

OGDEN VALLEY PLANNING COMMISSION

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PLANNING REGULAR & WORK SESSION AGENDA

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January 02, 2018  
5:00 p.m.

*Pledge of Allegiance*

*Roll Call:*

1. Minutes: Approval of the April 12, 2016, May 17, 2016, June 27, 2016, September 05, 2016, October 24, 2017, November 28, 2017, and December 05, 2017 Meeting Minutes
2. Consent Agenda:
  - 2.1 CUP 2017-11: Consideration and action on a conditional use permit application for Marcella Naumu Real Estate Office located at 2548 N. Nordic Valley Drive, Eden in the Commercial Valley Resort (CVR-1) Zone. (Marcella Naumu, Applicant)
3. Petitions, Applications and Public Hearings
  - 3.1. Legislative Items
    - a. New Business
      1. ZTA 2017-13: Public hearing to discuss and take comment on a proposal to amend the following sections of Weber County Code: Definitions (§101-1-7), Conditional uses (§104-22-3, §104-23-3, §104-24-3, §104-25-3) to define Outdoor Storage and to include it as a conditional use in the M-1, MV-1, M-2, and M-3 zones.
      2. ZTA 2017-16: Public hearing to discuss and take comment on a proposal to amend the following sections of Weber County Code: Definitions (§101-1-7), Additions and enlargements (§108-12-3), Subdivision plat requirements for nonconforming lots; exemptions (§108-12-11), and Enlarging nonconforming lots (§108-12-12). The proposed amendment will allow parcels created prior to July 1, 1992 containing a permitted single family dwelling to be considered a Lot of Record.
4. Public Comment for Items not on the Agenda
5. Remarks from Planning Commissioners
5. Legal Counsel Remarks
6. Report of the Planning Director
7. Adjourn to Convene to a Work Session
- WS1. DISCUSSION: Parking Area on Parcel 22-021-0142 owned by Summit Mountain Holding Group LLC
- WS2. DISCUSSION: Modifications to the definition of "Height of Building" and additional clarifications regarding standards and regulations governing the height of a building.
- WS3. DISCUSSION: Modifications to the Cluster Subdivision ordinance to amend open space requirements and provide clarifications.
- WS4. DISCUSSION: (Time Pending): Modifications to the Planned Residential Unit Development (PRUD) ordinance to make a decision on a PRUD a legislative – not administrative – action.

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

***Please enter the building through the front door on Washington Blvd. if arriving to 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***



## Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

### Synopsis

#### Application Information

**Application Request:** Consideration and/or action on a conditional use permit for Marcella Naumu Real Estate Office.

**Agenda Date:** Tuesday, January 02, 2018

**Applicant:** Marcella Naumu

**File Number:** CUP 2017-11

#### Property Information

**Approximate Address:** 2548 N. Nordic Valley Dr., Eden, UT, 84310

**Project Area:** 7.46 acres

**Zoning:** Commercial Valley Resort Recreation zone (CVR-1)

**Existing Land Use:** Commercial

**Proposed Land Use:** Real Estate Office

**Parcel ID:** 21-031-0013

**Township, Range, Section:** T6N, R2E, Section 19 W

#### Adjacent Land Use

<b>North:</b>	Hwy 39/Residential	<b>South:</b>	Agricultural
<b>East:</b>	Commercial	<b>West:</b>	Agricultural/Residential

#### Staff Information

**Report Presenter:** Tammy Aydelotte  
taydelotte@co.weber.ut.us  
801-399-8794

**Report Reviewer:** RK

### Applicable Ordinances

- Weber County Land Use Code Title 101 Chapter 1 General Provisions, Section 7 Definitions
- Weber County Land Use Code Title 104 Chapter 11 (CVR-1 Zone)
- Weber County Land Use Code Title 108 Chapter 4 (Conditional Uses)
- Weber County Land Use Code Title 108 Chapter 2 (Ogden Valley Architectural, Landscape, and Screening Standards)
- Weber County Land Use Code Title 108 Chapter 1 (Design Review)
- Weber County Land Use Code Title 110 Chapter 2 (Ogden Valley Signs)
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### Summary and Background

The Planning Division recommends approval of the conditional use permit for Marcella Naumu Real Estate Office. The applicant is requesting approval of a conditional use permit for the Marcella Naumu Real Estate Office at 7345 E. 900 S. in Huntsville. The CVR-1 Zone allows a "Real estate office" as a conditional use. The proposed location is an existing structure previously used as a retail space, as well as a real estate office. The building currently houses a restaurant, with office space to lease. Previously, the office space was used for off road vehicle and recreation equipment sales, service, and rentals.

Conditional use permits should be approved as long as any detrimental effects can be mitigated. The Uniform Land Use Code of Weber County (LUC) already specifies certain standards necessary for mitigation of detrimental effects to which the proposal must adhere. To ensure that the natural environment is preserved to the greatest possible extent, the Planning Commission, subject to the reviews and recommendations of the required public agencies, must review and approve the general site and architectural design of the building, the layout of the parking areas, and the landscaping. The following is staff's analysis of the proposed PRUD as a condition use, and the design review.



## Analysis

General Plan: The proposal conforms to the Ogden Valley General Plan by directing new commercial development to Huntsville (pg. 25 Ogden Valley General Plan, Commercial Development Goal 1 in the 2016 Ogden Valley General Plan). As a conditional use, this operation is allowed in the CVR-1 Zone. With the establishment of appropriate conditions as determined by the Planning Commission, this operation will not negatively impact any of the goals and policies of the General Plan.

Zoning: The subject property is located within the Commercial Valley Resort Recreation (CVR-1) Zone. The purpose of the CVR-1 Zone can be further described in LUC §104-11-1 as follows:

*The purpose of the CVR-1 zone is to provide locations in the Ogden Valley and at major recreation resort areas, where service facilities and goods normally required by the public in the pursuit of general recreation activities can be obtained.*

The CVR-1 Zone has specific standards identified in the LUC §108-14-3(2), that shall be met as part of the development process. The applicable standards are as follows:

- One parking space shall be provided for every two employees, plus four spaces for client use per LUC§108-8-4
- All landscaping requirements have been met by the property owner.
- Wall signs: Each freestanding building or complex of buildings is allowed one wall sign per street frontage which shall not exceed five percent of the square footage of the front of the building (linear footage of the front of the building, multiplied by the height of the building; multiplied by five percent) not including false fronts. If multiple units, each unit to be allowed five percent of width of the unit multiplied by the height.

Conditional Use Review: A review process has been outlined in LUC §108-4-3 to ensure compliance with the applicable ordinances and to mitigate anticipated detrimental effects. Prior to commencing work, the applicant will need to receive approval from the applicable agencies for the proposal. A condition has been made part of the Planning Division's recommendations to ensure that this standard is met.

Design Review: The CVR-1 zone and the proposed conditional use mandates a design review as outlined in LUC Title 108 Chapter 1 to ensure that the general design, layout and appearance of the building remains orderly and harmonious with the surrounding neighborhood. As part of this review, the Planning Commission shall consider the applicable matters based on the proposed conditional use and impose conditions to mitigate deficiencies where the plan is found deficient. The matters for consideration are as follows:

1) Considerations relating to traffic safety and traffic congestion. The proposal provides adequate ingress and egress for patrons of the site. The site has clear site distance from Highway 39 and the adjacent landscaping and signage. After performing a site visit to the subject property, it was determined that the existing parking meets the requirements as outlined in LUC Title 108 Chapter 8. The applicant hasn't provided additional improvements at this time and staff does not feel that additional improvements are necessary.

2) Considerations relating to outdoor advertising. The applicant has proposed signage that meets the requirements as outlined in LUC § 110-2-5, and 110-2-9. Sign #1 will be located on the marquee sign at the entrance to the parking lot right off of Hwy 39. The sign will occupy the upper portion of the marquee sign measuring 12 feet in width and 28 inches in height, on both sides of the marquee. Appearance of the sign will consist of a dark background (a charcoal gray) with one image, and 8 inch letters that will cover no more than 40% of the sign area. The sign will be back-lit, however lighting will be minimized by the dark background of the sign.

Sign #2 will be located above the office entrance and will measure a maximum of 20 square feet. Sign materials will be similar to those located on the marquee sign. This will be an unlit sign with copy that will occupy no more than 40% of the sign area.

3) Considerations relating to landscaping, screening and buffering. After performing a site visit to the subject property, it was determined that the existing landscaping meets the requirements as outlined in LUC Title 108 Chapter 2 by conceptually addressing the minimum landscaping requirements of the Design Review as outlined in





Weber County Conditional Use Permit Application			
Application submittals will be accepted by appointment only. (801) 399-8791. 2380 Washington Blvd. Suite 240, Ogden, UT 84401			
Date Submitted / Completed	Fees (Office Use)	Receipt Number (Office Use)	File Number (Office Use)
<b>Property Owner Contact Information</b>			
Name of Property Owner(s) Carol Petersen		Mailing Address of Property Owner(s)	
Phone 801-791-0403	Fax		
Email Address (required) (Garr Petersen's)		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	
<b>Authorized Representative Contact Information</b>			
Name of Person Authorized to Represent the Property Owner(s) Garr Petersen		Mailing Address of Authorized Person	
Phone 801-791-0403	Fax		
Email Address Garr @ogdenvalleysports.com		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	
<b>Property Information</b>			
Project Name Chris's		Total Acreage 7.46	Current Zoning CVR-1
Approximate Address 7345 E. 900 S.		Land Serial Number(s) 210310013	
Proposed Use Real Estate Office			
<b>Project Narrative</b> <p>Requesting an approval for the opening of a real estate brokerage branch office (Keller Williams), at 7345 E. 900 S. in Huntsville. This office will provide residential real estate services for the Huntsville area and the greater Ogden Valley. It will be a convenient location for real estate transactions as well as add additional potential customers for the other businesses in the area.</p> <p>Marcella Naumu 801-388-0420 mnaumu@gmail.com</p>			

**Property Owner Affidavit**

I (We), Carol Petersen, depose and say that I (we) am (are) the owner(s) of the property identified in 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.

Carol Petersen  
(Property Owner)

\_\_\_\_\_  
(Property Owner)

Subscribed and sworn to me this 14 day of June, 2017.



Amanda Rodie  
(Notary)

**Authorized Representative Affidavit**

I (We), \_\_\_\_\_, the owner(s) of the real property described in the attached application, do authorize as my (our) representative(s), \_\_\_\_\_, to represent me (us) regarding the attached application and to appear on my (our) behalf before any administrative or legislative body in the County considering this application and to act in all respects as our agent in matters pertaining to the attached application.

\_\_\_\_\_  
(Property Owner)

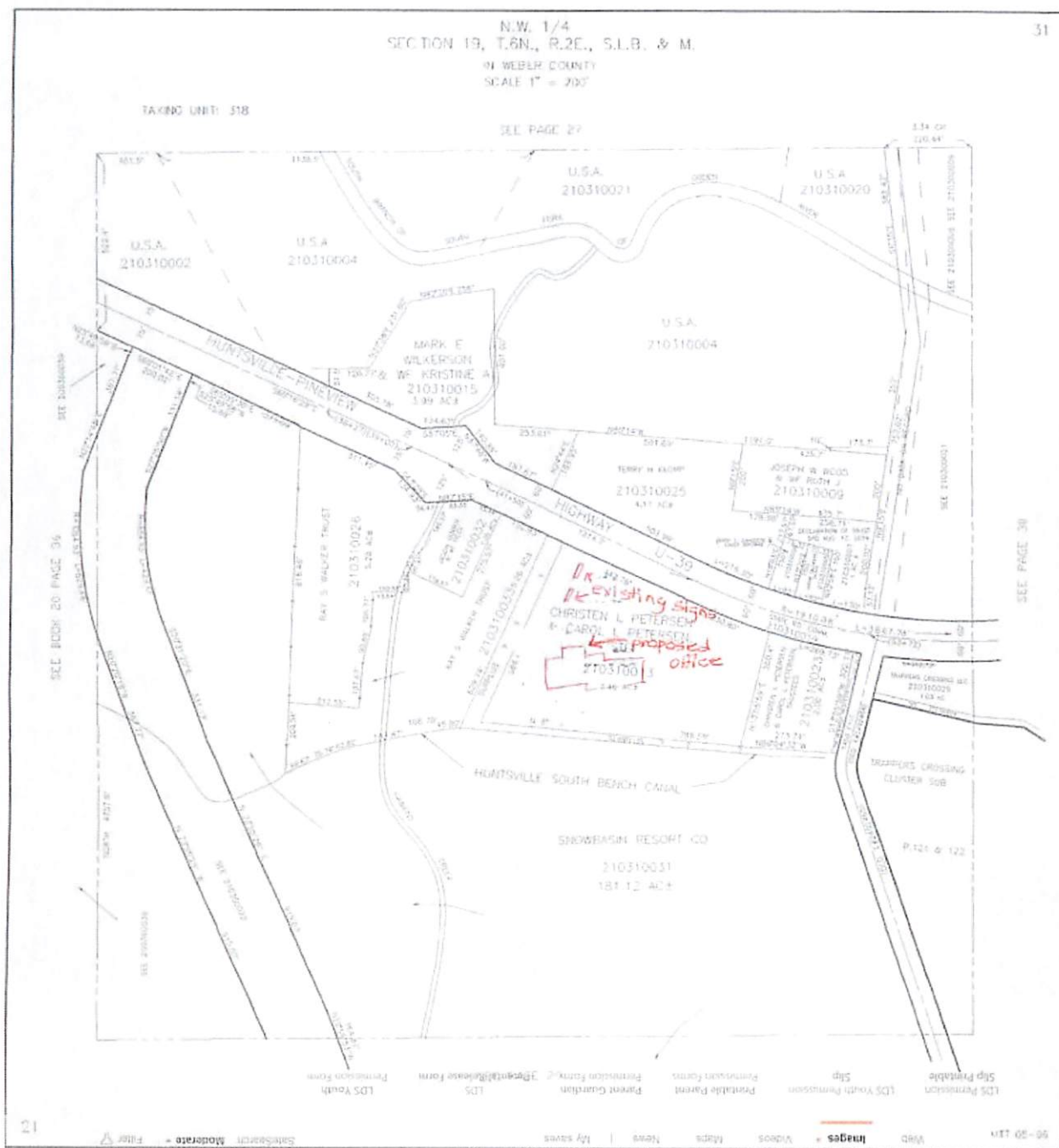
\_\_\_\_\_  
(Property Owner)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me \_\_\_\_\_, the signer(s) of the Representative Authorization Affidavit who duly acknowledged to me that they executed the same.

