

Minutes of the Ogden Valley Planning Commission Regular meeting July 28, 2015, in the Weber County Commission Chambers, commencing at 5:00 p.m.

Present: John Howell, Greg Graves, Will Haymond, Kevin Parson, Stephen Waldrip

Absent/Excused: Laura Warburton; Jami Taylor

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

Pledge of Allegiance

Roll Call:

Commissioner Graves nominated Commissioner Parson as Chair Pro-tem. Commissioner Haymond seconded. A vote was taken with Commissioners Howell, Haymond, Waldrip, Graves, and Parson voting aye. Motion Carried (5-0)

1. Administrative Items:

Old Business:

- 1.1. UVC052115:** Consideration and action on a request for final approval of The Chalets at Ski Lake Phase 8, a Cluster Subdivision (16 Lots) and the revised pathway and open space plan within the Forest Valley 3 (FV-3) Zone located at 6300 East Quail Hollow (Valley Enterprise Investment Company, Applicant)

Jim Gentry said this is Phase 8 of the Chalets at Ski Lake, 16 lots, and is the last phase. The applicant is requesting final approval. There have been some modifications to the open space plan and the trails. As part of the approval of Phase 2 of the Chalets, Common Area D was planned to be used as a neighborhood recreation area with basketball and volleyball courts, barbeque pits, picnic tables, and pavilions. Common Area is located in Phase 1, near the main entrance into the project. The applicant is revising this proposal by leaving Common Area D in a natural state and developing Common Area T in Phase 8 with a 12 ft. by 24 ft. covered pavilion and picnic tables, a small lawn area that is watered by a sprinkler system, and a sand volleyball court. The original trails were approved as 2 feet wide with a bark/mulch surface. The applicant is proposing to widen the trails to four feet with a crushed recycled concrete and a gravel surface. The trails will last longer and be able to be used by people on horseback, bicycles, or walking. Staff recommends approval of the Chalets at Ski Lake Phase 8, 16 Lots, at 6300 East Quail Hollow, subject to staff and other review agency requirements, based on its compliance with applicable Land Use Codes. Staff also recommends approval of the revision to the open space plan for Common Areas T and D, and the new design of the trails in the Chalet project.

Commissioner Howell asked what will become of the area that they are not going to build on. Mr. Gentry replied that they are going to leave it as natural grass open space.

Commissioner Waldrip asked if there was a possibility of changing the use in the area that they are not going to develop in the future. Mr. Gentry replied that they could come back and show what they plan to do in that area. They are proposing 16 lots and this is part of the cluster subdivision.

Clark Duellman, 5354 Elkhorn Circle, Eden, applicant, said that the change is being made as far as open space; it's going to be better not to have basketball courts with chainlink fence around it; with barbeque pits and fire pits that are a potential liability to that homeowner's association, and move everything into the back where it ties into the trails in a more natural way. This property is visible at the intersection where Lakeside Village Condo's and that could be attractive to people who aren't members of that HOA that would be going up to Eden and those facilities and from a visual and liability standpoint it's going to be better for everyone.

MOTION: Commissioner Howell moved to approve UVC052115 final approval of The Chalets at Ski Lake Phase 8, a Cluster Subdivision (16 Lots) located at 6300 East Quail Hollow subject to staff and other agency requirements, subject to compliance with the land use code to include the revision of the open space plan, Common Areas T and D, and the new design of the trails in the Chalet project. Commissioner Haymond seconded. A vote was taken with Commissioners Howell, Graves, Haymond, Waldrip, and Chair Pro-Tem Parson voting aye. Motion passed unanimously (5-0).

- 1.2. CUP 2014-21:** Consideration and action on an amendment of a conditional use permit for the Saddlebag Saloon a tavern, beer pub located at approximately 2612 N Hwy 162 Unit 7, within the Commercial Valley-2 (CV-2) Zone (Tiffany Brennan, representing the Saddlebag Saloon)

Ben Hatfield said that the owners are requesting that the conditions that were placed on them be reconsidered or clarified, particularly with the consumption and sales of alcohol outside of the building and on the deck area. Staff has provided the minutes for September 2, 2014; and the Planning Commission had four conditions listed in the staff report for this conditional use permit. Within days after the decision, the applicant did request an appeal to the County Commission. Since that time, staff has worked with the owners to confirm the signage plan. In the spring of 2015, staff and the owners went through their appeal options to see what needed to be done as subdivision plat amendments. Before that work would be submitted, the owner has requested an additional consideration and review to clarify the Planning Commission's position on the consumption of alcohol on the deck. The applicant would like to know what makes his use of a tavern different than a restaurant which can allow the consumption of alcohol in public view. By the Planning Commission clarifying their position, the applicant would know the specific reasoning behind the condition and could provide the applicant adequate findings to base an appeal. If this condition is removed, an amended subdivision plat would need to be approved and recorded changing the common and limited common areas appropriately surrounding Unit 7. Staff recommends that the Planning Commission either reconsider the conditions of the permit or clarify their position and reasoning regarding the conditions of the permit. This recommendation is based on the following two items that were not available in the previous meeting; an attorney was not available for the Planning Commission to counsel with and the applicant was not available to explain the application and their point of view.

Pat Brennan, owner of Saddleback Saloon and resident of Eden, said he was not available at the last meeting, and the Planning Commission put a condition upon not being able to consume alcohol on the deck. When they had the design drawn, they had limited and common space for uses of the private building. The deck that is attached to this building was limited but when the designers put it in there they forgot to address it that way. It changed the spot where the gazebo is to make that limited; and the part where the deck is attached to Building 7 is common. They redefined and clarified all of that. This Planning Commission made the ruling of the condition upon him with the school children walking by and being able to see it, which is a moot point, because they don't open until after 5 p.m., and most of the kids that go past there are bused. There is an establishment across the street that can consume alcohol out on their patio, and a restaurant around the corner can also consume alcohol on their patio. He does not know why he is restricted to do what he does. He complied with the sign ordinance, all of the signage is there, he could have a banner up for 30 days, and they try to comply with everything else.

