yards for extended periods of time at a density which permits
63 little movement and where all feed is provided for the purpose of fattening or maintaining the condition of
64 livestock prior to their shipment to a stockyard for sale, etc.

65 ...

66 *Qualified professional.* The term "qualified professional" means a professionally trained person with
67 the requisite academic degree, experience and professional certification or license in the field or fields
68 relating to the subject matter being studied or analyzed.

69 ...

70 *Sign area.* The term "sign area" means the area of a sign that is used for display purposes, including
71 the minimum frame and supports. In computing sign area, only one side of back to back signs covering
72 the same subject shall be computed when the signs are parallel or diverge from a common edge by an
73 angle of not more than 45 degrees. In relation to signs that do not have a frame or a separate
74 background, sign area shall be computed on the basis of the least rectangle, triangle or circle large
75 enough to frame the display.

76 *Sign face.* The term "sign face" means the area of a sign that is designed to present or convey a
77 message or attract attention, exclusive of structural support members.

78 ...

79 *Sign.* The term "sign" means any object, device, display, or structure, or part thereof that is used to
80 advertise, identify, display, direct or attract attention to an object, person, institution, organization,
81 business, product, service, event, or location by any means, including, but not limited to words, letters,
82 figures, designs, symbols, fixtures, colors, illumination, or projected images.

83 *Sign, advertising.* The term "advertising sign" means an off-premises sign 20 square feet or less in
84 area.

85 *Sign, animated.* The term "animated sign" means a sign employing actual motion, the illusion of
86 motion or light and/or color changes achieved through mechanical, electrical or electronic means.

87 *Sign, athletic field scoreboard.* The term "athletic field scoreboard sign" means a sign which is
88 erected at a public or private park or public or private school for the purpose of providing game scores or
89 other information about the game in progress. Advertising by the sign donor shall be limited to 50 percent
90 of the total sign area.

91 ...

92 *Sign, conservation property.* The term "conservation property sign" means a sign that is placed on a
93 parcel with a minimum area of ten acres that is encumbered by a conservation easement held by an
94 organization or government entity as authorized by UCA §57-18-3.

Comment [c2]: Check reference

Comment [c3]: Check reference

Comment [c4]: Check reference

Comment [c5]: See standards/exemptions in 108-16-5

Comment [c6]: Check reference

Comment [c7]: Check reference

Comment [c8]: Corrected and moved to here.

95 ...
 96 *Sign, development.* The term "development sign" means a temporary business sign identifying a
 97 construction project or subdivision development. The sign may contain the name of the project, name and
 98 an address of the construction firms, architect and developer.

99 ...
 100 *Sign, freestanding (pole sign).* The term "freestanding sign " or "pole sign" means any sign supported
 101 by one or more poles or a support that is placed on or anchored in the ground and that is independent,
 102 unattached, or not braced from any building or other structure.

103 ...
 104 *Sign, illuminated.* The term "illuminated sign" means a sign which has characters, letters, figures,
 105 designs, or outline illuminated by electric lights or luminous tubes as a part of the sign.

106 ...
 107 *Sign, pole.* See sign, freestanding.

108 ...
 109 **CHAPTER 16. - OGDEN VALLEY OUTDOOR LIGHTING**

110 **Sec. 108-16-1. - Purpose and intent.**

111 The purpose and intent of this chapter is to promote the community character of the Ogden Valley,
 112 as provided for in the Ogden Valley General Plan, by providing regulations and encouragement for the
 113 preservation of a dark sky. This chapter is also intended to promote the health, safety, and general
 114 welfare of Ogden Valley residents and visitors by:

- 115 (1) Reducing, eliminating, or preventing light trespass;
- 116 (2) Reducing, eliminating, or preventing unnecessary or inappropriate outdoor lighting;
- 117 (3) Reducing, eliminating, or preventing the effects of outdoor lighting on wildlife;
- 118 (4) Preventing unsightly and unsafe glare;
- 119 (5) Promoting energy conservation;
- 120 (6) Maintaining nighttime safety, utility, and security;
- 121 (7) Encouraging a minimal light footprint of land uses in order to reduce light pollution; and
- 122 (8) Promoting and supporting astrotourism and recreation, including the pursuit or retention of
- 123 accreditation of local parks by the International Dark Sky association.

Comment [c9]: New definition in 101-1-7.

124 **Sec. 108-16-2. - Applicability.**

125 (a) *New outdoor lighting.* ~~All~~ Except as provided in subsection (c) below, all outdoor lighting installed
 126 after ~~January~~ March 1, 2017, shall conform to the requirements established by this chapter. This
 127 chapter does not apply to indoor lighting except as defined by "outdoor lighting" in Section 101-1-7.

128 (b) *Existing outdoor lighting.* ~~All~~ Except as provided in subsection (c) below, all existing outdoor lighting
 129 that does not meet the requirements of this chapter and is not exempted by this chapter shall be
 130 considered a nonconforming use and as such shall be phased out as outlined in Section 108-16-7 of
 131 this chapter.

132 ~~(c)~~ (c) *Lighting for residential use.* [Except as may be provided in Section 108-16-2.] ~~If the lighting~~
 133 ~~standards of this section~~ chapter are not mandatory for a single-family, two-family, or three-family
 134 dwelling [in existence on March 1, 2017]. The county ~~may~~ shall employ educational methods and
 135 incentives to encourage voluntary compliance for these residential uses. For the purpose of
 136 facilitating education and for tracking the effect of not applying a mandate, the county may require

Comment [c10]: Check reference.

Comment [C11]: This would be used for Alternative 2 where all *existing* residential is grandfathered/incentivized forever, but *new* residential is required to comply.

Without this, the paragraph supports Alternative 1

Comment [C12]: This would be used for Alternative 2 where all *existing* residential is grandfathered/incentivized forever, but *new* residential is required to comply.

Without this, the paragraph supports Alternative 1

137 submittal of final lighting plans for these residential uses pursuant to 108-16-6(b)(1); if required, final
 138 lighting plans shall be submitted either at the time of application submittal or prior to certificate of
 139 occupancy, at the Planning Director's determination. The county may also require the applicant to
 140 sign an acknowledgement of review of educational materials.

Comment [c13]: Thoughts?

141 (d) *Conflict.* Should this chapter be found to be in conflict with other sections of this code, the more
 142 restrictive shall apply.

143 **Sec. 108-16-3. - General standards.**

144 (a) *Light shielding and direction.* Unless specifically exempted in Section 108-16-5, all outdoor lighting
 145 shall be fully shielded and downward directed in compliance with the following, examples of which
 146 are graphically depicted in Section 108-16-10:

Comment [c14]: Check reference

- 147 (1) No artificial light source shall project direct artificial light into the night-time sky;
- 148 (2) No artificial light source shall be placed at a location, angle, or height that creates a light
149 trespass, as defined in Section 101-1-7 and graphically depicted in Section 108-16-11.
- 150 (3) The shielding shall be made of completely opaque material such that light escapes only through
151 the bottom. Shielding that is translucent, transparent, has perforations or slits of any kind, or
152 allows light to escape through it in any other manner is not permitted.
- 153 (4) Shielding may be attained by light fixture design, building design, or other site design features
154 such as fencing, walls, landscaping, or other screening, provided it is in strict compliance with
155 (1) through (3) of this subsection.

156 (b) *Light color.* Unless otherwise specified in this chapter, the color of any outdoor lighting artificial light
 157 source shall be equal to or less than 3000K, in accordance with the standard Kelvin temperature
 158 chart, as graphically depicted in Section 108-16-12.

Comment [c15]: Check reference

159 **Sec. 108-16-4. - Specific standards.**

160 In addition to the general standards of Section 108-16-3, The following are specific standards that
 161 apply to all commercial, industrial, manufacturing, public and quasi public, institutional, multifamily,
 162 recreation, and resort uses:

- 163 (1) *Light curfew.* Unless exempt in Section 108-16-5, and except for residential uses, all outdoor
 164 lighting shall be turned off by 10:00pm, or, if applicable, within one hour after the close of
 165 business, whichever is later, except the following:
 - 166 a. Lighting to illuminate the entrance of the building;
 - 167 b. Safety lighting of parking lots and pedestrian areas;
 - 168 c. Lighting necessary for after-hours business.
- 169 (2) *Flashing or flickering light.* No flickering or flashing lights shall be permitted.
- 170 (3) *Canopy lighting.* All direct artificial light sources shall be sufficiently recessed so as not to
 171 project direct light greater than five feet from the outside perimeter of the canopy, and shall not
 172 produce more than a ratio of 8 lumens per square foot of canopy area. This ratio shall be
 173 calculated by combining the total lumen output of each artificial light source and dividing by the
 174 square footage of the canopy. See Section 108-16-13 for a graphic depiction.
- 175 (4) *Parking lot lighting.* All artificial light sources in open-air parking lots shall not exceed a ratio of
 176 two lumens per square foot of parking lot area. This ratio shall be calculated by combining the
 177 total lumen output of each artificial light source divided by the square footage of the parking lot
 178 area. See Section 108-16-14 for a graphic depiction.
- 179 (5) *Recreation facility lighting.* Recreation facility lighting, as defined in Section 101-1-7, shall
 180 comply with the following:

Comment [c16]: Measurable

Comment [c17]: Measurable.

The rough equivalent of "rural light" from the IDA model code.

Comment [c18]: Check reference

Comment [c19]: Check reference

- a. The lighting for the recreation activity area shall only be directed onto the area where the recreation activities are occurring. It shall not be allowed to illuminate surfaces that are not essential to the function of the recreation activity.
- b. The lighting shall not exceed a ratio of 10 lumens per square foot of recreation activity area. This ratio shall be calculated by combining the total lumen output of each artificial light source divided by the square footage of the recreation activity area. See Section 108-16-15 for a graphic depiction.
- c. The recreation activity area shall be lit only when it is in use.
- d. The light color standard of 108-16-3 does not apply to lighting for the recreation activity area.

Comment [c20]: This is typical of non-professional/non-semi-professional courts/fields/etc.

Comment [c21]: Discussed standard with ski areas. It is more than enough for their purposes.

Comment [c22]: Check reference

(6) *Sign lighting.* Sign lighting shall comply with the requirements of 110-2-12.

Sec. 108-16-5. - Exemptions.

