

SOUTH WEBER PLANNING COMMISSION AGENDA

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PUBLIC NOTICE is hereby given that the Planning Commission of SOUTH WEBER CITY, Utah, will meet in a regular public meeting on Thursday July 14, 2022, in the Council Chambers, 1600 E. South Weber Dr., commencing at 6:00 p.m.

OPEN (Agenda items may be moved in order or sequence to meet the needs of the Commission)

1. Pledge of Allegiance: Commissioner Walton
2. Public Comment: Please respectfully follow the guidelines below: Comments will also be accepted at publiccomment@southwebercity.com to be included with the meeting minutes.
 - a. Individuals may speak once for 3 minutes or less
 - b. State your name and address
 - c. Direct your comments to the entire Commission
 - d. Note: Planning Commission will not respond during the public comment period
3. Approval of Consent Agenda
 - a. PC2022-06-09 Minutes
4. **Public Hearing & Action on Ord 2022-13: South Weber City Code Title 12 Flood Damage Prevention**
5. Information Discussion: Moderate Income Housing Update
6. Planning Commission Comments (Boatright, Davis, Losee, McFadden, Walton)
7. Adjourn

In compliance with the Americans with Disabilities Act, individuals needing special accommodations during this meeting should notify the City Recorder, 1600 East South Weber Drive, South Weber, Utah 84405 (801-479-3177) at least two days prior to the meeting.

THE UNDERSIGNED DULY APPOINTED DEVELOPMENT COORDINATOR FOR THE MUNICIPALITY OF SOUTH WEBER CITY HEREBY CERTIFIES THAT A COPY OF THE FOREGOING NOTICE WAS MAILED, EMAILED, OR POSTED TO: 1. CITY OFFICE BUILDING 2. FAMILY ACTIVITY CENTER 3. CITY WEBSITE www.southwebercity.com 4. UTAH PUBLIC NOTICE WEBSITE www.pmn.utah.gov 5. THE GOVERNING BODY MEMBERS 6. OTHERS ON THE AGENDA

DATE: June 28, 2022

DEVELOPMENT COORDINATOR: Kimberli Guill

SOUTH WEBER CITY PLANNING COMMISSION MEETING

DATE OF MEETING: 9 June 2022 **TIME COMMENCED:** 6:00 p.m.

LOCATION: South Weber City Office at 1600 East South Weber Drive, South Weber, UT

PRESENT:

COMMISSIONERS: Gary Boatright
Jeremy Davis (via electronically)
Julie Losee
Marty McFadden (excused at 6:52 pm)
Taylor Walton

CITY ENGINEER: Brandon Jones

COMMUNITY SERVICE DIRECTOR: Trevor Cahoon

DEVELOPMENT COORDINATOR: Kimberli Guill

Minutes: Michelle Clark

ATTENDEES: Paul Sturm, Michael Grant, Phil Holland, Robin Belnap, Wade Page, Val Petersen, Rob Osborne, Brent & Jan Petersen, and Blair Halverson.

Commissioner Losee called the meeting to order and welcomed those in attendance.

1. Pledge of Allegiance: Commissioner Boatright

2. Public Comment: Please respectfully follow these guidelines.

- Individuals may speak once for 3 minutes or less: Do not remark from the audience. State your name & address and direct comments to the entire Commission (Commission will not respond).

ACTION ITEMS:

3. Consent Agenda

- 12 May 2022 Minutes

Commissioner McFadden moved to approve the consent agenda as amended. Commissioner Walton seconded the motion. A roll call vote was taken. Commissioners Davis, Losee, McFadden, and Walton voted aye. Commissioner Boatright abstained as he was excused from the meeting. The motion carried.

Commissioner Walton moved to open the public hearing on Preliminary/Final Plat, Improvement Plans & Rezone Request for Belnap Estates (1 Lot Plat) (Parcel# 130360101 approximately .628 acres from R-L to R-M) located at approximately 7888 S 2600 E by Applicant: Tyker Belnap. Commissioner Boatright seconded the motion. A roll call vote was taken. Commissioners Boatright, Davis, Losee, McFadden, and Walton voted aye. The motion carried.

***** **PUBLIC HEARING** *****

4. Preliminary/Final Plat, Improvement Plans & Rezone Request for Belnap Estates (1 Lot Plat) (Parcel# 130360101 approximately .628 Acres from R-L to R-M) located at approximately 7888 S 2600 E by Applicant: Tyker Belnap

Community Service Director Trevor Cahoon explained city code allows an applicant for a Minor Subdivision (Between 1-10 Lots) to request a combined Preliminary and Final Application. The Sketch Committee recommends that this would be the case for this request.

Trevor expressed the property is currently zoned R-L which matches the surrounding area. However, the general plan designation for the area is consistent with the R-M request. The shape of the lot makes complying with the R-L lot requirements difficult. To have better use of the property the applicant is requesting a change to R-M.

Commissioner Losee asked if there was any public comment.

Paul Sturm, 2527 Deer Run Drive, queried if the developer is subdividing the property into more than one lot.

Commissioner Boatright moved to close the public hearing on Preliminary/Final Plat, Improvement Plans & Rezone Request for Belnap Estates (1 Lot Plat) (Parcel# 130360101 approximately .628 Acres from R-L to R-M) located at approximately 7888 S 2600 E by Applicant: Tyker Belnap. Commissioner McFadden seconded the motion. A roll call vote was taken. Commissioners Davis, Losee, McFadden, and Walton voted aye. The motion carried.

***** **PUBLIC HEARING CLOSED** *****

Robin Belnap, 7841 S. 2600 E., explained her son will be building a home on this is family-owned property.

Commissioner Walton queried on the access. Trevor replied there are no concerns with the access. Commissioner Losee asked if a site plan is required. Trevor pointed out a site plan is only required for commercial, industrial, and multi-family developments.

Commissioner McFadden moved to approve the Preliminary Application for Belnap Estates (1 Lot Plat), with a recommendation to the City Council to approve the Final Application and Rezone Request for Belnap Estates (1 Lot Plat) (Parcel# 130360101 approximately .628 acres from R-L to R-M) located at approximately 7888 S 2600 E.

Commissioner Boatright seconded the motion. A roll call vote was taken. Commissioners Boatright, Davis, Losee, McFadden, and Walton voted aye. The motion carried.

Commissioner Walton moved to open the public hearing for Rezone Request (approx. 2.91 Acres from C-H & A to R-P) Located at approximately 7800 S 2700 E. Applicant: Phil Holland. Commissioner Boatright seconded the motion. A roll call vote was taken. Commissioners Boatright, Davis, Losee, McFadden, and Walton voted aye. The motion carried.

***** **PUBLIC HEARING** *****

5. Rezone Request (approx. 2.91 acres from C-H & A to R-P) located at approximately 7800 S 2700 E. Applicant: Phil Holland

Trevor Cahoon explained this is an area in the General Plan that is at the discretion of the City Council to grant a rezone to Residential Patio (R-P). The request can act as a transitional buffer to the commercial to the north and the lower density residential to the south. The applicant wishes to use the property as a multi-lot patio home subdivision and has submitted a sketch plan to the city for review. The developer intends to continue through the development process but wants to proceed with the rezone request prior to engineering more of the project.

Trevor added a potential site plan is provided in the request but is not under consideration and the Planning Commission should make a recommendation about the rezone request on its own merits and not based upon a project that hasn't been submitted in full.

Phil Holland, 1082 Dutch Lane, explained he purchased the property approximately two years ago. He feels this is a great transitional area for patio homes located in between commercial and residential. He discussed the housing crisis in Utah, which is not only an inventory issue but type of housing as well.

Commissioner Losee asked if there is any public comment.

Paul Sturm, 2527 Deer Run Drive, voiced his concern with this development being next to Morty's Car Wash and the noise, lighting, and hours of operation generated from it.

Rob Osborne, 2317 View Drive, requested the Planning Commission deny the rezone request as the city has limited commercial space.

Rob Edwards, 1579 South Weber Drive, asked if the neighbors close to this project have commented. Commissioner Losee replied two neighbors have submitted comments.

Commissioner Walton read the public comment received from **Jeffrey Eddings, 2645 E 7800 S**.

Commissioner Boatright read the public comment received from **Kevin Poulsen, 2590 E 7800 S**.

Wade Page, 2555 E 7800 S, feels this plan is better than a patch full of weeds or commercial. He favored single family homes.

Michael Grant, 2622 Deer Run Drive, suggested office space for this property which doesn't use as much water.

Mr. Holland acknowledged the public comments but expressed the property will eventually be developed into something. He is a commercial developer but doesn't feel this property is the best use for commercial. He pointed out this request is for low density patio homes.

Rob Osborne, 2317 View Drive, suggested in an effort to maintain some commercial space, positioning residential homes along 7800 South and commercial behind it.

Commissioner Boatright moved to close the public hearing for Rezone Request (approx. 2.91 Acres from C-H & A to R-P) Located at approximately 7800 S 2700 E. Applicant: Phil Holland. Commissioner Walton seconded the motion. A roll call vote was taken. Commissioners Davis, Losee, McFadden, and Walton voted aye. The motion carried.

***** **PUBLIC HEARING CLOSED** *****

Commissioner McFadden voiced being conflicted with this proposal. He understands there have been different proposals but feels what is being presented is well positioned; however, he understands the need for commercial.

Commissioner Walton agreed with Commissioner McFadden. There is value as commercial and value with patio homes.

Commissioner Losee researched and listened to audio meetings concerning the last proposal for this property in February 2020. She asked if there has been any complaints concerning Morty's Carwash. Trevor reported the city has received complaints concerning the lighting and a little bit of traffic generated. Chris Tremea did conduct a noise test, which complied.

Commissioner Walton is concerned with residential homes next to commercial.

Commissioner McFadden was excused at 6:52 p.m.

Commissioner Boatright discussed commercial and expressed the difficulty because there isn't a lot coming. He supported the idea of light industrial.

Commissioner Losee expressed the need for viable commercial.

Commissioner Davis favored the patio home concept but does have concerns about water. He questioned how much tax base comes from office space. He understands commercial revenue is needed; however, there may not be a viable commercial option. He added if the plan follows city code and the general plan then we need to follow it.

Trevor reminded the Planning Commission tonight's decision is based on the rezone and not the site plan.

Commissioner Walton moved to recommend the City Council approve the Rezone Request (approx. 2.91 Acres from C-H & A to R-P) located at approximately 7800 S 2700 E.

Applicant: Phil Holland based upon the fact that it complies with the general plan. Commissioner Davis seconded the motion. A roll call vote was taken. Commissioners Davis, and Walton voted aye. Commissioner Losee and Boatright voted nay. The motion tied.

6. Action on Final Plat for Petersen Farms PUD (25 Lot Plat) (Combined R-L, R-LM & R-7 zoning) 13.06 acres located at approx. 6950 S 475 E. Applicant: Timothy Grubb

Trevor reviewed after the preliminary plan approval, the next step in the process is recommending approval or denial of the Final Plat to the City Council. The Planning Commission, as the Land Use Authority, has made approvals of the preliminary plans after which the city staff verifies the improvement plans are finalized to construction ready drawings. The Plat is the only item that needs City Council approval as this is a decision about how to subdivide the property.

APPROVALS PREVIOUSLY GRANTED BY PLANNING COMMISSION

- Site Plan: The multi-family units required the submission of a site plan to the Planning Commission for approval. The plan was submitted at the April Planning Commission Meeting and was approved with the preliminary plan.
- Conditional Use Permit: The conditional use permit for the PUD application was submitted at the April Planning Commission Meeting and was approved with the preliminary plan.
- Architectural Review: The multi-family units require an architectural site plan review. The architectural review was completed at the April Planning Commission Meeting as part of the preliminary plan.
- Improvement Plans: The Planning Commission reviewed the preliminary improvement plans at the April Planning Commission Meeting. City Staff has verified that a complete set of construction drawings were submitted with the Final Plan Submittal which comply with all requirements of the submittal.

STAFF REVIEW SUMMARY

City Staff has done a review of the Petersen Farms PUD and have reviewed the following items:
Planning Review:

PL-1: Use – **Complies**

Dwelling: Single Family is a permitted use in any of the underlying zones.

Dwelling: Twin Home is a permitted use in the R-7 zone.

Dwelling: Multi-Family is a permitted use in the R-7 Zone.

PL-2: Lot Requirements – **Complies**

Density: Developer can spread density and uses throughout the project. PUD's purpose is to provide greater open space opportunities while clustering the development of the residential uses. The allowed density for this project in combining uses is 35, the developer is proposing 25.

An agreement exists between the city and the developer to allow the use of the donated portion of Canyon Meadows West Park to be used as open space for the project and be counted in the density calculation.

Lot Area: The development may use any of the underlying zone requirements to fulfill the lot requirements. All lots are compliant to the requirements. Lot Width:

The development may use any of the underlying zone requirements to fulfill the lot requirements. All lots are compliant to the requirements.

PL-3: Setbacks – **Seeking Variation Based on PUD**

The applicant has indicated the setbacks for the various parcels on the plat. Lot 1 is requested to be a 10-foot minimum setback from all property lines. The other lots within the subdivision will utilize 20-foot front, 7-foot side, and 15-foot rear excepting the twin home lots 18 and 19.

PL-4: Parking – **Complies**

The site plan has been approved which addresses parking considerations.

PL-5: Landscaping – **Proposed Agreement**

The R-7 Zone requires 15% landscaping. Only a portion of the required landscaping is being provided inside the development. The applicant wishes to include this in the Fee in Lieu agreement.

PL-6: Existing Conditions – **No Action Needed**

There is an existing home on 475 East that will be removed in order to connect the proposed Iris Lane with 475 East.

PL-7: Necessary Documents - **Complies**

Applicant has submitted all required documents for a Final Plan Review.

Engineering Review:

EN-1: City Standards – **Will Comply**

The improvement plans are complete and substantially ready for construction. There are some minor changes that still need to be addressed to fully comply with the city standards and generally accepted engineering practices. These comments have been provided to the developer and must be addressed before a preconstruction meeting will be scheduled.

Commissioner Boatright requested the minutes reflect he has no business dealings with Tim Grubb or his family. Tim Grubb expressed he has no ownership with Petersen Farms.

Tim acknowledged since the last meeting city staff has spent hours and hours on this project.

