

Minutes for the Western Weber Planning Commission meeting of August 11, 2020, held in the Weber County Commission Chamber, 2380 Washington Blvd. Floor 1. Ogden UT at 5:00 pm & Via Zoom Video Conferencing

Members Present: **Bren Edwards-Chair**
 Greg Bell-Vice Chair
 Andrew Favero
 Wayne Andreotti
 Sarah Wichern
 Bruce Nilson

Members Excused: **Jed McCormick**

Staff Present: **Rick Grover; Planning Director; Steve Burton, Principle Planner; Scott Perkes, Planner II; Courtlan Erickson, Legal Counsel; Marta Borchert, Secretary**

Chair Edwards asks if there are any ex parte communications or conflicts of interest to declare. There are none.

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

1. Appreciation of Service Presentation:

Chair Edwards states that the Planning Commission and Planning Staff would like to take a minute and thank Commissioner John Parke and Commissioner Janette Borkland. They both have served on the Planning Commission for Western Weber County for 12 years. He states that Planning Staff and the Planning Commission would like to thank them for their dedicated service to the members of the community members of Western Weber County and, for all of the insight that they brought to the Planning Commission. Commissioner Parke and Commissioner Borklund will receive a commemorative clock in appreciation of their service. He adds that he just wants them, to know that Staff and the Planning Commission are very thankful for the impact they have had in the area of over the last 12 years of service.

Director Grover states that he really appreciates them. They always read their packets and were always up to speed on the issues and that helped the meeting go smoothly. He adds that on behalf of the Weber County Staff he would like to thank them.

2.1 ZTA 2018-05: Discussion and action on a proposal to amend the following sections of Weber County Code: §102-1-5 and §102-5, regarding rezoning procedures and legislative amendments. Staff Presenter: Steve Burton

Director Grover states that this will be a public hearing it is a discussion and action on a proposal to amend the following section to the Weber County code §102-1-5 and §102-5 regarding rezoning procedures and legislative amendments. This is a staff initiated project. Mr. Burton is going to be presenting. Director Grover states that at present staff is convening Commission Chambers for the public to able to participate. He adds that this is also to meet the order Open Meetings Law Act. Mr. Burton will be presenting.

Steve Burton states that this item has been noticed as a public hearing to look at amending the rezone procedures and other legislative amendments. The primary reason behind making amendments because currently, the Planning Commission has some legislative authority, the Planning Commission is a recommending body, and the County Commission should have that full legislative authority. The other change is to clarify the language and remove some redundancy. The Planning Commission will be making a recommendation to the County Commission. He goes through all the changes listed in the staff report.

Commissioner Bell asks who gets to decide if a concept development plan is required. Mr. Burton states that it could be Staff, Planning Commission, or the County Commission.

Commissioner Nilson asks if development agreements have been used a lot in the County. Mr. Burton states that are used frequently most often with larger projects in Master-planned areas. They are mostly seen in the Ogden Valley with the resort areas to outline how the development is going to happen. Commissioner Bell asks if development agreements are also used in PRUDs for the Western Weber area. Mr. Burton states that it can be part of the PRUD, it might be specific to a rezoning. He references the code noting that on line 290 *Unless expressly required elsewhere in this title, a development agreement is an optional 291 land use regulatory tool that may be used, at the discretion of the county commission, as 292 provided in section 102-5-7 of this chapter. No provision herein shall obligate the county 293 commission to enter into a development agreement.* Mr. Burton states it can be used in the County and the developer wants that. He notes that they would not necessarily need one. Director Grover states that typically that is done before the PRUD and as a part of the rezoning.

Mr. Erikson states that concerning the PRUD and development agreements. The PRUD requires an overall development plan which is essentially the same concept. He notes that some of the languages in the new chapter drafted seems to imply it is talking about a rezone. He asks that they have a discussion about this to see how broadly this will apply and make sure there are specific reasons or if it needs to be changed in any way.

MOTION: Commissioner Nilson moves to open the public hearing. Commissioner Favero seconds. Motion carries (6-0)
Chair Edwards opens the public hearing. There is no public comment.