The following artificial light sources are exempt from the requirements of this chapter:

- (1) ~~Covered deck and patio~~ Agricultural and residential lighting. Lighting for agricultural and residential uses.
- (2) *Federal and state flag lighting.* The outdoor lighting of a United States or State of Utah official flag, provided it is in compliance with the following:
 - a. The light shall be downward directed from the top of the flag pole;
 - b. The light shall be as narrow a beam as possible and aimed and shielded to illuminate, to the best effort practicable, only the area which the flag occupies in all wind conditions; and
 - c. The light level shall be minimized to create the least amount of impact on the dark sky, while still offering noticeable illumination of the flag;
- (3) *Federal and state facilities lighting.* Federal and state facilities are exempt from the requirements of this chapter. However, they are encouraged to cooperate and to coordinate with the County the construction of their facilities in compliance with this chapter;
- (4) *Fossil fuel lighting.* Fossil fuel light, produced directly by the combustion of natural gas or other utility-type fossil fuels;
- ~~(5) *Historic antique lighting.* Outdoor lighting devices designed to preserve the historic nature of a site, based on historically accurate recreations of antique light devices, provided the light output of each artificial light source is equal to or less than nine hundred lumens;~~
- (5) *Holiday or festive lighting.* Holiday or festive outdoor lighting for residential uses, provided it is in compliance with the following:
 - a. That the lighting shall not create a hazard or glare nuisance; and
 - b. That the lighting shall be temporary in nature and not permanently installed. It shall be removed within a reasonable time after the end of the holiday or festive event, but at least once per year;
- ~~(6) *Low output light source.* An artificial light source having an output equal to or less than one hundred five lumens, provided that the cumulative lumen output of all low output light sources shall not exceed a ratio of one and a half lumens per square foot of cumulative area intended to be illuminated. This ratio shall be calculated by combining the total lumen output of each low output light source divided by the square footage of the area intended to be illuminated. Each low output light source shall be distributed across the area intended to be illuminated and not organized in a focused location;~~
- (6) *Mobile lighting.* Lighting affixed to a vehicle, provided the lighting is not intended for the stationary illumination of an area;

Comment [C23]: This would be for Alternative 1

Comment [C24]: This would be for Alternative 1

Comment [c25]: Measurable

Comment [c26]: Measurable

Comment [c27]: 7 watts incandescent bulbs

This will allow some flexibility for pathway lights and string lighting.

Comment [c28]: Measurable

Comment [c29]: Measurable

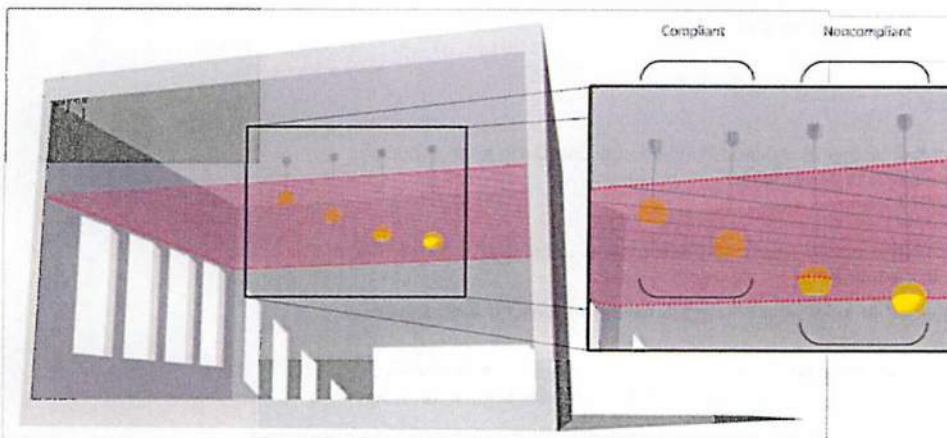
(7) *Motion sensor controlled light source.* An artificial light source that has a light output equal to or less than nine hundred lumens and is controlled by a motion sensor, provided it is in compliance with the following:

- a. That the motion sensor is set to turn the artificial light source off 10 minutes after the last detection of motion; and
- b. That the artificial light source is sufficiently shielded in a manner that prevents glare on adjacent properties or roadways;

~~(8) *Outdoor lighting projected from indoors.* An artificial light source that is projected from indoors to outdoors through windows, doors, or similar openings, for:~~

- ~~a. Residential and agricultural uses; and~~
- ~~b. All other uses, provided that this exemption only applies to direct artificial light when it passes through a cumulative area of those windows, doors, or similar openings that is equal to or less than 50 percent of the face of the building, excluding roof area, on which these windows, door, or similar openings are located.~~

(9) *Outdoor lighting projected from indoors.* An artificial light source that is projected from indoors to outdoors through windows, doors, or similar openings, provided that this exemption only applies to direct artificial light when it is positioned above an imaginary line that extends horizontally from the top of any window, door, or similar opening. Light-blocking shades, blinds, or similar coverings may be used to satisfy this standard. In the following example the two pendant lights on the left are above the horizontal, while the two pendant lights to the right extend below the horizontal and are not permitted:



(10) *Safety or security lighting.* For the sole purpose of mitigating legitimate and verifiable safety or security hazards, the Land Use Authority may exempt an artificial light source if it is shown to be necessary. The Land Use Authority may apply reasonable conditions to ensure optimal compliance with the purpose and intent of this chapter. Evidence demonstrating that it is necessary shall be one or both of the following:

- a. Submitted proof of lighting requirements from a property insurance company that demonstrates that compliance with this chapter will render the property uninsurable. The

Comment [c30]: 60 watt incandescent

Comment [c31]: Measurable

Comment [c32]: Measurable

minimum amount of lighting required by the property insurance company shall be considered the maximum for the purposes of this chapter; or

- b. Submitted reasonable research findings, from a qualified professional, as defined by Section 101-1-7, that offer a compelling argument for the need for the exemption. However, if the Land Use Authority is aware of other research findings that refute what is submitted, then the Land Use Authority must determine which research findings are more persuasive under the circumstances. If the Land Use Authority grants the exemption, then the minimum amount of lighting necessary to ensure appropriate safety or security, as recommended by the qualified professional, shall be considered the maximum for the purposes of this chapter;

~~(10) Special~~ (11) Occasional event lighting. Outdoor lighting intended for an ~~an special~~ occasional event, such as a wedding, party, social gathering, or other similar event that occurs on an occasional basis, provided it is in compliance with the following:

- a. Occasional event lighting shall be turned off by 10:30pm and any remaining lighting shall comply with this chapter; and
- b. Occasional events shall not occur more than twice per month;

Comment [c33]: Measurable

Comment [c34]: Measurable

(12) Underwater lighting. Underwater lighting in a swimming pool or other water feature provided it is not intended to illuminate features above water;

~~(13)~~ (13) Temporary public agency lighting. Temporary outdoor lighting in use by law enforcement or a government agency or at their direction;

~~(14)~~ (14) Tower lighting. Tower lighting required by the FAA or the FCC, provided that it shall not exceed the minimum requirements of those agencies. Collision markers shall have a dual mode for day and night to minimize impact to the night sky and migrating birds; and

~~(15)~~ (15) Traffic control devices. Traffic control devices and signals.

Sec. 108-16-6. - Procedures for compliance.

(a) *Applications.* Any application for a permit or approval required by this Land Use Code shall contain evidence that the proposed work complies with this chapter.

(b) *Contents of application or submittal.*

(1) In addition to the specific application requirements elsewhere in this Land Use Code, the application submittal shall contain the following:

- a. Plans indicating the location of all artificial light sources on the premises, including their height above the ground.
- b. Description of each artificial light source device, and supporting structure. This description may include, but is not limited to, device specifications from the manufacturer, drawings, details, and cross sections, when available.

(2) The required plans and descriptions set forth in subsection (b)(1) of this section shall be complete and shall be presented in a manner that clearly demonstrates compliance with this chapter. The Land Use Authority may require the applicant to submit photometric schematics and attestation from a qualified professional that the submittal complies with this chapter.

Sec. 108-16-7. – Required replacement of nonconforming outdoor lighting.

After the effect of this chapter, which is March 1, 2017, all outdoor lighting that does not comply with the requirements of this chapter shall be considered nonconforming outdoor lighting. All nonconforming outdoor lighting shall be phased out in accordance with the following schedule:

(4) ~~Lighting conversion.~~ Except for outdoor lighting for residential uses in existence on March 1, 2017, any nonconforming outdoor artificial light source shall be terminated, replaced, or retrofitted to conform to the requirements of this chapter within seven years after the effect of this chapter. The County shall provide frequent public notice of the effect, but no less than one per year. After the effect of this chapter, The county shall employ educational methods and incentives to encourage voluntary compliance prior to this seven year period and to assist the public in understanding and complying with this chapter.

Comment [C35]: This would be used for Alternative 2 where all *existing* residential is grandfathered/incincentized forever, but *new* residential is required to comply.

Comment [c36]: Measurable

(2) *Lighting replacement.* The replacement of any nonconforming outdoor artificial light source shall comply with the requirements of this chapter;

(3) *Building exterior modification.* When the replacement of a building's exterior materials exceeds 25 percent of the building's exterior area, excluding roof area, whether by a single modification project or by an accumulation of separate modification projects, all nonconforming outdoor lighting on or within 25 feet of the building shall be brought into compliance with the requirements of this chapter. This shall not include repainting or re-roofing,

Comment [c37]: Measurable

Comment [c38]: Measurable

(4) *Building expansion.* When a building's expansion exceeds the threshold established in this subsection, whether by a single expansion project or by an accumulation of separate expansion projects, all nonconforming outdoor lighting on or within 25 feet of the building shall be brought into compliance with the requirements of this chapter. The established threshold of expansion shall be the smaller of the following:

Comment [c39]: Measurable

a. 25 percent of the total area of the building as it exists on March 1, 2017; or

Comment [c40]: Measurable

b. 2,500 square feet; and

Comment [c41]: Measurable

(5) *Site improvements.* When a site improvement which requires a land use permit, conditional use permit, or design review approval, modifies an area that exceeds the threshold established in this subsection, whether by a single modification project or by an accumulation of separate modification projects, all nonconforming outdoor lighting on the premises shall be brought into compliance with the requirements of this chapter. The established threshold of modification shall be the smaller of the following:

a. 25 percent of the site area; or

Comment [c42]: Measurable

b. 20,000 square feet.

Comment [c43]: Measurable

Sec. 108-16-8. – Violations and enforcement.

(a) *Violations.* The following constitute violations of this chapter:

(1) The installation, maintenance, or operation of any outdoor artificial light source not in compliance with the provisions of this chapter.

(2) The alteration of any outdoor artificial light source after a certificate of occupancy has been issued without the review and approval of the Land Use Authority when such alteration does not conform to the provisions of this chapter.

(3) Failure to shield, correct, or remove lighting that is installed, operated, maintained or altered ~~as required by this chapter~~ in a manner that does not comply with this chapter.

