Minutes of the Ogden Valley Township Planning Commission meeting held August 24, 2010, in the Weber County Commission Chambers, commencing at 5:00 p.m.

Roll Call.
Present: Greg Graves, Chair, Gary Allen, Jim Banks, John Howell, Kevin Parson, William Siegel, Laura Warburton

Staff Present: Rob Scott- Director, Sean Wilkinson-Planner, Ben Hatfield-Planner, Monette Hurtado, Legal Counsel, Sherri Sillitoe, Secretary

P*ledge of Allegiance*
Roll Call

Minutes

1. Minutes: Approval of the July 14, 2010 and the July 27, 2010 meeting minutes

Chair Graves declared the meeting minutes approved as presented.

Regular Agenda Items:
2. New Business

2-1. CUP 2010-15 Consideration and action regarding a request for approval of a Conditional Use Permit for a Utah state contracted packaged liquor store located at approximately 2580 N Highway 162. Richard Schneider, Applicant

No exparte communication was declared.

Sean Wilkinson presented a staff report and indicated that the applicant is requesting approval of a Utah state contracted packaged liquor store in the Eden Professional Center. A liquor store is listed as a conditional use in the CV-2 Zone. The Eden Professional Center was originally approved in 1994 as a Commercial Site Plan (CSP 1994-02). The design standards of Chapter 18C (Ogden Valley Architectural, Landscape, and Screening Standards) do not apply to the proposed site because the site plan and commercial building were approved several years prior to Chapter 18C being approved, and there are no exterior site plan or building alterations needed for the proposed use. Any future additions, alterations, etc. would be required to conform to current ordinances.

The existing site plan covers approximately one acre and includes the commercial building, a parking lot, landscaping, and a business sign. The commercial building has four units, two of which are currently occupied by an orthodontist and a real estate office. The remaining two units are proposed to include a development office and the proposed liquor store. The 1,200 square foot liquor store is proposed to be on the main level along with the orthodontist, while the other two uses will move to the basement. The applicant has not requested a reduction in the number of parking spaces, a liquor store requires 20 spaces plus the spaces required for other uses in the building for a total of 34. The property owner in the future if necessary can make such a request.

The proposed liquor store must have a license from the Utah Department of Alcoholic Beverage Control (DABC) and must be compliant with all DABC rules in order to operate. The proposed location is compliant with DABC proximity restrictions, which state that the liquor store cannot be located within 600 feet (ordinary pedestrian travel) or 200 feet (measured in a straight line) of a church, school, park, playground, or library. The proposed liquor store is over 700 feet away from the LDS Seminary building, which is the closest applicable location. A conditional use permit is still active for a liquor store across the street from the proposed location in the Eats of Eden commercial building, but there is currently not a DABC license associated with that location. The DABC will decide if a license will be issued for the Ogden Valley and which location it will be issued for. A liquor store in the Ogden Valley cannot operate without a license from the DABC.

The Weber County Engineering Division, Weber County Health Department, Weber County Building Inspection Department, and the Weber Fire District have reviewed the proposed liquor store and the associated site plan. None of these review agencies responded with any concerns based on this new use in the existing building on the proposed site.

Staff recommends approval of CUP 2010-15 for a Utah state contracted packaged liquor store with no additional conditions. This recommendation is based on the proposed use, location, and site plan, being in compliance with applicable County Ordinances as listed in the staff report. This recommendation is subject to the requirements of staff and other review agencies.

Commissioner Parson indicated his concern regarding pedestrian traffic flow from Mr. Schneider's plan over to the Ogden Valley Market. He believes it would be helpful to have a sidewalk.

Commissioner Schneider presented the Planning Commission members copies of letters of recommendation he obtained and will be submitting to the State DABC. He is trying to keep their community whole as part of what they are offering in the Ogden Valley to the tourists. He has always felt his building has never reached its full potential as far as the businesses operating there. There is no license available right now and will probably need to go to the Senate for approval of an additional license for the State of Utah. He believes the building is in a superior location. He would love to see a sidewalk in the area tying the business together for pedestrian traffic.

If he is fortunate to receive approval from the Planning Commission, he will submit the required information to the State DABC for their September 14, 2010 meeting.

