



# 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 to enable development along substandard streets under specific conditions.

**Agenda Date:** Tuesday, April 28, 2020

**Staff Report Date:** Tuesday, April 21, 2020

**Applicant:** Weber County

**File Number:** ZTA 2020-04

### Staff Information

**Report Presenter:** Charlie Ewert  
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(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 April 21, 2020

1 **Title 106 Subdivisions**

2 ...

3 **Chapter 106-2 Subdivision Standards**

4 ...

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

6 ...

7 (i) ~~Easements. Natural drainage and other easements.~~ Lots shall have a ten-foot public utility  
8 easement abutting the public street right-of-way and spanning the lot width, except that this  
9 easement is not required in zones that allow no front setback. Other public utility easements  
10 shall be provided if, and only if, authorized or required by the County Engineer or Land Use  
11 Authority, who shall specify their location and width, with a minimum width of five feet. The  
12 ~~planning commission may require that easements for drainage through the subdivision and~~  
13 ~~adjoining property be provided by the subdivider.~~ If any proposed subdivision contains soils  
14 with a slow percolation rate that creates the potential for surface water runoff in excess of  
15 historic runoff rates onto an adjacent lot or parcel, a land drain easement shall be provided by  
16 the applicant. The land drain shall be installed as a part of the subdivision improvements.

17

18 ...

19

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

21 ...

22 (h) New subdivisions with sole access from a terminal substandard public street shall not be  
23 approved until the substandard street is fully improved to county public work standards and  
24 adopted right-of-way width. This requirement shall be waived if a traffic study, conducted by  
25 a qualified professional, demonstrates that the existing substandard public street system from  
26 which the new subdivision will gain access is adequate for the increased traffic demand of the  
27 new subdivision, and if the Planning Director and County Engineer can mutually make the  
28 following findings:

29 (1) That due to topographic or other environmental characteristics of the area, it is unlikely  
30 that the terminal substandard street system will make a second connection to the public  
31 street network within the next 10 years;

32 (2) That not providing a secondary connection to the public street network does not conflict  
33 with a general plan, small area plan, master streets plan, or similar adopted planning  
34 document; and

35 (3) That all owners having interest in the subdivision will execute a substandard road  
36 agreement and notice to new owners. The content of the substandard road agreement  
37 and notice shall be as specified by the county. At a minimum, it shall:

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

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41 b. bind the owners and their successors and heirs to not protest the creation of a special  
42 assessment area, special improvement district, or similar revenue generation  
43 mechanism, to fund improvements to the substandard public street system. This  
44 requirement applies regardless of whether the terminal substandard public street later  
45 makes a second connection to the public street network; and-

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

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