



# Staff Report to the Weber County Commission

Weber County Planning Division

## Synopsis

### Application Information

<b>Agenda Item:</b>	ZMA 2023-06. A public hearing to consider an ordinance and proposal to rezone 22.94 acres from AV-3 to the Form Based (FB) zone, property located at 2700 N 5600 E, Eden.
<b>Application Type:</b>	Legislative
<b>Agenda Date:</b>	Tuesday, June 13, 2023
<b>Applicant:</b>	Dog & Bone LLC
<b>File Number:</b>	ZMA 2023-06

### Property Information

<b>Approximate Address:</b>	2700 N 5600 E, Eden
<b>Zoning:</b>	AV-3
<b>Existing Land Use:</b>	Vacant
<b>Proposed Land Use:</b>	Form Based, single family residential
<b>Parcel Number:</b>	22-050-0017

### Adjacent Land Use

<b>North:</b>	Residential, Cemetery	<b>South:</b>	Residential, Vacant
<b>East:</b>	Residential	<b>West:</b>	Residential

### Adjacent Land Use

<b>Report Presenter:</b>	Steve Burton <a href="mailto:sburton@webercountyutah.gov">sburton@webercountyutah.gov</a> 801-399-8766
<b>Report Reviewer:</b>	CE

## Summary

On January 19, 2023 the applicant submitted a request to rezone 22.94 acres from the AV-3 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 lots as small as one-acre on this property.

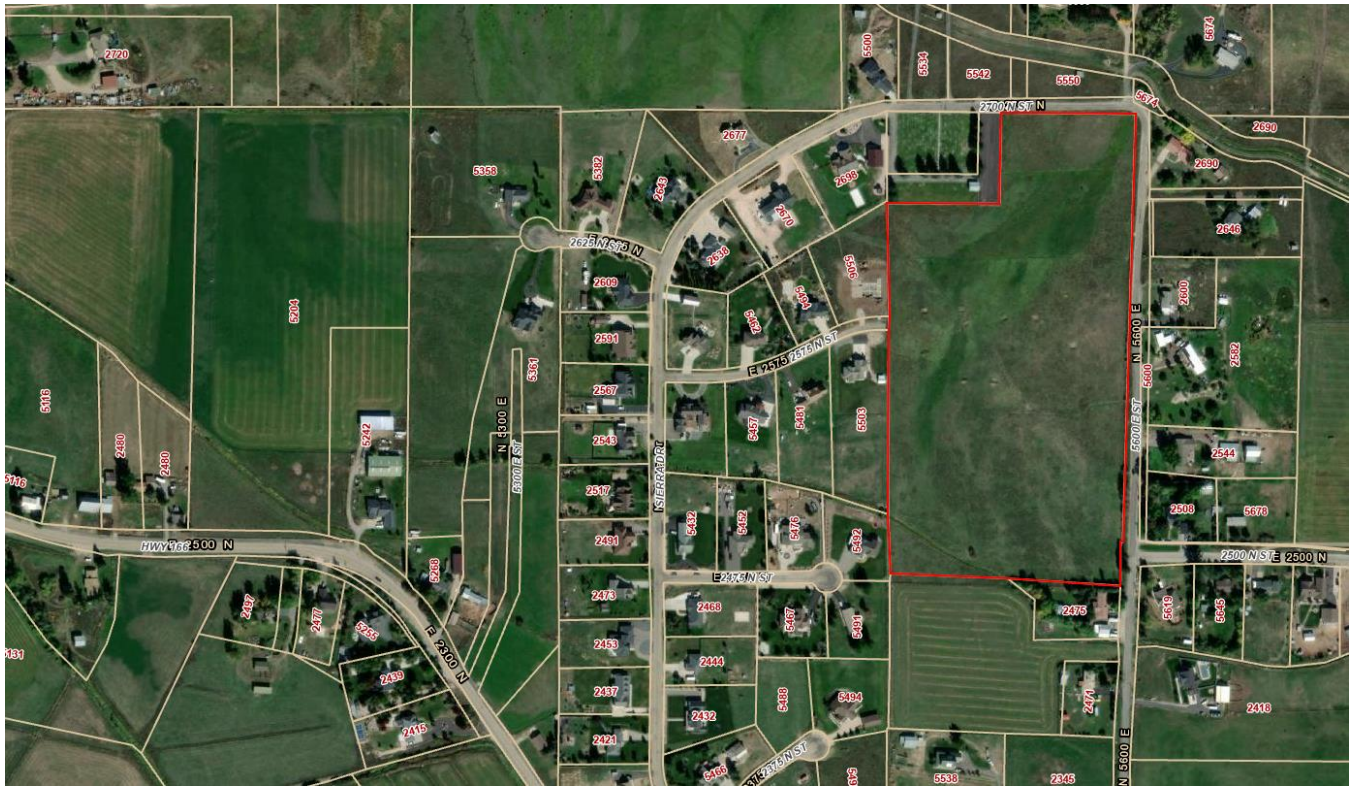
The applicant's request is to rezone to the FB zone, so that the street regulating plan will apply, and allow them to plat one-acre lots on the property. The 22.94 acres in the AV-3 zone allows the applicant seven development rights. The applicant is proposing to transfer eight development rights from Sunnyfield farm, (also shown on the Old Town Eden Street regulating plan) to the 22.94 acre parcel, so that a total of 15 one-acre lots can be platted.