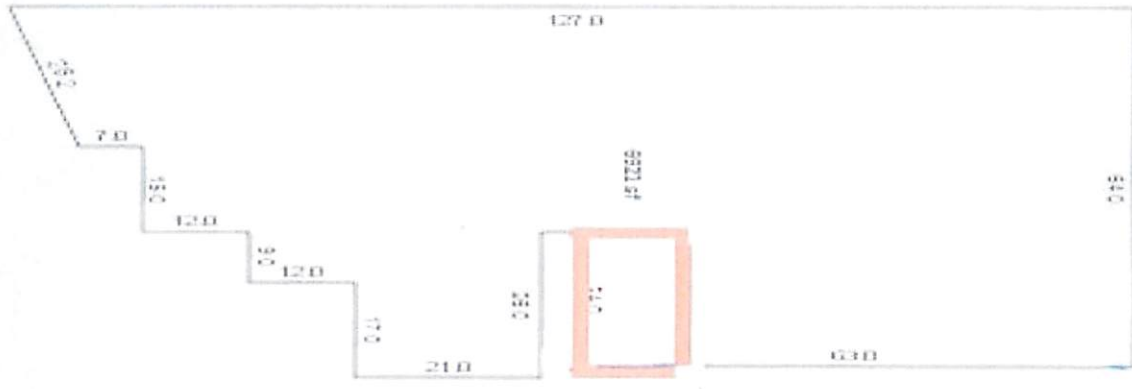
\_\_\_\_\_  
(Notary)



## Exhibit B – Site Plan



Office in red



Sketch by Apex Media™



**Kwsuccess**  
**KELLERWILLIAMS REALTY**



**KELLER  
WILLIAMS  
Realty**

**888-888-8888**  
**Marcella Naumu**  
[www.MyWebAddress.com](http://www.MyWebAddress.com)











## Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

### Synopsis

#### Application Information

**Application Request:** Public hearing to discuss and take comment on a proposal to amend the following sections of Weber County Code: Definitions (§101-1-7), Conditional uses (§104-22-3, §104-23-3, §104-24-3, §104-25-3) to define Outdoor Storage and to include it as a conditional use in the M-1, MV-1, M-2, and M-3 zones.

**Agenda Date:** Tuesday, January 02, 2018  
**Staff Report Date:** Wednesday, December 27, 2017  
**Applicant:** Weber County Planning Division  
**File Number:** ZTA 2017-13

#### Staff Information

**Report Presenter:** Steve Burton  
sburton@co.weber.ut.us  
801-399-8766

**Report Reviewer:** CE

### Applicable Ordinances

- Weber County Land Use Code, Sec. 101-1-7 (Definitions).
- Weber County Land Use Code, Title 104, Chapter 22 (Manufacturing Zone M-1).
- Weber County Land Use Code, Title 104, Chapter 23 (Ogden Valley Manufacturing Zone MV-1).
- Weber County Land Use Code, Title 104, Chapter 24 (Manufacturing Zone M-2).
- Weber County Land Use Code, Title 104, Chapter 25 (Manufacturing Zone M-3).

### 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 current Weber County Land Use Code does not define "Outdoor Storage" and does not specify its permissibility in each zone. A recent change to the County Land Use, Development, and Management Act (H.B. 232) states "If a land use regulation does not plainly restrict a land use application, the land use authority shall interpret and apply the land use regulation to favor the land use application." By defining and permitting the use in certain zones the county will be able to regulate where outdoor storage is permitted. The proposed text amendment will allow "Outdoor Storage" only when authorized by a conditional use permit within the M-1, MV-1, M-2, and M-3 zones.

### Policy Analysis

The permitted uses within the manufacturing zones often require the storage of materials outside for a period greater than 24 hours. By conditionally permitting outdoor storage within the manufacturing zones the county will be able to regulate each application for outdoor storage by incorporating design review considerations as well as conditions related to the other requirements of the Land Use Code. Including outdoor storage as a use only in the manufacturing zones will indicate that it is not permitted in any other zones.

### Conformance to the General Plan

The Ogden Valley General Plan identifies a goal to ensure that "higher intensity uses, such as industrial and mining activities in the Ogden Valley planning area, are both located and regulated in a manner that minimizes



adverse impacts and preserves the rural character of the planning area" (Ogden Valley General Plan, Commercial Development Goal 3, Page 49). By conditionally allowing outdoor storage in the MV-1 zone, each application for outdoor storage will be subject to the conditional use and design review standards to ensure that the proposal minimizes adverse impacts and preserves the rural character of the valley.

### **Past Action on this Item**

No action has occurred on this item.

### **Noticing Compliance**

A hearing for this item was published 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 Ogden Valley Planning Commission recommend approval of the text included as Exhibit A and Exhibit B of this staff report based on the following findings:

1. The changes cause no adverse effect on the intent of the general plans.
2. The changes will provide for a more efficient administration of the Land Use Code.
3. The changes will enhance the general welfare of County residents.

### **Exhibits**

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

**TITLE 101 - GENERAL PROVISIONS**

...

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

...

*Outdoor Storage.* The term "Outdoor Storage" means items for sale, storage, or display, for commercial or manufacturing purposes, which are not in an enclosed building, for a period greater than 24 hours.

...

**TITLE 104 - ZONES**

...

**CHAPTER 22. - MANUFACTURING ZONE M-1**

...

**Sec. 104-22-3. - Conditional uses.**

...

(24) Water storage reservoir developed by a public agency and meeting the requirements of title 108, chapter 10 of this Land Use Code.

(25) Outdoor storage.

...

**CHAPTER 23. - OGDEN VALLEY MANUFACTURING ZONE MV-1**

...

**Sec. 104-23-3. - Conditional uses.**

...

(11) Dwelling unit for proprietor or employee, who also serves as night watchman and his immediate family, provided that an additional 3,000 square feet of landscaped area is provided for the residential use. As a conditional use, the planning commission, for the planning area in which the application is made, shall have the discretion to approve either an attached or a detached dwelling, based upon the primary manufacturing use and architectural design to protect the noise levels and privacy of the resident.

(12) Outdoor storage.

...

**CHAPTER 24. - MANUFACTURING ZONE M-2**

...

**Sec. 104-24-3. - Conditional uses.**

...

(17) Dwelling unit for proprietor or employee, who also serves as night watchman, and their immediate family, provided that an additional 3,000 square feet of landscaped area is provided for the residential use. As a conditional use, the planning commission, for the planning area in which the application is made, shall have the discretion to approve either

39 an attached or a detached dwelling, based upon the primary manufacturing use and  
40 architectural design to protect the noise levels and privacy of the residents.

41 (18) Outdoor storage.

42 ...

43 **CHAPTER 25. - MANUFACTURING ZONE M-3**

44 ...

45 **Sec. 104-25-3. - Conditional uses.**

46 ...

47 (18) Storage of petroleum.

48 (19) Outdoor storage.

49 ...



**TITLE 101 - GENERAL PROVISIONS**

...

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

...

Outdoor Storage. The term "Outdoor Storage" means items for sale, storage, or display, for commercial or manufacturing purposes, which are not in an enclosed building, for a period greater than 24 hours.

...

**TITLE 104 - ZONES**

...

**CHAPTER 22. - MANUFACTURING ZONE M-1**

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**Sec. 104-22-3. - Conditional uses.**

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(24) Water storage reservoir developed by a public agency and meeting the requirements of title 108, chapter 10 of this Land Use Code.

(25) Outdoor storage.

...

**CHAPTER 23. - OGDEN VALLEY MANUFACTURING ZONE MV-1**

...

**Sec. 104-23-3. - Conditional uses.**

...

(11) Dwelling unit for proprietor or employee, who also serves as night watchman and his immediate family, provided that an additional 3,000 square feet of landscaped area is provided for the residential use. As a conditional use, the planning commission, for the planning area in which the application is made, shall have the discretion to approve either an attached or a detached dwelling, based upon the primary manufacturing use and architectural design to protect the noise levels and privacy of the resident.

(12) Outdoor storage.

...

**CHAPTER 24. - MANUFACTURING ZONE M-2**

...

**Sec. 104-24-3. - Conditional uses.**

...

(17) Dwelling unit for proprietor or employee, who also serves as night watchman, and their immediate family, provided that an additional 3,000 square feet of landscaped area is provided for the residential use. As a conditional use, the planning commission, for the planning area in which the application is made, shall have the discretion to approve either

39 an attached or a detached dwelling, based upon the primary manufacturing use and  
40 architectural design to protect the noise levels and privacy of the residents.

41 | [\(18\) Outdoor storage.](#)

42 ...

43 **CHAPTER 25. - MANUFACTURING ZONE M-3**

44 ...

45 **Sec. 104-25-3. - Conditional uses.**

46 ...

47 (18) Storage of petroleum.

48 | [\(19\) Outdoor storage.](#)

49 ...



## Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

### Synopsis

#### Application Information

**Application Request:** Public hearing to discuss and take comment on a proposal to amend the following sections of Weber County Code: Definitions (§101-1-7), Additions and enlargements (§108-12-3), Subdivision plat requirements for nonconforming lots; exemptions (§108-12-11), and Enlarging nonconforming lots (§108-12-12). The proposed amendment will allow parcels created prior to July 1, 1992 containing a permitted single family dwelling to be considered a Lot of Record.

**Agenda Date:** Tuesday, January 02, 2018  
**Staff Report Date:** Wednesday, December 27, 2017  
**Applicant:** Weber County Planning Division  
**File Number:** ZTA 2017-16

#### Staff Information

**Report Presenter:** Steve Burton  
sburton@co.weber.ut.us  
801-399-8766  
**Report Reviewer:** CE

### Applicable Ordinances

- Weber County Land Use Code, Sec. 101-1-7 (Definitions).
- Weber County Land Use Code, Title 108, Chapter 12 (Noncomplying Structures, Nonconforming Uses, and Nonconforming Lots).

### 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

There are currently a number of parcels in unincorporated Weber County created prior to July 1, 1992, that contain lawfully permitted dwellings that are not considered a "Lot of Record" because they were not the first or second division of property and did not meet the zoning requirements at the time they were created. The county currently considers these parcels illegal and will not issue any land use permits for new structures proposed to be built on them. The owners of these parcels have difficulties selling their homes because the parcels are considered illegal.

The proposed text amendment will allow parcels containing a lawfully permitted dwelling prior to July 1, 1992 to be considered legal and a "Lot of Record". The proposed text amendment will also incorporate the new definition of "Lot of Record" into the chapter of LUC that regulates noncomplying structures, nonconforming uses, and nonconforming lots.

### Policy Analysis

The term "Lot of Record" was first adopted into the Weber County Land Use Code on March 2, 2010 in order to restrict the use and development of lots that had not undergone the subdivision process and did not meet zoning requirements. Since the adoption of the term the county has been able to withhold land use/ building permits as well as record notices of noncompliance on the title of illegal parcels.



The proposed text amendment includes the date "prior to July 1, 1992" in order to remain consistent with the circumstance in the existing definition of "Lot of Record" that states "A parcel/lot described in a deed, sales contract or survey that was recorded in the office of the Weber County Recorder in between January 1, 1966, and June 30, 1992, which complied with the zoning requirements in effect at the time of its creation and was shown to be the first or second division of a larger parent parcel..." The proposed text amendment is also a clean-up of certain sections of the noncomplying structures, nonconforming uses, and nonconforming lots chapter (LUC 108-12) to provide for a more efficient administration of the Land Use Code.

### **Conformance to the General Plan**

The Ogden Valley General Plan states that a purpose of the plan is to "preserve property rights" (Ogden Valley General Plan, Abstract and Reference Table, Page VI). The proposed text amendment will add to the definition of "Lot of Record" allowing certain parcels with existing homes on them to be considered legal, thereby preserving the development rights of those parcels.

### **Past Action on this Item**

No action has occurred on this item.

### **Noticing Compliance**

A hearing for this item was published 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 Ogden Valley Planning Commission recommend approval of the text included as Exhibit A and Exhibit B of this staff report based on the following findings:

1. The changes cause no adverse effect on the intent of the general plans.
2. The changes will provide for a more efficient administration of the Land Use Code.
3. The changes will enhance the general welfare of County residents.

### **Exhibits**

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

**Title 101 - GENERAL PROVISIONS**

...

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

*Lot of record.* A lot of record is defined as any one of the following circumstances:

- (1) A parcel of real property identified as a building lot on an unrecorded subdivision plat that has been approved by Weber County and is on file in the Weber County Planning Office; or
- (2) A parcel of real property identified as a building lot on a subdivision plat that has been approved by Weber County and recorded in the office of the Weber County Recorder; or
- (3) A parcel or lot described in a deed, sales contract or survey that was recorded in the office of the Weber County Recorder before January 1, 1966; or
- (4) A parcel or lot described in a deed, sales contract or survey that was recorded in the office of the Weber County Recorder in between January 1, 1966, and June 30, 1992, which complied with the zoning requirements in effect at the time of its creation and was shown to be the first or second division of a larger parent parcel; or
- (5) A parcel or lot that was created in its current size and configuration and contained a lawfully permitted single family dwelling prior to July 1, 1992; or
- (6) A parcel/lot that does not fall within any one of the previously listed circumstances but has received a variance from the Weber County Board of Adjustment which has otherwise deemed a particular parcel/lot as a lot of record.

...

**Title 108 - STANDARDS**

...

**CHAPTER 12. - NONCOMPLYING STRUCTURES, NONCONFORMING USES, AND NONCONFORMING LOTS**

**Sec. 108-12-1. - Purpose and intent.**

The purpose and intent of this chapter is to provide standards for the development and use of noncomplying structures, nonconforming uses, and nonconforming lots. These structures, uses, and lots are considered legal, despite not meeting the current requirements of the zone in which they are located.

**Sec. 108-12-2. - Maintenance, repairs, and alterations.**

- (a) Maintenance, repairs, and structural alterations may be made to noncomplying structures on lots of record.
- (b) Dwellings or other structures built on lots or parcels which were once legal, but have since been modified in a manner that is in violation of applicable laws, shall not be issued land use or building permits, unless the structure is being strengthened or restored to a safe



condition, or the lot or parcel is made to conform to current zoning regulations. In restoring the structure to a safe condition, no expansion of the structure is allowed.

**Sec. 108-12-3. - Additions and enlargements.**

(a) Except as provided in subsection (c), a structure which is occupied by a nonconforming use shall not be added to or expanded in any manner, unless such expansion is made to conform to all yard and use regulations of the zone in which the structure is located,

(b) Except as provided in subsection (c), a noncomplying structure (main or accessory) shall not be added to or enlarged in any manner, unless such addition or enlargement conforms to all the regulations of the zone in which it is located, or conforms to the reduced yard setbacks as allowed in section 108-12-13.

