CHAPTER 22B

CLUSTER SUBDIVISION SPECIAL PROVISIONS

10-65, 2000-18, 2001-34, 8-2006

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22B-1. 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 ordinance to create open space subdivisions with lots sprawled over large areas, or strung out along roadways.

22B-2. General Regulations.

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 the Weber County Subdivision Ordinance are met. A cluster subdivision shall meet the requirements of the Weber County Zoning Ordinance, and shall assure 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.

22B-3. Minimum Open Space and Lot Area Requirements 8-72

To encourage quality open space that promotes the intent of this ordinance, the minimum percent of a cluster subdivision left in open space shall be as follows:

1. In the Forest Zone F-40, a minimum of ninety (90) percent of any cluster subdivision shall be preserved as permanent open space.
2. In the Forest Zones F-20, F-10 and F-5, a minimum of eighty (80) percent of any cluster subdivision shall be preserved as permanent open space.
3. In the Agricultural Valley Zone AV-3, and the Forest Valley Zone FV-3, a minimum of sixty (60) percent of any cluster subdivision shall be preserved as permanent open space.
4. In all other zones, a minimum of thirty (30) percent of any cluster subdivision shall be preserved as permanent open space.

The minimum lot area in a cluster subdivision shall be 10,000 square feet unless approved as part of a planned residential unit development.

22B-4. Width, Yard and Height Regulations. **8-72**

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:

1. In the Forest Zone F-40, F-20, and F-10, the lot width may be reduced to 150 feet.
2. In the Forest Zone F-5, the lot width may be reduced to 100 feet.
3. In the Agricultural Zones A-1, A-2, A-3, and AV-3, a minimum frontage of 100 feet is required.
4. In the Forest Residential FR-1, and FV-3 Zone, a minimum frontage of 100 feet is required.
5. In the Residential Estates RE-20 Zone, a minimum frontage of 80 feet is required.
6. In the Residential Estates RE-15 Zone, a minimum frontage of 70 feet is required.

Where lots are reduced to 20,000 square feet or less, the front yard setback may be reduced to twenty-five (25) feet and the side yard setback to a minimum of eight (8) feet with the total of the two side yards not less than eighteen (18) feet.

The lot width and yard reductions listed in this section are the maximum reduction allowed. Creating greater lot width reductions calculated by combining the reductions in this section with others permitted in the Zoning Ordinance is not permitted.

22B-5. Additional Design Standards and Requirements.

Cluster subdivisions shall be designed and platted in conformance to the goals and objectives of the County's general plans.

1. Lots in cluster subdivisions shall be clustered into contiguous groups of not less than five (5) lots and no more than three (3) clusters per sixty (60) lots. All clusters of lots shall be contained within an area not to exceed seventy (70) percent of the total area of the subdivision.

2. 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.

3. Areas designated as floodplain by the Federal Emergency Management Agency and within required river and stream corridor setbacks shall be left as open space.

4. 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. "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."

5. Open space used in density calculations shall be a minimum of three (3) Contiguous acres in the RE-20, RE-15, A-1, A-2, and A-3 zones, and five (5) contiguous acres in all other zones where permitted.

In the Forest Zones F-40, F-20 and F-10, a maximum bonus density of twenty (20) percent may be approved and shall be based on an accumulation of the following:

1. Developing a Cluster Subdivision that the Planning Commission determines meets the intent of this Ordinance, a five (5) percent bonus may be granted.
2. Providing road stubs to adjacent property where the Planning Commission determines that streets are needed to provide for current or future traffic circulation up to a five (5) percent bonus density maybe granted.
3. Provides access to Public Lands - up to a five (5) percent bonus density may be granted.
4. The common area is open to the public and provides amenities to the general public such as trails - up to a five (5) percent bonus density may be granted.
5. Protection of areas that are identified by the State Division of Wildlife Resources as critical wildlife habit - up to a ten (10) percent bonus density may be granted.

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

1. Developing a Cluster Subdivision that the Planning Commission determines meets the intent of this Ordinance, a ten (10) percent bonus may be granted.
2. For each five (5) percent of open space preserved in the subdivision in excess of the minimum required by this ordinance up to a five (5) percent bonus density may be granted.
3. 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 (5) percent bonus density maybe granted per stub up to a maximum of ten (10) percent.
4. Provides access to Public Lands - up to a five (5) percent bonus density may be granted.
5. The common area is open to the public and provides amenities to the general public such as trail - up to a ten (10) percent bonus density may be granted.
6. Ten (10) percent of the lots and homes are permanently set a side for affordable housing (as outlined by the Affordable Housing Act of 1990) - up to a ten (10) percent bonus density may be granted.
7. Preservation of an Agricultural parcel with an Agricultural Preservation Plan approved by the Planning Commission and a agricultural preservation easement recorded on the parcel:
   a) between ten (10) and twenty (20) acres up to a ten (10) percent bonus density may be granted
   b) twenty 20 acres or larger up to a fifteen (15) percent bonus density may be granted.
8. Preservation of historical sites and buildings (barns, homes, trails, or other structures) - up to a five (5) percent bonus density maybe granted.
9. Development of excess sewage treatment capacity - up to a five (5) percent bonus density maybe granted.
10. 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 (10) percent bonus density may be granted.
11. Preservation in open space of areas that are identified by the State Division of Wildlife Resources as critical wildlife habit - up to a fifteen (15) percent bonus density may be granted.
12. Open space is contiguous to permanently preserved open space on an adjoining property up to a five (5) percent bonus density may be granted.
13. Preserving in open space a 300 ft. setback from the high water mark of Pineview Reservoir - up to ten (10) percent bonus density may be granted.