Commissioner Boatright moved to recommend the City Council approve the Petersen Farms PUD (25 Lot Plat) (Combined R-L, R-LM & R-7 zoning) 13.06 acres located at approximately 6950 S 475 E. Applicant: Timothy Grubb. Commissioner Davis seconded the motion. A roll call vote was taken. Commissioners Boatright, Davis, Losee, and Walton voted aye. The motion carried.

7. Action on Final Plat (C-H to R-M) for Sophia's Haven Subdivision 3 Lot Plat R-M zoning. 1.41 acres located at approx. 1550 E/South Weber Drive. Applicant Rob Edwards. Trevor explained the 2.02 acreage includes the dedicated right-of-way.

ITEMS FOR PLANNING COMMISSION REVIEW

• **Final Plat.** After the preliminary plan approval, the next step in the process is recommending approval or denial of the Final Plat to the City Council. The Planning Commission as the Land Use Authority has made approvals of the preliminary plans after which the City Staff verifies the improvement plans are finalized to construction ready drawings. The Plat is the only item that needs City Council approval as this is a decision about how to subdivide the property. Sophia's Haven Final Plat Items to Consider:

- Legal Description: This has been supplied
- Subdivision Name: The Subdivision name appears on the plat and is consistent with the application that has been submitted.
- Lot Sizes and Orientation: Lot sizes and widths comply with the R-M zoning designation and the orientation of the lots coincide with the location of the Right of Way (ROW).
- Addresses and Street Names: Addresses and Street Names are shown.
- Parcel Numbers or Lot Numbers of Surrounding Properties: When recording the plat it is necessary to indicate the parcel identification numbers or the lot number for adjoining subdivisions. This plat has that necessary information.
- Right-of-Way (ROW) Dedication: The applicant was asked to include 1550 West in this subdivision to dedicate this area as a ROW. The ROW has been indicated on the drawings for dedication to the city and the widths comply with the City Standards.
- Utility Easements: The General Utility Easement required for each property has been indicated on the plat. Storm Drain Easements are indicated on the plat and are consistent with existing recorded easements or new requirements.
 - Public Works has identified that the water service for the home across the street (1590 E. South Weber Dr.) crosses Lot 3. An easement for this service line will need to be added once the exact location of this service can be identified by Public Works.
- Signature Boxes: All signature boxes are supplied

APPROVALS PREVIOUSLY GRANTED BY PLANNING COMMISSION

- Improvement Plans: The planning commission reviewed the preliminary improvement plans at the April Planning Commission Meeting. City Staff has verified that a complete set of construction drawings were submitted with the Final Plan Submittal which comply with all requirements of the submittal.
- Zone Change Recommendation: The planning commission recommended approval of the requested zone change from Commercial (C) to Residential Moderate (R-M) in the February Planning Commission Meeting.

STAFF REVIEW SUMMARY

City Staff has done a review of the Petersen Farms PUD and have reviewed the following items:

Planning Review:

PL-1: Use – **Complies**

Dwelling: Single Family is a permitted use in the R-M zone.

PL-2: Lot Requirements – **Complies**

Density: less than 2.80 units per acre

Lot Area: Greater than 9000 sq. ft.

Lot Width: Greater than 80 ft. and comply with the percentages required by code

PL-3: Setbacks – **Able to Comply**

There is enough room within lots to have an allowable buildable area.

PL-4: Parking – **Able to Comply**

PL-5: Existing Conditions – **No Action Needed**

Developer has begun demolition of the current structures on the property. City will continue to work with applicant to ensure the materials are cleared in a timely manner.

PL-6: Access – **Complies**

The development includes many cross-access agreements. Agreements have been verified and provide necessary protections for the project.

PL-7: Necessary Documents - **Complies**

Applicant has submitted all required documents for a Final Plan Review.

Engineering Review:

EN-1: The location of the water service to the home on 1590 E. South Weber Dr. needs to be identified by Public Works and a corresponding easement needs to be provided on the plat prior to recording of the plat.

Discussion took place regarding the fiber optic line. City Engineer Brandon Jones explained before the plat is recorded the fiber optic line will be located and/or possibly relocated. Rob Edwards explained he has an agreement with Crown Castle (owner of the cell tower).

Commissioner Losee questioned Lot 3 access point. Brandon replied; the developer has received approval from UDOT on the access from South Weber Drive. It is actually an existing access.

Commissioner Walton moved to recommend the City Council approve the Final Plat (C-H to R-M) for Sophia's Haven Subdivision 3 Lot Plat R-M zoning. 1.41 acres located at approximately 1550 E/South Weber Drive for applicant Rob Edwards with the condition that the location of fiber optic line and water utility line be identified on the final plat. Commissioner Davis seconded the motion. A roll call vote was taken. Commissioners Boatright, Davis, Losee, and Walton voted aye. The motion carried.

Planning Commission Comments:

Commissioner Losee: announced she is not on the Planning Commission for a paycheck. On June 11th there is a service project at Canyon Meadows Park from 8:00 to noon.

Commissioner Boatright: reported he listened to the May 10, 2022, City Council meeting and was shocked with the increase in pay for Planning Commission members, and feels it is unnecessary.

ADJOURN: Commissioner Losee moved to adjourn the Planning Commission meeting 7:50 p.m. Commissioner Boatright seconded the motion. A roll call vote was taken. Commissioners Boatright, Davis, Losee, and Walton voted aye. The motion carried.

APPROVED: _____ **Date**
Chairperson: Jeremy Davis

Transcriber: Michelle Clark

Attest: _____
Development Coordinator: Kimberli Guill

**Comments to South Weber City Planning Commission
for 06Jun22 Meeting
by Paul A. Sturm**

Public Comments

A) Agenda Item #4 -Packet Pages 7 to 14 of 41

4. **Public Hearing & Action on Preliminary/Final Plat, Improvement Plans & Rezone Request for Belnap Estates (1 Lot Plat) (Parcel# 130360101 approx. .628 Acres from R-L to R-M) Located at approx. 7888 S 2600 E by Applicant: Tyker Belnap**

- 1) I investigated this agenda item, prior to the Packet itself being available, to determine why the developer is making this request. My assumption was that the developer wants to subdivide and increase the number of lots since it is called **Belnap Subdivision** (Informed the word "Subdivision" is a SWC technicality term even for a single house.). I researched both SWC R-L and R-M zoning codes and the results are attached. (With Comments. - See Page 2)
- 2) Please Note that Page 10 of 41 in the Packet is **MISSING!!** The Page numbers go from 9 of 41 to 11 of 41. and is just a page numbering issue.
- 3) Packet Page 8 of 41 under Planning Review on PL2 of the Staff Summary **DOES NOT COMPLY** with the SWC code for R-M. (Reference the first paragraph in the Attachment for calculations.) Please reference SWC Code 10-5A-4: Building Lot Requirements (below):

10-5A-4: BUILDING LOT REQUIREMENTS:



A. Density: There shall be no more than 2.80 building lots per acre contained within the boundaries of each phase of every subdivision or planned unit development; except when previously completed phases of the same development have sufficiently low density so that the average is still 2.80 building lots per acre or less.

As cited in the Attachment, even .628 acres equals only 1.7584 lots.

- 4) Suggest that the Applicant try another rezoning request for a zone that better matches their intent for the number of lots they are trying to achieve for their subdivision.
- 5) The next question I have is how did the acreage suddenly go up from the Davis County Property Search number. This is the same thing that happened with the Lofts Project. The acreage suddenly went up and increased the number of units allowed under SWC Code C-O! At this rate, I guess the surface area of Davis County will continually increase!

B) Agenda Item #5 - Packet Pages 15 to 18 of 41

5. Public Hearing & Action on Rezone Request (approx. 2.91 Acres from C-H & A to R-P)
 Located at approx. 7800 S 2700 E. Applicant: Phil Holland

(Note: Prior to starting this presentation Trevor Cahoon informed everyone that the Staff Summary contained an error in the acreage shown. This was addressed in Public Comment opening statement.)

- 1) My first question is why the Staff Summary Sheet for both Belnap Estates and "Manor Villas Subdivision" (Phil Holland) show the Gross Site area of 0.628 acres. It is highly unlikely that both of these properties are the same area to the third decimal place!! The Davis County Tax information included in the Packet shows only 2.90 acres and Agenda Item #6 text shows 2.91!
- 2) My next concern is the fact that this property is directly adjacent to Morty's Car Wash. The City will need to address several issues that were discussed and agreed upon during the Car Wash approval process, particularly noise, lighting, and hours of operation. SWC appears to be renegeing on the agreement with Scott Mortensen concerning potential hours of operation that would be addressed later depending on complaints received. This cannot happen with the details in the proposed Noise Ordinance pending consideration at the 14Jun22 City Council meeting, and the proposed Patio Homes proximity to the Car Wash with its obvious noise, lighting, and hours of operation issues that were previously approved by SWC.
- 3) Also, according to the drawing provided on Page 16 of 41, it appears that this development possibly does not comply with Paragraph C (Lot Width) of the R-P Zone. The minimum lot width is sixty-five (65) feet in the R-P Zone as shown below in Paragraph C. According to the drawing provided, it is possible that Lot #1 (63.85 or 61.90 feet), Lot #5 (60.38 or 77.55 feet), and others may or may not comply. The lots do comply with both Paragraphs A - Density ($4 * 2.90 = 11.6$ Lots and 11 are proposed) and Paragraph B - Lot Area (6,000 sf minimum) of the R-P Zone.

10-5P-4: BUILDING LOT REQUIREMENTS:

A. Density: There shall be no more than 4.0 dwelling units per acre contained within the boundaries of each phase of every development; except when previously completed phases of the same development have sufficiently low density so that the average is still no more than 4.0 dwelling units per acre.

1. Areas within a given development that contain land use easements purchased by the State of Utah for the purpose of protecting the health and safety of the citizens of Utah and assuring the continued operation of Hill Air Force Base as an active military base, shall not be utilized in density calculations.

B. Lot Area: There shall be a minimum of six thousand (6,000) square feet in each lot on which a single-family dwelling is located. Single-family dwellings shall each be located on a separate lot.

C. Lot Width: Each lot shall have a minimum width of sixty five feet (65'). (Ord. 17-16, 11-21-2017; amd. Ord. 2021-06, 5-25-2021; Ord. 2022-07, 4-12-2022)

Attachment

Comments on SWC Zone Code for R-M and R-L and Belnap Estates

0.628 acres On Application = 27,355.68 sf

Davis County Property Search shows 0.569 acres = 24,793 sf Which is correct??

Zone R-M = Minimum 9,000 SF per Lot = ~3 Lots at .628 acres with total sf if that is the only criteria, but **THIS IS NOT THE CASE** (Note: At 0.569 acres it is ~1.6 Lots)

SWC Code 10-5A-4, Paragraph A states that no more than 2.80 Lots per acre.

Even at 0.628 acres, only 1.7584 (**$2.80 * 0.628$**) Lots Are Allowed under Zone R-M!!

The 9,000 sf minimum **DOES NOT APPLY** because it is superseded by the 2.80 maximum !!

10-5A-4: BUILDING LOT REQUIREMENTS:



A. Density: There shall be no more than 2.80 building lots per acre contained within the boundaries of each phase of every subdivision or planned unit development; except when previously completed phases of the same development have sufficiently low density so that the average is still 2.80 building lots per acre or less.

1. Areas within a given development that contain land use easements purchased by the State of Utah for the purpose of protecting the health and safety of the citizens of Utah and assuring the continued operation of Hill Air Force Base as an active military base, shall not be utilized in density calculations.

B. Lot Area: There shall be a minimum of nine thousand (9,000) square feet in each lot.

C. Lot Width:

1. A maximum of twenty five percent (25%) of all lots within any development phase may be a minimum of eighty feet (80') in width; and

2. A minimum of twenty five percent (25%) of all lots within any development phase shall be a minimum of one hundred feet (100') in width; and

3. The width of all lots within any development phase shall average a minimum of ninety feet (90') in width. (Ord. 2000-9, 7-11-2000; amd. Ord. 1505, 7-14-2015; Ord. 2021-06, 5-25-2021; Ord. 2022-07, 4-12-2022)

Zone R-L = 12,000 SF per Lot = ~2 Lots - SWC Code states no more than 1.45 Lots per acre.

0.628 acres = 0.9106 Lots Allowed!!

10-5D-4: BUILDING LOT REQUIREMENTS:



A. Density: There shall be no more than 1.45 building lots per acre contained within the boundaries of each phase of every subdivision or planned unit development; except when previously completed phases of the same development have sufficiently low density so that the average is still 1.45 building lots per acre or less.

1. Areas within a given development that contain land use easements purchased by the State of Utah for the purpose of protecting the health and safety of the citizens of Utah and assuring the continued operation of Hill Air Force Base as an active military base, shall not be utilized in density calculations.

B. Lot Area: There shall be a minimum of twelve thousand (12,000) square feet in each lot.

C. Lot Width:

1. A maximum of twenty five percent (25%) of all lots within any development phase may be a minimum of eighty feet (80') in width; and

2. A minimum of twenty five percent (25%) of all lots within any development phase shall be a minimum of one hundred feet (100') in width; and

3. The width of all lots within any development phase shall average a minimum of ninety feet (90') in width. (Ord. 2000-9, 7-11-2000; amd. Ord. 15-05, 7-14-2015; Ord. 2021-06, 5-25-2021; Ord. 2022-07, 4-12-2022)

From: [Kevin Polson](#)
To: [Public Comment](#)
Subject: 7800 S 2700 E Rezone
Date: Friday, June 3, 2022 8:40:50 AM

Hello,

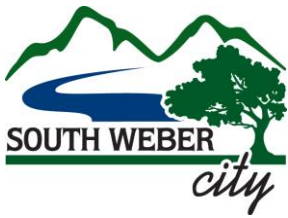
In regards to the rezone request submitted by Mr Holland, I have a few thoughts I wanted to express. The first being, it's difficult to take city authorities seriously on extreme drought conditions and the necessary restrictions, while they're also considering and approving every rezone request to higher density housing. I'm in no way trying to slam the door closed on other people wanting to live in our great city, but I am wondering at what point do we realize that we have limited natural resources? Wouldn't it be prudent to consider halting any high density rezone requests until we're out of the drought at the very least?

