

Minutes of the Ogden Valley Planning Commission Meeting for March 23, 2021. To join the meeting, please navigate to the following weblink at <https://us02web.zoom.us/j/88084532783> 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, Steve Waldrip.

**Absent/Excused:** None

**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 February 23, 2021.**

Commissioner Hogge moved to approve the minutes of the February 23, 2021 meeting as presented. Vice Chair Francis 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 CUP 2021-06: Request for approval of a conditional use permit amendment to amend the house types for single family lots within the Village at Wolf Creek Development. Staff Presenter: Steve Burton; Applicant: Conley Hubert**

Steve Burton reported the applicant is requesting to amend the conditional use permit for the Village at Wolf Creek PRUD, specifically the required house types associated with the single-family lots. The proposed amendments will apply to the following lots: Lot 3, 5, 7, 9, 11, 12, 14, 15, 16, 17, 18, 23, 25, 26, 32, 33, 34, and 35. The owners of lots 24 and 29 have also been included on the proposed amendment. The original house types for each lot were proposed by the original developer in 2000 and were amended once in 2005. The application is being processed as an administrative review due to the approval procedures in Uniform Land Use Code of Weber County, Utah (LUC) §108-1-2 which requires the Planning Commission to review and approve applications for conditional use permits and design reviews. The established use of the property, as higher density residential, is not proposed to change. The only proposed changes are to the house types that were previously approved. Planning staff does not feel that the proposed changes to the house types are contradictory to the general plan. The subject property is in the FR-3 zone, which allows a Planned Residential Unit Development with a conditional use permit. As part of this conditional use review, staff reviewed the existing house types that have been approved for the applicable lots. He referenced exhibit A to the application, which is a site plan showing the existing house types that are approved for each lot. Exhibit A also includes building elevations and floorplans that were established for each unit from the original approvals. The proposed amendment would remove the requirement of specific floor plans, as well as specific elevations. The applicant is proposing to have general standards that each dwelling would need to implement. The applicant has included general elevations of what the buildings would look like, under the proposed standards. The proposed building elevations have similar features to the previously approved units, including similar roof pitches and exterior materials. The applicant proposes to include fiber cement siding, natural wood siding, stucco, brick, and stone as acceptable building materials. The amendment includes a request to have a building height allowance of 45 feet. Staff recommends restricting the building height to 40 feet, as 40 feet is allowable in similar developments such as cluster subdivisions. The proposal includes language that would require any accessory buildings to have identical materials as the dwelling. The proposal also includes language that allows only brick, stone, wrought iron, and vinyl fences. As part of the amendment, the applicant has requested a short-term rental (STR) approval for all of the lots included in this amendment. Short term rentals are currently a conditional use within the FR-3 zone. Instead of each individual applying for a separate STR permit, the developer would like to market the lots as already approved for STR. Given that each unit will have the required 2 parking spaces, Planning Staff recommends that this development receive an overall approval (for only the lots on this application) for STRS. Steve Burton concluded staff recommends approval of this conditional use application subject to all review agency requirements and the following conditions:

1. Average building height cannot exceed 40 feet.
2. A notice must be recorded to each of the lots in this amendment, indicating which changes were made as part of this approval. The notice must be prepared and approved by the Planning Division prior to receiving the conditional use permit amendment.

This recommendation is based on the following findings:

1. The Planning Commission has considered the conditional use standards and has imposed reasonable standards to mitigate any detrimental impact to the surrounding area.

Steve Burton added that the staff report does not reference a specific restriction for building colors for homes to be built in the project area, but staff would like to include a condition that the color palette for new homes be muted, earth tone colors to fit in with the surrounding area.

Chair Lewis invited input from the applicant.

The applicant was not present.

Commissioner Hogge referenced the lot layout plan that was initially approved and indicated that each lot contains the name of the housing type that was intended to be constructed thereon; he asked if the intent of the original approval was to require specific housing types on specific lots. Steve Burton answered yes; the original plan was very detailed and that was the intent. The purpose of the current application is to eliminate that requirement to allow for any one of the three building types presented to be constructed on any lot. Commissioner Hogge inquired as to the number of buildings that have already been built. Steve Burton displayed a Google Earth image for the Commission to get an understanding of the current number of homes that have been built. Chair Lewis added that just six or seven houses have been built. Steve Burton clarified that actually 10 buildings have been built to date.

Commissioner Burton referenced the standard regarding dwelling quality and exterior materials; the standard indicates that fiber cement siding and natural wood siding can be used, but the next sentence indicates a dwelling's front exterior should not be constructed of 100 percent fiber cement siding and he asked if the applicant is seeking to uphold that restriction and to use rock or brick to compliment fiber cement siding. Steve Burton stated it was his understanding the applicant was seeking approval to use 100 percent fiber cement siding on the front elevation of a home. He reviewed the application further to determine what the applicant is requesting; he indicated it may be necessary to ask for clarification from the applicant. Commissioner Burton then referenced the request to allow STRs at the property and noted the applicant indicated there will be two parking spaces per rental; he asked if that is sufficient parking for the proposed use. Steve Burton stated that for a single-family dwelling, staff recommends a minimum of two parking spaces. Commissioner Burton stated that the vacation rental properties may be filled with groups of people and he wondered if two parking spaces is sufficient to keep people from parking on the street. Steve Burton stated that staff is comfortable with the parking accommodations proposed by the applicant, but the Planning Commission has the authority to consider increased parking accommodations. Commissioner Burton stated that the Commission has discussed parking standards for STRs over the past several months and he wants to rely upon a firm standard for the number of parking spaces truly needed for a rental property, perhaps based upon the number of bedrooms in the property. Steve Burton reiterated the Commission can consider that matter further, but staff was relying upon the current ordinance when evaluating this application; the current ordinance requires a minimum of two parking spaces for a single-family dwelling. Each unit has a two-car garage and parking would be allowed on the driveway approach to the garage, so it would technically be possible to park three to four cars off the street.

