

## OGDEN VALLEY PLANNING COMMISSION

### MEETING AGENDA

**November 29, 2022**

**Pre-meeting 4:30/Regular Meeting 5:00**

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

1. **Minutes:** August 2, 2022, August 23, 2022
2. **Approval of 2023 Calendar**

#### **Petitions, Applications, and Public Hearings:**

##### **3. Administrative Items:**

**3.1 UVM080922** - Request for a recommendation of final approval of Mountainside Phase 2 PRUD Subdivision, consisting of ten lots in the RE-15 zone, located at approximately 4554 N Seven Bridges Rd, Eden, UT, 84310. **Planner: Tammy Aydelotte**

#### **Petitions, Applications, and Public Hearings:**

##### **4. Legislative Items:**

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

##### **6. Remarks from Planning Commissioners:**

##### **7. Planning Director Report:**

##### **8. Remarks from Legal Counsel**

**Adjourn**

***The regular meeting will be held in person at the Weber County Commission Chambers, in the Weber Center, 1st Floor, 2380 Washington Blvd., Ogden, Utah.***

& Via Zoom Video Conferencing at <https://us02web.zoom.us/j/87243966732> Meeting ID: 872 4396 6732

**A Pre-Meeting will be held at 4:30 p.m.** The agenda for the pre-meeting consists of discussion of the same items listed above, on the agenda for the meeting. No decisions are made in the pre-meeting, but it is an open public meeting.

***In compliance with the Americans with Disabilities Act, persons needing auxiliary services for these meetings should call the Weber County Planning Commission at 801-399-8761***

## Meeting Procedures

### Outline of Meeting Procedures:

- ❖ The Chair will call the meeting to order, read the opening meeting statement, and then introduce the item.
- ❖ The typical order is for consent items, old business, and then any new business.
- ❖ Please respect the right of other participants to see, hear, and fully participate in the proceedings. In this regard, anyone who becomes disruptive, or refuses to follow the outlined procedures, is subject to removal from the meeting.

### Role of Staff:

- ❖ Staff will review the staff report, address the approval criteria, and give a recommendation on the application.
- ❖ The Staff recommendation is based on conformance to the general plan and meeting the ordinance approval criteria.

### Role of the Applicant:

- ❖ The applicant will outline the nature of the request and present supporting evidence.
- ❖ The applicant will address any questions the Planning Commission may have.

### Role of the Planning Commission:

- ❖ To judge applications based upon the ordinance criteria, not emotions.
- ❖ The Planning Commission's decision is based upon making findings consistent with the ordinance criteria.

### Public Comment:

- ❖ The meeting will then be open for either public hearing or comment. Persons in support of and in opposition to the application or item for discussion will provide input and comments.
- ❖ The commission may impose time limits for comment to facilitate the business of the Planning Commission.

### Planning Commission Action:

- ❖ The Chair will then close the agenda item from any further public comments. Staff is asked if they have further comments or recommendations.
- ❖ A Planning Commissioner makes a motion and second, then the Planning Commission deliberates the issue. The Planning Commission may ask questions for further clarification.
- ❖ The Chair then calls for a vote and announces the decision.

## Commenting at Public Meetings and Public Hearings

### Address the Decision Makers:

- ❖ When commenting please step to the podium and state your name and address.
- ❖ Please speak into the microphone as the proceedings are being recorded and will be transcribed to written minutes.
- ❖ All comments must be directed toward the matter at hand.
- ❖ All questions must be directed to the Planning Commission.
- ❖ The Planning Commission is grateful and appreciative when comments are pertinent, well organized, and directed specifically to the matter at hand.

### Speak to the Point:

- ❖ Do your homework. Obtain the criteria upon which the Planning Commission will base their decision. Know the facts. Don't rely on hearsay and rumor.
- ❖ The application is available for review in the Planning Division office.
- ❖ Speak to the criteria outlined in the ordinances.
- ❖ Don't repeat information that has already been given. If you agree with previous comments, then state that you agree with that comment.
- ❖ Support your arguments with relevant facts and figures.
- ❖ Data should never be distorted to suit your argument; credibility and accuracy are important assets.
- ❖ State your position and your recommendations.

### Handouts:

- ❖ Written statements should be accurate and either typed or neatly handwritten with enough copies (10) for the Planning Commission, Staff, and the recorder of the minutes.
- ❖ Handouts and pictures presented as part of the record will be left with the Planning Commission.

### Remember Your Objective:

- ❖ Keep your emotions under control, be polite, and be respectful.
- ❖ It does not do your cause any good to anger, alienate, or antagonize the group you are standing in front of.

Minutes of the Work Session of the Ogden Valley Planning Commission for August 2, 2022. To join the meeting, please navigate to the following weblink at, <https://us02web.zoom.us/j/86965330751>, the time of the meeting, commencing at 5:00 p.m.

**Ogden Valley Planning Commissioners Present:** Trevor Shuman, Chair, Jeff Burton, Dayson Johnson, Jared Montgomery, Don Stefanik, Justin Torman, and Janet Wampler.

**Absent/Excused:** None

**Staff Present:** Charlie Ewert, Principal Planner; Scott Perkes, Planner; Felix Lleverino, Planner; Tammy Aydelotte, Planner; Courtlan Erickson, Legal Counsel; Marta Borchert, Office Specialist.

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

Chair Shuman conducted roll call and indicated Commissioners Johnson, and Montgomery were excused. He welcomed newly appointed Commissioners Stefanik and Wampler and also recognized former Commissioner Shanna Francis and thanked her for her service. He then asked if any member of the Commission has a conflict of interest or ex-parte communications to declare. Commissioner Johnson stated he will recuse himself from participating in discussion and action on the Osprey Ranch item because his company has purchased a lot in that project area. Commissioner Wampler noted there is an item on the work session agenda dealing with Wolf Creek and she will recuse herself from participating in discussion of that item. Commissioner Stefanik stated that he will also recuse himself from discussing and acting on the Osprey Ranch item; before being appointed to the Commission he has participated in many discussions with the applicant and Planning staff regarding the project. Legal Counsel Erickson indicated it may not be necessary for Commissioner Stefanik to recuse himself given that his discussions occurred prior to him being appointed as a member of the Commission. He stated that is largely dependent on the content of those discussions, however. The most important consideration for Commissioners is if they can be impartial in their consideration of any matter before them.

### 1. Approval of Minutes for May 24 and June 7, 2022.

Chair Shuman asked if there are any corrections to be made to the minutes as presented. Commissioner Johnson offered corrections to the section of the May 24 minutes during which he discussed his potential conflict of interest. Chair Shuman declared the minutes approved as amended.

### 2. Vote for new Vice Chair.

Commissioner Torman nominated Commissioner Burton to serve as Vice Chair. Commissioner Johnson seconded the motion. Commissioners Burton, Johnson, Montgomery, Stefanik, Shuman, Torman, and Wampler all voted aye. (Motion carried 7-0).

For the benefit of the two new Commissioners and visitors present, Planning Director Grover provided an explanation of the Planning Commissions role in considering and acting on administrative items and legislative items.

### Petitions, Applications, and Public Hearings:

#### 3. Administrative items:

#### 3.1 UHV042622 – Consideration and action on a request for a positive recommendation from the Planning Commission for final approval of Hidden Brook Estates Subdivision, consisting of 8 lots. Presenter: Felix Lleverino.

Planner Lleverino reported the Commission granted preliminary approval of Hidden Brook Estates with certain conditions as follows:

1. The developer shall obtain and submit a capacity assessment letter from Nordic Mountain Water before receiving a recommendation for final approval from the Planning Commission.
  - Nordic Mountain Water has provided a letter stating that it has sufficient capacity to serve all 8 lots of this subdivision and that the developer has fully paid for water connections to the NMWI system.
2. A development design verification is required because of the geologic hazards present within the site.
  - Exhibit C contains a letter from Christensen Geotechnical verifying that the Hidden Brook site plan follows the recommendations presented in the project geotechnical report.
3. The developer shall show compliance with the secondary water exemption requirements in LUC 106-4-2.1(b)(2)c.

- The developer is required to enter into a restricted-landscape covenant that shall be recorded with the subdivision plat. The covenant shall restrict the removal or addition of living vegetation from the lot unless the owner acquires the secondary water required by this section; and
  - A note shall be placed on the final recorded plat as required in Section 106-1-8.20.
4. The County Engineer inspect the condition of Big Sky Drive road and provide review comments on potential safety issues.
- “Big Sky Drive is a private road and is owned and maintained by a private association. The developer has entered an agreement with the association to assist in the maintenance.” The County Engineering Department placed this comment to clarify that any repairs, maintenance, liability, and responsibility falls on the Big Sky HOA.

The applicant is requesting final approval for an eight-lot subdivision that will gain access from Big Sky Drive, a private road within Big Sky Estates. The private right-of-way is proposed to be 50 feet in width that will provide frontage for eight of the nine lots. The developer has extended 2050 N street to create frontage for all eight lots within the Hidden Brook Development. The subdivision improvements begin at the intersection of 2050 North and Big Sky Drive. be required to construct the Hidden Brook road to a County standard for a private road. The road improvements will extend from the intersection of 2050 North Street and Big Sky Drive to a turnaround area that also stubs to the adjacent property to the east. 2050 North Street will serve as the primary access for residents within the Hidden Creek Development. In an emergency, the residents will have access to an alternate exit through a break-away gate. The fire access road connects with Osprey Ranch and may be used for Hidden Brook residents and Osprey Ranch residents. Where the Hidden Brook Road terminates, Weber County Fire and Engineering will require a turn-around. The Fire District and County Engineer require that the entire length of 2050 North is built to a county standard. 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 and Mr. Lleverino reviewed staff’s analysis of the application. Based upon this analysis, staff recommends that the Planning Commission give a positive recommendation for final approval of Hidden Brook Estates Subdivision, consisting of 8 lots.

1. The final plat is approved by all applicable county review agencies before scheduling for final approval from the County Commission.
2. The civil drawings are approved by the applicable county review agencies.

This recommendation is based upon the following findings:

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

There was brief discussion among the Commission and Mr. Lleverino regarding the implications of the recommended conditions of approval, with a focus on the road, emergency access, and water infrastructure improvements associated with the project.

Chair Shuman invited input from the applicant. Brandon Janis addressed the location of the emergency access on the southern corner of the project, which will exit into Osprey Ranch. Mr. Lleverino indicated Planning staff has requested the access point and would like for it to be maintained year-round. Planning Director Grover stated that condition is listed on page four of the staff report. An additional condition of approval could be that approval of this application is contingent on approval of the Osprey Ranch project. Senior Planner Burton clarified that Planning staff would actually require the emergency access and crash gate regardless of the action taken on the Osprey Ranch project based upon the belief that the Osprey Ranch property will eventually be developed. Mr. Grover stated that the Commission can determine their comfort level regarding that recommended condition of approval.

Chair Shuman asked if the Commission would like to consider a motion to accept public comment.

Legal Counsel Erickson advised public input is not required for this type of administrative item and he discussed pros and cons associated with accepting public input; in general, most comments that will be provided may not have applicability whether the application meets the County’s land use ordinances and general plan and should not have any bearing on the Commission’s consideration and decision. Public input could lead to the Commission making a decision based upon improper factors.

Chair Shuman then called for a vote from the Commission regarding whether they would like to accept public input. Commissioners Burton, Johnson, Montgomery, Stefanik, Shuman, Torman, and Wampler all voted aye. (Motion carried 7-0).

Jan Fulmer stated she lives in Eden, and she is not in favor or opposed to the application, but she asked the Commission to consider the sequenced of development in the area as she is not sure the subject development and the Osprey Ranch development are in sync with one another. She asked that contingency plans be put in place to ensure proper ingress/egress for the residents in the area. She stated that in her neighborhood there is just one access point and residents were forced to turn on sprinklers when a fire was approaching the area.

Scott Bracken used the Zoom chat feature to communicate that it appears the subdivision is being approved with only culinary water though in other areas of the valley, culinary and secondary water access are required prior to issuance of a building permit.

Chair Shuman asked staff to address that comment. Mr. Lleverino stated that in this case, the culinary water district – Nordic Mountain Water – is unable to provide secondary water. The County Land Use Code includes a secondary water exception, and it provides for a subdivision lot that is entirely covered by preexisting native wildlife vegetation and will remain so to be exempt from secondary water requirements. Clearing minimal areas for buildings, driveways, accessory uses is allowed as long as it does not result in the need for outdoor watering. He cited the Code requirements for the information that must be included on the subdivision plat before recording.

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

Commissioner Torman moved to approve UHV042622, final approval of Hidden Brook Estates Subdivision, consisting of 8 lots, based on the findings and subject to the conditions listed in the staff report as well as additional conditions as follows:

3. Dedication language shall be corrected to state that the roads are private, and the County Commission signature block should be corrected to remove the reference to public road dedication.
4. Emergency access is required from North Street to Osprey Ranch.

Commissioner Stefanik seconded the motion.

Commissioner Johnson asked if the approval and requirement for connection will run with the land in the event that ownership of the land or development plans change. Mr. Erickson suggested that the motion language cite connection to the property to the east rather than naming Osprey Ranch specifically.

Commissioner Torman amended his motion to adjust condition of approval number four to require connectivity to future development rather than Osprey Ranch. Commissioner Stefanik seconded the amended motion. Commissioners Burton, Johnson, Montgomery, Stefanik, Shuman, Torman, and Wampler all voted aye. (Motion carried 7-0).

**3.2 UVB040422 – Request for a recommendation of final approval of Bright Acres Subdivision, a four-lot subdivision consisting of 14.06 Acres in the AV-3 zone. Located at approximately 5638 N 3100 E, Liberty, UT, 84310. Presenter Tammy Aydelotte**

Planner Aydelotte explained the applicant is requesting a recommendation of final approval of Bright Acres Subdivision, a single-phase subdivision consisting of four lots, in the AV-3 Zone. The proposed subdivision and lot configuration are in conformance with the applicable zoning and subdivision requirements as required by the Uniform Land Use Code of Weber County (LUC). She briefly referenced preliminary conditions of approval and concluded staff recommends final approval of Bright Acres Subdivision, consisting of four lots located at approximately 5638 N 3100 E, Liberty. This recommendation is subject to all review agency requirements prior to recording of the subdivision, and the following conditions:

1. All improvements shall either be installed or escrowed for prior to appearing on a County Commission agenda for final approval.
2. A 12-foot-wide public trail easement shall be shown on the final plat along the southern boundary of lots 3 and 4, per the approval of the application for AAE2021-10
3. The proposed access shall comply with safety, design, and parcel/lot standards as outlined in LUC, and will be verified prior to issuing certificate of occupancy for the first residence within this subdivision.
4. An alternative access covenant, per the approval for an alternative access dated 10/28/2020, shall be recorded with the final plat.
5. An onsite wastewater disposal covenant shall be recorded with the final plat
6. A private well covenant shall be recorded with the final plat.
7. A covenant, specifying the allowed amount of non-drought tolerant landscaping, shall be recorded with the final plat.

This recommendation is based on the following findings:

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

Chair Shuman invited input from the applicant. The applicant indicated he had nothing to add to Ms. Aydelotte's presentation.

Chair Shuman called for a vote on accepting public input on this application. Commissioners Burton, Johnson, Montgomery, Stefanik, Shuman, Torman, and Wampler all voted aye. (Motion carried 7-0).