When my wife and I moved back to South Weber, we bought a 100 year old existing home and have worked hard to improve it's condition so our children could have a nice yard to play in, and a great community to be raised in. Now we're being told that we can't keep our grass green by the same people who continually approve higher and higher density rezones for more families to pack in and take showers, flush toilets, wash dishes, and do laundry.

Aside from the drought, why is it that the citizens of South Weber are asked to contribute thoughts on the General Plan (which takes quite some time for everyone to get through) for the city to then toss it out the window months later and do whatever they want anyway? The citizens have spoken I don't know how many times, and yet we're still sent notices about changes to land that we've already expressed opinions on. I know I don't own the land so I have very limited -if any- say in what happens with it, I just ask that our time isn't wasted with requests to comment on a general plan that's going to be ignored either way.

I understand that everyone wants in on the high density gravy train money, it's just a shame that so few landowners have any sort of respect for, or love for what South Weber has always been. I am an implant and yet it feels like I and so many others are the ones fighting to keep South Weber a great place for our kids. It's a shame that those who grew up here and enjoyed the great things about South Weber no longer seem to care about preserving it. My dream would be that we approve single family housing/low density zones that naturally foster a community of people who put roots down and want to build a life with us in this great city. If every vacant lot is going to end up as high density anyway, let's just approve them all now and get it over with because that's the path we're on anyway and it'll save everyone's time.

Kevin Polson
2590 E 7800 S



PLANNING COMMISSION MEETING STAFF REPORT

MEETING DATE

July 14, 2022

PREPARED BY

Dana Shuler
City Engineer's Office

ITEM TYPE

Discussion/Action

ATTACHMENTS

Proposed Title 12
Ordinance

PRIOR DISCUSSION DATES

None

AGENDA ITEM

Ordinance 2022-13: Title 12 Flood Damage Prevention

PURPOSE

The Planning Commission shall consider whether or not to recommend to the City Council replacing the existing Title 12 Flood Control with the new Title 12 Flood Damage Protection ordinance.

BACKGROUND

Title 12 Flood Control currently serves as South Weber City's ordinance to guide development in floodplains.

FEMA has recently issued new maps and studies for Davis County with an effective date of September 15, 2022. Each affected community must adopt these new maps by the effective date, otherwise, flood insurance policy holders the National Flood Insurance Program (NFIP) risk losing their insurance coverage.

Personnel at the State of Utah Division of Emergency Management developed a comprehensive flood ordinance template for use by entities. We used this template as the basis for the new ordinance. Staff from administration, legal, engineering, and planning have coordinated on the language in this new ordinance. A representative from FEMA Region 8 is reviewing the proposed ordinance.

SAMPLE MOTION LANGUAGE

Recommend Approval – Recommend City Council approves the replacement of the existing Title 12 Flood Control with new Ordinance 2022-13: Title 12 Flood Damage Prevention.

Recommend Denial – Recommend City Council denies Ordinance 2022-13: Title 12 Flood Damage Prevention.

ORDINANCE 2022-13

AN ORDINANCE OF THE SOUTH WEBER CITY COUNCIL AMENDING TITLE 12

WHEREAS, Title 12 Flood Control was adopted in 2008 and has not been updated since then; and

WHEREAS, Federal Emergency Management Association (FEMA) has issued new floodplain maps and studies for Davis County; and

WHEREAS, this change serves as a good opportunity to review current code in light of more recent information and guidelines; and

WHEREAS, local staff and a representative from FEMA region 8 have reviewed and recommend the proposed changes;

WHEREAS, flood insurance policy holders risk losing their coverage if Council does not comply with the requirements of the National Flood Insurance Act of 1968; and

WHEREAS, Council has elected to join the program, participate, and enforce this Flood Damage Prevention Ordinance;

NOW, THEREFORE, BE IT ORDAINED by the City Council of South Weber City, State of Utah:

Section 1. Title amended: Title 12 shall be amended with a new title Flood Damage Prevention and replaced in whole as attached in Exhibit 1.

Section 2. General Repealer. Ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 3. Effective Date. This ordinance shall become effective September 15, 2022 after passage and publication as required by law.

PASSED AND ADOPTED by the City Council of South Weber, Davis County, on the 23rd day of August 2022.

MAYOR: Rod Westbroek

ATTEST: City Recorder, Lisa Smith

Roll call vote is as follows:

Council Member Halverson	FOR	AGAINST
Council Member Petty	FOR	AGAINST
Council Member Soderquist	FOR	AGAINST
Council Member Alberts	FOR	AGAINST
Council Member Dills	FOR	AGAINST

CERTIFICATE OF POSTING

I hereby certify that Ordinance 2022-13 was passed and adopted the 23rd day of August 2022 and that complete copies of the ordinance were posted in the following locations within the City this 24th day of August 2022.

1. South Weber Family Activity Center, 1181 E. Lester Drive
2. South Weber City Building, 1600 E. South Weber Drive
3. City Website www.southwebercity.com
4. Utah Public Notice Website Utah.gov/pmn

Lisa Smith, City Recorder

EXHIBIT 1
TITLE 12 FLOOD DAMAGE PREVENTION

Notes:

1. Items shown in **dark red** indicate the use of a “higher standard” option or other option such as a depth or distance.
 2. **Highlighted** items indicate sections awaiting City Attorney review.
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**TITLE 12
FLOOD DAMAGE PREVENTION ORDINANCE**

CHAPTER 1

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND METHODS

SECTION A. STATUTORY AUTHORIZATION

The Legislature of the State of Utah has in Utah Code Unannotated 10-3-701 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses.

SECTION B. FINDINGS OF FACT

The flood hazard areas of South Weber City are subject to periodic inundation by flood waters, which results in potential loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief; all of which adversely affect the public health, safety, and general welfare of the inhabitants of South Weber City.

These potential flood losses are caused by:

1. The cumulative effect of obstructions in floodplains that are known to cause increases in flood heights and velocities;
2. The occupancy of flood hazard areas by uses and structures vulnerable to floods because they are inadequately elevated or floodproofed, or otherwise unprotected from flood damages; and
3. Uses deemed unsuitable for floodplain areas or that do not account for the increased flood risk.

SECTION C. STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety and general welfare of the community and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize damage to public infrastructure, including but not limited to utilities, streets, and bridges that are susceptible to flooding;
3. Minimize prolonged business interruptions caused by flooding;
4. Minimize public expenditures on flood control projects;
5. Minimize the need for rescue and relief efforts associated with flooding and are generally undertaken at the expense of the public;
6. Protect and safeguard the welfare and safety of first responders should an emergency response is needed;
7. Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas; and
8. Promote that potential buyers are notified if properties are in a flood area.

SECTION D. METHODS OF REDUCING FLOOD LOSSES

To accomplish the purposes outlined in **CHAPTER 1, SECTION C. STATEMENT OF PURPOSE**, this ordinance applies the following methods:

1. Restricts or prohibits land uses that are dangerous to health, safety, or property in times of flooding, or cause excessive increases in flood heights or velocities;
2. Requires that land uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
3. Controls the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
4. Controls filling, grading, dredging and other developments that may increase flood damage; and
5. Prevents or regulates the construction of flood barriers that will unnaturally divert floodwaters or may increase flood hazards to other lands.

CHAPTER 2 DEFINITIONS

SECTION A. DEFINITIONS

When words or phrases defined in this section are found elsewhere in the City Code of South Weber City, the definitions below shall be applicable to this Title 12 only. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

100-Year Flood means a flood having a recurrence interval that has a 1-percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). The terms “100-hundred-year flood” and “1-percent-annual-chance flood” are synonymous. The term does not imply that the flood will necessarily happen once every 100 hundred years. Mandatory flood insurance requirements may apply.

100-Year Floodplain means the area of land susceptible to being inundated due to the occurrence of a 1-percent-annual-chance flood.

500-Year Flood means a flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-annual-chance flood). The term does not imply that the flood will necessarily happen once every 500 years and mandatory flood insurance requirement generally does not apply.

500-Year Floodplain means the area of land susceptible to being inundated due to the occurrence of a 0.2-percent-annual-chance flood.

Accessory Structure is a structure that is on the same parcel of property as a principal structure. Its use is incidental to the use of the principal structure. The ownership of the accessory structure is the same owner as of the principal structure. An accessory structure is a non-residential structure of low value that is used solely for the parking of vehicles and storage of tools, materials, or equipment. No human habitation is allowed within an accessory structure. Reference **CHAPTER 5, SECTION B.8 APPURTENANT OR ACCESSORY STRUCTURE**.

Addition is any improvement that expands the enclosed footprint or increases the square footage of an existing structure. This includes lateral additions added to the side, front, or rear of a structure; vertical additions added on top of a structure; and enclosures added underneath a structure.

Alluvial Fan Flooding means flooding occurring on the surface of an alluvial fan or similar landform that originates at the apex. It is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

Apex means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Appurtenant Structure—see **Accessory Structure**.

Area of Future-Conditions Flood Hazard means the land area that would be inundated by the one percent (1%)-annual-chance (100-year) flood, based on future-conditions hydrology.

Area of Shallow Flooding means a designated AO, AH, AR/AO, or AR/AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent (1%) or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood-Related Erosion Hazard is the land within a community that is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area, in preparation for publication of the FIRM, Zone E may be further refined.

Area of Special Flood Hazard is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, or V1-30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard".

Base Flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) is the water surface elevation of the one percent (1%) annual-chance flood event. It is the height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas. It is also the elevation shown on the FIRM and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a one percent (1%) chance of equaling or exceeding that level in any given year.

Basement means any area of the building having its floor subgrade (below ground level) on all sides. A walkout basement that does not require a step up to grade is not considered a basement.

Best Available Data is existing flood hazard information adopted by a community and reflected on an effective FIRM, FBFM, and/or within an FIS report; or draft or preliminary flood hazard information supplied by FEMA or from another source. Other sources may include, but are not limited to, state, other federal agencies, or local studies, the more restrictive of which would be reasonably used by the community.

Breakaway Wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system. Any walls below the lowest floor in a building in a V or VE Zone should give way under

wind and water loads without causing collapse, displacement, or other damage to the elevated portion of the building of the supporting pilings or columns. Breakaway walls apply only to V or VE Zones.

Building—see **Structure**.

Channelization means the artificial creation, enlargement, realignment, or alteration of a stream channel's slope, shape, or alignment. Streambank restoration may be deemed as channelization.

Code of Federal Regulations (CFR) is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal Government.

Conditional Letter of Map Revision (CLOMR) is FEMA's comment on a proposed project that would, upon construction, affect the hydrologic and/or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective BFEs, and/or the SFHA. The letter does not revise an effective map; it indicates whether the project, if built as proposed, would be recognized by FEMA.

Conditional Letter of Map Revision Based on Fill (CLOMR-F) is FEMA's comment on a proposed structure or property. The letter does not revise an effective map; it indicates whether the project, if built as proposed, would be removed from the floodplain.

Crawlspace means an under-floor space that has its interior floor area (finished or not) no more than 4 feet from the bottom floor joist the next higher floor elevation, designed with proper openings that equalize hydrostatic pressures of flood water, and is not used for habitation.

Reference: **CHAPTER 5, SECTION B.5 CRAWLSPACE**

Critical Facility means a facility or building where even a slight chance of flooding is too great a threat. Typical critical facilities include hospitals, fire stations, police stations, schools, storage of critical records, assisted living and similar facilities.

Deed Restriction refers to a clause in a deed that limits the future use of the property in some respect. Deed restrictions may impose a vast variety of limitations and conditions. For example, they may limit the density of buildings, dictate the types of structures that can be erected, or prevent buildings from being used for specific purposes or from being used at all.

Detached Garage is a building that is used solely for storage of materials or vehicle parking for up to four housing occupants. If a detached garage is designed or used for habitation or conducting business, or has multiple stories, then the building is not considered a detached garage under the NFIP.

Development means any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, demolition, excavation or drilling operations, or storage either temporary or permanent of equipment or materials.

Elevated Building is a non-basement building built, in the case of a building in Zone A1-30, AE, A, A99, AR, AO, AH, B, C, X and D, to have the top of the elevated floor above the ground level by means of pilings, columns (post and piers), or shear walls parallel to the flow of the water and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of a building in Zone A1-30, AE, A, A99, AR, AO, AH, B, C, X and D, an “elevated building” also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

Enclosure refers to an enclosed walled-in area below the lowest floor of an elevated building. Enclosures below the BFE may only be used for building access, vehicle parking, and storage.

Erosion means the process of the gradual wearing away of land masses by wind, water, or other natural agents.

Existing Construction refers to structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. It may also be referred to as **Existing Structures**.

Existing Manufactured Home Park or Subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Existing Structures—see **Existing Construction**.

Expansion to an Existing Manufactured Home Park or Subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA means the Federal Emergency Management Agency.

Fill refers to the placement of materials, such as dirt, sand, or rock to elevate a structure, property, or portion of a property above the natural elevation of the site, regardless of where the material was obtained from. The common practice of removing unsuitable material and replacing with engineered material is not considered fill if the elevations are returned to the existing conditions. Any fill placed or used prior to the area being mapped as a flood hazard area is not deemed as fill.

Flood or Flooding means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow of inland or tidal waters.
 - b. The unusual and rapid accumulation or runoff of surface waters from any source.

2. Mudslides (i.e., mudflows) that are proximately caused by flooding as defined in this ordinance and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
3. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this ordinance.

Flood Insurance Manual is the document FEMA produces twice a year and is used to write flood insurance policies underwritten by the NFIP. The document contains definitions, policy rates, coverage and limitations, application and insurance policy forms.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Administrator has delineated both the SFHAs and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) or Flood elevation study means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Floodplain Development Permit is a community issued permit or document that is used for any development that occurs within an SFHA identified by FEMA or the community. It is used to address the proposed development to ensure compliance with the community's ordinance.

Floodplain or Flood-Prone Area means any land area susceptible to being inundated by water from any source whether or not identified by FEMA (see definition of **Flooding**).

Floodplain Management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, mitigation plans, and floodplain management regulations.

Floodplain Management Regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for flood damage prevention and reduction.

Flood Opening refers to an opening in the wall of an enclosed structure that allows floodwaters to automatically enter and exit the enclosure. Refer to FEMA Technical Bulletin 1.

