

Ogden Valley Township Planning Commission meeting held September 22, 2009 in the Weber County Commission Chambers, the Weber Center, 2380 Washington Blvd.

Members Present: Greg Graves, Chair  
Gary Allen  
Jim Banks  
Louis Cooper  
Kevin Parson  
William Siegel

Member(s) Absent: Keith Rounkles

Staff Present: Robert Scott, Director  
Jim Gentry, Assistant Director  
Scott Mendoza, Planner  
Ben Hatfield, Planner  
Monette Hurtado, Attorney  
Sherri Sillitoe, Secretary

*Pledge of Allegiance*

**Roll Call:**

**1. Approval of minutes:** Approval of the August 25, 2009 and the September 3, 2009 meeting minutes  
Chair Graves declared the August 25, 2009 and the September 3, 2009 meeting minutes approved as written.

**2. Consent Agenda Items:**

**2-1. UVN083109** Final Approval of the Nipko Estates 1<sup>st</sup> Amendment Subdivision located at approximately 3361 N River Drive, 3 lots, as well as a recommendation for the vacation of the Nipko Estates Subdivision. Mark Ferrin, Applicant

**2-2. UVJ083109** Final Approval of the JHL Subdivision located at approximately 2020 E 5950 N, 3 Lots, as well as a recommendation for the vacation of lot 2 of the North Fork Acres Subdivision. John Lyons, Applicant

**2-3. UVV070709** Final Approval of the Valhalla Estates Subdivision located at approximately 2200 N 3800 E, 1 Lot, as well as a recommendation for the vacation of lot 63 of the Silver Bell Estates No 2 Subdivision. Gary Braden, Applicant

**2-4. UVE090309** Final Approval of the Sunridge Subdivision Number 3 Amended located at approximately 5540 Middle Fork Rd, (1 lot). Ronald Karpenko, Applicant

**2-5. UVB083109** Final Approval of Bowden Storage Subdivision, located at approximately 4905 N Willow Brook Lane (1 Lot) & a recommendation to vacate the R.V. Storage at Wolf Creek Subdivision. Wolf Creek Properties, LC and KBC Leasing, LLC, Applicants

**MOTION:** Commissioner Allen moved to approve Consent Agenda Items 2-1 to 2-4 as written. Commissioner Parson seconded the motion. Motion Carried (6-0).

**MOTION:** Commissioner Siegel moved to approve Consent Item 2-5. Commissioner Allen seconded the motion. Motion Carried (5-0) with Commissioner Banks abstaining.

**Regular Agenda Items:**

**3. Old Business**

**3-1. SV020909** Reconsideration of a request to vacate the Rivers Edge Cluster Subdivision including all easements and public streets. Rivers Edge of Eden LLC, Applicant, Nate Brockbank, Agent

**3-2. UV080609** Reconsideration of Final approval of the Rivers Edge Subdivision, consisting of 13 lots, 3900 E & 4100 N, Liberty. Rivers Edge of Eden LLC, Applicant, Nate Brockbank, Agent

Monette Hurtado, Legal Counsel, said a motion to reconsider would be required to reconsider an item.

Scott Mendoza indicated that the applicant is requesting final approval of the Rivers Edge Subdivision located at approximately 3900 East and 4100 North. The subdivision covers 49.32 acres overall and consists of 13 lots, approximately 11 acres of wildlife conservation/public recreation easement area and approximately 3150 feet of public road improvements. It lies within the Agricultural-3 (AV-3) Zone, which requires 3 acres per dwelling and a minimum lot width of 150 feet. The proposed lot areas range from 3.00 to 4.66 acres. The proposed subdivision conforms to the General Plan by meeting the requirements for the zone in which it is located. The proposed subdivision conforms to the General Plan by granting a wildlife conservation and public recreation easement that guarantees the preservation of wildlife habitat and public access to a recreational amenity such as the North Fork River and the previously constructed pathway.

A 5<sup>th</sup> condition was discussed regarding a physical marking of the easement at the August 25, 2009 meeting. The applicant has researched that idea and has come forward with a plan for a 36" 2-rail wooden fence that each property owner would maintain the portion in the rear of the lots.

