



## Staff Report to the County Commission

Weber County Planning Division

### Synopsis

#### Application Information

<b>Application Request:</b>	Public hearing to consider and take action on a proposal to amend the following sections of Weber County Code: §102-1-5 and §102-5, regarding rezoning procedures and legislative amendments. The proposal will also create a new chapter regarding development agreements.
<b>Agenda Date:</b>	Tuesday, September 22, 2020
<b>Applicant:</b>	Weber County Planning Division
<b>File Number:</b>	ZTA 2018-05

#### Staff Information

<b>Report Presenter:</b>	Steve Burton sburton@co.weber.ut.us 801-399-8766
<b>Report Reviewer:</b>	CE

### Applicable Ordinances

- Weber County Land Use Code, Title 102, Chapter 1 (General Provisions)
- Weber County Land Use Code, Title 102, Chapter 5 (Rezone Procedures)

### Legislative Decisions

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

### Summary and Background

The Planning Division is proposing the attached changes in order to clarify the rezone procedures and to bring the land use code into compliance with state code regarding legislative recommendations from the Planning Commission. The proposed changes will also clarify requirements and procedures for a development agreement. Finally, the proposed changes will allow planning staff to require a concept development plan as part of a rezone application when deemed necessary.

On July 14, 2020, the Western Weber Planning Commission recommended approval of the proposed changes to the land use code.

On July 28<sup>th</sup>, 2020, the Ogden Valley Planning Commission recommended approval of the proposed changes to the land use code.

### Conformance to the General Plan

This proposal is meant to provide clear and concise rezone procedures which can help to effectively implement the county's general plans.

### 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 County Commission adopt the text included as Exhibit A 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 clarifications will provide for a more efficient administration of the Land Use Code.

## **Exhibits**

- A. Proposed Ordinance

**WEBER COUNTY  
ORDINANCE 2020-TEMP REZONE PROCEDURES**

**AN ORDINANCE AMENDING REZONE PROCEDURES AND ADOPTING  
PROCEDURES FOR REVIEW OF DEVELOPMENT AGREEMENTS**

**WHEREAS**, the Board of County Commissioners of Weber County has previously adopted regulations pertaining to the rezoning of property in the unincorporated areas of Weber County; and

**WHEREAS**, the Board of County Commissioners of Weber County has determined the previously adopted regulations contain insufficient clarity and are inadequate in providing an efficient administration for rezone applications; and

**WHEREAS**, on July 28th, 2020, the Ogden Valley Planning Commission reviewed and recommended for adoption the amendments contained herein by the Board of County Commissioners of Weber County; and

**WHEREAS**, on July 14th, 2020, the Western Weber Planning Commission reviewed and recommended for adoption the amendments contained herein by the Board of County Commissioners of Weber County; and

**NOW THEREFORE**, be it ordained by the Board of County Commissioners of Weber County, in the State of Utah, as follows:

**SECTION 1:**        **AMENDMENT** “Sec 102-1-5 Hearing And Publication Notice For County Commission” of the Weber County County Code is hereby *amended* as follows:

**BEFORE AMENDMENT**

Sec 102-1-5 Hearing And Publication Notice For County Commission

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

(Ord. of 1956, § 31-5; Ord. No. 2009-28; Ord. No. 2010-20; Ord. No. 2012-7, § 7(31-5), 5-1-2012)

**AFTER AMENDMENT**

Sec 102-1-5 ~~Hearing And Publication Notice For County Commission~~Reserved

~~Before finally adopting any such legislative amendment, the board of county commissioners shall hold a public hearing thereon, at least 14 days' notice of the time and place of which shall be given as per state code. The unanimous vote of the full body of the county commission is required to overturn the recommendation of the planning commission, if there was a unanimous vote of the planning commission in favor or denial of the petition. (Ord. of 1956, § 31-5; Ord. No. 2009-28; Ord. No. 2010-20; Ord. No. 2012-7, § 7(31-5), 5-1-2012)~~

**SECTION 2:            AMENDMENT** “Sec 102-5-2 Development To Be In Conformance To The General Plan” of the Weber County County Code is hereby *amended* as follows:

**BEFORE AMENDMENT**

Sec 102-5-2 Development To Be In Conformance To The General Plan

Since the purpose of zoning regulations is to promote the general welfare, safety, health, convenience and economic prosperity of the county, it is county policy that rezoning of property, should further this purpose, by complying with the county's general plans.

(Ord. of 1956, § 35-2; Ord. No. 2009-29)

**AFTER AMENDMENT**

Sec 102-5-2 Development To Be In Conformance To The General Plan

~~Since the purpose of zoning regulations is to promote the general welfare, safety, health, convenience and economic prosperity of the county, it is county policy that rezoning of property, should further this purpose, by complying with the county's general plans.~~ Rezoning of property should further the purpose of the zoning regulations listed in Section 101-1-2 of the county's Land Use Code by complying with the county's general plans.