(b) *Enforcement.* Violations of this chapter are subject to enforcement and penalties as outlined in ~~this Land Use Code~~ Section 101-1-13. If the violation constitutes a safety hazard, typical enforcement measures shall be employed. Unless the violation constitutes a safety hazard, enforcement of a violation of this chapter shall first be addressed as follows:

(1) A courtesy letter shall be sent to the land owner that suggests that there may be noncompliant outdoor lighting on the premises. A second and third courtesy letter shall be sent at least 20 calendar days after the previous courtesy letter if a previous courtesy letter does not either cause the resolution of the violation or cause the landowner to initiate resolution with the County as provided in subsection (b)(3) of this section. Educational information about how to

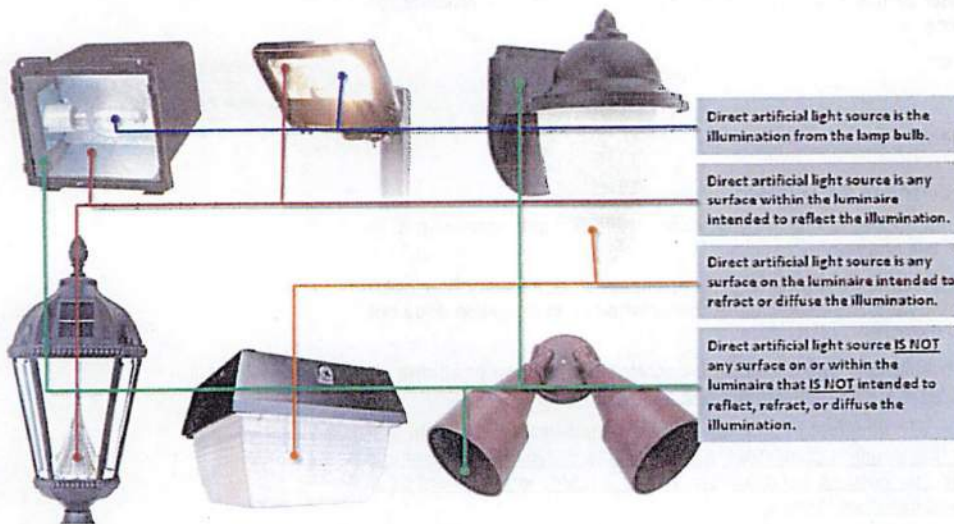
appropriately comply with this chapter shall also be sent and a method of contacting the county for discussion shall be provided in each courtesy letter. The third courtesy letter shall state that it is the last courtesy letter, and future contact will be in the form of a notice to comply.

(2) No sooner than 30 days after the third courtesy letter is sent, if ~~it did not either cause the resolution of the violation or cause the landowner to initiate resolution with the County as provided in subsection (b)(3) of this section, a notice to comply shall be sent to the land owner.~~ The notice shall include, with specificity, the violation, and shall give the landowner ~~at least 30 days to bring the property into compliance~~ comply with this chapter or initiate resolution with the County as provided in subsection (b)(3) of this section. The notice shall also include educational information about how to appropriately comply with this chapter.

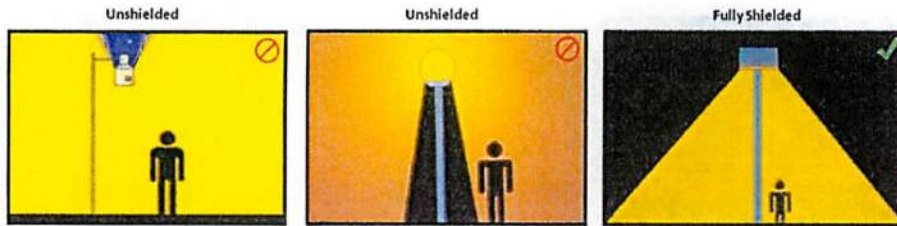
(3) If a landowner initiates resolution of a violation of this chapter with the County, the County shall give the landowner ~~at least six months~~ no less than six months and no more than 12 months to comply with this chapter ~~provided, however, that if it is the landowner clearly demonstrates that good faith efforts to resolve the violation can be implemented will resolve the violation within the six month period given.~~ If the landowner does not clearly demonstrate that good faith efforts will resolve the violation a notice to comply shall be sent to the landowner. The notice shall include, with specificity, the violation and shall give the landowner 30 days to comply with this chapter.

(4) If, after steps 1-3 of this subsection have been satisfied, a landowner fails to initiate resolution of a violation of this chapter, or fails to comply within ~~six months~~ the period specified in subsection (b)(3) of this section ~~after a resolution has been initiated,~~ typical enforcement measures shall be employed. Additionally, the final approval of current or future plans, the issuance of a certificate of occupancy, or the acceptance of new applications authorized by this Land Use Code may be withheld until compliance with this chapter is demonstrated.

Sec. 108-16-9. – Examples of direct artificial light.



Sec. 108-16-10. – Examples of unshielded and shielded light sources.

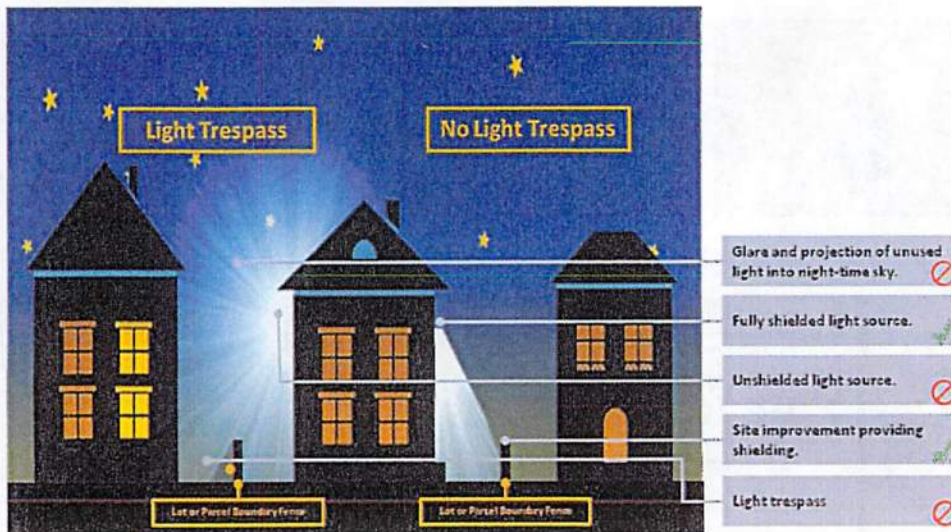


373



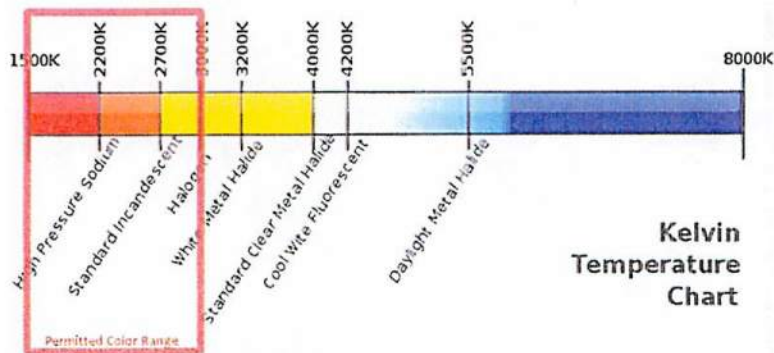
374
375

Sec. 108-16-11. – Example of light trespass.



376

377 Sec. 108-16-12. – Standard Kelvin temperature chart.



378

379

Sec. 108-16-13. – Example of canopy lighting.



380

381 Sec. 108-16-14. – Example of parking lot lighting.



382

383 Sec. 108-16-15. – Example of recreation facility lighting.



384

385 ...

CHAPTER 2. - OGDEN VALLEY SIGNS

Sec. 110-2-2. - Applicability.

- (a) *Permit required.* No person shall erect, alter or relocate any sign without first obtaining a land use permit, and meeting the standards set forth in this section. Signs conforming to the requirements of this section which identify seasonal business may be removed for the seasons during which the business is not in operation, and may be reinstalled without a new permit. All applications for land use permits shall be accompanied by plans, designs, specifications and drawings stating specifically all dimensions, lighting (see also Section 108-16-6), colors and plan of installation stating clearances and setbacks. Land use permits expire six months after issuance if the sign is not erected or altered pursuant to the permit.

Sec. 110-2-4. - Nonconforming signs.

~~A sign may be reinstalled which duplicates the original nonconforming sign in dimensions and location. Any changes in size or location shall require conformance to this chapter and the current lighting ordinance. After the effect of this chapter, which is March 1, 2017, any sign that does not comply with the requirements of this chapter shall be considered a nonconforming sign. A nonconforming sign that is not defined as a billboard under UCA 17-27a-103 shall be phased out in accordance with the following schedule:~~

~~(1) *Sign conversion.* Any nonconforming sign shall be terminated, replaced, or retrofitted to conform to the requirements of this chapter within seven years after the effect of this chapter.~~

~~(12) *Sign replacement.* The replacement of any nonconforming sign shall comply with the requirements of this chapter;~~

~~(23) *Building exterior modification.* When the replacement of a building's exterior materials exceeds 25 percent of the building's exterior area, excluding roof area, whether by a single modification project or by an accumulation of separate modification projects, all nonconforming signs on or within 25 feet of the building shall be brought into compliance with the requirements of this chapter. This shall not include repainting or re-roofing.~~

~~(34) *Building expansion.* When a building's expansion exceeds the threshold established in this subsection, whether by a single expansion project or by an accumulation of separate expansion projects, all nonconforming signs on or within 25 feet of the building shall be brought into compliance with the requirements of this chapter. The established threshold of expansion shall be the smaller of the following:~~

~~a. 25 percent of the total area of the building as it exists on March 1, 2017; or~~

~~b. 2,500 square feet; and~~

~~(46) *Site improvements.* When a site improvement which requires a land use permit, conditional use permit, or design review approval, modifies an area that exceeds the threshold established in this subsection, whether by a single modification project or by an accumulation of separate modification projects, all nonconforming signs on the premises shall be brought into compliance with the requirements of this chapter. The established threshold of modification shall be the smaller of the following:~~

~~a. 25 percent of the site area; or~~

~~b. 20,000 square feet.~~

Sec. 110-2-8. - Prohibited signs.

Comment [c44]: This is all borrowed from the phase-out in the proposed lighting chapter.

Comment [c45]: Measurable

Comment [c46]: Measurable

Comment [c47]: Measurable

Comment [c48]: Measurable

Comment [c49]: Measurable

Comment [c50]: Measurable

Comment [c51]: Measurable

Comment [c52]: Measurable

- 431 ...
- 432 (7) Changeable copy signs. Electronic changeable copy signs, except as permitted in 110-2-
- 433 9(b)(13). Manual changeable copy signs except as permitted in section 110-2-10, ~~Special~~
- 434 ~~purpose signs.~~

435 ...

436 Sec. 110-2-9. - Other signs.

437 ~~In addition to being regulated by other ordinances and state or federal law, the following signs are only~~

438 ~~regulated in the following manner:~~

439 (a) The following signs are allowed in any zone:

440 (1) Conservation property sign. A conservation property sign, as defined in Section 101-1-7, may

441 be erected on any property complying with the minimum provisions of the definition. The sign

442 shall either be a monument sign or a freestanding sign (pole sign) in compliance with the

443 following:

444 a. Monument sign. For a monument sign the width shall be no greater than ten feet and the

445 height shall be no greater than eight feet, with a sign face no greater than 24 square feet.

446 b. Freestanding sign (pole sign). For a freestanding sign (pole sign) the width shall be no

447 greater than eight feet and the height shall be no greater than ten feet with a sign face no

448 greater than 24 square feet. The sign face shall be mounted between the sign poles, which

449 shall be constructed of timbers that measure at least eight inches by eight inches and

450 extend from the ground to the top of the sign face. The top of the sign face and the bottom

451 of the sign face shall be completely bounded by timbers that have a minimum vertical

452 height of eight inches.

