



## OGDEN VALLEY TOWNSHIP PLANNING COMMISSION

### PLANNING MEETING AGENDA

**NOTE: Meeting Location at the Weber County Library,  
Ogden Valley Branch, Huntsville  
November 25, 2014  
5:00 p.m.**

**Roll Call:**

**1. Petitions, Applications and Public Hearings**

**1.1. Administrative Items**

**a. New Business:**

- 1. UVS102914** Consideration and action on a request for preliminary approval for Sandhill Crane Cluster Subdivision (7 Lots) located at 2500 N 5700 E within the Agricultural Valley AV-3 Zone (JW Valley Properties LLC, Applicant, Blake Wahlen, Agent)

- 2. CUP 2014-25** Consideration and action on a Conditional Use Permit (CUP) application for an auto repair and service shop located at approximately 4022 North 3500 East in Liberty, in the Commercial Valley Resort -2 (CVR-2) Zone (Justin Pack, Applicant)

**2.2. Legislative Items**

**a. New Business:**

- 1. ZDA 2014-02** Consideration and action on a request to amend the "Conceptual Development Plan" within the Zoning Development Agreement that was previously approved as Contract #2007-271 and amended by Contract #2009-182 (Dog and Bone, LLC, Applicant, Justin Pack, Agent)

**b. Old Business:**

- 1. ZO 2009-04** Consideration and action on an amendment to Title 108 (Standards), Chapter 3 (Cluster Subdivisions) and Title 106 (Subdivision), Chapter 2 (Cluster Subdivisions, Special Provisions) of the Weber County Land Use Code (Western Weber Township Planning Commission, Applicant)

- 2.3. Presentation:** Addendum to the 2002 Zoning Development Agreement for Wolf Creek

**3. Public Comment for Items not on the Agenda**

**4. Remarks from Planning Commissioners**

**5. Report of the Planning Director**

**6. Remarks from Legal Counsel**

**7. Adjourn to Convene a Work Session**

- WS2. Ordinance Revision Work Session:** Title 108, Standards, Chapter 12, Noncomplying Structures and Nonconforming Uses/Parcels

*The meeting will be held in the Weber County Library, Ogden Valley Branch, 131 South 7400 East, Huntsville UT  
A pre-meeting will be held at 4:30 p.m. in the Community Room. No decisions are made at this meeting.*



*(In compliance with the Americans with Disabilities Act, persons needing auxiliary services for these meetings should call the Weber County Planning Commission 24 hours in advance of the meeting at 801-399-8791)*



## Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

### Synopsis

#### Application Information

Application Request: Consideration and action on a request for preliminary approval of the Sandhill Crane Cluster Subdivision, consisting of 7 lots.  
Agenda Date: Tuesday, November 25, 2014  
Applicant: Blake Wahlen, representing JW Valley Properties, LLC  
File Number: UVS10292014

#### Property Information

Approximate Address: 2500 North 5700 East, Eden  
Project Area: 17.96  
Zoning: Agricultural Valley-3 (AV-3)  
Existing Land Use: Agriculture  
Proposed Land Use: Residential Subdivision  
Parcel ID: 22-050-0001  
Township, Range, Section: T7N, R1E, Section 35

#### Adjacent Land Use

North:	Agriculture	South:	Residential
East:	Residential	West:	Agriculture

#### Staff Information

Report Presenter: Jim Gentry  
jgentry@co.weber.ut.us  
801-399-8767  
Report Reviewer: SW

### Applicable Ordinances

- Weber County Land Use Code Title 106 (Subdivisions)
- Weber County Land Use Code Title 104 (Zones) Chapter 6 (Agricultural Valley-3 Zone)
- Weber County Land Use Code Title 104 (Zones) Chapter 28 (Ogden Valley Sensitive Lands Overlay Districts)
- Weber County Land Use Code Title 108 (Standards) Chapter 17 (Ogden Valley Pathways)
- Weber County Land Use Code Title 108 (Standards) Chapter 3 (Cluster Subdivision)

### Type of Decision

**Administrative Decisions:** When the Planning Commission is acting as a land use authority, it is acting in an administrative capacity and has much less discretion. Examples of administrative applications are design reviews, flag lots, and subdivisions. Administrative applications must be approved by the Planning Commission if the application demonstrates compliance with the approval criteria.

### Background

The applicant is requesting preliminary approval of the Sandhill Crane Cluster Subdivision located at approximately 2500 North 5700 East in the Eden area. Since this is a cluster subdivision the applicant is asking for a 30 percent bonus, ten percent of which is for doing a cluster subdivision. The proposed project will occupy 17.96 acres and consist of 7 lots, 10.360 acres of open space, and will be serviced by approximately .74 acres of public road improvements. The 10.360 acres of open space will have an agricultural preservation easement and meets the requirement for 60 percent open space in a cluster. Most of the open space is in a flood zone. Since the applicant is asking for a 10 percent bonus for agricultural preservation the following is required at preliminary: An agricultural preservation plan has been submitted and a review of the plan has been done by an agricultural extension agency. The review by the extension office states that "the land is not a high priority for preservation in the current condition." The letter further states what could be done to increase its value for preservation. The recommendations from the agricultural extension agency should be required in order for a ten percent bonus to be granted. The land use code also states that "Lands that can be mitigated such as floodplain and wetlands are considered developable and shall be counted towards density."



The subdivision lies within the Agricultural Valley-3 (AV-3) Zone which requires 3 acres per dwelling and a minimum lot width of 150 feet. The subdivision, however, has been proposed as a "Cluster Subdivision" which will require a minimum lot area of 20,000 square feet (due to the Weber County Health Department requirements) and a minimum lot width of 100 feet. Most of the lots will be 40,000 square feet or larger.

The block length that is proposed measures approximately 1442.18 feet. According to Section 106-2-3(a) of the Weber County Code, blocks that exceed 800 feet in length may, at the discretion of the Planning Commission, be provided with a dedicated walkway through and near the center of the block. The applicant is proposing a trail between Lots 4 and 5 in order to connect to the subdivision to the south. Is there a trail or road for this trail to connect to? The applicant is requesting a 10 percent bonus for this trail. Staff is recommending no bonus as this trail leads to nowhere, however if there was a trail around the agricultural parcel that is open to the public then the Planning Commission should consider some type of a bonus density. The Land Use Code under the section of Preliminary Plan/ Requirements and approval procedures requires a "Neighborhood circulation plan showing how future roads can connect to provide circulation to future neighborhoods." The engineering and the planning staff agrees with the cul-de-sac because of the flood plain, and the limited amount of circulation that will be provided if the road continued. However, the Planning Commission needs to review the neighborhood circulation plan and make a determination that a cul-de-sac serves this subdivision best.

The property is 17.96 acres in size with 17.22 acres of net developable area once the road is subtracted. Since the zoning requires 3-acres, 5.74 lots would be allowed on this property. The applicant is asking for the maximum of a 30 percent bonus for the items listed above which will give them 7-Lots ( $17.22 \text{ plus } 30 \text{ percent} = 22.38$ .  $22.38 / 3 = 7.46$ ). If no bonus is allowed for the trail, the applicant would lose one lot.

Culinary water will be provided by Eden Water Works Company and Secondary Water will be provided by Eden Irrigation. Wastewater Treatment will be a private septic system. Capacity Assessment letter on the water system is required from the state prior to final approval from the Planning Commission. A construct permit from the Utah State Department of Environmental Quality Division of Drinking Water for expansion of the water system and water lines serving the subdivision is required prior to the subdivision receiving final approval from the County Commission.

The Weber County Engineer's Office has reviewed the project and a copy of their review is attached as an exhibit. All items need to be addressed prior to submitting for final approval.

The Weber Fire District has reviewed the project and has responded with an approval that is conditioned upon specific requirements. The cul-de-sac showed on the plans measures at a 75 foot diameter. Cul-de-sac's must be a minimum of 80 foot in diameter. Fire hydrants are spaced appropriately.

Trails, meeting Chapter 17 (Ogden Valley Pathways) of the Land Use Code have not been addressed on the preliminary plat; however, a *shared roadway* is an appropriate trail-type for this subdivision. A *side path* (5 feet wide, located 10 feet away from the travel lane) may also be appropriate along 2500 North Street. This side path may be approved in lieu of sidewalk according to Section 106-4-2(f) of the County's Code.

### Summary of Ogden Valley Planning Commission Considerations

- Does this subdivision meet the requirements of applicable County Codes?
- Should the Planning Commission defer the construction of all of the curb, gutter, and sidewalk?
- Should a gravel pathway be constructed in lieu of a sidewalk along 2500 North Street to connect to the proposed mid block pathway? Would a trail on 2500 North connect to anything?
- Should a 30 percent bonus be granted?
- Agricultural preservation plan - who will maintain the agricultural easement? Will there be any structures built on the agricultural parcel?
- Is there a trail or road for this trail to connect to?

### Conformance to the General Plan

The subdivision conforms to the General Plan by meeting the requirements of the Zone in which it is located and the Cluster Subdivision Ordinance.

### Staff Recommendation

The Planning Division recommends preliminary approval of the Sandhill Crane Cluster Subdivision, subject to the following:

1. Compliance with all applicable standards (including construction of dedicated streets) and review agency comments.

2. A deferral for curb, gutter, and sidewalk may be granted.
3. If a ten percent bonus is granted for the agricultural preservation plan, then the recommendations from the agricultural extension agency should be required and shown on the final plat.

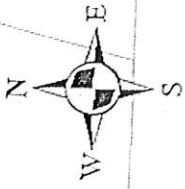
The Planning Commission recommendation needs to include a recommendation on the requested 30 percent bonus. (The Planning Commission needs to review the neighborhood circulation plan and make a determination that a cul-de-sac best serves this subdivision since it is over the maximum block length, and review the agricultural preservation plan and make a determination on the requested 10 percent bonus as well as the 10 bonus for the trail).

#### **Exhibits**

- A. Proposed subdivision plat.
- B. Agricultural preservation plan
- C. Narrative, includes Neighborhood Circulation Plan, and Bonus Density Request
- D. Engineer's Office review
- E. Weber Fire District review



IN WITNESS WHEREOF, THE PROPERTY OF RILEY W. ASSOCIATES, INC., HAS CAUSED THIS INSTRUMENT TO BE SIGNED BY ITS VICE PRESIDENT AND GENERAL COUNSEL, AND SHALL NOT BE EFFECTIVE UNTIL 10:00 A.M. ON THE DATE OF RECORDATION.





# Sandhill Crane Cluster Subdivision

## Agricultural Preservation Plan

The best use for the floodplain area is open space, as it will allow for the preservation of the historic context and feel of the area. An Agricultural Preservation Easement would allow for the open space to be preserved into perpetuity as community space and the potential for productive use for livestock or crops.

The open space will wrap around the homesites with a 90-100 foot wide open area on the north or south depending on the lot. This will accomplish two important goals. First, it will provide all the homesites with direct access to the open space. Second, it allows for the berming and grading on the north to protect the lots from the sheetflow.

### Permitted Uses

Structures: Only structures used for agricultural or associated purposes may be built on the Agricultural Preservation 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 agricultural endeavors. Structures shall not be used for permanent or temporary residential purposes.

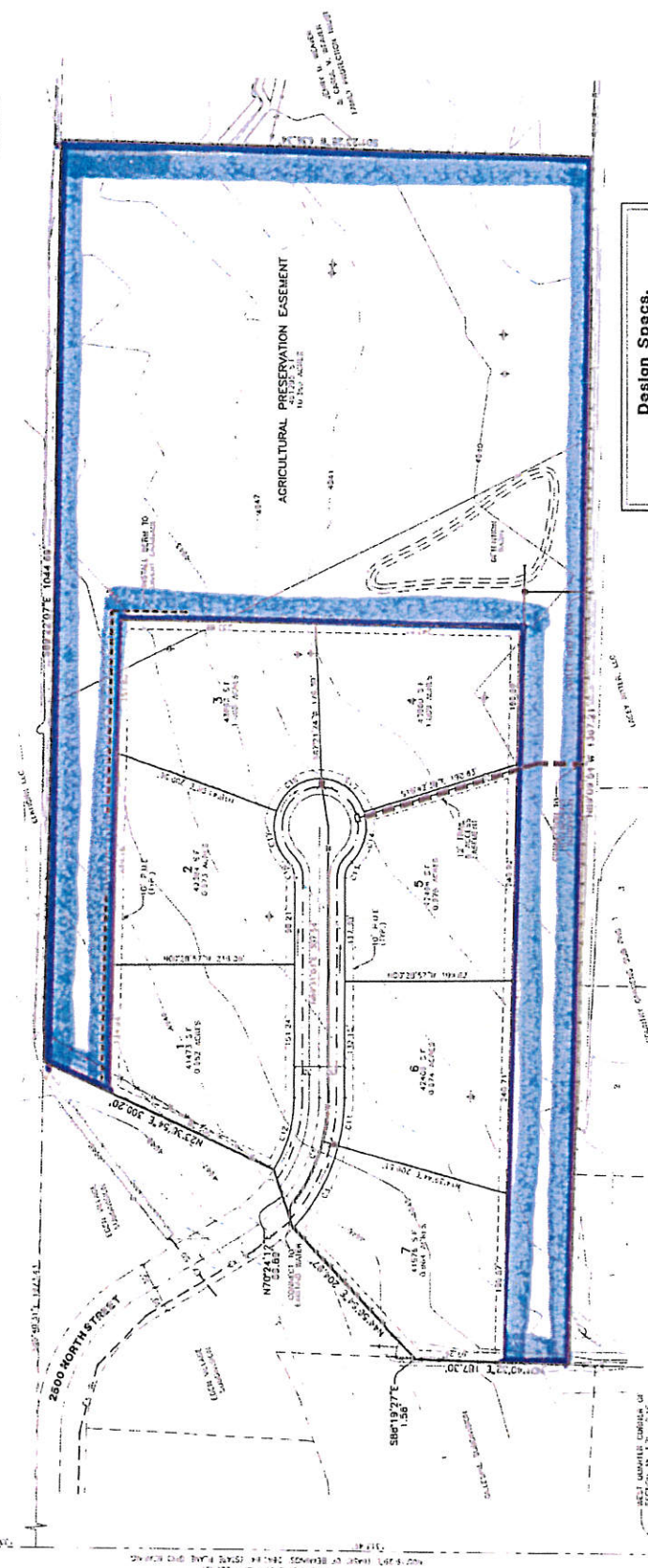
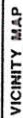
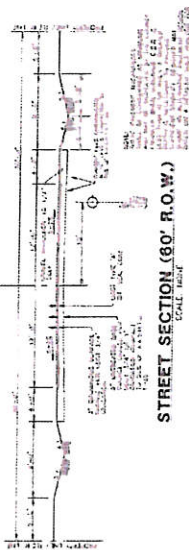
Crops and Animals: Permitted crops and animals are limited to only those crops and animals permitted by County zoning and use ordinances then in effect. Notwithstanding the forgoing, animals by type or in numbers that emit odors or whose presence can constitute a nuisance to the residential properties of the Subdivision, as reasonable determined by the HOA, are prohibited.

Waste and Maintenance: All animal or agricultural waste must be regularly removed from the Agricultural Preservation Parcel. Waste may be used as fertilizer, provided the waste is tilled, churned, disced or otherwise integrated into the soil so as not to cause a nuisance to the residential properties.

Agricultural Preservation Use: Except for items stored within appropriate containers or buildings, the Agricultural Preservation Parcel shall be maintained such that trash, refuse, rubbish, inoperable or abandoned equipment, dead animals, scrap lumber or building materials, dirt or fill material, scrap metal, silage, grass clippings, tree clippings, or plant waste are not visible from the street nearest the Agricultural Preservation Parcel. No odor, including smoke from fires ignited for any reason, shall arise from the Agricultural Preservation Parcel so as to render neighboring and adjacent properties unsanitary, unsightly, or offensive. Barbeque grills, fire pits and fire places are allowed.

Ownership: The Parties agree that the Agricultural Preservation Parcel shall be owned by the HOA.

The Agricultural Preservation Parcel is required at all times to conform to the use restriction stated in the Preservation Easement attached.

[illegible]

**Developer:** Blake Wahlen  
2050 East Oakridge Circle  
Loyton, UT 84040  
(801) 510-6136

## Sandhill Crane Cluster Subdivision

**Liden District, Weber County, Utah**

[illegible]

# 1. CANTONMENTS WITH SMOKE-GASIN A CASE FOR FULL NATIONAL

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## Declaration of Agricultural Preservation Easement

This Declaration of Agricultural Preservation Easement agreement (the "Agreement") concerning Sandhill Crane Cluster Subdivision (the "Subdivision") (see Exhibit A) is made as of the \_\_\_\_ day of \_\_\_\_\_, 2014, by and between JW Valley Properties, LLC ("JW"), the Sandhill Crane Cluster Subdivision Homeowner's Association (the "HOA"), and Weber County, an incorporated county within the State of Utah (the "County"). JW, the HOA and the County are collectively referred to as the "Parties".

### RECITALS

- A. JW is the owner of certain property located within Weber County, State of Utah, more fully identified by the preliminary plat submitted to the County as Sandhill Crane Cluster Subdivision (the "Subdivision").
- B. JW is developing the Subdivision into a cluster development within the scope of the County municipal code. The Subdivision will consist of individual residential building lots and an Agricultural Preservation Parcel as shown on Exhibit A.
- C. Prior to approval of the final plat for the Subdivision the Covenants, Conditions and Restrictions (the "CC&Rs") will be recorded against the Subdivision and the Agricultural Preservation Parcel. The CC&Rs shall restrict the use of the Agricultural Preservation Parcel consistent with this agreement and shall allow the HOA to enforce the restrictions placed on the Agricultural Preservation Parcel.
- D. The County desires to have standing to enforce the use restrictions on the Agricultural Preservation Parcel and is therefore a party to this Agreement.

Now therefore, in consideration of the mutual promises, covenants and conditions contained in this Agreement, and for other good and valuable consideration, the receipt of which is hereby acknowledged by the Parties, the Parties agree as follows:

- 1. Permitted Uses of the Agricultural Preservation Parcel: The Parties agree that the Agricultural Preservation Parcel shall be restricted to the following uses:
  - a. Structures: Only structures used for agricultural or associated purposes may be built on the Agricultural Preservation 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 agricultural endeavors. Structures shall not be used for permanent or temporary residential purposes.
  - b. Crops and Animals: Permitted crops and animals are limited to only those crops and animals permitted by County zoning and use ordinances then in effect. Notwithstanding the foregoing, animals by type or in numbers that emit odors or whose presence can

- constitute a nuisance to the residential properties of the Subdivision, as reasonable determined by the HOA, are prohibited.
- c. Waste and Maintenance: All animal or agricultural waste must be regularly removed from the Agricultural Preservation Parcel. Waste may be used as fertilizer, provided the waste is tilled, churned, disced or otherwise integrated into the soil so as not to cause a nuisance to the residential properties.
  - d. Agricultural Preservation Use: Except for items stored within appropriate containers or buildings, the Agricultural Preservation Parcel shall be maintained such that trash, refuse, rubbish, inoperable or abandoned equipment, dead animals, scrap lumber or building materials, dirt or fill material, scrap metal, silage, grass clippings, tree clippings, or plant waste are not visible from the street nearest the Agricultural Preservation Parcel. No odor, including smoke from fires ignited for any reason, shall arise from the Agricultural Preservation Parcel so as to render neighboring and adjacent properties unsanitary, unsightly, or offensive. Barbeque grills, fire pits and fire places are allowed.
2. Easement: JW dedicates, grants and conveys a perpetual easement to the County and HOA upon the Agricultural Preservation Parcel; said easement to be used only to guarantee that the Agricultural Preservation Parcel will remain open and undeveloped except for the approved uses as set forth above and does not grant the HOA, the County or the public at large the right to use the Agricultural Preservation Parcel. The Parties agree that this Agreement is for the express purpose of enhancing the value and protecting the attractiveness of the Subdivision, and as such, the use restrictions state herein shall run with the land. This agreement is binding upon all claiming any right, title, or interest in the Subdivision and shall inure to the benefit of the Parties and their respective successors, assign, heirs or nominees.
  3. Ownership: The Parties agree that the Agricultural Preservation Parcel shall be owned by the HOA.
  4. Miscellaneous: The Parties agree that the Agricultural Preservation Parcel is required at all times to conform to the use restriction stated herein and the County zoning and use ordinances per applicable law. To the extent that there is a conflict between the use restrictions in this Agreement and the zoning and use ordinances, the more restrictive provision shall govern. In the event that the owner of the Agricultural Preservation Parcel violates any of the above referenced use restrictions or ordinances, any of the Parties may enforce the provisions of this Agreement.
  5. Attorney's Fees: If any legal action or any arbitration or other proceeding is brought or any action taken for the enforcement of this Agreement, the prevailing parties shall be entitled to recover reasonable attorney's fees and other incurred expenses, in addition to any other relief to which they may be entitled as a result of those proceedings.



6. Amendment: This Agreement may be modified and/or amended only by written agreement by the Parties or their successors or assigns.

In witness whereof, the Parties have executed this Agreement as of the date first written above.

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JW Valley Properties, LLC

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Sandhill Crane Cluster Subdivision HOA

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Weber County



November 5, 2014

To whom it may concern,

Blake Wahlen requested that I provide a letter presenting my views regarding the creation of a ten acre Agricultural Preservation Easement on the Sandhill Crane Cluster Subdivision the Boyer Corp. has planned for Eden, Utah. While I appreciate open spaces, the value of the open space as an agriculture asset needs to be considered. A field that produces very little agricultural product and has low potential for providing income to a producer would be of low priority to preserve. Neglected open spaces can become an eye sores and actually damage the quality of life in the area.

Recently this property has not been irrigated and has had limited use as a pasture. This is a fairly low value use of the property. Ten acres is sufficiently large to be desirable for local farmers and ranchers to operate, but its value would increase tremendously if it were irrigated. I understand that the developers have sufficient shares of water to irrigate the land.

In its present use, I would not give the land a high priority for preservation. The land may benefit from laser leveling, it certainly would be valuable to provide a functioning irrigation system with sufficient water (20+ inches of water/acre) and planting improved pasture species or a harvestable crop etc. These investments in the land would increase its value for preservation.

I hope these thoughts are helpful in your decisions.

Best Regards,

A handwritten signature in blue ink that reads "James Barnhill".

James Barnhill

Utah State University Extension – Weber/Morgan Counties

[James.barnhill@usu.edu](mailto:James.barnhill@usu.edu)

801 399-8208



# Sandhill Crane Cluster Subdivision

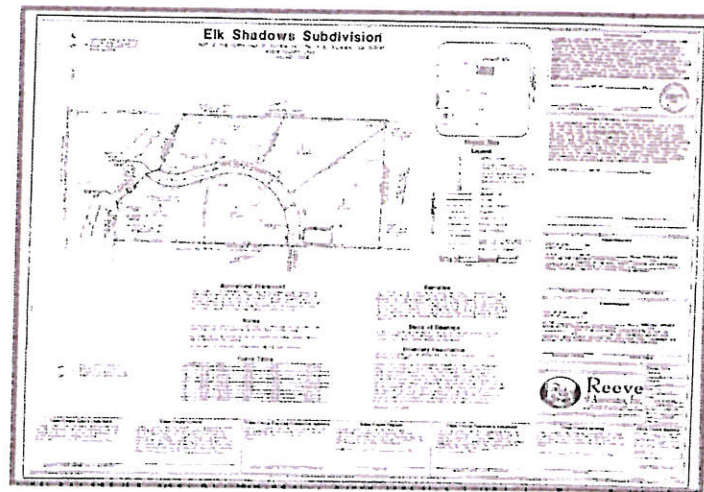
## Narrative

Sandhill Crane is located at the termination of 2500 North Street in Eden at approximately 5800 East. It is an 18 acre parcel that has historically been used for grazing livestock. It is bordered on the north and east by the Lindsay Ditch owned by Eden Irrigation Company, and on the south by a Weber County storm drain. It is generally flat topography, with the grade of the property running generally east-southeast.



