



WESTERN WEBER PLANNING COMMISSION

MEETING AGENDA

November 21, 2017

5:00 p.m.

- *Pledge of Allegiance*
- *Roll Call*

5:00 p.m. Regular Meeting of the Western Weber Planning Commission

1. Minutes: Approval of the meeting minutes: October 10, 2017.

1. Public hearing for zoning text amendment (ZTA) 2017-14 – Public hearing to discuss and take comment on a proposal to amend the following sections of Weber County Code:

- PRUD Area and Residential Regulations (§108-5-5) to offer more flexibility to the number of allowed dwelling units in a PRUD and to increase open space requirements in exchange for the flexibility. Charles Ewert, Principal Planner for Weber County, to present.
- The Cluster Subdivision (§108-3) code to modify the minimum area for an individually owned agricultural parcel and to provide administrative edits.
- The definition of height (§101-1-7) and related height regulations to amend the method of measuring height.

2. Western Weber Planning Commission: close hearing

3. Planning commission discussion for ZTA 2017-14.

4. Western Weber Planning Commission action for ZTA 2017-14.

4. Remarks from Planning Commissioners

5. Planning Director Report

Discuss PC Dinner January 17th or February 21st @ Timbermine.

6. Remarks from Legal Counsel

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

Please enter the building through the front door on Washington Blvd. if arriving at the meeting after 5:00 p.m.

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

In compliance with the Americans with Disabilities Act, persons needing auxiliary services for these meetings should call the Weber County Planning Commission at 801-399-8791

Planning Commission Agenda Script:

CHAIR

1. Follows personal/meeting opening SOP's.
2. Reads application request line from agenda/staff report.
3. Requests that the Director explain the decision type and explain who will be presenting. For example, "Mr. Grover will you please explain the decision type and who will be presenting."

DIRECTOR

1. Explains decision type. Identifies (not necessarily explain) decision type on subsequent items.
2. Describes flow of specific item presentation. For example:
 - a. Mr./Ms. (Staff) will provide a brief outlineⁱ of the project
 - b. Followed by the applicant, Mr./Mrs. (applicant), who will present you with background information and the detailsⁱⁱ necessary to demonstrate his/her vision for the project and possibly code compliance.
 - c. Following the applicant's presentation, Mr./Ms. (Staff) will return and present information related to applicable codes, code compliance, review agency comments, and a Staff recommendation.
 - d. Mr./Ms. (Staff), the time is yours.

STAFF

1. Presents brief project outline provided in footnote i.

APPLICANT

1. Presentation as provided in footnote ii.
2. Offers to answer PC questions.

STAFF

1. Presentation as provided in 2(c).
2. Offers to answer PC questions.

CHAIR

1. Opens item to take public comment/Closes public comment.
2. Invites Staff and Applicant to answer questions.
3. Asks for a MOTION/SECOND in order to open a PC discussion.
4. Follows remaining SOP's.

Commenting at Public Meetings and Public Hearings

Address the Decision Makers

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

Speak to the Point

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

Handouts

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

Remember Your Objective

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

ⁱ This is a subdivision located at approximately (address). It lies within the (Zone), covers (acres), consists of (# Lots), and consists of approximately 1,100 feet of public road improvements. Do you have questions about the outline...if so, I would be happy to answer them? If not, I will turn the time over to Mr. (applicant).

ⁱⁱ Possibly include personal introduction/information and resume, introduction of other professional contributors, property ownership time or lease situation, visuals (photos, renderings), anticipated impacts and offered mitigation or rationale behind impacts being acceptable, and statement of code compliance.

- *Pledge of Allegiance*
- *Roll Call*

**Commissioners Present: Roger Heslop, Acting Chair
Blake Hancock
Jannette Borklund
Jennifer Willener
John Parke**

**Commissioners NOT Present: Mark Whaley, Chair
Wayne Andreotti**

**5:00 p.m. Regular Meeting of the Western Weber Planning Commission
Chair Whaley moves to consent items on the agenda.**

5:00 p.m. Regular Meeting of the Western Weber Planning Commission

- 1. Minutes: Approval of the meeting minutes: July 11, 2017, September 12, 2017.**
Commissioner Heslop asks for any comments prior to approving the meeting minutes.
- 2. Action/Administrative Item**

2.1 LVF062415: Consideration and action on a request for final approval of Fall Widow Subdivision Phase 2. Presented by Ronda Kippen, Weber County Principal Planner.

Commissioner Heslop turns the time over Ronda Kippen. Mrs. Kippen gives an overview and background of the project, as outlined in the staff report. The Planner also states portions of subdivision that will be dedicated to the County for future access installation. Staff recommends final approval of this subdivision, based on findings contained in the staff report. The applicant did receive the staff report well in advance of this meeting. Acting Chair Heslop asks for additional questions or discussion. There are none. Commissioner Borklund makes a motion for final approval of Fall Widow Subdivision Phase 2, conditional upon all review agencies requirements being met, based on staff findings in staff report. Vote taken: all ayes.

Remarks from the Planning Commission.

Commissioner Borklund suggests to Chair Heslop that Planning staff investigate cluster subdivision and ag protection lands within the cluster subdivision, based on a recent approval of a subdivision, where the ag protection area, and frontage areas have been adjusted to below the required 150 frontage. This would increase costs, and lose green space over time. Chair Heslop then expresses concerns over the intents of the cluster subdivision not being met. He expresses using retention ponds for grazing land, and the effect the animals would have on the land. He then recommends staff investigate the Planning Commission concerns.

3. Public comment for items not on the agenda-none

4. Remarks from Planning Commissioners-Chair Heslop comments on the recent APA conference held in Park City, specifically CUP's.

5. Planning Director Report-none

6. Remarks from Legal Counsel-none

Adjourn to work session:

7. Work Session Agenda

WS1. Training, review, and discussion regarding the West Central Weber County General Plan

Motion to adjourn: **Comm. Heslop.**

Meeting adjourns at **7:45pm.**



Staff Report to the Western Weber and Ogden Valley Planning Commissions

Weber County Planning Division

Synopsis

Application Information

Application Request: Public hearing to discuss and take comment on a proposal to amend the following section of Weber County Code: PRUD Area and Residential Density Regulations (§108-5-5) to offer more flexibility to the number of allowed dwelling units in a PRUD and to increase open space requirements in exchange for the flexibility.

Agenda Date: Tuesday, November 21, 2017 (Western Weber PC)
Tuesday, November 28, 2017 (Ogden Valley PC)

Staff Report Date: Tuesday, November 13, 2017

Applicant: Weber County Planning Division

File Number: ZTA 2017-14

Staff Information

Report Presenter: Charlie Ewert
cewert@co.weber.ut.us
(801) 399-8763

Report Reviewer: RG

Applicable Ordinances

§108-5-5. - Area and residential density regulations.

Legislative Decisions

Decision on this item is a legislative action. When the Planning Commission is acting on a legislative item it is acting as a recommending body to the County Commission. Legislative decisions have wide discretion. Examples of legislative actions are general plan, zoning map, and land use code amendments. Typically, the criterion for providing a recommendation on a legislative matter suggests a review for compatibility with the general plan and existing ordinances.

Summary and Background

The county has received an application to amend the Planned Residential Unit Development (PRUD) ordinance to provide more flexibility regarding the minimum number of dwelling units allowed in a PRUD. Currently, the ordinance requires that a PRUD contain at least 24 residential units and be at least 10 acres in non-residential zones and four acres in residential zones. The applicant is requesting that an option be written that will allow the minimum number of units to be adjusted to six residential units in exchange for 80% perpetual open space and at least 20 acres of land in all zones.

Staff have reviewed the applicant's requested changes and have provided minor modifications for clarity purposes. Staff is recommending adoption of the proposed amendment.

Policy Analysis

Policy Considerations:

A planned residential unit development is a master planned community that is allowed certain flexibilities from the conventional zoning rules in exchange for a superior development. In the Western Weber planning area a PRUD is allowed bonus density and in exchange the County is given proportionate open space. In the Ogden Valley no bonus density is permitted so there is no incentive for a master planned community to preserve open space.

This amendment would make an option available for open space to be preserved a different way. If a developer is allowed to create a development with less than the 24 dwellings then (s)he would need to preserve 80 percent open space. The minimum threshold of no less than six dwelling units is also an important consideration. The Planning Commission should determine what number of dwelling units is too little for master planning to be meaningless, and does 80 percent open space provide a meaningful, valuable, and reasonable exchange for the reduction?

It should be noted that this amendment will not “retire” density. The developer is still allowed to maximize his or her development potential based on the zone, but that development potential will only be allowed on 20 percent of the land.

Another way to consider this change is to review the development potential in each zone. The following table shows the zones in which a PRUD is allowed, and the potential development density for a 20 acre PRUD:

| Zone | Acreage with 24 minimum units (current req). | Density | Acreage |
|---------|--|----------------|---------|
| F-5 | 120 | 6 | 30 |
| F-10 | 240 | 6 | 60 |
| F-40 | 960 | 6 | 240 |
| AV-3 | 72 | 6.66 | 20 |
| FV-3 | 72 | 6.66 | 20 |
| A-3 | 48 | 10 | 20 |
| A-1 | 22 | 21.78 | 20 |
| A-2 | 22 | 21.78 | 20 |
| FR-1 | 22 | 21.78 | 20 |
| RE-20 | 11.02 | 43.56 | 20 |
| RE-15 | 10 (Min PRUD Acreage) | 58.08 | 20 |
| R-1-12 | 10 (Min PRUD Acreage) | 72.6 | 20 |
| R-1-10 | 10 (Min PRUD Acreage) | 87.12 | 20 |
| RMH-1-6 | 10 (Min PRUD Acreage) | 124.46 | 20 |
| R-2 | 10 (Min PRUD Acreage) | 145.2 | 20 |
| R-3 | 10 (Min PRUD Acreage) | 145.2 | 20 |
| FR-3 | 10 (Min PRUD Acreage) | 400 | 20 |
| CVR-1 | 10 (Min PRUD Acreage) | 400 | 20 |
| DRR-1 | | Based on TDR's | 20 |

Minimum number of dwellings will require more than 20 acres.

Not affected by this amendment as the max density of the zone exceeds 24 units on 20 acres.

There isn't anything particularly magic about the current 24 unit minimum threshold, but adjusting it should be based on reasonable advancement of planning needs and equitable property rights considerations.

The benefit of allowing the applicant's proposed alternative is it might stimulate larger quantities of preserved open space on parcels of land that would not otherwise qualify for a PRUD. The Planning Commission should consider whether obtaining 80% open space in exchange for allowing less dwelling units in a master planned community is worth it.

Conformance to the General Plan

Generally, land use code changes should be vetted through the filter of policy recommendations of the applicable general plan. The 2016 Ogden Valley General Plan offers us guidance on what the community desires:

Western Weber General Plan:

The West Central Weber County general plan offers the following advice:

Policy: Pattern of Development:

The existing one and two-acre zoning lends itself to a cluster subdivision pattern of development with preservation of open space. An increase in overall density is permitted in Weber County's current Cluster Subdivision Special Provision Ordinance (Chapter 22B) for preservation of open space; however, additional incentives are desired. It is anticipated that the open space and public space allocated as a result of incentive-based increased density should be useable, undeveloped, consolidated open space in the form of parks, natural areas, sensitive lands, agriculturally productive land, or other managed open space.

Ogden Valley General Plan:

The Ogden Valley general plan suggests the following goals and principles:

Gateways and Viewsheds Goal 2: A goal of Weber County is to protect the Valley's sense of openness and rural character.

Gateways and Viewsheds Principle 2.2: Encourage creative development designs that preserve natural, agricultural, and other open spaces, including clustered and mixed-use developments.