(Ord. of 1956, § 35-2; Ord. No. 2009-29)

**SECTION 3:            AMENDMENT** “Sec 102-5-3 Approval Criteria” of the Weber County County Code is hereby *amended* as follows:

**BEFORE AMENDMENT**

Sec 102-5-3 Approval Criteria

- (a) To promote compatibility and stability in zoning and appropriate development of property within the county, no application for rezoning shall be approved unless it is

demonstrated that the proposed rezoning promotes the health, safety and welfare of the county and the purposes of this chapter.

- (b) The planning commission and the county commission will consider whether the application should be approved or disapproved based upon the merits and compatibility of the proposed project with the general plan, surrounding land uses, and impacts on the surrounding area. The commissions will consider whether the proposed development, and in turn the application-for rezoning, is needed to provide a service or convenience brought about by changing conditions and which therefore promotes the public welfare. The county commission may require changes in the concept plan in order to achieve compatibility and may impose any conditions to lessen or eliminate adverse impacts.
- (c) Supplementary approval criteria for a destination and recreation resort zone:
  - (1) The proposed resort can be developed in a manner that will not substantially degrade natural/ecological resources or sensitive lands as identified in title 104, chapter 28, the Ogden Valley Sensitive Lands Overlay District, of the Weber County Land Use Code.
  - (2) A professional and empirical study has provided substantial evidence determining that the proposed resort is viable and contributes to the surrounding community's economic well-being.
  - (3) A professional and empirical study has provided substantial evidence determining that proposed traffic mitigation plans will prevent transportation corridors, serving the resort, from diminishing below an acceptable level of service.
  - (4) The natural and developed recreational amenities, provided by the resort, shall constitute a primary attraction and provide an exceptional recreational experience by enhancing quality public recreational opportunities.
  - (5) The proposed resort's seasonal workforce housing plan will provide a socially, economically and environmentally responsible development.
  - (6) The proposed resort can demonstrate that public safety services are and/or will be feasible and available to serve the project in a manner that is acceptable to the county commission.

(Ord. of 1956, § 35-3; Ord. No. 2009-29)

#### AFTER AMENDMENT

Sec 102-5-3 ~~Approval Criteria~~ Reserved

- ~~(a) To promote compatibility and stability in zoning and appropriate development of property within the county, no application for rezoning shall be approved unless it is demonstrated that the proposed rezoning promotes the health, safety and welfare of the county and the purposes of this chapter. The planning commission and the county commission will consider whether the application should be approved or disapproved based upon the merits and compatibility of the proposed project with the general plan, surrounding land uses, and impacts on the surrounding area. The commissions will consider whether the proposed development, and in turn the application-for rezoning, is needed to provide a service or convenience brought about by changing conditions and~~

~~which therefore promotes the public welfare. The county commission may require changes in the concept plan in order to achieve compatibility and may impose any conditions to lessen or eliminate adverse impacts. Supplementary approval criteria for a destination and recreation resort zone: The proposed resort can be developed in a manner that will not substantially degrade natural/ecological resources or sensitive lands as identified in title 104, chapter 28, the Ogden Valley Sensitive Lands Overlay District, of the Weber County Land Use Code. A professional and empirical study has provided substantial evidence determining that the proposed resort is viable and contributes to the surrounding community's economic well-being. A professional and empirical study has provided substantial evidence determining that proposed traffic mitigation plans will prevent transportation corridors, serving the resort, from diminishing below an acceptable level of service. The natural and developed recreational amenities, provided by the resort, shall constitute a primary attraction and provide an exceptional recreational experience by enhancing quality public recreational opportunities. The proposed resort's seasonal workforce housing plan will provide a socially, economically and environmentally responsible development. The proposed resort can demonstrate that public safety services are and/or will be feasible and available to serve the project in a manner that is acceptable to the county commission. (Ord. of 1956, § 35-3; Ord. No. 2009-29)~~

**SECTION 4:            AMENDMENT** “Sec 102-5-4 Application Submittal” of the Weber County County Code is hereby *amended* as follows:

#### BEFORE AMENDMENT

##### Sec 102-5-4 Application Submittal

- (a) A pre-application meeting is required prior to the application submittal.
- (b) An application for a rezoning shall be submitted on forms provided by the planning division and shall expire 18 months after submittal, if not acted upon, provided however, that the director may extend the application for six months for just cause. The application shall be accompanied with the following information:
  - (1) The application shall be signed by the landowner or his duly authorized representative and shall be accompanied by the necessary fee as shown within the applicable fee schedule.
  - (2) A rezoning may be initiated by an owner of any property or any person, firm or corporation with the written consent of the owner of the property, or be county-initiated.
  - (3) An application for a rezoning shall be accompanied by a concept development plan.
  - (4) Letters of feasibility from the appropriate state or county agencies for water and wastewater.
  - (5) A narrative from the project engineer discussing the feasibility for the mitigation

of stormwater runoff.