The property is bisected by a flood designation covering approximately 8 acres of the eastern portion of the property. Seasonal sheet flow impacts the property and generally follows the gradient of the property, ponding in the east-southeast. Homes can be built within the Zone A with minimal elevation requirements.

Previously, the property has been owned by the Weber School District with the idea that an elementary school would be constructed; and most recently had been approved for a subdivision with 5 three acre lots with 2500 North extending east and turning south for a potential future tie-in with 2300 North.



We reviewed options for the development of this parcel, including resubmitting the earlier, 5-lot subdivision plan. However, upon close review, we identified concerns that caused us to rethink this approach. First, this layout placed homes in the floodplain, and while homes would be constructed 18 inches above natural grade, in our view it is not our preference. Second, the extension of the road east and south seemed to provide little benefit, as both roads connect to 5600 East, with only a limited number of lots that would be served by the extension.

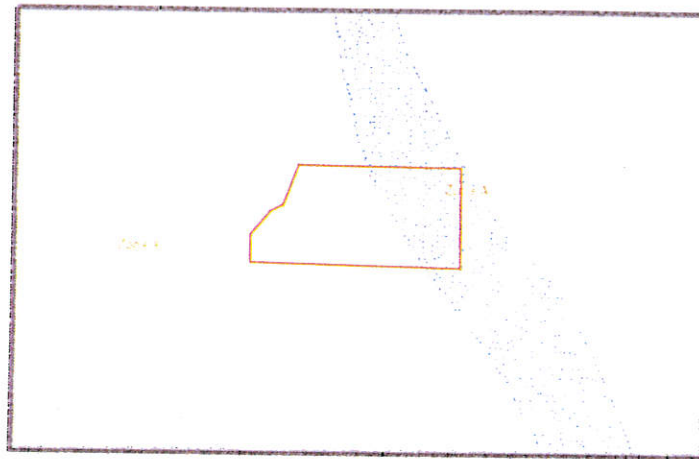


To address these concerns, we met with County planning and engineering staff. As we met and reviewed options for the development of this parcel within the constraints of the existing ordinance, we believe that we have come up with the best solution for development given the concerns with the floodplain and sheet flow. Our primary desire is to avoid having lots in the floodplain and provide a rural setting with open space accessible by all lots. The cluster subdivision was recommended by the planning staff. With the input and concurrence of the planning and engineering staff we have prepared our preliminary plan for the development of this parcel.

## Neighborhood Circulation Plan

The ordinance requires a "Neighborhood circulation plan showing how future roads can connect to provide circulation to future neighborhoods". The following were considered for neighborhood circulation.

- There are only eight (8) existing lots on 2500 North, with the potential to add seven (7) more with this development.
- The depth of the lots on 2300 North would discourage traffic in the north/south direction.
- The added cost for both the development and ongoing county maintenance.
- Residents on 2300 North will not likely use a road through this development to get to 5600 East. Nor would those in this development use a new road to get to the intersection of 5600 East and 2300 North. Traffic will generally take the shortest route.



After reviewing this proposed subdivision with the planning staff, it was determined that a cul-de-sac would best serve this area. While this certainly limits vehicular circulation, we want to preserve the neighborhood feel and provide access to the open space. To accomplish this, we will integrate a walking trail that connects the open space of the subdivision from the public roadway to the parcel to the south. The current owners of this parcel are supportive of continuing this walking path through to 2300 North. This will provide a walkable community and foster a greater neighborhood feel for the residents. It will also provide access to the open space for the residents south of Sandhill Crane.

## Bonus Density/Agricultural Preservation Easement

In order to accomplish the important objectives of 1) preserving open space; 2) providing trail access to the public; and 3) clustering the homes away from the sheet flow area and protecting them from potential water issues, we are seeking approval of the bonus density provided for in current County ordinance. The ordinance provides for a bonus density of 10% for clustering, 10% for an agricultural preservation easement, and 10% for public access to the trail between the Sandhill Crane Subdivision and the neighborhoods to the south along 2300 North.

The best use for the floodplain area is open space, as it will allow for the preservation of the historic context and feel of the area. An Agricultural Preservation Easement would allow for the open space to be preserved into perpetuity as community space and the potential for productive use for livestock or crops. A letter from the USU Extension Service has been provided with recommendation to enhance the Agricultural Preservation Easement.

The open space will wrap around the homesites with a 90-100 foot wide open area on the north or south depending on the lot. This will accomplish two important goals. First, it will provide all the homesites with direct access to the open space. Second, it allows for the berming and grading on the north to protect the lots from the sheetflow.

By grading the area to the north of the home sites, we could direct the sheet flow to the east, away from the homes. This, combined with a storm drain plan tied into the existing system, gives the best chance of dealing with the flow of water across the subdivision, isolating it from the homes, and preserving the native beauty of the surrounding area.

The walking trail between 2500 North and 2300 North will foster community integration and provide for easy pedestrian access for children to get to neighboring homes without using streets.

The granting of bonus density will allow us to create 7 smaller, one-acre lots, and maintain the economics of the subdivision, rather than creating 5 larger, three-acre lots that would sell for a higher price. Absent the bonus density, the loss in value created by the smaller lot sizes would prove prohibitive to the clustering of the lots, resulting in the loss of the aforementioned benefits of the cluster subdivision.

## Engineering

Project: Sandhill Crane Cluster Subdivision  
User: Chad Meyerhoffer  
Department: Weber County Engineering Division  
Created: 2014-11-18 08:40:05  
Modified: 2014-11-18 08:41:18

## Notes

This letter concerns the above referenced Development. I have had a chance to review the plan(s) and have the following comment(s): Written responses to the following comments are required.

1. Please see redlines on Sandhill Crane Engineering Review Nov 2014 pdf (below) and address redlines.
2. The subdivision will need to have curb gutter and sidewalk unless a deferral is granted.
3. We will need a letter from the water and secondary water Companies stating that they approve of the design of their utility.
4. All the necessary easements will need to be shown for the utilities.
5. Final Improvement plans will need to be stamped by a Engineer.
6. Will the subdivision have secondary water?
7. We will need a plan and profile of the roadway design.
8. There will need to be an escrow established for the improvements prior to recording or the improvements will need to be installed.
9. A set of as-built drawings will need to be submitted to our office when the project is completed.
10. Cluster mailboxes are not required as part of the subdivision development in the Eden Post Office District. A letter from the post office approving the mailbox type and location shall be submitted to the County before final approval of the subdivision. The County must also approve of the location.
11. Because soil conditions vary throughout the county, it is now necessary to provide an engineered pavement design showing required sub-base, road-base, fabric, and asphalt thickness as needed for soil type. Asphalt thickness shall not be less than 3 inches. The county engineer is now requiring a minimum of 8" of 3" minus sub-base and 6" road-base. Compaction test on both will be required.
12. A Storm Water Pollution Prevention Plan (SWPPP) is now required to be submitted for all new development where construction is required. The State now requires that a National Discharge Pollution Elimination Systems (NPDES) permit be acquired for all new development. A copy of the permit needs to be submitted to the county before final approval. Permits can now be obtained online thru the Utah State Dept. of Environmental Quality at the following web site: <https://secure.utah.gov/swp/client>.
13. A Storm Water Activity Permit will need to be obtained through our office before construction begins.  
[http://www1.co.weber.ut.us/mediawiki/images/5/56/Stormwater\\_Construction\\_Activity\\_Permit.pdf](http://www1.co.weber.ut.us/mediawiki/images/5/56/Stormwater_Construction_Activity_Permit.pdf)

I have tried to address all items of concern from the engineering department. However, this review does not forego other items of concern that may come to this department's attention during additional reviews or during construction of improvements. If you have any comments or questions concerning this letter, feel free to contact me.

Sincerely,

Chad Meyerhoffer  
Weber County Engineering Dept.  
Phone: (801) 399-8004  
e-mail: cmeyerho@co.weber.ut.us

## Files

Name	Size	Date Uploaded
Sandhill Crane Engineering Review Nov 2014.pdf	757 KB	2014-11-18 08:40:37

[Home](#) [Help](#) [Projects](#) [Map](#)[Jim Gentry](#) [Dashboard](#) [Account Settings](#) [Log Out](#)    

## Weber Fire District Review

**Project:** Sandhill Crane Cluster Subdivision  
**User:** Brandon Thueson  
**Department:** Weber Fire District  
**Created:** 2014-11-17 11:12:30  
**Modified:** 2014-11-17 11:12:53

### Notes

Date: November 17, 2014

Project Name: Sandhill Crane Cluster Subdivision

Project Address: 2500 North 5700 East Eden Utah 84136

Contractor/Contact: Blake Wahlen wahlen@q.com 801-510-6136

Fees: see attached pdf

#### FEE NOTICE:

Weber Fire District has various fees associated with plan reviews, and inspections. Please be prepared to make payments at the time of inspections or when you pick up your approved plans. Impact Fees are due prior to taking out a building permit. Make checks payable to: Weber Fire District.

REVIEW STATUS: MAKE CORRECTIONS

#### SPECIFIC COMMENTS:

1. The cul-de-sac shown on the plans measures at 75 foot diameter. Cul-de-sac's must be a minimum of 80 foot in diameter.
2. Fire Hydrant(s): Fire hydrants are spaced appropriately.
3. Fire Flow: All structures over 5000 sq. ft. which do not meet the fire flow requirements, shall be equipped with an NFPA 13D compliant fire sprinkler system. For more information regarding fire flow, please contact Fire Marshal Thueson at 801-782-3580.
4. Provide a temporary address marker at the building site during construction.
5. Roads shall have a maximum grade of 10% unless specifically approved as outlined by the International Fire Code.
6. Radius on all corners shall be a minimum of 28'-0".
7. Dead end fire apparatus access roads in excess of 150 feet in length shall be provide with an approved area for turning around fire apparatus constructed with the same requirements as the roads.
8. Roads and bridges shall be designed, constructed and maintained to support an imposed load of 75,000 lbs.
9. All roads shall be designed, constructed, surfaced and maintained so as to provide an all-weather driving surface.
10. Fire access roads for this project shall be completed and approved prior to any combustible construction. Temporary roads shall meet the same requirements for height, width and imposed loads as permanent roads.
11. All required fire hydrants and water systems shall be installed, approved and fully functional prior to any combustible construction.

A written response for this review is required.

Every effort has been made to provide a complete and thorough review of these plans. This review does not relieve the owner, contractor and/or developer from compliance with any and all applicable codes and standards. Any change or revision of this plan will render this review void and will require submittal of the new or revised layout for fire department review.

Reviewed by: Brandon Thueson

Fire Marshal

### Files

Name	Size	Date Uploaded	Actions
SUB- Sandhill Crane Cluster 2500 N 5700 E Eden.pdf	307 KB	2014-11-17 11:12:41	<input type="button" value="Rename"/> <input type="button" value="Delete"/>





## Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

### Synopsis

#### Application Information

**Application Request:** Approval of a Conditional Use Permit for an auto repair and service shop located at 4022 North 3500 East Liberty, UT  
**Agenda Date:** Tuesday, November 25, 2014  
**Applicant:** Dog and Bone, LLC  
**Authorized Agent:** Justin Pack  
**File Number:** CUP# 2014-25

#### Property Information

**Approximate Address:** 4022 North 3500 East Liberty, UT  
**Project Area:** 1.10 Acres  
**Zoning:** Commercial Valley-2 (CV-2)  
**Existing Land Use:** Vacant  
**Proposed Land Use:** Commercial Development  
**Parcel ID:** 22-010-0064 & 22-010-0065  
**Township, Range, Section:** Township 7 North, Range 1 East, Section 20

#### Adjacent Land Use

<b>North:</b>	Vacant Land	<b>South:</b>	Agricultural/Residential
<b>East:</b>	Agricultural	<b>West:</b>	Residential/Agricultural

#### Staff Information

**Report Presenter:** Ronda Kippen  
rkippen@co.weber.ut.us  
801-399-8768  
**Report Reviewer:** SW

### Applicable Ordinances

- Title 101, Chapter 1, General Provisions, Section 7, Definitions
- Title 102, Chapter 4, Land Use Permit, Building Permit and Certificate of Occupancy
- Title 104, Chapter 21 Commercial Valley (CV-2) Zones
- Title 108, Chapter 4 Conditional Uses
- Title 108, Chapter 7 Supplementary and Qualifying Regulations
- Title 108, Chapter 16 Ogden Valley Lighting
- Title 110, Chapter 2, Ogden Valley Signs

### Summary

The applicant is requesting approval of a conditional use permit for an auto repair and service shop to be located at approximately 4022 North 3500 East Liberty, UT. The proposed site is currently vacant; the applicant would like to construct the first phase of the development to enable them to quickly complete the work on the portion of the building that the proposed use will occupy. The applicant will need to install all site improvements in conjunction with the initial phase of construction.

The Ogden Valley does not have an auto repair and service shop causing many residents to pay to have their vehicles towed to downtown Ogden to receive the necessary services and/or repairs. The proposed use will be beneficial to the residents of the Ogden Valley by providing automotive and farm equipment services and/or repairs. The proposed site is in the Commercial Valley-2 (CV-2) Zone and is allowed only when authorized by a conditional use permit. The CV-2 Zone has been established to provide goods and services that are not typically found amongst commercial areas within resorts including automotive sales and service. Conditional use permits should be approved as long as any harmful impact is mitigated. The Uniform Land Use Code of Weber County, Utah (LUC) already specifies certain standards necessary for mitigation of harmful impact to which the proposal must adhere. The proposed application appears to meet these standards. The following is staff's evaluation of the request.

## Background

The subject property, located in the Liberty area, was split by the Agricultural Valley-3 (AV-3) Zone and Commercial Valley-2 (CV-2) Zone. The applicant, desirous to create one contiguous commercial zone, petitioned Weber County in 2007 for a rezone from AV-3 Zone to CV-2 Zone. The rezone request was approved by the Weber County Commission and a Zoning Development Agreement was entered into on November 13, 2007 after receiving a positive recommendation by the Ogden Valley Planning Commission. In 2009, the applicant petitioned the County to amend the Zoning Development Agreement deadline requirements. The Weber County Commission approved the request to amend the Zoning Development Agreement request as recommended by the Ogden Valley Planning Commission on November 24, 2009.

The applicant currently has petitioned the County to amend the conceptual development plan that was made part of the approved Zoning Development Agreement. The revised conceptual development plan is essential to facilitate the proposed conditional use. The conditional use permit will be contingent on the approval of the proposed amendment to the Zoning Development Agreement.

## Analysis

**General Plan:** The Ogden Valley General Plan identifies the need to encourage commercial development in the Ogden Valley by balancing commercial development and residential growth and that such development occur in a manner that does not detract from the area's character. (see the 1998 Ogden Valley General Plan § 5 Commercial Development).

**Zoning:** The LUC §104-21-1 has identified the need to provide suitable areas for the location of various types of commercial activity needed to serve the people of the Ogden Valley. The CV-2 Zone has been established for "General Commercial" and can be further described per the LUC §104-21-1(c) as follows:

*"The CV-2 Zone (General Commercial) has been established for the purpose of providing a broad range of commercial services and goods to serve a larger region of the county like the Ogden Valley. Areas with CV-2 zoning have a principal patronage which originates throughout the Ogden Valley or is due to recreation in the Ogden Valley. CV-2 areas are to be a commercial hub or node of activity. These areas, as outlined in the General Plan, are to be near the traditional town centers of the Ogden Valley and not to be strung out along the highways. Uses in the CV-2 Zone may provide goods and services not typically found amongst commercial areas within resorts including automobile sales and service, sporting goods, service stations, hotels, and professional offices."*

The CV-2 Zone has specific standards identified in the LUC §104-21-2 that shall be met as part of the development process. Those standards are as follows:

- Minimum lot area: None
- Minimum lot width: None
- Minimum yard setbacks:
  - Front: 20' unless the requirements listed in §104-21-4(c) Special Regulations are met
  - Side: None, except 10' where a building is adjacent to a forest, agricultural, or residential zone boundary
  - Rear: None, except 10' where a building is adjacent to a forest, agricultural, or residential zone boundary
- Building height:
  - Minimum: 1 story
  - Maximum: 35'
- Maximum lot coverage: 60% of lot area by buildings or accessory buildings

The current configuration of the property is on record with the Weber County Recorder's Office as two separate parcels (see Exhibit A). The larger parcel identified as Parcel# 22-010-0064 consists of approximately 43,583 square feet (1.0 acres). The smaller parcel identified as Parcel# 22-010-0065 consists of approximately 4,497 square feet (0.103 acres). The subject parcels are considered "Lots of Record" meaning they currently exist in the same size and configuration as they were on record with the Weber County Recorder's Office prior to January 1, 1966. The applicant is currently working to combine the parcels to match the proposed site plan (see Exhibit B). A condition of approval is necessary to ensure that the adequate deeds have been recorded to combine the parcels as reflected on the site plan. With this condition in place, the proposed site plan meets the required side and rear setbacks per the zone as well as the required site development standards for the CV-2 zone regarding minimum lot area, lot width, building height and lot coverage. A more in-depth analysis of the front setbacks is required based on the applicant's proposal.

The front property line currently runs along the centerline of Highway 162/3500 East. Because of the legal existence of the parcels, the subdivision process is not required prior to development on the property; however, right of way dedication is required based on the LUC §108-7-19 which states:

*"(a) An applicant for a land use and building permit for property which abuts and has access from a substandard dedicated street or public by right of use road, shall, as a condition of issuance of such permits, be required:*

*(1) To sign a substandard road agreement provided by the county.*

*(2) To dedicate, if the road is substandard in width, sufficient road right-of-way widening to meet county road standards or as recommended by the county engineer in situations that warrant an alternative width such as unusual topographic or boundary conditions.*

*(b) Where a dedicated street or public by right of use road is determined to be of less right-of-way width than the county standard, the minimum front and corner (facing street) side yard setbacks for all buildings and structures shall be measured from the future county standard street right-of-way line location, rather than from the present right-of-way line."*

The Ogden Valley Transportation Element Map has identified Highway 162/3500 East as an 80' Collector Street. The LUC §108-7-10 requires that the minimum front and side yard setbacks for all buildings are to be measured from the "future" lot line of all collector or arterial streets based on the future designated right of way width as shown on the County Master Plan instead of the existing lot line of the existing street right of way. The proposal clearly meets the required 20' front setback using the current property line which runs along the centerline of Highway 162/3500 East; nevertheless, once the required 33' right of way dedication takes place, and taking into account the requirement to measure from the "future" lot line to facilitate for any future increased transportation needs along Highway 162/3500 East, the applicant will be unable to meet the required 20' front setback. Based on these requirements, the applicant has elected to utilize the "Complete Street" design that is allowed in the CV-2 Zone to facilitate the required and any future dedications along Highway 162/3500 East.

A "Complete Street" has been identified in the LUC §104-21-4(c) as:

*"1. A complete street is a transportation facility that is planned, designed, operated and maintained to provide safe mobility for all users including bicyclists, pedestrians, transit vehicles, and motorists, appropriate to the function and context of the facility."*

*"2. A complete street design is required when the front setback is less than 20 feet, and may include a ten foot pathway, pedestrian lights, shade trees, clear view of intersection, and safe street crossings for pedestrians. The design is to be approved by the planning commission."*

If the Planning Commission feels that the "Complete Street" design is desirous and acceptable in this location, a finding of approval should be made part of the final decision. The applicant will need to meet all dedication, site improvements and "Complete Street" design requirements of the Engineering Division.

Conditional Use Review: The proposed use is conditionally allowed in the CV-2 Zone. A review process has been outlined in LUC §108-4-3 to ensure compliance with the applicable ordinances and to mitigate anticipated detrimental effects. The applicant has provided the required material to facilitate a thorough review of the proposed project. The applicant is currently connected to Liberty Water and the Weber Morgan Health Department has deemed the feasibility of a septic system on the property. The Weber Morgan Health Department has identified the need for engineered septic plans to be provided including any additional State permits for the commercial/automotive facility. The applicant will need to meet all requirements of the Weber Morgan Health Department pertaining to this request.

Design Review: The commercial zone and the proposed conditional use, mandates a design review as outlined in the LUC §108-1 to ensure that the general design, layout and appearance of building remains orderly and harmonious with the surrounding neighborhood. The applicant has petitioned the County for approval to amend the conceptual design that was made part of the rezone approval and Zoning Development Agreement for this property. The design review is based on the revised plans and a condition of approval has been added to the Planning Divisions recommendations to ensure that the proposal is in conformance with the final approved Zoning Development Agreement.

Certain areas of the design review are only applicable to the current application for the initial phase of the development (see Exhibit C), such as parking and signage. These areas are specific to the type of use that will be allowed in the individual lease spaces. The applicant is aware that additional design reviews will be required as the remaining phases are developed. 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.* As part of this consideration, the applicant has proposed a loading and delivery area located along the rear of the building to allow for continued traffic flow along Highway 162/3500 East, a "Complete Street" design that includes a sidewalk, drive approaches and parking, with additional parking along the side property lines (see Exhibit B). The applicant has provided 19 parking spaces on the site plan, however up to four of the spaces may be eliminated unless the applicant is able to meet the parking standards as outlined in LUC §108-8-7(c) which states:

*"Each parking space shall encompass not less than 180 square feet of net area. Each parking space shall be not less than nine feet wide, the width being measured at a right angle from the side lines of the parking space."*

Adequate parking has been provided based on the proposal for an "Auto Repair Shop" per the LUC §108-8-4 which requires one parking space per employee plus five parking spaces for client use. Parking requirements for the future phases of the development will be evaluated as part of the required design review process for the new buildings and uses. The proposal has not proposed surface lighting of the off street parking.

2) *Considerations relating to outdoor advertising.* The applicant has provided architectural renderings for the permitted wall signs in the CV-2 Zone that include the location, color, light and approximate size of the proposed signage for the conditionally allowed auto repair and service shop (see Exhibit D). The proposed lighting associated with the sign areas provides a full cut-off illumination to ensure that no light is emitted above the horizontal plane of the shade which is in conformance with the standards of the LUC §108-16 pertaining to the Ogden Valley Lighting. The applicant will be required to provide actual dimensions to ensure that the proposed signs do not exceed five percent of each unit as allowed in the LUC §110-2-5. A condition has been made part of the Planning Division's recommendations to ensure that this standard is met.

