

Meeting Procedures

Outline of Meeting Procedures:

- ❖ The Chair will call the meeting to order, read the opening meeting statement, and then introduce the item.
- ❖ The typical order is for consent items, old business, and then any new business.
- ❖ Please respect the right of other participants to see, hear, and fully participate in the proceedings. In this regard, anyone who becomes disruptive, or refuses to follow the outlined procedures, is subject to removal from the meeting.

Role of Staff:

- ❖ Staff will review the staff report, address the approval criteria, and give a recommendation on the application.
- ❖ The Staff recommendation is based on conformance to the general plan and meeting the ordinance approval criteria.

Role of the Applicant:

- ❖ The applicant will outline the nature of the request and present supporting evidence.
- ❖ The applicant will address any questions the Planning Commission may have.

Role of the Planning Commission:

- ❖ To judge applications based upon the ordinance criteria, not emotions.
- ❖ The Planning Commission's decision is based upon making findings consistent with the ordinance criteria.

Public Comment:

- ❖ The meeting will then be open for either public hearing or comment. Persons in support of and in opposition to the application or item for discussion will provide input and comments.
- ❖ The commission may impose time limits for comment to facilitate the business of the Planning Commission.

Planning Commission Action:

- ❖ The Chair will then close the agenda item from any further public comments. Staff is asked if they have further comments or recommendations.
- ❖ A Planning Commissioner makes a motion and second, then the Planning Commission deliberates the issue. The Planning Commission may ask questions for further clarification.
- ❖ The Chair then calls for a vote and announces the decision.

Commenting at Public Meetings and Public Hearings

Address the Decision Makers:

- ❖ When commenting please step to the podium and state your name and address.
- ❖ Please speak into the microphone as the proceedings are being recorded and will be transcribed to written minutes.
- ❖ All comments must be directed toward the matter at hand.
- ❖ All questions must be directed to the Planning Commission.
- ❖ The Planning Commission is grateful and appreciative when comments are pertinent, well organized, and directed specifically to the matter at hand.

Speak to the Point:

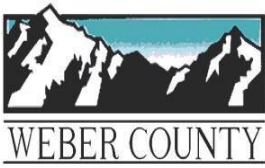
- ❖ Do your homework. Obtain the criteria upon which the Planning Commission will base their decision. Know the facts. Don't rely on hearsay and rumor.
- ❖ The application is available for review in the Planning Division office.
- ❖ Speak to the criteria outlined in the ordinances.
- ❖ Don't repeat information that has already been given. If you agree with previous comments, then state that you agree with that comment.
- ❖ Support your arguments with relevant facts and figures.
- ❖ Data should never be distorted to suit your argument; credibility and accuracy are important assets.
- ❖ State your position and your recommendations.

Handouts:

- ❖ Written statements should be accurate and either typed or neatly handwritten with enough copies (10) for the Planning Commission, Staff, and the recorder of the minutes.
- ❖ Handouts and pictures presented as part of the record will be left with the Planning Commission.

Remember Your Objective:

- ❖ Keep your emotions under control, be polite, and be respectful.
- ❖ It does not do your cause any good to anger, alienate, or antagonize the group you are standing in front of.



OGDEN VALLEY PLANNING COMMISSION

MEETING AGENDA

March 26, 2024

Pre-meeting 4:30/Regular Meeting 5:00



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

- 1 **Discussion:** Vice Chair
2. **Minutes:** February 27, 2024

Petitions, Applications, and Public Hearings:

3. Consent Items:

3.1 2CUP 2024-01: Request for approval of a conditional use permit for Reuse Pump Station located at 4350 N 4450 E. Eden, UT 84310. **Project Manager:** Marta Borchert

Petitions, Applications, and Public Hearings:

4. Legislative Items:

4.1 ZMA 2023-02: a request for approval of a development agreement between Craig Oberg and Weber County, for property located at approximately 5931 North Fork Road, Liberty, UT, allowing for the creation of a conservation easement and the reconfiguration of existing lots. **Planner:** Bill Cobabe

5. Public Comment for Items not on the Agenda:

6. Remarks from Planning Commissioners:

7. Planning Director Report:

8. Remarks from Legal Counsel

Adjourn

The regular meeting will be held in person at the Weber County Commission Chambers, in the Weber Center, 1st Floor, 2380 Washington Blvd., Ogden, Utah.

& Via Zoom Video Conferencing at <https://webercountyutah.zoom.us/j/84970613744> Meeting ID: 849 7061 3744

A Pre-Meeting will be held at 4:30 p.m. The agenda for the pre-meeting consists of discussion of the same items listed above, on the agenda for the meeting. No decisions are made in the pre-meeting, but it is an open public meeting.

Minutes of the Regular Meeting of the Ogden Valley Planning Commission for February 27, 2024, 5:00 p.m. To join the meeting, please navigate to the following weblink at <https://webercountyutah.zoom.us/j/86146520884>, the time of the meeting, commencing at 5:00 p.m.

Ogden Valley Planning Commissioners Present: Trevor Shuman (Chair) (via Zoom), Jeff Burton (Vice Chair), Jeff Barber, Dayson Johnson, Joe Paustenbaugh, Mark Schweppe, 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**

Vice Chair Burton conducted roll call and indicated all Commissioners were present, with Chair Torman participating via electronic means. He recognized the newest Commissioners, Joe Paustenbaugh and Mark Schweppe. He then called for any conflicts of interest to be declared. No declarations were made.

1. Minutes: November 14, 2023, December 19, 2023, and January 11, 2024

Vice Chair Burton asked if there are any corrections to be made to the minutes as presented. Commissioner Wampler offered a few typographical corrections to the minutes. Vice Chair Burton declared the minutes approved as presented.

2. Rules of Order

Legal Counsel Erickson reported that the rules of order that govern the proceedings of Planning Commission meetings are presented to the body for review and approval each year; that is the intent of this agenda item. He noted there have been no revisions to the Rules of Order since spring of last year.

Commissioner Johnson moved to approve the Rules of Order. Commissioner Barber seconded the motion. Commissioners Barber, Burton, Johnson, Paustenbaugh, Schweppe, Torman, and Wampler voted aye. (Motion carried on a vote of 7-0).

Petitions, Applications, and Public Hearings:

2. Consent Items:

2.1 CUP 2023-16, Request for approval of a conditional use permit for Reuse Pump Station located at 4350 N 4450 E. Eden, UT 84310. Presenter, Marta Borchert

The applicant is requesting approval of a conditional use permit for the installation of a Reuse Pump Station as a “public utility substation” The proposed pump will move treated effluent from the treatment plant through a new pipeline to a new reuse pond. The AV-3 Zone allows a “public utility substation” as a conditional use. The proposal has demonstrated that the operation will comply with the applicable regulations, with reasonable conditions imposed. The application is being processed as an administrative review due to the approval procedures in Uniform Land Use Code of Weber County, Utah (LUC) §108-1-2 which requires the planning commission to review and approve applications for conditional use permits and design reviews.

Staff recommends approval of this conditional use application subject to the applicant meeting the conditions of approval in this staff report and any other conditions required by the Planning Commission. This recommendation is subject to all review agency requirements and is based on the following condition:

1. Any work within the right-of-way will need an excavation permit.

The recommendation is based on the following findings:

1. The proposed use is allowed in the AV-3 Zone and meets the appropriate site development standards.

2. The criteria for issuance of a conditional use permit have been met because mitigation of potential detrimental effects can be accomplished.

Commissioner Shuman moved to approve application CUP 2023-16, conditional use permit for Reuse Pump Station located at 4350 N 4450 E. Eden, UT 84310, based on the findings and subject to the conditions listed in the staff report. Commissioner Wampler seconded the motion. Commissioners Barber, Burton, Johnson, Paustenbaugh, Schweppe, Torman, and Wampler voted aye. (Motion carried on a vote of 7-0).

Petitions, Applications, and Public Hearings

3. Administrative Items:

3.1 CUP 2022-14 – Request for approval of a conditional use permit for seven recreation lodges located in the F-5 zone, at approximately 10909 E Hwy 39, Huntsville, UT. Planner: Tammy Aydelotte

Planner Aydelotte explained the applicant is requesting approval of a conditional use permit for 7, 16-unit recreation lodges on 35.04 acres, located in the F-5 zone at 10909 East Hwy 39. This request proposes 112 total sleeping rooms, summer and winter amenities such as sports courts, trails, and a clubhouse. The applicant is including a 50-seat restaurant in this proposal. This proposal will include a septic system and well water for sewer and culinary water service.