Commissioner Graves asked the applicant if he was currently in compliance with the sign ordinance. Mr. Brennan replied that he is and he currently has a banner out. Director Wilkinson said he needed to clarify the confusion on the part of the banner. The grand opening banner is allowed for 30 days but that is just once, so the banners are technically in violation of the code.

Commissioner Graves said so that does not mean that they have it up for 30 days, take it down, and up for 30 days more. The banner should be gone from this point forward. Director Wilkinson replied that is correct. Mr. Brennan replied that he would remove the banner.

Commissioner Howell said that there is a sign indicating beer for \$2.00, and then he asked about the banner on the railing. Mr. Brennan replied that if it is required, they would remove them. Commissioner Howell said he did not know if the A-Frame signs were in compliance with the ordinance. Director Wilkinson replied that A-Frames signs are not allowed currently by the code.

Commissioner Waldrip asked if they had sufficient clarity from legal counsel as to what the standards are and where they are going with this change. He thinks there needs to be something on record indicating they have talked about this and dealt with it, and they are moving forward based on that understanding. Courtlan Erickson, Legal Counsel, said that the ordinance talks about reasonably anticipated detrimental effects of a proposed conditional use. This is when they can preview if a conditional use permit can be substantially mitigated by the proposal or by reasonable conditions to achieve compliance with applicable standards. It gives some examples, such as odor, vibration, light, smoke, and noise. The further that they get from those concrete measurable things that are potentially detrimental impacts, the greater the risk if challenged; they may be found to have improperly denied a conditional use permit, or imposed restrictions on the use.

They are free to find that there is a detrimental effect as a result of a certain use, and the best course would be to clearly define what the detrimental effects are and how those relate to those standards in the ordinances, and why they think those conditions they are putting on that use, will be reasonable, and will substantially mitigate those detrimental effects. These are the things to consider when making a decision.

Commissioner Graves said that one big issue was whether or not the potential exposure to use advertisement of alcohol would be considered a detrimental effect. There was a bunch of information read into the record, with studies showing that advertisement does have some effect based on the research done. This was the basis in the original concern. Courtlan Erickson said in considering something like that, they need to look at the level of the evidence; how substantial is the evidence, and the various detrimental effects. If it's pretty clear there is substantial evidence, they are going to have a higher likelihood of prevailing against any kind of a challenge; if it's less clear, or hypothetical, or speculative, it's going to be more risky. He reviewed the minutes and looked for any cases in the Utah courts that would address that, but he didn't find any direct rulings. There was a case in Murray involving a club with restrictions of drinking in parking lot and surrounding properties but that wasn't the issue mentioned. They are free to consider that detrimental effect and to put conditions on there that they think bear a relationship to mitigating that detrimental effect. Another thing to consider is what other property owners are allowed within the same area; is that a condition that is being imposed likewise on other similar properties, or are similar things happening in the nearby area within that zone, that could have the same effect but there are not any other conditions imposed.

Commissioner Howell asked staff if the Department of Alcohol has any problem with outside drinking. Mr. Hatfield replied no; they don't have any specific regulations as a tavern.

Commissioner Graves asked if the fact is that the other businesses are restaurants versus a tavern. Courtlan Erickson replied that he didn't know but he could look into that. Director Wilkinson said they would defer back to the DBAC on that issue, but as far as he was aware, there are no regulations against that.

Chair Pro-Tem Parson asked for clarification if they do provide food. Mr. Brennan replied that they do, people can order at the bar and his sandwich shop brings it over. In reality 95% of his patrons come over to eat, which is not much different than a restaurant that serves alcohol. He applied for a tavern license because he thought they would fill a need up there, but it didn't work out so they serve more food than they do beer. They just had their DABC audit, and the only restrictions that they have outside tavern versus a restaurant, is to have signage that no one under 21 is allowed on the premises. He does have signage on the railings, and on the walkway, that's where they get back to the limited and common areas on the premises.

Commissioner Graves said that there was not a distinction about what was limited or common area the first time this was heard, which had a lot to do with the discussion that took place. Mr. Brennan replied that was an error on his plans and he didn't catch that when he reviewed and submitted those plans. They have clarified all of that and put in the proper language to be able to record so they could proceed.

Commissioner Waldrip said whether intentional or unintentional, there has been a very loose following of county ordinance and knowing the procedure as one of the concerns. He is hearing tonight that the applicant is still not clear on the standards for signage. To his understanding, this body can recommend approval if the approval will resolve those issues. He is not sure that by giving this approval it will resolve the signage issues and that is a separate enforcement discussion. Director Wilkinson said that with the word from the applicant is that those signs will be gone and staff would follow up to verify that.

Commissioner Waldrip said his suggestion to staff is to have a meeting to make sure that the applicant understands the types of issues that enforcement may have a concern, so they put the applicant in a position of moving forward with a full understanding of what the applicable standards are for signage and all the other issues.

MOTION: Commissioner Haymond moved to approve CUP 2014-21 to amend a conditional use permit for the Saddlebag Saloon, a tavern, beer pub within the Commercial Valley-2 Zone to allow the sale and consumption of alcohol on the deck directly connected to Unit 7 based on conditions of approval and being in compliance with the signage ordinance, and in compliance with all state agencies. Commissioner Waldrip seconded. A vote was taken with Commissioners Howell, Graves, Haymond, Waldrip and Chair Pro-Tem Parson voting aye. Motion passed unanimously (5-0).

