



Weber County Planning Division

To: Ogden Valley and Western Weber Planning Commissions
From: Charles Ewert, AICP
Date: May 28, 2015
Subject: Weber County Land Use Code Revision Process: Conditional Use Code

Background. The Ogden Valley Planning Commission reviewed the proposed conditional use code in their May 5th meeting. The Western Weber Planning Commission reviewed the proposed conditional use code in their May 12th meeting. Both had comments and minor revisions. It was a first reading of the proposal. This presentation is the second reading of it during work session, prior to it being formally presented to the public for public comment, and to the Planning Commissions for final recommendation to the County Commission.

Analysis. The following are specific changes provided to the code as requested by each Planning Commission. The Planning Commission that requested the changes is denoted in the balloons in the right hand column of the text. The comments highlighted in yellow are changes that may require specific attention.

Conditional Use Definition. The definition of a conditional use permit will be replaced with the definitions from the State Code.

Land Use Authority. There was discussion with both Planning Commissions about their role in making determinations that other authorities may also have governing jurisdiction over. Even though the Planning Commission, acting as the Land Use Authority, has discretion to require more than the experts may recommend (for example: Fire Marshal, Sheriff, Engineer), it will not usually be a good idea. Your experts will help you determine the threshold of reasonable, credible, and applicable. They will help keep the Land Use Authority from straying into an area that goes “to far,” or is arbitrary, capricious, or illegal. The revisions found in line 197-199 are on this point.

Water. The Ogden Valley Planning Commission had lengthy discussion about how water provisions may fit within the conditional use code. There is a desire to require evidence of “wet water” prior to CUP approval. To provide evidence of “wet water” the applicant will need to go to the expense of designing a culinary water system (which may involve drilling a well, designing a new system, designing an expansion to an existing system, etc.). This can become quite a costly expense to mandatorily require prior to the applicant having indication whether the use will be approved.

To be responsive to the Planning Commission’s water concerns, the following revisions have been added. Lines 110-112 have been added to require the applicant to provide feasibility letters for both water and sewer. In lines 127-137 the Planning Commission will find that the water standard has been revised to include additional specificity. This specificity is taken in some form from the subdivision chapter. It allows the Planning Commission to apply a condition of approval that mandates that evidence of “wet water” is provided prior to the execution of the land use. Because evidence of “wet water” is already a requirement to obtain a building permit, this may turn out to be a redundant clause; however, if the condition is applied at conditional use permit, and it is later determined that there is an insufficient source of water, then the CUP is invalid, and no longer approved.

Evidence of “wet water” is necessary prior to building permit approval, but to require it before the applicant knows whether the use can be approved may be excessive.

Code drafting, generally. The proposal may still have some drafting and legal work before being adoption ready.

The proposed changes are attached in redlined (Exhibit A) and clean (Exhibit B) copies. For the redlined copies the following is the key to interpretation:



Weber County Planning Division

~~Red strikeout indicates text being deleted.~~

Blue underline indicates text being added.

~~Green strikeout indicates text moving to another location.~~

Green double underline indicates text being moved to this location.

Planning Commission Consideration. I respectfully request that the Planning Commission carefully consider the proposal, and provide me general direction as to needed changes prior to it being formally presented for review and recommendation to the County Commission.

Attachments. In the attached exhibits the planning Commission will find the documents as listed below. They are being provided for the Planning Commission's reference, and may prove useful during our discussion.

- Exhibit A: (Proposed) Conditional Use Code with Track Changes
- Exhibit B: (Proposed) Conditional Use Code without Track Changes
- Exhibit C: Weber County Land Use Code Revision Process Workflow

Exhibit A: Proposed Conditional Use Code Amendment -- With Track Changes

1 **Sec. 101-1-7. - Definitions.**

2 ...

3 Use, conditional. ~~The term "conditional use" means a use, because of characteristics peculiar to it, or~~
4 ~~because of size, technological processes, or type of equipment, or because of the exact location with~~
5 ~~reference to surroundings, streets and existing improvements or demands upon public facilities, requires~~
6 ~~a special degree of control that mitigates or eliminates any detrimental impacts the use might have on the~~
7 ~~county, surrounding neighbors, or adjacent land uses and makes such uses consistent and compatible~~
8 ~~with other existing or permissible uses in the same districts, and assures that such uses shall not be~~
9 ~~adverse to the public interest.~~ "Conditional use" means a land use that, because of its unique characteristics
10 or potential impact on the county, surrounding neighbors, or adjacent land uses, may not be compatible in
11 some areas or may be compatible only if certain conditions are required that mitigate or eliminate the
12 detrimental impacts.

Comment [c1]: Taken straight from state code.

13 ...

14 **CHAPTER 4. - CONDITIONAL USES**

15

16 **Sec. 108-4-1. - Purpose and intent.**

17 (a) The purposes of this Chapter are to:

18 (1) provide for the intent of the respective zones, and to provide for the vision, goals, and objectives
19 of the respective general plans, by specifying general standards that may be applied by the
20 Land Use Authority to a use listed as a conditional use in this Land Use Code; and

Comment [c2]: Future change: reference the new land use table here.

21 (2) provide a reasonable process for the application for and timely review of a conditional use
22 permit.

23 (b) The intent of providing conditional use regulations is to provide allowance for additional uses in each
24 zone and give the Land Use Authority flexibility in applying reasonable conditions to effectively
25 manage unique characteristics or detrimental effects of those uses, on a case by case basis.
26 Conditions shall be related to the standards of this Chapter, or applicable requirements of this Land
27 Use Code.

