

Minutes of the Ogden Valley Planning Commission Regular meeting September 22, 2015, in the Weber County Commission Chambers, commencing at 5:00 p.m.

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

Absent/Excused: Laura Warburton, Greg Graves, John Howell

Staff Present: Sean Wilkinson, Planning Director; Scott Mendoza, Principal Planner, Jim Gentry, Principal Planner; Ronda Kippen, Planner I; Courtlan Erickson, Legal Counsel; Kary Serrano, Secretary

Pledge of Allegiance

Roll Call:

Commissioner Haymond nominated Commissioner Parson for Chair Pro Tem. Commissioner Waldrip seconded. A vote was taken with Commissioners Haymond, Waldrip, Taylor, and Parson voting "Aye." Motion Carried (4-0).

1. Minutes: Approval of the July 28, 2015 and August 04, 2015 meeting minutes

Chair Pro Tem Parson approved the meeting minutes as written.

2. Consent Agenda:

- 2.1. UVR112513:** Consideration and action on final approval of Phase 2 of The Ridge Townhomes at Wolf Creek PRUD, 8 units, in the Forest Residential (FR-3) Zone, located at approximately 3400 North Moose Hollow Drive. (John Lewis agent for Capon Capital)

MOTION: Commissioner Haymond moved to approve UVR112513 on final approval of Phase 2 of The Ridge Townhomes at Wolf Creek PRUD, 8 units, in the Forest Residential (FR-3) Zone located at approximately 3400 North Moose Hollow Drive. Commissioner Taylor seconded. A vote was taken with Commissioners Haymond, Waldrip, Taylor, and Chair Pro Tem Parson voting "Aye." Motion Carried (4-0).

Director Wilkinson summarized the open meeting statement.

3. Administrative Items:

a. Old Business

- 1. CUP 2011-02:** Consideration and action to revoke a conditional use permit for a surface boulder collection operation located at approximately Avon Divide-Weber/Cache County Line in the Forest (F-40) Zone (Dan Lockwood agent for Pine Ridge Products).

Ronda Kippen stated that the 2010 rock collection operation began on the property located along the Weber and Cache County line (located east of the Avon Divide), as a temporary use of gathering rocks for the Ogden River Restoration project. References Dan Lockwood, from Pine Ridge Rock Product. Property owner will be Karl Jensen or Jensen Land Holding, to differentiate the two different partners.

In 2011, Dan Lockwood petitioned the County for a Conditional Use Permit, allowing for surface boulder collection in the F-40 Zone for which "mine, quarry, and gravel pits" are conditionally permitted. Multiple complaints were since made to the Weber County Valley Planning Division due to heavy truck traffic, irregular work hours, and mass excavation on the site.

On September 1, 2015, a site-visit was made by the Planning Division staff with representatives from the Utah Department of Natural Resources (DNR). A citation for non-compliance was issued by DNR to Pine Ridge Excavation and Landscapes on September 3, 2015, ordering a cessation of all mining activities. DNR ordered reclamation of the site to begin immediately, with re-grading to be completed by October 16, 2015, and reseeding to be completed by November 13, 2015.

After multiple attempts to work with Dan Lockwood in resolving these violations, Weber County Planning Division forwarded a request to revoke the conditional use permit (CUP INDX 21-2011).

The Planning Commission needed to determine whether Dan Lockwood had continued to operate outside of the approved proposal and conditions of the Conditional Use Permit for surface boulder collection. The Planning Division

recommended revocation of CUP 2011-02. The recommendations for revocation are listed in the findings of the staff report.

Commissioner Waldrip asked Mrs. Kippen whether the truck traffic from September 21 was from Weber County side. Mrs. Kippen responded affirmatively.

Matthew Brahana, Attorney, Law Firm of Bancroft, Bagley, Cornwall, McCarthy; Dan Lockwood, 5398 Bighorn Parkway in Eden. Mr. Brahana introduced Dan Lockwood, from Pine Ridge, who will give a history of the development of this operation, as well as respond to the allegations brought forth by the County.

Dan Lockwood discussed the permits obtained in 2004 with Weber County, and in 2013 with the Mining Safety Health Administration (MSHA). He stated that, at the time, business operations involved surface rock extraction, not mining.