2. New Business:

- 2.1. CUP 2015-17:** Consideration and action for approval of a Conditional Use Permit for Eden Junction for a liquor store located at approximately 2595 N Hwy 162, Suite #8, within the Commercial Valley-2 (CV-2) Zone (William Christiansen, Applicant)

Ben Hatfield reviewed the staff report and said that this is a commercial complex which housed a state operated liquor store for a period of time. When that store closed, the existing conditional use permit for this site had expired; the landowner had gone back and proposed another liquor store at the same location with the conditions being the same. Staff is recommending final approval of this conditional use application subject to the applicant meeting the conditions of approval listed in this staff report and any other conditions required by the Planning Commission. The parking standards portion in the Weber County Land Use Code required that the liquor store have a minimum of 20 parking spaces. Previously there was a reduction granted by the Planning Commission as to the number of parking stalls due to the small size of the store.

Commissioner Graves asked the number of the stalls approved previously. Mr. Hatfield replied that it was eight and they currently have more than 8 additional spaces for this use.

Commissioner Howell said on the last page of the staff report in the staff report it shows 18 on one side, 8 on the back side, and there's 8 additional spaces so parking should not be an issue. Mr. Hatfield replied that the plan shows a total of 49 parking spaces.

William Christensen, applicant, and a resident of Liberty, and that they were allowed 10 parking spaces on the final variance; however, this business is going to be in the back building. The last business went out of business because of financial misappropriation so it's been about four years since a permit has been issued for a liquor store. It went out for a bid about two months ago, and people were willing to do applications for a location. That is when he found out that the variance had expired and that is why he is before this Planning Commission. He had asked the first owner to put the parking in the back, but he wanted it in the front; the businesses are both the same size at approximately 5,800 sq. ft. He can live with ten parking spaces, from seeing a year's worth of business; people don't shop, they come in and get what they want, pay for it and are gone in no more than 20 minutes, and that location allows for drive in and drive out. They have plenty of parking in the back. He wanted to clarify the signage issue; they have Weber County ordinances and DBAC ordinances, and they are not the same. Someone asked about the \$2.00 beer sign; the rule is that they can advertise different beers and they can advertise beer price. It can't be a special price; it has to be the same price as on the menu.

MOTION: Commissioner Howell moved to approve CUP2015-17 for Eden Junction for a liquor store located at approximately 2595 N Hwy 162, Suite #8, within the Commercial Valley-2 Zone subject to all the conditions listed in the staff report and all county agency requirements. Commissioner Haymond seconded. A vote was taken with Commissioners Howell, Graves, Haymond, Waldrip and Chair Pro-Tem Parson voting aye. Motion passed unanimously (5-0).

3. Legislative Items:**New Business: Public Hearings:**

- 3.1. ZTA 2015-05:** Public Hearing to consider and take action on a request to amend the Weber County Land Use Code Title 104 (Zones) Chapter 11 (Commercial Valley Resort Recreation Zone CVR-1) Section 4 (Conditional Uses) by adding distillery and small brewery as a conditional use. (This item will be tabled and the public hearing on this item will be continued to the August 25, 2015 meeting, at 5:00 p.m.)

MOTION: Commissioner Graves moved to table ZTA 2015-05 for August 25, 2015 meeting at 5:00 p.m. at the request of the applicant. Commissioner Waldrip seconded. A vote was taken with Commissioner Howell, Graves, Haymond, Waldrip and Chair Parson voting aye. Motion passed unanimously (5-0).

- 3.2. ZMA 2015-01:** Public Hearing to consider and take action on a proposed amendment to the Weber County Zoning Map, Wolf Creek area by rezoning 9.11 acres of Forest Residential FR-1 to Open Space O-1; rezone approximately 15.97 acres of Open Space, and Commercial Valley CV-2 to a Commercial Valley Resort Recreation CVR-1 Zone; and rezone 30.65 acres of Forest Residential FR-3 to Open Space O-1.

Jim Gentry said the applicant is proposing some rezones in the Wolf Creek area. The first rezone to discuss is the 30.75 acres on the back nine of the golf course that is zoned FR-3 and is being proposed to be rezoned to Open Space; resulting in an additional 30 acres of Open Space. Staff is having the legal description checked to make sure that it doesn't encroach into the Fairways Subdivision development. The second rezone proposal is out in the commercial core; CVR-1, CV-2, and some Open Space (O-1); and the applicant is looking at rezoning this area to the CVR-1 for commercial core type of development and he is here to explain his vision for this area. There is about 9.18 acres of Open Space that is going to be rezoned from Open Space to CVR-1. In exchange for that Open Space going from O-1 to CVR-1, the applicant is proposing to rezone 9.11 acres that is zoned FR-1 to Open Space as a trade off to make sure that O-1 stays the same. This property has one unit assigned; the question of where is this unit going, the answer is it's going to the commercial core.

Jim Gentry said that there was a Zoning Development Agreement done in 2002 which assigned 250 units to the CV-2 Zone; and the CV-2 Zone does not allow residential units. Previously in 2006, Wolf Creek did a rezone and some of this property was changed to CVR-1 so they could do a condominium condo/hotel. That is why the applicant is doing a CVR-1 Zone so they could use the residential units that were assigned back then. The proposal is also in compliance with the 2002 Zoning Agreement. There was an addendum that was approved by County Commission in December or January of this year. It hasn't been recorded as of yet, the addendum would transfer approximately 56 units to other residential property. The Ogden Valley General Plan, as adopted in 1998, states that Weber County *"supports the continued development of resort-related commercial area."* The 2005 Recreational Element with the General Plan with the document suggests that Weber County, *"accommodate expected demand for second home, year-round home, and resort-related development without generating suburban/resort sprawl."* Staff is recommending to the County Commission approval as it complies with the Ogden Valley General Plan. The plan is consistent with the 2002 Zoning Development Agreement, and provides the necessary land use codes effective 2002 Wolf Creek Resort Development Agreement intended. The petition does not reduce the acreage of open space. The applicant is proposing additional amenities and recreational opportunities; and there were 250 units assigned to this CV-2 Zone which doesn't allow it, so it needs to be rezoned to the CVR-1 Zone. This Planning Commission may want to consider seeing the Zoning Development Agreement as part of that process. Staff received emails for and against the proposal. The emails were given to this Planning Commission.

