

Minutes of the Work Session of the Ogden Valley Planning Commission for June 25, 2024. To join the meeting, please navigate to the following weblink at, <https://webercountyutah.zoom.us/j/86843794149>, the time of the meeting, commencing at 5:00 p.m.

Ogden Valley Planning Commissioners Present: Jeff Burton (Vice Chair), Jeff Barber, Joe Paustenbaugh, Trevor Shuman, Janet Wampler.

Staff Present: Charlie Ewert, Principal Planner; Felix Lleverino, Planner; Tammy Aydelotte, Planner; Liam Courtlan Erikson, Legal Counsel; Marta Borchert, Office Specialist.

- **Pledge of Allegiance**
- **Roll Call:** Vice Chair Burton conducted roll call and indicated Chair Dayson Johnson and Commissioner Mark Schweppe were not in attendance.

1. Minutes: May 21 and June 4, 2024.

Vice Chair Burton noted that he has submitted to Planning staff a few changes to the minutes; he asked if there are any additional corrections to be made to the minutes as presented. No corrections were offered, and Chair Burton declared the minutes approved as amended.

2. Consent Items:

2.1 CUP: 2024-05: Request for approval of a conditional use permit for a public utility substation that will house a well pumping facility for Wolf Creek Water and Sewer Improvement District. Planner: Tammy Aydelotte

Commissioner Paustenbaugh moved to approve CUP 2024-05, conditional use permit for a public utility substation that will house a well pumping facility for Wolf Creek Water and Sewer Improvement District., based on the findings and subject to the conditions listed in the staff report. Commissioner Wampler seconded the motion. Commissioners Barber, Burton, Paustenbaugh, Shuman, and Wampler voted aye. (Motion carried on a vote of 5-0).

3. Administrative Items:

3.1 CUP 2024-06: Consideration and action on a conditional use permit for an Auto Repair shop called Eden Automotive Repair that would occupy an existing building at 4930 E 2550 N, Eden. Staff Presenter: Felix Lleverino

Planner Lleverino explained the applicant is requesting conditional use approval to operate an auto repair shop within a 4,800-square-foot existing rental space building. The auto repair shop will be operated by Brian Probst. This business will occupy the two western most units within a commercial building that is designed to accommodate up to six commercial related businesses. This property fronts on a public right-of-way called 2550 North Street. This proposal has been reviewed for parking, building and site layout, lighting, landscaping, and outdoor advertising. He noted his staff report includes a site plan prepared by the business owner, Brian Probst. This proposal has been reviewed against applicable ordinances in the Uniform Land Use Code of Weber County, Utah (LUC). He discussed staff's analysis of the application to determine compliance with the General Plan, Land Use Code, design review standards, conditional use standards, and comments/recommendations from review agencies. He concluded the Planning Division recommends approval of a conditional use permit for Eden Auto Repair Shop located at 4930 East 2550 North Eden. This recommendation for approval is subject to all review agency requirements and the following conditions:

1. Outdoor storage is not permitted.
2. On street parking is not permitted.
3. All existing outdoor storage in the rear of the structure shall be cleared.
4. The applicant must obtain a business license before commencing business operations.
5. All waste automotive fluids are safely stored and disposed of at the appropriate disposal facility.

Approval is based on the following findings:

1. The proposed commercial building conforms to the Ogden Valley General Plan.

2. After displaying compliance with Weber County Building Inspection requirements, the proposed modification will not be detrimental to the public health, safety, or welfare.
3. The proposed modification will comply with applicable County ordinances.

Mr. Lleverino noted that during the pre-meeting, there was some discussion of including a few additional conditions for the CUP and staff is open to those considerations. Commissioner Barber noted the additional conditions relate to outdoor storage of vehicles for no more than 30 days and requiring legal registration of the vehicles. He also asked for language that would allow on-street parking in legal parking zones only. Commissioner Shuman indicated the applicant is a business owner in Layton and it may be helpful to receive input from him regarding some of the conditions being imposed on him.

Vice Chair Burton stated that Mr. Lleverino mentioned two additional conditions that were not included in the staff report; he asked for more information about that. Mr. Lleverino stated those two additional conditions are a result of a site visit that he and the Code Enforcement Officer participated in just yesterday. The two additional conditions are that business activities must be conducted in the shop and potted plants shall be replaced if dead/ landscaped area shall be kept free of weeds. Vice Chair Burton asked if the condition requiring business activities to be conducted in the shop would prevent a mechanic from helping a customer outside of the shop. Mr. Lleverino stated that may be an unintended consequence and the wording could be adjusted to address that concern.

