



Staff Report to the Weber County Commission

Weber County Planning Division

Synopsis

Application Information

Application Request:	Public hearing to discuss and/or take action on a county-initiated ordinance to define specific zones in the Ogden Valley Planning Area where dwelling unit rights may be transferred from for the purposes of constructing detached accessory dwelling units, and to include general administrative and clerical amendments.
Agenda Date:	Tuesday, May 17, 2022
Applicant:	Weber County Planning Division
File Number:	ZTA 2021-11

Staff Information

Report Presenter:	Scott Perkes sperkes@webercountyutah.gov (801) 399-8772
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Applicable Ordinances

- Weber County Land Use Code Title 101 (General Provisions); Chapter 2 (Definitions)
- Weber County Land Use Code Title 108 (Standards); Chapter 19 (Accessory Dwelling Units)

Summary and Background

This County-initiated text amendment (see **Exhibit A**) has been undertaken in order to add clarification to the Accessory Dwelling Unit ordinance regarding areas/zones where dwelling unit rights may be transferred from for the purposes of constructing detached accessory dwelling units (ADUs) on lots or parcels which do not have a sufficient balance of dwelling units rights available.

As a reminder, the current ADU ordinance was adopted in a form that allowed ADUs to be permitted on any residential lot or parcel as long as the ADU was integrated architecturally with the primary residence (connected by a breeze way of not more than 15 feet, or the ADU is created within the footprint of the existing home). Alternatively, a detached ADU could be permitted if the lot or parcel contained at least one surplus dwelling unit right (i.e. 6 acre lot in a 3 acre zone with a primary home and a detached ADU). If a lot or parcel did not contain a surplus dwelling unit right (i.e. 3 acre lot in a 3 acre zone with a primary home), an owner could transfer a dwelling unit right from another lot or parcel with a surplus dwelling unit right in the Ogden Valley Planning Area over to their property in order to permit a detached ADU.

In practice, the current language of the ADU ordinance allows for transferred dwelling unit rights from anywhere in the Ogden Valley Planning Area. This includes the Ogden Canyon and the far-eastern backcountry areas. This led potential applicants looking for transfer properties with the “lowest hanging fruit” to transfer dwelling unit rights to other property for the building of detached ADUs. These “lowest hanging fruit” were identified as grandfathered lots of record in the Ogden Canyon and the old historic lots in the F-40 zone such as lots in Evergreen.

Staff believes that the original intention behind the transfer of dwelling unit rights requirement of the ADU ordinance was to transfer density off of the valley floor or valley foot hills. The transfer of rights from outside of the valley floor would create an increased density in the valley that wasn’t anticipated or supported by the General Plan. For these reasons, staff have initiated the proposed amendments to clarify the areas where dwelling unit rights may be transferred from for the purposes of building detached accessory dwelling units. See below for a summary of the proposed amendments.

Summary of Proposed Amendments

Clerical Edits (House Keeping):

With all text amendments, there are a certain number of clerical edits that are proposed to adjust overall ordinance formatting and to clarify both existing and proposed language. These clerical edits can be found in various sections of the proposed ordinance and are generally “House Keeping” in nature. The house keeping items included in this proposal include

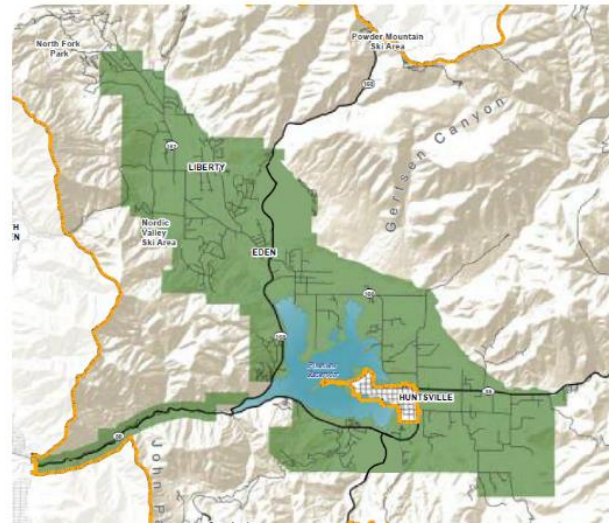
the following:

- An amended definition is being proposed for “Lot Line, Front”. This definition has been clarified to be consistent with the existing definition of “Lot Frontage”, and the newly added definition of “Lot Width”.
- An added definition is being proposed for “Lot Width”. This definition is new and is being added to support the proposed amendment to the definition of “Lot Frontage”.