- (6) The applicant shall provide a narrative addressing the following information:
  - a. How is the change in compliance with the general plan?
  - b. Why should the present zoning be changed to allow this proposal?
  - c. How is the change in the public interest?
  - d. What conditions and circumstances have taken place in the general area since the general plan was adopted to warrant such a change?
  - e. How does this proposal promote the health, safety and welfare of the inhabitants of the county?
  - f. Project narrative describing the project vision.
- (c) Destination and recreation resort zone supplementary requirements.
  - (1) Due to the anticipated scale and potential impact of a destination and recreation resort on the county and other surrounding areas, additional information, shall be required to accompany any application submitted for consideration of a destination and recreation resort zone approval. The additional information shall consist of the following:
    - a. Concept development plan showing sensitive land areas as described/mapped in title 104, chapter 28, Ogden Valley Sensitive Lands Overlay Districts.
    - b. Traffic impact analysis.
    - c. Cost benefit analysis.
    - d. Recreation facilities plan.
    - e. Seasonal workforce housing plan.
    - f. Emergency services plan including a letter of feasibility from the Weber fire district and Weber County sheriff's office.
    - g. Letter of feasibility from the electrical power provider.
    - h. Density calculation table showing proposed density calculations.
    - i. Thematic renderings demonstrating the general vision and character of the proposed development.
  - (2) All documents submitted as part of the application shall be accompanied by a corresponding PDF formatted file.

(Ord. of 1956, § 35-4; Ord. No. 2009-29)

## AFTER AMENDMENT

### Sec 102-5-4 Application ~~Submittal~~ Requirements

- (a) ~~A pre-application meeting is required prior to the application submittal.~~ A rezoning application may be initiated by an owner of any property or any person, firm, or corporation with the written consent of the owner of the property, or be county-initiated.
- (b) ~~An application for a rezoning shall be submitted on forms provided by the planning division and shall expire 18 months after submittal, if not acted upon, provided however, that the director may extend the application for six months for just cause. The application shall be accompanied with the following information: An application for a rezoning shall be prepared submitted on forms provided by the planning division. and~~

shall expire 18 months after submittal, if not acted upon, provided however, that the director may extend the application for six months for just cause. The application shall be accompanied with the following information:

- (1) The application shall be signed by the landowner or ~~their~~<sup>his</sup> duly authorized representative and shall be accompanied by the necessary fee as shown within the applicable fee schedule. ~~A rezoning may be initiated by an owner of any property or any person, firm or corporation with the written consent of the owner of the property, or be county-initiated.~~
  - (2) ~~An application for a rezoning shall be accompanied by a concept development plan.~~ A proposed rezone to any zone An application for a rezoning shall may be required to be accompanied by a concept development plan in accordance with Section 102-5-5 of this chapter. A detailed site plan, in lieu of a concept development plan, may be required.
  - (3) Letters of feasibility from the appropriate state or county agencies for water and wastewater.
  - (4) A narrative from the project engineer discussing the feasibility for the mitigation of stormwater runoff.
  - (5) The applicant shall provide a narrative addressing the following information:
    - a. How is the change in compliance with the general plan?
    - b. Why should the present zoning be changed to allow this proposal?
    - c. How is the change in the public interest?
    - d. What conditions and circumstances have taken place in the general area since the general plan was adopted to warrant such a change?
    - e. How does this proposal promote the health, safety and welfare of the inhabitants of the county?
    - f. Project narrative describing the project vision.
- (c) Destination and recreation resort zone supplementary requirements.
- (1) Due to the anticipated scale and potential impact of a destination and recreation resort on the county and other surrounding areas, additional information, shall be required to accompany any application submitted for consideration of a destination and recreation resort zone approval. The additional information shall consist of the following:
    - a. Concept development plan showing sensitive land areas as described/mapped in title 104, chapter 28, Ogden Valley Sensitive Lands Overlay Districts.
    - b. Traffic impact analysis.
    - c. Cost benefit analysis.
    - d. Recreation facilities plan.
    - e. Seasonal workforce housing plan.
    - f. Emergency services plan including a letter of feasibility from the Weber fire district and Weber County sheriff's office.
    - g. Letter of feasibility from the electrical power provider.
    - h. Density calculation table showing proposed density calculations.
    - i. Thematic renderings demonstrating the general vision and character of the proposed development.



- (d) All documents submitted as part of the application shall be accompanied by a corresponding PDF formatted file.