Vice Chair Burton invited input from the applicant.

Brian Probst stated that he is willing to work with Planning staff to formulate appropriate conditions for his business. He stated he wants to be successful and provide a quality service to the residents of the Valley. Commissioner Shuman stated the Planning Commission also wants Mr. Probst to be successful; he asked for input regarding some of the additional conditions that have been suggested tonight. He asked if a 30-day outdoor storage condition is too restrictive. Mr. Probst stated that 60 days would be more appropriate and would give him flexibility in cases when it becomes necessary to wait for parts or other service providers to complete work on a major element of a vehicle. He added that he is not concerned about a scenario where a vehicle may be 'on blocks', or inoperable/unlicensed for an extended period of time.

Commissioner Paustenbaugh stated there are photos of the business included in the meeting packet and there are already two cars on or near the site. He asked who those vehicles belong to. Commissioner Barber stated those vehicles are related to adjacent businesses/properties and not Mr. Probst's business. Mr. Lleverino stated that Code Enforcement is working to address issues with outdoor storage of unsightly vehicles. Vice Chair Burton suggested those vehicles are related to other businesses that have a CUP and their CUP does not address outdoor storage of vehicles, so the County has no enforcement capability. Commissioner Wampler asked if the conditions of those adjacent properties are what has contributed to some of the recommended conditions of the subject application, to which Mr. Lleverino answered yes.

The Commission then engaged in discussion of the recommended conditions of approval as well as the additional conditions that have been suggested by Commissioners.

Commissioner Shuman moved to approve CUP 2024-06, conditional use permit for an Auto Repair shop called Eden Automotive Repair that would occupy an existing building at 4930 E 2550 N, Eden, based on the findings included in the staff report and subject to the following conditions:

1. The applicant must obtain a business license before commencing business operations.
2. All waste automotive fluids are safely stored and disposed of at the appropriate disposal facility.

Commissioner Wampler seconded the motion and asked for additional discussion of the conditions.

Commissioner Barber asked Commissioner Shuman if he is open to considering a condition prohibiting outdoor storage of a vehicle for longer than 60 days. Commissioner Shuman answered no; his motion was to only accept the fourth and fifth condition listed in the staff report, but not the first three and not the additional two conditions that were mentioned by Mr. Lleverino during his presentation of the application.

Legal Counsel Erickson noted that the County does have an ordinance that addresses outdoor storage in the zone that has been applied to the subject property; outdoor storage will be governed by the requirements of the zone, so failure to include a condition regarding outdoor storage does not necessarily mean there will be no rules regarding that matter.

Vice Chair Burton called for a vote on the motion. Commissioners Barber, Burton, Paustenbaugh, Shuman, and Wampler voted aye. (Motion carried on a vote of 5-0).

4. Legislative items:

4.1 ZMA 2024-05: Discussion/decision on the Cowboy Partners rezone application, an application to rezone property in the Eden Area from the AV-3 (agriculture) zone to the FB (form-based) zone. Staff Presenter: Charlie Ewert. Applicant Agent: Chris Zarek.

A staff memo from Planner Ewert introduced the Cowboy Partner's rezone application and summarized the Commissioner's past review of the application. In the June 4 work session, the Planning Commission discussed the Cowboy Partner's proposed form-based rezone; during that meeting there was discussion both in favor of and against a recommendation for approval. Regardless of which recommendation is ultimately forwarded to the County Commission, staff recommends that the Planning Commission formulate a complete set of development agreement considerations to forward with their recommendation. This way, if the recommendation is for denial, it will still be offered to the Commission with a specific and comprehensive list of what they should focus on in the event they chose to approve. Based on the Planning Commission's written and verbal communication with staff, staff has provided a specific and comprehensive list of considerations for this project. Staff used the initial staff recommendation for this project as the baseline, then added the underlined or stricken verbiage in accordance with the Planning Commission's past discussion(s). The Planning Commission should feel free to add, subtract, or modify the list to best suit the planning commission's desires. To help the Planning Commission make a final recommendation to the County Commission for this item, staff has also offered detailed model motions for both approval and denial. The Commissioner making the motion should feel free to modify each to suit their desires. Alternatively, if the Planning Commission is not ready to make a final recommendation for this proposal they may once again table the item pending further information from staff or the applicant.