Matthew Brahana showed a copy of the ordinance as it existed at the time the revocation began, and stated that many of the issues being submitted by Ms. Kippen were tied to the application, and not to the permit on certain circumstances. He claimed that the relationship with the Planning Division had not been amicable lately, and that Pine Ridge had attempted to work with them. A cessation order was put into place and Pine Ridge was concerned about their ability to continue working as a business. Chair Pro Tem Parson asked if they had posted a bond. Matthew Brahana replied not yet, and that they had until November 3, 2015, to comply with the provisions that were in the order.

Matthew Brahana stated that Pine Ridge had worked the same way over the years, and that the Planning Division never had a problem with them until just recently. He referenced the issue of terrain grading and the description of surface boulders.

Chair Pro Tem Parson referred to the heavy equipment being used during boulder extraction, and claimed that the Planning Division had been okay with it. Matthew Brahana responded that the issue was regarding grading and mining, which the permit did not mention, and was left open for interpretation.

Commissioner Haymond questioned boundaries between Weber and Cache counties, and where the equipment and inspections were located. Commissioner Waldrip asked for operation percentages in Cache versus Weber County. Dan Lockwood offered to provide maps with acreage. Matthew Brahana replied that he was not aware of the acreage or the percentage. Commissioner Waldrip asked for a rough guess. Dan Lockwood stated that the county line was a watershed line, and did not follow any section markers, but that approximately 40% of the disturbance took place in Cache County.

Commissioner Haymond inquired as to the purpose of the screen. Dan Lockwood spoke of the process of obtaining the DOGM permit for the granulated bedrock. Matthew Brahana discussed the stock pile of material onsite, the permit, and extension approvals. Dan Lockwood explained the process involving various sized boulders.

Matthew Brahana discussed the issues with signage.

Chair Pro Tem Parson inquired whether the concerns were noted. Matthew Brahana replied that they had done everything reasonable and appropriate for all conditional permits that the county required. Matthew Brahana mentioned the amount of truck traffic and the impact on nearby homes.

Commissioner Waldrip requested a copy of the March 1, 2011, Ogden Valley Planning Commission Notice of Decision for use with his presentation. Matthew Brahana replied in the affirmative. Matthew Brahana mentioned complaints involving trucks working at irregular hours, and emails between Weber County Sheriff Department and code enforcement officers.

Chair Pro Tem Parson asked for the response to the letter from Attorneys Smith Hartvigsen, PLLC, where it stated that they were not authorized by the property owner. Matthew Brahana responded that Mr. Jensen did not object to surface rock collection, but to mining, gravel screening, and expansion of mine operations. Agreements between Pine Ridge and Mr. Jensen remained in place.

Commissioner Taylor mentioned the need for the Jensen's approval and signature on the Division of Gas, Oil, and Mining Permit. Dan Lockwood stated that Mr. Jensen signed the initial permit, but was uncomfortable with the DOGM Permit involving mining.

Matthew Brahana mentioned complaints about operations taking place 24 hours a day. Dan Lockwood responded that those operations had to do with staff training, required by MSHOT. He also mentioned other agency requirements that complicate their business processes.

Chair Pro Tem Parson inquired whether the screen plant was placed after the DOGM Permit was issued. Matthew Brahana said that the DOGM approval was given in March 2015. Dan Lockwood stated the use of another type of screen prior to that.

Matthew Brahana mentioned the failure to file a current storm water prevention plan. Dan Lockwood explained the status of the SWPPP.

Matthew Brahana wanted to provide an escrow for the restoration of the Weber County Planning Division. The State was the bonding agent for purpose of reclamation. Commissioner Waldrip asked when the bond was posted. Matthew Brahana replied that the payment was made March 27, 2015, with the state. Chair Pro Tem Parson asked if this was the initial bond payment previously mentioned with Commissioner Waldrip. Matthew Brahana replied that it was a state requirement, but had not been prior to that. Director Wilkinson said the county did require that as part of the conditional use. Matthew Brahana referred to the permit issued in July 2011 indicating all requirements being met for the Conditional Use Permit.

Commissioner Taylor inquired whether the counsel was referring to the hand written letter. Matthew Brahana replied negatively, and that he was referring to the conditions of approval being met. Dan Lockwood mentioned a bond requirement that was asked by the County back in 2011, not for the upper site but for the lower site. Curtis Christensen fixed the road with funds, but was not aware of any bond for the upper site.