John Lewis, applicant, who resides at Wolf Creek, said that on Friday they had an open house with approximately 250 friends and neighbors attending; they had a Latin Jazz band, and everyone had a great time. Wolf Creek's Bankruptcy created a huge mess and over the last six months they have spent a considerable amount of time coming up with a revised master plan and they considered plans for their commercial core. He has learned in the last 20 years living at Wolf Creek that whatever people do there, whether it's a business, golf, shop, or a liquor store, it has to appeal to all three groups that are there. It has to work for that person who is renting there for the weekend for skiing or vacationing. It has to work for someone who owns real estate especially at that resort but lives somewhere else. It also has to work for the locals and if they don't hit all groups, their business won't stay open. His main concern is twofold; get the viability of the golf course and the resort back to sustainable and moving forward. The key to that is the sense of community. They have spent a lot of time talking to community groups, getting the various HOA's together and getting input to find out what they want. They have tried to come up with a product from the communities input, and their vision is to come up with some kind of commercial core in the middle of their resort that somehow got overlooked. In the middle of the residential area, they need a place to do more concerts; they have received a lot of inspiration from 25th Street.

John Lewis said that he measured various buildings on 25th Street, and everything 25 feet or smaller, is full and doing just fine, and everything 50 feet and larger like Ogden Blue is vacant. He was measuring the building of Lucky Slice; and had a conversation with the owner, and he asked him if he would like the building wider, deeper, or bigger. He said that from his personal perspective, he opened his business in Layton that is larger than the building on 25th Street, and he spends twice as much in that place, and makes half as much as what he does on 25th Street, and he would never do that again. So in the future they would like to see smaller businesses, a single or two story building, with walkable areas, nice streets with light going across it, and have some concerts or other things in that area. He has lived there for twenty years and would like to see a very well done community center there that the entire community could participate in, and that would probably take about three years for that to happen. Whatever they do, it's about scale and if they really want to have that community center, parking has to be included. Last night they had a meeting with old and new members; and they talked about how they would modify the driving range. They came up with a plan that they wanted to put in this area; and this could be a satellite practice facility that could double as a trail head. They already have a road coming out of the retreat, where they could improve on that and have an all-terrain road, and years from now when they get to the community center, that would be a Plan B for the driving range. They would like to try and clean up there; they have two different

zones, with commercial in one spot. If they want to add some acreage to this so they can make sure they can do the community center and also fix the commercial aspect of their current community center, they need to fix that so they can rent things during the day. He would like to set this up for the next 10 years so they can walk through this plan as the market dictates.

Commissioner Howell said that he liked the design of their buildings and sees that they are maintaining that rural atmosphere. John Lewis replied that he did say he was going to do a second barn, make it look old, and make it an amphitheater, and get families involved, and that has been done. They do put action where their words are instead of the other way around. They are fully committed to having that put into a Development Agreement, should something happen to him, and the next person has to do it that way; this is his and everyone's legacy.

Commissioner Graves moved to open public comment.

Kim Wheatley, who resides in East Huntsville, said that he commends John Lewis and his crew for being involved with the community with this plan. They had an informal meeting last night to talk about what their vision is and opening the dialogue and letting the process work with the community that is affected by this; however, he worries any time they change anything to the CVR-1 Zone because they know there are capabilities should Mr. Lewis go bankrupt as the previous predecessors did before. They can see that the First America Credit Union has plans for that piece of property and they can see what the financial institute thinks, by putting the maximum amount of houses they possibly can and then flip it. If this goes into receivership with the CVR-1 Zone, they are looking at 75 foot buildings, and unlimited hotels, so he would encourage this commission to take Mr. Lewis up on his offer; build this plan into a development agreement, so that legacy will continue even if it goes into receivership.

Jan Fullmer, who resides in Eden and in one of the developments in Wolf Creek, said she is speaking for the 12 communities that are within Wolf Creek and surrounding Wolf Creek, and the input that more than 220 people provided on what they would like to see in the future development of Wolf Creek because it went bankrupt. There was no longer a single developer but multiple developers. Kudos are definitely in line to John Lewis and his staff; he has done tremendous improvements and the next phase he is proposing will not happen overnight; it's part of the total plan, and it meets many of the requests of the majority of the people, and it would be nice to have in Wolf Creek. In the hometown meeting that was held last September 2014, Weber County Planning and Weber County IT created a web page of the entire process, presentations of everything, raw data, various links; the outcome was passed to the developer, and she submitted the information of the web page to staff.

Jan Fullmer said in looking at the floor plan for Ogden Valley for the small commercial area that John Lewis is proposing; it is consistent with what the Logan Simpson consultants have been discussing at the workshops they've had with members in Ogden Valley. They have identified five commercial areas; if they are going to have various businesses, they want to cluster them to ensure a certain amount of traffic; it also helps support the success of the businesses. There needs to be a follow-up because there were 68 development units that were supposed to be transferred to the America First parcel which Eric Langvardt has laid out plans for that. The development plan for Eagles Landing; that could be put onto the map of Wolf Creek that John Lewis' group has put together. That total development plan could be there and then that whole plan as Mr. Wheatley could be recorded with Weber County to stay that way even if there is a new owner. They highly recommend that this Planning Commission approve this request.

