



Staff Report to the Weber County Commission

Weber County Planning Division

Synopsis

Application Information

Agenda Item:	ZMA 2023-05. A public hearing to consider an ordinance and proposal to rezone 2.7 acres from AV-3 and CV-2 to the Form Based (FB) zone, property located at 5461 E 2300 N, Eden.
Application Type:	Legislative
Agenda Date:	Tuesday, June 13, 2023
Applicant:	ZW Investments and ZBF Investments
File Number:	ZMA 2023-05

Property Information

Approximate Address:	5461 E 2300 N, Eden
Zoning:	AV-3, CV-2
Existing Land Use:	Vacant
Proposed Land Use:	Form Based
Parcel Number:	22-047-0001, 22-051-0047, 22-316-0002, 22-316-0003

Adjacent Land Use

North:	Residential	South:	Commercial, Residential
East:	Commercial	West:	Agricultural

Adjacent Land Use

Report Presenter:	Steve Burton sburton@webercountyutah.gov 801-399-8766
Report Reviewer:	CE

Summary

On February 3, 2023 the applicant submitted a request to rezone 2.7 acres from the AV-3 and CV-2 zone to the FB (Form Based) Zone. The property is located in an area of Eden that is included in the Street Regulating plan for the Old Town Eden Area found in the Form Based zoning ordinance. The street regulating plan shows this property with a potential of mixed-use commercial and multi-family residential on the property.

The applicant's request is to rezone to the FB zone, so that the street regulating plan and FB zoning will apply, and allow them to build mixed-use commercial buildings with streetfront commercial retail on the first floor, and a variety of uses, including a possibility of residential apartments above and behind. Out of the 2.7 acres, there are two parcels in the AV-3 zone that each contain one grandfathered development right, for a total of two existing development rights on the project as a whole. The applicant is proposing to transfer development rights from the AV-3 zone on the valley floor to the 2.7 acres before constructing more than two apartments above the commercial streetfront floor of the first building.

Planning Commission Recommendation

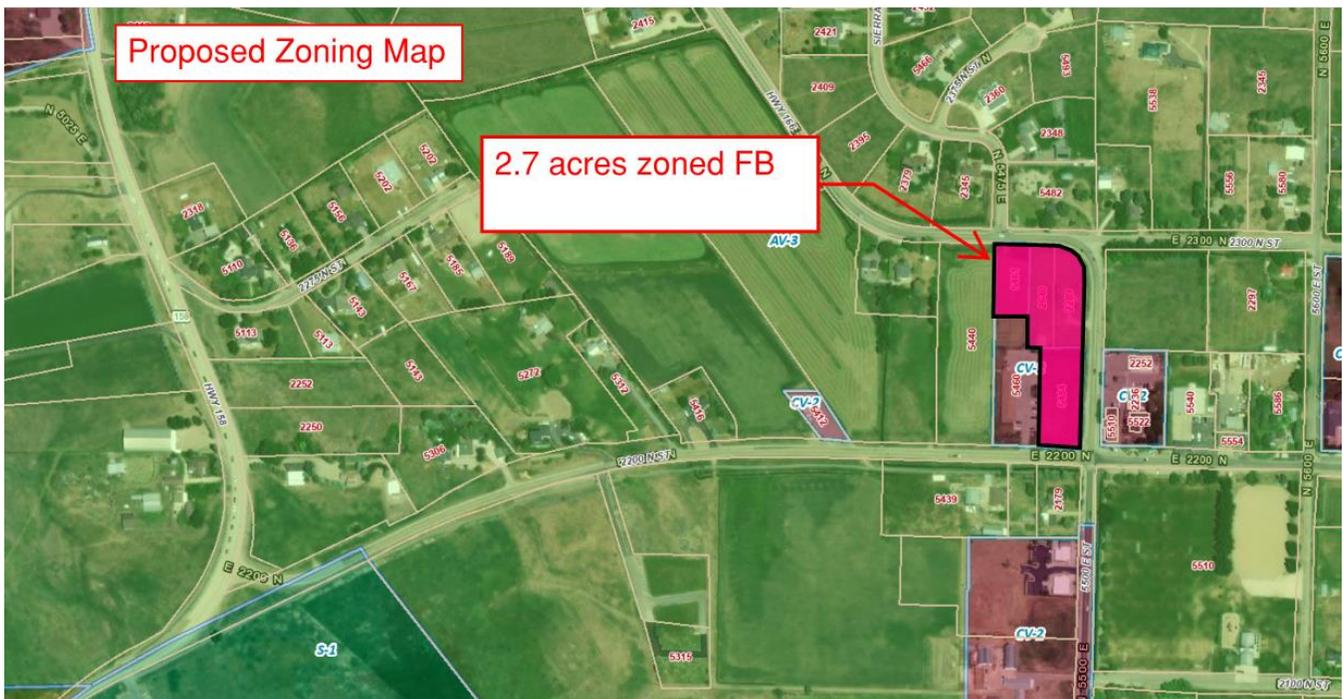
On April 25, 2023, the Ogden Valley Planning Commission forwarded a positive recommendation to the County Commission regarding ZMA 2023-05. The Planning Commission recommendation was based on the following findings.