Ms. Aydelotte reviewed staff's analysis of the application to determine compliance with the General Plan; zoning ordinance; conditional use standards; and design review standards. She also discussed the applicant's plans to include specific amenities at the site, after which she concluded staff recommends approval of this conditional use permit application subject to the applicant meeting the following conditions of approval in addition to all conditions of County review agencies and the Ogden Valley Planning Commission:

1. The applicant shall obtain a valid Weber County Business License, prior to operating as a recreation lodge(s).
2. The applicant will obtain a traffic study and any improvements to the existing access shall receive approval from UDOT.
3. A second access, per Weber Fire District, shall be secured, and meet any requirements from Weber Fire District and Weber County Engineering prior to issuance of a conditional use permit.
4. All existing structures, where any type of human occupancy is anticipated, shall be inspected and deemed up to building code, by the Weber County Building Official.
5. All conditions from the Weber-Morgan Health Department are satisfied.

This recommendation is based upon the following findings:

1. The proposed use is allowed in the F-5 Zone and meets the appropriate site development standards.
2. The criteria for issuance of a conditional use permit have been met because mitigation of potential detrimental effects can be accomplished.

The Commission expressed concerns regarding past issues at the property related to the wastewater systems in the area and adequacy of the water supply via an on-site well to power the water lines and fire sprinkler systems.

Commissioner Wampler asked if the applicant plans to add any new trails and if those trails will be open to the public. Ms. Aydelotte identified the trail planned for the project and noted that it is a self-contained loop trail that does not connect to the nearby trail system. She indicated staff has not made a recommendation regarding public accessibility of the trail. Commissioner Wampler then stated she is pleased with the number of parking spaces the applicant has communicated they plan to provide, but asked if there is a mechanism for the County to require that they provide that number of spaces. Ms. Aydelotte stated that when a site plan is submitted and approved, it includes the number of parking spaces and that is what the applicant will be held to as the project proceeds.

Commissioner Barber stated that the staff report indicates that the water system at the site will need to become a public water system, which requires a body politic to have jurisdiction over it and he asked what that entails. Ms. Aydelotte referred to a letter from an environmental engineer from the Division of Drinking Water regarding the water system that will serve the development; the writer of the letter indicated that the existing problematic spring source and storage system will be entirely physically disconnected from the culinary system. She noted that the County has not yet addressed the body politic requirement and County Engineering has some reservations about assuming responsibility for the system. Planning Director Grover stated the County will need to follow the legal process for working with an applicant to create a public water system and body politic. This led to high level discussion of the legal requirements and the potential makeup of the body politic, with Legal Counsel Erickson noting that

the County could assume responsibility for the system, or a special service district could be formed if legal requirements are followed.

Commissioner Barber then addressed traffic in the area and asked when a traffic study will be conducted regarding the project. Mr. Grover stated that the applicant will need to hire a firm to perform the traffic study and the County will review the findings of the study with the Utah Department of Transportation (UDOT) to determine if the proposed traffic improvements are adequate and feasible. Commissioner Barber stated that the renderings for the project did not include any trailer parking spaces; he imagines that large vehicles with trailers will access the site and it would be horrible if there were not adequate parking areas for them. Ms. Aydelotte deferred to the applicant to respond to that question.

Commissioners Johnson added that he would also like the applicant to address snow storage areas, location of dumpsters, and truck-turnaround areas on the site plan.

Vice Chair Burton identified a road that exists the site to the northwest, and he asked what that access would be used for. Ms. Aydelotte stated it is the emergency access point only and not for common ingress/egress.

Commissioner Paustenbaugh asked Ms. Aydelotte to identify the 100-foot setback from the nearby stream. Ms. Aydelotte identified the setback on the site plan and noted that no structures can be built within that setback; however, there are two existing structures that encroach on that setback and County Engineering has indicated they may be able to remain so long as the footprint of the structures do not change, and they have been built up to code. Commissioner Wampler stated that the pickleball courts are within the 100-foot setback. Ms. Aydelotte stated that is correct, but they are not considered to be permanent structures.

Vice Chair Burton invited input from the applicant. The applicant indicated they have nothing to add.

Commissioner Barber stated that he and other Commissioners were very concerned reading about this application due to the reports of past violations of dumping raw sewage into the river. If this application is going to be approved, there are four things he feels need to be addressed: first is the creation of the body politic for the water system; second is that he believes a right and left turn lane are needed to access the property; third is adequate parking for trailers; and fourth is better access to a sewer system. Mr. Erickson stated that with respect to the body politic for the water system, his advice is to defer to State law because it is not appropriate for the Planning Commission to place a restriction on the applicant that would keep them from complying with State law in a way they determine to be appropriate. He stated his advice would be the same for sewer connectivity. If there is not credible evidence that would warrant a condition that exceeds State law, he would advise against such a condition. Commissioner Barber stated he feels the credible evidence is the expansion of a modern sewer system and reasonable access to that system. Commissioner Wampler added that placing 116 rooms very close to a river increases the need to ensure connection to a modern sewer system. Mr. Erickson stated that is a decision for the Planning Commission to make; his concern was including sufficient findings to support any condition that is placed on the applicant.

The Commission and staff engaged in discussion regarding the appropriate number of parking spaces on the site based upon the use of the property; the Commission communicated they feel it is appropriate to include a certain number of trailer parking spaces on the site.

Vice Chairman Burton stated he is hesitant to support a finding that relates to UDOT's design or configuration of the road adjacent to the site. Mr. Erickson agreed; he advised the Commission to require the applicant to complete a traffic study, which will be reviewed jointly by the County and UDOT as mentioned by Mr. Grover.

Commissioner Johnson moved to recommend approval of application CUP 2022-14, conditional use permit for seven recreation lodges located in the F-5 zone, at approximately 10909 E Hwy 39, Huntsville, UT, based on the findings and subject to the conditions listed in the staff report, and including the following additional conditions:

- Require the applicant to provide the 184 parking spaces identified on the site plan;
- If trailers are going to be allowed, sufficient parking and turnaround space must be provided;
- A snow storage and refuse plan be worked on with County Planning staff.

Commissioner Wampler seconded the motion. Commissioners Barber, Burton, Johnson, Paustenbaugh, Schweppe, Torman, and Wampler voted aye. (Motion carried on a vote of 7-0).

Petitions, Applications, and Public Hearings**4. Legislative Items:**

4.1 ZDA 2022-02 – Consideration of an applicant driven request to amend the development agreement between Weber County and CW The Basin to acknowledge transferrable development rights. Staff: Charlie Ewert. Applicant: CW Land. Applicant's Agent: Chase Freebairn

Principal Planner Ewert explained on January 25, 2022, the CW Basin property was rezoned from CVR-1 to FR-3 through an ordinance and development agreement approved by the County Commission. The current development agreement restricts the use of the property to ten detached single-family dwellings with short term rentals prohibited. Since the time the original development agreement was recorded, the property owner and a third party have discussed the possibility of transferring some of the development rights that would otherwise exist under the current FR-3 zoning if the development agreement did not restrict the development rights to ten. Under this proposal, the applicant is requesting that the county acknowledge that there are 64 development rights assigned to the property (the subdivision), with 10 of them reserved to be constructed onsite, and 54 of them reserved to be sold by means of a transferable development right program. On September 27, 2022, when this revision was originally proposed to the Ogden Valley Planning Commission, they tabled a decision on this item because the third-party TDR purchaser did not have land to which the rights could be lawfully transferred. The third party now has property in the FB zone (Eden Crossing), and the applicant would like to now proceed with this proposal. The request is to specify in the development agreement that the owner has 54 development rights that will be banked to the property, which the developer owns, until it is transferred to the third party. In exchange, the third party has agreed to provide the county with the funds for improvements to the intersection of Highway 39 and Old Snowbasin Road. The intersection of Highway 39 and Old Snowbasin road is in need of improvements. Several recent developments have pushed the traffic demand at this intersection over the threshold that UDOT deems appropriate for intersection improvements to be made. However, no one development is the single cause of the need for those improvements. Needed improvements are the result of many different developments occurring along Old Snowbasin Road over time, including impacts from residents who have lived in existing developments for years. The fairest way to fund the needed intersection improvements is to find a way to extract the needed funds from all lot owners that contribute to the impact. The county could do this by means of applying a special taxing tool such as a special assessment area. However, the applicant's proposal provides an innovative alternative to providing these funds without increasing the tax-burden of those existing residents in the area. The 64 development rights are based off a density of 20 units per acre from the FR-3 zone. It is important to note that these development rights have been included in each build-out calculation for the Ogden Valley. Since the owner has already platted 10 development lots, they are requesting the ability to transfer 54 units. When the FR-3 zone was originally granted, it would have entitled the developer to the 64 development rights. At the time the developer was only asking for 13 development rights, citing limited access to sewer and water. Given the sewer and water limitations and neighborhood outcry against the development, by means of a development agreement restriction, the county commissioners limited the developer's ability to build on the property to no more than 10 units, cutting their request by 3. The question at hand is whether that restriction limited the developer's ability to transfer the 54 remaining rights away from the property to be built elsewhere.

