

Minutes of the Ogden Valley Planning Commission Regular meeting January 26, 2016, in the Weber County Commission Chambers, commencing at 5:00 p.m.

Present: Laura Warburton, Chair; Jami Taylor, John Howell, Greg Graves, Kevin Parson, Will Haymond

Absent/Excused: Stephen Waldrip

Staff Present: Rick Grover, Planning Director; Jim Gentry, Principal Planner; Scott Mendoza, Principal Planner; Ronda Kippen, Planner I; Ben Hatfield, Planner; Courtlan Erickson, Legal Counsel; Kary Serrano, Secretary, Iris Hennon, Code Enforcement Officer

****Pledge of Allegiance***

Chair Warburton asked if any member had ex parte communications to declare. No ex parte communications were declared.

1. Consent Agenda:

- 1.1. UVH120415:** Consideration and action for approval on Holly Subdivision; a 4-lot cluster subdivision that is using a Private Right-of-Way for two lots and an access easement for two lots at approximately 800 N 7800 E in the Agricultural Valley 3 (AV-3) Zone. (MaryAnn Holley, Applicant)
- 1.2. UVS101315A:** Consideration and action for the final plat approval of Summit Eden Ridge Nests – PRUD Amendment 1 located at Summit Eden Ridge Nests – Powder Mountain in the Ogden Valley Destination and Recreation Resort 1 (DRR-1) Zone. (SMHG Phase 1 LLC, Applicant)
- 1.3. UVS101315B:** Consideration and action for the final plat approval of Summit Eden Phase 1D – Amendment 1 located at Summit Eden Ridge Nests – Powder Mountain in the Ogden Valley Destination and Recreation Resort 1 (DRR-1) Zone. (SMHG Phase 1 LLC, Applicant)

MOTION: Commissioner Parson moved to approve consent agenda items UVH120415, UVS101315A, and UVS101315A. Commissioner Graves seconded. A vote was taken with Commissioner’s Taylor, Graves, Parson, Haymond, Howell, and Chair Warburton voting aye. Motion Carried (6-0).

Director Grover said on the consent agenda in 1.3., this needs to be changed from A to B and Summit Eden Ridge Nests needs to be changed to Summit Eden Phase 1D, Summit Pass.

Chair Warburton asked if it would be appropriate to say that they amend this to the amended agenda, or does this need to be restated. Courtland Erickson, Legal Counsel, said that this could be considered to be corrected amendment to what was already done.

CORRECTED AMENDMENT: Chair Warburton moved to change consent agenda item 1.3. to reflect the wording in the amended agenda of January 26, 2016, per the Director’s observation. A vote was taken with Commissioners Taylor, Graves, Parson, Haymond, Howell, and Chair Warburton voting aye. Motion Carried (6-0).

2. Petitions, Applications, and Public Hearings

2.1. Legislative Items

a. New Business:

- 1. CUP 2016-01:** Consideration and action on a request for Conditional Use Permit CUP 2016-01 approval for an accessory apartment attached to single family dwelling located at 6429 E 1900 N, Eden, in the Agricultural Valley 3 (AV-3) Zone. (Derek Pontius, Applicant)

Ben Hatfield said the applicant, Eric Pontius, is requesting approval of a conditional use permit for an accessory apartment attached to an existing dwelling located on 1900 North and it backs onto the reservoir. This property is located in the Agricultural Valley-3 (AV-3) Zone. As Mr. Pontius was constructing his home, staff noticed that there were plans for an accessory apartment. The home is constructed well beyond 1900 North on the second story which is the apartment. The apartment is slightly less than 800 sq. ft. and it does meet the criteria for an accessory apartment. Staff has reviewed this code compliance, and any harmful effect that have been mitigated. The applicant has proposed that

the attached apartment dwelling, included parking for this apartment on the property. Staff recommends approval of this application.

MOTION: Commissioner Howell moved to approve CUP 2016-01; subject to all conditions outlined in the staff report, and any considerations with staff and county agencies, including exhibits listed in the staff report. Commissioner Parson seconded. A vote was taken with Commissioners Taylor, Graves, Parson, Haymond, Howell, and Chair Warburton voting aye. Motion Carried (6-0).

3. Elections: Chair and Vice Chair for 2016

Commissioner Graves nominated Commissioner Warburton for Chair. Commissioner Parson seconded.

VOTE: A vote was taken to elect Commissioner Warburton as Chair for 2016; with Commissioners Taylor, Graves, Parson, Haymond, Howell, and Chair Warburton vote aye. Motion Carried (6-0).

Commissioner Haymond nominated Commissioner Waldrip for Vice Chair. Commissioner Parson seconded.

VOTE: A vote was taken to elect Commissioner Waldrip as Vice Chair for 2016; with Commissioners Taylor, Graves, Parson, Haymond, Howell, and Chair Warburton vote aye. Motion Carried (6-0).