(c) A legally constructed dwelling or other structure on a lot of record, which has yard setbacks that are less than the required yard setbacks for the zone in which it is located, shall be allowed to have an addition, provided that:

(1) The addition does not encroach into the required yard setbacks further than the existing dwelling or other structure; and

(2) The addition is located completely on the same property as the existing structure and does not encroach into a road right-of-way or on to adjacent property.

(d) A legally constructed dwelling or other structure on a lot of record, which is located within a stream corridor setback (as defined by the Weber County Land Use Code sections 108-7-23 and/or 104-28-2), may be added to or enlarged, provided that:

(1) The addition does not encroach into the stream corridor setback further than the existing dwelling or other structure; and

(2) The addition meets the yard setback requirements of the zone in which it is located or conforms to the reduced yard setbacks as allowed in section 108-12-13; or

(3) The addition does not encroach into the required yard setbacks further than the existing dwelling or other structure.

**Sec. 108-12-4. - Alteration where parking insufficient.**

A structure lacking sufficient automobile parking space as required by this chapter may be altered or enlarged, provided additional automobile parking space is supplied to meet the requirements of the Weber County Land Use Code.

**Sec. 108-12-5. - Moving noncomplying structures.**

A noncomplying structure shall not be moved in whole or in part to any other location on a lot or parcel, unless every portion of such structure is made to conform to all regulations of the zone in which it is located, or made to conform to the reduced yard setbacks as allowed in section 108-12-13.

**Sec. 108-12-6. - Restoration of damaged buildings.**

A noncomplying structure which is damaged or partially destroyed by fire, flood, wind, earthquake, or other calamity, act of God, or the public enemy, may be restored and the occupancy or use of such structure or part thereof, may be continued or resumed, provided that such restoration is started within a period of one year, by obtaining a land use permit, and is diligently pursued to completion.



**Sec. 108-12-7. - One-year vacancy or abandonment.**

- (a) A legal structure, or portion thereof, which is occupied by a nonconforming use, and which is or hereafter becomes vacant and remains unoccupied for a continuous period of one year, except for dwellings and structures to house animals and fowl, shall not thereafter be occupied except by a use which conforms to the use regulations of the zone in which it is located. Wherever a nonconforming use has been discontinued for a period of one year, such use shall not thereafter be re-established and any future use shall be in conformance with the current provisions of the Weber County Land Use Code.
- (b) Any building or structure for which a valid building permit has been issued and actual construction was lawfully begun prior to the date when the structure became noncomplying, may be completed and used in accordance with the plans, specifications and permit on which said building permit was granted. The term "actual construction" is hereby defined to be the actual placing of construction materials in their permanent position, fastened in a permanent manner, actual work in excavating a basement or the demolition or removal of an existing structure begun preparatory to rebuilding; provided that in all cases actual construction work shall be diligently carried on until the completion of the building or structure involved.

**Sec. 108-12-8. - Change of use.**

The nonconforming use of a legal structure may not be changed except to a conforming use. Where such a change is made to a conforming use, the use shall not thereafter be changed back to a nonconforming use.

**Sec. 108-12-9. - Expansion of nonconforming use.**

A nonconforming use may be extended to include the entire floor area of the existing legal structure in which it was conducted at the time the use became nonconforming; provided, however, that a land use permit is first obtained for such extension of use.

**Sec. 108-12-10. - Legal use of nonconforming lots.**

Development on a nonconforming lot is permitted. Development on a nonconforming lot is limited to only those permitted and conditional uses allowed on the smallest minimum lot size for the applicable zone. A new use on a nonconforming lot is prohibited if the proposed use requires a lot size larger than the smallest lot size permitted in the zone. A legally established use may continue on a nonconforming lot regardless of the lot size requirements of the use.

**Sec. 108-12-11. - Subdivision plat requirements for nonconforming lots; exemptions.**

All lots and parcels shall be platted as part of a subdivision in conformance with the requirements of title 106 of this Land Use Code, unless otherwise exempted by state code or this Land Use Code. The platting of nonconforming lots, and the amendment to a platted subdivision containing nonconforming lots are governed as follows:

- (1) The following rules govern the treatment of an unplatted lot that does not conform to the current lot standards and may not have complied with the requirements of the subdivision code in effect at the time of the lot's creation:
- a. If the existing lot can be defined as a lot of record, as defined in section 101-1-7, the lot shall be exempt from subdivision platting requirements.

- b. If the existing lot was created prior to July 1, 1992 and contained a lawfully permitted single family dwelling unit, then the lot shall be exempt from subdivision platting requirements, and is a nonconforming lot.
- c. If the existing lot was created prior to July 1, 1992, and does not qualify for the provisions of subsections (1)a. and (1)b., then the lot shall be platted in accordance with title 106 of this Land Use Code. Lot standards applicable for such subdivision lot may be reduced to meet the minimum standards of the zone in effect at the time of the lot's creation so long as it does not create any more lots than currently exist, and the current lot size is not materially reduced from its current acreage, except for minor adjustments necessary to facilitate a more accurate legal description. All such platted lots that do not conform to current zoning standards shall thereafter be considered nonconforming lots. A lot that does not meet the minimum standards of the zone in effect at the time of the lot's creation may be reconfigured upon platting to comply with such standards as long as the reconfiguration does not cause any other lot to become nonconforming or more nonconforming. A lot platted pursuant to this subsection may be further reduced in size to accommodate any right-of-way dedication as may be required by title 106 of this Land Use Code. No unplatted lot or parcel governed by this subsection shall be granted a land use permit prior to subdivision platting.
- (2) Any lot legally platted within the bounds of a subdivision that was created pursuant to the standards of the zoning code and subdivision code in effect at the time of its creation, but no longer complies due to subsequent changes to these codes, may be amended pursuant to the minimum standards in effect at the time of its creation. The amendment shall not create any new lots. An amended plat shall be required.

**Sec. 108-12-12. - Reconfiguring nonconforming lots.**

Nonconforming lots may be reconfigured in a manner that complies with the standards of the zone in effect at the time of the lot's creation if the reconfiguration does not create any more lots than currently exist. The reconfiguration shall not cause any other lot to become nonconforming or more nonconforming. If the nonconforming lot is part of a platted subdivision an amended subdivision plat is required.

...



**Title 101 - GENERAL PROVISIONS**

...

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

*Lot of record* ~~(lawfully created lot)~~. A lot of record is defined as any one of the following circumstances:

- (1) A parcel of real property identified as a building lot on an unrecorded subdivision plat that has been approved by Weber County and is on file in the Weber County Planning Office; or
- (2) A parcel of real property identified as a building lot on a subdivision plat that has been approved by Weber County and recorded in the office of the Weber County Recorder; or
- (3) A parcel or lot described in a deed, sales contract or survey that was recorded in the office of the Weber County Recorder before January 1, 1966; or
- (4) A parcel or lot described in a deed, sales contract or survey that was recorded in the office of the Weber County Recorder in between January 1, 1966, and June 30, 1992, which complied with the zoning requirements in effect at the time of its creation and was shown to be the first or second division of a larger parent parcel; or
- (5) A parcel or lot that was created in its current size and configuration and contained a lawfully permitted single family dwelling prior to July 1, 1992; or
- ~~(5)~~ A parcel/lot that does not fall within any one of the previously listed circumstances but has received a variance from the Weber County Board of Adjustment which has otherwise deemed a particular parcel/lot as a lot of record.

...

**Title 108 - STANDARDS**

...

**CHAPTER 12. - NONCOMPLYING STRUCTURES, NONCONFORMING USES, AND NONCONFORMING LOTS**

**Sec. 108-12-1. - Purpose and intent.**

The purpose and intent of this chapter is to provide standards for the development and use of noncomplying structures, nonconforming uses, and nonconforming lots. These structures, uses, and lots are considered legal, despite not meeting the current requirements of the zone in which they are located.

**Sec. 108-12-2. - Maintenance, repairs, and alterations.**

- (a) Maintenance, repairs, and structural alterations may be made to noncomplying structures on lots of record.
- (b) Dwellings or other structures built on lots or parcels which were once legal, but have since been modified in a manner that is in violation of applicable laws, shall not be issued land use or building permits, unless the structure is being strengthened or restored to a safe



condition, or the lot or parcel is made to conform to current zoning regulations. In restoring the structure to a safe condition, no expansion of the structure is allowed.

**Sec. 108-12-3. - Additions and enlargements.**

- (a) Except as provided in subsection (c), a structure which is occupied by a nonconforming use shall not be added to or expanded in any manner, unless such expansion is made to conform to all yard and use regulations of the zone in which the structure is located.
- (b) Except as provided in subsection (c), a noncomplying structure (main or accessory) shall not be added to or enlarged in any manner, unless such addition or enlargement conforms to all the regulations of the zone in which it is located, or conforms to the reduced yard setbacks as allowed in section 108-12-13.
- (c) A legally constructed dwelling or other structure on a lot of record, which has yard setbacks that are less than the required yard setbacks for the zone in which it is located, shall be allowed to have an addition, provided that:
- (1) The addition does not encroach into the required yard setbacks further than the existing dwelling or other structure; and
  - (2) The addition is located completely on the same property as the existing structure and does not encroach into a road right-of-way or on to adjacent property.
- (d) A legally constructed dwelling or other structure on a lot of record, which is located within a stream corridor setback (as defined by the Weber County Land Use Code sections 108-7-23 and/or 104-28-2), may be added to or enlarged, provided that:
- (1) The addition does not encroach into the stream corridor setback further than the existing dwelling or other structure; and
  - (2) The addition meets the yard setback requirements of the zone in which it is located or conforms to the reduced yard setbacks as allowed in section 108-12-13; or
  - (3) The addition does not encroach into the required yard setbacks further than the existing dwelling or other structure.

**Sec. 108-12-4. - Alteration where parking insufficient.**

A structure lacking sufficient automobile parking space as required by this chapter may be altered or enlarged, provided additional automobile parking space is supplied to meet the requirements of the Weber County Land Use Code.

**Sec. 108-12-5. - Moving noncomplying structures.**

A noncomplying structure shall not be moved in whole or in part to any other location on a lot or parcel, unless every portion of such structure is made to conform to all regulations of the zone in which it is located, or made to conform to the reduced yard setbacks as allowed in section 108-12-13.

**Sec. 108-12-6. - Restoration of damaged buildings.**

A noncomplying structure which is damaged or partially destroyed by fire, flood, wind, earthquake, or other calamity, act of God, or the public enemy, may be restored and the occupancy or use of such structure or part thereof, may be continued or resumed, provided that such restoration is started within a period of one year, by obtaining a land use permit, and is diligently pursued to completion.



**Sec. 108-12-7. - One-year vacancy or abandonment.**

(a) A legal structure, or portion thereof, which is occupied by a nonconforming use, and which is or hereafter becomes vacant and remains unoccupied for a continuous period of one year, except for dwellings and structures to house animals and fowl, shall not thereafter be occupied except by a use which conforms to the use regulations of the zone in which it is located. Wherever a nonconforming use has been discontinued for a period of one year, such use shall not thereafter be re-established and any future use shall be in conformance with the current provisions of the Weber County Land Use Code.

(b) Any building or structure for which a valid building permit has been issued and actual construction was lawfully begun prior to the date when the structure became noncomplying, may be completed and used in accordance with the plans, specifications and permit on which said building permit was granted. The term "actual construction" is hereby defined to be the actual placing of construction materials in their permanent position, fastened in a permanent manner, actual work in excavating a basement or the demolition or removal of an existing structure begun preparatory to rebuilding; provided that in all cases actual construction work shall be diligently carried on until the completion of the building or structure involved.

**Sec. 108-12-8. - Change of use.**

The nonconforming use of a legal structure may not be changed except to a conforming use. Where such a change is made to a conforming use, the use shall not thereafter be changed back to a nonconforming use.

**Sec. 108-12-9. - Expansion of nonconforming use.**

A nonconforming use may be extended to include the entire floor area of the existing legal structure in which it was conducted at the time the use became nonconforming; provided, however, that a land use permit is first obtained for such extension of use.

**Sec. 108-12-10. - Legal use of nonconforming lots.**

Development on a nonconforming lot is permitted. Development on a nonconforming lot is limited to only those permitted and conditional uses allowed on the smallest minimum lot size for the applicable zone. A new use on a nonconforming lot is prohibited if the proposed use requires a lot size larger than the smallest lot size permitted in the zone. A legally established use may continue on a nonconforming lot regardless of the lot size requirements of the use.

**Sec. 108-12-11. - Subdivision plat requirements for nonconforming lots; exemptions.**

All lots and parcels shall be platted as part of a subdivision in conformance with the requirements of title 106 of this Land Use Code, unless otherwise exempted by state code or this Land Use Code. The platting of nonconforming lots, and the amendment to a platted subdivision containing nonconforming lots are governed as follows:

(1) The following rules govern the treatment of an unplatted lot ~~that was created in conformance with the lot standards in effect at the time of the lot's creation and, because of subsequent changes to the Land Use Code, that~~ does not conform to the current lot standards; ~~the lot may not and -may not~~ have ~~conformed-complied~~ with the requirements of the subdivision code in effect at ~~that the~~ time of the lot's creation:

a. If the existing lot can be defined as a lot of record, as defined in section 101-1-7, the lot shall be exempt from subdivision platting requirements.



b. If the existing lot was created prior to July 1, 1992 ~~and,~~ contained a lawfully permitted single family dwelling unit, ~~then and complied with the standards of the zone in effect at the time of the lot's creation,~~ the lot shall be exempt from subdivision platting requirements, and is a nonconforming lot.

c. If the existing lot was created prior to July 1, 1992, and does not qualify for the provisions of subsections (1)a. and (1)b., then the lot shall be platted in accordance with title 106 of this Land Use Code. Lot standards applicable for such subdivision lot may be reduced to meet the minimum standards of the zone in effect at the time of the lot's creation so long as it does not create any more lots than currently exist, and the current lot size is not materially reduced from ~~it's~~ its current acreage, except for minor adjustments necessary to facilitate a more accurate legal description. All such platted lots that do not conform to current zoning standards shall thereafter be considered nonconforming lots. A lot that does not meet the minimum standards of the zone in effect at the time of the lot's creation may be reconfigured upon platting to comply with such standards as long as the reconfiguration does not cause any other lot to become nonconforming or more nonconforming. A lot platted pursuant to this subsection may be further reduced in size to accommodate any right-of-way dedication as may be required by title 106 of this Land Use Code. No unplatted lot or parcel governed by this subsection shall be granted a land use permit prior to subdivision platting.