Miranda Menzies, 3807 North Elkwood Trail in Wolf Creek, President of the Wolf Creek Master Home Owners Association (MHOA), said the MHOA covers all of the development land within Wolf Creek. She has been talking to John Lewis and Eric Householder and she would like to commend John and his team for the way they have reached out to the community. They have had in excess of 150-200 people in various meetings, with various emails, and phone contacts that she and Jan Fullmer have received. Mr. Lewis came out and asked us what they thought, and there was a range of views, and she agreed with Mrs. Fullmer that the reaction is positive. The negative was with the early version of the driving range, and there is now a new version, which is Plan B and where the driving range would be moved to. Some people have questioned the overall amount of parking; whether it is really necessary, and she would ask that this commission consider in the future moving in the strand of an existing trail that was created some time ago; however, there are parts of that go downwards to the Welcome Center that Summit is occupying. This parking lot will become a split between that road and the buildings. If they look at a walkable street design, a lot of architects like to move buildings closer to the street because it creates a good feel. That is a comment they have received from some people. There was also a question about where the 68 units of

residential development would go, because to her understanding they are in a couple of buildings, and that seems to be quite a lot. She concurs that this be part of a development agreement.

Gary Fullmer, 3741 Red Hawk Circle, Eden, said a year ago when the idea of a general plan for Wolf Creek was raised, there were five different developers, there was a lot of discussion, and the Planning Commission recommended that there be a general holistic plan for what was Wolf Creek, and it turned out to be 5-6 different ideas. At last night's meeting, there was a map that basically showed the entire Wolf Creek Resort, America First's property, the Eagles Landing property, the ownership that John Lewis has, and it showed a holistic plan which he would like for this commission to consider that. He would like for them to consider what Wolf Creek could be; and that would lend itself to more of a general plan. Mr. Lewis has reached out to the various other developers; Summit, Eagles Landing, America First has been briefed on this, and there seems to be a large support there. They are looking at something more than just a rezoning; it's much larger, and that is amenities for the population. If population comes in and America First does take those 413 units and develops them on acre lots, people have to have something to do; John Lewis has a condo/hotel up here and it's a potential, also there is something going on in Nordic Valley. This is one of those answers for those amenities that people can do besides just playing golf. There was a discussion of the Ogden Valley Land Trust and there were preventatives at the meeting last night; they have now agreed there is an equal part. The piece that is being asked to change from FR-1 to O-1 is probably a better piece of property for open space.

Bill Christiansen, who resides in Eden, asked staff how many acres of commercial are available in the valley and if there is a need for more commercial. The reason everybody is in the central part of Eden is that Weber County designated this area as the spot for commercial. So people paid their money and put their businesses where Weber County said that they should; and now somebody comes in late to the game, and wants to change the game. Are they going to continually create spot zoning all over just so some developer can make more money? Now this Planning Commission is being asked to create a new commercial area so that somebody can take business from where Weber County had indicated that the commercial area should be. If the Planning Commission is going to keep creating commercial areas all over the place, then he will get out and sell his place, because he believes there is no reason for that. All they are going to do is create more and more places for commercial, and there is more than enough spaces in the valley now, and the valley doesn't need more commercial space.

Chair Pro-Tem Parson closed the public hearing.

Commissioner Waldrip asked legal counsel, if a request for a development agreement is to accompany any type of rezone. What latitude does this commission have to place that as a condition on any kind of a rezone? Director Wilkinson replied that they actually have that in the Land Use Code, where they can require a zoning development agreement as part of the rezone application.

Commissioner Waldrip stated that one of his concerns is the relocation of the driving range to somewhere that is beyond cart friendly driving. Is that a concern that they had discussion with the golfing community? Mr. Lewis replied that they would definitely have to be able to get there by cart and car. They have to be able to get there through the 9th fairway, and then turn up where they have the open space and the existing corridor.

Commissioner Waldrip asked Mr. Lewis to respond to the comment of various issues in the valley beyond just Wolf Creek what does the valley look like, and how much is enough or too much? By doing something like this, are they detracting from taking the focus out of a traffic standpoint, that from a visibility standpoint might make more sense, and are they relocating to an area that is more difficult to get to, that creates more traffic issues and is more removed from the general population, that would otherwise be served as commercial? John Lewis replied that is a valid concern. Coming from his perspective where he is used to owning buildings in that commercial area, he was frustrated with the lack of planning as far as subdivisions with no HOA's, with a different owner who has a different vision. The people he sells to, his neighbors want a little more sense of cohesion. They have competing architectural styles, and what it comes down to is looking fractured and somewhat scattered. What they get at a resort is different than what they get at a commercial intersection. There seems to be a different set of needs at Wolf Creek; the way they look at planning, they really look at this in terms of nodes, residential around it, as the way they used to look at it, which were satellite neighborhoods with centralized cores of commercial. They wanted to move forward in the direction that the county is going now, where there is some sense of cohesion. Mr. Langvardt could add more information to this

Eric Langvardt, Eric Design Group, Salt Lake City, said he wanted to point out that this is already commercial; and what they are asking for is the ability to go to the CVR-1 Zone because of the residential compliance. In effect they could actually have less square footage there when they are done. This portion is a recreation base that has to be CVR-1 so it could be operated as a club and not just for golf members. Its commercial, and they are not just talking about a liquor store or a restaurant in this area; it's the same square footage that they currently have zoned commercial.

Commissioner Waldrip said what they are proposing to take would be open space driving range open space; and replacing it with something different, and he asked Mr. Lewis to talk more about his vision. Mr. Lewis explained his vision on the map including where the proposed parking and community center would be located. Some of the existing community center would be a component with some retail and office space, and that's the majority of the commercial that they are talking about. They are looking at this as more of a mixed use. This is already zoned commercial; they are trying to minimize, and one way that can be done is to put condos above the businesses. In terms of the nine acres for nine acres, everything is just common recreational use except for one area.

Commissioner Waldrip asked Mr. Lewis how close he is to the point where he would feel comfortable going to county staff and starting a defined development agreement discussion where he could lock in on some of these issues. Mr. Lewis replied that they have been asked to come back within a year with the overall plan that they could lock in and have an updated master plan that didn't get into the record before. The two big holes in the master plan that was left was the commercial core and that is something they can focus on. America First has drawn their 413 lots on the map, but he doesn't believe that it will end up that way. The next step is to get back on the agenda and come back with the big plan. They would like to have a series of meetings with the neighborhood next month to discuss that plan, present their core approved by the county, showing what America First's plan looks like, with the other neighborhoods drawn in. He sees this happening within the next 30 to 60 days.