Flood Protection System means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to an SFHA and to

reduce the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees, or dikes. These specialized, flood modifying works are those constructed in conformance with sound engineering standards. FEMA only accredits levees, both private and public, that have been certified by a professional engineer or firm in which the certification shows that the levee has met and continues to meet the minimum regulatory standards cited in Title 44, Chapter 1, Section 65.10 of the Code of Federal Regulations (44 CFR 65.10).

Floodproofing means any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents. Floodproofing can either be accomplished in the form of dry floodproofing in which the structure is watertight below the levels that need flood protection, or wet floodproofing in permanent or contingent measures applied to a structure that prevent or provide resistance to damage from flooding, while allowing floodwaters to enter the structure or area.

Floodway—see *Regulatory Floodway*.

Floodway encroachment lines mean the lines marking the limits of floodways on federal, state, and local floodplain maps.

Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

Functionally Dependent Use means a development that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and repair facilities. It does not include long-term storage or related manufacturing facilities.

Highest Adjacent Grade (HAG) means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. In AO Zones, the highest adjacent grade is utilized by comparing the lowest floor elevation to that of the highest adjacent grade and the depth of the AO Zone.

Historic Structure means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic reservation programs that have been approved by the Secretary of the Interior; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior, or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Letter of Map Amendment (LOMA) means an official amendment, by letter, to an effective FIRM. A LOMA establishes a property's location in relation to the SFHA. It is usually issued because a property or structure has been inadvertently mapped as being in the floodplain, when the property or structure is actually on natural high ground above the BFE.

Letter of Map Revision (LOMR) means FEMA's modification or revision to an entire or portion of the effective FIRM, or Flood Boundary and Floodway Map, or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective BFEs, or the SFHA.

Letter of Map Revision Based on Fill (LOMR-F) means FEMA's amendment, by letter, to an effective FIRM where fill was brought in or used to elevate a property, portion of property or structure above the BFE.

Levee means a man-made structure usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee System means a flood protection system that consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest Adjacent Grade (LAG) means the lowest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. For an existing structure, it means the lowest point where the structure and ground touch, including but not limited to attached garages, decks, stairs, and basement windows.

Lowest Floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Section 60.3.

Manufactured Home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle"; however, a manufactured home may be used for both residential and non-residential use.

Manufactured Home Park or Subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Map means the FHBM or the FIRM for a community issued by FEMA.

Mean Sea Level means, for purposes of the NFIP, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which BFEs shown on a community's FIRM are referenced.

Mixed Use Structures are structures with both a business and a residential component, but where the area used for business is less than 50 percent of the total floor area of the structure.

New Construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

New Manufactured Home Park or Subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

No-Rise Certifications are formal certifications signed and stamped by a professional engineer licensed to practice in the state, demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that a proposed development will not result in any increase (0.00 feet) in flood levels within the community during the occurrence of a base flood event.

Physical Map Revision (PMR) is FEMA's action whereby one or more map panels are physically revised and republished.

Recreational Vehicle means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily, not for use as a permanent dwelling but, as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway means the channel of a river or other watercourse and the adjacent land areas that shall be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, creek, etcetera, which can be intermittent or perennial.

Section 1316 refers to the section of the National Flood Insurance Act of 1968, as amended, which provides for the denial of flood insurance coverage for any property that the Administrator finds has been declared by a duly constituted State or local authority to be in

violation of State or local floodplain management regulations. Section 1316 is issued for a property, not a property owner, and remains with the property even after a change of ownership.

Special Flood Hazard Area—see **Area of Special Flood Hazard**.

Start of Construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)) includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means, for floodplain management purposes, a walled and roofed building, culvert, bridge, dam, or a gas or liquid storage tank that is principally above ground, as well as a manufactured home. **Structure**, for insurance purposes, means:

- (1) A building with two or more outside rigid walls and a fully secured roof, which is affixed to a permanent site;
- (2) A manufactured home (“a manufactured home,” also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or
- (3) A travel trailer without wheels built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.

For insurance purposes, “structure” does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in paragraph (3) of this definition, or a gas or liquid storage tank.

Substantial Damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed.

The term does not, however, include:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and are the minimum necessary to assure safe living conditions; or
2. Any alteration of a "historic structure", if the alteration will not preclude the structure's continued designation as a "historic structure."

Variance means a grant of relief by a community from the terms of a floodplain management regulation. Reference: **CHAPTER 4, SECTION E. VARIANCE PROCEDURES**

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Sections 44 CFR 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies, such as the one percent (1%)-annual-chance flood event, in the floodplains of coastal or riverine areas.

Watercourse means the channel and banks of an identifiable water in a creek, brook, stream, river, ditch or other similar feature.

CHAPTER 3 GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES

The ordinance shall apply to all areas of special flood hazard identified by FEMA and areas of identified and documented flood risk supported using Best Available Data within the jurisdiction of South Weber City.

SECTION A.1. ANNEXATION

When the community annexes any land from a neighboring community and/or county, South Weber City will manage and regulate the annexed land under this ordinance.

SECTION B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by FEMA in a scientific and engineering report entitled, "The Flood Insurance Study for Davis County, Utah, and incorporated areas " dated September 15, 2022 (date of effective FIS), accompanying FIRMs, and any revisions thereto are hereby automatically adopted by reference and declared to be a part of this ordinance.

SECTION B.1. USE OF BEST AVAILABLE DATA

The community has elected to adopt Best Available Data, defined in **CHAPTER 3, SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES**, to regulate floodplain development in addition to utilizing the effective FIRMs, FIS, and/or FBFM. Where Best Available Data contradicts the FIRMs, FIS, and/or the FBFM, the more restrictive data shall be utilized.

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this ordinance.

SECTION D. ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION E. INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

SECTION F. WARNING AND DISCLAIMER OR LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur and flood heights may be increased by human-made or natural causes.

This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall

not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

SECTION G. SEVERABILITY

If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.

SECTION H. COMPLIANCE

No structures or developments including buildings, recreation vehicles, or manufactured homes or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations. Nothing herein shall prevent the city from taking such lawful action as is necessary to prevent or remedy any violations.

SECTION I. STOP WORK ORDER

1. Authority. Whenever the floodplain administrator or other community official discovers any work or activity regulated by this ordinance being performed in a manner contrary to the provision of this ordinance, the floodplain administrator is authorized to issue a stop work order.
2. Issuance. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.
3. Unlawful continuance. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by local or state law including but not limited to the penalties outlined in **CHAPTER 3, SECTION J. PENALTIES FOR NONCOMPLIANCE.**

SECTION J. PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person, firm, or corporation, whether as principal, agent, employee or otherwise, violating or causing or permitting the violation of any of the provisions of this chapter shall be guilty of a class B misdemeanor, and upon conviction thereof shall be punishable by a fine, or by imprisonment in the Davis County jail, or by both as provided by law. Such person, firm, or corporation shall be deemed to be guilty of a separate offense for each day during which any portion of any violation of this chapter is committed, continued, or permitted by such person, firm, or corporation, and shall be punishable as herein provided. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$ _____ or imprisoned for not more than _____ days, or both, for each violation assessed daily, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent South Weber City from taking such other lawful action as is necessary to prevent or remedy any violation.

**CHAPTER 4
ADMINISTRATION**

SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The City Manager or his/her designee is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of the NFIP Regulations and 44 CFR pertaining to floodplain management.

SECTION B. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

1. Uphold the goals of the community and the NFIP to reduce risk when possible and increase the community's resistance to future disasters.
2. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance, including the actual elevation of the lowest floor (including basement or crawlspace) of all new or substantially improved structures and any floodproofing certificates, including the data supporting such certificates.
3. Maintain and hold open for public inspection maps that identify and locate the boundaries of the SFHAs to which this ordinance applies, including, but not limited to, the FIRM.
4. Review development proposals to determine whether a proposed building site, including sites designed for the placement of manufactured homes, will be reasonably safe from flooding.
5. Review, approve, or deny all applications for development permits required by adoption of this ordinance.
6. Ensure that all necessary permits have been obtained from those federal, state, or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334 and the Endangered Species Act of 1973) from which prior approval is required.
7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
8. Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the Division of Water Rights, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
9. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator shall make the necessary interpretation.
10. When BFE data has not been provided by FEMA, the Floodplain Administrator shall obtain, review, and reasonably utilize any BFE data and floodway data available from a federal, state, or other source including data provided by the applicant, in order to administer the provisions of this ordinance.
11. When a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30, AE, and AH on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood **more than one-half (0.50) foot** at any point within the community.

12. Under the provisions of 44 CFR Chapter 1, Section 65.12 of the NFIP Regulations, a community may approve certain development in Zones A1-30, AE, and AH on the community's FIRM, which increases the water surface elevation of the base flood by **more than one-half (0.50) foot**, provided that the community first meets the requirements of Section 65.12 for a conditional FIRM revision through FEMA's CLOMR process.
13. **Zone A Areas: When a regulatory floodway has not been designated and if the project is determined or reasonably believed to cause an adverse impact, the Floodplain Administrator shall require new construction, substantial improvements, or other development (including fill, grading or excavation) permitted in a Zone A to have an encroachment analysis done prior to issuance of a floodplain development permit. The encroachment analysis shall create a baseline of existing conditions model and compare it to the proposed conditions model to determine the potential impact of the project. Based on the findings, the floodplain administrator shall require as a condition of the permit a CLOMR to be submitted and approved prior to any work occurring and/or that a LOMR be submitted to FEMA within 6 months of completion of the development.**
14. If the project is determined or reasonably believed to cause an adverse effect on the BFE(s), boundaries of the floodplain or any insurable structures, technical justification for the proposed development shall be submitted and the community may require a CLOMR or LOMR to be submitted prior to the permit approval or as a requirement of the permit.

SECTION C. REQUIREMENT TO SUBMIT NEW TECHNICAL DATA

1. The property owner or developer shall notify FEMA by submittal of a LOMR within 6 months of project completion when an applicant had obtained a CLOMR from FEMA or when development altered a watercourse, modified floodplain boundaries, or modified BFE.
2. The property owner or developer shall be responsible for preparing technical data to support the CLOMR or LOMR application and paying any processing or application fees to FEMA. The property owner or developer is responsible for submitting the CLOMR and LOMR to FEMA and shall provide all necessary data to FEMA if requested during the review process to ensure the CLOMR or LOMR is issued.
3. The Floodplain Administrator shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this ordinance and all applicable state federal, and local laws.

SECTION D. PERMIT PROCEDURES

Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to:

1. Duplicated plans drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations.
2. Duplicated plans drawn to scale showing the location, dimensions, and elevation of existing and proposed structures, including the placement of manufactured homes.
3. Location of the foregoing in relation to SFHAs.
4. Elevation (in relation to mean sea level), of the lowest floor (including basement and crawlspace) of all new and substantially improved structures, if applicable;

5. Elevation (in relation to mean sea level), to which any non-residential structure (if applicable) shall be floodproofed.
6. A certificate from a registered professional engineer or architect that the non-residential floodproofed structure (if applicable) shall meet the floodproofing criteria of this ordinance and the NFIP Regulations.
7. Description of the extent to which any watercourse or natural drainage will be altered or relocated because of proposed development, if applicable.
8. At the community's discretion, the community may charge a fee for issuance of floodplain development permits.
9. Copies of all floodplain development permits and the associated documents shall become property of the community and a permanent record.

Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

1. The danger to life and property due to flooding or erosion damage.
2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
3. The danger that materials may be swept onto other lands to the injury of others.
4. The compatibility of the proposed use with existing and anticipated development.
5. The safety of access to the property in times of flood for ordinary and emergency vehicles.
6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical, and water systems.
7. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
8. The necessity to the facility of a waterfront location, where applicable.
9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
10. The relationship of the proposed use to the comprehensive plan for that area.

SECTION D.1. USE OF ELEVATION CERTIFICATES

The city requires that the following Elevations Certificates be completed for any new residential or non-residential building construction:

1. **Proposed Conditions:** A proposed conditions Elevation Certificate is required to be completed by a professional and licensed engineer, surveyor, or architect as part of the Floodplain Permit package.
2. **Finished Construction:** A finished construction Elevation Certificate is required to be completed by a professional and licensed engineer, surveyor, or architect once the structure is completed, utilities are installed, and grading and landscaping has been completed.

SECTION E. VARIANCE PROCEDURES

The appeal authority, as established by the community, shall hear and render judgment on requests for variances from the requirements of this ordinance after a floodplain development permit has been denied.

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1. Any person or persons aggrieved by the decision of the appeal authority may appeal such decision ~~in the courts of competent jurisdiction to 2nd District Court, Davis County, Utah, as provided by law.~~
2. The appeal authority, as established by the community, shall hear and render judgement on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement of administration of this ordinance.
3. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to FEMA and the State Coordinating Agency upon issuing a variance.
4. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in **CHAPTER 4, SECTION E. VARIANCE PROCEDURES** have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
5. Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance.
6. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
7. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure. The term "substantial improvement" does not include any alteration of a structure or facility listed on the National Register of Historic Places or a State Inventory of Historic Places.

Prerequisites for granting variances:

1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief. Variances shall only be issued upon:
 - a. Showing a good and sufficient cause.
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant.
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, conflict with existing local laws or ordinances, considers the need of ingress and egress during times of floods, and does not jeopardize first responders' health and welfare.
2. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the BFE, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
3. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

- a. The criteria outlined in **CHAPTER 4, SECTION E. VARIANCE PROCEDURES** are met; and
- b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

SECTION E.1. VARIANCES FOR FREEBOARD AND ALLOWABLE INCREASES

- 1. Variances may be issued to reduce the freeboard requirement as described in **CHAPTER 5, SECTION B.1.1. RESIDENTIAL CONSTRUCTION FREEBOARD** and **CHAPTER 5, SECTION B.2.1 NON-RESIDENTIAL CONSTRUCTION FREEBOARD** for residential and non-residential structures.
- 2. Variances shall not be issued to increase the allowed increase in BFE for floodplain Zones A1-30, AE, and AH as described in **CHAPTER 4, SECTION B. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR**, subsection 12.

