



Staff Report to the Western County Commission

Weber County Planning Division

Synopsis

Application Information

Application Request: A public hearing to consider and take action on a proposed text amendment to Weber County's Land Use Code to allow development to occur on substandard streets under certain circumstances.

Agenda Date: Tuesday, March 23, 2021
Staff Report Date: Tuesday, March 18, 2021
Applicant: **Weber County**
File Number: **ZTA 2020-04**

Staff Information

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

Report Reviewer: RG

Applicable Ordinances

§ Sec 106-4-1 General Requirements
§ Sec 106-4-2 Improvements Required

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

Weber County Commission has requested the Planning Division to analyze current policy regarding prohibiting development along a terminal substandard street, and to produce alternatives for consideration. Over the last year staff have worked with both planning commissions and with the Commission over multiple work sessions to deliberate over the matter. The subject is complex. The Ogden Valley Planning Commission was relatively comfortable with the idea of allowing development to occur on a substandard terminal street, but wanted to ensure the general taxpayer was not burdened with the development's impact on the substandard road in the future. The Western Weber Planning Commission was concerned about leap-frogging development patterns, and the long-term infrastructure and community expense of enabling growth in locations of the county that is not yet built-out enough to accommodate it. Western Weber Planning Commission recommended to keep the county's current policy, while the Ogden Valley Planning Commission cautiously offered a recommendation for the policy in the attached proposal.

After the Planning Commission's review, staff and the Commission reworked the policy a little to better address the concerns of each planning commission, and to provide a compromise that will offer financial protection for the general taxpayer while still enabling developments to occur along these streets. The attached ordinance proposal reflects that change.

Policy Analysis

An in-depth staff analysis can be read in the Planning Commission Staff Report (Attachment B) and subsequent Planning Commission Staff Memo (Attachment C).

As can be read in Attachment C, staff offer three policy alternatives. The first, to make minor clerical edits to the existing policy to make it more clear, but not actually change the effect of the policy. The second option is to allow

the development but ensure that the resulting lot owners pay their proportionate share of the future improvements related to their increased demand on the street at a later time of the County's choosing – through a deferral agreement and possible special assessment area. The third option was to require the developer to pay for each lot's proportionate share of the improvements at the time of developing by either making certain street improvements as directed by the County Engineer, or by making a payment to the County so the County can program the needed improvements into the Roads Departments workflow.

In the County Commissioner's March 15, 2021 work session, the commissioners reviewed each of these three options as well. There was significant discussion revolving around whether option two or three provides the best benefit. Ultimately, the commissioner's directed staff to bring forward option three for their final review and consideration.

As staff reworked the proposal to provide for the commissioner's request, it became clear that both option two and option three can be useable under certain circumstances. Thus, the proposal provides option three as the default requirement for any subdivision along a terminal substandard street. However, if the County Engineer determines that the proportionate street improvement costs of a subdivision is insufficient to provide meaningful improvements along the street, then he has the discretion to allow option two to occur instead.

Past Action on this Item

The Western Weber Planning Commission considered this item and offered a recommendation for no change to existing policy in their February 9, 2021 meeting.

The Ogden Valley Planning Commission considered this item and offered a recommendation for approval of enabling development along a dead-end street, provided the cost of future improvements is born by resulting lot owners. This occurred in their May 5, 2020 meeting.

Recommendation

Staff provides a positive recommendation for file ZTA 2020-04, a proposal to amend the Weber County Land Use Code to enable development along a substandard street provided the developer pays a fair proportionate share of street improvements along the substandard street. This proposal can be reviewed in Attachment A.

This comes with the following findings:

1. That the proposal does not have negative effect on the general plans.
2. The proposal will not place unnecessary burden for offsite street improvements on any single land developer.
3. The proposal will ensure thoughtful and deliberate acquisition, design, and improvement of dead-end streets that are not currently built to adopted public works standards.
4. That the proposal is in the best interest of the health, safety, and welfare of the public.

