

## MEMORANDUM

To: Western Weber Planning Commission  
From: Charles Ewert, AICP  
Date: February 3, 2021  
Subject: Text Amendment for Substandard Streets/Roads

In the July 14, 2020 Western Weber Planning Commission meeting, you held a public hearing for a text amendment regarding development along a single-access substandard street. In that meeting you tabled the proposed language pending further refinement of the language.

In the November 10, 2020 Western Weber Planning Commission meeting, the item was discussed again, and you tabled it further in order to discuss it in a combined work session with the County Commission.

On January 5, 2021, a combined work session between the Western Weber Planning Commission, Ogden Valley Planning Commission, and Weber County Board of Commissioners was held and this item was discussed. The discussion resolved in the following three policy options for the Planning Commission to consider:

1. Keep the policy that prohibits subdivision development along a single-access substandard street.
2. Change the policy to allow the development to occur as long as a traffic study verifies safety and the proportionate cost for improvements are born by the future lot owners in that subdivision.
3. Change the policy to allow the development to occur as long as the developer fronts a share of the cost for street improvements proportionate to the impact the new lots will have on the single-access substandard street.

In the attached proposal, the language is crafted in a manner that will allow the planning commission to forward a recommendation for either of the above three. Even if the planning commission's desire is to forward a favorable recommendation for option one, staff still suggests that the language of the existing code be revised to be clearer on the subject. The new proposed language of Section 106-4-1(h) is designed to be clearer, and should be implemented regardless.

The proposed new language of Section 106-4-2(p) paragraph (1) and (2)(a) support option two. And the proposed addition of Section 106-4-2(p) paragraph (2)(b) supports option three.

Planning Commissioners may notice the different section location when compared to previous proposals. This is for ease of administration, as the new proposed text fits better in Section 106-4-2.

Feel free to reach out to me if you have any questions.

**WEBER COUNTY**  
**ORDINANCE 2020-TEMP-SUBSTANDARD TERMINAL STREETS**

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

**SECTION 1:**            **AMENDMENT** “Sec 106-4-1 General Requirements” of the Weber County County Code is hereby *amended* as follows:

A M E N D M E N T

Sec 106-4-1 General Requirements

- (a) The owner of any land to be platted as a subdivision shall, before recording the final plat, either install all improvements required by this chapter or provide a financial guarantee for the completion of the improvements as allowed by section 106-4-3.
- (b) All improvements shall comply with the specifications and standards contained in the county's current "Public Work Standards and Technical Specifications."
- (c) All improvements shall be installed prior to issuance of any land use permit within a newly approved subdivision. The only improvements that may not be required prior to construction of a dwelling are the asphalt, chip and seal, landscaping, street monuments, secondary water (if not in the right-of-way), and curb, gutter, and sidewalk.
- (d) All public and private utilities within the road right-of-way shall be installed prior to the road being asphalted. Cuts within one year of asphalt placement on a new road will require a special permit and include requirements for special backfill and asphalt replacement.
- (e) The applicant shall sign a survey monumentation improvement agreement and pay applicable fees associated prior to the county surveyor signing the final subdivision plat Mylar.
- (f) Upon completion of the construction of roads and utility lines, the developer's engineer shall prepare and submit as-built plans for all improvements for the approval of the county engineer. As-built plans shall include a digital plan (dwg format) and one set of reproducible Mylars prior to county acceptance for maintenance of roads.
- (g) Whenever the applicant develops a subdivision a phase at a time, such development shall be in an orderly manner and in such a way that the required improvements will be made available to the buyers of the lots. The applicant shall be responsible for coordinating the installation of utilities, streets, water lines, fire hydrants, and all other required improvements with the buyers of lots.
- (h) ~~New subdivisions with sole access from a~~ A new subdivision located along a street route that is at any point the single means of access from the subdivision to the greater interconnected public street network shall not be approved unless the entirety of the single-access street route is constructed to the County's public work standards and has the appropriate right-of-way width. ~~substandard street shall not be approved until the~~

~~substandard street is fully improved to county public work standards and adopted right-of-way width.~~

(Ord. of 1952, title 26, § 4-1; Ord. No. 3-82, 1-26-1982; Ord. No. 2012-2, § 1(26-4-1), 1-10-2012; Ord. No. 2017-27, Exh. B, 7-25-2017)

**Editor's note**—Ord. No. 2017-27, Exh. B, adopted July 25, 2017, amended the catchline of § 106-4-1 from "Owner of subdivision responsible for costs" to read as herein set out.

