

**Mayor**  
Kenneth Romney

**City Engineer/ Land  
Use Administrator**  
Kris Nilsen

**City Recorder/  
Community  
Development**  
Cathy Brightwell

# **WEST BOUNTIFUL PLANNING COMMISSION**

550 North 800 West  
West Bountiful, Utah 84087

Phone (801) 292-4486  
FAX (801) 292-6355  
www.WBCity.org

**Chairman**  
Alan Malan

**Commissioners**  
Mike Cottle  
Laura Mitchell  
Corey Sweat  
Dennis Vest

**THE PLANNING COMMISSION WILL HOLD A REGULAR MEETING  
AT 7:30 PM ON TUESDAY, AUGUST 23, 2022, AT THE CITY OFFICES**

**AGENDA:**

1. Prayer/Thought - Commissioner Sweat.  
Pledge of Allegiance – Commissioner Vest.
2. Confirm Agenda.
3. Public Hearing – Updates to Landscape Regulations.
4. Belmont Farms Subdivision (Ivory Development) – Phase 1,  
Preliminary & Final Plat.
5. Consider Updates to Landscape Regulations.
6. Flood Damage Prevention Review.
7. Moderate Income Housing Review.
8. Consider Meeting Minutes from August 9, 2022.
9. Staff report.
10. Adjourn.

-----  
*This notice has been sent to the Davis Journal and was posted on the State Public Notice Website  
and the city website on August 19, 2022, by Cathy Brightwell, City Recorder.*

**Mayor**  
Kenneth Romney

**City Engineer/  
Zoning Administrator**  
Kris Nilsen

**City Recorder/  
Community  
Development**  
Cathy Brightwell

# **WEST BOUNTIFUL PLANNING COMMISSION**

550 North 800 West  
West Bountiful, Utah 84087

Phone (801) 292-4486  
FAX (801) 292-6355

**Chairman**  
Alan Malan

**Commissioners**  
Mike Cottle  
Laura Mitchell  
Corey Sweat  
Dee Vest

## **NOTICE OF PUBLIC HEARING**

The Planning Commission will hold a public hearing at City Hall on Tuesday, August 23, 2022, beginning at 7:30 p.m. as part of their regular meeting.

The purpose of the hearing is to receive public comment on updates to the city's landscape regulations that will impact the following sections of West Bountiful Municipal Code:

1. WBMC 12.28 – Water Efficient Landscape Standards – miscellaneous clarifications.
2. Title 17 Development Standards for Non-Residential Zones – miscellaneous changes to be consistent with WBMC 12.28.
3. 17.52 – Off-Street Parking - Landscaping Updates.
4. 15.12.040 – Movement of Buildings – Updates to be consistent with WBMC 12.28.

More information can be found on the city website at [www.WBCity.org](http://www.WBCity.org) in the Calendar or Public Notices section. All interested parties are invited to participate in the hearing. Written comments may be submitted prior to the meeting to [Recorder@WBCity.org](mailto:Recorder@WBCity.org).

Cathy Brightwell  
City Recorder

# MEMORANDUM



**TO:** Planning Commission

**DATE:** August 19, 2022

**FROM:** Staff

**RE:** General Landscape References in West Bountiful Municipal Code

---

This memo discusses general landscape references throughout the municipal code that have been reviewed to complement and be consistent with the newly adopted Water Efficient Landscape ordinance, WBMC 12.28. It also proposes several clarifications to the new Code.

## Background

The city council adopted Ordinance 455-22 amending its landscape regulations to promote water conservation and efficient use of water. The initial catalyst for these code changes was to allow property owners to qualify for the “Flip Your Strip” rebate program offered by Weber Basin Water Conservancy District (WBWCD); however, the real goal of the changes is the long-term conservation of water far beyond park strips.

## Review

Other sections of city code that currently include landscape regulations have been identified and reviewed to ensure they do not conflict with the new ordinance. The proposed changes by staff and legal counsel are summarized below and attached for your review and discussion. A public hearing has been scheduled for August 23, 2022, seeking public comments on the proposed changes.

### **12.28 Water Efficient Landscape Standards:**

- Clarification of definitions and applicability
- Yellow highlighted text is provided for discussion.

### **17 - C-G, C-N, L-I, C-H, I-G, HCCO:**

- Eliminate duplicative language included in Chapter 12.28
- C-H - change to match C-G, C-N, and L-I
- I-G – add a minimum landscape requirement of 10% of the site area
- HCCO – make changes and add clarifications consistent with 12.28.

### **17.52 Off-Street Parking:**

- Delete Landscaping from *17.52.060 Maintenance of Parking Lots* and create new section.
- Update regulations to require landscaped islands in parking lots.

### **15.12.040 Movement of Buildings:**

- Clarify and reference Chapter 12.28.

**12.28 Water Efficient Landscape Standards**

12.28.010 Purpose

12.28.020 Applicability

12.28.030 Definitions

12.28.040 General Standards

12.28.050 Landscape Design Standards

12.28.060 Irrigation Design Standards

12.28.070 Landscape and Irrigation Plans Required

12.28.080 Completion of Improvements

12.28.090 Homeowners Association Restrictions

12.28.100 Prohibited Watering Practices

12.28.110 Enforcement And Penalties

**12.28.010 Purpose**

The purpose of this chapter is to protect and enhance the city's environmental, economic, recreational, and aesthetic resources by promoting efficient use of the public's limited water resources by reducing water waste and establishing guidelines for designing, installing, and maintaining water efficient landscapes throughout the city.

**12.28.020 Applicability**

Except as otherwise provided in this chapter, the provisions of this chapter apply to:

- A. All new landscapes in all zones of the city associated with construction of any new residential home, commercial or industrial structure, public facility, or mixed-use development.
- B. Any existing residential, commercial, industrial, or mixed-use projects where the owner or developer proposes to modify the landscaped area by more than fifty percent (50%).

In addition to the foregoing, compliance with the landscaping standards in this chapter is highly encouraged for all landscaped areas. These landscaping standards are not intended to conflict with other landscaping requirements ~~as defined by~~ Utah law or other sections of the West Bountiful Municipal Code, including stormwater retention requirements and low-impact development guidelines.

~~Notwithstanding these landscaping standards, whenever any requirement may be in~~ are subject to any conflicting with requirement of Utah law, ~~such conflicting requirements shall not apply.~~

**12.28.030 Definitions**

The following definitions shall apply to this chapter.

"Hardscape" means durable landscape materials such as brick or concrete pavers, benches, artificial turf, walls, decorative rocks, mulch, landscape curbing, planters, concrete, ~~asphalt~~, or other like materials that are not of a vegetative nature. Hardscape does not include building or structure footprints, driveways, and public sidewalks.

“Landscaped area” means improved areas of the property that make up the landscape ~~and may include hardscape~~. The landscaped area does not include non-irrigated natural areas that are intentionally left undeveloped.

“Landscape” means [living vegetation or](#) a combination of living vegetation and hardscape.

“Mulch” means any material such as rock, bark, or wood chips that is left loose and applied to the soil.

“Park strip” means a typically narrow landscaped area located between the back-of-curb and sidewalk.

“Smart automatic irrigation controller” means an automatic timing device used to remotely control valves in the operation of an irrigation system using the internet to connect to a real time weather source or soil moisture sensor. Smart automatic irrigation controllers schedule irrigation events using either evapotranspiration or soil moisture data to control when and how long sprinklers or drip systems operate and will vary based on time of year and weather or soil moisture conditions.

“Turf” means a surface layer of earth containing grass species with full root structures that are maintained as mowed grass, also called lawn.

“Xeriscape” is a style of landscape design requiring little or no irrigation or other maintenance using plants that can survive on low or minimal water usage.

#### **12.28.040 General Standards**

The following general standards apply:

- A. Every property within the city to which this chapter applies shall maintain landscape in a well-cared for manner that enhances the appearance of the property.
- B. Landscaping shall consist of a balance of vegetation and hardscape that does not violate any ~~other federal, state, or municipal statute, ordinance, or applicable~~ law. A minimum of twenty-five percent (25%) of the front landscaped area shall be vegetation.
- C. Landscape and hardscape shall comply with the clear view, fencing, and setback requirements of the ~~city's~~ Municipal Code.
- D. Irrigating any landscape between the hours of 10:00 am and 6:00 pm is prohibited.

#### **17.28.050 Landscape Design Standards**

The following landscape design standards are required for all applicable properties, and strongly encouraged for all landscape projects, to conserve the public’s water resources and promote water efficient landscaping. Landscaping may include a combination of turf, plant cover, hardscape, and xeriscape as described below.

- A. Plant Selection. Plants shall be selected for various landscape situations and conditions and be well-suited to the microclimate and soil conditions at the project site. Both native and locally-adapted plants are acceptable. Plants with similar water needs shall be grouped together as much as reasonably practicable. (*Visit [weberbasin.com](http://weberbasin.com) for a list of recommended water-conserving plants.*)

- B. Turf/Lawns. Except for designated recreational areas that allow access to the public:
  1. Turf areas located in the front yards of residential ~~areas-properties~~ should not exceed thirty-five percent (35%) of the total **front** landscaped area ~~on residential properties~~. Developers and owners are encouraged to also limit side and back yard turf areas to a maximum of thirty-five percent (35%).
  2. Turf area shall not exceed twenty percent (20%) of the total landscaped area on non-residential or mixed-use properties, or ten percent (10%) if secondary water is not available.
  3. No turf will be planted in park strips, areas less than eight (8) feet wide, parking lot landscaping, or on slopes greater than twenty-five percent (25%).
    - a. Water-conserving plants not requiring overhead spray irrigation may be planted in park strips subject to clear view regulations.
    - b. Park strip areas may be designed as bioswales, especially recommended in commercial, industrial and HOA common areas.
  