Mr. Ewert then reviewed staff's analysis of the application to determine compliance with various land use principles of the General Plan and transportation goal number one of the General Plan. He noted the General Plan may not offer a hard-and-fast answer to the applicant's request. The answer is a matter of perspective when determining the request's overall good to the community as provided in the general plan. In summation, the Planning Commission and County Commission should consider the following when making a decision:

- By originally restricting the CW subdivision to 10 lots, the county effectively decreased density in the valley.
- If the developer can transfer the unused rights, they may be able to transfer them to a suitable area such as the areas with form-based zoning.
- Perhaps the 54 units still exist and are transferrable, but should remain in this specific village area. The neighboring parcel to the east of this one (other side of Old Snowbasin Road) is zoned FR-3 and could potentially support these units if they are transferred there. When the property was rezoned to FR-3, several nearby residents opposed the rezone, but stated that they support a village conceptually. If this area is intended to be a residential village, then the development rights should not be sent outside of this village.
- If the 54 development rights no longer exist, or are reserved for possible later transfer within the same village, it should be noted that the funding sources for needed improvements to the intersection may not materialize as quickly or efficiently as is currently at hand.

Mr. Ewert stated staff recommends that the Planning Commission recommend denial of the proposed development agreement amendment, ZDA 2022-02. This recommendation is based on the following findings:

1. The FR-3 rezone and development agreement, restricting the property's development rights to 10, was the county's declaration that no additional development rights exist on the property.
2. It appears that an overarching goal of the general plan is to reduce both development impacts and development in general in the Ogden Valley. Allowing the rights to remain and be transferred may not be optimal for the intended overall intended outcome of the plan.

If the Planning Commission is inclined to recommend approval of the proposal, staff recommends the approval be contingent on a draft amended development agreement, included as exhibit A in the meeting packet. This agreement is crafted to allow the applicant to transfer the 54 units to a qualifying receiving parcel.

Discussion among the Commission and Planning staff centered on past decisions related to transportation improvements along the old Snow Basin Road and Trapper's Loop and opportunities to require appropriate turn lanes and deceleration lanes in the area in the future; Mr. Ewert indicated that the County has collected impact fees for development in the area and has been in discussions with UDOT regarding specific improvements needed in the area. He added that his recommendation of denial is based upon direction in the General Plan regarding the retirement of development rights on the Valley Floor, but he acknowledged that allowing the transfer of those rights to this area would help to fund needed infrastructure improvements in the area. This led to philosophical discussion and debate among the Commission and staff regarding whether the General Plan truly offers direction regarding TDR actions. Commissioner Wampler stated she feels the Commission is being asked to decide whether to allow the TDRs in order to 'create money out of thin air' to compensate for past decisions that led to insufficient funding for needed improvements. This will help the County Commission avoid a tax increase to fund transportation improvements. Vice Chair Burton stated the development agreement for the project is silent on this matter; if the County limits development rights incorrectly, the Valley will end up with inferior developments that do not function appropriately. He reviewed the record of past discussions and decisions made by the County regarding development rights in this project; he concluded he does not see any reason that development rights should not be sent out of the village area. Mr. Ewert stated that directive is included in the form-based zone ordinance. Vice Chair Burton stated that ordinance was adopted after the General Plan, and he feels it should be left up to the landowner to determine if any development right they own should be retired or evaporated.

Commissioner Paustenbaugh stated it is his understanding that the developer voluntarily signed the development agreement limiting the number of units on the subject property to 10, with no mention of transferring the other 54 development rights to the site. Mr. Ewert stated that is correct, but the reason for that could have been that the County did not have a TDR ordinance at the time the development agreement was signed. Commissioner Wampler stated that Mr. Ewert has advised the Commission against trying to speculate or understand the reasoning behind past decisions that were made; it is important to be clear on what the Commission is being asked to do. Mr. Ewert stated that the reason for that advice was that this is a legislative decision, and the Planning Commission has the ability to recommend rules or actions to the County Commission and that body has the ability to adopt those rules and they do not need to be based upon an interpretation of an administrative document. Commissioner Wampler asked what the current unit count is based upon. Mr. Ewert stated it is based upon the FR-3 zoning, not any past decision or action relating to the development agreement.

Chair Shuman stated it is necessary to consider the cost of giving up the development rights. Mr. Ewert stated that some have communicated their ideas of the cost of a development rights, though there is not a clear formula to determine the value of a development right.

The Commission continued to engage in debate of whether the development rights exist and should be allowed in the area along old Snow Basin Road or if the applicant should be allowed to sell them, at the conclusion of which Mr. Ewert reminded the Commission they need to hold a public hearing regarding this matter.

Commissioner Johnson moved to open the public hearing. Commissioner Wampler seconded the motion; all voted in favor.

Kevin Erwin stated he has been following this development for some time; the County has established an economic value for development rights, and he wondered if every property owner in the Valley will be taxed based upon the number of development rights they have. Additionally, since the County has been silent on the number of development rights on any property in the Valley up until this point in time, he wondered if property owners would be able to go back in time and secure appropriate development rights. If this is the case, the market will be flooded with development rights, and they will be devalued in the market.

James Bird stated he is tired of this project, and he discussed the length of time over which the project has been discussed. John Lewis got involved with CW Land and came up with an idea on how to secure funding to improve the intersection of Highway 39 and Old Snowbasin Road. The community called The Chalets has voiced concern about the inadequacy of the intersection, but the County has done nothing about it. He asked where the applicant magically came up with 64 development rights for the property. He discussed historical consideration and decision making regarding the property, noting it was originally zoned CV-2. The owner of the property requested to change the zoning CV-1 to build a hotel or 64 units. The County said that the applicant could have CV-1 zoning to build a hotel, but if they did not do so within 18 months, the zoning would revert to FR-3. The County signed the agreement, but it 'magically disappeared'. He has raised this point but was told that the County would honor the agreement to allow a 64-unit hotel. However, such a project could not be built on the property because there is insufficient water and sewer service for the property if it is developed with more than 13 units. He then noted that Commissioner Froerer has indicated that projects can be built vertically in order to get the number of development rights they are afforded. He wondered if this means that adjacent projects that have not reached the maximum building height can ask for consideration of additional development rights and build their buildings even taller. He then referenced the matter of financing improvements; Mr. Lewis has communicated the cost of the intersection was \$320,000 and that he would pay \$140,000 towards the project. The basin was going to pay a portion and the County would pay the remainder. However, Mr. Lewis later came up with the idea of 54 development rights as a mechanism for funding the improvements, but the seller of the TDRs will only get \$1,600 per development rights, which is very low. He added there has been discussion of selling 'air space', which is ridiculous. He asked if CW Land knowingly agreed to 10 units, but he believes they held out because they wanted to pursue short term rentals (STRs) at the site based upon the size of the homes to be built. If the County cannot find the money to perform needed improvements for the safety of residents in the Valley, he is very concerned and saddened. He does not think any farmer should agree to sell a development right for \$1,600. He encouraged the Commission to recommend denial of the development agreement amendment.

Jan Fullmer stated the developer agreement was signed in late 2022 and the developer agreed to rezone from commercial knowing full well there were development rights associated with the property. The developer does not reside in Weber County, and it is her belief they did not know about the Ogden Valley General Plan and restrictions on STRs based upon zoning. She thinks they did not 'do their homework' and they proceeded with construction of several homes on the property. If the County amends this development agreement, it will open the door for others to be amended in a similar fashion. She discussed how problematic that will be and emphasized that TDRs were not intended to be a mechanism for generating funding for County improvements. She presented a financial report for the Ogden Valley from April of 2022; it indicates the Valley provided Weber County with a \$1 million surplus and she does not know how that money was allocated and why it was not used for the improvements that are being discussed tonight.

David Carver stated he agrees with those who have spoken before him tonight; he emphasized that TDRs should not be used as a currency and advised the Commission to vote in opposition to the application.

Jack Hartman stated that he lives near the subject property; he has worked as an attorney in government for over 20 years and he has never seen someone ask for something that they did not ask for at the time they were making their original application. The developer made an agreement that included 10 units and they should be held to that agreement.

Kay Hogelund stated she is also an attorney and she referred to the TDR matters as 'funny money' given that no other individual or property owner has been given the opportunity to make a similar deal. Additionally, it is a principle of law that parties are presumed to be knowledgeable when negotiating an agreement. It is bad law to revisit the agreement and amend it because it will set a precedent for others unhappy with their agreement to ask for a similar amendment. She stated this seems to be a deal designed to make good on some mistakes that have been made by the developer and the County along the way. This would create a windfall for a third party and to get other parties out of the consequences of mistakes that have been made. She advised the County against fabricating development rights to benefit the County or an individual developer.

There were no additional persons appearing to be heard.

Commissioner Johnson moved to close the public hearing. Commissioner Barber seconded the motion; all voted in favor.

Vice Chair Burton invited input from the applicant.