Exhibits

- A. Proposed Ordinance
- B. Planning Commission Staff Report
- C. Planning Commission Staff Memo

Exhibit A

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

SUBDIVISION ON A SUBSTANDARD TERMINAL STREET OR STREET ROUTE

**AN AMENDMENT TO THE WEBER COUNTY LAND USE CODE TO CHANGE
THE CIRCUMSTANCES UNDER WHICH A SUBDIVISION MAY BE CREATED
ALONG A SUBSTANDARD TERMINAL STREET OR STREET ROUTE, AND
RELATED CLERICAL EDITS.**

WHEREAS, The Board of Commissioners of Weber County (Board) has heretofore adopted land use regulations applicable to subdivisions in the unincorporated areas of Weber County; and

WHEREAS, The Board has determined that the existing land use regulations are inadequate and unnecessarily restrictive when applied to a subdivision that is located on a terminal substandard street or route of streets; and

WHEREAS, The Board desires to amend the land use regulations to enable subdivisions to occur along a substandard terminal street or street route under certain conditions and when adequate compensation for the subdivision's impact on the street is received; and

WHEREAS, On May 5, 2020, the Ogden Valley Planning Commission offered a recommendation on the proposed ordinance; and

WHEREAS, On February 9, 2021, the Western Weber Planning Commission offered a recommendation on the proposed ordinance; and

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 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 or 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 single-access street or street route is constructed to the County's public work standards, and has the appropriate right-of-way width, from the greater interconnected street network to the proposed subdivision. To enable development of the subdivision, the applicant may volunteer to improve the street or street route to current county standards by entering into a mutually agreeable development agreement with the county specifying the applicant's voluntary contributions. ~~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.* Five foot wide sidewalks are required on both sides of the street, unless specified otherwise in this Land Use Code or other adopted street right-of-way standard, a for reasons of safety and public welfare, and where the proposed subdivision is located within the walking distance established by the local school district. Where no sidewalk currently exists in the area, or where a subdivision's required sidewalk is premature given existing conditions, the required sidewalk may be deferred to a later time by recording a deferral agreement to each lot in a form as approved by the County Attorney, County Engineer, and County Planning Director. Deferrals for sidewalk will be required for lots in Ogden Valley. Approved walking paths A pathway, either paved or concrete as determined by the County Engineer given site conditions, ~~may~~ shall be substituted for ~~a sidewalk~~s along routes that are delineated on an adopted trail or pathway plan or map, or as may be required in this Land Use Code. Otherwise, at the option of the developer, a pathway may substitute a sidewalk as long as it is construction of a material as determined by the County Engineer.
- (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) The County Engineer and Planning Director can mutually make the following findings:
 - a. A traffic study, conducted by a certified professional traffic operations engineer (PTOE) and funded by the applicant, demonstrates that the existing single-access street or 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;
 - b. That due to topographic, environmental, or other unique characteristics of the area, it is unlikely that another street or street route will be established that provides the new subdivision a second connection to the greater interconnected public street network within the next 10 years;
 - c. That not providing the new subdivision with a standard single-access street or street route does not conflict with an applicable general plan, small area plan, master streets plan, or similar adopted planning document; and
 - d. That not requiring a second connection 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; and
- (2) The following occurs:
 - a. As part of a project improvement, as defined in UCA 11-36a-102, the applicant funds certain street design, street improvements and, if applicable, street right-of-way acquisition costs, along the single-access street or 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 subdivision's new lots on the street system. This cost shall be determined by estimating the full cost to improve the single-access street route to current county standards, dividing the cost by the number of lots expected in the future buildout along the street, then multiplying that number by the applicant's number

of lots. The County Engineer may require the applicant to furnish engineered drawings of the street and an itemized cost-estimate in order to substantiate the estimated 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 market 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. The number of lots expected in the 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. The County Engineer has the discretion to adjust the cost-estimate for inflation or market fluctuations during the duration of construction of the subdivision; and
 5. 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.
- b. If the County Engineer determines that the funds that would be made available are insufficient to provide meaningful project improvements along the substandard street or street route, the County Engineer may allow a substandard road agreement in lieu of the project improvements required in paragraph (2)(a) of this Subsection 106-4-2(p). In this case, all owners having interest in the new subdivision shall 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 adopted by the County;
 2. Require a deferral agreement that specifies that the owners or successors and heirs are responsible, at a time the governing authority deems it necessary, to pay for their proportionate

share of improving the parts of the single-access street route that do not conform to County standards;