- C. Tree Selection. Tree species shall be selected based on growth characteristics and site conditions, including available space, overhead clearance, soil conditions, exposure, and desired color and appearance. *(See city website for a list of general recommendations and trees prohibited in park strips.)*
  
- D. Mulch. After completion of all planting, all irrigated non-turf areas should be covered with a minimum three (3) inch layer of mulch to retain water, inhibit weed growth, and moderate soil temperature. Non-porous material shall not be placed under the mulch.

**12.28.060 Irrigation Design Standards**

The following irrigation design standards are required for applicable properties, and strongly encouraged for all landscape projects.

- A. Irrigation Controller. Landscaped areas should be provided with a WaterSense-labeled smart automatic irrigation controller, equipped with rain delay or rain shut-off capabilities.
  
- B. Irrigation valves should irrigate landscapes with similar site, slope, soil conditions and plant materials with similar water needs.
  1. Drip irrigation should be used for all non-turf areas and be equipped with pressure regulator and filter.
  2. Turf and non-turf areas should be irrigated on separate valves.
  3. Drip emitters and sprinklers should be placed on separate valves.

**12.28.070 Landscape and Irrigation Plans Required**

For applicable properties, ~~these standards take effect when building permits are required.~~ A landscape and irrigation plan shall be provided to the city for review as part of the building permit application package. **(Residential – front yard only?)**

**12.28.080 Completion of Improvements**

All required landscaping improvements shall be completed as follows.

- A. Commercial, developer, industrial, and public facility projects shall be completed prior to issuance of a certificate of occupancy. A performance bond or cash deposit, in an amount estimated by staff as equivalent to the cost of the required landscaping, may be required to assure installation of required landscaping within the time prescribed in this section.
- B. Individual residential projects shall be completed within one year, but no later than October 31 of the year following completion of construction. **Front only?**

If the installation of any landscaping improvements cannot be completed due to weather, including drought conditions or other circumstances beyond the control of the owner or developer, an extension of up to nine (9) months may be granted by the land use administrator or designee for good cause shown.

#### **12.28.090 Homeowners Association Restrictions**

No Homeowner's Association documents that govern the operation of a common interest development shall:

- A. Require the use of any uniform plant material requiring overhead spray irrigation in landscaped areas less than eight (8) feet wide or in other areas that exceed thirty-five percent (35%) of the [front](#) landscaped area;
- B. Prohibit, or include conditions that have the effect of prohibiting, the use of water-conserving plants as a group; or
- C. Have the effect of prohibiting or restricting compliance with this chapter or other water conservation measures [under applicable law](#).

#### **12.28.100 Prohibited Watering Practices**

Notwithstanding any provision of this chapter to the contrary, water shall be properly used. Waste of water, including but not limited to the following, is prohibited on any property within the city, regardless of whether the standards in this chapter otherwise apply to the property.

- A. Using culinary water for irrigation where irrigation water is provided by a third-party service district and restrictions are in place.
- B. Washing sidewalks, driveways, parking areas, tennis courts, patios, or other hard surface areas except to alleviate immediate health or safety hazards.

#### **12.28.110 Enforcement and Penalties**

The land use administrator and public works director, or their designee, shall be authorized to enforce all provisions of this chapter in accordance with the Municipal Code.

The city's new Water Efficient Landscape ordinance - WBMC 12.28, references the following existing zoning landscape requirements. Changes are proposed to complement and be consistent with the new landscape standards.

**17.XX.XXX Development Standards (Commercial Neighborhood, Commercial General, Commercial Highway, Light Industrial)**

- A. Site Plan. A site plan for all phases of the proposed development shall be presented for review and approval, as provided in the ~~land development code~~Municipal Code.
- B. Landscaping. Notwithstanding Chapter 12.28, no less than fifteen percent (15%) of the total ~~lot~~ site area shall be landscaped for properties one acre or more in size, and no less than ten percent (10%) of the total lot area shall be landscaped for properties less than one acre in size. A landscaping plan shall be approved by the planning commission as a part of the site plan review. Required side and rear yard areas may be used for driveways or parking; provided, that trees and shrubs of sufficient size and quantity are installed to assure a visual screen from abutting residential properties ~~are installed~~. All landscaping shall be ~~adequately designed~~, irrigated and maintained in accordance with Chapter 12.28. ~~The planning commission may require a performance bond or cash deposit, in an amount estimated by the planning commission as equivalent to the cost of the required landscaping, to assure installation of required landscaping within six months of approval date. A building permit shall not be granted until receipt of such bond or deposit.~~

**REPLACE C-H LANGUAGE WITH ABOVE**

**17.34.090 Development Standards (Commercial Highway)**

- ~~A.—Site Plan. A site plan for all phases of the proposed development shall be presented to the City for review and approval, as provided in the land development code.~~
- ~~B.—Landscaping.
  - 1.— A landscaping plan shall be submitted to and approved by the City as a part of the site plan review;~~
- ~~2.— No less than twenty-five percent (25%) of the front set back shall be landscaped. All landscaped areas shall be landscaped with a mixture of grasses, ground cover, shrubs and trees, and may include sculptures, fountains and patios. Unimproved areas (raw ground) without native trees will not count toward such landscaping requirement~~
- ~~3.— All landscaping shall be adequately irrigated and maintained in a healthy, neat and attractive manner; and~~
- ~~4.— The City may require a performance bond or cash deposit, in an amount estimated by the City as equivalent to the cost of the required landscaping, to assure installation of required landscaping within six months of approval date. A building permit shall not be granted until receipt of such bond or deposit.~~



#### **17.40.080 Development Standards (Industrial General)**

- A. Site Plan. A site plan for all phases of the proposed development shall be presented for review and approval, as provided in the ~~land development code~~ Municipal Code.
- B. Landscaping. ~~Notwithstanding Chapter 12.28, no less than ten (10) percent of the total site area shall be landscaped. No minimum area is required; however, landscaping shall be considered and provided where deemed appropriate. A landscaping plan shall be approved by the planning commission as a part of the site plan review.~~ Required side and rear yard areas may be used for driveways or parking; provided that trees and shrubs of sufficient size and quantity are installed to assure a visual screen from abutting residential properties ~~are installed~~. All landscaping shall be adequately designed, irrigated and maintained in accordance with Chapter 12.28. ~~The planning commission may require a performance bond or cash deposit, in an amount estimated by the planning commission as equivalent to the cost of the required landscaping, to assure installation of required landscaping within six months of approval date. A building permit shall not be granted until receipt of such bond or deposit.~~

#### **17.44.050(E) – HCCO Landscaping.**

~~Notwithstanding Chapter 12.28, no less than fifteen~~ Ten percent (15%) of the total site area (including building, parking, and setbacks) ~~shall~~ is recommended to be landscaped and include irrigation. The site landscape should include a minimum of 5 trees and 15 shrubs per acre. Trees should be a minimum of 1.5 inch caliper and shrubs a minimum of 5-gallon; two 1-gallon ornamental grasses or perennials equal one shrub for up to fifty percent (50%) of the shrub requirement. ~~The use of xeriscape materials such as rock or wood mulches (including a weed mat) are allowed for up to 50% of the landscaping. Water efficient landscaping is recommended. Turf area shall not exceed twenty percent (20%) of~~ Within the total landscaped areas, a maximum of 50% coverage may be turfgrass. No turfgrass should be in areas less than 10 feet in width; these areas should be landscaped with shrubs, trees, rocks, or mulch.

Setbacks adjacent to a residential zone, as described in Section 17.42.050.A, shall be landscaped. Buffering of adjacent residential zones should include a six-foot masonry wall located on the property line (subject to the fencing and clear view requirements of Chapter 17.50); and medium to large trees planted every 30 feet; ~~and an inert mulch, including synthetic turf; and turf/groundcover at a 50/50 ratio~~. Such areas may also incorporate spaces for recreational activities; provided, that no swimming pool, court, playground, or other recreational facility should be located within 15 feet of a residential zone. ~~Irrigation systems are recommended to be managed by an EPA waterwise irrigation controller. Smart irrigation practices such as drip and sensors are encouraged.~~ A landscape and irrigation plan, stamped by a professional landscape architect, engineer, or certified irrigation designer, including plant locations/types, grading, and irrigation systems, ~~must shall~~ be submitted for review and approval by City staff in accordance with Chapter 12.28. All landscaping shall be designed, irrigated, and maintained in accordance with Chapter 12.28.

### **17.52.060 – Maintenance of Parking Lots.**

Every parcel of land used as a public or private parking lot shall be developed and maintained in accordance with the following requirements.

1. Surfacing. Each off-street parking lot shall be surfaced with gravel, asphaltic or Portland cement or other binder pavement and permanently maintained to provide a dustless surface. The parking area shall be designed and maintained consistent with WBMC 13.30 Storm Water Management.
2. Screening. The sides and rear of any off-street parking lot which adjoins an area that is primarily residential shall be screened from such area by a masonry wall or solid visual barrier fence not less than four nor more than six feet in height.
- ~~3. Landscaping. Each parking lot shall provide along the entire frontage of the property (except for any drive approach) a minimum depth of ten (10) feet of permanently maintained landscaping.~~ ***MOVE TO NEW SECTION BELOW***
- ~~4.3.~~ Lighting. Lighting used to illuminate any parking lot shall be directed downward and arranged to reflect the light away from adjoining residential uses and from street traffic.
- ~~5.4.~~ All surfacing, screening, landscaping, lighting, and any other parking area elements shall be continually and properly maintained.

