

Unofficial draft of the proceedings of the Ogden City Planning Commission meeting held May 3, 2023.  
This draft does not constitute official minutes of the Planning Commission, and will not, until approved by the Commission. Official minutes may vary significantly from these draft proceedings. Meeting was conducted by Chair Sandau and began at 5:30pm.

Members Present: Jenny Sandau, Chair  
Cathy Blaisdell, Vice-Chair  
Jordan Aaberg  
Dave Graf  
Rick Safsten  
Bryan Schade  
Mandy Shale  
Jeremy Shinoda  
Rick Southwick

Staff Present: Barton Brierley, Planning Manager  
Joseph Simpson, Deputy Planning Manager  
Haylie Hale, Planner  
DeAnn Morgan, Planner  
Brandon Rypien, Sr. Planner  
Jannette Borklund, Administrative Assistant III  
James Tanner, Assistant City Attorney  
Dalton Richens, Engineering

Others Present: Gordon Greenwood	Heather Wolthius	Linda Mitchell	Chris Bick
Mallory Buehler	Angel Castillo	Steven Pierce	Kyle Ervin
Katie Schall	Chris Barragan	Stephen St. Peter	Willa Crow
Patrick S. Teglia	Brooke Barragan	Lance Palmer	Doug Gailey
Russell Nelson	Austin Raymond	Christopher Huffman	Malin Price
Trevor Highlander	Adolph Yonker	Tanner McCormick	Sarah Rushford
Douglas Larsen	Lindsay Malch	Emily Sovergit	Scott Casas
Crystal Woolsey	Eve Davies	Colton Waterson	

1. Approval of Agenda
2. Consent Agenda
  - a. Preliminary Subdivision Approval, [BDO Plat 39](#), First Amendment.
  - b. Approval of the Minutes of regular meeting held [April 5, 2023](#) and work session held [April 19, 2023](#)
3. Conditional Use Permit, Pioneer Substation metal storage building, [1210 12<sup>th</sup> Street](#).
4. Conditional Use Permit to allow car wash at [1249 Country Hills Drive](#)
5. Conditional Use Permit, to allow apartments at [1117 Country Hills Drive](#)
6. Rail Yard Apartment Project, 195 W. Rushton
  - a. CBD Site Plan, Rail Yard Lofts Apartments
  - b. Preliminary Subdivision Plat, 21<sup>st</sup> Street Apartment
7. Public Hearing, Proposal to rezone property from R-3 to R-2 at approximately [3841 Jackson Avenue](#).
8. City Boundary Adjustment with Marriott-Slaterville. [1007 W. 12<sup>th</sup> Street](#)
9. City Boundary Adjustment with South Ogden, [900 E Country Hills Drive](#)

Reports: Landmarks Commission – Bryan Schade  
Citizen Advisory – Rick Southwick  
Ogden Trails Network – Dave Graf

Review of Meeting

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## 1. Approval of Agenda

There were no changes to the agenda and Chair Sandau declared it approved.

## 2. Consent Agenda

### a. Preliminary Subdivision Approval, [BDO Plat 39](#), First Amendment.

Mr. Simpson reported BDO is requesting combining an adjacent vacant lot to existing Lot 93 in order to allow a larger industrial development on the site. The vacant parcel is isolated due to the location of railroad tracks and combining it with Lot 93 will provide better access as well as providing space for more options for industrial development. The proposal complies with the lot area requirements of the zone and satisfies the regulations of both the subdivision and zoning ordinances. While there are some technical items that need to be corrected on the plat, Staff feels these can easily be addressed without affecting the subdivision layout proposed. Private utility company reviews have not yet been received. Staff recommends approval, subject to all Staff and utility requirements being satisfied.

MOTION: A motion was made by Commissioner Safsten to recommend preliminary approval of the amendment as proposed based on the findings there is good cause for the amendment and it will comply with the standards of both subdivision and zoning ordinances. Motion was seconded by Commissioner Blaisdell and passed unanimously with Commissioners Aaberg, Blaisdell, Graf, Safsten, Schade, Shale, Shinoda, Southwick and Sandau voting aye.

### b. Approval of the Minutes of regular meeting held [April 5, 2023](#) and work session held [April 19, 2023](#)

MOTION: A motion was made by Commissioner Safsten to approve the minutes of both meetings as prepared. Motion was seconded by Commissioner Blaisdell and passed unanimously with Commissioners Aaberg, Blaisdell, Graf, Safsten, Schade, Shale, Shinoda, Southwick and Sandau voting aye.

## 3. Conditional Use Permit, Pioneer Substation metal storage building, [1210 12<sup>th</sup> Street](#).

Ms. Eve Davies stated she has been working with City Staff for this project, and as the site is on the local historic register, a Certificate of Historic Appropriateness already has been obtained.

Ms. Hale explained this is a request for a new metal storage building which is proposed to be located at the rear of the property where workman homes had existed but have now been demolished. The power plant is in the R-1-6 zone as a conditional use, bounded by Harrison and 12<sup>th</sup> Street with a single-family home to the west and vacant property to the north. The proposed building will provide space to store vehicles, trailers and equipment which have previously been outdoors. She reviewed the conditional use standards indicating the building would be screened by both existing vegetation and slope on the property. It also would benefit the property by providing interior storage space for equipment that has previously been outdoors. The request also is consistent with the General Plan and will

have no detrimental impacts on adjacent properties, but will upgrade the property. The building has been reviewed by the Landmarks Commission, and has been approved to have white siding and a dark brown trim. The applicants will install three 3" caliper trees to help screen the view of the building. Staff recommends approval subject to all departmental review comments being satisfied.

Commissioner Southwick noted the use is in the residential zone and asked if the standards for metal buildings is applicable. Ms. Hale responded as the use is not residential but is a needed utility service use, those standards do not apply.

Ms. Davies reviewed the history and benefits of this power plant indicating it is the oldest existing hydro-electric working facility and has been operating for over 100 years.

MOTION: A motion was made by Commissioner Blaisdell to approve the conditional use permit as requested based on the findings the proposed changes are compatible with surrounding development and would comply with both the land use ordinance and the General Plan. Motion was seconded by Commissioner Aaberg and passed unanimously with Commissioners Aaberg, Blaisdell, Graf, Safsten, Schade, Shale, Shinoda, Southwick and Sandau voting aye.