28 ~~(a) The purpose of this chapter is to establish standards for land uses listed in each zone as a~~
29 ~~conditional use, and to provide for a reasonable application, review, and approval process for land~~
30 ~~uses that are specified as "conditional."~~

31 ~~(b) Conditional uses are intended to allow greater flexibility by providing a wider variety of uses in a~~
32 ~~zone, while at the same time allowing conditions to be applied, due to their unique characteristics or~~
33 ~~potential impacts on surrounding uses. These may be appropriate only in certain locations and/or~~
34 ~~under specific conditions that mitigate potential impacts. If impacts cannot be mitigated, the~~
35 ~~conditional use may be deemed incompatible in some areas.~~

36 (Ord. of 1956, § 22C-1; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

37 **Sec. 108-4-2. - Conditional use permit.**

38 (a) A conditional use permit shall be required for all uses listed as a conditional use in the Weber County
39 Land Use Code. The conditional use permit shall list all conditions and requirements, based on
40 applicable standards, determined appropriate to substantially mitigate the ~~impacts detrimental effects~~
41 created by the use in order to make it acceptable at the specific location.

Comment [c3]: See new CUP definition

42 (b) In the event a change is proposed from the conditions of the original approval, an amendment to the
43 original conditional use permit shall be required.

44 ~~(b)~~(c) A conditional use permit shall run with the property, unless the permit has expired, ~~or has been~~
45 revoked, or the use has been abandoned.

46 (Ord. of 1956, § 22C-2; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

47 **Sec. 108-4-3. ~~Review~~ Application and Review procedure.**

48 Applications for a conditional use permit shall be submitted to the planning division.

49 (1) ~~An application shall include:~~ The application shall include the information in the following list. For
50 those applications where no changes are proposed to an existing site or structure, or where the
51 application requirements are unnecessary to demonstrate compliance with applicable
52 ordinances and standards, the application requirements may be modified or consolidated by the
53 Planning Director or designee.

- 54 a. ~~a~~ A completed application form signed by the property owner or certified agent;
- 55 b. ~~a~~ An application fee. The payment of a partial application fee, or the submittal of plans for a
56 pre-submittal review, does not constitute a complete application.

57 c. ~~a~~ A written narrative ~~addressing the criteria of issuance section 108-4-4~~ explaining the
58 proposal. The narrative shall include, at a minimum, the following information:

- 59 1. the name of the project;
- 60 2. the name, home address, and, if applicable, business address, of the applicant;
- 61 3. as applicable, the name and business address of the project designer or engineer;
62 and
- 63 ~~4.~~ a written explanation of how the proposal complies with the applicable standards
64 of Section 108-4-4, and those applicable standards of Section 108-1 and Section
65 108-2; and

66 d. ~~a~~ d Detailed ~~location~~ vicinity map. The map shall include the following minimum information:

- 67 1. the name of the project;
- 68 2. a north arrow;
- 69 3. all significant natural and manmade features and existing structures within 200 feet
70 of any portion of the proposed project area;
- 71 4. the property boundaries of the proposal; and
- 72 ~~2-5.~~ the names and site addresses of adjacent property owners; and
- 73 e. a site plan of the proposal. The site plan shall be designed to provide, at a minimum, the
74 following information:

- 75 1. the name of the project;
- 76 2. the name, home, and if applicable, business address, of the applicant;
- 77 3. as applicable, the name and business address of the project designer or engineer;
- 78 4. the image shall be drawn to a scale that makes the project easily and clearly
79 legible;
- 80 5. a north arrow pointing to the left or top of the sheet;
- 81 6. the boundary of the site, including any building pad, public and private easements,
82 and other areas affected by the proposal;
- 83 7. the existing uses and ownership information for adjacent parcels;

Comment [c4]: Something that might change before final ordinance is brought to PC: Some of the application requirements are for commercial, industrial, multifamily, etc., and are too robust for other application types. I may move them into the design review chapter instead, and leave more general requirements here.

Comment [c5]: Check reference

Comment [c6]: Check reference

- 84 8. existing zoning;
- 85 9. total acreage of the entire affected property and, if the property is split by zoning,
- 86 the total acreage of property in each zone;
- 87 10. the location and width of existing and proposed roads, driveways, and parking
- 88 areas, as may be applicable;
- 89 11. the location of any existing and proposed manmade features, including, but not
- 90 limited to, bridges, railroad tracks, trails and pathways, structures, and fences;
- 91 12. the existing and, if applicable, proposed culinary water, irrigation water, and
- 92 sanitary sewer or septic infrastructure;
- 93 13. the existing and proposed topographic contours, including, if applicable, any details
- 94 necessary to explain proposed grade changes, fills or excavations, or any other
- 95 earth work, together with accompanied drainage plans, storm water pollution
- 96 prevention plans, and revegetation plans, as may be applicable;
- 97 14. the location and type of existing landscaping and vegetation, and proposed
- 98 changes thereto if any. If applicable, location and type of new landscaping and
- 99 vegetation;
- 100 15. The location of flood plain boundaries, if applicable; and
- 101 3.16. Any other proposed site improvements showing details and other applicable
- 102 design and architectural requirements specified in Section 108-1 and Section 108-
- 103 2; and
- 104 ~~Detailed building plans and site plans. Detailed building plans and site plans specifications shall be~~
- 105 ~~drawn to scale including electronic copies showing details and other applicable zoning requirements as~~
- 106 ~~which are outlined in chapter 1 of this title, Design review, and chapter 2 of this title, Ogden Valley~~
- 107 ~~Architectural, Landscape and Screening Standards.~~
- 108 ~~a. Accompanying documents including water and wastewater feasibility letters.~~
- 109 ~~b. Any additional pertinent information needed to adequately describe the proposal.~~
- 110 ~~f. culinary water and sanitary sewer or septic verification, as may be applicable for the~~
- 111 ~~specific use. Culinary water and sanitary sewer or septic verification shall include feasibility~~
- 112 ~~letters from the applicable water and sanitary sewer or septic entity or agency;~~
- 113 ~~g. A requirement that the applicant submit applicable impact studies or other technical studies~~
- 114 ~~that may be necessary to provide evidence of anticipated detrimental effects of the~~
- 115 ~~proposal or evidence of compliance with the applicable standards, as may be required by~~
- 116 ~~the Planning Director or County Engineer, regarding grading, drainage, traffic, geologic~~
- 117 ~~hazards, etc., and~~
- 118 ~~e.h. Any additional pertinent information needed to adequately describe the proposal, or~~
- 119 ~~provide evidence of compliance with the applicable standards, as determined by the~~
- 120 ~~Planning Director.~~
- 121 ~~d.i. For those applications where no changes are proposed to an existing structure, the~~
- 122 ~~application requirements may be modified by the planning director.~~
- 123 (2) Application submittal and review.
- 124 a. ~~The application review procedure for proposed conditional uses~~ The County's review of a
- 125 conditional use permit application ~~and the site plan will ensure~~ is intended to verify

Comment [c7]: Water and sewer feasibility. See also beefed up water standard in 108-4-5.