### **17.52.080 – Landscaping in Parking Lots**

The following landscape requirements apply to parking lots.

1. Each parking lot adjacent to a public street shall provide along the entire frontage of the property (except for any drive approach) a minimum depth of ten (10) feet of permanently maintained landscaping.
2. Each parking lot consisting of more than 20 spaces, or 4,000 square feet shall include landscaped parking islands as follows:
  - a. Office and commercial: 7% of total parking lot area.
  - b. Industrial and warehouse: 5% of total parking lot area.

Parking island areas are intended to define major drives and access ways, to delineate ends of parking rows and at aisle intersections. For every six required parking spaces, or portion thereof, a minimum of one tree shall be provided within each parking island. Additionally, each parking island shall contain:

- a. A minimum of 100 square feet;
  - b. Have a minimum average width of 5 feet; and
  - c. Include a minimum of one tree from the city's approved tree list.
3. In all other respects, the landscaping of parking lots shall comply with Chapter 12.28.

**15.12.040 – Movement of Buildings**

No building or substantial part thereof shall be relocated within the city if otherwise allowed, unless all the following additional requirements are fulfilled. Prior to issuance of a permit to move the same:

- D. ~~A landscape plan showing proposed landscaping equal to or exceeding in percentage of landscaped area to total lot area the average of lots within three hundred (300) feet is filed with the City, together with an agreement to complete the same within eighteen (18) months from the date of the permit. The right of occupation shall be conditioned upon this agreement.~~

Notwithstanding Chapter 12.28, a landscape plan, consistent with Chapter 12.28, showing the proposed landscaped area, together with an agreement to complete the same within eighteen (18) months from the date of the permit, is filed with the city. The right of occupancy shall be conditioned upon this agreement.

-----

# MEMORANDUM



**TO:** Planning Commission  
**DATE:** August 19, 2022  
**FROM:** Kris Nilsen, City Engineer  
**RE:** Belmont Farms Subdivision – Preliminary / Final Plat

---

Ivory Development has applied for a six-lot subdivision located on the west side of 1450 West at 400 North. The property is within the B-U zone and the proposed use is single family detached residential dwellings, matching the existing use adjacent to the property on the east and south. The project has been reviewed by staff to meet the underlying A-1 zone requirements for size (min. 43,560 sf) and frontage (min. 85 ft.), as represented.

Staff has been meeting with the developer to discuss project phasing and staff design comments. The project is being modified to consist of six lots to reduce the frontage on 1450 West Street postponing the improvements to the Millcreek drainage and 1450 West bridge.

**Preliminary Plat Review Checklist (WBMC 16.16.020).** Planning Commission and Staff have reviewed the preliminary plat checklist in the previous two meetings. The remaining items to be addressed on the checklist are shown below:

1. Copies of any agreements with adjacent property owners relevant to the proposed subdivision;
  - a. Utah Power and Light (RMP) for proposed utility crossing.
  - b. Ivory Development for storm drain improvements outside of subdivision boundary.
2. Satisfactory evidence that all utilities and services will be available for the subdivision and that the utilities and easements have been reviewed by the utility companies.
3. A Davis County development and construction permit if the proposed project is located within 100 ft. of a critical flood area as defined by Davis County (Davis County Flood Plain Permit);

**Final Plat Review Checklist (WBMC 16.16.030).** Planning Commission and Staff have reviewed the final plat checklist in the previous two meetings. The remaining items to be addressed on the checklist are shown below:

1. Prior to recording, a current title report will be submitted for review by the city attorney.
2. Following city council approval, the developer will enter into a bond agreement to insure completion of all required improvements within 18 months.
3. Following city council approval, a mylar plat (19" x 30") signed by all required and authorized parties with appropriate notarial acknowledgements will be recorded.

## Additional Review Comments by City Staff

- Review and Approvals from the following entities have not yet been received:
  1. BWCD
  2. Davis County
    - a. Storm drain discharge to Millcreek drainage
    - b. Transfer of ownership to West Bountiful City the portion of 1450 West street currently owned Davis County

- One item for planning commission and staff to discuss with the project team is maintenance of the landscaping of the storm basin area. The options are:
  1. The city will perform the maintenance of the landscape/area once the improvements have completed a warranty period;
  2. The development will perform maintenance of the landscape/area for all time; or
  3. The development will perform maintenance of the landscape/area until the large property area to the west is developed and the city accepts the maintenance of this proposed storm basin along with future similar storm basin areas.

**Recommendation by City Engineer:**

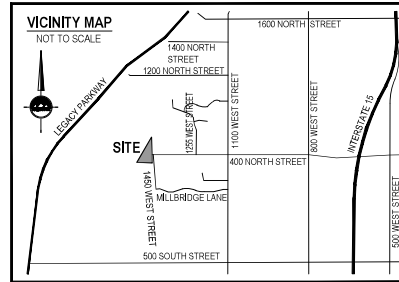
After review of the submitted Preliminary and Final Plats (and drawing set), an approval by the Planning Commission should be subject to the following conditions:

The developer will:

1. Address all remaining check list items and additional staff review comments.
2. Address all Planning Commission comments.
3. Submit a revised Final Plat and Plans for review by city staff

# BELMONT FARMS SUBDIVISION - PHASE 1

LOCATED IN THE WEST HALF  
OF SECTION 23  
TOWNSHIP 2 NORTH RANGE 1 WEST  
SALT LAKE BASE & MERIDIAN  
WEST BOUNTIFUL, DAVIS COUNTY, UTAH  
AUGUST 2022



## SURVEYOR'S CERTIFICATE

I, **TRENT R. WILLIAMS**, do hereby certify that I am a Licensed Land Surveyor in the State of Utah and that I hold License No. **8034879**. In accordance with Title 58, Chapter 22 of the Professional Engineers and Land Surveyors Act, I further certify that by authority of the Owners, I have completed a survey of the property described on this subdivision plat in accordance with Section 17-23-17 and have verified all measurements and that the monuments shown on this plat are located as indicated and are sufficient to accurately establish the boundaries of the herein described tract of real property and that it has been drawn correctly and is a true and correct representation of the herein described lands included in said subdivision based on data compiled from The County Recorder's office. I further certify that all lots meet frontage width and area requirements of applicable zoning ordinances.

## BOUNDARY DESCRIPTION

A parcel of land, situate in the Northwest Quarter of Section 23, Township 2 North, Range 1 West, Salt Lake Base and Meridian, said parcel also located in West Bountiful City, Davis County, Utah. Being more particularly described as follows:  
Beginning at a point on the centerline of 400 North Street said point being North 00°15'37" East 369.73 feet along the section line (NAD83 Bearing being North 0°38'33" East between the Center Quarter Corner and the North Quarter Corner of said Section 23, per the Davis County Township Reference Plat) and South 89°51'41" West 125.28 feet from the Center Quarter Corner of said Section 23 and running thence:  
South 89°51'41" West 38.32 feet along said centerline of 400 North Street;  
thence South 03°42'39" East 190.87 feet along the West right-of-way line of 1450 West Street;  
thence South 00°08'19" East 43.05 feet;  
thence South 51°38'45" West 88.24 feet;  
thence South 89°51'41" West 285.67 feet;  
thence North 28°08'00" East 1392.15 feet;  
thence South 05°14'50" East 877.68 feet to the Point of Beginning.

Contains: 407,814 square feet or 9.362 acres, 6 lots.

Date

Trent R. Williams  
License No. 8034879

## OWNER'S DEDICATION

We(I) the undersigned owners of the above described tract of land, do hereby set apart and subdivide the same into lots and streets (private streets/private right-of-way's) as shown hereon and name said tract:

# BELMONT FARMS SUBDIVISION - PHASE 1

Dedicate to public use all those parts or portions of said tract of land designated as streets, the same to be used as public thoroughfares. Grant and dedicate a perpetual right and easement over and under the lands designated herein as public utility and drainage easements and storm water detention ponds with no buildings or structures being erected within such easements. Grant and dedicate unto all owners of lots upon which private land drains are constructed or which are otherwise dependent upon such land drains, an easement over such land drains for the purpose of perpetual maintenance and operation.

In witness whereof We(I) have here to set our hands(s) this \_\_\_\_\_ day of \_\_\_\_\_ A.D., 20\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_

## LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF UTAH  
County of Davis

J.S.S.

On the \_\_\_\_\_ day of \_\_\_\_\_ A.D., 20\_\_\_\_, personally appeared before me, the undersigned Notary Public, in and for said County of \_\_\_\_\_ in the State of Utah, who after being duly sworn, acknowledged to me that He/She is the \_\_\_\_\_ of \_\_\_\_\_ a Limited Liability Company and that He/She signed the Owner's Dedication freely and voluntarily for and in behalf of said Limited Liability Company for the purposes therein mentioned and acknowledged to me that said Corporation executed the same.

MY COMMISSION EXPIRES: \_\_\_\_\_

NOTARY PUBLIC

RESIDING IN \_\_\_\_\_ COUNTY.