Land Use Goal 1: A goal of Weber County is to reduce the overall amount and impact of future land development in the Ogden Valley planning area.

Land Use Principle 1.5: Encourage new development to locate in areas where water and sewer service could be provided by a sewer system. Encourage clustered residential developments with smaller building lots and larger areas of open space for most subdivisions.

If the Planning Commission(s) can determine that the proposal will advance the objectives of their general plan it should recommend approval of the proposal to the County Commission.

Past Action on this Item

No action has occurred on this item.

Noticing Compliance

A hearing for this item before the Planning Commission has been posted for public notice in compliance with UCA §17-27a-205 and UCA §17-27a-502 in the following manners:

- Posted on the County's Official Website
- Posted on the Utah Public Notice Website
- Published in a local newspaper

Staff Recommendation

Staff recommends that the Planning Commission consider the text included as Exhibit B and Exhibit C and offer staff critical feedback for additional amendments, if needed. If the Planning Commission is comfortable with the proposal, it could be forwarded to the County Commission with the following findings:

1. The changes are generally supported by the general plan.
2. The changes will offer an avenue for more preserved open spaces.
3. The changes are not detrimental to the general health and welfare of County residents.

Exhibits

- A. Proposed Ordinance Changes – Track Change Copy.
- B. Proposed Ordinance Changes – Clean Copy.
- C. Application from applicant.

1 **Sec. 108-5-5. - Area and residential density regulations.**

2 (a) A PRUD shall contain a minimum ~~area of 24 dwelling units and be a minimum of four acres in all~~
3 ~~residential zones and ten acres in all other zones, where permitted. ten acres and consist of at least~~
4 ~~24 housing units in all forestry and agricultural zones, and contain a minimum area of four acres in all~~
5 ~~residential zones. In all zones, the minimum number of dwelling units may be reduced to six if the~~
6 ~~PRUD contains a minimum area of 20 acres and provides a common open space easement, as~~
7 ~~defined in Section 108-5-1, over at least 80 percent of the PRUD's gross acreage.~~

8 (b) The number of dwelling units in a PRUD shall be the same as the number permitted by the lot area
9 requirements of the same zone in which the PRUD is located. Land used for schools, churches,
10 other nonresidential service type buildings and uses, for streets and exclusively for access to the
11 useable area of a PRUD shall not be included in the area for determining the number of allowable
12 dwelling units.

13 (c) Notwithstanding section 108-5-5(b), the county may, at its discretion, allow for an increased number
14 of residential lots in a PRUD by awarding bonus densities to those PRUDs developed within the
15 Western Weber County Planning Area. PRUDs developed within the Ogden Valley Planning Area
16 are not eligible for bonus densities. The following presents the bonus density opportunities that are
17 available to PRUDs located within specific zoning classification boundaries:

18 (1) In the Forest (F-40) and the Residential Estates (RE-15 and RE-20) Zones, the county may
19 award a maximum bonus density of ten percent based on an accumulation of any combination
20 of the following:

- 21 a. If the PRUD provides a minimum of one road stub to an adjacent property where the
22 planning commission determines that streets are needed to provide for current or future
23 traffic circulation, up to a five percent bonus density may be granted.
- 24 b. If the PRUD provides a minimum of one approved public access to public lands, up to a
25 five percent bonus density may be granted.
- 26 c. If the PRUD provides common area that offers easily accessible amenities, such as a trail,
27 park, or community garden, that are open for use by the general public, up to a five percent
28 bonus density may be granted.
- 29 d. If the PRUD dedicates and conveys to the county, the state division of wildlife resources, or
30 both, an open space easement that permanently preserves areas that have been identified
31 by the state division of wildlife resources as having substantial or crucial wildlife habitat
32 value, up to a ten percent bonus density may be granted.

33 (2) In the Agricultural (A-1, A-2, and A-3) Zones, the county may grant a bonus density of up to 30
34 percent if the applicant preserves open space area equal to or greater than 30 percent of the
35 PRUD's adjusted gross acreage as defined in section 101-1-7. However, if the applicant
36 preserves open space area above 30 percent, the county may grant a bonus density of up to 50
37 percent. Overall bonus density potential shall be no greater than a percentage equal to the
38 percentage of the PRUD's total area preserved as open space. The county may award bonus
39 densities based on an accumulation of any combination of the following:

- 40 a. If a PRUD provides and implements an approved roadway landscape and design plan that
41 includes, but is not necessarily limited to, vehicle and pedestrian circulation, lighting, and
42 street trees of an appropriate species, size of at least a two-inch caliper, and quantity of not
43 less than eight trees for every 100 feet of road length, up to 20 percent bonus density may
44 be granted.
- 45 b. For each five percent increment of open space preserved over 50 percent: a five percent
46 bonus density shall be granted up to the total bonus density allowed by subsection (c)(2).
- 47 c. If a PRUD provides a minimum of one approved access to public lands, up to a ten percent
48 bonus density may be granted.

Comment [c1]: What about CVR-1 and FR-1 zones?

Comment [c2]: There are a couple of smaller-lot residential zones in the Wolf Creek area and the Uintah Highlands. Think about the effect of this in that context as well.

Comment [c3]: Check Reference

- 49 d. If a PRUD provides common area that offers easily accessible amenities such as trails,
50 parks, or community gardens, that are open for use by the general public, up to a 15
51 percent bonus density may be granted.
- 52 e. If a PRUD donates and/or permanently preserves a site determined to be desirable and
53 necessary, to a local park district or other county approved entity, for the perpetual location
54 and operation of a public park, cultural, or other recreation facility; up to a 20 percent
55 bonus may be granted.
- 56 f. If ten percent of the lots and homes in a PRUD are permanently set aside for affordable
57 housing as outlined by the Affordable Housing Act of 1990, up to a 20 percent bonus
58 density may be granted. If a bonus density is granted to affordable housing, the applicant
59 shall:
- 60 1. Present and gain county approval of an effective plan and method for guaranteeing
61 and enforcing perpetual affordability. Any method used, such as an affordable housing
62 deed restriction, shall limit the sale or rental of the affected lots and homes to a
63 household with an income at or below 80 percent of the county median income;
 - 64 2. Identify and label, on the final plat, the lots set aside as affordable housing lots; and
 - 65 3. Provide a note on the final plat explaining the nature of the housing restriction on the
66 lot and the method by which occupancy and affordability will be regulated.
- 67 g. If a PRUD preserves an agricultural parcel with an agriculturally based open space
68 preservation plan approved by the planning commission and records an agricultural
69 preservation easement on the parcel, a bonus density may be approved as follows:
- 70 1. For a parcel containing at least ten acres but fewer than 20 acres, up to a 15 percent
71 bonus density may be granted.
 - 72 2. For a parcel containing at least 20 acres but fewer than 30 acres, up to a 20 percent
73 bonus density may be granted.
 - 74 3. For a parcel containing at least 30 acres but fewer than 40 acres, up to a 30 percent
75 bonus density may be granted.
 - 76 4. For a parcel containing at least 40 acres but fewer than 50 acres, up to a 40 percent
77 bonus density may be granted.
 - 78 5. For a parcel containing at least 50 acres or more, up to a 50 percent bonus density
79 may be granted.
- 80 h. If a PRUD provides for the preservation of historical sites and buildings that have been
81 identified by the state historic preservation office as having notable historical value, up to a
82 five percent bonus density may be granted.
- 83 i. If a PRUD provides for the development of excess sewage treatment capacity, up to a five
84 percent bonus density may be granted.
- 85 j. If a PRUD dedicates and conveys to the county, the state division of wildlife resources, or
86 both, an open space easement that permanently preserves areas that have been identified
87 by the state division of wildlife resources as having substantial or crucial wildlife habitat
88 value, up to a 15 percent bonus density may be granted.
- 89 k. If a PRUD includes an open space parcel that consists of five acres or more and is
90 contiguous to permanently preserved open space on an adjoining property located outside
91 of the proposed PRUD, up to a 20 percent bonus density may be granted.
- 92 (d) If a PRUD is located in two or more zones, then the number of units allowed in the PRUD is the total
93 of the units allowed in each zone, however, the units allowed in each zone must be constructed in
94 the respective zone.

- 95 (e) It is not the purpose of the PRUD provision to allow an increase in the housing density of a PRUD
96 beyond what county development ordinances would normally allow, by requesting housing unit credit
97 and transfer for lands to be included in the PRUD boundary as common open space which have little
98 or no possibility of housing development. Such areas may include swamp lands, bodies of water,
99 excessively steep slopes and hillsides, mountain areas which do not have the capability of housing
100 development due to lack of water, access, natural resource limitations, etc. Therefore, the planning
101 commission shall determine what part if any, of such lands may be included in a PRUD as useable
102 open space common area for which dwelling unit credit is being requested for transfer to
103 developable portions of the PRUD and, when such determination justifies such inclusion, the
104 planning commission shall allow the transfer of units. In making this determination, the planning
105 commission shall be guided by the following factors:
- 106 (1) The physical relationship of the proposed common areas to the developable areas of the
107 PRUD shall be such that the common areas are suitable for landscaped and/or developed open
108 space or for recreational use of direct benefit, access and usability to the unit owners.
 - 109 (2) The lands shall contribute to the actual quality, livability and aesthetics of the PRUD and shall
110 be physically integrated into the development design.
 - 111 (3) The lands must be suitable for and possess the capability for housing development.
 - 112 (4) Lands with an average slope of 40 percent or more in the FR-1, FV-3, F-5, F-10, and F-40
113 Zones and 30 percent or more in all other zones shall not be classified as developable land and
114 shall not be considered when determining the number of allowable units in a proposed PRUD.

1 **Sec. 108-5-5. - Area and residential density regulations.**

- 2 (a) A PRUD shall contain a minimum of 24 dwelling units and be a minimum of four acres in all
3 residential zones and ten acres in all other zones, where permitted. In all zones, the minimum
4 number of dwelling units may be reduced to six if the PRUD contains a minimum area of 20 acres
5 and provides a common open space easement, as defined in Section 108-5-1, over at least 80
6 percent of the PRUD's gross acreage.
- 7 (b) The number of dwelling units in a PRUD shall be the same as the number permitted by the lot area
8 requirements of the same zone in which the PRUD is located. Land used for schools, churches,
9 other nonresidential service type buildings and uses, for streets and exclusively for access to the
10 useable area of a PRUD shall not be included in the area for determining the number of allowable
11 dwelling units.
- 12 (c) Notwithstanding section 108-5-5(b), the county may, at its discretion, allow for an increased number
13 of residential lots in a PRUD by awarding bonus densities to those PRUDs developed within the
14 Western Weber County Planning Area. PRUDs developed within the Ogden Valley Planning Area
15 are not eligible for bonus densities. The following presents the bonus density opportunities that are
16 available to PRUDs located within specific zoning classification boundaries:
- 17 (1) In the Forest (F-40) and the Residential Estates (RE-15 and RE-20) Zones, the county may
18 award a maximum bonus density of ten percent based on an accumulation of any combination
19 of the following:
- 20 a. If the PRUD provides a minimum of one road stub to an adjacent property where the
21 planning commission determines that streets are needed to provide for current or future
22 traffic circulation, up to a five percent bonus density may be granted.
- 23 b. If the PRUD provides a minimum of one approved public access to public lands, up to a
24 five percent bonus density may be granted.
- 25 c. If the PRUD provides common area that offers easily accessible amenities, such as a trail,
26 park, or community garden, that are open for use by the general public, up to a five percent
27 bonus density may be granted.
- 28 d. If the PRUD dedicates and conveys to the county, the state division of wildlife resources, or
29 both, an open space easement that permanently preserves areas that have been identified
30 by the state division of wildlife resources as having substantial or crucial wildlife habitat
31 value, up to a ten percent bonus density may be granted.
- 32 (2) In the Agricultural (A-1, A-2, and A-3) Zones, the county may grant a bonus density of up to 30
33 percent if the applicant preserves open space area equal to or greater than 30 percent of the
34 PRUD's adjusted gross acreage as defined in section 101-1-7. However, if the applicant
35 preserves open space area above 30 percent, the county may grant a bonus density of up to 50
36 percent. Overall bonus density potential shall be no greater than a percentage equal to the
37 percentage of the PRUD's total area preserved as open space. The county may award bonus
38 densities based on an accumulation of any combination of the following:
- 39 a. If a PRUD provides and implements an approved roadway landscape and design plan that
40 includes, but is not necessarily limited to, vehicle and pedestrian circulation, lighting, and
41 street trees of an appropriate species, size of at least a two-inch caliper, and quantity of not
42 less than eight trees for every 100 feet of road length, up to 20 percent bonus density may
43 be granted.
- 44 b. For each five percent increment of open space preserved over 50 percent: a five percent
45 bonus density shall be granted up to the total bonus density allowed by subsection (c)(2).
- 46 c. If a PRUD provides a minimum of one approved access to public lands, up to a ten percent
47 bonus density may be granted.