3) *Considerations relating to landscaping.* The applicant has been able to adequately address the minimum landscaping requirements of the Design Review as outlined in LUC §108-1-4(3) and the Ogden Valley Architectural, Landscape and Screening Design Standards as outlined in LUC §108-2-5 and §108-2-9 with the exception of providing a separate irrigation plan (see Exhibit E). The applicant is working on a separate irrigation plan that will be based on the final engineered storm drain design. A condition has been made part of the Planning Division's recommendations to ensure adequate measures have been put in place to maintain the required landscaping.

4) *Considerations relating to buildings and site layout.* The proposed building has an exterior brick veneer and has been designed after a historic commercial storefront (see Exhibit F). The proposed exterior color scheme utilizes varying degrees of slate with black and red accent colors (see Exhibit D). The windows and glass doors along the store front will be non-reflective glass. The exterior wall mount lamp fixtures will be incandescent lighting using less than 100 watts which will eliminate the need for additional shielding per LUC §108-16. The building and site layout has been reviewed against the design criteria of the CV-2 Zone in the LUC §104-21, the Design Review in the LUC §108-1, the Ogden Valley Architectural, Landscape and Screening Design Standards in the LUC §108-2-4 and the proposed amended conceptual plan that has been presented for approval. It appears that the proposal meets the minimum requirements of the applicable areas of the Uniform Land Use Code of Weber County.

5) *Considerations relating to utility easements, drainage, and other engineering questions.* The applicant will need to adhere to all conditions of the Engineering Division pertaining to storm water and surface water drainage, retention facilities, and for utilities to and through the property.

6) *Considerations relating to prior development concept plan approval associated with any rezoning agreement, planned commercial or manufacturing rezoning, or planned residential unit development approval.* As stated earlier in the review, the applicant has petitioned the County to amend the conceptual development plan that was made part of the approved Zoning Development Agreement. The revised conceptual development plan is essential to facilitate the proposed conditional use. The issuance of a conditional use permit will be contingent on the approval of the proposed amendment to the Zoning Development Agreement.

## Conformance to the General Plan

The proposed use conforms to the Ogden Valley General Plan by encouraging commercial development within established commercial areas and enforcing the adopted "quality development standards" to ensure compatibility with the Valley's character.

## Summary of Planning Commission Considerations

In order for a conditional use to be approved it must meet the requirements of applicable ordinances listed in this staff report, which include the requirements listed in LUC §108-4-4 under "Criteria for Issuance of Conditional Use Permit" which states:

*Conditional Uses shall be approved on a case-by case basis. The planning commission shall not authorize a conditional use permit unless evidence is present to establish:*

- 1. Reasonably anticipated detrimental effects of a proposed conditional use can be substantially mitigated by the proposal or by the imposition of reasonable conditions to achieve compliance with applicable standards. Examples of potential negative impacts are odor, vibration, light, dust, smoke or noise.*
- 2. That the proposed use will comply with the regulations and conditions specified in the Land Use Code and other applicable agency standards of use.*

The Planning Commission will need to determine if the proposal for an auto repair and service shop meets the requirements of the applicable Uniform Land Use Code of Weber County. The Planning Commission may impose additional conditions in order to ensure full compliance with the required standards. In making a decision, the Planning Commission should consider the following questions:

- Does the submittal meet the Uniform Land Use Code of Weber County? If no, then what conditions could be added in order to comply?
- Have the "Criteria for Issuance of Conditional Use Permit" and other applicable ordinances been met?

## Staff Recommendation

The Planning Division recommends approval of file# CUP 2014-25, a conditional use permit request for an auto repair and service shop located at 4022 North 3500 East Liberty, UT. This recommendation for approval is subject to all review agency requirements and based on the findings and conditions of approval as listed below:

1. The proposed use conforms to the Ogden Valley General Plan.
2. The proposed use will provide a necessary service to the citizens of the Ogden Valley.
3. The "Complete Street" design will provide safe mobility for all users.
4. The proposed use, if conditions are imposed, will not be detrimental to the public health, safety, or welfare.
5. The proposed use, if conditions are imposed, will comply with applicable County ordinances.
6. The proposed use will not deteriorate the environment of the general area so as to negatively impact surrounding properties and uses.

## Conditions of Approval

- The conditional use permit will be contingent on the approval of the proposed amendment to the Zoning Development Agreement.
- A deed will be recorded to combine parcel numbers 22-010-0064 and 22-010-0065 to create one parcel prior to issuance of the conditional use permit.
- Adequate dedication of the public right of way that abuts the subject property will take place prior to the issuance of the conditional use permit.
- A separate irrigation plan will be provided for review and approval prior to the issuance of the conditional use permit to ensure adequate irrigation for the required landscaping.
- Actual dimensions for all signage will be provided for review and approval prior to the issuance of the conditional use permit to ensure that the proposed signs do not exceed five percent of each unit.
- Requirements of the Weber County Building Inspection Division
- Requirements and recommendations of the Weber Fire District
- Requirements of the Weber County Engineering Division
- Requirements of the Weber County Health Department

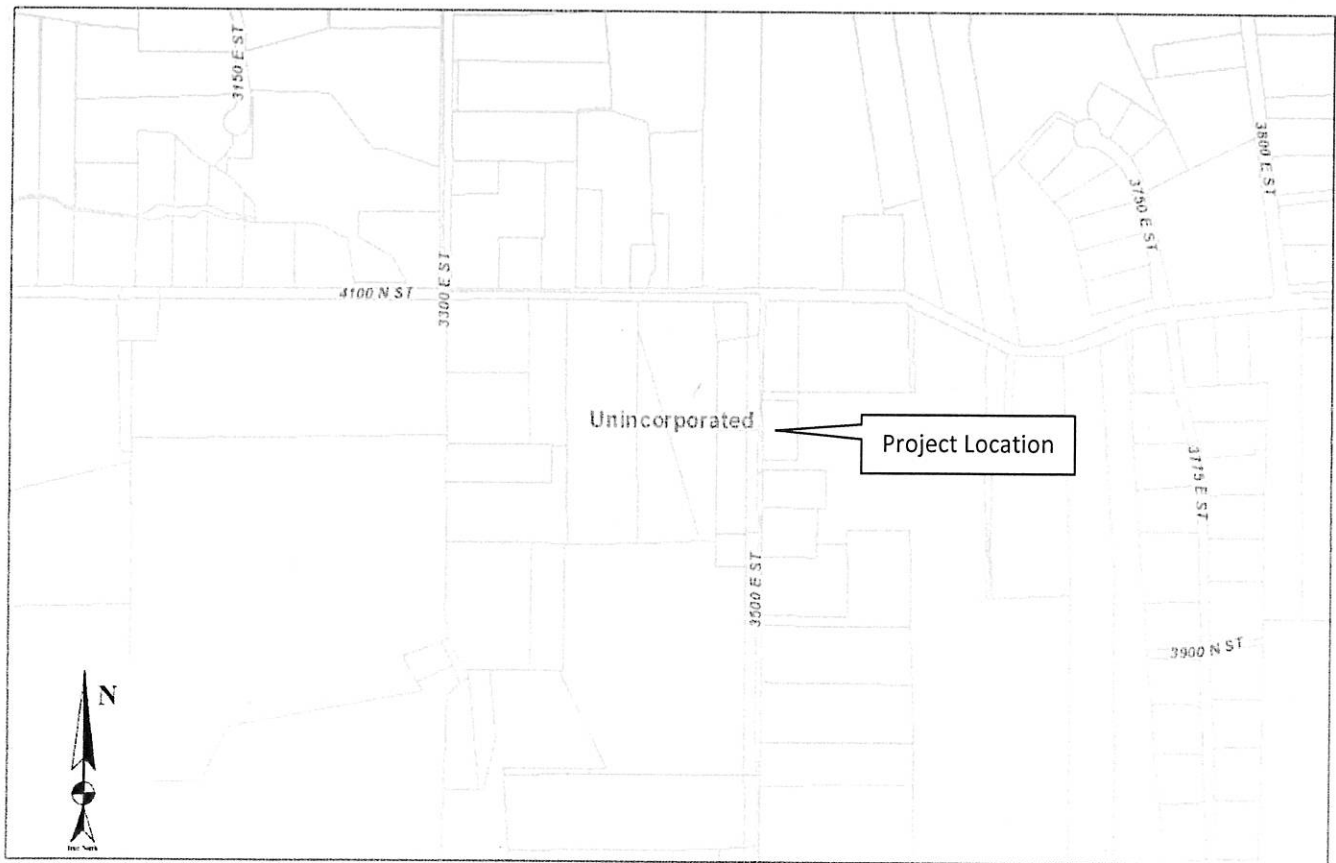
## Exhibits

- A. Plat Map
- B. Site Plan
- C. Phasing Plan
- D. Architectural Renderings
- E. Landscape Plan
- F. Building Elevations



## Map 1





## Exhibit A-Plat Map

N.E. 1/4  
SECTION 20, T.7N., R.1E., S.L.B. & M.  
IN WEBER COUNTY

SCALE 1" = 200'

SEE PAGE 7

TAXING UNIT: 36

10

ELK RIDGE ESTATES  
CLUSTER SUB  
SEE PAGE 269

SEE P. 15-4

RIVERS EDGE  
CLUSTER SUB

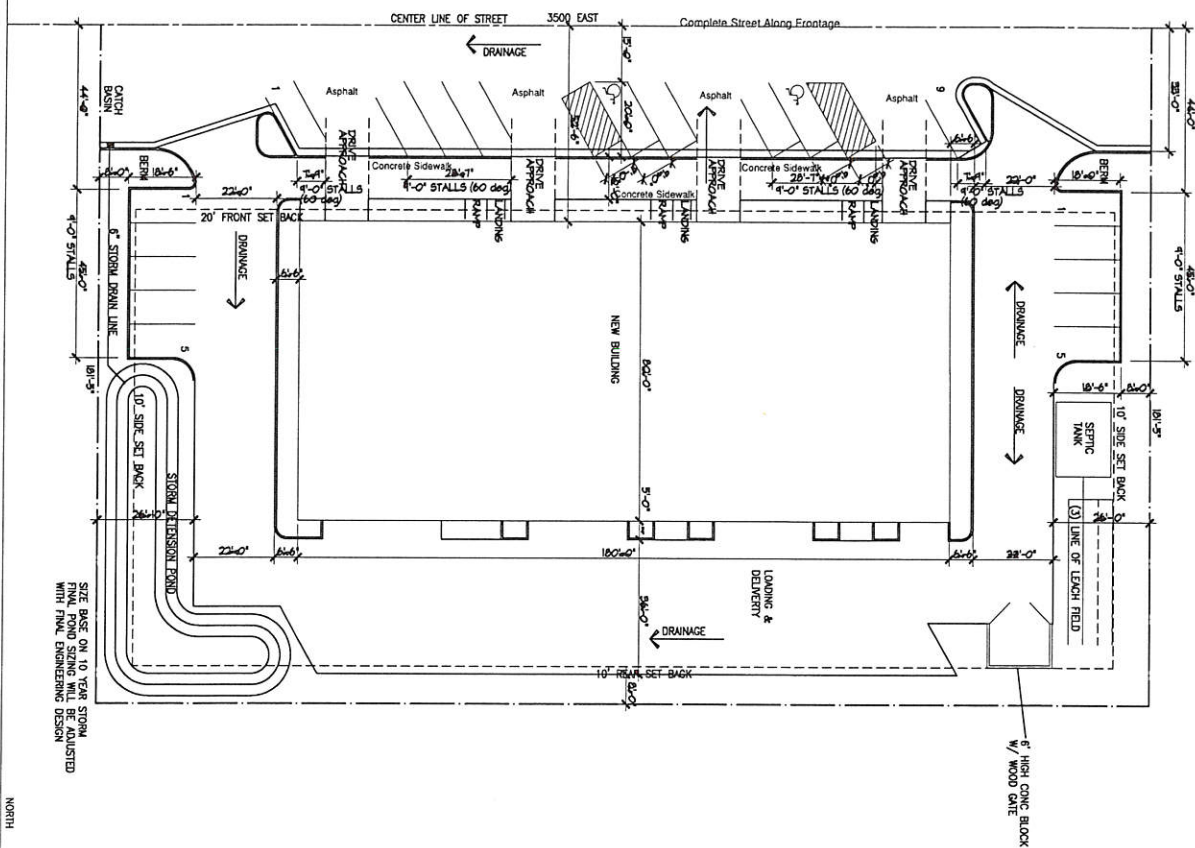
SEE P. 270 & 271

SEE PAGE 13

MTT 08-96



## Exhibit B- Site Plan



SITE PLAN  
SCALE 1"=10'-0"



DOG  
SHELL BUILDING  
3500 EAST  
LIBERTY, UTAH

## CODE SUMMARY

## INDEX

OCCUPANCY TYPE:	B/S-1
CONSTRUCTION TYPE:	V B
MAXIMUM NO. STORES	2
MAXIMUM FLOOR AREA	40,000 SQ FT
ALLOWABLE AREA	90,000 SQ FT
SPRINKLERED	NO
VAND INCREASE	YES ALLOWABLE INCREASE .75
	9,000 SQ FT x .75 = 6,750
	8,000 + 6,750 = 14,750 SQ FT
MAX ALLOWABLE AREA	0
STRUCTURAL FRAME	0
BEARING WALL	0
NONBEARING WALL	0
FLOOR /CEILING	0
ROOF /CEILING	0

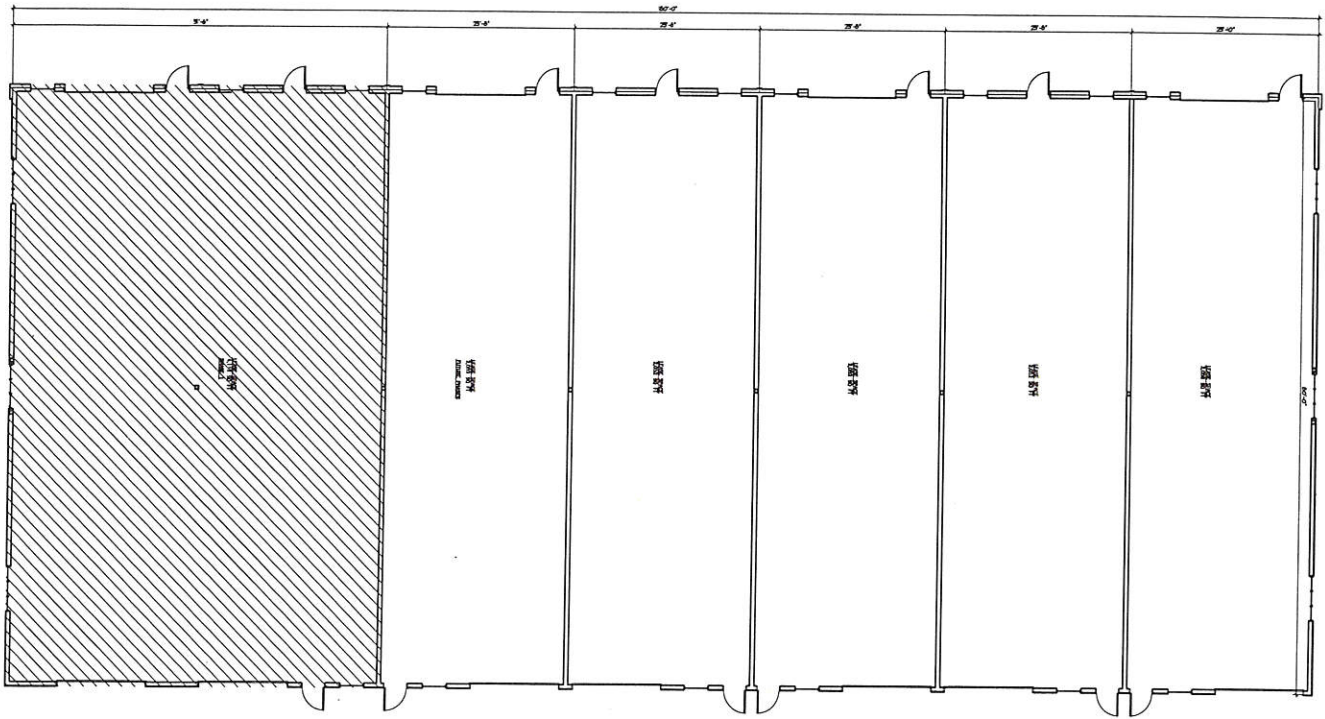
## BUILDING SUMMARY

NO. STORES	1 STORY
MAXIMUM HEIGHT	35'-0" REQUIRED
MAXIMUM HEIGHT	35'-0" PROVIDED
FLOOR PLAN AREA	12,800 SQ. FT.
LANDSCAPE AREA 20%	10,482 SQ. FT. REQUIRED
LANDSCAPE AREA	10,485 SQ. FT. PROVIDED
PARKING	30 REQUIRED 4 CLIENTS
	42 PROVIDED 6 EMPLOYEES

## APPLICABLE CODE

2012	INTERNATIONAL BUILDING CODE
2012	INTERNATIONAL PLUMBING CODE
2012	INTERNATIONAL MECHANICAL CODE
2012	INTERNATIONAL FUEL GAS CODE
2011	NATIONAL ELECTRICAL CODE
2012	INTERNATIONAL FIRE CODE
2012	INTERNATIONAL ENERGY CONSERVATION CODE
1997	UNIFORM CODE FOR BUILDING CONSERVATION

# Exhibit C-Phasing Plan



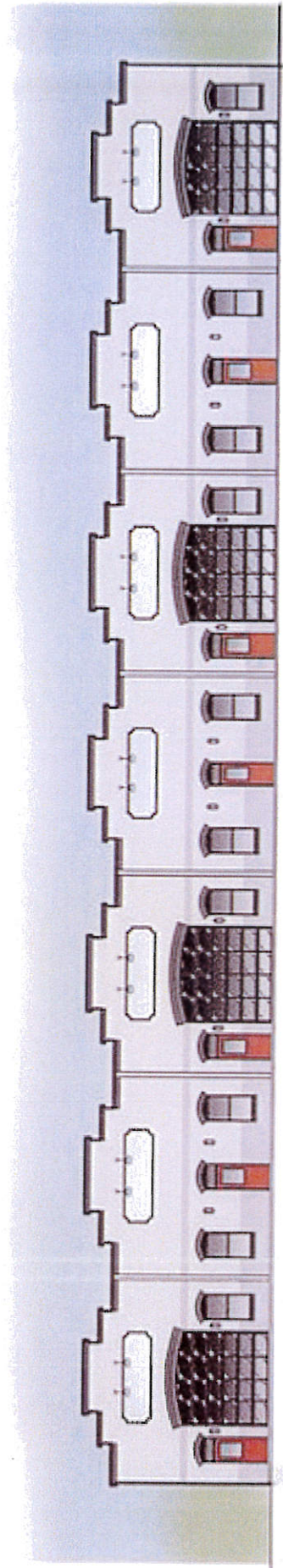
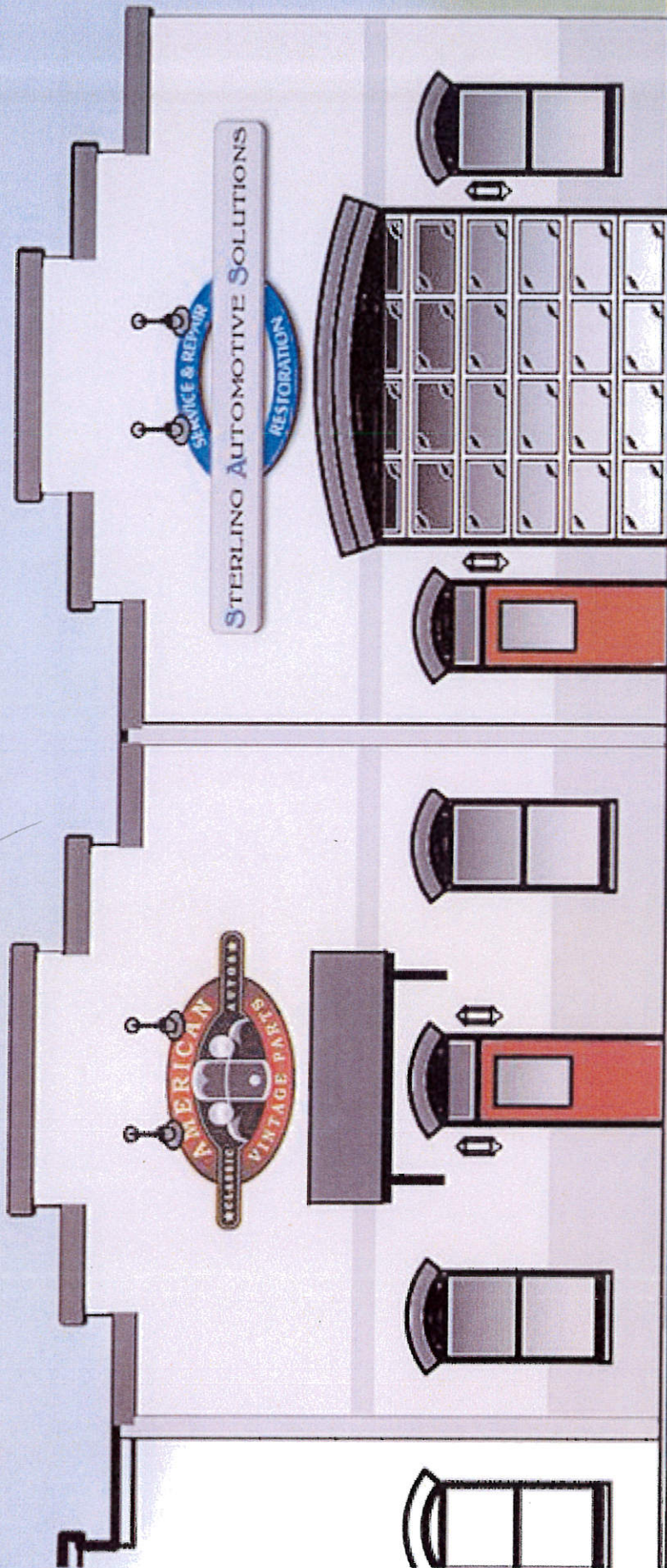
PHASING PLAN  
 PHASE 1  
 PHASE 2

