

**Minutes of the Western Weber Planning Commission meeting of November 21, 2017, held in the Weber County  
Commission Chambers, 2380 Washington Blvd. Floor 1, Ogden UT**

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

**Commissioners Present:** Mark Whaley, Chair  
Roger Heslop  
Jannette Borklund  
Jennifer Willener

**Commissioners Excused:** John Parke  
Wayne Andreotti  
Blake Hancock

**Staff Present:** Rick Grover, Planning Director; Charles Ewert, Planner, Courtlan Erickson, Legal Counsel

Commissioner Whaley turns the time over to Director Grover for announcements. Director Grover states that anyone present for the Sunset Equestrian Subdivision is advised that notices have been sent out that the item has been removed from the agenda. Notices will be sent out when it gets added to the agenda again. He also states that anyone present for this item is welcome to stay and provide feedback for the Cluster Subdivision.

**Administrative Items**

Approval of the meeting minutes Oct 10, 2017.

Commissioner Whaley asks for any changes and corrections to the minutes. He motions for minutes to be approved as presented.

A vote is taken: All Ayes. Chair Whaley declares the minutes approved as presented.

**(ZTA) 2017-14 –Public hearing to discuss and take comment on a proposal to amend the following sections of the Weber County Code: Presented by Charles Ewert, Weber County Principle Planner.**

Commissioner Whaley turns the time over to Director Grover and Charles Ewert to explain the 3 items being discussed regarding zoning text amendments.

Director Grover states there are 3 items regarding text amendments involving legislative changes. It is recommended that it is forwarded to the county commission for approval moving forward. It may be tabled to have staff look at it and address any issues. It is recommended that it is opened to a public hearing for question and comments. Director Grover turns the time over to Charles Ewert. Mr. Ewert gives an overview the changes made to the three sections of the zoning text amendments, as outlined in the staff report.

**a. PRUD area and Residential regulations (§108-5-5) to offer more flexibility to the number of allowed dwellings units in a PRUD and to increase open space requirements in exchange for flexibility.**

- The county has received an application suggesting the reduction of units from 24 lots to 6 if the developer provides 20 acres, not 10 or 80% of open space.
- This may help preserve open space and agriculture, especially in Western Weber. It could help stimulate and preserve open space on parcels of land that would otherwise not qualify for a PRUD.

**b. The Cluster Subdivision (§108-3) code to modify the minimum area for an individually owned agricultural parcel and to provide administrative edits.**

- Western Weber Commission has reviewed a cluster subdivision in which owned open space parcels were being proposed at one acre per parcel and found it is not conducive to the longevity of parcel preservation. It does not offer meaningful open spaces.
- Amendments will require that individually owned parcels be at least five acres each and be grouped in no less than 2 preservation parcels so that individually owned preservation parcels be no less than 10 acres.

**c. The definition of height (§101-1-7) and related height regulations to amend the method of measuring height.**

- Determining a better way to define and measure the height of a building, and make it more consistent.
- The amendments are intended to help applicants and plan reviewers accurately determine the height of a structure based on finished grade, rather than natural/ existing grade.

**Remarks from the planning commission.**

Commissioner Whaley asks about open space on line 39 sections 108-3-1. With regard to retention basins required to control any water within cluster subdivisions, does it count as an open space? Mr. Ewert states that it is not specified and notes it for future specification.

Commissioner Borklund asks about line 169-170 section 108-3 regarding the owners required to be in the same subdivision. Do they need to be in the same phase of development? Mr. Ewert states that on it should be individual, but there is room for flexibility depending on whether they are under the same developer.

Commissioner Willener asks about line 147 Parcel coverage defined in 5 acres where section percentage is 5 acres. Are 10 required for open space? Would it be 10 % in 2 1/2 % of a 5-acre parcel? Commissioner Willener states that there are two parcel definitions. Each parcel needs to be 5 acres of open space for a total of 10 contiguous.

Mr. Ewert states that it is 5 acres of coverage space and if you have 10 acres it would be 10. If you have 5 acres it would be 2 percent.

**Commissioner Whaley opens meeting to public comments and questions.**

Greg Bell 4023 W 2100 S- would like to thank those involved in the changes made. He states that they are a step in the right direction.