Nate Brockbank, 6412 S. 900 E, Salt Lake City, UT, did not have anything to add to staff's summary.

**MOTION:** Commissioner Siegel made a motion to reconsider. Commissioner Banks seconded the motion. A vote was taken and Chair Graves indicated the item is opened for consideration.

Commissioner Siegel believes they have sufficiently addressed the trespassing concern with the proposed fence.

Steve Clarke, Eden, indicated that that in his opinion, the Planning Commission is under no obligation to approve a vacation and rezone of this nature. He believes a residential subdivision on a smaller scale would be more appropriate. His question is who will maintain the fence. Mr. Brockbank indicated that he would have the homeowner's association maintain the fence and maintenance of the areas on the lot will be the responsibility of each owner.

Monette Hurtado indicated that if it is through a homeowner's association, voting authority would be limited to each property owner; the CC&R's are not enforced by the County, only by the home owner's association. The 3<sup>rd</sup> party would not be a voting member of the home owner's association. Commissioner Cooper indicated his concern that after the developer is out of the picture, the homeowners could decide to remove the fence, or not maintain it. Ms. Hurtado replied that he is correct. Rob Scott said someone would need to come to the Planning Commission to make any changes.

Commissioner Allen asked Legal Counsel what type of 3<sup>rd</sup> party would be appropriate. Ms. Hurtado said it could be a non-profit organization or other successful organization. Commissioner Allen indicated his concern for wildlife preservation. Staff indicated that the corridor would be moved 10 ft. Commissioner Cooper said it is tentative on how the easement can be protected. Commissioner Allen indicated his concern with moving the residences 50 ft. closer to the river and wildlife corridor.

Scott Mendoza referred the members to the Summary of Planning Commission Considerations as listed in the staff report. The members should ask, "What creates the most public benefit?" Would the enforcement the County be different with this proposal versus the cluster subdivision? Mr. Mendoza said there is more area but as far as the ability to enforce what is there today. With a home owners association, the bylaws can be changed. The right to enter the ground would be the same.

Commissioner Siegel he believes this proposal is going in the right direction versus taking homes off the valley floor. The burden for finding a 3<sup>rd</sup> Party is the burden of the developer.

Monette Hurtado disagreed that this is a policy decision because it is fact based and should be addressed in the ordinance. Scott Mendoza indicated that staff said it was a policy decision because it was not an administrative approval and the Planning Commission has the discretion wherein typically with a standard subdivision they do not.

Commissioner Parson said in his opinion the best thing for that land is open space. He prefers the present subdivision. Commissioner Allen agreed with this belief. He indicated his concern that the lots on the southeast end is already in the riverbed. Chair Graves said the trail would stop at the same point with both proposals.

**MOTION:** Commissioner Parson moved to deny the request to vacate the Rivers Edge Subdivision. Commissioner Allen seconded the motion.

**DISCUSSION:** Commissioner Siegel said the majority of the most southeastern lot is not in the floodplain. He likes that there would be fewer lots and septic tanks. Monette Hurtado said if someone met the criteria of the Army Corps. Of Engineers criteria, they can build in the floodplain. Chris Cave said they were just hired to do a study on one side of the river in the area and there is floodplain in Lots 4-10, but no building could occur in that floodplain.

Commissioner Cooper said he is still trying to figure out if they have more control with the Cluster design versus a regular subdivision plan. Chair Graves said if they go with the standard subdivision, they would not have any control because the home owner's association. They should ask, "Is that extra open space worth more than having fewer septic tanks?"

**VOTE:** Commissioners Cooper, Parson and Allen voted aye and Commissioners Banks, Siegel and Chair Graves voted no. The motion failed with a tie vote (3-3). Monette Hurtado said the original motion to deny stands and Mr. Brockbank's next option is to go before the County Commission.

