

Minutes of the Regular Meeting of the Ogden Valley Planning Commission for January 11, 2024, 5:00 p.m. To join the meeting, please navigate to the following weblink at <https://webercountyutah.zoom.us/j/86351578885>, the time of the meeting, commencing at 5:00 p.m.

**Ogden Valley Planning Commissioners Present:** Trevor Shuman (Chair), Jeff Burton (Vice Chair), Jeff Barber, Dayson Johnson, and Janet Wampler.

**Absent/Excused:**

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

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

Chair Shuman conducted roll call and indicated all Commissioners were present, with Commissioner Wampler participating via electronic means. He called for any conflicts of interest to be declared.

Commissioner Johnson stated he consults with a separate applicant that is related to the sundown Condominiums project, but he does not have a conflict and he will participate in discussion and action on agenda item 2.1.

#### 1. Minutes:

Chair Shuman announced there were no minutes to review and approve.

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

##### 2. Administrative Items:

##### **2.1 UVS011222: Request for preliminary subdivision approval of Sundown Condominiums Phase 2. This is a second request for preliminary approval with a new roadway alignment. Planner: Tammy Aydelotte**

Planner Aydelotte summarized historical actions/approvals that have been granted for previous phases of the Sundown PRUD, the most recent being preliminary conditional approval in February of 2022; there are some changes to the site layout, mainly the location of the secondary access to the proposed Phase 2, from the original approval (See Exhibit A) that are subject to the Planning Commission review. If the Planning Commission determines that the proposed changes are de minimis revisions, the Planning Commission. The current PRUD ordinance states the following regarding amendments to non-conforming PRUDs:

*“A nonconforming PRUD may be amended from time to time under the same rules that governed its creation, provided that the amendment is a de minimis change that is routine and uncontested. The Planning Director or the Planning Commission has independent authority to determine what constitutes a routine and uncontested de minimis decision.*

The following changes have been submitted: The removal of a turn, a roundabout, as well as access through Phase 1. The proposed second access has been relocated further west, along Powder Mountain Road (Weber Fire and Engineering will have to approve this), and the buildings are grouped together differently. Instead of grouping of four or eight units together, the current proposal is grouping twelve units (three buildings) together. The proposed buildings house 4 units each, as in the original PRUD The proposed development area is zoned FR-3 and will consist of 60 units occupying 32,318 square feet (10.5%), roadways occupying 1.136 acres (16.5%) with a common area occupying 4.9684 acres (72%).

Ms. Aydelotte then summarized staff’s analysis of the application to determine compliance with the General Plan; zoning ordinance; lot area, frontage/width and yard regulations; Ogden Valley Sensitive Lands Overlay Districts regulations; common area regulations; the Natural Hazards Overlay Zone; culinary water, irrigation water, and sanitary sewage disposal; review agency recommendations; additional design standards and requirements; and tax clearance. Staff recommends preliminary approval of Sundown Condominiums, consisting of 60 units. This recommendation for approval is subject to all review agency requirements and based on the following conditions:

1. A CUP amendment application shall be submitted, addressing changes in proposed building location, and roadway layout, if the planning commission determines proposed changes to be more than minimal.
2. An approval from UDOT, for all accesses off of Powder Mountain Road, shall be submitted prior to appearing before the Planning Commission for a recommendation of final approval.
3. Applicant shall address any concerns from Engineering and Weber Fire District regarding slopes and proposed roads within the proposed development, prior to coming before the Planning Commission for a recommendation of final approval.
4. A proposed trail/pathway layout will be required prior to coming before the Planning Commission for a recommendation of final approval.

The following findings are the basis for the planning staff's recommendation:

1. The proposed subdivision conforms to the Ogden Valley General Plan.
2. With the recommended conditions, the proposed subdivision complies with all previous approvals and the applicable County ordinances.
3. The proposed subdivision will not be detrimental to the public health, safety, or welfare.
4. The proposed subdivision will not deteriorate the environment of the general area so as to negatively impact surrounding properties and uses.

