

Minutes of the Ogden Valley Planning Commission Meeting for February 23, 2021. To join the meeting, please navigate to the following weblink at <https://us02web.zoom.us/j/84707609670> the time of the meeting; commencing at 5:00 p.m.

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

Absent/Excused: Steve Waldrip (joined at 6:27 p.m.)

Staff Present: Rick Grover, Planning Director; Courtlan Erickson, Legal Counsel; Steve Burton, Planner; Tammy Aydelotte, Planner; Felix Lleverino, Planner; Scott Perkes, Planner.

- **Pledge of Allegiance**

- **Roll Call:**

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

1. Approval of Minutes for January 26, 2021 and February 2, 2021.

Vice Chair Francis moved to approve the minutes of the January 26, 2021 and February 2, 2021 meetings as presented. Commissioner Hogge seconded the motion. Commissioners Lewis, Francis, Burton, Hogge, Howell, and Lackey all voted aye. (Motion carried 6-0).

2. Petitions, Applications, and Public Hearings.

2.1 UVH012021 – Request for preliminary approval for Harmony Ranch Cluster Subdivision, consisting of 16 lots in the FV-3 zone. Presenter: Tammy Aydelotte; Applicant: Chris Cave.

Planner Aydelotte reported the applicant has submitted a request for preliminary approval of the Harmony Ranch Cluster Subdivision, consisting of 16 lots, 3 open space parcels, and dedication of a public street, located at approximately 3000 East 3350 North, Eden. The proposed subdivision will cover a total area of 53.469 acres. Culinary water and secondary water will be provided by Nordic Mountain Water. Weber-Morgan Health Department has issued feasibility for on-site septic systems for each lot. The proposed subdivision, in compliance with the recommended conditions and conforms to both the zoning and subdivision requirements of the Uniform Land Use Code of Weber County, Utah (LUC). The application for final approval has been reviewed against certain standards of the Land Use Code and the following is staff's evaluation of the request. Ms. Aydelotte provided an overview of the project configuration including utility/infrastructure improvements, road and trail layout, and open space preservation, after which she concluded staff recommends final approval of the Harmony Ranch Cluster Subdivision, consisting of 16 lots, 3 common areas, and an extension of a public street.

This recommendation for approval is subject to all review agency requirements and based on the following conditions:

1. A financial guarantee for improvements will be required as outlined in LUC § 106-4-1.
2. A construct permit from the Utah State Department of Environmental Quality Division of Drinking Water for expansion of the water system and water lines serving the subdivision is required prior to the subdivision receiving final approval from the county commission.

This recommendation is based on the following findings:

1. The proposed subdivision conforms to the Ogden Valley General Plan.
2. With the recommended conditions, the proposed subdivision complies with applicable County ordinances.
3. The proposed subdivision will not be detrimental to public health, safety, or welfare.
4. The proposed subdivision will not deteriorate the environment of the general area so as to negatively impact surrounding properties and uses.

Vice Chair Francis inquired as to the County's ordinance regarding private streets in this type of project. Ms. Aydelotte stated that the LUC requires that all proposed roads be public unless they are located within a Planned Residential Unit Development (PRUD) or are within a mountainous subdivision. Planning staff does not necessarily feel that this project is a mountainous subdivision, but that term is not clearly defined in the Code and is a matter for the Commission to decide upon. She stated that the County Engineer would prefer that the roads are private, but Planning staff feels that the Code calls for public roads. Legal Counsel Erickson reviewed the language from LUC § 106-2-2 in detail; he read the following text: "Streets in year-round subdivisions shall be dedicated to the county as public streets except that private streets improved to county public street standards may be permitted in planned residential unit developments or condominiums. Mountain land subdivisions in high mountain areas of the county for seasonal recreation and summer homes shall have private streets built to county private street standards for such

subdivisions except that the county may require public dedication for major or loop road access purposes.” He stated that the key language in that text is that private roads are allowed in mountain areas for seasonal recreation and summer homes. He stated that he is not sure this provision applies to the subject property for the purposes of securing approval of private streets given that the project is a year-round subdivision. Unless there is a collective differing viewpoint among the Commission, his opinion is that the subdivision should have public streets. Planning Director Grover agreed. Ms. Aydelotte stated that she feels it would be appropriate for the applicant to address that matter as well.

Chair Lewis invited input from the applicant.

Chris Cave, Reeve and Associates, noted the intent of the subdivision is that the homes will be secondary homes for the owners, not primary residences. He stated there is a gate on 3350 North and the developer has reached an agreement with the adjoining property owner to move the gate in order to separate the access for the LDS Church camp property from that of the subject property. He stated that fact that the homes will be secondary or vacation homes for the owners was the basis for requesting private streets. Chair Lewis asked if there will be a restriction placed on the properties to keep the homes from becoming primary residences. Mr. Cave answered there will be no restriction that he is aware of. He wondered if that is a restriction that could be included on the subdivision plat. Mr. Grover stated it may be possible to note on the plat that the homes are seasonal in nature, but he needs to investigate that further.

Commissioner Burton addressed legal counsel and asked if the terms ‘seasonal’ or ‘high mountain areas’ are defined in the LUC. Mr. Erickson stated he does not believe those terms are clearly defined. Commissioner Burton stated that a secondary home is different than a seasonal home; a seasonal home can only be accessed during certain seasons. He stated the two terms are not mutually exclusive; just because a home is a secondary home does not mean it meets the definition of a seasonal home. He stated it is his opinion that the homes should not be defined as seasonal or being in a high mountain area and, therefore, the road should be public.

Commissioner Howell stated that he is very familiar with the area of the subject property and he does not feel it can be defined as ‘high mountain’. Commissioner Lackey agreed and noted that it is not difficult to find properties that were initially intended for vacation or seasonal use, but that have since been converted to a primary residence. He stated he is not sure how seasonal use of a property would be enforced once the project is completed.

Ian Silverberg, Project Owner, stated that he agrees with the comments made by the Commission and he is unsure it would make sense to try to place a restriction on the property to ensure the homes remain seasonal in nature; the spirit of the project is to be a small project that strikes harmony between the nature and self-contained/farming residential uses. The decision to pursue a private road was based upon an understanding that the County would welcome a private road that they are not responsible to maintain. Additionally, there will be open spaces in the project that will be used for cooperative farming among the residents and the thought of a public road cutting that farming area in half was not desirable. Also, the project will include trails that will be impacted by the requirement to build a private road with curb and gutter. He noted there are other cluster subdivisions in the area that have private roads and most other projects in the area do not have curb and gutter improvements. He stated he understands that the request for a private road may not conform with the County ordinance, but he wanted to provide an explanation for that request.

Chair Lewis thanked Mr. Silverberg for his input and noted that he can elect to build the road to rural standards, which do not require curb and gutter. He reiterated Commissioner Lackey’s comments about the presence of many other projects in the valley that were initially intended to be vacation homes, but that are now primary residences. Mr. Silverberg stated he understands and will do his best to conform with the County ordinances as he desires to be a good partner.

Commissioner Burton addressed the stub roads to the east and south in the project; those stubs will provide connectivity for future development, unless the road for the project will be private. Ms. Aydelotte agreed; she referenced historical infrastructure improvements on properties surrounding the subject property, noting the property abuts the nearby ski resort and there may never be a need for connectivity through that property. The cluster ordinance does require that roads be stubbed to adjacent subdivision boundaries because the ordinance seeks to achieve broad connectivity goals. This led to high level discussion about connectivity and the needed requirement for stub roads.