- 48 d. If a PRUD provides common area that offers easily accessible amenities such as trails,
49 parks, or community gardens, that are open for use by the general public, up to a 15
50 percent bonus density may be granted.
- 51 e. If a PRUD donates and/or permanently preserves a site determined to be desirable and
52 necessary, to a local park district or other county approved entity, for the perpetual location
53 and operation of a public park, cultural, or other recreation facility; up to a 20 percent
54 bonus may be granted.
- 55 f. If ten percent of the lots and homes in a PRUD are permanently set aside for affordable
56 housing as outlined by the Affordable Housing Act of 1990, up to a 20 percent bonus
57 density may be granted. If a bonus density is granted to affordable housing, the applicant
58 shall:
- 59 1. Present and gain county approval of an effective plan and method for guaranteeing
60 and enforcing perpetual affordability. Any method used, such as an affordable housing
61 deed restriction, shall limit the sale or rental of the affected lots and homes to a
62 household with an income at or below 80 percent of the county median income;
- 63 2. Identify and label, on the final plat, the lots set aside as affordable housing lots; and
- 64 3. Provide a note on the final plat explaining the nature of the housing restriction on the
65 lot and the method by which occupancy and affordability will be regulated.
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67 preservation plan approved by the planning commission and records an agricultural
68 preservation easement on the parcel, a bonus density may be approved as follows:
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72 bonus density may be granted.
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74 bonus density may be granted.
- 75 4. For a parcel containing at least 40 acres but fewer than 50 acres, up to a 40 percent
76 bonus density may be granted.
- 77 5. For a parcel containing at least 50 acres or more, up to a 50 percent bonus density
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- 79 h. If a PRUD provides for the preservation of historical sites and buildings that have been
80 identified by the state historic preservation office as having notable historical value, up to a
81 five percent bonus density may be granted.
- 82 i. If a PRUD provides for the development of excess sewage treatment capacity, up to a five
83 percent bonus density may be granted.
- 84 j. If a PRUD dedicates and conveys to the county, the state division of wildlife resources, or
85 both, an open space easement that permanently preserves areas that have been identified
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92 of the units allowed in each zone, however, the units allowed in each zone must be constructed in
93 the respective zone.

- 94 (e) It is not the purpose of the PRUD provision to allow an increase in the housing density of a PRUD
95 beyond what county development ordinances would normally allow, by requesting housing unit credit
96 and transfer for lands to be included in the PRUD boundary as common open space which have little
97 or no possibility of housing development. Such areas may include swamp lands, bodies of water,
98 excessively steep slopes and hillsides, mountain areas which do not have the capability of housing
99 development due to lack of water, access, natural resource limitations, etc. Therefore, the planning
100 commission shall determine what part if any, of such lands may be included in a PRUD as useable
101 open space common area for which dwelling unit credit is being requested for transfer to
102 developable portions of the PRUD and, when such determination justifies such inclusion, the
103 planning commission shall allow the transfer of units. In making this determination, the planning
104 commission shall be guided by the following factors:
- 105 (1) The physical relationship of the proposed common areas to the developable areas of the
106 PRUD shall be such that the common areas are suitable for landscaped and/or developed open
107 space or for recreational use of direct benefit, access and usability to the unit owners.
 - 108 (2) The lands shall contribute to the actual quality, livability and aesthetics of the PRUD and shall
109 be physically integrated into the development design.
 - 110 (3) The lands must be suitable for and possess the capability for housing development.
 - 111 (4) Lands with an average slope of 40 percent or more in the FR-1, FV-3, F-5, F-10, and F-40
112 Zones and 30 percent or more in all other zones shall not be classified as developable land and
113 shall not be considered when determining the number of allowable units in a proposed PRUD.

Weber County General Plan or Text Amendment Application

Application submittals will be accepted by appointment only. (801) 399-8791. 2380 Washington Blvd. Suite 240, Ogden, UT 84401

| | | |
|------------------------------|--------------------------|---------------------------|
| Date Submitted 11/08/2017 | Received By (Office Use) | Added to Map (Office Use) |
|------------------------------|--------------------------|---------------------------|

Property Owner Contact Information

| | | |
|--|-----|--|
| Name of Property Owner(s) Jill Jacobson | | Mailing Address of Property Owner(s) 2645 Little Kate Road, Park City, Utah 84060 |
| Phone 435 513 0908 | Fax | |
| Email Address jillnpc@yahoo.com | | Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail |

Ordinance Proposal

Ordinance to be Amended
Text Amendment

Describing the amendment and/or proposed changes to the ordinance:

I am acting agent with experience as a successful subdivision owner developer in Utah with recreation and open space a key component of the development, I am asked to act for my client with investment in Weber County choosing similar considerations to Open Space and Recreation. I propose an amendment to the Text to allow a lower density option with high proportion of dedicated open space. See below;

Sec. 108-5-5. - Area and residential density regulations.

- (a) A PRUD shall contain a minimum area of ten acres and consist of at least 24 housing dwelling units in all forestry and agricultural zones, and contain a minimum area of four acres in all residential zones. In all zones, the number of dwelling units may be reduced to at least six if the PRUD contains a minimum area of 20 acres and provides a common open space easement, as defined in Section 108-5-1, over 80 percent of the PRUD's gross acreage.
- (b) The number of dwelling units in a PRUD shall be the same as the number permitted by the lot area requirements of the same zone in which the PRUD is located. Land used for schools, churches, other nonresidential service type buildings and uses, for streets and exclusively for access to the useable area of a PRUD shall not be included in the area for determining the number of allowable dwelling units.

Ordinance Proposal (continued...)

Applicant Affidavit

I (We), JILL JACOBSON, depose and say that I (we) am (are) the interested member(s) of this application and that the statements herein contained, the information provided in the attached plans and other exhibits are in all respects true and correct to the best of my (our) knowledge.

Jill Jacobson
(Signature)

(Signature)

Subscribed and sworn to me this 07 day of Nov, 20 17.



Kufre Ekpnyong
(Notary)



Weber County Corporation

Weber County
2380 Washington Blvd
Ogden UT 84401

Customer Receipt

Receipt Number **59818**

Receipt Date
11/07/17

Received From:

Jill Jacobson

Time: 15:54
Clerk: fbennett

| Description | Comment | Amount |
|-----------------|----------------------|------------|
| Zoning Text Ame | Zoning Text Amendmen | \$1,052.00 |

| Payment Type | Quantity | Ref | Amount |
|--------------|----------|------|--------|
| CHECK | | 1073 | |

AMT TENDERED: \$1,052.00
 AMT APPLIED: \$1,052.00
 CHANGE: \$0.00



Staff Report to the Western Weber and Ogden Valley Planning Commissions

Weber County Planning Division

Synopsis

Application Information

Application Request: Public hearing to discuss and take comment on a proposal to amend the following section of Weber County Code: Cluster Subdivisions (§108-3) to amend the size requirements for individually owned preservation parcels, to add alternative standards for accessory buildings, and to provide administrative edits for clarity.

Agenda Date: Tuesday, November 21, 2017 (Western Weber PC)
Tuesday, November 28, 2017 (Ogden Valley PC)

Staff Report Date: Tuesday, November 14, 2017

Applicant: Weber County Planning Division

File Number: ZTA 2017-15

Staff Information

Report Presenter: Charlie Ewert
cewert@co.weber.ut.us
(801) 399-8763

Report Reviewer: RG

Applicable Ordinances

§108-3. – Cluster Subdivisions

Legislative Decisions

Decision on this item is a legislative action. When the Planning Commission is acting on a legislative item it is acting as a recommending body to the County Commission. Legislative decisions have wide discretion. Examples of legislative actions are general plan, zoning map, and land use code amendments. Typically, the criterion for providing a recommendation on a legislative matter suggests a review for compatibility with the general plan and existing ordinances.

Summary and Background

The Western Weber Planning Commission recently reviewed a cluster subdivision in which individually owned open space parcels were being proposed at one acre per parcel. The Planning Commission determined that this acreage was too small to be conducive to the longevity of preservation parcels, and in effect, does not offer meaningful open spaces. The Planning Commission requested staff to recommend amendments that would address the concern.

The proposed ordinance amendments will require that individually owned preservation parcels be at least five acres each and be grouped in no less than two preservation parcels. This will ensure that each open space area that contains an individually owned preservation parcel is no less than 10 acres.

The Planning Commission should determine whether the modifications adequately address the concern. For expediency purposes this item was not presented at work session for either Planning Commission.

Policy Analysis

Policy Considerations:

Below is a breakdown of the proposed changes and where the Planning Commission can find them in Exhibit A.

Line 27: Sketch Plan Review – Staff are struggling to offer a complete review of a sketch plan prior to the end of the 14 day deadline. We are requesting that the deadline be extended by one week.

Line 57-58: Updating terminology.

Line 109 – 110: Renaming the section header to prepare it for consolidation.

Line 112 - 115: Admin edits for clarity.

Line 126: Admin edits for clarity.

Line 129 - 157: This text has been removed from lines 234-264 and placed here for fluidity and consistency purposes. The fragmentation of it was a little confusing.

Line 140 - 147: This is the new standard that addresses the parcel size of individually owned preservation parcels. It requires that a parcel be at least five acres and be grouped with other open space parcels for a total grouping of no less than 10 acres. This will hopefully foster a future wherein the larger parcels will support a diversity of open-space related uses, and reduce the probability that these preservation parcels will just be extensions of backyards.

Line 158 - 178: Admin edits for clarity.

Line 179 - 184: This paragraph is new. It is intended to keep the preservation parcels from becoming sectioned off and leased out into parcels too small to be conducive to a management strategy necessary for meaningful open spaces.

Line 234 - 264: The text in this section was moved to lines 129-157.

Line 298 - 305: The current Cluster code has alternative setback standards for residences, but does not address alternatives for accessory buildings. In some zones the setbacks for accessory buildings might make them impossible. The addition of the table addresses this and helps clarify.

Conformance to the General Plan

Generally, land use code changes should be vetted through the filter of policy recommendations of the applicable general plan. The 2016 Ogden Valley General Plan offers us guidance on what the community desires:

Western Weber General Plan:

The West Central Weber County general plan offers the following advice:

Policy: Pattern of Development:

The existing one and two-acre zoning lends itself to a cluster subdivision pattern of development with preservation of open space. An increase in overall density is permitted in Weber County's current Cluster Subdivision Special Provision Ordinance (Chapter 22B) for preservation of open space; however, additional incentives are desired. It is anticipated that the open space and public space allocated as a result of incentive-based increased density should be useable, undeveloped, consolidated open space in the form of parks, natural areas, sensitive lands, agriculturally productive land, or other managed open space.