## Planning Commission Recommendation

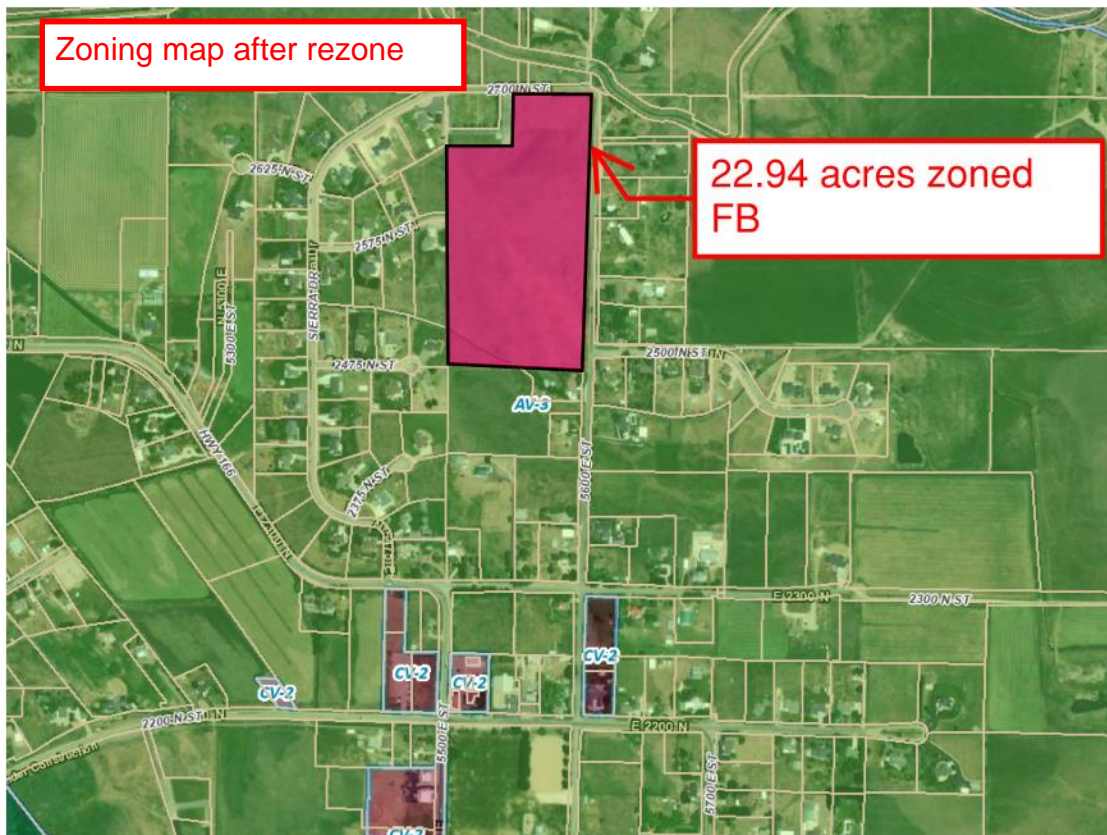
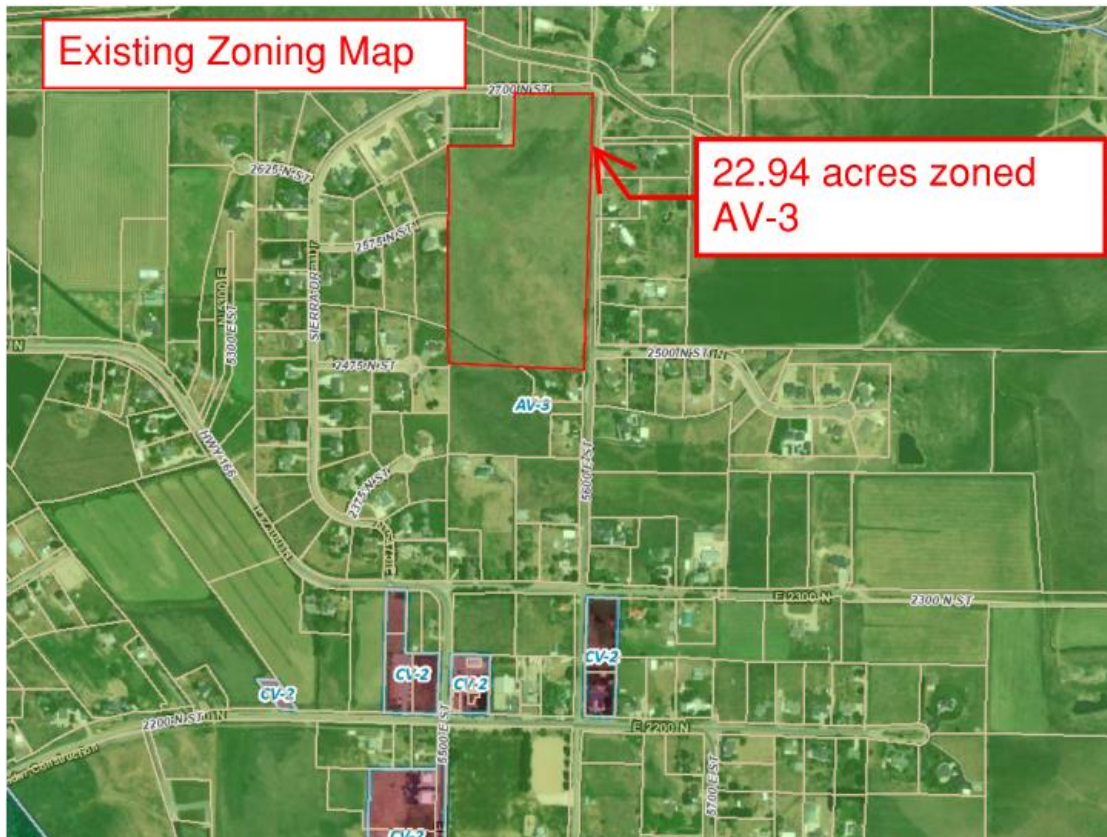
On April 25, 2023, the Ogden Valley Planning Commission forwarded a positive recommendation to the County Commission to approve the requested rezone based on the following findings:

1. The proposed rezone is consistent with the goals, objectives, and policies of the General Plan.
2. The proposed rezone is compatible with the overall character with existing development the vicinity of the subject property.
3. Any concerns regarding drainage, septic, transportation, engineering, and flooding will be addressed in detail at the subdivision level, that no building or development can take place until all of these concerns are addressed at the subdivision level.
4. That no workforce housing will be provided on the subject property.