1. The proposed rezone is consistent with the General Plan
2. The proposed rezone is compatible with the overall character of existing development in the vicinity of the subject property.
3. That impacts to surrounding properties and matters related to transportation are addressed at subdivision and design review.

Area Map



The following images show the subject properties on the existing zoning map and on the proposed zoning map.



Policy Analysis

Section 102-5-6 of the Land Use Code provides direction regarding the duties of the County Commission when taking action on legislative items such as rezones:

A decision to amend the zoning map is a matter committed to the legislative discretion of the County Commission and is not controlled by any one standard. However, in making an amendment, the County Commission and

County Commission are encouraged to consider the following factors, among other factors they deem relevant:

Each of the following sections is the staff's analysis of relevant factors when considering a rezone request. The following sections provide information to help the County Commission evaluate the request. Each subsequent section will be titled, County Rezoning Procedure (with its relevant factor).

County Rezoning Procedure (a)

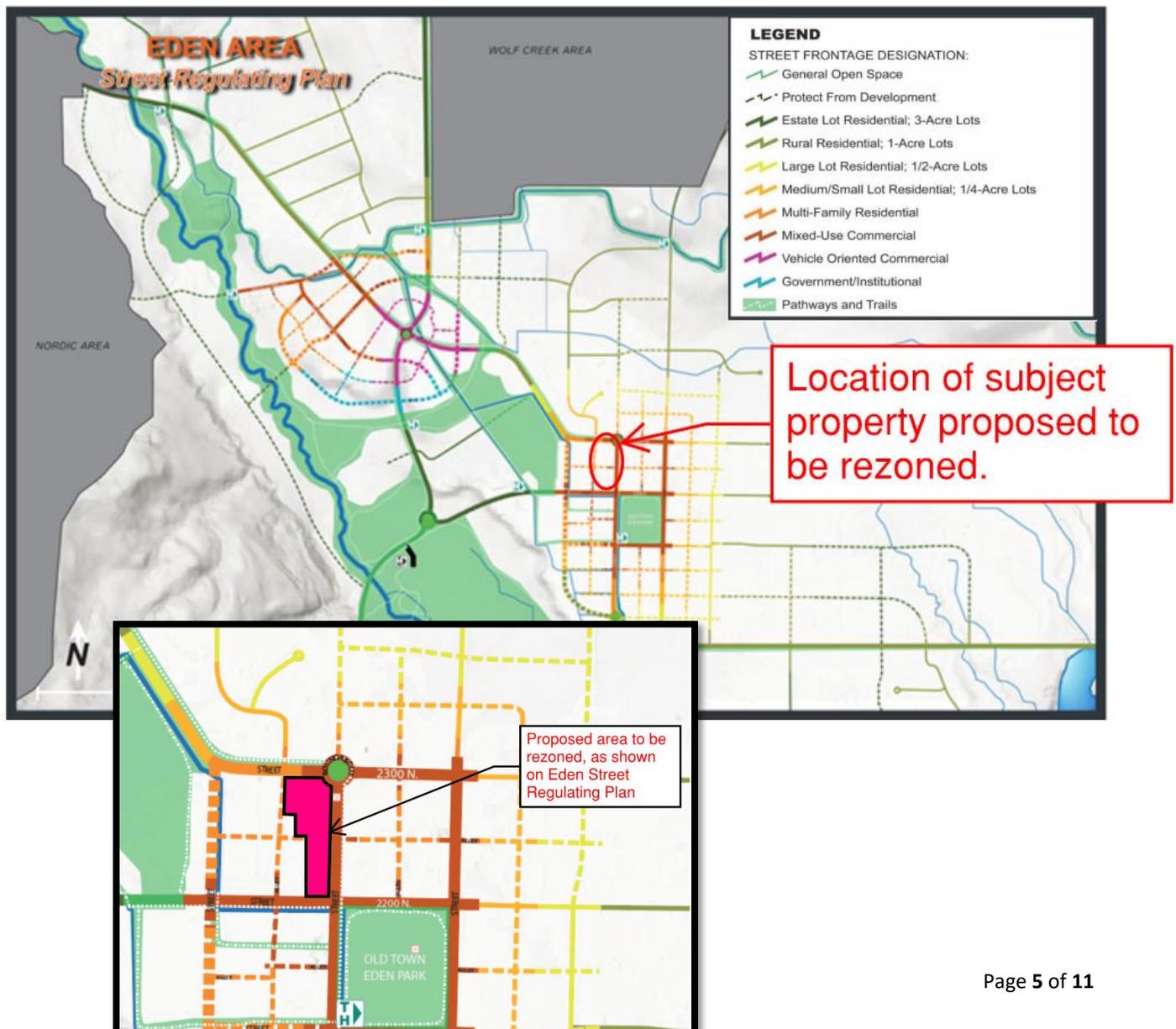
- a. Whether the proposed amendment is consistent with goals, objectives, and policies of the County's general plan.