Vice Chair Francis stated she may be comfortable with this type of recommendation on a regular street where there is sufficient room for on-street parking, but the streets in this project are so narrow and on-street parking will cause problems. She feels it is necessary to mitigate that issue for this project. Steve Burton agreed, but noted that the streets in the project area are private street and there should not be a great deal of public traffic. He stated it would be necessary to have a clear understanding of any parking issues that presently exist in the project and at this point it may be difficult to document those issue since STRs currently are not operated in the project area. Vice Chair Francis stated that she is aware there is at least one STR property in the project area.

Chair Lewis then stated that when this project was assembled several years ago, the theme was rustic and rural; however, it has changed ownership several times and the plans for the project have been modified, which has left it with a 'hodge-podge' of different themes and color palettes. He stated that transitioning to modern architecture and stark-white color palates will cause further disconnection and he does not feel the new homes will blend with their surroundings. Additionally, there are no other homes in the area that are taller than 35 feet and he would strongly recommend that the increased building height not exceed 35 feet in this project. He stated he supports conditional approval of the application, restricting building heights to 35 feet, maintaining the mountain rustic and craftsman themes, and avoiding the white color palate in favor of continuing earth tones or

mountain rustic tones. He then noted he is not sure that the County can restrict STRs in the project area since the use has been allowed in surrounding areas. Given that the project is private and is managed by a homeowner's association (HOA), the on-street parking issue should be addressed by the HOA.

Commissioner Howell inquired as to the total number of STRs in the project area. Steve Burton stated Vice Chair Francis indicated there is one STR in the project.

Commissioner Waldrip asked if the only requested deviations from the approved plan for this project relate to building height and building color/design. Steve Burton stated the applicant has also requested an amendment that would eliminate the requirement for a floor plan to be submitted to the County for approval.

Chair Lewis invited public input.

John Bingham, 3483 Willowbrook Lane, stated he is aware of at least two homes in the project that are STRs; one of the homes was reported to have as many as 15 people staying at the home and three boats parked on the street. He stated that may not be problematic when there are just one or two STRs in the project, but if all units can be used as STRs, on-street parking will absolutely become an issue. He also referenced Steve Burton's comment that cars could be parked on the driveway approach for the garages and indicated he does not think the driveways are deep enough to accommodate vehicles, especially longer vehicles. He suggested the County review the setbacks and lengths of the driveways before relying upon the presence of driveways to accommodate off-street parking. He suggested that the Commission consider an additional condition of approval that the applicant be required to provide additional parking areas within the project to accommodate the potential for an increase in STRs. He noted he believes those operating a STR in the project area are unaware that they need a business license for that use.

Miranda Menzies, 3807 North Elkridge Trail, stated her concern is twofold; the project is essentially the gateway to the Wolf Creek Resort and, therefore, has the potential to impact the property values of all properties within the resort. If this development appears to be one of pandemonium, it will impact surrounding properties. She stated the amendment of the regulation for how a building height would be measured resulted in opportunities for actual building heights to be 40 feet, based upon an average building height of 35 feet. She asked that the Commission consider a true 35-foot building height for homes in this project. She also asked them to consider the impact that operating a large number of STRs in the project area will have on the safety of the rest of the residents; the narrow road width coupled with on-street parking will impact safety of other residents and make it difficult for public safety apparatus to access homes.

Ray Bertoldi, 4828 E. 3650 N., stated he lives just above this development and he echoed the comments made by Ms. Menzies regarding the need to keep the building height at or lower than 35 feet as taller buildings would not be harmonious with the area. He stated he can look out his window at the homes that have already been built and he has concerns about the white color scheme, bright lighting, and building heights; he is concerned that those issues will worsen based upon this new proposal. He stated he is also concerned about the traffic and on-street parking; when a vehicle is parked on the street, there is only one lane of traffic available for motorists. He noted that STRs are not allowed in the Patio Springs project, but the subject property is directly adjacent to Patio Springs and it would be problematic for STRs to be allowed there. He emphasized his concerns about an increase in traffic and how that will impact the safety of current residents. He reiterated Ms. Menzies comments that this project is the gateway to Wolf Creel and the County needs to be sensitive to the impact the project will have on other properties.

There was no additional public input.