Commissioner Waldrip referred to the Storm Water Pollution Prevention Plan, inquiring whether it was only for the lower area, and not the upper. Dan Lockwood responded affirmatively, and that a plan for the upper area already existed. Sean Wilkinson stated that the Planning Division had no records of an original storm water prevention plan. Ms. Kippen mentioned her repeated efforts to obtain one. Dan Lockwood replied that he had requested a copy of the check and will provide that. He would also request records from their bank.

Matthew Brahana questioned the appropriateness of revoking the permit and defended Pine Ridge as complying with most requirements, and willing to work with the Planning Division on all others.

Commissioner Waldrip requested a physical copy of the DOGM Permit that could be entered into the record that day. Director Wilkinson referred to Mr. Baker to address the issue. Commissioner Waldrip again inquired about the location of the permit. Matthew Brahana affirmed that a copy was present. Mr. Lockwood mentioned his misunderstanding about the permit requested.

Commissioner Waldrip, Matthew Brahana, and Dan Lockwood discussed the existence and status of permit copies and CUP.

Commissioner Taylor referred to the 2011 Conditional Use Permit application, and inquired whether the purpose was to improve grazing for livestock. Matthew Brahana replied affirmatively, stating such as the reason for removing surface boulders. Dan Lockwood mentioned the DOGM permit, and the existence of two different operations.

Commissioner Taylor questioned the intent stated on the application versus the current operations of the company. Matthew Brahana replied that the skills of operation had increased. When the project was completed, however, the final result would be better grazing land.

Commissioner Waldrip inquired about the property owner's approval and lease of the property. Dan Lockwood explained the terms of the lease. Matthew Brahana stated that the lease's rights were not tied to the permit. Commissioner Waldrip disagreed, stating that a new lease agreement with the property owner must be signed and provided to staff prior to issuance of conditions of permit.

Chair Pro Tem Parson wished to discuss an August 2015 letter to Ms. Kippen from Smith Hartvisgsen, and review the Citation for Non-Compliance by Mike Bradley, dated September 2015. Matthew Brahana clarified that it referred to the cessation order and that Mr. Bradley was not available at the time to expand on the issue. The only work being done since has been for reclamation. Chair Pro Tem acknowledged that the current reclamation activity could be confused with past operations.

Commissioner Haymond asked Mr. Lockwood about his mention of the property owner's initial approval for surface boulder collection, and referenced a letter to Mr. Jensen's attorney, dated August 26, 2015. Matthew Brahana explained the conditions under which the letter was sent.

Commissioner Waldrip inquired whether the company complied with the schedule limitations. Dan Lockwood responded affirmatively. Commissioner Waldrip inquired about weekend work. Matthew Brahana questioned the definition of work. Dan Lockwood stated that they had approval to continue visiting the site for activities other than boulder extraction (e.g. picking up debris, filling out time cards, etc.).

Commissioner Taylor wished to see the amendment. Matthew Brahana replied the need to look for it, and mentioned the after-hours working conditions.

Commissioner Waldrip inquired about the compliance of a fourth point. Matthew Brahana referred to a restoration plan that Mr. Lockwood gave to the Planning Division, but was not in their file. Commissioner Waldrip asked if Mr. Lockwood had a copy. Dan Lockwood replied that the plan was a hand drawing, not a formal one. Commissioner Waldrip stated that the restoration plan was acceptable and if it was their assertion that they had complied with it. Dan Lockwood replied that they had reclaimed finished areas. Commissioner Waldrip emphasized that the conditions of the restoration plan were based on the removal of surface boulders. Dan Lockwood referred to a new restoration plan with DOGM, since the one issued to the county, which allowed for reclamation.

Commissioner Waldrip wished to review all the conditions by which the County issued the permit. Matthew Brahana wished to submit a number of signatures from neighbors in the area who supported Pine Ridge and their conditional use permits.

Carl Jensen, 7555 N 6800 W, Tremonton UT, Property Owner; Kathryn Steffey, Smith Hartvisgsen, Legal Counsel questioned how much the property owner, Mr. Jensen, had actually authorized to take place on his property. His signature was not found on DOGM application.

