

11-4-3: CLUSTER BONUS/AGRICULTURAL PRESERVATION SUBDIVISION REVIEW:

- A. Purpose: The purpose of this section is to give property owners an option for development that will reduce county infrastructure and service costs, minimize the visual impact of development to the community, reduce access points on county roads, and preserve agriculture lands and open space. In exchange, a property owner can receive an increase in the number of lots otherwise allowed. The density bonus is intended as an incentive to a property owner in exchange for the above public benefits. This option is intended to promote a pattern of development that is most likely to be consistent with the underlying community values and to encourage the preservation of agricultural lands.
- B. Applicability: The cluster bonus/agricultural preservation subdivision review process can be utilized to create up to two (2) times the number of lots that would be otherwise be allowed based upon the base density of the parcel if at least eighty percent (80%) of the entire parcel under consideration is designated as protected for agricultural use, or three (3) times the number of lots that would otherwise be allowed based upon the density of the parcel if at least ninety percent (90%) of the entire parcel under consideration is designated as protected for agricultural use. Only density derived from the AP zone will be allowed to qualify for the bonus provisions of this section. If a parcel contains property in the HC zone, the density derived from that area will not qualify for the bonus but can be added to the subdivision. The specific number is directly related to the specific parcel/lot size. To qualify for a cluster bonus/agricultural preservation subdivision, the parcel shall have been a lawfully created lot of record that is not within an existing platted subdivision. Once a lot has been created by this process, it is then no longer eligible for further subdivision.
- C. Criteria For Approval: Before an application for a cluster bonus/agricultural preservation incentive subdivision is approved, it shall conform to the following criteria:
1. Only property in the AP zone will be eligible for the bonus provisions of this section, but the density should be placed in the most appropriate location based on a site specific agricultural plan, regardless of the zoning designation.
 2. The parcel of land identified in the application is actively used for agriculture purposes, as defined in this title.
 3. All new lots created shall be clustered to the greatest extent possible and practical and shall be placed in locations that are most suitable to allow and enhance the continued agricultural use of the property.
 4. At a minimum, there shall be a note placed on the plat and a deed restriction applied to each parcel involved in the subdivision regarding the area to be preserved for agricultural purposes, which shall include the following language:

This agricultural parcel was subdivided and developed as a cluster bonus/agricultural preservation subdivision. An increase in density for the development of residential lots numbered to was allowed in exchange for the preservation of the active and productive agricultural lands shown on the plat. The preserved area shall continue to be used solely for agricultural and open space purposes. Additional development shall not be permitted, except for uses customarily associated with the agricultural use of the property.

The preferable method of preserving land for agricultural use is to place a conservation easement on the property. The agricultural preservation area may be shown as one large agricultural parcel, or may be split into the subdivision lots so long as there are adequate restrictions on the agricultural preservation area for it to continue to function as a contiguous agricultural use.

5. Access to all new lots shall be consolidated to the greatest extent practicable and reasonable.

6. Each lot shall have legal access through a recorded right of way or easement. Access to the property from a public road must be granted by the state or county, whichever is appropriate.

7. Adequate water shall remain on site to serve the culinary needs of the proposed homes and the irrigation needs of the agricultural use of the parcel.

8. The project must comply with the development evaluation standards provided in [chapter 2](#) of this title.

9. The project must comply with the infrastructure standards provided in [chapter 6](#) of this title.

10. The minimum lot size will be three-fourths (3/4) acre unless smaller lots are deemed more appropriate to preserve the agricultural uses on the property and are approved by the health department. (Ord. 481, 3-1-2004)

D. Submission Requirements: An application for the cluster bonus/agricultural preservation subdivision of property approval shall not be accepted as complete unless such application contains the information set forth herein; provided, however, that the community development director may request, and the applicant shall submit, such additional information as may be needed to ascertain whether such application conforms to the requirements of this title. The community development director may also determine that due to the nature of the parcel and of the subdivision proposed, some of the submission requirements can be waived in an effort to simplify the application process. (Ord. 481, 3-1-2004; amd. 2004 Code)

1. Sketch Plan: Prior to submitting a formal application for development review, an applicant shall submit a sketch plan, which shall be prepared in pen or pencil, and shall be drawn to a convenient scale of not more than one hundred feet to an inch (1" = 100'), and shall show the following information:

a. The creation date of the parcel(s) to be subdivided in accordance with the definition of a "lot of record", as defined in [appendix A](#) of this title.

b. The name of the subdivision. This name shall not duplicate the name of any plat previously recorded.

c. Name and address, including telephone number, of the legal owner, and citation of last instrument conveying title to each parcel of property involved in the proposed subdivision, giving grantor, grantee, date, and land records reference.

d. Legal description and location of property, including citation of any existing legal rights of way, irrigation ditches, or

easements affecting the property; and existing covenants on the property, if any.

e. The approximate location, dimensions, and areas of all proposed or existing lots, existing easements, burial grounds, railroad rights of way, watercourses, and names of all existing streets or other public roads adjacent to the proposed lots.

f. A delineation of environmentally sensitive areas including, but not limited to, wetlands, and slopes exceeding thirty percent (30%), and ridgelines.

g. Identification of the means for providing water supply, power, sanitary sewage systems, collection and discharge of surface water drainage, and fire protection, including an analysis of the feasibility of connecting to a centralized sewer disposal or water systems if requested.

h. All areas within and adjacent to the project, including areas separated by a street, highway, road, right of way, railroad line, or stream or watercourse, under common ownership, shall be identified in the sketch plan.