**SECTION 2:            AMENDMENT** “Sec 106-4-2 Improvements Required” of the Weber County County Code is hereby *amended* as follows:

#### A M E N D M E N T

#### Sec 106-4-2 Improvements Required

(a) *Water supply.*

(1) *Public system.*

- a. Where an approved public water supply is reasonably accessible or procurable, the applicant shall install water lines, or shall contract with the local water distributing agency to make the water supply available to each lot within the subdivision, including laterals to the property line of each lot. Water lines and fire hydrants shall be operational before building permits are issued for any structures.
- b. Capacity assessment letter is required 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.

(2) *New system.* Where an approved public water supply or system is not reasonably accessible nor procurable, the applicant shall install a water distribution system and provide a water supply to each lot from a source meeting the requirements of the Utah Division of Drinking Water and/or the Weber Morgan Health Department.

(3) *Wells.* If individual well permits are issued by the Utah State Division of Water Rights, one well permit must be obtained along with a letter of feasibility from the Division of Water Rights and the Weber Morgan Health Department, which states that well permits can be issued in the proposed area by the Division of Water Rights for exchange purposes. The owner of record of the proposed subdivision property shall record a covenant to run with the land which advises the new lot owner of the requirements to be fulfilled before a building permit can be obtained. This shall include but not be limited to:

- a. That a well permit must be obtained;
- b. The time it may take to obtain the permit;
- c. The well must be drilled;
- d. Water quality to be satisfactory; and
- e. Water quantity to be sufficient as required by the Weber County Health Department, before a building permit can be obtained.

If well permits cannot be obtained, the lot will no longer be deemed a buildable lot.

(b) *Sewage disposal.*

- (1) Where any part of a building situated within the unincorporated areas of the county is within 300 feet of any street, alley, court, passageway or area in which a public sewer or sewer owned or operated by any special improvement sanitary sewer district is in existence and use, or where the building is close enough in the determination of the county health officer to require a connection, the applicant shall connect sanitary sewer and provide adequate lateral lines to the property line of each lot. Sewer systems shall be approved by the county health official, and connections shall comply with the public work standards of the county. Where the construction of a sewer trunk line is required to serve the subdivision, the applicant shall be required to construct the trunk line in accordance with plans and specifications approved by the county and sewer improvement district. The new trunk line shall be designed with sufficient capacity for the service area as determined by the county engineer. The applicant may be entitled to reimbursement for the oversized costs through impact fee or development agreement within the service area for a period of ten years from the date of acceptance by the county.
- (2) Where a public sanitary sewer is not accessible, the applicant shall obtain approval from the county health officer for individual sewage disposal for each of the lots. Written approval from the county health officer shall be submitted to the planning division at the time the subdivision application is submitted. Septic tanks shall be installed according to the specifications and under the inspection of the county health officer. Where a sewer treatment facility is being approved by the State of Utah Department of Environmental Quality Division of Water Quality, a letter of feasibility is required for preliminary approval and a construct permit from the state is required before final approval can be granted by the planning commission.

(c) *Stormwater.*

- (1) The county engineer shall require the applicant to dispose of stormwater, if such provision is deemed necessary, and provide drainage structures so that runoff from the subdivision does not exceed the runoff under undeveloped or natural conditions. If easements are required across abutting property to permit drainage of the subdivision, it shall be the responsibility of the applicant to acquire such easements.
- (2) When drainage structures such as storm water detention and/or retention facilities are required by the county engineer, the county, at its option, may

require the facility to be dedicated or otherwise transferred to Weber County or its designee. Weber County may also require the developer of the subdivision which the detention and/or retention facility serves, to form a homeowners association of all homes in the subdivision with articles of incorporation and by-laws filed with the department of commerce. Provision shall be made in said association for the contracting with the county engineer to do periodic inspections and maintain the drainage facilities. The purpose of the association shall be to own and maintain the detention and/or retention facility in satisfactory condition as specified by the county engineer. In such cases, the county shall be granted an easement over the detention/retention facilities to guarantee such facilities will remain and be used as intended for stormwater detention purposes.