SECTION F. WATERCOURSE ALTERATIONS

- 1. No alteration to a channel, river, stream, drainage way, or other watercourse shall diminish the flood-carrying capacity of that watercourse. The altered or relocated watercourse shall have the same or greater capacity as the original watercourse.
- 2. All proposals for a watercourse alteration require submittal of a floodplain development permit. The applicant shall submit a set of plans and calculations prepared by a registered professional engineer of the proposed alteration and its effect on flows. An applicant shall provide the following information. Additional information may be submitted and requested:
 - a. Topographic map of the project area.
 - b. A comparison of the existing and proposed channel capacity, including engineering calculations prepared by a registered professional engineer.
 - c. A description of the proposed alteration extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
 - d. Land use of adjacent properties.
 - e. Description of any obstructions.
 - f. Dimensions, specifications, and locations of any structures (bridges, culverts, water crossing, dams, dikes, levees, detention basins, etcetera).
 - g. Photos of the area.
- 3. Prior to approval of the floodplain development permit, the applicant shall:
 - a. Submit an application and obtain a CLOMR from FEMA.
 - b. Notify adjacent communities, property owners and the State Coordinating Agency, prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Floodplain Administrator and to FEMA.
 - c. Require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.

CHAPTER 5 PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

In all areas of special flood hazards, the following provisions are required for all new construction and substantial improvements:

1. Construction Materials and Methods
 - a. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - b. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
 - c. All new construction or substantial improvements shall be constructed with materials resistant to flood damage.
 - d. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
2. Utilities
 - a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
 - b. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters.
 - c. On-site waste disposal systems shall be designed or located to avoid impairment to them or contamination from them during flooding.

SECTION A.1. TEMPORARY STRUCTURES

All temporary structures associated with festivals, carnivals or other temporary uses placed on sites within Zones A1-30, AE, AH, AO, and A on the community's FIRM or area that has been identified as a flood hazard area through the use of Best Available Data are required to:

1. Be on the site for fewer than 30 consecutive days.
2. Have a plan in place for the removal of the structure including a list of necessary supplies, tools, and resources needed to achieve the removal.
3. Be capable of being removed within 12 hours.

SECTION A.2. TEMPORARY STORAGE

All temporary storage of materials or equipment on sites within Zones A1-30, AE, AH, AO, and A on the community's FIRM or area that has been identified as a flood hazard area through the use of Best Available Data are required to:

1. Be on the site for fewer than 30 consecutive days and no more than 90 cumulative days within a calendar year.
2. Have a plan in place for the removal of the equipment or materials including a list of necessary supplies, tools, and resources needed to achieve the removal.
3. Have proper documentation to support when the materials or equipment are moved on and off the site.

SECTION A.3. SUBSTANTIAL IMPROVEMENT

Any combination of repair, reconstruction, rehabilitation, addition, or improvement of a building or structure, if the cumulative cost of the entire project equals or exceeds 50 percent, unless a higher standard option is selected below, of the market value of the structure only (not of the structure and land value combined) before the improvement or repair is started then the work shall be considered as substantial improvement. If the structure has sustained substantial damage, any repairs are considered substantial improvements regardless of the actual repair work performed. For Substantial Damage, refer to **CHAPTER 5, SECTION A.4. SUBSTANTIAL DAMAGE**. The term does not, however, include either:

1. Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

SECTION A.3.1. [RESERVED]

SECTION A.3.2. CUMULATIVE SUBSTANTIAL IMPROVEMENT

The community has elected a higher standard option that includes a cumulative substantial improvement threshold that is defined as:

1. Substantial Improvement shall also include any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure taking place within a selected **five (5)-year timeframe**.

SECTION A.4. SUBSTANTIAL DAMAGE

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure only, unless a higher standard option is selected, before the damage occurred. This term also applies to structures which have incurred any damage that equals or exceeds 50 percent of the structure's market value regardless of the actual repair work performed. When a structure or building has been determined as substantially damaged, any work or repair on said structure or building will be considered as substantial improvement and will be required to meet the development requirements set forth within this ordinance for substantial improvement.

SECTION A.5. SUBSTANTIAL IMPROVEMENT AND SUBSTANTIAL DAMAGE DETERMINATION

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the applicable community officials and staff, shall:

1. Estimate the market value or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure only, not of land and building, before the start of construction of the proposed work. In the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made.

2. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure.
3. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the **CHAPTER 5, SECTION A.3. SUBSTANTIAL IMPROVEMENT** and **CHAPTER 5, SECTION A.3.2. CUMULATIVE SUBSTANTIAL IMPROVEMENT**.
4. Utilize FEMA's Substantial Improvement/Substantial Desk Reference when making any determination on Substantial Improvement and/or Substantial Damage.
5. The substantial improvement regulations apply to all of the work that is proposed as the improvement, even if multiple permits are issued. Therefore, the determination of the cost of the improvement should consider all costs of all phases of the work before issuance of the first permit.
6. Notify the applicant that if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood, this ordinance is required.

SECTION B. SPECIFIC STANDARDS

In all SFHAs and areas of known or suspected flood risk areas, the following provisions shall apply:

SECTION B.1. RESIDENTIAL CONSTRUCTION

New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to the BFE, unless a freeboard option is noted below. If a freeboard option is noted, new construction and substantial improvement shall have the lowest floor (including basement) elevated to the freeboard elevation. A registered professional engineer, architect, or land surveyor shall submit certified elevations to the Floodplain Administrator that the standards of this ordinance are satisfied.

SECTION B.1.1. RESIDENTIAL CONSTRUCTION FREEBOARD

The city has elected to adopt a freeboard requirement of one (1) foot of freeboard meaning the lowest floor shall be built 1.0 foot above the BFE.

SECTION B.1.2. RESIDENTIAL CONSTRUCTION SETBACK

For all new construction and substantial improvement of any residential structure outside SFHAs but within 50 feet of an SFHA, the following minimum requirements shall apply:

1. The minimum setback distance from the edge of a flood hazard area to the nearest wall of a basement shall be 50 feet.
2. The lowest floor level elevation (including crawlspace and basement) shall be no less than the closest adjacent BFE.
3. The lowest opening shall be no less than 1.0 foot above the closest adjacent BFE.

SECTION B.2 NON-RESIDENTIAL CONSTRUCTION

1. New construction and substantial improvements of any commercial, industrial, or other non-residential structure shall either have the lowest floor (including basement) elevated to the base flood level, unless a freeboard option is noted below, or together with attendant utility and sanitary facilities, shall meet the following provisions:

- a. Be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - b. Have a registered professional engineer or architect develop and/or review structural design, specifications, and plans for the construction and certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection.
A record of such certification that includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.
2. If the use or occupancy of the building changes in the future to residential, then the dry floodproofing of the structure cannot be used when determining compliance of the structure to the residential construction of this ordinance, **CHAPTER 5, SECTION B.1 RESIDENTIAL CONSTRUCTION, CHAPTER 5, SECTION B.1.1 RESIDENTIAL CONSTRUCTION FREEBOARD** and **CHAPTER 5, SECTION B.1.2 RESIDENTIAL CONSTRUCTION SETBACK**. As such, the building will not be grandfathered into compliance and will be required to be brought into compliance with the residential construction requirements of this ordinance.

SECTION B.2.1 NON-RESIDENTIAL CONSTRUCTION FREEBOARD

The city has elected to adopt a freeboard requirement of **one (1) foot** of freeboard for new construction and substantial improvement of any non-residential structure, meaning the lowest floor shall be built **1.0 foot above the BFE**.

SECTION B.2.2 NON-RESIDENTIAL CONSTRUCTION SETBACK

New construction and substantial improvement of non-residential structure outside areas of special flood hazards but within **50 feet of an SFHA**.

The following minimum requirements shall apply to construction of non-residential structures:

1. The minimum setback distance from the edge of a flood hazard area to the nearest wall of a basement shall be **50 feet**.
2. The lowest floor level elevation (including crawlspace and basement) shall be no less than **the closest adjacent BFE**.
3. The lowest opening shall be no less than **1.0 foot above the closest adjacent BFE**.

The development and construction of the structure shall conform to the provision in FEMA/FIA-Technical Bulletins 1, 2, 10 and 11. Certification and documentation from a professional, licensed engineer or architect is required if the structure's lowest floor is built below the BFE.

SECTION B.2.3 NON-RESIDENTIAL CONSTRUCTION ACCESS (INGRESS-EGRESS)

New development proposals will be designed, to the maximum extent practicable, so non-residential building sites, walkways, driveway, and roadways are located on land with a natural grade within elevation not less than the BFE and with dry land access.

SECTION B.3. [RESERVED]

SECTION B.4. ENCLOSURES

New construction and substantial improvements with fully enclosed areas below the lowest floor that are to be used solely for parking of vehicles, building access, or storage in an area other than a basement and that are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement shall either be certified by a registered professional engineer or architect, or shall meet or exceed the following minimum criteria:

1. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
2. The bottom of all openings shall be no higher than one (1) foot above grade.
3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

The development and construction of the structure shall conform with the provision in FEMA/Federal Insurance Administration (FIA)-Technical Bulletins 1 and 2. Certification and documentation from a professional, licensed engineer or architect is required if the structure's lowest floor is built below the BFE.

SECTION B.4.1. ENCLOSURE NON-CONVERSION AGREEMENT

For any construction that has an enclosure, a non-conversion agreement shall be completed as part of the permitting process. The non-conversion agreement:

1. Acknowledges the risk associated with this building practice.
2. Acknowledges the use of the area that was permitted as an enclosure will be used solely on accessory or appurtenant structure of low value whose usage is only for building access, parking, or storage.
3. Allows for community, state and/or federal officials to conduct periodic inspections to ensure compliance.

SECTION B.5. CRAWLSPACE

New construction and substantial improvements built on a crawlspace or sub-grade (below grade) crawlspace may be permitted if the development is designed and meets or exceeds the standards found in FEMA's Technical Bulletins 1, 2, and 11, which include but are not limited to the following:

1. The structure shall be affixed to a permanent foundation, designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer.
2. The crawlspace is an enclosed area below the BFE and, as such, shall have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the LAG.
3. The crawlspace enclosure shall have proper openings that allow equalization of hydrostatic pressure by allowing automatic entry and exit of floodwaters. To achieve this, a minimum of one (1) square inch of flood opening is required per one (1) square foot of the enclosed area subject to flooding.
4. Portions of the building below the BFE shall be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to

elevate the building, but also any joists, insulation, piers, or other materials that extend below the BFE. Ductwork, in particular, shall either be placed above the BFE or sealed from floodwaters.

5. Any building utility systems within the crawlspace shall be elevated above the BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions.
6. The interior grade of a crawlspace below the BFE shall not be more than two (2) feet below the LAG.
7. The height of the below-grade crawlspace, measured from the lowest interior grade of the crawlspace floor to the bottom of the floor joist of the next higher floor cannot exceed four (4) feet at any point.
8. There shall be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event.

SECTION B.6. MANUFACTURED HOMES

1. All manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes shall be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
2. Manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites outside of a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the BFE, unless a higher standard option was selected (reference **CHAPTER 5, SECTION B.6.1 I-BEAM PLACEMENT**) and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
3. In A1-30, AH, AO and AE Zones, manufactured homes to be placed or substantially improved in an existing manufactured home park shall be elevated so that the lowest floor is at or above the BFE, unless a higher standard option was selected; or the chassis is supported by reinforced piers no less than 36 inches in height above grade and securely anchored.

SECTION B.6.1. I-BEAM PLACEMENT

1. All manufactured homes are placed so that the bottom of the I-beam be at or above the BFE in zones A1-A30, AH, AO, and AE on the community's FIRM plus any applicable freeboard as established by this ordinance by the community and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

SECTION B.7. RECREATIONAL VEHICLES

Recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM shall either:

1. Be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use;
 - a. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
2. Or meet the permit requirements of **CHAPTER 4, SECTION D, PERMIT PROCEDURES**, and the elevation and anchoring requirements for "manufactured homes" of this section.

SECTION B.8 APPURTENANT OR ACCESSORY STRUCTURE

Accessory or appurtenant structures not exceeding 200 square feet in size and located within zones A, A1-A30, AH, AO, or AE shall:

1. Be detached from a residence;
2. As required in the 44 CFR Section 60.3(a)3:
 - a. (i) "be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy;"
 - b. (ii) "be constructed with materials resistant to flood damage" below the BFE, be designed to allow for the automatic entry of flood waters and meet all applicable building codes;"
 - c. (iii) "be constructed by methods and practices that minimize flood damages;"
 - d. (iv) "be constructed with electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities that are designed and/or located to prevent water from entering or accumulating within the components during conditions of flooding;"
3. Comply with the floodway encroachment "no-rise" provisions of the NFIP Regulations;
4. Not be used for human habitation including but not limited to working, sleeping, and living.
5. Include, in the submittal for Floodplain Development Permit, sufficient documentation demonstrating full compliance with this section, including, but not limited to, the use of flood resistant materials, anchoring, and flood openings.

SECTION C. STANDARDS FOR SUBDIVISION PROPOSALS

1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with the provisions of this ordinance.
2. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
3. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of this ordinance.
4. BFE data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions, which is greater than 50 lots or 5 acres, or whichever is lesser.

5. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
6. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

SECTION C.1. STANDARDS FOR SUBDIVISIONS SETBACK

For all residential subdivisions and manufactured home parks outside areas of SFHAs but within **50 feet of an SFHA**, the following provisions shall apply:

The following minimum requirements shall apply to construction of non-residential structures within residential subdivision and manufactured home parks:

1. The minimum setback distance from the edge of a flood hazard area to the nearest wall of a basement shall **be 50 feet**.
2. The lowest floor level elevation (including crawlspace and basement) shall be no less than **the closest adjacent BFE**.
3. The lowest opening shall be no less than **1.0 foot above the closest adjacent BFE**.

The development and construction of the structure shall conform to the provision in FEMA/FIA-Technical Bulletins 1, 2, 10 and 11. Certification and documentation from a professional, licensed engineer or architect is required if the structure's lowest floor is built below the BFE.

SECTION C.2. STANDARDS FOR SUBDIVISION ACCESS (INGRESS-EGRESS)

New subdivision development proposals shall be designed, to the maximum extent practicable, so residential buildings sites, walkways, driveways, and roadways are located on land with a natural grade with elevation not less than the BFE and with dry land access.