3. Allow the governing authority, at its option, to withhold any written protest filed by the owners 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 used to improve access to the subdivision; and

4. Be recorded to the property at the time of subdivision recordation or sooner.

(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 _____.

	AYE	NAY	ABSENT	ABSTAIN
Gage Froerer	_____	_____	_____	_____
Jim "H" Harvey	_____	_____	_____	_____
Scott K. Jenkins	_____	_____	_____	_____

Presiding Officer

Attest

Gage Froerer, Board of
Commissioners Chair, Weber County

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

Exhibit B



Staff Report to the Western Weber Planning Commission

Weber County Planning Division

Synopsis

Application Information

Application Request: A public hearing to consider and take action on a request amend Weber County Code to require PUE's to be as specified by the County Engineer and/or Land Use Authority and to enable development along substandard streets under specific conditions.

Agenda Date: Tuesday, ~~May 12, 2020~~ **July 14, 2020**

Staff Report Date: Tuesday, May 5, 2020

Applicant: Weber County

File Number: ZTA 2020-04

Staff Information

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

Report Reviewer: RG

Applicable Ordinances

- § Sec 106-2-4 Lots
- § Sec 106-4-1 General Requirements

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

Recent development in a cluster subdivision in Western Weber County has brought to our attention that requiring a ten foot public utility easement on every side lot line does not support the reduced sideyard setback of the cluster code. Further, we have found that a number of subdivision plat designers will place ten foot public utility easements along every lot line as their standard mode of operation. These arbitrary and unused easements often lead to problems for resulting landowners who cannot utilize the area in the easement. The attached proposal allows flexible public utility easement widths along with affirmative consent from the County Engineer or Land Use Authority (who is the planning commissions on all subdivisions except small subdivisions) for their placement.

Policy Analysis

The proposed ordinance draft is attached as Exhibits A and B. The following is an analysis of the proposal based on the existing general plan.

General plan. Neither the Ogden Valley General Plan nor the West Central Weber General Plan address public utility easements or substandard streets in the context of this proposal. It can be determined, however, that the proposal will have a positive effect on both plans, since both plans strongly advocate for clustering development onto smaller lots, and an easement on every lot line causes unnecessary hardship on the use of the land. The effect of allowing development to continue along a substandard street, provided a traffic engineer deems it safe, will decrease street impacts and stormwater runoff. Requiring a substandard road agreement will assist the county to obtain a standard street at some point in the future.

Ordinance. Requiring that the County maintain control over what and where public utility easements are required is necessary because, through plat dedication, the County becomes the owner of those easements. The majority of

the time, public utility entities want to locate only across the front of the lot. Side and rear easement may be necessary on a case by case basis given the uniqueness of specific subdivisions and the specific utility, but to enable a surveyor or engineer to arbitrarily place them in an arbitrary or impracticable location on a subdivision plat leads to the county inheriting a host unnecessary private land encumbrances.

Recommending additional development to occur on a substandard dead-end street is atypical in more urban environments. However, there are a number of long substandard dead-end streets in rural areas that exist today as an evolutionary effect of age-old wagon trails, and not as a deliberate and intentional result of new street construction. Thus the public street right of way construction standards have never been applied to many unincorporated streets, and rather, the county has only provided operations, maintenance, and occasional safety improvements. The current ordinance does not allow development along a substandard public street. The proposal will allow development to occur provided traffic safety and road capacity is not reduced to unacceptable levels. It also builds-in a method by which the County can ensure the street is brought to standard over time without significant cost to the general public.

Past Action on this Item

The Western Weber Planning Commission considered this item and offered staff direction in their April 14, 2020 work session.