WALL LEGEND  
 EXTERIOR 2 X 8 W/ BRICK VENEER  
 EXTERIOR 2 X 8 W/ STUCCO  
 INTERIOR 2 X 4 WALL

GROUND FLOOR PLAN  
 SCALE 1/4"=1'-0"  
 NORTH

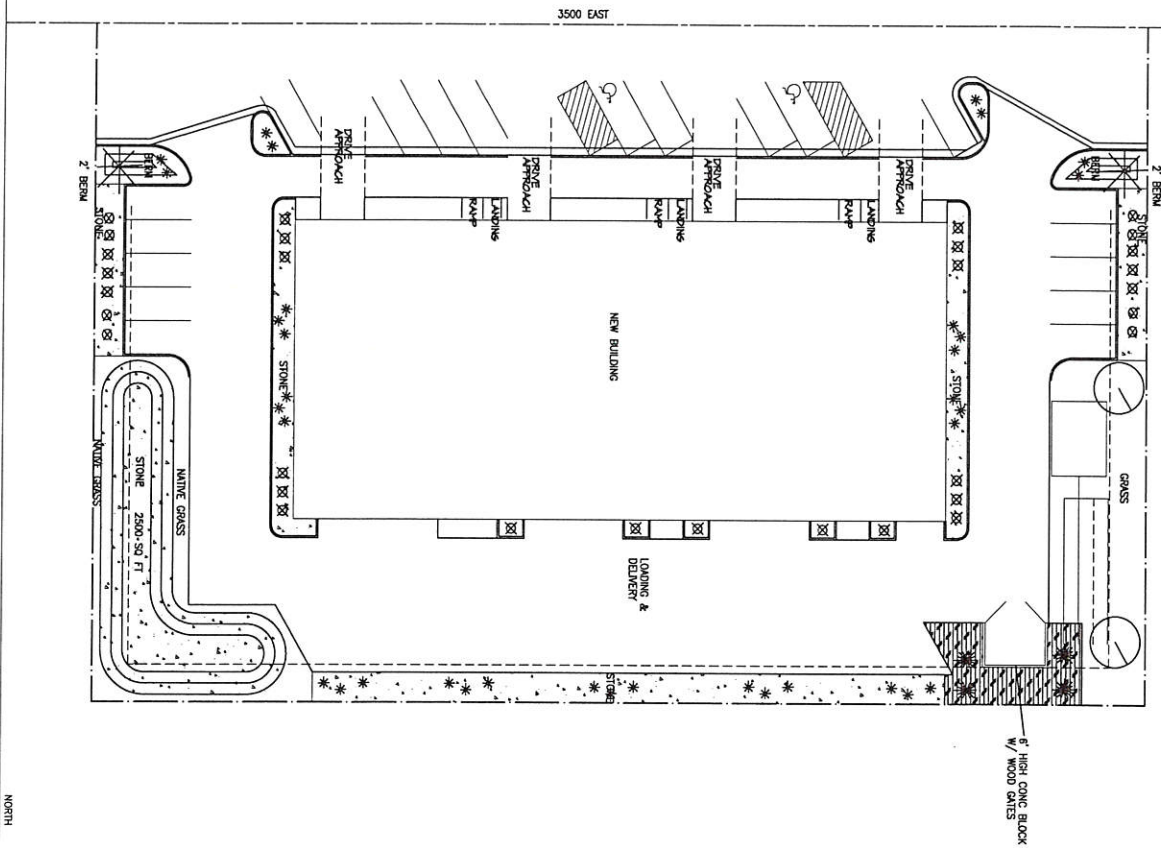


## Exhibit D- Architectural Renderings





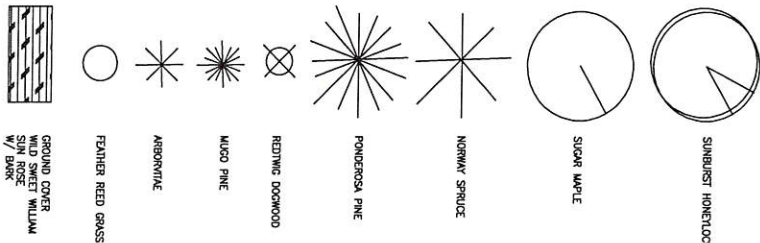
# Exhibit E-Landscape Plan



SITE PLAN  
SCALE 1"=10'-0"



## PLANTING LEGEND



SITE AREA = 42,920 SQ FT  
LANDSCAPE PERCENTAGE (20%)  
LANDSCAPE AREA 10,634 SQ FT  
10,634 / 42,920 = 24.7%

GRASS AREA 3,528 / 10,634 = 33.1%  
PLANTING AREA 7108 / 10,634 = 66.9 %

DOG  
BUILDING SHELL  
3500 EAST  
LIBERTY, UTAH

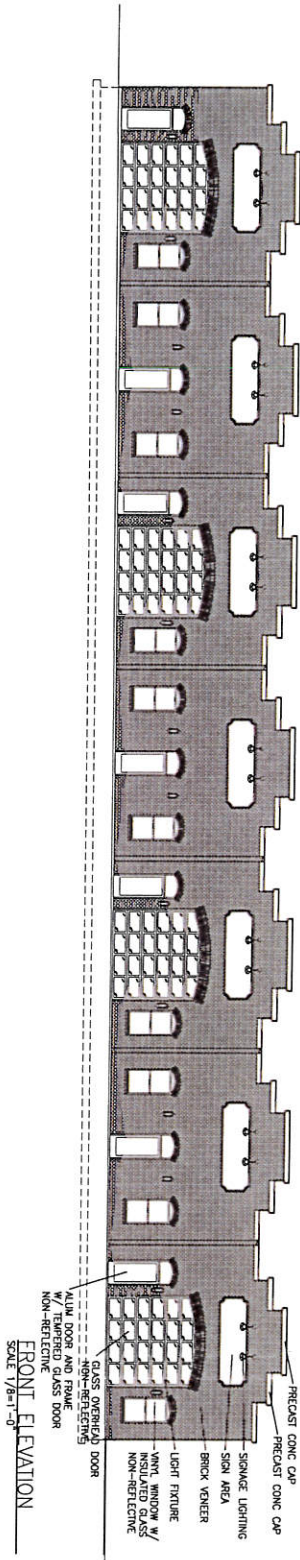
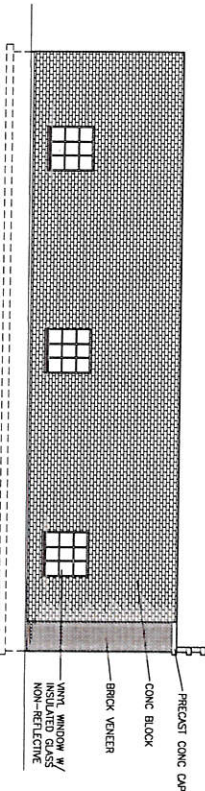
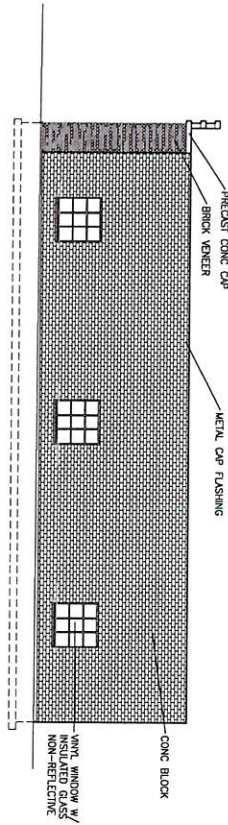
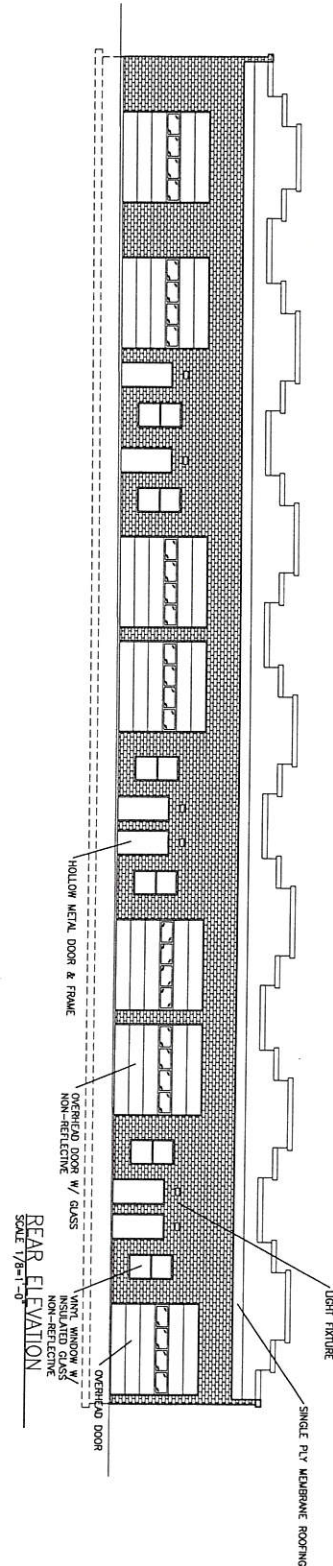


RIDGELINE DESIGN ARCHITECTS  
1708 EAST 5550 SOUTH #20  
SOUTH OGDEN, UT 84403  
PHONE: 801-392-6882 FAX: 801-621-1494  
www.ridgeline-design.com

L-1



# Exhibit F-Building Elevations





## Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

### Synopsis

#### Application Information

**Application Request:** Consideration and action on a request to amend the "Conceptual Development Plan" within the Zoning Development Agreement that was previously approved as Contract #2007-271 and amended by Contract #2009-182.

**Agenda Date:** Tuesday, November 25, 2014

**Applicant:** Dog and Bone, LLC

**Authorized Agent:** Justin Pack

**File Number:** ZDA 2014-02

#### Property Information

**Approximate Address:** 4022 North 3500 East Liberty, UT

**Project Area:** 1.10 Acres

**Zoning:** Commercial Valley-2 (CV-2)

**Existing Land Use:** Vacant

**Proposed Land Use:** Commercial Development

**Parcel ID:** 22-010-0064 & 22-010-0065

**Township, Range, Section:** Township 7 North, Range 1 East, Section 20

#### Adjacent Land Use

<b>North:</b>	Vacant Land	<b>South:</b>	Agricultural/Residential
<b>East:</b>	Agricultural	<b>West:</b>	Residential/Agricultural

#### Staff Information

**Report Presenter:** Ronda Kippen  
rkippen@co.weber.ut.us  
801-399-8768

**Report Reviewer:** SW

### Applicable Ordinances

- Title 102, Chapter 5 Rezoning Procedures, Section 5 Concept development plan
- Title 104, Chapter 21 Commercial Valley (CV-2) Zones
- Title 108, Chapter 7 Supplementary and Qualifying Regulations, Section 10 Required building setbacks from designated collector or arterial streets

### Summary

The applicant is requesting approval to amend the Conceptual Development Plan that is part of the previously approved Zoning Development Agreement Contract #2007-271 (see Exhibit B for the original agreement) and amended by Contract #2009-182 (see Exhibit C for the amended agreement). The applicant has been actively marketing the approved conceptual design for many years with no suitable tenants found. The applicant currently has a suitable tenant that is unable to occupy the building with its current design. The applicant has identified the need to modify the conceptual design to facilitate the desired commercial use in the Liberty area. If the new design is approved, the tenant will be able to move in upon the completion of the building (see Exhibit A-1 for the amendment request, A-2 for the new architectural renderings, A-3 for the building elevations, A-4 for the site plan, A-5 for the phasing plan and A-6 for the proposed Zoning Development Agreement Amendment No. 2).



## Background

In 2007, the applicant petitioned Weber County for a rezone of the subject property that was split by the Agricultural Valley-3 (AV-3) and the Commercial Valley-2 (CV-2). The applicant was desirous to create one contiguous commercial zone in the Liberty area. The rezone request for the CV-2 Zone was approved on November 13, 2007 by the Weber County Commission after receiving a positive recommendation by the Ogden Valley Planning Commission.

As part of the rezone approval, Weber County and the applicant entered into a Zoning Development Agreement to ensure the intent of the rezone was adhered to. The Zoning Development Agreement allows for the parties to amend or modify the provisions of the Agreement and/or the concept development plan by written request. The requested amendment or modification, if deemed warranted, must be recommended to the Weber County Commission by the Planning Commission, per the agreement.

In 2009, the applicant petitioned the County to amend the Zoning Development Agreement requirement to begin construction within two years to seven years from the date the rezone was approved. This request would increase the commencement and completion deadlines of the agreement for up to five additional years. The basis for the request was due to poor economic conditions and the lack of interested tenants. On October 27, 2009, the Ogden Valley Planning Commission forwarded a positive recommendation to amend the requirement to begin construction from two years to four years from the date the final approval of the rezoning petition was originally granted and amend the completion deadline from five years to nine years from the original rezoning approval (see Exhibit C). The Weber County Commission approved the request to amend the Zoning Development Agreement request as recommended by the Ogden Valley Planning Commission on November 24, 2009.

The applicant obtained a demolition permit on May 7, 2008 from the Weber County Building Division to remove the home that was located on the subject property. The demolition and site clean-up that has taken place satisfies the requirement to begin work on the project prior to November 13, 2011.

## Analysis

**Rezoning Procedures:** A concept development plan is required to be submitted with a rezoning application, and shall supply sufficient information about the development to assist in the decision on the application per the Uniform Land Use Code of Weber County, Utah (LUC) §102-5-5. Said section further states:

*"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."*

In order to meet the requirements of the LUC §102-5-5 and Section 10 of the Zoning Development Agreement Contract# 2009-182, the Planning Commission will need to make a recommendation to the County Commission on the applicant's request. The Planning Commission will need to find that the amendment coincides with the vision of the area and is harmonious with the Ogden Valley General Plan.

**Zoning:** The proposed conceptual design has been reviewed against the LUC §104-21 to ensure conceptual conformance with the CV-2 zone. The purpose of the CV-2 zone is:

*"The CV-2 Zone (General Commercial) has been established for the purpose of providing a broad range of commercial services and goods to serve a larger region of the county like the Ogden Valley. Areas with CV-2 zoning have a principal patronage which originates throughout the Ogden Valley or is due to recreation in the Ogden Valley. CV-2 areas are to be a commercial hub or node of activity. These areas, as outlined in the General Plan, are to be near the traditional town centers of the Ogden Valley and not to be strung out along the highways. Uses in the CV-2 Zone may provide goods and services not typically found amongst commercial areas within resorts including automobile sales and service, sporting goods, service stations, hotels, and professional offices."*

Adequate setbacks have been demonstrated on the conceptual design and it appears to meet the required site development standards for the CV-2 zone regarding minimum lot area, lot width, building height and lot coverage.

**Conceptual Design Review:** The original conceptual design integrated a modern recessed layout along the front and rear of the building (see Exhibit D). The proposed conceptual design is fashioned after a historic commercial storefront utilizing a "false front" parapet, which is an upward extension of the front wall, and a color scheme of varying degrees of slate with black and red accent colors (see Exhibit A-2). A more thorough review of the architectural, landscape and screening design standards will take place as part of the approval process for any Land Use and/or Conditional Use Permits.

**Conceptual Traffic and Parking Standards:** The Ogden Valley Transportation Element Map currently has Highway 162/3500 East identified as an 80' Collector Street. The LUC §108-7-10 requires that the minimum front and side yard setbacks for all buildings to be measured from the future lot line of a collector street is designated right of way instead of the existing lot line of the present street right of way. Currently, the front property line of the applicable property runs along the centerline of Highway 162/3500 East. The proposed conceptual design allows for a 40' right of way dedication incorporating the "Complete Street" option that is required in the CV-2 zone when the front setback line is less than 20 feet (see Exhibit A-4). A "Complete Street" has been identified in the LUC §104-21-4(c) as:

*"A complete street is a transportation facility that is planned, designed, operated and maintained to provide safe mobility for all users including bicyclists, pedestrians, transit vehicles, and motorists, appropriate to the function and context of the facility."*

The plans that have been provided are conceptual in nature. The applicant, in order to meet the required landscaping along the rear of the property, has asked for flexibility in the exact location of the building but at no such time shall it encroach into the future right of way dedication line of 40'. If the Planning Commission can find that the conceptual design of the "Complete Street" is acceptable, the applicant will be required, as part of the future development of this site, to provide the Weber County Engineering Division with and meet all of the applicable requirements for the "Complete Street" design.

It appears that the parking for the overall project has been reduced from 29 to 19 parking stalls. Adequate parking for the uses in the buildings will be addressed, including a more detailed review of the site design, as part of the approval process for any Land Use and/or Conditional Use Permits.

**Construction Phasing:** The applicant has been able to find a suitable tenant based on the new conceptual design and would like to construct the portion of the building that the tenant will be located in prior to completing the remainder of the building. In order to enable this option and to ensure that these actions will not result in default per section 8 of the Zoning Development Agreement, the applicant has presented a "Phasing" Plan (see Exhibit A-5), understanding that all site improvements will need to be installed prior to receiving occupancy of the first phase of the project.

## **Conformance to the General Plan**

Based on staff's analysis, the proposal appears to conform to the Ogden Valley General Plan by encouraging commercial development within established commercial areas, balancing commercial development and residential growth, and supporting the development of commercial "nodes" within existing communities along major thoroughfares (*The 1998 Ogden Valley General Plan § 5 Commercial Development*).

## **Summary of Planning Commission Considerations**

The following questions may be considered by the Planning Commission regarding the request to amend the "Conceptual Development Plan" within the Zoning Development Agreement that was previously approved as Contract #2007-271 and amended by Contract #2009-182:

- Does the proposed amendment coincide with the vision of the area?
- Is the proposed amendment harmonious with the Ogden Valley General Plan?
- Does the proposed "Conceptual Development Plan" meet the current goals and objectives as outlined in the Ogden Valley General Plan?
- Does the conceptual "Complete Street" design provide for safe mobility for all users including, bicyclists, pedestrians, transit vehicles, and motorists?
- Does the proposal enhance the public health, safety and welfare over the type of development that could otherwise occur?
- Does allowing the applicant to utilize a phasing plan create any type of detrimental effects pertaining to the public health, safety, or welfare?
- Does the proposal to amend the conceptual development plan negatively impact the surrounding properties and uses?



## Staff Recommendation

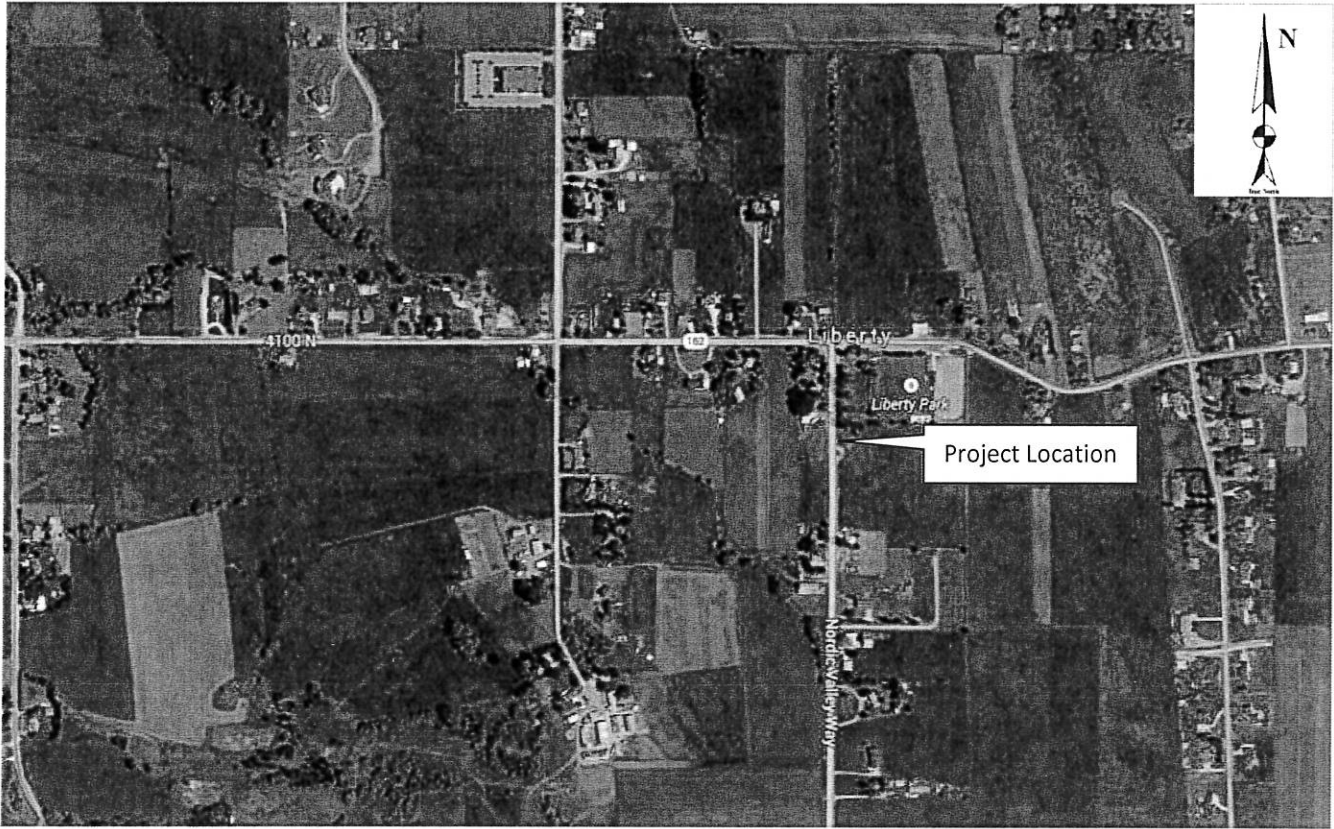
The Planning Division recommends a positive recommendation be forwarded to the County Commission for the request to amend the "Conceptual Development Plan" within the Zoning Development Agreement that was previously approved as Contract #2007-271 and amended by Contract #2009-182. This recommendation is based on the findings as listed below:

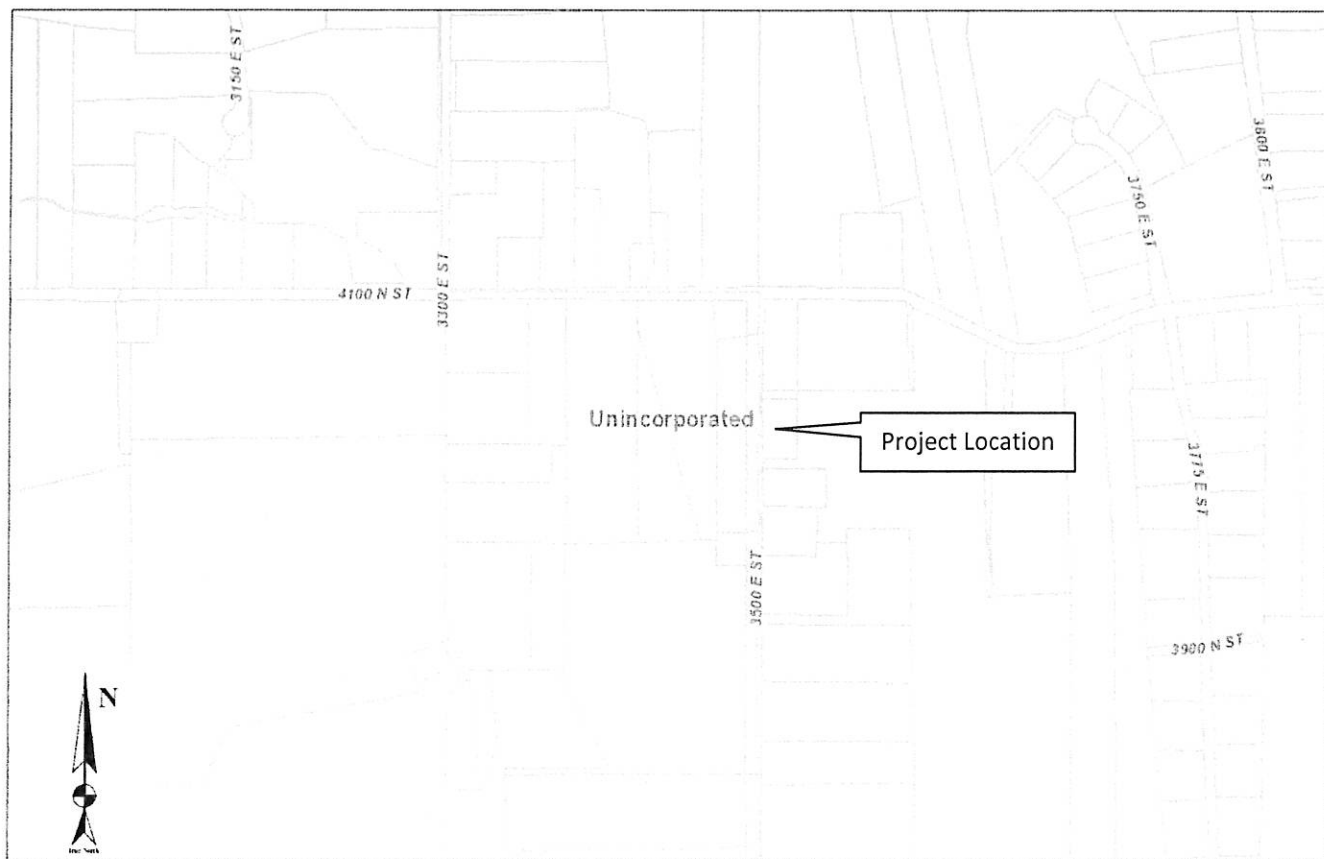
1. A request to amend the "Concept Development Plan" is allowed per the previously approved Zoning Development Agreements.
2. It is in the best interests of both the applicant and the County to have a "Concept Development Plan" that is viable and harmonious with the Ogden Valley General Plan.
3. The proposal will promote commercial development in the Liberty area as identified in the Ogden Valley General Plan.
4. The amendment to the conceptual design will facilitate the required site improvements in a manner that will coincide with the vision of the area and will be more desirable for future tenants.
5. The conceptual "Complete Street" design will provide safe mobility for all users.
6. The amendment is not detrimental to the public health, safety, or welfare.
7. The proposal will not deteriorate the environment of the general area so as to negatively impact surrounding properties and uses.