# BELMONT FARMS SUBDIVISION - PHASE 1

LOCATED IN THE WEST HALF  
OF SECTION 23  
TOWNSHIP 2 NORTH RANGE 1 WEST  
SALT LAKE BASE & MERIDIAN  
WEST BOUNTIFUL, DAVIS COUNTY, UTAH

## DAVIS COUNTY RECORDER

ENTRY NO. \_\_\_\_\_ FEE  
PAID \_\_\_\_\_ FILED FOR RECORD AND  
RECORDED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_  
AT \_\_\_\_\_ IN BOOK \_\_\_\_\_ OF OFFICIAL RECORDS  
PAGE \_\_\_\_\_

## SHEET 1 OF 1

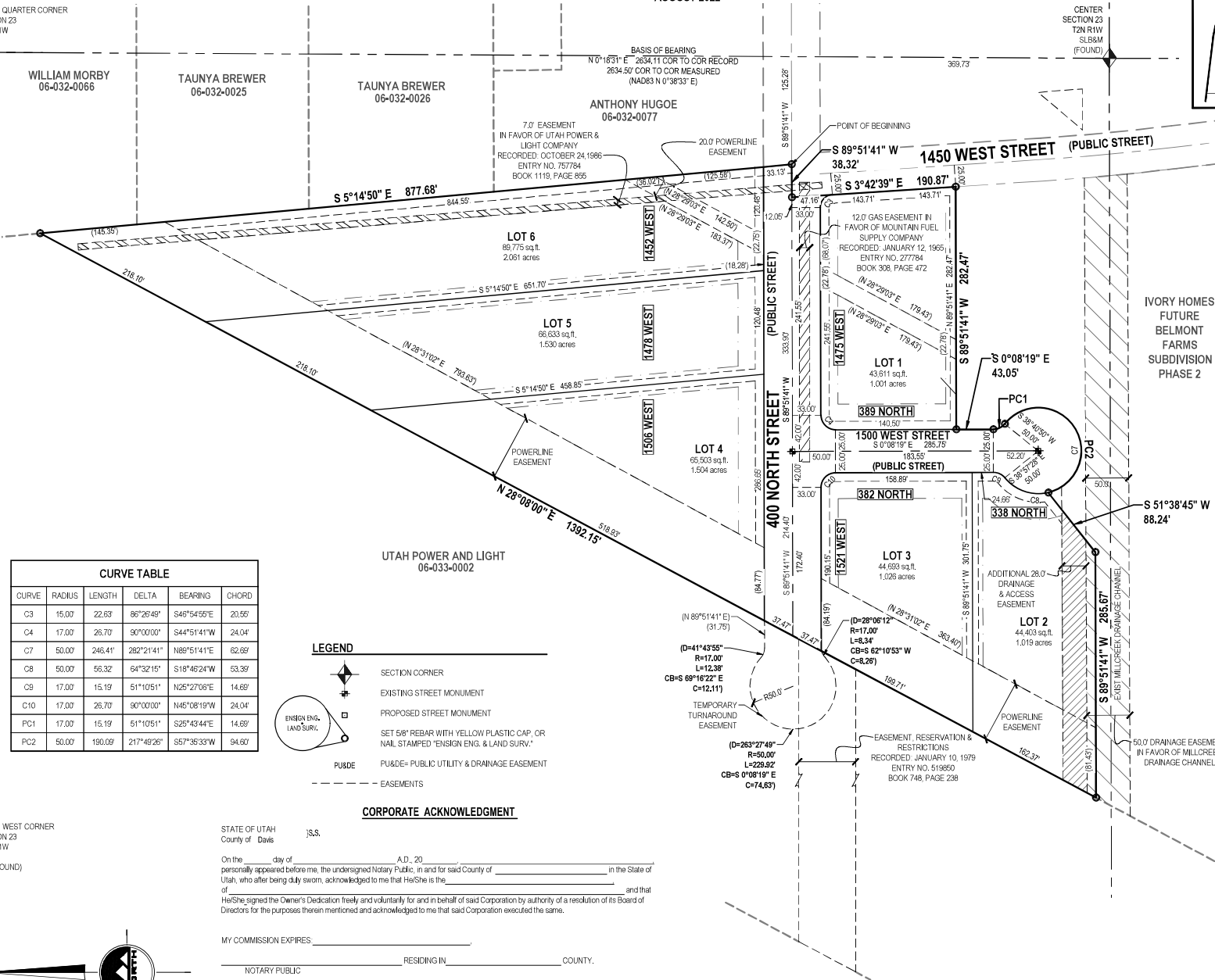
PROJECT NUMBER: L2499  
MANAGER: C.PRESTON  
DRAWN BY: J.MOSS  
CHECKED BY: T.WILLIAMS  
DATE: 8/19/22

DAVIS COUNTY RECORDER  
BY \_\_\_\_\_  
DEPUTY RECORDER

## GENERAL NOTES:

- ZONE A-1  
A. FRONT YARD SETBACK IS 30'  
B. REAR YARD SETBACK IS 30'  
C. SIDE SIDE YARD SETBACK IS 10' MIN. AND 24' COMBINED
- ALL PUBLIC UTILITY AND DRAINAGE EASEMENTS (P.U.E.) ARE 10' FRONT, 10' BACK AND 7' SIDE AS SHOWN OR UNLESS OTHERWISE NOTED HEREON.
- UTILITIES SHALL HAVE THE RIGHT TO INSTALL, MAINTAIN, AND OPERATE THEIR EQUIPMENT ABOVE AND BELOW GROUND AND ALL OTHER RELATED FACILITIES WITHIN THE PUBLIC UTILITY EASEMENTS IDENTIFIED ON THIS PLAT MAP AS MAY BE NECESSARY OR DESIRABLE IN PROVIDING UTILITY SERVICES WITHIN AND WITHOUT THE LOTS IDENTIFIED HEREIN, INCLUDING THE RIGHT OF ACCESS TO SUCH FACILITIES AND THE RIGHT TO REQUIRE REMOVAL OF ANY OBSTRUCTIONS INCLUDING STRUCTURES, TREES AND VEGETATION THAT MAY BE PLACED WITHIN THE P.U.E. THE UTILITY MAY REQUIRE THE LOT OWNERS TO REMOVE ALL STRUCTURES WITHIN THE P.U.E. AT THE LOT OWNERS EXPENSE, OR THE UTILITY MAY REMOVE SUCH STRUCTURES AT THE LOT OWNERS EXPENSE, AT NO TIME MAY ANY PERMANENT STRUCTURES BE PLACED WITHIN THE P.U.E. OR ANY OTHER OBSTRUCTION WHICH INTERFERES WITH THE USE OF THE P.U.E. WITHOUT THE PRIOR WRITTEN APPROVAL OF THE UTILITIES WITH FACILITIES IN THE P.U.E.
- 58" x 24" REBAR AND CAP WILL BE PLACED AT ALL REAR LOT CORNERS AND FRONT CORNERS WILL BE MARKED WITH A NAIL OR RIVET AT THE EXTENSION IN THE CURB.
- PROTECT ALL EXISTING SECTION CORNERS AND STREET MONUMENTS, COORDINATE ALL SURVEY STREET MONUMENT INSTALLATION, GRADE ADJUSTMENT, AND ALL REQUIRED FEES AND PERMITS WITH THE COUNTY SURVEYOR PRIOR TO DISRUPTION OF ANY EXISTING MONUMENTS.
- ALL FINISHED FLOOR ELEVATIONS TO BE 1.0 FEET ABOVE TBC.
- LOT 7 DRIVEWAY IS PROHIBITED FROM BEING LOCATED IN THE INTERSECTION OF 400 NORTH AND 1450 WEST STREETS. THE DRIVEWAY CANNOT BE LOCATED WITHIN 50 FEET OF A NORTHERLY EXTENSION OF THE WEST RIGHT-OF-WAY LINE OF 1450 WEST STREET.
- SECONDARY WATER HAS BEEN ALLOCATED TO PARCELS BASED ON AN ANTICIPATED LANDSCAPE AREA OF 0.03 ACRES AND THAT 2/3 OF THE REMAINING LANDSCAPE AREA IS PLANTED IN TURF AND 1/3 OF THE LANDSCAPE AREA IS PLANTED IN LOW WATER USE PLANTS. LARGER TOTAL LANDSCAPE AREAS, HIGHER PERCENTAGE TURF AREAS, INEFFICIENT DESIGN OF IRRIGATION SYSTEM OR INEFFICIENT OPERATION OF IRRIGATION SYSTEM MAY RESULT IN HOMEOWNER INCURRING ADDITIONAL BILLING CHARGES AND/OR SECONDARY WATER SERVICE BEING SHUT OFF.
- LOTS 2 & 3 WILL REQUIRE INDIVIDUAL FLOOD CONTROL CONSTRUCTION PERMITS FROM DAVIS COUNTY FLOOD CONTROL PRIOR TO THE START OF CONSTRUCTION.
- FUTURE DEVELOPMENT TO THE WEST WILL BE REQUIRED TO REMOVE THE EXISTING TEMPORARY TURN AROUND (AT THE DEVELOPERS EXPENSE) PER WEST BOUNTIFUL CITY STANDARDS.
- THE DEVELOPER SHALL BE RESPONSIBLE FOR ALL COSTS TO REMOVE AND REPLACE 1450 WEST TEMPORARY STREET IMPROVEMENTS.

DEVELOPER  
IVORY HOMES  
978 EAST WOOD OAK LANE  
SALT LAKE CITY, UT 84117  
SKYLAR TOLBERT  
skylart@ivoryhomes.com



CURVE	RADIUS	LENGTH	DELTA	BEARING	CHORD
C3	15.00	22.63	89°29'49"	S49°54'55"E	20.55
C4	17.00	25.70	90°00'00"	S44°51'41"W	24.04
C7	50.00	246.41	282°21'41"	N89°51'41"E	62.69
C8	50.00	56.32	64°32'15"	S18°46'24"W	53.39
C9	17.00	15.19	51°10'51"	N25°27'06"E	14.69
C10	17.00	26.70	90°00'00"	N45°08'19"W	24.04
PC1	17.00	15.19	51°10'51"	S25°43'44"E	14.69
PC2	50.00	190.09	217°49'26"	S57°35'33"W	94.60

## LEGEND

- SECTION CORNER
- EXISTING STREET MONUMENT
- PROPOSED STREET MONUMENT
- SET 58" REBAR WITH YELLOW PLASTIC CAP, OR NAIL STAMPED 'ENSGN ENG. & LAND SURV.'
- TEMPORARY TURNAROUND EASEMENT
- PUBDE
- PUBDE+ PUBLIC UTILITY & DRAINAGE EASEMENT
- EASEMENTS

## CORPORATE ACKNOWLEDGMENT

STATE OF UTAH  
County of Davis

J.S.S.

