



Staff Report to the Weber County Commission

Weber County Planning Division

Synopsis

Application Information

Application Request: A public hearing to consider and take action on ZTA 2019-05, a proposal to amend Title 106 of the Land Use Code to remove antiquated slope requirements applicable to cluster subdivisions, PRUD's, and Master Planned Developments.

Agenda Date: Tuesday, August 06, 2019

Applicant: B&H Investment Properties. Agent: Steven Fenton and Kevin Deppe

File Number: ZTA 2019-05

Staff Information

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

Report Reviewer: RG

Applicable Ordinances

§101-1-7: Definitions
§106-1: Subdivision General Provisions
§106-2: Subdivision Standards

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

When the cluster subdivision code was amended in early 2018 the county amended the method of calculating density for nontraditional subdivisions, such as cluster subdivisions, planned residential unit developments, and other master planned developments. The shift offered two benefits. First, it simplified the process. Second, it enhanced the incentive of cluster development.

Formerly, density calculations excluded areas over certain slopes (over 30 percent in some zones, and 40 percent in others). The reason is that development on steeper terrain was assumed to be cost prohibitive, and therefore would not likely come to fruition. The loss of development revenue due to decreased density was also assumed to be compensated by the benefit of decreased infrastructure inherent in clustering a development.

The density reduction because of slopes was also assumed to keep the more visible hillsides from developing. Oddly enough, however, the code only required the steep slopes be removed from the density calculation; it did not prohibit development on those slopes.

In many cases, these assumptions have failed to stand true. Where a traditional "sprawl style" development carries no density reduction and no slope development prohibition, a developer often finds more value in avoiding the cluster or PRUD development style in favor of getting more lots from the traditional sprawl development style. Not even the reduced infrastructure costs of a cluster development can always overcome the cost benefits of obtaining more lots from a traditional development. This phenomenon has resulted in de-incentivizing cluster development.

The 2018 cluster subdivision code rewrite was intended to overcome these failed assumptions and enhance the incentives of clustering by eliminating the slope reduction from the density calculation. In making those changes,

we missed a section buried in the subdivision title of the land use code. The applicant's proposal is intended to correct the oversight.

As part of the discussion on this item, both planning commissions recommended we also readdress the calculation of density for a cluster subdivision or PRUD. Specifically, the current calculation requires an exclusion of 10 percent of the gross land area because of assumed area required for streets. However, required street area is not always going to encumber 10 percent of the gross land area, especially not in the 3+ acre zones, so a 10 percent constant is unnecessarily unfair and may even result in a developer also avoiding clustering if a traditional development would help avoid loss of lots. The planning commissions both recommended that the calculation only exclude area actually proposed to be encumbered by streets, and not use the 10 percent constant. As with eliminating the arbitrary slope calculations, this change will also enhance the incentive for a developer to cluster by enabling access to all lots that could otherwise be available in the traditional "sprawl style" development, but without the sprawling effects.

Past Action

The Ogden Valley Planning Commission held a public hearing for this request in their May 28, 2019 meeting. They tabled approval pending more review and/or modifications. They considered this item again as a discussion-only item in their June 2, 2019 work session, in which staff presented alternatives to this proposal. After some debate, they recommended that staff bring back the original proposal for their final consideration. They are scheduled to make a final recommendation to the County Commission in their upcoming [as of the date of this staff report] meeting on July 30, 2019. When the County Commission hears this request, staff will advise them on the Ogden Valley Planning Commission's final recommendation.

The Western Weber Planning Commission held a public hearing for this request in their June 11, 2019 meeting. They recommended approval of the proposal.

Policy Analysis

General Plan: For a complete review of the general plan analysis for the cluster code revisions, please review the planning commission and county commission staff reports and memos on Miradi. They can be found here: <https://miradi.co.weber.ut.us/projects/view/3504>.

Ordinance: The attached changes are a simple deletion of antiquated language in the subdivision code. It also addresses the definition of "net developable acreage" to be more reflective of real-world street area constraints as opposed to an estimated average, as requested by the Ogden Valley Planning Commission in the May 7, 2019 work session.