In the Agricultural Zones A-1, A-2 and A-3 up to a maximum bonus density of fifty (50) percent may be approved and shall be based on an accumulation of the following:

1. Developing a Cluster Subdivision that the Planning Commission determines meets the intent of this Ordinance, a fifteen (15) percent bonus may be granted.

2. For each five (5) percent of open space preserved in the subdivision in excess of the minimum required by this ordinance up to a five (5) percent bonus density may be granted
3. 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 (5) percent bonus density maybe granted per stub up to a maximum of ten (10) percent.
4. Provides access to Public Lands - up to a ten (10) percent bonus density may be granted.
5. The common area is open to the public and provides amenities to the general public such as trail - up to a fifteen (15) percent bonus density may be granted.
6. Ten (10) percent of the lots and homes are permanently set a side for affordable housing (as outlined by the Affordable Housing Act of 1990) - up to a twenty five (25) percent bonus density may be granted.
7. Preservation of an Agricultural parcel with an Agricultural Preservation Plan approved by the Planning Commission and a agricultural preservation easement recorded on the parcel:
   a) between ten (10) and twenty (20) acres up to a fifteen (15) percent bonus density may be granted
   b) twenty 20 acres or larger up to a twenty (20) percent bonus density may be granted.
8. Preservation of historical sites and buildings (barns, homes, trails, or other structures) - up to a five (5) percent bonus density maybe granted.
9. Development of excess sewage treatment capacity - up to a five (5) percent bonus density maybe granted.
10. 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 (10) percent bonus density may be granted.
11. Preservation in open space of areas that are identified by the State Division of Wildlife Resources as critical wildlife habit - up to a fifteen (15) percent bonus density may be granted.
12. Open space is contiguous to permanently preserved open space on an adjoining property up to a twenty (20) percent bonus density may be granted.

22B-7. Open Space Preservation.

1. Open Space shall be maintained in accordance with an open space preservation, maintenance and improvements plan submitted by the developer and approved by the Planning Commission and County Commission. The plan shall detail the intended use of the open space and any proposed improvements to be placed in the open space.

2. To ensure that open space parcels are permanently reserved and maintained, the developers/property owners shall prior to recording of the final plat of the proposed cluster subdivision :
   a. Grant and convey to Weber County an easement for open space over the required open space parcels , and,
   b. Grant and convey to the lot owners association of the proposed cluster subdivision an easement for open space over the required open space parcels, and,

3. If a bonus density is granted for the preservation of critical or valuable wildlife habitat, a wildlife habitat easement shall be offered to Utah State Division of Wildlife Resources. Bonus densities for critical or valuable wildlife habitat shall be based on a review of the subdivision by the Utah State Division of Wildlife Resources and there finding that the subdivision preserves critical or valuable wildlife habitat.

4. 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 rental of the homes to a household with incomes at or below eighty (80) percent of the County median income.

5. If an agricultural preservation easement is proposed, the agricultural parcel shall be a contiguous parcel containing at minimum ten (10) acres and a copy of an approved agricultural preservation agreement shall be submitted and recorded with the final plat.

6. The required open space may be owned by up to two (2) lot owners in the subdivision, in parcels of not less than ten (10) acres each and provided that no structures or accessory structures be built in the open space with the exception of agricultural buildings approved as part of the agricultural preservation plan.

7. Guarantee of Common Open Space Improvements. As assurance of completion of common open space improvements, the subdivider shall be required to file with the County Commissioners an approved financial guarantee, guaranteeing completion in a manner satisfactory to the County Commissioners, within two (2) years of such filing.

8. The Planning Commission may place additional conditions or restrictions it deems necessary to ensure development and maintenance of the desired character, 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.

22B-8. Owner Association Required.

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, by-laws and covenants outlining the purpose, organization and operation of the Association. 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, local taxes and the maintenance of recreational and other facilities.

4. That lot owners must pay their pro-rata 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. 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.

22B-9. 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.