Mr. Bell asks about line 154 (3) (b), referring to parcel coverage. He wants to know if the items listed are the minimum requirements and whether a plan can be approved without them. Mr. Ewert responds that it is the minimum requirement and that it can be specified. He means to make it very clear.

Mr. Bell asks about section line 63. Why was the 50 ft. removed from the external boundaries? Why was it removed from the proposal? Mr. Ewert responds that it is not allowing or reducing 50 ft. It is merely changing it to 100ft more open space.

Mr. Bell asks about line 166 regarding agriculture parcel ownership. He wants to know what to do about landlocked parcels, for the subdivision that might have housing. How do you access them if you own them since it not a requirement to own a residential lot within the subdivision? He feels that it requires clarification. Mr. Ewert responds it is something that was not considered but does need to be addressed.

Mr. Bell asks about line 180 regarding agriculture preserves. He asks whether it allows for sectioning off for grazing areas. Is it allowed to put up fencing for this purpose, is it limited? The Mr. Bell States that regarding detentions basin he would like some clarification. Are they counted as agriculture preserve? He states that he believes that open space should mean open to the public. Detention basins are not agricultural preserves. He requests clarification.

Mr. Ewert responds that once sectioning is allowed for any purposes it's hard to control whose grazing or not. The code says you can't section in less than 5. Hopefully, 5 acre is reasonable when it comes to livestock. Director Grover asks if this comes in with the agriculture preservation plan. Mr. Ewert responds that it would but If the code says you can't section it off in less than 5 then the agricultural preservation plan we'd have to be rejected, but we might have to build the flexibility back in.

Mr. Bell states the minimum area required in a subdivision he suggests that 6,000 is pretty small and proposes that it be increased 9,000. Mr. Bell suggests that bonus density is up to the commission discretion, but it doesn't necessarily need to be granted. When it's reduced to 6,000 sq. feet it becomes high-density housing. He appreciated the changes made in defining being adjacent to. It has been subject to concern in the past. Mr. Ewert responds that the smaller you go the more open space you preserve. 9,000 is a viable option, but 6,000 allow for more open space possibilities within the Western Weber area.

Commissioner Whaley and Mr. Ewert ask Mr. Bell if all questions were addressed: All questions have been addressed.

Director Grover asks if the public hearing has been closed and whether the Planning Commission would like to take additional comments.

Commissioner Whaley responds that public hearing is not closed and asks if this raises any other questions. He states that anyone with question or comments should come forward and state name and address.

Shay Bitton 4308 W 2200 S – Shay asks about section 108-3-9 the preservation section. Regarding the Homeowners Association is there a way make it more particular on what the HOA requirements are? She states that the Homeowners Association is ineffective? Can maintenance restriction be put in on it?. Are there any restrictions to make them more reliable? Who enforces the problems? Mr. Erickson responds that the County is pretty limited regarding regulation and the internal workings of the homeowners association. They are authorized under state law, which governs HOA's. State law is fairly detailed in terms of what the requirements are. It's up to HOA and its governed documents to decide how they operate things. They are a private entity.

Mrs. Bitton asks if it is a covenant thing. Is it possible to write that in? Director Grover responds that as covenants can't restrict them. He states that we do have authority over the approval in terms of a conditional use permit. If conditions are not being met they can be revoked. It has to go back to the approval body. The issue with this is that once it fully billed out it is difficult to revoke anything because there are homes already built there. If there are homes that need to be built it becomes an issue obtaining building permits, because building permit could be revoked. Whether there is an HOA or not, they have to go through the conditional use process.

Commissioner Whaley asks if the HOA need to be governed by the same rules and regulations in the county as any other organizations. Can HOA's set up their own regulations regarding setbacks and easements? Director Grover states that their setbacks have to comply with zoning regulations regarding setbacks and easement. The CC&R are submitted by developer and are reviewed at the time of submittal. The developer will make a proposal and the county will look at it to make sure there are no violations with the county code. HOA's enforce the problems. The HOA is built up by the people that live in the area. It is set up by the developer. Once a percentage of the HOA is developed they are required set up the board. They are then required to set up a president and body that approve plans and open space as well as funding and amenities.