Planning Commission Recommendation

The Western Weber Planning Commission offered a favorable recommendation for the item to the County Commission. The Ogden Valley is anticipated to do the same in their July 30, 2019 meeting. The Western Weber Planning Commission's recommendation is based on the following findings:

1. The changes are more reflective of the purpose of adopting the cluster subdivision ordinance amendments on May 8, 2018.
2. The changes reduce conflict in the ordinance.
3. The changes will strengthen the administration of the ordinance.
4. The changes are not detrimental to the health, safety, and general welfare of the public.

Attachments

- A. Proposed Ordinance Amending Subdivision Slope Regulations.
- B. Planning Commission Staff Report.
- C. Application.

ORDINANCE NUMBER 2019-_____

AN ORDINANCE AMENDING TITLE 106 OF THE LAND USE CODE TO REMOVE ANTIQUATED SLOPE REQUIREMENTS APPLICABLE TO CLUSTER SUBDIVISIONS, PRUD'S, AND MASTER PLANNED DEVELOPMENTS.

WHEREAS, the Board of Weber County Commissioners (herein "Board") has heretofore adopted land use regulations governing development of land; and

WHEREAS, the Board finds that a previous ordinance amendment failed to address a related and affected section of the land use code; and

WHEREAS, the Board desires to optimize incentives for clustering of development; and

WHEREAS, the Board finds existing land use regulations do not adequately provide for optimal incentives for clustering of development; and

WHEREAS, the Board has determined that the ordinance amendments provided herein will rectify the antiquated and inadequate sections of the land use code; and

WHEREAS, the Board has received a positive recommendation for the land use code amendment from the Ogden Valley Planning Commission in their July 30, 2019 meeting, after a duly noticed public hearing held on May 28, 2019; and

WHEREAS, the Board has received a positive recommendation for the land use code amendment from the Western Weber Planning Commission in their May 11, 2019 meeting, after a duly noticed public hearing; and

WHEREAS, the Board finds that the amendments found herein will better achieve the desired outcomes of the relevant general plans, and promote the general public welfare.

NOW THEREFORE, the Board hereby adopts the modifications below and incorporates them into the Weber County Land Use Code.

See Exhibit A (Clean Copy) and Exhibit B (Track Changes)

This ordinance shall become effective fifteen (15) days after publication.

Passed, adopted, and ordered published this _____ day of _____, 2019, by the Weber County Board of Commissioners.

BOARD OF WEBER COUNTY COMMISSIONERS

By _____,
Scott K. Jenkins, Chair

Commissioner Jenkins voted: _____
Commissioner Harvey voted: _____
Commissioner Froerer voted: _____

ATTEST:

Ricky Hatch, CPA
Weber County Clerk/Auditor

Title 101 - GENERAL PROVISIONS

Sec. 101-1-7. - Definitions.

...

Acreage, net developable. The phrase "net developable acreage" means the total acreage within a project boundary, subtracting acreage unsuitable for development, as defined by this section or as otherwise provided in this Land Use Code. When calculating net developable acreage, the area encumbered or proposed to be encumbered by a street right-of-way or other required right-of-way providing primary access to a lot is considered area unsuitable for development. The term "net developable area" shall have the same meaning, unless the context clearly indicates otherwise.

...

Acreage unsuitable for development. The phrase "acreage unsuitable for development," means the area within a project that has extraordinary circumstances that under existing county, state, or federal laws render development on it very unlikely. The applicant bears the burden to prove an area does not meet this definition.

...

Title 106 - SUBDIVISIONS

CHAPTER 2. - SUBDIVISION STANDARDS

...

Sec. 106-2-8. – Reserved .