- (2) Any lot legally platted within the bounds of a subdivision that was created pursuant to the standards of the zoning code and subdivision code in effect at the time of its creation, but no longer complies due to subsequent changes to these codes, may be amended pursuant to the minimum standards in effect at the time of its creation. The amendment shall not create any new lots. An amended plat shall be required.

**Sec. 108-12-12. - ~~Enlarging~~ Reconfiguring nonconforming lots.**

Nonconforming lots may be reconfigured in a manner that complies with the standards of the zone in effect at the time of the lot's creation if the reconfiguration does not create any more lots than currently exist. The reconfiguration shall not cause any other lot to become nonconforming or more nonconforming. If the nonconforming lot is part of a platted subdivision an amended subdivision plat is required.

...



1 Title 101 - GENERAL PROVISIONS

2 ...

3 Sec. 101-1-7. - Definitions.

4 ...

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

9 *Building, height of.* The ~~term phrase~~ "height of building," or any of its variations, normally means the  
10 vertical distance between the highest point of the building or structure and the average elevation of the  
11 land at the exterior footprint of the building or structure using the finished grade. See Section 108-7-5 for  
12 supplemental height provisions. ~~from the average of the highest natural grade and the lowest natural~~  
13 ~~grade to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the~~  
14 ~~highest point of the ridge of a pitch or hip roof.~~

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

20 ...

21 *Glare.* The term "glare" means light, originating from a direct artificial light source, or any light reflected  
22 off a reflective surface, that causes visual discomfort or reduced visibility.

23 ~~*Grade, natural/existing (adjacent ground elevation).* The term "grade, natural/existing (adjacent ground~~  
24 ~~elevation)" means the lowest point of elevation of the finished surface of the natural ground, paving or~~  
25 ~~sidewalk within the area between the building and the property line or, when the property line is more~~  
26 ~~than five feet from the building, between the building or structure and a line five feet from the building or~~  
27 ~~structure.~~

28 *Grade, finished.* The term "finished grade," or any of its variations, means the final slope of the ground  
29 after being altered from natural grade.

30 *Grade, natural.* The term "natural grade" or any of its variations, means the slope of the ground as it  
31 existed ten years prior to the time at which the grade is to be determined.

32 *Guest house.* The term "guest house" means a separate dwelling structure located on a lot with one or  
33 more main dwelling structures and used for housing of guests or servants and not rented, leased, or sold  
34 separate from the rental, lease or sale of the main dwelling.

35 ...

36 *Quasi-public.* The term "quasi-public" means the use of premises by a ~~public~~-utility, the utility being  
37 available to the general public, such as utility substations and transmission lines (see also "utility"); also  
38 a permanently located building or structure, together with its accessory buildings and uses, commonly  
39 used for religious worship, such as churches and monasteries.

40 ...

41 *Utility.* The term "utility" means utility facilities, lines, and rights of way related to the provision,  
42 distribution, collection, transmission, transfer, storage, generation or disposal of culinary water,  
43 secondary water, irrigation water, storm water, sanitary sewer, solid waste, oil, gas, power, information,  
44 telecommunication, television or telephone cable, electromagnetic waves, and electricity. See also  
45 "quasi-public."

Public utility substation. The phrase "public utility substation" means an unattended building or structure designed for the provision of services of a public or quasi-public utility, excluding utility transportation lines and incidental supports and their rights-of-way.

...

Structure. The term "structure" means anything constructed or erected which requires location on the ground or attached to something having a location on the ground.

Structure, height of. The phrase "height of structure," or any of its variations, shall have the same meaning as "height of building" as defined in this Section.

...

Tower. The term "tower" means a structure that is intended to support antennas for transmitting or receiving wireless signals including but not limited to television, cellular, radio, or telephone communication signals. A tower is also a "public utility substation" as defined in this section.

...

## Title 108 - STANDARDS

...

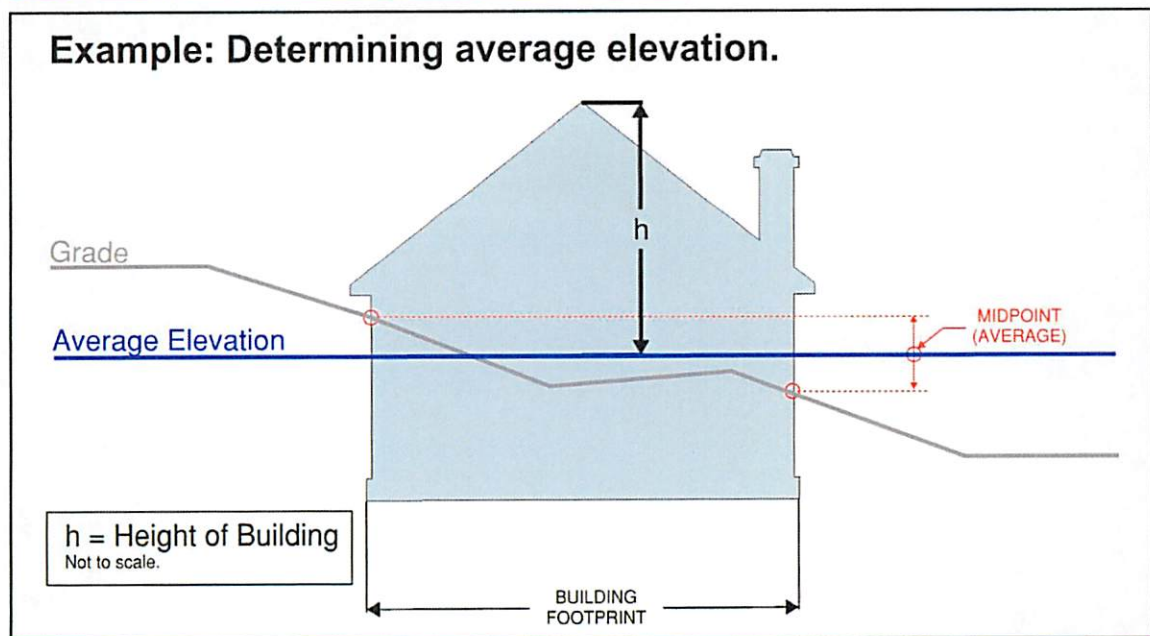
### CHAPTER 7. - SUPPLEMENTARY AND QUALIFYING REGULATIONS

...

#### Sec. 108-7-5. - ~~Exceptions to height~~ Building or structure height limitations requirements.

(a) Measuring height. For the purpose of determining "height of building," as defined in Section 101-1-7, the following shall apply:

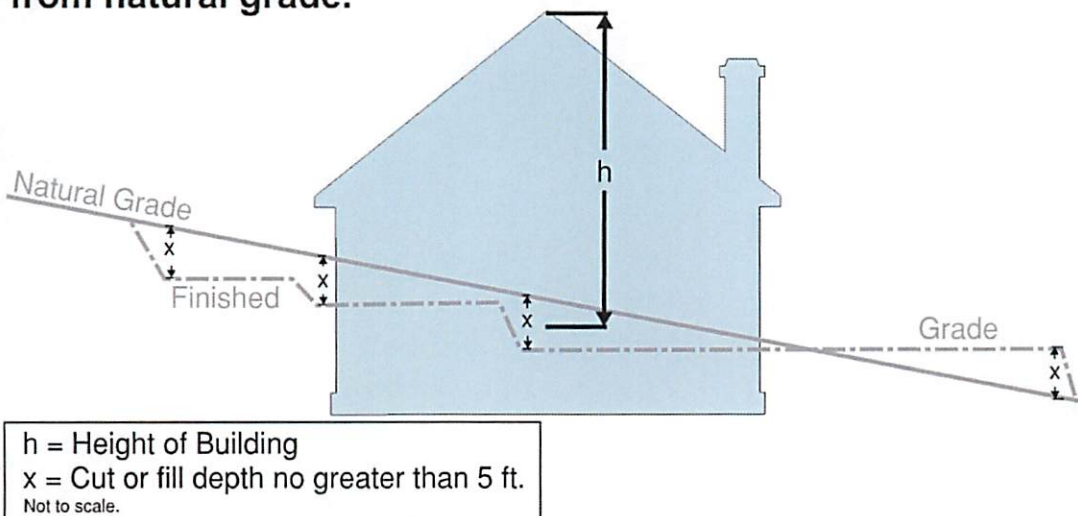
(1) Average elevation. Average elevation shall be determined by averaging the highest elevation and the lowest elevation at the exterior footprint of the building or structure, including any support posts that require a footing. An alternative means of calculating average elevation may be approved by the Planning Director for an individual building if it follows industry best practices and is proposed by a licensed surveyor, engineer, or architect.





(2) Fills and cuts affecting building height. Except as provided in this subsection, when grading the site to obtain the finished grade, as defined in Section 101-1-7, no fill or cut may exceed five vertical feet at any point from the site's natural grade, as also defined in 101-1-7.

**Example: Finished grade with maximum five feet fill or cut from natural grade.**

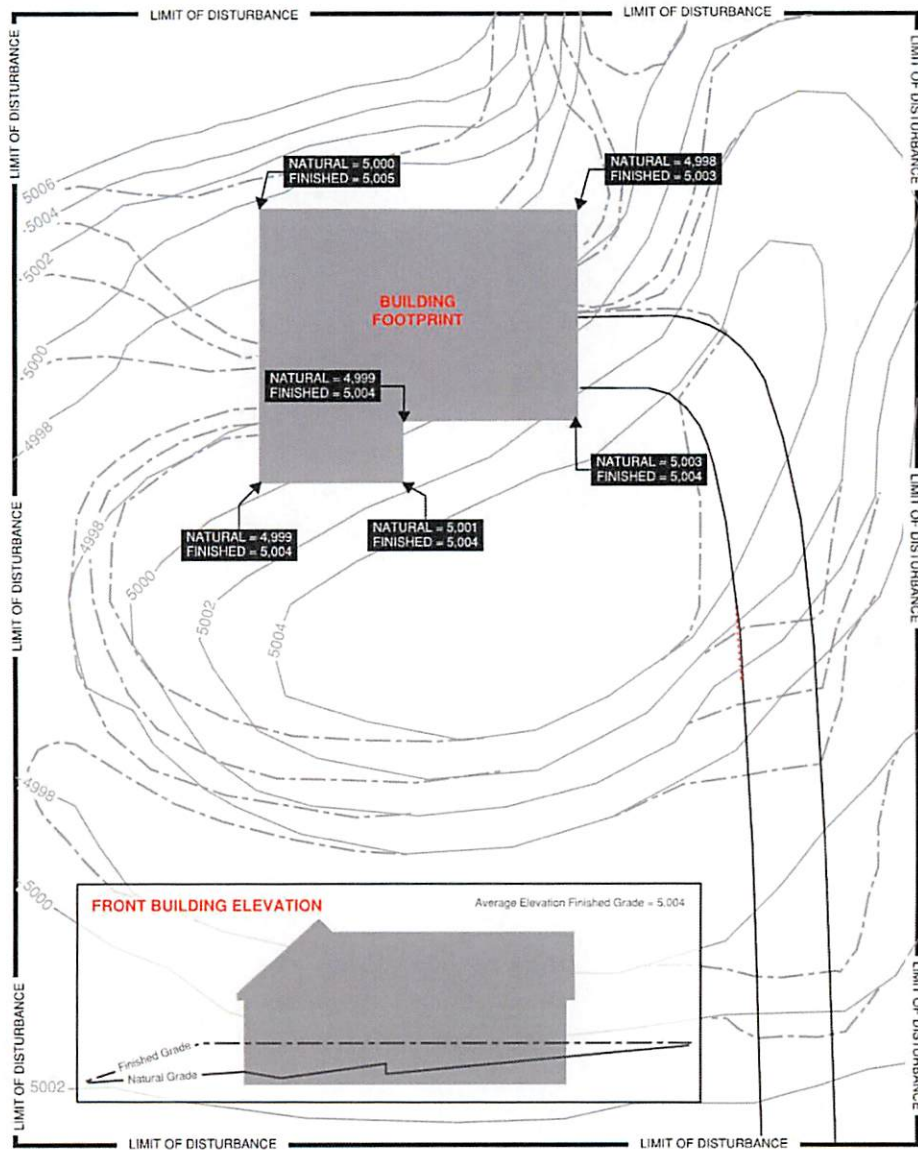


- a. Additional fill is allowed if required by county, state, or federal law, or to meet the standards of the National Flood Insurance Program. In this case the fill shall be no higher than the minimum of the other regulation or standard; or
- b. If the building or structure is within 75 feet of a public or private street upon which its lot or parcel has frontage, cuts and fills are allowed that provide an average elevation of finished grade that is equal to the elevation of the street. In this case, the street's elevation shall be determined to be at the midpoint of the lot's front lot line. If on a corner lot the elevation of both streets at the midpoint of each lot line shall be averaged.

(3) Site plan submittal requirements. A site plan shall contain both existing and proposed topographic contours at two foot intervals for the entire limits of disturbance, unless more is required by another section of this Land Use Code or by the Planning Director or County Engineer for the purpose of determining compliance with other laws or standards. Grading that is proposed across lot or parcel lines shall require the consent of all owners. Building elevation drawings shall display natural grade and finished grade, and shall present the finished grade's elevation at each corner of the building. This requirement may be waived by the Planning Director or County Engineer for sites that are relatively flat, or if evidence is presented that clearly shows the proposed structures will not exceed the maximum height of the zone.



Example: Site plan showing existing and proposed topographic contours and building elevation drawing showing natural and finished grade.



- (b) Roof structure height exception. Penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, cupolas, solar panels, steeples, flagpoles, chimneys, smokestacks, water tanks, wireless or television masts, theater lofts, silos or similar structures may be erected above the height limit of the zone in which they are located, but no space above the height limit shall be allowed for the purpose of providing additional floor space, and at no time shall the height be greater than 15 feet higher than the maximum height of the zone. ~~and if in proximity to an airport, no heights exceptions are permitted above the maximum allowed under airport height regulations.~~
- (b) All exceptions to height shall be subject to applicable design review requirements and all mechanical equipment shall be screened by materials consistent with those used on the exterior of the main building.

(c) Air traffic height conflicts. If in proximity to an airport, no building or structure or other appurtenance is permitted above the maximum height allowed by the Federal Aviation Administration, or other applicable airport or airspace regulation.