(Ord. of 1956, § 35-4; Ord. No. 2009-29)

**SECTION 5:**        **AMENDMENT** “Sec 102-5-5 Concept Development Plan” of the Weber County County Code is hereby *amended* as follows:

**BEFORE AMENDMENT**

Sec 102-5-5 Concept Development Plan

- (a) The concept development plan shall be submitted with a rezoning application, and shall supply sufficient information about the development to assist the planning commission and county commission in making a decision on the rezoning application. Seven copies of plans shall be submitted on 11- by 17-inch paper and two copies of plans shall be submitted on 24- by 36-inch paper, at a readable scale. All concept plans (including but not limited to architectural elevations/renderings, etc.), and subsequent submittals and revisions, shall be accompanied by a full-scale set of PDF, DWF and JPEG files of the respective plans. Information supplied shall include text and illustration:
- (1) Inventory of general land use types located within the project and the surrounding area.
  - (2) Approximate locations and arrangements of buildings, structures, facilities and open space.
  - (3) Architectural rendering of proposed buildings, structures, facilities and open space within the project.
  - (4) Access and traffic circulation patterns and approximant location of parking.
  - (5) A written description explaining how the project is compatible with surrounding land uses.
  - (6) The existing site characteristics (e.g., terrain, vegetation, watercourses, and wetlands, etc.).
  - (7) Written explanation and visual illustration showing project density and mass/scale in comparison to the existing developed area adjacent to the proposed rezone.
  - (8) Legal description of the property being proposed for rezone.
- (b) The applicant/owner and any assigns or successors in interest, is required to develop only in accordance with the proposals outlined in the plan. Any materially different concept, use, building arrangement, etc., will not be approved nor will building permits be issued by the county until such plan is amended by the county commission after recommendation of the planning commission. Minor changes may be approved by the planning director. If the county denies such changes or amendments and/or the concept plan is abandoned, the county may institute steps to revert the zoning to its former or other appropriate zone. The information shown on the concept plan may vary in detail

depending on the size of projects.

(Ord. of 1956, § 35-5; Ord. No. 2009-29; Ord. No. 2017-14, Exh. A, 5-9-2017)

## AFTER AMENDMENT

### Sec 102-5-5 Concept Development Plan

- (a) ~~The~~ A concept development plan ~~shall~~ may be required to be submitted with a rezoning application to any zone, as provided in Section 102-5-6. ~~The concept development plan~~ and shall supply sufficient information about the development to assist the Planning Commission and County Commission in making a decision on the rezoning application. A ~~Seven~~ copies of plans shall be submitted on 11- by 17-inch paper and ~~two copies of plans shall be submitted~~ on 24- by 36-inch paper, at a readable scale. All concept plans (including but not limited to architectural elevations/renderings, etc.), and subsequent submittals and revisions, shall be accompanied by a full-scale set of PDF, DWF and JPEG files of the respective plans. Information supplied shall include text and illustration:
- (1) Inventory of general land use types located within the project and the surrounding area.
  - (2) Approximate locations and arrangements of buildings, structures, facilities and open space.
  - (3) Architectural rendering of proposed buildings, structures, facilities and open space within the project.
  - (4) Access and traffic circulation patterns and approximate ~~location~~ of parking.
  - (5) A written description explaining how the project is compatible with surrounding land uses.
  - (6) The existing site characteristics (e.g., terrain, vegetation, watercourses, and wetlands, etc.).
  - (7) Written explanation and visual illustration showing project density and mass/scale in comparison to the existing developed area adjacent to the proposed rezone.
  - (8) Legal description of the property being proposed for rezone.
- (b) The applicant/owner, and any assignees or successors in interest, is required to develop only in accordance with the proposals outlined in the plan. Any materially different concept, use, building arrangement, etc., will not be approved nor will building permits be issued by the county until such plan is amended by the county commission after recommendation of the planning commission. Minor changes may be approved by the planning director. If the county denies such changes or amendments and/or the concept plan is abandoned, the county may institute steps to revert the zoning to its former or other appropriate zone. The information shown on the concept plan may vary in detail depending on the size of projects.