Commissioner Waldrip asked Mr. Lewis if he would be comfortable with an approval based upon a development agreement being entered into with the county. Mr. Lewis replied yes, if there was a way they could get it subject to a development agreement to be developed over the next two or three months. The county would retain the ability to pull the approval if they aren't satisfied. Mr. Gentry said that staff could draft up a zoning development agreement just for this commercial core on what he is proposing tonight and staff would present this to the County Commission as part of this rezone. Then they could come back with another zoning development agreement for the rest of the area. Director Wilkinson added that is what they were anticipating; if this rezone were to be approved, there would be a zoning development agreement specific for what is being proposed right now with the rezones that have been described, and at a later date, the overall master plan, including the numbers of units, would be clarified and that would be the new Wolf Creek Master Plan.

MOTION: Commissioner Howell moved to recommend approval to the County Commission ZMA 2015-01 to amend the Weber County Zoning Map, Wolf Creek area by rezoning 9.11 acres of Forest Residential FR-1 to Open Space O-1; rezone approximately 15.97 acres of Open Space, and Commercial Valley CV-2 to a Commercial Valley Resort Recreation CVR-1 Zone; and rezone 30.65 acres of Forest Residential FR-3 to Open Space O-1. This is subject to all conditions listed in the staff report and to the county agencies requirements, and also the acceptable land use codes mentioned in staff report. Commissioner Waldrip seconded.

FRIENDLY AMENDMENT: Commissioner Graves said to include a county approved Zoning Development Agreement, based on the concept development plan and other exhibits that they provided which incorporated the height restrictions. Commissioner Waldrip seconded.

VOTE: A vote was taken with Commissioner Howell, Graves, Haymond, Waldrip and Chair Pro-Tem Parson voting aye. Motion passed unanimously (5-0).

- 3.3. ZTA 2014-07:** Public Hearing to consider and take action on a proposed amendment of the following sections of the Weber County Land Use Code: Definitions (§ 101-1-7), Land Use Permit, Building Permit, and Certificate of Occupancy (§ 102-4), Conditional Uses (§ 108-4), and Supplementary and Qualifying Regulations (§ 108-7) to update and clarify provisions related to conditional use permitting and procedures.

Charles Ewert said that the Planning Commission have reviewed these proposed amendments in many work sessions dating back to November of last year; and he hopes this to be the final product on the new conditional use code. There are a

couple of minor tweaks and changes, and a whole new section that's been added to the proposal, and he needed to walk through and then touch on some finer points in the rest of the context of the conditional use. One thing that was not addressed is the definitions of conditional use. They have taken the old definitions out and added a new definition in, taking it verbatim from state code so there is no confusion, and this helps us stay there. The next one is a new section, Chapter 4, Title 102, Administration Chapter. When this code was discussed with Western Weber Planning Commission, they discussed enforcement, revocation, and how they make this work when it comes to revoking a conditional use permit. In looking at this code, it was clear that due process was spelled out for the landowners who may be in violation, and they wanted to make those that the due process was spelled out in our code. When looking at building permits, that was moved to another section for administrative efficiency. Certificate of Occupancy was stricken out from the land use code. It is still required by the building code, but they don't want that to be part of the land use code, because that is subject to land use requirements under the building codes.

Charles Ewert said that a land use permit required is not a new section but some new changes; so if they are going to use their land, a permit is required at least for the things that a permit is required. There are permitted use permits which are land use permits, and there are conditional use permits. The next amendment is Title 102, Chapter 4, Section 3, Permit Revocation, and this is where they clarify how to revoke a land use permit. The land use revocation is done by whatever land use authority to issue the permit. If the Planning Director has the authority under the current code to issue a land use permit, the Planning Director has the authority to revoke the permit. In the case of the conditional use permit, it's the Planning Commission. Prior to the revocation, they will work with the landowner, and often the landowner doesn't realize that they are in noncompliance; they will work with the landowner to bring them into compliance, bringing them through the process to amend the conditional use permit, land use permit, site plan, or go through the enforcement procedures, and amend whatever they are in violation of. In the event that compliance can't be obtained, they will send them a notice 14 days as due process prior to revocation. The notice will say they have a right to a hearing before the authority who is doing the revocation, giving someone the due process right to come in and state their case. Following that, they will give them a hearing, if they ask for it, and stay their final decision until after the hearing, and revoke their permit if they can't come into compliance. They do not want to revoke their permits; these are land use rights they are dealing with, and the point here is to establish process to get someone into compliance. Revocation is not a final legal option; County Legal Staff and the Code Enforcement Officer can still go after them for other remedies.

Courtlan Erickson, Legal Counsel, referred to Title 102, Section 3, and commented on C7 asking what that was referring to because it was not the standard legal format. Mr. Ewert replied that would be the appeals section on Title 102, Chapter 3, under Board of Adjustment.

Commissioner Graves was excused from the meeting.

Charles Ewert said on the context of the conditional use code; everything seen here on the first several pages, is nothing different than what has been proposed in the past. In Section 108-4-5, line 283, on page 12 of 26, he reformatted this differently; this actually fits right into the contexts, of what they were talking about with the conditional use permits. The land use authority may apply conditions of approval, related to any of the standards of the sections, and provided that credible evidence that the application of the standard is relevant to the use. If they have a standard that they need to apply to a conditional use permit, that standard must be relevant to the uses and the conditions that they are then applying to it is based on that standard and are reasonable and necessary to substantially mitigate detrimental effects. The land use authority shall consider the expertise and experience of the applicable reviewer and qualified professional to help turn credible evidence well within the standards and the reasonable conditions. This falls within what Legal Counsel was saying; that threshold of defensibility if it goes to court.