Beth Austin asked if Planning Commissioners have received their four hours of annual training required by State Law. Chair Shuman stated that question does not pertain to the application, and he asked Ms. Austin to hold her comment until later in the meeting.

There were no additional persons appearing to be heard.

Commissioner Burton moved to forward a positive recommendation to the County Commission for application UVB040422, final approval of Bright Acres Subdivision, a four-lot subdivision consisting of 14.06 acres in the AV-3 zone, located at approximately 5638 N. 3100 E., Liberty, UT, based on the findings and subject to the conditions listed in the staff report. Commissioner Johnson seconded the motion.

Commissioner Montgomery referenced the requirement for an easement in the project area and asked if water infrastructure will be relocated to the easement. Scott Hale, applicant, indicated that the pipe that serves the area is in a state of disrepair; he has spoken with neighboring property owners and plans to reroute the pipe within the easement once cost sharing agreements with other users can be reached.

Commissioner Johnson asked if the approval and requirement for connection will run with the land in the event that ownership of the land or development plans change. Mr. Erickson suggested that the motion language cite connection to the property to the east rather than naming Osprey Ranch specifically. This led to discussion of the condition of the existing pipe, with Planning Director Grover indicating the Commission can include an additional condition of approval that the applicant work with owners downstream to make sure that pipe issues are resolved. Mr. Hale stated that he has conducted extensive research to determine legal ownership of the pipe and none of the irrigation companies have noted water rights associated with the pipe. Planning staff indicated it is their understanding that the pipe is owned by the Liberty Irrigation Company and abutting property owners are entitled to water within the pipe. Mr. Erickson advised the Commission against overstepping their purview relative to their ability to impose conditions that are not specifically addressed in the County's LUC. Chair Shuman stated that it would be 'silly' for the Commission to recommend approval of development that would result in elimination of a pipe that is relied upon by existing residents. Mr. Erickson agreed but indicated that there are other conditions of approval that address water matters on the site. Commissioner Burton agreed; the applicant is not precluding other property owners' ability to access the water. He is sensitive to the counsel from Mr. Erickson and stated he is comfortable moving forward with action on the application. He restated his motion.

Chair Shuman called for a vote on the motion. Commissioners Burton, Johnson, Montgomery, Stefanik, Shuman, Torman, and Wampler all voted aye. (Motion carried 7-0).

**3.3 UVO111221 – Consideration and action on a request for preliminary approval of Osprey Ranch Subdivision Phase 1, a 31-lot subdivision consisting of 283.78 acres, in the FV-3 zone. Located at approximately 1385 N Hwy 158m Eden, UT, 84310. Presenter Tammy Aydelotte.**

Commissioners Johnson and Stefanik recused themselves from participating in discussion and action on this application.

Planner Aydelotte referenced previous actions taken regarding this project, noting the preliminary subdivision plat request consists of 31 lots, ranging in sizes from 3.12 acres to 18.57 acres. Lot widths vary from 100 feet to 1972.35 feet. This proposal consists of 283.78 acres, with two open space parcels totaling 30.20 acres, 1.27 acres of trail area, in Phase 1. Public roads, and paved trails within the dedicated right-of-way, are proposed throughout the development. She discussed staff's analysis of the application to determine compliance with the General Plan and zoning ordinances; she presented the plat to orient the

Commission to lot area, frontage/width and yard regulations, after which she concluded staff recommends preliminary approval of Osprey Ranch Subdivision Phase 1, consisting of 31 lots and two open space parcels. This recommendation for approval is subject to all review agency requirements and is based on the following conditions:

1. A proposed final plat for Phase 1 shall be submitted prior to going before Planning Commission for recommendation of final approval.
2. There are lots within Phase 1 that show an average slope that exceeds 25%. As such, every lot with average slopes that exceed 25% shall either have a buildable area shown on the final plat, or a Geotech study shall be submitted for each of these lots.
3. A Natural Hazard Notice shall be recorded with the plat, and a note on the final plat shall be required which states that the parcel is located within a natural hazard study area.

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 the applicable County ordinances.
3. The proposed subdivision will not be detrimental to the 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.

Chair Shuman invited input from the applicant. John Lewis stated he is very proud of this project, and he hopes that similar projects will be proposed in the future. He stated that the Webb Family was very instrumental in the development of the current proposal, which includes 61 lots in 600 acres. He indicated that he has fought hard against a septic sewer system on the property and millions will be spent to route the sewer to the Wolf Creek area. He feels the development is being done in a very responsible way and, most importantly, the density is half of what it could be according to the zoning of the property.

Commissioner Wampler stated that she is concerned about hazards associated with the slope of the subject property and she asked Mr. Lewis to address that matter. Mr. Lewis stated that rigorous geologic and topography hazard studies have been conducted and the slope issues are being mitigated by the reduction of density and assuring that homes will only be constructed in the areas with much lesser slopes and where the building is safe. Commissioner Wampler asked about landscaping of the steep slopes area; the FV-3 zone calls for natural environment and reduced irrigated areas. Mr. Lewis stated that the plan conforms with and even exceeds those requirements; the covenants, conditions, and regulations (CCRs) for the project indicate that no more than half the footprint of a home on a given lot can be covered in sod and drip irrigation must be used for a landscaping that cannot exceed 5,000 square feet. This is intended to promote natural landscaping of the area.

Commissioner Burton asked about proper separation between a dwelling and wooded areas to ensure proper fire protection. Mr. Lewis stated that the setbacks are appropriate and compliant with directives from the Fire Marshall. Xeriscaping between a home and wooded areas can serve as fire protection.

Chair Shuman asked about the ingress/egress of the subject property and connectivity to Big Sky Drive; existing residents are concerned about that connectivity, and he asked Mr. Lewis to expound on that matter. Mr. Lewis stated that he is trying to respect the wishes of existing residents and he understands their concerns about public roads connecting to the private roads in their subdivision; he will provide proper emergency access roads with crash gates.

Commissioner Burton referenced a rectangular shape in the middle of the plat, and he asked if that property is landlocked. Ms. Aydelotte stated it is not owned by the developer and is not part of this project.

Chair Shuman called for a vote on accepting public input on this application. Commissioners Burton, Johnson, Montgomery, Stefanik, Shuman, Torman, and Wampler all voted aye. (Motion carried 7-0).

Planning Director Grover discussed the Planning Commission's purview on this type of application.

Elizabeth Eswick stated she is a member of the Nordic Mountain Water Board, and she lives in Nordic Valley; speaking for the Board, it is true that the Water Company can provide service to 65 lots, but it is important to clarify those are residential hookups and there will not be any additional water for further development or improvements to include accessory dwellings or other types of units. The Company does not have a mechanism to measure the amount of culinary water that is being used for secondary purposes and she does not want the County to place an expectation on the Board that is not possible to meet; the Company

cannot police the amount of water being used in the development. As a private citizen, she communicated that the property is an 'eyesore' right now and she hopes that the landscaping will be restored in conjunction with this development.

Ron Gleason, Eden, discussed secondary water and restrictions on landscaping of the area; those restrictions are only effective until such time secondary water becomes available, and he asked the applicant to explain what steps, if any, are being taken to obtain secondary water. He also noted that typically culinary water is allocated to two uses: domestic and stock water and he feels that is relevant in this instance because many of the lots are being marketed as 'horse property'. He asked the applicant to address how the CCRs for the project will delineate between those two uses.

Blake Green stated that he represents his family, which owns property adjacent to the proposed development. He identified his family's property on the map of the area and stated that they have a great interest in the manner in which this project will impact their property. He understands that change will occur, but it is important that his family's access to their property be preserved as they plan to continue to run cattle on their land. Looking forward to phase 2 of the project, access will be impacted significantly, and it is also important that his family have the ability to connect to necessary infrastructure in the area. He highlighted the existing access points to the property and the point that he believes to be the natural connection point for sewer. He wants the Commission to be aware of these issues when they are making their decision on this application and future phases of development.

Suzanne Frey stated she appreciates the Commission's thoughtfulness regarding this and other applications; the Ogden Valley has two problems: water and access. She cautioned the Commission against approving additional development that will make accessibility very difficult and that will tax the water resources of the area. Traffic is already very bad, and the County should have a right to put a stop to development that will make it worse and impact the quality of life of residents.

Lee Shooshman asked for clarification regarding secondary water provision to the project; she asked if Nordic Valley's only mechanism for capping culinary water usage is financial rather than an actual mechanism that can be used to control usage. Chair Shuman stated that is a question for the water company. Ms. Shooshman stated that the Commission is being asked to grant preliminary approval of a subdivision with no limits on the amount of water that can be used there. Chair Shuman stated he does not believe that is accurate.

Scott Bracken stated that it appears the Commission has moved from approval of developments in one community to another, but the most important issue is water availability and usage, and it may be up to the Utah Division of Water Rights to make appropriate determinations regarding access to water. Chair Shuman agreed and stated that the County looks for approvals from water companies for that purpose.

Kathy Fronzier referenced a road that is labeled for emergency access only and she asked for clarification on whether it will be used for construction access. She asked if it will be used to maintain the water tank that will be installed above the property. She then stated that as a Nordic Valley Water User, she can speak to the fact that prices are increased as a mechanism for controlling water usage.

There were no additional persons appearing to be heard.

Chair Shuman invited Ms. Aydelotte and the applicant to address the comments that were made.

Shane Dunlevy referenced concerns about using Big Sky as a construction access road; the road will be repaved and gated, and all construction traffic will stay on the highway. In regard to the concerns regarding water, the project is simply a customer of Nordic Valley Water Company, and they must abide by the same rules and regulations as other users; the Company does allow limited irrigation usage and the CCRs for the project will further restrict the usage of water for secondary purposes until a point in the future if/when additional secondary water is available. He discussed other water sources that may be utilized in the future and noted that some properties currently have streams running through them that can accommodate horses and small livestock. There are significant water rights available for the property that can be made available for purchase if someone wants to apply and drill a well for stock water. He then addressed Mr. Green's comments about his family's property; he has been in discussions with them and plans to help them preserve their access or provide new access points in the future with development of phase 2 of the project.

Chair Shuman asked Mr. Grover or Legal Counsel Erickson to discuss the County's role in terms of regulating water usage on various projects. Mr. Grover stated the County will not have any role in monitoring the amount of water being used and that is the responsibility of the Water Company. If any property owner wishes to pursue accessory dwelling units within the project, the County would need to ensure that they have proper water access to do so.

Mr. Dunlevy added that the architectural review committee for the project will also review all landscaping plans to aid in promoting water conservation. He then addressed the comment regarding the increased in development of properties in the Valley; he sympathizes with concerns of existing residents and noted that he fully intends to restore the subject property and improve its appearance to its native state.

Commissioner Burton asked Mr. Grover if a water connection takes into account consumption of the unit it being connected to; he stated that some homes may be occupied by 15 family members while others may be occupied by a married couple. Mr. Grover deferred to Mr. Erickson to summarize the ordinance relating to water quantity. Mr. Erickson stated that the ordinance indicates that each developable lot shall be connected to a system that provides sufficient water quantity, quality, flow, rights/shares, and storage if applicable; the quantity and quality of culinary water shall meet the minimum standards required by the culinary water authority, applicable agency, or applicable service provider. This would be proven through a capacity assessment and written verification from the provider. Commissioner Burton stated that there may be an instance where a retired, elderly couple lives in a single-family home and they desire to build an ADU to house visitors; that type of scenario would likely use much less water than a single-family home with many children. Ms. Aydelotte stated that if someone wishes to construct an ADU, they must submit proof that they have secured additional water and sewer capacity. Or the applicant could submit a letter from the water company indicating there is sufficient capacity for such improvements.

Chair Shuman allowed for additional public input.

Jan Fulmer stated she could not clearly hear what Mr. Grover was saying about water available for the project; she asked if the development is defined as a Planned Residential Unit Development (PRUD) for which future short-term rentals are planned. Mr. Grover answered no.

Nate Carver stated he owns the property adjacent to the Greens and also adjacent to Osprey Ranch and he referenced a right of way on the southeast side of his property that should connect to an access point of some kind; in the past, the intention as for the property to connect to the old West Road and he wondered where his access point will be in the future.

Mr. Dunlevy stated that Mr. Carver's right of way will remain where it has always been; he has a 42.5-foot easement and he identified the area that will be left as open space on the plat, which will include Mr. Carver's right of way. It will provide for connectivity through to the Hidden Brook Subdivision.

There were no additional persons appearing to be heard.

Commissioner Wampler stated that in the training she has received thus far there has been a focus on the Commission's role pertaining to water issues; it is her understanding that those are matters for local water boards to determine and given that the Commission has received information from the water board pertaining to their ability to serve this project, the Commission should be considering whether the application is compliant with the LUC and the General Plan. She stated she understands there are rules and restrictions the Commission must follow for administrative items, and she asked if that is correct. Mr. Grover answered yes and noted that prior to a preliminary approval application being presented to the Planning Commission, planning staff requires the applicant to provide will serve letters from utility providers.

Commissioner Burton moved to grant approval of application UVO111221, preliminary approval of Osprey Ranch Subdivision Phase 1, a 31-lot subdivision consisting of 283.78 acres in the FV-3 zone, located at approximately 1385 N. Highway 158, Eden, based on the findings and subject to the conditions listed in the staff report. Commissioner Montgomery seconded the motion. Commissioners Burton, Montgomery, Shuman, Torman, and Wampler all voted aye. Commissioners Johnson and Stefanik recused themselves. (Motion carried 5-0).

**Petitions, Applications, and Public Hearings:****4. Legislative items:****4.1 ZDA 2022-01, public hearing to consider and take action on a request for approval of the 2<sup>nd</sup> amendment to the Powder Mountain Development Agreement to update concept area maps and to add language allowing staff and Planning Commission to approve minimal changes to area maps. Applicant Rick Everson. Presenter Steve Burton.**

Planner Burton explained the Powder Mountain Resort was rezoned to the DRR-1 zoning on January 13, 2015, and a Zoning Development Agreement was recorded on January 14, 2015. The first amendment to the Development agreement was approved on June 26, 2019, and was recorded on July 12, 2019. On May 5, 2022, the developer submitted a request for approval of the 2<sup>nd</sup> Amended Development Agreement. This proposed amendment has two parts, and no density is proposed to change and no unit count methods are proposed to change. Part one amends the language of the development agreement contract to allow administrative changes to the Area Plans to be approved by the land use authority (A, B, C, D, E, and F). He presented a map illustrating the layout of the plan areas. Part two amends the exhibits within the master plan document. The changes to the exhibits in the master plan begin on page 19 with a proposal to replace the 'overall land use plan'. It should be noted that the proposed changes to the overall land use plan are not major modifications, and only affect areas C and D. The changes include removing specific street locations and replacing a small area of residential to mixed use in area D. Page 20 includes the overall master plan map, which is proposed to be removed from the document. The developer feels that all of the other remaining maps illustrate to the county (and other readers of the master plan) what buildout will look like generally.