Chase Freebairn, CW Land, thanked the Commission and Planning staff for their time this evening; he understands that this may not be a popular issue, but he does have the right to ask a land use question before the land use body. He cannot speak to the past discussions and decisions that were made, but he does believe there was some oversight on behalf of CW Land and the County, and it is not inappropriate to ask for a development agreement amendment to correct those oversights. He would have loved if the development agreement were entirely correct the first time, but in the real world, that is usually not the case. He stated that the developer and the other property owner do stand to experience a windfall, but they are not ashamed of the profit motive and no one in this room should expect them to feel shame. He stated the TDR ordinance did not exist at the time the development agreement was crafted and approved and there was no way for either party to include a TDR element in the agreement. Now the ordinance is in place and CW Land has chosen to petition for this amendment to allow for the transfer, which will benefit the project and everyone that uses the road and the intersection that has been mentioned. This will help the County avoid use of taxpayer dollars for the improvements. He stated that if all parties can walk away with a win, he is not sure why the Commission would not recommend approval of the development agreement amendment.

Commissioner Barber asked Mr. Freebairn why he is trying to sell homes to people when they believe the nearby intersection is so dangerous. He asked why they did not step up and improve the intersection to ensure safety for their customers. Mr. Freebairn asked why the County did not petition for the improvements or why UDOT did not pursue the improvements years ago. He stated that many decisions were made before he was employed by CW Land; he is not sure if a traffic study was required or the basis for all the decisions that were made, but it will never be possible for developers to wait for all infrastructure to be perfected before building homes for their customers. Commissioner Barber stated that CW Land could pay for the improvements and then ask for some consideration from the County. Mr. Freebairn stated that CW Land has offered some money that is being held in escrow by the County; however, it is not sufficient. If the agreement were amended, the entire funding amount would be available for the improvements. Commissioner Barber asserted that CW Land could perform the improvements on their own if they wanted to.

Commissioner Wampler stated that she has heard the County Commissioners have proposed that the improvement costs be split between three parties: CW Land, the legacy developer, and the County. Mr. Freebairn stated that was the original proposal; CW Land has already dedicated \$87,000 for the improvements. Mr. Ewert provided a summary of the authority of the County to exact money from a developer to cover their proportional share of costs to improve infrastructure in an area they are developing; this led to discussion about the impact fees that have been collected in the area that can be used to cover the County's share of the intersection improvements and other funding sources for the improvements.

Commissioner Paustenbaugh asked Mr. Freebairn how much they are planning to sell the development rights for. Mr. Freebairn stated that the purpose of selling the development rights is to get their bond released. He noted that CW Land has yet to come to an amount to be assigned to the development rights, but he expects it will be the total cost of the improvements divided by 54. He stated that CW Land is not looking to generate revenue to pocket from the sale of the development rights. Commissioner Wampler asked if that means that CW Land would be willing to reduce the number of development rights if they can be sold in order to get the bond released. Mr. Freebairn answered yes. This led to continued debate of the appropriate timing of the project and how long the County can legally hold CW Land's \$87,000 bond in escrow before releasing it to them. Commissioner Barber stated that this project is not even included in a plan and there are certainly other areas of the County that are much more dangerous; he is frustrated that the project has been painted as being very dire and in need of immediate attention.

Vice Chair Burton attempted to summarize the discussion between staff, the Commission, and the applicant. He asked when the project will be completed if the development agreement amendment is approved. Mr. Ewert stated he cannot answer that question tonight, but he does know it will be completed before the bond is released to CW Land. Vice Chair Burton noted that it would be in the developer's best interest to accelerate the project due to inflation; he asked if the project could be included in a traffic plan for the Valley. Mr. Ewert answered yes and indicated the plan could be amended as soon as this year.

The Commission engaged in discussion of the pros and cons of amending the development agreement; Commissioner Wampler stated that she feels the cons outweigh the pros that have been discussed tonight. She added that the residents that live around the property were initially very upset about this development, but the County committed to them that the density on the site had been reduced to 10 homes and that the total number of development rights was essentially reduced. Now, if the development agreement is amended, that commitment will be revoked.

Vice Chair Burton addressed the concerns about the development rights not being available for purchase on the open market; he argued that the County's action to amend the development agreement would not be the same as a closure of the market and individuals would have the ability to make an offer for the development rights if they so choose.

Commissioner Barber moved to recommend denial of application ZDA 2022-02 amending the development agreement between Weber County and CW The Basin to acknowledge transferrable development rights, based on the findings and subject to the conditions listed in the staff report; the proposal is not supported by the General Plan or the public. Commissioner Paustenbaugh seconded the motion.

Commissioner Johnson stated that he came to the meeting tonight prepared to support the amendment of the development agreement, but his eyes have been opened to other viewpoints tonight. However, he feels that the County has a bit more liability than the applicant for failure to address the development rights in the agreement. He is still concerned about strict denial of the application and would be willing to consider tabling to provide additional time for the applicant to work with the County to adjust their recommendation.

Commissioner Wampler stated she is willing to vote to deny this application, but she is not sure the findings and conditions are sufficient in that they are too vague. Commissioner Barber stated that staff's summary and recommendation of denial in the staff report is sufficient and that was what he was referring to in his motion. He stated he has seen the Commission make findings supportive of other motions they have made, and the County Commission has either ignored them or manipulated them to mean something else. Mr. Ewert stated the written motion is provided to the County Commission each time they are presented with a recommendation.

Chair Shuman suggested a friendly amendment to the motion to express the Commission's concern about the precedent that would be set by approving the development agreement amendment. Commissioner Wampler stated she is concerned about that precedent; she is also concerned about the argument that if the agreement is denied, there are tax implications for Valley residents. She is comfortable recommending denial of the application as written and noted she is willing to attend the County Commission meeting to communicate the Planning Commission's concerns.

Commissioner Schweppe stated it is his understanding that the Planning Commission is charged with determining whether the TDRs existing on the property were reserved and banked or if they were forfeited. He stated this is a great weight on the Planning Commission's shoulders and he is concerned with making a decision without sufficient information and also making a decision that could place the County in a precarious legal position. He noted there is no black and white answer. Commissioner Paustenbaugh emphasized that both parties willingly signed the agreement even though it made no mention of the other 54 development rights.

Vice Chair Burton asked if anyone wished to offer a friendly amendment to the motion. No amendment was offered. Vice Chair Burton called for a vote on the motion.

Commissioners Barber, Paustenbaugh, Schweppe, Torman, and Wampler voted aye. Commissioners Burton and Johnson voted nay. (Motion carried on a vote of 5-2).

5. Public comments for items not on the agenda.

Jan Fullmer thanked the Planning Commission for the amount of time they have put into their role, and she expressed disappointment at the times that their recommendations are not followed by the County Commission.

6. Remarks from Planning Commissioners.

Commissioner Barber stated that last year he recommended the Ogden Valley General Plan be updated because of the significant changes that have occurred in the Valley in recent years. He was told that was not going to happen, but he was told that the future land use and buildout projections included in the Plan would be updated to reflect new projections and he hopes that will still happen. The County has spent money on studies and the Plan needs to be updated accordingly. He then addressed infrastructure leadership; he hopes the Planning Commission will be given the opportunity to weigh in on infrastructure development plans in the future. He then stated that he has looked into other development agreements in the Valley and noted that he found that others have been revised in the past. He learned that a hotel room requires one-third of a building right and a specific amount of commercial space. However, this only exists in the resort areas and not in the Valley and he has asked why that is the case. He wondered if this was an oversight or if it was manipulation and he would like staff to look into that matter further.

Commissioner Wampler stated that the Commission has considered recreational lodges twice in recent months and in both cases, staff has discovered that there are no development standards for that use. She would like for Planning staff and the Commission to work to tighten that code. Mr. Grover stated that he will take that recommendation under advisement.

7. Planning Director Report:

Planning Director Grover did not make a report.

8. Remarks from Legal Counsel:

There were no remarks from Legal Counsel.

9. Vote on Chair and Vice Chair for 2024.

Vice Chair Burton nominated Commissioner Johnson to serve as Chair in 2024. Commissioner Shuman seconded the motion; all voted in favor.

Commissioner Wampler asked Commissioner Johnson if he accepts the assignment, to which Commissioner Johnson answered yes.

Commissioner Johnson nominated Commissioner Burton to serve as Vice Chair. Planning staff indicated they need to determine if Commissioner Burton has already served two years, which would prevent him from continuing to serve as Vice Chair.

Commissioner Johnson nominated Commissioner Wampler to serve as Vice Chair in 2024. Commissioner Wampler stated that she will still be traveling rather extensively for the next several months and she may not be able to fulfill the duties of the position. She nominated Commissioner Barber to serve as Vice Chair. Commissioner Barber stated he may not be able to attend the weekly leadership meetings with staff.