The Ogden Valley Planning Commission considered this item and offered staff direction in their April 7, 2020 work session.

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
- Published in a local newspaper

Staff Recommendation

Staff recommends that the Planning Commission offer a positive recommendation to the County Commission for file ZTA 2020-04, a proposal to require PUE's to be as specified by the County Engineer and to enable development along substandard streets under specific conditions.

This comes with the following findings:

1. That the proposal does not have negative effect on the general plans.
2. The proposal will not place unnecessary burden for offsite street improvements on any single land developer.
3. The proposal will ensure thoughtful and deliberate acquisition of public utility easements in a manner less impactful to land owners.
4. That the proposal is in the best interest of the health, safety, and welfare of the public.

Exhibits

- A. Proposed Ordinance Changes – Track Change Copy.
- B. Proposed Ordinance Changes – Clean Copy.

Revised July 10, 2020

1 **Title 106 Subdivisions**

2 ...

3 **Chapter 106-2 Subdivision Standards**

4 ...

5 **Sec 106-2-4 Lots**

6 ...

7 (i) *Easements.* Lots shall have a ten-foot public utility easement abutting the public street right-
8 of-way and spanning the lot width, except that this easement is not required in zones that
9 allow ~~no a zero~~ front setback. Other public utility easements shall ~~only~~ be provided ~~whereif,~~
10 ~~and only if,~~ authorized ~~or required~~ by the County Engineer ~~or Land Use Authority, who shall~~
11 ~~specify the easement's location and width, with a minimum width no less than five feet. If the~~
12 ~~applicant cannot demonstrate that surface water runoff onto adjacent lots or parcels will not~~
13 ~~exceed historic runoff rates, the land use authority may require that a land drain easement be~~
14 ~~provided by the applicant. The land drain shall be installed as a part of the subdivision~~
15 ~~improvements. easements for drainage through the subdivision and adjoining property be~~
16 ~~provided by the applicant. Easements for water, sewer, drainage, power lines and other~~
17 ~~utilities shall be provided where required, and at a width specified, by the County Engineer,~~
18 ~~but never a width less than five feet. -~~ ~~Where a subdivision is adjacent to a parcel with an~~
19 ~~agricultural use, and the agricultural use is at a lower elevation than the subdivision, a~~
20 ~~perimeter land drain easement shall be provided and a land drain shall be installed as part of~~
21 ~~the subdivision improvements in a manner that protects the agricultural use from surface water~~
22 ~~infiltration.~~

Commented [CE31]: New language

23

24 ...

25

26 **Sec 106-4-1 General Requirements**

27 ...

28 (h) New subdivisions with sole access from a terminal substandard public street ~~system, whether~~
29 ~~directly connected or connected via streets that meet county standard,~~ shall not be approved
30 until the substandard street is fully improved to county public work standards and adopted
31 right-of-way width.

32 (1) This requirement shall be waived if a traffic study, conducted by a qualified professional,
33 demonstrates that the existing substandard public street ~~system~~ from which the new
34 subdivision will gain access is adequate ~~and safe, or can be made adequate and safe with~~
35 ~~improvements from the applicant,~~ for the increased traffic demand of the new subdivision,
36 and if the Planning Director and County Engineer can mutually make the following
37 findings:

38 (4)a. That due to topographic or other environmental characteristics of the area, it is
39 unlikely that the terminal substandard street system will make a second connection to
40 the public street network within the next 10 years; ~~and~~

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41 ~~(2)~~b. That not providing a secondary connection to the public street network does not
42 conflict with a general plan, small area plan, master streets plan, or similar adopted
43 planning document; ~~and~~.