Commissioner Howell moved to approve UVH012021, preliminary approval for Harmony Ranch Cluster Subdivision, consisting of 16 lots in the FV-3 zone, based on the findings and subject to the conditions listed in the staff report, and with the additional

condition that the roadways in the subdivision be public in nature based upon legal interpretation of LUC § 106-2-2. Commissioner Lackey seconded the motion. Commissioner Lewis, Francis, Burton, Hogge, Howell, and Lackey all voted aye. (Motion carried 6-0)

2.2 UVR071520 – Consideration and action on a request for final approval of Harbor View Estates, The Reserve at Crimson Ridge Phases 2A, 2B, and 2C, consisting of 41 lots. Presenters: Felix Lleverino; Applicant: Steven Fenton

Planner Lleverino reported the applicant is requesting final approval of Harbor View Estates consisting of 8 lots, and the Reserve at Crimson Ridge Phase 2A, 2B, 2C consisting of 33 lots. The remaining phases will gain access from an existing residential county road called Morningside Lane. Access into Harbor View Estates is permitted by UDOT in the form of a Conditional Access Permit that shall expire November 10, 2021 if construction is not completed. In compliance with the cluster code, the open space preservation plan was approved during preliminary approval. Since the approval date, additional documents, required by County reviewing agencies, have been submitted including:

1. A public trail segment that connects to the Pineview reservoir trail.
2. Additional geologic and geotechnical reports.
3. Final dedication plats for all phases.
4. Civil drawings for all subdivision improvements including a utility plan for a new water well, new water lines with water line easements, roadway improvements, and septic system improvements.
5. A cost estimate for improvements.
6. An annexation plat for the sewer improvements district.
7. A septic plan submitted to the County Engineering Department and the Division of Water Quality.

As part of the approval process, the proposal has been reviewed against the current Weber County Land Use Code (LUC), and the standards of the FV-3 zone found in LUC §104-14. The following section is a brief analysis of this project against current land use regulations.

Staff recommends final approval of Harbor View Estates, and The Reserve at Crimson Ridge Phases 2A, 2B, and 2C, consisting of 41 lots. This recommendation is based on all review agency comments and the following conditions:

1. The developer shall create a Homeowner's Association according to section 106-2-6 of the land-use code.
2. The Utah Division of Water Quality shall approve the septic plan.
3. The Utah Division of Drinking Water shall approve the drinking water source protection plan.
4. A note added to the plat stating that any development of the subdivision must comply with all recommendations outlined in the geologic hazards report. The note will specify all geologic and geotechnical studies that are available to the public.
5. All subdivision improvements must be completed or escrowed for at the time of recording.

The following findings are the basis for the staff's recommendation:

1. The proposed subdivision conforms to the Ogden Valley General Plan.
3. The proposed subdivision complies with the applicable County codes.

Chair Lewis invited input from the applicant.

Steven Fenton stated this project is a continuation of phase one of the project, which is already built; it is a private gated community and phase two will have eight larger estate lots and 33 smaller clustered lots. There will be open space throughout the development.

Chair Lewis invited public comment. There were no persons appearing to be heard.

Commissioner Howell moved to approve application UVR071520, final approval of Harbor View Estates, The Reserve at Crimson Ridge Phases 2A, 2B, and 2C, consisting of 41 lots, based on the findings and subject to the conditions listed in the staff report.

Mr. Lleverino stated there is an issue with public versus private roads in this project. Harbor View Court is public; Morning Side Lane is public until the point that it intersects with Whispering Pines Lane as this is where the gated community begins. He stated that the roadways in the gated portion of the community are private.

Commissioner Hogge seconded the motion.

Legal Counsel Erickson asked if there is a reason for some of the roads in the project to be private and if the property meets the standards in the LUC. Mr. Lleverino stated that the subject property is considerably steeper than roadways a project discussed earlier this evening; there will be deeper cuts and fills into the hillside. There is also landslide potential on the open space in the western area of the property. The applicant is proposing a 50-foot right-of-way and meets the County's design standards in terms of compaction and engineering specifications.

Chair Lewis referred to LUC § 106-2-2, which was discussed earlier in the meeting by Mr. Erickson, and asked if private roads are allowed in cluster subdivisions in high mountain areas. Mr. Erickson stated that the ordinance specifically references planned residential unit developments (PRUDs) and condominiums used for seasonal or recreation uses, not cluster subdivisions.

Vice Chair Francis stated that while she does not believe that the property can be classified as being in a 'high mountain area', she believed there was a grandfathering situation whereby the property was eligible to include private roads based upon the presence of a gate. Mr. Lleverino identified the location of the existing gate, noting that another gate will be installed at another point in the project. Chair Lewis stated that he feels the presence of an existing gate is significant in terms of determining whether the new roadway will be public or private.

Planning Director Grover asked Mr. Lleverino if Morning Side Lane is private or public, to which Mr. Lleverino answered public. Mr. Grover asked if Whispering Pines Lane is private or public, to which Mr. Lleverino answered private. Mr. Grover asked if Lake Side Court is private or public, to which Mr. Lleverino answered private. Mr. Grover asked if those roads received approval as a private road under the provision of being a PRUD project or as a mountainous subdivision. Mr. Lleverino stated he is unsure, and it may take additional research to determine the answer. He noted the project is a cluster rather than a PRUD in nature. The Commission discussed the matter and wondered if it is necessary to pursue an ordinance amendment to clarify the basis for granting approval of a private lane in any project in the valley.

Mr. Grover indicated the applicant has requested to make additional comments. Chair Lewis allowed the input.

Mr. Fenton stated that he has reviewed LUC § 106-2-1(a) and feels the Planning Department has some discretion in recommending whether a road should be private or public; he read the following text: "The arrangement of streets in new subdivisions shall make provision for the continuation of the existing streets in adjoining areas... insofar as such may be deemed necessary by the planning commission for public requirements." Chair Lewis stated that may be the case, but the Commission is trying to follow legal counsel in terms of interpreting the ordinance. Commissioner Howell stated that he recalls the approval of the initial phase of this project, and it seems that private roads were approved because they were narrower than public streets should be.

The Commission further discussed the ordinance governing street dedication in subdivisions and indicated they felt it would be appropriate for the County Commission to consider an ordinance amendment that would specify that private streets are allowed in cluster subdivisions in addition to PRUDs and high mountain areas. Mr. Grover stated he would discourage the Commission from conditioning approval of this project upon an ordinance amendment being considered by the County Commission. Mr. Erickson agreed and noted he would be hard pressed to advise the Commission to allow private roads in this project as he does not believe that is permitted under the existing ordinance. If the applicant is adamant about pursuing private roads in the project, the Commission could table this application and wait to see if the County Commission is willing to consider an ordinance amendment allowing private roads in cluster subdivisions.

Mr. Grover stated the applicant's engineer has asked for the opportunity to provide input. Chair Lewis allowed the input.

Wesley Stewart, Gardner Engineering, stated the reason that the applicant has requested private roads is that the existing gate is located just past the sewer plant on Morning Side Lane; everything to the north is private. This results in narrower roads with reduced environmental impacts. The open space preservation plans call for as minimal impact on the environment as possible. The developer will maintain the road. The lower road will be constructed to county public road standards and is not gated.

Chair Lewis stated that his suggestion is that the Commission table the application based upon the input from Mr. Erickson that the road configuration is non-compliant with the existing ordinance. Commissioner Burton agreed and stated that it is his opinion that the ordinance should be amended to allow private roads in a cluster subdivision, and to clarify the definition of 'high mountain area'. Mr. Grover stated he would be happy to visit with the County Commission to see if they are willing to allow staff to initiate a petition for such ordinance amendments. He views this as a clean-up item that should be addressed by the County rather than an applicant.

Vice Chair Francis stated she would also be interested to understand the basis for granting private roads with the first phase of Crimson Ridge was developed.

Mr. Grover indicated the applicant has requested the opportunity to provide additional input. Chair Lewis allowed the input.