Commissioner Howell asked the hours of the proposed liquor store. Mr. Schneider indicated that the hours would be from 11 am to 9 pm or 11 am to 8 pm and possibly extended hours during holidays. The State will allow operating hours of 10 am to 10 p.m. He realizes the proposed endeavor is a great responsibility, but he would like to provide a service for the Ogden Valley tourists and residents.

Laura Warburton reported that after her review she believes that the proposal complies with the applicable county ordinances. They cannot base their decision on personal issues. Mr. Schneider indicated that he understands the comment. He is a reluctant liquor store owner because he has known several people whose lives have been ruined or destroyed by alcohol, but he is looking at the issue from a business owner's standpoint.

Steve Clarke, an Eden resident, indicated that he attended the meeting the last time that the Planning Commission approved a liquor store in the Ogden Valley. He respects Mr. Schneider and is not opposed to having a liquor store in the Ogden Valley as a service. He has a heavy heart when they take up this topic as it does concern him that they would have a liquor agency in the sight of the youth walking to the Junior High School.

MOTION: Commissioner Siegel moved to approve CUP 2010-15 subject to staff and other agency recommendations and that the state issues another liquor license for the site. Commissioner Banks seconded the motion.

DISCUSSION: Commissioner Warburton indicated that people have their agency and have their right to choose. Having moved to Utah relatively recently, she believes that it is somewhat ironic that maybe the same parents that complain will not complain about the money that comes from the liquor for their students. She believes the State should not have anything to do with liquor; it should be the business owners. She respects Mr. Clarke's comments. The proposal conforms to the ordinance recommendations.

Commissioner Banks indicated that there is interest in having a liquor store in the Ogden Valley again. Chair Graves indicated that if they are going to do it, they should do it right and do it responsibly. Commissioner Warburton indicated that the Planning Commission does not guarantee success. Commissioner Allen believes the proposal would be of benefit to the Ogden Valley especially for the tourists. Commissioner Parson indicated that a liquor store supports the economy and it would be a benefit to save trips down the canyon.

Mr. Wilkinson indicated that the Planning Commission cannot force a sidewalk requirement here, but can keep it in mind for the future. Staff has received other inquiries regarding locating a liquor store in other areas of the Ogden Valley. One liquor store conditional use approval is still valid in the Eats of Eden plaza, although they do not have a DABC license. It has to remain unused for a one-year period before it expires.

VOTE: Motion Carried (7-0) with all Commissioners present voting aye.

3. **Public Comments:** There were no further public comments.

Rob Cowperthwaite purchased the Eagles Campground approximately 1 ½ years ago. He understands that there are developers who would like to put together a facility to treat troubled youth. The LDS Church put his property under contract but backed out; however, they are still interested in purchasing the property to expand Camp Atoka. He questioned whether the Planning Commissioners believes that the Old Eagles Campground would be a good location for such a service. He has maintained the business license for the last two years and believes he has many other options for his property.

Monette Hurtado said unfortunately they are not in a position to comment regarding a proposed development unless an application is made and presented to the Planning Commission.

Laura Warburton asked Mr. Cowperthwaite if he was aware that the applicant tabled his own application, and he indicated that he was. Chair Graves said that the applicant tabled his application prior to any action by the Planning Commission. Mr. Cowperthwaite should start the process with the staff.

Monette Hurtado said under state law, they can only table things for six months.

4. Planning Commissioner's Remarks:

Commissioner Siegel asked staff to report on the heliport issue. Sean Wilkinson said they have spoken with the helicopter operator and the owners of the Red Moose Lodge to discuss how they want to proceed. This issue will probably come back before them within the next two months.

5. Staff Communications:
5-1. Planning Director's Report:

He hopes the members have had a chance to review the Quarterly newsletter that staff mailed to them.

Mr. Scott indicated that Sean Wilkinson presented an update on the Contractor's Storage Yard issue in the pre-meeting. No questions or comments were made regarding this update.

Commissioner Banks indicated that by the shooting range, there were rocks piled up and now the rocks are being taken out of there. Mr. Scott indicated that administrative approval was given to move the rocks that came from on top of Avon for the Ogden River project. The rocks are now being moved from the staging area (the shooting range area). He will have Iris Hennon report on that issue. Commissioner Banks indicated that the trucks make approximately six trips per day at higher speeds than the 25 mph speed limit.