SECTION D. [RESERVED]

SECTION E. [RESERVED]

SECTION F. PROPERTIES REMOVED FROM THE FLOODPLAIN BY FILL

A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), unless such new structure, or substantial improvement or addition complies with the following:

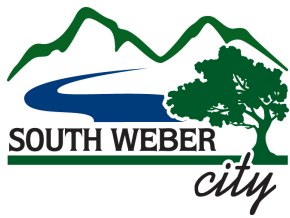
Residential Construction:

1. The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), shall be elevated to the elevation noted in **CHAPTER 5, SECTION B.1 RESIDENTIAL CONSTRUCTION** and **CHAPTER 5, SECTION B.1.1. RESIDENTIAL CONSTRUCTION FREEBOARD**.

Non-residential Construction:

1. The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), shall be

elevated to the elevation noted in **CHAPTER 5, SECTION B.2 NON-RESIDENTIAL CONSTRUCTION** and **CHAPTER 5, SECTION B.2.1. NON-RESIDENTIAL CONSTRUCTION FREEBOARD**, or together with attendant utility and sanitary facilities be designed so that the structure or addition is watertight to at the elevation noted in **CHAPTER 5, SECTION B.2 NON-RESIDENTIAL CONSTRUCTION** with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.



PLANNING COMMISSION MEETING STAFF REPORT

MEETING DATE

July 14, 2022

PREPARED BY

Trevor Cahoon
Community Services Dir

ITEM TYPE

Discussion

ATTACHMENTS

youtu.be/RU1k2BaSwl

MIH Deep Dive PowerPoint

PRIOR DISCUSSION DATES

AGENDA ITEM

Moderate Income Housing Update

PURPOSE

The Planning Commission needs to review the Moderate-Income Housing (MIH) Plan and make a recommendation to the City Council on any amendments that need to be made due to new State legislation.

BACKGROUND

HB 462 - Utah Housing Affordability Amendments became law on June 1st, 2022. HB 462 creates new and modifies existing requirements for certain municipalities. The moderate-income housing plan provisions apply to the same list of cities as SB 34 applied to. Approved during the 2022 General Session, the "Utah Housing Affordability Amendments" modified many of the provisions related to affordable housing that were in the 2010 SB 34 legislation.

Highlights of HB 462

- Clarifies MIH requirement and timing to amend your General Plan
- Requires the inclusion of an implementation plan to bring the MIH element to life
- Amends the list of strategies to use
- Outlines the annual reporting requirement
- Adds priority incentives/restrictions for compliance with the MIH requirement

The inclusion of the moderate-income housing element within a county or municipal General Plan is based on population. If the population of the municipality is at least 5,000 people, the General Plan must include this element. For counties, the total county population must be at least 40,000 people with at least 5,000 people in the unincorporated portion.

In order to ensure that jurisdictions are not only envisioning the increase of moderate-income housing but establishing concrete steps to make it happen, HB 462 amends the code to require the inclusion of an implementation plan within the General Plan.

HB 462 has amended the list of strategies that municipalities and counties can consider and use within the moderate-income housing elements. Many of the previous strategies have been revised and/or combined to provide better clarity while a number of new strategies have been added for consideration. Strategies need actionable implementation steps.



South Weber's Current Selections

South Weber has implemented a MIH plan in the General Plan, and have selected the following elements:

- (B) Facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate-income housing
- (L) Preserve existing moderate-income housing
- (U) Apply for programs administered by a Metropolitan Planning Organization (MPO) or other transportation agency

Each of these elements have been changed using the following language:

- (New B) Demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate-income housing
- (New K Previous L&K) Preserve existing and new moderate-income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or establishing a housing loss mitigation fund
- Strategy U has been discontinued

The options that are available are found within the PowerPoint in this packet. The Planning Commission will discuss the various options that are available and will give some direction to City Staff on which options would be their recommendation to the City Council.

Moderate Income Housing Deep Dive

HB 462 – The nuts and bolts for October 1, 2022 and beyond

AGENDA

Overview

Purpose & Objective

HB 462

- Where Does the Requirement Apply
- Implementation Planning
- Strategies to Consider
- Resources
- Annual Reporting
- Incentives / Restrictions
- Next Steps

Overview of SB34+

Utah Code establishes the requirement for jurisdictions in the state to plan for the future through **General Plan** development and adoption. Since 2019, the General Plan requirement has been expanded to include **planning for moderate income housing**.

If a jurisdiction meets certain criteria, it's required to:

- Include a moderate income housing element
- Report on its compliance with the requirement and inventory of moderate income housing

HB 462, as part of the 2022 General Session, amended this requirement - adding in clarification while also expanding the strategies jurisdictions may choose from in order to create more flexibility and creativity in bringing moderate income housing to Utah.

Purpose & Objective

1

To meet the needs of people of various income levels living, working, or desiring to live or work in the community

3

Determine how the jurisdiction will provide realistic opportunity to meet the need for additional moderate income housing within the next five years

2

To allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life

4

Receive consideration for funding of projects based on compliance with the moderate income housing requirement



HB 462

Approved during the **2022 General Session**, the “**Utah Housing Affordability Amendments**” modified many of the provisions related to affordable housing that were in the 2010 SB 34 legislation.

Today, we'll be looking at those **amendments** that **impact the Moderate Income Housing requirement**.

HB 462 HIGHLIGHTS

- Clarifies MIH requirement and timing to amend your General Plan
- Requires the inclusion of an implementation plan to bring the MIH element to life
- Amends the list of strategies to use
- Outlines the annual reporting requirement
- Adds priority incentives/restrictions for compliance with the MIH requirement

Applicability

01

The inclusion of the moderate income housing element within a county or municipal General Plan is based on population. If the population of the municipality is at least 5,000 people, the General Plan must include this element. For counties, the total county population must be at least 40,000 people with at least 5,000 people in the unincorporated portion.

Timing

Counties and municipalities that don't meet the General Plan requirement have until **October 1, 2022**, to do so.

COUNTIES

First, second, or third class county

AND

Population (unincorporated): 5,000 or more

MUNICIPALITIES

First, second, third, or fourth class city

OR

Fifth class city with a population of 5,000 or more (and in a first, second, or third class county)

OR

Metro Township with a population of 5,000 or more

Implementation Plan

02

In order to ensure that jurisdictions are not only envisioning the increase of moderate income housing but establishing concrete steps to make it happen, HB 462 amends the code to require the inclusion of an implementation plan within the General Plan.

Detail

The jurisdiction's implementation plan must set a **timeline** to **implement** the **required strategies** that the jurisdiction has selected for their moderate income housing element.



Strategies

03

HB 462 has amended the list of strategies that municipalities and counties can consider and use within the moderate income housing elements.

Many of the previous **strategies** have been **revised and/or combined** to provide better clarity while a number of **new** strategies have been added for consideration.

Strategies need actionable implementation steps.

Over the next few slides, we'll review the revised and new strategies.

23

Strategy Options
COUNTIES

24

Strategy Options
MUNICIPALITIES

STRATEGY | NOW

- (A) Rezone for densities necessary to **facilitate** the production of moderate income housing
- (B) **Demonstrate investment in** the rehabilitation or expansion of infrastructure that **facilitates** the construction of moderate income housing
- (C) **Demonstrate investment in** the rehabilitation of existing uninhabitable housing stock into moderate income housing
- (D) **Identify and utilize** county general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the county/municipality for the construction or rehabilitation of moderate income housing

STRATEGY | PREVIOUSLY

- (A) Rezone for densities necessary to **assure** the production of moderate income housing
- (B) **Facilitate** the rehabilitation or expansion of infrastructure that **will encourage** the construction of moderate income housing
- (C) **Facilitate** the rehabilitation of existing uninhabitable housing stock into moderate income housing
- (D) **Consider** county general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the county/city

* Bold text : revised language

* Colored font is only applicable to the jurisdiction type : county or municipality



STRATEGY | NOW

- (E) Create or allow for, and reduce regulations related to, **internal or detached** accessory dwelling units in residential zones
- (F) **Zone or rezone** for higher density or moderate income residential development in commercial or mixed-use zones **near major transit investment corridors**, commercial centers, or employment centers
- (G) **Amend land use regulations to allow for** higher density or **new** moderate income residential development **in commercial or mixed-use zones** near major transit investment corridors

(OPTION - one of three required options for municipalities with a fixed guideway transit station)

STRATEGY | PREVIOUSLY

- (E) Create or allow for, and reduce regulations related to, accessory dwelling units in residential zones
- (F) **Allow** for higher density or moderate income residential development in commercial and mixed-use zones, commercial centers, or employment centers
- (G) **Encourage** higher density or moderate income residential development near major transit investment corridors

* Bold text : revised language

* Colored font is only applicable to the jurisdiction type : **county** or **municipality**

STRATEGY | NOW

- (H) **Amend land use regulations** to eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities
(OPTION - one of three required options for municipalities with a fixed guideway transit station)

- (I) **Amend land use regulations** to allow for single room occupancy developments

- (J) Implement zoning incentives for moderate income units in new developments

- (K) Preserve existing **and new** moderate income housing and subsidized units by utilizing **a landlord incentive program, providing for deed restricted units through a grant program, or establishing a housing loss mitigation fund**

STRATEGY | PREVIOUSLY

- (H) Eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities

- (I) Allow for single room occupancy developments

- (J) Implement zoning incentives for **low to** moderate income units in new developments

- (K) Utilize **strategies that preserve** subsidized low to moderate income units **on a long-term basis**

- (L) Preserve existing moderate income housing

* Bold text : revised language

* Colored font is only applicable to the jurisdiction type : **county** or **municipality**



STRATEGY | NOW

(L) Reduce, **waive, or eliminate** impact fees related to moderate income housing

(M) **Demonstrate creation of, or** participation in, a community land trust program for moderate income housing

(N) Implement a mortgage assistance program for employees of the **county/municipality**, an employer that provides contracted services **for the county/to the municipality, or any other public employer that operates within the county/municipality**

STRATEGY | PREVIOUSLY

(M) Reduce impact fees, **as defined in Section 11-36a-102**, related to **low and** moderate income housing

(N) Participate in a community land trust program for **low or** moderate income housing

(O) Implement a mortgage assistance program for employees of the **county/municipality** or of an employer that provides contracted services **for the county/to the municipality**

* Bold text : revised language

* Colored font is only applicable to the jurisdiction type : **county** or **municipality**

STRATEGY | NOW

- (O) Apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity, an entity that applies for affordable housing programs administered by the Department of Workforce Services, **an entity that applies for affordable housing programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act**, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or **any other entity that applies for programs or services that promote the construction or preservation of moderate income housing**

STRATEGY | PREVIOUSLY

- (P) Apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing
- (Q) Apply for or partner with an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity
- (R) Apply for or partner with an entity that applies for affordable housing programs administered by the Department of Workforce Services
- (S) **Apply for or partner with an entity that applies for programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act**
- (S / T) Apply for or partner with an entity that applies for services provided by a public housing authority to preserve and create moderate income housing

* Bold text : revised language

* Colored font is only applicable to the jurisdiction type : **county** or **municipality**

STRATEGY | NOW

(P) **Demonstrate utilization of** a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency **to create or subsidize moderate income housing**

(W / X) **Demonstrate implementation of** any other program or strategy to address the housing needs of residents of the **county/municipality** who earn less than 80% of the area median income, **including the dedication of a local funding source to moderate income housing or the adoption of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate income housing**

STRATEGY | PREVIOUSLY

(U / V) **Utilize** a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency

(V / W) Any other program or strategy implemented by the **county/municipality** to address the housing needs of residents of the **county/municipality** who earn less than 80% of the area median income

* Bold text : revised language

* Colored font is only applicable to the jurisdiction type : **county** or **municipality**



STRATEGY | NEW

- (Q) Create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act
(OPTION - one of three required options for municipalities with a fixed guideway transit station)
- (R) Eliminate impact fees for any accessory dwelling unit that is not an internal accessory dwelling unit as defined in Section 10-9a-530
- (S) Create a program to transfer development rights for moderate income housing
- (T) Ratify a joint acquisition agreement with another local political subdivision for the purpose of combining resources to acquire property for moderate income housing
- (U) Develop a moderate income housing project for residents who are disabled or 55 years old or older
- (V) **Develop and adopt a station area plan in accordance with Section 10-9a-403.1**
(REQUIRED - for municipalities with a fixed guideway transit station)
- (V / W) Create or allow for, and reduce regulations related to, multifamily residential dwellings compatible in scale and form with detached single-family residential dwellings and located in walkable communities within residential or mixed-use zones

Three Options to Consider for Action by Oct 1

OPTION 1

Pick or reaffirm 3* strategies and adopt an implementation timeline for each.

* 4 for municipalities with a fixed guideway public transit station

**MEETING THE BASE
REQUIREMENT**

OPTION 2

Pick new strategies and a corresponding implementation timeline for each.

**MEETING THE BASE
REQUIREMENT WITH
REACHING PRIORITY
CONSIDERATION**

OPTION 3

Incorporate at least 2 strategies beyond the base requirement and adopt an implementation timeline for each.

**REACH PRIORITY
CONSIDERATION**

Resources to help you plan

WFRC Resources:

- Bill Summary
- Details on Station Area Planning
- Data to help (more in later slides)

HCD Resources:

- Train jurisdictions on the annual reporting process
- Provide support and answers to jurisdictions throughout the general plan adoption and implementation of the housing element
- Creating an easier-to-use reporting form
- Building a statewide database to support jurisdictions in their plan development



Local Vision



Regional Transportation Plan



Wasatch Choice Interactive Map: wfrs.org/wasatch-choice-map/

5 Discussion Presentation: Moderate Income Housing

Wasatch Choice Map #wherematters

Vision Transportation Land Use Economic Development Recreation



WASATCH CHOICE
2050
VISION FOR OUR FUTURE

Utah is growing... and we have a plan. Our future quality of life depends on the choices we make today. Wasatch Choice is our communities' shared vision for transportation investments, development patterns, and economic opportunities. The Wasatch Choice map and key strategies show how advancing the Vision can enhance quality of life even as we grow.