Vice Chair Francis asked if it is possible to impose a condition requiring the applicant to eliminate a few building lots in order to build community parking areas on the site in order to address the concerns about on-street parking and increased traffic associated with STRs. Steve Burton stated that staff does not feel it is reasonable for the Commission to impose that restriction; it would be necessary to first prove an actual detriment associated with the parking scenario. However, the County can prohibit on-street parking and this would become an enforcement issue. If the prohibition is not observed, the CUP could be revoked for STRs. Planning Director Grover noted the Commission could require that the driveways are long enough to accommodate parking of vehicles in front of the two-car garages; if that is not possible, units not meeting that condition could not be used as STR properties. Steve Burton agreed and noted that would require a finding that four parking spaces are needed for STR properties; this would include the two parking spaces in the garage and the two in the driveway approach. Commissioner Lackey noted that this condition would address parking of typical vehicles, but if a person staying in the STR brings a boat or trailer with them, they will not be able to park in the driveway and their only option would be to park on the street. Chair Lewis inquired as to the road

widths in the project, to which Steve Burton answered 40-feet. Chair Lewis stated that means the park-able surface is 18 feet; he stated that if a boat or truck is parked in the street, it will not be passable by a public safety vehicle. Mr. Grover stated that a finding prohibiting on-street parking should be based upon the need to ensure adequate public safety response to emergencies in the project area.

The Commission and staff reviewed an aerial image of the project area, focusing in the road layout in the project and the difficulties that will be created if vehicles are parked on the street. Chair Lewis stated he does not believe this project was ever conceived as being open to nightly rentals, especially since it is located in a single-family area. The Commission is being asked to amend the CUP for the project and the Commission is not required to grant that request; he does not believe building heights should exceed 35 feet, the color palate/building themes should not be changed, and STRs should not be allowed as the project was not designed for that use. Steve Burton noted the Planning Commission is acting as a recommending body to the County Commission. Chair Lewis suggested that the Commission's recommendation be subject to the conditions he noted above.

Commissioner Waldrip asked if the County can require for signage to be installed in the project area to notify visitors that on-street parking is not allowed. Mr. Grover stated that signage can be required for safety purposes; if the Commission feels that on-street parking associated with the STRs creates a life-safety issue, they can recommend denial of the CUP. However, if they feel that conditions can be imposed that will mitigate these concerns, such conditions of approval can be recommended to the County Commission. Commissioner Waldrip stated that there are many STRs in close proximity to the subject property and allowing more STRs is not necessarily the issue; the issue is that the STRs will create an increase in on-street parking, which impacts safety of the entire area. He feels on-street parking can be prohibited, but that will be difficult to enforce without appropriate signage. Chair Lewis disagreed; most people will not obey a sign, particularly when they are just a visitor to the area. He added that property owners in the project area know they are not allowed to operate a STR in the project area, but they are still doing it. Visitors to those STRs should also know they should not be parking on the lawn of the home they are staying in, but they are still doing that as well.

Commissioner Burton asked if there are areas set aside for guest parking in the area. Steve Burton answered yes and identified those areas on the aerial image of the project.

Chair Lewis asked if the original declarant for the project is still intact or if the HOA is now being managed by actual homeowners in the project area. Steve Burton stated the latter is the case.

Commissioner Howell moved to recommend approval of CUP 2021-06, request for approval of a conditional use permit amendment to amend the house types for single family lots within the Village at Wolf Creek Development, based on the findings and subject to the conditions listed in the staff report, and based on the following additional conditions:

- Prior design standards, including earth tone color scheme and housing types, remain in effect.
- Requiring four off-street parking spaces per unit, two in the garage and two on the driveway;
- Prohibiting on-street parking for safety purposes;
- STR approval applies only to the lots in this petition; and

Commissioner Waldrip seconded the motion.

Chair Lewis stated he does not feel allowing nightly rentals in the project area is appropriate; many people visiting the area will bring a boat with them in the summer or snowmobiles in the winter, and they will need to park on the street. Additionally, he feels strongly that the previously approved building theme should be observed in the project, and that building heights should not exceed 35 feet. Vice Chair Francis, Commissioner Burton, and Commissioner Lackey agreed. Commissioner Burton referenced the small notches for visitor parking in the roadway on the original plan; he asked if there is any mechanism in the original approval of the project that requires on-street parking to occur in those notches. Chair Lewis stated that was likely part of the original approval to require 1.75 parking spaces per unit. Commissioner Burton asked if the HOA can eliminate those parking spaces and prohibit on-street parking. Mr. Grover stated those visitor parking areas are shown on the approved site plan and the HOA must observe that plan unless it is appropriately amended. There is also a trail required as part of the open space requirements for the project. Commissioner Burton asked how the County can prohibit on-street parking if the developer is required to include the parking notches on the street. Mr. Grover stated that parking could be allowed in the pull-out areas, but not on the side of the road. Commissioner Burton stated that the County can restrict parking in the private right-of-way if it is associated with a STR; however, if an actual homeowner wants to park on the street, he does not believe the County can prohibit that. Commissioner Burton asked if the HOA can prohibit that, to which Steve Burton answered yes. Commissioner Burton asked if the Fire Marshall

has provided a recommendation regarding on-street parking. Steve Burton answered yes; the Fire Marshall has reviewed the project and did not identify any issues.

Chair Lewis called for a vote on the current motion; Commissioner Lewis, Francis, Burton, Hogge, Howell, and Lackey all voted nay. (Motion failed 6-0)

Commissioner Lackey stated he supports the idea of requiring signage in the project area prohibiting on-street parking. Chair Lewis asked if signage should be required for residents and STR visitors alike. Commissioner Lackey stated that if the prohibition of on-street parking is truly based on safety, it should be required regardless of the person parking on the street. Chair Lewis stated it may be somewhat onerous to prohibit on-street parking for actual residents of the development and that is likely something that should be addressed by the HOA. Commissioner Lackey agreed and suggested that signage be required if STRs are going to be allowed.

