



# Staff Report to the Board of Weber County Commissioners

Weber County Planning Division

## Synopsis

### Application Information

**Application Request:** Public hearing to discuss and take comment on a proposal to amend the following section of Weber County Code: PRUD Area and Residential Density Regulations (§108-5-5) to offer more flexibility to the number of allowed dwelling units in a PRUD and to increase open space requirements in exchange for the flexibility.

**Agenda Date:** Tuesday, January 02, 2018  
**Staff Report Date:** Tuesday, December 27, 2017  
**Applicant:** Weber County Planning Division  
**File Number:** ZTA 2017-14

### Staff Information

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

**Report Reviewer:** RG

## Applicable Ordinances

§108-5-5. - Area and residential density regulations.

## Legislative Decisions

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

## Summary and Background

The county has received an application to amend the Planned Residential Unit Development (PRUD) ordinance to provide more flexibility regarding the minimum number of dwelling units allowed in a PRUD. Currently, the ordinance requires that a PRUD contain at least 24 residential units and be at least 10 acres in non-residential zones and four acres in residential zones. The applicant is requesting that an option be written that will allow the minimum number of units to be adjusted to six residential units in exchange for 80% perpetual open space and at least 20 acres of land in all zones.

Both the Western Weber and the Ogden Valley Planning Commissions have reviewed the request. Western Weber County Planning Commission unanimously recommended approval of the changes. The Ogden Valley Planning Commission unanimously recommended denial.

The Ogden Valley Planning Commission's recommendation for denial was based on the following discussion points:

1. Currently the Cluster Subdivision Code requires as much as 90% open space in the F-40 zone, 80% in other F zones, and 60% in the AV-3 zoning. The proposed amendments do not offer any meaningful enhancement to other tools already available through the Cluster Subdivision Code.
2. The proposed amendments may make a PRUD more enticing over a cluster subdivision. The planning commission feels that the permissiveness of the PRUD ordinance does not lend to predictable outcomes for either the public or the developer, and would rather not see changes that could result in the creation of even more PRUD's until the PRUD code can be amended to avoid the issues. One example of the PRUD ordinance being too permissive is allowance of nightly rentals.

The applicant has submitted a revised proposal that is intended to respond to the Planning Commission's concerns. They hope the Commission considers it instead of denying the proposal.

## Policy Analysis

### Policy Considerations:

A planned residential unit development is a master planned community that is allowed certain flexibilities from the conventional zoning rules in exchange for a superior development. In the Western Weber planning area a PRUD is allowed bonus density and in exchange the County is given proportionate open space. In the Ogden Valley no bonus density is permitted so there is no incentive for a master planned community to preserve open space.

This amendment would make an option available for open space to be preserved a different way. If a developer is allowed to create a development with less than the 24 dwellings then (s)he would need to preserve 80 percent open space. The minimum threshold of no less than six dwelling units is also an important consideration. The Planning Commission should determine what number of dwelling units is too little for master planning to be meaningless, and does 80 percent open space provide a meaningful, valuable, and reasonable exchange for the reduction?

It should be noted that this amendment will not “retire” density. The developer is still allowed to maximize his or her development potential based on the zone, but that development potential will only be allowed on 20 percent of the land.

Another way to consider this change is to review the development potential in each zone. The following table shows the zones in which a PRUD is allowed, and the potential development density for a 20 acre PRUD:

Zone	Minimum density of current PRUD Ordinance.	Minimum acreage required by current PRUD Ordinance.	Minimum density of proposed changes.	Minimum acreage required by proposed changes.
F-5		120	6	30
F-10		240	6	60
F-40		960	6	240
AV-3		72	6.66	20
FV-3		72	6.66	20
A-3		48	10	20
A-1		22	21.78	20
A-2		22	21.78	20
FR-1		22	21.78	20
RE-20		11.02	43.56	20
RE-15		10 (Min PRUD Acreage)	58.08	20
R-1-12		10 (Min PRUD Acreage)	72.6	20
R-1-10		10 (Min PRUD Acreage)	87.12	20
RMH-1-6		10 (Min PRUD Acreage)	124.46	20
R-2		10 (Min PRUD Acreage)	145.2	20
R-3		10 (Min PRUD Acreage)	145.2	20
FR-3		10 (Min PRUD Acreage)	400	20
CVR-1		10 (Min PRUD Acreage)	400	20

Minimum number of dwellings will require more than 20 acres.

Not affected by this amendment as the max density of the zone exceeds 24 units on 20 acres.