Commissioner Johnson nominated Commissioner Shuman to serve as Vice Chair in 2024. Commissioner Shuman asked that Planning staff review the rules of order to determine if Commissioner Burton can continue to serve. If he can still serve, he recommended that Commissioner Burton remain the Vice Chair. If not, he will accept the assignment as Vice Chair. Commissioner Johnson called for a vote on that motion; all voted in favor of Commissioner Burton serving as Vice Chair, unless he has served two terms. If Commissioner Burton has served two terms, Commissioner Shuman will assume the position of Vice Chair for 2024.

Meeting Adjourned: The meeting adjourned at 8:09 p.m.

Respectfully Submitted,

Weber County Planning Commission



Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

Synopsis

Application Information

Application Request:	Request for approval of a conditional use permit for Reuse Pump Station located at 4350 N 4450 E. Eden, UT 84310.
Application Type:	Administrative
File Number:	CUP 2024-01
Applicant:	Rob Thomas-Authorized Representative
Agenda Date:	Tuesday, February 27, 2024
Approximate Address:	4350 N E 4450 E., Eden UT 84310
Project Area:	21.24 Acres
Zoning:	FV-3
Existing Land Use:	Sewer Improvement
Proposed Land Use:	Sewer Improvement
Parcel ID:	22-006-0014 22-006-0015 22-006-0016

Township, Range, Section: Township 7 North, Range 1 East, Section 16

Adjacent Land Use

North:	Vacant	South:	Vacant RE-20
East:	Residential	West:	Vacant

Staff Information

Report Presenter: Marta Borchert
mborchert@webercountyutah.gov
801-399-8761

Report Reviewer

Applicable Ordinances

- Weber County Land Use Code Title 104 Chapter 14(FV-3 Zone)
- Weber County Land Use Code Title 108 Chapter 4 (Conditional Uses)
- Weber County Land Use Code Title 108 Chapter 10 (Public Utility Substations)
- Weber County Land Use Code Title 108 Chapter 2 (Ogden Valley Architectural, Landscape, and Screening Standards)
- Weber County Land Use Code Title 108 Chapter 1 (Design Review)

Background and Summary

The applicant is requesting approval of a conditional use permit for the installation of a Reuse Pump Station a “public utility substation” Located at The proposed pump station will move treated effluent from the treatment plant through a new pipeline to a new reuse pond. The FV-3 Zone allows a “public utility substation” as a conditional use. The proposal has demonstrated that the operation will comply with the applicable regulations, with reasonable conditions imposed.

The application is being processed as an administrative review due to the approval procedures in Uniform Land Use Code of Weber County, Utah (LUC) §108-1-2 which requires the planning commission to review and approve applications for conditional use permits and design reviews.

Analysis

General Plan: As a conditional use, this operation is allowed in the FV-3 Zone. With the establishment of appropriate conditions as determined by the Planning Commission, this operation will not negatively impact any of the goals and policies of the General Plan.

Zoning: The subject property is located within the Forest Residential (FR-3) Zone. The purpose of the FR-3 Zone can be further described in LUC §104-17-1 as follows:

The purpose of the Forest Valley Zone, FV-3 is to provide area for residential development in a forest setting at a low density, as well as to protect as much as possible the naturalistic environment of the development.

The following setbacks apply, as stated in the FV-3 zone:

-Front: 30 feet

-Side: 20 feet

-Rear: 30 feet

Conditional Use Review: A review process has been outlined in LUC §108-4-3 to ensure compliance with the applicable ordinances and to mitigate anticipated detrimental effects. Thus far, the applicant has received approval from the County Engineering Division, for the proposal.

The following is an analysis of the proposal reviewed against the conditional use standards:

(1) Standards relating to safety for persons and property. The proposal is not anticipated or expected to negatively impact this property, surrounding properties, or persons.

(2) Standards relating to infrastructure, amenities, and services: The proposal is part of the infrastructure related to adjacent development, and is not anticipated or expected to negatively impact any existing infrastructure, amenities, or services in the area.

(3) Standards relating to the environment. The proposal is not anticipated or expected to negatively impact the environment.

(4) Standards relating to the current qualities and characteristics of the surrounding area and compliance with the intent of the general plan. The property on which the conditional use permit is sought will support future residential development. The proposal complies with and supports the intent of the general plan.

Design Review: The FV-3 zone and the proposed conditional use mandate a design review as outlined in LUC §108-1 to ensure that the general design, layout and appearance of the building remains orderly and harmonious with the surrounding neighborhood. The submitted plans are, including exterior finishes, similar to existing infrastructure within this development. As part of this review, the Planning Commission shall consider the applicable matters based on the proposed conditional use and impose conditions to mitigate deficiencies where the plan is found deficient. The matters for consideration are as follows:

Considerations relating to traffic safety and traffic congestion. The proposal includes a site plan that identifies the location of the proposed building(s) as well as the access to the proposed lift station site.

Considerations relating to landscaping. The applicant has indicated that the landscaping of this site will be consistent with the overall landscaping plan will be consistent with the surroundings.

Considerations relating to buildings and site layout. The existing buildings meet the site development standards of the FV-3 Zone.

Staff Recommendation

1. Staff recommends approval of this conditional use application subject to the applicant meeting the conditions of approval in this staff report and any other conditions required by the Planning Commission. This recommendation is subject to all review agency requirements and is based on the following condition:

This recommendation is based on the following findings:

- The proposed use is allowed in the FR-3 Zone and meets the appropriate site development standards.
- The criteria for issuance of a conditional use permit have been met because mitigation of potential detrimental effects can be accomplished.

Exhibits

- A. Project Narrative
- B. Site Plan
- C. Photos of Reuse pond and pump station



Exhibit A - Project Narrative

WCWSID Reuse pond and pump station

Project narrative: It is proposed to construct a reservoir with a volume of approximately 45 acre-feet and install a packaged pump station at the toe of the dam as a conditional use under Weber County Ordinance 104-2-3(h) - Utility Stations. The proposed reservoir will store reuse water from the Wolf Creek Water and Sewer Improvement District (WCWSID) treatment plant, and the pump station will move water from that reservoir to the Wolf Creek Golf Course for irrigation.

Reasonably anticipated detrimental effects of a proposed conditional use can be substantially mitigated by the proposal or by the imposition of reasonable conditions to achieve compliance with applicable standards. Examples of potential negative impacts are odor, vibration, light, dust, smoke, or noise: Note that the proposed pump station will be placed approximately concurrently with the construction of the mentioned reservoir. The pump station placement will have negligible impacts relative to the construction of the reservoir and the two components will be considered a single and complete project. The statements below refer to the construction of the pump station and reservoir installation.

Possible detrimental effects include:

Construction traffic during an anticipated construction period less than 6 months.

Construction activities associated with the pump station will be typical of what might be experienced during construction of a new accessory building on a residential lot: Underground electricity, water pipelines, a new concrete pad on which to place the pump station, site grading and a new access road (the road providing access to the proposed pump station will be constructed as part of the reservoir project and a small turnout/parking area for the proposed pump station will be constructed as part of the reservoir maintenance/access road). Construction of the earthen reservoir will require large equipment that will utilize material on site to build the pond. Adherence to standard County requirements for site construction (SWPPP, dust control, etc.) will be required of the contractor to mitigate impacts due to construction activities.

Long-term operation impacts:

It is anticipated that operation and maintenance of the proposed pump station and reservoir will have negligible impact on the traffic pattern of the surrounding area. The proposed pump station would generate one daily trip by operators. The pumps will be enclosed to reduced sound impacts, have no lighting and access will be made on a maintained gravel roadway around the associated reservoir.

Since the project deals with movement of treated effluent (post plant: clean water), there will be no odor impact.

That the proposed use will comply with the regulations and conditions specified in the Zoning Ordinance and other applicable agency standards for such use: The proposed use will be on property zoned AV-3. Property north, east, and west of the parcel on which this pump station and pond will be located is zoned RE-15. Property south of the parcel on which this pump station and pond will be located is zoned RE-20. The pump station and pond will be well away from property lines. Applicant commits to comply with the regulations and conditions specified in the Zoning Ordinance and other applicable agency standards for such use in the AV-3 zone.