Kathryn Steffey mentioned a lien filed against the property by Mammoth Machinery. If Mr. Lockwood was not allowed to remove the stock piled rocks, it would fall against her client. They asked the commission to solely allow the removal of the stock piles as indicated in the September 16th letter from the state, and to allow him to do that consistent with the letter that was issued by DOGM with the November 4th deadline. Mr. Lockwood should be allowed to gain some funds to pay off the lien, and reclaim the property. They did not want to have any additional excavation on the property that was never authorized.

Carl Jensen said that he had only agreed for surface rocks to be removed from his property, and that he had never agreed to mining. If his signature was on the DOGM for a mine, he was unaware that it was for a CUP. He only wanted operations to continue if it was to clear away surface rocks in the area.

Chair Pro Tem Parson questioned the definition of surface rocks, and claimed that every time a rock was extracted, a new surface emerged. Mr. Jensen authorized the removal of rocks only from a certain area of his property, and to help with the Ogden River Project. This specific portion of property was never intended for grazing.

Kathryn Steffey mentioned 2011 meeting minutes where it stated that no excavation would be considered, and that the issuance of the CUP was based on that. Surface rock was defined as being 90% on the surface and 10% underground. The mining of the property was unjustified.

Commissioner Waldrip inquired about the conditions for Pine Ridge to restore the property given the November 4th Mining Stop Work Order. Kathryn Steffey stated that Pine Ridge was allowed to gather boulders, loose materials, and reclaim the property according to the September 16th letter. Commissioner Waldrip wanted to make sure that the reclamation took place completely by November 4th.

Commissioner Taylor stated that the purpose of the permit was to remove those rocks seen on the surface at that time. Kathryn Steffey confirmed that, and if they looked at the lease, or the hand license, it stated to haul off surface rocks, it did not say to dig up. She believed that this clearance was acceptable without excavation. Commissioner Taylor stated that she understood the purpose and intention of the permit was for grazing.

Commissioner Waldrip asked Ms. Kathryn, so your request now for no further harvesting, because you want them to haul off the existing stock piles, and no further harvesting of anything that has not previously been harvested and stock piled, and that is their request. Kathryn Steffey replied exactly, meaning that they would revoke the CUP with the recommendation put in place by Division of Oil, Gas, and Mining.

Commissioner Haymond stated that the situation was difficult, and inquired about the outcome in the case payment was not made. Kathryn Steffey replied that she had asked Mr. Lockwood to post a bond with them in order to provide alternate security, but no formal agreements had been signed yet. It was under a mining lien, though Mr. Jensen was not aware that his property was one.

Paul Baker, 8922 E 200 S in Huntsville, said to be the Manager of the Minerals Regulatory Program for the State of Utah Division of Oil, Gas, and Mining, explained the definition and process of mining: the extraction of mineral products larger than a centimeter using mechanized equipment. He reviewed the terms of the reclamation bond and the terms by which environmental harm or public safety is compromised.

Chair Pro Tem Parson questioned the requirement of a \$75,000 dollar bond given the circumstances. Paul Baker agreed, stating that it was due to the mining taking place outside of the permitted area.

Commissioner Waldrip asked if that included land in both Weber and Cache Counties. Paul Bradley replied affirmatively.

Commissioner Taylor noted that the project area was 820 acres. Ms. Kippen replied that there were maps with the mining, reclamation, and revegetation area. Paul Baker requested the maps so as to calculate more accurately their needs.

Commissioner Waldrip inquired about the timing the applicant had to respond to the September 16th letter. Paul Bradley replied that there were certain time frames. Commissioner Waldrip stated that the stop work conference was an opportunity for the person who had been notified to appeal that decision. Mr. Bradley discussed the work cessation order.

Commissioner Taylor questioned the relationship between the conditional use permits issued by both departments. Mr. Bradley replied that they were largely independent processes; they did not enforce county ordinances.

Commissioner Waldrip inquired further about the mining process and the one centimeter stipulation. Mr. Bradley replied that he would have to get into a lot more detail of geology and definitions, as well as the exceptions.

Commissioner Waldrip asked whether the current rock collection occurring on the property was subject to DOGM regulation. Mr. Bradley replied affirmatively.