Commissioner Howell asked if the Commission can prohibit STRs at a property where four off-street parking spaces cannot be provided. Chair Lewis stated that is possible, but he is concerned about visitors to a STR property arriving with a trailer because they were not aware of or did not observe the on-street parking prohibition.

Vice Chair Francis made a motion regarding CUP 2021-06, request for approval of a conditional use permit amendment to amend the house types for single family lots within the Village at Wolf Creek Development; she moved to approve the request to change the architecture of homes to be built in the project, deny the request to change the color scheme of the project and uphold the earth tone color scheme, deny the request for STRs in the project based on the use creating a life-safety issue.

Chair Lewis stated the Commission needs to either deny the application or approve it with conditions. Vice Chair Francis stated she actually wishes to deny the application outright.

Vice Chair Francis amended her motion; she moved to deny CUP 2021-06, request for approval of a conditional use permit amendment to amend the house types for single family lots within the Village at Wolf Creek Development. The motion died for lack of a second.

Chair Lewis stated it is his suggestion that the Commission recommend approval of the application subject to limiting building heights to 35 feet, using earth tones rather than a white color scheme, allowing mountain rustic and craftsman building styles, but not mountain modern, and denying the STR use. Legal Counsel Erickson stated that STRs are a conditional permitted use in the zone and denial of the use must be based on a finding as specified in the County Code as follows: "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." He stated that a motion to deny must clearly include language that there are findings that detrimental effects cannot be substantially mitigated. Chair Lewis stated the reason he feels that the detrimental effects associated with STRs cannot be substantially mitigated are that there will be on-street parking and that is not reasonable on such a narrow road. Unless someone can tell him how to mitigate a very narrow road, he does not believe STRs can be approved.

Commissioner Waldrip moved to recommend approval of CUP 2021-06, request for approval of a conditional use permit amendment to amend the house types for single family lots within the Village at Wolf Creek Development, based on the findings and subject to the conditions listed in the staff report, and based on the following additional conditions:

- Average building height cannot exceed 35-feet;
- Proposed house types approved, with the exception of mountain modern;
- Colors used in the CUP area do not allow for white exterior coloring;
- STRs are not approved based on the finding that the narrow streets in the project cannot accommodate on-street parking, which is likely guaranteed if nightly rentals are allowed. This detrimental effect is impossible to mitigate, and it is not possible to ensure adequate travel lanes for emergency vehicles when on-street parking occurs.

Chair Lewis asked for a friendly amendment to limit the color palate for the project to earth tones, specifically excluding white. Commissioner Waldrip accepted the friendly amendment.

Commissioner Burton seconded the motion. Commissioner Lewis, Francis, Burton, Hogge, Howell, and Lackey all voted aye. (Motion carried 6-0)

Chair Lewis stated this was a difficult issue and the Planning Commission does not enjoy denying applications, but he feels the denial is based on preserving the safety of the surrounding neighbors and upholding previous approvals that govern the appearance of the project. Commissioner Lackey added that another thing for staff to consider when looking at development applications similar to this one is that owners of this type of home that will be used for a STR typically store their belongings in the garage and do not give renters access to that space; therefore, there are not actually two usable parking spaces in the garage. Commissioner Burton agreed that is typically the case; if there were a condition of approval requiring access to the garage for parking, the owners would not be able to do that. Chair Lewis added he would have voted for nightly rentals in the project area if the streets were not so narrow.

**2.2 CUP2021-03: Request for approval of a conditional use permit for short term rental use within an existing dwelling located at 3571 N Lakeview Court #76, Eden, UT, 84310 in the FR-3 zone. Staff Presenter: Tammy Aydelotte; Applicant: Collin Stevens; &**

**2.3 CUP2021-01: Request for approval of a conditional use permit for short term rental use within an existing dwelling located at 3563 N Creekside Way, Eden, UT, 84310 in the FR-3 zone. Staff Presenter: Tammy Aydelotte; Applicant: Christan Mannion**

Planner Aydelotte reported the applicant for application CUP2021-03 is requesting approval of a conditional use permit for short term use in a residential dwelling located in the FR3 zone at 3571 N Lakeview Court, #76, in Eden. The FR-3 Zone allows a “nightly rental” as a conditional use. The proposed use will occur within an existing dwelling. As such, there is no design review required. There is ample guest parking along Wolf Creek Drive. The application is being processed for an administrative review due to the approval procedures in Uniform Land Use Code of Weber County, Utah (LUC) §108-1-2 which requires the planning commission to review and approve applications for conditional use permits. Staff recommends approval of this conditional use application subject to the applicant meeting the conditions of approval in this staff report and any other conditions required by the Planning Commission. This recommendation is subject to all review agencies and is based on the following conditions:

- A business license shall be obtained prior to issuance of this conditional use permit.
- Parking shall occur only in designated areas within the development.

This recommendation is based on the following findings:

- The proposed use is allowed in the FR-3 Zone and meets the appropriate site development standards.
- The criteria for issuance of a conditional use permit have been met because mitigation of reasonably anticipated detrimental effects can be accomplished.