Ogden Valley General Plan: The Ogden Valley General Plan states that small area plans should be created near the nodes shown as villages on the Commercial Locations and Village Areas map. These small area plans "Should identify defining attributes and appropriate design standards, identify future potential adjacent expansion areas, and plan for multi-modal and active transportation to and within each area" (2016 Ogden Valley General Plan, Commercial Development Implementation 1.1.1, pg. 33) In January of 2022 the Form Based zoning ordinance was adopted by the County Commission.

The FB zoning ordinance implements most of the small area planning that was anticipated by the general plan in three areas of the Ogden Valley. Currently the FB zoning ordinance includes a street regulating plan for Old Town Eden, New Town Eden, and the Nordic Valley village areas. A rezone to the FB zone complies with the Ogden Valley General Plan. Residential uses in the FB Zone require development rights to be transferred from undeveloped or underdeveloped property on the valley floor.

Form Based Zone

The subject property is located in the Eden area and is shown as having a potential of mixed-use commercial and multi-family residential on the FB zone's street regulating plan, as shown on the following image.



Section 104-22-1 states the following regarding the FB Zone:

The purpose and intent of the Form-Based Zone is to provide a form-based regulatory tool that focuses on the public street design and the buildings that frame the public street. This deemphasizes separation of land uses as is typically found elsewhere in this Land Use Code. Form-based regulations help enable a mixture of allowed uses, multimodal active transportation, and enhanced building design.

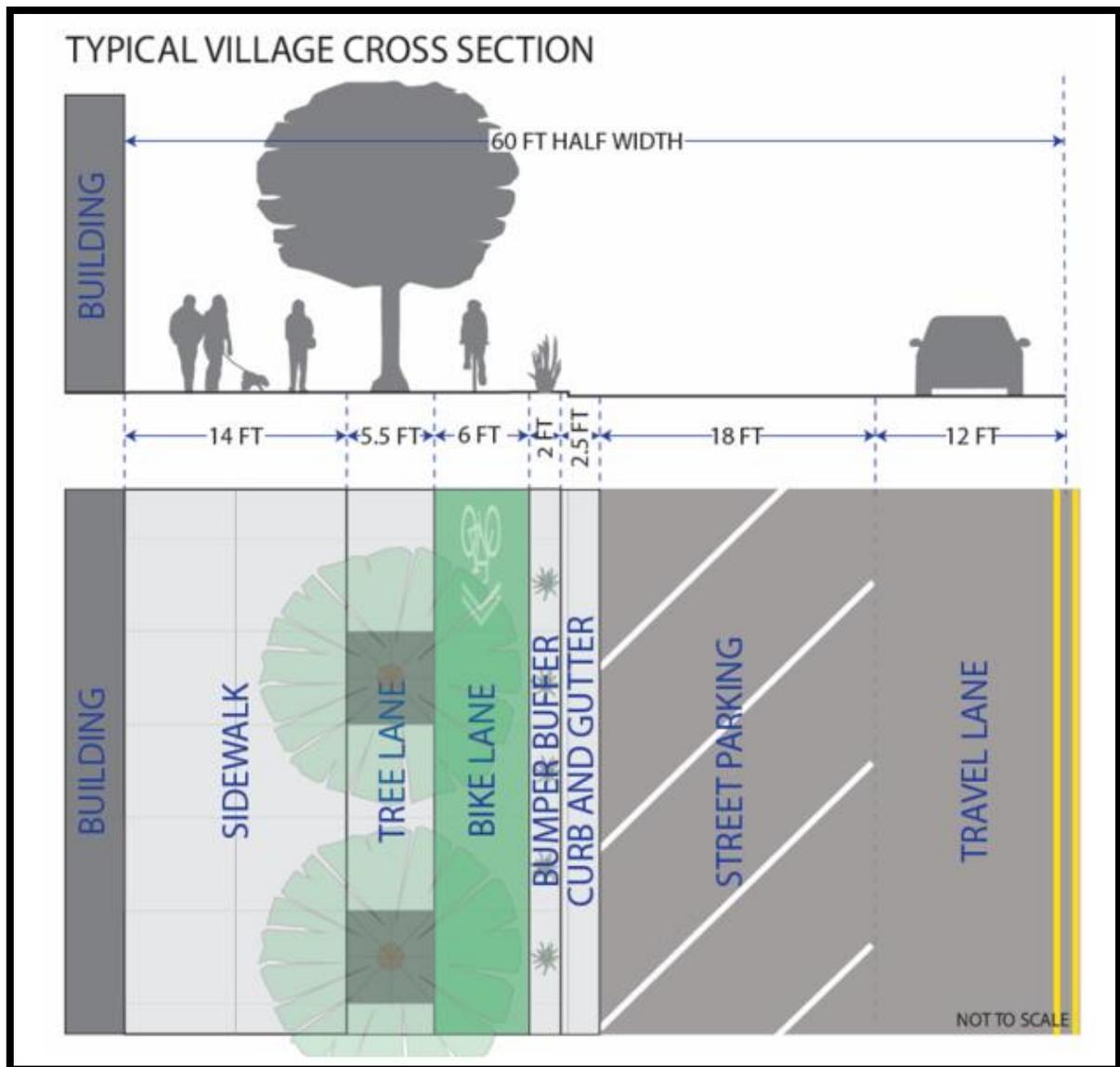
This proposal is to establish the FB zone so that the applicant can develop a mixed-use commercial project, with a possibility of doing multifamily residential on the second floor of the mixed-use commercial structures.