Chair Shuman stated there have been concerns about snow sloughing off the roofs of units and he asked if anything can be done to mitigate that. Planning Director Grover stated that can be looked into.

Commissioner Wampler asked when the applicant will need to show additional parking areas for short term rental (STR) units in the project. Ms. Aydelotte stated that would be identified on the final approval plat for the project. Snow storage areas will also be identified on that plat. The Planning Commission could include a condition of approval to require those parking areas be included on the plat.

There was a brief review of the setback requirements for the internal condominium units, with Ms. Aydelotte noting there is a great deal of flexibility relative to setbacks in PRUD projects.

Commissioner Burton asked who would be responsible to determine measures for preventing or mitigating snow shedding problems for the new units in the project. Ms. Aydelotte stated that the Engineering Division can work with the Planning Division and the applicant; she suggested a condition of approval requiring that review and efforts to mitigate problems with snow shedding.

Chair Shuman invited input from the applicant. The applicant indicated they had nothing to add.

Commissioner Burton moved to approve application UVS011222, preliminary subdivision approval of Sundown Condominiums Phase 2, based on the findings and subject to the conditions listed in the staff report, and subject to additional conditions related to a mitigation plan for snow shedding from roofs of units and requiring the project to meet all parking requirements for STRs. Commissioner Johnson seconded the motion. Commissioners Barber, Burton, Johnson, Shuman, and Wampler voted aye. (Motion carried on a vote of 5-0).

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

#### **3. Legislative Items:**

**3.1 ZDA 2023-06 - Public Hearing – Discussion and possible action on amending the Weber County Land Use Code Section 106-4-2.080 – Street Trees, modifying the requirement for street trees in the public right-of-way and creating new requirements for their installation and maintenance. Also, Section 108-7-7.040 – Public Tree Care, modifying the regulations regarding the care, maintenance, and removal of trees on County-owned property. Planner: Bill Cobabe**

Planner Cobabe explained that due to ongoing concerns related to the installation and maintenance of street trees throughout the County, County Commissioners have directed Planning Staff to review our procedures and requirements. On September 12, 2023, the Western Weber Planning Commission held a work session to discuss proposed changes and review the species list, and on October 24, 2023, the Ogden Valley Planning Commission held a similar work session. The proposed changes allow for a more orderly and efficient development standard for street trees in the County. The following is a brief explanation of the changes proposed:

1. Section 106-4-2.080 – Street Trees – The purpose of the section is explained.
2. Section 106-4-2.080 (a) – The requirement for street trees is set forth, including a financial guarantee.
3. Section 106-4-2.080 (b) – Specific regulations for planting trees, including replacement, spacing, irrigation required, an approved species list, and deviations from required landscaping plans.
4. Section 108-7-7.040 – Public Tree Care – Explaining the County’s right to maintain/remove vegetation from public property.
5. Section 108-7-7.040 (a) – Making it illegal to remove or top trees without permission.
6. Section 108-7-7.040 (b) – Providing for keeping sidewalks and corners clear of obstructions.
7. Section 108-7-7.040 (c) – Outlining the responsibilities for adjacent property owners’ removal of trees.
8. Section 108-7-7.040 (d) – Setting forth the requirements for obtaining a tree removal permit.

Mr. Cobabe reviewed staff’s analysis of the policy implications of the ordinance to determine compliance with the General Plan. Staff recommends that the Planning Commission consider ZTA 2023-06 and if the Planning Commission approves, the Planning Commission may forward a positive recommendation to the County Commission for the proposal. This recommendation may come with the following findings:

1. The proposal helps to accomplish a general plan goal or policy related to development in the County.

Chair Shuman asked who is responsible to replace a dead tree that was originally planted by a developer, to which Mr. Cobabe answered the adjacent property owner. These are only areas in which street trees are required based upon the General Plan and zoning ordinances. However, a development agreement could take precedence and if a development agreement does not require street trees, that would be the governing document. If the development agreement does not include specific details regarding street trees, the zoning ordinance will be the governing document and there will be an adopted list of street trees that can be used by staff and developers.