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- compliance with ~~all~~ applicable ordinances and provide appropriate and reasonable mitigation of anticipated detrimental effects.
- b. The application review procedure ~~shall contain the following components~~ is as follows:
1. Pre- application meeting. Prior to submission of a complete application, a pre-application meeting is required to be held with planning staff, in which an applicant will provide preliminary ~~site plans are reviewed and~~ for planning staff to review and discussed discuss with the applicant. This meeting is intended to provide the applicant with a better understanding of the conditional use process and requirements in order to assist with the submission of a complete application. ~~prior to finished plans being submitted for review;~~
 2. Complete application submission. Upon assembling a complete application, the applicant may submit it for substantive review. Incomplete applications shall not be accepted. Staff will review the application for completeness. In the event the application is incomplete, staff will return it to the applicant with a list of deficiencies. A review of the application for completeness;
 3. Referral of the application to reviewers. Upon acceptance of an application, planning staff shall transmit it to applicable reviewers as may be determined necessary to verify compliance with the standards of this Chapter, or relevant requirements of any other Chapter of this Land Use Code.
 4. Reviewer's recommendations. Within a reasonable timeframe, applicable reviewers shall forward to planning staff reasonable recommendations for conditions necessary to substantially mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.
 5. Planning staff review and recommendation to the Land Use Authority. Planning staff shall review the application, together with any reasonable recommendations from applicable reviewers, to determine compliance with this Land Use Code. Planning staff shall assemble a staff recommendation, with conditions and findings, for the application, then forward the recommendation with the application to the Land Use Authority for a final decision.
 - 3.6. Land Use Authority review and decision. Upon receipt of the application and staff recommendation the Land Use Authority shall make final decision on whether the application complies with this Land Use Code, in accordance with the requirements of Section 108-4-4. Final decisions shall be accompanied by any applicable conditions, and relevant findings.
 7. The Planning Commission is the Land Use Authority for conditional use permits. De minimis revisions to a previously approved conditional use permit may be approved by the Planning Director provided it can be determined that the changes are slight, inconsequential, and not in violation of any substantive provision of this code. The planning director's written approval of a de minimis revision shall be appended to the written decision of the planning commission. Revisions that are de minimis shall not require public notice.

Comment [c8]: Check reference

Comment [c9]: This is a placeholder until the Land Use Authority matrix is completed and the land use table is completed. It may change after that.

- 167 1. ~~A review of the proposed site plan for compliance with applicable sections of the~~
 168 ~~Land Use Code;~~
 169 2. ~~A review of the proposed use and site plan to ascertain potential negative impacts~~
 170 ~~and whether reasonable conditions can be imposed to mitigate those impacts.~~

171 (Ord. of 1956, § 22C-3; Ord. No. 4-71; Ord. No. 2002-20; Ord. No. 2010-26, 11-16-2010)

172 **Sec. 108-4-4. Decision requirements. Criteria for issuance of conditional use permit.**

173 ~~Conditional uses shall be approved on a case-by-case basis. The planning commission shall not~~
 174 ~~authorize a conditional use permit unless evidence is presented to establish:~~

175 (a) ~~A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to~~
 176 ~~substantially mitigate the reasonably anticipated detrimental effects of the proposed use in~~
 177 ~~accordance with the standards of this Chapter, or relevant standards or requirements of any other~~
 178 ~~Chapter of this Land Use Code. When considering any of the standards, the Land Use Authority~~
 179 ~~shall consider the reasonably anticipated detrimental effects of the proposed use in the context of~~
 180 ~~current conditions and, to the extent supported by law, the policy recommendations of the applicable~~
 181 ~~general plan.~~

182 (b) ~~If the reasonably anticipated detrimental effects of a proposed conditional use cannot be~~
 183 ~~substantially mitigated by the proposal or the imposition of reasonable conditions to achieve~~
 184 ~~compliance with applicable standards, the conditional use may be denied.~~

185 ~~(1) Reasonably anticipated detrimental effects of a proposed conditional use can be substantially~~
 186 ~~mitigated by the proposal or by the imposition of reasonable conditions to achieve compliance~~
 187 ~~with applicable standards. Examples of potential negative impacts are odor, vibration, light,~~
 188 ~~dust, smoke, or noise.~~

189 ~~(2) That the proposed use will comply with the regulations and conditions specified in the Land Use~~
 190 ~~Code and other applicable agency standards for such use.~~

191 (Ord. of 1956, § 22C-4; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

192 **Sec. 108-4-5. Conditional use standards.**

193 ~~The following is a list of standards that may be applied to a conditional use permit. The Land Use~~
 194 ~~Authority may apply conditions of approval related to any of the below standards, provided that:~~

- 195 (1) ~~credible evidence exists that the application of the standard is relevant to the use; and~~
 196 (2) ~~credible evidence exists that the conditions are reasonable and necessary to substantially~~
 197 ~~mitigate detrimental effects of the use as specified in the standard.~~

198 ~~The Land Use Authority shall refer to the expertise and experience of applicable reviewers and qualified~~
 199 ~~professionals to help determine credible evidence, relevant standards, and reasonable conditions.~~

- 201 (3) ~~Standards relating to safety for persons and property.~~
 202 a. ~~Mitigate injury, loss of life, property damage, or other disproportionate demand for services~~
 203 ~~on applicable fire fighting agencies.~~
 204 b. ~~Mitigate injury, loss of life, or other disproportionate demand for services on applicable~~
 205 ~~emergency medical service agencies.~~
 206 c. ~~Mitigate injury, loss of life, property damage, criminal activity, the need for added peace~~
 207 ~~keeping activities, or other disproportionate demand for services on the County Sheriff's~~
 208 ~~Office.~~

Comment [c10]: Definition of "mitigate";

1: to cause to become less harsh or hostile : mollify <aggressiveness may be mitigated or ... channeled — Ashley Montagu>
 2a : to make less severe or painful : alleviate
 b : extenuate

Comment [c11]: From State Code. UCA §17-27a-506.