#### 4. Conditional Use Permit to allow car wash at [1249 Country Hills Drive](#)

City Attorney James Tanner explained the Utah State Legislature has passed specific language relating to conditional uses, indicating they must be approved if impacts of the proposed use can be mitigated. He stated impacts need not be eliminated, but only mitigated. He stated lack of compliance with the General Plan is not cause to deny a conditional use. If the use is identified as allowed in the respective zone, either as a permitted or conditional use, the Ordinance regulations override the General Plan. When reviewing a conditional use, the Planning Commission may identify potential impacts of the use, and if conditions can be imposed to mitigate those impacts, the use must be approved.

Mr. Russell Nelson stated Quick Quack had purchased this site 2½ years ago and allowed the Kings to retain their use of the fast food restaurant until they were ready to retire. He read a letter from Lisa King, who was the owner of Jake's Over the Top, indicating they were not forced to sell, but were looking forward to retirement and expressed support for the car wash use. He further discussed the merits of Quick Quack Car Wash, indicating they participate in local activities and school or team fundraisers. He stated the site has been designed to reduce noise to the neighboring residential uses, indicating there is one vacuum motor which is enclosed in a CMU block structure.

Commissioner Graf asked if there was a contingency clause in the purchase agreement to assure the use would be approved prior to its being purchased by Quick Quack. Mr. Nelson stated there was no such clause, and the property is currently owned by Quick Quack. Commissioner Safsten asked if Quick Quack has conducted any noise studies for this site in terms of decibel level on the adjacent residential neighborhood. Mr. Nelson responded no specific studies have been conducted for this site, but noise would not exceed that of typical traffic noise in the area.

Ms. Morgan stated this is a request for a conditional use permit to allow a car wash in the CP-2 zone. She stated the property has been purchased by Quick Quack with the intent to develop as a full-service car wash which is listed as a conditional use in the C-2 zone. The applicant is not requesting a zone change as the use already is listed in the existing zone. The application is from a private property owner and not affiliated with Ogden City. In considering a conditional use permit, the Commission is to identify impacts created by the proposed use and determine whether they can be mitigated. The proposal is for the development of two existing parcels previously occupied by a beauty salon and Jake's Over the Top, with 16 vacuum stations and an enclosed automatic car wash. Hours of operation desired are from 7am until 7pm Monday through Sunday, with evening hours extended to 9pm during summer months. While the property is zoned CP-2, property to the east is zoned R-1-10 with three homes directly east of the proposed car wash. Other uses in the area are a mix of commercial uses. The determination of the Commission is whether the use proposed creates any negative impacts that cannot be mitigated and whether the use is compatible with existing uses as well as whether it satisfies the regulations of the Zoning Ordinance.

She stated while an existing masonry fence can be extended through this property, due to the topography it may not be effective to reduce noise as homes to the east are on higher ground. The site plan as proposed does meet the Ordinance requirements in terms of access, setbacks, parking and stacking of vehicles. She asked the City Traffic Engineer for his comments relating to the proposed use. He indicated the use would not require a traffic study in and of itself, but one could be conducted by the applicant if required by the Planning Commission. He felt the use changing from a restaurant to a car wash should not increase traffic in the area, but any development would correct drainage issues which currently exist as curb, gutter and sidewalk would be installed and access to the area should be improved with the installation of defined entry and exit points. She indicated there is a grade difference of 12-25' between the proposed car wash property and the homes to the east. While some vegetation exists along the fence line, the applicant is proposing additional waterwise plantings on the east side of the property.

She then indicated another potential impact of the use is to assure lighting does not spill onto adjacent properties. She identified the location of existing light poles indicating a condition of approval should be for them to be relocated to contain light onto the commercial property. The proposal would require the combination of the two existing parcels as well as permission from the Federal government to allow the proposed vegetation on the existing canal property. Staff recommendation is for approval of the use as proposed subject to the installation of a 6' tall privacy wall or fence which could be masonry, vinyl or chain link with privacy slats, along the east property line, installation of waterwise landscaping with trees and shrubs on the canal property with written permission from the owners of the canal, and serviced by an underground sprinkling system, relocation of existing light poles to reduce their impact on residents to the east, hours of operation be limited to 7am until 7pm, the existing parcels being combined with City approval and recorded, as well as all other City departmental requirements being satisfied.

Commissioner Blaisdell noted the applicant had requested hours of operation be extended until 9pm during the summer months, but Staff recommends limiting the time to 7pm. Ms. Morgan clarified the recommendation of Staff would limit the hours to 7pm year-round. Commissioner Shale asked about potential engineering of the site and whether leftover wastewater from the use would affect the integrity of the canal. Ms. Morgan responded the City Engineer will review the plan and its effect on the canal and their comments are required to be satisfied. Commissioner Aaberg asked about the lighting requirement and how Staff determines its effect on adjacent properties. He also asked if a noise study had been conducted. Mr. Simpson stated the Code requires lighting be contained on its own property, and the City policy is that it not exceed one foot candle at the property line. Ms. Morgan indicated no noise study has been conducted. Commissioner Shale asked if there are other locations where the CP-2 zone is adjacent to single-family neighborhoods. Mr. Brierley responded there are many CP-2 properties next to residential zones, including the existing Quick Quack car wash on North Street and Washington Boulevard. Commissioner Shinoda noted the State code indicates impacts should be mitigated while the City code states "substantially mitigated" and asked which code is applicable. Mr. Brierley indicated the State Code takes precedence over City code regulations. Commissioner Shale asked whether the use is to comply with the Southeast Ogden Community Plan. Ms. Morgan indicated the Plan indicates there should be buffering between residential and commercial uses and encourages redevelopment of older commercial uses. The Commission may consider whether the existing vacant buildings would be better than the proposed commercial use.

Mr. Brierley stated while the Commission may identify policies of the General Plan in reviewing site plans, these policies are general in nature and cannot be reason to deny a conditional use permit.

Commissioner Safsten asked if regulating access to one-way in and one-way out might reduce impacts to the site by removing one of the three access points identified in the site plan and whether the Commission would have the authority to limit access to the site. Mr. Richins responded that the Engineering standards limit access to commercial uses to two, while a third may only be allowed if a variance to that standard is approved. Commissioner Safsten also expressed concern about noise generated by the proposed use, with there being no information as to the decibel level produced by the use and its effect on the existing residential neighborhood. Ms. Morgan responded the Commission could table action and request a traffic study as well as a noise study to be completed prior to any action being taken.