Commissioner Burton stated that he does not believe the requirement for street trees and other street plantings is appropriate in a rural setting like the Ogden Valley. Additionally, in times of drought, it is not appropriate to require so many street trees that will require water. He added he has looked at the list of street trees and many of them will not grow in the Valley due to its weather conditions. He concluded he does not feel that this ordinance is needed in the Ogden Valley, though it may be appropriate in Western Weber County. Planning Director Grover stated that street trees will be imposed in the more densely developed areas of the Valley, but 99 percent of developments – anything larger than acre lots – in the Ogden Valley will be subject to a deferral agreement. He added there is a wide variety of plants/trees included in the list to ensure that the developer can choose trees that can survive in the Valley. Commissioner Burton recommended that language be added to the ordinance to communicate that street trees will not be required for rural areas of the Valley, or anything larger than acre lots. Mr. Grover and Mr. Cobabe indicated they are not opposed to including that language in the ordinance.

Commissioner Johnson moved to open the public hearing. Commissioner Burton seconded the motion, all voted in favor.

There were no persons appearing to be heard.

Commissioner Burton moved to close the public hearing. Commissioner Johnson seconded the motion, all voted in favor.

Legal Counsel Erickson stated that he has reviewed the ordinance and made minor clerical changes to the document, but nothing of substance. If the Commission chooses to forward a recommendation to the County Commission, he suggested that the version that he has reviewed and edited be sent to that body.

Commissioner Burton moved to forward a positive recommendation to the County Commission regarding application ZTA2023-06, amending the Weber County Land Use Code Section 106-4-2.080 – Street Trees, modifying the requirement for street trees in the public right-of-way and creating new requirements for their installation and maintenance. Also, Section 108-7-7.040 – Public Tree Care, modifying the regulations regarding the care, maintenance, and removal of trees on County-owned property. Motion is based on the findings listed in the staff report, but the Planning Commission recommends the following changes:

1. In 106-4-2.080(a), specify that street trees are not required on lot sizes of larger than one acre.
2. The species list, exhibit b.5, be less restrictive for the Ogden Valley and broadly accommodate trees that can survive in zones two and three.
3. Permits related to street trees will be at no cost.

Commissioner Johnson seconded the motion. Commissioners Barber, Burton, Johnson, Shuman, and Wampler voted aye. (Motion carried on a vote of 5-0).

**5. Public comments for items not on the agenda.**

There were no public comments.

**6. Remarks from Planning Commissioners.**

There were no remarks from Planning Commissioners.

**7. Planning Director Report:**

Planning Director Grover reviewed the schedule for upcoming Planning Commission events and meetings.

**8. Remarks from Legal Counsel:**

Legal Counsel Erickson stated that in a recent meeting, the Planning Commission made a recommendation to the County Commission regarding changes to the County’s Land Use Code in an effort to comply with legislation adopted by the State Legislature in their 2023 session, State Bill (SB) 174. The Planning Commission included in their recommendation that the Planning Commission continue to be the approval authority for subdivisions that are not small subdivisions. He stated that yesterday he had a chance to speak with the Attorney who is contracted with the Utah Association of Counties and also a member of the Legislature, Curt Cullimore. He is helping counties draft their laws to comply with the legislation and he provided input regarding the County’s action. He stated that the biggest takeaway is that the Legislature is likely to make additional adjustments in the upcoming 2024 Legislative Session. He is planning to still submit the recommendation to the County Commission, but Mr. Cullimore indicated that providing two different approval authorities for subdivisions based upon their size is contrary to the State Law. He stated he does not know how the County Commission will act on the Planning Commission’s proposal, but he wanted to provide them with that information. This led to brief discussion among the Planning Commission and staff regarding the position that other counties have taken and how that has changed with the knowledge that the State Legislature will make additional changes in the 2024 Session.

**Meeting Adjourned: The meeting adjourned at 5:40 p.m.**

**Respectfully Submitted,**

*Cassie Brown*

**Weber County Planning Commission**