Mr. Ewert facilitated a review of the sample motions for approval and denial, as well as adjustments to the development agreement stipulations based upon feedback from the Planning Commission in their previous reviews of the application. Chris Zarek indicated that he is comfortable with the stipulations that have been made in the development agreement recommendation, but noted there are some that will be a real challenge to comply with. However, his intent is to build a first-class community in the Valley and add value to the area.

Vice Chair Burton stated he has expressed that he does not feel the proposed development conforms with the General Plan; the intent of the General Plan was to provide rural, small villages and this application is very dense and would join two smaller villages together to create a large village. The project may fit elsewhere in the Valley, but not on the subject property. He is opposed to the form-based zone being applied to the subject property as it does not fit in this rural setting. He noted that Commissioner Barber has provided a lot of valuable input about safety issues that could be created for current and future residents of the area, and he agrees that that input. The lack of an appropriate transition between densities is problematic and the application does not fit the criteria to receive approval of a rezone. Commissioner Barber stated that he agrees with all of Vice Chair Burton's comments and added that the work force housing may be more appropriate in another area of the Valley, but it should more closely align with other workforce housing in the State of Utah in that it should be owner occupied. This would make it more consistent with the General Plan.

Commissioner Shuman moved to forward to the County Commission a recommendation for denial for File #ZMA2024-05, an application to amend the Weber County Zoning Map, rezoning approximately 17 acres of land at approximately 2773 North, HWY 158, from the AV-3 and CV zones to the FB zone. This recommendation is provided with the findings listed below. In the event the County Commission desires to approve the rezone despite this recommendation for denial, the Planning Commission recommends that the developer voluntarily enter into a development agreement with the County that provides for all of the considerations in Exhibit A of the staff memo. Motion is based on the following findings:

1. The Ogden Valley General Plan calls for small villages that do not overwhelm or compete with the rural nature of the valley. Allowing this rezone will result in a large Old Town Eden village that may be more similar to a small city than a small village.
2. The Ogden Valley General Plan recommends commercial operations be established on properties currently zoned for commercial before rezoning new properties to commercial uses.
3. This proposed development and rezone is better suited for other areas in Eden, such as on properties currently zoned CV-2.
4. The proposed rezone will surround two existing large-lot residential parcels with incompatible higher density land uses.

5. The proposed rezone will result in development that spans Highway 158, which will create a safety challenge for existing and future occupants.
6. The rezone is not sufficiently supported by the general public and is not beneficial to the overall health, safety, and welfare of the community.
7. FB zoning is a new concept, and the planning aspect has not had time to 'set in' in the 'mind of the community'.
8. It would be poor planning to approve this application given that the project would be split by a highway; there is an opportunity to plan a space that would be drivable on one side of the highway and walkable on the other, but approval of the application would make that difficult.

Commissioner Barber requested to add additional finding to the motion:

9. The timing is not right for a large primarily income-restricted rental project before there is any effort to bring an affordable owner-occupied project to the Ogden Valley to satisfy the long-term needs of the workforce community.
10. The stipulations included in Exhibit A are universal and should be applied to other affordable housing projects in the Valley.

Mr. Ewert stated that finding 10 is something that should be included in a future ordinance amendment, but he can communicate that recommendation to the County Commission.

Commissioner Shuman accepted Commissioner Barber's additional findings.

Commissioner Wampler seconded the motion.

Vice Chair Burton restated the motion and called for a vote. Commissioners Barber, Burton, Paustenbaugh, Shuman, and Wampler voted aye in favor of denial. (Motion carried on a vote of 5-0).

5. Discussion: Rules of Order –Courtlan Erickson

Legal Counsel Erickson reported the County Commission recently adopted a revised version of Rules of Order for the legislative body and advisory bodies in the County. He facilitated a review of the Rules of Order document to inform the Planning Commission of changes they need to be aware of. There was high level discussion among the Commission and staff regarding the implications of some of the changes, including those items for which the Planning Commission needs approval from the County Commission before making a formal recommendation. The Commission indicated they do not feel the rules document is clear enough to provide adequate direction to the Planning Commission regarding their role or authority to make a recommendation; they asked that the County Commission clarify the intent of the document.

Additional changes to the Rules of Order document related to meeting attendance – including in person and virtual attendance, election and terms of service for Chair and Vice Chair of the Planning Commission and rules for making and amending motions. Mr. Erickson indicated he will send a full copy of the Rules of Order document to the entire Planning Commission for their review.