In essence: find a way to enable the use, but mitigate the negative effects. Use standards to help mitigate the effects.

Comment [c12]: Straight from State Code. UCA §17-27a-506.

Comment [c13]: Asking the Planning Commission to allow the agency leads and other reviewers to help identify the trouble spots.

Comment [c14]: Examples of conditions for mitigation may include any reasonable method of fire hazard avoidance or fire fighting, including, but not limited to: coordination and cooperation with the local fire authorities, site design and layout; building, structure, or other facility design and layout; defensible space; ingress and egress; emergency evacuation; fire fighting facilities; fire flow capacity; fire apparatus access; fire fighting staging; and other related fire hazards mitigation as authorize by local, state, and federal laws.

Comment [c15]: Examples of conditions for mitigation may include coordination and cooperation with the fire and EMS agencies, and compensation for the need for additional fire and EMS presence beyond typical service levels.

Comment [c16]: Examples of conditions for mitigation may include coordination and cooperation with the Sheriff's Office, and compensation for the need for additional Sheriff's Deputy presence beyond typical service levels.

- 209 d. Mitigate injury, loss of life, or property damage of any known geologic hazard or flood
 210 hazard, if credible evidence of such a detrimental effect is present.
 211 e. Mitigate the creation of traffic hazards and right-of-way conflicts, including mitigation of
 212 traffic hazards caused by:
 213 1. the location, massing, size, or height of buildings, structures, and other facilities,
 214 including signage, fencing and landscaping;
 215 2. the frequency of heavy truck traffic to and from the site (i.e. import and export of
 216 materials, deliveries, etc.) to minimize right-of-way conflicts with regular vehicle and
 217 pedestrian traffic.
 218 f. Substantially mitigate the likelihood that the proposed use or facility may cause bodily
 219 injury or property damage to potential persons or property in the area.
 220 (4) Standards relating to infrastructure, amenities, and services.
 221 a. Mitigate undesirable vehicle or pedestrian traffic patterns or volumes.
 222 b. Mitigate internal circulation inefficiencies and provide for adequate onsite parking given the
 223 unique specificities of the proposed use or the proposed site plan.
 224 c. Mitigate material degradation of the level of service of any street.
 225 d. Mitigate material degradation of the level of service of any storm water drainage facility or
 226 infrastructure, and adequately provide for storm water drainage from the site.
 227 c. Mitigate material degradation of the level of service of any culinary and irrigation water
 228 facility or infrastructure, and, if applicable, provide adequate culinary and irrigation water
 229 service to the site. To help determine adequacy of culinary water provisions the Land Use
 230 Authority may require:
 231 1. written verification that the culinary water source of any new public water system can
 232 meet the requirements of the Utah Division of Drinking Water and/or the Weber
 233 Morgan Health Department; or
 234 2. a capacity assessment letter from the Utah Division of Drinking Water for the
 235 expansion of any existing public water system; or
 236 3. written verification that the source of any well providing culinary water for the use
 237 meets the requirements of the Weber Morgan Health Department. This verification
 238 shall be based on a test of the new or existing well.
 239 e. Mitigate material degradation of the level of service of any sanitary sewer service, and, if
 240 applicable, provide adequate sanitary sewer service to, or septic system on, the site.
 241 f. Mitigate material degradation of the level of service of any other utility, and, if applicable,
 242 adequately provide such utility services to the site.
 243 g. Mitigate material degradation of the level of service, functionality, capacity, or usability of
 244 the existing open spaces, public features, or recreational amenities in the area, and, if
 245 applicable, adequately provide additional open spaces, public features, or recreational
 246 amenities.
 247 h. Mitigate any disproportionate demand for government services, generally.
 248 (5) Standards relating to the environment.
 249 a. Mitigate detrimental effects on the natural features of the site, and the surrounding affected
 250 areas, if credible evidence of such a detrimental effect is present; including, but not limited
 251 to, rivers and creeks, lakes, ponds, and reservoirs, wetlands, drainage ways, ground water
 252 protection, and slopes.
 253 b. Mitigate detrimental effects on the natural environment of the site, and the surrounding
 254 affected areas, if credible evidence of such a detrimental effect is present; including, but
 255 not limited to, wildlife, air quality, water quality (including erosion control), local natural
 256 resources, natural vegetation (including protection against noxious or invasive species),
 257 and wildland areas.
 258 (6) Standards relating to the current qualities and characteristics of the surrounding area and
 259 compliance with the intent of the general plan.
 260 a. Provided buffering, screening, or fencing of the use or site, or provide other landscape
 261 features, sufficient to mitigate the proximity of incompatible uses, objectionable site
 262 features, and disharmony with existing and future land uses in the area.
 263 b. Providing hours of operation appropriate for the general nature and character of existing
 264 land uses in the area to mitigate conflict or incompatibility with surrounding uses by

Comment [c17]: Examples of conditions for mitigation may include appropriate design, construction, and location of structures, buildings and facilities.

Comment [18]: This standard is intended to be the "umbrella" standard to catch what the others do not. Much more difficult to track the outcomes, and the resulting conditions are going to be more difficult to defend without really good findings, but it may be useful when a proposal is presented that other standards do not catch.

Comment [c19]: Examples of conditions for mitigation: this may include provision for, relocation of, or protection of infrastructure or amenities. Mitigation may take into consideration the existing and, if applicable, proposed configuration and size of streets, driveways, driveway and parking lot approaches, parking lots and/or parking spaces, and pedestrian pathways. Mitigation may also consider peak traffic demands, and other applicable infrastructure constraints.