Ogden Valley General Plan:

The Ogden Valley general plan suggests the following goals and principles:

Gateways and Viewsheds Goal 2: A goal of Weber County is to protect the Valley's sense of openness and rural character.

Gateways and Viewsheds Principle 2.2: Encourage creative development designs that preserve natural, agricultural, and other open spaces, including clustered and mixed-use developments.

Land Use Goal 1: A goal of Weber County is to reduce the overall amount and impact of future land development in the Ogden Valley planning area.

Land Use Principle 1.5: Encourage new development to locate in areas where water and sewer service

could be provided by a sewer system. Encourage clustered residential developments with smaller building lots and larger areas of open space for most subdivisions.

If the Planning Commission(s) can determine that the proposal will advance the objectives of their general plan it should recommend approval of the proposal to the County Commission.

Past Action on this Item

No formal action has occurred on this item. The Western Weber Planning Commission requested that the individually owned preservation parcel requirements be re-addressed.

Noticing Compliance

A hearing for this item before the Planning Commission has been posted for public notice in compliance with UCA §17-27a-205 and UCA §17-27a-502 in the following manners:

- Posted on the County's Official Website
- Posted on the Utah Public Notice Website
- Published in a local newspaper

Staff Recommendation

Staff recommends that the Planning Commission consider the text included as Exhibit A and Exhibit B and offer staff critical feedback for additional amendments, if needed. If the Planning Commission is comfortable with the proposal, it could be forwarded to the County Commission with the following findings:

1. The changes are generally supported by the general plan.
2. The changes will offer an avenue for more preserved open spaces.
3. The changes are not detrimental to the general health and welfare of County residents.

Exhibits

- A. Proposed Ordinance Changes – Track Change Copy.
- B. Proposed Ordinance Changes – Clean Copy.

1 **CHAPTER 3. - CLUSTER SUBDIVISIONS**

2 **Sec. 108-3-1. - Intent.**

3 The purpose of this chapter is to provide flexible development standards to landowners that
4 are committed to developing safe, attractive, conservation oriented neighborhoods that are
5 thoughtfully designed and arranged in a manner that considers, gives deference to, and
6 ultimately protects natural topography, environmentally sensitive areas, wildlife habitat, and
7 agriculturally productive lands. It is intended to benefit those that create cluster subdivisions by
8 offering an inherent gain in the form of reduced infrastructure costs and the possibility for a
9 substantial increase in residential density in the Western Weber Planning Area. It is equally
10 intended to benefit the residents of Weber County by promoting public welfare through the
11 reduction of long-term infrastructure maintenance costs and the permanent preservation of the
12 county's functional open spaces, picturesque landscapes, and rural character.

13 **Sec. 108-3-2. - General regulations.**

14 Subject to the requirements of this chapter, cluster subdivisions are permitted in all
15 classified Weber County zone areas except for the commercial, manufacturing, gravel,
16 residential mobile home, open space, and shoreline zones.

17 **Sec. 108-3-3. - Approval procedure.**

18 (a) The cluster subdivision approval procedure consists of four phases as follows:

- 19 (1) A conceptual sketch plan endorsement from the appropriate planning area planning
20 commission;
- 21 (2) A preliminary approval by the appropriate planning area planning commission;
- 22 (3) A recommendation from the appropriate planning area planning commission for final
23 approval by the board of county commissioners; and
- 24 (4) A final approval and acceptance by the board of county commissioners.

25 (b) An application for a conceptual sketch plan endorsement shall demonstrate compliance
26 with all applicable standards contained within the Weber County Code. The completed
27 application must be submitted at least ~~44~~21 calendar days prior to the planning
28 commission meeting at which the applicant wishes to be heard. The application is complete
29 upon submission of the following:

- 30 (1) Payment of a fee, as required by title 16, chapter 2 of the Weber County Code of
31 Ordinances, and submission of a complete sketch plan endorsement application on a
32 form provided by the county planning department.
- 33 (2) One 8.5-inch by 11-inch vicinity map, underlain by an aerial photo, showing the subject
34 property, surrounding streets, and relevant landmarks.
- 35 (3) One 11-inch by 17-inch conceptual plan, drawn at a reasonable scale, that
36 demonstrates in a suitable manner compliance with all applicable codes. The plan shall
37 include, but not necessarily be limited to, a north arrow and scale, subdivision
38 boundary according to county records, approximate locations of proposed streets, lots
39 with approximate area calculations, common areas and open space parcels with
40 approximate area calculations, easements, waterways, suspected wetlands,
41 floodplains, existing structures, and contour lines. Information related to topography
42 and contour lines may be submitted on a separate map. Contour information may be

43 omitted if the planning director or his designee determines that the subject property
44 lacks topographic characteristics that warrant representation.

45 (4) An electronic copy of all forms, documents, materials, and information submitted as
46 part of the application.

47 (c) An application for preliminary approval by the appropriate planning commission,
48 recommendation for final approval, or final approval and acceptance by the board of county
49 commissioners shall comply with all applicable standards of the Weber County Land Use
50 Code, including this chapter and title 106, Subdivisions. The approval process shall
51 proceed as directed by Weber County Land Use Code title 106, chapter 1.

52 **Sec. 108-3-4. - Cluster subdivision design and layout standards.**

53 The planning commission and county commission shall approve an application for a cluster
54 subdivision if the planning commission and county commission find that the subject proposal
55 meets all applicable standards of the Weber County Land Use Code, including the following:

56 (1) A cluster subdivision's general design shall concentrate residential building lots, with
57 their adjoining road rights-of-way and any approved ~~access exceptions~~ alternative
58 access, if applicable, into separate and individual clusters that are entirely surrounded
59 by open space dedicated as common area, individually owned preservation parcels, or
60 both. The open space area ~~is~~ between one cluster of lots and another cluster, or one
61 cluster of lots and the subdivision boundary, shall not be less than ~~75-100~~ 75 feet in width,
62 ~~and the open space area in between lots and an exterior subdivision boundary shall~~
63 ~~not be less than 50 feet in width.~~ The open space required in between lots and a
64 subdivision's exterior boundary shall be waived if:

Comment [c1]: Metric change

- 65 a. Lots sharing a common line with the subdivision boundary contain 15,000 square
66 feet or more;
- 67 b. Lots are located along an internal phasing line when that phasing line is acting as
68 a temporary external boundary;
- 69 c. The proposed cluster subdivision lies adjacent to an existing subdivision that
70 contains at least one lot that is smaller or not more than 5,000 square feet larger
71 than the smallest lot lying within the proposed cluster subdivision; or
- 72 d. Lots located along an external boundary lie adjacent to a parcel that:
 - 73 1. Does not contain an existing dwelling; or
 - 74 2. Contains a single existing dwelling that lies further than 150 feet away from all
75 external boundaries of the proposed cluster subdivision.

76 (2) In a subdivision consisting of 60 or more lots, each cluster shall contain no less than
77 three lots and no more than 20 lots. In a subdivision consisting of fewer than 60 lots,
78 each cluster shall contain no less than three lots and no more than one-third of the total
79 number of lots in the subdivision. The county may approve up to a five lot increase in
80 the number of lots in a cluster if:

- 81 a. The total number of lots cannot be equally divided into thirds and leaves a
82 remaining number of lots that does not meet the standard for the minimum number
83 of lots in a cluster; or
- 84 b. There are unusual circumstances, such as complications involving topography,
85 infrastructure, geotechnical, or geologic conditions, which warrant an increase.

- 86 (3) To ensure that a cluster subdivision reflects the characteristics of the zone in which it is
 87 located, a minimum percentage of a cluster subdivision's adjusted gross acreage shall
 88 be preserved as open space and dedicated as described in subsection (1) above. The
 89 minimum open space areas are as follows:
- 90 a. In the Forest (F-40) Zone, a minimum of 90 percent of a cluster subdivision shall
 91 be preserved as open space.
 - 92 b. In the Forest (F-5) and Forest (F-10) Zones, a minimum of 80 percent of a cluster
 93 subdivision shall be preserved as open space.
 - 94 c. In the Agricultural Valley (AV-3), Forest Valley (FV-3), and the Ogden Valley
 95 Destination and Recreation Resort (DRR-1) Zones, a minimum of 60 percent of a
 96 cluster subdivision shall be preserved as open space.
 - 97 d. In all other zones where a cluster subdivision is an allowed development type a
 98 minimum of 30 percent of a cluster subdivision shall be preserved as open space.
- 99 (4) Lands that can be mitigated such as floodplain and wetlands are considered
 100 developable and shall be counted towards density. Floodways within river corridors,
 101 lakes, and naturally occurring pond areas, which could not be developed but provide
 102 an amenity may also be a part of the open space, with 25 percent of this land credited
 103 towards the overall density of the development if this land is used to provide amenities
 104 and is accessible to the development.
- 105 (5) Areas designated as floodplain, as defined by the Federal Emergency Management
 106 Agency or other qualified professional determined appropriate by the county engineer,
 107 rivers and streams, with and including their designated river or stream corridor
 108 setbacks, as defined by the Weber County Land Use Code, shall be located within a
 109 cluster subdivision's open space area.

110 **Sec. 108-3-5. - Open space plan ~~approval, ownership, maintenance, preservation, and~~**
 111 **~~guarantee of improvement standards and development standards.~~**

112
 113 ~~Open space parcels, and any improvements proposed thereon, shall be approved, owned,~~
 114 ~~maintained, preserved, and financially guaranteed as follows:~~

115 ~~(a) (1) — Plan approval~~ Open space plan submittal. In addition to the subdivision application
 116 requirements specified in Title 106 of this Land Use Code. ~~An~~ open space preservation
 117 plan shall accompany an application for preliminary and final approval of a cluster
 118 subdivision. The plan shall include a narrative describing all proposed uses, phasing, and
 119 maintenance methods for all open space parcels, and a site plan that shows proposed
 120 common areas, individually owned preservation parcels, and the locations of existing and
 121 proposed future structures.

122 ~~(1)a-~~ For open space dedicated as common area parcels, the site plan shall show the
 123 location of existing and future structures by identifying the structure's footprint.
 124 Structures housing a subdivision utility or serving as a subdivision amenity shall be
 125 subject to all applicable standards including all design review and applicable
 126 architectural standards found in title 108 of the Weber County Land Use Code.

127 ~~(2)b-~~ For open space dedicated as individually owned preservation parcels whereon
 128 buildings will be located, the site plan shall identify locatable building envelopes within
 129 which all existing and future buildings must be located.

130 (b) Open space parcel development standards and ownership regulations. Unless otherwise
131 provided for in this section, open space parcels shall be developed in a manner that meets
132 all applicable standards, including but not limited to those found in the Weber County Land
133 Use Code. Open space parcels shall adhere to the following specific site development
134 standards:

135 (1) Parcel area. Unless otherwise regulated by the Weber-Morgan Health Department or
136 Weber County Land Use Code title 108, chapter 14, Hillside Development Review
137 Procedures and Standards, the minimum area for an open space parcel located within
138 a cluster subdivision is as follows:

139 a. Open space parcels dedicated as common area are not subject to minimum area
140 requirements.

141 b. Open space parcels dedicated as individually owned preservation parcels shall
142 contain an area of not less than five acres and shall be part of a contiguous area of
143 open space parcels consisting of not less than ten acres in total. Open space
144 parcels form a contiguous area if each open space parcel in the area shares a
145 common boundary line that is no less than 100 linear feet with another open space
146 parcel or lies directly across a street right-of-way, or other approved access, from
147 another open space parcel, with the common boundaries shared with the street
148 right-of-way being no less than 100 linear feet.