Commissioner Southwick noted access onto Country Hills is currently a problem and expressed safety concerns, and felt traffic generated by the use cannot be mitigated due to the slope of the hillside and existing curve in the road. Commissioner Shinoda asked about the location of the screening wall in relation to the Federally owned property and asked if additional landscaping could be installed to create a better screen. Ms. Morgan indicated the site plan shows trees in that area. Mr. Nelson stated in order to be a good neighbor, Quick Quack is willing to work with the City and is flexible relating to conditions of approval.

Commissioner Safsten noted if the City were to address impacts of the use such as access points, building size or location of vacuum bays, it could require a change in the site plan. He felt access onto Country Hills Drive should be limited to one in an effort to reduce impacts of the use. Chair Sandau suggested the vacuum bays be relocated to the west to be away from the residential neighborhood. Mr. Nelson indicated there is an existing cross-access agreement for the interior of the property which helps to direct traffic to the east side of the property.

Commissioner Schade asked how the property would be graded as it sits on a slope and it is typical for a car wash to be on level ground. Mr. Nelson stated the building would be on level ground, but is unaware of any proposal for a retaining wall but would not oppose constructing one if required. Commissioner Shinoda asked whether the vacuums or the blowers from the car wash generate the most noise. Mr. Nelson responded Quick Quack utilizes a central vacuum which is enclosed in CMU with hoses routed to each stall. He stated the majority of the noise is from the blowers. Commissioner Aaberg asked why this site was selected for purchase as a car wash. Mr. Nelson responded the purchasing team analyzes sites in terms of population when considering properties available for purchase.

Commissioner Graf indicated this is a busy intersection and expressed concern about the use being successful at this location, noting while it would draw some traffic from Harrison, access may be difficult due to the curve and slope of the road. He asked how many washes per week would be needed in order for the business to be successful. Mr. Nelson indicated he did not have access to that information. Commissioner Southwick noted Commission members had received numerous emails relating to this proposal and asked if these need to be read at the meeting as a record, indicating there were many concerns identified by neighbors, with issues and comments well thought out. Chair Sandau suggested the Commission first take public comment and if items identified in the emails are not addressed, the email can be read. Mr. Brierley indicated once obtained by Ogden City and forwarded to the Commission, the emails become public record for this meeting and no action need be taken to make them part of the record.

Commissioner Shinoda asked about the conditional use process and asked what conditions would be applicable for such a permit to be lost or revoked. Mr. Brierley stated if there are conditions listed as part of the conditional use permit which are not satisfied, the Commission may hold a hearing to revoke the permit. A conditional use is valid so long as the business remains, but if abandoned for more than one year, the permit is lost.

Ms. Angel Castillo stated the role of the Planning Commission is to protect the community and assure compliance with the General Plan. She cited a Utah court case indicating cities do have the authority to deny a conditional use permit. She indicated there is currently a student housing crisis and properties along the BRT route are slated as good locations for student housing. She felt lack of housing cannot be mitigated. She felt the use proposed would take money from the community and should be located in a zone where the use is permitted. She stated the fact the property already has been purchased for the intended use is not a problem of the Planning Commission, but its role is to assure compliance with both the General Plan and the Zoning Ordinance as well as State and Federal law. She again

indicated the lack of student housing along the BRT route is a situation which cannot be mitigated and asked the conditional use permit be denied.

Ms. Patty Taylor, 4038 Brinker, stated she often walks in this area and crossing Harrison has become a safety concern due to the amount of existing traffic. She felt a business which generates more traffic would be detrimental to the community. She felt a use which would keep residents in the community would be preferable. She noted there is an existing car wash in the community and expressed concern about water usage as well as construction equipment coming into the neighborhood.

Mr. Austin Richins, 4886 S. 1150 East, stated there is no need for a car wash in this area as there are already several. He felt the City should continue its efforts to prioritize small businesses in existing local communities rather than national chain uses. He asked the Commission do what is right for the community and area and deny the proposed use.

Mr. Gordon Greenwood, 1520 Country Hills Drive, stated he teaches music from his home, and his view to the west is of this property. He stated this community is made up of young families with children often riding bikes or scooters to nearby stores or restaurants. He expressed concern for their safety as cars coming to the wash may not be watching for them while those familiar with the community are watchful. He stated as a musician, he is concerned about noise and did a sound test at some existing car wash locations, finding the decibel level being between 65 and 90, with Quick Quack being around 80 decibels. He then expressed concern that the existing car wash across the street which is locally owned would be pushed out of business if this use is approved. He also stated businesses to the south which utilize 4275 South as egress already are backed up and adding more vehicles from the car wash would make it more congested. He stated his biggest concern is the safety of neighborhood children.

Ms. Brooke Barrington, 4253 Taylor Avenue, stated she is a small business owner and is concerned the width of Country Hills Drive is inadequate to service a high volume vehicle business. She also expressed concern with the safety of children walking or riding in the area. As a Quick Quack customer, she indicated she is aware of the noise generated by the blowers and vacuums. She felt another small local business would be better for the surrounding community, stating local businesses would be anxious to occupy that site. She asked the conditional use permit be denied. Mr. Greenwood expressed he is interested in the property as a use as a music school.

Ms. DeAnna Armes, 4038 Brinker Avenue, stated this area has been a gathering place for the neighborhood and the use proposed would eliminate that use, citing the goals of the Southeast Ogden Community Plan which indicate gathering places should be provided for both Weber State students and the surrounding community, support transit-oriented development and protect the existing single-family neighborhood. She felt development should be encouraged which is more comparable with the General Plan and felt other small businesses would easily be attracted to this area. She expressed concern with light, noise and pollution created by the proposed use, stating a fence would do little to mitigate these. She asked the use permit be denied as it is not compatible with the existing neighborhood.

Mr. Steve Pierce, 1281 Country Hills Drive, stated he is directly east of the site proposed and while the previous use has been respectful of the community, he is concerned with the potential noise created by the use, particularly as it would be operating twelve hours per day, seven days a week. Although he feels Quick Quack is a good business, this is not a good location for the use due to increased traffic, noise and safety concerns. He also stated water often comes into the road, and due to the slope and curve, it could create a traffic hazard, particularly during winter months. He stated his property is about eight feet higher than this property and a 6' fence would not mitigate noise created. He also indicated he has worked with the Federal canal owners, and they are quite restrictive as to what can be placed on or near their property.