Charles Ewert said there was a lot of discussion about water and whether or not the standards were beefed up enough, where water should be asked for, what should they be asking for; are they talking about wet water or paper water? He wanted to add something to help settle some of those questions. They talked about 1, 2, and 3 to verify adequacy of water, they may require these things to happen, but not be limited to only requiring these items. Essentially it has gone back to what is verifiable, credible; what are the facts, what science lies behind it, and can they find good conditions to apply that aren't part of this list.

Commissioner Haymond moved to open the public hearing.

Keith Wheatley, who resides east of Huntsville, said this all got started when the GEM Committee asked Mr. Ewert whether the whole conditional use permit process would be looked at during the update of the general plan. The response was that it was not part of the scope; but he knows that staff has had to go out of their way to address this. This Planning Commission had endless workshops addressing this, and there is now a basis from which they can now look at the land use table, and have a credible foundation to work with. He commends Mr. Ewert for doing such good work and note that even Miranda Menzies was happy with the water section.

Chair Pro-Tem Parson moved to close the public hearing.

MOTION: Commissioner Haymond moved to recommend to the County Commission approval of ZTA 2014-07 to amend the following sections of the land use code as outlined in the staff report including all conditions and recommendations listed in the staff report. Commissioner Howell seconded. A vote was taken with Commissioner Howell, Haymond, Waldrip and Chair Pro-Tem Parson voting aye. Motion passed unanimously (4-0).

- 3.4. ZTA 2015-01:** Public Hearing to consider and take action on a proposed amendment of the following sections of the Weber County Land Use Code: Home Occupations; Short Term Vendors; Temporary Outdoor Sales; Farmers Markets (§ 108-13) to enable a home occupation to provide limited instructional activities in yard area or accessory buildings and to update and clarify provisions related to home occupation permitting and procedures.

Charles Ewert said this was an applicant-driven change and they came in for consideration of the code to allow them to use what they have on their property, an accessory building with a basketball court inside for the purposes of making a little bit of commercial revenue. After several discussions with them, staff decided that the best way to handle this was through the Home Occupation Code. They went through this proposed amendment in the work session and most of this is unchanged, except for a couple of changes that he would like to go through Section 108-13-2, Line Item 134, (13). Mr. Ewert read through that section and said originally, this started out as athletic instruction but after going to both Ogden Valley and Western Weber Planning Commission's work sessions, they both agreed to open that a little bit more. He was concerned about opening that up because they didn't have a lot of impact. Opening that up to any kind of instruction, then they start talking about a few more different kinds of impacts especially in residential zones. To help with those, they have a minimum lot size of three acres but there are several small acre developments, including Wolf Creek and a few others that have instructional activity outside. Some people who own property wouldn't be able to get a permit. A noise standard and lighting standard was added and one of the exhibits shows some science behind decibels, how to understand what a decibel is, and what increases in decibels are. Also on the lighting standards, it shows what a foot candle is, how to measure a foot candle, and what it means when measuring from the property line.

Charles Ewert said that important part is when they are talking about 60 decibels; it's not that the home occupation itself is 60 decibels. It's that the delta between the standard ambient noises in the neighborhood and the new use is no more than the 60 decibel increase. The same thing with lighting, the delta increase in light from home occupation is no more than two foot candles as measured on the property line. He could use his iPhone to actually capture the two measurements on the property line. Truck traffic and regulation of truck traffic was added but is not relevant to outdoor instruction. If the home occupation is confined to the inside of the home, they allow customers to come to the site, they allow sales of goods, and this could encourage truck traffic. They added a standard about heavy trucks; the Planning Commission was concerned with what a heavy truck is, and he went to UDOT to find out their regulation on heavy trucks, and wrote this standard in the ordinance. There was concern from the public and they talked about this in the work sessions; the way the employee section was written did not adequately cover contractors who are working for the business. They are not talking about employees but a person employed. In the final discussion, Western Weber didn't want to limit it to three-acre lot sizes; they know they have a lot of one acre lot sizes there, and did not want to put a limit of three acres in the ordinance. They wanted to give a conversation starting point. They are experimenting with home occupations outside the home, and they didn't want this allowed everywhere. Putting this on larger acreages would allow a buffer between these kinds of uses and the neighboring residential uses. When they discussed this with the Western Weber Planning Commission, they said whatever the minimum lot size in the zone is should be the standard. The conversation with the Ogden Valley Planning Commission was a minimum of three acres, and if they wanted to split the two, then his recommendation to the County Commission is to split the two.

Chair Pro-Tem Parson asked if the Planning Commission wanted to discuss the acreage size and it was agreed that Ogden Valley should stay with three acres and have Western Weber Planning Commission determine their own acreage.

Commissioner Waldrip said that on the foot candle measurement, there should be a height standard, whether it is three feet or two feet. Mr. Ewert replied that he will look into this and do some further research on the height.

Chair Pro-Tem Parson moved to open the public hearing.

Kim Wheatley asked said in reference to the decibels, if he understood its 60 decibels above whatever the ambient level is. Chair Pro-Tem Parson replied yes. Mr. Wheatley said when he checked the ambient levels, it's often at 60 and that pushes it to 120 and that is higher than steel mills; that's jet air take off, and 120 decibels is really loud. They need to seriously think about what the decibel levels are. Even the levels they ended up at Wolf Creek Sewer Plant, ended up annoying neighbors 1,000 feet away, and he didn't know exactly what they were, but they were under 100.

Chair Pro-Tem Parson moved to close for the public hearing.

Commissioner Waldrip said if the ambient noise levels are impacted by one use, does that now reset the neighborhood ambient levels, so when somebody else comes in and they are another 60 decibels above that first use. It might make sense to put a cap on the noise such as a maximum level of a Boeing 737. Mr. Ewert said that he did more research on this and found that decibel ratings are not linear, so when they double a decibel, they are going up ten; they are doubling the sound. The policy perspective on this is that the noise level should not be more than a typical conversation which is about 60 decibels.