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Title 106 - SUBDIVISIONS

CHAPTER 2. - SUBDIVISION STANDARDS

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Sec. 106-2-8. - Reserved ~~-General land development.~~

~~Cluster subdivision, master plan communities, or plan residential unit developments with slopes of 40 percent or more in the FR-1, FV-3, F-5, F-10, F-20 and F-40 zones and 30 percent or more in all other zones, shall not be classified as developable land. All other subdivisions shall meet the restricted lot requirement table, or show a buildable area as required by the Land Use Code.~~

...



Staff Report to the Western Weber and Ogden Valley Planning Commission

Weber County Planning Division

Synopsis

Application Information

Application Request: A public hearing to consider and take action on ZTA 2019-05, a proposal to amend Title 106 of the Land Use Code to remove antiquated slope requirements applicable to cluster subdivisions, PRUD's and master planned developments.

Agenda Date: Tuesday, May 28, 2019

Staff Report Date: Tuesday, May 22, 2019

Applicant: B&H Investment Properties. Agent: Steven Fenton and Kevin Deppe

File Number: ZTA 2019-05

Staff Information

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

Report Reviewer: RG

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Summary and Background

When the cluster subdivision code was amended in early 2018 the county amended the method of density calculations. Formerly, density calculations, in part, excluded area with certain slopes. In contrast, a traditional subdivision in most zones had no such reduction. This de-incentivized the use of the cluster code, hence the 2018 policy shift.

In making those changes, we missed a section of code buried in the subdivision title of the land use code. This proposal is intended to correct the oversight.

Policy Analysis

Policy Considerations:

General Plan: For a complete review of the general plan analysis for the cluster code revisions, please review the planning commission and county commission staff reports and memos on Miradi. They can be found here: <https://miradi.co.weber.ut.us/projects/view/3504>

Ordinance: The attached changes are a simple deletion of antiquated language in the subdivision code. It also addresses the definition of "net developable acreage" to be more reflective of real-world street area constraints as opposed to an estimated average, as requested by the Ogden Valley Planning Commission in the May 7, 2019 work session.

Noticing Compliance

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

Posted on the County's Official Website

Posted on the Utah Public Notice Website

Published in a local newspaper

Staff Recommendation

If the planning commission is satisfied with the attached ordinance amendments, staff recommends the Planning Commission offer a favorable recommendation for them to the County Commission. This recommendation is based on the following findings:

1. The changes are more reflective of the purpose of adopting the cluster subdivision ordinance amendments on May 8, 2018.
2. The changes reduce conflict in the ordinance.
3. The changes will strengthen the administration of the ordinance.
4. The changes are not detrimental to the health, safety, and general welfare of the public.

Exhibits

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

Title 101 - GENERAL PROVISIONS

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...

Weber County Zoning Map Amendment Application

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

Date Submitted	Received By (Office Use)	Added to Map (Office Use)
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Property Owner Contact Information

Name of Property Owner(s) <i>Steven Fenton</i> <i>B+H Investment properties / Kevin Deppe</i>		Mailing Address of Property Owner(s) <i>110 W. 1700 N.</i> <i>Centerville, UT 84014</i>
Phone	Fax	
Email Address <i>Crimson Ridge Utah. Steven@gmail.com</i> <i>Crimson Ridge Utah. Kevin@gmail.com</i>		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail

Authorized Representative Contact Information

Name of Person Authorized to Represent the Property Owner(s) <i>Chris Cave, Reeve + Assoc.</i>		Mailing Address of Authorized Person <i>5160 S. 1500 W.</i> <i>Riverdale, UT 84405</i>
Phone <i>(801) 621-3100</i>	Fax	
Email Address <i>CCave@reeve-assoc.com</i>		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail

Property Information

Project Name <i>Crimson Ridge Phase 2</i>	Current Zoning <i>FV-3</i>	Proposed Zoning <i>FV-3</i>
Approximate Address	Land Serial Number(s) <i>20-005-0021</i>	
Total Acreage <i>135</i>	Current Use <i>agriculture</i>	Proposed Use <i>Cluster Subdivision</i>

Project Narrative

Describing the project vision.