Mr. Chris Barrington, 4253 Taylor Avenue, expressed frustration that while the property had been purchased and owned by Quick Quack for a few years, yet information is not available relating to noise levels and potential traffic generated and the effect of the slope of the property. He stated the proposed hours of operation will impact the residential uses. He stated as a small businessman he has been and will continue to be interested in acquiring either of these properties. He indicated small businesses also contribute to charity and fund-raising events in the community. He agreed with previous comments relating to the safety of children, noise and traffic and felt the use is not appropriate adjacent to a residential area. He also felt it would negatively affect residential property values in the area and make it difficult to sell homes in the future.

Mr. Tanner McCormick, 3675 Jackson Avenue, stated he manages the Pie Pizzeria and is concerned about vehicular safety in the area. He stated parking is already a problem during the weekend, with traffic using adjacent businesses as well as his restaurant, making it difficult for his drivers to make timely deliveries. While his drivers are cautious and aware of children in the area, users of the car wash would not know to watch for children and may not be as cautious, and felt there would be no safe option for driver/children or parking conflicts. He stated there is an existing car wash across the street from this property, and the large corporate car wash may affect the viability of that local small business owner. He agreed with previous comments relating to vehicle safety on Country Hills Drive and wants his restaurant to continue as a local gathering place.

Mr. Wesley Whittington, 1267 East 4275 South, indicated the City had worked with residents of the area several years ago in an effort to address noise generated by music at the Pie Pizzeria, and expressed noise generated by an automatic car wash with vacuums would create much more noise than acoustic music from the restaurant. He expressed concern with the location of the vacuum motor, stating while enclosed with CMU, would still generate noise and affect the neighbors. He was concerned with traffic on Country Hills Drive, stating a merge lane should be created to queue traffic into the site. He stated there is no need for a car wash, indicating this is a desert state and water usage should be controlled. He felt other uses should be considered which would cater to college students and be a better benefit to the community, asking the use permit be denied.



Ms. Heather Pierce-Wolthius, previous resident at 1281 Country Hills Drive, expressed concern the location of much of the buffering to screen the use from the residences to the east is on Federal property and owners of that property have previously required large trees to be removed as they affect the use of the canal. She felt a 6' screening wall would have little effect in mitigating noise generated by the car wash due to the topography difference between the proposed car wash and residents to the east. She expressed concern with noise generated by both vacuums and blowers. She felt Quick Quack would not attract neighborhood residents and would affect the future of the community. She stated, as a Quick Quack customer, she drives to a particular location to use her membership and felt they draw customers from the entire area and not from the local community. She stated there are often events at WSU, making access onto Country Hills Drive difficult and felt a car wash would increase traffic on the street, citing existing hazards for this section of Country Hills as the grade of the road and the effect of ice and snow. She expressed concern with the location of vacuums as well as the access points on Country Hills Drive.

Mr. Scott Casas, 1019 Country Hills Drive, noted the next agenda item is to allow high density housing on the west side of Harrison and asked the neighborhood residents to stay and comment on that proposal.

Mr. Steven St. Peters, 3523 Van Buren, stated he agreed with previous comments and indicated there has been no support of this project. He stated there are adequate car washes existing in this area and should be restricted near residential areas. He expressed hope the Commission denies the use as proposed.

Ms. Lindsay Mabey, 135 Orchard Avenue, indicated she had previously lived in this area and agreed with previous comments on safety and requested a traffic study be required, feeling the use would generate much more traffic than the drive-thru restaurant. She suggested a traffic study may require additional improvements to the existing road which may encroach onto existing homes, asking the conditional use permit be denied. She also felt trees do little to mitigate the effects of noise. She felt local businesses should be promoted and gathering places not be eliminated.

Mr. Heath Satow, 1260 25<sup>th</sup> Street, stated other options exist for this property besides either a car wash or vacant buildings. He felt there are many uses which are more compatible with both the General Plan and the existing community. He also indicated in 2017 car washes became exempt from sales tax, and other commercial uses would be a better benefit to the City. He cited the Staff presentation, indicating one of the findings to be made is that the use is not detrimental to persons or property, and stated a 6' fence would not reduce noise, and felt the impact of the noise cannot be mitigated. He felt a mixed use or multi-family use would be a better buffer to the neighborhood.

Resident 801-745-5276, 1081 Country Hills Drive stated left turns from Harrison onto Country Hills Drive or 42<sup>nd</sup> Street are nearly impossible and adding a high-volume traffic generating use would increase the already difficult traffic issues.

Ms. Katie Shawl, 4170 Beus Drive, stated she often travels through the residential neighborhoods in order to avoid the intersection of Harrison and Country Hills Drive and as traffic increases, there will be more traffic in the residential area, creating safety concerns of residents and children. She would prefer other businesses which would create a gathering area for residents and students. She felt the intent of the BRT bus service is to create a more walkable area around the WSU campus and this use would be contrary to that intent.

Ms. Sarah Rushworth, 4123 Bona Villa Drive, felt the blight and noise created by the use are also detrimental to the overall community by creating potential health issues, including lack of sleep and mental health.

Angie Reed, 4128 Taylor Avenue, stated neighborhood gathering places have value and should be protected. The proposed car wash would disrupt the existing gathering place while other uses could enhance such a use.

Chair Sandau asked if a traffic study would be helpful. Mr. Richins indicated while the Commission could require a traffic study, Country Hills Drive was designed as a collector street and re-striping might help to control traffic maneuvers, but there is little opportunity for it to be expanded in width. Due to Harrison being a State road, it is controlled by UDOT and traffic concerns with the intersection would require coordination between Ogden City and UDOT. Chair Sandau then asked about the grading of the property. Mr. Richins responded Engineering is typically reviewing site plans in terms of storm water runoff. He stated no water is allowed to be directed to the Federal canal. He stated the grading of the property would be reviewed by Building Services and their focus is primarily on the stability of the soil and potential safety concerns caused by the weight of a particular structure and whether a retaining wall is needed. He also noted a soils report or geotechnical study is required by Building Services for any new construction. Engineering requirements are that all storm water be contained within the property. Commissioner Safsten asked for a clarification on ingress and egress from the site. Mr. Richins stated a commercial use is allowed up to two access points, and they need not be identified as in and out but are often self-regulated depending on the layout of the particular site and its use. A third access is allowed only if a variance is approved.