Street type, description, and purpose

The FB zone states the following regarding the street configuration of a mixed-use commercial street.

A mixed-use commercial street has street-front buildings that are oriented toward pedestrian traffic. At the street-level, these buildings shall be exclusively used or reserved for commercial operations. Commercial and Multi-family residential uses are allowed above or behind first-floor street-level commercial space.

If the property is rezoned to the FB zone, the developer will be required to work with the county to implement the street cross section shown below, as well as other street improvements required by the FB zone:



Lot development standards

The FB zone lists the following lot development standards for the mixed-use commercial and multi-family areas.

- No minimum lot area
- 12 feet minimum lot width
- No minimum yard minimum setback for first floor street level façade.
- 5 ft maximum yard setback from front property line.
 - 40 ft minimum for other building facades.
- No minimum side setback, no maximum.
- No minimum rear setback.
- No maximum lot coverage by buildings.
- 50 ft maximum building height.

Transfer of Density

The FB zone does not create any new density in the Ogden Valley. The applicant has two development rights on the existing 2.70 acres in the AV-3 zone. The applicant will transfer development rights from the valley floor, as allowed by the FB zone, to this project in order to construct more than two second floor apartment buildings. The transfer of density will need to be documented and recorded with the county before the owner can begin platting the second floor apartments.

Workforce Housing

The FB zone requires the applicant to participate in providing for workforce housing in the area. The applicant has chosen the following method of providing workforce housing within the 2.7 acre project.

Sec. 104-22-12 (c)(1). Building and reservation of dwelling units. Dwelling units, in an amount that is equal to or greater than five percent of the non-workforce housing units being developed, shall be constructed and deed restricted for workforce housing;

The applicant has proposed to build and deed restrict the number of units that is equal to or greater than five percent of the non-workforce housing units being developed.

County Rezoning Procedure (b)

- b. Whether the proposed amendment is compatible with the overall character of existing development in the vicinity of the subject property.*

The FB zone was designed with the overall character of existing development in the vicinity of the subject property in mind. Many of the existing commercial buildings have architectural elements unique to the Old Town Eden area. Visually, the FB zone will require development to implement similar architectural features to those in the vicinity of the subject property.