Comment [c2]: New open space standard.

149 (2) Parcel width. Notwithstanding section 106-2-4(c) and title 108, chapter 14, Hillside
150 Development Review Procedures and Standards, and unless otherwise regulated by
151 the Weber-Morgan Health Department, open space parcels located within a cluster
152 subdivision are not subject to frontage requirements and do not have a minimum width
153 standard other than the standard described in section 108-3-4(1) and 108-3-5(b)(1).

Comment [c3]: Check References

154 (3) Parcel coverage.

155 a. Coverage of common area parcels by roofed structures shall not exceed ten
156 percent of the total parcel area.

157 b. Coverage of individually owned preservation parcels by roofed structures shall not
158 exceed two and a half percent of the total parcel area.

Comment [c4]: Current code lists this as 5%.

159 (4) Parcel Ownership.

160 a. An open space parcels dedicated as common area shall be commonly owned by
161 an appropriate homeowner's association established under U.C.A. 1953, § 57-8a-
162 101 et seq., the Community Association Act.

163 b. In addition to the standards of Section 108-3-6, an open space parcels may be
164 owned as an individually owned preservation parcel in accordance with the
165 following:-

Comment [c5]: Check Reference

166 1. An individually owned preservation parcels of ten acres or more in area may
167 be owned by any person, regardless of whether the person owns a residential
168 lot within the subdivision.

169 2. An individually owned preservation parcels of less than ten acres in area may
170 only be owned by an owner of a lot within the same cluster subdivision.

Comment [c6]: See 108-3-6(1)b.1.

171 3. The applicable ownership standard for an individually owned preservation
172 parcel in subsection (2)a.1. or 2. shall be memorialized in the following
173 manner:

Comment [c7]: Huh? (2)a.1 or 2 does not exist?

174 i. An explanation of the applicable ownership standard and a perpetual
175 restriction conforming thereto shall be written into all agriculture, forest, or
176 other type of preservation easements granted pursuant to subsection (4);
177 and

178 ii. A note describing the applicable ownership standard shall be placed on
179 the final recorded plat.

180 c. In order to keep an individually owned preservation parcel from becoming
181 unconducive to multiple-acreage preservation uses, an individually owned
182 preservation parcel shall not be sectioned into sub-areas of five acres or less by
183 fencing or other physical barriers. The planning commission may modify this
184 requirement for uses that support the longevity of the preservation, maintenance,
185 and large-acreage use of the parcel.

186 (3c) *Maintenance.* The open space parcel owner, whether an individual or an association,
187 shall use, manage, and maintain the owner's parcel in a manner that is consistent with the
188 open space preservation plan approved under subsection (1), and the agriculture, forest, or
189 other type of preservation easement executed under subsection (4).

190 (4d) Preservation.

191 (1)a- Open space parcels are to be permanently preserved in a manner that is
192 consistent with the approved open space preservation plan.

193 (2)b- The applicant, prior to recording or as part of recording the final cluster
194 subdivision plat, shall grant and convey to the county, to each lot owner, and to the
195 homeowner association, if applicable, an open space easement over all areas
196 dedicated as common area or individually owned preservation parcels. The open
197 space easement shall incorporate and conform to the open space preservation plan
198 approved under subsection (1).

199 (3)e- If a cluster subdivision contains open space intended to preserve substantial or
200 crucial wildlife habitat, as defined by the Utah Division of Wildlife Resources, a wildlife
201 habitat easement meeting the requirements of the Utah Division of Wildlife Resources
202 shall be offered to the division.

203 (4)e- If a cluster subdivision contains an individually owned preservation parcel, the
204 applicant shall:

205 1.a. Identify and label on the final plat each such parcel as an agricultural, forest, or
206 other type of preservation parcel;

207 2.b. Further identify each preservation parcel by placing a unique identifying letter of
208 the alphabet immediately after the label;

209 3.c. Present an agricultural, forest, or other type of preservation easement to the
210 planning commission and gain their approval; and

211 4.d. Record an approved preservation easement on each parcel identified as a
212 agricultural, forest, or other type of preservation parcel.

213 (5)e- The planning commission may impose any additional conditions and restrictions
214 it deems necessary to ensure maintenance of the open space and adherence to the
215 open space preservation plan. Such conditions may include a plan for the disposition
216 or re-use of the open space property if the open space is not maintained in the manner
217 agreed upon or is abandoned by the owners.

218 | ~~(5e)~~ *Guarantee of open space improvements.*

219 | ~~(1)a-~~ The county shall not require an applicant to deposit a financial guarantee for
220 | open space improvements (e.g., clubhouse, pool, pergola, gazebo, etc.) that require a
221 | certificate of occupancy and that remain incomplete at the time of final approval and
222 | acceptance of the proposed cluster subdivision from the board of county
223 | commissioners. The applicant or developer shall complete the improvements according
224 | to the approved phasing component of an open space preservation plan. If the
225 | applicant fails to complete improvements as presented in the open space preservation
226 | plan, the county may suspend final plat approvals and record an instrument notifying
227 | prospective lot buyers that future land use permits may not be issued for any
228 | construction.

229 | ~~(2)b-~~ The county shall require an applicant to deposit a financial guarantee for all open
230 | space improvements (e.g., landscaping, trails, fencing, sheds, parking surfaces, etc.)
231 | that do not require a certificate of occupancy and that remain incomplete at the time of
232 | final approval and acceptance of the proposed cluster subdivision from the board of
233 | county commissioners. The applicant or developer shall complete all improvements
234 | according to the approved phasing component of an open space preservation plan.

235 | **Sec. 108-3-6. — ~~Reserved. Open space parcel development standards.~~**

236 | ~~Unless otherwise provided for in this section, open space parcels shall be developed in a~~
237 | ~~manner that meets all applicable standards, including but not limited to those found in the~~
238 | ~~Weber County Land Use Code. Open space parcels shall adhere to the following specific site~~
239 | ~~development standards:~~

240 | ~~(1) — Parcel area. Unless otherwise regulated by the Weber-Morgan Health Department or~~
241 | ~~Weber County Land Use Code title 108, chapter 14, Hillside Development Review Procedures~~
242 | ~~and Standards, the minimum area for an open space parcel located within a cluster subdivision~~
243 | ~~is as follows:~~

244 | ~~a. — Open space parcels dedicated as common area are not subject to minimum area~~
245 | ~~requirements.~~

246 | ~~b. — Open space parcels dedicated as individually owned preservation parcels shall contain an~~
247 | ~~area of not less than three acres.~~

248 | ~~1. — The minimum area of an individually owned preservation parcel may be reduced to not less~~
249 | ~~than one acre if the preservation parcel is part of a contiguous area of open space parcels~~
250 | ~~consisting of not less than three acres in total. Open space parcels form a contiguous area if~~
251 | ~~each open space parcel in the area shares a common boundary line with another open space~~
252 | ~~parcel or lies directly across a road right-of-way, or other approved access, from another open~~
253 | ~~space parcel.~~

254 | ~~2. — Parcels containing less than five acres are not agricultural parcels for purposes of~~
255 | ~~agricultural exemptions granted by the Weber County Land Use Code.~~

256 | ~~(2) — Parcel width. Notwithstanding section 106-2-4(c) and title 108, chapter 14, Hillside~~
257 | ~~Development Review Procedures and Standards, and unless otherwise regulated by the~~

Comment [c8]: Whole section moved to 108-3-5(b).

258 ~~Weber-Morgan Health Department, open space parcels located within a cluster subdivision are~~
259 ~~not subject to frontage requirements and do not have a minimum width standard other than the~~
260 ~~standard described in section 108-3-4(1).~~

261 ~~(3) Parcel coverage.~~

262 ~~a. Coverage of common area parcels by roofed structures shall not exceed ten percent of the~~
263 ~~total parcel area.~~

264 ~~b. Coverage of individually owned preservation parcels by roofed structures shall not exceed~~
265 ~~five percent of the total parcel area.~~

Comment [c9]: Keep at 5%? 5% of five acres is 10,890 square feet, or a quarter acre.

266 **Sec. 108-3-7. - Lot development standards.**

267 Unless otherwise provided for in this section, residential building lots shall be developed in
268 a manner that meets all applicable standards, including but not limited to those found in the
269 Weber County Land Use Code. The following specific site development standards apply to lots
270 in cluster subdivisions:

271 (1) *Lot area.*

272 a. Unless otherwise regulated by the Weber-Morgan Health Department or Weber
273 County Land Use Code, title 108, chapter 14, Hillside Development Review
274 Procedures and Standards, a lot located within a cluster subdivision shall contain
275 an area of not less than 15,000 square feet.

276 b. A lot's minimum area is reduced to 6,000 square feet if:

277 1. The lot is located 50 feet or more from its own cluster subdivision boundary,
278 not including those boundaries formed by existing streets or internal phasing
279 lines if the phasing lines act as a temporary external boundary;

280 2. The lot lies within a cluster subdivision that is adjacent to an existing
281 subdivision that contains at least one lot that is smaller or not more than 5,000
282 square feet larger than the smallest lot lying within the subject cluster
283 subdivision; or

284 3. The lot lies within a cluster subdivision that is adjacent to an undeveloped
285 parcel. A parcel is considered undeveloped if it:

286 i. Does not contain an existing dwelling; or

287 ii. Contains an existing dwelling that lies further than 150 feet away from all
288 external boundaries of the proposed or subject cluster subdivision.

289 (2) *Lot width.* Unless otherwise regulated by the Weber-Morgan Health Department or
290 Weber County Land Use Code, title 108, chapter 14, Hillside Development Review
291 Procedures and Standards, the minimum lot width in a cluster subdivision is:

292 a. One hundred feet in the Forest (F-40) and the Forest (F-10) Zones.

293 b. Eighty feet in the Forest Residential (FR-1), Forest (F-5), Agricultural Valley (AV-
294 3), and the Forest Valley (FV-3) Zones.

295 c. Sixty feet in the Residential Estates (RE-15 and RE-20) and Agricultural (A-1, A-2,
296 and A-3) Zones.

297 d. Fifty feet in the Forest Residential (FR-3) and the Ogden Valley Destination and
 298 Recreation Resort (DRR-1) Zone.

299 (3) ~~Yard setbacks for dwellings. The M~~minimum yard setbacks ~~for dwellings~~ in a cluster
 300 subdivision are as follows:

| | |
|---|--|
| <u>Front:</u> | <u>20 feet</u> |
| <u>Side:</u> | |
| <u>Dwelling:</u> | <u>8 feet</u> |
| <u>Accessory building:</u> | <u>8 feet; except one foot if located at least six feet in rear of dwelling.</u> |
| <u>Accessory building over 1,000 square feet:</u> | <u>See Section 108-7-16</u> |
| <u>Corner lot side facing street:</u> | <u>20 feet</u> |
| <u>Rear:</u> | <u>20 feet</u> |

301 ~~a. Front: 20 feet.~~

302 ~~b. Side: 8 feet.~~

303 ~~c. Rear: 20 feet.~~

304 (4) ~~Dwelling-Building height.~~ The maximum height for ~~dwellings-a building~~ in a cluster
 305 subdivision ~~is 40 feet~~ is as follows:

| | |
|---------------------------|----------------|
| <u>Dwelling</u> | <u>40 feet</u> |
| <u>Accessory building</u> | <u>30 feet</u> |

306

307 **Sec. 108-3-8. - Bonus density.**

308 The county may, in its discretion, allow for an increased number of residential lots by
 309 awarding bonus densities to those cluster subdivisions developed within the Western Weber
 310 County Planning Area. Cluster subdivisions within the Ogden Valley Planning Area are not
 311 eligible for bonus densities. The following presents the bonus density opportunities that are
 312 available to cluster subdivisions located within specific zoning boundaries:

313 (1) In the Forest (F-40) Zones, the county may award a maximum bonus density of 20
 314 percent based on an accumulation of any combination of the following:

315 a. If the cluster subdivision meets the purpose and intent of this chapter, up to a five
 316 percent bonus may be granted.