i. A site specific agricultural plan shall be required to be submitted at the time of sketch plan. The purpose of this study will be to identify the significant features and characteristics that make the property viable for agricultural use. Development should be planned in such a way as to preserve or enhance the agricultural use of the property. (Ord. 481, 3-1-2004)

j. All contiguous property under one ownership shall be planned in a unified and comprehensive fashion and shall be included in an application for subdivision consideration and approval. (Ord. 481, 3-1-2004; amd. 2004 Code)

2. Final Plat: An application for final plat approval shall be submitted with a completed final subdivision plat application form. The application shall also include the following:

a. Preliminary title report covering all property located within the subdivision. The report shall be prepared or be updated to within thirty (30) days of the date of recording the subdivision plat.

b. Approval of the power company on its ability to provide service.

c. An endorsement from the county health department that on site and off site impacts of septic system development can be mitigated and its recommended mitigation measures.

d. Approval of the local fire protection district and its recommended mitigation measures.

e. Approval of the county department of public works or the Utah department of transportation for curb cuts and other roadway improvement requirements necessitated by the proposed development.

f. Approval of the county sheriff's department.

g. A detailed final plat that incorporates the following. The final [lat shall be prepared by a licensed land surveyor on reproducible Mylar at scale not more than one inch equals one hundred feet (1" = 100'). The size shall be twenty four inches by thirty six inches (24" x 36").

- (1) The locations, dimensions, and areas of all proposed lots.
- (2) Indication of the use of each lot (single-family, open space, agricultural, etc.).
- (3) The date of the plat, approximate true north point, scale, title of the subdivision, and the name of the land surveyor.
- (4) The location and dimensions of all boundary lines of the property (expressed in feet and decimals of a foot), water bodies, streams, drainage ditches, existing streets, easements, alleys, and other public ways; and building envelopes, if necessary.
- (5) All monuments erected, corners, and other points established in the field in their proper places. The material of which the monuments, corners, or other points are made shall be noted at the representation thereof or by legend; except, that lot corners need not be shown. The legend for metal monuments shall indicate the kind of metal and the diameter, length, and weight per lineal foot of the monuments.
- (6) Lots shall be consecutively numbered or lettered in alphabetical order with addresses, approved by the county, for each lot.
- (7) A notation and explanation of drainage easements, site easements, and reservations, if any; and endorsement of the owner.
- (8) Notation of any self-imposed and other restrictions or requirements of service providers and the community development director.
- (9) Signature blocks for the county health department, county recorder, planning commission, community development director, and county engineer.
- (10) Endorsement on the plat by every person having a security interest in the subdivision property that he is subordinating his liens to all covenants, servitude and easements imposed on the property, and all conditions of subdivision approval imposed by the county.
- (11) A statement certifying that all lots within the proposed subdivision are buildable, and that any further subdivision of such lots, whether by deed, bequest, divorce decree, or other recorded instrument shall not result in a buildable lot.
- (12) A note on the plat stating:

All lots within this subdivision must meet all building permit requirements at the time of building permit issuance.

(13) A note on the plat stating that no minor subdivision of the property will be allowed and that any further subdivision must comply with the major development review process.

(14) A note on the plat stating:

The owners of property within Eastern Summit County recognize the importance of agricultural lands and operations and small rural business enterprises. It is recognized that agricultural lands and operations and rural business enterprises have unique operating characteristics that must be respected. (Owners of each lot platted in this subdivision/the owner of the residence constructed upon this lot) have/has been given notice and recognizes that there are active agricultural lands and operations and rural business enterprises within Eastern Summit County and acknowledge(s) and accept(s) that, so long as such lands and operations exist, there may be dust, noise, odor, prolonged work hours, use of roadways for the purposes of herding/moving animals, and other attributes associated with normal agricultural operations and rural businesses.

(15) A note on the plat stating:

Water has not been approved for this site. It shall be the responsibility of each lot owner to demonstrate that water of adequate quantity is available for each lot prior to the issuance of a building permit. This shall be accomplished with a memorandum of decision from the state engineer for a private well or a written commitment from a municipality or private service company.

(16) A note on the plat stating:

Septic or sewerage have not been approved for this site. The property owner shall demonstrate that the property can adequately support a septic system per state/county requirements or has access to an operational, approved sewer system prior to the issuance of a building permit through an approval letter from the county health department.

E. Review Procedure: The cluster bonus/agricultural preservation subdivision will be processed as a minor subdivision if ten (10) lots or fewer development lots are proposed. If more than ten (10) lots are proposed, a public hearing before the planning commission will be required to be held.

1. Sketch Plan: The community development department shall review the sketch plan and identify relevant issues for the applicant to address with the final plat application and any deficiencies of information in the application. The sketch plan shall not constitute an application for development approval.

2. Final Plat:

a. The applicant shall submit an application containing all of the information required in subsection D2 of this section. The community development department staff shall review the application, make findings as to whether the application complies with the criteria for approving a cluster bonus/agricultural preservation subdivision of property, and make a recommendation to the planning commission.

- b. The planning commission shall review the application and make a recommendation for approval, approval with conditions, or denial to the community development director. If the planning commission or community development director finds that the subdivision may result in impacts warranting further review, the subdivision may be referred to the board of county commissioners for consideration.
 - c. Upon receiving a recommendation of the planning commission, the community development director shall, based on the criteria for approving a minor subdivision of property, approve, approve with conditions, or deny the request, unless the item is referred to the BCC by the planning commission.
 - d. Once the community development director or BCC approves the final plat and obtains all necessary signatures, the county attorney shall determine the acceptability of the final plat and preliminary title report.
3. Upon approval of the county attorney, the community development director shall cause the plat to be recorded in the records of the county recorder. (Ord. 481, 3-1-2004)