There was brief discussion regarding the intention behind removing the map on page 20. Mr. Burton stated there are other maps in the agreement that basically duplicate the map on page 20. Commissioner Johnson stated there is also a key map that references the map on page 20, and he asked if that key map will be removed. Mr. Burton stated that the key map references other maps in the document. He noted that if the Commission wants the overall buildout plan to remain in the agreement, they can direct the applicant accordingly. Chair Shuman stated that the document is only seven years old, and the map was included in the original agreement for a reason, and he cannot understand the purpose of removing the map. Mr. Burton stated that if the Commission feels keeping the map in the document is necessary, staff will support that directive. Rory Murphy, representative of Powder Mountain, stated that he is not opposed to keeping the map on page 20; he was simply seeking some flexibility to consider administrative changes to the area plans. This led to brief high-level discussion among the Commission, Planning staff, and Mr. Murphy regarding the intention behind several of the requested amendments, with Mr. Murphy pointing out that he is not attempting to be non-transparent and is willing to consider any adjustments to currently requested amendments. Chair Shuman stated he is willing to consider amendments to individual maps or pages of the document, but he is not personally willing to remove entire pages/maps.

Mr. Burton then continued his review of the proposed amendments; page 21 includes the existing phase 1 approvals, and the developer is proposing to remove the future lifts and the illustrative background from this exhibit but to keep it in the master plan document. The phase 1 approvals will need to be verified by staff, as this exhibit should have changed from 2015. Page 22 currently contains the 'mid-mountain (area A) slope map & aerial photo' map. The developer is proposing to eliminate this map because it is identical to the map on page 23. Page 23 currently contains the 'mid-mountain master plan' map and is proposed to remain, but to be renamed 'concept development plan -Area A: Mid-mountain'. None of the land uses are proposed to change in this area from the previous approvals. Page 24 currently contains the 'mid-mountain illustrative plan' map which is proposed to be removed from the document. Page 25 currently includes the 'ridge slope map and aerial photo' map which is proposed to be taken out. This map is identical to the map on page 26, with the exception of shaded slopes and aerial imagery. Page 26 currently includes the 'ridge master plan' which shows the general locations of the mixed use and residential uses. Page 26 is proposed to be replaced by the 'concept development plan-Area B: The Ridge' map. The uses and general locations remain the same as before. The same changes are proposed for all remaining areas (C, D, E, and F) in the master plan document. Page 44 currently includes the 'recreation plan' map and is proposed to be replaced with the 'overall land use plan map. The proposed rec map does show the rec elements on a legend. Page 45 currently contains the 'open space with trails plan' map and is proposed to be replaced with an identical map that shows the changed land use (slight) in area D. Mr. Burton summarized the staff analysis; there are two primary benefits with the proposed changes to the master plan and development agreement text. The first is that the proposed changes will eliminate redundancies in the existing master plan document. There are several maps that are similar or identical, creating several unnecessary pages in the document. The second benefit is the flexibility it offers the developer in platting streets and subdivisions. By not indicating exactly what each area will look like at build out, the developer would receive flexibility as development occurs. This flexibility is necessary to the developer because their development market may change over time and may call for slight changes to each development area. The developer's proposed changes to the text of the development agreement would solidify this flexibility and allow the land use authority the ability to approve slight and uncontested changes to

each development area. Before this proposal is presented before the County Commission, language will need to be added to the text, that clarifies the land use authority has the authority to deny any proposed changes that are not determined to be slight and uncontested. The added language will also say that if a proposed change is not approved, the developer may apply for a legislative amendment to the master plan.

In reviewing a proposed development agreement, the Planning Commission and County Commission may consider, but shall not be limited to considering, the following:

1. Public impacts and benefits.
2. Adequacy in the provision of all necessary public infrastructure and services.
3. Appropriateness and adequacy of environmental protection measures.
4. Protection and enhancements of the public health, welfare, and safety, beyond what is provided by the existing land use ordinances.

Staff recommends that the Planning Commission forward a positive recommendation to the County Commission regarding ZDA 2022-01. This recommendation is based on the following findings:

1. The amendment is not detrimental to the public health, safety, or welfare.
2. The proposal will not deteriorate the environment of the general area so as to negatively impact surrounding properties and uses.
3. The agreement was considered by the Legislative Body, in conformance with Chapter 102-6 of the County Land Use Code.

Planning Director Grover referenced the earlier discussion among the Commission and Mr. Murphy regarding the intention behind several of the proposed amendments; he suggested the Commission hold the public hearing and accept public input, after which they can provide direction to staff regarding continued discussion/negotiation between Planning staff and the applicant. Commissioner Burton asked if the Commission could accomplish the intent of the proposed development agreement amendments if they were to leave the maps as they are, fix the conflict between the terms 'master plan' and 'conceptual plan' and adopt the second amendment to the zoning agreement to allow flexibility of approval with the Planning Director. Mr. Grover stated that would be satisfactory, but there are some other maps that the applicant has asked for amendments to. Mr. Burton agreed.

Chair Shuman opened the public hearing.

There were no persons appearing to be heard.

Commissioner Burton moved to close the public hearing. Commissioner Montgomery seconded the motion. Commissioners Burton, Johnson, Montgomery, Stefanik, Shuman, Torman, and Wampler all voted aye. (Motion carried 7-0).

Commissioner Burton asked Planning staff if it would be appropriate to table this item to allow staff to make the adjustments that have been requested and provide an updated recommendation at a future meeting. Mr. Grover answered yes.

Commissioner Burton moved to table action on ZDA2022-01, request for an amendment to the Powder Mountain Development Agreement. Commissioner Torman seconded the motion.

Commissioner Torman asked that Planning staff expedite the work to be done regarding this item in order to get it before the Commission as soon as possible.

Commissioners Burton, Johnson, Montgomery, Stefanik, Shuman, Torman, and Wampler all voted aye. (Motion carried 7-0).

#### **4.2 ZDA 2022-03: A public hearing to consider and take action on a request for approval of the 2<sup>nd</sup> amendment to the Snowbasin Development Agreement, to exempt the Resort from certain provisions of the subdivision ordinance. Applicant is Snowbasin. Presenter Steve Burton**

Planner Burton explained Snowbasin Resort received the Destination Recreation Resort-1 zoning designation in January of 2011. During that process, a master plan and development agreement were approved to outline density rights as well as the timing and location of future development at Snowbasin. On December 14, 2021, the Weber County Commission approved the first

amendment to the Snowbasin Development Agreement. On July 1, 2022, Snowbasin submitted a request to add language to the development agreement, exempting the resort from certain subdivision requirements. Snowbasin is proposing to add language to the development agreement with the County that allows subdivisions to be recorded without installing or bonding for subdivision improvements including water, secondary water, and sewer improvements. The proposal is intended to allow Snowbasin to subdivide land, while infrastructure like water and sewer lines are brought up to the resort. This option would save the resort time, as installing these improvements on the mountain can take several years. The County Commissioners discussed this proposal in a work session earlier this year. A general consensus during that work session was that the county may be comfortable allowing Snowbasin to plat lots and start building without critical infrastructure installed, as long as it was installed before the four-way inspection. When legislative amendments such as development agreements, are proposed, the Planning Commission and County Commission should consider the public benefit to such agreements. Snowbasin was rezoned in 2011 to DRR-1 based on their recreational benefits and future residential and commercial tax benefits to the county. The current proposal is a benefit to the county as it helps the resort begin the development process that will result in the residential and commercial tax benefits. During the subdivision process, the need for improvement to Old Snowbasin road as an emergency egress will be considered. The resort will likely be responsible for improving a portion of Old Snowbasin road. An improvement to Old Snowbasin road would be a public safety benefit to the county if the resort can begin the subdivision process earlier. In reviewing a proposed development agreement, the Planning Commission and County Commission may consider, but shall not be limited to considering, the following:

1. Public impacts and benefits.
2. Adequacy in the provision of all necessary public infrastructure and services.
3. Appropriateness and adequacy of environmental protection measures.
4. Protection and enhancements of the public health, welfare, and safety, beyond what is provided by the existing land use ordinances.

Staff recommends that the Planning Commission forward a positive recommendation to the County Commission regarding ZDA 2022-03. This recommendation is based on the following findings:

1. The amendment is not detrimental to the public health, safety, or welfare.
2. The proposal will not deteriorate the environment of the general area so as to negatively impact surrounding properties and uses.
3. The agreement was considered by the Legislative Body, in conformance with Chapter 102-6 of the County Land Use Code.

Commissioner Torman stated he is concerned about the timing of inspections in conjunction with actual building within the project area; if some building is completed before proper inspections are completed, this could create a life/safety issue, which is concerning. Mr. Burton stated that is a matter to be addressed in future actions to amend LUC regulations relating to timing of inspections and access to utilities.

Chair Shuman invited input from the applicant. Jim Hill, Vice President of Development with Grand America Hotels and Resorts, stated that at this stage there is no lodging at Snow Basin and the first step is to install infrastructure to provide connectivity to utilities. This is quite a significant investment, and he is trying to be prudent and no launch that work until a user of the land is secured. He has been working very closely with Club Med and he anticipates subdividing the land to sell to them and they are very aware of the challenges on the site. The notion would be to build simultaneous with the hotel; adjustments to the development agreement are necessary to allow for that path forward. Commissioner Burton stated the County's current process would require all installation of infrastructure before someone can apply for a building permit; the request of the applicant is to amend their development agreement to allow for infrastructure work and actual building to occur simultaneously. Mr. Hill stated that is correct. However, he and other users will not seek to secure a certificate of occupancy before all required infrastructure improvements are completed. This led to brief discussion regarding any risk involved with completing building improvements before infrastructure improvements are completed; Mr. Grover indicated that some language could be included in the agreement to require any improvements to be removed if a project does not ultimately receive approval or if infrastructure improvements cannot be completed. High level discussion among the Commission and Mr. Murphy continued, with the Commission noting that they are invested in trying to ensure that the same thing that occurred at Powder Mountain does not occur with this development.

Chair Shuman opened the public hearing.

There were no persons appearing to be heard.

Commissioner Burton moved to close the public hearing. Commissioner Stefanik seconded the motion. Commissioners Burton, Johnson, Montgomery, Stefanik, Shuman, Torman, and Wampler all voted aye. (Motion carried 7-0).

Commissioner Burton asked if it is correct that the normal process would be to require an applicant to bond for necessary improvements to a property before subdividing. Mr. Grover stated a developer would be required to put up a financial guarantee for improvements or choose to install the improvements before subdividing. Commissioner Burton stated he understands the reason for this request is that bonding or paying for those improvements in advance of subdividing is going to be very expensive. Mr. Grover stated that is correct.

Commissioner Wampler asked if there is any history of approving an arrangement like this outside of Powder Mountain. Sean Wilkinson, Weber County Community Development Director, stated that the County Commission has expressed some support for the requests from this applicant. However, it is incorrect that if the applicant puts up an escrow, they can start building, because in order to build the infrastructure must be in place. Water and sewer must be available on the site and putting up escrow is only enough to subdivide, but not to build. That is why this amendment is being requested. Chair Shuman stated he is concerned that about the precedent that would be set by approving this adjustment.

Commissioner Johnson asked if Planning Staff is recommending that this matter be forwarded to the County Commission. Mr. Burton stated that staff recognizes that there are very specific details that must be worked out regarding this matter; staff is willing to work with the developer and the County Commission on those issues, but if the Planning Commission wants to be involved, that is acceptable. If the Planning Commission trusts staff and the County Commission enough to work out those details, they can forward a recommendation to the County Commission at this time. Commissioner Burton stated that it is important to put some mechanism in place to prevent something like what occurred at Powder Mountain from occurring here.

Continued philosophical debate centered on the prudence of providing a recommendation to the County Commission at this time and whether a problematic precedent would be set by that action.

Commissioner Burton moved to forward a positive recommendation to the County Commission for application ZDA 2022-03, request for approval of the 2<sup>nd</sup> amendment to the Snowbasin Development Agreement to exempt the resort from certain provisions of the subdivision ordinance, based on the findings listed in the staff report, and based upon the additional findings that there is benefit to the County as it helps the resort begin the development process that will result in residential and commercial tax benefits being accelerated and that public safety will be enhanced if Old Snow Basin Road can be brought up to standards sooner rather than later. Staff is encouraged to work with the developer to address risks of performing building improvements without all required approvals. Commissioner Montgomery seconded the motion. Commissioners Burton, Johnson, Montgomery, Stefanik, and Torman voted aye. Commissioners Shuman and Wampler voted nay. (Motion carried 5-0).

Commissioners Torman, Montgomery, and Johnson indicated they trust staff and the County Commission to work out the details of this matter to ensure responsibility in development. Commissioner Burton stated the same explanation can be used for the reasoning behind his motion and vote; the Snow Basin resort has and will continue to provide a great benefit to the County, and he would like to facilitate acceleration of the process.

Chair Shuman stated he voted nay out of concern for the precedent set by this action; he believes processes and rules must be followed because they are in place for a reason. Commissioner Wampler stated that is the same reason for her nay vote. She is concerned that the community at large may be concerned about this process adjustment as well.

##### **5. Public comment for items not on the agenda.**

Jan Fulmer, Eden, stated that she is grateful for the volunteerism of the Planning Commission. She reported she has been working with the County's Code Enforcement Officer to continue to address problems with short term rentals; currently there are 1,089 dwelling units in Ogden Valley where short-term rental is allowed and she assumes a majority of them are actively operating. However, there are just 40 active short term rental licenses. She then referenced recent water and sewer studies; she noted there are two distinct differences between the presentations that were provided to the public and the information that was provided to the Commission. One is that drilling new wells is not recommended and the other is the statement that if the County does not wish to lead the efforts to secure more water, they must significantly limit approval of additional improvement in Ogden Valley. That last statement was taken out of the presentation. If no one is going to take the lead in resolving water issues, she asked

how it will be addressed. Consultants were hired to perform these studies and it is concerning that those statements were removed from their public documents. In the Ogden Valley general Plan, the intention behind transfers of development rights (TDRs) was to take development rights from large parcels on the Valley floor and transfer them to development areas. This gave the people that own the large parcels compensation for giving up their development rights. But, in the case of the Snow Basin project, TDRs have not been handled as intended in the General Plan. There are also two ordinances that address bonus development units, but this was never discussed in the development of the Ogden Valley General Plan. She asked that the Commission address these matters because they are problematic. If a new modified ordinance comes up for Commission review, they should ask themselves if the ordinance is enforceable; if the answer is no, the ordinance should not be adopted.

#### **6. Remarks from Planning Commissioners.**

There were no additional remarks from Planning Commissioners.

#### **7. Planning Director Report.**

Mr. Grover addressed the water study; the County Commission is very concerned about some of the emails they have received from the public and they want to be sure that there is discussion between the County Commission and the Planning Commission, and they want to hold a joint meeting on August 23 to discuss the study and the public concerns. The meeting will begin at 3:30 p.m. and there will be one hour dedicated to the water study. He then stated he really appreciated the Commission's deliberation on the items on their agenda tonight, specifically the last item and he thanked them for providing the reasoning behind their votes. He concluded by noting that former Planning Commissioner Howell, who passed recently, will be honored at the August 23 meeting as well. He noted Planner Perkes is leaving his employment with Weber County for a new opportunity in Logan.

#### **8. Remarks from Legal Counsel.**

Mr. Erickson had no additional remarks.

**Meeting Adjourned: The meeting adjourned at 8:52 p.m.**

**Respectfully Submitted,**

\_\_\_\_\_  
**Weber County Planning Commission**

Minutes of the Regular Meeting of the Ogden Valley Planning Commission for August 23, 2022. To join the meeting, please navigate to the following weblink at, <https://us02web.zoom.us/j/84941789461>, the time of the meeting, commencing at 5:00 p.m.

**Ogden Valley Planning Commissioners Present:** Trevor Shuman, Chair, Jeff Burton, Dayson Johnson, Jared Montgomery, Don Stefanik, Justin Torman, and Janet Wampler.