Comment [c20]: Examples of conditions for mitigation may include the provision for infrastructure or amenities for the reduction of vehicle and pedestrian conflicts; the provision of sufficient space for loading and unloading; the provision of sufficient space and access to waste collection facilities; and the provision for additional parking lot standards beyond those required in Section 108-8, including, but not limited to, number of parking spaces, parking space dimensions, parking lot isle dimensions, parking lot isle and driveway connections and configuration, and cross access easements or agreements for adjacent properties.

Comment [c21]: Beefed up water standards. May be revised pending formal health department review and Div, Drinking Water Review.

Comment [c22]: There can be a lot of subjectivity in this determination. Stick to the facts. Try not to be tempted to deny a permit because it does not comply with your interpretation of this. Try not to use this to overdesign the proposal so much that it is cost prohibitive. Instead, find reasonable ways to help the proposal fit in better. Look to existing design features in the area. Look to the design review standards for help. Strengthen the design review standards if necessary.

Comment [c23]: Consolidated the two landscape standards into one.

Comment [c24]: Rather than denying an application because "it doesn't fit," help it fit by requiring these types of site features.

Comment [c25]: Changed "unattractive" to "objectionable."

- c. Provide reclamation, restoration, clean-up, or beautification of the site as the use evolves, or as the use is terminated, in order to mitigate aesthetic and nuisance effects.
 - d. Mitigate nuisance factors including, but not limited to, light and glare, noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, electromagnetic disturbances, and radiation, if credible evidence of such a nuisance is present.
 - e. Mitigate detrimental effects of the use considering the combined effect of it and other main uses on the property.
 - f. To the extent supported by law, mitigate other general detrimental effects in a manner that sustains the objectives and intentions of the County's general plan, future land use map (or proposed land use map) and this Land Use Code.
- (7) Standards Relating to Performance.
- a. Mitigate potential noncompliance or poor performance by providing appropriate performance measures, including, but not limited to, completion or performance bonds, completion agreements, and development agreements.
 - b. Mitigate potential noncompliance or poor performance by requiring regular review or monitoring of the use by an appropriately qualified professional.
- (8) Standards Generally
- a. Mitigate unsustainable effects on the economy of the surrounding area or County, generally, if credible evidence of such negative effects is present.
 - b. Provide appropriate mitigation of detrimental effects as provided elsewhere in this land use code in a manner that provides compliance with the provisions of the land use code, and any other federal, state, or local regulation, as may be applicable.
- (4)(9) Voluntary contributions providing satisfactory compliance with applicable standards. When considering a conditional use the Land Use Authority has discretion to determine satisfactory compliance with any applicable standard, requirement, provision, or restriction of this Chapter if the applicant has voluntarily offered a more desirable alternative to mitigate the reasonably anticipated detrimental effects of the use than those otherwise specified here. The Land Use Authority may require a development agreement to execute the voluntary alternative.

293 **Sec. 108-4-65. - Appeal.**

- (a) ~~The decision of the planning commission~~ Land Use Authority may be appealed to the county commission ~~Appeal Authority, in accordance with section 102-3 of this land use code, by filing such appeal within 15 days after the written decision of the planning commission~~ Land Use Authority.
 - (b) ~~The county commission~~ Appeal Authority may uphold or reverse the decision of the planning commission ~~Land Use Authority and impose any additional conditions that it may deem necessary in granting an appeal. The decision of the county commission shall be final.~~
 - (c) The Board of Adjustment is the Appeal Authority for conditional use permits. |
- 301 ~~A conditional use permit may be revoked by the planning commission upon failure to comply with the conditional use permit.~~

Comment [c26]: This is a placeholder until the Appeal Authority section has been re-written. It may change after that.

303 (Ord. of 1956, § 22C-5; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

304 **Sec. 108-4-76. - Permit and improvement guarantee.**

- (a) Prior to the issuance of a conditional use permit the applicant shall submit the appropriate required letters and/or permits from the appropriate review agencies.
- (b) Prior to the issuance of certificate of occupancy permit, a business license or any other permit required by the county, the developer shall deposit funds into an escrow account with the county engineering division for all off-site improvements and on-site landscaping, as may be allowed by law, as per the approved site plan, and for the completion of any ~~un~~ in ~~completed~~ improvements or conditions of approval.

312 (Ord. of 1956, § 22C-6; Ord. No. 4-71; Ord. No. 21-83; Ord. No. 2002-20; Ord. No. 2010-26, 11-16-2010)

313 | **Sec. 108-4-87. -- Revocation and Expiration.**
314 | (a) A conditional use permit may be revoked by the Land Use Authority upon failure to comply with any
315 | applicable standard, requirement, provision, restriction, or condition of approval. A conditional use
316 | permit may also be revoked by the Land Use Authority if the use evolves to be more impactful than
317 | originally proposed, anticipated, evaluated or reviewed.

318 | ~~(a)~~(b) Unless there is substantial action under a conditional use permit within a maximum period of one
319 | year of its approval from the ~~planning-commission~~Land Use Authority, the conditional use permit
320 | shall expire. The ~~planning-commission~~Land Use Authority may grant a maximum extension of six
321 | months. Upon expiration of any extension of time granted by the planning commission, the approval
322 | for the conditional use permit shall expire and become null and void.

323 | (Ord. of 1956, § 22C-7; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

324 | **Sec. 108-4-98. - Discontinued-Abandoned use.**

325 | When an approved conditional use has been discontinued and/or abandoned for a period of one
326 | year, the conditional use permit becomes null and void. In order to restore the conditional use, a new
327 | application shall be filed for review and consideration by the ~~planning-commission~~Land Use Authority.

328 | (Ord. of 1956, § 22C-8; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

329

Comment [c27]: Need to specify revocation procedures. Will do in the administrative section 102-4 in another round of amendments.

Exhibit B: Proposed Conditional Use Code Amendments -- Clean Copy

1 **Sec. 101-1-7. - Definitions.**

2 ...

3 Use, conditional. "Conditional use" means a land use that, because of its unique characteristics or
4 potential impact on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some
5 areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental
6 impacts.

7 ...