Mr. Fenton stated there are two different types of land uses occurring in this phase of the project and one of them has public roads; he wondered if the Commission could approve the portion that has public roads and just table the portion that has private roads. This would allow him to move forward with securing financing and contracts to move forward with the project. Mr. Erickson stated he does not see any legal issues surrounding that proposal.

Commissioner Burton offered a substitute motion to approve application UVR071520, final approval of Harbor View Estates, excluding The Reserve at Crimson Ridge Phases 2A, 2B, and 2C, (tabling that portion of the application until a later date), based on the findings and subject to the conditions listed in the staff report. The Reserve at Crimson Ridge is tabled to give staff and the County Commission the opportunity to rectify a conflict in the existing ordinance regarding street dedication; based upon the advice of legal counsel, the Commission is reluctant to grant approval until that matter can be corrected and clarified. Commissioner Lackey seconded the motion. Commissioners Lewis, Francis, Burton, Hogge, Howell, and Lackey all voted aye. (Motion carried 6-0)

3.2 CUP2020-15 – Consideration and action on a conditional use permit for Harvest Moon Ranch conference/education center. Staff Presenter: Felix Lleverino; Applicant: Kasey Plourde

Planner Lleverino reported the applicant is requesting approval of a conditional use permit for the Harvest Moon Ranch located in the FV-3 zone at 10027 E 325 S unincorporated Huntsville. The FV-3 Zone allows a “Conference/educational Center” as a conditional use. The property is well situated for visitors interested in the many outdoor activities the Ogden Valley has to offer.

Visitors who book their event at the Harvest Moon Ranch will have the option to participate in conferences, dining, live entertainment, site seeing, fly fishing, and group yoga. Harvest Moon Ranch also offers for rental a 3,250 square foot barn for indoor conferences. The barn capacity is limited to 99 people as directed by the Weber County Fire District.

The Uniform Land Use Code of Weber County, Utah (LUC) §108-1-2 requires the planning commission to review and approve applications for conditional use permits and design reviews.

Planner Burton reminded the Commission that it is the job of staff to review applications as such as this one based upon applicable ordinances and to try to determine what reasonably anticipated detrimental effects will arise in conjunction with the project. He referenced LUC 108-4-4(a) & (b), which state: “A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to substantially mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with the standards of this chapter, or relevant standards or requirements of any other chapter of this Land Use Code. When considering any of the standards, the land use authority shall consider the reasonably anticipated detrimental effects of the proposed use in the context of current conditions and, to the extent supported by law, the policy recommendations of the applicable general plan. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.”

Chair Lewis invited input from the applicant.

Kasey Plourde, Owner, used the aid of a PowerPoint presentation to summarize the project narrative; she provided background information about the business owned by herself and her husband, Harvest Moon Events, noting she believes the proposed conference/learning center operation will offer a perfect balance by providing a needed service in the community while meeting the requirements of the County’s conditional use permit ordinance. She fully supports the conditions outlined by Mr. Lleverino, with three requested modifications: that the scale of the operation is small, and she desires to be a good neighbor; a request to have a yurt on the property; and that condition 12 in the staff report be amended, which prohibits amplified music outdoors. She stated she anticipates the operation will be small in comparison to a typical conference center and either she or her husband will be on-site at every event. There will never be more than one group visiting the center at a time and average event length will be three to five hours. Most events will occur during quiet daytime hours, with limited evening events. She believes the conditions outlined in the staff report should mitigate the concerns expressed by neighboring property owners regarding the impact the use may have on their property, specifically during the evening hours. She is not asking approval to construct a larger conference

center; rather, she is asking to use her existing barn for meetings and events. She has always wanted to be a good neighbor and has adjusted her plans responsive to concerns expressed by residents who live up to a half-mile away from her property. Given the large size of her property and adjoining properties, there are really only three properties that stand to be impacted and the owner of one of those properties has actually expressed support of the proposal. With proposed landscaping improvements, she believes most events will be unnoticed by neighbors. She referenced an ordinance amendment from October 2020 that removed the conference/education center use from the permitted use list in the FV-3 zone and noted she feels targeted by the code amendment; however, she is willing to compromise and adjust her plans in order to receive a conditional use permit to move forward with her operation. However, she was saddened to learn that if the use is defined as non-conforming, she will never be able to expand the business footprint. This is why she desires to have a yurt on the property to serve as an additional small, covered meeting space option if there is a demand for this type of use in the future. She discussed the benefits of a yurt and the types of events and gatherings that can occur within a yurt and she asked that the Commission approve the request based on her understanding that it is an approved accessory building use for a single-family residence. If the yurt were already on her property, she believes it would be considered to be an additional meeting room for her operations; while she would like for the yurt to serve as an overnight space, she understands if the Commission would like to limit it to daytime hours only. Finally, she addressed the condition of approval prohibiting outdoor amplified music. She understands that music and sound coming from the property must be below a certain decibel level, but she did not know that outdoor amplified music was prohibited. She believes that the decibel measurement is reasonable and should also be applied to outdoor music. She indicated a willingness to monitor and enforce the decibel measurement for all events occurring on her property; live music and speaker noise can be adjusted with a simple turn of a dial. She has set up a speaker at multiple locations on her property to measure decibel readings at the property line; at the point of origination, the decibel readings were 80 to 90, but at the property line, the decibel reading was greatly reduced and leveled out at 45 to 50 decibels at a distance of 100 feet from the speaker. The size of the property lends itself to appropriate spacing of speakers to ensure that decibel readings at any portion of the property line would be well under 70 decibels, and the landscaping improvements will also help to dampen the noise generated on the property. She concluded that she understands the concerns that have been expressed by neighboring property owners and others living in the area and she hopes that those individuals understand and believe that she has listened to them and adjusted her plan; accordingly, she absolutely does not want the use of her property to be a nuisance to other property owners. There are many that hold large events in their own backyards without proper execution and her use will meet the demand for that type of service in the valley. She hopes the presence of a business will eventually be seen as a positive use of the area. She asked for Commission consideration of her petition and her requested adjustments to the conditions of approval.

Vice Chair Francis asked if there is sufficient water to serve the desired use of the property. Mr. Burton stated that the answer to that question and others regarding the project will likely be provided in Mr. Lleverino's presentation regarding the project.

Mr. Lleverino presented the staff analysis of the proposed project; he first discussed the request for a yurt as an accessory to the conference center. The Harvest Moon Ranch would also like to make available overnight lodging for one couple or a group of up to eight for patrons who rent the complete facility. The event center would also like to make available one yurt. With Planning Commission approval, up to four people could stay in the barn and up to four people could stay in the yurt. It is the planning staff's consensus that overnight lodging should be permitted only within structures that are deemed safe for human occupancy by Building Inspection and the Fire District. The definition of a yurt is as follows: Yurt. The term "yurt" means a circular structure which consists of a fabric cover, tension band, and wood frame that includes a lattice wall, radial rafters, and a framed door. Yurts are accessory to parks, single-family dwellings, agritourism, and ski resorts." The planning staff recommends that a yurt is only permitted as an accessory to a park, single-family dwelling, agri-tourism, and ski resorts. After obtaining a building permit and a land-use permit, the owner may build a yurt as an accessory only to what is listed. Staff recommends that a yurt shall not be an accessory to a conference center. Staff recommends limiting overnight guests to no more than one vehicle and no more than four guests as measures to reduce the overnight lodging impact. Mr. Lleverino then discussed the condition regarding outdoor noise on the property; in the owner's narrative, the noise will not exceed 60-70 decibels measured from the edge of the Harvest Moon Ranch property. A study conducted by the Temple University Department of Civil/Environmental Engineering makes some comparisons of what produces noise levels of 60-70 decibels. Listed in their study are conversation in restaurant, office, background music, air conditioning unit at 100 ft (60 decibels), living room music, radio or TV audio (76 dB), vacuum cleaner (70 dB). The Staff has included a condition that noise levels shall not exceed 70 decibels measured from the property line, but he acknowledged that this condition may be viewed as 'heavy-handed' and that is something for the Planning Commission to consider. He then noted that staff's review of the conditional use application focuses mainly on health and safety; this encompasses matters such as parking, traffic congestion, and occupancy of the barn structure. He noted that the Health Department also provides input on these matters; to date they have approved the water system for the use and in the spring the applicant will update the septic system on the property and update percolation test information as required by the Health