317 b. If the cluster subdivision provides a minimum of one road stub to an adjacent
 318 property where the planning commission determines that streets are needed to
 319 provide for current or future traffic circulation, up to a five percent bonus density
 320 may be granted.

Comment [c10]: This code unintentionally missed alternative development regulations for accessory buildings.

- 321 c. If the cluster subdivision provides a minimum of one approved public access to
322 public lands, up to a five percent bonus density may be granted.
- 323 d. If the cluster subdivision provides common area that offers easily accessible
324 amenities, such as a trail, park, or community garden, that are open for use by the
325 general public, up to a five percent bonus density may be granted.
- 326 e. If the cluster subdivision dedicates and conveys to the county, the state division of
327 wildlife resources, or both, an open space easement that permanently preserves
328 areas that have been identified by the state division of wildlife resources as having
329 substantial or crucial wildlife habitat value, up to a 15 percent bonus density may
330 be granted.
- 331 (2) In the Agricultural (A-1, A-2, and A-3) Zones, the county may grant a bonus density of
332 up to 50 percent if the applicant preserves an open space percentage above that
333 required by section 108-3-4(3)d; otherwise, the county may grant a bonus density of up
334 to 30 percent. Overall bonus density potential shall be no greater than a percentage
335 equal to the percentage of the subdivision's total area preserved as open space. The
336 county may award bonus densities based on an accumulation of any combination of
337 the following:
- 338 a. If a cluster subdivision meets the purpose and intent of this chapter, up to a ten
339 percent bonus may be granted.
- 340 b. If a cluster subdivision provides and implements an approved roadway landscape
341 and design plan that includes, but is not necessarily limited to, vehicle and
342 pedestrian circulation, lighting, and street trees of an appropriate species, size of
343 at least a two-inch caliper, and quantity of not less than eight trees for every 100
344 feet of road length, up to 20 percent bonus density may be granted.
- 345 c. For each five percent increment of open space preserved over 50 percent: a five
346 percent bonus density shall be granted up to the total bonus density allowed by
347 subsection (3).
- 348 d. If a cluster subdivision provides a minimum of one approved access to public
349 lands, up to a ten percent bonus density may be granted.
- 350 e. If a cluster subdivision provides common area that offers easily accessible
351 amenities such as trails, parks, or community gardens, that are open for use by the
352 general public, up to a 15 percent bonus density may be granted.
- 353 f. If ten percent of the lots and homes in a cluster subdivision are permanently set
354 aside for affordable housing as outlined by the Affordable Housing Act of 1990, up
355 to a 20 percent bonus density may be granted.
- 356 If a bonus density is granted for affordable housing, the applicant shall:
- 357 1. Present and gain Planning Commission approval of an effective plan and
358 method for guaranteeing and enforcing perpetual affordability. Any method
359 used, such as an affordable housing deed restriction, shall limit the sale or
360 rental of the affected lots and homes to a household with an income at or
361 below 80 percent of the county median income;
- 362 2. Identify and label, on the final plat, the lots set aside as affordable housing
363 Lots; and

- 364 3. Provide a note on the final plat explaining the nature of the housing restriction
365 on the lot and the method by which occupancy and affordability will be
366 regulated.
- 367 g. If a cluster subdivision preserves an agricultural parcel with an agriculturally based
368 open space preservation plan approved by the planning commission and records
369 an agricultural preservation easement on the parcel, a bonus density may be
370 approved as follows:
- 371 1. For a parcel containing at least ten acres but fewer than 20 acres, up to a 15
372 percent bonus density may be granted.
- 373 2. For a parcel containing at least 20 acres but fewer than 30 acres, up to a 20
374 percent bonus density may be granted.
- 375 3. For a parcel containing at least 30 acres but fewer than 40 acres, up to a 30
376 percent bonus density may be granted.
- 377 4. For a parcel containing at least 40 acres but fewer than 50 acres, up to a 40
378 percent bonus density may be granted if the parcel standing alone is greater
379 than the minimum open space requirement for the subdivision.
- 380 5. For a parcel containing at least 50 acres or more, up to a 50 percent bonus
381 density may be granted if the parcel standing alone is greater than the
382 minimum open space requirement for the subdivision.
- 383 h. If a cluster subdivision provides for the preservation of historical sites and buildings
384 that have been identified by the state historic preservation office as having notable
385 historical value, up to a five percent bonus density may be granted.
- 386 i. If a cluster subdivision provides for the development of excess sewage treatment
387 capacity, up to a five percent bonus density may be granted.
- 388 j. If a cluster subdivision dedicates and conveys to the county, the state division of
389 wildlife resources, or both, an open space easement that permanently preserves
390 areas that have been identified by the state division of wildlife resources as having
391 substantial or crucial wildlife habitat value, up to a 15 percent bonus density may
392 be granted.
- 393 k. If a cluster subdivision includes an open space parcel that consists of five acres or
394 more and is contiguous to permanently preserved open space on an adjoining
395 property located outside of the cluster subdivision, up to a 20 percent bonus
396 density may be granted.

397 **Sec. 108-3-9. - Homeowners association required.**

398 In order to provide for proper management and maintenance of commonly owned areas
399 and private improvements, all cluster subdivisions with such areas or improvements are
400 required to have a homeowners association. The applicant, prior to recording a final plat of the
401 cluster subdivision, shall:

- 402 (1) Establish a homeowners association and submit for the county's review the necessary
403 articles of incorporation, bylaws, and declaration of covenants, conditions, and
404 restrictions that provide for:
- 405 a. Compliance with Utah State Code;
- 406 b. The reason and purpose for the association's existence;

- 407 c. Mandatory membership for each lot or home owner and their successors in
408 interest;
- 409 d. The perpetual nature of the easements related to all dedicated open space
410 parcels;
- 411 e. Responsibilities related to liability, taxes, and the maintenance of recreational and
412 other infrastructure and facilities;
- 413 f. Financial obligations and responsibilities, including the ability to adjust the
414 obligations and responsibilities due to change in needs;
- 415 g. Association enforcement remedies; and
- 416 h. A notification of the county's ability to enforce the terms of the owner's dedication
417 on the subdivision dedication plat.
- 418 (2) Register the homeowners association with the State of Utah, Department of
419 Commerce.

1 **CHAPTER 3. - CLUSTER SUBDIVISIONS**

2 **Sec. 108-3-1. - Intent.**

3 The purpose of this chapter is to provide flexible development standards to landowners that
4 are committed to developing safe, attractive, conservation oriented neighborhoods that are
5 thoughtfully designed and arranged in a manner that considers, gives deference to, and
6 ultimately protects natural topography, environmentally sensitive areas, wildlife habitat, and
7 agriculturally productive lands. It is intended to benefit those that create cluster subdivisions by
8 offering an inherent gain in the form of reduced infrastructure costs and the possibility for a
9 substantial increase in residential density in the Western Weber Planning Area. It is equally
10 intended to benefit the residents of Weber County by promoting public welfare through the
11 reduction of long-term infrastructure maintenance costs and the permanent preservation of the
12 county's functional open spaces, picturesque landscapes, and rural character.

13 **Sec. 108-3-2. - General regulations.**

14 Subject to the requirements of this chapter, cluster subdivisions are permitted in all
15 classified Weber County zone areas except for the commercial, manufacturing, gravel,
16 residential mobile home, open space, and shoreline zones.

17 **Sec. 108-3-3. - Approval procedure.**

18 (a) The cluster subdivision approval procedure consists of four phases as follows:

- 19 (1) A conceptual sketch plan endorsement from the appropriate planning area planning
20 commission;
- 21 (2) A preliminary approval by the appropriate planning area planning commission;
- 22 (3) A recommendation from the appropriate planning area planning commission for final
23 approval by the board of county commissioners; and
- 24 (4) A final approval and acceptance by the board of county commissioners.

25 (b) An application for a conceptual sketch plan endorsement shall demonstrate compliance
26 with all applicable standards contained within the Weber County Code. The completed
27 application must be submitted at least 21 calendar days prior to the planning commission
28 meeting at which the applicant wishes to be heard. The application is complete upon
29 submission of the following:

- 30 (1) Payment of a fee, as required by title 16, chapter 2 of the Weber County Code of
31 Ordinances, and submission of a complete sketch plan endorsement application on a
32 form provided by the county planning department.
- 33 (2) One 8.5-inch by 11-inch vicinity map, underlain by an aerial photo, showing the subject
34 property, surrounding streets, and relevant landmarks.
- 35 (3) One 11-inch by 17-inch conceptual plan, drawn at a reasonable scale, that
36 demonstrates in a suitable manner compliance with all applicable codes. The plan shall
37 include, but not necessarily be limited to, a north arrow and scale, subdivision
38 boundary according to county records, approximate locations of proposed streets, lots
39 with approximate area calculations, common areas and open space parcels with
40 approximate area calculations, easements, waterways, suspected wetlands,
41 floodplains, existing structures, and contour lines. Information related to topography
42 and contour lines may be submitted on a separate map. Contour information may be

43 omitted if the planning director or his designee determines that the subject property
44 lacks topographic characteristics that warrant representation.

45 (4) An electronic copy of all forms, documents, materials, and information submitted as
46 part of the application.

47 (c) An application for preliminary approval by the appropriate planning commission,
48 recommendation for final approval, or final approval and acceptance by the board of county
49 commissioners shall comply with all applicable standards of the Weber County Land Use
50 Code, including this chapter and title 106, Subdivisions. The approval process shall
51 proceed as directed by Weber County Land Use Code title 106, chapter 1.

52 **Sec. 108-3-4. - Cluster subdivision design and layout standards.**

53 The planning commission and county commission shall approve an application for a cluster
54 subdivision if the planning commission and county commission find that the subject proposal
55 meets all applicable standards of the Weber County Land Use Code, including the following:

56 (1) A cluster subdivision's general design shall concentrate residential building lots, with
57 their adjoining road rights-of-way and any approved alternative access, if applicable,
58 into separate and individual clusters that are entirely surrounded by open space
59 dedicated as common area, individually owned preservation parcels, or both. The open
60 space area between one cluster of lots and another cluster, or one cluster of lots and
61 the subdivision boundary, shall not be less than 100 feet in width. The open space
62 required in between lots and a subdivision's exterior boundary shall be waived if:

63 a. Lots sharing a common line with the subdivision boundary contain 15,000 square
64 feet or more;

65 b. Lots are located along an internal phasing line when that phasing line is acting as
66 a temporary external boundary;

67 c. The proposed cluster subdivision lies adjacent to an existing subdivision that
68 contains at least one lot that is smaller or not more than 5,000 square feet larger
69 than the smallest lot lying within the proposed cluster subdivision; or

70 d. Lots located along an external boundary lie adjacent to a parcel that:

71 1. Does not contain an existing dwelling; or

72 2. Contains a single existing dwelling that lies further than 150 feet away from all
73 external boundaries of the proposed cluster subdivision.

74 (2) In a subdivision consisting of 60 or more lots, each cluster shall contain no less than
75 three lots and no more than 20 lots. In a subdivision consisting of fewer than 60 lots,
76 each cluster shall contain no less than three lots and no more than one-third of the total
77 number of lots in the subdivision. The county may approve up to a five lot increase in
78 the number of lots in a cluster if:

79 a. The total number of lots cannot be equally divided into thirds and leaves a
80 remaining number of lots that does not meet the standard for the minimum number
81 of lots in a cluster; or

82 b. There are unusual circumstances, such as complications involving topography,
83 infrastructure, geotechnical, or geologic conditions, which warrant an increase.