8 **CHAPTER 4. - CONDITIONAL USES**

9

10 **Sec. 108-4-1. - Purpose and intent.**

11 (a) The purposes of this Chapter are to:

12 (1) provide for the intent of the respective zones, and to provide for the vision, goals, and objectives
13 of the respective general plans, by specifying general standards that may be applied by the
14 Land Use Authority to a use listed as a conditional use in this Land Use Code; and

15 (2) provide a reasonable process for the application for and timely review of a conditional use
16 permit.

17 (b) The intent of providing conditional use regulations is to provide allowance for additional uses in each
18 zone and give the Land Use Authority flexibility in applying reasonable conditions to effectively
19 manage unique characteristics or detrimental effects of those uses, on a case by case basis.
20 Conditions shall be related to the standards of this Chapter, or applicable requirements of this Land
21 Use Code.

22 (Ord. of 1956, § 22C-1; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

23 **Sec. 108-4-2. - Conditional use permit.**

24 (a) A conditional use permit shall be required for all uses listed as a conditional use in the Weber County
25 Land Use Code. The conditional use permit shall list all conditions and requirements, based on
26 applicable standards, determined appropriate to substantially mitigate the detrimental effects created
27 by the use in order to make it acceptable at the specific location.

28 (b) In the event a change is proposed from the conditions of the original approval, an amendment to the
29 original conditional use permit shall be required.

30 (c) A conditional use permit shall run with the property, unless the permit has expired, been revoked, or
31 the use has been abandoned.

32 (Ord. of 1956, § 22C-2; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

33 **Sec. 108-4-3. – Application and review procedure.**

34 Applications for a conditional use permit shall be submitted to the planning division.

35 (1) The application shall include the information in the following list. For those applications where
36 no changes are proposed to an existing site or structure, or where the application requirements
37 are unnecessary to demonstrate compliance with applicable ordinances and standards, the
38 application requirements may be modified or consolidated by the Planning Director or designee.

39 a. a completed application form signed by the property owner or certified agent;

40 b. an application fee. The payment of a partial application fee, or the submittal of plans for a
41 pre-submittal review, does not constitute a complete application

- 42 c. a written narrative explaining the proposal. The narrative shall include, at a minimum, the
43 following information:
- 44 1. the name of the project;
 - 45 2. the name, home address, and, if applicable, business address, of the applicant;
 - 46 3. as applicable, the name and business address of the project designer or engineer;
47 and
 - 48 4. a written explanation of how the proposal complies with the applicable standards
49 of [Section 108-4-4](#), and those applicable standards of Section 108-1 and Section
50 108-2; and
- 51 d. a detailed vicinity map. The map shall include the following minimum information:
- 52 1. the name of the project;
 - 53 2. a north arrow;
 - 54 3. all significant natural and manmade features and existing structures within 200 feet
55 of any portion of the proposed project area;
 - 56 4. the property boundaries of the proposal; and
 - 57 5. the names and site addresses of adjacent property owners; and
- 58 e. a site plan of the proposal. The site plan shall be designed to provide, at a minimum, the
59 following information:
- 60 1. the name of the project;
 - 61 2. the name, home, and if applicable, business address, of the applicant;
 - 62 3. as applicable, the name and business address of the project designer or engineer;
 - 63 4. the image shall be drawn to a scale that makes the project easily and clearly
64 legible;
 - 65 5. a north arrow pointing to the left or top of the sheet;
 - 66 6. the boundary of the site, including any building pad, public and private easements,
67 and other areas affected by the proposal;
 - 68 7. the existing uses and ownership information for adjacent parcels;
 - 69 8. existing zoning;
 - 70 9. total acreage of the entire affected property and, if the property is split by zoning,
71 the total acreage of property in each zone;
 - 72 10. the location and width of existing and proposed roads, driveways, and parking
73 areas, as may be applicable;
 - 74 11. the location of any existing and proposed manmade features, including, but not
75 limited to, bridges, railroad tracks, trails and pathways, structures, and fences;
 - 76 12. the existing and, if applicable, proposed culinary water, irrigation water, and
77 sanitary sewer or septic infrastructure;
 - 78 13. the existing and proposed topographic contours, including, if applicable, any details
79 necessary to explain proposed grade changes, fills or excavations, or any other

- 80 earth work, together with accompanied drainage plans, storm water pollution
- 81 prevention plans, and revegetation plans, as may be applicable;
- 82 14. the location and type of existing landscaping and vegetation, and proposed
- 83 changes thereto if any. If applicable, location and type of new landscaping and
- 84 vegetation;
- 85 15. The location of flood plain boundaries, if applicable; and
- 86 16. Any other proposed site improvements showing details and other applicable design
- 87 and architectural requirements specified in Section 108-1 and Section 108-2; and
- 88 f. culinary water and sanitary sewer or septic verification, as may be applicable for the
- 89 specific use. Culinary water and sanitary sewer or septic verification shall include feasibility
- 90 letters from the applicable water and sanitary sewer or septic entity or agency;
- 91 g. applicable impact studies or other technical studies that may be necessary to provide
- 92 evidence of anticipated detrimental effects of the proposal or evidence of compliance with
- 93 the applicable standards, as may be required by the Planning Director or County Engineer;
- 94 and
- 95 h. Any additional pertinent information needed to adequately describe the proposal, or
- 96 provide evidence of compliance with the applicable standards, as determined by the
- 97 Planning Director.
- 98 i.

99 (2) Application submittal and review.

- 100 a. The County's review of a conditional use permit application is intended to verify compliance
- 101 with applicable ordinances and provide appropriate and reasonable mitigation of
- 102 anticipated detrimental effects.
- 103 b. The application review procedure is as follows:
- 104 1. Pre- application meeting. Prior to submission of a complete application, a pre-
- 105 application meeting is required to be held with planning staff, in which an applicant
- 106 will provide preliminary plans for planning staff to review and discuss with the
- 107 applicant. This meeting is intended to provide the applicant with a better
- 108 understanding of the conditional use process and requirements in order to assist
- 109 with the submission of a complete application.
- 110 2. Complete application submission. Upon assembling a complete application, the
- 111 applicant may submit it for substantive review. Incomplete applications shall not be
- 112 accepted. Staff will review the application for completeness. In the event the
- 113 application is incomplete, staff will return it to the applicant with a list of
- 114 deficiencies.
- 115 3. Referral of the application to reviewers. Upon acceptance of an application,
- 116 planning staff shall transmit it to applicable reviewers as may be determined
- 117 necessary to verify compliance with the standards of this Chapter, or relevant
- 118 requirements of any other Chapter of this Land Use Code.
- 119 4. Reviewer's recommendations. Within a reasonable timeframe, applicable reviewers
- 120 shall forward to planning staff reasonable recommendations for conditions
- 121 necessary to substantially mitigate the reasonably anticipated detrimental effects of
- 122 the proposed use in accordance with applicable standards.