Chair Pro Tem Parson referred to the details of the Notice of Intention. Mr. Bradley replied that the SMONOI Form was the Notice of Intention, and the first form was submitted for the amendment application.

Chair Pro Tem Parson moved the work session agenda item to this point and indicated that further discussion would take place later in the meeting.

MOTION: Commissioner Waldrip moved to temporarily suspend discussion of CUP 2011-02 and go to work session to discuss staff issues. Commissioner Taylor seconded. A vote was taken with Commissioners Haymond, Waldrip, Taylor, and Chair Pro Tem Parson voting "Aye." Motion Carried (4-0).

4. Adjourn to Convene to a Work Session:

WS1. DISCUSSION: Cluster Subdivision Discussion

Scott Mendoza reviewed current cluster subdivision requirements, and mentioned a citizen inquiring about the possibility of amending the current Cluster Subdivision Code to allow an existing (or new) farmhouse and lot, to be next – or adjacent- to an open space parcel, and not be a part of the other clusters as currently required.

Chair Pro Tem Parson asked whether the farmhouse would count as a unit. Scott Mendoza replied that it would be very difficult to amend the code, but that an exception within the code could be provided for a farmhouse intended to function as part of the farm.

Commissioner Waldrip asked whether it would exclude it from the calculations, as far as acreage and number of lots. Scott Mendoza replied that it would count as part of the density, but would not need to be part of the other clusters. The result would be a parcel farmstead, with the homes clustered over in another part of the project.

Commissioner Taylor asked how it would affect road requirements. Scott Mendoza replied that road requirements would remain the same. If needed, the landowner could request an access exception form which could be approved administratively, if certain criteria and standards were met.

Chair Pro Tem Parson mentioned weight requirements would need to be met. Scott Mendoza replied that it would have to support a 75,000 lb. vehicle, and stricter requirements could apply, as needed. One standard of the access exception stated the need to be a turnout provider.

Commissioner Waldrip stated that there were situations with specific homes (thinking of homes in the valley), where the existing driveways would not meet the road ordinance or weight limits. If an exception was granted, the entire road would potentially need to be redone in order to meet standards.

Commissioner Taylor inquired how the code currently stood for a situation where there was a cluster subdivision on large acreage, the family farm, a farm, and a barn. Scott Mendoza replied using the example of a 20 acre parcel where an owner might like to develop, but future generations may not be interested in operating the farm. He described various scenarios, while seeking the most productive outcome.

Commissioner Waldrip commented that if a landowner had an existing, noncompliant access road to a farmhouse, they would not be required to make significant changes in order to obtain additional lots. Their goal would be to preserve the family farms and heritage of the homes; to require them to spend \$50,000 - \$100,000 dollars to upgrade to new standards would be too much. The clustering of the other home sites would be required to meet current code.

Scott Mendoza replied that, depending on the design, frontage roads could be done away with, which could be addressed through the Access Exception. The zoning code with the access exception would be consistent with the Fire District's standards.

Commissioner Waldrip asked if the county would be required to upgrade the road if there was no change in the use of the lot. Scott Mendoza replied no, because the referred parcel would still have frontage. Commissioner Waldrip and Scott Mendoza confirmed the parcel and farm in question. Commissioner Waldrip stated that there would have to be a change in usage, which would require a change in that road if they were including it in the subdivision. Scott Mendoza replied that it would trigger a review for an access exception, if that lot were not to have frontage.

Chair Pro Tem Parson mentioned that the subdivision could be on a crushed road base, as long as engineering requirements were met. Scott Mendoza replied for an access exception.

Commissioner Waldrip inquired whether with the access exception they would still have to meet current fire safety code. Scott Mendoza replied that the standards were in place to ensure sufficient clearance for fire trucks.

Commissioner Waldrip said that the situation was typical where frontage would be taken and the back property left. Scott Mendoza explained that this is a growing issue as families question future home-sites for their children.

Commissioner Taylor inquired whether they needed to add the language or update the general plan, and to focus more fully on the issue of preserving these hard acreages. Scott Mendoza replied that the existing plan currently addresses the preservation of family farms and rural character. He said he would consider language for a new amendment and return with some ideas.

Commissioner Waldrip said that he would like the least evasive process for the family. Scott Mendoza stated that some homeowners had provided compaction engineering to their driveways without too much of an investment.