453 c. Example. The following images are examples of each:



Formatted: Font: Italic

454

455 (2) Gate or arch sign. A gate or arch sign situated over the primary entry of a lot or parcel of land,

456 provided that the sign face does not exceed 30 square feet and that the sign provides a vertical

457 clearance of at least 14.5 feet from the driving surface, not to exceed 18 feet in height and a

458 minimum passable width of 20 feet, not to exceed 30 feet pole to pole. Depth of the Arch shall

459 not exceed two feet. A land use permit, to verify compliance with applicable standards, and a

460 building permit to verify proper installation of footings and to ensure wind tolerance, is required.

Comment [c53]: Moved from list below

461 (3) Subdivision entry signs. An approved, recorded subdivision may locate one sign at each

462 entrance. The sign shall be a ground or monument sign, and shall meet all

463 specifications/requirements for monument signs in Section 110-2-5. In the event the location of

464 the subdivision entry sign is in a zone not governed by Section 110-2-5, the dimensions of the

Comment [c54]: Moved from list below

sign shall be no greater than allowed in the AV-3 zone. The planning commission shall approve location and design style. A double entry sign may be approved by the planning commission where there is a divided center island entry street.

(b) The following signs are allowed in any zone and are exempt from the standards of Section 110-2-12(a):

- (1) *Addressing numbers.* Addressing numbers shall be no more than 12 inches in height. An addressing number sign is also exempt Section 110-2-12(b)(8).
- (2) *Athletic field scoreboard signs.* An athletic field scoreboard sign shall not to exceed 120 square feet in any zone. An athletic field scoreboard sign is also exempt from Section 110-2-12(b)(3). The planning commission shall approve the location of all scoreboard signs in all zones except commercial and manufacturing zones.
- (3) *Business signs.* No more than one "Open/Closed" and one "Vacancy/No Vacancy" sign, one "Hours of Operation" sign, and one "Credit Card Acceptance" sign, not to exceed a total of four square feet in area, displayed for each business.
- ~~(4) Gate or arch sign. A gate or arch sign situated over the primary entry of a lot or parcel of land, provided that the sign face does not exceed 20 square feet and that the sign provides a vertical clearance of at least 14.5 feet from the driving surface, not to exceed 18 feet in height and a minimum passable width of 20 feet, not to exceed 30 feet pole to pole. Depth of the Arch shall not exceed two feet. A land use permit, to assure standards are in compliance, and a building permit for proper installation of footings and to ensure wind tolerance, are required.~~
- ~~(45) Governmental Flags.~~ Official governmental flags of the United States, the State of Utah or Weber County, and which are properly displayed, and provided they are not mounted on a roof or atop other signs. One corporate flag may be displayed along with a proper display of any or all of the official flags listed in this subsection. Flagpole height may not exceed the maximum height allowed in the zone for which it is being placed. If over the height allowed in the zone, the flagpole shall have a conditional use permit approved by the planning commission. Governmental uses, such as libraries and schools, shall be exempt from height requirements of this sub-section.
- ~~(56) Grand opening signs.~~ On a one-time basis, a business establishment shall be permitted one banner not to exceed 12 square feet, to be displayed for a period of not more than 30 days.
- ~~(67) Guidance signs.~~ Guidance and other informational signs authorized by the Utah Department of Transportation or other governmental agency. A guidance sign is exempt from all of the standards of Section 110-2-12.
- ~~(78) Historical signs.~~ Historical name signs for sites and/or structures designated by the board of county commissioners as having historical significance to the county (and as identified in the Ogden Valley Master Plan).
- ~~(89) Murals.~~ Murals, when depicted on the sides or rear of a building or storefront, provided that the mural has no connection or advertising context to any business conducted or any product or service offered therein.
- ~~(499) Nameplate signs.~~ Nameplate signs not to exceed four square feet that identify the occupants/owners and/or home occupation of a residential property. ~~Larger residential signs shall comply with the provisions of this Land Use Code.~~
- ~~(4410) Private warning signs.~~ Private warning signs, provided they do not exceed four square feet.
- ~~(4211) Signs on vehicles.~~ Signs for business identification which may include name, address, and telephone number, not to exceed two feet by three feet upon the side door of a vehicle.
- ~~(4312) Statuary and sculptures.~~ Freestanding statuary and sculptures which are considered to be works of art and which are placed on private property clearly for the benefit and interest of the general public.

~~(14) Subdivision entry signs. An approved, recorded subdivision may locate one entry sign at each entrance. The sign shall be of the monument type and meet all specifications/requirements for monument signs in section 110-2-5, Allowable signs by zoning district. The name of the subdivision shall be the only text included on said sign. The planning commission shall approve location and design style. A double entry sign may be approved by the planning commission where there is a divided center island entry street.~~

~~(15)~~ 13 *Traffic signs.* All signs erected in or adjacent to a public right-of-way by a public agency or in a private road right-of-way for the purpose of controlling or directing traffic. A traffic sign is exempt from all of the standards of Section 110-2-12.

...

Sec. 110-2-11. - Temporary sign usage.

...

(3) *Additional standards.* The following table applies to temporary sign use:

	General Standards in all Zones			Specific Standards for the Agricultural, Forest and Residential Zones			Specific Standards for the Commercial, Manufacturing and Resort Zones		
Sign Type	Display Period	Removal Required 3 Days After	Land Use Permit or Special Event Permit Required	Maximum Area per Sign Face	Maximum Height of Freestanding Signs (includes support structure)	Number of Signs Permitted per Sign Type	Maximum Area per Sign Face	Maximum Height of Freestanding Signs	Number of Signs Permitted per Sign Type
Occasional Signs:									
Campaign signs	60 days prior to the election	Completion of the election	N	32 square feet	6 feet	No limit	32 square feet	8 feet	No limit
Construction signs	Duration of construction	Completion of construction	N	32 square feet	6 feet	1 per street frontage	64 square feet	12 feet	1 per street frontage
Property/real estate sign	Duration of listing	Closing/lease commencement date	N	8 square feet	6 feet	1 per street frontage	64 square feet	12 feet	1 per street frontage
Short-term vendors § 108-13-3	120 days	End of event	Y/LUP	Not Applicable	Not Applicable	Not Applicable	16 square feet	6 feet if set in the ground or anywhere on the building	2 total per frontage, either a ground sign or on vendor trailer, mobile store, tent, or kiosk
Temporary outdoor sales § 108-13-4	Per state code if applicable or 30 days prior to the event	End of event	Y/LUP	Not Applicable	Not Applicable	Not Applicable	16 feet	6 feet if set in the ground or anywhere on the building	2 per street frontage
Temporary real estate sales office	Duration of construction	Completion of construction	Y/LUP	32 square feet	6 feet	1 per street frontage	Not Applicable	Not Applicable	Not Applicable
Temporary real estate sales office wall sign	Duration of construction	Completion of construction	Y/LUP	20 square feet	N/A	1 sign attached to the office	Not Applicable	Not Applicable	Not Applicable

Continued...	General Standards in all Zones			Specific Standards for the Agricultural, Forest and Residential Zones			Specific Standards for the Commercial, Manufacturing and Resort Zones		
Seasonal Signs:									
Farmer's markets § 108-13-5	June through October	End of event	Y/LUP	32 square feet	10 feet	1 per street frontage	32 square feet	10 feet	1 per street frontage
Fruit and vegetable stand § 104-5-3 (8)	June through October	End of event	Y/LUP	16 square feet	10 feet	1 per street frontage	32 square feet	10 feet	1 per street frontage
Political sign	No limit	No limit	N	16 square feet	10 feet	1 per street frontage	32 square feet	10 feet	1 per street frontage
Event Signs:									
Public event sign	30 days prior to the event	End of event	Y/SEP	4 square feet	3 feet	1 per street frontage	4 square feet	3 feet	1 per street frontage
Public event banner (on public property, over public streets or sidewalks)	30 days prior to the event	End of event	Y/SEP	12 square feet	N/A	1 per street frontage	12 feet	N/A	1 per street frontage
Public event directional sign	30 days prior to the event	End of event	Y/SEP	8 square feet	4 feet	No limit off-premises directional signs	8 square feet	4 feet	No limit off-premises directional signs
Special event sign	60 days prior to the event	End of event	Y/SEP	16 square feet on-site	6 feet	No limit onsite signs, either ground or banner signs	16 square feet onsite	6 feet	No limit on-site signs, either ground or banner signs
Special event banner (on public property)	30 days prior to the event	End of event	Y/SEP	12 square feet	N/A	1 per street frontage	12 square feet	N/A	1 per street frontage
Special event directional sign	1 day prior to the event	End of event	Y/SEP	8 square feet offsite	4 feet	No limit off-premises directional signs	8 square feet offsite	4 feet	No limit off-premises directional signs
Special event off-site sign	30 days prior to the event	End of event	Y/SEP	32 square feet	10 feet	2 offsite per event either a ground sign or banner	32 square feet	10 feet	2 offsite per event either a ground sign or banner

527 Sec. 110-2-12. - Sign materials and display standards.

528 | ---

529 (a) Sign materials. All materials used to construct signs, supports or fasteners shall conform to the
530 following standards:531 (1) Signs may be constructed of painted, stained, sandblasted or carved wood, brick, stone,
532 textured concrete or similar material. Glass (including plexi-glass), metal, or metallic leaf, which
533 is painted, anodized, or otherwise treated to prevent reflective glare may also be used. Copper,
534 brass, wrought iron, and other metals may remain untreated and allowed to develop a natural
535 patina.536 (2) Support structures may be constructed of painted, stained, sandblasted or carved wood, brick,
537 stone, textured concrete or similar material. Glass, metal, or metallic leaf, which is painted,
538 anodized, or otherwise treated to prevent reflective glare may also be used. Copper, brass,
539 wrought iron, and other metals may remain untreated and allowed to develop a natural patina.
540 Support structures shall use natural, muted earth-tone colors including browns, black, grays,
541 rusts, etc. White shall not be used as a predominant color, but may be used as an accent.542 (b) *Display standards.* The display of all signs regulated by this Land Use Code shall conform to the
543 standards of this section.544 (1) *No obstruction permitted.* No sign shall obstruct a clear view to and from traffic along any street
545 right-of-way, entrance or exit.546 (2) *No projection within right-of-way.* No signs, except traffic signs and similar regulatory notices
547 shall be allowed to project or be located within a public right-of-way.548 (3) *Illumination.* An illuminated sign, as defined in Section 101-1-7, shall comply with the
549 requirements of Chapter 108-16 and the following provisions, examples of which are graphically
550 depicted in Section 110-2-15.551 a. Unless otherwise specified in this subsection, all exterior lighting of a sign shall be
552 downward directed from the top of the sign, and oriented so as to illuminate only the sign
553 area, as defined in Section 101-1-7, excluding the supports.554 b. No direct artificial light, as defined in Section 101-1-7, shall be projected from the sign area
555 or beyond the sign area, including by means of diffusion or refraction through a translucent
556 or transparent surface. However, direct artificial light, excluding diffused or refracted light,
557 for a sign area that does not have a frame or separate background, as in the case of a logo
558 or individual lettering mounted to a wall without a defined sign perimeter, may illuminate or
559 reflect onto a background surface, such as a wall, beyond the exterior perimeter of the sign
560 area, provided that:

561 1. It shall not exceed six inches beyond the sign area,

562 2. It shall be shielded so as not to project light onto any other surface.