- 123 5. Planning staff review and recommendation to the Land Use Authority. Planning
124 staff shall review the application, together with any reasonable recommendations
125 from applicable reviewers, to determine compliance with this Land Use Code.
126 Planning staff shall assemble a staff recommendation, with conditions and findings,
127 for the application, then forward the recommendation with the application to the
128 Land Use Authority for a final decision.
- 129 6. Land Use Authority review and decision. Upon receipt of the application and staff
130 recommendation the Land Use Authority shall make final decision on whether the
131 application complies with this Land Use Code, in accordance with the requirements
132 of Section 108-4-4. Final decisions shall be accompanied by any applicable
133 conditions, and relevant findings.
- 134 7. The Planning Commission is the Land Use Authority for conditional use permits. De
135 minimis revisions to a previously approved conditional use permit may be approved
136 by the Planning Director provided it can be determined that the changes are slight,
137 inconsequential, and not in violation of any substantive provision of this code. The
138 planning director's written approval of a de minimis revision shall be appended to
139 the written decision of the planning commission. Revisions that are de minimis shall
140 not require public notice.

141 (Ord. of 1956, § 22C-3; Ord. No. 4-71; Ord. No. 2002-20; Ord. No. 2010-26, 11-16-2010)

142 **Sec. 108-4-4. – Decision requirements.**

- 143 (a) A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to
144 substantially mitigate the reasonably anticipated detrimental effects of the proposed use in
145 accordance with the standards of this Chapter, or relevant standards or requirements of any other
146 Chapter of this Land Use Code. When considering any of the standards, the Land Use Authority
147 shall consider the reasonably anticipated detrimental effects of the proposed use in the context of
148 current conditions and, to the extent supported by law, the policy recommendations of the applicable
149 general plan.
- 150 (b) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be
151 substantially mitigated by the proposal or the imposition of reasonable conditions to achieve
152 compliance with applicable standards, the conditional use may be denied.

153 (Ord. of 1956, § 22C-4; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

154 **Sec. 108-4-5. – Conditional use standards.**

155 The following is a list of standards that may be applied to a conditional use permit. The Land Use
156 Authority may apply conditions of approval related to any of the below standards, provided that:

- 157 (1) credible evidence exists that the application of the standard is relevant to the use; and
158 (2) credible evidence exists that the conditions are reasonable and necessary to substantially
159 mitigate detrimental effects of the use as specified in the standard.

160 The Land Use Authority shall refer to the expertise and experience of applicable reviewers and qualified
161 professionals to help determine credible evidence, relevant standards, and reasonable conditions.

- 162 (3) Standards relating to safety for persons and property.

- 163 a. Mitigate injury, loss of life, property damage, or other disproportionate demand for services
 164 on applicable fire fighting agencies.
- 165 b. Mitigate injury, loss of life, or other disproportionate demand for services on applicable
 166 emergency medical service agencies.
- 167 c. Mitigate injury, loss of life, property damage, criminal activity, the need for added peace
 168 keeping activities, or other disproportionate demand for services on the County Sheriff's
 169 Office.
- 170 d. Mitigate injury, loss of life, or property damage of any known geologic hazard or flood
 171 hazard, if credible evidence of such a detrimental effect is present.
- 172 e. Mitigate the creation of traffic hazards and right-of-way conflicts, including mitigation of
 173 traffic hazards caused by:
- 174 1. the location, massing, size, or height of buildings, structures, and other facilities,
 175 including signage, fencing and landscaping;
- 176 2. the frequency of heavy truck traffic to and from the site (i.e. import and export of
 177 materials, deliveries, etc.) to minimize right-of-way conflicts with regular vehicle and
 178 pedestrian traffic.
- 179 f. Substantially mitigate the likelihood that the proposed use or facility may cause bodily
 180 injury or property damage to potential persons or property in the area.
- 181 (4) Standards relating to infrastructure, amenities, and services.
- 182 a. Mitigate undesirable vehicle or pedestrian traffic patterns or volumes.
- 183 b. Mitigate internal circulation inefficiencies and provide for adequate onsite parking given the
 184 unique specificities of the proposed use or the proposed site plan.
- 185 c. Mitigate material degradation of the level of service of any street.
- 186 d. Mitigate material degradation of the level of service of any storm water drainage facility or
 187 infrastructure, and adequately provide for storm water drainage from the site.
- 188 c. Mitigate material degradation of the level of service of any culinary and irrigation water
 189 facility or infrastructure, and, if applicable, provide adequate culinary and irrigation water
 190 service to the site. To help determine adequacy of culinary water provisions the Land Use
 191 Authority may require:
- 192 1. written verification that the culinary water source of any new public water system can
 193 meet the requirements of the Utah Division of Drinking Water and/or the Weber
 194 Morgan Health Department; or
- 195 2. a capacity assessment letter from the Utah Division of Drinking Water for the
 196 expansion of any existing public water system; or
- 197 3. written verification that the source of any well providing culinary water for the use
 198 meets the requirements of the Weber Morgan Health Department. This verification
 199 shall be based on a test of the new or existing well.
- 200 e. Mitigate material degradation of the level of service of any sanitary sewer service, and, if
 201 applicable, provide adequate sanitary sewer service to, or septic system on, the site.
- 202 f. Mitigate material degradation of the level of service of any other utility, and, if applicable,
 203 adequately provide such utility services to the site.
- 204 g. Mitigate material degradation of the level of service, functionality, capacity, or usability of
 205 the existing open spaces, public features, or recreational amenities in the area, and, if
 206 applicable, adequately provide additional open spaces, public features, or recreational
 207 amenities.
- 208 h. Mitigate any disproportionate demand for government services, generally.
- 209 (5) Standards relating to the environment.
- 210 a. Mitigate detrimental effects on the natural features of the site, and the surrounding affected
 211 areas, if credible evidence of such a detrimental effect is present; including, but not limited
 212 to, rivers and creeks, lakes, ponds, and reservoirs, wetlands, drainage ways, ground water
 213 protection, and slopes.
- 214 b. Mitigate detrimental effects on the natural environment of the site, and the surrounding
 215 affected areas, if credible evidence of such a detrimental effect is present; including, but
 216 not limited to, wildlife, air quality, water quality (including erosion control), local natural
 217 resources, natural vegetation (including protection against noxious or invasive species),
 218 and wildland areas.