Department. He added that environmental impacts have been considered; the driveway used to access the use will be compacted roadbase, possibly treated with magnesium chloride if needed to keep the dust down. He has spoken with the Engineering Department who were comfortable with these requirements as they should not negatively impact the environment. He then noted the County's General Plan calls for recreational and cultural activities in the Ogden Valley. The staff design review was focused on general design, layout, and appearance of the building remains orderly and harmonious with the surrounding neighborhood; this proposal has been reviewed for compliance with LUC §108-1:

- Considerations relating to traffic safety and traffic congestion. This proposal includes plans to construct a new compacted roadbase parking area and driveway fronting on 10,000 East Street (see exhibit C). According to LUC 108-8-7, (b) seasonal operations are exempt from the requirements to pave the parking area with asphalt or pavement. Conference center visitor parking on the shoulder of the public right-of-way is strictly prohibited.
- Considerations relating to landscaping. The applicant has created a landscape plan describing improvements that will be made to meet the landscaping and screening standards of the land-use code. Exhibit G provides details related to existing plant life, new plant life, irrigation methods, tree removal. The accompanying site plan in Exhibit C depicts the locations of the new trees and shrubs and berms.
- Considerations relating to buildings and site layout. The existing buildings and the planned addition to the barn meet the site development standards of the FV-3 Zone. The site layout and screening measures are designed in a way to facilitate traffic flow efficiency and mitigate nuisances from event parking.
- Considerations relating to utility easements, drainage, and other engineering questions. The existing structures and planned additions do not encroach into easements. The site grading areas are designed to shed water to a designated area to the north of the parking lot where water can percolate into the ground. The grading plan is approved by the County Engineering Department.
- Considerations relating to prior development concept plan approval associated with any rezoning agreement, planned commercial or manufacturing rezoning, or planned residential unit development approval. The proposed site does not have any type of development agreement associated with the property; therefore, considerations on this portion of the code are not applicable at this time.

Mr. Lleverino then listed the other review agencies that provided input regarding the application; Weber County Engineering has inspected 10,000 East, 325 South, 9900 East, 200 South, and 9500 East and has confirmed that all of them are in good repair and meet the standard for a public road. Weber Fire District has approved this proposal conditional upon the Fire District inspection of the barn before final occupancy. The Weber-Morgan Health Department has approved, conditional upon the owner installing a replacement drain field, and performing a new percolation test as a means to update the existing percolation information. The Utah Division of drinking water has stated that the water well will remain a non-public water system due to the total number of event days limited to less than 60 per year. He concluded staff recommends approval of this conditional use application subject to the applicant meeting the conditions of approval in this staff report and any other reasonable conditions required by the Planning Commission. This recommendation is subject to all review agencies and is based on the following conditions:

1. A business license is obtained before opening it to the public.
2. No visitor parking is allowed on the public right-of-way (350 South or 10,000 East) or within the setback area.
3. A building permit shall be obtained for all building modifications, remodels, additions to the barn.
4. All outdoor lighting shall be off by 10:30 pm
5. Weber County Fire District shall inspect the barn. Per the Fire District, the maximum capacity within the barn is 99 people.
6. The maximum number of guests with the current capacity of the septic system is governed by the Health Department. Following upgrades to the septic system, the Health Department will determine the maximum number of guests on event days.
7. Portable restrooms are not permitted with the CUP. Portable restrooms may be permitted with a Special Event Permit on a case-by-case basis.
8. Septic system approval from the Weber-Morgan Health Department. If this is not obtained the CUP is not valid.
9. No more than 59 event days per year, a report at the end of each month shall be submitted to the Planning Division. After the first year of operation, the reporting requirement will be re-evaluated by the planning division. If a report is not submitted, the conditional use permit may be revoked.
10. Event parking spaces are limited to 33.
11. Overnight lodging is limited to the one guest room inside the barn with no more than one vehicle and four people.
12. Events shall have no amplified music outdoors and noise levels shall not exceed 70 dB measured from the property line.
13. Events will occur between May 1 and November 1. No events will occur outside of these months.

The following findings are the basis for the Planning Division recommendation:

1. The proposed use is allowed in the FV-3 Zone and meets the appropriate site development standards.
2. The criteria for issuance of a conditional use permit have been met because mitigation of potential detrimental effects can be accomplished.
3. The requested use is listed in the Forest Valley Zone code and meets the definition of a Conference/education Center.
4. The requested use complies with the land-use code.

Commissioner Lackey asked if anyone has notified surrounding property owners who have wells on their property of the potential to expand the septic system on the subject property. Mr. Lleverino stated he has not personally notified surrounding landowners of that fact. Mr. Burton stated that City staff considers whether a septic system can be built or expanded into a public well protection area; however, staff has not notified the owners of private wells in the area but could do so if the Commission feels doing so would be appropriate. Commissioner Howell stated septic systems generally need to be 100 feet away from a private well area. Commissioner Lackey stated he would like staff to determine the proximity of the septic system to private wells.

Vice Chair Francis referenced the condition regarding outdoor lighting and wondered if the applicant will be required to submit a lighting plan. Additionally, she wondered if more strict lighting provisions that are typically enforced on commercial uses could be enforced on this project. Mr. Burton stated that the requirement is to shield the light downward to prevent light pollution for surrounding property owners. Additionally, commercial lighting standards will be imposed on the parking lot area of the project. This will address brightness and color temperature. He noted the applicant has been made aware of these requirements. Vice Chair Francis asked if the Commission could require the submission of a lighting plan. Mr. Lleverino stated that staff has not included a condition requiring the applicant to submit a lighting plan for approval, but the applicant is aware of the lighting standards and dark sky provisions. He noted she is not planning to install additional lighting on the property. The sign will not be lit and the only lights that may be used are temporary in nature and low impact. Vice Chair Francis stated she understands that the applicant has the best intentions for the use, but if she sells it to another owner in the future, it is necessary for the County to have assurances that certain conditions are imposed on the property. Mr. Lleverino stated he understands that desire; if the land is sold, the use will run with the land and the new owner will be held to the approved conditions.