Commissioner Waldrip and Scott Mendoza discussed the operation of the open space parcels.

Commissioner Taylor discussed the need to keep open space as a source of revenue, with structures, otherwise it would be difficult.

Commissioner Waldrip mentioned the difficulties of selling without a lot or having very limited rights. Scott Mendoza said that he was thinking about title issues.

Commissioner Waldrip and Scott Mendoza discussed various conditions for ownership of open spaces versus the cluster subdivision.

Commissioner Taylor stated that she would like to see options.

Chair Pro Tem Parson wished to continue the discussion further. Scott Mendoza said that the staff would visit with the Western Planning Commission the second week of October, and would come back with suggestions.

Chair Pro Tem Parson said that he would like to officially open to redirect the discussion of CUP 2011-02.

Courtlan Erickson, County Attorney Office, on behalf of the Planning Division, said the three parties meaning Mr. Erickson, Ms. Steffey, and Mr. Brahana, wished to propose the resolution that the County Planning Division would withdraw its recommendation to revoke the CUP, given that Mr. Lockwood agreed to certain conditions (e.g. compliance with CUP and DOGM requirements, bond payment, and provide maps). The parties were willing if DOGM could adjust the deadline for removal of stockpiled material. Mr. Lockwood requested the extension date of November 30, 2015. The parties were willing to agree to the terms, and it was left to the State. Katheryn Steffey said just to clarify, in compliance with the DOGM letter that meant that it was only the removal of the existing stock material; no new creation or harvesting of any sort. Matthew Brahana wished to clarify also that Pine Ridge was agreeable to that, with the understanding that they would be using heavy equipment for the removal of the stockpiles, and the County would not take the position that this was in violation of the CUP.

Courtlan Erickson stated that the County reserved the legal right for future recommendations to withdraw the CUP, if violations continued to occur. Conditioned on this agreement by the parties, that was the recommendation of the County Planning Division.

Commissioner Waldrip asked whether it was irrespective of what the state says. Matthew Brahana stated that they would make a payment to the state to be placed in their reclamation bond account before reclamation began.

Commissioner Waldrip, Matthew Brahana, and Katheryn Steffey continued to discuss the terms and conditions of the bond amount and payment.

Chair Pro Tem Parson asked if this was pretty much just for reclamation to go forward, and the sale of what rock was left stockpiled. They were not doing a CUP for an ongoing operation, this was for land reclamation. Matthew Brahana replied: "Essentially, yes, Commissioner." Kathryn Steffey said her understanding to the reference to the CUP was the conditions for the hours of operation, and things like that, but it was not the harvesting of additional rocks. Courtlan Ericson confirmed that it was limited to removing the current stockpiles.

Commissioner Waldrip inquired about the CUP terminating at the conclusion of those activities. Matthew Brahana explained that the mine would be unavailable during the winter, allowing time for the parties to work out any additional arrangements. That would then be on the basis for an amended CUP application, or at least to see the application, depending on the case.

Commissioner Waldrip asked: "Again, I am going to hammer on this, is it the intent that prior to any commencement of additional harvesting, what we call harvesting the Division would call mining, so I think we need to call it what it is; before any additional mining, which means you are dealing with anything over one centimeter" (thanks is extended to the representative from the State Division of Oil, Gas & Mining for the education of what mining entails); "prior to the recommencement of any mining activity, that it would come before this body for an amended CUP?" Mr. Steffey stated that she would be ok with that. No response from Mr. Brahana.

Courtlan Ericson said that the county was withdrawing their request to revoke their CUP, subject to agreements from the other parties.

Commissioner Waldrip stated: "We've all just spent, what time did we start? Five o'clock-3 ½ hours here, we've got a lot of people here that we haven't even heard from, because Mr. Lockwood did things without adequate notice, compliance, or thought. He has done things that have caused us to waste a lot of time. I'm glad there is a resolution, but I don't want to get back here -and I don't have a lot of confidence that we won't end up back here- if we don't make some provisions for a very distinct, careful, explanation of what can, and cannot, happen on that property, and that those expectations are much more clearly laid out than exist in the current CUP."