44 (2) In order for the provisions of (h)(1) to apply, owners having interest in the proposed
45 subdivision ~~have executed~~shall execute a ~~deferral~~substandard road agreement and notice
46 to new owners. The content of the substandard road agreement and notice shall be as
47 specified by the county. At a minimum, it shall:

48 a. require a deferral agreement that specifies that the owner or their successors and heirs
49 are responsible for their roughly proportionate share of improving the substandard
50 public street system at a time the county deems it necessary; ~~and~~

51 b. cause for the governing authority, at their option, to withhold any written protest filed
52 by the owner under the State Code's Assessment Area Act, provisions for local
53 districts, or any similar government revenue generation mechanism, from the final tally
54 of collected protests. bind the owners and their successors and heirs to not file a
55 written protest as otherwise allowed in State Code under the creation of a special
56 assessment area, special improvement district~~Assessment Area Act, the provisions~~
57 ~~for local districts, or any similar government revenue generation mechanism, intended~~
58 ~~to improve the terminal fund improvements to the substandard public street system.~~
59 ~~This requirement applies regardless of whether the terminal substandard public street~~
60 ~~later makes a second connection to the public street network. The revenue generated~~
61 by the mechanism shall be:

62 1. limited to the actual value, adjusted for market changes over time, of improving the
63 substandard public street to the standards applicable at the time of the
64 agreement's execution; and

65 2. only reinvested into improving the substandard street to the standards applicable
66 at the time of the agreement's execution, or applied to the total cost of improving
67 the street to an updated or better standard; and

68 c. be recorded to the property at the time of subdivision recordation, or sooner.

69 (3) No precise mathematical calculation is required to determine the roughly proportionate
70 share of improving the substandard public street, as provided in Section 106-4-1(h)(2).
71 However, an individualized determination shall be conducted for each lot. In determining
72 what is roughly proportionate, the following guidelines apply:

73 a. The individualized determination is required to show that the established roughly
74 proportionate share is related in both nature and extent to the impact of the developed
75 lot.

76 b. For each lot, the following factors shall be considered to determine their relevance to
77 the calculation: the minimum lot width of the applicable zone, the actual lot width,
78 average daily distance travelled, number of actual trips, the uses on the lot, average
79 daily trips related to those uses, weight of a typical vehicle related to those uses,
80 longevity of current ownership and longevity of existing development or uses as they

Commented [CE22]: Ogden Valley forwarded a positive recommendation for this text amendment, but asked the County Commission to pay particular attention to the way this paragraph was written, as it didn't sit comfortably with a number of them, but the majority were not ready to say it isn't needed.

I have rewritten this paragraph after their discussion to try to mitigate some of the discomfort. It is now reads less heavy handed in terms of a landowner's ability to file a protest, gives the governing authority more leniency, and limits the governing authority's scope on what can be assessed in one of these taxing areas and on what the additional tax can be spent. Hopefully this mitigates concerns that this provision can lead to the runaway government effect.

Commented [CE23]: New section desired by the Ogden Valley Planning Commission to help quantify what roughly proportionate means. "rough proportionality" has been tested through several court cases. There is no set method to calculate, but the governing authority needs to make the case that through individual development evaluations their determination of roughly proportionate needs to be related both in nature and extend to the impact of the existence of the development.

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81 relate to historical taxes paid, and any other consideration deemed necessary relative
82 to the lot's impact on the substandard street.

83 c. A lot owner may provide the county with a third-party study, conducted by a qualified
84 professional as defined in Section 101-1-7, to assist in determining the nature and
85 extent of the impact of the lot on the substandard street, or to analyze the financial
86 obligation of the lot owner, or both.

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1 **Title 106 Subdivisions**

2 ...

3 **Chapter 106-2 Subdivision Standards**

4 ...

5 **Sec 106-2-4 Lots**

6 ...

7 (i) *Easements.* Lots shall have a ten-foot public utility easement abutting the public street right-
8 of-way and spanning the lot width, except that this easement is not required in zones that
9 allow a zero front setback. Other public utility easements shall be provided if, and only if,
10 authorized or required by the County Engineer or Land Use Authority, who shall specify the
11 easement's location and width, with a minimum width no less than five feet. If the applicant
12 cannot demonstrate that surface water runoff onto adjacent lots or parcels will not exceed
13 historic runoff rates, the land use authority may require that a land drain easement be provided
14 by the applicant. The land drain shall be installed as a part of the subdivision improvements.
15 Where a subdivision is adjacent to a parcel with an agricultural use, and the agricultural use
16 is at a lower elevation than the subdivision, a perimeter land drain easement shall be provided
17 and a land drain shall be installed as part of the subdivision improvements in a manner that
18 protects the agricultural use from surface water infiltration.