#### **4. New Business**

**4-1. CUP 2009-14** Consideration of a request to expand the Wolf Creek RV storage facility by adding two new structures consisting of 32 units at approximately 4905 N Willow Brook Lane. KBC Leasing, LLC, Applicant

Chair Graves said there was no ex parte communication declared. Commissioner Banks indicated that he would abstain from the discussion due to a conflict of interest.

Sean Wilkinson presented a staff report and indicated that staff has reviewed the application based on the criteria for issuance of a conditional use permit. As part of the rezone request, the Planning Commission required a letter from the sewer company regarding future effluent storage. Wolf Creek Properties has entered into an agreement with Wolf Creek's Sewer District that indicates that if the wastewater treatment facility is expanded in the future, Wolf Creek Properties, LLC will provide additional area for effluent storage. Staff recommends approval of CUP 2009-14 subject to the following: 1) The proposed use meets the criteria for a recreational vehicle storage facility in the CV-2 Zone, 2) The proposed use meets the criteria listed in Chapter 22C-5 "Basis for Issuance of Conditional Use Permit" 3) The proposed use meets the applicable design criteria of Chapters 18C and 36, and 4) The conditions of approval in this staff report must be met before the conditional use permit is issued

Commissioner Siegel asked if the existing berm would cover the height of the buildings. Eric Householder indicated that the RV storage facility would sit lower on the ground.

Commissioner Cooper was excused at 6:30 p.m.

Commissioner Graves said he does not believe they need to add additional landscaping, but he would change the trees to help the screening fill in quickly.

Mike Greenwood indicated that he believes the exterior has been done well and that the berm has been effective. He lives directly across the street and has not had any visual impact.

**MOTION:** Commissioner Parson moved to approve CUP 2009-14 Consideration of a request to expand the Wolf Creek RV storage facility by adding two new structures consisting of 32 units at approximately 4905 N Willow Brook Lane as presented subject to staff and agency requirements with the stipulation that the Mugo Pines be changed to another type of tree such as a Blue Spruce, etc. Commissioner Siegel seconded the motion. Motion Carried (4-0).

**4-2. CUP 2009-15** Consideration of an approval request for the location and operation of a temporary skier services trailer at the Wolf Creek Utah Ski Resort located at approximately 3567 E Nordic Valley Drive. Eric Householder, Agent.

No exparte communication was declared.

Scott Mendoza indicated that Wolf Creek Utah Ski Resort, located at 3567 East Nordic Valley Drive, is requesting the approval of a Conditional Use Permit to allow the use of a temporary skier services (modular) trailer to house the resorts ski rental/demo operation and ski school. The time requested for this use is for a period not to exceed 4 years (2009-2010 ski season through the end of the 2012-2013 ski season). Four awnings would be required in front of the building and two in the rear. Retractable awnings would be adequate for that requirement. Commissioner Banks believes that a retractable awning would require high maintenance. Commissioner Siegel indicated that he believes a dormer would be the best. The deck was originally going to be floating; however, their engineers have indicated they will be pouring footings for the deck. Therefore, staff will require a pergola to break up the view architecturally. Commissioner Siegel indicated that the dormers would be required over the windows on the southeast side.

Staff recommends approval subject to all staff and other agency recommendation including; 1) An amended landscape plan shall be provided that includes an additional 280 sq.ft. of planting area in front of the temporary trailer and four additional evergreen trees the side areas. 2) One evergreen for the south side and three evergreens for the north side of the trailer. 3) The temporary trailer remains only through the 2012-2013 ski season, and a financial guarantee is provided which will ensure removal of the trailer 4) Awnings shall be provided at four locations on the front of the trailer and two awnings shall be provided at two locations on the rear of the trailer. The awnings shall be colored in a way that matches colors found on other existing structures located near the trailer site.

Eric Householder said they have invested heavily in the ski resort in the last five years. They believe the awning requirement is problematic and they are proposing an alternative option ,which is to provide a pergola over the doorways. They want to avoid digging into the existing asphalt

Commissioner Siegel said a pergola would look nice over the doors. Chair Graves asked what would be planted in the planter boxes. Mr. Householder indicated it would be difficult for snow removal in the winter. They will be shoveling snow off the trailer roof as per an agreement with County Building Inspection.