MOTION: Commissioner Favero moves to close the public hearing. Commissioner Wichern seconds. Motion carries (6-0)

Chair Edwards closes the public comment.

MOTION: Commissioner Favero moves to forward a positive recommendation concerning ZTA 2018-05: Discussion and action on a proposal to amend the following sections of Weber County Code: §102-1-5 and §102-5, regarding rezoning procedures and legislative amendments based on the findings that 1. The changes cause no adverse effect on the intent of the general plans. 2. The clarifications will provide for the more efficient administration of the Land Use Code. Commissioner Nilson seconds. Motion carries (6-0)

3. Public Comment for Items not on the Agenda: None

4. Remarks from Planning Commissioners: None

5. Planning Director Report: Director Grover states that typically in the fall there is a Utah Chapter Conference and usually all Planning Commissioners are invited to attend. He notes that he has heard anything. Typically for this meeting, one Planning Commission from Ogden Valley and one from Western Weber are sent to the Spring National Conference. He is not sure if there will be a Spring National Conference, they will just play it by ear.

6. Remarks from Legal Counsel: Chair Edwards states that he appreciates Mr. Erikson filling in for Matt Wilson.

Adjourn to Work Session: 5:43 PM

WS1: Discussion about short-term rentals in Weber County and regulatory options.

Director Grover states that on the 25th of August there will be meeting with the Ogden Valley Planning Commission and they will be going over the same presentation that the Western Weber Planning is receiving today. On the first of September, there will be a joint meeting with the Ogden Valley Planning Commission to get the feedback they will be probably looking at scheduling public hearings after that. There will be no premeeting, it will start right a 5:00 PM. He notes that the next WWPC meeting will be on September 8, 2020. Typically they try not to schedule a meeting after Labor Day, but because of the workload, he does not want staff to get behind. If Planning Commissioners are unable to make it they can look at rescheduling that.

Scott Perkes notes that there was a joint work session with the Planning Commissions and the County Commissions Planning Staff presented some information about what is happening in the County from a short term rental perspective, Staff presented some data, what is happening relative to where it is allowed. Some feedback has been received from the public. Following that joint work session Staff was asked to present some ideas, and solutions to the issues known and the concerns of the public have and go from there. Short term rentals are occurring, both legally and illegally. The question is what can be done and what the County is allowed to do. The state has some provisions for this but also some limitations. Over the last several month's Staff has been doing a lot of research on how the communities have addressed their short term rentals. Planning Staff has provided the Planning Commission, with a large printout physical printout of a matrix, that shows various regulation variables and how various communities have applied those regulation variables to address them, the short term rentals, and the concerns a community has with rentals. This is also looking at what could work for Weber County based on what other communities are doing. He notes that Staff would put together some scenarios for consideration for the next meetings. He states that they would like to get Staff input and Planning Commissions input before they land on some scenarios.

Mr. Perkes goes through the information listed in the Regulation Research Matrix.

Mr. Perkes states that Planning believes that licensing would be a good idea to be able to track everything. The County would have a database with all the rentals. Staff would be able to check their tax remittance and their compliance.

Commissioner Wichern states that according to state law they are not allowed to find units that are unlicensed through the online listings. She asks what can be done with those who do not have licenses. She asks if there are complaints about unlicensed rentals would the County then be able to step in. Mr. Perkes states this is the current system that is being used. If there is a complaint made the County can enforce and impose a fine. He notes that it is all reactionary, and they have to wait on a complaint. Commissioner Wichern asks if the state allows for the County to go after them for anything other than complaints. Are there any other ways of finding and establishing compliance? Mr. Perkes states that the County cannot solely use the internet advertisement as cause to go after the rentals. The Code Enforcement Officer needs to have some kind of proof.

Mr. Erikson states that the code section that is being referred to is written in a way that may seem toothless. It has been difficult to interpret. There are differences in opinion in terms of exactly what it means. Looking at the language of the code it says that the County cannot enact or enforce an ordinance that prohibits the act of advertising, listing, or offering a renting short term rentals on a short term rental website. The second part states that they can not use an ordinance to fine charge or otherwise prosecute and individual solely for the act of listing or offering a short term rental on a short term rental website. Mr. Erikson notes that there might be room on there to find people who are doing the short term rentals by looking at the websites, but it prohibits from punishing them for the act of listing. He notes that they could use the websites to find the places that are being used as short term rentals, but there would have to be something more than just the advertisement to be able to take any action. He adds that he wants everyone to be careful and not believe that they can not use advertisements at all. If the advertisements lead to information that shows that an actual illegal short term rental is occurring the County may be able to take action.