The uses that are permitted in the mixed-use commercial and multi-family residential areas of the Eden Area Street regulating plan are not expected to be incompatible with the existing commercial, agricultural, and residential properties that are in the vicinity of the subject property. The FB zone includes standards that are intended to ensure compatibility of new structures and uses with the built environment in the neighborhood. The following is an example:

Sec 104-22-4.1. All uses, generally. All uses listed in the use table are indoor uses, unless specifically stated otherwise. All indoor uses shall not generate noise, outdoor lighting, vibration, smoke, dust or airborne particulate matter, refuse, or anything else that is uncommon to the established character of the neighborhood to such a degree as to be perceptible to constitute a nuisance to the occupants of the immediate area.

County Rezoning Procedure (c)

- c. The extent to which the proposed amendment may adversely affect adjacent property.*

Adjacent properties include 2.56 acres of vacant property zoned AV-3 to the west, two residential lots with homes zoned AV-3 to the north, 2 acres of vacant property zoned AV-3 to the north-east, one acre of property in CV-2 to the East, and three residential lots with homes zoned AV-3 to the south.

The uses that will be allowed in the FB zone are primarily indoor and are prohibited from creating a nuisance to adjacent properties. Currently, the CV-2 zoning that is present in this area is less strict in terms of allowed uses that have a greater likelihood of adversely impacting adjacent property, including vehicle oriented uses like self-storage units, convenience store, gas station, and car wash, none of which are permitted in the mixed-use commercial and multi-family residential areas of the FB zone.

County Rezoning Procedure (d)

- d. Whether the proposed rezone can be developed in a manner that will not substantially degrade natural/ecological resources or sensitive lands.*

The subject properties are not located within any mapped sensitive lands, as defined by county code. There are no wetlands, geologic hazards, floodplain, groundwater protection, or important wildlife habitat areas mapped on the subject properties. Given this information, it is not anticipated that the proposed rezone will substantially degrade natural/ecological resources or sensitive lands.

County Rezoning Procedure (e)

- e. *Whether proposed traffic mitigation plans will prevent transportation corridors from diminishing below an acceptable level of service.*

The applicant has not submitted a traffic mitigation plan. Planning staff has not requested a traffic mitigation plan because the project is only 2.7 acres, and currently no sewer serves the area to significantly increase residential and commercial densities on the subject property. The County Commission may request a traffic mitigation plan before making a decision. It is the recommendation of staff to require a traffic mitigation plan at the time the developer submits specific plans for Design Review, because it is at that time that the applicant will have more specific building and use plans.

County Rezoning Procedure (f)

- e. *The adequacy of facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreation facilities, police and fire protection, schools, storm water drainage systems, water supplies, wastewater, and refuse collection.*

The streets along the mixed-use commercial and multi-family residential areas of the FB zone will require significant right of way dedication and improvement. Development in these areas will require the land owner to dedicate enough area for, and improve a 60 foot half width street, as shown on page 6 of this report. The dedication and improvement will be done when the owner submits a design review application and building permit. The eight acre Eden park across the street is anticipated to be the primary open space for this village center, the size and current facilities of which are expected to be sufficient for a project of this size.

The Weber Fire District has given unconditional approval of the rezone on the county's review website, indicating that proper fire protection exists in this area for the proposal. The applicant has provided a will-serve letter from Eden Water Works for the proposal. The project is not in a sewer service area, so it is expected that the owner will provide septic approval letters from the health department, or they will expand sewer service before applying for a building permit. There are irrigation ditches that are planned to be piped once development occurs. Piping of ditches will be required to be engineered so that the ditch carries water in the same capacity, or in greater capacity than it has historically.

Staff has not reached out to police, schools, and refuse collection to determine if adequate services exist for this rezone, and it is recommended that these specific services be assessed at the time the owner has more specific plans, at the time of design review.

Summary of Commission Considerations

In reviewing a proposed rezone, the County Commission may consider, but shall not be limited to considering, the following:

- a. Whether the proposed amendment is consistent with goals, objectives, and policies of the County's general plan.
- b. Whether the proposed amendment is compatible with the overall character of existing development in the vicinity of the subject property.
- c. The extent to which the proposed amendment may adversely affect adjacent property.
- d. The adequacy of facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreation facilities, police and fire protection, schools, stormwater drainage systems, water supplies, wastewater, and refuse collection.
- e. Whether the proposed rezone can be developed in a manner that will not substantially degrade natural/ecological resources or sensitive lands.
- f. Whether proposed traffic mitigation plans will prevent transportation corridors from diminishing below an acceptable level of service.