563 d. Exterior lighting of a sign shall not exceed a ratio of 50 lumens per square foot of sign area.
564 This ratio shall be calculated by combining the total lumen output of each artificial light
565 source divided by the square footage of the sign area. See Section 110-2-15 for a graphic
566 depiction.567 e. The Land Use Authority may require the applicant to submit photometric schematics and
568 attestation from a qualified professional that the submittal complies with this chapter.569 (4) *Wall signs mounted on parapets.* A wall sign mounted on a parapet wall shall be mounted six
570 inches or more below the top of the parapet wall.571 (5) *No imitation of traffic signs.* Signs shall not resemble, imitate or approximate the shape, size,
572 form or color of traffic signs, signals or devices. Signs shall not obstruct or interfere with the

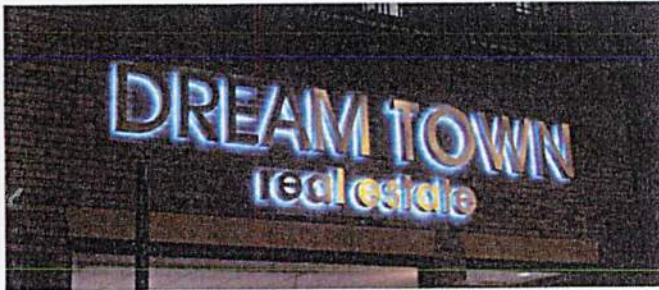
Comment [c55]: Check reference

Comment [c56]: Measurable

Comment [c57]: Measurable. This measurable is
still being reviewed by the sign industry to help
determine whether it works .

Comment [c58]: Check reference

- 573 effectiveness of traffic signs, signals or devices, not be lighted in a way that can cause glare or
574 impair driver visibility upon roads.
- 575 (6) *No prevention of ingress/egress.* Signs shall not be erected, relocated or maintained in such a
576 way that prevents free ingress or egress from any door, window or fire escape, and no sign
577 shall be attached to a standpipe or fire escape.
- 578 (7) *No mounting on natural features.* No signs shall be painted or mounted on trees. No land-form
579 or naturally occurring land feature (rocks, cliff faces, etc.) shall be defaced for purposes of
580 displaying a sign.
- 581 (8) *Clearance.* The clearance of a projecting, canopy or wall sign shall be measured from the
582 lowest edge of the overhang eight feet to the driving or walking surface below.
- 583 (9) *Sign setbacks.*
- 584 a. *Monument and/or ground signs.* Any monument sign or ground sign shall be set back a
585 minimum of ten feet from any property line. Signs fronting on state highways shall be set
586 back ten feet from the right-of-way.
- 587 b. *Projections into public right-of-way.* Projections into the public right-of-way are not allowed,
588 except for signs set by public agencies for safety purposes, such as the state department
589 of transportation.
- 590 c. *Clear view triangle.* Signs shall not be placed within the clear view triangle as defined in
591 title 108, chapter 7 of the Weber County Land Use Code.
- 592 (10) *Landscaping.* The ground area around the base of all ground/monument signs shall be
593 landscaped in accordance with the requirements of applicable chapters of the Weber County
594 Land Use Code. The planning commission may exempt some monument/ground signs from this
595 standard where it is demonstrated, by the owner/developer, that the landscaping would unduly
596 interfere with pedestrian or vehicular traffic, interfere with traffic visibility or for other reasons be
597 impractical.
- 598 (11) *No street frontage.* When a freestanding building, complex or storefront does not face a public
599 street or approved private road, and is accessed via a pedestrian area or common parking and
600 driveway area, the linear footage of building or storefront facing the pedestrian area or common
601 parking area shall substitute for purposes of determining allowable signage.
- 602 (12) *Sign area.* The area of a sign shall be measured as provided in the definition of "sign area" as
603 provided in Section 101-1-7.
- 604 ...
- 605 **Sec. 110-2-15. – Examples of sign illumination.**



- Unacceptable color temperature.
- Fully shielded artificial light source.
No visible direct artificial light.
- Light buffers no more than six inches around perimeter of sign area.



- Acceptable color temperature.
- Direct artificial light source projected by means of diffusion through translucent surface.
- Light buffers no more than six inches around perimeter of sign area.

606



- Lumen per Square Foot Ratio**
- | | |
|-----------------------------|--------------------------|
| 1650 Lumen Bulb | 50 Lumens per |
| 33 Square Feet of Sign Area | Square Foot of Sign Area |
| = | |
- Total combined lumens less than or equal to 30 lumens per square foot.
 - Acceptable color temperature.
 - Light only illuminates sign area.
 - No visible direct artificial light.

607

608

Sec. 101-1-7. - Definitions.

When used in this Code, the following words and phrases have the meaning ascribed to them in this section, unless the context indicates a different meaning:

...

Quasi-public. The term "quasi-public" means the use of premises by a public utility, such as utility substations and transmission lines (see also "utility"); a permanently located building or structure, together with its accessory buildings and uses, commonly used for religious worship, such as churches and monasteries.

...

Utility. The term "utility" means utility facilities, lines, and rights of way related to the provision, distribution, collection, transmission, transfer, storage, generation or disposal of culinary water, secondary water, irrigation water, storm water, sanitary sewer, solid waste, oil, gas, power, information, telecommunication, television or telephone cable, electromagnetic waves, and electricity. See also "quasi-public."

...

CHAPTER 10. - PUBLIC BUILDINGS AND PUBLIC UTILITY SUBSTATIONS ~~AND-OR~~ STRUCTURES

Sec. 108-10-1. - Location.

The location and arrangement of public buildings and public utility substations ~~and-or~~ structures will comply with requirements set forth in this chapter and will be in accordance with construction plans submitted to and approved by the planning commission.

Sec. 108-10-2. - Site development standards for Ppublic utility substation or structures: ~~—Minimum lot area.~~

~~None.~~

The lot area, width, depth, setback, and street frontage regulations for unmanned culinary or secondary water system facility, storage tank, or well house, unmanned sanitary sewer system facility, unmanned oil or natural gas pipeline regulation station, unmanned telecommunication, television, telephone, fiber optic, electrical facility, or other unmanned utility service regeneration, transformation, or amplification facility are as follows:

1. Lot area and lot width. No minimum lot area or width, provided that the lot or parcel shall contain an area and width of sufficient size and dimension to safely accommodate the utility facility or use, any necessary accessory use, any landscaping required by this land use code, and the required setbacks.

2. Front yard setback. Front yard setback requirement may be reduced to no less than ten feet if the lot does not directly front on a public or private street right-of-way, provided that the no substation or structure shall be located closer to a public or private street right-of-way than the minimum front yard setback of the zone, or twenty feet, whichever is more restrictive.

4. Side yard setback. The side yard setback requirement shall comply with the typical setback specified in the applicable zone regulating the property.

5. Rear yard setback. The rear yard setback requirement may be reduced to the following:

a. In a residential zone: five feet.

b. In an agricultural zone: ten feet.

c. In a forest zone: 20 feet

d. In a zone not specifically listed above: typical zone setback as provided in the chapter for that zone.

6. Frontage. No frontage is required along a public right-of-way if clear and legal access exists from a public right of way to the site for the purpose of the utility use.

~~Sec. 108-10-3. - Same—Minimum yards.~~

~~Each public utility substation shall maintain the minimum yards required for a dwelling in the same zone except that the rear yard may be reduced to the following:~~

~~(1) In a residential zone: five feet.~~

~~(2) In an Agricultural Zone: ten feet.~~

~~(3) In a Forest Zone: 20 feet.~~

~~Sec. 108-10-4. - Same—Street access.~~

~~Each public utility substation shall be located on a lot, which has adequate access from a street, alley, right of way, or easement.~~

Sec. 108-10-5. - Public buildings—Minimum lot area.

Each public building shall be located on a lot of not less than 20,000 square feet in all residential estate, agriculture, and forest zones.

Sec. 108-10-6. - Same—Minimum yards.

Each public building shall meet the minimum yard requirements for a public building in the zone in which it is located.

Sec. 108-10-7. - Same—Width of lot.

Each public building shall have a minimum width of lot of 100 feet.

Sec. 108-10-8. - Same—Frontage.

Each public building shall have frontage on a public street.

...

CHAPTER 29. - OGDEN VALLEY DESTINATION AND RECREATION RESORT ZONE DRR-1

...

Sec. 104-29-2. - Development standards.

...

(h) Site development standards.

(1)	Minimum lot area		
...			
	c.	Public utility substation	<u>As provided in Section 108-10-2: Site development standards for public utility substation or structure.</u> As required in Chapter 26, Public Utility
...			
(2)	Minimum lot width		
...			
	c.	Public utility substation	<u>As provided in Section 108-10-2: Site development standards for public utility substation or structure.</u> As required in Chapter 26, Public Utility
...			
(3)	Site setbacks. Setbacks shall apply for the following specific uses:		
	a.	Front yard	
...			
	5.	Public utility substation	<u>As provided in Section 108-10-2: Site development standards for public utility substation or structure.</u> As required in Chapter 26, Public Utility
...			
	b.	Side yard	
...			
	5.	Public utility substation	<u>As provided in Section 108-10-2: Site development standards for public utility substation or structure.</u> As required in Chapter 26, Public Utility

...			
	c.	Rear yard	
...			
	5.	Public utility substation	As provided in Section 108-10-2: Site development standards for public utility substation or structure. As required in Chapter 26, Public Utility
...			
(4)	Maximum building height		
...			
	c.	Public utility substation	35 feet, unless otherwise provided in Section 108-7-5: Exceptions to height limitations. exempted in Chapter 23 (23-5), Supplementary and Qualifying Regulations

Formatted: Font: (Default) +Body, 11 pt

Formatted: Font: (Default) +Body, 11 pt

Formatted: Font: (Default) +Body, 11 pt

Formatted: Font: (Default) +Body, 11 pt

CHAPTER 15. - STANDARDS FOR SINGLE-FAMILY DWELLINGS

Sec. 108-15-1. - Codes and standards.

Any dwelling or other structure which is designed or intended for human habitation, which is to be located in the county outside of a mobile home park, mobile home subdivision or manufactured home subdivision or PRUD, must meet the standards of the uniform building and other codes as adopted by the county, or if it is a manufactured home, it must meet the standards of, and be certified under the National Manufactured Housing and Standards Act of 1974 and must prominently display an insignia approved by the United States Department of Housing and Urban Development and must not have been altered in violation of such codes.