Project Narrative

Crimson Ridge is a mountain luxury subdivision along the south western bench of Pineview Reservoir. It has been carefully designed to cluster the development away from Highway 158 and off of the highly visible hillside slope. Phase 1 had 35 lots and has already been completed. Phase 2 is designed to have approximately 45 lots on 135 acres. Since phase 1 was completed there has been a substantial revision to the cluster subdivision ordinance including a new definition for what constitutes developable land for the purpose of the open space calculation. This new definition renders the original Crimson Ridge cluster plan obsolete and discourages use of the cluster ordinance. Under this definition the number of lots possible is reduced from approximately 45 to 33. Under the standard subdivision ordinance we estimate that we would be able to plat nearly all of the 45 lots but with a much higher visual impact.

Specifically, the section of the new cluster subdivision ordinance which defines what land can be counted towards open space is in conflict with the definition of developable land used in the standard subdivision ordinance. For cluster subdivisions, section 106-2-8 defines undevelopable acreage as anything with a slope of 40% or greater. In contrast, the definition for the standard subdivision ordinance in section 101-7-7 provides that the developer must be able to prove that the property is developable under county, state and federal laws. This conflict creates a situation where it is more desirable to use the standard subdivision ordinance in the varied terrain of Ogden Valley to maximize the number of lots available rather than using the new ordinance clustering development.

We would propose deleting section 106-2-8 and allow the developer to count as open space anything that is not undevelopable under section 101-1-7, thus requiring the developer to show that under existing county, state and federal law the proposed open space would be developable. This would put the cluster subdivision ordinance and standard ordinance on equal footing and not tip the scales toward the standard subdivision ordinance thus fulfilling one of the main objectives of the General Plan.

This change is in compliance with the General Plan because one of the main objectives of the General Plan is to preserve open space by clustering development to reduce the development foot print and preserve natural green belts and minimize visual impacts. It would also keep control of those areas out of the hands of lot owners who could do damage to the hillsides which would be part of their lots and what would otherwise be open space.

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Project Narrative (continued...)

How does this proposal promote the health, safety and welfare of the inhabitants of Weber County?

Property Owner Affidavit

I (We), B+H Investment Properties LLC, 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.

[Signature]

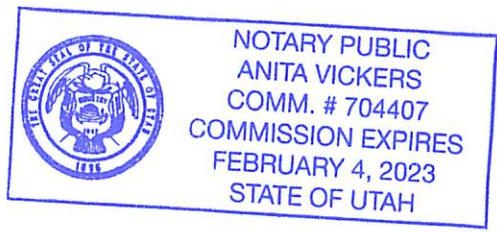
(Property Owner)

(Property Owner)

B+H INVESTMENT PROPERTIES
Subscribed and sworn to me this 18th day of April, 2019.

[Signature]

(Notary)





Weber County Corporation

Weber County
2380 Washington Blvd
Ogden UT 84401

Planning Commission Staff Report -- Cluster/PRUD/Master Plan Subdivision Slopes
Exhibit C: Application and Narrative

Customer Receipt

Receipt Number **105780**

Receipt Date

04/25/19

Received From:

B & H Investment Pro

Time: 16:30
Clerk: amorby

Description	Comment	Amount
ZONING FEES	Text Amendment	\$1,052.00

Payment Type	Quantity	Ref	Amount
CHECK		210	

AMT TENDERED: \$1,052.00

AMT APPLIED: \$1,052.00

CHANGE: \$0.00

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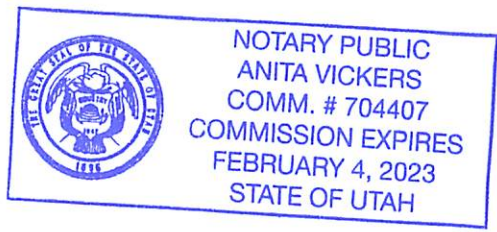
B+H INVESTMENT PROPERTIES

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Subscribed and sworn to me this 18th day of April, 20 19

Anita Vickers

(Notary)





Weber County Corporation

Weber County
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Exhibit C: Application and Narrative Page 4 of 4

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