DRR-1		Based on TDR's	20	
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There isn't anything particularly magic about the current 24 unit minimum threshold, but adjusting it should be based on reasonable advancement of planning needs and equitable property rights considerations.

### Conformance to the General Plan

Generally, land use code changes should be vetted through the filter of policy recommendations of the applicable general plan. The 2016 Ogden Valley General Plan offers us guidance on what the community desires:

**Western Weber General Plan:**

The West Central Weber County general plan offers the following advice:

**Policy: Pattern of Development:**

The existing one and two-acre zoning lends itself to a cluster subdivision pattern of development with preservation of open space. An increase in overall density is permitted in Weber County's current Cluster Subdivision Special Provision Ordinance (Chapter 22B) for preservation of open space; however, additional incentives are desired. It is anticipated that the open space and public space allocated as a result of incentive-based increased density should be useable, undeveloped, consolidated open space in the form of parks, natural areas, sensitive lands, agriculturally productive land, or other managed open space.

**Ogden Valley General Plan:**

The Ogden Valley general plan suggests the following goals and principles:

**Gateways and Viewsheds Goal 2: A goal of Weber County is to protect the Valley's sense of openness and rural character.**

Gateways and Viewsheds Principle 2.2: Encourage creative development designs that preserve natural, agricultural, and other open spaces, including clustered and mixed-use developments.

**Land Use Goal 1: A goal of Weber County is to reduce the overall amount and impact of future land development in the Ogden Valley planning area.**

Land Use Principle 1.5: Encourage new development to locate in areas where water and sewer service could be provided by a sewer system. Encourage clustered residential developments with smaller building lots and larger areas of open space for most subdivisions.

The Ogden Valley Planning Commission could not find that the proposal advances the objectives of the general plan in a manner that is better than other options allowed currently in the land use code.

### Past Action on this Item

The Western Weber Planning Commission reviewed this item and made a positive recommendation in their November 21<sup>st</sup> meeting.

The Ogden Valley Planning Commission reviewed this time and made a negative recommendation in their November 28<sup>th</sup> meeting.

### Noticing Compliance

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

- Posted on the County's Official Website
- Posted on the Utah Public Notice Website

## Staff Recommendation

Staff initially recommended approval of the proposed changes based on objective found in both general plans. However, after considering the Ogden Valley Planning Commission's concerns about finding better tools to reach the same outcomes staff urges the Commission to use caution if choosing to approve the proposal or some variation of it. After hearing the request the Ogden Valley Planning Commission requested staff to proposed changes to the PRUD code that would make a PRUD approval a legislative action and not an administrative action. Staff are working on that at this time.

In response to the Ogden Valley Planning Commission's concerns the applicant has proposed a variation (Exhibit D) that intended to minimize the issues. She hopes the Commission will consider it sufficient to allow the change.

If the Commission chooses to approve the proposal, as found in Exhibit B and Exhibit C, or some variation of it, then the Western Weber Planning Commission suggests doing so with the following findings:

1. The changes are generally supported by the general plan.
2. The changes will offer an avenue for more preserved open spaces.
3. The changes are not detrimental to the general health and welfare of County residents.

If the Commission chooses to deny the proposal, as found in Exhibit B and Exhibit C, or some variation of it, then the Ogden Valley Planning Commission suggests doing so with the following finding:

1. When considered overall the change offers little measurable benefit and would not advance the intent of the general plan more than other available options.

## Exhibits

- A. Proposed Ordinance Changes – Track Change Copy.
- B. Proposed Ordinance Changes – Clean Copy.
- C. Application.
- D. Response from applicant to Ogden Valley Planning Commission concerns.

1 **Sec. 108-5-5. - Area and residential density regulations.**

2 (a) A PRUD shall contain a minimum ~~area of 24 dwelling units and be a minimum of four acres in all~~  
3 ~~residential zones and ten acres in all other zones, where permitted. ten acres and consist of at least~~  
4 ~~24 housing units in all forestry and agricultural zones, and contain a minimum area of four acres in all~~  
5 ~~residential zones. In all zones, the minimum number of dwelling units may be reduced to six if the~~  
6 ~~PRUD contains a minimum area of 20 acres and provides a common open space easement, as~~  
7 ~~defined in Section 108-5-1, over at least 80 percent of the PRUD's gross acreage.~~

8 (b) The number of dwelling units in a PRUD shall be the same as the number permitted by the lot area  
9 requirements of the same zone in which the PRUD is located. Land used for schools, churches,  
10 other nonresidential service type buildings and uses, for streets and exclusively for access to the  
11 useable area of a PRUD shall not be included in the area for determining the number of allowable  
12 dwelling units.