(Ord. of 1956, § 35-5; Ord. No. 2009-29; Ord. No. 2017-14, Exh. A, 5-9-2017)

**SECTION 6:            AMENDMENT** “Sec 102-5-6 County Zoning” of the Weber County County Code is hereby *amended* as follows:

**BEFORE AMENDMENT**

Sec 102-5-6 County Zoning

The county commission after considering the recommendations of the planning commission, holding the required public hearing, and making findings as to whether or not the application meets the criteria found in section 102-5-3, may take any of the following actions:

- (a) The county commission may approve the proposed rezoning and concurrently approve a concept plan for the development, in whole or in part, with or without changes or conditions and adopt an ordinance rezoning the property;
- (b) The county commission may deny a rezoning application;
- (c) The county commission may rezone the subject land to any other less intensive zone deemed more appropriate

(Ord. of 1956, § 35-6; Ord. No. 2009-29; Ord. No. 2015-22, Exh. A, 12-22-2015)

**AFTER AMENDMENT**

Sec 102-5-6 ~~County Zoning~~ Rezone Procedure

- ~~(a) The county commission after considering the recommendations of the planning commission, holding the required public hearing, and making findings as to whether or not the application meets the criteria found in section 102-5-3, may take any of the following actions: The county commission may approve the proposed rezoning and concurrently approve a concept plan for the development, in whole or in part, with or without changes or conditions and adopt an ordinance rezoning the property; The county commission may deny a rezoning application; The county commission may rezone the subject land to any other less intensive zone deemed more appropriate~~ Prior to submittal of a rezone application, the applicant shall attend a pre-application meeting in which the proposal is discussed with County planning staff. After the pre application meeting, the Planning Director or designee may require a concept development plan to be submitted with the application. After application submittal, if no concept plan was previously required, the Planning Director or designee, the Planning Commission, or the County Commission may require a concept development plan or any other information to address emerging impacts.
- (b) When a rezoning application meets the requirements outlined in 102-5-3 of this Chapter and when the application is deemed complete by the Planning Director or designee, the application will be processed in the following manner:
  - (1) Upon receiving a recommendation from staff regarding an amendment to the zoning map, the Planning Commission shall review the amendment and prepare

its recommendation. The Planning Commission may recommend approval, approval with modifications, or denial of the proposed amendment and shall submit its recommendation to the County Commission for review and decision.

(2) Upon receiving a recommendation from the Planning Commission regarding an amendment to the zoning map, the County Commission shall schedule and hold a public hearing to review and make a decision on the application. Following the public hearing the County Commission may approve, approve with modifications, or deny the proposed amendment. Prior to making a decision that goes contrary to the Planning Commission's recommendation, the County Commission may, but is not obligated to, remand the amendment to the Planning Commission with a request for another recommendation with additional or specific considerations.

(3) A decision to amend the zoning map is a matter committed to the legislative discretion of the County Commission and is not controlled by any one standard. However, in making an amendment, the County Commission and Planning Commission are encouraged to consider the following factors, among other factors they deem relevant:

- a. Whether the proposed amendment is consistent with goals, objectives, and policies of the County's general plan;
- b. Whether the proposed amendment is compatible with the overall character of existing development in the vicinity of the subject property;
- c. The extent to which the proposed amendment may adversely affect adjacent property;
- d. The adequacy of facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreation facilities, police and fire protection, schools, stormwater drainage systems, water supplies, wastewater, and refuse collection;
- e. Whether the proposed rezone can be developed in a manner that will not substantially degrade natural/ecological resources or sensitive lands; and
- f. Whether proposed traffic mitigation plans will prevent transportation corridors from diminishing below an acceptable level of service.

(4) Supplementary approval considerations for a destination and recreation resort zone: The Planning Commission and County Commission are also encouraged to consider the following factors, among other factors they deem relevant, when making an amendment to the DRR-1 zone:

- a. Whether a professional and empirical study has provided substantial evidence determining that the proposed resort is viable and contributes to the surrounding community's economic well-being.
- b. Whether the natural and developed recreational amenities, provided by the resort, will constitute a primary attraction and provide an exceptional recreational experience by enhancing public recreational opportunities.
- c. Whether the proposed resort's seasonal workforce housing plan will provide a socially, economically, and environmentally responsible

development.

(5) Where a rezoning application has been denied, the County shall not accept a substantially similar zoning amendment application within one (1) year of a denial unless there is a substantial change of conditions since the earlier application. A new application, with the applicable fee, shall be required and processed in accordance with the procedure outlined in this section.

(c) Rezoning applications shall expire 18 months after submittal, if not acted upon. The Planning Director may extend the expiration date for six months for just cause.

(Ord. of 1956, § 35-6; Ord. No. 2009-29; Ord. No. 2015-22, Exh. A, 12-22-2015)

**SECTION 7: AMENDMENT** “Sec 102-5-7 Processing Approved Development Proposals” of the Weber County County Code is hereby *amended* as follows:

#### BEFORE AMENDMENT

Sec 102-5-7 Processing Approved Development Proposals

After rezoning is granted, a development proposal shall be processed and specific plans for all or a phase of the development on the rezoned land shall be reviewed as required by the Land Use Code, as part of its (site plan design review, conditional use approval, subdivision and/or building permit) approval process. The plans shall be in accordance with the approved concept development plan and any conditions attached.