Commissioner Shinoda stated there are some items the Commission has the authority to regulate, and request for additional information. He stated hours and days of operation could be limited as a condition of approval. The layout of the site plan could be revised to make the use more compatible with the surrounding community, suggesting the vacuum bay might be relocated to be away from the residences. He also felt information should be provided relative to how the site would be graded and permission as to the proposed use of the canal property obtained prior to any approval being given. He also would like information relating to the height of a solid wall which might mitigate the noise without blocking views from the homes to the east.

Commission then discussed the noise potential of the use proposed. Commissioner Shale indicated she had visited the Harrisville Quick Quack and measured decibel levels between 65 and 90, with the vacuums being the loudest portion of the operation. Commission

discussed the noise ordinance of Ogden City and Mr. Brierley responded the maximum decibel level for residential areas is 55 from 7am until 10pm and then reduced to 50 from 10pm until 7am. For commercial uses the maximum is 65 decibels from 7am until 10pm, lowering to 60 decibels from 10pm until 7am. In industrial areas the maximum is 80 from 7am until 10pm, and reduces to 75 after 10pm. Mr. Simpson noted the table in the Municipal Code indicates the decibel measurement is where noise is received, rather than where it was generated, which in this case the limit would be the residential standard. The Quick Quack web site identifies their projected noise level at 80-85 decibels.

Commission identified several unanswered questions and concerns with the proposal, including grading of the site, lighting, permission for the use of the canal as proposed, effect of the use on the health of residents, traffic, access and safety, impact of the use on other existing commercial uses, whether the noise emitted is within the standards of the City Noise Ordinance and concern that it conforms with the Southeast Ogden Community Plan and the General Plan.

**MOTION:** A motion was made by Commissioner Graf to deny the conditional use permit based on the findings it does not meet the standards for a conditional use permit, creates negative impacts to the community that cannot be mitigated, including noise, potential health issues, increased traffic volume, effect on existing commercial uses, congestion, pedestrian and vehicular conflict, the effect of the existing topography on traffic patterns in that if the slope were to change it may cause some reconfiguration of the road, which is likely not possible, and safe ingress and egress cannot be provided given the topography, and finding the noise decibel level listed on the company website substantially exceeds levels for a neighborhood and there is no identified way where this noise level can be mitigated. Therefore, the use is not compatible with surrounding land uses, is found to be detrimental to other persons or properties, is not consistent with the General Plan, and is not in compliance with all other City Code requirements, specifically the City Noise Ordinance. Motion was seconded by Commissioner Southwick and passed 7-2 with Commissioners Aaberg, Blaisdell, Graf, Safsten, Schade, Shale and Southwick voting aye and Commissioners Shinoda and Sandau voting no. Commissioner Shinoda felt a traffic study and noise study could be conducted to determine what those impacts are. Chair Sandau indicated she felt there is not enough information to determine whether impacts of the use could or could not be mitigated.

Mr. Nelson commented noise could be reduced with the installation of an acoustic liner in the wash bay. He expressed a willingness to conduct a traffic study and install measures to reduce the effect of the use on traffic along Country Hills Drive such as a merge lane entering the car wash. He felt the proposal is in compliance with both the Zoning Ordinance and General Plan and stated the applicant is willing to satisfy all conditions of approval identified by Staff.

5. Conditional Use Permit, to allow apartments at [1117 Country Hills Drive](#).

Mr. Christopher Huffman stated this request is to add 14 residential units in this building which had previously been office space but recently converted to 9 residential units. He stated there is a need for additional student housing in this area due to its proximity to the college campus. He stated affordable housing is limited in this general area. He felt students could walk to a variety of destinations from this property. He indicated he has received the recommendations of Staff and finds them acceptable.

Mr. Simpson stated this property had previously been rezoned to R-4 and nine residential units created. The applicant now desires to add onto the building, creating an additional 14 units. Because there are more than nine residential units, a conditional use permit is required. The addition will require the legal combination of two existing parcels and access is from Country Hills Drive via a common driveway which services the existing apartments to the south. A portion of the right-of-way is proposed to be combined to the lot to meet the lot area requirements. Staff also is concerned the construction as proposed will eliminate existing parking, and it appears there is inadequate parking to meet the ordinance requirements of two stalls per unit. While parking may be reduced if close to a transit stop with 45 stops per day or is identified as affordable housing, the applicant has not provided adequate information that either of these is satisfied. He stated the project may require a variance in order to meet required setbacks. All on-site landscaping is proposed to be waterwise, and should be used to define parking and access, with Staff recommending additional landscaping to identify the entrance to the project. He stated while the existing building was originally commercial and has been converted to residential, care should be taken with the addition to assure it meets Ordinance requirements, specifically, to define the front of the building by facing it towards the street, installing a defined main entry and glazing on the front of the building. He presented the proposed elevation stating the design is an effort to make it blend with the existing building. He reviewed other code requirements, indicating fire access needs to be provided and the dumpster and utilities are required to be enclosed and screened. Staff recommendation is for approval subject to the following conditions:

1. The R-4 zoning density requirements be met by combining the two (2) parcels that make up the property – the applicant completing a subdivision plat or parcel combination process (as determined by the City);
2. The onsite parking stall requirements be met on the site;
3. The wall surface area of the main level of the building meet the required 10% glazing requirement along the public street.
4. The dwelling unit entrance requirement be met by incorporating a main building entrance facing Country Hills Drive that provides internal access to 50% or more of the units in the building;
5. The required setbacks be met on the site;
6. A landscape island be incorporated on the south side of the entrance to the south parking lot to provide a buffer and direct vehicle traffic;
7. All meters and utilities be screened from public view;

8. The dumpsters on the site be enclosed and screened with a 6' tall masonry wall and solid metal gates that have colors and materials that are compatible with the building on the site;
9. All exterior lighting be shielded and directed downward to contain light on the property; and
10. All department staff comments be satisfied.

Commissioner Schade asked if the access aisle is adequate. Mr. Simpson responded one of the conditions of approval is to satisfy Staff comments, including the Fire Marshal. He stated the building may be required to be shifted to meet their standard. Commissioner Southwick asked if the project contains adequate amenities to meet the Ordinance requirement. Mr. Simpson stated the amenities required in the R-4 zone are not as comprehensive as those recently adopted for commercial zones. Commissioner Southwick felt there should be more common area than is shown on the plans. Mr. Simpson indicated the building does have some interior "flex space" which provides some amenities for residents. Commissioner Graf suggested there are many conditions which may affect the layout of the site plan and felt consideration at this point is premature. Commissioner Schade felt the conditions identified by Staff are specific enough that action could be taken, and if these conditions cannot be satisfied, the use would not be allowed.