Chair Pro-Tem Parson asked if 60 decibels is typically considered conversation. Commissioner Waldrip replied that they would cap it at 60 decibels being measured at the property line. Mr. Ewert said that they could cap it at 60 decibels but they don't want to because they don't want to run someone out of business because they started running the lawnmower. If they are comfortable with no more than a conversation in restaurant, office, background music, or air conditioning unit at 100 feet threshold. This being the additional noise that this business can add to a neighborhood; he will make sure that he gets the math correctly and have a standard there that is measureable once this gets to the County Commission.

Courtlan Erickson, Legal Counsel, said that as he interprets the way it is written, if the ambient level is 60, this is saying it can go up to 120. He would agree that this is worth clarifying. Mr. Ewert said that his anticipation with something like this; what staff would do upon receiving an application, is ask all the questions, and get them noted on the land use permit that the noise level can't be beyond a certain noise threshold. Right now, it is based on complaint enforcement, they issue a permit and wait for a complaint to come in, and then go out and check on it. He encouraged further review with other attorneys to further clarify the intent.

MOTION: Commissioner Howell moved to table ZTA 2015-01 until they get more information on the noise levels. The motion died for lack of a second.

MOTION: Commissioner Haymond moved to recommend to the County Commission approval of ZTA 2015-01 to amend the following sections of the Land Use Code as outlined in the staff report with all recommendations and modifications that the noise level not exceed 60 decibels as measured from the property line, equal to a conversation in a restaurant, office background music, or air conditioning unit at 100 feet, and to include the measurement of light, of two a foot candle measured at three feet above grade of the property line. Commission Howell seconded. A vote was taken with Commissioner Howell, Haymond, Waldrip and Chair Pro-Tem Parson voting aye. Motion passed unanimously (4-0).

- 3.5. ZTA 2015-02:** Public Hearing to consider and take action on a request to amend Title 108 (Standards), Chapter 15 (Standards for Single Family Dwellings), of the Weber County Land Use Code by eliminating some standards, exempting specific projects types from some standards, and improving overall organization.

Scott Mendoza said this is an amendment to Title 108-15 Standards for Single Family Dwellings. They are proposing to add some clarity to the existing chapter, be less repetitive and group a lot of these standards. There was a section that allowed an exception or modification to the rules, and that was in a list of standards, now they have put that into its own section within the code and labeled it Exceptions. They are eliminating some of the standards and exempting specific types of developments from some of the standards in the code. The exceptions have to do with architectural features or mapping,

and in Exhibit C. This is the final draft that will be proposed to County Commission with more organization. There is a requirement where a home has to have a 72 square foot storage closet somewhere and that standard is not necessary.

Chair Pro-Tem Parson opened and closed the public hearing.

MOTION: Commissioner Howell moved to recommend approval to the County Commission to amend ZTA 2015-02 Weber County Land Use Code, Title 108-15 Standards for Single Family Dwellings with notations listed in the staff report. Commissioner Haymond seconded. A vote was taken with Commissioner Howell, Haymond, Waldrip and Chair Pro-Tem Parson voting aye. Motion passed unanimously (4-0).

- 3.6. **ZTA 2015-04:** Public Hearing to consider and take action on a request to amend Title (Standards), Chapter 7 (Supplementary and Qualifying Regulations) of the Weber County Land Use Code by adding a new section that would allow buildings, in certain situations, to encroach into private road rights-of-way.

Scott Mendoza said this is a proposed amendment to Title 108, Chapter 7, Supplementary and Qualifying Regulations, and this is the catch all chapter and these things apply to different situations in all zones. Within that chapter is Section 108-7-2, Projections Permitted into Required Yard Setbacks. What is being proposed is adding a new section titled Projections Permitted into Private Streets Rights-of-Way; this will allow a resort main street, with architectural features in front of the building that will project into a private right-of-way or into a privately dedicated road right-of-way. There is a limitation as to what those projections are and there is a list of standards and requirements. If a developer were to building a building, they would have to come in and present to the county prior to getting approvals. They would have to have a letter from the owner of that privately owned right-of-way. Today this would only be allowed Ogden Valley Destination Recreation Resort Zone, and potentially could be in the Commercial Valley-2 Zone. These are standards that allow zero front yard setbacks; this is allowed in the resort zone, and in the CV-2 the setback is 20-30 feet, but if a developer comes in and presents a complete street plan, the developer has some flexibility and in a case with zero front yard setbacks propose these projections in resort zones and only on private streets.

Chair Pro-Tem Parson opened and closed the public hearing.

MOTION: Commissioner Howell moved to recommend approval to the County Commission on ZTA 2015-04 Weber County Land Use Code, Title 108, Chapter 7, Supplementary and Qualifying Regulations of the Weber County Land Use Code by adding a new section that would allow buildings, in certain situations, to encroach into private road rights-of-way. Commissioner Haymond seconded. A vote was taken with Commissioner Howell, Haymond, Waldrip and Chair Pro-Tem Parson voting aye. Motion passed unanimously (4-0).

- 4. **Public Comment for Items not on the Agenda:** Kim Wheatley thanked everyone for all their hard work on these ordinances.
- 5. **Remarks from Planning Commissioners:** None
- 6. **Planning Director Report:** Director Wilkinson said coming on October 1-2, 2015 they have the Utah Fall APA Conference at Thanksgiving Point in Lehi, and that is on a Thursday and Friday. Staff would like for this commission to look at their schedule, and get back with Sherri or Kary with their availability. The county will provide transportation if needed. There will be an email sent out and they need to register by early September.
- 7. **Remarks from Legal Counsel:** Courtlan Erickson said he is looking forward to working with everyone for a long time.
- 8. **Adjournment:** The meeting was adjourned at 7:50 p.m.

Respectfully Submitted,

Kary Serrano, Secretary
Weber County Planning Commission