- Rob Scott gave the members a copy of the Great Salt Lake Management Plan for their information. There are meetings being conducted and as individuals, if they have concerns, they can that agency.

- The Fall APA Conference will be on September 30 & October 01, 2010. The following members indicated that they would attend: Commissioner Warburton, Commissioner Howell, Commissioner Graves, and Commissioner Allen. Frontrunner passes will be provided for this conference.

- The APA Chapter Newsletter published an article on the Weber County Cooperative Pathways Management Plan.

- The County Commission adopted the Chapter 31 - Administration ordinance amendment this morning.

- Testimony: There is a set schedule as to when information is presented to the Planning Commissioners. One of the things he believes is unfair is when information is presented to staff and the members at the last minute. Staff will propose a reply deadline for this information to be submitted to be presented in the Planning Commission meeting. Monette Hurtado indicated that it seems to her, that the deadline would be when staff does the meeting packet mailing.

- Rob Scott encouraged the members to be acknowledged by the Chair before making comments in the meetings.

Commissioner Warburton indicated that it would also be advantageous to send notice to the Ogden Valley News regarding the deadlines.

5-2. Legal Counsel's Remarks: No remarks from Legal Counsel.

Monette Hurtado gave direction regarding testifying before the County Commission. Usually when they have heard something, they are acting as a judge so it would be inappropriate for the Planning Commissioners to go to the County Commission meetings and act as an advocate for an item upon which they have made a decision. It would be different if they excused themselves from the original vote and announced that they were going to be an advocate.

They always announce that when they go as a quorum on a field trip it is a public meeting. They do not need to record the field trips but make a summary outline of issues discussed.

Chair Graves said for instance in their trip in Snowbasin where they had a chance to visit with many different people. Monette Hurtado said Snowbasin invited the Planning Commission and they are not required to notice such meetings. The Planning Commission did not go a quorum with the intent of taking action on an item and that would not be a public meeting. However, there was no harm in noticing that field trip. When they are going on a field trip we know why they are going, they are going to gather information for taking action on an item that will be on their subsequent agenda. Monette Hurtado indicated that she would be happy to address any questions the members may have regarding issues of concern at any time. Chair Graves said if they went as a Planning Commissioner, any discussions would need to be presented as exparte communication at the subsequent meeting. Ms. Hurtado indicated that he was correct.

6. **Adjourn** the regular meeting and convene a work session

Work Session Agenda Items

1.1. Discussion on Amendment to Weber County Zoning Ordinance Chapter 22C Conditional

Ben Hatfield indicated that the Planning Division Staff is proposing an amendment to the Weber County Zoning Ordinance Chapter 22C (Conditional Use). This chapter deals with conditional uses as a whole and is referred to by other chapters of the ordinance.

The chapter defines and establishes guidelines for conditional uses and provides criteria upon which conditions for such uses should be based. Specific language from Utah State Code has also been included. Significant portions of other ordinances from Salt Lake County and Ogden City were used to model the proposed language.

The substantive changes to Chapter 22C are as follows:

- An update to the review procedure section was done which reflects previous updates in other portions of the ordinance.
- The Basis of Issuance section has been condensed to reduce confusion.
- Updates for financial guarantees are suggested to be in line with other related policies.

The Western Weber Planning Commission reviewed the proposed changes of Chapter 22C at their August 10, 2010 work session meeting and recommended no additional changes. The final draft of Chapter 22C will tentatively return for Planning Commission approval at their September 14, 2010 regular meeting.

Ben Hatfield reviewed the proposed changes with the Commission.
Throughout the amended ordinance "Conditional Use" will be listed as "conditional use."

- Section 1 - the purpose and intent was rewritten for clarity.
- Section 2 - was amended to explain the process for amendments to an approved conditional use, mitigation for impacts, and that the permit shall run with the land.
- Section 3 – most of the new content was taken from Salt Lake County and modeled after the Design Review application procedure. It spells out the application requirements and review procedures.
- Section 4 - Instead of titling this section the "Basis" for Issuance, it will read, the "Criteria" for Issuance and it will only list two parts instead of five.
- Section 5 – A new title was added to this subsection explaining the procedure on Appeals and Revocations.
- Section 6 – lists the permit and improvement guarantee procedure.
- Section 7 – lists the standards for when a conditional use would expire. An additional change would be that the period of time for expiration would start at the approval date from the Planning Commission and not from the date of issuance.