**Absent/Excused:** None

**Staff Present:** Rick Grover, Planning Director; Charlie Ewert, Principal Planner; Steve Burton, Planner; Felix Lleverino, Planner; Tammy Aydelotte, Planner; Courtlan Erickson, Legal Counsel; Marta Borchert, Office Specialist.

- **Pledge of Allegiance**
- **Roll Call:**
- **Tribute to Jack Howell**
- **Thank you to Shanna Francis**

Chair Shuman conducted roll call and indicated all Commissioners were present. He asked if any member had ex parte communications or conflict of interest to declare. Commissioner Wampler stated she will recuse herself from discussing or acting on any item related to Wolf Creek. Commissioner Johnson indicated he will recuse himself from participating in discussion and action on the Osprey Ranch project.

Planning Director Grover introduced a resolution recognizing Jack Howell for his service to Weber County and the Ogden Valley specifically, as a member of the Planning Commission from 2010 until his passing in 2022; he read the proclamation for the record, after which he recognized Mr. Howell's wife and daughters and presented them with a gift commemorating Jack's service. He expressed condolences on behalf of the Planning Staff. Ms. Howell stated that her husband would be so grateful for this recognition; she spoke to his love of his fellow Planning Commissioners, Planning Staff, and for the entire Ogden Valley.

Mr. Grover then stated that Ms. Francis was unable to attend tonight's meeting and her gift will be presented to her at a later date.

### **1. Training.**

Planning Director Grover played a short video training including information from Brent Bateman, State of Utah Property Rights Ombudsman, regarding private property rights and land use planning.

### **Petitions, Applications, and Public Hearings:**

#### **2. Administrative items:**

**2.1 UVO011221 - Consideration and action on a request for preliminary approval of Osprey Ranch Subdivision Phase 1, a 31-lot subdivision consisting of 283.78 acres, in the FV-3 zone. Located at approximately 1385 N Hwy 158m Eden, UT, 84310. Presenter Tammy Aydelotte.**

Commissioner Johnson recused himself from participating in discussion and action on this application.

Planner Aydelotte referenced previous actions taken regarding this project, noting the final subdivision plat request consists of 31 lots, ranging in sizes from 3.12 acres to 18.57 acres. Lot widths vary from 100 feet to 1972.35 feet. This proposal consists of 283.78 acres, with two open space parcels totaling 30.20 acres, 1.27 acres of trail area, in Phase 1. Public roads, and paved trails within the dedicated right-of-way, are proposed throughout the development. Preliminary conditions of approval include:

1. A proposed final plat for Phase 1 shall be submitted prior to going before Planning Commission for recommendation of final approval.
2. There are lots within Phase 1 that show an average slope that exceeds 25%. As such, every lot with average slopes that exceed 25% shall either have a buildable area shown on the final plat, or a Geotech study shall be submitted for each of these lots. – See Exhibit A for buildable area shown on lots 5, 6, and 16.
3. A Natural Hazard Notice shall be recorded with the plat, and a note on the final plat shall be required which states that the parcel is located within a natural hazard study area. – See Exhibit A

She discussed staff's analysis of the application to determine compliance with the General Plan and zoning ordinances, after which she concluded staff recommends final approval of Osprey Ranch Subdivision Phase 1, consisting of 31 lots and two open space parcels. This recommendation for approval is subject to all review agency requirements and is based on the following conditions:

1. All improvements shall be installed, escrowed for, or a combination of both, prior to County Commission approval.
2. A Natural Hazard Notice shall be recorded with the plat, and a note on the final plat shall be required which states that the parcel is located within a natural hazard study area.
3. Signature blocks for Nordic Mountain Water and Wolf Creek Water and Sewer be included on the final plat.

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 the applicable County ordinances.
3. The proposed subdivision will not be detrimental to the 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.

Chair Shuman invited public input from the applicant; the applicant indicated he had nothing to add to Ms. Aydelotte's presentation.

Commissioner Burton inquired as to the location of the stub road to the south. Ms. Aydelotte presented the plat to identify the location of the stub road. Chair Shuman also asked her to identify the location of the trailhead, which Ms. Aydelotte also did using the plat.

Commissioner Burton moved to grant approval of application UVO111221, final approval of Osprey Ranch Subdivision Phase 1, consisting of 31 lots and two open space parcels. This proposal also includes dedication of a new County roadway. Approval is based on the findings and subject to the conditions listed in the staff report. Commissioner Torman seconded the motion. Commissioners Burton, Montgomery, Shuman, Stefanik, Torman, and Wampler all voted aye. Commissioner Johnson recused himself. (Motion carried 5-0).

### **Petitions, Applications, and Public Hearings:**

#### **3. Legislative items:**

##### **3.1 ZDA 2022-01, public hearing to consider and take action on a request for approval of the 2<sup>nd</sup> amendment to the Powder Mountain Development Agreement to update concept area maps and to add language allowing staff and Planning Commission to approve minimal changes to area maps. Applicant Rick Everson. Presenter Steve Burton.**

Planner Burton referenced the discussion that took place regarding this application on August 2, 2022; the Planning Commission advised that they did not want to remove maps as requested by the applicant. Staff met with the applicant to work on proposed adjustments to the development agreement document; the developer is no longer proposing any changes to the maps of the master plan document. The developer is proposing the following language to be added to the development agreement to allow administrative changes to the concept and land use maps of the master plan document:

"Weber County shall retain the right to approve or deny more specific/detailed Concept Development Plans for Areas A through F. The concept development plans shall be approved prior to or in conjunction with the first application for site plan or subdivision approval within each development area.

Notwithstanding the foregoing, the Developer and County acknowledge that the Land Use Plans and concept maps in the master plan document (i) are conceptual in nature and may be further refined by the parties, and (ii) that specifics regarding locations of roads, building area and product types (e.g. multi-family, mixed-use, single family, corporate retreats, etc.) may be moved within the areas generally depicted as A through F. Unit density for each Area (A through F) is fixed and may not be transferred between Areas. Concept Development Plans for each Area are expected to evolve and be presented in phases in the context of a more detailed master plan for each Area. County approvals for these Concept Development Plans will be reviewed and considered by the Land Use Authority and may not require amendment of the ZDA or Land Use Plan at the discretion of the Land Use Authority. Any proposed changes that the Land Use Authority deems are not slight and inconsequential shall be submitted by Developer in the form of a zoning development agreement application and shall be reviewed by the legislative body."

Staff has analyzed the request and feels benefit to this proposal is the flexibility it offers the developer in platting streets and subdivisions. By not indicating exactly what each area will look like at build out, the developer would receive flexibility as development occurs. This flexibility is necessary to the developer because their development market may change over time and may call for slight changes to each development area. The developer's proposed changes to the text of the development agreement would solidify this flexibility and allow the land use authority the ability to approve slight and uncontested changes to each development area. In reviewing a proposed development agreement, the Planning Commission and County Commission may consider, but shall not be limited to considering the following:

1. Public impacts and benefits.
2. Adequacy in the provision of all necessary public infrastructure and services.
3. Appropriateness and adequacy of environmental protection measures.
4. Protection and enhancements of the public health, welfare, and safety, beyond what is provided by the existing land use ordinances.

Staff recommends that the Planning Commission forward a positive recommendation to the County Commission regarding ZDA 2022-01. This recommendation is based on the following findings:

1. The amendment is not detrimental to the public health, safety, or welfare.
2. The proposal will not deteriorate the environment of the general area so as to negatively impact surrounding properties and uses.
3. The agreement was considered by the Legislative Body, in conformance with Chapter 102-6 of the County Land Use Code.

Chair Shuman invited input from the applicant. Rory Murphy, representative of Powder Mountain, stated his understanding is that the proposed adjustment to the development agreement would require map changes to come before the Planning Commission, which could then determine if the change can be handled by Planning Staff or if a Planning Commission action is necessary. Chair Shuman stated there are two scenarios that are being considered and the final decision will be made by the County Commission. Planning staff is recommending that the term "Land Use Authority" be changed to "Planning Commission".

Legal Counsel Erickson stated that he has contemplated any requirement for adjustments to the Plan to go through a legislative process if such adjustments are not allowed in the original development agreement. He has made minor edits to the document to address that matter and he cited his changes to the agreement text that was included in Mr. Burton's staff report. The most significant change is in the sentence starting with County approvals and reads: "County approvals for these concept development plans will initially be reviewed and considered by the Land Use Authority. Proposed changes that the Land Use Authority determines are slight and inconsequential, including the details of road locations, building areas, and product types shall not require amendment of the ZDA, and the Land Use Authority is hereby designated as the approving authority for those changes." An additional change indicates that "Any proposed changes that the Land Use Authority deems are not slight and inconsequential shall be submitted by Developer in the form of a zoning development agreement application and shall be reviewed by the Planning Commission and the Legislative Body, following the statutory process for legislative amendments to a development agreement."

There was brief discussion regarding the definition of Land Use Authority, with Mr. Burton noting that the Planning Commission can make a recommendation to the County Commission that the Land Use Authority for these matters should be the Planning Commission.

Commissioner Burton moved to forward a positive recommendation to the County Commission for application ZDA 2022-01, 2<sup>nd</sup> amendment to the Powder Mountain Development Agreement to update concept area maps and to add language allowing staff and Planning Commission to approve minimal changes to area maps, using the language read for the record above by Legal Counsel Erickson and changing "Land Use Authority" to "Planning Commission"; motion is based on the findings and subject to the conditions listed in the staff report. Commissioner Johnson seconded the motion. Commissioners Burton, Johnson, Montgomery, Stefanik, Shuman, Torman, and Wampler all voted aye. (Motion carried 7-0).

### **3.2 ZMA 2022-01: Public hearing to consider a zoning map amendment to rezone property from RE-15, RE-20, FR-3, O-1, F-5, and AV-3 to the Master Planned Development Overlay zone. Applicant is John Lewis. Presenter: Steve Burton.**

Planner Burton explained there are three areas that are proposed to be rezoned to the Master Planned Overlay zone. The developer refers to them as The Exchange, Eagle Crest, and Cobabe Ranch and is proposing to transfer existing density to these areas so that there is no increase in density units. The developer will use their existing entitlements from the wolf creek

development agreement as well as other entitlements outside of the development agreement. The Exchange will include 144 units, Eagle Crest will include 192 units, and Cobabe Ranch will include 101 units. A total unit count of 437. Out of these 437 units, the developer is proposing to transfer 80 units from outside of the Wolf Creek Resort and to include them in the Eagle Crest development plan. These units would come from the Ogden Valley Floor and the developer would not be able to plat these 80 units until they show the units have been successfully transferred in accordance with the land use code. The remainder of the proposed Master Planned Development units (357) come from the developer's existing entitlements. Out of the 357 units, 216 come from the developer's pot of units outlined in the Wolf Creek Resort development agreement (Entry # 2784398). These are known as Wolf Creek Resort entitlements. As part of the rezoning to MPD overlay zoning, the developer will enter into a development agreement with the County that clarifies that the hi-lighted units from E# 2784398 are now part of the MPD overlay and can no longer be developed elsewhere. The agreement will include maps of The Exchange, Eagle Crest, and Cobabe Ranch to show what will be developed.

Chair Shuman invited input from the applicant.

John Lewis approached and stated he looks forward to offering clarification to the Commission and public tonight in order to correct some misinformation that has been spread about this project. He discussed proper stewardship and planning of the village areas of the Ogden Valley. In 2016, the General Plan was adopted and there was a heavy focus on transfer of development rights (TDRs) aimed at preserving rural and open areas by moving density to appropriate/designated areas. Short term rentals are a valuable and positive use in certain neighborhoods, so long as there are appropriate covenants, conditions, and restrictions (CCRs) to regulate them. He then discussed his efforts to meet with homeowners in the area regarding his proposed project; he has adjusted his project plans responsive to feedback he has received from those residents and others in the Valley. He will limit nightly rentals to a three-night minimum and has adjusted the location of units to minimize the impact on adjacent properties/homes. He cited several residents and groups that he met with and worked with them to develop logical solutions to their concerns, namely related to the storage units in the project. He has spent hours with County Planning staff to review his amended development plans and emphasized that he is only shifting density and not increasing density.

Mr. Burton then used the aid of a PowerPoint presentation to summarize staff's analysis of the zoning application; he focused on compliance with the General Plan, which supports TDRs as the primary means of increasing densities in suitable project areas while proportionally decreasing density in other areas. He discussed agreement terms for Eagle Crest, in which the developer has proposed 120 condo units and 72 townhome units for a total of 192 units in this area. This means the developer needs to account for 102 units. The developer is proposing to transfer 22 units from the John Lewis pot of Wolf Creek Resort units and is also proposing to transfer 80 units from the Valley floor to Eagle Crest to be able to account for the 102. With the 90 original Eagle Crest units, the total unit count is 192. Commissioner Montgomery asked if the areas from which the development rights are being transferred must be buildable area. Mr. Burton answered yes and indicated that is the case. He then moved the Cobabe Ranch area; this area consists of 33 single family residential lots between two and three acres in size with 150 feet of frontage. There are also proposed to be 17 four-plex townhomes (68 units) a total of 101 units. He noted 46 units exist from the existing zoning of the property, and 55 are proposed to be transferred from the John Lewis pot of Wolf Creek Resort units. Finally, The Exchange area will be mixed-use area with 144 units proposed. There will be 8 ten-plex buildings and 4 sixteen-plex units. 139 of these units come from the John Lewis pot of Wolf Creek Resort units and 5 units come from adjacent RE-15 zoning owned by John Lewis.

There is an area currently zoned O-1 that cannot, under the master planned overlay zone, be changed to the MPD overlay. This area is shown in red on the exhibit below and the developer will need to move the units and roads entirely outside of the current O-1 zoning. He then discussed architectural design of the project, which is being termed "Mountain Modern"; the developer has provided the following description of mountain modern for Planning Commission consideration:

- Building form has a low maintenance design with sharp, modern edges and a neutral color pallet
- Low pitched metal or flat roofs
- Exposed wooden timbers with wood and stone siding with an emphasis on texture
- Abundance of large windows to take advantage of the natural light and scenic views
- Balconies for indoor/outdoor living
- Low water use, xeriscape landscaping with native plants

He presented images and renderings provided by Mr. Lewis to illustrate the architectural design of the project. The developer is requesting approval of a cluster development; however, the Eagle Crest and Exchange development areas do not include enough pen space to meet the cluster requirements. The Planning Commission and County Commission may allow deviation from the

requirements of the Code if they determine that the developer is implanting a meaningful element from the General Plan. He discussed open space, street configuration, general uses, and short-term rentals. He noted that the Eagle Crest development will prohibit short term rentals. The multi-family and townhome units in the Exchange and Cobabe Ranch development are proposed to have short term rentals permitted. The single family lots in Cobabe Ranch will prohibit short term rentals. Finally, regarding transfer of density, the 80 units that the developer will transfer from outside of the Wolf Creek Resort, the MPD overlay zoning ordinance states that an MPD overlay zone may be designated as a receiving area for transferrable development rights. The developer will be required to show that the right have been successfully transferred and retired from a sending area before they are allowed to plat the first 80 units. In reviewing a proposed development agreement, the Planning Commission and County Commission may consider, but shall not be limited to considering, the following:

1. Public impacts and benefits.
2. Adequacy in the provision of all necessary public infrastructure and services.
3. Appropriateness and adequacy of environmental protection measures.
4. Protection and enhancements of the public health, welfare, and safety, beyond what is provided by the existing land use ordinances.