Applicability of transferred dwelling unit rights associated with the construction of detached accessory dwelling units:

The proposed amendments designate appropriate “sending areas” where surplus dwelling unit rights may be transferred from for the purposes of building detached ADUs on properties that lack a surplus of dwelling unit rights. The proposed “sending zones” are as follows: RE-15, RE-20, AV-3, FV-3, and S-1. With exception to the Ogden Canyon, these sending zones closely reflect the “Valley Floor” as referenced by Map 3 on Pg. 11 of the 2016 Ogden Valley General Plan (see image to the right).

MAP 3: VALLEY FLOOR AREA



Analysis of the 2016 Ogden Valley General Plan

Land Use Goal #1 of the 2016 Ogden Valley General Plan is clear that additional density should not be authorized in the Ogden Valley Planning Area above that allowed by current zoning. Additionally, Land Use Principle 1.1 indicates that the County will support the transfer of existing development rights as the primary means to increase densities in suitable project areas while proportionately decreasing density in other areas. Staff believes the proposed amendments are in alignment with the General Plan’s goals and principles by preventing additional density from outside of the valley floor to be transferred into the valley.

Noticing Compliance

A hearing for this item was published in compliance with UCA §17-27a-205 and UCA §17-27a-502 in the following manners:

1. Posted on the County’s Official Website
2. Posted on the Utah Public Notice Website
3. Published in a local newspaper

Ogden Valley Planning Commission Action

The Ogden Valley Planning Commission reviewed the proposed amendments in ZTA2021-11 during their January 25th, 2022 meeting and forwarded a positive recommendation to the County Commission based on the following findings:

1. The changes are supported by the 2016 Oden Valley General Plan.
2. The changes are necessary to guide the appropriate transfer of dwelling unit rights for detached ADUs.
3. The changes will enhance the general health and welfare of County residents.

Exhibits

- A. Proposed Ordinance Amending the Accessory Dwelling Unit Language

**WEBER COUNTY
ORDINANCE 2022- _____**

AMENDMENT TO ACCESSORY DWELLING UNIT REGULATIONS

AN ORDINANCE AMENDING THE ACCESSORY DWELLING UNIT REGULATIONS TO DEFINE SPECIFIC ZONES IN THE OGDEN VALLEY PLANNING AREA WHERE DWELLING UNIT RIGHTS MAY BE TRANSFERRED FROM FOR THE PURPOSES OF CONSTRUCTING DETACHED ACCESSORY DWELLING UNITS, AND RELATED ORDINANCE AMENDMENTS.

WHEREAS, The Board of County Commissioners of Weber County has heretofore adopted land use regulations for the unincorporated areas of the Weber County; and

WHEREAS, The land use regulations govern the number of primary and accessory dwelling units allowed on a lot or parcel; and

WHEREAS, The land use regulations specify that the number of detached residential units on a lot or parcel be no more than the lot or parcel's base residential dwelling unit rights, or increased residential dwelling units rights due to having received transferred residential dwelling unit rights; and

WHEREAS, Land Use Principle 1.1 of the 2016 Ogden Valley General plan indicates that the County will support the transfer of existing development rights as the primary means to increase densities in suitable project areas while proportionately decreasing density in other areas; and

WHEREAS, the proposed text amendments serve to specifically define zones in the Ogden Valley Planning Area where dwelling unit rights may be transferred from in order to increase the available dwelling unit rights on a receiving lot or parcel for the purposes of constructing detached accessory dwelling units; and

WHEREAS, In their regularly scheduled meeting on January 25, 2022, the Ogden Valley Planning Commission offered the Board of County Commissioners of Weber County a positive recommendation regarding the proposed text amendments; and

WHEREAS, The Board of County Commissioners of Weber County has determined that the amendments will advance the goals of the 2016 Ogden Valley General Plan as well as the general welfare of County residents;

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

SECTION 1: AMENDMENT "Section 101-2-13 Lot Definitions" of the Weber County Code is hereby *amended* as follows:

...