On the \_\_\_\_\_ day of \_\_\_\_\_ A.D., 20\_\_\_\_, personally appeared before me, the undersigned Notary Public, in and for said County of \_\_\_\_\_ in the State of Utah, who after being duly sworn, acknowledged to me that He/She is the \_\_\_\_\_ of \_\_\_\_\_ and that He/She signed the Owner's Dedication freely and voluntarily for and in behalf of said Corporation by authority of its Board of Directors for the purposes therein mentioned and acknowledged to me that said Corporation executed the same.

MY COMMISSION EXPIRES: \_\_\_\_\_

NOTARY PUBLIC

RESIDING IN \_\_\_\_\_ COUNTY.

ENSGN

LAYTON  
919 North 400 West  
Layton, UT 84041  
Phone: 801.547.1100  
Fax: 801.563.6315  
WWW.ENSGN.COM

SALT LAKE CITY  
Phone: 801.255.2523  
TOOELE  
Phone: 435.493.2999  
CEGAR CITY  
Phone: 435.365.1463  
RICHFIELD  
Phone: 435.345.2163

## CITY ATTORNEY'S APPROVAL

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_  
BY THE WEST BOUNTIFUL CITY ATTORNEY.

WEST BOUNTIFUL CITY ATTORNEY

## PLANNING COMMISSION APPROVAL

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_  
BY THE CITY PLANNING COMMISSION APPROVAL.

CHAIRMAN, WEST BOUNTIFUL CITY PLANNING COMMISSION

## CITY ENGINEER'S APPROVAL

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_  
BY THE WEST BOUNTIFUL CITY ENGINEER

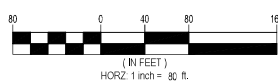
WEST BOUNTIFUL CITY ENGINEER

## CITY COUNCIL APPROVAL

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_  
BY THE WEST BOUNTIFUL CITY COUNCIL.

CITY RECORDER CITY MAYOR

## HORIZONTAL GRAPHIC SCALE



# MEMORANDUM



**TO:** Planning Commission

**DATE:** August 19, 2022

**FROM:** Staff

**RE:** Flood Damage Prevention

---

West Bountiful is required to adopt floodplain management measures that meet or exceed the minimum National Flood Insurance Program (NFIP) regulations by September 15, 2022. If the city does not adopt the necessary floodplain management measures, our community will be suspended from the NFIP. This suspension means that no new policies or renewals will be issued to residents in our city.

## Background

West Bountiful has a Flood Damage Prevention ordinance, WBMC 15.16, in place that applies to all areas of special flood hazards within West Bountiful. FEMA reviewed our ordinance and provided a checklist of items that need to be included or changed before they can approve it.

## Proposal

The attached draft includes revisions to WBMC 15.16 that address the checklist items. It has been reviewed by legal counsel and FEMA and, if adopted, satisfies the NFIP regulations.

**15.16 Flood Damage Prevention**

15.16.010 Statement Of Purpose

15.16.020 Methods Of Reducing Flood Losses

15.16.030 Definitions

15.16.040 Lands To Which This Chapter Applies

15.16.050 Basis For Establishing The Areas Of Special Flood Hazard

15.16.060 Compliance

15.16.070 Abrogation And Greater Restrictions

15.16.080 Interpretation

15.16.090 Warning And Disclaimer Of Liability

15.16.100 Establishment Of Development Permit

15.16.110 Designation Of The ~~Director Of Public Works~~Floodplain Administrator

15.16.120 Duties And Responsibilities Of The Director Of Public Works

15.16.130 Variance ~~and Appeal~~ Procedures

15.16.140 General Standards For Flood Hazard Reduction

15.16.150 Specific Standards For Flood Hazard Reduction

15.16.160 Floodways

15.16.170 Severability

15.16.180 Violation and Penalties

**15.16.010 Statement Of Purpose**

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

- A. To protect human life and health;
- B. To minimize expenditure of public money for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, ~~and~~ streets and bridges located in areas of special flood hazard;
- F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. To ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. To ensure that those who occupy the areas of special flood hazards assume responsibility for their actions.

**15.16.020 Methods Of Reducing Flood Losses**

In order to accomplish its purposes, this chapter includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;



- D. Controlling filling, grading, dredging and other development which may increase flood damage; and
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

### **15.16.030 Definitions**

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

"**Appeal**" means a request for a review of the Floodplain Administrator's public-works director's interpretation of any provision of this chapter or a request for a variance.

"**Area of shallow flooding**" means a designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

"**Area of special flood hazard**" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

"**Base flood**" means the flood having a one-percent chance of being equaled or exceeded in any given year.

"Base flood elevation" mean the water surface elevation during the base flood in relation to a specified datum. The Base Flood Elevation (BFE) is depicted on the Flood Insurance Rate Map (FIRM) to the nearest foot and in the Flood Insurance Study (FIS) to the nearest 0.1 foot.

"**Development**" means any manmade change to improved or unimproved ~~real-estate~~property, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision where 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 the final site grading or the pouring of concrete pads, is completed before September 15, 2022.

"Expansion to an existing manufactured home park or subdivision" means any expansion of an existing manufactured home park or subdivision after September 15, 2022.

"**Flood**" or "**flooding**" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters; and/or
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

"**Flood insurance rate map (FIRM)**" means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"**Flood insurance study (FIS)**" means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Boundary Floodway Map, and the water surface elevation of the base flood.

**"Floodplain"** means the land that has been or may be covered by floodwaters, or is surrounded by floodwater and inaccessible, during the occurrence a flood event.

**"Flood Proofing"** means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**"Floodway"** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**"Highest Adjacent Grade (HAG)"** means the highest natural elevation of the ground surface prior to construction, adjacent to the proposed walls of a structure. Refer to the Elevation Certificate, FEMA Form 81-31, for HAG related to building elevation information.

**"Historic Structure"** means any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or to a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior, or directly by the Secretary of the Interior in states without approved programs.

**"Lowest floor"** means the lowest floor of the lowest enclosed area (including basement) of a structure. 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-structure's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

**"Manufactured home"** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for residential use with or without a permanent foundation when connected to the required utilities. This term also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days.

**"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.

**"New construction"** means structures for which the start of construction commenced on or after the effective date of the ordinance codified in this chapter.

**"New manufactured home park or subdivision"** means a place where 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 final site grading or the pouring of concrete pads, is completed on or after September 15, 2022.

“Recreational Vehicle” means a vehicle that 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 towed 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.

“Special Flood Hazard Area” (SFHA) means an area having special flood, mudflow or flood-related erosion hazards and shown on a Flood Hazard Boundary Map (FHBM) or a FIRM Zone A, AO, A1-A30, AE, A99, AH, AR, AR/A, AR/AE, AR/AH, AR/AO, AR/A1-A30, V1-V30, VE or V. The SFHA is the area where the National Flood Insurance Program's (NFIP's) floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies.

**"Start of construction"** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement ~~was-is~~ within one hundred eighty (180) days ~~of~~after the permit date. The "actual start" means 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 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.

**"Structure"** means a walled and roofed building or manufactured home that is principally above ground.

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

**"Substantial improvement"** means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, "substantial improvement" is considered to ~~occur~~begin when the first alteration of any wall, ceiling, floor or other structural part of the ~~building-structure~~ commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:
  1. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
  2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**"Variance"** means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

“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 Section 60.3(b)(5), (c)(4).

(e)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

#### **15.16.040 Lands To Which This Chapter Applies**

This chapter shall apply to all areas of special flood hazards within the jurisdiction of West Bountiful.

#### **15.16.050 Basis For Establishing The Areas Of Special Flood Hazard**

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study (FIS) for ~~the~~ West Bountiful," dated ~~October 6, 1987~~ September 15, 2022, with an accompanying Flood Insurance Rate Map (FIRM) and other supporting data, are ~~is~~ adopted by reference and declared to be a part of this chapter. Updates of these studies and map, when duly issued by FEMA, are also adopted. The ~~Flood Insurance Study FIS~~ and FIRM shall be on file in the offices of the at the city engineer offices.

#### **15.16.060 Compliance**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations.

#### **15.16.070 Abrogation And Greater Restrictions**

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

#### **15.16.080 Interpretation**

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

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

#### **15.16.090 Warning And Disclaimer Of Liability**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions and f- Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of West Bountiful City, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that results s from reliance on this chapter, s or any administrative decision lawfully made ~~thereunder~~.

#### **15.16.100 Establishment Of Development Permit**

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this chapter. An application for a Floodplain Development Permit shall be obtained made to the Floodplain Administrator before construction or development begins within any area of a special flood hazard established by the materials identified in Section 16.32.050. Such Application for a development permit shall be made on forms furnished by the director of public works and may include, but not be limited to:

- A. Plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

The following specific information shall be required:-

- 1.B. Elevations in relation to mean sea level of the lowest floor (including basement) of all new and substantially improved structures;
- 2.C. Elevations in relation to mean sea level to which any nonresidential structure has been flood proofed;
- 3.D. A Certification by a registered professional engineer or architect that the flood-proofing methods for any nonresidential structure meet the flood-proofing criteria in Section 15.16.150(B); and
- 4.E. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

#### **15.16.110 Designation Of The ~~Director Of Public Works~~Floodplain Administrator**

The ~~director of public works~~city engineer is appointed as the Floodplain Administrator to administer and implement the provisions of this chapter and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management ~~by granting or denying development permit applications in accordance with its provisions.~~

#### **15.16.120 Duties And Responsibilities Of The ~~Director Of Public Works~~ Floodplain Administrator**

~~With respect to this chapter,~~ The duties and responsibilities of the ~~director of public works~~Floodplain Administrator shall include, but not be limited to the following.