Staff Recommendation

Staff recommends that the Commission consider the proposed rezone from AV-3 and CV-2 to the FB (Form Based) zone as proposed, and offer the applicant feedback for additional consideration, if any. If the Commission is comfortable with the proposal, an ordinance has been prepared for the Commission to sign

Model Motion

The model motions herein are only intended to help the commissioners provide clear and decisive motions for the record. Any specifics provided here are completely optional and voluntary. Some specifics, the inclusion of which may or may not be desired by the motioner, are listed to help the commission recall previous points of discussion that may help formulate a clear motion. Their inclusion here, or any omission of other previous points of discussion, are not intended to be interpreted as steering the final decision.

Motion for positive recommendation **as-is:**

I move that we approve File # ZMA 2023-05 and ordinance # _____, an applicant driven rezone application to amend the zoning map on 2.7 acres from AV-3 and CV-2 to the Form Based (FB) zone, property located at 5461 E 2300 N, Eden. **I do so with the following findings:**

Example findings:

- The zone change is supported by the Ogden Valley General Plan.
- [_____ add any other desired findings here _____].

Motion to **table:**

I move that we **table** action on File # ZMA 2023-05, an applicant driven rezone application to amend the zoning map on 2.7 acres from AV-3 and CV-2 to the Form Based (FB) zone, property located at 5461 E 2300 N, Eden, to [_____ state a date certain _____], **so that:**

Examples of reasons to table:

- We have more time to review the proposal.
- Staff can get us more information on [_____ specify what is needed from staff _____].
- The applicant can get us more information on [_____ specify what is needed from the applicant _____].
- More public noticing or outreach has occurred.
- [_____ add any other desired reason here _____].

Motion to recommend denial:

I move that we deny File # ZMA 2023-05, an applicant driven rezone application to amend the zoning map on 2.7 acres from AV-3 and CV-2 to the Form Based (FB) zone, property located at 5461 E 2300 N, Eden. I do so with the following findings:

Examples of findings for denial:

- The proposal is not adequately supported by the General Plan.
- The proposal is not supported by the general public.
- The proposal runs contrary to the health, safety, and welfare of the general public.
- The area is not yet ready for the proposed change to be implemented.
- [_____ add any other desired findings here _____].

Exhibits

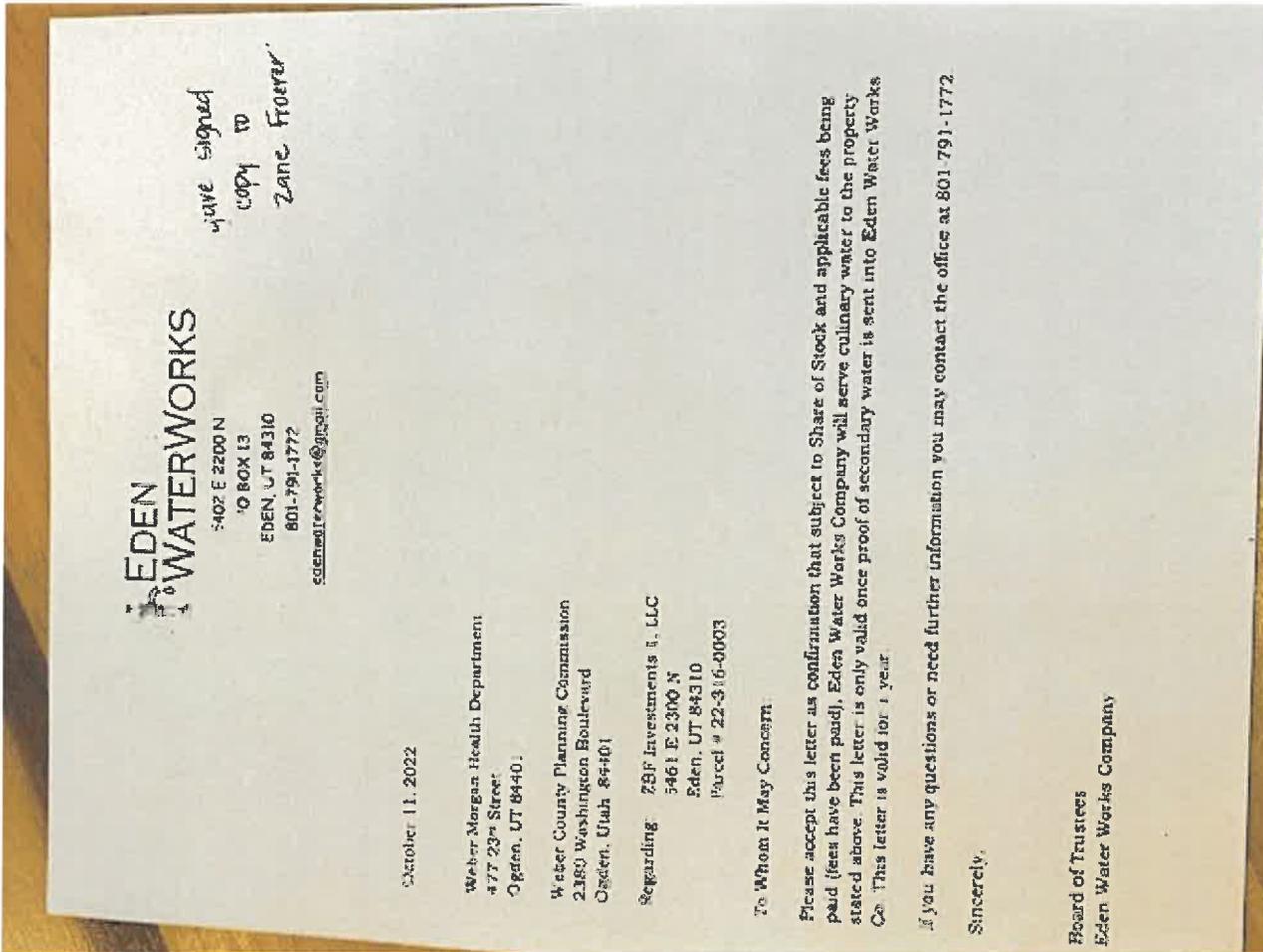
Exhibit A –Water Service Acknowledgement