R:\2319 - Wolf Creek Water and Sewer\2302 - Reuse Pipeline\DOCUMENTS\CUP\WCWSID Reuse pond and pump station application narrative.docx

Exhibit B – Site Plan

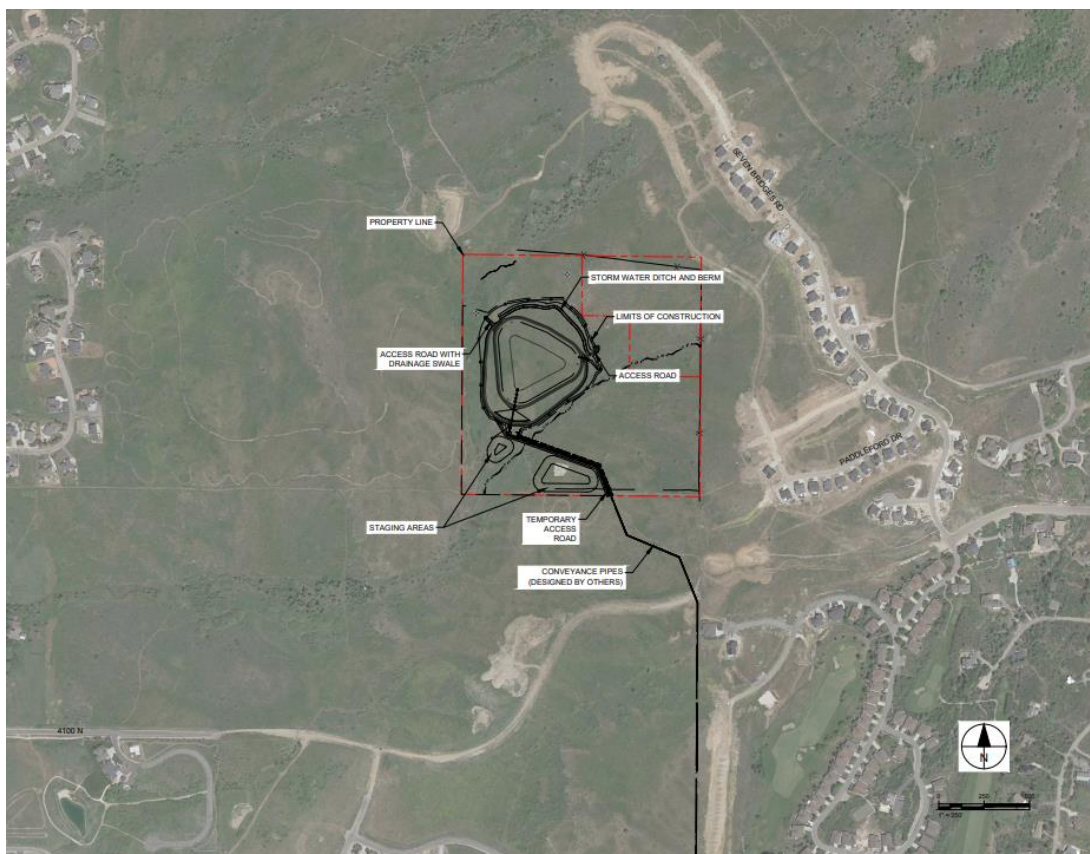
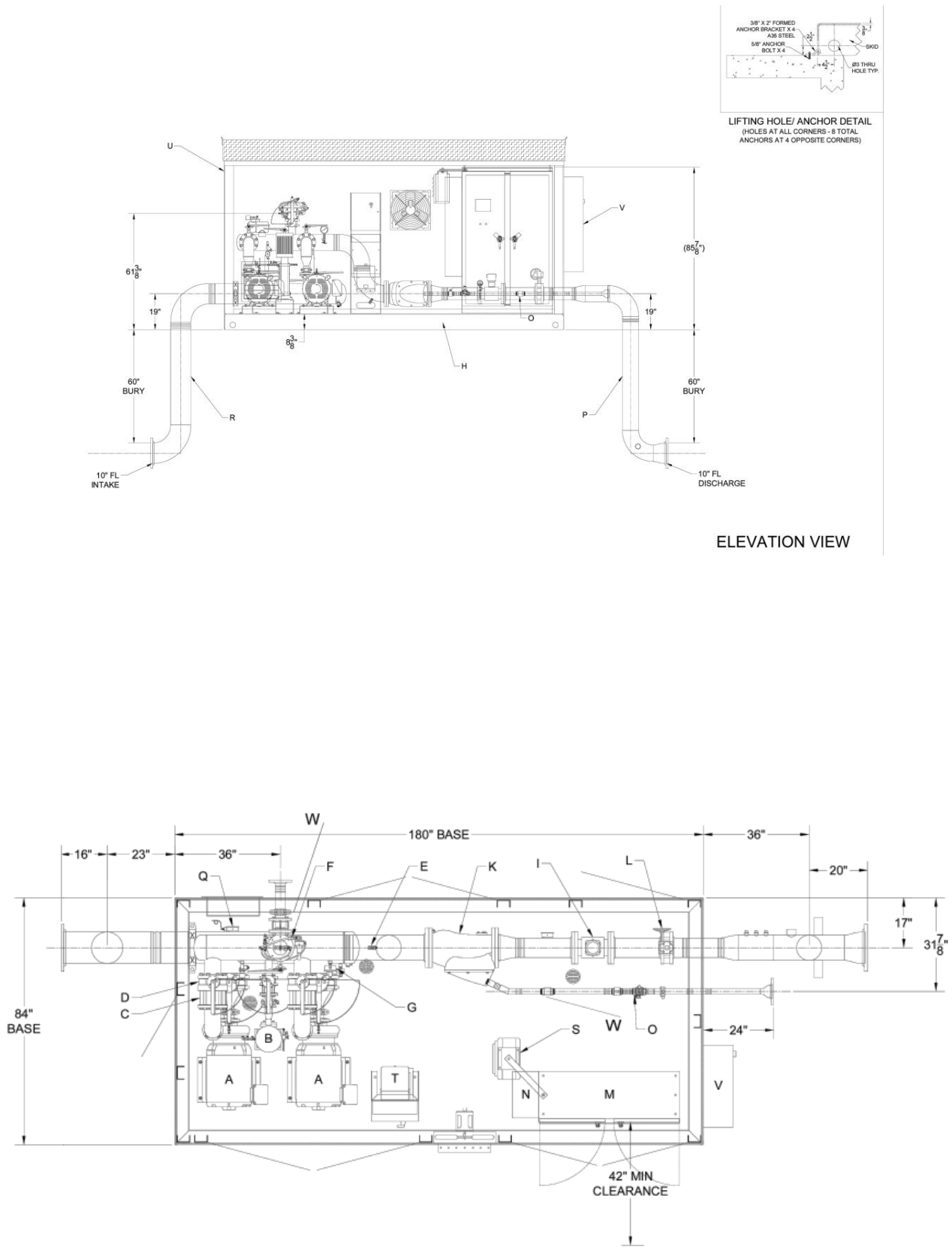


Exhibit C – Drawings of Proposed Reuse Pond and Pump Station





Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

Synopsis

Application Information

Agenda Item: ZDA 2023-02. A public hearing to consider a request to adopt a development agreement on approximately 8.17 acres of property zoned AV-3 and FV-3, located at 5931 N North Fork Rd in Liberty. The proposed agreement will allow for the rearrangement of some property lines that will more closely match the lots in the area, as well as the creation of a conservation easement on land close to the river.

Application Type: Legislative

Agenda Date: Tuesday, March 26, 2024

Applicant: Craig Oberg

File Number: ZDA 2023-02

Property Information

Approximate Address: 5931 N North Fork Rd in Liberty

Zoning: AV-3 and FV-3

Existing Land Use: Residential

Proposed Land Use: Residential/Conservation Easement

Parcel Numbers: 22-003-0029, 22-003-0055, 22-100-0006, and 22-100-0005

Adjacent Land Use

North:	Residential	South:	Residential
East:	Residential	West:	Agricultural

Adjacent Land Use

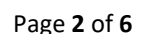
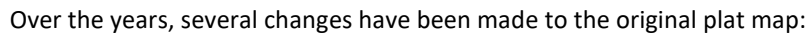
Report Presenter: Bill Cobabe
bcobabe@webercountyutah.gov
801-399-8772

Report Reviewer: CE

Summary

The properties in question are oddly-configured and required certain adjustments to make them usable. However, the current zoning regulations would not allow for the restructuring of these lots to create new lots without the abandonment of certain rights that are currently associated with the property. In recognition of those rights, County staff offered the idea of entering into a development agreement that would allow the lots to be restructured in a way that makes more sense for current and future use and development of these properties. Further, the property owner wishes to ensure that a certain portion of the property is retained in a conservation easement, ensuring that the land will not be developed further.

The following image shows the property to which the development agreement applies.