Commissioner Burton stated he has received a document detailing the protest of other property owners in the area. He knows it is not proper for the Commission to consider public clamor in making their decision, but he asked Mr. Lleverino to discuss the points made in that document. Mr. Lleverino stated the document addresses the number of guests allowed at the site; the maximum number of guests allowed in the barn is 99, but there may be more people than that for an outdoor event. In these cases, the applicant must utilize a shuttle to allow people to park in a different location and be shuttled to the property. Additionally, the Health Department will be making a recommendation on the maximum number of visitors/occupants on the site per day or throughout the year based upon septic system capacity. Commissioner Burton asked how the reduced occupancy based upon septic system capacity will be enforced. Mr. Lleverino stated that the County's typical enforcement practices will apply to all conditions for this property and smart business owners are very aware of the need to comply with conditions of approval to avoid fines or license revocation. Ms. Plourde stated that she will have a guest list for each event and will limit the number of guests based upon the guidance she receives from the Health Department. Mr. Lleverino then stated the next point raised in the document deals with the dead-end road and difficulty for public safety vehicles to respond to the property during an event; the County Fire District and Engineering Division have reviewed the road to ensure it meets safety standards. On-street parking will be prohibited. He then noted the document discusses the septic system on the property; portable bathroom facilities are not allowed under the CUP and would only be allowed during a special event. Special events are considered on a case-by-case basis. Commissioner Burton asked if there are standards and regulations in place that govern portable restroom facilities. Mr. Lleverino answered yes and indicated that process would be managed by the Health Department. He then stated that the document also addressed the capacity of the existing water well; the governing agency of the well is the Health Department and they have reviewed it to determine capacity and quality of the water. Mr. Burton added that the Health Department is the authority of any private well and septic system in the area and they have or will consider the impact that the septic system could have on any private well in the area. Mr. Lleverino then stated that the document discusses hours of operation; he noted that the defined hours for the center are seasonal from May 1 to November 1. Ms. Plourde stated hours of operation would be 9:00 a.m. to 10:00 p.m. Sunday through Thursday, and until 11:00 p.m. on weekends. However, all outdoor events will end at 10:00 p.m., even on weekends. Mr. Lleverino then stated the document references large party noise; this is a valid concern and is why the condition prohibiting amplified music outdoors was included in the staff report. However, the applicant has presented information about how they plan to sufficiently mitigate any noise nuisance. He added that the document stresses the need for peace and solace to be preserved in the neighborhood and he reiterated that the applicant is aware that lighting plans should take into consideration the impact that additional outdoor lights could have on neighboring properties. Ms. Plourde stated that it is her understanding

that she will be permitted to have outdoor lit events twice a month; she does not anticipate having a large number of outdoor events during the evening hour. Most events will be held in the barn and she does not anticipate the need to increasing outdoor lighting. Mr. Burton added that the code does allow for low output light sources. Mr. Lleverino then stated the last point referenced in the document from other residents references deed covenants and restrictions for the homeowner's association (HOA) – the South Fork Ranchettes Subdivision. The covenants indicate that no noxious or offensive trade, activity, or nuisance shall be carried on; nor shall anything be done which may become an annoyance to the neighbors. He stated that this is why staff has performed a very careful review of the application. Commissioner Burton asked what the HOA or neighboring property owners can do to enforce the covenants if the use does become a nuisance. Mr. Lleverino stated that code enforcement can issue warnings and fines for repeat offenses. Ultimately, the County could revoke the conditional use permit if the use becomes a nuisance. Mr. Burton clarified that the County does not enforce HOA covenants; any nuisance that the County would take enforcement action against would need to be a clear violation of County ordinances or conditions associated with the permit. Commissioner Burton asked if one of those conditions could be that the use becomes an annoyance to a neighbor. Mr. Burton stated that condition may be too vague and difficult to enforce. He suggested that any condition be very clear and specific to give all parties the ability to clearly interpret them.

Vice Chair Francis asked if the restrooms on the property will be compliant with the Americans With Disabilities Act. Ms. Plourde, as well as her engineer, both answered yes.

Commissioner Waldrip joined the meeting at 6:27 p.m.

Chair Lewis invited public input.

James Facer, 9825 E. 325 S., stated he lives about four lots away from the subject property; he is opposed to the requested use for several reasons. There are approximately 18 homes or lots in the subdivision and it is entirely residential in nature. Each home has a well and septic tank. Each well is approximately 100 feet and pumps 25 gallons per minute. This is enough to flush a toilet and shower. This is a residential area and has been forever; it is so quiet and peaceful, and he and other residents are concerned about that peace being disturbed.

Camille Ewing, 391 S. 10000 East, stated that she and her family live across the street from the subject property and are in full support of the application; she believes it will be a great opportunity for the community and she is comforted by the plans proposed by the applicant and she feels they properly address the concerns that have been expressed. She noted that the previous owner of the property had several properties at the home, many that she believes were larger than what the applicant is proposing. Yet, she was never disturbed by those large parties.

Tim Ellis, no address given, stated that he lives directly across the street from the subject property, and he is opposed to the project; it creates a lot of confusion and contradiction and he is unsure how the ordinances will be applied and enforced against the property. He has heard the proposed use be compared to large conference spaces in other communities and the hours of operation have changed several times. Others have said the impact will be very low, but now the applicant is saying she wants to allow music outdoors. It seems that the promises and commitments made about the proposed use continue to change and he is worried that this will be a drain on County enforcement resources. He noted the road width has not been addressed; the road serving this property is just 23 feet wide and shuttling people in and out as well as on-site parking will be very difficult and create a great deal of confusion. He noted he has talked to the former owner of the property who communicated to him that his well did not produce enough water for him to water his lawn and garden areas at the same time. Water is a big issue for the property. He concluded by stating this is a very emotional issue for the residents living in the area; in 1972 the South Fork Ranchettes Subdivision filed its declaration of covenants, conditions, and restrictions (CCRs) for the mutual protection and benefit of present and future owners. This is not the first time that someone has tried to change the neighborhood, but past Commissions have withheld approval of other applications and set a precedent that the CCRs do apply and mean something. He asked that the Commission consider this fact and continue with that precedence.

Edward Rich, 9900 E. 798 S., stated he is just across the river from the property. He is considering practicality in relation to parking and the number of guests allowed at the property. If the center is going to be used for weddings, he wondered how they will limit the number of visitors and the number of vehicles parked on the property to 33 at a time.

Sherry Cosby, 9775 E. 325 S., stated she is also opposed to the application based upon two major concerns: transparency and realistic expectations. This is a residential area, and the residents are being asked to accept a business presence. She stated there

are 18 homeowners in the subdivision, but the impact will spread beyond those residents to the greater community. There are many people throughout the valley that use the roadway in the subdivision for physical exercise. There is also a great deal of wildlife in the area. These things should be considered by the Commission as they are making a decision on this application. One thing that is greatly concerning is that business traffic will limit the other residents' ability to utilize the resources they have on their property. She asked that all parties involved be honest and set realistic expectations for the property and the surrounding neighborhood.

Mary Davies, 9578 E. 400 S., stated she lives west of the subject property and she asked the Commissioners to consider if they would like to have this land use in their neighborhood. This includes increased traffic on their roads and increased noise disturbing their peace and quiet.

Sherry Ellis, 10004 E. 325 S., stated that her property is nearly in alignment with the street that will handle all of the traffic associated with the proposed use. She is concerned about headlights and increased vehicle noise disturbing her family. She was recently at her neighbors home that was quite far from the subject property and she could actually hear conversations of those on the subject property. Voices carry very far, not just music, and this will disrupt peace in the neighborhood. All but two residents in the area have signed a petition to stop this project and she is hopeful the Commission will consider that the majority of those in the area are opposed. She stated that the road is very narrow and is already difficult for snowplows to navigate; this road width does not comply with County requirements for commercial roadways, and she asked how that will be addressed. She then stated the physical address of the property is at the corner of 325 South and she constantly has people knocking on her door asking for directions to the actual property. There is an irrigation ditch that runs through the property and adjusted use of the property will impact the water quality in that ditch; the ditch also takes up the majority of the property and she wondered where the parking spaces will be located. She asked if there is a clear plan that residents can view to understand how the improvements will look as many people have heard many different things and have been lied to about what will happen on the property. She encouraged the Commissioners to personally visit the property to get an understanding of the concerns that have been expressed as it is difficult to understand that by simply looking at drawings and maps.

Candice Facer, 9825 E. 325 S., stated she loves where she lives and is opposed to the requested use. The reason for her opposition is the lengthy list of conditions the property owner must follow and when one of those conditions if not observed, other residents will be left to enforce the matter. She stated she does not believe 33 parking spaces is enough for the 99-person maximum occupancy. She asked that the Commission consider the residents that live in the neighborhood and help them to be stewards of the land they love so much.

