

Proposal to Amend Preservation Plan

Sunset Equestrian Cluster Subdivision Lot 17/AP12

We have experienced an issue in applying for a building permit on our lot due to ambiguous language between the Preservation Plan and the specific county code for buildings within a cluster subdivision. We are asking to amend the language related to buildings allowed on the Preservation Parcel so that the building setbacks can be properly defined.

The current Preservation Plan explicitly allows structures with a size restriction to be built on the Individually Owned Agriculture Preservation parcels. The building should be an accessory to the residence as the preservation parcel ownership and ability to build on it are reliant upon ownership and establishment of a dwelling on the associated building lot. The language in the Preservation Plan, however, has an ambiguous definition for usage which contradicts the actual relationship of the parcel to the building lot and creates a building classification that is not in the cluster subdivision building setback definitions.

Affected Code Sections

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 and the requirements and standards of the Weber-Morgan Health Department, if applicable. The following specific site development standards apply to lots in cluster subdivisions:

1. *Lot area. Unless otherwise regulated by the Weber-Morgan Health Department, a lot located within a cluster subdivision shall contain an area of not less than 9,000 square feet, unless otherwise provided in section 108-3-8.*
2. *Lot width. Unless otherwise regulated by the Weber-Morgan Health Department, the minimum lot width in a cluster subdivision is as follows:*

Zone	Lot Width
<i>F-40 and F-10 zones:</i>	<i>100 feet</i>
<i>FR-1, F-5, and AV-3 zones:</i>	<i>80 feet</i>
<i>RE-15, RE-20 zones:</i>	<i>60 feet</i>
<i>A-1, A-2, and A-3 zones:</i>	<i>60 feet</i>
<i>FR-3 zone:</i>	<i>50 feet</i>
<i>DRR-1 zone:</i>	<i>50 feet</i>

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

Yard	Setback
Front:	20 feet
Side:	
Dwelling:	8 feet
Accessory building:	8 feet; except one foot if located at least six feet from dwelling
Accessory building over 1,000 square feet:	See section 108-7-16
Corner lot side facing street:	20 feet
Rear:	20 feet

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

Building	Height
Dwelling	40 feet
Accessory building	30 feet

(Ord. No. 2018-6, Exh. A, 5-8-2018)

Sec 108-7-16 Large Accessory Buildings (1,000 Square Feet Or Larger)

1. *Accessory buildings 1,000 square feet or larger in area that accommodate uses meeting zoning requirements shall:*
 1. *Be located at least six feet from the rear of a dwelling in the residential estates zones and at least ten feet from the rear of a dwelling in the agricultural and forest zones.*
 2. *Have a side yard setback of at least ten feet on an interior lot and 40 feet on a corner lot where the side property line is adjacent to a street.*
 3. *Have a maximum height of 25 feet.*

Exceptions. The side yard may be reduced to three feet (except in a forest zone) and the height increased to 35 feet if the accessory building is located at least 100 feet from a property line adjacent to a street and at least 40 feet from a dwelling on an adjacent lot.

2. *One accessory building which is subordinate to the dwelling in area and height may be located in front or to the side of the dwelling provided:*
 1. *It is located not less than 40 feet from any property line adjacent to a street.*
 2. *The large accessory building conforms to the dwelling in architectural style and materials on all sides of the building and the roof. Large accessory buildings on agricultural parcels containing at least 5.25 acres and a single-family dwelling shall be exempt from this requirement provided that the accessory building is located at least 100 feet from a property line adjacent to a street.*
 3. *It meets the side yard requirement for a main building in the zone in which the building is located, and it is located at least 40 feet from a dwelling on an adjacent parcel.*

4. *In no case shall the front yard setback be less than the required front yard setback for a main building in the zone in which the building is located.*
3. *Accessory buildings that exceed the dwelling in area by more than double as measured by the footprint of the dwelling shall require approval by the planning commission as a design review.*
4. *Accessory buildings used for the keeping of animals and fowl shall also meet the requirements of section 108-7-8. Accessory buildings shall also meet the requirements of section 108-7-4.*

Specific Language from Preservation Plan

Section 2. Individual Owned Agriculture Preservation Parcels

All other Individual Owned Agriculture Preservation Parcels: Structures for agriculture or associated purposes may be built on the Agriculture Preservation Parcels, but are limited to 5 percent of each parcel. This includes but is not limited to structures used for the purpose of housing crops, animals, equipment, vehicles, tools, feed, and implements to support agriculture endeavors. Structures shall not be used for permanent or residential purposes.

The building we are proposing would be over 1000 sq ft and would meet all of the above code definitions to use a 3' side yard setback.

In the process of applying for a permit for the proposed building the permitting department believes that the specific language in the Preservation Plan would not allow them to classify the building as an accessory building to the residence. This would force the building to be classified as a 'main building' which has no setback definitions in the cluster subdivision code. This creates a scenario forcing the use of a 20' side yard setback for a 'main building'.

The 20' side yard setback is really meant for much large acreage and not a cluster subdivision where individually owned preservation parcels were allowed at just over an acre in size. 20' represents 25% or more of the total lot width in the scenario we are describing. Additionally, locating the building in this way would unnecessarily hinder the ability to make best use of the open space and agriculture use as space would be wasted for building access. The most efficient access from the road would be a straight path along the side of the residence to the building. A 20' side yard setback would place the building directly behind the house and make it necessary to use important agriculture space as access to the building.

We are requesting to amend the language of the Preservation Plan so that the building can appropriately be considered accessory to the residence. This would allow the agriculture space to be most efficiently utilized for the stated purpose of agriculture, while not hindering the allowance to have a structure. As to maintaining the agricultural preservation of the land area, the building footprint is already allowed within the preservation plan it is just a matter of setback definition for a location that makes best use of the agriculture space. The remaining preservation parcel area would still be over an acre in area.

Proposed Amended Language

All other Individual Owned Agriculture Preservation Parcels: Structures may be built on the Agriculture Preservation Parcels, but are limited to 5 percent of each parcel. This includes but is not limited to structures used for the purpose of housing crops, animals, equipment, vehicles, tools, feed, and equipment that is accessory to the residential parcel and dwelling.