(d) Minimum height of a dwelling. Unless on a lot or parcel five acres or greater, no dwelling shall be erected to a height less than one story above natural grade.

**Sec. 108-7-6. - ~~Minimum height of dwelling~~Reserved.**

~~No dwelling shall be erected to a height less than one story above natural grade.~~

...

**Sec. 108-7-12. - Reserved Towers.**

~~(a) — No commercial tower installation shall exceed a height equal to the distance from the base of the tower to the nearest overhead power line by less than five feet.~~

~~(b) — A tower that exceeds the height limitation of the zone in which it is to be located as permitted by section 108-7-5, shall be considered a conditional use.~~

~~(c) — In all zones, except in commercial and manufacturing zones, towers shall not be located within the minimum front yard setback of any lot, nor within the minimum side yard setback facing a street on a corner lot, nor on the roof of a residential structure.~~

~~(d) — A building permit shall be required for a tower. An application for a permit shall include construction drawings showing the method of installation and a site plan depicting structures on the property and on any affected adjacent property and a structural engineering certification by a registered structural engineer from the state.~~

**CHAPTER 10. - PUBLIC BUILDINGS AND PUBLIC UTILITY SUBSTATIONS ~~OR STRUCTURES~~**

**Sec. 108-10-1. - Location.**

The location and arrangement of public buildings and public utility substations ~~or structures~~ will comply with requirements set forth in this chapter and will be in accordance with construction plans submitted to and approved by the planning commission.

**Sec. 108-10-2. - Site development standards for public utility substation ~~or structure~~.**

(a) Lot area, width, setback, and street frontage regulations. The lot area, width, ~~depth~~, setback, and street frontage regulations for ~~an unmanned culinary or secondary water system facility, storage tank, or well house; unmanned sanitary sewer system facility; unmanned oil or natural gas pipeline regulation station; unmanned telecommunication, television, telephone, fiber optic, electrical facility; or other unmanned utility service regeneration, transformation, or amplification facility~~ a public utility substation, as defined in Section 101-1-7, are as follows:

(1) *Lot area and lot width.* No minimum lot area or width, provided that the lot or parcel shall contain an area and width of sufficient size and dimension to safely accommodate the utility facility or use, any necessary accessory use, any landscaping required by this Land Use Code, the required setbacks, and space to park two maintenance vehicles.

(2) *Front yard setback.* Front yard setback requirement may be reduced to no less than ten feet if the lot does not directly front on a public or private street right-of-way, provided that ~~the~~ no substation ~~or structure~~ shall be located closer to a public or private street right-of-way than the minimum front yard setback of the zone, or 20 feet, whichever is more restrictive.

(3) *Side yard setback.* The side yard setback requirement shall comply with the typical setback specified in the applicable zone regulating the property.

(4) *Rear yard setback.* The rear yard setback requirement may be reduced to the following:

a. In a residential zone: five feet.

b. In an agricultural zone: ten feet.



c. In a forest zone: 20 feet.

d. In a zone not specifically listed above: typical zone setback as provided in the chapter for that zone.

(5) Street Frontage. No frontage is required along a public right-of-way if clear and legal access exists from a public right of way to the site for the purpose of the utility use.

(b) Co-location. Co-location of a public utility substation with other existing public utility substations is required provided that the co-location does not cause interference with any public utility, or the reasonable operation of the public utility substation.

(c) Towers. The following regulations govern the installation of public utility substation towers:

(1) Tower distance from overhead power. The height of a tower shall be one foot less than the linear distance between the base of the tower and the nearest overhead power line, or lesser height.

(2) Tower setbacks. In all zones, except in commercial and manufacturing zones, a tower shall not be located within the minimum front yard setback of any lot, nor within the minimum side yard setback facing a street on a corner lot, nor on the roof of a residential structure.

(3) Tower building permit. A building permit shall be required for a tower. An application for a permit shall include construction drawings showing the method of installation and a site plan depicting structures on the property and on any affected adjacent property and a structural engineering certification by a registered structural engineer from the state.

(4) Tower disguise. A public utility substation tower which exceeds the maximum height of the zone, or 35 feet, whichever is less, and which cannot be reasonably co-located on an existing tower, shall be disguised so that the average person cannot discern that it is a public utility substation from a distance greater than 200 feet.

a. With the exception of part b.1. herein, the disguise shall be constructed of painted, stained, sandblasted or carved wood, log timbers, brick, stone, textured concrete or similar material. Glass, metal, or metallic leaf, which is painted, anodized, or otherwise treated to prevent reflective glare may also be used. Copper, brass, wrought iron, and other metals may remain untreated and allowed to develop a natural patina. Support structures shall use natural, muted earth-tone colors including browns, black, grays, rusts, etc. White shall not be used as a predominant color, but may be used as an accent.

b. The disguise shall be designed by a licensed architect and shall:

1. replicate natural features found in the natural environment within 1000 feet such that the average person cannot discern that it is not a natural feature from a distance greater than 200 feet;

2. architecturally replicate structures that are commonly accessory to onsite agricultural uses;

3. architecturally replicate structures that were commonly found in historic old-west or western mining town centers prior to 1910, excluding poles, structures, or other features that were used for overhead utilities; or

4. replicate architectural structures that support the architectural theme of an approved master plan or development agreement applicable to the site.



## MEMORANDUM

To: Ogden Valley Planning Commission  
From: Charles Ewert, AICP  
Date: December 28, 2017  
Subject: Work session for proposed cluster subdivision amendments

Planning Commissioners,

In our last meeting we held a hearing to discuss desired changes to the cluster subdivision ordinance. The attached proposal is not complete. I still need to re-tool the bonus density section. Since this section is not applicable to the Ogden Valley I suggest reviewing the proposal in its incomplete state to determine whether the portions that are completed are acceptable.

This work session will be time-pending.



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## Title 108 - STANDARDS

...

### CHAPTER 3. - CLUSTER SUBDIVISIONS

#### Sec. 108-3-1. ~~— Purpose and~~ Intent.

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

#### Sec. 108-3-2. - General regulations.

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

#### Sec. 108-3-3. - ~~Approval~~Supplemental subdivision~~procedure~~procedural requirements.

(a) Subdivision procedures and requirements apply. All procedures and requirements of Title 106 shall apply to a cluster subdivision unless there is a conflict or supplement in this chapter, in which case the provisions of this chapter shall prevail.

(b) Conceptual sketch plan. ~~The~~In addition to the subdivision procedure requirements of Title 106, the cluster subdivision approval procedure requires a conceptual sketch plan endorsement from the planning commission prior to the submission of a formal subdivision application. An application for a conceptual sketch plan endorsement shall demonstrate compliance with all applicable standards contained within the Weber County Code. The completed application must be submitted at least 21 calendar days prior to the planning commission meeting at which the applicant wishes to be heard. Endorsement from the planning commission is only a means to assist in the creation of a complete subdivision application and shall not vest for final approval. The application is complete upon submission of the following: ~~consists of four phases as follows:~~

~~(1) A conceptual sketch plan endorsement from the appropriate planning area planning commission;~~

~~(2) A preliminary approval by the appropriate planning area planning commission;~~

~~(3) A recommendation from the appropriate planning area planning commission for final approval by the board of county commissioners; and~~

~~(4) A final approval and acceptance by the board of county commissioners.~~

~~(b) An application for a conceptual sketch plan endorsement shall demonstrate compliance with all applicable standards contained within the Weber County Code. The completed application must be submitted at least 14 calendar days prior to the planning commission~~



~~meeting at which the applicant wishes to be heard. The application is complete upon submission of the following:~~

- (1) Payment of a fee, as required by title 16, chapter 2 of the Weber County Code of Ordinances, and submission of a complete sketch plan endorsement application on a form provided by the county planning department.
- (2) One 8.5-inch by 11-inch vicinity map, underlain by an aerial photo, showing the subject property, surrounding streets, and relevant landmarks.
- (3) One 11-inch by 17-inch conceptual plan, drawn at a reasonable scale, that demonstrates in a suitable manner compliance with all applicable codes. The plan shall include, but not necessarily be limited to, a north arrow and scale, subdivision boundary according to county records, approximate locations of proposed streets, lots with approximate area calculations, common areas and open space parcels with approximate area calculations, easements, waterways, suspected wetlands, floodplains, existing structures, and contour lines. Information related to topography and contour lines may be submitted on a separate map. Contour information may be omitted if the planning director or his designee determines that the subject property lacks topographic characteristics that warrant representation.
- (4) An electronic copy of all forms, documents, materials, and information submitted as part of the application.

(d) Preliminary and final cluster subdivision application.

(1) Preliminary cluster subdivision approval. An application for A submission for preliminary cluster subdivision approval shall:

a. conform to the endorsed sketch plan;

b. contain an open space plan, as required in Section 108-3-5.

1. The planning commission's approval of a preliminary plat shall constitute approval of the open space plan.

2. An open space plan may be amended, from time to time, after submittal of a new application and application fee.

3. An amendment shall be in compliance with applicable laws and shall require the approval of the planning commission.

4. An open space plan amendment shall not require a subdivision plat amendment provided the resulting plan does not conflict with any part of the plat, including parcel and lot boundaries, subdivision boundaries, and plat notes.

(2) Final cluster subdivision approval. A submission for final cluster subdivision approval shall conform to the approval of the preliminary cluster subdivision approval. If applicable, submission shall also include final Conditions, Covenants, and Restrictions or Homeowner's Association Declaration that clearly explain the maintenance method for each common area parcel, as required by this chapter or any condition of preliminary cluster subdivision approval. Submission shall also include drafts of any other relevant instrument required for the execution of applicable provisions of this Land Use Code.

~~by the appropriate planning commission, recommendation for final approval, or final approval and acceptance by the board of county commissioners shall comply with all applicable standards~~



~~of the Weber County Land Use Code, including this chapter and title 106, Subdivisions. The approval process shall proceed as directed by Weber County Land Use Code title 106, chapter 1.~~

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

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

~~(a 1)~~ General cluster and open space design. A cluster subdivision's general design shall concentrate residential building lots, with their adjoining road rights-of-way and any approved ~~access exceptions~~ alternative access, if applicable, into separate and individual clusters that are entirely surrounded by open space dedicated as common area, individually owned preservation parcels, or both.

~~(b)~~ Specific open space requirements. The open space area ~~in~~ between one cluster of lots and another cluster, or one cluster of lots and the subdivision boundary, shall not be ~~less than 75-100 feet [c1]in width, and the open space area in between lots and an exterior subdivision boundary shall not be less than 50 feet in width.~~ The open space required ~~in~~ between a lots and a cluster subdivision's exterior boundary shall be waived if:

~~(1) a.~~ A ~~lots~~ lot sharing a common lot line with one or more of the-its subdivision's boundaries ~~y~~ contains 15,000 square feet or more;

~~(2) b.~~ A ~~lots~~ lot are is located along an internal phasing line as approved as part of the preliminary plat approval ~~when that phasing line is acting as a temporary external boundary;~~

~~(3) c.~~ Another [c2] lot that is no more than 5,000 square feet larger exists outside the cluster subdivision's boundaries but within 500 feet of the lot to which the waiver is applied. If the open space requirement is waived in this manner for any lot in the cluster subdivision then each lot within the same cluster shall have the open space required between it and the cluster subdivision's exterior boundary waived; ~~The proposed cluster subdivision lies adjacent to an existing subdivision that contains at least one lot that is smaller or not more than 5,000 square feet larger than the smallest lot lying within the proposed cluster subdivision; or~~

~~(4) d.~~ A ~~lots~~ located along an external boundary lies adjacent to a parcel that:

~~a. 1.~~ Does not contain an existing dwelling; or

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

~~(5)~~ In applying any provision from (1)-(4) [c3]of this subsection, no open space parcel shall be allowed to be an island that is disconnected or noncontiguous with other open space parcels or a public or private street.

~~(c2)~~ Specific cluster requirements. In a subdivision consisting of 60 or more lots, each cluster shall contain no less than three lots and no more than 20 lots. In a subdivision consisting of fewer than 60 lots, each cluster shall contain no less than three lots and no more than one-third of the total number of lots in the subdivision. The county may approve up to a five lot increase in the number of lots in a cluster if:



(1) ~~a-~~ The total number of lots cannot be equally divided into thirds and leaves a remaining number of lots that does not meet the standard for the minimum number of lots in a cluster; or

(2) ~~b-~~ There are unusual circumstances, such as complications involving topography, infrastructure, geotechnical, or geologic conditions, which warrant an increase.

~~(3) To ensure that a cluster subdivision reflects the characteristics of the zone in which it is located, a minimum percentage of a cluster subdivision's adjusted gross acreage shall be preserved as open space and dedicated as described in subsection (1) [c4] above. The minimum open space areas are as follows:~~

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

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

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

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

(d 4) Sensitive lands requirements. Cluster subdivisions in or on sensitive lands shall be governed as follows:

(1) Lands that can be mitigated such as floodplain and wetlands are considered developable for the purpose of calculating adjusted gross acreage, as defined in Section 101-1-7 and shall be counted towards density.

(2) Floodways within river corridors, lakes, and naturally occurring pond areas, which could not be are not developed developable but are offered as a community provide an amenity on an open space parcel with public access and a blanket public access easement, may shall also be a part of the open space, with receive 25 percent of this land of the undevelopable acreage credited towards to the adjusted gross acreage calculation for overall density of the development, if this land is used to provide amenities and is accessible to the development.

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

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

**Sec. 108-3-5. - Open space plan [c5] approval, ownership, maintenance, preservation, and guarantee of improvement standards and development standards. [c6]**



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

~~(a) Open space plan submittal (1) — Plan approval.~~ An open space preservation plan shall accompany an application for preliminary ~~and final~~ subdivision approval. Preliminary subdivision approval constitutes approval of the open space plan. A final plat shall comply with the approved open space plan. ~~approval of a cluster subdivision.~~ The open space plan shall include the following:

(1) An overall cluster subdivision map identifying all open space areas and open space area amenities.

(2) A site plan that identifies the open space parcel ownership types specified in (b)(5) of this section<sup>[c7]</sup>; each proposed ownership type shall be identified with a unique color; and the locations of existing and proposed future structures and other open space amenities.

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

b. For open space that will be gifted as a park parcel to a local park district, the site plan shall include all park improvements and be accompanied by a letter of approval from the local park district.

c. For open space that will be an individually owned preservation parcel whereon a building will be located, the site plan shall identify a locatable building envelope, as defined in Section 101-1-7, within which all existing and future buildings shall be located.