Planner Aydelotte reported the applicant for application CUP2021-01 is requesting approval of a conditional use permit for short term use in a residential dwelling located in the FR3 zone at 3563 Creekside Way, in Eden. The FR-3 Zone allows a “nightly rental” as a conditional use. The proposed use will occur within an existing dwelling. As such, there is no design review required. There is ample guest parking along Wolf Creek Drive. The application is being processed for an administrative review due to the approval procedures in Uniform Land Use Code of Weber County, Utah (LUC) §108-1-2 which requires the planning commission to review and approve applications for conditional use permits. Staff recommends approval of this conditional use application subject to the applicant meeting the conditions of approval in this staff report and any other conditions required by the Planning Commission. This recommendation is subject to all review agencies and is based on the following conditions:

- A business license shall be obtained prior to issuance of this conditional use permit.
- Parking shall occur only in designated areas within the development.

This recommendation is based on the following findings:

- The proposed use is allowed in the FR-3 Zone and meets the appropriate site development standards.
- The criteria for issuance of a conditional use permit have been met because mitigation of reasonably anticipated detrimental effects can be accomplished.

Ms. Aydelotte noted that she has confirmed with the applicants that their garage will be accessible to renters for the purposes of accommodating off-street parking. Vice Chair Francis stated she thought that the homes in this project area only have single car

garages. Ms. Aydelotte stated there are some that have just a single car garage, but the home under application CUP2021-03 has a two-car garage. She noted the home under application 2021-01 is for a home with a single-car garage.

Commissioner Burton asked if the single-car garage units are smaller units, to which Ms. Aydelotte answered yes; she noted all units have four bedrooms, but the units with single-car garages are smaller in terms of square footage.

Chair Lewis invited input from the applicants.

Collin Stevens stated he is the property owner; it is a three-bedroom unit, and the basement can be used as an additional bedroom space. It is 1,770 square feet with a two-car garage. He does own a vehicle in Utah, but when he is not at the property the vehicle is kept in a storage space near the Salt Lake City airport.

Commissioner Burton asked if the basement is built out. Mr. Stevens answered yes; it has a bedroom and bathroom, but appraisers do not count basement dwelling rooms as bedroom spaces. There are three bedrooms on the top floor of the unit. The Fire Marshall has capped the occupancy of the unit at 10 individuals.

Commissioner Howell inquired as the amount of space in front of the garage. Mr. Stevens stated his unit does not have a driveway to accommodate off-street parking. Commissioner Burton asked where renters will park when visiting the property. Mr. Stevens stated they can park in the two-car garage and there are additional first-come, first-serve visitor parking spaces within the development. Ms. Aydelotte stated there are 18 additional guest parking spaces on the site and there are 27 total units in the project. Commissioner Howell asked if some of the units do have parking spaces in front of their garages. Ms. Aydelotte answered yes; some units do have parking spaces, but the subject property does not.

Chair Lewis asked if there is a snow storage plan for the project area. He asked where snow will be placed in the event of a storm that requires snow removal. Ms. Aydelotte stated the site plan does identify a snow storage area, but she is unsure the HOA is observing that plan and preserving the visitor parking spaces during a storm. Chair Lewis stated that similar to the previous application, he is concerned about safety and he is unsure how STRs can be operated in a project with so little visitor parking. Mr. Stevens stated that he does not believe that boat or RV parking is allowed on the site based upon the covenants, conditions, and restrictions (CCRs) for the project; additionally, snow removal was not a problem this winter.

Commissioner Burton asked what kind of parking requirements would be imposed on a hotel. Chair Lewis stated the County Code requires 1.75 parking spaces per unit for this type of project. Commissioner Burton stated he understands that requirement but asked about the parking requirements for each room in hotel project. Ms. Aydelotte stated hotels are required to provide one parking space per two sleeping units.

Mr. Stevens stated the CCRs for the project restrict trucks over  $\frac{3}{4}$  ton, trailers, campers, and boats unless they can be parked and maintained in a garage space. Commissioner Burton asked if there are garages large enough to house boats or trailers. Mr. Stevens stated that for purposes of this discussion, it is important for the Commission to understand that the CCRs clearly state that boats or trailers cannot be parked anywhere on the site and visitors would need to find other accommodations. Commissioner Lackey stated that there are not many types of boats that would fit in the garages in this project area. Mr. Stevens stated there is an active property management company employed by the HOA that enforces the CCRs for the project. Ms. Aydelotte stated staff performed a site visit to this project area and found the only vehicles parked on the roadways were associated with the actual construction of the units.

Chair Lewis asked how many single-car garage units there are in the project. Ms. Aydelotte stated she does not have that information readily available.

Commissioner Burton stated the matter for the Commission to consider is whether operating the units as nightly rentals will impact the overall safety of the area. Legal Counsel Erickson stated that the Commission should consider whether they can impose reasonable conditions that would mitigate safety issues. He stated that compliance with CCRs may mitigate the concerns. Chair Lewis stated the problem is that everyone is aware of how nightly rentals operate; the renters will arrive with multiple vehicles and perhaps recreational vehicles. The County can impose rules, but visitors staying in the area for just a few nights will not observe those rules. He stated that if the project layout were different and could accommodate visitor parking as well as snow storage, or if the roads were wider and could accommodate on-street visitor parking, he may feel differently, but at this point he does not feel that it is possible to mitigate the safety concerns.

Ms. Aydelotte asked if conditions can be imposed or a denial issued based upon an assumption that the conditions or laws will be violated at some point in the future. Mr. Erickson stated that credible evidence must be present to support the conditions that are being imposed. Chair Lewis stated he lives next door to a property that is operated as a STR; the five cars that are parked at the home when it is illegally rented is credible evidence to him. Vice Chair Francis added that those who live in Eden and are familiar with properties that are being offered for nightly rentals can attest to the average number of vehicles associated with each rental.