- (d) *Street grading and surfacing.* All public and private streets and private access rights-of-way shall be graded and surfaced in accordance with the public work standards.
- (e) *Curbs and gutters.* Curbs and gutters shall be installed on existing and proposed streets by the applicant. Deferrals for curb and gutter will be required for lots in the Ogden Valley. Curb and gutter shall be installed by the applicant in subdivisions along abutting Utah State Highways, if required by Utah State Department of Transportation.
- (f) *Sidewalks.* Sidewalks shall be required by the planning commission for reasons of safety and public welfare, and where the proposed subdivision is located within the walking distance established by the local school district. Deferrals for sidewalk will be required for lots in Ogden Valley. Weber County will not waive sidewalk requirements on state highways unless the Utah State Department of Transportation has waived the sidewalk requirement. If a letter is provided by the Utah State Department of Transportation for a waiver, then a deferral agreement may be approved by the county commission. Approved walking paths may be substituted for sidewalks.
- (g) *Street monuments.* Permanent street monuments shall be accurately set at points necessary to establish all lines of the street. Street monuments shall be of a type specified by the county surveyor.
- (h) *Street trees.* Street trees shall be planted by the applicant when so required by the planning commission and of a variety and location as approved by the planning commission.
- (i) *Street signs.* Street signs shall be installed by the applicant at locations designated by the county engineer. Signs shall be a type and material prescribed by the county engineer. The county commissioners shall have the option to install signs and charge the costs to the applicant.
- (j) *Fencing or piping of canals, etc.* A solid board, chain link, or other non-climbable fence not less than five feet in height shall be installed on both sides of existing irrigation ditches or canals which carry five second feet or more of water, or bordering open reservoirs, railroad rights-of-way or non-access streets, and which are located within or adjacent to the subdivision, except where the planning commission determines that park areas including streams or bodies of water shall remain unfenced. Fencing or piping of canals, etc., shall not be required on subdivisions of four or fewer lots, or where canals are located 600 feet from the homes.
- (k) *Staking subdivision corners.* Survey markers shall be placed at all subdivision corners

and lot corners to completely identify the boundaries on the ground. This shall be performed and confirmed by the surveyor's office before the subdivision is recorded.

- (1) The minimum standard for a boundary or lot corner monument shall be a number five rebar 24 inches in length and visibly marked or tagged with the registered business name or the letters P.L.S. (Professional Land Surveyor) followed by the registration number of the surveyor in charge. Where ground conditions do not permit such monumentation, substitute monuments shall be noted on the subdivision plat and must be durably and visibly marked or tagged with the registered business name or the letters "P.L.S." followed by the registration number of the surveyor in charge.
  - (2) If the monument is set by a public officer, it shall be marked with the official title of the office.
- (l) *Peripheral fencing.* The planning commission may require fencing along the periphery of a subdivision in an agricultural zone to provide protection to adjacent farming lands from the adverse effects of residential living and vice versa.
- (m) *Secondary water.* The term "secondary water" shall mean water furnished for other than culinary purposes. Where a subdivision is proposed within an existing culinary water district or service area of an existing water corporation or within a water district or water corporation service area created to serve such subdivision, the planning commission shall, as part of the approval of the subdivision, require the applicant to furnish adequate secondary water and install a secondary water delivery system to the lots in the subdivision sufficient to conform to the public works standards, if such water district or company files or has filed a written statement with the Weber County Planning Division which specifies that the policy of such water district or company is to the effect that its water is not to be used for other than culinary purposes and will not permit culinary water connections unless secondary water is provided by the applicant. A certified copy of the minutes of the board of trustees of such water district or company showing the enactment of such policy must be furnished to the planning commission. If secondary water is to be by shallow well, then a copy of the approved well permit shall be submitted, and the shallow well shall be pump tested with a copy of the test results submitted for review prior to the subdivision being recorded. When subdivisions are within the service area of a secondary water provider company or district, the applicant shall install a secondary water system in accordance with the provider's requirements or standards.
- (n) *Transfer of irrigation water rights.* Where the county, on behalf of a culinary water agency, requires irrigation water to be provided to each lot in a subdivision as part of the required improvements, the applicant shall provide for the transfer of irrigation water rights by either of the following methods as determined by the planning commission.
- (1) The applicant shall form a lot owners association as a non-profit corporation for owning the irrigation water rights or stock for the lots in the subdivision. The applicant shall transfer to the association at the time of subdivision recording, sufficient rights or stock as required by the irrigation agency for the number of lots in the subdivision. The articles of incorporation of the association shall provide, in addition to the association owning the required water rights or shares on behalf of each and every lot owner, that each lot owner shall automatically

be a member of the association, is entitled to a pro rata share of irrigation water, is subject to a water distribution schedule and procedure established by the association, and is responsible for his share of the costs of ditch and system maintenance and assessments as made by the association from time to time; or

- (2) The applicant shall provide the county with evidence that sufficient irrigation water rights or shares for all of the lots in the subdivision are held by the developer/property owner. At the time of recording the approved subdivision plat, the developer/property owner shall record a covenant to run with the land that these rights or shares will not be disposed of except to the lots in the subdivision and with the sale of each lot, a transfer at no cost, the required water rights or shares needed to properly irrigate the lot, to the lot purchaser who is to be responsible for the proper use of the water as outlined in the irrigation water district or company's distribution schedule and procedures.

(o) *Fire protection.*

- (1) A letter from the Weber Fire District approving the fire protection method shall be provided prior to final approval of the subdivision by the planning commission. Before a land use permit is issued, the fire protection method shall be operational, and a letter to that effect will be required from the Weber Fire District.
- (2) Subdivisions located in the Forest and Forest Valley Zones shall have requirements in the Subdivision Covenants, Conditions, and Restrictions on Wildfire Mitigation as outlined by the Weber County Fire District.