## Exhibits

- A. Amendment request including:
  - A-1: Signed amendment request and Authorized Representative Affidavit
  - A-2: New architectural renderings
  - A-3: New building elevations
  - A-4: New site plan
  - A-5: New Phasing Plan
  - A-6: The proposed Zoning Development Agreement Amendment No. 2
- B. Zoning Development Agreement Contract #2007-271
- C. Zoning Development Agreement Amended Contract #2009-182
- D. Original Conceptual Development Plan

## Map 1





## Exhibit A-1: Signed Amendment Request

# DOG AND BONE, LLC

---

326 N. WILKIE STREET KAYSVILLE, UT 84037 | 801-698-1185 | PAMCOLLARD@COMCAST.NET

September 20, 2014

Weber County Commissioners & Ogden Valley Township Planning Commission  
2380 Washington Blvd., Suite 240  
Ogden, UT 84401

Dear County Commissioners & Ogden Valley Township Planning Commission

We are requesting an amendment to Zoning Development Agreement Contract # C2009-182 to change site plan and building plan regarding property located at 4022 N. 3500 E. in Liberty, UT. This property currently has a CV2 zone.

Property has been marketed for years with no suitable tenant found due to the lack of demand for space as currently designed.

We currently have a tenant arranged and ready to move in upon completion of site and building plan with new design. This tenant has potential to be a long term tenant in the space. Tenant has experience and has acquired the equipment necessary to run an automotive repair shop. This tenant however, would not be able to use the building with its current design.

Through other completed projects we have done in the valley we feel that this new design will better compliment the valley. This experience has also led us to the determination that there is a need for commercial multiple use space which this new design provides.

Plans for this new site and building plan are ready and have an estimated construction start date of middle to end of October.

Please see attached plans.

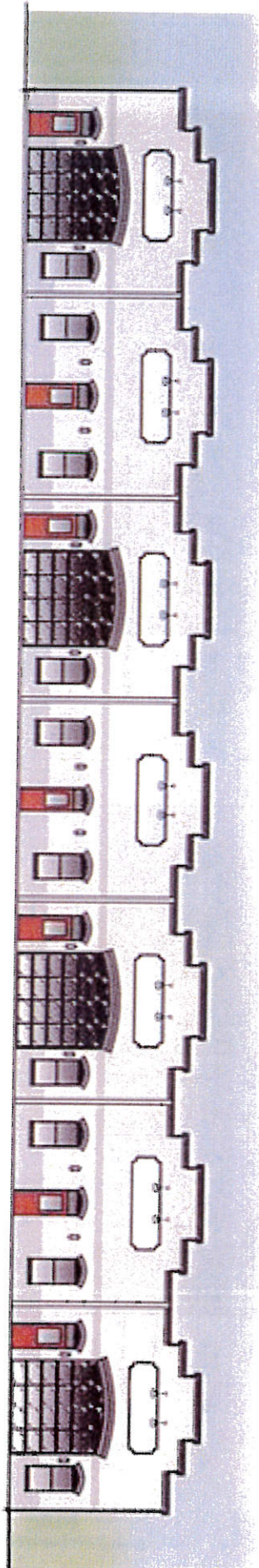
Sincerely,



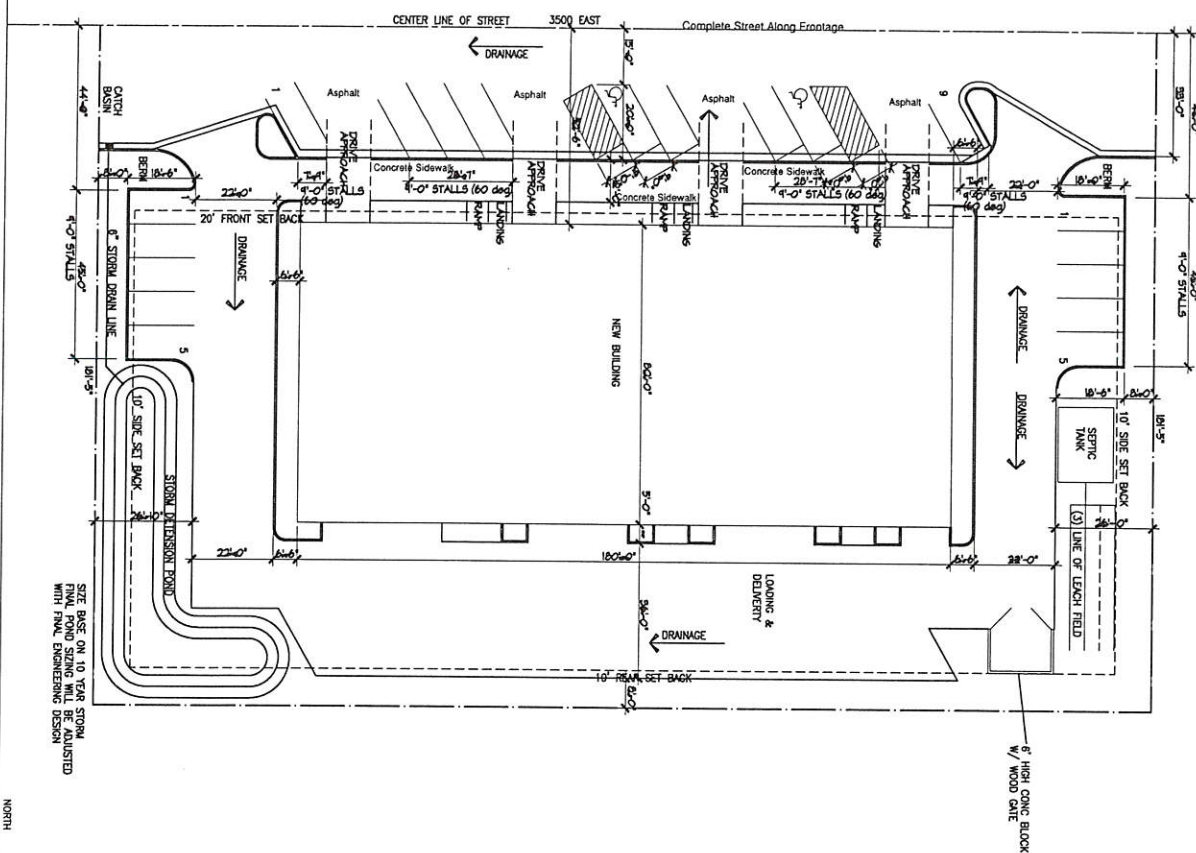
**DOG AND BONE, LLC**  
Pamela Collard



## Exhibit A-2: New architectural renderings



### Exhibit A-4: New Site Plan



SITE PLAN  
SCALE 1"=10'-0"



DOG  
SHELL BUILDING  
3500 EAST  
LIBERTY, UTAH

## CODE SUMMARY

## INDEX

## BUILDING SUMMARY

OCCUPANCY TYPE:	B/S-1
CONSTRUCTION TYPE:	V-B
MAXIMUM NO. STORIES	2
MAXIMUM AREA	50 FT
ALLOWABLE AREA	9,000 SQ FT
SPRINKLED	NO
VAND. INCREASE	YES ALLOWABLE INCREASE .75
	9,000 SQ FT x .75 = 6,750
	9,000 + 6,750 = 15,750 SQ FT
MAX ALLOWABLE AREA	
STRUCTURAL FRAME	0
BEARING WALL	0
INTERIOR	0
NONBEARING WALL	0
FLOOR / CEILING	0
ROOF / CEILING	0

## APPLICABLE CODE

2012	INTERNATIONAL	BUILDING CODE
2012	INTERNATIONAL	PLUMBING CODE
2012	INTERNATIONAL	MECHANICAL CODE
2012	INTERNATIONAL	FUEL GAS CODE
2011	NATIONAL	ELECTRICAL CODE
2012	INTERNATIONAL	FIRE CODE
2012	INTERNATIONAL	ENERGY CONSERVATION CODE
1997	UNIFORM CODE	FOR BUILDING CONSERVATION

DOG  
BUILDING SHELL  
3500 EAST  
LIBERTY, UTAH

COVER SHEET

C-0



**RIDGELINE DESIGN ARCHITECTS**  
1708 EAST 5550 SOUTH #20  
SOUTH OGDEN, UT 84403  
PHONE: 801-392-6882 FAX: 801-621-1494

## Exhibit A-6: Proposed Zoning Development Agreement Amendment# 2

WEBER COUNTY

Field Code Changed

ZONING DEVELOPMENT AGREEMENT AMENDMENT NO. 2 ~~DED~~

CONTRACT #

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PARTIES: The parties to this amended Zoning Development Agreement (Agreement) are ~~Scott Best DBA Dog & Bone, LLC~~ ("the petitioner") and Weber County Corporation ("the County").

EFFECTIVE DATE: The effective date of this Agreement will be the date that rezoning approval is granted as outlined below by the Weber County Commission ("the Commission").

RECITALS: Whereas, the petitioner has rezoned property generally located at 4022 North and 3500 East within the unincorporated area of Weber County, Utah from an ~~Agricultural Valley -3 (AV-3)~~ Zone to a ~~Commercial Valley-2 (CV-2)~~ Zone for the purpose of constructing retail and professional space on property which consists of 1.27 acres and is more particularly described in EXHIBIT A attached hereto and incorporated herein by this reference ("the property"); and,

WHEREAS, the County seeks to promote the health, welfare, safety, convenience and economic prosperity of the inhabitants of the County through the establishment and administration of Zoning Regulations concerning the use and development of land in the unincorporated area of the County as a means of implementing the adopted General Plan of all or part of the County; and

WHEREAS, the petitioner has requested that certain property be rezoned for purposes of allowing him or his designees to develop the property in a manner which has been outlined to the Planning Commission; and

WHEREAS, the petitioner considers it to his advantage and benefit for the County to review his petition for rezoning based upon having prior knowledge of the development that is proposed for the property so as to more completely assess its compatibility with the County's General Plan and for the area and the existing land use surrounding the property to be rezoned as described in Exhibit A; and

WHEREAS, the County is desirous of rezoning the property for the purpose of developing the property in the manner outlined to the county but does not feel that the property should be rezoned unless the development that the petitioner contemplates is commenced and completed on the property within an agreed upon reasonable time; and

WHEREAS, it is in the best interests of both the petitioner and the County that in the event the petitioner's project is not commenced, constructed and completed within a reasonable time that the zoning of the parcel described in Exhibit A be rezoned back to the zoning that existed prior to granting petitioners initial rezoning request; and

WHEREAS, the petitioner has acknowledged that, due to the lack of progress on the approved project, he will be in default of the previously approved Zoning Development Agreement; and

WHEREAS, the petitioner has requested that the County extend the expiration date of the previously approved Zoning Development Agreement recorded in the Office of the Weber County Recorder as entry number 2318817 and the Zoning Development Agreement Amended recorded in the Office of the Weber County Recorder as entry number 2453295; and

WHEREAS, the petitioner has brought forth a written request to amend the concept development plan as allowed in the previously approved Zoning Development Agreement; and



## Exhibit A-6: Proposed Zoning Development Agreement Amendment# 2

8. The following conditions, occurrences or actions will constitute a default by the petitioner, his assigns or successors in interest:
- a. failure to present a detailed development plan including proposed uses for the project, or a major phase thereof, gain County approval and obtain Land Use/Conditional Use and Building Permits and complete construction within the time periods specified in this Agreement.
  - b. disposing of the property for any other purpose than that approved by this Agreement, the concept development plan and general uses and any subsequent more detailed plans and uses approved by the County.
  - c. a written petition by the petitioner, his/her assigns or successors in interest, filed with the County seeking to void or materially alter any of the provisions of this Agreement.

9. In the event that any of the conditions constituting default by the petitioner, his/her assigns or successors in interest occur, the County finds that the public benefits to accrue from rezoning as outlined in this Agreement will not be realized.

In such a case, the County shall examine the reasons for the default and lack of progress or proposed major change of plans, and either approve an extension of time or major change to the concept plan or initiate steps to revert the zoning designation to its former zone.

10. The parties may amend or modify the provisions of this Agreement and/or the concept development plan only by written instrument and after considering the recommendation of the County Planning Commission which may hold a public hearing to obtain public input on the proposed amendment or modification if deemed warranted.
11. This Agreement with any amendments shall be in full force and effect until all construction and building occupancy has taken place as per approved development plans or until the property covered herein has been reverted to its former zone designation as a result of default.
12. Nothing contained in this Agreement constitutes a waiver of the County's sovereign immunity under any applicable state law.
- ~~13. In the event that legal action is required in order to enforce the terms of this agreement, the prevailing party shall be entitled to receive from the faulting party any costs and attorney's fees incurred in enforcing this agreement from the defaulting party.~~
- 13.4. This agreement constitutes the entire agreement between the parties. No changes or alternatives may be made in this agreement except in writing signed by both parties.

**Comment [r1]:** Check with legal to see if this portion should be removed from agreement possibly adding performance.

Met with Chris and Dustin, ok to remove this clause with no requirements for performance based on #11.

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### List of Intended Uses:

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The intended uses are the uses listed in the Weber County Zoning Ordinance Title 104 Chapter 2148-B

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The parking needs to be located to the rear of the building as much as possible.

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State of Utah )  
 )  
 ) ss  
County of Weber )

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\_\_\_\_\_  
Weber County Attorney

\_\_\_\_\_  
Date

Chairperson, Weber County Commission \_\_\_\_\_ Date \_\_\_\_\_



\*W2318817\*

# Exhibit B- Contract #2007-271

E# 2318817 PG 1 OF 9  
ERNEST D ROWLEY, WEBER COUNTY RECORDER  
31-JAN-08 1006 AM FEE \$1.00 DEP SPY  
REC FOR: WEBER COUNTY CLERK

ORDINANCE NO. 2007-31

An Ordinance of Weber County, Rezoning property at 4022 North 3500 East from Agricultural Valley-3 (AV-3) to Commercial Valley-2 (CV-2).

WHEREAS, The Board of County Commissioners of Weber County, Utah, find that the proposed rezoning will comply with the goals and objectives of the General Plan and will promote property rights; and

WHEREAS, the Ogden Valley General Plan has identified this area as an area of expansion of the commercial node; and

WHEREAS, The Board of County Commissioners of Weber County, Utah, after appropriate notice, held a public hearing on November 13, 2007, to allow the general public to comment on the proposed rezone; and

NOW THEREFORE, The Board of County Commissioners of Weber County, State of Utah, Ordain that the following legal descriptions are hereby rezoned from Agricultural Valley-3 (AV-3) to Commercial Valley-2 (CV-2):

22-010-0060 Pt.  
PART OF THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY. BEGINNING AT A POINT 430 FEET SOUTH OF THE NORTHWEST CORNER OF THE SOUTH 1/2 OF SAID NORTHEAST QUARTER, THENCE EAST 11 RODS, THENCE SOUTH 263 FEET, THENCE WEST 11 RODS, THENCE NORTH 263 FEET TO BEGINNING. CONTAINING 1.095 ACRES; AND

22-010-0060 Pt.  
PART OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE MERIDIAN, U.S. SURVEY. BEGINNING AT A POINT 24.413 RODS SOUTH OF THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID NORTHEAST QUARTER SECTION, RUNNING THENCE SOUTH 1.647 RODS; THENCE EAST 11 RODS, THENCE NORTH 1.647 RODS, THENCE WEST 11 RODS, TO THE PLACE OF BEGINNING. CONTAINING 0.11 ACRES

Passed, adopted and a synopsis ordered published this 13 day of November 2007, by the Board of County Commissioners of Weber County, Utah,

Commissioner Bischoff	Voting <u>aye</u>
Commissioner Dearden	Voting <u>aye</u>
Commissioner Zogmaister	Voting <u>aye</u>

Kenneth A. Bischoff  
Kenneth A. Bischoff, Chair

ATTEST:

Alan McEwan  
Alan McEwan, CPA  
Weber County Clerk/Auditor

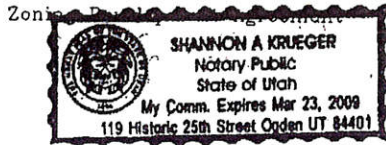
22

**Exhibit B- Contract #2007-271**

petition is contingent upon him completing the project substantially as outlined in Exhibit B and within the time frame outlined in this agreement.

4. The petitioner agrees that only uses which comply with the Zoning Ordinance provisions will be approved on the petitioned property as part of a more specific and more detailed Site Plan. No other uses will be approved.
5. The responsibilities and commitments of the petitioner and the County as detailed in this document, when executed, shall constitute a covenant and restriction, running with the land and shall be binding upon the petitioner/owner his assignees and successors in interest, and shall be recorded in the Office of the Weber County Recorder.
6. Both parties recognize the advantageous nature of this Agreement which provides for the accrual of benefits and protection of interests to both parties.
7. The County will review more detailed development plans and approve/issue Land Use or Conditional Use Permits for only those uses and site design standards that comply with the Zoning Ordinance provisions.
8. The following conditions, occurrences or actions will constitute a default by the petitioner, his assigns or successors in interest:
  - a. failure to present a detailed development plan including proposed uses for the project, or a major phase thereof, gain County approval and obtain Land Use/Conditional Use and Building Permits and complete construction within the time periods specified in this Agreement.
  - b. disposing of the property for any other purpose than that approved by this Agreement, the concept development plan and general uses and any subsequent more detailed plans and uses approved by the County.
  - c. a written petition by the petitioner, his assigns or successors in interest, filed with the County seeking to void or materially alter any of the provisions of this Agreement.
9. In the event that any of the conditions constituting default by the petitioner, his assigns or successors in interest occur, the County finds that the public benefits to accrue from rezoning as outlined in this Agreement will not be realized.  
  
In such a case, the County shall examine the reasons for the default and lack of progress or proposed major change of plans, and either approve an extension of time or major change to the concept plan or initiate steps to revert the zoning designation to its former zone.
10. The parties may amend or modify the provisions of this Agreement and/or the concept development plan only by written instrument and after considering the recommendation of the County Planning Commission which may hold a public hearing to obtain public input on the proposed amendment or modification if deemed warranted.
11. This Agreement with any amendments shall be in full force and effect until all construction and building occupancy has taken place as per approved development plans or until the property covered herein has been reverted to its former zone designation as a result of default.
12. Nothing contained in this Agreement constitutes a waiver of the County's sovereign immunity under





Page 4

Notary Public

Residing at: \_\_\_\_\_, Utah

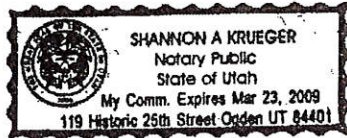
\*\*\*\*\*

CORPORATE ACKNOWLEDGMENT

State of Utah )  
 ) ss  
 County of Weber )

On the 27 day of November A.D. 2007

personally appeared before me BARRY Scott Best duly sworn, did say that he/she is the \_\_\_\_\_ of \_\_\_\_\_, the corporation which executed the foregoing instrument, and that said instrument was signed in behalf of said corporation by authority of a Resolution of its Board of Directors that the said corporation executed the same.



Shannon A. Krueger  
 Notary Public  
 Residing at: \_\_\_\_\_

APPROVED AS TO FORM:

Monette Husted  
 Weber County Attorney

12/3/07  
 Date

**Exhibit B- Contract #2007-271**

**EXHIBIT A**

**Property description of area petitioned for rezoning:**

PART OF THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY. BEGINNING AT A POINT 430 FEET SOUTH OF THE NORTHWEST CORNER OF THE SOUTH 1/2 OF SAID NORTHEAST QUARTER, THENCE EAST 11 RODS, THENCE SOUTH 263 FEET, THENCE WEST 11 RODS, THENCE NORTH 263 FEET TO BEGINNING.

CONTAINING 1.095 ACRES; AND

PART OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE MERIDIAN, U.S. SURVEY. BEGINNING AT A POINT 24.413 RODS SOUTH OF THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID NORTHEAST QUARTER SECTION, RUNNING THENCE SOUTH 1.647 RODS; THENCE EAST 11 RODS, THENCE NORTH 1.647 RODS, THENCE WEST 11 RODS, TO THE PLACE OF BEGINNING.

CONTAINING 0.11 ACRES

**Exhibit B- Contract #2007-271**

EXHIBIT B 2/2





## Exhibit C- Contract 2009-182

Zoning Development Agreement

Page 2

Valley-2 (CV-2) Zone for the purpose of allowing the petitioner to construct his pre-design project on the subject property.