4. Meeting Schedule & Information List: Approval of the 2016 Meeting Schedule and Member Information List

Upon reviewing the meeting schedule; Chair Warburton said that there was a problem with March 22 because of the Republican Caucus and she would not be able to attend that night, and she would verify that information. She asked the Planning Commission if they had any issues with the information list; the Planning Commission had no issues to the information list.

5. Rules of Order: Discussion and/or Action on Planning Commission Rules of Order

Courtlan Erickson said that his vision of what happens here tonight is that they have discussion, they go back and work on a draft, and they circulate it, and people get a chance to take a look, make any comments, and it actually gets approved in a later meeting. Chair Warburton said that her suggestion to the commission was to refer to a committee, being a committee of one.

Courtland Erickson said on top of Page 2, under Paragraph 5, where it states secretary duties; there is a Sub Paragraph C that says, *“Keep and maintain a permanent record of all documents and papers pertaining to the work of the commission.”* So the question that he raised if the state and county laws; and the county record retention schedule do not require permanent retention and the state requires something less, do they want to go above and beyond that for the Planning Commission.

A discussion ensued with the Planning Commission suggesting that they should follow what state requires.

Courtland Erickson said that he may be able to make this easier; the county ordinance says, *“The Planning Commission shall annually elect a Chair person and Vice Chair person from its membership. Each officer shall hold office for a one year period, and not longer than two consecutive years.”*

The Planning Commission agreed that this should stay at it is.

Chair Warburton replied that’s fine. On Page 1, under Paragraph 2, Sub Paragraph VI, it states *“in a sensitive way during meetings;”* She thinks this should be changed to *“respectful manner during meetings”* is more appropriate.

Courtland Erickson said that he didn’t have a problem with the change and the Planning Commission agreed.

Chair Warburton asked on Page 2, Paragraph B, Sub Paragraph 3, it states, *“Planning Commission shall attend required training.”* So they have lots of training, and are the required training the ones that are held here or are they the APA, and what exactly does all that mean.

Director Grover said that he would look into the county ordinance specifically on that. Scott Mendoza said that training is required to satisfy the county indemnity tool, and if they didn't there could be an issue of insurance.

Courtlan Erickson said on the top of Page 3, Paragraph A, Sub Paragraph i, this is for disqualification because of conflict of interest. The question is should there be a list of family members if they have a financial interest such as spouse, brother, sister, child, parent, father-in-law, or mother-in-law? Or do they want it to be more generic such as family member or family member relative. There is a catch all provision under subsection ii, *"For any other reason, the member has determined that participation in the decision cannot be in an impartial manner."*

A discussion ensued with the Planning Commission and Courtlan Erickson and it was decided to just leave it the way it is for legal clarity as to when they are automatically disqualified. In the second paragraph the catch all they should they just rely on that for extended family members.

Courtlan Erickson said on Page 3, Paragraph C, Ex Parte Contacts; the way it currently reads speaks of any ex parte contact, meaning communication with somebody outside of a Planning Commission meeting, regarding administrative applications. However, communications regarding legislative matters are generally permitted. On the second paragraph it says, *"if there were any ex parte contacts in regards to administrative matters, the commission needs to bring those to the knowledge of the commission at the beginning of the meeting."*

A discussion ensued with the Planning Commission and Courtlan Erickson and it was decided that this statement needed to be clarified so it's clear when people read this and there's no confusion.

Courtlan Erickson said on Page 4, under C. Meetings, Paragraph 2 Regular Meetings, on the second paragraph it talks about regular meetings of the Ogden Valley Planning Commission. On the last sentence it talks about the pre-meetings that will be held at 4:30. What is the purpose of the pre-meeting, what are the scopes, what are the limits, what can and cannot be done at that meeting?

Chair Warburton replied that no decisions can be made; it is recorded and noticed because it is a public meeting. The purpose of the meeting is so they can get familiarized with the agenda. It is more if they have any questions or new information prior to coming to the meeting. It gives staff an opportunity to outline any concerns or anything that has come in since they received their packet. It gives staff the opportunity to let the commission know that there may be issues on the consent agenda. It also gives this commission to show up at 4:30 and for sure be on time at 5 so when the meeting begins they are more prepared. They do not make any motions in the pre-meeting.

Courtlan Erickson said Page 5, Paragraph 6. Work Sessions; asked if they wanted to continue to have the first Tuesday of the month to be dedicated as a work session as opposed to a regular meeting. It seemed to him in his short time being here that several of those have been regular meetings.

A discussion ensued with the Planning Commission suggesting that the schedule should stay as it is, but to give staff the ability for flexibility. That the work session should continue to be a work session and if there is a change it should be the exception and not the rule.