Staff recommends that the Planning Commission forward a positive recommendation to the County Commission regarding ZMA 2022-01. The recommendation is based on the following condition:

1. The O-1 area be preserved as O-1 and not rezoned to MPD overlay zoning.

This recommendation is based on the following findings:

1. The proposal implements a meaningful element from the general plan, specifically the transfer of density rights and providing important public street connections that allow for pedestrian and vehicle connectivity.
2. The agreement was considered by the Legislative Body, in conformance with Chapter 102-5 of the County Land Use Code.

Chair Shuman asked if this action would essentially extend the overlay zone that was originally approved in the General Plan. Mr. Burton reviewed the General Plan maps with the Commission to identify the subject property to orient them to their relationship to designated Master Planned Development Overlay areas. High level discussion among the Commission and staff centered on current and future street connectivity;

Chair Shuman spoke to his concerns about the TDR action associated with this application; the principle of shifting density is a good one, but it is appropriate to draw a line to regulate the areas that density can be shifted to. Mr. Burton clarified that this application does not take into consideration the creation of a new village. Mr. Lewis added that the type of development he is proposing is reflective of existing development in the area, which is a village. He is trying to build the area as permitted according to zoning, the General Plan, and responsive to the concerns that have been expressed by residents. He stated there are some areas of the project in which he could actually increase the density, but he has chosen not do that because of the feedback he has heard from residents. Commissioner Burton added that there is nothing in the General Plan that suggests a node cannot expand after it is established; as one node expands, others may shrink and based upon his understanding of TDR regulations, Mr. Lewis's proposal conforms to the General Plan. The node will be denser in the center and density will reduce at the outskirts of the development. Commissioner Stefanik stated that is incorrect and he referenced the cluster of townhomes in the Cobabe area that is near less dense land uses. Mr. Lewis stated that is the nature of villages and clustering. Commissioner Stefanik stated there will be a vast increase in density from the Valley Market up the mountain. That is not appropriate in such a rural area of the Valley. This led to philosophical discussion and debate regarding appropriate density for the area, with Commissioner Burton emphasizing that the property owners' rights should be recognized and respected; so long as his proposal is compliant with the General Plan and zoning regulations, it should be permitted. Mr. Burton stated that there is a map in the General Plan that identifies a future village node in the Wolf Creek area and the Cobabe area of Mr. Lewis's plan is actually included in that future planning area. Planning Director Grover indicated that map is contained on page 37 of the Ogden Valley General Plan. Staff does not feel this proposed development will inhibit the future development of the Wolf Creek village node area.

Chair Shuman opened the public hearing.

Kay Hogeland stated she lives in Eden in one of Mr. Lewis's existing developments and she is the president of the Wolf Creek Master Homeowner's Association (HOA). The applicant is not Wolf Creek resort, and the HOA has written a letter of opposition. They were hoping to meet with Mr. Lewis to discuss the concerns they had and in a text message exchange last week, Mr. Lewis indicated that conversation would be a waste of time. Mr. Lewis refuses to be a part of the master CCRs for the Wolf Creek project. Today is the first time she has heard that STRs will not be allowed in the Cobabe area, and she feels that is preferential treatment

for that area of the project. There are already hundreds of STRs in the development and the applicant has approval to build more. Mr. Lewis has indicated that STRs are not a problem so long as they are properly regulated, but she has opposing persuasive information about a STR that is in a HOA; the problem is the lack of enforcement resources on the part of the HOA. The HOA does not feel this is in the best interest of the entire project area. She then stated that she will address the Commission as a private resident, and she asked that they simply choose not to vote on the application this evening. She feels this application is being rushed and that is putting at risk two important values: precedent and the integrity of the planning process. She asked if there has ever been an up zone granted for green belt property because that is exactly what Mr. Lewis is requesting. It should take an extreme reason to up zone an area. She then referenced TDRs and wondered why density is being spread to the outer edges of the property rather than being concentrated in the center. She has heard people to say that the residents should trust the developer, but she feels he is seeking approval of something that benefits him but harms others. The Planning Commission deserves time to resolve the conflicts that have been presented. She understands the application was first filed in January, but it has laid dormant for six months and is now being rushed after a new filing last week. The public is concerned that the applicant was a member of the Commission when the application was first filed; there are three new Commissioners who have never heard anything about this project. She referenced Mr. Lewis's statement that he visited with other residents in the area, but all meetings were private, and many were not invited. She suspects the developer has made promises to those that have now expressed support for his project. The Commission should pay the same courtesy to residents and other stakeholders rather than only for the developer or those that support him. She stated there is no due process violation if the Commission chooses to table this item tonight.

Ken Miller stated he is an Eden resident and an attorney representing homeowners in the Trappers Ridge area; he has presented his findings of facts to Mr. Burton and tonight he will touch on just a few things. First, the applicant is requesting an up zone. With respect to Cobabe Ranch, he is increasing the number of units from 46 to 51. The 82 acre parcel adjacent to Trappers Ridge is zoned for 16 units and the applicant is proposing to build over 80 units. The General Plan indicates additional density will not /be allowed over what is allowed by the zoning for a given property. He has read Mr. Burton's report and he seems to be indicating this is a good use of TDR, but the General Plan does say the transfer of existing development rights is meant to increase density in suitable areas and decrease it in less suitable areas. In this case, the opposite is being done; the applicant wants to transfer rights to a less suitable area for a number of reasons, but one main problem is that it will transfer density from the core to the fringes. The subject property is next to an established neighborhood and the residents there bought into the project based upon their understanding of the development potential of the nearby raw ground. What this project will do is increase the rights of the applicant but dilute the property rights of neighbors and the adjacent parcels. He stated he met personally with Mr. Lewis to discuss the project and he did not want to discuss density; all Mr. Lewis wanted to discuss is how to make the number of units more palatable to existing residents. He briefly addressed architecture and design and Mr. Lewis has indicated they will be identical to what has been developed on the ridge. That is exactly what the area does not want. He then addressed Mr. Burton's comments about connectivity; the type of connectivity being contemplated will create a short cut road to Powder Mountain and that is exactly what people do not want because it will dramatically increase traffic through what has been a quiet neighborhood.

Miranda Menses stated she is the Chair of the Wolf Creek Water and Sewer Improvement District. She noted the figures provided by Mr. Burton and Mr. Lewis are good and well, but they do not take into consideration that there are already approximately 108 units in the area up Highway 158. The most telling statement from Mr. Lewis was that there is no available land in the central core area to place his units. The District owns two acres of land that has been set aside to protect a drinking water source, but on an adjacent property the County has approved an additional 48 units in a project called The Point; this brings the number of STR units to well over 850 in that area. She asked the Commission to consider the impact that 850 rental units can have on that space and then consider that Mr. Lewis's proposal will make the issue worse. The STR issue is very problematic for the entire State; in some areas, STRs are approaching 20 percent of the total housing stock and in the Ogden Valley, it is at least 10 percent in one area alone. It is critical that the County develop a STR ordinance to mitigate the problem; all developers are seeking approval of STRs and until the County can license and enforce the use in a meaningful way, it should be avoided. Existing residents should be able to enjoy their property and their neighborhoods without dealing with nuisances associated with STRs. She then noted she was told that there would never be TDRs in the Wolf Creek area; she realizes that is not exactly what is happening with this development, but since the TDR is occurring on the boundary of the Wolf Creek node, it is essentially the same thing. This is a matter of key concern to the water and sewer service providers as they are concerned about these projects infringing on the rights of existing residents to have access to service.

Ron Gleason stated he lives about 1/3 of a mile from where the Eagle Crest development would be constructed. He does not have problems with the proposal overall, but he is concerned about doing things out of order as far as development in the Valley. He suggested that villages are being created without having a cohesive plan for the area. This is the first time that this zoning

ordinance will be used since its adoption, and he suggested the Commission proceed with caution. He read from the ordinance, section 104-27-5(b), which reads that if a master plan contains over 100 residential units, the County Commission may also approve other uses not allowed in the underlying zone. This means that at some point in the future, it may be possible that the developer will get approval for storage units in the project area. The Commission must consider any potential unintended consequences of approving this application. He added that sub-item c of the same code section addresses STRs, and this is the first time he has seen something in County Code that addresses regulations for STRs, and it is important that the Commission consider whether the proposal meets those regulations. He then addressed the new 4100 North road in Eagle Crest; he feels this is a good opportunity but will be a large change in the area. This road is not included in the transportation plan for the Valley, and he feels that a traffic study must be done to determine the impact of the new road for existing residents and visitors to the area as well. He stated that the architectural design is a copy of the Moose Hollow development; these have large windows that will create a great deal of light in the area.

Barbara Wolf stated she lives in an area abutting the subject property; she agrees with Mr. Lewis that good stewardship is important and that is exactly why the County has a General Plan for the Ogden Valley; in the General Plan, Cobabe is zoned in a particular way that allows for 46 units, not 101. She objects to the road that connects the two properties because it will lead to upwards of 400 cars associated with the townhomes travelling through Trappers Ridge. One might think the connectivity will benefit the area, but it only benefits those traveling to Powder Mountain as the road will be a short cut to them. Other concerns she has relate to inconsistency in the area in terms of land use planning, allowing STRs in certain areas and not others, and the review process regarding this application. The first time this application was discussed was in February and since that time there are new members of the Commission, and it is surely difficult for them to get 'up to speed' on the issues surrounding this area. She suggested the Commission follow the General Plan and allow the 46 units that are already permitted.

Larry Wolf stated he and his wife, Barbara, live in Trappers Ridge. He is also speaking for a neighbor of his who is travelling and was unable to attend this meeting; he wrote a letter, from which Mr. Wolf read for the record:

"I am a full time resident and my family lives in Trappers Ridge; we bought our home two years ago and moved to this location with the knowledge that the Ogden Valley General Plan would preserve the park area and not create a dense city. The up zone the Commission is considering is egregious and not only will it negatively impact the value of our home, it will create a significant change from the open landscape to one of the most densely populated areas of the entire Ogden Valley. Construction trucks are already accessing the site off of Big Horn Parkway and driving through out neighborhood. My family and I are against taking value away from ourselves and our many wonderful neighbors at Trappers Ridge to give it to one developer; when we purchased our forever home, it was with the understanding that both adjacent to as well as the parcels surrounding us were supported by the merits of which the Ogden Valley General Plan was drafted, as well as current zoning. Moving zoning around significantly hurts one group of neighbors while benefitting the developer and their investors. I respectfully submit the decision criteria mandates that the applicant's rezone proposal be denied with respect to Cobabe Ranch. The proposal is clearly not consistent with goals, policies, and objectives of the Ogden Valley General Plan and would have a huge impact on the adjacent Trappers Ridge property owners. Being both a member of the Trappers Ridger HOA and a full-time resident, I plead with you to reconsider allowing for this density increase."

Shawn Healy stated he lives in Eden and is on the Board of the Patio Springs HOA, which is located just south of the Eagle Crest development. One of the things the development diagram implies is the continuation of Patio Springs Drive to drain Eagle Crest. There are other roads in the area, but visitors will be directed to commute through Patio Springs. This will have a significant impact on the existing residents. This action feels fairly hasty, and he asked that Patio Springs Drive not be extended into the Eagle Crest project; there are other opportunities for traveling through and around the area.

Larry Irvine, Nordic Valley, commented on Mr. Lewis's assessment that the 10,000 units projected to built in Ogden Valley 'have to go somewhere'; he has heard this mantra repeated by Mr. Lewis and other planners in Weber County in the past, and it is usually to justify uncomfortable densities and the imposition of TDRs on the area. This number is coming from flawed population projections included in the 2016 General Plan and they have been exposed by the 2020 census data; projections included in the Plan ended up being 50 percent higher than what occurred in the census. In other fields, a 50 percent error would result in projections and subsequent decisions being scrapped. The 10,000 number already includes about 5,300 units already approved, but unbuilt, in the Snow Basin and Powder Mountain areas. The number of actual new units needing placement in the Valley is less than half of the 10,000 number. He stated this should be taken into account in the future as the Commission is considering similar applications.

Denise Trella stated she lives in Fairway Oaks and she is having major issues with water coming from storm drains and culverts into her property and home; she has burnt through three sump pumps and has experienced flooding that is costing her upwards of \$70,000. This project will result in the diversion of more water to her property and even if she performs mitigation efforts now, they will not be sufficient in the future. She has been appealing to the County Engineering Division since last October and has been waiting on storm water mitigation plans and development agreements, but water will start flowing again soon and will not stop until June and she expects her basement will become flooded again.

Debra Mottelmock stated she lives in Eden, and she is also concerned about property rights; she agreed that if someone owns a property, they should be able to do what they want with it, but Mr. Lewis bought the property knowing what it was zoned for, and he helped to develop plans for the area. Those plans should not be changed now.

Kiersten Heely stated she also lives in Patio Springs, and she has three concerns about Eagle Crest. First is the safety of the roads in and around the development; Patio Springs Drive is already very narrow and runs through a densely populated area. It is one of the few year-round residency neighborhoods left in the Valley, but it is surrounded by STRs, and he is concerned about an increase in traffic on narrow streets. She stated she is also concerned about the increase density associated with the TDR action; the transfer should not be going from the resort zone to another area of the Valley. Her thirds issue is related to clustering; she does not see how the current proposal conforms with the General Plan guidelines pertaining to clustering and it does not benefit the area. Placing a large condominium development on stop of quality single-family neighborhoods will be detrimental to the community.

Collin Herrick stated he lives in Eden and is a lifetime resident of the Ogden Valley; one thing he is concerned about relating to large multi-family developments in the Valley is where they will get their water from. There has been discussion about converting agricultural water to culinary water, but this year Eden ran out of agricultural water in August. Second is the light pollution and impact in dark sky areas associated with the amount of light coming from these units. He asked what mechanism will be put in place to ensure that land that is subject to the TDR action will not be developed in the future.

Brandy Hammond asked where the TDRs are being transferred from. She noted that allowing high density near Trappers Ridge is a strong deviation from the General Plan. She owns the mountain luxury lodge that sits west of the proposed core, and she agrees with the applicant's plan to place high density in that area, but there is a driveway that abuts her parking lot, and she would like to know the purpose of that driveway. She has not been able to find a final, adopted TDR ordinance on the County's website and she asked if one has been acted upon formally.

There were no additional persons appearing to be heard.

Commissioner Johnson moved to close the public hearing. Commissioner Montgomery seconded the motion. Commissioners Burton, Johnson, Montgomery, Stefanik, Shuman, Torman, and Wampler all voted aye. (Motion carried 7-0).

Chair Shuman invited Mr. Lewis to respond to any comments made during the public hearing.

Mr. Lewis noted that the reason he did not try to talk to the residents in the Patio Springs neighborhood because that neighborhood does not connect to Eagle Crest. The Patio Springs Road runs through the Fairways project, but Eagle Crest is very clearly cut off from Patio Springs, Fairways, and Eagle Ridge. The only way to access Eagle Crest is 4100, rather than Patio Springs Drive. He then referenced the comment about the 10,000 units identified in the General Plan; that is based upon acreage and zoning and has nothing to do with the census. The General Plan calls for moving some of those units from the Valley floor to more dense village areas. He understands that people currently living in a village area do not want to see growth around them, but that is what has happened over and over again in many areas of the Valley.