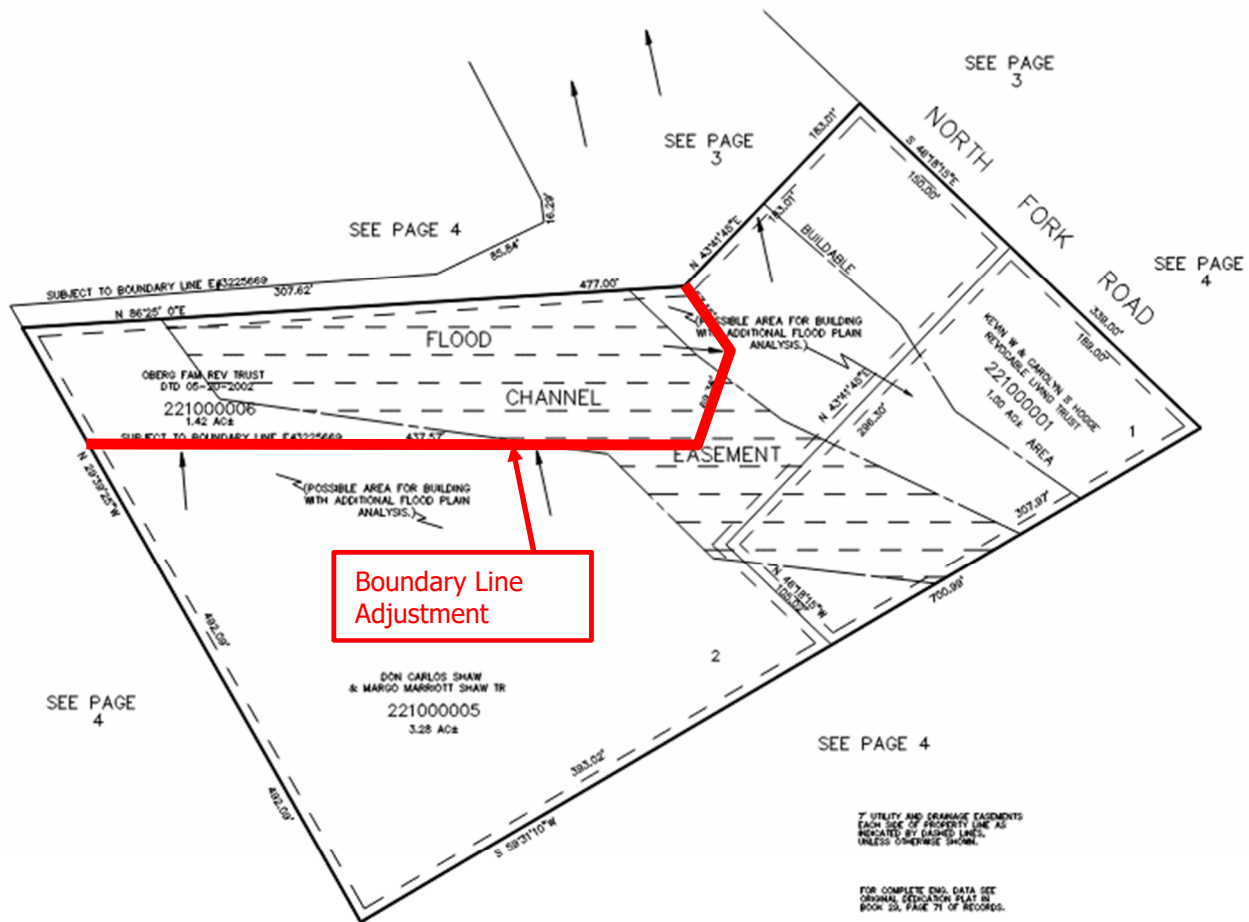
PART OF SW 1/4 SEC. 6, & NW 1/4 SEC. 7, T.7N., R.1E., S.L.B. & M.
DON SHAW SUBDIVISION NO. 1

100

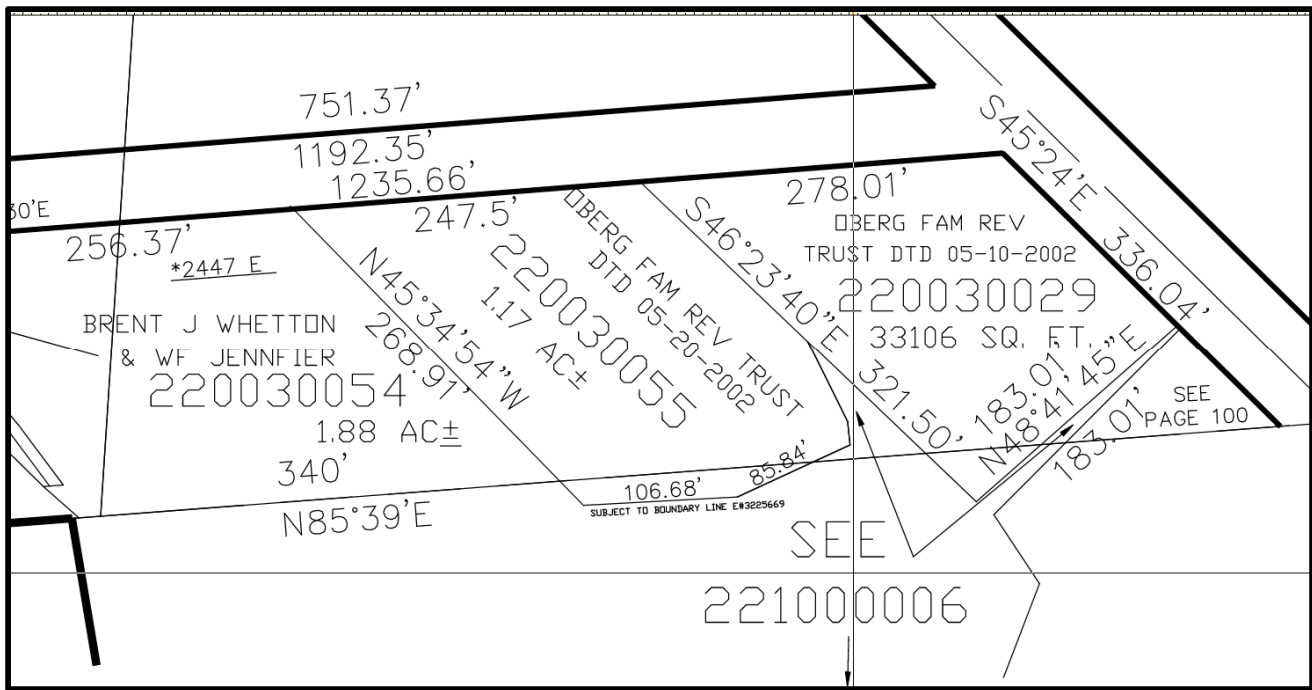
IN WEBER COUNTY

TAXING UNIT: 36

SCALE 1"=60'



FOR TAX PURPOSES ONLY



There is some desire to clear up the different parcels and ensure that the associated property/development rights are preserved. The proposed development agreement is attached and will help to address these concerns.

Further, the proposed development agreement amendment meets (or will meet) the following minimum requirements as outlined in Sec 102-6-3:

All development agreements entered into by the county shall, at a minimum, comply with the following standards (as applicable):

1. *Be in writing.*
2. *Provide an accurate legal description of the subject property and the names of all legal and equitable owners.*
3. *Provide a concept plan including, but not limited to, the location and arrangement of all allowed uses, traffic circulation patterns, buildings, and all required dedications and improvements*
4. *Provide the terms of the agreement, including any extension requirement(s).*
5. *Identify all allowed uses for the subject property and the procedures required for the approval of each use.*
6. *Identify development standards that will be implemented, including the timing and obligations associated with the provision of necessary infrastructure and services.*
7. *Provide for the provision and installation of required public infrastructure and services.*
8. *Provide a listing of all features and facilities being voluntarily provided to the county, or other public or private agency.*
9. *Provide a description of any reservation or dedication of lands for public purposes.*
10. *Identify enforcement mechanisms determined necessary to ensure compliance.*
11. *Provide for the recording of the approved development agreement in the office of the Weber County recorder.*
12. *Include any requirements and conditions identified by the County Commission determined necessary to advance the interests of the county or to protect the public health, safety, and welfare, of the county and its residents.*
13. *Include a clause that states that in the event a development agreement is terminated as a result of noncompliance by the subject property owner, the subject property shall revert to the zoning district designation that existed prior to the enactment of the development agreement.*

Staff Recommendation

Staff recommends that the Planning Commission approve ZDA 2023-02, based on the following findings:

1. The development agreement amendment meets the requirements outlined in the land use code.
2. The development agreement amendment outlines the mutually agreeable terms as desired by the County and the applicant.

Model Motion

The model motions herein are only intended to help the planning commission 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 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 # ZDA 2023-02, an applicant driven request to amend the development agreement on 8.17 acres of property zoned AV-3 and FV-3, located at 5931 N North Fork Rd in Liberty. **I do so with the following findings:**

Example findings:

- The development agreement is supported by the General Plan.
- The development agreement supports good planning and development practices in the County.
- [_____ add any other desired findings here _____].