Commissioner Whaley asks if this answers Mrs. Bittion's Question. Mrs. Bittion states that for the most part, it does. Commissioner Whaley states that HOA's can't just take over the property and change regulations and asks if this might be her concern.

Mr. Ewert states that if the county approves something and someone violates it, there is a course of action. Regarding CC&R there is not much the county can do. Regarding issues like, litter and weeds there things in the county code, that can address the issues. Otherwise, you would have to go after the individual owners if possible.

Commissioner Heslop states that regarding HOA's and agriculture preservation until 60 days ago park option wasn't an option because there were no park district options in the unincorporated portion of Weber County. If the concern is long-term maintenance & preservation of open space, if they put in a park to standards, would the park district be willing to take over and maintain it? Where HOA's may not want to get involved, but if it is designed where it can be used for the public, would it be a viable option?

Mr. Ewert states that where the park district is its park entity, we could rely on their certification on whether and not they want the park. It can be listed as an option in the code.

Commissioner Heslop states that the park idea can impact the social development of the area. If there is good recreational facilities there is likely to be less delinquent activity. A park is a far better option to maintain green space and control what happens long term down the road. Mr. Ewert thinks it's a good idea. He will move forward in putting it in the code. Regarding the question about HOA is it required for a cluster subdivision. It is not generally seen even with individually owned open space parcels.

Commissioner Whaley asks if there are any other questions.

Greg Bell 4023 W 2100 S- asks about the section regarding minimums reduced to 6,000 sq. ft. He states that there are 3 different exceptions. It's not clear whether one or all need to be met. He believes that clarification is needed on the section regarding lots located 50 ft. or more from its own cluster subdivision. His understanding is that if everything along an existing a street cannot be reduced to 6,000 sq. ft. He states that there has been some confusion on this, and asks for clarification.

Mr. Ewert states will try to make it more efficient, but it is either or, it's not all of them.

Commissioner Borklund is concerned that agriculture preservation is not detailed; language needs to be put in the code regarding what is expected. It doesn't give long-term maintenance plan.

Mr. Ewert states that we've been told by land use attorney that if it's written in your code and it is administrative decision there is discretion, but he agrees and means to make it more clear and efficient.

**Commissioner Whaley closes public hearing.**

Commissioner Whaley asks if there are any further questions from the commission.

Mr. Erickson asks Mr. Ewert if there is a standalone requirement on for agricultural preservation in one of the subdivisions. does the code require any agricultural preservation or does it require open space preservation? Mr. Ewert states that it's open space preservations. They are options HOA's, agricultural preservation, and forestry. There is some discretion that can be enforced. We don't require one or the other. If you're going to have 50 percent bonus density we require 50 percent open space.

Commissioners Heslop asks if the proposal before the planning commission can be approved in portions, or should it be tabled for change. His concern is the 5-acre change. Commissioner Whaley states that considering portions would make it confusing. Commissioner Borklund states that they can be considered by A, B, and C. Mr. Ewert states that an ongoing legislative update can require anyone who submits an application to comply with the final decision. Mr. Erickson states it's up to the commissioners to decide how to act on each of the 3 different proposals separately.

**Motion:** Commissioner Borklund makes a motion to make an approval on items A. and C. based on the finding that they are compliant to the general plan. Vote Taken: All Ayes. Motion passes.

**Motion:** Commissioner Borklund makes a motion for public hearing on ZTA 2017-14 section b. (The code to modify the minimum area for an individually owned agricultural parcel and to provide administrative edits) be tabled until next meeting. Vote was taken: All Ayes. Motion passes.

**Planning Director Report:**

Director Grover asks about PC dinner January 16<sup>th</sup> or February 20th at the Timbermine at 6:30. Director Grover will discuss the PC dinner with Ogden Valley Commissions and board of adjustments to determine a date.

**Remarks from Legal Counsel**

Mr. Erikson addresses Mr. Ewert's question regarding applications already in place. He states that if the county has already formally started amendments there is no guarantee the application will be approved.

**Motion to adjourn: Commissioner Heslop**

**The meeting was adjourned at 6:17 p.m.**

Respectfully Submitted,

*Marta Borchert*