Chair Shuman asked Mr. Burton if he had any additional information to provide. Mr. Burton stated that he would typically respond to misinformation provided during the public hearing, but many of the comments made are policy decisions on which staff should not be advising. He added, however, that there were comments about the availability of water or sewer infrastructure to serve the project area; he noted that the County's zoning ordinance does not require an applicant to provide water or sewer feasibility letters at the time of rezone of a property. That is required when a development is being platted. The action before the Commission tonight is a zone change and the Commission should consider whether it complies with the General Plan and zoning ordinances. He added the General Plan does call for TDR actions to areas that are suitable and that is a determination to be made by the Planning Commission and the County Commission; staff felt that the subject properties were suitable for TDR actions. He

then referenced comments about the additional light that will be created by the project; it will be necessary for the applicant to comply with dark sky ordinances before receiving a certificate of occupancy for any unit. He addressed traffic and noted that the Commission can recommend that a traffic study be conducted prior to final approval of this application. He concluded this is a legislative decision and the Commission has discretion in deciding whether to recommend approval or denial. He noted the applicant is not entitled to receive the zone change, but he is entitled to ask for one.

Commissioner Burton asked Mr. Burton to provide an explanation of the difference between the General Plan and a master plan for a project. Mr. Burton stated the General Plan is a document adopted by the legislative body of an entity; the State law mandates the County have a General Plan that guides future development. A master plan is a document that applies to a specific piece of property and is typically proposed with a rezone. The General Plan is general in nature, but upon specific development of a given area or property, a master plan is more appropriate. Commissioner Burton stated the General Plan discusses TDRs, and he asked if that is a presupposition that zoning will change in the future as growth occurs. Mr. Burton stated that is correct and that is why the General Plan references areas to which development rights may be transferred. Commissioner Burton stated that it is important to recognize that zoning of a specific parcel is not static; rather, it is dynamic and can change as one transfers rights to a certain parcel. Mr. Burton stated that is correct; the General Plan anticipates that developers will try to buy development rights from a farmer interested in preserving their farm; those rights can be sent to a village area. It is unfortunate that some may have moved to a home next to raw ground with the expectation that would always be the case, but the General Plan includes information about a property owner's ability to request a zone change and TDR action to that property. Mr. Burton then discussed the process for considering a zone change accompanied by a development agreement; he feels a development agreement will be needed for this project and that will be negotiated if the zone change is approved by the County Commission.

Chair Shuman asked if the applicant would be entities to the STR land use if the zoning application is approved. Mr. Burton stated that he believes it would given that the applicant has offered that information and it was included in the staff report. Legal Counsel Erickson clarified that a motion on the zoning application would need to reference the STR land use if that were the intent of the Commission. Or, if that is a listed condition of approval, the staff memo must be referenced in the motion.

Commissioner Burton asked if the Master Planned Development Overlay Zone has been approved and the zoning ordinance exists. Mr. Burton answered yes. Commissioner Burton asked if STRs are a permitted land use in the zone. Mr. Burton answered yes, if the legislative body allows them. He added that the applicant has indicated the areas in which he feels STRs would be allowed but noted they would be restricted to three-day minimum rentals. Planning Director Grover suggested that be part of a motion as well.

Commissioner Stefanik asked if STRs are typically governed/regulated by CCRs for an HOA. Mr. Burton stated that can be the case, but they are also governed by the County. Mr. Erickson added that Section 104-27-5(c) of the County LUC does provide guidance on STRs and appropriate locations for the use. This led to high level discussion regarding the distribution of STR uses throughout the entire project area included in Mr. Lewis's application.

Mr. Grover discussed the options available to the Commission this evening; if they are not comfortable forwarding a recommendation to the County Commission at this time because they feel they need additional information on specific items, they can table action on the application. Another option would be to forward to the County Commission with recommended conditions of approval in addition to those included in the staff report.

Commissioner Burton stated that according to the LUC section referenced by Mr. Erickson, STRs should not be allowed unless they are determined to advance the General Plan and he is trying to make the justification that the use in this case will advance the General Plan. Mr. Grover stated that is an accurate understanding and it may be appropriate for the Commission to ask for clarity on the STRs.

Commissioner Torman and Montgomery indicated that they also feel that the village boundaries for the area in which the subject property is located need to be finalized before this type of rezone application is acted upon; without boundaries, there is no direction on the manner in which this type of development can expand and still be included in the village. This led to debate of the current state of the village area and whether clear boundaries are needed. Mr. Grover suggested the Commission meet in a work session meeting to focus on the village concept for the Wolf Creek area, STRs, and the other implications of the zoning application. Mr. Lewis stated that he feels a development agreement will address the issues that have raised tonight, and he suggested that all offers he has made regarding concessions in the project be included a motion as conditions of approval. This would 'lock-in' those commitments. He stated he is not opposed to discussing his proposal further in a work session, but he does

not anticipate that much will change on the overall project layout. He has tried very hard to locate density in the most appropriate areas to help preserve and protect open space. He summarized the concessions that he has volunteered., including clustering, no nightly rentals in any area, compliance with dark sky ordinances, no commercial uses/storage units, three-night minimum rentals in the Cobabe area, relocation of the connection road, buffering around the perimeter of the property, emergency crash gate if allowed by the County. This led to philosophical discussion and debate among the Commission and Mr. Lewis regarding the importance of STRs in a resort area, with Commissioner Burton asking Mr. Lewis how he feels STRs will advance the General Plan in the Cobabe area. Mr. Lewis stated that STRs make certain projects more viable, and viability is a consideration of the General Plan. He stated he understands that some STRs create nuisances for a neighborhood, and he is fully supportive of the County's efforts to develop an ordinance that provides for meaningful enforcement of STRs.

The Commission then addressed Mr. Lewis's offer to install a crash gate; Chair Shuman asked why the County would not allow that in this project. Mr. Burton stated the gate would be installed on a private road and a second access is needed in order for the development to be approved. Street connectivity is important and called for in the General Plan. The Engineering Division will provide their input and recommendation in the next step of the development process.

In conclusion, there was a brief focus on the lot sizes in the Cobabe Ranch area.

Commissioner Burton moved to forward a positive recommendation to the County Commission for application ZMA 2022-01, zoning map amendment to rezone property from RE-15, RE-20, FR-3, O-1, F-5, and AV-3 to the Master Planned Development Overlay Zone, based on the findings and subject to the conditions listed in the staff report, as well as subject to the Eagle Crest Agreement terms included on page three of the staff report, which are:

- No storage or commercial zoning.
- No nightly rentals.
- Pushed density away from existing homes.
- No thru traffic with Eagle Ridge.
- Fully night sky compliant.
- Move higher density to north side of Fairways Drive.
- 18 (4-plex) town home buildings.
- 10 (12-plex) condominium buildings.

Additionally, the minimum stay for STRs in the Cobabe area be three days. There is an additional finding that the inclusion of STR land use in the project serves to advance the General Plan as the viability of the resort is enhanced by STRs. Commissioner Montgomery seconded the motion.

Chair Shuman stated that Mr. Lewis indicated that residents and other property owners have written letters of support for this application, and he asked if those were provided. Mr. Lewis stated that he has signed and provided to the County a memorandum of understanding (MOU) that communicates the concessions that have been made in this project. Chair Shuman suggested a friendly amendment to the motion to reference that MOU and the terms therein. He then stated that Mr. Lewis mentioned that he has pushed density away from existing homes by at least 1,000 feet and he asked if the maps included in the staff report sufficiently document that. Mr. Lewis stated that the footage is scaled, and some distances may be slightly less than 1,000 feet, but they are at least 920 feet. Chair Shuman suggested a friendly amendment to clarify that density shall be approximately 1,000 feet from Trappers Ridge and to include reference to the MOU in the motion. Commissioner Burton accepted the friendly amendment. The entire Commission consented to the friendly amendment.

Chair Shuman called for a vote. Commissioners Burton, Montgomery, and Shuman voted aye. Commissioners Stefanik, Torman, and Wampler voted nay. (Tie vote of 3-3).

Mr. Lewis stated that Commissioner Stefanik lives in Trappers Ridge, and he wondered if he should have recused himself from voting. Mr. Erickson stated that would be a decision for the entire Commission to make and he is happy to provide them with his advice if asked by the Chair. The standard rule is that a conflict of interest is having a director substantial financial interest in a proposal or having a family member who has a direct or financial interest, or if a member cannot be impartial. With legislative items, there is more leeway for members to participate and living in a certain area has not prevented participation in the past.

Chair Shuman polled the Commission to determine if they feel Commissioner Stefanik should have recused himself. The majority indicated they did not feel he should have been forced to recuse himself.

Chair Shuman then inquired as to the basis of the application given there was a tie vote on the motion. Mr. Erickson stated a tie is the same as the motion failing.

Commissioner Torman moved to table consideration of ZMA 2022-01, zoning map amendment to rezone property from RE-15, RE-20, FR-3, O-1, F-5, and AV-3 to the Master Planned Development Overlay Zone until the form-based village boundaries for the property area can be established. Commissioner Montgomery seconded the motion.

Commissioner Montgomery inquired as to staff's timeline for working to develop boundaries for that village area. Principal Planner Ewert stated that could take some time and he referenced the amount of time it has taken for formalization of the Nordic Valley village area.

Chair Shuman inquired as to the validity of the plan that identifies a boundary for the village area. Mr. Ewert stated that map is included in the zoning ordinance, and it identifies the existing boundaries of Old and New Town Eden, and generally the Wolf Creek area. The regulating plan has not been adopted yet, which will be handled by ordinance and could take some time.

Commissioner Burton stated he does not understand the concern about the boundary of the village area. Commissioner Torman stated that the General Plan does not clearly define with the village boundaries end; an applicant is proposing to rezone property and there is no clear rule about where increases densities must stop within the village. Commissioner Burton stated that each zone change application should be required to stand on its own merits and the form-based village boundaries should not be needed in order to act on this application. He stated it feels natural to him to allow the zone change because there is still a great deal of work to be done by the applicant and Planning staff through negotiation of a development agreement to regulate the project.

Chair Shuman agreed with Mr. Burton about the impact of waiting for the form-based village boundaries to be established and he suggested a friendly amendment to the motion to remove that requirement; he feels it is an undue burden. Commissioner Torman accepted the friendly amendment and indicated that tabling the application to allow for more discussion an upcoming work session will clear up many of the issues and concerns about the project. The Commission accepted the friendly amendment.

Chair Shuman stated that his feedback for the applicant to consider in advance of the work session includes the impact that transportation improvements/adjustments will have on the existing neighborhoods in the area. He also asked if it is possible to reduce the size of area subject to the zone change so it is not 'so much of an open book'.

Chair Shuman called for a vote. Commissioners Burton, Montgomery, Stefanik, Shuman, Torman, and Wampler voted aye. (Motion carried 6-0).

### **3.3 ZMA 2021-09: A public hearing to consider an application to rezone approximately 510 acres of land to the Form-Based Village Zone, otherwise known as the Form-Based Zone. Applicant is Skyline Mountain Base LLC. Planner: Charlie Ewert.**

Principal Planner Ewert asked that the Commission first hear the presentation from the applicant, after which he will review his staff report.

Eric Langvardt, Skyline Mountain Base, used the aid of a PowerPoint presentation to facilitate a review of the proposed plan for this project. He focused on the public benefit of the project; reviewed the open space master plan – which included the location of public trails and amenities; the overall master plan, architectural precedents that have influenced the design of the project; project improvements and concessions made since the last review of the project; and the meetings that have been held with developers, neighborhoods, service providers, and Planning staff/Planning Commission. He expounded on the overall master plan; the concept plan includes 500 units on 60 acres, which is a very low density overall, but the majority of the residential uses are located in area C to allow for the rest of the area to remain open space. Taller, more dense buildings are located in the center or core of the development, and further out to the edge of the project area, development consists of detached single-family homes adjacent to the one-acre lots on the east side. He anticipates year-round residents will live in the townhomes and detached homes on the perimeter of the project. He then identified the location of mixed use/commercial uses, the resort maintenance facility, day skier and retail parking, the Nordic Ski Center, the environmental purification facility, cross country and summer trails, boat

house and pond, and the outdoor amphitheater. One goal for the project is to make it a year-round resort, and that is the contemplated in many of the amenities included in the concept plan.

Ronda Kippen, Land Planning Consultant for Skyline Mountain Base, then reviewed the history of the zoning of the subject property, dating back to 1971; the resort area doubled in size in the 1970's and zone changes occurred in the 1980's and 1990's to allow for higher density development around the resort area. The General Plan has also changed and evolved in that time and there has been an emphasis on supporting and expanding resort areas. She then noted that the applicant has participated in 70 meetings totaling over 150 hours to review this project with staff and residents since March of 2021; the input provided through these meetings has heavily influenced the project and has resulted in changes to the zoning designation being requested. She concluded the current proposal conforms with the General Plan.

Principal Planner Ewert then reviewed his staff report; he explained the applicant initially requested a Zoning Map Amendment (ZMA) to rezone approximately 510 acres in and around the Nordic Valley ski area from the FV-3, FR-3, CVR-1, and O-1 zones to a DRR-2 zoning classification. The DRR-2 zone does not currently exist so to accommodate the request the applicant further proposed to create one. However, at the request of Planning Division staff, the applicant withdrew their request to create, and be rezoned to, a DRR-2 zoning classification in favor of a rezoning to the newly created Form-Based (FB) Zone. Under this staff-requested scenario, the FB zoning ordinance need to be amended through a Zoning Text Amendment (ZTA) to add specific Nordic Valley area provisions prior to rezoning the property to the FB classification. This zone text amendment was recently adopted on August 16, 2022. Accordingly, this Zoning Map Amendment (ZMA 2021-09) application is being reviewed in accordance with the new provisions of the zone. The objective of this rezone request is to apply the zoning and regulatory framework designed to create cohesive neighborhood areas that are based on form and design themes. Through the Form-Based zoning allowances, the applicant will be able to transfer their development rights off of their land along the upper hillside and down into a village area at the base of the slopes. The memo referenced the applicant's Concept Development Plan and indicated this will result in the preservation of the hillside as open space for outdoor recreation and the preservation of natural landscapes and viewsheds. It is important to note that the proposed development is, in effect, a type of clustered development that focuses the developable footprint into a much smaller area than would otherwise be allowed if developing the land using traditional subdivision regulations. Another method of developing a clustered development on this land would be to utilize the existing cluster subdivision code. While the resulting clustered development derived from the cluster code on this land will indeed utilize a smaller footprint, the proposed rezone and master plan shrinks that footprint even smaller – leading to less effect on the environment, wildlife, drainage, and viewsheds to name a few. Another important point of consideration is that if the applicant utilizes the existing cluster subdivision regulations to develop the land, he is entitled to the exact same number of base density. However, most of the lower-sloped skiable base would need to be used for single-family housing, meaning the ski resort is likely to no longer exist, and less hillside open space could be preserved than in the current proposal. The applicant for this request is two entities, Skyline Mountain Base LLC, and Nordic Valley Land Associates LLC. Each are represented by the same individual, Laurent Jouffray.

Mr. Ewert referred to the current zoning as a 'hodge-podge'; it is a mix of FV-3, FR-3, CVR-1, and O-1. The applicant is seeking approval of the newly created FB zone. He summarized staff's analysis of the application, which focused on a cost benefit analysis; Nordic Valley traffic impact study; water, storm water, and sewer analysis; zoning analysis; street regulation planning; density calculations; General Plan compliance; relationship to adjacent uses; workforce/moderate-income housing elements; traffic and roadway improvements; utilities; creation of a Master Ownership Association; and rezoning approval criteria.