(Ord. of 1956, § 35-7; Ord. No. 2009-29)

#### AFTER AMENDMENT

Sec 102-5-7 ~~Processing~~ Approved Development Proposals

After rezoning is granted, applications for development within the rezoned area ~~a development proposal~~ shall be processed ~~and specific plans for all or a phase of the development on the rezoned land shall be~~ reviewed as required by the Land Use Code, as part of its (site plan design review, conditional use approval, subdivision and/or building permit) approval process. The plans shall be in accordance with the approved concept development plan or development agreement, if applicable. ~~and any conditions attached.~~

(Ord. of 1956, § 35-7; Ord. No. 2009-29)

**SECTION 8:            AMENDMENT** “Sec 102-5-8 Development Agreement” of the Weber County Code is hereby *amended* as follows:

**BEFORE AMENDMENT**

Sec 102-5-8 Development Agreement

- (a) The county commission may require an applicant, at the time of zoning approval, to enter into a zoning development agreement which specifies and details the applicant's responsibilities and commitments in carrying out the development contained in an approved concept development plan and which lists the conditions and limitations of development imposed by the county and also the contemplated action of the county in case of default by an applicant or any successors in interest in the rezoned property.
- (b) The agreement shall also contain the applicant's acknowledgment that the commitment of zoning is predicated upon the good faith accomplishment of the approved development and if not started or constructed within the specified periods of time, the county may take steps to rescind zoning approval and revert the zoning to its former or other appropriate zone.
- (c) A development agreement, which has been executed as part of a rezoning process, shall be recorded in the county recorder's office as a covenant running with the land, concurrently with adoption of an ordinance implementing a rezoning application.

(Ord. of 1956, § 35-8; Ord. No. 2009-29)

**AFTER AMENDMENT**

Sec 102-5-8 Development Agreement

- ~~(a) The county commission may require an applicant, at the time of zoning approval, to enter into a zoning development agreement which specifies and details the applicant's responsibilities and commitments in carrying out the development contained in an approved concept development plan and which lists the conditions and limitations of development imposed by the county and also the contemplated action of the county in case of default by an applicant or any successors in interest in the rezoned property. The agreement shall also contain the applicant's acknowledgment that the commitment of zoning is predicated upon the good faith accomplishment of the approved development and if not started or constructed within the specified periods of time, the county may take steps to rescind zoning approval and revert the zoning to its former or other appropriate zone. A development agreement, which has been executed as part of a rezoning process, shall be recorded in the county recorder's office as a covenant running with the land, concurrently with adoption of an ordinance implementing a rezoning application.~~

The county commission may require an applicant, at the time of zoning approval, to enter into a zoning development agreement as outlined in Chapter 102-6.

(Ord. of 1956, § 35-8; Ord. No. 2009-29)

**SECTION 9: AMENDMENT** “Sec 102-5-9 Reversion To Original Zoning Designation” of the Weber County County Code is hereby *amended* as follows:

### BEFORE AMENDMENT

Sec 102-5-9 Reversion To Original Zoning Designation

- (a) If development does not occur as proposed at the time of zoning approval, the public benefits expected from the development cannot be realized and the effect of the rezoning is therefore without merit in terms of improving the public economic prosperity, general welfare, safety, health and convenience. If in such cases the county finds that the zoning purpose has not been attained, the county then may declare its intent to revert the zoning to its former or other appropriate zone so future opportunities for similar development in the same general area may be shared by other properties deemed suitable.
- (b) If building permits have not been obtained and construction of the development or an agreed upon phase thereof, in accordance with the approved concept and final development plans, has not commenced within two years from the date of zoning approval or other time period as set by the county commission, the county may examine the reasons for the delay and the progress of the development to that point and may either extend the time period or initiate steps to revert the zoning designation of the previously rezoned land to its former or other appropriate zone. The reversion of zoning shall follow the same procedure established by law for amending the zoning map.

(Ord. of 1956, § 35-9; Ord. No. 2009-29)

### AFTER AMENDMENT

Sec 102-5-9 ~~Reversion To Original Zoning Designation~~Reserved

- ~~(a) If development does not occur as proposed at the time of zoning approval, the public benefits expected from the development cannot be realized and the effect of the rezoning is therefore without merit in terms of improving the public economic prosperity, general welfare, safety, health and convenience. If in such cases the county finds that the zoning purpose has not been attained, the county then may declare its intent to revert the zoning to its former or other appropriate zone so future opportunities for similar development in the same general area may be shared by other properties deemed suitable. If building permits have not been obtained and construction of the development or an agreed upon phase thereof, in accordance with the approved concept~~

~~and final development plans, has not commenced within two years from the date of zoning approval or other time period as set by the county commission, the county may examine the reasons for the delay and the progress of the development to that point and may either extend the time period or initiate steps to revert the zoning designation of the previously rezoned land to its former or other appropriate zone. The reversion of zoning shall follow the same procedure established by law for amending the zoning map.(Ord. of 1956, § 35-9; Ord. No. 2009-29)~~