(p) Substandard single-access street or street route. The requirement of Section 106-4-1(h), and other requirements to the contrary in this section, may be waived if:

- (1) A traffic study, conducted by a qualified professional and funded by the applicant, demonstrates that the existing single-access street route is adequate and safe, or can be made adequate and safe with improvements volunteered by the applicant, for the increased traffic demand of the new subdivision; and The Planning Director and County Engineer can mutually make the following findings:
  - a. That due to topographic or other environmental characteristics of the area, it is unlikely that a another street route will be established that provides a second connection from the new subdivision to the greater interconnected public street network within the next 10 years; and
  - b. That not providing the new subdivision with a single-access street route that complies with currently adopted standards, or that not providing the new subdivision with a second street route access to the greater interconnected public street network, does not conflict with an applicable general plan, small area plan, master streets plan, or similar adopted planning document.
- (2) Either of the following occur:
  - a. Owners having interest in the new subdivision execute a substandard road agreement and notice to new owners. The content of the substandard road agreement and notice shall be as specified by the county. At a minimum, it shall:

1. Explain that the new subdivision has only a single street access connecting it to the greater interconnected public street network, and the single street access is not built to the minimum design and safety standards;
  2. Require a deferral agreement that specifies that the owner or successors and heirs are responsible at a time the governing authority deems it necessary for their roughly proportionate share of improving the parts of the single-access street route that do not conform to County standards;
  3. Cause for the governing authority, at their option, to withhold any written protest filed by the owner or their successors or heirs under the State Code's Assessment Area Act, Provisions For Local Districts, or any similar government revenue generation mechanism, from the final tally of collected protests, provided that the revenue generated by the mechanism is:
    - i. limited to the actual estimated value, adjusted for market changes over time, of improving the substandard public street to the standards applicable at the time of the agreement's execution; and
    - ii. only applied to:
      - (a) improving the substandard street to the standards applicable at the time of the agreement's execution;
      - (b) the larger cost of improving the street to an updated or better standard; or
      - (c) creating a second street route from the subdivision to the greater interconnected public street network; and
  4. Be recorded to the property at the time of subdivision recordation or sooner.
- b. The applicant funds certain street improvements and, if applicable, street right-of-way acquisition, along the the single-access street route. The improvements required shall be as designated by the County Engineer, and have an estimated cost that is roughly proportionate to the impact of the applicant's new lots on the street system. This cost shall be determine by estimating the full cost to improve the single-access street route to current county standards, dividing the cost by the future buildout along the street, then multiplying that number by the applicant's number of lots. The County Engineer may require engineered drawings of the street in order to substantiate the cost. The County Engineer has the discretion to either require this cost to be deposited with the County for the County to do the work, or require the applicant to do the work. The following provides additional criteria for this cost calculation:



1. The length of the single-access street route shall be measured from the point it becomes a single-access street route to the furthest extent of the applicant's subdivision. The parts of the street that comply with adopted standards, if any, shall then be subtracted.
2. The cost to improve this length shall be estimated using up-to-date costs for construction material, labor, and any other expense necessary to bring the street to county standards. The added expense of an intersection or other street component that is not related to providing a standard street to the applicant's subdivision shall be excluded from the calculation.
3. Future buildout along the street shall be determined by dividing the length of the street by the minimum lot width of the zone, then adding the applicant's lots that were not already included, if applicable. Alternative lot widths or flag lots, as may be allowed by this Land Use Code, shall not be used for this calculation.
4. A subdivision improvement that is required by this Land Use Code regardless of the condition of the single-access street shall not be included in this calculation.

(Ord. of 1952, title 26, § 4-2; Ord. No. 6-73, 4-17-1973; Ord. No. 3-82, 1-26-1982; Ord. No. 4-86, 3-10-1986; Ord. No. 22-87 12-14-1987; Ord. No. 19-90, 10-24-1990; Ord. No. 17-91, 8-27-1991; Ord. No. 2002-11, 6-18-02; Ord. No. 11-2005, 8-16-05; Ord. No. 2012-2, § 1(26-4-2), 1-10-2012; Ord. No. 2017-27, Exh. B, 7-25-2017)

PASSED AND ADOPTED BY THE WEBER COUNTY BOARD OF COUNTY COMMISSIONERS \_\_\_\_\_.

	<b>AYE</b>	<b>NAY</b>	<b>ABSENT</b>	<b>ABSTAIN</b>
Gage Froerer	_____	_____	_____	_____
Jim "H" Harvey	_____	_____	_____	_____
Scott K. Jenkins	_____	_____	_____	_____

Presiding Officer

Attest

\_\_\_\_\_  
Gage Froerer, Board of  
Commissioners Chair, Weber County

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Ricky D. Hatch, CPA, Clerk/Auditor  
Weber County