(3) ~~A~~ narrative describing all proposed open space parcels, their proposed method of ownership, their proposed method of maintenance, ~~all~~ their proposed uses, and any proposed building envelopes.

(4) A written explanation of the proposed method of maintenance of all open space parcels. This may be included in the written narrative. However, an open space plan with a common area parcel or parcels shall be submitted with proposed Conditions, Covenants, and Restrictions or Homeowner's Association Declaration that clearly explains the maintenance method for each common area parcel. At a minimum, the document shall explain vegetation grooming practices, weed mitigation, and refuse disposal.

(5) The phasing of open space parcels and their relationship to the overall subdivision phasing plan, if any.

~~, and maintenance methods for all open space parcels, and~~

~~a site plan that shows proposed common areas, individually owned preservation parcels, and the locations of existing and proposed future structures.~~

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



~~b. For open space dedicated as individually owned preservation parcels, the site plan shall identify locatable building envelopes within which all existing and future buildings must be located.~~

(b) Open space development standards and ownership regulations. Unless otherwise provided for in this section, open spaces and the specific open space parcels shall be developed in a manner that meets all applicable standards, including but not limited to those found in the this Land Use Code.

(1) Minimum total open space required. A minimum percentage of a cluster subdivision's adjusted gross acreage, as defined in Section 101-1-7, shall be preserved as open space. The minimum open space areas are as follows:

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

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

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

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

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

a. An open space parcel designated as common area is not subject to minimum area requirements.

b. An open space parcel conveyed to a local park district shall be of a sufficient size to adequately accommodate park infrastructure, amenities, and parking.

c. [c8] Open space parcels dedicated as individually owned preservation parcels shall contain an area of not less than five acres and shall be part of a contiguous area of open space parcels consisting of not less than ten acres in total; and shall be in compliance with the following:

1. [c9] Open space parcels form a contiguous area if each open space parcel shares a common boundary line that is no less than 100 linear feet or lies directly across a street right-of-way, or other approved access, from another open space parcel, with the common boundaries shared with the street right-of-way being no less than 100 linear feet.

2. The ten acre minimum contiguous area does not need to be platted in the same subdivision.

3. Each individually owned open space parcel shall be provided clear and perpetual legal access from a public or private street right of way. [c10]

(3) Parcel width, frontage, and access. Notwithstanding section 106-2-4(c) and title 108, chapter 14, Hillside Development Review Procedures and Standards, and unless otherwise regulated by the Weber-Morgan Health Department, open space parcels located within a cluster subdivision are not subject to frontage requirements and do not



have a minimum width standard other than the standard described in section 108-3-4(b) and 108-3-5(b)(2). [c11] All open space parcels without street frontage shall be provided an access easement across other parcels to a public or private street. [c12]

(4) Parcel coverage.

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

b. Coverage of individually owned preservation parcels by roofed structures shall not exceed two and a half percent [c13] of the total parcel area.

(5) Open space parcel Ownership.

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

b. Park parcel. An open space parcel may be conveyed to a local park district, as approved by the park district.

c. Individually owned open space parcel. An open space parcels may be owned as an individually owned preservation parcel in accordance with the following:-

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

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

3. The applicable ownership standard for an individually owned preservation parcel in subsection (2)a.1. or 2. shall [c14] be memorialized in the following manner:

i. An explanation of the applicable ownership standard and a perpetual restriction conforming thereto shall be written into all agriculture, forest, or other type of preservation easements granted pursuant to subsection (4e) of this section; [c15] and

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

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

(c)[c16] Open space phasing. If development phasing is proposed and approved during preliminary cluster subdivision approval, the percent of open space of the overall platted acreage shall at no time be less than the percent of proposed open space approved in the open space plan.

(d) Maintenance. The open space parcel owner, whether an individual or an association, shall use, manage, and maintain the owner's parcel in a manner that is consistent with the



open space preservation plan approved under subsection (1), and the agriculture, forest, or other type of preservation easement executed under subsection (4).

**(4e) Preservation.**

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

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

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

**(4)d-** If a cluster subdivision contains an individually owned preservation parcel, the applicant shall:

**4a.** Identify and label on the final plat each such parcel as an agricultural, forest, or other type of preservation parcel;

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

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

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

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

**(5f) Guarantee of open space improvements.**

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

**(2)b-** The county shall require an applicant to deposit a ~~financial~~ guarantee of improvements, as provided in Section 106-4-3, for all open space improvements (e.g., landscaping, trails, fencing, sheds, parking surfaces, etc.) that do not require a



certificate of occupancy and that remain incomplete at the time of final plat approval, ~~and acceptance of the proposed cluster subdivision from the board of county commissioners.~~ The applicant or developer shall complete all improvements according to the approved phasing component of ~~an~~ the open space preservation plan.

**Sec. 108-3-6. — Reserved[c17]. Open space parcel development standards.**

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

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

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

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

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

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

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

~~(3) — Parcel coverage.~~

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

~~b. — Coverage of individually owned preservation parcels by roofed structures shall not exceed five[c18] percent of the total parcel area.~~

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

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

(1) *Lot area.*

a. Unless otherwise regulated by the Weber-Morgan Health Department or Weber County Land Use Code, title 108, chapter 14, Hillside Development Review



Procedures and Standards, a lot located within a cluster subdivision shall contain an area of not less than 15,000 square feet.

b. A lot's minimum area is reduced to ~~69,000~~ <sup>[c19]</sup> square feet if:

1. The lot is located 50 feet or more from its own cluster subdivision boundary, not including those boundaries formed by existing streets or internal phasing lines if the phasing lines act as a temporary external boundary;
2. The lot lies within a cluster subdivision that is adjacent to an existing subdivision that contains at least one lot that is smaller or not more than 5,000 square feet larger than the smallest lot lying within the subject cluster subdivision; or
3. The lot lies within a cluster subdivision that is adjacent to an undeveloped parcel. A parcel is considered undeveloped if it:
  - i. Does not contain an existing dwelling; or
  - ii. Contains an existing dwelling that lies further than 150 feet away from all external boundaries of the proposed or subject cluster subdivision.

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

- a. One hundred feet in the Forest (F-40) and the Forest (F-10) Zones.
- b. Eighty feet in the Forest Residential (FR-1), Forest (F-5), Agricultural Valley (AV-3), and the Forest Valley (FV-3) Zones.
- c. Sixty feet in the Residential Estates (RE-15 and RE-20) and Agricultural (A-1, A-2, and A-3) Zones.
- d. Fifty feet in the Forest Residential (FR-3) and the Ogden Valley Destination and Recreation Resort (DRR-1) Zone.

(3) *Yard setbacks* ~~for dwellings~~. The Mminimum yard setbacks ~~for dwellings~~ in a cluster 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>

~~a. Front: 20 feet.~~ <sup>[c20]</sup>

~~b. Side: 8 feet.~~

~~e. —Rear: 20 feet.~~

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

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

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

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

- (1) In the Forest (F-40) Zones, the county may award a maximum bonus density of 20 percent based on an accumulation of any combination of the following:
  - a. If the cluster subdivision meets the purpose and intent of this chapter, ~~up to~~ a five percent bonus ~~may~~shall be granted.
  - b. If the cluster subdivision provides a minimum of one road stub to an adjacent property where the planning commission determines that streets are needed to provide for current or future traffic circulation, up to a five percent bonus density may be granted.
  - c. If the cluster subdivision provides a minimum of one approved public access to public lands, up to a five percent bonus density may be granted.
  - d. If the cluster subdivision provides common area that offers easily accessible amenities, such as a trail, park, or community garden, that are open for use by the general public, up to a five percent bonus density may be granted.
  - e. If the cluster subdivision dedicates and conveys to the county, the state division of wildlife resources, or both, an open space easement that permanently preserves areas that have been identified by the state division of wildlife resources as having substantial or crucial wildlife habitat value, up to a 15 percent bonus density may be granted.
- (2) In the Agricultural (A-1, A-2, and A-3) Zones, the county may grant a bonus density of up to 50 percent if the applicant preserves an open space percentage above that required by section 108-3-4(3)d; otherwise, the county may grant a bonus density of up to 30 percent. Overall bonus density potential shall be no greater than a percentage equal to the percentage of the subdivision's total area preserved as open space. The county may award bonus densities based on an accumulation of any combination of the following:
  - a. If a cluster subdivision meets the purpose and intent of this chapter, up to a ten percent bonus may be granted.
  - b. If a cluster subdivision provides and implements an approved roadway landscape and design plan that includes, but is not necessarily limited to, vehicle and pedestrian circulation, lighting, and street trees of an appropriate species, size of



at least a two-inch caliper, and quantity of not less than eight trees for every 100 feet of road length, up to 20 percent bonus density may be granted.

- c. For each five percent increment of open space preserved over 50 percent: a five percent bonus density shall be granted up to the total bonus density allowed by subsection (3).
- d. If a cluster subdivision provides a minimum of one approved access to public lands, up to a ten percent bonus density may be granted.
- e. If a cluster subdivision provides common area that offers easily accessible amenities such as trails, parks, or community gardens, that are open for use by the general public, up to a 15 percent bonus density may be granted.
- f. If ten percent of the lots and homes in a cluster subdivision are permanently set aside for affordable housing as outlined by the Affordable Housing Act of 1990, up to a 20 percent bonus density may be granted.

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

- 1. Present and gain Planning Commission approval of an effective plan and method for guaranteeing and enforcing perpetual affordability. Any method used, such as an affordable housing deed restriction, shall limit the sale or rental of the affected lots and homes to a household with an income at or below 80 percent of the county median income;
  - 2. Identify and label, on the final plat, the lots set aside as affordable housing Lots; and
  - 3. Provide a note on the final plat explaining the nature of the housing restriction on the lot and the method by which occupancy and affordability will be regulated.
- g. If a cluster subdivision preserves an agricultural parcel with an agriculturally based open space preservation plan approved by the planning commission and records an agricultural preservation easement on the parcel, a bonus density may be approved as follows:
    - 1. For a parcel containing at least ten acres but fewer than 20 acres, up to a 15 percent bonus density may be granted.
    - 2. For a parcel containing at least 20 acres but fewer than 30 acres, up to a 20 percent bonus density may be granted.
    - 3. For a parcel containing at least 30 acres but fewer than 40 acres, up to a 30 percent bonus density may be granted.
    - 4. For a parcel containing at least 40 acres but fewer than 50 acres, up to a 40 percent bonus density may be granted if the parcel standing alone is greater than the minimum open space requirement for the subdivision.
    - 5. For a parcel containing at least 50 acres or more, up to a 50 percent bonus density may be granted if the parcel standing alone is greater than the minimum open space requirement for the subdivision.
  - h. If a cluster subdivision provides for the preservation of historical sites and buildings that have been identified by the state historic preservation office as having notable historical value, up to a five percent bonus density may be granted.

- i. If a cluster subdivision provides for the development of excess sewage treatment capacity, up to a five percent bonus density may be granted.
- j. If a cluster subdivision dedicates and conveys to the county, the state division of wildlife resources, or both, an open space easement that permanently preserves areas that have been identified by the state division of wildlife resources as having substantial or crucial wildlife habitat value, up to a 15 percent bonus density may be granted.
- k. If a cluster subdivision includes an open space parcel that consists of five acres or more and is contiguous to permanently preserved open space on an adjoining property located outside of the cluster subdivision, up to a 20 percent bonus density may be granted.

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

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

- (1) Establish a homeowners association and submit for the county's review the necessary articles of incorporation, bylaws, and declaration of covenants, conditions, and restrictions that provide for:
  - a. Compliance with Utah State Code;
  - b. The reason and purpose for the association's existence;
  - c. Mandatory membership for each lot or home owner and their successors in interest;
  - d. The perpetual nature of the easements related to all dedicated open space parcels;
  - e. Responsibilities related to liability, taxes, and the maintenance of recreational and other infrastructure and facilities;
  - f. Financial obligations and responsibilities, including the ability to adjust the obligations and responsibilities due to change in needs;
  - g. Association enforcement remedies; and
  - h. A notification of the county's ability to enforce the terms of the owner's dedication on the subdivision dedication plat.
- (2) Register the homeowners association with the State of Utah, Department of Commerce.



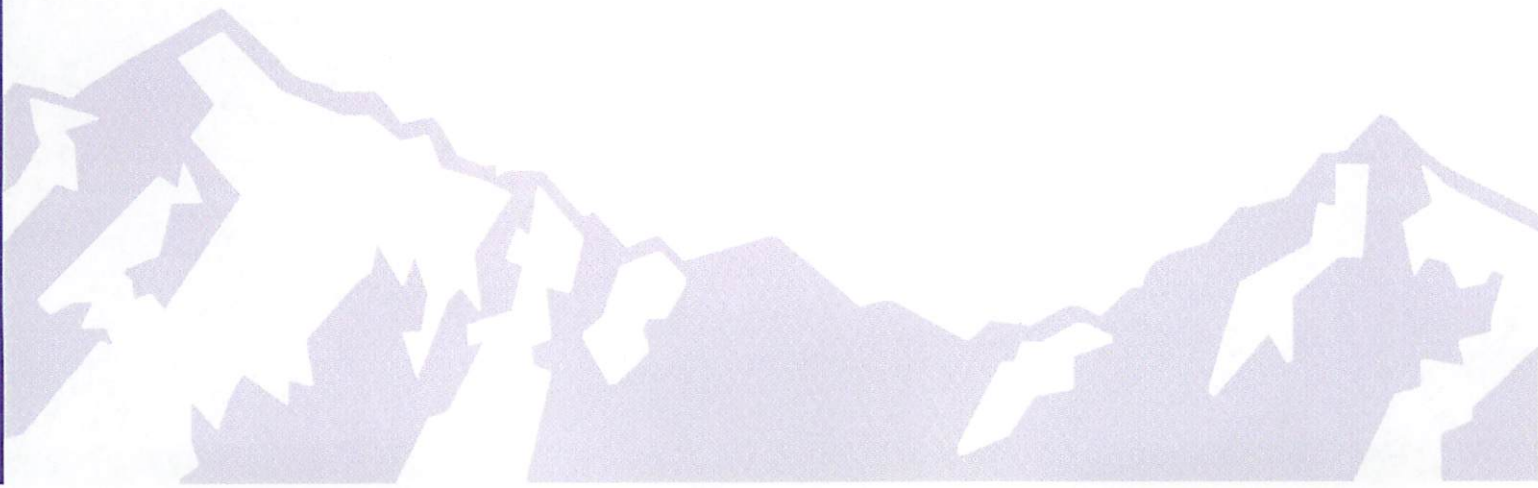
## MEMORANDUM

To: Ogden Valley Planning Commission  
From: Charles Ewert, AICP  
Date: December 28, 2017  
Subject: PRUD code amendment from administrative approval to legislative

Planning Commissioners,

In your last meeting you addressed a proposal to amend the PRUD code. In that meeting we discussed the flexible nature of the entire PRUD ordinance and how that flexibility built into an administrative decision could result in the County being forced to approve plans that may be counter to public interests.