Miranda Menses, 3807 N. Elk Ridge Trail, asked permission to share her screen using Zoom to share an image responsive to Commissioner Lackey's question earlier in the meeting regarding the number of water wells that are in close proximity to the subject property. The image presented included a map with red spots as markings for water rights; the vast majority of the properties with water rights have a private well. She stated that the ground water flow direction is westward from the South Fork of the Ogden River. She stated she has the greatest respect for the Health Department and those that manage the septic system, and she sympathizes with both the owner of the subject property as well as her neighbors who are concerned about this matter. She provided a recommendation that the Planning Department, property owner, and Health Department meet to determine baseline nitrate measurements for the closest 15 wells and that these levels be measured at least annually to ensure there is no degradation due to the amount of septic flow from the subject property. Private well quality is very important and should be considered.

Felicia Ewing, 391 S. 10000 E., stated that most of the neighbors who are speaking tonight would not even give Ms. Plourde the time of day, to listen to her or review her plans for this project. Ms. Plourde has done her best to meet with every single neighboring property owner and has reached out to each resident multiple times; she has asked for people to share their concerns with her so that she could try to address them in her plans. She stated that the Plourdes are very gracious and also very successful in their own right; they did not become that way by ignoring people. They are dedicated to their company, but they are also very concerned about how their neighbors feel about this project. She stated that it is comical to her that her neighbors are referencing the CCRs for the HOA, though they have never referenced them in the past. The CCRs do not match the neighborhood whatsoever, but that has not been referenced until now. She stated that people have said Ms. Plourde is a liar, but that is not true; she believes the Plourdes have a stellar reputation and she has been so impressed by them. She stands by them and their project for that reason. They have gone to such great lengths to discuss the project with their neighbors, but most have slammed the door in their face. She asked how they can speak tonight in a critical fashion after not giving them the time of day to hear from them. She noted the prior owners used the property for meeting events or exercise groups; there have been many times that more than 50 vehicles

were parked at the property and alongside the street, but none of the neighbors complained about those activities though that owner did not have a permit to use his property that way. The owner also played live music several times on his property and she has been outside on her property and has not been disturbed by the music.

Jim McHugh, 9538 E. 400 S., stated he has reviewed the application for this land use, and it indicates that they will operate an events center in the existing barn, but today's agenda says that the application is seeking a conditional use permit for a conference center. He stated that the Weber County Code dated September 24, 2020 defines a conference center as "a facility designed for the consultation, exchange of information, and/or discussion which results in an enhanced personal business and/or professional development. A **conference/education center** may provide office facilities and schedule a range of business related and/or leisure activities (e.g., training workshops, seminars, retreats and similar type meetings). Such a facility may serve meals and offer day use and/or overnight lodging facilities." He stated this definition seems to be in conflict with the applicant's desired use of the property in terms of weddings and special events. He asked for reconciliation between the applicant's desired use and the definition of conference/education center.

Mike McDonald, 10075 E. 325 S., stated that he lives just east of the subject property and he did receive an invitation from the Plourdes to meet with them on their property to discuss the project. The site plan was adjusted to address some of the concerns they expressed, but before this meeting he had not seen the site plan presented to the Commission tonight, which contains 33 parking spaces. He stated he understood there would be no more than 14 parking spaces. He knows that events will be supervised, but if there will instances where there are over 100 people on the property, they may wander the area and enter other properties. He stated this is a safety issue for him because he does not know who will be coming to the events and if they may come back at a later date for unsavory reasons. He stated that he has no problems with the Plourdes and believes they are wonderful people, but he is concerned about the use they are proposing and the impact that will have on the safety and serenity of the neighborhood. He also is confused about whether the proposed use meets the definition of a conference/education center; he believed that type of facility was intended for day use, but the weddings and other events cited by Ms. Plourde would typically be held during the evening hours.

There were no additional persons appearing to be heard and Chair Lewis closed the public input period.

Chair Lewis asked Planning staff to address the concerns about whether the use proposed by Ms. Plourde meets the definition of a conference/education center; he specifically asked if a wedding can be held in a conference center. Mr. Lleverino stated there are many conference centers that allow social gatherings and events similar to those Ms. Plourde wishes to host on her property. Mr. Burton added that the conference/education center definition is broad enough to allow many different types of uses; it is not too specific about the types of events that are or are not allowed. Mr. Erickson agreed with Mr. Burton's assessment of the conference/education center definition; the definition specifically indicates that business and/or leisure activities are permitted. The definition is written in a manner that lends itself to subjectivity and several different interpretations regarding what may or may not be permitted.

Chair Lewis stated that it is his understanding that the Commission must approve a conditional use permit unless certain conditions are present. Mr. Erickson stated that is correct; the conditional use section of the County Code, LUC 108-4-4(a) & (b), which complies with State Law, indicates that "a conditional use shall be approved if reasonable conditions are imposed or can be imposed to substantially mitigate the reasonably anticipated detrimental effects. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied." He concluded that the Commission needs to approve the conditional use permit if reasonable conditions can be imposed to substantially mitigate the detrimental effects.

Commissioner Lackey stated that it is his opinion that the use requested by the applicant, which she indicated would be largely weddings and special events, does not fit under the definition of conference/education center. He stated conference centers are typically used for business during daytime hours and he does not believe that a wedding facility falls under that classification. Vice Chair Francis agreed and noted based upon the information provided by the applicant during her presentation, she does not believe that the proposed use can be defined as a conference or education center. She then asked Mr. Erickson to provide clarification regarding the conflict between the HOA CCRs and the County Code. She asked if the CCRs should be considered by the Commission in this decision-making process. Mr. Erickson stated that the enforcement of CCRs is a private matter and one the County typically does not get involved in. However, if there were a situation where the County were presented with a proposed use that clearly violates CCRs, it would be reasonable for the County to consider that matter. This would need to occur on a case-by-case basis, and he is unsure that anything has been presented to Planning staff or the Planning Commission that

would indicate that denial of the application based upon the CCRs would be appropriate. He stated that the letter that was sent by residents references the CCRs, but he is not comfortable saying that the CCRs would be violated as a result of the application being approved.

Commissioner Burton stated that it appears that the greatest cause for concern is the operation of a business in a residential neighborhood; he understands the use can be granted conditional approval if it is determined that it fits within the definition of a conference/education center. It seems to him that a conference center, as defined by LUC, would have a lower impact than an events center. He is concerned that the restrictive definition for a conference center is being expanded to include what he views as an events center. He has considered appropriate definitions for mitigating detrimental effects and has reviewed the land use regulations for the F-3 zone, which is defined as a low-density residential development in a forest setting. He stated he agrees with Commissioners Lackey and Francis that the proposed use does not fit within the definition of a conference/education center and would also not be permitted in the F-3 zone.

Commissioner Howell asked Mr. Lleverino if the proposed operation is legal when located in the F-3 zone. Mr. Lleverino indicated that the applicant applied for the use when it was still legal and allowed by LUC; for that reason, the application is vested.

Commissioner Waldrip addressed Mr. Erickson and asked his opinion regarding the matter that the applicant is planning to conduct activities that seem to fall outside of the applied for land use. He asked if the Commission could consider that in their deliberation of a conditional use permit. Mr. Erickson stated the application itself references the definition of a conference/education center, discusses the variety of conference-type uses that will be pursued on the property, and describes other activities as well. He feels that the use of the property could be restricted to activities that fall under the conference/education center definition and prohibit activities that fall outside of that definition. Commissioner Waldrip stated there is a conflict in the application given that it references uses that do not fit under the definition of conference/education center. He asked if that can be used as a basis to deny the application or ask them to adjust their application. Mr. Erickson stated that while he understands the Commission's concern about the proposed uses conflicting with the current conference/education center definition, it is important to remember that the application should be evaluated under the text that was in place at the time of the application. Commissioner Waldrip asked if the Commission must consider the entire application writ-large or if they can deny uses that they feel do not fall under the definition of the applied for use. Mr. Erickson stated that either option is allowed and is up to the discretion of the Commission. Mr. Lleverino added that based upon his interpretation of the definition of conference/education center, he feels the proposed use is allowed given that it cites business and/or leisure activities. He stated that there is some obligation to interpret somewhat vague language in the ordinance in favor of the applicant.