2. The petitioner will develop the subject property based on the concept development plan attached hereto and marked as Exhibit B. The attached plan may be refined and modified but the general concept of the plan will not be changed without prior formal approval of the County. The petitioner will begin construction on the designated project described in Exhibit B within 4 years of the date on which final approval of the rezoning petition was originally granted and will complete the project within 108 months of original rezoning approval date.
3. Petitioner acknowledges that, if the project has not begun or has not been completed within the time frames outlined above, he/she will request that the property be rezoned from a Commercial Valley-2 (CV-2) Zone to an Agricultural Valley-3 (AV-3) Zone and this document will serve as his/her request that the property be rezoned by the County. Petitioner understands that the County's granting of his/her rezoning petition is contingent upon him/her completing the project substantially as outlined in Exhibit B and within the time frame outlined in this agreement.
4. The petitioner agrees that only uses which comply with the Zoning Ordinance provisions will be approved on the petitioned property as part of a more specific and more detailed Site Plan. No other uses will be approved.
5. The responsibilities and commitments of the petitioner and the County as detailed in this document, when executed, shall constitute a covenant and restriction, running with the land and shall be binding upon the petitioner/owner his assigns and successors in interest, and shall be recorded in the Office of the Weber County Recorder.
6. Both parties recognize the advantageous nature of this Agreement which provides for the accrual of benefits and protection of interests to both parties.
7. The County will review more detailed development plans and approve/ issue Land Use or Conditional Use Permits for only those uses and site design standards that comply with the Zoning Ordinance provisions.
8. The following conditions, occurrences or actions will constitute a default by the petitioner, his assigns or successors in interest:
  - a. failure to present a detailed development plan including proposed uses for the project, or a major phase thereof, gain County approval and obtain Land Use/Conditional Use and Building Permits and complete construction within the time periods specified in this Agreement.
  - b. disposing of the property for any other purpose than that approved by this Agreement, the concept development plan and general uses and any subsequent more detailed plans and uses approved by the County.
  - c. a written petition by the petitioner, his/her assigns or successors in interest, filed with the County seeking to void or materially alter any of the provisions of this Agreement.
9. In the event that any of the conditions constituting default by the petitioner, his/her assigns or successors in interest occur, the County finds that the public benefits to accrue from rezoning as outlined in this Agreement will not be realized.

# Exhibit C- Contract 2009-182

Zoning Development Agreement

Page 4

## INDIVIDUAL ACKNOWLEDGMENT

State of Utah )  
 )  
 ss  
 County of Weber )

On the \_\_\_\_\_ day of \_\_\_\_\_ A.D. 20\_\_

personally appeared before me \_\_\_\_\_

the signer(s) of the within instrument, who duly acknowledged to me that he/she executed the same.

\_\_\_\_\_  
 Notary Public

Residing at: \_\_\_\_\_, Utah

\*\*\*\*\*

## CORPORATE ACKNOWLEDGMENT

State of Utah )  
 )  
 ss  
 County of Weber )

On the 5 day of Jun A.D. 2010

personally appeared before me DeLaney Stephens duly sworn, did say that he/she Do and Bone  
 is the Authorized representative of Perichone, LLC the corporation which executed the foregoing  
 instrument, and that said instrument was signed in behalf of said corporation by authority of a Resolution of its Board  
 of Directors that the said corporation executed the same.

[Signature]

Notary Public  
 Residing at:



## Exhibit C- Contract 2009-182

EP 2453295 PG 6 OF 10

Zoning Development Agreement

Page 6

### EXHIBIT A

d.d.  
~~22-010-0066~~

**Property description of area petitioned for rezoning:**

PART OF THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY. BEGINNING AT A POINT 430 FEET SOUTH OF THE NORTHWEST CORNER OF THE SOUTH 1/2 OF SAID NORTHEAST QUARTER, THENCE EAST 11 RODS, THENCE SOUTH 263 FEET, THENCE WEST 11 RODS, THENCE NORTH 263 FEET TO BEGINNING.

CONTAINING 1.095 ACRES; AND

22-010-0064

PART OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE MERIDIAN, U.S. SURVEY. BEGINNING AT A POINT 24.413 RODS SOUTH OF THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID NORTHEAST QUARTER SECTION, RUNNING THENCE SOUTH 1.647 RODS; THENCE EAST 11 RODS, THENCE NORTH 1.647 RODS, THENCE WEST 11 RODS, TO THE PLACE OF BEGINNING.

CONTAINING 0.11 ACRES

22-010-0065



Exhibit C - Contract 2009-182

EL 2453295 PG 8 OF 10

EXHIBIT B 2/2



Exhibit C - Contract 2009-182

EH 2453295 PG 10 OF 10

State of Utah        }  
                              ss:  
County of Salt Lake

On the 13<sup>th</sup> day of October, 2009, personally appeared before me, Pam Collard, who being duly sworn did say, for herself, that she is the manager of Horseshoe LLC, a Utah limited liability company, and that the within and foregoing instrument was signed on behalf of said limited liability company by authority of its articles of organization and duly acknowledged to me that said limited liability company executed the same.

Cathy C. Prestwich  
Notary Public



State of Utah        }  
                              ss:  
County of Salt Lake

On the 13<sup>th</sup> day of October, 2009, personally appeared before me, Pam Collard, who being duly sworn did say, for herself, that she is the manager of Horseshoe LLC, a Utah limited liability company, and that the within and foregoing instrument was signed on behalf of said limited liability company by authority of its articles of organization and duly acknowledged to me that said limited liability company executed the same.

Cathy C. Prestwich  
Notary Public





## Exhibit D- Original Conceptual Development Plans







## Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

### Synopsis

#### Application Information

**Application Request:** Consideration and action on an amendment to Title 108 (Standards), Chapter 3 (Cluster Subdivisions) and Title 106 (Subdivisions), Chapter 2 (Cluster Subdivisions; Special Provisions) of the Weber County Land Use Code.

**Agenda Date:** Tuesday, November 18, 2014

**Applicant:** Western Weber Township Planning Commission

**File Number:** ZO-04-2009

#### Property Information

**Approximate Address:** NA

**Project Area:** NA

**Zoning:** NA

**Existing Land Use:** NA

**Proposed Land Use:** NA

**Parcel ID:** NA

**Township, Range, Section:** NA

#### Staff Information

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801-399-8769

**Report Reviewer:** SW

### Background

The Western Weber Township Planning Commission has requested that the existing Weber County Cluster Subdivision Code (Title 108 – Standards, Chapter 3 – Cluster Subdivisions) undergo a complete review to determine whether or not its standards provide for expected performance.

Since the adoption of the current Code, approximately three cluster subdivisions have been submitted for review (in the Western Weber Township) with one of these three being approved and recorded to date. The Western Weber Township Planning Commission, through experience and review of the current Code, has identified some concerns and ideas related to design and development flexibility.

Both, Western Weber and Ogden Valley Planning Commissions, have held and participated in many work-sessions where they have solicited, welcomed, and received public input. The work-sessions have resulted in the draft cluster code attached Exhibit A. A copy of the draft without strikethroughs has been attached as Exhibit B. Brief descriptions of the changes have been provided below:

### Title 108, Chapter 3 - Cluster Subdivisions:

#### Section 108-3-1 Purpose and Intent

This section has been rewritten to better reflect the vision and expectations of both County Planning Commissions. See page 1 of Exhibit A for this section.

#### Section 108-3-2 General Regulation

This section, in the existing code, states that lots in cluster subdivisions can have “lot areas” that are reduced below the normal minimum lot area if the proposed cluster conforms to all applicable requirements and receives an approval from the planning commission. This original language has been deleted; however, the one standard communicated through this section has been incorporated into the other sections of the code.

It is proposed that this section now describe and clarify what zones allow for a cluster subdivision to be developed. See page 2 of Exhibit A for this section.

#### Section 108-3-3 Approval Procedure

This section exists in the current code but has been rewritten to better identify the procedural steps for an approval of a cluster subdivision. It also adds a new step that is referred to as a "Sketch Plan Endorsement". The sketch plan endorsement is intended to provide a potential cluster subdivision applicant with early planning commission input. The endorsement step has been created in a way that does not require a lot of cost or time. See pages 2 and 3 of Exhibit A for this section.

#### Section 108-3-4 Cluster Subdivision Design and Layout Standards

This new section maintains some existing standards and provides new standards as listed below:

1. Minimum and maximum number of lots in a single cluster.
2. Minimum sizes for lots lying adjacent to a cluster subdivision's exterior boundary.
3. Buffer in between "small" lots and an exterior boundary. A building lot is considered small if it has an area less than 15,000 square feet.

See pages 3 and 4 of Exhibit A for this section.

#### Section 108-3-5 Open Space Plan Approval, Ownership, Maintenance, Preservation, and Guarantee of Improvement Standards

This new section maintains some existing standards and provides new standards related to an open space preservation plan approval, open space parcel ownership and maintenance, open space conservation, and financial guarantees for certain improvements. A significant change in this section allows for more flexibility in open space ownership. Open space parcels that consist of 10 acres or more may be owned by anyone, including the original landowner. Open space parcels containing less than 10 acres may be individually owned, but the owner needs to be an owner of a lot in the subject cluster subdivision. See pages 5-7 of Exhibit A for this section.

#### Section 108-3-6 Open Space Parcel Development Standards

This is an entirely new section that describes all of the development standards associated with an open space parcel. Examples are minimum parcel area, width, and parcel coverage. See pages 7-8 of Exhibit A for this section.

#### Section 108-3-7 Lot Development Standards

This is almost an entirely new section that describes all of the development standards associated with the residential building lots located within a cluster subdivision. Examples are minimum lot area and width, setbacks, and structure height. See pages 8-10 of Exhibit A for this section.

#### Section 108-3-8 Bonus Density

This section, for the most part, exists in the current cluster subdivision code. Portions have been rewritten to provide clarity and reestablish new bonus density maximums. A new bonus density has been offered for streetscape beautification. Bonus densities, for cluster subdivisions lying within the Western Weber Township, remain at a maximum of 50% but more open space dedication is required at the point bonus densities are requested to exceed 30%. Bonus densities, for cluster subdivisions lying within the Ogden Valley Township, have been eliminated. See pages 10-13 of Exhibit A for this section.

#### Section 108-3-9 Owner's Association Required

This section exists in the current cluster subdivision code; however, portions have been rewritten to provide clarity. See page 13-14 of Exhibit A for this section.

## **Title 106, Chapter 2 – Subdivision Standards:**

#### Section 106-2-6 Cluster Subdivision Special Provisions

Also, as a part of the cluster subdivision review, it has been determined that all but one of the Cluster Subdivision Special Provisions (Sec. 106-2-6), located within the Subdivision Title, either conflict with or have already been accounted for in the new draft. It is recommended that the entire Cluster Subdivision Special Provisions section be removed from the Subdivision Title and place only one sub-section into the new cluster code. Section 106-2-6 (a)(4)(b) was added to Section 108-3-4 of the draft cluster subdivision code. See line 130 of the cluster subdivision draft for this addition. See Exhibit C for the entire Section 106-2-6.

## Summary of Planning Commission Considerations

The request has been made that Weber County make a policy decision; therefore, the Planning Commission should consider the following:

- Has the existing cluster subdivision code been performing as intended?
- Do the proposed amendments address the concerns that have been identified by the Planning Commission?
- Does the proposed ordinance amendment meet the goals and objectives of Weber County's General Plans?

## Conformance to the General Plan

The proposal to amend Title 108 (Standards), Chapter 3 (Cluster Subdivisions) and Title 106 (Subdivisions), Chapter 2 (Cluster Subdivisions; Special Provisions) of the Weber County Land Use Code, does conform to the Ogden Valley and Western Weber Township General Plans, due to its agreement with the following Plan statements:

- A vision described in the Ogden Valley General Plan is one that *"Maintains the Valley's rural atmosphere and rural lifestyle."* A prescribed objective, related to this vision, is to *"Encourage development that is compatible with cultural and historic resources."* To encourage a clustering-type development pattern that adds visual diversity and preserves open spaces is consistent with guidance given in the General Plan.
- The Ogden Valley General Plan directs Weber County to establish mechanisms that can preserve open space in the Ogden Valley. The cluster subdivision code provides one method of preserving open space and offers the opportunity to develop without impacting sensitive lands and cultural or historical resources.
- A vision described in the West Central Weber County General Plan is one that *"protects rural character, lifestyle, and atmosphere while striking a balance between preservation and development"*. To encourage a clustering-type development pattern that adds visual diversity and preserves open spaces is consistent with guidance given in the General Plan.
- The West Central Weber County General Plan directs Weber County to use the cluster subdivision code as a way to preserve open space and suggests several options for the ownership and maintenance of the open space, one of which is individual ownership (i.e., original landowner/farmer/rancher/dairyman).

## Staff Recommendation

Based on guidance found in the Ogden Valley and West Central Weber County General Plans, the Planning Division Staff is recommending that the Planning Commission approve and make a positive recommendation, to the Weber County Commission, for the adoption of the proposed amendments to the Cluster Subdivision and Subdivision Code.

## Exhibits

- A. Draft Cluster Subdivision Code in legislative style.
- B. Draft Cluster Subdivision Code as proposed with no strikethroughs.
- C. Section 106-2-6 Cluster Subdivision Special Provisions.



WEBER COUNTY LAND USE CODE  
Title 108 - Chapter 3

## Cluster Subdivisions

- Sec. 108-3-1. Purpose and Intent
- Sec. 108-3-2. General Regulations
- Sec. 108-3-3. Approval Procedure
- Sec. 108-3-4. Lot Area Regulations Cluster Subdivision Design and Layout Standards
- Sec. 108-3-5. Width, Yard and Height Regulations Open Space Plan Approval, Ownership, Maintenance, Preservation, and Guarantee of Improvement Standards
- Sec. 108-3-6. Additional Design Standards and Requirements Open Space Parcel Development Standards
- Sec. 108-3-7. Bonus Density Lot Development Standards
- Sec. 108-3-8. Open Space Preservation Bonus Density
- Sec. 108-3-9. Homeowner's Association Required
- Sec. 108-3-9. Procedure

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

The intent of this chapter is to encourage the creation and permanent protection of open space, to preserve the rural character and natural beauty of unincorporated Weber County, as called for by the county's general plans. It is not the intent of this chapter to create open space subdivisions with lots sprawled over large areas, or strung out along roadways.

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 Township. 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 except for the commercial, manufacturing, gravel, residential mobile home, open space, and shoreline zones.

~~The planning commission may approve a reduction in the minimum lot area required for a lot in a subdivision provided the provisions of this chapter and title 106, the Weber County subdivision ordinance are met. A cluster subdivision shall meet the requirements of the Weber County Land Use Code, and shall ensure proper use and maintenance of open space and open space facilities and shall result in a development superior to a conventional development in terms of its benefits to future owners of the subdivision, surrounding residents and the general public.~~

### Sec. 108-3-3. Approval Procedure

~~A preliminary plan of the cluster subdivision showing the areas within the subdivision to be permanently reserved for recreation and/or open space, and plans showing the proposed use, improvements and method of maintenance of such areas shall be approved by the planning commission and county commission before the cluster subdivision proposal becomes a permitted use in the zone in which it is proposed.~~

(a) The cluster subdivision approval procedure consists of four phases as follows: (1) a conceptual sketch plan endorsement from the appropriate township planning commission; (2) a preliminary approval by the appropriate township planning commission; (3) a recommendation from the appropriate township planning commission for final approval by the Board of Weber County Commissioners; and (4) a final approval and acceptance by the Board of Weber 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 Weber County Planning Department.
2. One 8.5"x11" vicinity map, underlain by an aerial photo, showing the subject property, surrounding streets, and relevant landmarks.
3. One 11"x17" 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 Weber 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.

68 Contour information may be omitted if the Planning Director or his designee determines  
69 that the subject property lacks topographic characteristics that warrant representation.

70 4. An electronic copy of all forms, documents, materials, and information submitted as part of  
71 the application.

72 (c) An application for preliminary approval by the appropriate planning commission,  
73 recommendation for final approval, or final approval and acceptance by the Board of Weber  
74 County Commissioners shall comply with all applicable standards of the Weber County Code,  
75 including this chapter and Title 106, Subdivisions. The approval process shall proceed as directed  
76 by Weber County Code Title 106, Chapter 1.

#### 77 Sec. 108-3-4. Lot Area Regulations Cluster Subdivision Design and Layout 78 Standards

79 The Planning Commission and County Commission shall approve an application for a cluster subdivision  
80 if the Planning Commission and County Commission find that the subject proposal meets all applicable  
81 standards of the Weber County Code including the following:

82 1. A cluster subdivision's general design shall concentrate residential building lots, with their  
83 adjoining road rights-of-way and any approved Access Exceptions, into separate and individual  
84 clusters that are entirely surrounded by open space dedicated as common area, individually  
85 owned preservation parcels, or both. The open space area in between one cluster of lots and  
86 another shall not be less than 75 feet in width and the open space area in between lots and an  
87 exterior subdivision boundary shall not be less than 50 feet in width. The open space required in  
88 between lots and a subdivision's exterior boundary shall be waived if:

- 89 a. Lots sharing a common line with the subdivision boundary contain 15,000 square feet or  
90 more;  
91 b. Lots are located along an internal phasing line when that phasing line is acting as a  
92 temporary external boundary;  
93 c. The proposed cluster subdivision lies adjacent to an existing subdivision that contains at  
94 least one lot that is smaller or not more than 5,000 square feet larger than the smallest  
95 lot lying within the proposed cluster subdivision; or  
96 d. Lots located along an external boundary lie adjacent to a parcel that:  
97 i. does not contain an existing dwelling; or  
98 ii. contains a single existing dwelling that lies further than 150 feet away from all  
99 external boundaries of the proposed cluster subdivision.

100 2. In a subdivision consisting of 60 or more lots, each cluster shall contain ~~be clustered into groups~~  
101 of not no less than three lots and no more than 20 lots. In a subdivision consisting of fewer than  
102 60 lots, each cluster shall contain no less than three lots and no more than one-third of the total  
103 number of lots in the subdivision. Weber County may approve up to a five lot increase in the  
104 number of lots in a cluster if:



- 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
  - b. There are unusual circumstances, such as complications involving topography, infrastructure, geotechnical, or geologic conditions, which warrant an increase.
3. To ensure that encourage quality open space a cluster subdivision reflects the characteristics of the zone in which it is located, that promotes the intent of the chapter, the a minimum percentage of a cluster subdivision's Adjusted Gross Acreage left in open space shall be preserved as open space and dedicated as described in Subsection (1) above. The minimum open space areas are as follows:
  - a. In the Forest (F-40) Zone F-40, a minimum of 90 percent of a cluster subdivision shall be preserved as permanent open space.
  - b. In the Forest (F-5) and Forest (F-10) Zones F-10 and F-5, a minimum of 80 percent of a cluster subdivision shall be preserved as permanent open space.
  - c. In the Agricultural Valley (AV-3), ~~Zone AV-3 and the Forest Valley (FV-3), and the Ogden Valley Destination and Recreation Resort (DRR-1) Zones FV-3,~~ a minimum of 60 percent of a cluster subdivision shall be preserved as permanent 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 permanent open space.
- ~~4. Streets shall be designed to take advantage of and provide visual access to open space vistas created by the subdivision's permanently preserved open space and the County's natural beauty and rural ambiance.~~
- ~~5. Areas designated as floodplain by the Federal Emergency Management Agency and within required river and stream corridor setbacks shall be left as open space.~~
- ~~6. The proposed common open space shall consist of land which under normal circumstances could be considered for subdivision. Lands that can be mitigated such as floodplain and wetlands are considered developable and shall be counted towards density. Floodways within river corridors, lakes, and naturally occurring pond areas, and rivers which could not be developed but provide an amenity may also be a part of the open space, with 25 percent of this land credited towards the overall density of the development if this land is used to provide amenities and is accessible to the development.~~
- ~~7. 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 Code, shall be located within a cluster subdivision's open space area.~~
- ~~8. There shall be permanently reserved within the subdivision for recreation and/or open space, parcels of land whose total "net developable area" is not less than the amount by which the areas of the residential lots are reduced below the minimum area normally required in the zone in which the cluster subdivision is located. The term "net developable area" is land that is not excluded from use in density calculations or deemed undevelopable by this or any other county, state, or federal law, ordinance or regulation. The area within existing and~~

proposed public and private road right-of-ways shall not be counted as "net developable area."

9. Open space used in density calculations shall be a minimum of three contiguous acres in the RE-20, RE-15, A-1, A-2, and A-3 zones, and five contiguous acres in all other zones where permitted.

**Sec. 108-3-5. Width, Yard and Height Regulations Open Space Plan Approval, Ownership, Maintenance, Preservation, and Guarantee of Improvement Standards**

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

**1. Plan Approval.**

- a. An Open Space Preservation Plan shall accompany an application for preliminary and final approval of a cluster subdivision. 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.
  - i. 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.
  - ii. 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 dedicated as common area shall be commonly owned by an appropriate homeowner's association established under Utah Code Title 57, Chapter 8a, Community Association Act.
- b. Other open space parcels may be owned individually.
  - i. 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.
  - ii. 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.
  - iii. The applicable ownership standard in Subsection (i) or (ii) shall be memorialized in the following manner:
    1. 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 (4); and

- 185 2. A note describing the applicable ownership standard shall be placed on  
186 the final recorded plat.
- 187 3. Maintenance.
- 188 a. ~~Open space shall be maintained in accordance with an open space preservation~~  
189 ~~maintenance and improvements plan submitted by the developer and approved plan by~~  
190 ~~the planning commission and county commission. The plan shall detail the intended use~~  
191 ~~of the open space and any proposed improvements to be placed in the open space.~~
- 192 b. The open space parcel owner, whether an individual or an association, shall use,  
193 manage, and maintain the owner's parcel in a manner that is consistent with the Open  
194 Space Preservation Plan approved under Subsection (1), and the agriculture, forest, or  
195 other type of preservation easement executed under Subsection (4).
- 196 4. Preservation.
- 197 a. Open space parcels are to be permanently ~~reserved~~ preserved and maintained in a  
198 manner that is consistent with the approved Open Space Preservation Plan.
- 199 b. ~~The developers/property owners~~ applicant, prior to recording or as part of recording the  
200 final cluster subdivision plat, shall of the proposed cluster subdivision grant and convey  
201 to the County, to each lot owner, and to the homeowner association if applicable, an  
202 open space easement over all areas dedicated as common area or individually owned  
203 preservation parcels. The open space easement shall incorporate and conform to the  
204 Open Space Preservation Plan approved under Subsection (1).
- 205 c. If a cluster subdivision contains open space intended to preserve ~~bonus density is~~  
206 ~~granted for the preservation of critical~~ substantial ~~or valuable~~ crucial wildlife habitat, as  
207 defined by the Utah Division of Wildlife Resources, a wildlife habitat easement meeting  
208 the requirements of the Utah Division of Wildlife Resources shall be offered to the  
209 ~~Division, state Division of Wildlife Resources. Bonus densities for critical or valuable~~  
210 ~~wildlife habitat shall be based on a review of the subdivision by the state division of~~  
211 ~~wildlife resources and there finding that the subdivision preserves critical or valuable~~  
212 ~~wildlife habitat.~~
- 213 d. ~~If a bonus density is granted for affordable housing, then the affordable housing lots~~  
214 ~~shall be identified on the subdivision plat. A deed restriction shall also be recorded on~~  
215 ~~these lots limiting the sale, or rental of the homes to a household with incomes at or~~  
216 ~~below 80 percent of the county median income.~~
- 217 e. ~~If an agricultural preservation easement is proposed, the agricultural parcel shall be a~~  
218 ~~contiguous parcel containing at minimum ten acres and a copy of an approved~~  
219 ~~agricultural preservation agreement shall be submitted and recorded with the final plat.~~
- 220 f. If a cluster subdivision contains an individually owned preservation parcel, the applicant  
221 shall:
- 222 i. Identify and label on the final plat each such parcel as an Agricultural, Forest, or  
223 other type of Preservation Parcel;
- 224 ii. Further identify each Preservation Parcel by placing a unique identifying letter  
225 of the alphabet immediately after the label.