19 ...

20 ...

21 **Sec 106-4-1 General Requirements**

22 ...

23 (h) New subdivisions with sole access from a terminal substandard public street, whether directly
24 connected or connected via streets that meet county standard, shall not be approved until the
25 substandard street is fully improved to county public work standards and adopted right-of-way
26 width.

27 (1) This requirement shall be waived if a traffic study, conducted by a qualified professional,
28 demonstrates that the existing substandard public street from which the new subdivision
29 will gain access is adequate and safe, or can be made adequate and safe with
30 improvements from the applicant, for the increased traffic demand of the new subdivision,
31 and if the Planning Director and County Engineer can mutually make the following
32 findings:

33 a. That due to topographic or other environmental characteristics of the area, it is unlikely
34 that the terminal substandard street system will make a second connection to the
35 public street network within the next 10 years; and

36 b. That not providing a secondary connection to the public street network does not
37 conflict with a general plan, small area plan, master streets plan, or similar adopted
38 planning document.

39 (2) In order for the provisions of (h)(1) to apply, owners having interest in the proposed
40 subdivision shall execute a substandard road agreement and notice to new owners. The
41 content of the substandard road agreement and notice shall be as specified by the county.
42 At a minimum, it shall:

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- 43 a. require a deferral agreement that specifies that the owner or their successors and heirs
44 are responsible for their roughly proportionate share of improving the substandard
45 public street system at a time the county deems it necessary;
- 46 b. cause for the governing authority, at their option, to withhold any written protest filed
47 by the owner under the State Code's Assessment Area Act, provisions for local
48 districts, or any similar government revenue generation mechanism, from the final tally
49 of collected protests. . The revenue generated by the mechanism shall be:
- 50 1. limited to the actual value, adjusted for market changes over time, of improving the
51 substandard public street to the standards applicable at the time of the
52 agreement's execution; and
- 53 2. only reinvested into improving the substandard street to the standards applicable
54 at the time of the agreement's execution, or applied to the total cost of improving
55 the street to an updated or better standard; and
- 56 c. be recorded to the property at the time of subdivision recordation, or sooner.
- 57 (3) No precise mathematical calculation is required to determine the roughly proportionate
58 share of improving the substandard public street, as provided in Section 106-4-1(h)(2).
59 However, an individualized determination shall be conducted for each lot. In determining
60 what is roughly proportionate, the following guidelines apply:
- 61 a. The individualized determination is required to show that the established roughly
62 proportionate share is related in both nature and extent to the impact of the developed
63 lot.
- 64 b. For each lot, the following factors shall be considered to determine their relevance to
65 the calculation: the minimum lot width of the applicable zone, the actual lot width,
66 average daily distance travelled, number of actual trips, the uses on the lot, average
67 daily trips related to those uses, weight of a typical vehicle related to those uses,
68 longevity of current ownership and longevity of existing development or uses as they
69 relate to historical taxes paid, and any other consideration deemed necessary relative
70 to the lot's impact on the substandard street.
- 71 c. A lot owner may provide the county with a third-party study, conducted by a qualified
72 professional as defined in Section 101-1-7, to assist in determining the nature and
73 extent of the impact of the lot on the substandard street, or to analyze the financial
74 obligation of the lot owner, or both.

Exhibit C

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 _____.

	AYE	NAY	ABSENT	ABSTAIN
Gage Froerer	_____	_____	_____	_____
Jim "H" Harvey	_____	_____	_____	_____
Scott K. Jenkins	_____	_____	_____	_____

Presiding Officer

Attest

Gage Froerer, Board of Commissioners Chair, Weber County

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