**MOTION:** Commissioner Siegel moved to approve CUP 2009-15 a consideration of a request for the location and operation of a temporary skier services trailer at the Wolf Creek Utah Ski Resort located at approximately 3567 E Nordic Valley Drive. Eric Householder, Agent subject to all staff and agency conditions and with the replacement of the pergola rather than the awnings over the windows on the doorways and the facade dormer frame on two of the back windows. Commissioner Parson seconded the motion.

**DISCUSSION:** Commissioner Parson indicated that he believes a façade detail would be sufficient on the rear of the trailer rather than the pergolas. Chair Graves said a dormer frame could be an option. Motion Carried (5-0).

**4-3. ZO0909** Request to amend the Weber County Zoning Ordinance by adding all Chapter 18B (Commercial Valley-2, CV-2 Zone) uses to Chapter 21B (Manufacturing Valley-1, MV-1 Zone). ET Leasing LLC, Applicant; Thom Summers, Agent)

Chair Graves indicated no exparte communication was declared.

Jim Gentry indicated that the applicant is requesting an approval to amend the Weber County Zoning Ordinance by adding all permitted and conditional uses found in Chapter 18B (Commercial Valley – 2, CV-2 Zone) to the uses listed in Chapter 21B (Manufacturing Valley – 1, MV-1 Zone). If amended as proposed, the MV-1 Zone would allow a mix of industrial and commercial uses.

The intent of the proposed amendment is to allow general commercial uses, which are typically less intensive when compared to light industrial uses, in the manufacturing zone in order to increase its number and types of uses. According to the applicant, the rationale behind the request is that; if commercial uses were allowed to expand into the MV-1 Zone, it would make zoning in the Ogden Valley more consistent with Western Weber County, and it would provide space for businesses that require larger buildings. The Planning Division staff is recommending that the Ogden Valley Planning Commission deny the request to amend the Weber County Zoning Ordinance by adding all permitted and conditional uses found in Chapter 18B (Commercial Valley-2, CV-2 Zone) uses to Chapter 21B (Manufacturing Valley-1, MV-1 Zone).

Mr. Gentry indicated staff received approximately 10 e-mails today in favor of this proposal copies of which were given to the members in the pre-meeting.

Thom Summers indicated he owns two lots in the MV-1 Zone, and also owns S&S excavating. He would like to see the CV-2 uses added to the MV-1 Zone due to the economy. He moved S&S excavating to Marriott-Slaterville due to the economy and now he has a large building that is sitting empty in the MV-1 Zone and they know a commercial business that is interested in utilizing that building. He does not want to see other empty buildings there and believes they need to change the allowed uses so there are options. He believes rezoning additional lots to the MV-1 Zone is not the answer as nothing has happened on the existing manufacturing lots in ten years. He would like to see existing businesses thrive.

Shaundra Braun indicated she started a successful tumbling business in the Ogden Valley, but outgrew that building as well as a building owned by Ben Toone. They have come to a point that they either need to close their business in the Ogden Valley or grow into a larger building which is at least 3,000 sq. ft. They need a manufacturing zoned area to thrive due to their large square footage requirement. She has 140 adult clients and 250 youth and she would like to stay in the Ogden Valley. She indicated her concern in this economy with having exclusive zoning.

Jason Peterson, Eden, said he is one of the owners of Peterson Builders. He did not realize when he purchased their building that there were very restrictive zoning requirements with little flexibility. The other manufacturing zones in the County allow uses that fall under the commercial type uses.

Mike Cramer, Eden, thanked the Planning Commission members for serving. He has read the manufacturing uses and he believes there is only three or four uses in that zone that would occur in the Ogden Valley. He believes manufacturing zoning has been underutilized and should be opened up to more uses.

Steve Clarke indicates he acknowledges staff's attempt to keep the integrity of the zones. However, Mr. Greenwood makes a good point that the manufacturing-zoned lots are underutilized to this point. He suggested that a conditional use be added to the MV-1 Zone that would permit a tumbling business as well as other appropriate commercial uses.