Commissioner Waldrip stated that the only way that he would recommend the other commissioners not to consider the revocation of this conditional use permit, was if there was a concrete plan and something that they could all have a short public hearing on; where those conditions were very clearly established, and all of the documentation was complete, and everyone agreed at the end. Kathryn Steffey replied that she agreed.

Commissioner Waldrip asked if that was something that he had to confer with his client. Matthew Brahana stated that he was unsure what would happen with the existing CUP, given the deadline of November 30, 2015, for operations to stop. He hoped for a new lease with the landowner, but acknowledged that the landowner might not wish to renew the lease.

Commissioner Waldrip disagreed, stating that the whole reason they were there was because of the confusion of the current permit. Director Wilkinson stated that the state letter said that mining would cease. Commissioner Waldrip said that they could continue if they fixed their Notice of Intent. Director Wilkinson replied that a new conditional use permit would be needed for any new mining activity; otherwise, no mining was allowed under the conditional use permit that they were currently facing.

Commissioner Waldrip wished to clarify whether this conditional use permit did not allow the continuation of any operation that would be considered mining. Director Wilkinson replied that was his take on this, and they were going by what the Division said.

Commissioner Waldrip stated that, allowing the continuation of mining, or not, was the issue that needed to be resolved that day, so as to not cost anyone anymore time or money. Matthew Brahana requested to speak to his client. Commissioner Waldrip asked Katheryn Steffey to confer with her client.

The attorney's left to confer with their clients.

Chair Pro Tem Parson asked legal counsel if he could open this up for public comment. Courtlan Ericson replied that it would be okay.

Courtlan Ericson said that it was brought to his attention that the applicant was not in the room. At that time the applicant and his attorney returned.

Matthew Brahana stated that Pine Ridge was willing to accept that no operations would occur after November 30, 2015, or if DOGM did not extend the date beyond the fourth, until either a new CUP had been issued, or the existing CUP had been amended to address the various concerns that had been set forth. Commissioner Waldrip clarified that if DOGM said they had until November 14th, or another reasonable date to get the work done, they were in favor. Katheryn Steffey stated that the last day possible would be November 30, 2015. Matthew Brahana stated that DOGM said until November 14, 2015, so that was when it would end.

Chair Pro Tem Parson opened for public comments.

Michael Formica, 5334 N 3760 E in Liberty, stated his appreciation for Mr. Lockwood's business, but would like to ask the commission to consider checking the weight limits on trucks (referenced Jake Brakes) that go over the North Ogden Divide; to consider a different route, and the road damage caused by these trucks.

Bryan Bailey, 3878 N 3300 E in Liberty, stated his support for Dan Lockwood, and understood the need to come to an agreement regarding the hours of operation.

Doug Scovel, 4776 E 2600 N in Eden, said to be employed by Pine Ridge, and oversaw the truck activity in the valley. He stated that the use of Jake Brakes was prohibited by all their drivers in the valley and down the canyon. They took care to not overburden any of the three road exits, and to comply with the required schedules.

Anthony Ward, 3184 E 4100 N in Liberty, commented on property owners' rights, operators with an invested capital, and the residents in the surrounding area. His concerns included trucks coming over the divide, taxes, and the impact on small businesses.

Brett Montgomery, 5765 N 3100 E in Liberty, commented on the number of trucks that Mr. Lockwood owned, and referred to the schedule that would reduce residents' complaints. His concerns were more for the Avon Pass, stating that the road was supposed to be closed from mid-November until the spring; yet, Mr. Lockwood had a key to access through the gate whenever he wanted to.

Doug Cardon, 7948 E 100 S in Huntsville, stated his support for Mr. Lockwood, affirming he would do what he said he would. He referred to his own experience of having Mr. Lockwood do work for him.

Chair closed for public comments.

Chair Pro Tem asked Dan Lockwood and Matthew Brahana if they wanted to speak for rebuttal.

Matthew Brahana, Attorney, said that, considering the recommendation that has been agreed to among the counsel, there was no further need to address the issues. Dan Lockwood apologized for some of the concerns brought up, as he was trying to run a good business and navigate the regulations.

Commissioner Waldrip stated that he personally wished him success and realized he had a lot of support, but that there needed to be clarity regarding the terms of the new conditional use permit. He told him to have everything in order next time before their next meeting.