13 (c) Notwithstanding section 108-5-5(b), the county may, at its discretion, allow for an increased number  
14 of residential lots in a PRUD by awarding bonus densities to those PRUDs developed within the  
15 Western Weber County Planning Area. PRUDs developed within the Ogden Valley Planning Area  
16 are not eligible for bonus densities. The following presents the bonus density opportunities that are  
17 available to PRUDs located within specific zoning classification boundaries:

18 (1) In the Forest (F-40) and the Residential Estates (RE-15 and RE-20) Zones, the county may  
19 award a maximum bonus density of ten percent based on an accumulation of any combination  
20 of the following:

- 21 a. If the PRUD provides a minimum of one road stub to an adjacent property where the  
22 planning commission determines that streets are needed to provide for current or future  
23 traffic circulation, up to a five percent bonus density may be granted.
- 24 b. If the PRUD provides a minimum of one approved public access to public lands, up to a  
25 five percent bonus density may be granted.
- 26 c. If the PRUD provides common area that offers easily accessible amenities, such as a trail,  
27 park, or community garden, that are open for use by the general public, up to a five percent  
28 bonus density may be granted.
- 29 d. If the PRUD dedicates and conveys to the county, the state division of wildlife resources, or  
30 both, an open space easement that permanently preserves areas that have been identified  
31 by the state division of wildlife resources as having substantial or crucial wildlife habitat  
32 value, up to a ten percent bonus density may be granted.

33 (2) In the Agricultural (A-1, A-2, and A-3) Zones, the county may grant a bonus density of up to 30  
34 percent if the applicant preserves open space area equal to or greater than 30 percent of the  
35 PRUD's adjusted gross acreage as defined in section 101-1-7. However, if the applicant  
36 preserves open space area above 30 percent, the county may grant a bonus density of up to 50  
37 percent. Overall bonus density potential shall be no greater than a percentage equal to the  
38 percentage of the PRUD's total area preserved as open space. The county may award bonus  
39 densities based on an accumulation of any combination of the following:

- 40 a. If a PRUD provides and implements an approved roadway landscape and design plan that  
41 includes, but is not necessarily limited to, vehicle and pedestrian circulation, lighting, and  
42 street trees of an appropriate species, size of at least a two-inch caliper, and quantity of not  
43 less than eight trees for every 100 feet of road length, up to 20 percent bonus density may  
44 be granted.
- 45 b. For each five percent increment of open space preserved over 50 percent: a five percent  
46 bonus density shall be granted up to the total bonus density allowed by subsection (c)(2).
- 47 c. If a PRUD provides a minimum of one approved access to public lands, up to a ten percent  
48 bonus density may be granted.

**Comment [c1]:** What about CVR-1 and FR-1 zones?

**Comment [c2]:** There are a couple of smaller-lot residential zones in the Wolf Creek area and the Uintah Highlands. Think about the effect of this in that context as well.

**Comment [c3]:** Check Reference

- 49 d. If a PRUD provides common area that offers easily accessible amenities such as trails,  
50 parks, or community gardens, that are open for use by the general public, up to a 15  
51 percent bonus density may be granted.
- 52 e. If a PRUD donates and/or permanently preserves a site determined to be desirable and  
53 necessary, to a local park district or other county approved entity, for the perpetual location  
54 and operation of a public park, cultural, or other recreation facility; up to a 20 percent  
55 bonus may be granted.
- 56 f. If ten percent of the lots and homes in a PRUD are permanently set aside for affordable  
57 housing as outlined by the Affordable Housing Act of 1990, up to a 20 percent bonus  
58 density may be granted. If a bonus density is granted to affordable housing, the applicant  
59 shall:
- 60 1. Present and gain county approval of an effective plan and method for guaranteeing  
61 and enforcing perpetual affordability. Any method used, such as an affordable housing  
62 deed restriction, shall limit the sale or rental of the affected lots and homes to a  
63 household with an income at or below 80 percent of the county median income;
  - 64 2. Identify and label, on the final plat, the lots set aside as affordable housing lots; and
  - 65 3. Provide a note on the final plat explaining the nature of the housing restriction on the  
66 lot and the method by which occupancy and affordability will be regulated.
- 67 g. If a PRUD preserves an agricultural parcel with an agriculturally based open space  
68 preservation plan approved by the planning commission and records an agricultural  
69 preservation easement on the parcel, a bonus density may be approved as follows:
- 70 1. For a parcel containing at least ten acres but fewer than 20 acres, up to a 15 percent  
71 bonus density may be granted.
  - 72 2. For a parcel containing at least 20 acres but fewer than 30 acres, up to a 20 percent  
73 bonus density may be granted.
  - 74 3. For a parcel containing at least 30 acres but fewer than 40 acres, up to a 30 percent  
75 bonus density may be granted.
  - 76 4. For a parcel containing at least 40 acres but fewer than 50 acres, up to a 40 percent  
77 bonus density may be granted.
  - 78 5. For a parcel containing at least 50 acres or more, up to a 50 percent bonus density  
79 may be granted.
- 80 h. If a PRUD provides for the preservation of historical sites and buildings that have been  
81 identified by the state historic preservation office as having notable historical value, up to a  
82 five percent bonus density may be granted.
- 83 i. If a PRUD provides for the development of excess sewage treatment capacity, up to a five  
84 percent bonus density may be granted.
- 85 j. If a PRUD dedicates and conveys to the county, the state division of wildlife resources, or  
86 both, an open space easement that permanently preserves areas that have been identified  
87 by the state division of wildlife resources as having substantial or crucial wildlife habitat  
88 value, up to a 15 percent bonus density may be granted.
- 89 k. If a PRUD includes an open space parcel that consists of five acres or more and is  
90 contiguous to permanently preserved open space on an adjoining property located outside  
91 of the proposed PRUD, up to a 20 percent bonus density may be granted.
- 92 (d) If a PRUD is located in two or more zones, then the number of units allowed in the PRUD is the total  
93 of the units allowed in each zone, however, the units allowed in each zone must be constructed in  
94 the respective zone.