(Ord. of 1956, § 37-1)

Sec. 108-15-2. - Additional requirements.

In addition to the above codes and standards, the following requirements shall also be met:

- (1) The dwelling must be permanently connected and attached to a site-built permanent foundation which meets ICC Guidelines for Manufactured Housing Installations if a manufactured home. Any running gear shall be removed and stored out of sight. Any enclosure must be secured to the perimeter of the dwelling and constructed of materials that are weather resistant and aesthetically consistent with concrete and masonry foundation materials.
- (2) The dwelling must be permanently connected to and approved for all required utilities.
- (3) The dwelling must be taxed as real property. If the dwelling is a manufactured home, an affidavit must be filed with the state tax commission pursuant to U.C.A. 1953, § 59-2-602 and qualified therefor as an improvement to real estate.
- (4) The dwelling must provide a minimum of 72 square feet of enclosed storage with the minimum height of six feet located in a basement or garage area or in an accessory storage structure. Such structure shall conform to all applicable building codes.
- (5) Porches and landings for ingress and egress to the dwelling must be built in accordance with chapter 3 of the International Residential Code as adopted by the State of Utah.
- (6) At least 60 percent of the roof must be pitched at least 2:12 pitch and shall have a roof surface of wood shakes, asphalt, composition, wood shingles, concrete, metal tiles, slate, built up gravel materials or other materials approved by the International Residential Code.
- (7) The dwelling shall have exterior siding consisting of wood, masonry, concrete, stucco, masonite or metal or vinyl lap. The roof overhang, including rain gutters, shall not be less than one foot, measured from the vertical side of the building, but not including bay windows, nooks, morning rooms, etc.

- (8) The width of the dwelling shall be at least 20 feet at the narrowest point of its first story for a depth of at least 20 feet exclusive of any garage area. The width shall be considered the lessor of two primary dimensions. If the width of the dwelling faces a street and is less than one-half of the length, the required off-street parking shall be in a two-car garage attached to the length of the dwelling.
- (9) Required off-street parking spaces shall be side-by-side. (See section 108-8-2.)
- (10) The county building inspector, as the zoning enforcement officer in concert with the county planning commission, may approve deviations from one or more of the development or architectural standards provided herein on the basis of a finding that the architectural style proposed provides compensating design features and that the proposed dwelling will be compatible and harmonious with existing structures in the vicinity. Together, they may also require other deviations to achieve the overall goals and purposes of this chapter. These requirements may be appealed to the board of adjustment.

(Ord. of 1956, § 37-2; Ord. No. 2008-6)

Definition

ACCESSORY DWELLING UNIT: A functionally separate living space developed subordinate to a single-family dwelling on the same lot or in the same building as the single-family dwelling; but which is not an independent residence or dwelling unit.

STANDARDS FOR ACCESSORY DWELLING UNITS:

In all zones that allow accessory dwelling units, accessory dwelling units shall meet the following requirements:

A. Purpose: It is the purpose of this section to establish regulations controlling the use and construction of accessory dwelling units; to encourage individuals to become and remain homeowners by allowing limited opportunities for rental income; to allow the provision of security or services to owner occupants of the dwelling; to provide options for structures designed as single-family dwellings to meet the needs of owner occupants at a variety of stages in their life cycle; and to protect the stability of neighborhoods.

X

B. Number Of Accessory Units Per Parcel: An accessory dwelling unit (ADU) shall be allowed only on parcels containing a single-family dwelling. No more than one accessory dwelling unit shall be allowed for a lot or parcel which also contains the single-family dwelling. ADUs shall not be allowed on lots or units which are part of a PRUD, apartment building, group dwelling or a condominium project.

C. Occupancy: The property owner, which includes titleholders, must occupy either the primary or accessory dwelling as their permanent and principal residence in order to qualify for an ADU.

1. As long as the owner occupies the main dwelling or the ADU then the other unit is allowed to be rented under this ADU provision.
2. The owner is permitted to have a separate seasonal residence but during the time away from the permanent residence they are not allowed to rent out their vacant permanent residence unit. For the purposes of this subsection "seasonal residence" shall mean living in another location up to four (4) months in one calendar year.
3. The property owner shall conform to the definition of "family" as described in [chapter 2](#) of this title.
4. The nonowner occupied unit is limited to no more than two (2) related or unrelated adults, with or without minor children of the two (2) adults.
5. Neither the single-family dwelling nor the ADU may be used or licensed as a residential vacation rental.

Comment [C1]: If adopted, this section would likely replace the "accessory apartment" section of the Weber County Land Use Code.

Comment [C2]: To facilitate open space preservation by moving development rights from existing undeveloped land, utilizing a mechanism that allows landowners to voluntarily transfer development rights to areas that are more suitable for growth when compared to sensitive land areas such as wildlife habitats, hazardous hillsides or prime agricultural parcels.

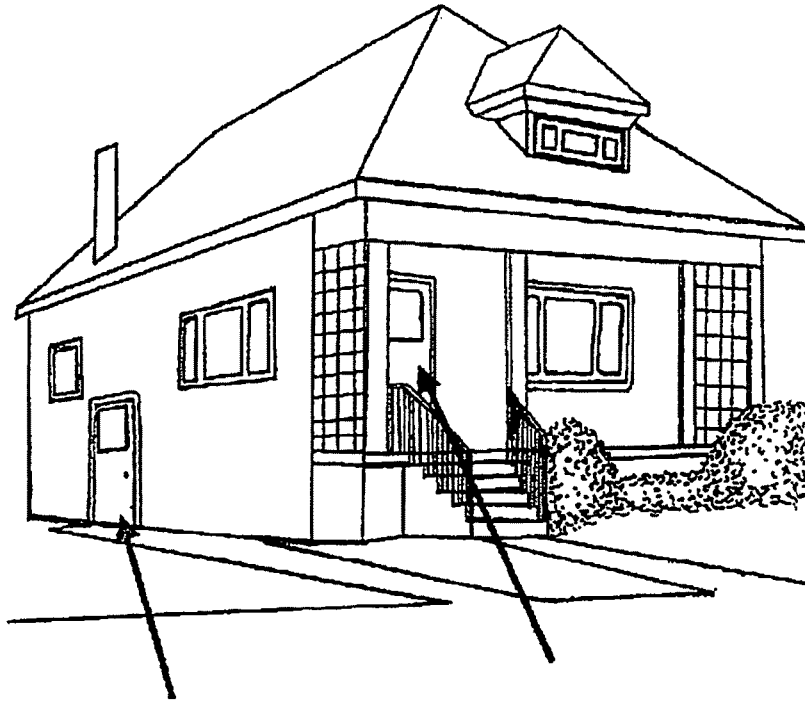
Comment [C3]: If accessory dwelling units by transferable development rights are desired, there needs to be a section somewhere in here specifying it. Also, there needs to be a general section governing TDR's, similar to what is found in LUC 104-29-4 – 104-29-6

Comment [C4]: Limit to one? If this takes off it could remove a moderate amount of density from undeveloped lands. Think about maybe limiting based on parcel size?

D. Size: The ADU shall not occupy more than forty percent (40%) of the building's total habitable square footage or for detached units shall not be less than three hundred (300) square feet or more than eight hundred (800) square feet. Detached units shall not occupy more than twenty five percent (25%) of the rear yard area of the lot.

E. Appearance: The appearance of the dwelling shall remain that of a single-family residence and not be altered with the exception of required egress windows from bedrooms or entry doors. Any new detached building to accommodate an accessory dwelling unit shall be designed to follow the architectural design, style, and character of the main building. The exterior surfaces shall have the same visual appearance of the exterior material and color of the main building. The height of the building shall not exceed one story if the main building is one story nor be taller than twenty five feet (25') to the peak of the roof if the main building is taller than one story.

F. Outside Entrances: The entrances to the ADU and main dwelling shall use existing entrances to the dwelling if possible. If a separate entrance is required to be installed to one of the units, it shall be by means of a door located in the side or rear of the building.



ADU Side
Entry

Main entry

- G. Parking: A single-family dwelling with an accessory dwelling unit shall have in existence the required two (2) off street parking spaces that meet the legal location and requirements for off street parking for a single-family dwelling. No additional off street parking in the front or side yard for the ADU is to be provided such as a side yard parking slab or widened driveway. Tandem parking (1 vehicle behind another) in the driveway that leads to legal parking for the main unit shall be the means of providing parking provided the tandem parking does not extend over the property line and the public sidewalk.
- H. Compliance With Building Codes: The ADU shall comply with all applicable building, health and fire codes with special attention for existing buildings given to providing the required emergency access from bedrooms.

I. Application Procedure:

1. Any homeowner who resides in a single-family dwelling and whose property is in a residential zone and desires an accessory dwelling unit shall obtain an accessory dwelling permit. The accessory dwelling permit shall be in addition to any building permits that may be necessary to create the accessory dwelling unit. The applicant shall submit as part of the application for an accessory dwelling permit:
 - a. A site plan drawn accurately to scale that shows property lines and dimensions, the location of existing buildings and building entrances, any proposed building and its dimensions from buildings and property lines, and the location of parking stalls.
 - b. Detailed floor plans drawn to scale with labels on rooms indicating uses or proposed uses.
 - c. Written verification that the applicant is the owner of the property and has permanent residency in the existing single-family dwelling where the request is being made. The verification also requires the applicant to acknowledge that they are the owner-occupant and will remain an owner-occupant in order for an accessory dwelling unit to be permitted.
2. After review by the building services and fire divisions, the planning division shall approve or deny the application based on compliance with these regulations and payment of the same business license fee, including any disproportionate fee, as an owner occupied duplex under [title 5, chapter 1, article B](#) of this code. The required fee may be reduced by any discounts available to an owner occupied duplex.
3. Noncompliance with the standards of this section shall be just cause for the denial of an application or revocation of an accessory dwelling permit if the original conditions are not maintained that allowed the accessory dwelling unit. Revocation shall be decided based upon the findings of fact at an administrative hearing before a hearing officer, pursuant to [title 5, chapter 1, article C](#) of this code, as such provisions may be applicable. If the permit is revoked the accessory dwelling unit shall be removed within thirty (30) days of the final determination.
4. The approval of a permit for an accessory dwelling unit is valid for one year from the date of the approval and must be renewed annually. Change of property ownership voids the accessory dwelling permit. A new permit must be applied for according to these requirements if the new owner desires an ADU.

Sec. 104-29-3. - Transferable development right (TDR) eligibility.

Real transfer from parcels contiguous or noncontiguous to the resort and not included as part of DRR-1 Zone. A landowner may transfer development rights from any lot of record or described parcel of land that is contiguous or noncontiguous to the resort and meets or exceeds the minimum (single-family dwelling) area requirement for the zone in which it located. A landowner may also transfer development rights from any parcel that has been described in a document (e.g., deed, sales contract or survey) and subsequently recorded in the office of the Weber County Recorder in between January 1, 1966 and June 30, 1992. This parcel must have complied with the zoning requirements in effect at the time of its creation but not necessarily undergone or successfully completed the county subdivision process. Development rights transferred from parcels, as described above, shall be considered eligible to receive TIMUs and DBUs as described in section 104-29-2(c) (Maximum permitted units). A resort that transfers development rights shall do so by conforming to the requirements of this chapter and shall finalize and record all necessary transfers (for a particular phase or part thereof) prior to submitting any application for subdivision or plan approval for any site within the destination and recreation resort zone.