Chair Lewis invited public input.

Ray Bertoldi stated his observations as he has driven the road that goes by this property nearly every day since he moved to Eden include a number of vehicles parked on the street for just one unit and he feels this problem will only worsen as the project is built out and there are more residents living or renting there. He stated that 18 extra spaces for 27 units is not enough to accommodate STRs. He is also concerned about snow storage; snow is pushed out of the development onto Wolf Lodge Lane because it cannot be stored on-site. There are always vehicles with trailers parked on Wolf Lane Drive; this activity is associated with Wolf Lodge but will only become worse if STRs are allowed in the subject property. Just this morning when he was driving, he had to pull off to the side of the road to avoid a head-on collision that would have been the result of on-street parking. The vehicles that are parked on the site and on the roadway are not just construction vehicles, but they are associate with people living in the neighborhood at present.

John Bingham stated that just two units have been sold and there are two applicants for STRs; there is a possibility that the additional 25 units will apply for STRs in the future. This should not be a first-come, first-serve type of situation; either the development is designed for STRs or it is not and because of the parking at this site, he does not think STRs make sense in this case. There are too many unknowns and he feels the application should be denied until the County can develop standards that apply to STRs across the board and can be enforced.

Miranda Menzies stated she agrees with Mr. Bertoldi's comments and she has had similar experiences associated with the current on-street parking conditions. She stated the staff report indicates there is ample guest parking along Wolf Creek Drive, but she believes that is an error; Wolf Creek Drive is also State Route 158 and if people begin parking along that road, the Utah Department of Transportation (UDOT) will respond and prohibit it. She added that guest parking areas need to be indicated by clear signage and possibly be made available to guests only. She asked if Mr. Bingham's point is valid that STRs should either be allowed or prohibited in the entire area, rather than the County considering applications for single units in the project. She asked how the County could approve one or two applications for a STR but deny future applications. She wondered if approval of these applications would set a precedent for future applications. She also asked if a STR ordinance to be adopted at some point in the future will apply retroactively to properties that are already being operated as a STR, or if those properties will be grandfathered under earlier ordinances or approvals.

There was no additional public input.

Chair Lewis reiterated his feeling that allowing STRs in the project will create unsafe conditions; the design of the project was conceived long before the idea of allowing STRs therein and he is not sure how to mitigate the detrimental effects of the application. He noted he does not believe that the County would be required to approve STRs for all units if approval is given for one or two.

Vice Chair Francis added that when the project was initially approved, it was given an exception to allow less parking than is normally recommended for this type of project.

Commissioner Burton stated that while the zoning allows STRs as a conditional use, the developer chose to pursue very small streets and limited parking and those conditions are not conducive to operating a STR.

Commissioner Burton moved to deny CUP2021-03: Request for approval of a conditional use permit for short term rental use within an existing dwelling located at 3571 N Lakeview Court #76, Eden, UT, 84310 in the FR-3 zone, based on the following findings:

The layout of the development is not conducive to the STR rental use as the use would result in an increase in on-street parking.

The CCRs for the HOA do not reasonably address the matter of visitor parking and the presence of trailers and recreational vehicles on the site.

Winter 2020-21 was very mild, but that is not the norm and during a horrible winter, there will not be sufficient snow storage on the site; with a large amount of snow and on-street parking on the site, it would be difficult for emergency vehicles to access the area.

Commissioner Howell seconded the motion. Commissioner Lewis, Francis, Burton, Hogge, Howell, and Lackey all voted aye. (Motion carried 6-0)

**2.4 UVH021621: Consideration and action on a request for preliminary approval of Vista View Subdivision, consisting of four residential lots. Staff Presenter: Felix Lleverino; Applicant: Dean Jensen**

Planner Lleverino reported the applicant is requesting preliminary approval of a four-lot subdivision that fronts directly on 8600 East, and 500 South Streets, which are county public rights-of-way. This 21.01-acre lot is currently vacant farm ground. The north edge of the property falls at a mid-point of a 2,539' block and is an ideal location for an intersection from 8600 East Street. The Land-use Code of Weber County Section 106-2-3 (a) directs the creation of blocks.

“The maximum length of blocks generally shall be 1,300 feet and the minimum length of blocks shall be 500 feet.”

Section 106-1-5 (a) (8) describes key elements of a subdivision design to begin the establishment of roads for future neighborhoods.

This property is not located within a geologic study area but as a precaution, the owner has obtained a Geotechnical Recommendation by CMT Engineering Laboratories that contains earthwork recommendations for the construction of four residential homes. The report includes recommendations for footings and foundations, seismic hazard mitigation, and foundation drainage.

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 AV-3 zone found in LUC §104-6. The following section is a brief analysis of this project against current land use regulations.

General Plan: This proposal conforms with the Ogden Valley General Plan (OVGP) by encouraging low-density development that preserves open space (see page 21 of the OVGP).

Zoning: The property is located in the AV-3 Zone. The purpose of this zone is stated in the LUC §104-6-1. “The purpose of the AV-3 Zone is to designate farm areas, which are likely to undergo a more intensive urban development, to set up guidelines to continue agricultural pursuits, including the keeping of farm animals, and to direct orderly low-density residential development in a continuing rural environment.”

Flood Zone: This parcel is within an area of minimal flood hazard and determined to be outside the 500-year flood level.