Exhibit B – Draft Rezoning Ordinance

Burton,Steven

From: Lance Froerer <lance@froerer.net>
Sent: Tuesday, February 21, 2023 12:10 PM
To: Burton,Steven
Subject: [EXTERNAL] Water letter

CAUTION: This email originated from outside Weber County. Do not click links or open attachments unless you know the sender and are expecting the link or attachment. Think Before You Click!



Sent from my iPhone

ORDINANCE NUMBER 2023-_____

AN ORDINANCE AMENDING THE WEBER COUNTY ZONING MAP FROM AV-3 AGRICULTURAL VALLEY AND CV-2 COMMERCIAL VALLEY TO FB FORM BASED ZONE ON APPROXIMATELY 2.7 ACRES

WHEREAS, the Weber County Board of Commissioners have adopted a zoning map for the unincorporated areas of Weber County; and

WHEREAS, the Weber County Board of Commissioners has received an application from ZW Investments and ZBF Investments LLC, to amend the zoning designation from AV-3 and CV-2 to FB; and

WHEREAS, the Weber County Board of Commissioners and ZW Investments and ZBF Investments LLC mutually agree to change the zoning designation from AV-3 and CV-2 to FB; and

WHEREAS, on April 25, 2023 the Ogden Valley Planning Commission held a duly noticed public hearing to consider the rezone application, and forwarded a positive recommendation to the Board of County Commissioners;

NOW THEREFORE, the Weber County Board of Commissioners ordains an amendment to the Weber County Zoning Map to change the zoning designation, as more precisely described in the attached exhibits, from the AV-3 zone and CV-2 zone to the FB zone. The graphic representation of the rezone is included and incorporated herein as Exhibit A. A written description of the rezone is included as Exhibit B. In the event there is conflict between the two, the legal description shall prevail. In the event the legal description is found by a licensed surveyor to be invalid or incorrect, the corrected legal description shall prevail as the description herein, if recommended by the County Surveyor, provided that the corrected legal description appropriately bounds the subject property and fits within the correct legal description of surrounding properties.

This ordinance shall become effective fifteen (15) days after publication.

Passed, adopted, and ordered published this _____ day of _____, 2023, by the Weber County Board of Commissioners.

BOARD OF COUNTY COMMISSIONERS OF WEBER COUNTY

By _____,
_____, Chair

Commissioner Froerer voted _____
Commissioner Bolos voted _____
Commissioner Harvey voted _____

ATTEST:

Ricky Hatch, CPA
Weber County Clerk/Auditor

Exhibit A

Graphic Representation

ZW Investments and ZBF Investments LLC from AV-3 Zone and CV-2 to FB Zone

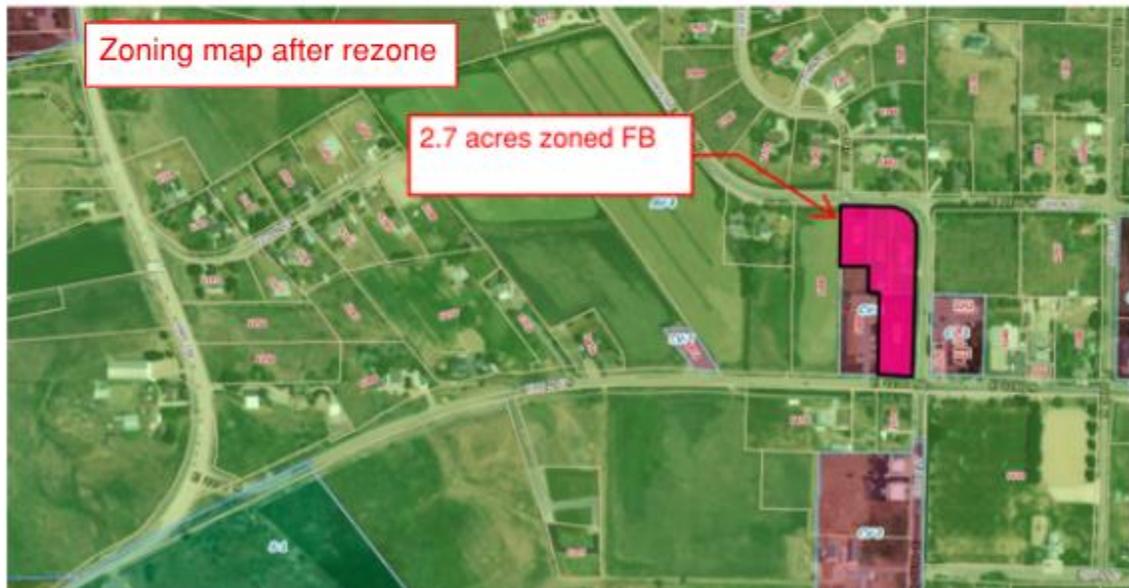


Exhibit B

Written Description

ALL OF LOT 5, VALLEY CENTER ESTATES 1ST AMENDMENT, WEBER COUNTY, UTAH. SUBJECT TO AND TOGETHER WITH PART OF LOT 1, VALLEY CENTER ESTATES AND PART OF LOT 5, VALLEY CENTER ESTATES 1ST AMENDMENT ACCORDING TO THE OFFICIAL PLATS THEREOF, ON FILE AND OF RECORD IN THE OFFICE OF THE RECORDER OF WEBER COUNTY, UTAH BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 1, VALLEY CENTER ESTATES AND RUNNING THENCE NORTH 89°21'51" WEST 10 FEET, THENCE SOUTH 00°58'38" WEST 229.92 FEET PARALLEL TO THE EAST LINE OF SAID LOT 1, THENCE SOUTH 89°21'51" EAST 20 FEET PARALLEL WITH THE NORTH LINE OF SAID LOT 1 AND LOT 5, THENCE NORTH 00°58'38" EAST 229.92 FEET PARALLEL WITH THE WEST LINE OF SAID LOT 5, MORE OR LESS, TO THE NORTH LINE OF SAID LOT 5. THENCE NORTH 89°21'51" WEST 10 FEET ALONG THE NORTH LINE OF SAID LOT 5 TO THE POINT OF BEGINNING. THEREBY CREATING A TOTAL EASEMENT WIDTH OF 20 FEET.

Together with

PART OF THE NORTHEAST AND SOUTHEAST QUARTERS OF SECTION 34, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY: BEGINNING AT THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER; THENCE NORTH 1.25 CHAINS; THENCE NORTH 88°30' WEST 1.02 CHAINS; THENCE SOUTH 1°30' WEST 5.28 CHAINS; THENCE SOUTH 88°30' EAST 1.12 CHAINS; THENCE NORTH 4.05 CHAINS TO BEGINNING.

Together with

PART OF THE NORTHWEST QUARTER AND A PART OF THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 7 NORTH, RANGE 1 EAST SALT LAKE BASE AND MERIDIAN, U.S. SURVEY: BEGINNING AT THE NORTH-WEST CORNER OF THE SOUTHWEST QUARTER; THENCE NORTH 1.25 CHAINS; THENCE EAST 1.25 CHAINS; THENCE SOUTH 1°30' WEST 5.42 CHAINS ALONG WEST SIDE OF ROAD; THENCE NORTH 88°30' WEST 1.15 CHAINS TO THE WEST QUARTER SECTION LINE; THENCE NORTH FOLLOWING WEST SECTION LINE 4.17 CHAINS TO BEGINNING. EXCEPT STATE HIGHWAY (248-417).

Together with

ALL OF LOT 4, VALLEY CENTER ESTATES 1ST AMENDMENT, WEBER COUNTY, UTAH.