##### ~~1. Permit Review. The director of public works shall:~~

- ~~1. Review all development permits to determine that the permit requirements of this chapter have been satisfied;~~
- ~~2. Review all development permits to determine that all necessary permits have been obtained from federal, state, or local governmental agencies from which prior approval is required; and~~
- ~~— Review all development permits to determine if the proposed development is located in the floodway. If the development is located in the floodway, the public works director shall assure that the encroachment provisions of Section 16.32.160(A) are met.~~

##### ~~2. Review of Other Base Flood Data:~~

~~When base flood elevation data has not been provided as part of the materials identified in Section 16.32.050, the director of public works shall obtain, review and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other source as criteria for requiring the new construction, substantial improvements, or other development in Zone A are administered in accordance with Section 16.32.150.~~

##### ~~3. Acquisition and Maintenance of Information. The director of public works shall:~~

- ~~1. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;~~
- ~~2. For all new or substantially improved flood proofed structures:-~~
  - ~~1. Verify and record the actual elevation (in relation to mean sea level) to which the structure has been flood proofed;~~

- ~~2. Maintain the flood proofing certifications required in Section 16.32.100(C); and~~
- ~~3. Maintain for public inspection all records pertaining to the provisions of this chapter.~~
- ~~4. Alteration of Watercourses. The director of public works shall:
 
  - ~~1. Notify adjacent communities, the Denver, Colorado FEMA offices, and the Davis County Flood Control prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency; and~~
  - ~~2. Require that the altered or relocated portion of the watercourse be maintained so that the flood carrying capacity of the watercourse is not diminished.~~~~
- ~~5. Interpretation of FIRM Boundaries.~~

~~The public works director shall interpret, when needed, the exact location of the boundaries of the areas of special flood hazards (for example, when there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 16.32.130.~~

1. Review all floodplain development permit applications to assure that new construction and substantial improvement sites are reasonably safe from flooding and the permit requirements of this ordinance have been satisfied.
2. Review proposed development to assure that necessary permits have been received from federal, state, or local governmental agencies including permits under {Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334; permits under the Endangered Species Act of 1973, 16 U.S.C. 1531-1544; and State of Utah Stream Channel Alteration permits;
3. When Base Flood Elevation data or floodway data are not available, obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source in order to administer the provisions of this ordinance.
4. When Base Flood Elevations or other current engineering data are not available, take into account the flood hazards, to the extent they are known, to determine whether a proposed building site will be reasonably safe from flooding.
5. Obtain, and record the actual elevation in relation to the vertical datum on the effective FIRM, or highest adjacent grade, of the lowest floor level, including basement, of all new construction or substantially improved structures.
6. Obtain, and record the actual elevation, in relation to the vertical datum on the effective FIRM to which any new or substantially improved structures have been flood proofed.
7. When flood-proofing is utilized for a structure, obtain certification of design criteria from a registered professional engineer or architect.
8. Interpret, where interpretation is needed, the exact location of boundaries of the Areas of Special Flood Hazard including regulatory floodway (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter.
9. Maintain and hold open for public inspection all records pertaining to the provisions of this chapter.

### **15.16.130 Variance and Appeal Procedures**

- A. Appeal Authority.
  1. The city council shall hear and decide appeals and requests for variances from the requirements of this chapter.

2. The city council shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the city in the enforcement or administration of this chapter.
3. Those aggrieved by the decision of the city council or any taxpayer, may appeal such decisions to the District Court, as provided in Utah law.
4. In passing upon such applications, the city council shall consider all technical evaluations, all relevant factors, standards specified in ~~other sections of~~ this chapter and state law, and:

- ~~1~~.a. The danger that materials may be swept onto other lands to the injury of others;
- ~~2~~.b. The danger to life and property due to flooding or erosion damage;
- ~~3~~.c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
- ~~4~~.d. The importance of the services provided by the proposed facility to the community;
- ~~5~~.e. The necessity to the facility of a waterfront location, when applicable;
- ~~6~~.f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- ~~7~~.g. The compatibility of the proposed use with the existing and anticipated development;
- ~~8~~.h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- ~~9~~.i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- ~~10~~.j. 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; and
- ~~11~~.k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges.

5. Upon consideration of the factors of subsection (A)(4) of this section and the purposes of this chapter, the city council may attach such conditions to the granting of appeals or variances as it deems necessary to further the purposes of this chapter.
6. The city shall maintain the records of all appeals and variance requests-actions, including technical information, and report any variances to the Federal Emergency Management Agency.

B. Conditions for Variances.

1. Generally, 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 level, provided items listed in subsection (A)(4)(a) through (k) of this section have been fully considered. As the lot size increases beyond one-half acre, the technical justifications required for issuing the variance increases.
2. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section.
3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
4. Variances shall ~~only~~ be issued only upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

5. Notwithstanding any provision of this section to the contrary, Vvariances shall ~~only~~ be issued only upon:
  - ~~1~~.a. A showing of good and sufficient cause;
  - ~~2~~.b. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
  - ~~3~~.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 as identified in subsection (A)(4) of this section or conflict with existing local laws or ordinances; and
  - ~~4~~.d. A specific determination that each of the requirements for a variance under state law has been met.
  
6. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation.

#### **15.16.140 General Standards For Flood Hazard Reduction**

In all areas of special flood hazards, the following standards are required:

##### A. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure and shall be capable of resisting the hydrostatic and hydrodynamic loads.
2. All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement and must be capable of resisting hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to, the 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.

Specific requirements may include:

- a. Providing over-the-top ties at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than fifty (50) feet long requiring one additional tie per side.
- b. Providing frame ties at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than fifty (50) feet long requiring four additional ties per side;
- c. Ensuring all components of the anchoring system are capable of carrying a force of four thousand eight hundred (4,800) pounds; and
- d. Ensuring any additions to the manufactured home is similarly anchored.



B. Construction Materials and Methods.

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
3. All new construction and 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.

C. Utilities.

- ~~3.1.~~ All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- ~~4.2.~~ New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
- ~~5.3.~~ On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision Proposals.

- ~~6.1.~~ All subdivision proposals shall be consistent with the need to minimize flood damage.
- ~~7.2.~~ All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- ~~8.3.~~ All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- ~~9.4.~~ Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five acres (whichever is less).

**15.16.150 Specific Standards For Flood Hazard Reduction**

In all areas of special flood hazards where base flood elevation data has been provided as set forth in the materials identified in Section 15.16.050, or Section 15.16.120, the following provisions are required:

A. Residential Construction.

1. New construction and substantial improvement of any residential structure within A1-30, AE, and AH Zones shall have the lowest floor (including basement) elevated to or above the base flood elevation.
2. Within any AO and AH Zone on the FIRM, all new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade. This floor shall be elevated at least as high as the depth number specified in feet on the FIRM (which shall be at least two feet if no depth number is specified).
3. Within zones AO and AH on the FIRM, adequate drainage paths shall be provided around structures on slopes to guide floodwaters around and away from proposed structures.

## B. Nonresidential Construction.

1. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall ~~either~~ have the lowest floor (including basement) elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
  - a. Be flood-proofed so that below the base flood elevation the structure is ~~water tight~~ watertight with walls substantially impermeable to the passage of water;
  - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
  - c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this paragraph. Such certifications shall be provided to the Floodplain Administrator ~~public works director as set forth in Section 16.32.120(C)(2).~~
  - ~~d.~~ Within zones AO and AH on the FIRM, adequate drainage paths shall be provided around structures on slopes to guide floodwaters around and away from proposed structures.
2. Within any AO and AH zone on the FIRM, all new construction and substantial improvements of nonresidential structures shall:
  - a. Have the lowest floor (including basement) elevated above the highest adjacent grade, at least as high as the depth number specified in feet on the FIRM (which shall be at least two feet if no depth number is specified); or
  - b. Together with attendant utility and sanitary facilities, be completely flood-proofed to that level to meet the flood-proofing standard specified in subsection ~~(A)~~ (B)(1) of this section.
3. Within zones AO and AH on the FIRM, adequate drainage paths shall be provided around structures on slopes to guide floodwaters around and away from proposed structures.

## C. Openings in Enclosures Below the Lowest Floor.

For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are used solely for parking of vehicles, building access, or storage in an area other than a basement and which 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 must either be certified by a registered professional engineer or architect or ~~must~~ meet or exceed the following minimum criteria:

1. A minimum of two openings having a total net area of not less than one 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 foot above grade; and
3. Exterior walls shall be equipped with screens, louvers or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

3.4.

## D. Manufactured Homes.

1. Manufactured homes shall be anchored in accordance with Section 16.32.140(A)(2).

2. All manufactured homes or those to be substantially improved in the A1-30, AH, and AE Zones, which meet one the following location criteria, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and is securely anchored to an adequately anchored foundation system.

- a. Outside a manufactured home park or subdivision;
- b. in a new manufactured home park or subdivision;
- c. in an expansion to an existing manufactured home park or subdivision;
- d. on a site in an existing park which a manufactured home has incurred substantial damage as a result of a flood.