Motion to **table**:

I move that we **table** action on File # ZDA 2023-02, an applicant driven request to amend the development agreement on 8.17 acres of property zoned AV-3 and FV-3, located at 5931 N North Fork Rd in Liberty, **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 # ZDA 2023-02, an applicant driven request to amend the development agreement on 8.17 acres of property zoned AV-3 and FV-3, located at 5931 N North Fork Rd in Liberty. **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 –Proposed Development Agreement

ZONING DEVELOPMENT AGREEMENT (ZDA)
FOR THE
DON SHAW SUBDIVISION NO. 1 – 1st AMENDMENT

WHEN RECORDED, RETURN TO

ZONING DEVELOPMENT AGREEMENT (ZDA)
FOR THE
DON SHAW SUBDIVISION NO. 1 – 1ST AMENDMENT
WEBER COUNTY, UTAH
DATED _____, 2024

THIS ZONING DEVELOPMENT AGREEMENT (“ZDA”) is made and entered as of the _____ day of _____, 2023, by and between Weber County, a political subdivision of the State of Utah (“County”), and Craig Oberg (“Property Owner”), as the owner and developer of residential property known as Don Shaw Subdivision No. 1 – 1ST Amendment (the “Project”). The County and Property Owner are sometimes collectively referred to in this ZDA as the “Parties.”

RECITALS

- A. Property Owner is the owner of approximately 5.355 acres of real property located within the unincorporated boundaries of the County as more fully described in Exhibit A (the “Property”) and mapped in Exhibit B on which it proposes to develop the Project.
- B. Property Owner, or the successors or heirs of the Property, is willing to design and construct the Project in a manner that is in harmony with, and is intended to promote, the long range policies, goals, and objectives of the Ogden Valley Planning Area’s general plan, zoning, and development regulations in order to receive the benefits of vesting for certain uses and zoning designations under the terms of this ZDA, as more fully set forth below.
- C. Property Owner and the County desire that the Property is developed in a unified and consistent fashion pursuant to memorializing a relationship between them with regard to certain transactions, entitlements, dedications, and other requirements that are necessary for the Project.
- D. Development of the Property will include all or part of the Intended Uses, as specified in this ZDA and according to County Code.
- E. Development of the Project as an open space easement to this ZDA is acknowledged by the parties to be consistent with the Act, and the Code, and operate to the benefit of the County, Property Owner, and the general public.
- F. The Board of County Commissioners has reviewed this ZDA and determined that it is consistent with the Act, the Code as applied to the Property.
- G. Development of the Property pursuant to this ZDA will result in significant benefits to the County by providing economic growth, a diversity of uses and service, socially sustainable development practices, and assurances to the County that the Property will be developed in accordance with this ZDA.

- H. Development of the Property pursuant to this ZDA will result in significant benefits to the Property Owner by providing assurances to Property Owner that it will have the ability to develop the Property in accordance with this ZDA.
- I. Property Owner and the County have cooperated in the preparation of this ZDA.
- J. The parties desire to enter into this ZDA to specify the rights and responsibilities of the Property Owner to develop the Property as part of the Project as expressed in this ZDA and the rights and responsibilities of the County to allow and regulate such development pursuant to the requirements of the ZDA.
- K. The parties understand and intend that this ZDA is a “development agreement” within the meaning of, and entered into pursuant to the terms of Utah Code Ann., §17-27a-102.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County and Property Owner hereby agree to the following:

TERMS

1. Incorporation of Recitals and Exhibits/Definitions.

1.1. Incorporation. The foregoing Recitals and Exhibits are hereby incorporated into this ZDA.

2. Effective Date, Expiration, Termination.

2.1. Effective Date. The Effective Date of this Agreement is the latter of:

2.1.1. The last date upon which it is signed by any of the Parties hereto;

2.1.2. The recordation of this Agreement; or

2.1.3. The recordation of the rezone ordinance to which this Agreement is associated and inextricably linked.

2.2. Term and Expiration.

2.2.1. Term of Agreement Related To Development of the Property. The term of this ZDA as it relates to the development of the Property or the establishment of new uses on the Property shall be ten years from the date of adoption.

2.3. Termination. This Agreement may be terminated by mutual written agreement of the Parties to this Agreement.

3. Zoning and Lot Development Standards

3.1. County agrees to allow reduced lot development standards as long as the Property Owner dedicates a conservation easement to an appropriate third party and no additional development lots are created. All lots dedicated for conservation shall be noted as such on the plat.

3.2. All lots shall be subject to all lot development standards of the A-1 zone.

4. Amendment. Any future amendments to this ZDA shall be considered as Modification Applications subject to the following processes.

- 4.1. **Who may Submit Modification Applications.** Only the County and Property Owner or an assignee that succeeds to all of the rights and obligations of Property Owner under this ZDA (and not including a Subdeveloper) may submit a Modification Application.

5. **Miscellaneous Provisions.**

- 5.1. **Entire Agreement.** This ZDA, and all Exhibits thereto, is the entire agreement between the Parties and may not be amended or modified except either as provided herein or by a subsequent written amendment signed by all parties.
- 5.2. **Headings.** The captions used in this ZDA are for convenience only and are not intended to be substantive provisions or evidences of intent.
- 5.3. **No Third Party Rights/No Joint Venture.** This ZDA does not create a joint venture relationship, partnership or agency relationship between the County and Property Owner. Further, the parties do not intend this ZDA to create any third-party beneficiary rights. The parties acknowledge that this ZDA refers to a private development and that the County has no interest in, responsibility for or duty to any third parties concerning any improvements to the Property unless the County has accepted the dedication of such improvements at which time all rights and responsibilities for the dedicated public improvement shall be the County's.
- 5.4. **Assignability.** The rights and responsibilities of Property Owner under this ZDA may be assigned in whole or in part by Property Owner.
- 5.4.1. **Assignee Bound by this ZDA.** Any assignee shall consent in writing to be bound by the assigned terms and conditions of this ZDA as a condition precedent to the effectiveness of the assignment.
- 5.5. **Binding Effect.** If Property Owner sells or conveys Parcels of lands to Subdevelopers or related parties, the lands so sold and conveyed shall bear the same rights, privileges, and Intended Uses as applicable to such Parcel and be subject to the same limitations and rights of the County when owned by Property Owner and as set forth in this ZDA without any required approval, review, or consent by the County except as otherwise provided herein.
- 5.6. **No Waiver.** Failure of any party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future date any such right or any other right it may have.
- 5.7. **Severability.** If any provision of this ZDA is held by a court of competent jurisdiction to be invalid for any reason, the parties consider and intend that this ZDA shall be deemed amended to the extent necessary to make it consistent with such decision and the balance of this ZDA shall remain in full force and affect.
- 5.8. **Force Majeure.** Any prevention, delay or stoppage of the performance of any obligation under this ZDA which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefor; acts of nature, governmental restrictions, regulations or controls, judicial orders, enemy or hostile government actions, wars, civil commotions, fires or other casualties or other causes beyond the reasonable control of the party obligated to perform hereunder shall excuse performance of the obligation by that party for a period equal to the duration of that prevention, delay or stoppage.

- 5.9. Mutual Drafting.** Each party has participated in negotiating and drafting this ZDA and therefore no provision of this ZDA shall be construed for or against either party based on which party drafted any particular portion of this ZDA.
- 5.10. Applicable Law.** This ZDA is entered into in Weber County in the State of Utah and shall be construed in accordance with the laws of the State of Utah irrespective of Utah's choice of law rules.
- 5.11. Venue.** Any action to enforce this ZDA shall be brought only in the Second Judicial District Court for the State of Utah, Weber County.
- 5.12. Recordation and Running with the Land.** This ZDA shall be recorded in the chain of title for the Project. This ZDA shall be deemed to run with the land.
- 5.13. Authority.** The parties to this ZDA each warrant that they have all of the necessary authority to execute this ZDA. Specifically, on behalf of the County, the signature of the Chair of the Board of County Commissioners for the County is affixed to this ZDA lawfully binding the County. This ZDA is approved as to form and is further certified as having been lawfully adopted by the County by the signature of the County Attorney.

IN WITNESS WHEREOF, the parties hereto have executed this ZDA by and through their respective, duly authorized representatives as of the day and year first herein above written.

PROPERTY OWNER

Craig Oberg

Approved as to form and legality:

Chris Crockett, Deputy County Attorney

COUNTY

Weber County

By: James Harvey, Chair
Board of County Commissioners

Attest:

Ricky Hatch, CPA, Clerk/Auditor

PROPERTY OWNER ACKNOWLEDGEMENT

STATE OF UTAH

COUNTY OF WEBER

On the _____ day of _____, 2024, personally appeared before me
_____ who being duly sworn, did say that he is Craig Oberg, and that the foregoing
instrument was duly authorized by the property owners signed in behalf of said property owners.

NOTARY PUBLIC

TABLE OF EXHIBITS

Exhibit "A"	Legal Description of Property
Exhibit "B"	General Map of Legal Description
Exhibit "C"	Dedication of Open Space Easement/Agreement With Land Trust

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

EXHIBIT "B"
GENERAL MAP OF LEGAL DESCRIPTION

EXHIBIT “C”
DEDICATION OF OPEN SPACE EASEMENT/AGREEMENT WITH LAND TRUST