**SECTION 10:**        **ADOPTION** “Chapter 102-6 Development Agreements” of the Weber County County Code is hereby *added* as follows:

BEFORE ADOPTION

Chapter 102-6 Development Agreements (Non-existent)

AFTER ADOPTION

Chapter 102-6 Development Agreements(*Added*)

**SECTION 11:**        **ADOPTION** “Sec 102-6-1 Purpose And Intent” of the Weber County County Code is hereby *added* as follows:

BEFORE ADOPTION

Sec 102-6-1 Purpose And Intent (Non-existent)

AFTER ADOPTION

Sec 102-6-1 Purpose And Intent(*Added*)

The purpose of this chapter is to provide procedures and minimum standards for the review, consideration, and possible approval of development agreements by the County Commission. A development agreement may only be approved, if in the opinion of the County Commission, such development agreement is found:

- (a) To recognize the intended character of the subject property by tailoring development standards and requirements that provide more desirable land use planning and regulatory standards than would be possible under the county's existing land use ordinances; or
- (b) To advance the policies of the county.



**SECTION 12:**        **ADOPTION** “Sec 102-6-2 Applicability” of the Weber County County Code is hereby *added* as follows:

BEFORE ADOPTION

Sec 102-6-2 Applicability (Non-existent)

AFTER ADOPTION

Sec 102-6-2 Applicability(*Added*)

- (a) Unless expressly required elsewhere in this title, a development agreement is an optional land use regulatory tool that may be used, at the discretion of the County Commission. No provision herein shall obligate the County Commission to enter into a development agreement.
- (b) All persons entering into a development agreement with the county must have a legal or equitable interest in the property that is the subject of the development agreement.
- (c) The county commission may require additional provisions and requirements depending on the nature and scope of the parcel(s) affected and the particular purposes and intent(s) of the development agreement.

**SECTION 13:**        **ADOPTION** “Sec 102-6-3 Minimum Requirements” of the Weber County County Code is hereby *added* as follows:

BEFORE ADOPTION

Sec 102-6-3 Minimum Requirements (Non-existent)

AFTER ADOPTION

Sec 102-6-3 Minimum Requirements(*Added*)

All development agreements entered into by the county shall, at a minimum, be found to comply with the following standards:

- (a) Be in writing.
- (b) Provide an accurate legal description of the subject property and the names of all legal and equitable owners.
- (c) Provide a concept plan including, but not limited to, the location and arrangement of all

- allowed uses, traffic circulation patterns, buildings, and all required dedications and improvements
- (d) Provide the terms of the agreement, including any extension requirement(s).
  - (e) Identify all allowed uses for the subject property and the procedures required for the approval of each use.
  - (f) Identify development standards that will be implemented, including the timing and obligations associated with the provision of necessary infrastructure and services.
  - (g) Provide for the provision and installation of required public infrastructure and services.
  - (h) Provide a listing of all features and facilities being voluntarily provided to the county, or other public or private agency.
  - (i) Provide a description of any reservation or dedication of lands for public purposes.
  - (j) Identify enforcement mechanisms determined necessary to ensure compliance.
  - (k) Provide for the recording of the approved development agreement in the office of the Weber County recorder.
  - (l) Include any requirements and conditions identified by the County Commission determined necessary to advance the interests of the county or to protect the public health, safety, and welfare, of the county and its residents.
  - (m) Include a clause that states that in the event a development agreement is terminated as a result of noncompliance by the subject property owner, the subject property shall revert to the zoning district designation that existed prior to the enactment of the development agreement.

**SECTION 14:            ADOPTION** “Sec 102-6-4 Development Agreement Procedures” of the Weber County County Code is hereby *added* as follows:

BEFORE ADOPTION

Sec 102-6-4 Development Agreement Procedures (Non-existent)

AFTER ADOPTION

Sec 102-6-4 Development Agreement Procedures(*Added*)

- (a) The County Commission, as the legislative body, shall consider a development agreement at a regular commission meeting. If a development agreement contains any provision proposing to amend the county general plan or land use ordinance, including zoning designation of the subject property, the procedures of the county required for a general plan or land use ordinance amendment shall be followed, including complying with all noticing and public hearing requirements.