Lamar Bott, Eden, indicated that he is a real estate developer agreed that there has been very little interest in the MV-1 zoned lots. His experience is that the Ogden Valley area is somewhat secluded and that has been a deterrent due to no rail or freeway access.

Shauna Jensen indicated she agrees with comments made thus far. Ms. Jensen said she does a lot of commercial real estate business and has experienced no interest in manufacturing uses in the Ogden Valley.

**MOTION:** Commissioner Parson moved to recommend to the County Commission approval of ZO0909 a request to amend the Weber County Zoning Ordinance by adding all Chapter 18B (Commercial Valley-2, CV-2 Zone) uses to Chapter 21B (Manufacturing Valley-1, MV-1 Zone. ET Leasing LLC, Applicant; Thom Summers, Agent based on the finding that there are many cross references in the manufacturing and commercial zoning ordinance chapters. The motion was seconded by Commissioner Banks

**DISCUSSION:** Commissioner Siegel believes that allowing all uses in the commercial zone would not be appropriate. The applicant had the ability and it would not be overly broad by allowing all commercial uses in the MV-1 Zone.

Rob Scott would recommend that this item is tabled to give the applicant the opportunity to review and submit what uses he feels would be appropriate. A work session can be held to discuss this issue. Chair Graves agreed with Mr. Scott. Ms. Hurtado said they could not consider economic issues.

**MOTION:** Commissioner Parson moved to recommend to the County Commission that they amend the MV-1 Zone to add a conditional use to allow tumbling or exercise facilities. The motion died for lack of a second.

Commissioner Parson withdrew his first motion.

**MOTION:** Commissioner Siegel move to table ZO0909 to allow them to refine the desirable uses in the MV-1 Zone that could be added from the CV-2 Zone. Commissioner Banks seconded the motion. Motion carried (4-1) with Commissioner Parson voting nay.

Ms. Braun indicated that during the entire process did anyone mention to them that they could pick and choose from the commercial use list and tabling of their request will create a hardship for them, but they will comply with the Planning Commissioner's request.

**4-4. ZO0709** Request to amend the Weber County Zoning Ordinance Chapter 4-A (Gravel Zone, G-1) to allow Contractor Equipment Storage.

Chair Graves indicated that no ex parte communication was declared.

Commissioner Siegel indicated that they visited a couple of properties on one of their field trips. Rob Scott indicated they could add the phrase to the landscaping requirement, "or as approved by the Planning Commission." Ms. Hurtado asked why staff listed specific types of trees, and Mr. Gentry replied that they wanted to ensure that there was a good mix.

Thom Summers said he tried to propose almost the same thing last year at the Stokers Gravel Pit and was denied. Are they allowed to crush rocks in the gravel zones such as they are allowed to do in the lower valley? He believes things should be fair. Commissioner Siegel said he agrees that if a gravel pit was in the same location that a rock crusher could be entertained.

The agenda reflected that the G-1 Zone was being amended so the item will have to be readvertised.

**4-5. ZO0609** Request to amend the Weber County Zoning Ordinance Chapter 35 to clarify the processing of rezoning applications and to provide criteria that will help the Planning Commission and County Commission determine if the rezoning should be granted.

Jim Gentry gave a brief background of this proposal as included in his staff report.

**MOTION:** Commissioner Siegel moved to recommend to the County Commission approval of ZO0609 a request to amend the Weber County Zoning Ordinance Chapter 35 to clarify the processing of rezoning applications and to provide criteria that will help the Planning Commission and County Commission determine if the rezoning should be granted. Commissioner Banks seconded the motion.

**5. Public Comments: None**

**6. Planning Commissioner's Remarks: None**

**7. Staff Communications:**

- 7-1. Planning Director's Report  
Rob Scott indicated Transportation Element in the Ogden Canyon
- 7-2. Legal Counsel's Remarks

**8. Adjournment**

There Being No Further Business, the meeting was adjourned at 8:18 p.m.

**Respectfully Submitted,**



**Sherri Sillitoe, Secretary  
Weber County Planning Commission**