Mr. Garrett Willoby, 1113 Country Hills Drive, stated he represents the HOA of the existing apartments to the south of this property. He indicated the title records show different owners of the lane which is proposed to be combined with adjacent property in order for the project to meet lot area requirements for the number of units desired. He indicated the applicant owns 1/3 of the lane. He also stated the private road and underlying utilities require private maintenance, and no permission has been obtained to allow construction on the private lane or to tie into existing private utilities. He felt action is premature.

Mr. Scott Casas, 1041 Country Hills Drive, stated the applicant did not have permission to dig up the road or make improvements or tie into the existing water or sewer lines. He stated there has been an unresolved water leak from this property to Country Hills Drive for over two years. He felt legal issues should be resolved before any approval is given for the project.

Ms. Angel Castillo stated it is appropriate for multi-family housing to be constructed near transit lines, and so long as they are on the edges of neighborhoods, there is little impact to single family housing. She felt there is a need for affordable housing near both the hospital and the university, as well as a need for senior housing.

Mr. Tanner stated the issue of the private right-of-way and utilities are a matter between the affected property owners, and felt it would be appropriate to give the applicant additional time to resolve these issues prior to considering the conditional use permit.

Ms. Taylor, 1091 Country Hills Drive, stated the proposed building would affect her family. She agreed water issues should be resolved before another building is allowed to be constructed.

Commissioner Southwick stated the owners would be required to obtain permission from the other owners of the right-of-way prior to it being combined with the other parcels as proposed. He felt action should be tabled until the various property owners can work together and resolve the private right-of-way and utility issues.

MOTION: A motion was made by Commissioner Southwick to table action for up to 60 days to allow the three property owners to come to a consensus relating to the use of the right-of-way. Motion was seconded by Commissioner Graf and passed unanimously with Commissioners Aaberg, Blaisdell, Graf, Safsten, Schade, Shale, Shinoda, Southwick and Sandau voting aye.

6. [Rail Yard Apartment Project, 195 W. Rushton](#)

a. [CBD Site Plan](#), Rail Yard Lofts Apartments

b. [Preliminary Subdivision Plat](#), 21<sup>st</sup> Street Apartment

Mr. Kyle Irvin presented the proposal for a large-scale residential development consisting of 348 units in two buildings on an 11-acre site, indicating he has been working with the Planning Division in order to satisfy the design standards of the zone. The site is near an existing trail and is bounded by streets on each side. There also are many local amenities, including Union Station, the downtown and trails. He stated this is a location previously used by Union Pacific Railroad, and a soil remediation plan has been approved and the process begun.

Mr. Lupe Cantu, architect for the project, stated the design builds on the railroad theme, with a focus on creating a gateway project for those entering the downtown from 21<sup>st</sup> Street. He presented a 3-D view of the proposed buildings from various locations within the site, explaining access to the site from various existing and proposed streets. The buildings are designed to reflect the railroad theme of the property, modeled as freight cars with a cowcatcher feature defining the front of the buildings. Building placement is close to the public streets, creating an urban edge, which makes it difficult to meet the required 50% activation requirement of the C-MU zone, but felt the addition of the community garden, enhanced landscaping and plaza space meet that overall intent. The site plan also shows installation of a Golden Spike bike trail which will connect with the existing trail head to the west. He stated the clubhouse includes a gymnasium, swimming pool and leasing offices with an adjacent outdoor cross-fit amenity as well as an outdoor playground. He reviewed on-site parking and signage and indicated another amenity of the project is a dog park.

Mr. Brierley explained this application contains both the subdivision of property and the downtown site plan proposed. The site is bounded by 20<sup>th</sup> and 21<sup>st</sup> Streets on the north and south with railroad tracks directly to the west. This area is an entryway to the downtown and is intended to have the same density, pedestrian accessibility and vibrancy of the rest of the downtown in the C-MU zone. The subdivision portion would divide the property into three lots and extend existing roads through the project while the proposed site plan shows 348 residential units and 379 parking spaces. Staff has not prepared a recommendation, but is asking for direction from the Commission to determine whether the intent of the C-MU standards are satisfied and whether the proposed subdivision and street system meets the

intent of the General Plan. He indicated the applicant had requested a partial vacation of Rushton Street, but the title report indicates the right-of-way is owned by the railroad and not Ogden City. If the applicant desires to use that space as part of the development project, they must purchase it from the railroad. He stated as there is no existing north-south connection west of Wall Avenue, the 21<sup>st</sup> Street Corridor Plan recommends Rushton be closed with access extending to a new street. The proposal differs from that concept but still provides a north-south access through the area. He stated while it is anticipated many of these properties would be redeveloped in the future, care should be taken to assure future roads cause as little impact as possible to existing property owners. He showed the location of the proposed Gibson Avenue extension in relation to existing homes and suggested the Planning Commission should review its placement. He identified pedestrian connections, indicating while this property now is quite isolated, its development could create both pedestrian and bike trails which could provide connections to the rest of the downtown by adding pathways to both the 20<sup>th</sup> and 21<sup>st</sup> Streets with crossing points being identified.

He presented photos in the Make Ogden Downtown Plan indicating it directs toward more dense development with focus on pedestrian activity. He stated the buildings proposed do not meet the requirement of being close to the property line and one of the buildings does not face the street, but the Downtown Code does allow the Planning Commission to approve exceptions. Staff feels due to the unique character of this site such as curved, elevated neighboring streets and the speed of existing traffic, a setback variation might be warranted. While the it also allows an exception to the accessibility with entrances provided every 100', Staff feels if these connections are not available, people are less likely to walk. He felt walkways should be connected to the ground floor units. He stated the proposed building materials and window design fit with the theme of the downtown, but do not meet the fenestration requirements of the Code. He also felt there should be better street frontage on Gibson Avenue, suggesting a building be moved closer to that street. The code also requires significant growth and specifically trees be preserved. There are some significant cottonwood trees on the site which are great for wildlife habitat and ground stabilization and shade, but not a typical tree in an urban environment. Due to their age, some branches have become brittle and Staff is asking the Commission to determine whether these should be preserved. He stated in order to develop density in the downtown, there may be many instances where existing trees need to be removed. He stated while the parking could be designed around existing trees, the buildings proposed would require some to be removed. He stated the plan should identify which trees are to be removed as well as identifying replacement options.