# Area Map



The following images show the subject property 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*

*The County Commission is 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)

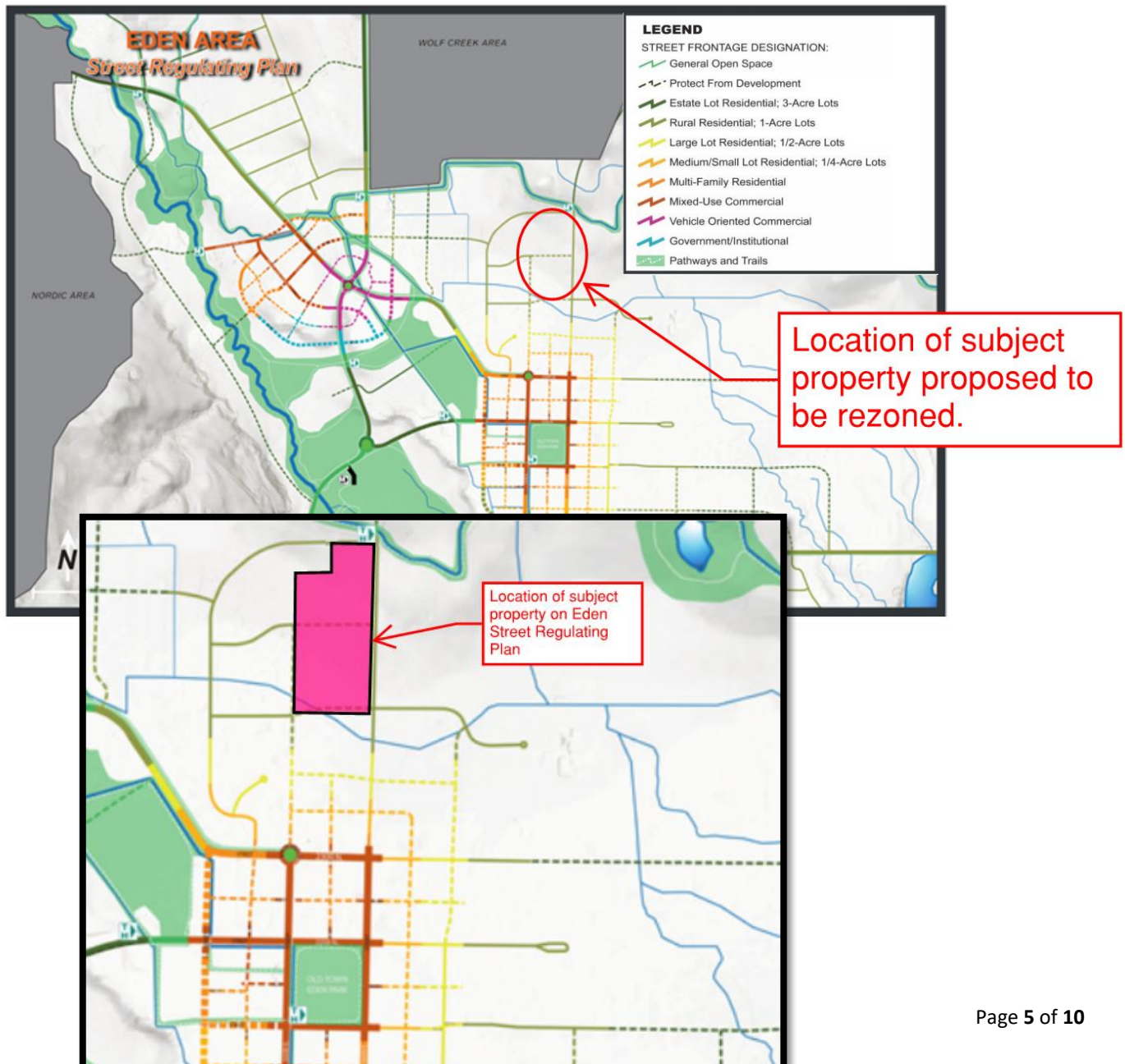
- a. Whether the proposed amendment is consistent with goals, objectives, and policies of the County's general plan.

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, in large part, 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 one-acre lots 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 for single-family residential lots, which will be on the outer perimeter of the village. Rural residential lots on the perimeter of the village area will allow residents to use active transportation to frequent the nearby commercial and mixed-use properties in the center of the village. The rural residential lots are also a transition from higher density uses into the three acre zoning that lies outside of the Eden Area regulating plan.