Title 101 General Provisions

...

Sec 101-2-13 Lot Definitions

Lot. The term "lot" means a parcel of land capable of being occupied by an allowed use, building or group of buildings (main or accessory), and approved for human occupancy either full- or part-time; together with such yards, open spaces, parking spaces and other areas required by this title and the Land Use Code. Such parcel shall also have frontage on a street or on a right-of-way approved by the planning director. Except for group dwellings and guest houses, not more than one dwelling structure shall occupy any one lot.

Lot area. The term "lot area" means the area contained within the boundary of a lot.

Lot, corner. The term "corner lot" means a lot abutting on two intersecting or intercepting streets, where the interior angle of intersection or interception does not exceed 135 degrees.

Lot coverage. The term "lot coverage" means the percentage of the lot area which is occupied by all building, and other covered structures and impervious surfaces.

Lot, double frontage. The term "double frontage lot" means any building lot which has both the front and rear yard lot line abutting a street.

Lot, flag. The term "flag lot" means an "L" shaped lot comprised of a narrow access strip connected to a street (staff portion) which opens into the lot area (flag portion).

Lot, frontage. The term "lot frontage" also referred herein as "street frontage" or "street frontage of a lot," means the yard lot line abutting one side of a street right-of-way.

Lot, interior. The term "lot, interior" means any building lot other than a corner lot.

Lot, irregular shaped. The term "irregular shaped lot" means any building lot whose boundaries are:

1. Comprised of three or more than four lot lines;
2. A lot in which the side lot lines are not radial or perpendicular to the front lot line; or
3. In which the rear lot line is not parallel to the front lot line.
4. Where an irregular shaped lot occurs, the interior angle of intercepting lot lines with an angle of 135 degrees or greater shall be considered the same lot line and yard designation. If the angle is less than 135 degrees, the yard designation shall be determined to be different and the applicable yard requirements would apply.

Lot line adjustment. The term "lot line adjustment" means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record. An amended plat is required to do a lot line adjustment.

Lot, lot line. The term "lot line lot" means the boundary of a lot traditionally prescribed with a front, a rear and two sides. Where two lot lines converge and the lot's line bearing changes, the interior angle of which will determine, if it is greater than 135 degrees, whether the lot line may continue with the same yard designation. When the interior angle is 135 degrees or less, then the lot lines designation shall be different.

Lot line, front. The term "front lot line" means the boundary line of the lot which abuts a public dedicated street or other legal access from which the front yard setback is measured, ~~which determines the lot width~~ and where ingress and egress generally is made to the lot.

Exhibit A

Lot line, front for flag lot. The term "lot line, front for flag lot" means the front lot line of a flag lot which is the lot line parallel to a dedicated public street and at the end of the stem.

Lot line, rear. The term "rear lot line" means the boundary of a lot which is most distant from, and is most parallel to the front lot line; except that in the case of an irregular shaped lot, the rear lot line is the line within the lot parallel to and at a maximum distance from the front lot line, having a length of not less than ten feet.

Lot line, side, for corner lots. The term "side lot line for corner lots" means all interior lot lines for multi-frontage lots. For other corner lots, that interior lot line which has been designated as the side lot line by the lot owner previously demonstrated by placement of structures.

Lot line, side, for interior lots. The term "side lot line for interior lots" means those interior lines laying opposite each other, running between the front and rear lot lines.

Lot, nonconforming. The term "nonconforming lot" means a lot or parcel that complied with lot standards in effect at the time of the lot's creation and, because of subsequent changes to the Land Use Code, does not conform to the current lot standards. Applicable standards include lot standards of the zone in which the lot is located, lot standards of the subdivision ordinance, and other lot standards of this Land Use Code.