84 (3) To ensure that a cluster subdivision reflects the characteristics of the zone in which it is
85 located, a minimum percentage of a cluster subdivision's adjusted gross acreage shall

86 be preserved as open space and dedicated as described in subsection (1) above. The
87 minimum open space areas are as follows:

88 a. In the Forest (F-40) Zone, a minimum of 90 percent of a cluster subdivision shall
89 be preserved as open space.

90 b. In the Forest (F-5) and Forest (F-10) Zones, a minimum of 80 percent of a cluster
91 subdivision shall be preserved as open space.

92 c. In the Agricultural Valley (AV-3), Forest Valley (FV-3), and the Ogden Valley
93 Destination and Recreation Resort (DRR-1) Zones, a minimum of 60 percent of a
94 cluster subdivision shall be preserved as open space.

95 d. In all other zones where a cluster subdivision is an allowed development type a
96 minimum of 30 percent of a cluster subdivision shall be preserved as open space.

97 (4) Lands that can be mitigated such as floodplain and wetlands are considered
98 developable and shall be counted towards density. Floodways within river corridors,
99 lakes, and naturally occurring pond areas, which could not be developed but provide
100 an amenity may also be a part of the open space, with 25 percent of this land credited
101 towards the overall density of the development if this land is used to provide amenities
102 and is accessible to the development.

103 (5) Areas designated as floodplain, as defined by the Federal Emergency Management
104 Agency or other qualified professional determined appropriate by the county engineer,
105 rivers and streams, with and including their designated river or stream corridor
106 setbacks, as defined by the Weber County Land Use Code, shall be located within a
107 cluster subdivision's open space area.

108 **Sec. 108-3-5. - Open space plan and development standards.**

109 (a) *Open space plan submittal.* In addition to the subdivision application requirements specified
110 in Title 106 of this Land Use Code, an open space preservation plan shall accompany an
111 application for preliminary and final approval of a cluster subdivision. The plan shall include
112 a narrative describing all proposed uses, phasing, and maintenance methods for all open
113 space parcels, and a site plan that shows proposed common areas, individually owned
114 preservation parcels, and the locations of existing and proposed future structures.

115 (1) For open space dedicated as common area parcels, the site plan shall show the
116 location of existing and future structures by identifying the structure's footprint.
117 Structures housing a subdivision utility or serving as a subdivision amenity shall be
118 subject to all applicable standards including all design review and applicable
119 architectural standards found in title 108 of the Weber County Land Use Code.

120 (2) For open space dedicated as individually owned preservation parcels whereon
121 buildings will be located, the site plan shall identify locatable building envelopes within
122 which all existing and future buildings must be located.

123 (b) *Open space parcel development standards and ownership regulations.* Unless otherwise
124 provided for in this section, open space parcels shall be developed in a manner that meets
125 all applicable standards, including but not limited to those found in the Weber County Land
126 Use Code. Open space parcels shall adhere to the following specific site development
127 standards:

128 (1) *Parcel area.* Unless otherwise regulated by the Weber-Morgan Health Department or
129 Weber County Land Use Code title 108, chapter 14, Hillside Development Review

130 Procedures and Standards, the minimum area for an open space parcel located within
131 a cluster subdivision is as follows:

132 a. Open space parcels dedicated as common area are not subject to minimum area
133 requirements.

134 b. Open space parcels dedicated as individually owned preservation parcels shall
135 contain an area of not less than five acres and shall be part of a contiguous area of
136 open space parcels consisting of not less than ten acres in total. Open space
137 parcels form a contiguous area if each open space parcel in the area shares a
138 common boundary line that is no less than 100 linear feet with another open space
139 parcel or lies directly across a street right-of-way, or other approved access, from
140 another open space parcel, with the common boundaries shared with the street
141 right-of-way being no less than 100 linear feet.

142 (2) *Parcel width.* Notwithstanding section 106-2-4(c) and title 108, chapter 14, Hillside
143 Development Review Procedures and Standards, and unless otherwise regulated by
144 the Weber-Morgan Health Department, open space parcels located within a cluster
145 subdivision are not subject to frontage requirements and do not have a minimum width
146 standard other than the standard described in section 108-3-4(1) and 108-3-5(b)(1).

147 (3) *Parcel coverage.*

148 a. Coverage of common area parcels by roofed structures shall not exceed ten
149 percent of the total parcel area.

150 b. Coverage of individually owned preservation parcels by roofed structures shall not
151 exceed two and a half percent of the total parcel area.

152 (4) *Parcel ownership.*

153 a. An open space parcel dedicated as common area shall be commonly owned by an
154 appropriate homeowner's association established under U.C.A. 1953, § 57-8a-101
155 et seq., the Community Association Act.

156 b. In addition to the standards of Section 108-3-6, an open space parcel may be
157 owned as an individually owned preservation parcel in accordance with the
158 following:

159 1. An individually owned preservation parcel of ten acres or more in area may be
160 owned by any person, regardless of whether the person owns a residential lot
161 within the subdivision.

162 2. An individually owned preservation parcel of less than ten acres in area may
163 only be owned by an owner of a lot within the same cluster subdivision.

164 3. The applicable ownership standard for an individually owned preservation
165 parcel shall be memorialized in the following manner:

166 i. An explanation of the applicable ownership standard and a perpetual
167 restriction conforming thereto shall be written into all agriculture, forest, or
168 other type of preservation easement granted pursuant to subsection (4);
169 and

170 ii. A note describing the applicable ownership standard shall be placed on
171 the final recorded plat.

172 c. In order to keep an individually owned preservation parcel from becoming uncondusive to
173 multiple-acreage preservation uses, an individually owned preservation parcel shall not be
174 sectioned into sub-areas of five acres or less by fencing or other physical barriers. The
175 planning commission may modify this requirement for uses that support the longevity of the
176 preservation, maintenance, and large-acreage use of the parcel. (c) *Maintenance*. The
177 open space parcel owner, whether an individual or an association, shall use, manage, and
178 maintain the owner's parcel in a manner that is consistent with the open space preservation
179 plan approved under subsection (1), and the agriculture, forest, or other type of
180 preservation easement executed under subsection (4).

181 (d) Preservation.

182 (1) Open space parcels are to be permanently preserved in a manner that is consistent
183 with the approved open space preservation plan.

184 (2) The applicant, prior to recording or as part of recording the final cluster subdivision plat,
185 shall grant and convey to the county, to each lot owner, and to the homeowner
186 association, if applicable, an open space easement over all areas dedicated as
187 common area or individually owned preservation parcels. The open space easement
188 shall incorporate and conform to the open space preservation plan approved under
189 subsection (1).

190 (3) If a cluster subdivision contains open space intended to preserve substantial or crucial
191 wildlife habitat, as defined by the Utah Division of Wildlife Resources, a wildlife habitat
192 easement meeting the requirements of the Utah Division of Wildlife Resources shall be
193 offered to the division.

194 (4) If a cluster subdivision contains an individually owned preservation parcel, the
195 applicant shall:

196 a. Identify and label on the final plat each such parcel as an agricultural, forest, or
197 other type of preservation parcel;

198 b. Further identify each preservation parcel by placing a unique identifying letter of
199 the alphabet immediately after the label;

200 c. Present an agricultural, forest, or other type of preservation easement to the
201 planning commission and gain their approval; and

202 d. Record an approved preservation easement on each parcel identified as an
203 agricultural, forest, or other type of preservation parcel.

204 (5) The planning commission may impose any additional conditions and restrictions it
205 deems necessary to ensure maintenance of the open space and adherence to the
206 open space preservation plan. Such conditions may include a plan for the disposition
207 or re-use of the open space property if the open space is not maintained in the manner
208 agreed upon or is abandoned by the owners.

209 (e) *Guarantee of open space improvements*.

210 (1) The county shall not require an applicant to deposit a financial guarantee for open
211 space improvements (e.g., clubhouse, pool, pergola, gazebo, etc.) that require a
212 certificate of occupancy and that remain incomplete at the time of final approval and
213 acceptance of the proposed cluster subdivision from the board of county
214 commissioners. The applicant or developer shall complete the improvements according
215 to the approved phasing component of an open space preservation plan. If the
216 applicant fails to complete improvements as presented in the open space preservation

217 plan, the county may suspend final plat approvals and record an instrument notifying
218 prospective lot buyers that future land use permits may not be issued for any
219 construction.

220 (2) The county shall require an applicant to deposit a financial guarantee for all open
221 space improvements (e.g., landscaping, trails, fencing, sheds, parking surfaces, etc.)
222 that do not require a certificate of occupancy and that remain incomplete at the time of
223 final approval and acceptance of the proposed cluster subdivision from the board of
224 county commissioners. The applicant or developer shall complete all improvements
225 according to the approved phasing component of an open space preservation plan.

226 **Sec. 108-3-6. – Reserved.**

227 **Sec. 108-3-7. - Lot development standards.**

228 Unless otherwise provided for in this section, residential building lots shall be developed in
229 a manner that meets all applicable standards, including but not limited to those found in the
230 Weber County Land Use Code. The following specific site development standards apply to lots
231 in cluster subdivisions:

232 (1) *Lot area.*

233 a. Unless otherwise regulated by the Weber-Morgan Health Department or Weber
234 County Land Use Code, title 108, chapter 14, Hillside Development Review
235 Procedures and Standards, a lot located within a cluster subdivision shall contain
236 an area of not less than 15,000 square feet.

237 b. A lot's minimum area is reduced to 6,000 square feet if:

238 1. The lot is located 50 feet or more from its own cluster subdivision boundary,
239 not including those boundaries formed by existing streets or internal phasing
240 lines if the phasing lines act as a temporary external boundary;

241 2. The lot lies within a cluster subdivision that is adjacent to an existing
242 subdivision that contains at least one lot that is smaller or not more than 5,000
243 square feet larger than the smallest lot lying within the subject cluster
244 subdivision; or

245 3. The lot lies within a cluster subdivision that is adjacent to an undeveloped
246 parcel. A parcel is considered undeveloped if it:

247 i. Does not contain an existing dwelling; or

248 ii. Contains an existing dwelling that lies further than 150 feet away from all
249 external boundaries of the proposed or subject cluster subdivision.

250 (2) *Lot width.* Unless otherwise regulated by the Weber-Morgan Health Department or
251 Weber County Land Use Code, title 108, chapter 14, Hillside Development Review
252 Procedures and Standards, the minimum lot width in a cluster subdivision is:

253 a. One hundred feet in the Forest (F-40) and the Forest (F-10) Zones.

254 b. Eighty feet in the Forest Residential (FR-1), Forest (F-5), Agricultural Valley (AV-
255 3), and the Forest Valley (FV-3) Zones.

256 c. Sixty feet in the Residential Estates (RE-15 and RE-20) and Agricultural (A-1, A-2,
257 and A-3) Zones.

258 d. Fifty feet in the Forest Residential (FR-3) and the Ogden Valley Destination and
 259 Recreation Resort (DRR-1) Zone.