#### Street type, description, and purpose

The FB zone states the following regarding the purpose of Rural Residential lots.

*A rural residential street has street-front buildings that may be set back enough to create a sizeable front yard on a lot that is at least an acre large.*

If the property is rezoned to the FB zone, the developer will be required to dedicate property to allow a street width between 60 to 66 feet with sidewalk, curb, and gutter along each lot. During subdivision review an asphalt pathway may be allowed to replace sidewalk on one side.

#### Lot development standards

The FB zone lists the following lot development standards for the Rural Residential lots.

- 40,000 square feet minimum lot area
- 150 feet minimum lot width
- 30 feet front yard minimum setback
- 10 feet side yard minimum setback
- 30 feet rear yard minimum setback
- 20 percent maximum lot coverage by buildings

#### Transfer of Density

The FB zone does not create any new density in the Ogden Valley. The applicant has seven development rights on the existing 22.94 acre property in the AV-3 zone (22.94 divided by 3 = 7 development rights). The applicant will transfer eight development rights from Sunnyfield Farm located near 2200 N and 5500 E in Eden to the 22.94 acres to develop 15 lots. Sunnyfield farm is currently in the AV-3 zone and has 36 acres. The transfer of density will need to be documented and recorded with the county before the owner can begin platting the 15 lots.

#### Workforce Housing

The applicant is not proposing workforce housing, and will not be expected to provide workforce housing.

### **County Rezoning Procedure (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. The FB zone in this area, if approved, will allow for one-acre lots. The subject 22.94 acres sits between two subdivisions of one acre residential lots to the east and west. The proposal to FB for one-acre lots is compatible with the character of existing development in the vicinity of the subject property.

### **County Rezoning Procedure (c)**

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

All adjacent properties are currently zoned AV-3. Adjacent properties include several five acre lots and Mountain View cemetery to the north, residential subdivisions to the east and west, and a mix of residential lots and agriculture to the south.

Currently, the AV-3 zoning allowances are very similar to the allowances of Rural Residential allowances of the FB zone, in that residential use is limited to single family dwellings with no short-term rentals permitted. There are also no retail commercial operations permitted in either zones. Given that there are eight one-acre lots adjacent to this property, the rezone to allow for one-acre lots is not anticipated to adversely affect adjacent properties.

### **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 property is 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 at this stage, and may request one when the developer submits a more specific subdivision plan, if the rezone is approved. The Commission may request a traffic mitigation plan before making decision on the rezone.

### **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 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.

Currently the owner has the ability to plat seven single-family lots on the property and is proposing to transfer eight development rights for a total of 15 residential lots on 22 acres. The increase of eight residential lots is not expected to warrant a significant increased demand for school, police and fire, and refuse collection facilities, as the eight transferred units come from property in the area that is currently zoned AV-3 (Sunnyfield farm), that could be developed today without a rezone.

## Summary of County Commission Considerations

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

Sec 102-5-6(b)(3).

- 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 County Commission consider the proposed rezone from AV-3 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, approving the requested rezone.



## 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 planning 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 2023-06 and Ordinance # \_\_\_\_\_, an applicant driven rezone application to amend the zoning map on 22.94 acres from AV-3 to the Form Based (FB) zone, property located at 2700 N 5600 E, 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 2023-06, an applicant driven rezone application to amend the zoning map on 22.94 acres from AV-3 to the Form Based (FB) zone, property located at 2700 N 5600 E, 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 2023-06, an applicant driven rezone application to amend the zoning map on 22.94 acres from AV-3 to the Form Based (FB) zone, property located at 2700 N 5600 E, 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 – Applicant’s Narrative

Exhibit B – Water Service Acknowledgement

Exhibit C – Draft rezoning ordinance

Sunnyfield, LLC has been dedicated to the preservation of agriculture and agricultural land here in the Ogden Valley. As part of that Sunnyfield has worked diligently and spent a lot of resources to restore existing structures at Sunnyfield Farm including the restoration of the farm shop (old milk barn) and the continued restoration of the large barns. Sunnyfield has devoted 36 developable acres to agricultural uses. Sunnyfield continues to work along side of a 5<sup>th</sup> generation local farmer to help facilitate the operation of a working farm that is becoming a destination and also a source of local farm raised product for the families within the Ogden Valley. The dream of Sunnyfield LLC is to continue to re-invigorate a long-standing working farm that had been a part of the community since 1868 so it can be here for the community to enjoy for many generations to come.