Chair Lewis stated these are difficult issues for the Commission to consider and decide upon; there are clearly good people with good intentions on all sides of the issue, but property rights are of utmost importance. Property rights extend to the applicant as well as neighboring property owners; neighbors have the right to speak to detrimental effects of the use on their property. He feels that there will be conflicts between the uses proposed and the definition of a conference center; specifically, if weddings are to be held at the property, it will be difficult to control the number of attendees or ensure that all events are concluded by 10:00 p.m. Enforcement of the multiple conditions that have been listed in the staff report would be very difficult and he is personally not in support of approving the application. He called for a motion.

Mr. Erickson encouraged the Commission to provide findings for whatever motion is made.

Vice Chair Francis moved to deny application CUP2020-15, conditional use permit for Harvest Moon Ranch conference/education center, as submitted, with the finding that the impacts cannot be adequately mitigated. Commissioner Burton seconded the motion.

Commissioner Howell stated he would like to table the application to give the applicant additional time to work with Planning staff to address the concerns that have been raised tonight. Commissioner Waldrip agreed; he wants to avoid a situation where a Planning Commission action violates the rights of the applicant. He would like further clarification from Planning staff and Legal Counsel regarding the potential unforeseen circumstances or ramifications resulting from the decision made tonight.

Chair Lewis asked Mr. Erickson if there is a clear conflict between the requested use and the definition of conference/education center that would result in the Commission being unable to take an action on the application. Mr. Erickson stated that it is his opinion that the Commission needs to determine whether the use described in the application falls under the definition of conference/education center. If it does, the Commission should then determine whether the conditions listed in the staff report

satisfy the regulations included in the section of LUC governing conditional uses. If it does not meet the definition, that is the first thing for the Commission to resolve as there is no basis for approving the application. If part of the described use meets the definition, but another part does not, the Commission could approve the activities that do fall under the definition, but include conditions intended to mitigate the negative effects of the use. If the Commission is seeking to deny the application outright, that action should be based upon a finding that the requested use either does not meet the definition of conference/education center, or conditions cannot be imposed to mitigate the negative effects of the use.

Chair Lewis asked Commissioner Waldrip if it is his opinion that weddings should be allowed in a conference/education center based upon the definition of the use in the LUC. Commissioner Waldrip stated he has thought of several other conference centers in the County that host weddings and other nighttime events. The gray area, for him, is the inclusion of education center in the defined use; he asked if the LUC provides for an events center use that would be more appropriate for this property. Mr. Erickson stated there is not an 'events center' use included in the LUC. Mr. Burton stated he can look for other uses that list special events in their definition.

Commissioner Burton agreed with Commissioner Waldrip that there are other venues in the Ogden Valley where weddings and nighttime events are held, and he asked if those are located in commercial zones or what other conditions are present that allow that type of use. He stated another issue for the Commission to consider is how to mitigate the harm caused by placing a business in the middle of a residential community; he is not sure that is possible in this case. Commissioner Waldrip agreed and noted that if there is not a more appropriate land use category for the type of use that has been proposed by the applicant, it will be difficult to deny the application based upon it not conforming with the definition of conference/education center. He stated that if the Commission determines that the use is allowed under the definition of conference/education center, he feels there is still an opportunity to make a finding that it is not possible to mitigate the negative effects of the use considering the subject property's location in the middle of a residential area.

Chair Lewis stated that he feels it is impossible to mitigate the detrimental effects of a wedding center operation on the neighborhood regardless of the land use category the applicant has referenced in their application. He feels that should be the basis for the Commission's decision tonight. Commissioner Waldrip stated that Vice Chair Francis's motion listed the difficulty in mitigating the negative effects of the land use for the neighborhood.

Chair Lewis restated the motion to deny the application based on the inability to mitigate the negative effects that will be caused by the proposed use. He called for a vote; Commissioners Lewis, Francis, Burton, Hogge, Lackey, and Waldrip all voted aye. Commissioner Howell voted nay. (Motion carried 6-1)

3.3 ZTA2020-05 – Discussion of an additional regulation scenario to amend section 108-7-25 of the Weber County Code regarding short-term rentals. *Staff Presenter: Scott Perkes*

Planner Perkes used the aid of a PowerPoint presentation to present information and facilitate discussion among the Commission regarding an additional regulation scenario to amend Section 108-7-25 of the Weber County Code regarding short-term rentals. He noted the following regulatory scenarios are open to discussion regarding the question of "Where should STRs be allowed":

1. Open / Transfer of Development Rights (TDRs) (New for Discussion)
2. Open (STRs allowed in all Residential Zones)
3. Open & Limited (License Caps/Geographic Separation)
4. Open/Owner-Occupied (WWPC Recommendation)
5. Business as Usual (No Change to Current Regulation)
6. Proof of Concept (OVPC Recommendation)
7. Closed (No new STR Licenses Granted, No new PRUDs)

He presented several short-term rental regulatory scenarios for Commission consideration. First, the concept of open/transfer of development rights attempts to protect appeal and affordability of Accessory Dwelling Units (ADUs). TDR requirements would increase with a more impactful use and the transfer provides a mechanism to preserve open space, allow ADUs, allow STRs without competing with ADUs, and helps to protect community character. Mr. Perkes presented a chart providing a comparison of existing ADU ordinance requirements for owner-occupied and non-owner-occupied long term and short-term rentals. The next scenario is to remain open to short term rentals for any residential property within the unincorporated Weber County; such a property may obtain a short-term rental license to rent a sleeping room, apartment, dwelling unit, or dwelling for a time period of less than 30 days. Third-party enforcement would be utilized to augment County enforcement efforts, and this scenario would be subject to the requirements and operational standards of the Code. The third scenario is to provide open and limited access

to the STR use; with exception to properties in the FR-1 zone, any residential property within the unincorporated Weber County may obtain a short-term rental license to rent a sleeping room, apartment, dwelling unit, or dwelling for a time period of less than 30 days subject to the requirements and standards of this chapter. This scenario also employs a geographic separation requirement that would prevent STR properties from being located adjacent to, or within a specified distance of another STR property. Third-party enforcement would be utilized to augment County enforcement efforts, and this scenario would be subject to the requirements and operational standards of the short-term rental ordinance. The fourth scenario is open/owner-occupied short-term rentals; this scenario would apply to any residential property within the unincorporated Weber County may obtain a short-term rental license to rent a sleeping room, apartment, dwelling unit, or dwelling for a time period of less than 30 days subject to the following limitations:

1. The primary dwelling shall be occupied as a primary residence. Primary Residence shall be defined by the Weber County Assessor's Office. (No Second Homes or Investment Properties)
2. In order to qualify for a short-term rental license, a property owner must have held title to the property for at least two years prior to applying for a license.
3. The owner must occupy the primary dwelling at all times that the licensed short-term rental is occupied.
4. The owner must act as the Responsible Agent for the rental.
5. Short-term rental licenses shall be revoked if a property transfers ownership from the originally licensed owner.

In this scenario, the following would be applied:

- 3rd Party Enforcement is utilized to augment county enforcement efforts.
- This scenario would be subject to the licensing and operational standards of the STR Ordinance.