6. Public Comment for Items not on the Agenda:

Jan Fullmer stated she wanted the Commission to be aware that she tried to contact Mr. Zarek from Cowboy Partners because she had a group of residents that was willing to go and look at the other developments they have built and manage. The group wanted to be objective, but they had concluded that the subject property was not the right place for the development they wanted to proceed with. However, Mr. Zarek never responded to her, and the group was not able to participate in a field trip with him. She then addressed Mr. Erickson and asked if the changes to the rules of order document relative to virtual attendance at meetings only applies to the Planning Commission or if it applies to the public. Mr. Erickson stated that the changes do not govern public attendance at meetings. Ms. Fullmer then stated that a few years ago Mr. Ewert attended a Planning conference and when he came back to the County, he was ecstatic about the concept of form-based zoning. She feels she can fairly intelligently comprehend what she reads, but she cannot comprehend the form-based zone document; in places it contradicts itself and it uses terminology that is not commonly used. She has recently been attending Western Weber County Planning Commission meetings and has noticed there have been several zone changes; she asked how many of those have been form-based. Mr. Ewert stated there is just one form-based zone project happening in western Weber County. Ms. Fullmer stated that development occurring in western Weber County is fairly traditional and conservative; the Commissioners have supported higher density/multi-family developments that include affordable housing and single-family homes with deed restrictions that require owner

occupancy. She stated this is a great idea and wondered why the Ogden Valley cannot get a similar project rather than a form-based project. The form-based zone is not consistent with the General Plan, and it does not adequately protect the Valley from abuse by developers. She cited the Eden Crossing development and expressed her concern about the unintended consequences of approving the project so hastily; additionally, the transfer of development rights (TDR) rules for Ogden Valley have not been finalized, yet Planning staff continues to present applications to the Commission that include TDR actions. The Cowboy Partners were referring to their development as 'New Town Eden', but the Eden Crossing developers were doing the same. The residents of Old Town Eden have provided a great deal of input regarding their vision for the community, but there has not been a similar town meeting for New Town Eden. She asked that the form-based zone not be assigned to any other property in Ogden Valley because it is essentially destroying the Valley.

7. Remarks from Planning Commissioners:

Commissioner Wampler thanked the Planning staff and her fellow Commissioners for their patience with her as she was away from the area and was participating in meetings virtually. She takes her commitment to this position very seriously and had received permission from Planning Director Grover to continue to participate while honoring her responsibilities to her family.

Commissioner Barber stated that more focus must be paid to the transfer of development rights (TDR) process and rules before moving forward with any application that includes TDRs. He asked that Planning staff spend some time on that issue as soon as possible. Mr. Ewert stated that he will discuss that request with Planning Director Grover.

Vice Chair Burton re-stated his concerns regarding the form-based zone; it is an unknown entity and is not good for the community and he asked that Planning staff pass a request on to the County Commission to consider R-3 zoning for the Ogden Valley, which could be used in place of form-based zoning. Mr. Ewert stated the FR-3 zoning designation is an option on the Ogden Valley and it is very similar to R-3.

8. Planning Director Report:

In Planning Director Grover's absence, Mr. Ewert thanked the Commission for a great meeting tonight. He noted he is unsure how the County Commission will vote on the Cowboy Partner's application. He will be sure to pass on the Commission's motion with detailed findings in support of the denial recommendation they made. He then stated that he agrees that form-based zoning is not a 'silver bullet', but it is a bit of a straw man that represents some discontent pertaining to development of the Valley. If the County were to revert to standard Euclidian zoning, sprawl will continue to spread throughout the Valley. He stated he is more than happy to sit down with anyone who has questions or uncertainties about the form-based zone.

Commissioner Shuman stated that his concern is that there has not been sufficient time spent on determining the best application of form-based zoning and the areas throughout the Valley where it best fits. He asked that Mr. Ewert express his concerns about the application of form-based zoning in the Valley to the County Commission as well.

Commissioner Wampler stated that the form-based zone is currently a legal option for landowners to apply for, but there is still a great deal of discussion about whether the form-based zone is appropriate and functional. This makes her very nervous, and she feels more work must be done or that the zone must be paused until the concerns that have been expressed by the Planning Commission, staff, and the public can be addressed.

Vice Chair Burton concluded there are other zoning designations that offer meaningful and appropriate planning tools for the Ogden Valley; form-based zoning could be appropriate in a very small area, but not in larger areas where it will consume the rural character of the Valley.

9. Remarks from Legal Counsel

There were no additional remarks from Mr. Erickson.

**Meeting Adjourned: The meeting adjourned at 6:33 p.m.
Respectfully Submitted,**

Cassie Brown

Weber County Planning Commission