Sunnyfield requests to transfer 8 development rights from 2103 N. 5500 E. area as described in the attached legal description. This would leave a remaining 3 development rights on that described property.

The 8 development rights are to be transferred to Weber County Parcel # 220500017 which is approx. 22.94 acres. Under current land use code the 22.94 acres would allow 7 current development rights. The 8 TDR's along with the existing 7 development rights would then allow for 15 development rights on Weber County Parcel #220500017.

This TDR will help Sunnyfield to continue using its current land for agricultural uses. Additionally removing density in this area provides an excellent agricultural gateway into the Old Town Eden village node and moves the density into an area that is already developed on all sides including an existing subdivision (Eden Acres) which consists of higher density 1 acre lots.

Sec 104-22-11 Form-Based Zone Transferrable Development Rights discusses the ability to transfer development rights as provided in the Ogden Valley General Plan. The 9 TDRs would be transferring within the village node to an area that is designated for higher density and would be contiguous with and connected to an existing subdivision (Eden Acres) that consists of 1 acre lots. See map illustration below taken from the Land Use Code Sec 104-22-8.



Land Use Principle 1.4 in the general plan states the general plan should “Employ mechanisms such as TDRs to reallocate existing authorized development units from less suitable to more suitable locations”. This TDR accomplishes that as it takes density out of the gateway into Old Town Eden additionally preserving viewsheds of Pineview Reservoir and transfers that density to be contiguous with an established 1-acre subdivision (Eden Acres).

The Ogden Valley General plan discusses Gateways and Viewsheds as follows: “Ogden Valley’s natural setting provides opportunities for spectacular views of local agriculture, the mountains, Pineview Reservoir, and the stars in the night sky. The visual values of the Valley are most evident at major entry points, or gateways, and from roadways extending through the community. Residents feel that an important aspect of preserving the Valley’s rural character includes maintaining the sense of arrival at Ogden Valley gateways and preserving open view corridors at key points within the Valley. Residents do not want development to be obtrusive or to unduly compromise these views.” The plan goes on to state that “integral elements of the character of the Ogden Valley plan area are the open farm fields, grasslands and pastures of the Ogden Valley. In much of the rural west, agriculture areas provide for well-managed open spaces that are enjoyed by residents and visitors to the area. The presence of livestock, farm machinery and isolated farm houses contribute to the rural character of Ogden Valley.”

Additionally, Land Use Goal 2 in the general plan states that “a goal of Weber County is to support continued agricultural operations in Ogden Valley”.

The transfer of TDRs is not adding any overall density to the village node. Rather it transfers existing development rights to an already established higher density area, preserves open agricultural open space in the gateway to Old Town Eden and helps support the viability of keeping an agricultural farm in the Ogden Valley. The transfer of TDR’s fits within the guidelines and goals of the Ogden Valley General plan and would be beneficial to the community

Sunnyfield believes that the Ogden Valley General Plan supports Sunnyfield’s transfer of TDR’s and the plan supports the goals of the Ogden Valley General plan. Keeping Sunnyfield a farm is a huge benefit to the community. Farming is difficult both physically and financially, however, this TDR will go a long way in helping the farm to stay a farm.

A narrative explaining the planned or potential future access to culinary and secondary water facilities, and wastewater disposal facilities.

Culinary water at the property is to be provided by Eden Waterworks company and the property has 40-acre feet of water allotted to parcel #22-050-0017. Wastewater will be disposed by septic tank and a storm water plan will be developed by an engineer and presented at the time of a subdivision application.