- 95 (e) It is not the purpose of the PRUD provision to allow an increase in the housing density of a PRUD  
96 beyond what county development ordinances would normally allow, by requesting housing unit credit  
97 and transfer for lands to be included in the PRUD boundary as common open space which have little  
98 or no possibility of housing development. Such areas may include swamp lands, bodies of water,  
99 excessively steep slopes and hillsides, mountain areas which do not have the capability of housing  
100 development due to lack of water, access, natural resource limitations, etc. Therefore, the planning  
101 commission shall determine what part if any, of such lands may be included in a PRUD as useable  
102 open space common area for which dwelling unit credit is being requested for transfer to  
103 developable portions of the PRUD and, when such determination justifies such inclusion, the  
104 planning commission shall allow the transfer of units. In making this determination, the planning  
105 commission shall be guided by the following factors:
- 106 (1) The physical relationship of the proposed common areas to the developable areas of the  
107 PRUD shall be such that the common areas are suitable for landscaped and/or developed open  
108 space or for recreational use of direct benefit, access and usability to the unit owners.
  - 109 (2) The lands shall contribute to the actual quality, livability and aesthetics of the PRUD and shall  
110 be physically integrated into the development design.
  - 111 (3) The lands must be suitable for and possess the capability for housing development.
  - 112 (4) Lands with an average slope of 40 percent or more in the FR-1, FV-3, F-5, F-10, and F-40  
113 Zones and 30 percent or more in all other zones shall not be classified as developable land and  
114 shall not be considered when determining the number of allowable units in a proposed PRUD.

1 **Sec. 108-5-5. - Area and residential density regulations.**

2 (a) A PRUD shall contain a minimum of 24 dwelling units and be a minimum of four acres in all  
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5 and provides a common open space easement, as defined in Section 108-5-1, over at least 80  
6 percent of the PRUD's gross acreage.

7 (b) The number of dwelling units in a PRUD shall be the same as the number permitted by the lot area  
8 requirements of the same zone in which the PRUD is located. Land used for schools, churches,  
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20 a. If the PRUD provides a minimum of one road stub to an adjacent property where the  
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22 traffic circulation, up to a five percent bonus density may be granted.