260 (3) *Yard setbacks.* The minimum yard setbacks in a cluster subdivision are as follows:

| | |
|--|---|
| Front: | 20 feet |
| Side: | |
| Dwelling: | 8 feet |
| Accessory building: | 8 feet; except one foot if located at least six feet in rear of dwelling. |
| Accessory building over 1,000 square feet: | See Section 108-7-16 |
| Corner lot side facing street: | 20 feet |
| Rear: | 20 feet |

261 (4) *Building height.* The maximum height for a building in a cluster subdivision is as
 262 follows:

| | |
|--------------------|---------|
| Dwelling | 40 feet |
| Accessory building | 30 feet |

263

264 **Sec. 108-3-8. - Bonus density.**

265 The county may, in its discretion, allow for an increased number of residential lots by
 266 awarding bonus densities to those cluster subdivisions developed within the Western Weber
 267 County Planning Area. Cluster subdivisions within the Ogden Valley Planning Area are not
 268 eligible for bonus densities. The following presents the bonus density opportunities that are
 269 available to cluster subdivisions located within specific zoning boundaries:

270 (1) In the Forest (F-40) Zones, the county may award a maximum bonus density of 20
 271 percent based on an accumulation of any combination of the following:

272 a. If the cluster subdivision meets the purpose and intent of this chapter, up to a five
 273 percent bonus may be granted.

274 b. If the cluster subdivision provides a minimum of one road stub to an adjacent
 275 property where the planning commission determines that streets are needed to
 276 provide for current or future traffic circulation, up to a five percent bonus density
 277 may be granted.

278 c. If the cluster subdivision provides a minimum of one approved public access to
 279 public lands, up to a five percent bonus density may be granted.

280 d. If the cluster subdivision provides common area that offers easily accessible
 281 amenities, such as a trail, park, or community garden, that are open for use by the
 282 general public, up to a five percent bonus density may be granted.

283 e. If the cluster subdivision dedicates and conveys to the county, the state division of
284 wildlife resources, or both, an open space easement that permanently preserves
285 areas that have been identified by the state division of wildlife resources as having
286 substantial or crucial wildlife habitat value, up to a 15 percent bonus density may
287 be granted.

288 (2) In the Agricultural (A-1, A-2, and A-3) Zones, the county may grant a bonus density of
289 up to 50 percent if the applicant preserves an open space percentage above that
290 required by section 108-3-4(3)d; otherwise, the county may grant a bonus density of up
291 to 30 percent. Overall bonus density potential shall be no greater than a percentage
292 equal to the percentage of the subdivision's total area preserved as open space. The
293 county may award bonus densities based on an accumulation of any combination of
294 the following:

295 a. If a cluster subdivision meets the purpose and intent of this chapter, up to a ten
296 percent bonus may be granted.

297 b. If a cluster subdivision provides and implements an approved roadway landscape
298 and design plan that includes, but is not necessarily limited to, vehicle and
299 pedestrian circulation, lighting, and street trees of an appropriate species, size of
300 at least a two-inch caliper, and quantity of not less than eight trees for every 100
301 feet of road length, up to 20 percent bonus density may be granted.

302 c. For each five percent increment of open space preserved over 50 percent: a five
303 percent bonus density shall be granted up to the total bonus density allowed by
304 subsection (3).

305 d. If a cluster subdivision provides a minimum of one approved access to public
306 lands, up to a ten percent bonus density may be granted.

307 e. If a cluster subdivision provides common area that offers easily accessible
308 amenities such as trails, parks, or community gardens, that are open for use by the
309 general public, up to a 15 percent bonus density may be granted.

310 f. If ten percent of the lots and homes in a cluster subdivision are permanently set
311 aside for affordable housing as outlined by the Affordable Housing Act of 1990, up
312 to a 20 percent bonus density may be granted.

313 If a bonus density is granted for affordable housing, the applicant shall:

314 1. Present and gain Planning Commission approval of an effective plan and
315 method for guaranteeing and enforcing perpetual affordability. Any method
316 used, such as an affordable housing deed restriction, shall limit the sale or
317 rental of the affected lots and homes to a household with an income at or
318 below 80 percent of the county median income;

319 2. Identify and label, on the final plat, the lots set aside as affordable housing
320 Lots; and

321 3. Provide a note on the final plat explaining the nature of the housing restriction
322 on the lot and the method by which occupancy and affordability will be
323 regulated.

324 g. If a cluster subdivision preserves an agricultural parcel with an agriculturally based
325 open space preservation plan approved by the planning commission and records

326 an agricultural preservation easement on the parcel, a bonus density may be
327 approved as follows:

328 1. For a parcel containing at least ten acres but fewer than 20 acres, up to a 15
329 percent bonus density may be granted.

330 2. For a parcel containing at least 20 acres but fewer than 30 acres, up to a 20
331 percent bonus density may be granted.

332 3. For a parcel containing at least 30 acres but fewer than 40 acres, up to a 30
333 percent bonus density may be granted.

334 4. For a parcel containing at least 40 acres but fewer than 50 acres, up to a 40
335 percent bonus density may be granted if the parcel standing alone is greater
336 than the minimum open space requirement for the subdivision.

337 5. For a parcel containing at least 50 acres or more, up to a 50 percent bonus
338 density may be granted if the parcel standing alone is greater than the
339 minimum open space requirement for the subdivision.

340 h. If a cluster subdivision provides for the preservation of historical sites and buildings
341 that have been identified by the state historic preservation office as having notable
342 historical value, up to a five percent bonus density may be granted.

343 i. If a cluster subdivision provides for the development of excess sewage treatment
344 capacity, up to a five percent bonus density may be granted.

345 j. If a cluster subdivision dedicates and conveys to the county, the state division of
346 wildlife resources, or both, an open space easement that permanently preserves
347 areas that have been identified by the state division of wildlife resources as having
348 substantial or crucial wildlife habitat value, up to a 15 percent bonus density may
349 be granted.

350 k. If a cluster subdivision includes an open space parcel that consists of five acres or
351 more and is contiguous to permanently preserved open space on an adjoining
352 property located outside of the cluster subdivision, up to a 20 percent bonus
353 density may be granted.

354 **Sec. 108-3-9. - Homeowners association required.**

355 In order to provide for proper management and maintenance of commonly owned areas
356 and private improvements, all cluster subdivisions with such areas or improvements are
357 required to have a homeowners association. The applicant, prior to recording a final plat of the
358 cluster subdivision, shall:

359 (1) Establish a homeowners association and submit for the county's review the necessary
360 articles of incorporation, bylaws, and declaration of covenants, conditions, and
361 restrictions that provide for:

362 a. Compliance with Utah State Code;

363 b. The reason and purpose for the association's existence;

364 c. Mandatory membership for each lot or home owner and their successors in
365 interest;

366 d. The perpetual nature of the easements related to all dedicated open space
367 parcels;

- 368 e. Responsibilities related to liability, taxes, and the maintenance of recreational and
369 other infrastructure and facilities;
- 370 f. Financial obligations and responsibilities, including the ability to adjust the
371 obligations and responsibilities due to change in needs;
- 372 g. Association enforcement remedies; and
- 373 h. A notification of the county's ability to enforce the terms of the owner's dedication
374 on the subdivision dedication plat.
- 375 (2) Register the homeowners association with the State of Utah, Department of
376 Commerce.



Staff Report to the Western Weber and Ogden Valley Planning Commissions

Weber County Planning Division

Synopsis

Application Information

Application Request: Public hearing to discuss and take comment on a proposal to amend the following section of Weber County Code: Definitions (§101-1-7) to amend the definition of “height of building.”

Agenda Date: Tuesday, November 21, 2017 (Western Weber PC)
Tuesday, November 28, 2017 (Ogden Valley PC)

Staff Report Date: Tuesday, November 14, 2017

Applicant: Weber County Planning Division

File Number: ZTA 2017-09

Staff Information

Report Presenter: Charlie Ewert
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(801) 399-8763

Report Reviewer: RG

Applicable Ordinances

§101-1-7 - Definitions

Legislative Decisions

Decision on this item is a legislative action. When the Planning Commission is acting on a legislative item it is acting as a recommending body to the County Commission. Legislative decisions have wide discretion. Examples of legislative actions are general plan, zoning map, and land use code amendments. Typically, the criterion for providing a recommendation on a legislative matter suggests a review for compatibility with the general plan and existing ordinances.

Summary and Background

The Planning Division and Building Divisions have been collaborating about a better way to define and measure a building’s height. This is stemming from a couple of cases where a building was part way through the construction process before it was determined to be too tall.

This problem is usually caused by inadequate existing site topography on a site plan. For lots with slopes, determining height on paper is often much more challenging than realizing height in the real-world.

The amendments offered in Exhibit A are intended to help both the applicant and the plan reviewer to more accurately determine the height of the structure based on *finished* grade, rather than natural/existing grade.

Policy Analysis

Policy Considerations:

The current definition of ‘height of building’ indicates that the height should be measured from “natural grade.” Natural grade is not often easy to find once a site has been re-countered for the new building.

An easy solution would be to replace “natural grade” with “finished grade,” however, the unintended consequences of that may lead to an allowance for unattractive cuts or fills on a lot, or the ability for one owner to skirt the height regulation by building a taller home then filling in a “finished grade” around it meets the requirement. A hybrid between the two seems more appropriate.

This proposal will allow a little bit of excavation on a sloped lot to assist in the measurement of the height of the building, but only 10 feet of cut would be allowed before the difference between the “natural grade” and the finished grade starts counting against the building’s height.

The proposal also offers that private-market professionals calculate the average height of a building, based on their certifications in appropriate industry standards. In the absence of a licensed professional's certification of the average height of the building County staff will measure it based on the average of the middle of the low point and the high point of the grade at the foundation.

There are many ways to measure building height. Staff are happy to assist the planning commission consider alternatives if desired.

Conformance to the General Plan

Both general plans are relatively silent on the definition of height. However, both also suggest that development should fit the rural character of the community. Staff do not feel that the proposal would negatively affect the general plan(s).

Past Action on this Item

No formal action has occurred on this item.

Noticing Compliance

A hearing for this item before the Planning Commission has been posted for public notice in compliance with UCA §17-27a-205 and UCA §17-27a-502 in the following manners:

- Posted on the County's Official Website
- Posted on the Utah Public Notice Website
- Published in a local newspaper

Staff Recommendation

Staff recommends that the Planning Commission consider the text included as Exhibit A and offer staff critical feedback for additional amendments, if needed. If the Planning Commission is comfortable with the proposal, it could be forwarded to the County Commission with the following findings:

1. The changes will help ease administration of the Land Use Code.
2. The changes will are not detrimental to the general plan.
3. The changes are not detrimental to the general health, safety, and welfare of County residents.

Exhibits

- A. Proposed Ordinance Changes – Track Change Copy.

1 **Sec. 101-1-7. - Definitions.**

2 ...

3 *Building envelope.* The term "building envelope" means a portion of a lot, parcel, or tract of land which is
4 to be utilized as the building site as may be required by the cluster subdivision ordinance or as otherwise
5 volunteered on a subdivision plat. "Building envelope" shall not be construed to mean "buildable area"
6 as provided in this section.

7 *Building, height of.* The term "height of building" means the vertical distance ~~from between~~ the average
8 elevation of the ~~of the highest natural~~ finished or natural grade, whichever is most permissive, ~~and the~~
9 ~~lowest natural grade~~ of the land at the exterior footprint of the building to the highest point of ~~the coping of~~
10 ~~a flat roof, or to the deck line of a mansard roof, or to the highest point of the ridge of a pitch or hip roof~~
11 the building; provided, however, if the average elevation of the natural grade is higher than ten feet over
12 the average elevation of the finished grade, then the height of building shall be measured from ten feet
13 above the average elevation of the finished grade. Average elevation shall be determined by a licensed
14 surveyor, engineer, or architect, or by averaging the high point and the low point at the exterior footprint of
15 the building.

16 *Building, main.* The term "main building" means the principal building or one of the principal buildings
17 located on a lot or parcel designed or used to accommodate the primary use to which the premises are
18 devoted. Where a permissible use involves more than one structure designed or used for the primary
19 purpose, as in the case of apartment groups, each such permitted building on one lot as defined by this
20 title shall be deemed a main building.

21 ...