Minutes of the Regular Meeting of the Ogden Valley Planning Commission for October 4, 2022. To join the meeting, please navigate to the following weblink at, https://us02web.zoom.us/j/83042762116, the time of the meeting, commencing at 5:00 p.m.

Ogden Valley Planning Commissioners Present: Jeff Burton, Dayson Johnson, Jared Montgomery, Justin Torman, and Janet Wampler.
Absent/Excused: Chair Shuman and Commissioner Don Stefanik Commissioner Dayson Johnson
Staff Present: Rick Grover, Planning Director; Charlie Ewert, Principal Planner; Steve Burton, Planner; Felix Lleverino, Planner; Tammy Aydelotte, Planner; Courtlan Erickson, Legal Counsel; Marta Borchert, Office Specialist.

- **Roll Call:**

Commissioner Burton conducted roll call and indicated Chair Shuman and Commissioner Stefanik were excused.

1. **Work Session: WS1 – Transferable Development Rights Overlay Zone Discussion.**

Principal Planner Ewert conducted discussion among the Planning Commission and staff regarding the concept of transferable development rights (TDR) and the formulation of a TDR overlay zone; the group debated the manner in which the value of a development right can or should be determined, with Mr. Ewert indicating valuation is largely market driven. There was a focus on the need to identify the appropriate places in the Ogden Valley for development rights to be transferred to. Mr. Ewert stated there is already a mechanism for landowners and developers secure approval of a TDR action, if the development rights are being transferred into a form-based village project. However, there are other areas where TDRs may be appropriate, but they are smaller and entail the transfer of fewer development rights. Some TDRs have been executed based upon a development agreement for a certain project; this occurs due to the absence of a formal County ordinance/zoning that provides for TDRs. Mr. Ewert distributed a handout to the group that included a map of the Ogden Valley; the goal of the TDR concept is to preserve open space on the Valley floor, with density stepping up as development moves up the benches and hillsides. He discussed policies that have been implemented in other communities that are somewhat similar to the Ogden Valley but noted that the Valley is very unique and the County will be 'writing its own book' in terms of the best way to preserve desired open space in the Valley, while preserving private property rights in terms of development. Mr. Ewert stated he has contemplated three options for the Commission to consider in terms of TDR zoning, and he emphasized that these options should not be considered as being 'set in stone'. He discussed the creation of a map that identifies areas of valuable open space that can be classified as 'sending areas', areas that are suitable to be 'receiving areas', and areas that are in-between that may include corridors with existing infrastructure but could serve as both sending and receiving areas. The General Plan includes a guideline that should not be ignored; areas that are defined as valuable open space should only include development that can be clustered in order to preserve as much open space as possible (60 to 80 percent open space). The first option is to only allow sending from a sending area, receiving by a receiving area, and no development in a sending area; this is the most extreme option in terms of developing a TDR; Commissioner Wampler pointed out the current County Commission has no interest in this option, so it may not be a true option for the Planning Commission to consider. Mr. Ewert then stated that option two would be to allow property owners in a sending area to develop 50 percent of their development rights in a clustering fashion, and if they want to use their other 50 percent, it can only be transferred for development. Option three, which he feels is the option that would be best supported by the County Commission, is that sending areas can send or develop, including large lots or clustering, and receiving areas can receive. This option provides the greatest flexibility for property owners; some are interested in preserving open space, but some want to develop their property and possibly create a few lots for family but are willing to send their development rights to other locations. Commissioner Burton expressed concern about the potential for option two to be the same as a 'property taking'. Mr. Ewert stated there is a very specific legal definition of property taking; unless the County takes and action that completely devalues a property, it would likely not be considered a 'taking'. This led to high-level discussion and debate among the group about the appropriate way to incentivize a landowner to transfer their development rights to another area of the Valley, which led to a focus on the areas of the Valley in which they feel higher density development is suitable and/or will be accepted by the residents living in those areas. Mr. Ewert stated that he can use this feedback to adjust the three options and possibly flesh out an additional option four.

Discussion then shifted to the potential power of a TDR overlay zone; Mr. Ewert explained that if a TDR overlay zone were created, the guidelines of that zone would govern and supersede any guidelines or rules of the underlying zoning. This could create some unintended consequences and the Commission and staff needs to expend their best effort to determine those possibly negative unintended consequences to try to address them. This may include evaluation of the potential financial benefit of a TDR action,

the ability to perform infrastructure improvements in TDR receiving areas, and the ultimate impact a TDR could have on the density of an area. Mr. Ewert stressed that it would be beneficial to create a policy or program that is easily interpreted by the public and property owners relative to the conditions that must be present in order for a TDR action to be approved; this would alleviate the burden on staff and appointed Commissioners in terms of evaluating every single development application on a case-by-case basis. If clear guidelines and expectations can be communicated in a form-based ordinance and documented upon a sending/receiving map, the confusion and contention that has arisen in conjunction with past TDR applications may be alleviated. Commissioner Torman stated that in reality, there are already natural village areas that exist in Ogden Valley; if all property owners can send and/or receive, the majority of people that live in the village areas do not truly have the opportunity to send because they do not have enough property and he does not feel it would be too great a limitation to determine who can send a development right. Many are already naturally restricted due to their land size. Commissioner Burton stated that is true for the majority, but there are some unique properties to which that theory does not apply. Commissioner Torman agreed but noted it may be possible for those properties to be considered on a case-by-case basis. Commissioner Wampler suggested a two-tiered incentivization approach; anyone can send or receive, but when sending to a form based village area, proof of serviceability is not required. However, when sending to a rural area without infrastructure, proof of serviceability is required. This would create a natural incentive for a sender to look to sell their rights to a property owner in a village area. The landowner would still have rights, but there may be more economic sense in sending the rights to a village area that is already improved. The Commission debated this concept and examined areas of the Ogden Valley that are already established as village areas, the number of development rights that have already been transferred, and the existence of or need to create a database that will serve to track the number of approved development rights in the Valley.

Mr. Ewert stated that he would like to refine the map of the Valley to include riparian corridors and identify properties that may be suitable for open space preservation to create better opportunities for the Valley at buildout. This led to brainstorming among the group regarding the areas that are prime for designation as open space, as well as suitable receiving areas; they suggested a public open house be held to allow for those currently living in or owning property in the Valley to provide input that would inform the map. They discussed individual unique parcels in the Valley, noting it will be difficult to develop a 'one-size-fits-all' approach to TDRs; Mr. Ewert emphasized that property owners and developers can already apply for approval of a TDR, which would be accomplished through a development agreement for a specific property; the basis of tonight's discussion was to consider whether it is possibility to develop an administrative process for approving TDRs. In order for administrative approval to be an option, clear rules, allowed uses, density, etc. must be clearly identified. There was continued discussion regarding the public process required for proceeding with consideration of creation of a TDR overlay zone; Mr. Ewert stated that a great deal of public involvement is needed and warranted for this matter since it has the potential to have a great impact on the Valley; there are some areas of the Valley that are prime for development of additional villages, but this will not be popular among existing residency due to the assumption of increased density in a village project. Mr. Burton stated he will used the feedback provided by the Commission this evening to adjust the options that he presented for consideration tonight along with a map that will include shading to identify sending and receiving areas, properties suitable for cluster development, and minimum lot sizes for development within sending areas. He also invited Commissioners to complete their own version of a color-coded map and send those to him for incorporation into future proposals for Commission discussion.

Meeting Adjourned: The meeting adjourned at 8:29 p.m.
Respectfully Submitted,

_____

Weber County Planning Commission