Ronda Kippen said that many people were being affected by this issue (landowner, business owner, employees, and residents), and there were challenges enforcing the current conditional use permit. The company did not have permits to work in Cache County either, even though they said they did.

Courtland Erickson, Legal Counsel, said that the counsel for Mr. Lockwood had written it down, and he had agreed to read it.

Matthew Brahana, Attorney, said what the Planning Division Attorney, Attorney for Mr. Jensen, and himself, Attorney for Pine Ridge, have agreed to; would be that the Division requests that the CUP 2011-02 revocation be withdrawn for consideration on the following conditions:

Pine Ridge agreed to the conditions of the September 16, 2015 Division of Oil, Gas, and Mining (DOG M) letter that had been entered into the minutes in the subject matter of Stop Work Conference Finding, Conclusions, and Order of the Pine Ridge Quarry Cessation Order MC-2015-68-02, S/057/0010 Weber County Utah. That is the most recent order from Dana Dean that allowed Pine Ridge to conduct the following activities until November 4, 2015. Gather the boulders and restore areas two and three to the side of the road as discussed. Gather any other loose materials and stock piles, or areas where new disturbances did not require reclamation of any kind. It also required Pine Ridge to post a bond of \$20,000 for the disturbed areas; file additional forms and requirements, and maps with the division. That agreement was subject to the following modifications; the parties being the Planning Division, Mr. Jensen, and Pine Ridge agreed that operations should end no later than November 30, 2015. Second half of that bond requirement \$10,000 would be paid before operations recommenced; the balance of that bond obligation would be paid by November 4, 2015 per the letter. The County and Mr. Jensen agreed that, if that additional bond amount was reduced upon request by Pine Ridge, they would accept whatever the state determined was appropriate. Any maps and communications that DOGM during that time were copied to Weber County; additionally, maps of the stock piles would be provided to the county prior to operations recommencing. In addition to the foregoing, the parties agreed that there would be no operations at this site after November 30, 2015, until an amended contingent conditional use permit, or a new conditional use permit, was issued by this body. Additionally, Pine Ridge agreed to have the Design Review paperwork filed with Weber County by September 30, 2015. As the county recognized that some of the rocks being removed from the stock pile were going to wind up at Pine Ridge’s facility in Liberty, and they did not want to be there in a month addressing that.

Courtlan Erickson, Legal Counsel, suggested that they reject the Planning Division’s initial recommendation to revoke the Conditional Use Permit, subject to the statement that Mr. Brahana just read.

MOTION: Commissioner Waldrip moved to reject the initial Planning Divisions recommendation to withdraw the Conditional Use Permit for Pine Ridge identified in agenda item CUP 2011-02, based on the findings that Planning Commission, landowner, and the holder of the conditional use permit have come to an agreement as to the resolution of the issues currently in front of this body; and are willing to come before this body to discuss an amended, or new CUP, prior to recommencing operations. Commissioner Taylor seconded.

DISCUSSION: Ronda Kippen asked that the information read by Mr. Brahana be tied to the motion. Chair Pro-Tem Parson asked if Mr. Brahana could submit that. Matthew Brahana replied that he could send it in writing to Mr. Ericson either that evening, or the following morning. Commissioner Waldrip asked if that would be viewed as a written agreement executed by the parties, or were they relying on the minutes of that meeting. Courtlan Erickson replied that it would be their call, but he thought the County Planning Division was comfortable relying just on the meeting minutes and the oral agreement made in that public meeting.

VOTE: A vote was taken with Commissioners Haymond, Waldrip, Taylor, and Chair Pro-Tem Parson voting “Aye.” Motion Carried (4-0).

- 5. **Elections: Vice Chair for the remainder of 2015:** No action taken.
- 6. **Public Comment for Items not on the Agenda:** None
- 7. **Remarks from Planning Commissioners:** None
- 8. **Planning Director Report:** Ogden Valley Starry Nights to be a new agency for the lighting code for the Ogden Valley. Run by volunteers, it would be similar to what Weber Pathways did for the Pathways Ordinance. They would address code and provide information regarding the protection and preservation of night skies. They would review comments on forthcoming applications.

9. **Remarks from Legal Counsel:** None
10. **Adjournment:** The meeting was adjourned at 9:30 p.m.

Respectfully Submitted,



Kary Serrano, Secretary;
Weber County Planning Commission