High level discussion among the Commission and Mr. Ewert centered on allowed density in the project area and the amount of workforce housing that will be included; Mr. Ewert concluded many of the details of the buildout of the project will be determined through negotiation of the development agreement for the project so long as the terms are compliant with the zoning ordinance. There would be a deadline on the contract to hold the developer to the commitments they make in the agreement; this preserves legislative authority while also ensuring performance from the other party.

He concluded staff recommends that the Planning Commission forward a positive recommendation to the County Commission regarding File #ZMA 2021-09, a proposal to rezone approximately 510 acres from the FV-3, FR-3, CVR-1, and O-1 zones to the FB and O-1 zones. This recommendation comes with the following requirements to be negotiated and memorialized by means of a development agreement:

Recommended Conditions:

1. The rezone approval should be conditioned on the applicant voluntarily entering into a mutually negotiated development agreement. The agreement should include the conditions below.

2. The development agreement should extend for a period of no more than ten years to allow the applicant time to work through financing and the creation and connection of critical infrastructure required to secure subdivision approval. After 10 years, and unless the county sends the applicant a notice otherwise, allow the agreement to be similarly extended in five-year increments.
3. The development agreement should memorialize no less than 488 development rights (residential dwelling units), and assign them to the areas of the property zoned FB; 483 of them to be permanently assigned to the property being rezoned to the FB zone, and five to remain on the property that will remain in the FV-3 zone (together with a covenant that runs with the land restricting development of it to no greater than five units).
4. The development agreement should make it clear that no dwelling unit rights remain within the area being rezoned to the O-1 zone.
5. The development agreement should make it clear that each application for a subdivision phase should be submitted with a traffic analysis to help determine when the development's impact materially degrades the local street infrastructure's level of service classification, and it should prescribe proportionate share improvements or improvement costs to mitigate the project's contribution to the level of service degradation.
6. The applicant will provide sufficient workforce housing opportunities in the project as follows:
  - a. As buildings are constructed, provide floor area for workforce housing. Five percent, rounded up to the nearest full residential unit, of (and in addition to) the developer's total allowed market-rate residential units should be provided. The floor area should have utilities stubbed.
  - b. Each workforce housing unit should be no less than 300 square feet with a storage space that has dimensions no less than 4'x9'x8' for each unit in addition to the 300 square foot minimum.
  - c. 15,000 square feet of land should be reserved as up-front collateral to provide for or assist in providing for the development's workforce housing obligation. In the event other workforce housing strategies fail to fully materialize, this property will be donated to the Weber Housing Authority for construction of workforce housing or used by the housing authority to generate revenue for workforce housing nearby.
  - d. Prior to the county approving any building permits above and beyond 50 percent of the total allowed market-rate dwelling units, the floor area for at least 25 percent of the required unimproved workforce housing units shall be provided to the Weber Housing Authority.
  - e. Prior to the county approving any building permits above and beyond 75 percent of the total allowed market-rate dwelling units, the floor area for at least 50 percent of the required unimproved workforce housing units shall be provided to the Weber Housing Authority.
  - f. Prior to the county approving any building permits above and beyond 100 percent of the total allowed market-rate dwelling units, the floor area for at least 100 percent of the required unimproved workforce housing units shall be provided to the Weber Housing Authority.
7. The applicant should formulate a quasi-governmental management association or master HOA that serves as a primary point of village organization, operation, and maintenance. The formal tasks and responsibilities of this organization will be negotiated and memorialized through the development agreement.
8. The project should provide trails that are open and accessible to the public, including at least one stub on the northwest part of the property that connects to Forest Service property and one stub to the south to stub to Forest Service Property.
9. A lodge/restaurant should be allowed to be located at the top of a lift in the O-1 zone, which will require specific allowance in the development agreement.
10. If a multifamily building is constructed within 200 feet of the intersection of Viking Drive and Nordic Valley Way, the agreement should stipulate that it cannot be taller than 35 feet.
11. For the purpose of keeping construction traffic from interrupting the residential nature of the adjoining areas, the first improvements to be installed prior to any other construction onsite is a roundabout located at the intersection of Viking Drive and Nordic Valley Way, and a second roundabout on Nordic Valley Drive/Road in front of Parcel 220230125 that has stubs into the project to the south and into the property to the north for future street infrastructure.
12. The developer should be required erect temporary directional and informational signage for construction vehicles that:
  - a. Guide construction traffic to use only Nordic Valley Way for construction access from Highway 162.
  - b. Direct construction access to use the roundabouts to turn around; and
  - c. Prohibits project-related construction traffic from entering adjacent residential areas.
13. The developer should be required to construct two offsite wayfinding signs, as depicted on the Ogden Valley's Wayfinding Signage Plan. Specifically, the one located at approximately 3300 North and Highway 162, and the one located at approximately 3627 North and Highway 162.
14. The open space area and trails plan, as presented in the applicant's submittal, should be required in the same size, location, and general configuration illustrated on the plan.

## Findings:

1. The proposal provides substantial advancement of the Ogden Valley General Plan's goals, principles, and implementation strategies for the Nordic Valley area.
2. The Ogden Valley General Plan provides for the transfer of density rights on this property. The proposal creates no new residential density than already entitled except that which is minimal and necessary to motivate the creation of workforce housing to support the development's activities.
3. The proposed rezone will promote the health, safety, and general welfare of the Weber County by advancing many public interests and returning substantial economic impacts.

Chair Shuman opened the public hearing.

Meg Loomis stated she lives in Nordic Valley, and she is concerned about density, though that seems to be a moot point in tonight's discussion; as far as she is concerned, the 108 units that will be transferred from the face of the mountain are invalid because that area is not buildable land. She understood that TDR actions had to involve buildable property and it seems that requirement is being skirted.

Mike Sorosky stated he lives very close to the subject property, and he is also concerned about the proposal. He is sure the Army Corps of Engineers would not allow building in drainage areas on the property, which means these areas are unbuildable and TDRs should not be permitted. He stated that there have been changes to the plan to appease the residents on Viking Way and upper Nordic Valley Way, but this resulted in the development being moved into his backyard. He would like to see the traffic study for the project; he has reviewed many traffic studies over the course of his career and sometimes they are not worth the paper they are written on. He stated the applicant indicated he has spoken with residents, but he has never been approached. The only person he has spoken with is Mr. Jouffray, who promised to immortalize their conversation in writing, but never delivered. He actually likes some of the things that are included in the project, but he is very passionate about how it will impact his property. Inconsistencies, ambiguity, and discrepancies are very disappointing to him, and they seem to be prevalent each time this project is discussed. He wondered if it would be possible for the Commission to see the development agreement before the zoning application is voted upon. He is bothered by the assessment of the number of residential units that must be built in the Valley and discussion about where those units should be pushed to. He is concerned and curious about the baseline for building heights in the project area; many different heights have been referenced and no one understands what the actual height will be. Finally, most recent plans identify a roundabout and shifting of roads that would result in his road being moved; he would like to know if that is a final concept because it will impact him personally.

Peggy Dillinbaker stated she lives on Nordic Valley Drive, and she discussed zoning of the subject property dating back to 1975; she found a letter from that year about a zoning application for F-1 zoning and change in zoning for the golf course property. The County communicated to her that the zone change for the golf course would be positive for her because that property would remain open space and would not impact her tax rate. Not only was she under the impression that the land would remain open space, so was the County. This has caused her to question the integrity of the County and public trust. Her concern is the same as what was expressed by many during the previous public hearing; they chose to live next to open space with no dwellings and not the rezone will change the property to something on the opposite end of the land use spectrum. This will allow commercial and heavy density and she would like to ask that the developer push the density towards the center of the project and as far as possible from existing residences. She is worried about workforce housing being built with just a five-foot setback from her property; this would be a dramatic change in their lifestyle. She asked that the Commission hold off on voting until some of the concerns can be addressed. The development agreement should be drafted, and determinations should be made about access to water and sewer services before a rezone is approved.

A resident, no name given, asked what constitutes a legal land swap; he stated that the applicant for the previous item was offering flat farm ground for his TDR, but this applicant is trying to swap ski slopes; this should not be considered open space for purposes of swapping. He referenced the 1975 letter cited by Ms. Dillinbaker and stated it is hard for anyone to plan for their future if commitments such as those communicated in that letter are not upheld.

Richard Snyder stated he lives in Nordic Valley and has been involved in planning that area; he and many others consider the entire Valley to be a resource. It is the Planning Commission's responsibility to help steer the development of the Valley for the future. People who are concerned about these issues should seek to be appointed to the Planning Commission. He stated he is

supportive of the project and feels the outcome will be great. Everyone should embrace the people coming to the community to perform good developments in a conscientious manner. If the Valley residents are not careful, they will scare off good developers.

Dan Mabey stated he owns property adjacent to the subject property and he will be impacted by the manner in which the form-based zoning has been crafted. There is a proposed road that will go through his property, which may be very helpful to the community, and he is considering opportunities for joining this development. He supports this effort and feels the developer has been very conscientious. They are trying to concentrate density in the most appropriate areas while preserving open space. He feels the application should be approved.

Bryan Moore stated he lives on Panorama Circle, and he has sent documentation to the Commission regarding public access to open space land; this is very important to many residents, and he asked that something be put into the development agreement to preserve permanent public access to the ski area road, open space, and three trailheads. He wishes to avoid unintended consequences that would impact that public access.

Larry Irvine stated he lives in Nordic Valley; during last week's County Commission meeting several residents spoke against this proposed rezone; one reason that was cited was past misrepresentation of public support for the project. He believes that false narratives have been presented and the public input in the 2016 General Plan process did not anticipate these types of projects or the extensive TDR actions on the mountainside. He stated that Mr. Ewert indicated the goal of TDRs is to take density off the Valley floor, but this application would address hillsides rather than the Valley floor. This project could permanent change the Nordic Valley area and he asked that the Commission not forward a positive recommendation to the County Commission; the developer should be directed to develop a ski resort in a manner that benefits the community.

Bruce Kewsick reiterated the need to preserve public access to open space and trail heads. He referenced a piece of property that is in the project area, but not owned by the developer and he asked if there is any change in the status of that property. He then stated the current permit is for a winter-resort, not a year-round resort and he wondered if the permitting should be changed. He also noted that the traffic study does not consider snow days and that should be adjusted. He applauded the changes that have been made to the application in the south village area.

Eric Von Arx stated he lives on Nordic Valley Drive and has commented several times. He stated this proposal does not comply with the form-based village zone; it destroys open space while the zoning calls for preserving open space. Trading mountain forest, which is non buildable, for one of the most coveted properties in the upper valley is unconscionable. No land is being protected in this project and once it is gone, it is gone. Open space should be preserved and if the project does not comply with the ordinance, the Commission must deny it.

Norm Lowe inquired as to various unit types that will be included in project and the number of people that will live in them; without that information, it is difficult to calculate water and sewer requirements for the project.

Bethe Austin stated her family lives on Nordic Valley Drive, and she does not mind if the Planning Commission ends this meeting now and is allowed to return to their families. She then implored the Commission to either table or reject this proposal. She also suggested the Commission rescind previous approvals because the current version of the plan does not comply with past approvals that have been granted. She then asked if the rezoning to form based zoning will be legally tied village-based proposal or if it will revert to previous zoning if the project does not go forward. She also asked if the development agreement will run with the land if, if not, why not.

Commissioner Montgomery moved to close the public hearing. Commissioner Wampler seconded the motion. Commissioners Burton, Johnson, Montgomery, Stefanik, Shuman, Torman, and Wampler voted aye. (Motion carried 7-0).

Mr. Ewert addressed some comments and questions raised during the public hearing; his staff report includes a condition of approval that preserves public access to open space, but he will further modify that condition and include a provision in the development agreement that allows existing residents to 'ski-in' and ski-out' directly from their own properties. He then provided an explanation for the manner in which building heights are measured; the starting point is from finished grade, but no more than five feet of fill is allowed to ensure people are not falsely propping a building foundation. He addressed a question about the roundabout in the project and noted that it will not impact any private property; however, there are efforts to realign Nordic Valley Way to improve access to summer cabin properties in the area. He addressed the 10,000 building unit number that continues to be referenced; this number is based upon existing entitlements according to current zoning. If these units are not

transferred to areas where higher density is more appropriate, they can be built on the Valley floor and ultimately all open space will be consumed. He then stated that later steps in the process will include determination of the water and sewer infrastructure needed for the project; if the applicant cannot perform on those issues, the project will not go forward, and zoning will revert. The development agreement will run with the land even if ownership changes. He addressed Mr. Keswick's question about the random parcel of land that is not owned by the developer and noted that he is unsure the status of that property, but it is included in the project area. He stated that the average or residents per dwelling units will be used to calculate utility demands, with the understanding that the population of the area will fluctuate depending on the season. He added that the traffic study is a public document and available for review by anyone interested; as development continues, the applicant will be required to perform traffic improvements to address level of service matters.

Commissioner Wampler stated she did not see a condition of an approval for escrow to cover water/sewer treatment facilities. Mr. Ewert stated that the developer is working to address that matter and it will be handled in the development agreement. The applicant is working with the Community and Economic Development Department to create a tax district for new residents of the project to generate revenue to cover the costs of those facilities.

Chair Shuman invited additional input from the applicant.

Laurent Jouffray, applicant's resident, addressed the concept of removing density from a 350-acre parcel of the property in order to ensure that it cannot be built upon in the future. This will serve to preserve that open space, which is valuable to the Valley. He addressed the comments made about the open space preservation of the golf course; only a portion of the golf course will be used, and the rest will remain open space. He feels that the applicant is trying their best to perform a project that will benefit the area. He addressed building heights and noted that all construction will comply with the village-based zoning and the maximum height will be 50 feet. He stated that the applicant did not want to pursue workforce housing, but there was a requirement from the State to include such units and they will be used by hospitality businesses or other users of the resort; if the applicant could eliminate work force housing, they would gladly do so. He stated that there are 60,000 visitors to Nordic Valley each year and it is a family-oriented resort; this is an attempt to improve and expand the resort in a responsible manner and he asked that the Commission forward a positive recommendation for approval of the rezoning application.

Commissioner Burton stated that this seems to be the natural evolution of Nordic Valley; since moving to the Valley, he believes that each of the resorts in the Valley would grow and he feels that the current proposal fits with the goals of the General Plan. He feels the applicant has tried to make accommodations and adjust their plan responsive to the feedback they have received from residents, and he feels comfortable forwarding a recommendation to the County Commission.

Commissioner Wampler echoed the sentiment about the applicant's willingness to work with neighboring property owners; the proposal is very nice, and she likes the idea of improving Nordic Valley. However, her hesitation comes from the fact that the zoning ordinance was voted on just a week ago and the Planning Commission has not yet seen the final text. She would like to table this application until having the opportunity to view that text.

Commissioner Wampler moved to table ZMA 2021-09, an application to rezone approximately 510 acres of land to the Form-Based Village Zone, otherwise known as the Form-Based Zone. Applicant is Skyline Mountain Base LLC. Commissioner Stefanik seconded the motion. Commissioners Stefanik and Wampler voted aye. Commissioners Burton, Johnson, Montgomery, Shuman, and Torman voted nay. (Motion failed 5-0).