The fifth scenario is business as usual; the rental of a sleeping room, apartment, dwelling unit, or dwelling for a time period of less than 30 days is considered a short-term rental. Short-term rentals are allowed only when listed as either a permitted or conditional use in a specific zone or when approved as part of a planned residential unit development (PRUD). This language is unchanged from existing regulation found in Sec. 108-7-25 "Nightly Rentals"; 3rd Party Enforcement is NOT utilized to augment county enforcement efforts; and this scenario would NOT be subject to the requirements and standards of the short-term rental ordinance. The sixth scenario is the proof-of-concept scenario; the rental of a sleeping room, apartment, dwelling unit, or dwelling for a time period of less than 30 days is considered a short-term rental. Short-term rentals are allowed only when listed as either a permitted or conditional use in a specific zone or when approved as part of a planned residential unit development (PRUD). This language is unchanged from existing regulation found in Sec. 108-7-25 "Nightly Rentals"; 3rd Party Enforcement is utilized to augment county enforcement efforts; and this scenario would be subject to the requirements and operational standards of the short-term rental ordinance. This scenario is also the recommendation of the Ogden Valley Planning Commission. The seventh and final scenario is closure; under this scenario STRs will continue to be an allowed use in the DDR-1 Zone. Except for grandfathered licensees, STRs will no longer be allowed as a conditional use in the FR-3 zone. New PRUD developments will no longer be approved with the STR use. Owners within existing PRUD developments, with approved STR use, will be allowed to obtain an STR license or continue renting if already licensed. Third Party Enforcement is NOT utilized to augment county enforcement efforts and this scenario would NOT be Subject to the requirements and standards of this chapter.

Mr. Perkes then discussed operational requirements applicable to all scenarios except the 'business as usual' and 'closure' scenarios:

Prohibitions:

- Not allowed in accessory buildings
- Not allowed in Accessory Dwelling Units (ADUs)
- Not allowed in Deed Restricted Housing

Short-Term Rental License Required

- Properties must be inspected prior to licensure.
- Owners are required to collect and remit applicable taxes.

All licensed properties are required to operate by specific operational standards:

- Information dissemination (info packet)
- Advertising Requirements
- Occupancy limits
- Parking

- Noise
- Trash disposal and collection
- Outdoor lighting
- Signage (not allowed)
- Fire safety

He then concluded his presentation by discussing enforcement actions that would be taken to respond to violations of ordinance provisions under all scenarios.

Vice Chair Francis asked if a TDR action would require access to three acres of property. Mr. Perkes stated that is dependent upon the zoning classification of a property subject to a TDR action. Vice Chair Francis asked if a portion of property subject to a TDR action would be subdivided or would deed restrictions be placed upon the property before the TDR is finalized. Mr. Perkes stated that an analysis would be performed by Planning staff to determine if and when a property has a development right that can be reasonably transferred to another parcel. A TDR ordinance would include information regarding the formulas that will be used to make that determination and also identify desirable areas from which to transfer development rights and the areas where the transfer to would be appropriate.

Commissioner Burton stated that a few months ago the Commission recommended the Proof of Concept regulatory scenario for STRs; it is his understanding that the intent of that action was to protect residential neighborhoods where the residents have the expectation that STRs will not be allowed. However, it seems the current proposal is indicating that STRs will be allowed in residential neighborhoods; he is concerned that the language could be interpreted in that way by any property owner interested in seeking a STR. He wants to be sure that any ordinance language is easily interpreted and enforceable by the County. Mr. Perkes stated that he understands that concern and he is not trying to adjust the Commission's recommendation to broaden the allowance for STRs. Commissioner Burton stated that he does not believe that allowing STRs achieves the goal of addressing housing affordability. Mr. Perkes stated he understands; he believes that the TDR ordinance will incentivize long term rentals versus STRs. He noted that long term rentals help a property owner achieve housing affordability. He indicated that TDRs would only be required if a property owner is pursuing a STR on their property.

Commissioner Lackey stated he understands and appreciates the model created by Mr. Perkes, but echoed Commissioner Burton's assessment that STRs do not increase the amount of affordable housing stock; STR owners are essentially operating a business and the price of housing will continue to increase based on this fact. He is open minded to the TDR model, but he is not sure there is a market for it at this point in time. A long-term rental property that may yield the owner \$2,500 per month in rent could potentially be converted to a STR that could yield upwards of \$10,000 per month during certain seasons. There is a huge gap between the amount of rent generated in a traditional long-term rental and a STR. Mr. Perkes stated he understands; there are currently approximately 4,000 dwelling units in the Ogden Valley and there are approximately 1,000 unique listings on STR websites. This means a quarter of the total dwelling units in the Valley are being used or advertised for STRs. On the other side, just two percent of these residents are utilizing the ADU option in most communities where the use is allowed. He stated that if the County were to aggressively pursue enforcement, it may be possible to convert some of the STRs to long term rentals. Commissioner Lackey asked if a third-party enforcer is being utilized right now. Mr. Perkes answered no; if the County Commission supports that idea, staff will publish a request for proposals (RFP) to hire a third-party enforcer.

Planning Director Grover added that the Utah Legislature is considering some legislation that could make it easier for a property owner to operate a STR; the County Commission likely will not consider any ordinance amendments that would impact STRs until after the legislative session is concluded. However, they wanted input from the Commission regarding their ideas about the different scenarios that have been presented by Mr. Perkes.

Chair Lewis stated it is important for the Commission to keep in mind that any action taken regarding STRs or TDRs would not supersede any covenants for a homeowner's association (HOA) managed property in the County. Mr. Perkes stated that is correct.

Commissioner Waldrip provided the Commission with an update regarding House Bill (HB) 82, which deals with ADUs across the State of Utah, has already passed through the House of Representatives, but is being held up by the Senate Rules Committee. If the legislation is eventually adopted as written, it will require every municipality in the State of Utah to dedicate 75 percent of their housing stock to permitted ADU rentals regardless of HOA covenants or other regulations. However, the ADUs would not necessarily be permitted for STRs. He stated he has pushed for cities and counties to have the ability to police overnight STR uses more aggressively than they are currently allowed. He stated it absolutely makes sense for the County Commission to await the

conclusion of the legislative session before acting on this issue. He then referenced the chart presented by Mr. Perkes and asked if he can interpret it to mean that STRs would be allowed in all zones. Mr. Perkes stated the use would be allowed in any residential zone. Mr. Perkes stated that clarification would be provided regarding the residential areas in which STRs would be allowed. Commissioner Waldrip stated that he still holds the view that the current STR market should not be expanded, and he would like for that to be communicated to the County Commission. Mr. Perkes stated that feedback was included in the Commission's initial action regarding the regulatory scenario they supported and that will be reiterated when the matter is discussed in greater detail with the County Commission.

4. Public Comment for Items not on the Agenda:

There were no additional public comments.

5. Remarks from Planning Commissioners:

Several Commissioners thanked Planning staff for the great work they do; they acknowledged the difficult role they play in assisting property owners while upholding the LUC.

Commissioner Howell asked if the applicant for the Harvest Moon Events Center will be able to submit a new application addressing the concerns that were raised tonight. Chair Lewis stated that they can apply for a different use, but not reapply for the same use. Mr. Lleverino added that the applicant can also appeal the decision made by the Commission.

6. Planning Director Report

Mr. Grover thanked the Commissioner for their time and the great deal of work they put into their positions. He stated staff acknowledges that the Commissioners are volunteers that are asked to make very difficult decisions and he appreciates all they do.

6. Remarks from Legal Counsel

Mr. Erickson apologized if he provided unclear guidance earlier in the meeting; he feels he may have confused matters further and he is unsatisfied and concerned that his guidance may have contributed to the outcome of the discussion. He stated he and staff will discuss that matter further and consider the options available to the applicant. Commissioner Waldrip stated that from his perspective he does not believe that Mr. Erickson confused the issue; it was a very difficult matter and he appreciated Mr. Erickson's guidance. Chair Lewis agreed and stated he feels staff and the Commission did the best they could with the information they had available to them.

**Meeting Adjourned: The meeting adjourned at 8:06 p.m.
Respectfully Submitted,**

Weber County Planning Commission