The applicant is requesting several exceptions to the C-MU Code, including the front setback on Gibson Avenue, pedestrian access, reduction in fenestration, the Gibson Avenue alignment and removal of significant trees. Staff is seeking direction relating to these items and recommending the item be continued to allow the developer to make appropriate revisions in order to meet the C-MU regulations. Commissioner Safsten noted the intent of fenestration is to break up the building and suggested the proposed vertical sign might meet that same intent.

Mr. Chris Beck, engineer for the project, noted there is an existing utility easement and asked if it could be identified as part of the setback area or if the setback would be measured from inside that easement. He stated pedestrian access to the trail is limited due to a potential conflict between bicycles and pedestrians, but felt some compromise option might be considered. He stated there is concern with the proposed location of Gibson Avenue as the property to the east is under separate ownership. He stated the location identified has been worked out with UDOT and the City Engineer, being located as far east as possible.

Commissioner Southwick stated this is a unique site and a gateway to the City and felt it appropriate if there is some latitude in applying development standards such as setbacks and building orientation. He noted there is a Q&A comment on Zoom asking about the two existing homes and the effects of the development. Mr. Keith Irvin responded he would not expect any immediate effect, but due to the queuing onto 20<sup>th</sup> and 21<sup>st</sup> Streets there may be issues relating to how existing traffic signals operate. Commissioner Graf agreed this is a unique property and the proposed development would help to beautify the area and while not opposed to varying standards of the Make Ogden Plan, he noted the City has invested lots of time and money into its consideration and final adoption. He wanted to be assured its intent is satisfied and that the variation of standards be done carefully. He asked if the consultants who aided the City with the plan had been consulted relating to the requested variations. Mr. Brierley responded Design Workshop had consulted on both the Make Ogden Plan and the Downtown Code, and while he could ask their opinion, the Code was designed to allow some flexibility as there are some peculiar sites in the downtown. Commissioner Safsten expressed the shape of this site and existing traffic patterns make this particular site difficult to develop. Mr. Brierley agreed the standards should be applied as much as is possible, and there should be good reason why any variance is given by the Commission. Commissioner Safsten asked about the status of Federal remediation on the site. Mr. Blake from Wasatch Engineering indicated a remediation plan has been approved and work can begin soon.

Mr. Brierley explained while the 21<sup>st</sup> Street Corridor Plan identifies the need for a north-south road connection, its placement is undetermined, and it is anticipated it would occur as properties are assembled and developed.

Mr. Nick Heiser, development manager, stated the intent is to create a well-connected urban center with good human experience, but due to the speed of traffic on 20<sup>th</sup> and 21<sup>st</sup> Streets, it is important that the interior pedestrian paths connect to other streets and create a walkable community with the extension of both Gibson Avenue and Union Avenue through the development. By creating the streets along the edges, space would be available for additional parking, with potential of increasing the parking from 370 stalls to 500.

Ms. Debbie stated she is the owner of the two existing homes and is willing to sell them if the developer is interested.

Commissioner Graf was excused at 9:00pm.



Commission further discussed the requested variances, including the elimination of existing cottonwood trees, fenestration requirements, facing a building on Gibson Avenue, and distance between openings into the project. Commissioner Schade noted there the plaza areas may be excessive, indicating he is concerned with the amount of hard surface on the interior of the project. Commission discussed other options, such as relocating the clubhouse to be closer to proposed streets, but expressed concern that it should be centrally located so its use is convenient to all tenants. Commissioner Schade noted the parking is not centrally located and some tenants would have a distance to walk to the parking area. Mr. Brierley stated the proposed 300 parking spaces meets the minimum standards of the downtown code of 1.2 per unit, indicating the ratio was reduced in an effort to make a more walkable downtown. It was noted the important variance items requested affect the final project plan, including the alignment of the connector road between 20<sup>th</sup> and 21<sup>st</sup> Streets and the need for the front setbacks and building orientation along Gibson Avenue.

**MOTION:** A motion was made by Commissioner Safsten to continue the item with direction given to the applicant that the alignment of Gibson Avenue as proposed is acceptable, more information is needed and ask the applicant further explore options so buildings will front onto Gibson Avenue, the Commission would approve the reduced side yard facing setbacks on 20<sup>th</sup> and 21<sup>st</sup> Streets provided there are entries from the ground floor units to the fronting walkways, the proposed fenestration is acceptable and the Commission acknowledges existing cottonwood trees are not good in the urban setting and may be removed, requesting the developer provide a plan identifying other significant trees on the site and a proposal for tree replacement. Motion was seconded by Commissioner Southwick and passed unanimously with Commissioners Aaberg, Blaisdell, Safsten, Schade, Shale, Shinoda, Southwick and Sandau voting aye.

7. Public Hearing, Proposal to rezone property from R-3 to R-2 at approximately [3841 Jackson Avenue](#).

Mr. Brierley stated the City Council had asked the Planning Commission to consider rezoning the previous Grandview School property from R-3 to R-2. He indicated the School District has declared this property surplus, and while Ogden City had an option to purchase the site, it has declined, and the property will eventually be offered for public sale. The City Council expressed concern relating to the potential uses and density allowed in the R-3 zone, and has asked for consideration in rezoning it to R-2. He reviewed existing land uses in the area, stating there are mainly office uses to the east, single-family residential to the north, and multi-family residential to the south and west. The General Plan contains policies which encourage mixed uses on this property, and due to its proximity to WSU and IHC, a walkable community might be desirable. It also identifies an option for urban mixed use centers or neighborhood village centers. The Southeast Ogden Community Plan supports transit-friendly uses due to the proximity to the BRT route.

He compared land uses allowed in both the R-2 and R-3 stating the density of any development should fit with the density of the overall area, indicating owner-occupied housing would be preferable. He reviewed the density of potential uses in both the R-3 and R-2 zones, stating multiple-family project could allow up to 20 units per acre or townhomes at 14-18 units per acre. Development in either zone as duplex community would be approximately 10-12 units per acre and single-family would be at 3.6 units per acre. He presented existing demographic information, stating due to the existing housing market, most homeowners are unable to afford traditional housing. Staff is suggesting a smaller-lot R-2S zone be created, which would meet current economic trends while promoting home ownership. These smaller lots could be developed as owner-occupied townhomes or subdivided into individual lots for single-family homes.