Commissioner Warburton asked Mr. Hatfield to define "substantial" in regards to 22C-7:

> "Unless there is substantial action under a ~~C~~conditional ~~U~~use permit within a maximum period of one (1) year of its issuance, the ~~C~~conditional ~~U~~use ~~P~~permit shall expire. The Planning Commission may grant a maximum extension of six (6) months ~~under exceptional circumstances~~. Upon expiration of any extension of time granted by the Planning Commission, ~~or failure to complete all conditions and requirements of the Conditional Use Permit within an eighteen (18) month period of time,~~ the approval for the ~~C~~conditional ~~U~~use ~~P~~permit shall expire and become null and void."

Rob Scott indicated that it would have to be something that would be recognized - something that has an identified action associated with it. It is taking an action that would result in a record being created. Commissioner Warburton indicated they might want to define "substantial" on paper.

Commissioner Siegel gave an example; the conditional use permit issue for the strip mall by the Old Eden Church that burned down and there has been no action for over a year. Sean Wilkinson indicated that this permit received an extension. Chair Graves indicated that something substantial is something tangible. Rob Scott said staff tracks the permit status and has the ability to determine if substantial action has been done on a project. If someone disagrees with staff regarding whether something has had substantial action done, more than likely, they would come to the Planning Commission for their interpretation and if they are not satisfied, the decision would go to the Board of Adjustment.

Commissioner Warburton indicated that under 22C-1, the sentence, "If impacts cannot be mitigated, the conditional use may not be compatible." should read. …"may be deemed incompatible."

Rob Scott indicated that with every Zoning Ordinance chapter, that has a purpose and intent is simply a description. It is not the criteria upon which the decision is made; that is found later on in the chapter.

Chair Graves wanted to remind the members that Conditional Uses are uses that are permitted if it does not cause problems.

Commissioner Warburton referred to Utah State Code Title 17, Chapter 27a, Section 506 and indicated that they are trying to help people accomplish what they want.

Steve Clarke indicated that in 22C-4.1 He reads in "in chief compliance with applicable standards." In reflecting back to the helicopter proposal where there was not a dust or a noise ordinance, his suggestion is to add the words after *applicable standards* "in the opinion of the Planning Commission." Chair Graves indicated that would allow the Planning Commission to add a condition if an applicable standard is not there. Commissioner Howell indicated that an applicable standard should be a public nuisance.

Rob Scott read the purpose of intent of Chapter 22C and indicated that they are not in a position to create prejudice. He believes that the introductory paragraph answers what Mr. Clarke was trying to say in that the planning commission has the responsibility to make a determination relative to those specific things. There are already in place specific standards for nuisances that are not in the County Zoning Ordinance. One of the key things they have been working toward as a staff is refining their applications for clarity and understanding so that an applicant provides evidence that demonstrates how each criterion has been addressed. The new applications will help people determine what they need to apply for in a permit and the anticipated questions that the Planning Commission would ask.

In two weeks they will be holding another work session to discuss two additional proposed ordinances.

Commissioner Warburton asked when she should bring up items that she would like to be researched and studied.
Rob Scott indicated that under the "Planning Commission Remarks" session of the regular meeting agenda.

Chair Graves indicated that he previously raised a concern on how they can appropriately respond to public clamor. He would like some clarification and direction on how they can respond to that. It would help if the public actually heard it in their regular meeting.

Rob Scott indicated that the Chair reads the citizen's responsibilities and the planning commission's responsibilities in the opening meeting statement.

Commissioner Warburton: The Ogden Valley News will print anything for the Planning Commission at no cost. She is wondering whether they should go ahead and define "Residential Academy." The State does not have anything to define "Residential Academy." She believes it would be wise to have forward thinking in that case. She believes Ben has done a great job. Commissioner Siegel does not believe they need to do anything with it. Commissioner Banks disagreed. Chair Graves indicated that if it ever comes up, they would deal with it.

1-2. Adjourn

There Being No Further Business, the work session was adjourned at 7:05 p.m.

Respectfully Submitted,

Sherri Sillitoe, Secretary
Weber County Planning Commission