- (b) After consideration of materials, the Commission may approve or deny the proposed development agreement, with or without requirements and conditions and with necessary findings. If approved, the county commission chair, on behalf of the county, and the applicant shall sign and execute the development agreement, as approved.
- (c) Within fourteen (14) business days of signature by the County Commission Chair and the applicant, the development agreement shall be recorded in the Office of the County Recorder. The recorded agreement constitutes the official document of the county.
- (d) The County Commission, in considering a development agreement, may request a recommendation of the Planning Commission on planning concerns, allowed uses, or other development matters that may be associated with the proposed development agreement.
- (e) In reviewing a proposed development agreement, the County Commission may consider, but shall not be limited to considering, the following:
  - (1) Public impacts and benefits;
  - (2) Adequacy in the provision of all necessary public infrastructure and services;
  - (3) Appropriateness and adequacy of environmental protection measures; and
  - (4) Protection and enhancements of the public health, welfare, and safety, beyond what is above that are provided by the existing land use ordinances.

**SECTION 15:**            **ADOPTION** “Sec 102-6-5 Effect Of Approval” of the Weber County County Code is hereby *added* as follows:

BEFORE ADOPTION

Sec 102-6-5 Effect Of Approval (Non-existent)

AFTER ADOPTION

Sec 102-6-5 Effect Of Approval(*Added*)

- (a) An approved and recorded development agreement shall be controlling for the subject property, and shall modify the county's land use ordinances to the extent specifically identified by the development agreement.
- (b) Only those county land use ordinance provisions specifically identified by the development agreement shall be modified. All other land use ordinance requirements shall remain in full force and effect.
- (c) A development agreement shall not prevent the county from applying any new provisions or regulations to the subject property that do not conflict with those contained within the development agreement.

**SECTION 16:**        **ADOPTION** “Sec 102-6-6 Binding Nature Of Development Agreements” of the Weber County County Code is hereby *added* as follows:

BEFORE ADOPTION

Sec 102-6-6 Binding Nature Of Development Agreements (Non-existent)

AFTER ADOPTION

Sec 102-6-6 Binding Nature Of Development Agreements(*Added*)

All development agreements shall be binding on the county, the applicant, and on all successors and assigns for the term of the agreement.

**SECTION 17:**        **ADOPTION** “Sec 102-6-7 Expenses” of the Weber County County Code is hereby *added* as follows:

BEFORE ADOPTION

Sec 102-6-7 Expenses (Non-existent)

AFTER ADOPTION

Sec 102-6-7 Expenses(*Added*)

The county may require the applicant to reimburse the county for all reasonable expenses incurred by the county related to the preparation and adoption of a development agreement.

**SECTION 18:**        **ADOPTION** “Sec 102-6-8 Enforcement” of the Weber County County Code is hereby *added* as follows:

BEFORE ADOPTION

Sec 102-6-8 Enforcement (Non-existent)

AFTER ADOPTION

Sec 102-6-8 Enforcement(*Added*)

Violation of a development agreement by an applicant or developer shall constitute a violation of this Land Use Code. The county may utilize all legally available enforcement mechanisms necessary to achieve compliance with this chapter and a development agreement including, but not limited to, the withholding of necessary land use approvals or permits.

**SECTION 19:**        **ADOPTION** “Sec 102-6-9 Modification Or Suspension To Comply With State Or Federal Laws” of the Weber County County Code is hereby *added* as follows:

BEFORE ADOPTION

Sec 102-6-9 Modification Or Suspension To Comply With State Or Federal Laws (Non-existent)

AFTER ADOPTION

Sec 102-6-9 Modification Or Suspension To Comply With State Or Federal Laws(*Added*)

In the event that federal or state laws or regulations prevent or preclude compliance with one or more provisions of the agreement, such provisions of the agreement shall be suspended, as may be necessary to comply with the specific laws or regulations preventing or precluding compliance with the agreement.

**SECTION 20:**        **ADOPTION** “Sec 102-6-10 Noncompliance” of the Weber County County Code is hereby *added* as follows:

BEFORE ADOPTION

Sec 102-6-10 Noncompliance (Non-existent)

AFTER ADOPTION

Sec 102-6-10 Noncompliance(*Added*)

In the event a development agreement is terminated as a result of noncompliance by the subject property owner, the subject property shall revert to the zoning designation that existed prior to the enactment of the development agreement.

**SECTION 21:**            **EFFECTIVE DATE** This Ordinance shall be in full force and effect 14 days after the required approval and publication according to law.

PASSED AND ADOPTED BY THE WEBER COUNTY BOARD OF COUNTY COMMISSIONERS \_\_\_\_\_.

	<b>AYE</b>	<b>NAY</b>	<b>ABSENT</b>	<b>ABSTAIN</b>
Gage Froerer	_____	_____	_____	_____
Jim "H" Harvey	_____	_____	_____	_____
Scott K. Jenkins	_____	_____	_____	_____

Presiding Officer

Attest

\_\_\_\_\_  
Gage Froerer, Board of  
Commissioners Chair, Weber County

\_\_\_\_\_  
Ricky D. Hatch, CPA, Clerk/Auditor  
Weber County