Roadway Dedication: The subdivision plat will convey the area to public streets (see exhibit A). The property description extends to the center of the 8600 East and 500 South. According to 106-2-2 (a) “Streets in year-round subdivisions shall be dedicated to the county”.

Culinary Water: One well has been drilled which satisfies 106-4-2 (a)(3) the code requirements to have at least one well permit per development. The section of code also requires that the owner record a covenant that advises the new lot owner that well permits must be obtained, a well must be drilled, the water quality is satisfactory, and that water quantity is sufficient.

Secondary Water: The private well drilled will provide sufficient water for culinary and irrigation water needs.

Sanitary System: The Weber-Morgan Health Department has provided a feasibility letter stating that the site and soil evaluation is complete, and a wastewater disposal system is permissible. The feasibility indicates that lots 1, 3, and 4 qualify for an at-grade wastewater disposal system. Lot 2 qualifies to utilize a Wisconsin Mound or Packed Bed Media system.

Review Agencies: The Weber County Fire District has posted approval of the subdivision request with the caveat that further requirements are applicable at the time of home construction. Weber County Engineering states that all subdivision

improvements planned in the public right-of-way shall be completed to a County standard. The Weber County Surveyors Office has posted reviews that will be addressed by a revised plat. The Planning Division is requesting road dedication for a full 66' or at least 33' for the creation of an intersection at approximately the mid-point of the block (see Exhibit A, dedication plat for Planning Staff's request).

Public Notice: All property owners of record within 500 feet of the subject property received notice by mail.

Staff recommends preliminary approval of Vista View Subdivision, consisting of four lots. The following conditions are included with the Planning Staff's recommendation:

1. The subdivision plan shall meet all Weber County reviewing agency requirements before recording the final Mylar.
2. The owner record a covenant to advise the new lot owner the well permits must be obtained.
3. The owner enters into a deferral agreement for curb, gutter, and sidewalk on 8600 East and 500 South, and a deferral agreement for curb, gutter, sidewalk, and asphalt for area dedicated on the north side of the development.

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

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

Chair Lewis invited input from the applicant.

Jeremy Draper, Reeve and Associates, addressed the information in the staff report regarding block lengths and the need for a future roadway on the north side of the property. As he looked at the feasibility of the roadway in the future, if the road were to continue eastward, there is an existing cul-de-sac that it will encounter within a few hundred feet. The feasibility of the road running further to the east is not high. As the road runs further to the west, there are issues with other property owners. The plot to the north is part of the subdivision already and getting an additional 33 feet for the roadway would be difficult. The applicant will sign deferral agreements for 8600 East for future roadway expansion, but for 500 South, the applicant would like the Commission to consider that they would only want to property to be accessed by 8600 East and they do not want to enter into a deferral agreement for 500 South at this time. The applicant is willing to work with staff to meet all other conditions recommended for the project.

Chair Lewis stated he feels the project is reasonable, but he does believe the County should require the deferral agreement on 500 South to facilitate the future development of a road in that area.

Commissioner Lackey asked if the project will connect to Huntsville City Water for residential water. Mr. Draper stated the plan is for each lot to have its own private well. Chair Lewis stated proof of water has been recorded for one of the lots, which indicates there should be water available for the rest of the project. Commissioner Lackey stated that the drilling report indicates that water is brown or gray from the top to 75 feet below the surface. He noted that Huntsville Water is very close to this project area and he wondered if it would not be better for the residents to connect to that system. Mr. Draper stated he will verify the location of Huntsville City Water infrastructure as he moves through the next steps in the County's approval process.

Commissioner Burton stated that the lots are very large and the frontage along 500 South is 659 feet; that is a lot of expense to put on this property when it is not using that street. He stated he feels that burden is onerous, and he is concerned about dramatically increasing the cost of development for the four homeowners in the project area. He added he feels Mr. Draper raises some good points about the viability of a street that runs east and west; it seems all traffic is running north and south in the area and he does not envision a road running further to the east or west. He asked what is to be gained by requiring the developer to dedicate land for that road. Mr. Lleverino stated that the requirements that staff has recommended are based upon standards in the County Code; the standards are based on good planning practices and intended to provide for the creation of blocks and roadways for future development. He stated the land is very wide open at this point and there is some likelihood that it will continue to develop in the future.

There was brief philosophical discussion and debate regarding the reasonability of requiring the developer to build 500 South; Commissioner Burton stated that a deferral agreement will apply to just four lots, when there are hundreds of other homes on the road and the residents of those homes use the roadway, is unfair.

Commissioner Lackey asked if both culinary and irrigation water will be supplied by wells. Mr. Draper answered yes; those plans will be verified as civil engineering for the project continues. Mr. Jensen added that he has 20 shares of irrigation water for the property; he intends to continue to grow hay on the property around the homes. His children will have the opportunity to build their homes on the property and they will be served by wells. He noted that the entire road improvement deferral cost will lie with him as he is simply subdividing his property for his family.

Chair Lewis invited public input.

Nicole Paulman stated she lives north of the subject property; she is unsure as to the purpose of the roadway that is included in the plan. It is designed to dead end into a field. She stated the area is very rural and there is very little traffic, and she is unsure the 'road to nowhere' is needed.

Chair Lewis stated the County is interested in requiring roads to provide for connectivity as the area develops in the future.

Commissioner Howell moved to approve **UVH021621: Consideration and action on a request for preliminary approval of Vista View Subdivision, consisting of four residential lots, based on the findings and subject to the conditions listed in the staff report.** Commissioner Lackey seconded the motion.