23 b. If the PRUD provides a minimum of one approved public access to public lands, up to a  
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25 c. If the PRUD provides common area that offers easily accessible amenities, such as a trail,  
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62 household with an income at or below 80 percent of the county median income;
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- 64 3. Provide a note on the final plat explaining the nature of the housing restriction on the  
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72 bonus density may be granted.
- 73 3. For a parcel containing at least 30 acres but fewer than 40 acres, up to a 30 percent  
74 bonus density may be granted.
- 75 4. For a parcel containing at least 40 acres but fewer than 50 acres, up to a 40 percent  
76 bonus density may be granted.
- 77 5. For a parcel containing at least 50 acres or more, up to a 50 percent bonus density  
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- 94 (e) It is not the purpose of the PRUD provision to allow an increase in the housing density of a PRUD  
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98 excessively steep slopes and hillsides, mountain areas which do not have the capability of housing  
99 development due to lack of water, access, natural resource limitations, etc. Therefore, the planning  
100 commission shall determine what part if any, of such lands may be included in a PRUD as useable  
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102 developable portions of the PRUD and, when such determination justifies such inclusion, the  
103 planning commission shall allow the transfer of units. In making this determination, the planning  
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- 105 (1) The physical relationship of the proposed common areas to the developable areas of the  
106 PRUD shall be such that the common areas are suitable for landscaped and/or developed open  
107 space or for recreational use of direct benefit, access and usability to the unit owners.
  - 108 (2) The lands shall contribute to the actual quality, livability and aesthetics of the PRUD and shall  
109 be physically integrated into the development design.
  - 110 (3) The lands must be suitable for and possess the capability for housing development.
  - 111 (4) Lands with an average slope of 40 percent or more in the FR-1, FV-3, F-5, F-10, and F-40  
112 Zones and 30 percent or more in all other zones shall not be classified as developable land and  
113 shall not be considered when determining the number of allowable units in a proposed PRUD.

# Weber County General Plan or Text Amendment Application

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

Date Submitted 11/08/2017	Received By (Office Use)	Added to Map (Office Use)
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## Property Owner Contact Information

Name of Property Owner(s) Jill Jacobson		Mailing Address of Property Owner(s) 2645 Little Kate Road, Park City, Utah 84060
Phone 435 513 0908	Fax	
Email Address jillnpc@yahoo.com		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail

## Ordinance Proposal

Ordinance to be Amended  
Text Amendment

Describing the amendment and/or proposed changes to the ordinance:

I am acting agent with experience as a successful subdivision owner developer in Utah with recreation and open space a key component of the development, I am asked to act for my client with investment in Weber County choosing similar considerations to Open Space and Recreation. I propose an amendment to the Text to allow a lower density option with high proportion of dedicated open space. See below;

Sec. 108-5-5. - Area and residential density regulations.

(a) A PRUD shall contain a minimum area of ten acres and consist of at least 24 housing dwelling units in all forestry and agricultural zones, and contain a minimum area of four acres in all residential zones. In all zones, the number of dwelling units may be reduced to at least six if the PRUD contains a minimum area of 20 acres and provides a common open space easement, as defined in Section 108-5-1, over 80 percent of the PRUD's gross acreage.

(b) The number of dwelling units in a PRUD shall be the same as the number permitted by the lot area requirements of the same zone in which the PRUD is located. Land used for schools, churches, other nonresidential service type buildings and uses, for streets and exclusively for access to the useable area of a PRUD shall not be included in the area for determining the number of allowable dwelling units.

**Ordinance Proposal (continued...)**

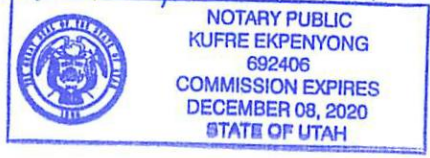
**Applicant Affidavit**

I (We), JILL JACOBSON, depose and say that I (we) am (are) the interested member(s) of this application and that the statements herein contained, the information provided in the attached plans and other exhibits are in all respects true and correct to the best of my (our) knowledge.

Jill Jacobson  
(Signature)

\_\_\_\_\_  
(Signature)

Subscribed and sworn to me this 07 day of Nov, 20 17.



Kufre Ekpnyong  
(Notary)



**Weber County Corporation**

Weber County  
2380 Washington Blvd  
Ogden UT 84401

Customer Receipt	
Receipt Number	59818

Receipt Date
11/07/17

Received From:  
Jill Jacobson

Time: 15:54  
Clerk: tbennett

Description	Comment	Amount
Zoning Text Ame	Zoning Text Amendmen	\$1,052.00

Payment Type	Quantity	Ref	Amount
CHECK		1073	

AMT TENDERED:	\$1,052.00
AMT APPLIED:	\$1,052.00
CHANGE:	\$0.00

## Ewert, Charles

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**From:** Jill Jacobson [jillnpc@yahoo.com]  
**Sent:** Friday, December 01, 2017 12:20 PM  
**To:** Ewert, Charles  
**Subject:** PRUD Ordinance amendment

Hi Charlie,

Based on the comments of the Ogden Valley Planning Commission I feel I can address the concerns raised by proposing an alternative by increasing the acreage in my application to a minimum of 100 acres with an increase in the Open Space requirement from 80% to 90% of the land in the project. This complies with the intention to encourage Open Space and meets the concerns of the Planning Commission by making this application more selective.

If you have any questions or comments, please feel free to contact me.

Thank you,  
Jill Jacobson  
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