Lot, restricted. The term "restricted lot" means a lot or parcel of land which has an average slope of 25 percent or more and does not contain a buildable area as defined in this section.

Lot of record. A lot of record is defined as any one of the following circumstances:

1. A parcel of real property identified as a building lot on an unrecorded subdivision plat that has been approved by Weber County and is on file in the Weber County Planning Office; or
2. A parcel of real property identified as a building lot on a subdivision plat that has been approved by Weber County and recorded in the office of the Weber County Recorder; or
3. A parcel or lot described in a deed, sales contract or survey that was recorded in the office of the Weber County Recorder before January 1, 1966; or
4. A parcel or lot described in a deed, sales contract or survey that was recorded in the office of the Weber County Recorder on or before December 31, 1992, which complied with the zoning requirements in effect on the same date; or
5. A parcel or lot that was created in its current size and configuration and contained a lawfully permitted single-family dwelling prior to December 31, 1992;
6. A parcel of real property that contains at least 100 acres;
7. A parcel or lot that does not fall within any one of the previously listed circumstances but has received a variance from the Weber County Board of Adjustment which has otherwise deemed a particular parcel/lot as a lot of record; or-
8. A parcel or lot that meets the criteria of (a) through (g) of this definition may be reconfigured as long as:
 1. The reconfiguration does not make the parcel or lot more nonconforming;
 2. No new lot or parcel is created; and
 3. All affected property is outside of a platted subdivision.

Lot right-of-way. The term "lot right-of-way" means a strip of land of not less than 16 feet wide connecting a lot to a street for use as private access to that lot.

Lot width. The term "lot width" means the width of a lot as measured along a line that runs parallel to the front lot line and is at the minimum building setback applicable to the lot's zone.

...

SECTION 2: AMENDMENT "Section 108-19 Accessory Dwelling Units" of the Weber County Code is hereby *amended* as follows:

Chapter 108-19 Accessory Dwelling Units

...

Sec. 108-19-2 Applicability

- (a) Applicability. The provisions set forth in this chapter apply to an accessory dwelling unit, where allowed by the zone.
- (b) Ogden Valley Accessory Dwelling Unit. In the Ogden Valley, an accessory dwelling unit located in an accessory building shall only be allowed in one of the two following circumstances:
 - (1) The lot has a base density, as defined in Chapter 101-2, of at least two. The lot owner shall record a covenant that runs with the land and is between the lot owner and the County. The covenant shall document the lot's calculated base density; the number of dwelling units developed on the lot, including the accessory dwelling unit; the number of dwelling unit rights subtracted from the base density by any other means; and the number of dwelling unit rights remaining for the property.
 - (2) A landowner has successfully negotiated the reallocation of a dwelling unit right from another lot or parcel, and is in compliance with the following:
 - a. The reallocated dwelling unit right may only be transferred from a lot or parcel that:
 - 1. Is located in one of the following zones: RE-15, RE-20, AV-3, FV-3, and S-1; and
 - 2. That has an available dwelling unit right. Available dwelling unit rights are ~~as~~ determined by the lot or parcel's base density and adjusted for any previous dwelling unit right reduction or addition.
 - ~~a.~~b. The reallocation shall be made by recording a covenant to each affected lot or parcel. Each covenant shall run with the land and be between the owner and the County. Each covenant shall document the applicable lot or parcel's calculated base density; the number of dwelling units developed on the lot or parcel, including the accessory dwelling unit, if applicable; the number of dwelling unit rights subtracted from, or added to, the base density by any means; and the number of dwelling unit rights remaining for the lot or parcel.

PASSED AND ADOPTED BY THE BOARD OF WEBER COUNTY COMMISSIONERS

ON THIS _____ DAY OF _____, 2022.

Gage Froerer:	AYE_____	NAY_____	ABSENT_____	ABSTAIN_____
Jim "H" Harvey:	AYE_____	NAY_____	ABSENT_____	ABSTAIN_____
Scott K. Jenkins:	AYE_____	NAY_____	ABSENT_____	ABSTAIN_____

Presiding Officer

Attest

Scott K. Jenkins, Chair

Ricky D. Hatch, Clerk