Commissioner Burton moved to forward a positive recommendation to the County Commission for application ZMA 2021-09, an application to rezone approximately 510 acres of land to the Form-Based Village Zone, otherwise known as the Form-Based Zone. Applicant is Skyline Mountain Base LLC., based on the findings and subject to the conditions listed in the staff report. Commissioner Montgomery seconded the motion.

Chair Shuman asked if there is anything that can be done to reduce the restrictions on workforce housing. Mr. Ewert stated that the Commission can make adjustments; the staff report simply documents the offerings of the applicant. Commissioner Johnson stated that the applicant's recommendations are based upon their understanding of the ordinance, and he would not recommend adjusting it.

Chair Shuman called for a vote. Commissioners Burton, Johnson, Montgomery, Shuman, and Torman voted aye. Commissioners Stefanik and Wampler voted nay. (Motion carried 5-0).

Commissioner Stefanik stated there are many things he likes about the project, but there are many unknowns and things he does not understand due to the fact that he has been a member of the Commission for less than 30 days. He is concerned about ingress/egress to and from the Valley for skiers and other visitors to the resort.

**4. Public comment for items not on the agenda.**

There were no additional public comments.

**5. Remarks from Planning Commissioners.**

There were no additional remarks from Planning Commissioners.

**6. Planning Director Report.**

Mr. Grover indicated he did not have anything to report.

**7. Remarks from Legal Counsel.**

Mr. Erickson had no additional remarks.

**Meeting Adjourned: The meeting adjourned at 11:18 p.m.  
Respectfully Submitted,**

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**Weber County Planning Commission**



## Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

### Synopsis

#### Application Information

<b>Application Request:</b>	Request for a recommendation of final approval of Mountainside Phase 2 PRUD Subdivision, consisting of ten lots in the RE-15 zone, located at approximately 4554 N Seven Bridges Rd, Eden, UT, 84310.
<b>Type of Decision:</b>	Administrative
<b>Agenda Date:</b>	Tuesday, November 29, 2022
<b>Applicant:</b>	John Lewis, Owner
<b>File Number:</b>	UVM080922

#### Property Information

<b>Approximate Address:</b>	4554 N Seven Bridges Rd, Eden, UT, 84310
<b>Project Area:</b>	3.797 acres
<b>Zoning:</b>	Residential Estates (RE-15) Zone
<b>Existing Land Use:</b>	Vacant
<b>Proposed Land Use:</b>	Residential
<b>Parcel ID:</b>	22-006-0004, 22-006-0039
<b>Township, Range, Section:</b>	T7N, R1E, Section 15 SW, 16 SE

#### Adjacent Land Use

<b>North:</b>	Vacant/The Grove Cabins site	<b>South:</b>	Mountainside PRUD Phase 1
<b>East:</b>	Vacant/Mountainside PRUD additional phase site	<b>West:</b>	Vacant/ The Grove Cabins site

#### Staff Information

<b>Report Presenter:</b>	Tammy Aydelotte taydelotte@webercountyutah.gov
<b>Report Reviewer:</b>	SB

### Applicable Land Use Codes

- Weber County Land Use Code Title 106 (Subdivisions)
- Weber County Land Use Code Title 108 (Natural Hazard Areas)
- Weber County Land Use Code Title 104 (Zones) Chapter 3 (RE-15 Zone)

### Background and Summary

7/19/2016 – Conditional Use Permit request for The Bridges PRUD was approved.

9/20/2017 – Mountainside PRUD Phase 1 recorded.

9/27/2022 – Preliminary approval granted by Ogden Valley Planning Commission.

The applicant is requesting a recommendation of final approval of Mountainside PRUD Phase 2 Subdivision, consisting of ten lots, in the RE-15 Zone. The proposed subdivision and lot configuration are in conformance with the applicable zoning and subdivision requirements as required by the Uniform Land Use Code of Weber County (LUC). The following is a brief synopsis of the review criteria and conformance with LUC.

### Analysis

**General Plan:** The proposal conforms to the Ogden Valley General Plan by encouraging development within the existing resort-related areas.

**Zoning:** The subject property is located in the Residential Estate Zone more particularly described as the RE-15 zone.

The purpose and intent of the RE-15 zone is identified in the LUC §104-3-1 as:

*“The major purpose of the RE-15 and RE-20 Zones is to provide and protect residential development at a low density in a semi-agricultural or rural environment. It is also to provide for certain rural amenities on larger minimum lots, in conjunction with the primary residential nature of the zone.”*

As part of the subdivision process, the proposal has been reviewed against the current subdivision ordinance in LUC §106, the PRUD ordinance in LUC §108-5, and the applicable standards in the RE-15 zone (LUC §104-3) to ensure that the regulations and standards have been adhered to. The proposed subdivisions, with the recommended conditions listed in this staff report, are in conformance with county code. The following is a brief synopsis of the review criteria and conformance with the LUC.

Lot area, frontage/width and yard regulations: The proposed subdivision is one of four phases in the Mountainside community and has received conditional use approval for “The Bridges PRUD” development. The purpose and intent of a Planned Residential Unit Development (PRUD) is intended to *“allow for diversification in the relationship of various uses and structures to their sites and to permit more flexibility of such sites and to encourage new and imaginative concepts in the design of neighborhood and housing projects in urbanizing areas”* (LUC§ 108-5-2). Mountainside Phase 2 PRUD utilizes the allowed flexibility with lots ranging in size from 10,000 square feet to 15,000 square feet, and lot widths ranging in size from approximately 82 feet to approximately 105 feet. The various lot sizes will allow for the future lot owners to build custom homes ranging from 2000 to 4000 square feet. The approved minimum single family yard setbacks for the PRUD are:

- Front Yard: 15 feet
- Side Yard: 7.5 feet
- Side; facing street on corner lot: 15 feet
- Rear Yard: 20 feet

Based on the allowed flexibility of a PRUD, the proposed layout, lot configurations and lot sizes are acceptable. In order to provide clear site standards, staff recommends adding the minimum setback standards on the final subdivision Mylar. A condition of approval has been added to staff’s recommendation to ensure the minimum setback standards are added to the final subdivision Mylar.

Ogden Valley Sensitive Lands Overlay Districts: The development area falls within an area identified as an “Important Wildlife Habitat Area” that is part of the Ogden Valley Sensitive Lands Overlay Districts (LUC§ 104-28). The proposed subdivision has been designed to ensure that development standards in this area shall follow the principles established regarding the location of buildings, structures, roads, trails and other similar facilities to protect important wildlife habitat and their functions including wildlife movement across areas dominated by human activities by limiting the areas of disturbance. A condition of approval has been added to staff’s recommendation to ensure a note providing adequate notice of the Important Wildlife Habitat area and the development standards that are required will be added to the final subdivision Mylar.

Natural Hazards Overlay Zone: The proposed subdivision is located in a Zone “X” as determined by FEMA to be an area determined to be outside 500-year floodplain.

A geologic study has not yet been submitted. This will be required prior to appearing before the Planning Commission for a recommendation of final approval. A note shall be added to the plat to notify the future property owners of the geologic and geotechnical report on file with the Weber County Planning Division. A slope analysis will need to be submitted, to ensure that any lots with a slope of 25% or greater will need to show a building envelope on the final plat.

Upon recording the final subdivision Mylar a separate “Natural Hazards Disclosure” document will be required to be recorded to provide adequate notice of the geotechnical and geological recommendations to future property owners. A condition of approval has been added to staff’s recommendations to ensure that adequate notification is provided for future property owners regarding further development is noted on the subdivision Mylar.

Culinary water, irrigation water and sanitary sewage disposal: The applicant has provided a will-serve letter from the Wolf Creek Water and Sewer District for the culinary and irrigation water and sanitary sewer (see Exhibit B). The applicant will need to provide a construct permit from the State of Utah Department of Environmental Quality Division of Drinking Water for the expansion of the water system and water lines serving the subdivision prior to the subdivision receiving final approval from the County Commission. A condition of approval has been added to ensure that a construct permit from the State of Utah Department of Environmental Quality Division of Drinking Water prior to approval by the County Commission.

Review Agencies: The Weber County Surveyor's Office, and the Weber Fire District have reviewed the proposal and have provided the applicant with the additional items that will be required prior recording the final Mylar. The County Engineer has reviewed, but not yet approved this proposal. A condition of approval has been made part of staff's recommendations to ensure that any conditions of the applicable reviewing agencies are strictly adhered to.

Additional design standards and requirements: If the applicant would like to utilize the ability to have nightly rentals as an option allowed in the PRUD ordinance for the owner's in the Mountainside Phase 2 PRUD, a note will need to be added to the final Mylar to declare that the subdivision is approved for nightly rentals. A condition of approval has been made part of staff's recommendations to ensure that if the applicant desires to allow nightly rentals as part of the Mountainside Phase 2 PRUD, a note will be added to the final subdivision Mylar to provide notice of the approved nightly rental option.

Tax clearance: The 2021 property taxes have been paid in full. The 2022 property taxes will be due in full on November 30, 2022.

## Preliminary Conditions of Approval

1. In order to provide clear site standards, staff recommends adding the minimum yard setback standards on the final subdivision Mylar including the "Side; facing street on corner lot" setback. – Will be shown on final plat prior to recording.
2. A note providing adequate notice of the Important Wildlife Habitat area and the development standards that are required will be added to the final subdivision Mylar. – Will be shown on final plat prior to recording.
3. The dedication language on the final Mylar will need to include language to grant ownership of the common area to the applicable ownership. – Will be shown on final plat prior to recording.
4. A cost estimate for the improvements and a draft copy of any CC&R's will be required prior to receiving final approval from the County Commission. – Required prior to County Commission approval.
4. 5. Prior to recording the final Mylar, all lots that are impacted by a geologic hazard will be identified on the final Mylar a note to provide notice that the final geologic and geotechnical reports are on file with Weber County Planning Division. A "Natural Hazards Disclosure" document will be required to be recorded to provide adequate notice of any geotechnical and geological recommendations for future property owners. – Will be shown on final plat prior to recording.
6. A construct permit from the State of Utah Department of Environmental Quality Division of Drinking Water must be submitted to Weber County prior to approval by the County Commission.
7. If the applicant desires, a note will be added to the final Mylar to provide notice of the approved nightly rental option. Will be shown on final plat prior to recording.

## Staff Recommendation

Staff recommends final approval of Mountainside PRUD Phase 2 Subdivision, consisting of ten lots located at approximately 4554 N Seven Bridges Rd, Eden, UT, 84310. This recommendation is subject to all review agency requirements and based on the following findings:

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

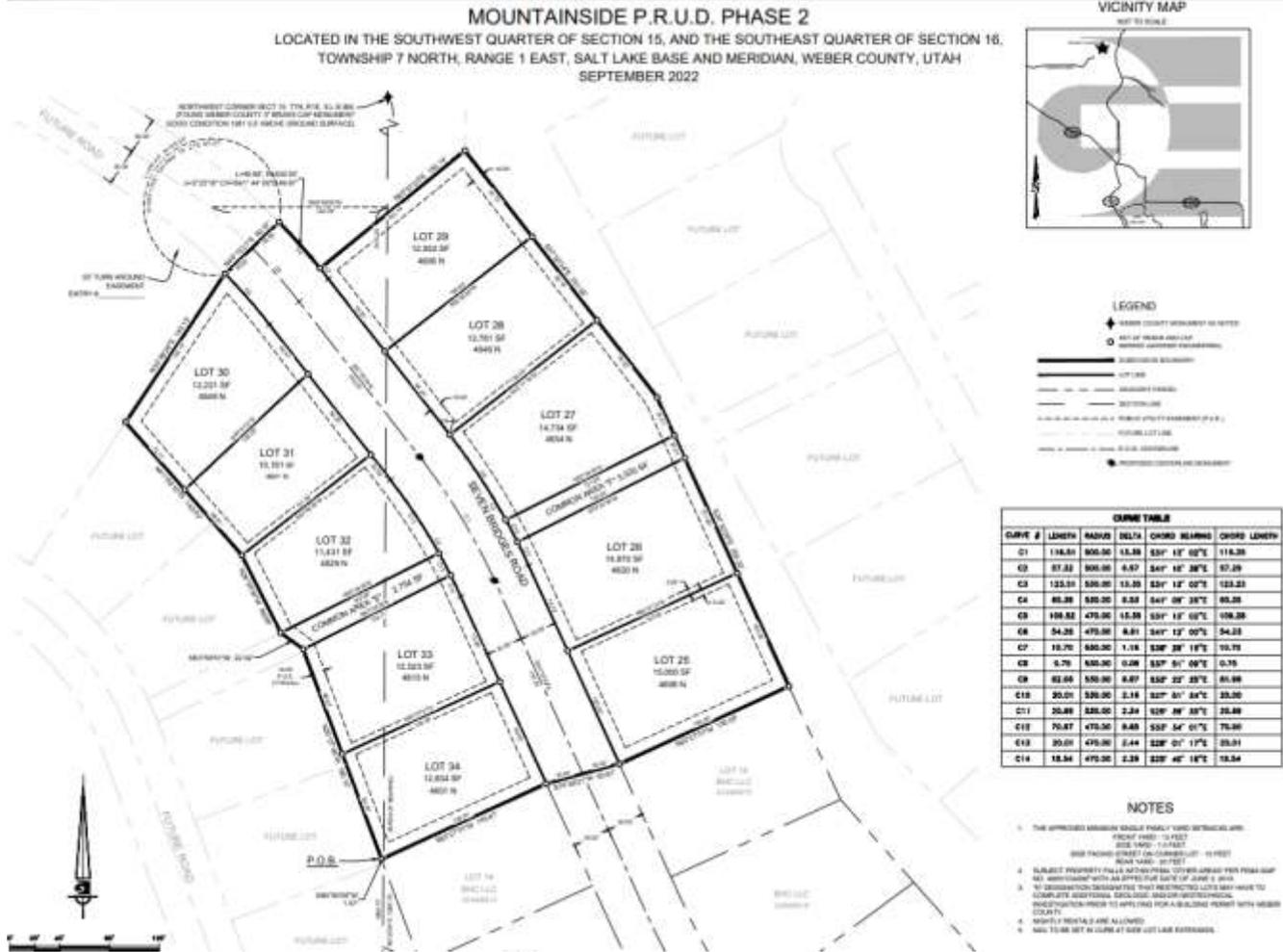
## Exhibits

- A. Subdivision Plat

Area Map



# Exhibit A- Subdivision Plat



## NOTES

- THE APPROVED MINIMUM SINGLE FAMILY YARD SETBACKS ARE:  
 FRONT YARD - 15 FEET  
 SIDE YARD - 7.5 FEET  
 SIDE FACING STREET ON CORNER LOT - 15 FEET  
 REAR YARD - 20 FEET
- SUBJECT PROPERTY FALLS WITHIN FEMA "OTHER AREAS" PER FEMA MAP NO. 49057C0229F WITH AN EFFECTIVE DATE OF JUNE 2, 2015.
- "N" DESIGNATION DESIGNATES THAT RESTRICTED LOTS MAY HAVE TO COMPLETE ADDITIONAL GEOLOGIC AND/OR GEOTECHNICAL INVESTIGATION PRIOR TO APPLYING FOR A BUILDING PERMIT WITH WEBER COUNTY.
- NIGHTLY RENTALS ARE ALLOWED
- NAIL TO BE SET IN CURB AT SIDE LOT LINE EXTENSION.