- (1) At the discretion of the resort, development rights required to be transferred in order to establish an initial number of transferred base units (TBUs), as described in section 104-29-2(c) (Maximum permitted units), may be acquired through a purchase of real property or through private negotiation and purchase of transferable development rights only.
- (2) Refer to section 104-29-4 (Calculating transferable density) for transferable density calculation requirements. Refer to section 104-29-5 (Transferable development right procedure) and section 104-29-6 (Transferable development right easement) for procedural and content requirements relating to a transfer of development right easement.

(Ord. of 1956, § 44-3)

Sec. 104-29-4. - Calculating transferable density.

- (a) Transferable density calculation for real transfers. Except for the circumstances and/or conditions listed below, every lot of record; and every described parcel of land exceeding the minimum (single-family dwelling) area requirement, for the zone in which it is located; and every parcel/lot that has been described in a deed, sales contract or survey that was recorded in the office of the county recorder, in between January 1, 1966, and June 30, 1992, and met the zoning requirements in effect at the time of its creation but has not necessarily undergone and successfully completed the county subdivision process shall be granted transferable development rights based upon the parcel/lot's record description/area and current or other applicable zoning. Transferable development rights shall be excepted from and/or not granted to the following:
 - (1) Areas within a described parcel of land containing slopes of 40 percent or greater in forest zones and 30 percent or greater in all other zones.

- (2) Areas within a described parcel of land and/or proposed irrevocable transfer of development right easement (ITDRE) reserved for future development or designated as a reserved future development area (RFDA) on an approved transferable development right site plan.
 - (3) Areas within a described parcel of land or lot of record restricted by conservation easement or similar instrument restricting residential or commercial development.
 - (4) Areas or tracts of land owned by federal government and/or state government agencies.
 - (5) Areas or tracts of land lying outside of the Ogden Valley area as defined by the Ogden Valley general plan, recreation element project area map adopted December 27, 2005 (OVGPPE; Figure 1, pg 4).
 - (6) Lot of record subject to the payment of fees for operation and/or maintenance of common areas, open space, amenities and/or private facilities.
 - (7) Fractional and/or noncontiguous portions of a lot of record or parcel of land that does not meet or fully exceed the minimum (single-family dwelling) area requirement for the zone in which it is located.
- (b) The following provides an example of calculating the development rights associated with a typical parcel of land that exceeds the minimum (single-family dwelling) area requirement.
- (Ord. of 1956, § 44-4)

Sec. 104-29-5. - Transferable development right procedure.

- (a) Real transfer from parcels contiguous or noncontiguous to the resort but not included as part of DRR-1 Zone. At the discretion of the resort, development rights required to be transferred in order to establish an initial number of transferred base units (TBUs), as described in section 104-29-2(c) (Maximum permitted units), may be acquired through a purchase of real property or through private negotiation and purchase of transferable development rights only. In either situation, the property owner or his representative who wishes to transfer development rights shall complete the following:
- (1) *Registration.* A property owner or his representative who is interested in transferring development rights from their property shall register to do so by declaring his intent and desire, to transfer development rights, on an official county request to register transferrable development rights form. The transferrable development right register shall be maintained by the county planning division and shall be made available to any resort upon request.
 - (2) *Certification request.* A property owner or his representative who has chosen/agreed to make a real transfer of development rights to a proposed DRR-1 Zone shall obtain an Ogden Valley certificate of transferable development rights by providing the county planning division with the following:
 - a. Payment of a certification fee.
 - b. Complete county request to certify transferrable development rights form.
 - c.

Map of the property in the form of a county recorder's plat or record of survey map filed in accordance with USC 17-23-17.

- d. Legal description, including total acreage, as it appears in the county recorder's office or as it is described on a record of survey map on file in the county surveyor's office.
 - e. Transferable development right site plan, drawn to a scale no smaller than 100 feet to one inch, that demonstrates the location and dimensions of all important features including, but not limited to, reserved future development right areas, water bodies or courses, easements and buildings within the subject parcel (transferring parcel) of land.
 - f. Slope analysis, performed by a professionally licensed engineer or land surveyor, that identifies developable acreage as described in the section 106-2-9 of this Land Use Code. This requirement may be waived by the county engineer upon finding that the subject parcel of land (transferring parcel) is not affected by steep terrain as defined in section 106-2-9.
 - g. Preliminary title report demonstrating that the subject parcel of land (transferring parcel) has clear title; or a preliminary title report identifying any interested party making claim to the property and/or any beneficiary of an easement or encumbrance that exists in the form of a mortgage, deed of trust or other instrument that either secures the property and its unrestricted value as collateral or restricts development in any manner.
 - h. Title report summary letter prepared by the property owner or his representative who has chosen/agreed to make a real transfer of development rights to a proposed DRR-1 Zone. The letter shall, in the form of an outline, list all interested parties and provide contact information and details describing interest and/or encumbrance types and order of subordination if applicable.
 - i. Subordination agreement, provided by each and all interested parties with rightful claims and/or beneficiaries of existing encumbrances, that clearly states that the interested party and/or beneficiary acknowledges and agrees to a subordinate position to the grantee of an irrevocable transfer of development right easement (ITDRE) and the enforcement of its terms. The letter shall also clearly state that the interested party and/or beneficiary, by exercising any right granted to them under a mortgage, deed of trust or other instrument, cannot and will not modify, extinguish or affect the grantee's right to enforce the terms of the ITDRE.
 - j. Proposed transfer of development right easement meeting the requirements of section 104-848.
 - k. Proposed transfer of development rights deed.
- (3) *Certification.* The county planning division, after consideration of all relevant information, shall issue a certificate of transferable development rights, based on an official request and its conformance to the standards of this chapter. The certificate shall state the number of transferable development rights approved and available for transfer and shall be valid for a period of time not to exceed 60 days from the date of issuance.

Transfer. Prior to the expiration of a certificate of transferable development rights and prior to or at the time of application for a specific land use (e.g., subdivision or site plan approval) within a destination and recreation resort zone, all transfer documents, including an approved transfer of development rights deed and an approved transfer of development right easement, shall be executed by appropriated signature and recordation in the office of the county recorder. Recording of the transfer of development rights deed and a transfer of development right easement shall constitute a complete transfer, therefore, enabling resort land use applications to be accepted and processed through the county planning division.

(Ord. of 1956, § 44-5)

Sec. 104-29-6. - Transferable development right easement.

Irrevocable transfer of development right conservation easement. To ensure consistency and the perpetual protection and preservation of a parcel's conservation values, a parcel that is the subject of a proposed development right transfer shall be encumbered by an irrevocable transfer of development right conservation easement that meets the requirements described in section 57-18-1 et seq. of Utah Code and consists of but is not be limited to the following content and/or requirements:

- (1) *Title/form.*
 - a. The easement shall be entitled as an "Irrevocable Transfer of Development Rights (TDR) Conservation Easement."
 - b. The easement shall be in a form considered appropriate and acceptable to the office of the Weber County recorder.
- (2) *Grantor/grantee.* The easement shall name Weber County and one other qualified conservation organization, which is authorized to hold interest in real property, as the grantees. The qualified conservation organization, named as grantee, shall meet the requirements described in section 57-18-3 of Utah Code and shall require the approval of the county.
- (3) *Recital.* The easement shall recite and explain all matters of fact, including a parcel/boundary description, which are necessary to make the transaction intelligible.
- (4) *Nature of easement.* The easement shall explain its perpetual, irrevocable, inheritable and assignable nature.
- (5) *Purpose.*
 - a. The easement shall explain its purpose in terms of how it is intended to protect, preserve, enable the creation or continuation of an anticipated use and prevent certain conditions or uses upon the land that may diminish its open space qualities.
 - b. It shall be acknowledged, within this section, that the above "statements of purpose" are intended to be a substantive provision of the easement and that any ambiguity or uncertainty regarding the application of the terms of the easement will be resolved so as to further its

purpose.

(6) *Permitted uses and activities.*

- a. The easement shall list the property rights that have been retained by the grantor, including the right to allow or restrict public access, and shall acknowledge that these rights are consistent with the applicable zoning for the area in which the parcel is located.
- b. In the event that a residential development right has been retained on the subject parcel (transferring parcel), a statement shall be made, within this section, which explains the remaining number and type of development rights associated with the parcel. An exhibit shall also be referenced, within this section, which restricts and graphically demonstrates the general location of any future development.

(7) *Prohibited uses and activities.* The easement shall list the property rights that have been voluntarily relinquished by the grantor and acknowledge that any exclusion does not constitute an approved use or imply that uses may be inconsistent with the applicable zoning for the area in which the parcel is located.

(8) *Water rights.*

- a. Agricultural parcels, when the subject of an irrevocable transfer of development rights (TDR) conservation easement, shall maintain a sufficient right to water in order to preserve agricultural production, therefore, it shall be required that the easement state that the grantor is legally prohibited from conveying, transferring, encumbering, leasing or otherwise separating or changing any historic water use on the parcel.
- b. In the event that an agricultural parcel requires flexibility in its use of water to protect historic water rights, the grantor may make such statement that will allow the temporary lease of water rights for a period of time not to exceed two years. Such statement shall acknowledge that the temporary lease will conform to all state requirements and will not permanently separate any historic water right from the agricultural parcel. Such statement shall also acknowledge that the grantees of the easement shall be notified prior to entering into any short-term water lease.

(9) *Monitoring and enforcement.*

- a. The easement shall state that the grantee will have the right to enforce the terms of the easement by entering the property, provided that an advance notice of 24 hours is provided to the grantor, for the purpose of inspecting the property for suspected/reported violations. Additionally, it shall state that the grantee shall have the right to enter the property at least once a year, at a mutually agreed time for the purpose of inspection and compliance monitoring regardless of whether grantee has reason to believe that a violation of the easement exists. In order to establish a monitoring baseline, an exhibit shall also be referenced, within this section, which inventories, graphically demonstrates and photo documents relevant features and the existing condition of the parcel.
- b.

For the purposes of correcting any violation, condition or circumstance that is not consistent with the terms of the easement, it shall be stated that the grantee or assigns may, at their discretion, use any available legal or equitable remedy to secure and restore compliance with the standards set forth in the easement. Legal and/or equitable remedies may include but not be limited to injunctive relief, entering the property to perform restorative activities and/or recorded lien.