Attached are the beginning changes that will convert the PRUD ordinance from an administrative action to a legislative action. It moves the PRUD code from the standards section (Title 108) to the zoning section (Title 104). There is more work needed, but I wanted to report the direction of the changes to the Planning Commission and discuss the direction be pursued.



1 Title 102 – ADMINISTRATION

2 CHAPTER 1. - GENERAL PROVISIONS

3 ...

4 Sec. 102-1-5. - ~~Reserved.~~~~Hearing and publication notice for county commission.~~

5 ~~Before finally adopting any such legislative amendment, the board of county commissioners shall hold a~~  
6 ~~public hearing thereon, at least 14 days' notice of the time and place of which shall be given as per state~~  
7 ~~code. The unanimous vote of the full body of the county commission is required to overturn the~~  
8 ~~recommendation of the planning commission, if there was a unanimous vote of the planning commission~~  
9 ~~in favor or denial of the petition.~~

10 ...

11 Title 104 - ZONES

12 ...

13 CHAPTER 3. - RESIDENTIAL ESTATES ZONES RE-15 AND RE-20

14 ...

15 Sec. 104-3-5. - Conditional uses.

16 The following uses shall be permitted only when authorized by a conditional use permit as provided  
17 in title 108, chapter 4 of this Land Use Code:

18 ...

19 (3) Private park, playground or recreation grounds and buildings not open to the general public and  
20 to which no admission is made but not including privately owned commercial amusement  
21 business.

22 (4) ~~Reserved. Planned residential unit development in accordance with title 108, chapter 5 of this~~  
23 ~~Land Use Code.~~

24 (5) Public utility substation.

25 ...

26 CHAPTER 5. - AGRICULTURAL ZONE A-1

27 ...

28 Sec. 104-5-6. - Conditional uses.

29 The following uses shall be permitted only when authorized by a conditional use permit obtained as  
30 provided in title 108, chapter 4 of this Land Use Code:

31 ...

32 (6) Greenhouse and nursery limited to the sale of plants, landscaping materials, fertilizer, pesticide  
33 and insecticide products, tools for garden and lawn care and the growing and sale of sod.

34 (7) ~~Reserved. Planned residential unit development in accordance with title 108, chapter 5.~~



- (8) Private park, playground or recreation grounds and buildings not open to the general public and to which no admission charge is made, but not including private owned commercial amusement business.

...

## CHAPTER 6. - AGRICULTURAL VALLEY AV-3 ZONE

...

### Sec. 104-6-5. - Conditional uses.

The following uses shall be allowed only when authorized by a conditional use permit obtained as provided in title 108, chapter 4 of this Land Use Code.

...

- (9) Petting zoo where accessed by a collector road as shown on the county road plan.

- (10) ~~Reserved. Planned residential unit development in accordance with title 108, chapter 4 of this Land Use Code.~~

- (11) Private park, playground or recreation area not open to the general public and to which no admission charge is made, but not including privately owned commercial business.

...

## CHAPTER 7. - AGRICULTURAL A-2 ZONE

...

### Sec. 104-7-5. - Conditional uses.

The following uses shall be permitted only when authorized by a conditional use permit obtained as provided in title 108, chapter 4 of this Land Use Code.

- (12) Outdoor recreation club activities for horse riding, bow and arrow shooting, snowmobiling, etc.

- (13) ~~Reserved. Planned residential unit development in accordance with title 108, chapter 4 of this Land Use Code.~~

- (14) Private park, playground or recreation area not open to the general public and to which no admission charge is made, but not including privately owned commercial business.

...

## CHAPTER 8. - AGRICULTURAL ZONE A-3

...

### Sec. 104-8-5. - Conditional uses.

The following uses shall be permitted only when authorized by a conditional use permit obtained as provided in title 108, chapter 4 of this Land Use Code.

...

- (14) Outdoor recreation club activities for horse riding, bow and arrow shooting, snowmobiling, etc.

- (15) ~~Reserved. Planned residential unit development in accordance with title 108, chapter 5.~~

- (16) Private park, playground or recreation area not open to the general public and to which no admission charge is made, but not including privately owned commercial amusement business.

...

## CHAPTER 9. - FOREST ZONES F-5, F-10, AND F-40

...

### Sec. 104-9-3. - Conditional uses.

The following uses shall be permitted only when authorized by a conditional use permit obtained as provided in this Land Use Code:

...

- (6) Mines, quarries and gravel pits, sand and gravel operations subject to the provisions of the Weber County Excavation Ordinance.

- (7) ~~Reserved. Planned Residential Unit Development in accordance with this Land Use Code.~~

- (8) Private parks and recreation grounds. Private campgrounds and picnic areas meeting the requirements of the Forest Campground Ordinance of Weber County. Dude ranches.

...

## CHAPTER 11. - COMMERCIAL VALLEY RESORT RECREATION ZONE CVR-1

...

### Sec. 104-11-4. - Conditional uses.

The following uses shall be allowed only when authorized by a Conditional Use Permit obtained as provided in title 108, chapter 4 of this Land Use Code:

...

- (26) Travel agency.

- (27) ~~Reserved. Planned residential unit development (PRUD) as part of a recreation resort complex subdivision, where part of a PRUD in a recreation resort complex.~~

- (28) Dwelling unit as part of a commercial building for proprietor or employee who also serves as a night watchman provided that an additional 3,000 square feet of landscaped area is provided for the residential use.

...

## CHAPTER 12. - SINGLE-FAMILY RESIDENTIAL ZONES R-1-12, R-1-10

...

### Sec. 104-12-3. - Conditional uses.

The following uses shall be permitted only when authorized by a conditional use permit as provided in title 108, chapter 4 of this Land Use Code:

- (1) Educational/institutional identification sign.

- (2) ~~Reserved. Planned residential unit development in accordance with title 108, chapter 5 of this Land Use Code.~~



- (3) Private park, playground or recreation area, but not including privately owned commercial amusement business.

...

## CHAPTER 13. - FOREST RESIDENTIAL ZONE FR-1

...

### Sec. 104-13-3. - Conditional uses.

The following uses shall be permitted only when authorized by a conditional use permit obtained as provided in title 108, chapter 4 of this Land Use Code:

...

- (7) Parking lot accessory to uses permitted in this zone.

- (8) ~~Reserved. Planned residential unit development in accordance with title 108, chapter 5 of this Land Use Code.~~

- (9) Private park, playground or recreation area, but not including privately owned commercial amusement business.

...

## CHAPTER 14. - FOREST VALLEY ZONE FV-3

...

### Sec. 104-14-3. - Conditional uses.

The following uses shall be permitted only when authorized by a conditional use permit obtained as provided in title 108, chapter 4 of this Land Use Code:

...

- (9) Parking lot accessory to uses permitted in this zone.

- (10) ~~Reserved. Planned residential unit development in accordance with title 108, chapter 5 of the Land Use Code.~~

- (11) Private park, playground or recreation area, but not including privately owned commercial amusement business.

...

## CHAPTER 15. - TWO-FAMILY RESIDENTIAL ZONE R-2

...

### Sec. 104-15-3. - Conditional uses.

The following uses shall be permitted only when authorized by a conditional use permit as provided in title 108, chapter 4 of this Land Use Code.

...

- (2) Educational/institutional identification signs.

(3) ~~Reserved. Planned residential unit development, in accordance with title 108, chapter 5 of this Land Use Code.~~

(4) Private park, playground, or recreation area, but not including privately owned commercial amusement business.

...

## CHAPTER 16. - MULTIPLE-FAMILY RESIDENTIAL ZONE R-3

...

### Sec. 104-16-3. - Conditional uses.

The following uses shall be permitted only when authorized by a conditional use permit as provided in title 108 of this Land Use Code.

...

(7) Nursing home.

(8) ~~Reserved. Planned residential unit development, in accordance with title 108, chapter 5 of this Land Use Code.~~

(9) Private park, playground, or recreation area, but not including privately owned commercial amusement business.

...

## CHAPTER 17. - FOREST RESIDENTIAL ZONE FR-3

...

### Sec. 104-17-3. - Conditional uses.

The following uses shall be permitted only when authorized by a conditional use permit obtained as provided in title 108, chapter 4 of this Land Use Code:

...

(7) Nightly rental.

(8) ~~Reserved. Planned residential unit development in accordance with title 108, chapter 5.~~

(9) Private park, playground and/or recreation area, but not including privately owned commercial amusement business.

...

## CHAPTER 19. - RESIDENTIAL MANUFACTURED HOME ZONE RMH-1-6

...

### Sec. 104-19-3. - Conditional uses.

(a) Manufactured home subdivision in accordance with the site development standards prescribed by the Weber County Subdivision Ordinance.

(b) ~~Reserved. Manufactured home PRUD in accordance with the site development standards and planned residential unit development chapter of this Land Use Code.~~

(c) Public utility substations.



176 ...

177 CHAPTER 530. - PLANNED RESIDENTIAL UNIT DEVELOPMENT (PRUD) OVERLAY ZONE<sup>[c1]</sup>

**Sec. 108-5-1. - Definitions.**

When used in this chapter, the following words and phrases have the meaning ascribed to them in this section, unless the context indicates a different meaning:

*Common open space* means land area in a planned residential unit development reserved and set aside for recreation uses, landscaping, open green areas, parking and driveway areas for common use and enjoyment of the residents of the PRUD

*Common open space easement* means a required right of use granted to the county by the owner of a planned residential unit development, on and over land in a planned residential unit development designated as common open space, which easement guarantees to the county that the designated common open space and recreation land is permanently reserved for access, parking and recreation and open green space purposes in accordance with the plans and specifications approved by the planning commission and county commission at the time of approval of the PRUD or as such plans are amended from time to time with the approval of the county commission.

*Planned residential unit development (PRUD)* means a development in which the regulations of the zone, in which the development is situated, are waived to allow flexibility and initiative in site, building design and location in accordance with an approved plan and imposed general requirements.

**Sec. 108-5-2. - Purpose and intent.**

- (a) A planned residential unit development (PRUD) overlay zone is intended to allow for diversification in the relationship of various uses and structures to their sites and to permit more flexibility from traditional zoning of such sites and to encourage new and imaginative concepts in the design of neighborhood and housing projects in urbanizing areas. To this end, the development should be planned as one complex land use.
- (b) A PRUD overlay zone approval should advance the purpose and intent of the underlying Substantial compliance with the zone. However, if a proposed PRUD offers material advancement of a goal or objective of an applicable general plan then concessions may be made, at the legislative discretion of the county commission. -Development of any PRUD shall adhere to the applicable regulations and other provisions of this chapter-Land Use Code in-requiring and the county commission may apply any condition of approval reasonably necessary to promote adequate standards related to the the public health, safety, and general welfare shall be observed, without whilst being conscientious of unduly inhibiting the advantages of large scale planning for residential and related purposes. However, when any provisions of an approved PRUD overlay zone conflicts with the provisions of the underlying zone the provisions of the PRUD overlay zone approval shall prevail.

**Sec. 108-5-3. - ~~Permitted zones~~ Approval procedures and requirements.**

- (a) A planned residential unit development overlay zone may only be considered in the following zones: shall be permitted as a conditional use in all forest, agricultural, residential zones, and notwithstanding any other provisions of this chapter, the provisions as hereinafter set forth shall be applicable if any conflict exists.

(1) Residential estates zones;

(2) Agricultural zones;

(3) Forest, forest residential, and forest valley zones;

(4) Single-family, two-family and three-family residential zones;

(5) Commercial valley resort recreation zone; and



(6) Residential manufactured home zone.

- (b) Approval of a PRUD overlay zone shall follow the provisions and requirements as specified herein and the rezone provisions of Title 102, Chapter 5. A development agreement that clearly documents the County's roles and responsibilities to the developer and the developer's roles and responsibilities to the County shall be prepared and approved prior to the validity of any approved PRUD overlay zone. The development agreement shall, at a minimum, provide any other provision necessary to effectively execute the flexible provisions of this chapter, or any other provision as may be required by the County Commission or County Attorney's office.

**Sec. 108-5-4. - Use requirements.**

- (a) An overall development plan for a planned residential unit development showing residential uses, housing types, locations, sizes, height, number of residential units, access roads, common area and other open spaces, etc., may be approved by the planning commission and county commission and building permits issued in accordance with such plan, even though the residential uses and dwelling types and the location of the buildings proposed may differ from the residential uses and dwelling types and regulations governing such uses in effect in the zone in which the development is proposed provided the requirements of this chapter are complied with. Accessory nonresidential uses may be included in planned residential unit developments of 100 units or more to provide a necessary service to the residents of the development as determined by the planning commission provided agreements and restrictive covenants controlling the proposed uses, ownership, operational characteristics and physical design to the county's satisfaction are filed by and entered into by the developer to assure that the approved necessary services intent is maintained.
- (b) Once the overall development plan showing details of buildings, structures and uses has been approved by the county commission, after recommendations of the planning commission, no changes or alterations to said development plan or uses shall be made without first obtaining the approval of the planning commission and county commission, except for landscaping, provided subsection (c) of this section has been complied with.
- (c) The landscaping plan submitted for approval of the PRUD, shall be considered the minimum acceptable landscaping for the PRUD. Any alterations to the landscape plan shall be submitted to the planning area planning commission and shall be stamped by a licensed landscape architect certifying the following:
- (1) That the area of landscaping area exceeds the approved landscape plan;
  - (2) That the number and quality of plants exceed the approved landscape plan;
  - (3) That the portion of landscaping per phase exceeds the portions per phase of the approved plan; and
  - (4) That all requirements of the Land Use Code have been met.

No money held in the financial guarantee for the completion of landscaping of any phase of a PRUD shall be released until all landscaping requirements are completed for that phase, with the exception of single-family dwellings. In the case of single-family dwellings, that portion of the guarantee, equal to that portion of the phase represented by the dwelling, may be released.

- (d) Any housing units to be developed or used, in whole or in part, for sleeping rooms (including lockout sleeping rooms) for nightly rentals shall be declared and designated on the site development plan, and shall adhere to the additional parking requirements for rental sleeping rooms as provided in title 108, chapter 8, section 2 of this Land Use Code.