Commissioner Wichern asks that if state law doesn't prohibit from soliciting compliance, like sending a letter. Letting them know the rules in the area, to simply inform them that this is the process of becoming compliant. Mr. Erikson states there is nothing in the

code that would prevent that. Mr. Perkes states that this is a good question and several communities in the state of Utah are already gone down the route of a third party enforcement option, they find rental listings, addresses and mail out the notices on how to become compliant, or that the area that they are in are not allowed. There are a lot of cases out there where they've already started doing that. They haven't found state requirements as a hindrance to taking that approach.

Commissioner Favero states that concerning licensing in the discussion with the Commissioners, is there a bias for or against the licensing? Mr. Perkes states that in their discussion licensing they have always been in favor of licensing. Even in the areas where they are allowed. There are already a lot of rentals that are operating but simply haven't gone through to get a business license. He states that they might need to be actively engaged and let them know how to get licensed. Having them licensed would help track data and do some audits, and it would help with tax collection. Most communities that have addressed the topic short term rentals have had to grapple with how to enforce and what can be seen every ordinance, there's authorized records representative or designated individual who is tied to a property who's renting in the year they serve as an augmented enforcement arm. For a person who is operating your short term rental, they're required to designate an authorized representative who's available at all hours of the night to respond to any concerns or complaints on the property. Third-party enforcement companies also offer that augmentation they have hotlines and they can track the complaints routed to a particular authorized representative for a property, who reaches out to their tenant to address the complaints. The Planning Division has a single code enforcement officer. He asks how to get one person to enforce all the rentals. He states that it cannot be done by one person it needs to be augmented. He asks can they have the licensed properties designate somebody who is also working to enforce? They could also have a third party company that is paid for their services through licensing fees through the actual renters themselves not through the public dollar to augment our, our ability to enforce and most, communities have gone that route. They've had a third party enforcement company they've designated these authorized representatives between those three layers were able to get 24/7 coverage.

Commissioner Favero asks if there is any benefit to working with Ogden city or other municipalities to have one service might be some advantages to that on one contract versus multiple contracts to save some money. Mr. Perkes states that they have seen as they do the research looking at pocket areas like Colorado, with various communities, when we started reading one ordinance, have partnered with the same enforcement company as the other communities in the area. They have come into the fold. They set up a single hotline phone number single website for complaints so whether you're in the unincorporated area or incorporated areas in there is one number to call and a voicemail method.

Director Grover states that this is one thing they may want to think about doing is, if the County does decide to go with a third party who may be working with Ogden City because it's not working for the city with all their code enforcement officers, they want to hire a third party it might be good to go in together with them. Mr. Perkes states that it might help, there could be some cost savings or some economies of scale. Looking at communities that did not choose to go with a third party route. They staffed up either their Planning Department or their Community Development Department or the code enforcement person whomever this enforcement was filed under. They staffed up, some communities set up an entire department for short term rental management, licensing, complaint resolution, complaint tracking, and more. Some communities kept it like Ogden City where they said well here's the ordinance we're going to continue to use our current code enforcement. With this, the ordinance falls on deaf ears and nothing happens. Those are the three approaches, enforce it and hope for the best, staff up and enforce on your own, or augment by going to the third party enforcement.

Commissioner Favero asks from a dollars and cents standpoint is there enough in licensing fees and potential fines and taxes, to be able to staff up like that. Director Grover states that one thing he is looking at right now the possibility of getting another Code Enforcement Officer, this year. He notes that it is a bit of a push with the budget. He notes that if they could get another Code Enforcement Officer it might not be sufficient it might be sufficient to manage a third party, but it wouldn't be sufficient to enforce. He notes that it might be sufficient to manage the third party. Mr. Perkes states that even if the Planning Division had an additional Code Enforcement Officer someone would have to be on call with a cell phone or some sort of communication at all hours of the

day. With just one extra code enforcement officer that would be challenging the best. There are economies of scale and some things to be learned by looking at various areas and how they've banded together with other cities or counties to make it as simple seamless as possible for the process for the residents.