Mr. Erickson said that on Page 5, Paragraph D. Procedure, and Subparagraph 1. Order of Business, his general comment is this hasn't always reflected what has happened in the meetings. Specifically to item *"(e) The Planning Director reads opening meeting statement,"* what would they like to do there?

A discussion ensued with the Planning Commission suggested to have the Director come up with bullet points that the chair could read. The chair would also state before public hearings; to make sure they understand that its three minutes per person, five minutes for the petitioner, and for this commission, they can question for as long as they want after they close.

Mr. Erickson said the next one is at the bottom of that page, *"(h) Petitions, Applications, and Public Hearings,"* they sag wade right into it but not just this commission but commissions in general, tend to turn public meetings into public hearings. Do they want to discuss that or maybe that could be a training item at some point.

Chair Warburton replied yes they need training. Mr. Erickson replied okay, and later on he would like to talk about the general order of consideration; any opponents or proponents may comment, and that is not always required. They can get some training and talk about that and let Director Groves decide.

Courtlan Erickson said on Page 6, under Administrative and Legislative Items, and asked what old business meant.

Chair Warburton replied if something had been on hold, tabled, or something that was brought back for consideration.

Courtland Erickson said that he had drafted some more detailed information for the consent agenda and when it's appropriate on how it shall be dealt with. His question was who should be making the decision on what goes on the consent agenda. Is it the Planning Director, the secretary, the Planning Commission Chair?

A discussion ensued with the Planning Commission and staff and it was suggested that the Planning Staff and Planning Director should work on conditional uses because that is where planning really starts. Staff should ask this commission for some direction because they know more of the valley. There is a lot of work on conditional uses and it needs to be streamlined a little bit; and if they did consider looking up at the ordinance; they should get this commission's input, as well as the public's input, and to make that it would be appropriate to do so. Also see if there is a way possible to revamp conditional uses so that it makes more sense.

Chair Warburton on Page 6, Paragraph 2 Agenda for Meetings, that paragraph looks like it contradicts itself. Staff has done well with the onset of PDF's being able to deliver it by email followed by a printed copy. She asked if the commission if they were okay with that and they said they were.

Courtland Erickson said the next one that he has on the bottom of Page 6, Paragraph E Order and Decorum, Subparagraph 1 Order of Consideration of Items. Here they are talk about when they are in a public hearing or public meeting and this commission is considering an application. The chair introduces the item and on item (b) it states, "*Abstentions, conflicts of interest and challenges are entertained and any declaration of conflicts of interest and ex parte contacts,*" They have already done that at the beginning of the meeting, according to the rules here, does that need to be done again? Do they want to do it again or take this paragraph out? Chair Warburton replied take this out.

Courtland Erickson said go to Page 9, Section H Procedure – Debate, Subsection 1 Interruptions and Questions. This outlines a formal way for discussions to happen with the commission. It states, "*No member of the Commission shall interrupt or question another Commissioner without obtaining the Commissioner's consent.*" He asked how formal do they want to be among themselves. Do they always want to go through the Chair or seek consent to ask another commissioner a question, or be less formal?

There was a discussion among the Planning Commission and they would like for it to be more formal to seek consent to ask another commissioner a question. It adds to a more professionalism to the meetings when they get consent from the Chair. In respect it's important for the commission to set the example for the public. Courtland Erickson said that he would work on that and make sure that it makes sense.

Courtlan Erickson said on Page 8, above #2, the last sentence in that paragraph that says, "*Discussion of the motion should not take place until it has been seconded and the Chair has stated the motion and called for discussion.*" the way he read the rule as it were, there's the motion made, then a commissioner seconds the motion, the chair states it and calls for discussion. If they go to the bottom of Page 7, the Planning Commission reviews the packet from staff, hear the presentation, and then deliberate by questioning planning staff and the applicant. Then it states, "*any Planning Commissioner, except for the Chair, may make a motion; however, Planning Commissioner may second a motion. The motion shall include not only the direction of the motion, but shall also include the recitation of specific findings of fact supporting such motion.*" The next thing that should happen according to this, "*A second shall be required.*" If you look at #2, "*when a motion has been made but not yet stated by the chair, whether or not it has been seconded,*" that implies it can be made.

A discussion ensued with the Planning Commission and Courtlan Erickson in which the Planning Commission discussed the procedure and gave direction to Mr. Erickson.

Courtlan Erickson said on Page 9, Paragraph I. Procedure – Voting, Subparagraph 1. Roll Call on Final Passage it states,

"The vote upon the final passage of all business shall be by aye (yees) and nay (no's) give by members of the Commission by voice vote. The secretary shall record and report those absent or not voting." He thinks normally the Chair just says all in favor say aye or to that affect, instead of going through each one individually.