#### E. Recreation Vehicle Standards

In A1-30, AH, and AE Zones, recreational vehicles must either:

- 1. Be on site for fewer than 180 consecutive days;
- 2. Be fully licensed and ready for highway use, on its wheels or jacking systems, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached structures or addition, or
- 4.3. Meet all the requirements for "New Construction," including the anchoring and elevation requirements.

#### **15.16.160 Floodways**

Located within areas of special flood hazard established in Section 15.16.050 are areas designated as floodways. Because the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions apply:

- A. The city prohibits encroachments (including fill), new construction, substantial improvements, and other development, unless certification by a registered professional engineer or architect is provided or hydrologic and hydraulic analyses demonstrating that the encroachments shall not result in any increase in flood levels during the occurrence of base flood discharge.
- ~~4.B.~~ With respect to new construction and substantial improvements, the requirements set forth in subsection A of this section are supplemental to all other applicable flood hazard reduction provisions set forth above in Sections 15.16.140 through 15.16.160, inclusive.

#### **15.16.170 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.

#### **16.16.180 Violation and Penalties**

No structure or land shall be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements shall be subject to the general penalties and remedies provided in the Municipal Code.

## MEMO

**To:** West Bountiful City Council, Planning Commission, Duane Huffman, City staff

**From:** Jake Young (Citi Design) [jake@citidesign.us](mailto:jake@citidesign.us)  
John Janson [j.janson@comcast.net](mailto:j.janson@comcast.net)

**Date:** August 19, 2022

**RE:** Update of Moderate Income Housing Plan

West Bountiful City is required to provide an annual housing report to the State's Community Development Division and an update to the Moderate-Income Housing Element (Plan). The deadline for these items is October 1, 2022 (moved up from the typical December 1 date).

In the past, the City has provided a housing plan that focused on the following strategies:

- Allowing and updating the Accessory Dwelling Units (ADUs) ordinance. This has been accomplished.
  - Additionally, the City does not charge impact fees for ADUs making them more cost-effective.
- The possibility of providing funding to City employees to assist them with their housing needs (down payment assistance). This strategy has not been implemented, and staff has indicated that it is not likely practical at this point.
- Providing for multifamily use opportunities in the commercial zone (HCCO), which was completed in 2021.
- The strategy of preserving affordable housing (the mobile home park). This was addressed when the city worked with the owner of the mobile home park.

Given the work on these items to date, staff recommends selecting new goals in accordance with state law. During the 2022 Legislative Session, the Moderate Income Housing law was updated to require communities to set implementation schedules and update Moderate Income Housing Plans. The emphasis this year is on committing cities to accomplish whichever strategies communities prioritize. The Moderate Income Housing State of Utah requirement is as follows:

"By October 1, 2022, jurisdictions that fall under this requirement must adopt/amend their general plan to utilize the new strategy options in their moderate income housing element **and include an implementation plan.**

By October 1, 2022, jurisdictions that fall under this requirement must submit their annual report (using their form)"

The intent of this memo is to provide a foundation for discussion of new strategies for West Bountiful to prioritize and create a plan as per State Law. Report requirements from the State Code are found at pages 8-12 of the following link (attachment also included).

<https://jobs.utah.gov/housing/affordable/moderate/moderateoutline.pdf>

We will all need to work quickly to achieve this goal.

West Bountiful City is required to pick a minimum of three strategies from the list included in this document from the State)

Utah code states “for a specified municipality that has a fixed guideway public transit station” four strategies are required. Our interpretation is that because the FrontRunner Train Station is located within Woods Cross and not West Bountiful City, the City is not required to do four strategies.

Based on the relatively short timeframe we have to comply with the new report requirements, staff strongly recommends the following schedule:

- August 23 – Planning Commission reviews and discusses new goals and implementation efforts.
- September 13 – Planning Commission holds public hearing to consider recommendation on update to General Plan for new housing goals
- September 20 – City Council considers and adopts updates to the General Plan for new housing goals.
- September 30 – City submits Moderate Income Housing Report, including new goals.

Staff has identified strategies (in red) that seem more logical for West Bountiful to discuss at the meeting on the 23<sup>rd</sup>. The commentary (in blue) after the strategy is meant to suggest the sorts of issues that choosing that particular strategy might encounter. The priority at that meeting is to achieve consensus on which three strategies to pursue. The City could choose more than three, however, it should be noted that the purpose of the housing plan is implementation and that the State will be looking at how the City accomplishes them.

### Strategies (from the State Code)

- 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 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
- 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.**
  - Potential strategies for achieving Strategy F
    - Increasing residential density zoning by the Station area; however there is very little suitable land/areas for residential.
    - Increasing the residential density zoning by 500 South and Legacy Highway
      - Requiring mixed-use
      - Consider additional architectural standards
      - A new zone could also be an overlay

- Review and revise the Housing in Certain Commercial areas Overlay Zone (HCCO) for 500 West and 500 South
    - Seek input from landowners and developers to see what might entice them
    - Create incentives or offsets for affordable housing commitments
  - Consider Missing Middle Housing types (also strategy W)
    - Infill development
    - Small pockets within the City
    - Focus on single-family scale and compatible architecture
- 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
- 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

We could review the HCCO's parking requirements.

- I. Amend land use regulations to allow for single room occupancy developments
- J. Implement zoning incentives for moderate income units in new developments.

*Are we willing to explore incentivizing moderate income housing in PUDs?*

- Potential methods to achieve Strategy J
    - Bonus densities for including MIH units within PUDs
    - Modify existing ordinances
    - Consider modifying Housing in Certain Commercial areas Overlay zones to include or incentivize MIH
- 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
- L. Reduce, waive, or eliminate impact fees related to moderate income housing.

*Are we willing to explore incentivizing MIH through reduced fees?*

- Potential methods to achieve Strategy L.
    - Change/reduce/eliminate impact fees for MIH
    - Update fee schedule
- 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
- 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

- 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
- Q. Create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act
- 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**

*The city is now required to create a station area plan, so this goal is required.*

- Potential methods for achieving Strategy V
  - Work with WFRC to get a grant for Strategy V
  - Partner and/or collaborate with Woods Cross City
  - Include design and construction standards (include special HVAC systems?) for safety with nearby refineries
  - A station area plan could address many other strategies and appears to be required, though very little of the State defined “station area” is in the City.
  - [This link provides a useful presentation regarding the requirements for Station Area Plan](#)
  - Due to refineries and other industrial uses, the Station Area Plan for West Bountiful City will probably look different than other cities. It would focus more on non housing items such as streets, walks, industrial, office and other planning efforts. Housing could play a smaller roll in the plan.

- 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.
- 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.



# Moderate Income Housing Element for a General Plan

## OUTLINE



### Introduction

- Purpose of the Plan
- Description of how the moderate income housing plan fits within the context of the community's general plan and how the cooperation of jurisdiction departments will facilitate the accomplishment of goals outlined in the plan
- Discussion of how the community's planning efforts fit within the context of regional planning efforts and the coordination that has taken place between the jurisdiction and other entities in the development of the moderate income housing plan
- Background information about the community (growth patterns, community sentiments towards housing, local economy, etc.)

## CURRENT POPULATION

- Demographic data from the most recent U.S. Census or American Community Survey
  - This can be supplemented with any jurisdictional annual surveys
- Summary of how the population has changed over the past five to ten years
- Number of households within targeted income groups (< 80% AMI, < 50% AMI, and < 30% AMI)

## CURRENT HOUSING STOCK

- Total number of housing units
- Breakdown of housing units by:
  - Occupancy (renter-occupied or owner-occupied)
  - Size (number of bedrooms)
  - ADUs (number of internal and detached units)
  - Quality ("new," "dilapidated," etc.)
- Affordability of existing housing stock for targeted income groups



## **CURRENT MODERATE INCOME HOUSING AVAILABILITY AND NEED**

- Availability of existing housing stock for targeted income groups and number of additional units needed
- Availability of moderate income housing for different races and ethnic groups and number of additional units needed
- Availability of moderate income housing for different special needs groups (homeless, disabled, veterans, elderly, youth aging out of foster care, victims of domestic violence, etc.) and number of additional units needed
- Availability of a variety of housing sizes and number of additional units needed

## **5-YEAR AND 10-YEAR POPULATION PROJECTIONS**

- Low, medium, and high population projections for the next five and ten years
- Estimate of percentage of the population that will fall within targeted income levels and special needs groups over the next five and ten years

## **FORECAST OF MODERATE INCOME HOUSING NEED**

- Comparison of projected population growth and expected housing construction for the next five and ten years
- Estimate of the number of housing units needed by residents within targeted income levels and special needs groups for the next five and ten years

## **REGULATORY ENVIRONMENT**

- Analysis of how current zoning regulations and land uses impact the availability of moderate income housing
- Discussion of any potential barriers to moderate income housing or Fair Housing

## **PLANS TO MEET THE MODERATE INCOME HOUSING NEED**

- Goals, strategies, and actions designed to:
  - Strategically meet current and forecasted moderate income housing needs
  - Eliminate regulatory barriers to moderate income housing
  - Preserve and improve existing moderate income housing
- Strategies should include at a minimum the number of required strategies from the UCA listed strategies
  - Jurisdictions can exceed the minimum number
  - Jurisdictions may also include additional, creative strategies once the minimum state-listed strategies have been incorporated

- Forecasting for moderate income housing:
  - Number of moderate income housing units to be built
  - Possible locations for new moderate income housing units
- Implementation plan for each strategy with the following:
  - A timeline
    - ← Provide flexibility in timing in case outside factors impact the implementation timing
    - ← Identify the measures and benchmarks to be achieved, one-time and ongoing
- Responsible party(ies)
- Community resources that can be used to support the implementation (RDA/EDA housing set-aside funds, fee waivers, local CDBG funds, donated land, etc.)