Mr. Perkes continues to go through the information listed in the Regulation Research Matrix.

Mr. Perkes asks if there are any questions or points that ought to be discussed.

Commissioner Wichern states that she disagrees that there is no authority to limit the short term rentals. She notes that she is not sure how advantageous it would be for the community to prohibit that. If they are allowed there are some concerns, they would need to make sure that a short term rental property can generate enough in fees to cover whatever regulation and type of enforcement are used. She adds that they need to make sure that they are not requiring the rest of the community to subsidize the short term rentals and make sure that it is the renters that are paying those fees. The regulation should be paid by the fees and taxes generated by the properties. She states that looking at Sun Valley Idaho it is very expensive to live there and it is getting to the point where the people who live and work in Sun Valley can no longer afford to live in Sun Valley and they are having a commute to get to their jobs. There is no restriction to regulate and to prevent that. She asks how this issue can be addressed. She asks can HOA's in a certain area be made retroactive in existing communities and possibly regulate that themselves. Director Grover states that the legal department is looking into whether or not they can limit the areas where they can and cannot have short-term rentals. There is no determination on that at this time. Concerning the HOA's they can make things more restrictive it would require a vote to change the laws. Mr. Erikson states that he agrees that there was some discussion about the applicability and scope of the house bill. Concerning the HOA question and whether it can be influenced retroactively and voluntarily by the members of the community this is something he is not sure about. He notes that he has only seen it when it was already in existence or when it was newly formed. This will need to be looked at unless somebody already has the answer. He adds that he would be happy to look into this. Mr. Perkes notes that the could get a group of neighbors to make an HOA and set the boundary. Commissioner Favero states that he just wants to make sure that a group of neighbors doesn't get together and decide they all want to be in the short term rental business. It should be designated per a certain amount of households. He states that he would hate to see a whole street that is nothing but short term rentals. There might as well just be a hotel there. If the houses change hands and people want to live there full time, this could create a problem with them relinquishing any control.

Mr. Perkes states that another issue was quotas, and setting caps on the numbers of licenses being issued. The cap would be based on a percentage and wouldn't increase unless there are additional homes added. From a community character perspective, it does try to midgate entire neighborhoods from becoming short term rentals with absentee owners. Second homeowners are not members of the community. Director Grover states that looking at Ogden City they allow one short term rental per linear block. Mr. Perkes states that Ogden City allows for 2 types of licenses, Owner Occupied Short Term Rental, and a Vacant Owner Short Term Rental. An owner-occupied operates as a bed and breakfast without the food component. Most communities do not do that, this was unique to Ogden City they separated those two designations of licensing.

Commissioner Favero states that it will be interesting to get input on this on the Ogden Valley, this is more prevalent there. Their knowledge on that might answer some of the questions that Western Weber might have. Mr. Perkes notes that it is primarily in Ogden Valley, but it does occur in Western Weber as well. He notes that it would be good to have some sort of regulation in the book that is enforceable for Western Weber. Commissioner Favero agrees and states that he is sure they have more experience and can share some insight into Western Weber.

Chair Edwards asks if there are any further questions. Commissioner Nilson states that he would like to thank Scott, that was a very good presentation and very helpful.

Mr. Perkes notes that Planning Staff will be taking a trip to Colorado, to some of the resort areas. Many of these communities have been using the third party, and it would be good to get some insight from their staff. He asks if there is anything that Planning Commissioners would like staff to look at. Commissioner Favero states that he is interested in a distancing formula.

Commissioner Andreotti states if the goal is going to have short term rental the noise level should not be any more than it would be in a normal neighborhood. He is okay with some sort of taxation, it should pay its way and not get any public money. He asks if there is a timeline to get this ready for motion. Director Grover states that staff is hoping to get it to the Ogden Valley on September 22nd and back to Western Weber on October 13th.

Adjournment: 6:50 PM

Respectfully submitted,

Marta Borchert