Chair Warburton said they had changed it to ayes or nays, unless there was something special and it's not reflected here. They use to do roll call on every single motion, and they changed it to ayes or nays, so there is nothing and everything is either thumbs up or thumbs down. Chair Warburton said that used to do roll call but not anymore. Mr. Erickson said so do they want to say by voice vote. Chair Warburton replied yes. On the minutes, does she just ask if anyone has any comments on the minutes, if they don't then she just calls them approved. Commissioner Graves replied that's the way they have been doing it, the chair declares the minutes approved.

Courtlan Erickson said down on Page 9, Paragraph 3 and 4, on Voting, were a bit confusing. On Paragraph 3 Voting or Changing Vote before Decision Announced, it states, *"On any such vote any member may change his/her vote before the decision of the question has been announced by the Chair unless the member has the permission of the Planning Commission by general consent or motion if a member objects."* He could not figure out what that was saying.

After discussion it was decided that Paragraph needed to be rewritten and Paragraph 4 needed to be eliminated.

Courtlan Erickson said on Page 8, Paragraph 3. Motions in Order during Debate, and his understanding there has been a motion, the chair has stated the motion, there has been a second, and now they are discussing it. These are the questions under debate; these are questions that are allowed.

After a discussion it was decided to take out "indefinitely" and have a specified time.

Chair Warburton said subparagraph d, to amend or to substitute; they pretty much get that one, they don't need to change that one. Mr. Erickson said at the bottom of the page on Paragraph 6, where a substitute would be striking out an entire section or paragraph. Do they need that distinction in this setting or could they be all friendly amendments. Get rid of the word substitute and just call it an amendment. In the legislature the word substitute would be taking out everything and gutting a portion of it. A substitute motion, if she didn't get a second, everybody has to vote on it. Mr. Erickson said and that would be the same for an amendment. Chair Warburton said just take out substitute and leave it as an amendment; as long as the amendment is a subsidence change.

Courtlan Erickson said on Paragraph 3, Subparagraph I, call for order of the day, what does that mean. Chair Warburton replied she was not sure but to leave that in until it's verified. Mr. Erickson said the next one subparagraph I, reconsider an undebatable motion, what is an undebatable motion. Chair Warburton replied that she was not sure but let's keep that. Mr. Erickson asked of someone makes a motion, and someone seconds it, then they have to call for a vote. Chair Warburton replied yes. Commissioner Parson said that is something typically when they would quote discussions, and then someone would say, *"I make a motion to open discussion,"* and someone else would say *"I second that."* Then they take a vote and if it's majority vote, then they can discuss it.

Courtlan Erickson said that on the top of Page 9, Paragraph 8, Friendly Amendments, do they allow those anytime even after a vote has been made, or is that just a clarification or discussion.

A discussion ensued with the Planning Commission and Courtlan Erickson in which the Planning Commission decided that after it's been second, they have a discussion. If there is a minor error they could make a friendly amendment, but for a typo it would be correction.

Courtland Erickson said on Page 10, Paragraph K, Amendment that section is kind of confusing to him and he has read those two paragraphs several.

A discussion ensued with the Planning Commission and Courtlan Erickson in which the Planning Commission decided that the rules can be amended at anytime, with a 14 day notice requirement, and a majority vote. If any commissioner wanted to make any changes, it should be brought up a week in advance, and brought up in Commissioner's Comments; that's a great time to bring something like that up, to notice everybody. This should be the majority of the quorum, then two-thirds voting a quorum being present, the same way a normal vote is taken.

Courtland Erickson said that his last question or issue to think about, they have signatures of both Planning Commission chair on this one, and do they want to continue to have joint rules or they want to have their own. Chair Warburton asked if there was a problem. Mr. Erickson replied not that he was aware of. Commissioner Graves said he is just looking into the possibility. Chair Warburton said that there hasn't been a problem so far.

Director Groves asked if he could make one comment, on Page 10, Subparagraph 7. Explaining Vote, he knows that it is very helpful especially when they go to legislative items. The language is a little bit weaselly; when it says, "desiring" and then it has "shall" and wondered if this commission want to make that a requirement, or to just encourage that when it says "desiring," it seems like a little bit ambiguous, and he knows it's often helpful when they go to a legislative body to explain their no vote for them, and probably helpful in making their motions.

Chair Warburton replied "shall be allowed" and they can "desire" but the Chair "shall allow" for all that to happen. Commissioner Graves said if he wants to, then the chair has to let him, but the chair can't make him explain it if he doesn't want to. So the "shall" is after he "desires", and if doesn't desire, then the chair has no shall. Mr. Erickson said that he had no further questions.

Chair Warburton said she appreciated counsel's work on this. Commissioner Parson said that was good that was excellent training.

6. **Public Comment for Items not on the Agenda:** None
7. **Remarks from Planning Commissioners:** None
8. **Planning Director Report:** None
9. **Remarks from Legal Counsel:** None
10. **Adjournment:** The meeting was adjourned at 7:00 p.m.

Respectfully Submitted,



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