Key Strategies

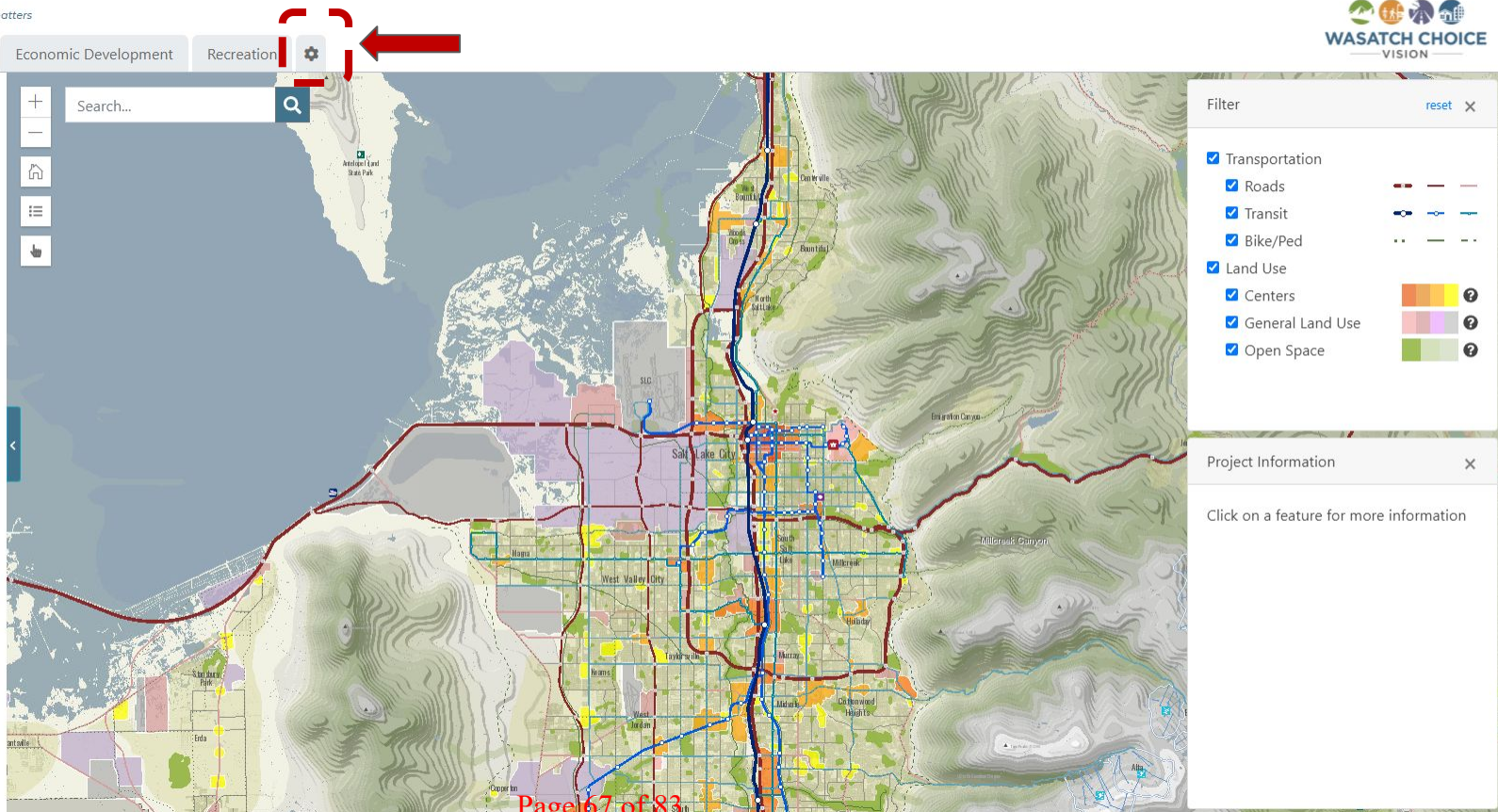
The Wasatch Choice Vision is built on four key strategies:

- 1 Provide transportation choices
- 2 Support housing options
- 3 Preserve open space
- 4 Link economic development with transportation and housing decisions

Benefits of the Vision

Implementing the Wasatch Choice Vision promotes high quality of life now and for generations to come.

- Livable and healthy communities
- Access to economic and educational opportunities
- Manageable and reliable traffic conditions
- Quality transportation choices
- Safe, user friendly streets
- Clean air



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WASATCH CHOICE
VISION

Wasatch Choice Interactive Map

5 Discussion Presentation: Moderate Income Housing

Wasatch Choice Map #wherematters

WASATCH CHOICE
2050
VISION FOR OUR FUTURE

Utah is growing... and we have a plan. Our future quality of life depends on the choices we make today. Wasatch Choice is our communities' shared vision for transportation investments, development patterns, and economic opportunities. The Wasatch Choice map and key strategies show how advancing the Vision can enhance quality of life even as we grow.

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The Wasatch Choice Vision is built on four key strategies:

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- Safe, user friendly streets
- Clean air

Configure Map Tabs

Other Available Maps

Access to Opportunities
TIP Projects
TLC Projects
Growth Projections
Active Transportation
Future Land Use



Maps Displayed (max=10)

Vision
Transportation
Land Use
Economic Development
Recreation

Finish



Filter

reset x

- ☒ Transportation
 - ☒ Roads
 - ☒ Transit
 - ☒ Bike/Ped
- ☒ Land Use
 - ☒ Centers
 - ☒ General Land Use
 - ☒ Open Space

Project Information

Click on a feature for more information

WFRC/ MAG Resources: Access to Opportunities

5 Discussion Presentation: Moderate Income Housing → wfrf.org

Wasatch Choice Map #wherematters

Vision Transportation Land Use Economic Development Recreation **Access to Opportunities** Growth Projections



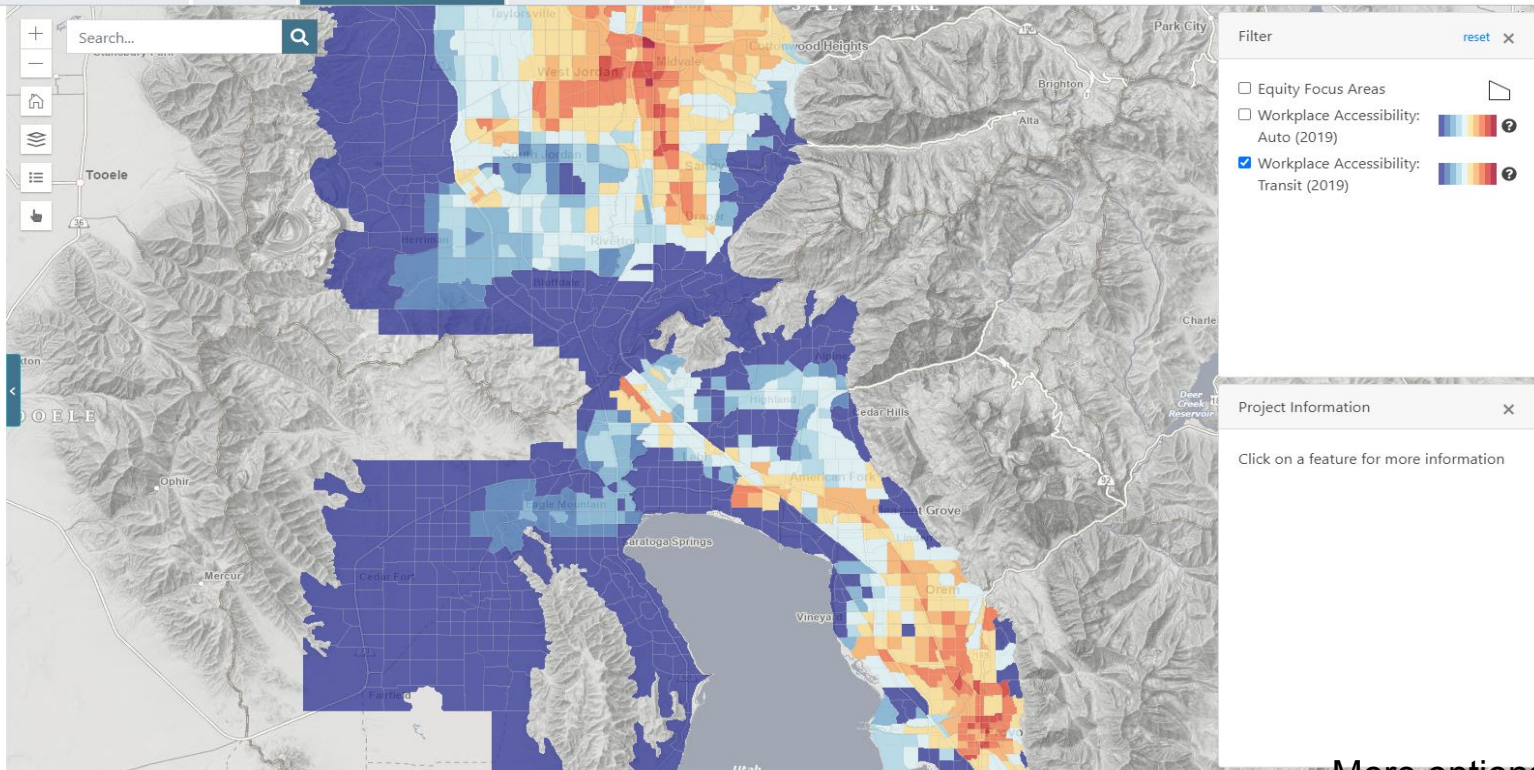
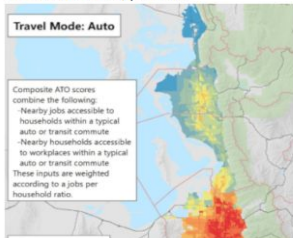
A key strategy of the Wasatch Choice Vision is linking economic development, transportation, and housing decisions.

Access to Opportunities (ATO) is a measure of how well our land use and transportation system works together to connect people with the places they want to get to, such as workplaces. You can view Workplace ATO -- for either automobile or transit modes -- using the map's filter controls. These maps provide a view for how well Wasatch Front household and workplace locations can be connected within typical commutes. This dataset is also available from data.wfrf.org.

Equity Focus Areas identify populations that could benefit most from increased ATO.

Regionwide workplace accessibility, calculated for 2019 are also shown in the map images below:

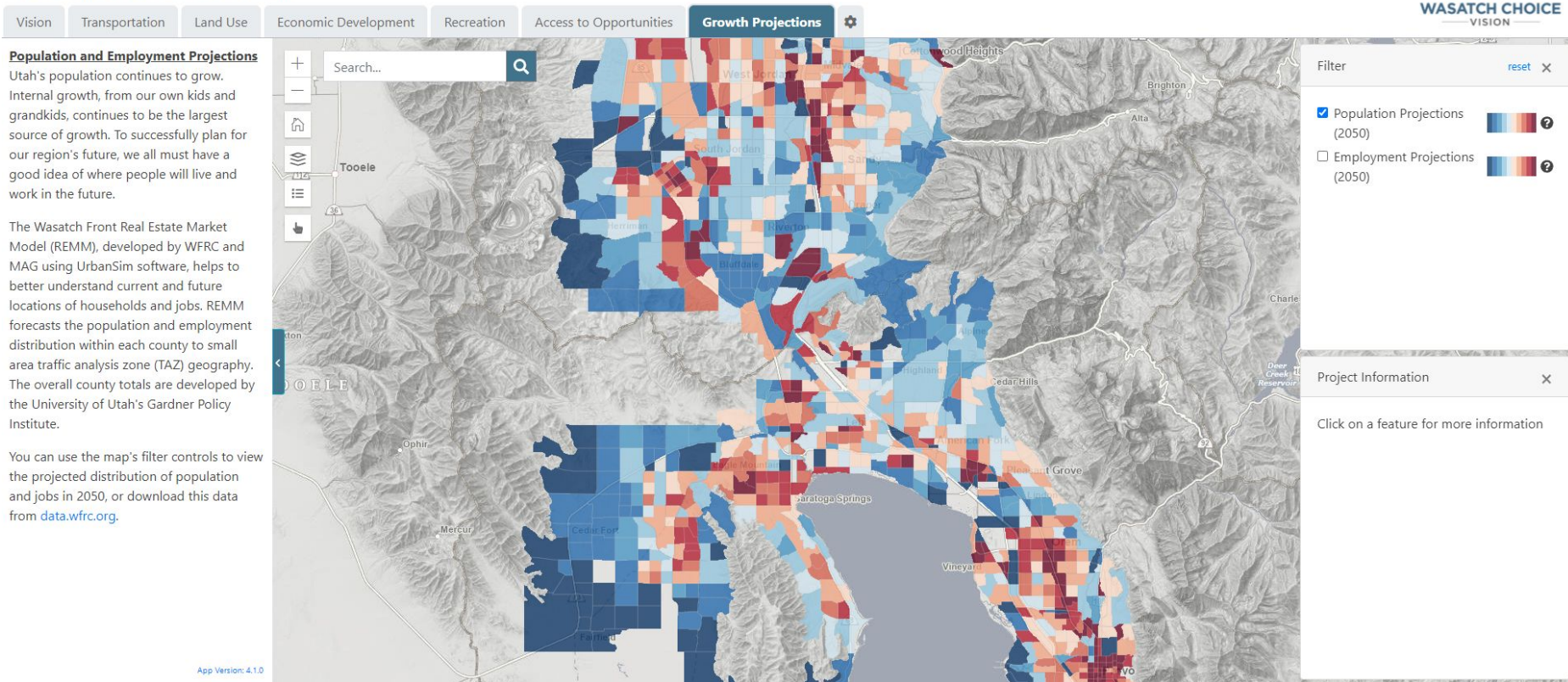
*Workplace Accessibility,
Automobile Mode, for 2019*