- 226                   iii. Present an agricultural, forest, or other type of preservation easement to the  
227                   planning commission and gain their approval; and  
228                   iv. Record an approved preservation easement on each parcel identified as an  
229                   Agricultural, Forest, or other type of Preservation Parcel.  
230                   ~~g. The required open space may be owned by up to two lot owners in the subdivision, in~~  
231                   ~~parcels of not less than ten acres each and provided that no structures or accessory~~  
232                   ~~structures be built in the open space with the exception of agricultural buildings~~  
233                   ~~approved as part of the agricultural preservation plan.~~  
234                   h. Guarantee of common open space improvements. As assurance of completion of  
235                   common open space improvements, the subdivider shall be required to file with the  
236                   county commissioners an approved financial guarantee, guaranteeing completion in a  
237                   manner satisfactory to the county commissioners, within two years of such filing.  
238                   i. The planning commission may place impose any additional conditions and restrictions it  
239                   deems necessary to ensure development and maintenance of the desired character,  
240                   including plans for deposition or re-use of property if the open space and adherence to  
241                   the Open Space Preservation Plan. Such conditions may include a plan for the  
242                   disposition or re-use of the open space property if the open space use is not maintained  
243                   in the manner agreed upon or is abandoned by the owners.  
244                   5. Guarantee of Open Space Improvements.  
245                   ~~a. As assurance of completion of common open space improvements, the subdivider shall~~  
246                   ~~be required to file with the county commissioners an approved financial guarantee,~~  
247                   ~~guaranteeing completion in a manner satisfactory to the county commissioners, within~~  
248                   ~~two years of such filing~~  
249                   b. The County shall not require an applicant to deposit a financial guarantee for open  
250                   space improvements (e.g., clubhouse, pool, pergola, gazebo, etc.) that require a  
251                   Certificate of Occupancy and that remain incomplete at the time of final approval and  
252                   acceptance of the proposed cluster subdivision from the Board of Weber County  
253                   Commissioners. The applicant or developer shall complete the improvements according  
254                   to the approved phasing component of an Open Space Preservation Plan. If the  
255                   applicant fails to complete improvements as presented in the Open Space Preservation  
256                   Plan, the County may suspend final plat approvals and record an instrument notifying  
257                   prospective lot buyers that future land use permits may not be issued for any  
258                   construction.  
259                   c. The County shall require an applicant to deposit a financial guarantee for all open space  
260                   improvements (e.g., landscaping, trails, fencing, sheds, parking surfaces, etc.) that do  
261                   not require a Certificate of Occupancy and that remain incomplete at the time of final  
262                   approval and acceptance of the proposed cluster subdivision from the Board of Weber  
263                   County Commissioners. The applicant or developer shall complete all improvements  
264                   according to the approved phasing component of an Open Space Preservation Plan.

Sec. 108-3-6. Additional Design Standards and Requirements 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.

a. Unless otherwise regulated by the Weber-Morgan Health Department or Weber County 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:

i. Open space parcels dedicated as common area are not subject to minimum area requirements.

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

A. 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.

B. 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.

a. 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 percent of the total parcel area.

## Sec. 108-3-7. Bonus-Density 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. ~~The minimum lot area in a cluster subdivision shall be 10,000 square feet unless approved as part of a planned residential unit development.~~
- b. Unless otherwise regulated by the Weber-Morgan Health Department or Weber County 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.
- c. A lot's minimum area is reduced to 6,000 square feet if:
  - i. 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;
  - ii. 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
  - iii. The lot lies within a cluster subdivision that is adjacent to an undeveloped parcel. A parcel is considered undeveloped if it:
    - A. does not contain an existing dwelling; or
    - B. 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.

- a. ~~Yard and height regulations shall be the same as for the zone in which the cluster subdivision is located except as noted below. The minimum lot width may be reduced below the width normally required in the zone in which the cluster subdivision is located as follows: Unless otherwise regulated by the Weber-Morgan Health Department or Weber County Code Title 108, Chapter 14, Hillside Development Review Procedures and Standards, the minimum lot width in a cluster subdivision is:~~
  - i. ~~100 feet in the Forest (F-40) Zone F-40, and the Forest (F-10) Zones F-10, the~~
  - ii. ~~In the Forest Zone F-5, the lot widths may be reduced to 100 feet.~~
  - iii. 80 feet in the Forest Residential (FR-1), Forest (F-5), Agricultural Valley (AV-3), and the Forest Valley (FV-3) Zones.
  - iv. 60 feet in the Residential Estates (RE-15 and RE-20) and Agricultural (A-1, A-2, and A-3) Zones.



- 341 v. 50 feet in the Forest Residential (FR-3) and the Ogden Valley Destination  
 342 and Recreation Resort (DRR-1) Zone.  
 343 vi. ~~In the Residential Estates RE-20 Zone, a minimum frontage of 80 feet is~~  
 344 ~~required.~~  
 345 vii. ~~In the Residential Estates RE-15 Zone, a minimum frontage of 70 feet is~~  
 346 ~~required.~~  
 347 viii. ~~The lot width and yard reductions listed in this section are the maximum~~  
 348 ~~reduction allowed. Creating greater lot width reductions calculated by~~  
 349 ~~combining the reductions in this section with others permitted in the~~  
 350 ~~Land Use Code is not permitted.~~  
 351 3. Yard Setbacks for dwellings.  
 352 a. Minimum yard setbacks for dwellings in a cluster subdivision are as follows:  
 353 i. Front: 20 feet.  
 354 ii. Side: 8 feet.  
 355 iii. Rear: 20 feet.  
 356 b. ~~Where lots are reduced to 20,000 square feet or less, the front yard setback may be~~  
 357 ~~reduced to 25 feet and the side yard setback to a minimum of eight feet with the total~~  
 358 ~~of the two side yards not less than 18 feet.~~  
 359 4. Dwelling Height.  
 360 a. The maximum height for dwellings in a cluster subdivision is 40 feet.  
 361

### 362 Sec. 108-3-8. Open Space Preservation Bonus Density

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

- 368 1. In the Forest (F-40) Zones F-40 and F-10, Weber County may award a maximum bonus density of  
 369 20 percent ~~approved and shall be~~ based on an accumulation of any combination of the  
 370 following:  
 371 a. If the cluster subdivision he planning commission determines meets the purpose and  
 372 intent section of this chapter, up to a five percent bonus may be granted.  
 373 b. If the cluster subdivision provides a minimum of one road stubs to an adjacent  
 374 property where the planning commission determines that streets are needed to provide  
 375 for current or future traffic circulation, up to a five percent bonus density may be  
 376 granted.  
 377 c. If the cluster subdivision provides a minimum of one approved public access to public  
 378 lands, up to a five percent bonus density may be granted.

- d. ~~The If the cluster subdivision provides common area that is open to the public and provides offers easily accessible amenities, such as a trail, park, or community garden, that are open for use by to the general public such as trails, up to a five percent bonus density may be granted.~~
- e. ~~If the cluster subdivision dedicates and conveys to Weber County, the State Division of Wildlife Resources, or both, an open space easement that permanently preserves Protection of areas that are have been identified by the State Division of Wildlife Resources as critical having substantial or crucial wildlife habitat value, up to a ten 15 percent bonus density may be granted.~~

2. ~~In the Agricultural Valley Zone AV-3, Forest Zone F-5 and the Forest Valley Zone FV-3: a maximum bonus density of 30 percent may be approved and shall be based on an accumulation of the following:~~

- a. ~~Developing a cluster subdivision that the planning commission determines meets the intent of this chapter, a ten percent bonus may be granted.~~
- b. ~~For each five percent of open space preserved in the subdivision in excess of the minimum required by this chapter, up to a five percent bonus density may be granted.~~
- c. ~~Providing road stubs to adjacent property where the planning commission determines that streets are needed to provide for current or future traffic circulation; a five percent bonus density may be granted per stub up to a maximum of ten percent.~~
- d. ~~Provides access to public lands; up to a five percent bonus density may be granted.~~
- e. ~~The common area is open to the public and provides amenities to the general public such as trail; up to a ten percent bonus density may be granted.~~
- f. ~~Ten percent of the lots and homes are permanently set aside for affordable housing (as outlined by the Affordable Housing Act of 1990), up to a ten percent bonus density may be granted.~~
- g. ~~Preservation of an agricultural parcel with an agricultural preservation plan approved by the planning commission and a agricultural preservation easement recorded on the parcel:~~
- i. ~~Between ten and 20 acres, up to a ten percent bonus density may be granted.~~
- ii. ~~20 acres or larger; up to a 15 percent bonus density may be granted.~~
- h. ~~Preservation of historical sites and buildings (barns, homes, trails, or other structures); up to a five percent bonus density may be granted.~~
- i. ~~Development of excess sewage treatment capacity; up to a five percent bonus density may be granted.~~
- j. ~~Preservation in open space of areas that are identified by the state division of wildlife resources as providing valuable wildlife habit; up to a ten percent bonus density may be granted.~~
- k. ~~Preservation in open space of areas that are identified by the state division of wildlife resources as critical wildlife habit; up to a 15 percent bonus density may be granted~~
- l. ~~Open space is contiguous to permanently preserved open space on an adjoining property; up to a five percent bonus density may be granted.~~

~~m. Preserving in open space a 300-foot setback from the high water mark of Pineview Reservoir; up to ten percent bonus density may be granted.~~

3. In the Agricultural (A-1, A-2, and A-3) Zones, Agricultural Zones A-1, A-2 and A-3, up to a maximum Weber County may grant a bonus density of 50 up to 50 percent if the applicant preserves an open space percentage above that required by Section 108-3-4(3)(d); otherwise Weber 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. Weber County may award bonus densities based on an accumulation of any combination of the following:

- a. If a cluster subdivision that the planning commission determines meets the purpose and intent of this chapter, up to a 15 five 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 2 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 in the subdivision in over excess of the minimum required by this chapter 50 percent: up to a five percent bonus density may shall be granted up to the total bonus density allowed by subsection (3).
- d. ~~Providing road stubs to adjacent property where the planning commission determines that streets are needed to provide for current or future traffic circulation: a five percent bonus density may be granted per stub up to a maximum of ten percent.~~
- e. If a cluster subdivision provides a minimum of one approved access to public lands, up to a ten percent bonus density may be granted.
- f. ~~The~~ If a cluster subdivision provides common area that is open to the public and provides offers easily accessible amenities such as trails, parks, or community gardens, that are open for use by to the general public, such as trail up to a 15 percent bonus density may be granted.
- g. 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 25 20 percent bonus density may be granted.

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

- i. 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;
- ii. Identify and label, on the final plat, the lots set aside as Affordable Housing Lots; and



- iii. 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.
  - h. 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:
    - i. For a parcel containing at least ten acres but fewer than and 20 acres, up to a 15 percent bonus density may be granted.
    - ii. For a parcel containing at least 20 acres but fewer than 30 acres, or more but less than up to a 20 percent bonus density may be granted.
    - iii. For a parcel containing at least 30 acres but fewer than 40 acres, up to a 30 percent bonus density may be granted.
    - iv. 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.
    - v. 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.
  - i. 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.
  - j. If a cluster subdivision provides for the development of excess sewage treatment capacity, up to a five percent bonus density may be granted.
  - ~~k. Preservation of open space of areas that are identified by the state division of wildlife resources as providing valuable wildlife habit: up to a ten percent bonus density may be granted.~~
  - ~~l. Preservation in open space of areas that are identified by the state division of wildlife resources as critical wildlife habit: up to a 15 percent bonus density may be granted.~~
  - m. If a cluster subdivision dedicates and conveys to Weber County, the State Division of Wildlife Resources, or both, an open space easement that permanently preserves Protection of areas that are have been identified by the State Division of Wildlife Resources as critical having substantial or crucial wildlife habitat value, up to a ten 15 percent bonus density may be granted.
  - n. If a cluster subdivision includes an open space parcel that consistsing 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. Homeowner's 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 ~~As assurance of maintenance of the common open space and other improvements where so required, subdividers are~~ required to have a cause to be formed, prior to the recording of the final plat, lot homeowner's association. The applicant, prior to recording a final plat of the cluster subdivision, shall; and shall establish articles of incorporation of the association, filed at the state department of commerce, bylaws and covenants outlining the purpose, organization and operation of the association. Such articles of incorporation and covenants shall among other things provide:

1. Establish a homeowners association and submit for Weber County 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.
- ~~i. That membership shall be mandatory for each lot purchased and each successive buyer~~
- ~~j. That common open space restrictions must be permanent, not just for a period of years.~~
- ~~k. That the association shall be responsible for liability, local taxes and the maintenance of recreational and other facilities.~~
- ~~l. That lot owners must pay their pro rata share of the costs.~~
- ~~m. That the assessment levied by the association can become a lien on the property.~~
- ~~n. That the association shall be able to adjust the assessment to meet changed needs.~~
- ~~o. That in the event the lot owners' association does not maintain the common open space and improvements as proposed and indicated at the time of subdivision, the county may at its option, do or contract to have done the required maintenance and recover the costs incident thereto by means of a lien against the involved properties of the lot owners' association members.~~

2. Register the homeowners association with the State of Utah, Department of Commerce.

537 **Sec. 108-3-9. Procedure**

538 A preliminary plan of the cluster subdivision showing the areas within the subdivision to be permanently  
539 reserved for recreation and/or open space, and plans showing the proposed use, improvements and  
540 method of maintenance of such areas shall be approved by the planning commission and county  
541 commission before the cluster subdivision proposal becomes a permitted use in the zone in which it is  
542 proposed. *(Moved this Section to 108-3-3 above; Approval Procedure.)*



WEBER COUNTY LAND USE CODE  
Title 108 - Chapter 3

## Cluster Subdivisions

- Sec. 108-3-1. Purpose and Intent
- Sec. 108-3-2. General Regulation
- Sec. 108-3-3. Approval Procedure
- Sec. 108-3-4. Cluster Subdivision Design and Layout Standards
- Sec. 108-3-5. Open Space Plan Approval, Ownership, Maintenance, Preservation, and Guarantee of Improvement Standards
- Sec. 108-3-6. Open Space Parcel Development Standards
- Sec. 108-3-7. Lot Development Standards
- Sec. 108-3-8. Bonus Density
- Sec. 108-3-9. Homeowner's Association Required

### 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 Township. 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 Regulation

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

### Sec. 108-3-3. Approval Procedure

- (a) The cluster subdivision approval procedure consists of four phases as follows: (1) a conceptual sketch plan endorsement from the appropriate township planning commission; (2) a preliminary approval by the appropriate township planning commission; (3) a recommendation from the

appropriate township planning commission for final approval by the Board of Weber County Commissioners; and (4) a final approval and acceptance by the Board of Weber 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 Weber County Planning Department.
2. One 8.5"x11" vicinity map, underlain by an aerial photo, showing the subject property, surrounding streets, and relevant landmarks.
3. One 11"x17" 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 Weber 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.

(c) An application for preliminary approval by the appropriate planning commission, recommendation for final approval, or final approval and acceptance by the Board of Weber County Commissioners shall comply with all applicable standards of the Weber County Code, including this chapter and Title 106, Subdivisions. The approval process shall proceed as directed by Weber County 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 Code including the following:

1. A cluster subdivision's general design shall concentrate residential building lots, with their adjoining road rights-of-way and any approved Access Exceptions, into separate and individual clusters that are entirely surrounded by open space dedicated as common area, individually owned preservation parcels, or both. The open space area in between one cluster of lots and another shall not be less than 75 feet 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 lots and a subdivision's exterior boundary shall be waived if:

- a. Lots sharing a common line with the subdivision boundary contain 15,000 square feet or more;
  - b. Lots are located along an internal phasing line when that phasing line is acting as a temporary external boundary;
  - c. 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
  - d. Lots located along an external boundary lie adjacent to a parcel that:
    - i. does not contain an existing dwelling; or
    - ii. contains a single existing dwelling that lies further than 150 feet away from all external boundaries of the proposed cluster subdivision.
2. 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. Weber County may approve up to a five lot increase in the number of lots in a cluster if:
- 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
  - 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) 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.
4. Lands that can be mitigated such as floodplain and wetlands are considered developable and shall be counted towards density. Floodways within river corridors, lakes, and naturally occurring pond areas, which could not be developed but provide an amenity may also be a part of the open space, with 25 percent of this land credited towards the overall density of the development if this land is used to provide amenities and is accessible to the development.
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 Code, shall be located within a cluster subdivision's open space area.

#### **Sec. 108-3-5. Open Space Plan Approval, Ownership, Maintenance, Preservation, and Guarantee of Improvement Standards**

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

##### **1. Plan Approval.**

a. An Open Space Preservation Plan shall accompany an application for preliminary and final approval of a cluster subdivision. 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.

i. 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.

ii. 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 dedicated as common area shall be commonly owned by an appropriate homeowner's association established under Utah Code Title 57, Chapter 8a, Community Association Act.

b. Other open space parcels may be owned individually.

i. 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.

ii. 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.

iii. The applicable ownership standard in Subsection (i) or (ii) shall be memorialized in the following manner:

1. 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 (4); and

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

##### **3. Maintenance.**

- 151 a. The open space parcel owner, whether an individual or an association, shall use,  
152 manage, and maintain the owner's parcel in a manner that is consistent with the Open  
153 Space Preservation Plan approved under Subsection (1), and the agriculture, forest, or  
154 other type of preservation easement executed under Subsection (4).

155 4. Preservation.

- 156 a. Open space parcels are to be permanently preserved in a manner that is consistent with  
157 the approved Open Space Preservation Plan.
- 158 b. The applicant, prior to recording or as part of recording the final cluster subdivision plat,  
159 shall grant and convey to the County, to each lot owner, and to the homeowner  
160 association if applicable, an open space easement over all areas dedicated as common  
161 area or individually owned preservation parcels. The open space easement shall  
162 incorporate and conform to the Open Space Preservation Plan approved under  
163 Subsection (1).
- 164 c. If a cluster subdivision contains open space intended to preserve substantial or crucial  
165 wildlife habitat, as defined by the Utah Division of Wildlife Resources, a wildlife habitat  
166 easement meeting the requirements of the Utah Division of Wildlife Resources shall be  
167 offered to the Division.
- 168 d. If a cluster subdivision contains an individually owned preservation parcel, the applicant  
169 shall:
- 170 i. Identify and label on the final plat each such parcel as an Agricultural, Forest, or  
171 other type of Preservation Parcel;
- 172 ii. Further identify each Preservation Parcel by placing a unique identifying letter  
173 of the alphabet immediately after the label.
- 174 iii. Present an agricultural, forest, or other type of preservation easement to the  
175 planning commission and gain their approval; and
- 176 iv. Record an approved preservation easement on each parcel identified as an  
177 Agricultural, Forest, or other type of Preservation Parcel.
- 178 e. The planning commission may impose any additional conditions and restrictions it  
179 deems necessary to ensure maintenance of the open space and adherence to the Open  
180 Space Preservation Plan. Such conditions may include a plan for the disposition or re-  
181 use of the open space property if the open space is not maintained in the manner  
182 agreed upon or is abandoned by the owners.

183 5. Guarantee of Open Space Improvements.

- 184 a. The County shall not require an applicant to deposit a financial guarantee for open  
185 space improvements (e.g., clubhouse, pool, pergola, gazebo, etc.) that require a  
186 Certificate of Occupancy and that remain incomplete at the time of final approval and  
187 acceptance of the proposed cluster subdivision from the Board of Weber County  
188 Commissioners. The applicant or developer shall complete the improvements according  
189 to the approved phasing component of an Open Space Preservation Plan. If the  
190 applicant fails to complete improvements as presented in the Open Space Preservation  
191 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.

- 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 the proposed cluster subdivision from the Board of Weber County Commissioners. The applicant or developer shall complete all improvements according to the approved phasing component of an Open Space Preservation Plan.

### **Sec. 108-3-6. 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.**

- a. Unless otherwise regulated by the Weber-Morgan Health Department or Weber County 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:

- i. Open space parcels dedicated as common area are not subject to minimum area requirements.
- ii. Open space parcels dedicated as individually owned preservation parcels shall contain an area of not less than three acres.
  - A. 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.
  - B. 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.**

- a. 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 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 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 6,000 square feet if:
  - i. 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;
  - ii. 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
  - iii. The lot lies within a cluster subdivision that is adjacent to an undeveloped parcel. A parcel is considered undeveloped if it:
    - A. does not contain an existing dwelling; or
    - B. 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.**

- a. Unless otherwise regulated by the Weber-Morgan Health Department or Weber County Code Title 108, Chapter 14, Hillside Development Review Procedures and Standards, the minimum lot width in a cluster subdivision is:
  - i. 100 feet in the Forest (F-40) and the Forest (F-10) Zones.
  - ii. 80 feet in the Forest Residential (FR-1), Forest (F-5), Agricultural Valley (AV-3), and the Forest Valley (FV-3) Zones.
  - iii. 60 feet in the Residential Estates (RE-15 and RE-20) and Agricultural (A-1, A-2, and A-3) Zones.
  - iv. 50 feet in the Forest Residential (FR-3) and the Ogden Valley Destination and Recreation Resort (DRR-1) Zone.



3. Yard Setbacks for dwellings.

a. Minimum yard setbacks for dwellings in a cluster subdivision are as follows:

i. Front: 20 feet.

ii. Side: 8 feet.

iii. Rear: 20 feet.

4. Dwelling Height.

a. The maximum height for dwellings in a cluster subdivision is 40 feet.

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

Weber 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 Township. Cluster subdivisions within the Ogden Valley Township 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, Weber 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 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 Weber 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, Weber 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 Weber 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. Weber 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 five 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 2 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:

- i. 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;
  - ii. Identify and label, on the final plat, the lots set aside as Affordable Housing Lots; and
  - iii. 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:
- i. For a parcel containing at least ten acres but fewer than 20 acres, up to a 15 percent bonus density may be granted.
  - ii. For a parcel containing at least 20 acres but fewer than 30 acres, up to a 20 percent bonus density may be granted.
  - iii. For a parcel containing at least 30 acres but fewer than 40 acres, up to a 30 percent bonus density may be granted.

- iv. 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.
- v. 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 Weber 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. Homeowner's 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 homeowner's association. The applicant, prior to recording a final plat of the cluster subdivision, shall:

1. Establish a homeowners association and submit for Weber County 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.

**Sec. 106-2-6. Cluster subdivisions; special provisions.**

**(a) Design standards.**

(1) The design of the preliminary and final plats of the subdivision in relation to streets, blocks, lots, common open spaces and other design factors shall be in harmony with the intent of zoning regulations, elements of the general plan that have been adopted by the commission and design standards recommended by the planning commission and approved by the county commission.

(2) Streets shall be so designed as to take advantage of open space vistas and to create drives with a rural or open space character.

(3) Cluster subdivisions, in the mountain areas of the county shall be designed in a cluster of approximately 20 lots surrounded by and generally in the middle of the common open space with distances of approximately 1,000 feet or more or significant topographic barriers separating the clusters. A major portion of land designated as common open space shall serve a direct beneficial and usable purpose to the lots in the cluster subdivision and shall be reasonably accessible land.