**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 units in all forestry and agricultural zones, and contain a minimum area of four acres in all residential zones.



- (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.
- (c) Notwithstanding section 108-5-5(b), [c2]the county may, at its discretion, allow for an increased number of residential lots in a PRUD by awarding bonus densities to those PRUDs developed within the Western Weber County Planning Area. PRUDs developed within the Ogden Valley Planning Area are not eligible for bonus densities. The following presents the bonus density opportunities that are available to PRUDs located within specific zoning classification boundaries:
  - (1) In the Forest (F-40) and the Residential Estates (RE-15 and RE-20) Zones, the county may award a maximum bonus density of ten percent based on an accumulation of any combination of the following:
    - a. If the PRUD provides a minimum of one road stub to an adjacent property where the planning commission determines that streets are needed to provide for current or future traffic circulation, up to a five percent bonus density may be granted.
    - b. If the PRUD provides a minimum of one approved public access to public lands, up to a five percent bonus density may be granted.
    - c. If the PRUD provides common area that offers easily accessible amenities, such as a trail, park, or community garden, that are open for use by the general public, up to a five percent bonus density may be granted.
    - d. If the PRUD dedicates and conveys to the county, the state division of wildlife resources, or both, an open space easement that permanently preserves areas that have been identified by the state division of wildlife resources as having substantial or crucial wildlife habitat value, up to a ten percent bonus density may be granted.
  - (2) In the Agricultural (A-1, A-2, and A-3) Zones, the county may grant a bonus density of up to 30 percent if the applicant preserves open space area equal to or greater than 30 percent of the PRUD's adjusted gross acreage as defined in section 101-1-7. However, if the applicant preserves open space area above 30 percent, the county may grant a bonus density of up to 50 percent. Overall bonus density potential shall be no greater than a percentage equal to the percentage of the PRUD's total area preserved as open space. The county may award bonus densities based on an accumulation of any combination of the following:
    - a. If a PRUD provides and implements an approved roadway landscape and design plan that includes, but is not necessarily limited to, vehicle and pedestrian circulation, lighting, and street trees of an appropriate species, size of at least a two-inch caliper, and quantity of not less than eight trees for every 100 feet of road length, up to 20 percent bonus density may be granted.
    - b. For each five percent increment of open space preserved over 50 percent: a five percent bonus density shall be granted up to the total bonus density allowed by subsection (c)(2).
    - c. If a PRUD provides a minimum of one approved access to public lands, up to a ten percent bonus density may be granted.
    - d. If a PRUD provides common area that offers easily accessible amenities such as trails, parks, or community gardens, that are open for use by the general public, up to a 15 percent bonus density may be granted.
    - e. If a PRUD donates and/or permanently preserves a site determined to be desirable and necessary, to a local park district or other county approved entity, for the perpetual location and operation of a public park, cultural, or other recreation facility; up to a 20 percent bonus may be granted.



- f. If ten percent of the lots and homes in a PRUD are permanently set aside for affordable housing as outlined by the Affordable Housing Act of 1990, up to a 20 percent bonus density may be granted. If a bonus density is granted to affordable housing, the applicant shall:
    - 1. Present and gain county approval of an effective plan and method for guaranteeing and enforcing perpetual affordability. Any method used, such as an affordable housing deed restriction, shall limit the sale or rental of the affected lots and homes to a household with an income at or below 80 percent of the county median income;
    - 2. Identify and label, on the final plat, the lots set aside as affordable housing lots; and
    - 3. Provide a note on the final plat explaining the nature of the housing restriction on the lot and the method by which occupancy and affordability will be regulated.
  - g. If a PRUD preserves an agricultural parcel with an agriculturally based open space preservation plan approved by the planning commission and records an agricultural preservation easement on the parcel, a bonus density may be approved as follows:
    - 1. For a parcel containing at least ten acres but fewer than 20 acres, up to a 15 percent bonus density may be granted.
    - 2. For a parcel containing at least 20 acres but fewer than 30 acres, up to a 20 percent bonus density may be granted.
    - 3. For a parcel containing at least 30 acres but fewer than 40 acres, up to a 30 percent bonus density may be granted.
    - 4. For a parcel containing at least 40 acres but fewer than 50 acres, up to a 40 percent bonus density may be granted.
    - 5. For a parcel containing at least 50 acres or more, up to a 50 percent bonus density may be granted.
  - h. If a PRUD provides for the preservation of historical sites and buildings that have been identified by the state historic preservation office as having notable historical value, up to a five percent bonus density may be granted.
  - i. If a PRUD provides for the development of excess sewage treatment capacity, up to a five percent bonus density may be granted.
  - j. If a PRUD dedicates and conveys to the county, the state division of wildlife resources, or both, an open space easement that permanently preserves areas that have been identified by the state division of wildlife resources as having substantial or crucial wildlife habitat value, up to a 15 percent bonus density may be granted.
  - k. If a PRUD includes an open space parcel that consists of five acres or more and is contiguous to permanently preserved open space on an adjoining property located outside of the proposed PRUD, up to a 20 percent bonus density may be granted.
- (d) If a PRUD is located in two or more zones, then the number of units allowed in the PRUD is the total of the units allowed in each zone, however, the units allowed in each zone must be constructed in the respective zone.
- (e) It is not the purpose of the PRUD provision to allow an increase in the housing density of a PRUD beyond what county development ordinances would normally allow, by requesting housing unit credit and transfer for lands to be included in the PRUD boundary as common open space which have little or no possibility of housing development. Such areas may include swamp lands, bodies of water, excessively steep slopes and hillsides, mountain areas which do not have the capability of housing development due to lack of water, access, natural resource limitations, etc. ~~Therefore, the planning commission shall~~ After recommendation from the planning commission the county commission, has legislative discretion to determine what part if any, of such lands may be included in a PRUD as useable open space common area for which dwelling unit credit is being requested for transfer to



developable portions of the PRUD ~~and, w~~When ~~such a~~ determination justifies ~~such an~~ inclusion, ~~the planning commission shall allow~~ the transfer of units ~~may be allowed~~. ~~In making this determination, the planning~~ Among other considerations, the county commission's decision ~~shall should be guided by the following factors~~ give general preference to the following standards:

- (1) The physical relationship of the proposed common areas to the developable areas of the PRUD ~~shall be are~~ such that the common areas are suitable for landscaped and/or developed open space or for recreational use of direct benefit, access and usability to the unit owners.
- (2) The lands ~~shall should~~ contribute to the actual quality, livability and aesthetics of the PRUD and ~~shall should~~ be physically integrated into the development design.
- (3) The lands ~~must be are~~ suitable for and possess the capability for housing development.
- (4) Lands with an average slope of 40 percent or more in the FR-1, FV-3, F-5, F-10, and F-40 Zones and 30 percent or more in all other zones ~~shall should be discouraged from being not be~~ classified as developable land and ~~shall should~~ not be considered when determining the number of allowable units in a proposed PRUD.

**Sec. 108-5-6. - General requirements.**

- (a) The development shall be in a single or corporate ownership at the time of development or the subject of an application filed jointly by the owners of the property.
- (b) The property adjacent to the planned residential unit development shall not be detrimentally affected without the county imposing reasonable conditions or, in the absence of appropriate natural or constructed buffers, require that uses of least intensity or greatest compatibility be arranged around the perimeter boundaries of the project. Yard and height requirements of the adjacent zone may be required on the immediate periphery of a PRUD.
- (c) Building uses, building locations, lot area, width, yard, height and coverage regulations proposed shall be determined acceptable by approval of the site development plan.
- (d) The county commission may, at its discretion and after receiving a recommendation from the planning commission, consider and approve a plan that provides for ownership, preservation, maintenance, and guarantee of improvements for proposed open space(s). Open space parcels, and any improvements proposed thereon, shall be approved, owned, maintained, preserved, and financially guaranteed as follows:
  - (1) *Plan approval.* An open space preservation plan shall accompany an application for PRUD approval. The plan shall include a narrative describing all proposed uses, phasing, and maintenance methods for all open space parcels, and a site plan that shows proposed common areas, individually owned preservation parcels, and the locations of existing and proposed future structures.
    - a. For open space dedicated as common area parcels, the site plan shall show the location of existing and future structures by identifying the structure's approximate footprint. Structures housing a utility or serving as a development amenity shall be subject to all applicable standards including all design review and applicable architectural standards found in title 108 of the Weber County Land Use Code.
    - b. For open space dedicated as individually owned preservation parcels, the site plan shall identify locatable building envelopes within which all existing and future buildings must be located.
  - (2) *Ownership.*
    - a. Open space parcels of any size and dedicated as common area shall be commonly owned by an appropriate homeowner's association established under U.C.A. 1953, § 57-8-1 et seq., the Condominium Ownership Act, or § 57-8a-101 et seq., the Community Association Act.
    - b. Other open space parcels, consisting of five acres or more, may be owned individually.

1. Individually owned preservation parcels of ten acres or more in area may be owned by any person, regardless of whether the person owns a residential lot within the PRUD.
2. Individually owned preservation parcels of less than ten acres in area may only be owned by an owner of a lot within the same PRUD.
3. The applicable ownership standard in subsection (2)b.1. or 2. shall be memorialized in the following manner:
  - i. An explanation of the applicable ownership standard and a perpetual restriction conforming thereto shall be written into all agriculture, forest, or other type of preservation easements granted pursuant to subsection (3); and
  - ii. A note describing the applicable ownership standard shall be placed on the final recorded subdivision plat.
  - iii. A notice describing the applicable ownership standard shall be recorded on each individually owned preservation parcel at the time of recording a subdivision plat.

(3) *Preservation.*

- a. Open space parcels are to be permanently preserved in a manner that is consistent with the approved open space preservation plan.
- b. The applicant, after receiving an approval for a PRUD and prior to recording or as part of recording the final subdivision plat, shall grant and convey to the county, to each lot owner, and to the homeowner association if applicable, an open space easement over all areas dedicated as common area or individually owned preservation parcels. The open space easement shall incorporate and conform to the open space preservation plan approved under subsection (1).
- c. If a PRUD and subsequent subdivision plat contains open space intended to preserve substantial or crucial wildlife habitat, as defined by the Utah Division of Wildlife Resources, a wildlife habitat easement meeting the requirements of the Utah Division of Wildlife Resources shall be offered to the division.
- d. If a PRUD and subsequent subdivision plat contains an individually owned preservation parcel, the applicant shall:
  1. Identify and label on the final plat each such parcel as an agricultural, forest, or other type of preservation parcel;
  2. Further identify each preservation parcel by placing a unique identifying letter of the alphabet immediately after the label;
  3. Present an agricultural, forest, or other type of preservation easement to the county and gain its approval; and
  4. Record an approved preservation easement on each parcel identified as an agricultural, forest, or other type of preservation parcel.
- e. The county may impose any additional conditions and restrictions it deems necessary to ensure maintenance of the open space and adherence to the open space preservation plan. Such conditions may include a plan for the disposition or re-use of the open space property if the open space is not maintained in the manner agreed upon or is abandoned by the owners.

(4) *Guarantee of open space improvements.*

- a. The county shall not require an applicant to deposit a financial guarantee for open space improvements (e.g., clubhouse, pool, pergola, gazebo, etc.) that require a certificate of occupancy and that remain incomplete at the time of final approval and acceptance of a proposed subdivision (resulting from the approval of a PRUD) from the board of county commissioners. The applicant or developer shall complete the improvements according to



the approved phasing component of an open space preservation plan. If the applicant fails to complete improvements as presented in the open space preservation plan, the county may revoke the approval of the PRUD and suspend final plat approvals and record an instrument notifying prospective lot buyers that future land use permits may not be issued for any construction.

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

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

**Sec. 108-5-7. - Submission of application.**

- (a) An application for a planned residential unit development shall be to the planning commission and shall be accompanied by an overall development plan, including an open space preservation plan, showing uses, dimensions and locations of proposed structures, areas reserved for public uses such as schools and playgrounds, landscaping, recreational facilities, areas reserved and proposals for accommodating vehicular and pedestrian circulation, parking, etc., development phases, and architectural drawings and sketches demonstrating the design and character of the proposed development.
- (b) Additional information shall be included as may be necessary to determine that the contemplated arrangement of uses make it desirable to apply regulations and requirements differing from those ordinarily applicable under this chapter.

**Sec. 108-5-8. - Planning commission consideration.**

In considering the proposed planned residential unit development, the planning commission shall consider:

- (1) The architectural design of buildings and their relationship on the site and development beyond the boundaries of the proposal.
- (2) Which streets shall be public and which shall be private; the entrances and exits to the development and the provisions for internal and external traffic circulation and off-street parking.
- (3) The landscaping and screening as related to the proposed uses within the development and their integration into the surrounding area.
- (4) Lighting and the size, location, design, and quality of signs.
- (5) The residential density of the proposed development and its distribution as compared with the residential density of the surrounding lands, either existing or as indicated on the zoning map or general plan proposals of the county as being a desirable future residential density.
- (6) The demonstrated ability of the applicant to financially carry out the proposed project under total or phase development proposals within the time limit established.

**Sec. 108-5-9. - Planning commission action.**

The planning commission, after considering applicable codes and any anticipated detrimental effects, may recommend an approval, recommend an approval with conditions, or recommend denial of the PRUD to the county commission.

**Sec. 108-5-10. - County commission action.**

The county commission, after holding a public meeting, may approve or disapprove the application for a PRUD. If approving an application, the county commission may attach conditions as it may deem necessary to secure the purposes of this chapter. Approval of the county commission, together with any conditions imposed, constitutes approval of the proposed development as a conditional use in the zone in which it is proposed.

**Sec. 108-5-11. - Land use permit issuance.**

The planning division shall not issue any land use permit for any proposed building, structure, or use within the project unless such building, structure, or use complies with the approved plans and any conditions imposed. Approved development plans shall be filed with the planning division, building inspector and county engineer.

**Sec. 108-5-12. - Time limit.**

Unless substantial action has been taken, leading toward completion of a PRUD or an approved phase thereof, within a period of 18 months from the date of approval, the approval shall expire unless an extension, not to exceed six months, is approved by the planning director. Upon expiration, the land and structures thereon, if any, may be used for any other permitted use in the zone in which the project is located. Reserved open space shall be maintained where necessary to protect and blend existing structures into alternate land use proposals after abandonment of a project.

...

**Title 108 - STANDARDS**

...

**CHAPTER 5. - RESERVED.<sup>[c3]</sup> ~~PLANNED RESIDENTIAL UNIT DEVELOPMENT (PRUD)~~**