October 18, 2022

Weber County

RE: Eden Water Works Statement of Feasibility

**Dog & Bone LLC**

**Parcel # 22-050-0017**

To whom it may concern,

This letter is in response to Weber County land use code Sec. 106-1-4.1.4. This letter confirms that Eden Water Works (EWW) presently has the capacity to provide culinary water for **DOG & BONE LLC DEVELOPMENT**, consisting of **16 LOTS**. EWW will not provide secondary water or sewer for the Project. This Statement is that EWW has culinary water capacity for the Project at the current time, it is no guarantee that EWW will have capacity for the Project at the time the parcel owner applies for a can and will serve letter from EWW for building permits for lots within the Project. This Statement is issued on the above date and expires in one year for any lot within the Project if application for building permit is not completed.

EWW will require a full set of construction plans of the development prior to authorizing any laying of pipe for infrastructure. The Developer will connect to main supply line, install all main lines in the development. All connections will be subject to EWW's design and construction specifications and standards and subject to EWW's approval. Developer will bear all costs of connection to EWW's system. The proposed source of culinary service will be EWW's water rights and sources including, but not limited to, 35-7189, E5208, E5966, and E3098.

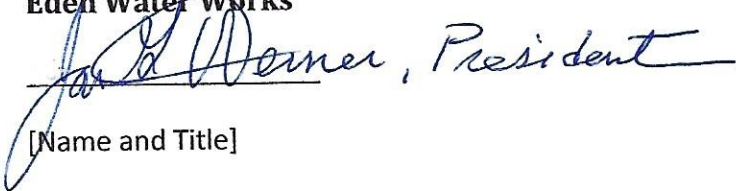
Service is subject to scheduled maintenance and construction, power failures, natural disasters, and unforeseen circumstances, water services will be provided in accordance with applicable federal, state and local statutes, laws, rules, regulations, ordinances and standards. Culinary water service to the Project is subject to and contingent on the following:

1. Compliance with EWW's articles, bylaws, and policies and procedures as each may change from time to time;
2. Natural fluctuations in water supplies;
3. Subsequent decisions and regulation by local government, the Utah State Engineer, Utah Division of Drinking Water, Utah Division of Water Resources, the United States Department of the Interior, or any other applicable governmental agency.
4. Payment of hook up costs and standard billings for service that apply at the time a building permit is sought for each lot within the Project. Failure to pay these costs and billings will result in

temporary suspension and/or permanent cessation of service. Residential "Class D" Stock is currently \$13,792.14 per connection.

5. Developer conveying to EWW easements for and ownership of all components of the water facilities installed for the Project, extending to the individual lot meter. Developer agrees to the above terms and to the terms set forth in EWW's articles, bylaws, and policies and procedures as they each may change from time to time and agrees that each lot within the Project will be bound to the same.

**Eden Water Works**

  
[Name and Title]

[Developer]

\_\_\_\_\_  
[Name and Title]

Printed Name:

Date: \_\_\_\_\_

ORDINANCE NUMBER 2023-\_\_\_\_\_

**AN ORDINANCE AMENDING THE WEBER COUNTY ZONING MAP FROM AV-3 AGRICULTURAL VALLEY TO FB FORM BASED ZONE ON APPROXIMATELY 22.94 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 **Dog and Bone LLC**, to amend the zoning designation from AV-3 to FB; and

**WHEREAS**, the Weber County Board of Commissioners and Dog and Bone, LLC mutually agree to change the zoning designation from AV-3 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 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 \_\_\_\_\_