- 219 (6) Standards relating to the current qualities and characteristics of the surrounding area and
 220 compliance with the intent of the general plan.
- 221 a. Provided buffering, screening, or fencing of the use or site, or provide other landscape
 222 features, sufficient to mitigate the proximity of incompatible uses, objectionable site
 223 features, and disharmony with existing and future land uses in the area.
 - 224 b. Providing hours of operation appropriate for the general nature and character of existing
 225 land uses in the area to mitigate conflict or incompatibility with surrounding uses by
 - 226 c. Provide reclamation, restoration, clean-up, or beautification of the site as the use evolves,
 227 or as the use is terminated, in order to mitigate aesthetic and nuisance effects.
 - 228 d. Mitigate nuisance factors including, but not limited to, light and glare, noise, vibrations,
 229 smoke, dust, dirt, odors, gases, noxious matter, heat, electromagnetic disturbances, and
 230 radiation, if credible evidence of such a nuisance is present.
 - 231 e. Mitigate detrimental effects of the use considering the combined effect of it and other main
 232 uses on the property.
 - 233 f. To the extent supported by law, mitigate other general detrimental effects in a manner that
 234 sustains the objectives and intentions of the County's general plan, future land use map (or
 235 proposed land use map) and this Land Use Code,
- 236 (7) Standards Relating to Performance.
- 237 a. Mitigate potential noncompliance or poor performance by providing appropriate
 238 performance measures, including, but not limited to, completion or performance bonds,
 239 completion agreements, and development agreements.
 - 240 b. Mitigate potential noncompliance or poor performance by requiring regular review or
 241 monitoring of the use by an appropriately qualified professional.
- 242 (8) Standards Generally
- 243 a. Mitigate unsustainable effects on the economy of the surrounding area or County,
 244 generally, if credible evidence of such negative effects is present.
 - 245 b. Provide appropriate mitigation of detrimental effects as provided elsewhere in this land use
 246 code in a manner that provides compliance with the provisions of the land use code, and
 247 any other federal, state, or local regulation, as may be applicable.
- 248 (9) Voluntary contributions providing satisfactory compliance with applicable standards. When
 249 considering a conditional use the Land Use Authority has discretion to determine satisfactory
 250 compliance with any applicable standard, requirement, provision, or restriction of this Chapter if
 251 the applicant has voluntarily offered a more desirable alternative to mitigate the reasonably
 252 anticipated detrimental effects of the use than those otherwise specified here. The Land Use
 253 Authority may require a development agreement to execute the voluntary alternative.

254 **Sec. 108-4-6. - Appeal.**

- 255 (a) Land Use Authority may be appealed to the Appeal Authority, in accordance with section 102-3 of
 256 this land use code, by filing such appeal within 15 days after the written decision of the Land Use
 257 Authority.
- 258 (b) Appeal Authority may uphold or reverse the decision of the Land Use Authority and impose any
 259 additional conditions that it may deem necessary in granting an appeal.
- 260 (c) The Board of Adjustment is the Appeal Authority for conditional use permits.

261 (Ord. of 1956, § 22C-5; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

262 **Sec. 108-4-7. - Permit and improvement guarantee.**

- 263 (a) Prior to the issuance of a conditional use permit the applicant shall submit the appropriate required
 264 letters and/or permits from the appropriate review agencies.
- 265 (b) Prior to the issuance of certificate of occupancy permit, a business license or any other permit
 266 required by the county, the developer shall deposit funds into an escrow account with the county
 267 engineering division for all off-site improvements and on-site landscaping, as may be allowed by law,

268 as per the approved site plan, and for the completion of any incomplete improvements or conditions
269 of approval.

270 (Ord. of 1956, § 22C-6; Ord. No. 4-71; Ord. No. 21-83; Ord. No. 2002-20; Ord. No. 2010-26, 11-16-2010)

271 **Sec. 108-4-8. – Revocation and expiration.**

272 (a) A conditional use permit may be revoked by the Land Use Authority upon failure to comply with any
273 applicable standard, requirement, provision, restriction, or condition of approval. A conditional use
274 permit may also be revoked by the Land Use Authority if the use evolves to be more impactful than
275 originally proposed, anticipated, evaluated or reviewed.

276 (b) Unless there is substantial action under a conditional use permit within a maximum period of one
277 year of its approval from the Land Use Authority, the conditional use permit shall expire. The Land
278 Use Authority may grant a maximum extension of six months. Upon expiration of any extension of
279 time granted by the planning commission, the approval for the conditional use permit shall expire and
280 become null and void.

281 (Ord. of 1956, § 22C-7; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

282 **Sec. 108-4-9. - Abandoned use.**

283 When an approved conditional use has been discontinued and/or abandoned for a period of one
284 year, the conditional use permit becomes null and void. In order to restore the conditional use, a new
285 application shall be filed for review and consideration by the Land Use Authority.

286 (Ord. of 1956, § 22C-8; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

287

Weber County Land Use Code Revision Process Workflow

This flowchart is intended to illustrate the intended course of the revision process. It is not an absolute plan, and deviations may occur as more information is gathered, but it will provide the Planning Commission with an idea where we are in the process at any given time. Staff will refer to this structure regularly.