(4) Cluster subdivisions, in areas of the county where year-round living is normally expected or proposed, shall use the following design elements in preparation of the preliminary plat of the cluster subdivision:

a. A majority of the proposed lots shall have direct access to the common open space. The remaining lots shall be connected to the common open space by a trail system or by a sidewalk system in urban type subdivisions.

→ b. The proposed common open space shall consist of land which under normal circumstances could be considered for subdivision. Lands that can be mitigated such as floodplain and wetlands are considered developable and shall be counted towards density. Floodways, lakes, and rivers which could not be developed but provide an amenity may also be a part of the common open space, with 25 percent of this land credited towards the overall density of the development if this land is used to provide amenities to the development.

c. The planning commission shall approve any density bonus and total number of units/lots. The design of the clusters shall generally be such that open space vistas or developed open space intercede between clusters.

(5) If a bonus density is granted for affordable housing, then the affordable housing lots shall be identified on the subdivision plat. A deed restriction shall also be recorded on these lots limiting the sale, or renting of the homes to a household with incomes at or below 80 percent of the area median income.

(6) If an agricultural preservation easement is proposed, the agricultural parcel shall be a contiguous parcel containing a minimum of ten acres. Roads may bisect the parcel and shall be approved by the planning commission. An agricultural preservation plan shall be submitted at the time preliminary subdivision plans are submitted for review, with a letter from the agricultural extension agency approving the plan, if bonus density is requested for agricultural preservation.



*(b) Provision of common open space.*

(1) The subdivider of a cluster subdivision shall submit plans of landscaping and improvements for the common open space at preliminary submittal. If the property is to remain agricultural, then a copy of the agricultural preservation agreement shall be recorded with the final plat. A cluster subdivision shall meet the requirements of the Weber County Land Use Code, and shall assure proper use, construction and maintenance of open space facilities and shall result in a development superior to conventional development in terms of its benefits to future owners of the subdivision, surrounding residents and the general public.

(2) The planning commission may place additional conditions or restrictions necessary to ensure development and maintenance of the common open space, including plans for deposition or re-use of property if the open space use is not maintained in the manner agreed upon or is abandoned by the owners.

(3) Guarantee of common open space improvements. As assurance of completion of common open space improvements, the subdivider may be required to file with the county commissioners an approved financial guarantee, guaranteeing such completion in a manner satisfactory to the county commissioners, within two years of such filing. Upon completion of the improvements for which a financial guarantee has been filed, the subdivider shall call for inspection by the planning commission, such inspection to be made within 14 days from the date of request. If inspection shows that landscaping and construction have been completed in compliance with the approved plan, the financial guarantee therefore shall be released within seven days from the time of inspection. If the financial guarantee is not released, refusal to release and reasons therefore shall be given the subdivider in writing, within 14 days from the time of inspection.

(4) Continuation of common open space. As assurance of continuation of common open space use in accordance with the plans approved by the planning commission the subdivider shall grant to the county, or an approved land trust, or another approved entity an "open space easement" on and over the common open space as part of the final subdivision plat. The final subdivision plat will provide that the common open space remains open. If a bonus density was given for critical wildlife habitat, then a wildlife habitat easement shall be given to the state division of natural resources.

*(5) Maintenance of common open space, etc.*

a. As assurance of maintenance of the common open space and other improvements where so required, the subdivider shall cause to be formed prior to the recording of the final plat, a lot owners' association and shall establish articles of incorporation of the association, bylaws and covenants outlining the purpose, organization and operation of the association.

b. Such articles of incorporation and covenants shall among other things provide:

1. That membership shall be mandatory for each lot purchased and each successive buyer.

2. That common open space restrictions must be permanent, not just for a period of years.

3. That the association shall be responsible for liability insurance, local taxes and the maintenance of recreational and other facilities.
4. That lot owners must pay their pro-rate share of the costs.
5. That the assessment levied by the association can become a lien on the property.
6. That the association shall be able to adjust the assessment to meet changed needs.
7. In the event the lot owners association does not maintain the common open space and improvements as proposed and indicated at the time of subdivision, the county may at its option, do or contract to have done the required maintenance and recover the costs incident thereto by means of a lien against the involved properties of the members of the lot owners association.



## Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

### Synopsis

#### Application Information

**Application Request:** Discussion on a request to add an addendum to the 2002 Zoning Development Agreement for Wolf Creek Resort.

**Agenda Date:** Tuesday, November 25, 2014

**Applicant:** Wolf Creek Stakeholder members

**File Number:** ZTA 2014-05

#### Property Information

**Approximate Address:** Not Applicable

**Project Area:** Not Applicable

**Zoning:** Not Applicable

**Existing Land Use:** Not Applicable

**Proposed Land Use:** Not Applicable

#### Adjacent Land Use

<b>North:</b>	Not Applicable	<b>South:</b>	Not Applicable
<b>East:</b>	Not Applicable	<b>West:</b>	Not Applicable

#### Staff Information

**Report Presenter:** Jim Gentry  
jgentry@co.weber.ut.us  
(801) 399-8767

**Report Reviewer:** SW

### Background

The representatives from America First and Capon Capital LLC proposed a two-step process to add an addendum to Wolf Creek's Zoning Development Agreement. The proposed first step is to transfer 58 units from the Forest Residential FR-3 Zone owned by Capon Capital LLC to the Residential RE-15 Zoned property owned by America First.

This proposal is different from their request the Planning Commission heard which was to assign 492 floating units. There are no floating units (see attached 2002 Wolf Creek Zoning Development Agreement – Number Analysis); it is simply a transfer of density between the two zones and the two property owners. Since the hearing by the Planning Commission, the property owned by KRK Wolf Creek LLC (the golf course and some of the commercial property) has been bought by Capon Capital LLC (John Lewis). Mr. Lewis has been working with the Home Owners Associations, Summit Mountain Holding Group LLC, GEM committee, the neighbors, and other stake holders. They had Langvardt Design Group summarize the input that was received to start the work of updating the Wolf Creek Master Plan. Mr. Lewis would like to discuss the updating of the plan with the Planning Commission.

### Planning Commission Recommendation

This is a discussion only and no recommendation is required. The applicant would like to make a formal presentation on December 2, 2014. The Planning Commission needs to give the applicant directions on additional items that will be needed for that meeting.

### Exhibits

2002 Wolf Creek Zoning Development Agreement – Number Analysis

## 2002 Wolf Creek Zoning Development Agreement – Numbers Analysis

- The 1984 Zoning Development Agreement (ZDA) allowed for a total of 2,152 units in Wolf Creek.
- The 2002 ZDA shows 2,152 units as the project total and 1,660 units as the ZDA total.

Zoning	Units
CV-2	250
FR-3	704
RE-15	664
RE-20	28
FV-3	13
FRC-1	1
AV-3 and O-1	0
Total Zoning	1,660

- The difference between 2,152 units and 1,660 units is 492 units.
- The Planning Division has verified 491 units approved and platted in Wolf Creek between 1984 and the 2002 ZDA. The discrepancy between 492 and 491 is due to the amended plat for The Fairways Phase 1. The original plat showed 18 units and these units were accounted for in the 2002 ZDA. In 2004 the plat was amended and one unit was removed leaving only 17 platted units. This unit went back into the FR-3 zoning allotment and raised the number of available development units by one. \*Therefore, we are using 1,661 total ZDA units and 705 FR-3 units as the baseline.
- From 2002 – current, 845 of the 1,661 units have been developed or received some sort of approval. This number includes those units already approved for Trendwest, Trappers Ridge, The Fairways, The Ridge, The Retreat, Powder Canyon, etc. (This does not include the 106 units in Eagles Landing).
- The breakdown of the 845 units developed since 2002 is as follows:

Zoning	Units
FR-3	509
RE-15	291
RE-20	45
Total	845

- The difference between 1,661 and 845 is 816 units (remaining for development).



## 2002 Wolf Creek Zoning Development Agreement – Numbers Analysis

- The remaining development units must comply with the ZDA breakdown for numbers/zones as follows:

Zoning and ZDA Units	Developed Units	Remaining Development Units by Zone
FR-3 / 705*	509	196
RE-15 / 664	291	373
RE-20 / 28	45	-17
FV-3 / 13	0	13
FRC-1 / 1	0	1
AV-3 and O-1 / 0	0	0
CV-2 / 250	0	250
Total Zoning / 1,661*	845	816

- Based on this table, all of the 816 remaining development units are accounted for and there are no extra “floating units” that still need to be assigned. The remaining units are further broken out by parcel/zone ownership in the following tables:

RE-15 Zone Ownership	Units by Property Ownership
America First	355
Eden Village	13
Elkhorn LLC	5
Total	373

FR-3 and FRC-1 Zone Ownership	Units by Property Ownership
Capon Capital/John Lewis/KRK?	(FR-3) 196 + (FRC-1) 1 = 197

CV-2 Zone Ownership	Units by Property Ownership
John Lewis/KRK?	250

FV-3 Zone Ownership	Units by Property Ownership
Summit Mountain Holding Group LLC	13

RE-20 Zone Ownership	Units by Property Ownership
John Lewis/Capon Capital	-17
TOTAL	816

## 2002 Wolf Creek Zoning Development Agreement – Numbers Analysis

- Using the numbers from this table, John Lewis/KRK/Capon Capital have 430 units (after removing the 17 over-allocated RE-20 units) and America First has 355 units. The proposed addendum shows America First with 413 units and John Lewis/KRK/Capon Capital with 372 units. This requires a transfer of 58 units from John Lewis/KRK/Capon Capital to America First.
- The proposed ZDA addendum still works, but it does not allocate “floating units.” Rather, its purposes are to transfer units from the CV-2, FR-3, and FRC-1 Zones owned by John Lewis/KRK/Capon Capital to the RE-15 Zone owned by America First, and to increase the number of units allowed in the ZDA RE-15 Zone from 664 to 722.
- The biggest questions remaining are which zone(s) the 58 transfer units and the 17 over-allocated RE-20 units will come from.
- Assuming the addendum numbers remain the same and the 58 transfer units and 17 over-allocated RE-20 units come from the FR-3 Zone and FRC-1 Zone, the new ZDA table (showing remaining development units) would look like this:

Zoning	Units
CV-2	250
FR-3	122
RE-15	431
FV-3	13
AV-3 and O-1	0
<b>Total Zoning</b>	<b>816</b>

Zone Ownership	Units by Property Ownership
(RE-15) America First	413
(RE-15) Eden Village	13
(RE-15) Elkhorn LLC	5
	<b>431</b>
(FR-3) Capon Capital/John Lewis/KRK?	122
(CV-2) Capon Capital/John Lewis/KRK?	250
(FV-3) Summit Mountain Holding Group LLC	13
<b>TOTAL</b>	<b>816</b>

- The addendum proposes a total of 798 units. This number is derived from subtracting the 13 Summit FV-3 units and the 5 Elkhorn RE-15 units from 816. The addendum numbers still work as proposed and there is no increase in density from the 2,152 unit total.



## Weber County Planning Division

To: Ogden Valley Planning Commission  
From: Charles Ewert, AICP  
Date: November 3, 2014  
Subject: Ordinance Revision Work Session: Title 108, Standards, Chapter 12, Noncomplying Structures and Nonconforming Uses/Parcels

**Summary.** The County is working on expanding certain public rights of way to facilitate street improvements. The right of way expansions may cause some abutting lots that are at the minimum zoning standards to drop below adopted standards. The current Land Use Code does not provide these land owners appropriate protections from the County considering their lots “illegal.” The attached ordinance revisions began as a simple addition to the *Noncomplying Structures and Nonconforming Uses/Parcels* chapter, as can be seen in the attached proposed code change as the new Section 108-12-15. However, as staff reviewed the chapter in its entirety it became apparent that other changes could help for clarity and administration. Those changes are also being presented here.

**Background.** The Engineering Department is currently working with the public along 3500 West and 12<sup>th</sup> Street to initiate a public right of way expansion of both roads. The expansions will take the front portions of the parcels that front these streets. The amount taken depends on a myriad of factors, such as the current right of way width, necessary road appurtenances, and proximity to intersections of streets and canals. A special ordinance is necessary that allows lots made noncompliant to current zoning standards to be considered a legal, nonconforming status. This will help clarify in the law that the current occupancy, use, and the right to initiate new uses, as may be allowed by the zone, may be continued on properties that drop below the zoning standards.

In the process of vetting language to enable this, staff found other areas of the code related to nonconforming parcels that need additional clarity. Under historic best management practices, and in model ordinances used throughout the country, the nonconforming use and noncomplying structures ordinance is intended to ensure that the right to continue existing uses and structures are vested throughout time, and are protected from zoning changes or standards changes presented by new ordinances (often referred to as “grandfathered”). However, the original intent of such an ordinance is to make the changes or modifications of nonconforming uses and structures so restrictive that future land owners are more motivated to eliminate the nonconformity and comply with new ordinance standards (achieved by reconfiguring property and/or tearing down old structures). This intent was a method of advancing the purposes of new ordinances, which were presumably enacted to better the health, safety, and welfare of the public.



## Weber County Planning Division

Because this change parts ways with historic application of this ordinance, both within Weber County and elsewhere, staff consulted with the Weber County legal team and the Office of the Property Rights Ombudsman to ensure the philosophy is keeping with the goal of maintaining a supportable and defensible code.

This new distinction is only important inasmuch as nonconforming lots are treated differently from conforming lots. Staff has searched the code for all references to nonconforming lots and cannot find any reference that this change may negatively affect.

**Weber County Land Use Code Revision Workflow.** This change fits into the workflow of ordinance changes as ongoing edits, clarifications, and additions to various sections of the Land Use Code, as can be seen in Exhibit C.

**Planning Commission Consideration.** As the Planning Commission hears and considers this proposed change there are several things to be looking for:

1. Does the proposed change comply with the purpose and/or intent of the specific code section or relevant zone? Every change should comply with that purpose/intent OR that purpose/intent should be changed to more accurately reflect current needs and desires.
2. Does the proposed change comply with the goals and objectives of the General Plan? You will need to dust off those general plans and refresh your knowledge of what is in them. The General Plan should act as a guide to vet land use ordinance decisions.
3. Does the proposed change promote the health, safety, and welfare of the community?
4. Does the proposed change provide equitable balance between land use rights and the public good?

### **Attachments:**

- Exhibit A: Proposed Code Change – Right of Way Expansions Causing Nonconforming Lots
- Exhibit B: Sample Notice of Effect
- Exhibit C: Weber County Land Use Code Revision Process Workflow



1 **PART II LAND USE CODE** <sup>[1]</sup>

2 Title 101 - GENERAL PROVISIONS

3 Title 102 - ADMINISTRATION

4 Title 103 - RESERVED

5 Title 104 - ZONES

6 Title 105 - RESERVED

7 Title 106 - SUBDIVISIONS

8 Title 107 - RESERVED

9 Title 108 - STANDARDS

10 Title 109 - RESERVED

11 Title 110 - SIGNS

12 **Title 101 GENERAL PROVISIONS** <sup>[2]</sup>

13 Sec. 101-1-1. Short title.

14 Sec. 101-1-2. Purpose.

15 Sec. 101-1-3. Interpretation.

16 Sec. 101-1-4. Conflict.

17 Sec. 101-1-5. Effect on previous ordinances and maps.

18 Sec. 101-1-6. Rules of construction.

19 Sec. 101-1-7. Definitions.

20 Sec. 101-1-8. Amendments to Code; effect of new ordinances; amendatory language.

21 Sec. 101-1-9. Supplementation of Code.

22 Sec. 101-1-10. Catchlines of sections.

23 Sec. 101-1-11. Altering Code.

24 Sec. 101-1-12. Severability of parts of Code.

25 Sec. 101-1-13. General penalty; continuing violations.

26 Sec. 101-1-14. Certain ordinances not repealed or affected by adoption of Code.

27 ...

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

29 ...

30 *Lot, nonconforming.* The term "nonconforming lot" means a lot or parcel that complied  
31 with all applicable standards in effect at the time of the lot's creation and, because of subsequent  
32 changes to the Land Use Code, does not conform to the current applicable standards. Applicable

land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

Comment [c2]: Straight from State Code

~~Nonconforming building or structure. The term "nonconforming building or structure" means a building or structure or portion thereof, lawfully existing at the time of the effective date of the ordinance from which this chapter is derived, which does not conform to all the height, area and yard regulations herein prescribed in the zone in which it is located.~~

Comment [c3]: Provided for in "noncomplying structure" above. A search for both "nonconforming building" and "nonconforming structure" of current code did not yield any results.

Nonconforming lot or parcel. See "Lot, nonconforming."

Nonconforming sign. See "Sign, nonconforming."

Nonconforming use. The term "nonconforming use" means a use of land that legally existed before its current land use designation, has been maintained continuously since the time the land use ordinance regulation governing the land changed, and because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

Comment [c4]: Straight from State Code.

...

## Title 108 STANDARDS

### CHAPTER 1. - DESIGN REVIEW

### CHAPTER 2. - OGDEN VALLEY ARCHITECTURAL, LANDSCAPE AND SCREENING DESIGN STANDARDS

### CHAPTER 3. - CLUSTER SUBDIVISIONS

### CHAPTER 4. - CONDITIONAL USES

### CHAPTER 5. - PLANNED RESIDENTIAL UNIT DEVELOPMENT (PRUD)

### CHAPTER 6. - TIME SHARE

### CHAPTER 7. - SUPPLEMENTARY AND QUALIFYING REGULATIONS

### CHAPTER 8. - PARKING AND LOADING SPACE, VEHICLE TRAFFIC AND ACCESS REGULATIONS

### CHAPTER 9. - MOTOR VEHICLE ACCESS

### CHAPTER 10. - PUBLIC BUILDINGS AND PUBLIC UTILITY SUBSTATIONS AND STRUCTURES

### CHAPTER 11. - RESERVED

### CHAPTER 12. - NONCOMPLYING STRUCTURES AND NONCONFORMING USES/PARCELS

Comment [c5]: Chapter of Focus

### CHAPTER 13. - HOME OCCUPATION; SHORT TERM VENDORS; TEMPORARY OUTDOOR SALES; FARMER'S MARKETS

### CHAPTER 14. - HILLSIDE DEVELOPMENT REVIEW PROCEDURES AND STANDARDS

(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 ~~made illegal~~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) 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) 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, ~~shall be allowed to have an addition(s)~~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



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 ~~certificate of occupancy~~ Land Use Permit is first obtained for such extension of use.

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

~~(a) — Any legally created lot and/or parcel of land, which existed prior to adoption of the Weber County Land Use Code/Zoning Map may apply to develop any of the permitted or conditional uses for which the lot and/or parcel qualifies, in the zone where the lot and/or parcel of land is located. In Western Weber County, the 1962 ownership plats are used as the legal reference point, and in the Ogden Valley, the 1966 ownership plats are used as the legal reference point.~~

~~(b) — Any legally created lot and/or parcel of land which existed prior to the adoption of the Weber County Land Use Code or an amendment to the Land Use Code, but which may now require a different lot area or lot width/frontage, may apply to develop any of the permitted or conditional uses for which the lot and/or parcel qualifies, in the zone where the lot and/or parcel of land is located.~~

Development of any permitted or conditional use on a nonconforming lot, as defined in Section 101-1-7, shall be allowed subject to this Chapter, the zone of the property, other relevant sections of this Land Use Code, and other applicable local, state, and federal laws.

...

**Sec. 108-12-11. ~~Parcels in areas subjected to change in zoning~~ 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:



- a. — Were built on and created and recorded prior to July 1992 changes to the Utah Code, Subdivision Law and met area and frontage/width requirements for the zone in which they were created at the time they were created are considered nonconforming parcels; or
- b. — Were created and recorded with an existing single-family dwelling after July 1992 changes to the Utah Code, Subdivision Law but prior to the change in zoning, and met area and frontage/width requirements for the zone in which they were created at the time they were created shall submit an application for subdivision approval;
- c. — Were part of a legal subdivision, but were further divided, and met the requirements of subsections (1)a or b of this section shall be subject to the note below.

**NOTE:** No lot within a subdivision approved by the Planning Commission and County Commission and recorded in the County Recorder's Office in accordance with the provisions of the Subdivision Ordinance, shall be further divided, rearranged, added to or reduced in area nor shall the boundaries of any lot be altered in a any manner so as to create more lots than initially recorded without first obtaining the approval of the Land Use Authority. Therefore, an amended plat shall be required.

(2) — Parcels not meeting current zoning as to area and/or frontage/width requirements, containing a single-family dwelling which:

- a. — Were created and recorded prior to July 1992 changes to the Utah Code, Subdivision Law;
- b. — Are able to obtain the additional area and frontage/width which would bring the lot into compliance with the area and frontage/width requirements for the zone in which they were created at the time they were created; and
- c. — Complied with all other county ordinances when built;

may submit an application for subdivision approval provided they meet all other requirements of title 106, Subdivisions.

Field Code Changed

(3) — Parcels not meeting current zoning as to area and/or frontage/width requirements which:

- a. — Were created and recorded prior to July 1992 changes to the Utah Code, Subdivision Law; and
- b. — Met area and frontage/width requirements for the zone in which they were created at the time they were created;

(1) The combination is achieved by submitting a subdivision if any of the parcels were part of a recorded subdivision or by combining parcels if they have metes and bounds descriptions;

(2) All adjoining parcels under common ownership, or brought under common ownership after the date of the adoption of this section are merged to create the largest lot possible;

(3) The combination does not result in any illegal divisions of land; and

(e) Structures built on the newly created lot shall resemble the architectural style, height, size and mass of existing noncommercial structures on parcels within 500 feet of the newly created lot, and meet all current setback and height requirements of the zone in which the combination is made.

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Comment [c9]: Why? Will we require similar arch styles as adjacent parcels for all residences?

Also, the setbacks may still need to be reviewed under the provisions of 108-12-13 if the lot still does not meet current width and area requirements.

I recommend deleting this section.

#### Sec. 108-12-13. Setback requirements for nonconforming lots. ~~Small lots/parcels created prior to zoning.~~

A nonconforming lot ~~or~~ parcel that has a smaller width than is required for the zone in which it is located may be developed in a manner that does not exceed the following allowed reduction in side yard setbacks:

(1) A nonconforming lot's/parcel's actual width (v) may be divided by the current required frontage/width (w) in order to formulate a ratio or proportional relation (x).

(2) The ratio may then be multiplied by the current zone's side yard setback requirement (y) in order to establish a reduced setback (z).

(3) The reduced side yard setback is subject to the conditions listed below.

(Formula:  $v \div w = x$ .  $x \times y = z$ .)

a. Under no circumstances shall an interior lot/parcel be allowed to reduce the side-yard setback requirement below five feet on one side and eight feet on the other.

b. Under no circumstances shall a corner lot/parcel be allowed to reduce the side-yard requirement below ten feet when the side yard fronts on a street.

#### Sec. 108-12-14. Parcels previously combined for tax purposes.

Comment [c10]: This section was buried in 108-12-11, but was not relevant to the heading of that section. It has been placed in its own section, with a new section number and heading.





## Weber County Land Use Code Revision Process Workflow

This flowchart is intended to illustrate the intended course of the revision process. It is not an absolute plan, and deviations may occur as more information is gathered, but it will provide the Planning Commission with an idea where we are in the process at any given time. Staff will refer to this structure regularly.