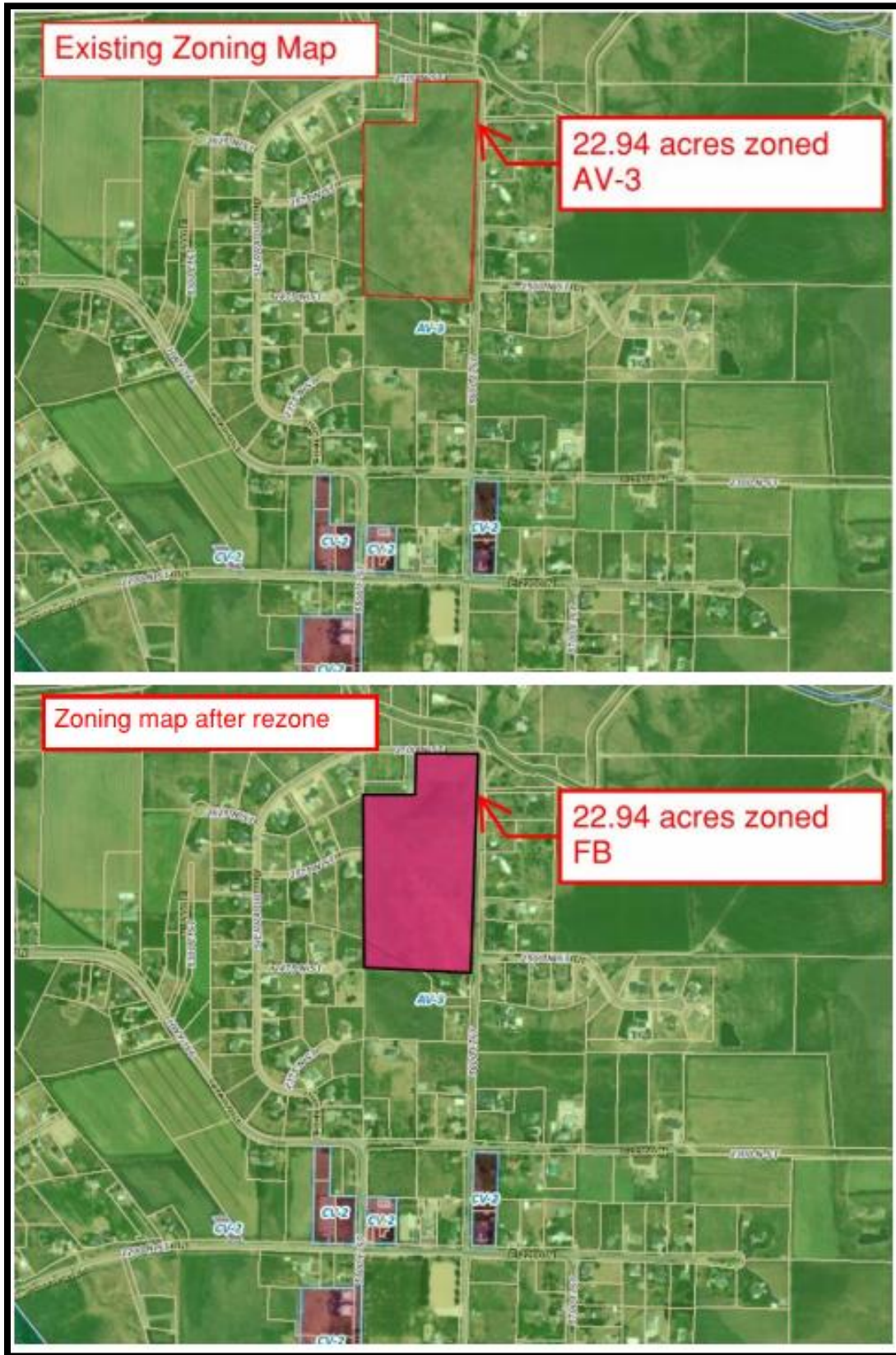
ATTEST:

\_\_\_\_\_  
Ricky Hatch, CPA  
Weber County Clerk/Auditor



Exhibit A

Graphic Representation  
Dog & Bone LLC from AV-3 Zone to FB Zone



**Exhibit B**

**Written Description**

PART OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 35, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE MERIDIAN, U.S. SURVEY: BEGINNING AT A POINT 485.16 FEET EAST FROM THE NORTHWEST CORNER OF SAID 80 ACRES, AND RUNNING THENCE SOUTH 88°30' EAST ALONG SECTION LINE 413.10 FEET, THENCE SOUTH 1°30' WEST 22 CHAINS; THENCE NORTH 88°30' WEST 11.5 CHAINS, THENCE NORTH 1°30' EAST 1160.20 FEET, THENCE EAST 347.22 FEET, THENCE NORTH 291.80 FEET TO BEGINNING. CONTAINING 22.94 ACRES.