- (10) *Termination and extinguishment.* The easement shall state under which conditions and/or circumstances that the easement could be terminated. These conditions may include but not be limited to grantee consent, court action or eminent domain.
- (11) *Subordination.* Prior to granting the easement the grantor shall submit a title report and certify, within this section, that the subject parcel of land (transferring parcel) has clear title and is not encumbered by a mortgage, deed of trust or other instrument securing the property and its unrestricted value as collateral. If the subject property (transferring parcel) has been encumbered by a mortgage, deed of trust or other instrument that has secured the property and its unrestricted value as collateral, the grantor shall declare all encumbrances, within this section, and reference an exhibit, provided by any and all beneficiaries, that acknowledges and agrees to their subordinate position as it relates to the easement and the enforcement of its terms. The agreement/exhibit shall also clearly state that the beneficiary, by exercising any right granted to them under a mortgage, deed of trust or other instrument, cannot and will not modify, extinguish or affect the grantee's right to enforce the terms of the easement.
- (12) *Costs and liabilities.* The easement shall state that the grantor will continue to be responsible for and bear all costs and liabilities of any kind related to ownership, operation, upkeep and maintenance of the subject property (transferring parcel).
- (13) *Conveyance or transfer of property.* The easement shall state that any document intended to transfer or convey the subject property (or any interest in the subject property) will specifically refer to the easement and disclose its perpetual nature and the fact that it runs with the land. It shall also state that any failure to comply with this requirement shall not adversely affect the grantee's right to enforce the terms of the easement in any way.
- (14) *General provisions.* This section shall describe provisions for but not limited to easement amendments, controlling law and interpretation.

(Ord. of 1956, § 44-6)

General Definitions Amendments:

TITLE 101 – GENERAL PROVISIONS

...

Sec. 101-1-7. - Definitions.

...

Lot of record (lawfully created lot). A lot of record is defined as any one of the following circumstances:

- (1) A parcel of real property identified as a building lot on an unrecorded subdivision plat that has been approved by Weber County and is on file in the Weber County Planning Office; or
- (2) A parcel of real property identified as a building lot on a subdivision plat that has been approved by Weber County and recorded in the office of the Weber County Recorder; or
- (3) A parcel/lot described in a deed, sales contract or survey that was recorded in the office of the Weber County Recorder before January 1, 1966; or
- ~~(4) A parcel/lot described in a deed, sales contract or survey that was recorded in the office of the Weber County Recorder in between January 1, 1966, and June 30, 1992, which complied with the zoning requirements in effect at the time of its creation and has undergone and successfully completed the Weber County subdivision process; or~~
- (45) A parcel/lot described in a deed, sales contract or survey that was recorded in the office of the Weber County Recorder in between January 1, 1966, and June 30, 1992, which complied with the zoning requirements in effect at the time of its creation and was shown to be the first or second division of a larger parent parcel; or
- ~~(6) A parcel/lot that is the subject of a land division where Weber County, in compliance with Utah State Code, has expressly approved the division in anticipation of further land use approvals conditioned upon and as authorized by the Weber County Zoning Ordinance; or~~
- (57) A parcel/lot that does not fall within any one of the previously listed circumstances but has received a variance from the Weber County Board of Adjustment which has otherwise deemed a particular parcel/lot as a lot of record.

~~There are parcels/lots within Weber County that may have been created and subsequently recorded in the office of the Weber County Recorder, but were not lawfully created in accordance with Utah State Code or Weber County Ordinances/Policy as described herein. Weber County is not able to issue a land use permit and/or building permit for such parcels/lots.~~

...

Recreation lodge. The term "recreation lodge" means a lodge constructed in a mountainous or forested location, which may include up to 16 guest sleeping rooms for nightly accommodations, and facilities for guest's meals, providing on-site winter sports amenities such as cross country ski trails, snowmobile trails, ice skating and/or similar activities, and, if open year-round, offers summer recreation amenities such as equestrian trails, mountain biking trails, hiking trails, rock climbing training stations, golf course, putting green, and/or tennis courts. Accessory uses, such as sports equipment rental and repair may be included. The number of horses allowed, in the case of a riding stable, shall be calculated and may be permitted based upon acreage and site plan review, and recommended by the planning commission. Limited day use may be allowed based upon site plan review and approval of the overall project as a conditional use by the planning commission.

.....

Township Amendments

Part I

...

Title 2 – Administration

...

CHAPTER 17. - RESERVED TOWNSHIP-PLANNING DISTRICTS

~~Sec. 2-17-1.— Appointment of township planning commission members.~~

~~Appointment preference shall be given to encourage geographic representation on each township planning board.~~

~~Sec. 2-17-2.— Jurisdiction.~~

~~Upon the appointment of all members of a township planning commission the township shall immediately begin to exercise the powers and perform the duties as provided for in the Utah Code.~~

~~Sec. 2-17-3.— Policies and procedures.~~

~~The board of county commissioners shall adopt such policies and procedures as it deems necessary to provide for:~~

- ~~(1) The planning division support staff;~~
- ~~(2) The funding of necessary and reasonable expenses of townships;~~
- ~~(3) The townships will be governed by state law, county ordinances and the county planning commission rules of procedure and ethical conduct. If conflicts exist, state law and county ordinances will prevail over the county planning commission rules of procedure and ethical conduct; and~~
- ~~(4) Any other purposes considered necessary to the functioning of the township.~~

~~Sec. 2-17-4.— Township planning commissions meetings.~~

~~The township planning commissions will meet on the second and fourth Tuesday of each month, at a time to be scheduled by staff, in the Weber County Commission Chambers, 1st Floor, 2380 Washington Blvd., Ogden, Utah.~~

~~Sec. 2-17-5.— Vacancy on township planning commissions.~~

~~The board of county commissioners may remove for cause a member of a township planning commission which the county commission has appointed upon the filing of written charges against the member and after a hearing on the charges if requested by the member.~~

...

TITLE 102 – ADMINISTRATION

...

CHAPTER 5. – REZONING PROCEDURES

Sec. 102-5-5. - Concept development plan.

- (a) The concept development plan shall be submitted with a rezoning application, and shall supply sufficient information about the development to assist the ~~township~~-planning commission and county commission in making a decision on the rezoning application. Seven copies of plans shall be submitted on 11 by 17 inch paper and two copies of plans shall be submitted on 24 by 36 inch paper, at a readable scale. All concept plans (including but not limited to architectural elevations/renderings, etc.), and subsequent submittals and revisions, shall be accompanied by a full-scale set of PDF, DWF and JPEG files of the respective plans. Information supplied shall include text and illustration:

.....

Land Use Permit Expiration Amendments

TITLE 101 – GENERAL PROVISIONS

...

Sec. 101-1-7. - Definitions.

...

Commencement of construction. The term "commencement of construction" means the excavation for structural footings on a site or the recontouring of a site in preparation for construction activities, as determined by the Planning Director.

Commencement of use. The term "commencement of use" means either the commencement of construction when that construction has been approved for a specific use as provided in this Land Use Code, or the actual beginning of a specific land use as provided in this Land Use Code.

...

Sec. 102-4-3. - Land use permit revocation.

- (a) A land use permit or conditional use permit may be revoked for violation of any part of this Land Use Code related to the specific use or permit in accordance with the following:

- (1) Revocation shall be conducted by the land use authority that is authorized to approve the permit.
- (2) Prior to permit revocation, the land owner and, if different, permittee shall be given reasonable opportunity to resolve the violation by bringing the property into compliance or by diligently pursuing an amendment or modification to the permit, as may be allowed by this Land Use Code.
- (3) In the event compliance cannot be attained the land owner and, if different, permittee shall be given a notice of the impending permit revocation 14 days prior to final revocation. The notice of the impending permit revocation shall specify the violation, and inform the land owner and, if different, permittee of the right to request a hearing.
- (4) The land owner and, if different, permittee shall have a right to a hearing with the land use authority to show cause for why the permit should not be revoked, if a written request for such is submitted prior to a final written revocation decision. If a hearing is requested, final revocation of the permit shall be stayed until after the hearing. The hearing shall be scheduled at a time specified by the land use authority.
- (5) Revocation of a permit is final upon the issuance of a final written decision. The final written decision may be appealed pursuant to title 102, chapter 3.

(6) Revocation of a permit shall not prohibit prosecution or any other legal action taken on account of the violation, as provided in this Land Use Code or any other applicable law.

(b) A land use permit, conditional use permit, or design review approval shall expire and become null and void if commencement of construction, as defined in 101-1-7, or commencement of the use does not occur within one year of the issuance of the permit or approval, together with payment of applicable fees. One one-year extension may be granted by the Planning Director if it can be demonstrated that good faith efforts are being executed to commence construction. Additional extensions may be granted at the discretion of the Planning Director provided the following:

(1) Applicable ordinances governing the original approval of the permit have not changed; and

(2) Site, neighborhood, or general area conditions and circumstances related to applicable ordinances governing the original approval have not changed;

(3) The findings made, if any, for the original approval still hold true; and

(4) The conditions applied, if any, to the original approval are still relevant and enforceable in the same context as they were for the original approval.

...

TITLE 108 – STANDARDS

...

CHAPTER 4. – CONDITIONAL USES

...

Sec. 108-4-8. - Revocation and expiration.

(a) Revocation. A conditional use permit may be revoked by the land use authority upon failure to comply with the applicant's approved proposal, or any applied standard, or applicable requirement, provision, restriction, or condition of approval. Violation of any condition of approval of a conditional use permit shall constitute a violation of this Land Use Code. Rules for revocation are provided in section 102-4-3.

(b) Expiration. Rules for expiration are provided in Section 102-4-3. ~~Unless there is substantial action under a conditional use permit within a maximum period of one year of its approval from the land use authority, the conditional use permit shall expire. The land use authority may grant a maximum extension of six months. Upon expiration of any extension of time granted by the land use authority, the approval for the conditional use permit shall expire and become null and void.~~

.....

Timeframe between application submittal and Planning Commission Agenda

TITLE 106 – SUBDIVISIONS

...

CHAPTER 1. – GENERAL PROVISIONS

...

Sec. 106-1-8. - Final plat requirements and approval procedure.

...

(b) Final plat required.

...

- (2) The final plat and accompanying information shall be submitted to the planning division at least ~~30~~ 45 days prior to a regularly scheduled planning commission meeting.

...

.....

Special event code

PART I

...

TITLE 38 – SPECIAL EVENTS

...

Sec. 38-1-6. - Same—Application process.

- (a) ~~Special event permit application forms may be obtained from the Weber County Special Events Office, located inside the Golden Spike Arena at the Weber County Fairgrounds, 1000 North 1200 West, Ogden, Utah 84404 or online at http://www.webercountyutah.gov/special_events/.~~ All applications for special event permits shall be made to the Weber County Planning Division on a special event permit application form and shall include the following information:
-

Restricted Lot Amendments:

TITLE 101 – GENERAL PROVISIONS

...

Sec. 101-1-7. - Definitions.

...

Lot, restricted. The term "restricted lot" means:

(1) ~~A~~ a lot or parcel of land which has an average slope of 25 percent or more and does not contain a buildable area as defined in this section. ~~or~~

(2) ~~A lot or parcel of land that has been identified as having potential geologic or other environmental hazards or constraints, as determined by the county engineer, which require further investigation prior to issuance of a building permit.~~

...