Resources: Growth forecasts

5 Discussion Presentation: Moderate Income Housing [wfrc.org](https://www.wfrc.org)

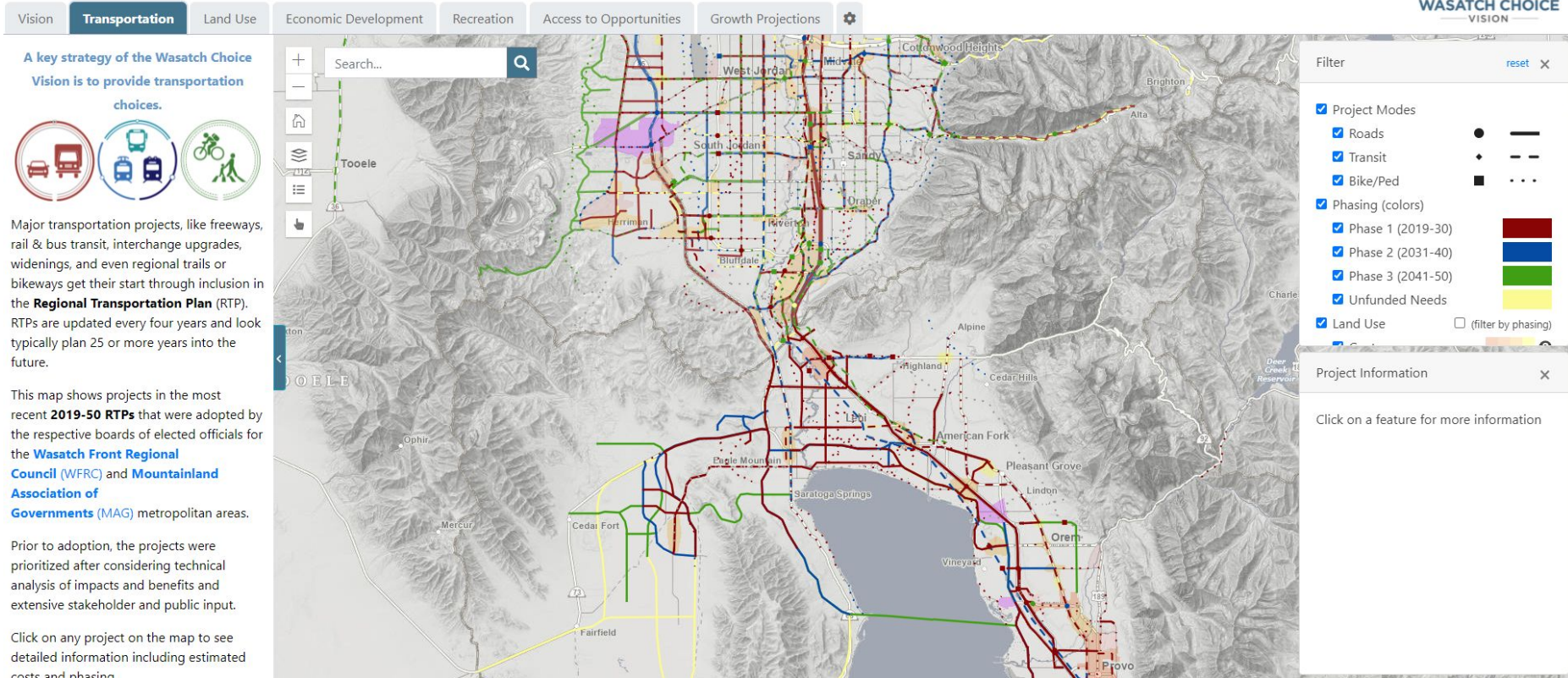
Wasatch Choice Map #wherematters



Resources: Regional Transportation Plan

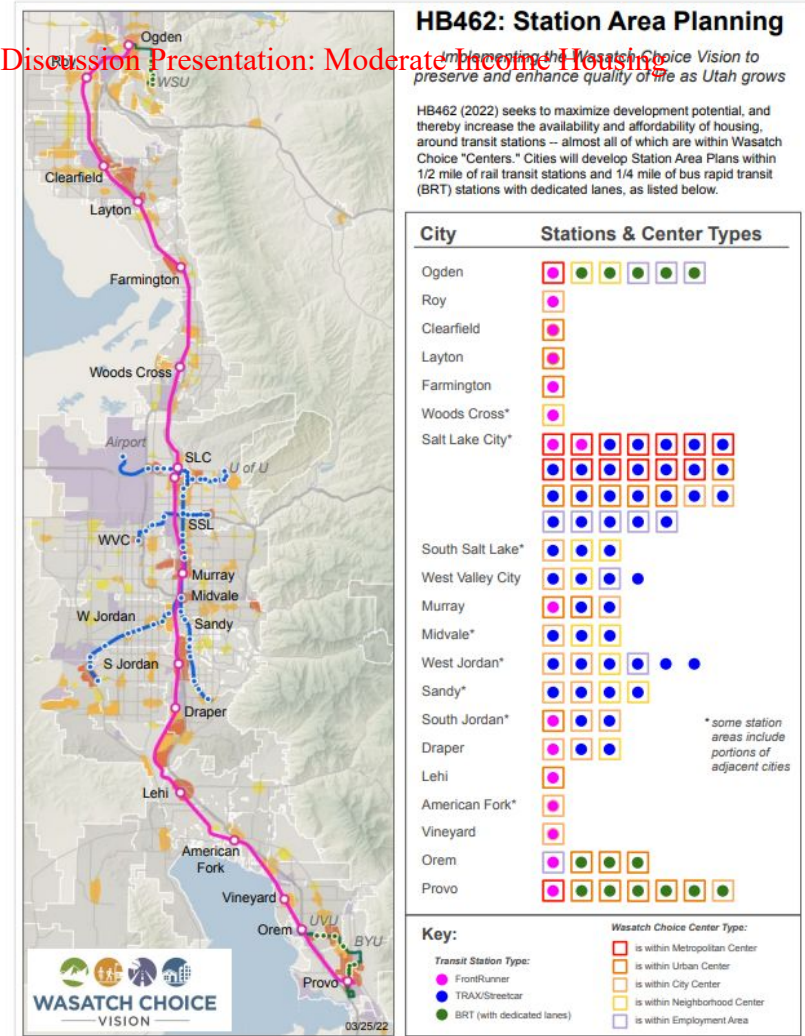
5 Discussion Presentation: Moderate Income Housing → wfrco.org

Wasatch Choice Map #wherematters



5 Discussion Presentation: Moderate Income Housing

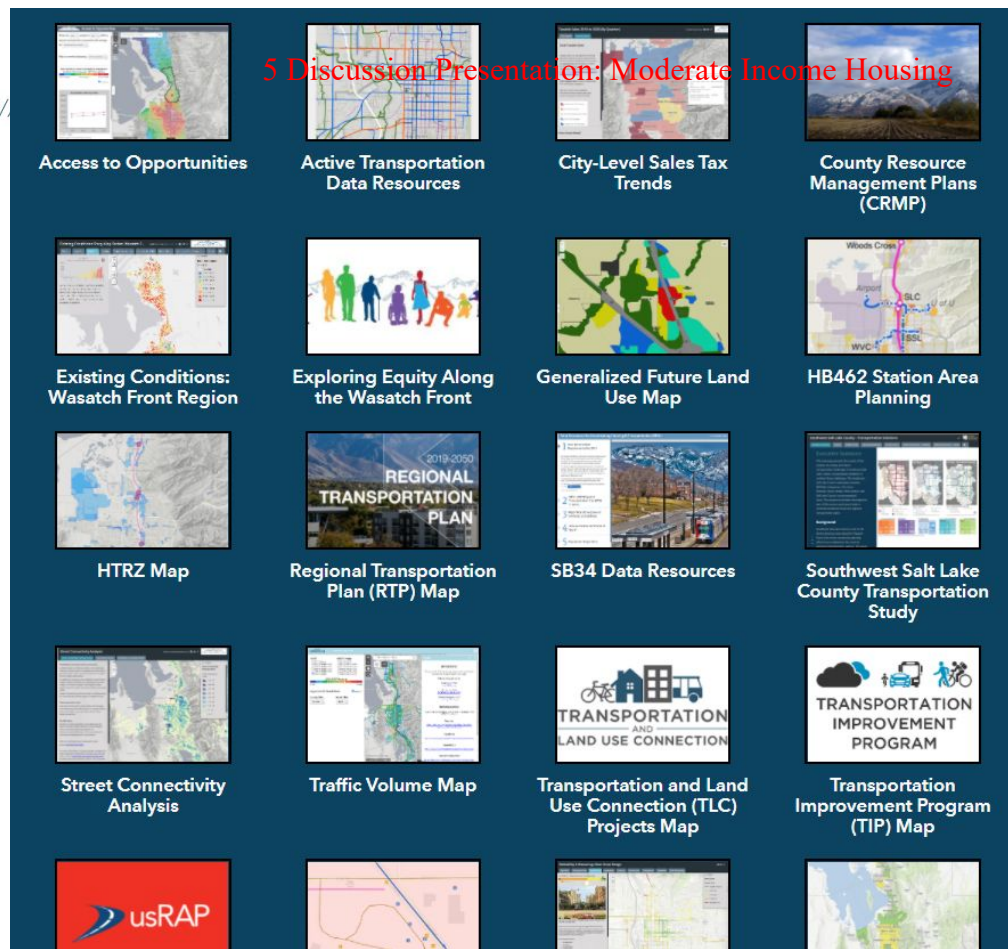
Page 72 of 83



But wait, there is more..

maps.wfrc.org/

5 Discussion Presentation: Moderate Income Housing



And more resources to help you plan

Technical Assistance Funding

- Technical Planning Assistance UDOT \$600K. Statewide assistance general plans and zoning
- Water Element Tech Assistance DWR \$300K. For integration on water and land use for general plan element (2025)
- Planning Technical Assistance AOG's \$1.05M.
- "Statewide Conversation About Growth" GOPB \$1M. Educating public
- Regional workshops on land use policies \$250K. Utah Land Use Institute case law studies
- Efforts to increase housing affordability through local zoning and housing regulatory reform \$250K. TBD
- DWS money to create a housing database \$500k.

Annual Reporting - 2022

04

New Report Format Released

HCD will be developing a new method for jurisdictions to complete and submit their annual report. This format will be published by July 1.

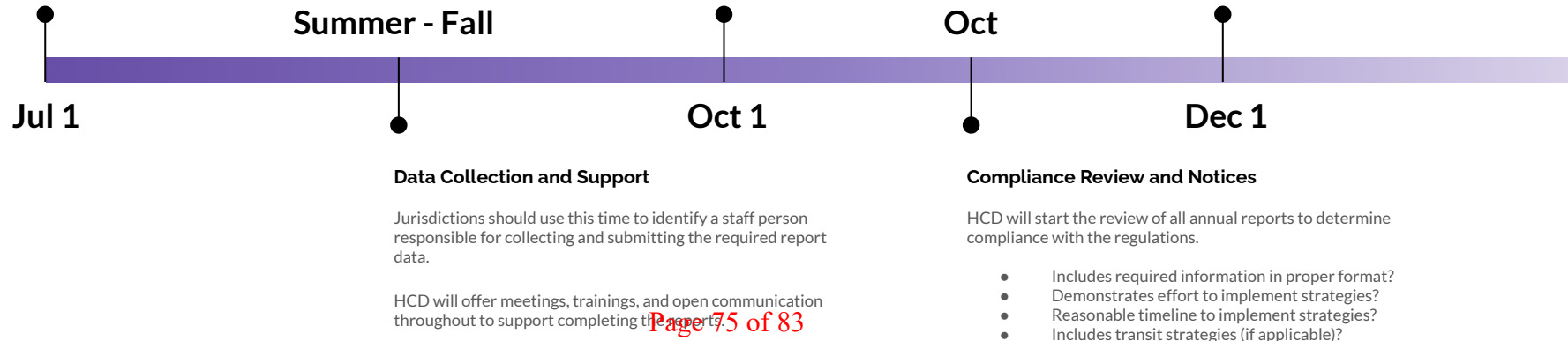
Annual Report Due

Jurisdictions must submit their annual report to HCD by **October 1**. Reporting will now be based on fiscal year.

- Identify the selected strategies
- Include the implementation plan of those strategies

Review Methodology Due

HCD will submit by Dec 1 its proposed methodology to review annual reports. To be submitted to the Committee on Housing Affordability.





Annual Report Review

After the October 1 deadline, HCD will verify if a jurisdiction is in compliance with the state requirement.

Notice will be provided to the **jurisdiction**, **UDOT**, and the **Governor's Office of Planning and Budget**.

Those jurisdictions not in compliance will receive notice and have the opportunity to correct the issues as noted within 90 days.

Annual Reporting - Subsequent Years

Annual reporting will continue each year with the report **due** on **Oct 1**. In addition the to the reporting requirements of 2022, jurisdictions will provide the following in 2023 and forward:

Actions Taken		What was done in the year to implement strategies
Land Use Regs / Decisions		What was done and how did it support efforts to implement the strategies
Barriers		What was encountered that impeded the ability to implement any strategies
ADUs		Number of internal and external/detached ADUs that were built, license granted to rent
Market		How has the market responded to the strategies that have been implemented
Suggestions		How can the state support the jurisdiction in implementing strategies



Incentives & Restrictions

05

Jurisdictions will receive priority consideration if they:

- a. Comply with moderate income housing element, strategies, and implementation plan requirements
- b. Demonstrate that they made plans to implement:
 - i. 5 or more strategies (municipalities **without** a fixed guideway public transit station)
 - ii. 6 or more strategies (municipalities **with** a fixed guideway public transit station)
 - iii. 5 or more strategies (counties)

INCENTIVE

Transportation Project Funding (TIF & TTIF)

Priority Consideration from
the Transportation
Commission

Incentives & Restrictions

05

Jurisdictions that **do not submit** their annual report or that **do not correct issues** identified in their Notice of Noncompliance within 90 days will become ineligible for specific funds.

RESTRICTION

Funding from the TIF and TTIF

Executive Director of the
Department of Transportation

Next Steps

06

For all jurisdictions that fall under the Moderate Income Housing requirement

By Oct 1, 2022

- Amend / adopt the General Plan with a moderate income housing element that utilizes the newly-revised list of strategies
 - At least 3 strategies must be included (4 for cities with a fixed guideway public transit station)
 - Implementation plan for the selected strategies
- Submit your moderate income housing annual report



Next Steps

06

For Housing & Community
Development Division

By Dec 1, 2022

Submit to the Committee on Housing
Affordability - the methodology for review
of the annual reports.

Interested in providing feedback for the *NEW* annual reporting form?

Send an email to Meg Ryan (mryan@ulct.org) and/or Pete Kane (petekane@utah.gov).

A brainstorming discussion will be scheduled for late April.

Thank you.

Reach out any time with questions...

Pete Kane

*Database Program Manager
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