Chair Lewis clarified that the conditions listed in the staff report include a requirement for a deferral agreement for 500 South.

Commissioner Burton stated that he is still concerned with requiring the roadway; further to the west, there is a large amount of wet land area and other private property, the owners of which do not intend to allow the road to continue through. He stated the County will essentially be requiring the dedication of 33 feet, but the other 33 feet needed to accommodate the full right-of-way will not be available. This means that the County will need to maintain the 33 feet of dedicated space and it will not be used. He does not feel it is appropriate at this time. Chair Lewis asked if the area to the north that is to be dedicated for a future roadway will be owned by the County. Mr. Lleverino stated it would be dedicated at the time of recording the final plat; it will be a dedicated easement for future right of way and the area would simply be preserved in the case the County deems a road in that area is appropriate at some point in the future. Chair Lewis stated that means the property owner would continue to maintain the property.

Legal Counsel Erickson stated that the motion stated is to leave the conditions as listed in the staff report, but it is necessary to correct the conditions to explicitly state that the owner is dedicating an easement rather than actually turning property over to the County.

Commissioner Howell amended his motion to clarify that an additional condition of approval is that the property owner shall dedicate an easement needed associated with the future development of a road to the north.

Vice Chair Francis asked how wide the easement will be, to which Mr. Lleverino answered 33 feet.

Commissioner Burton asked if the deferral agreement will be in effect in perpetuity. Mr. Lleverino answered yes. Commissioner Burton stated that means that if the road develops 50 years from now, the owner of the property at that time will need to pay for curb, gutter, sidewalk, and asphalt on 500 South and the street to the north. Mr. Lleverino stated that is correct.

Vice Chair Francis seconded the amended motion.

Chair Lewis called for a vote on the amended motion; Commissioner Lewis, Francis, Howell, Lackey, and Waldrip all voted aye. Commissioners Burton and Hogge voted nay. (Motion carried 5-2)

Commissioner Burton stated he feels the deferral agreement is onerous and improper.

### **3. Public Comment for Items not on the Agenda:**

There were no additional public comments.

**4. Remarks from Planning Commissioners:**

Commissioner Howell commended Chair Lewis on the manner in which he conducts these meetings. Chair Lewis stated that some of these issues are very difficult and he thanked the Commission for their thoughtful consideration of each application and for the valuable input they provide.

**5. Planning Director Report**

Mr. Grover stated that it is difficult to moderate public comments while meetings are being conducted in a virtual manner; he noted that there was an individual present in person for the meeting and he wanted to provide input regarding the last application item on the agenda. He indicated that he had some of the same concerns as the individual who spoke who lived north of the subject property. He stated he simply wanted to get these comments on the record.

**6. Remarks from Legal Counsel**

There were no additional remarks from Legal Counsel.

**WS1: Discussion regarding development proposal on the southwest corner of Old Snowbasin Road and Highway 39.**

Principal Planner Ewert presented the zoning map to identify the subject property; it is currently zoned Commercial Valley Recreation (CVR-1), which allows for commercial activities included in the resort zoning designations as well as up to 21 units per acre of residential development. The applicant is asking to amend the zoning map in a fashion that would reduce the number of units allowed in the project area; staff recommends adjusting the zoning to the FR-3 zone, which would allow residential lots (13). A previous plan approved for the project included several more residential lots as well as a hotel that would be governed by a development agreement.

The applicant, Jeff Allen with CW Group, used the aid of a PowerPoint presentation to provide information about projects completed in the past by his firm; he reiterated the request to rezone the property to reduce the density of the residential development. Lot sizes would be approximately 9,000 square feet and homes are intended to be vacation homes. He presented renderings of the project and elevations/floor plans that would be used in the project.

Mr. Ewert stated that staff has reviewed the application for compliance with the General Plan; they have also considered adjacent land uses and feel it would be appropriate to extend the zone change to other undeveloped properties in close proximity of the subject property. If there are no objections to the application at this time, staff will bring the application before the Commission at a future business meeting for action.

Planning Director Grover noted that staff has visited with representatives of Snow Basin Resort and they were not opposed to the zone change.

Chair Lewis asked if the residents living in the developments surrounding the subject property have been informed of the application. Mr. Ewert stated the applicant has spoken with some other residents as he has been performing his due diligence, but staff has not reached out to residents yet.

Vice Chair Francis stated she is aware of instances in the past where three large trucks have lost their brakes and have driven through the intersection without stopping. Chair Lewis stated that likely occurred at the end of Trappers Loop Road, but his project is on Old Snow Basin Road.

Chair Lewis suggested the applicant reach out to the president of the Homeowner's Association for existing projects in the area to discuss this proposal with them.

Commissioner Hogge referenced applications discussed earlier this evening and asked if this project will be similar to those with a private road and a desire for STRs. Mr. Allen stated that the project will be private and will be managed by a HOA; there will be two car garages and roadways with accommodations for off-street parking. Mr. Ewert stated that the County is working on an ordinance change that will govern private streets and he is hopeful that ordinance will be adopted before final development applications are submitted for this project.

Mr. Ewert stated that seeing no objections to the application, it will be included on a future business meeting for review and/or recommendation to the County Commission.

**Meeting Adjourned: The meeting adjourned at 7:48 p.m.**

**Respectfully Submitted,**

*Cassie Brown*