Commissioner Safsten expressed support of the Staff recommendation, stating a three-story apartment would not fit with this neighborhood. Commissioner Southwick agreed, stating home ownership is needed, and felt this zone would promote home ownership. Commissioner Shinoda asked if the Board of Education had been contacted and whether they support the zone proposed, expressing concern it could affect the value of the property and its potential ability to be sold. Mr. Brierley indicated while he has not specifically contacted the School Board, he is aware there has been dialogue with the City Council and they are aware of the request. He stated while the market price for the sale of the property may be affected, the School District is concerned about the number of apartments as it creates a more transient community. Because their goal is to educate children, he feels they would prefer a smaller single-family neighborhood. He indicated they would again have an opportunity to voice their opinion when heard by the City Council.

Mr. Steven, 986 39<sup>th</sup> Street expressed support of the proposed zoning, stating residents in the Grandview Community would be opposed to a multi-level apartment building. He felt the R-2S zoning proposed would fit with the surrounding community but asked that an easement be created in order for residents from the area south of the park to have continued access the park.

Ms. Christina Johnson, 3904 Jackson, stated there is no need for additional multi-family housing, indicating many are currently under construction and existing buildings are less than 80% occupied. She also expressed concern about neighborhood traffic and parking if developed as multi-family housing, stating while appropriate near transit lines, Jackson Avenue is a local street. She felt multi-family housing increases the potential for crime. She also felt the park should remain accessible to surrounding residents.

As there were no additional comments, a motion was made by Commissioner Southwick to close the public hearing. Motion was seconded by Commissioner Shinoda and passed unanimously.

**MOTION:** A motion was made by Commissioner Schade to recommend the City Council adopt the zone change from R-3 to R-2S for the existing school property at 3841 Jackson Avenue based on the findings it is consistent with the policies of the General Plan in that it creates definite edges to development, reflects the

prevailing character of the existing neighborhood and creates a buffer between existing neighborhoods and uses to the east. Motion was seconded by Commissioner Blaisdell and passed unanimously with Commissioners Aaberg, Blaisdell, Safsten, Schade, Shale, Shinoda, Southwick and Sandau voting aye.

8. City Boundary Adjustment with Marriott-Slaterville. [1007 W. 12<sup>th</sup> Street](#)

Mr. Doug Larsen indicated Marriott-Slaterville is requesting two isolated parcels now in Ogden City be changed to be in Marriott-Slaterville City. He stated utilities are currently being provided by Marriott-Slaterville, and as both are schools owned by Weber County School District, there is no change in tax revenue to either city.

Mr. Rypien stated this request is from both Marriott-Slaterville and the Weber School District and is to change the boundaries of each city to identify both to be in the boundaries of Marriott-Slaterville rather than Ogden City. While utilities are now provided by Marriott-Slaterville, an existing storm sewer line owned by Ogden City still exists and should be abandoned. He reviewed the General Plan policies and indicated as these parcels are not connected to the BDO campus, their loss would not affect the BDO Plan. The 12<sup>th</sup> Street Corridor Plan encourages Marriott-Slaterville to consider similar corridor enhancements as adopted in that plan. Staff recommends approval of the boundary adjustment subject to the Weber School District abandoning the existing storm drain line which discharges into the Ogden Nature Center.

MOTION: A motion was made by Commissioner Safsten to recommend approval of the proposed boundary adjustment based on the findings it is compliant with the General Plan and the 12<sup>th</sup> Street Corridor Plan, and utilities can be provided by Marriott-Slaterville. Approval is subject to the abandonment of the existing storm sewer by Weber School District which currently discharges into the Ogden Nature Center property. Motion was seconded by Commissioner Schade and passed unanimously with Commissioners Aaberg, Blaisdell, Safsten, Schade, Shale, Shinoda, Southwick and Sandau voting aye.

9. City Boundary Adjustment with South Ogden, [900 E Country Hills Drive](#)

Mr. Doug Gailey, Assistant City Manager for South Ogden City, stated South Ogden had approved an apartment complex to be built on Country Hills Drive, but had to obtain permission for the placement of utilities from Ogden City as the existing boundary line between the two cities abuts the apartments. He is requesting the boundary line be moved to the centerline of Country Hills Drive so the utilities can be within South Ogden City, and is the typical location of city boundaries.

Mr. Rypien stated South Ogden is requesting the boundary line be moved from the south edge of Country Hills Drive to the center line. Although an access permit for utilities had been obtained for utilities, it is best if they are in the same city as the project they serve. The proposal will not affect the Southeast Ogden Community Plan as there is no change to land use and affects only the existing right-of-way, and will also reduce any liability or safety

issues created by the development to Ogden City. Staff recommends approval of the proposed boundary adjustment as requested.

**MOTION:** A motion was made by Commissioner Shinoda to recommend approval of the proposed boundary adjustment based on the findings it is in the best interest of the public and in harmony with good development of the area and will comply with City ordinances. Motion was seconded by Commissioner Southwick and passed unanimously with Commissioners Aaberg, Blaisdell, Safsten, Schade, Shale, Shinoda, Southwick and Sandau voting aye.

Reports: Landmarks Commission – Bryan Schade reported he had been unable to attend the previous meeting and has had a scheduling conflict arise and asked another member be the representative from the Planning Commission. It was determined this would be considered at the upcoming work session.

Citizen Advisory – Rick Southwick reported there had been no meeting.

Ogden Trails Network – Dave Graf had been excused and there was no report.

Review of Meeting

Chair Sandau acknowledged she had called for a motion before allowing the applicant to have the opportunity for rebuttal of comments and felt it is important for that option be given to applicants.

Mr. Brierley announced the May 17<sup>th</sup> work session would center on guiding growth. He also reminded members the annual Landmarks Preservation event is scheduled for May 11<sup>th</sup> at 5pm at the Eccles Community Arts Center.

There being no additional business before the Commission, the meeting was adjourned at 10:15pm.

Respectfully submitted,

Jannette Borklund, Administrative Assistant III

Approved: \_\_\_\_\_  
(date)

\_\_\_\_\_  
Jenny Sandau, Chair