# Moderate Income Housing Reporting Criteria in the Utah Code

(Updated: May 2022)

## Municipal Land Use Code

### Definitions - UCA 10-9a-103

- (40) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.
- (49) "Plan for moderate income housing" means a written document adopted by a municipality's legislative body that includes:
  - (a) an estimate of the existing supply of moderate income housing located within the municipality;
  - (b) an estimate of the need for moderate income housing in the municipality for the next five years;
  - (c) a survey of total residential land use;
  - (d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and
  - (e) a description of the municipality's program to encourage an adequate supply of moderate income housing.

### General Plan Requirement - UCA 10-9a-401(3)

- (a) The general plan of a specified municipality, as defined in Section 10-9a-408, shall include a moderate income housing element that meets the requirements of Subsection 10-9a-403(2)(a)(iii).
- (b) On or before October 1, 2022, a specified municipality, as defined in Section 10-9a-408, with a general plan that does not comply with Subsection (3)(a) shall amend the general plan to comply with Subsection (3)(a).

### Moderate Income Housing Element - UCA 10-9a-403(2)

- (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:
  - (i) a land use element that:
    - (A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education,

- public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and
    - (B) includes a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;
  - (ii) a transportation and traffic circulation element that:
    - (A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;
    - (B) for a municipality that has access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce;
    - (C) for a municipality that does not have access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development in areas that will maintain and improve the connections between housing, transportation, employment, education, recreation, and commerce; and
    - (D) correlates with the population projections, the employment projections, and the proposed land use element of the general plan; and
  - (iii) for a specified municipality as defined in Section 10-9a-408, a moderate income housing element that:
    - (A) provides a realistic opportunity to meet the need for additional moderate income housing within the next five years;
    - (B) selects three or more moderate income housing strategies described in Subsection (2)(b)(iii) for implementation, including one additional moderate income housing strategy as provided in Subsection (2)(b)(iv) for a specified municipality that has a fixed guideway public transit station; and
    - (C) includes an implementation plan as provided in Subsection (2)(c).
- (b) In drafting the moderate income housing element, the planning commission:
  - (i) shall consider the Legislature's determination that municipalities shall facilitate a reasonable opportunity for a variety of housing, including moderate income housing:
    - (A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and
    - (B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life;
  - (ii) for a town, may include, and for a specified municipality as defined in Section 10-9a-408, shall include, an analysis of how the municipality will provide a realistic opportunity for the development of moderate income housing within the next five years;

- (iii) for a town, may include, and for other municipalities, shall include, a recommendation to implement three or more of the following moderate income housing strategies:
- (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 general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the municipality for the construction or rehabilitation of moderate income housing;
  - (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;
  - (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;
  - (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;
  - (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 municipality, an employer that provides contracted services to the municipality, or any other public employer that operates within the municipality;
  - (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;

- (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;
  - (Q) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;
  - (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;
  - (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; and
  - (X) demonstrate implementation of any other program or strategy to address the housing needs of residents of the 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; and
- (iv) in addition to the recommendations required under Subsection (2)(b)(iii), for a municipality that has a fixed guideway public transit station, shall include a recommendation to implement:
    - (A) the strategy described in Subsection (2)(b)(iii)(V); and
    - (B) a strategy described in Subsection (2)(b)(iii)(G), (H), or (Q).
- (c)
    - (i) In drafting the implementation plan portion of the moderate income housing element as described in Subsection (2)(a)(iii)(C), the planning commission shall

establish a timeline for implementing each of the moderate income housing strategies selected by the municipality for implementation.

- (ii) The timeline described in Subsection (2)(c)(i) shall:
  - (A) identify specific measures and benchmarks for implementing each moderate income housing strategy selected by the municipality, whether one-time or ongoing; and
  - (B) provide flexibility for the municipality to make adjustments as needed.
- (d) In drafting the land use element, the planning commission shall:
  - (i) identify and consider each agriculture protection area within the municipality;
  - (ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture; and
  - (iii) consider and coordinate with any station area plans adopted by the municipality if required under Section 10-9a-403.1.
- (e) In drafting the transportation and traffic circulation element, the planning commission shall:
  - (i)
    - (A) consider and coordinate with the regional transportation plan developed by the region's metropolitan planning organization, if the municipality is within the boundaries of a metropolitan planning organization; or
    - (B) consider and coordinate with the long-range transportation plan developed by the Department of Transportation, if the municipality is not within the boundaries of a metropolitan planning organization; and
  - (ii) consider and coordinate with any station area plans adopted by the municipality if required under Section 10-9a-403.1.

### Applicability - UCA 10-9a-408(1)(e)

"Specified municipality" means:

- (i) a city of the first, second, third, or fourth class;
- (ii) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class; or
- (iii) a metro township with a population of 5,000 or more.

### Reporting Requirement - UCA 10-9a-408(2)-(4)

- (2)
  - (a) Beginning in 2022, on or before October 1 of each calendar year, the legislative body of a specified municipality shall annually submit a written moderate income housing report to the division.
  - (b) The moderate income housing report submitted in 2022 shall include:
    - (i) a description of each moderate income housing strategy selected by the specified municipality for implementation; and
    - (ii) an implementation plan.

- (c) The moderate income housing report submitted in each calendar year after 2022 shall include:
    - (i) the information required under Subsection (2)(b);
    - (ii) a description of each action, whether one-time or ongoing, taken by the specified municipality during the previous fiscal year to implement the moderate income housing strategies selected by the specified municipality for implementation;
    - (iii) a description of each land use regulation or land use decision made by the specified municipality during the previous fiscal year to implement the moderate income housing strategies, including an explanation of how the land use regulation or land use decision supports the specified municipality's efforts to implement the moderate income housing strategies;
    - (iv) a description of any barriers encountered by the specified municipality in the previous fiscal year in implementing the moderate income housing strategies;
    - (v) information regarding the number of internal and external or detached accessory dwelling units located within the specified municipality for which the specified municipality:
      - (A) issued a building permit to construct; or
      - (B) issued a business license to rent;
    - (vi) a description of how the market has responded to the selected moderate income housing strategies, including the number of entitled moderate income housing units or other relevant data; and
    - (vii) any recommendations on how the state can support the specified municipality in implementing the moderate income housing strategies.
  - (d) The moderate income housing report shall be in a form:
    - (i) approved by the division; and
    - (ii) made available by the division on or before July 1 of the year in which the report is required.
- (3) Within 90 days after the day on which the division receives a specified municipality's moderate income housing report, the division shall:
- (a) post the report on the division's website;
  - (b) send a copy of the report to the Department of Transportation, the Governor's Office of Planning and Budget, the association of governments in which the specified municipality is located, and, if the specified municipality is located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization; and
  - (c) subject to Subsection (4), review the report to determine compliance with Subsection (2).
- (4)
- (a) The report described in Subsection (2)(b) complies with Subsection (2) if the report:
    - (i) includes the information required under Subsection (2)(b);



- (ii) demonstrates to the division that the specified municipality made plans to implement:
  - (A) three or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or
  - (B) subject to Subsection 10-9a-403(2)(b)(iv), five or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station; and
- (iii) is in a form approved by the division.
- (b) The report described in Subsection (2)(c) complies with Subsection (2) if the report:
  - (i) includes the information required under Subsection (2)(c);
  - (ii) demonstrates to the division that the specified municipality made plans to implement:
    - (A) three or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or
    - (B) four or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station;
  - (iii) is in a form approved by the division; and
  - (iv) provides sufficient information for the division to:
    - (A) assess the specified municipality's progress in implementing the moderate income housing strategies;
    - (B) monitor compliance with the specified municipality's implementation plan;
    - (C) identify a clear correlation between the specified municipality's land use regulations and land use decisions and the specified municipality's efforts to implement the moderate income housing strategies; and
    - (D) identify how the market has responded to the specified municipality's selected moderate income housing strategies.

## Incentives & Restrictions - UCA 10-9a-408(5)-(8)

(5)

- (a) A specified municipality qualifies for priority consideration under this Subsection (5) if the specified municipality's moderate income housing report:
  - (i) complies with Subsection (2); and
  - (ii) demonstrates to the division that the specified municipality made plans to implement:
    - (A) five or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) six or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station.

(b) The following apply to a specified municipality described in Subsection (5)(a) during the fiscal year immediately following the fiscal year in which the report is required:

- (i) the Transportation Commission may give priority consideration to transportation projects located within the boundaries of the specified municipality in accordance with Subsection 72-1-304(3)(c); and
- (ii) the Governor's Office of Planning and Budget may give priority consideration for awarding financial grants to the specified municipality under the COVID-19 Local Assistance Matching Grant Program in accordance with Subsection 63J-4-802(6).

(c) Upon determining that a specified municipality qualifies for priority consideration under this Subsection (5), the division shall send a notice of prioritization to the legislative body of the specified municipality, the Department of Transportation, and the Governor's Office of Planning and Budget.

(d) The notice described in Subsection (5)(c) shall:

- (i) name the specified municipality that qualifies for priority consideration;
- (ii) describe the funds or projects for which the specified municipality qualifies to receive priority consideration;
- (iii) specify the fiscal year during which the specified municipality qualifies for priority consideration; and
- (iv) state the basis for the division's determination that the specified municipality qualifies for priority consideration.

(6)

(a) If the division, after reviewing a specified municipality's moderate income housing report, determines that the report does not comply with Subsection (2), the division shall send a notice of noncompliance to the legislative body of the specified municipality.

(b) The notice described in Subsection (6)(a) shall:

- (i) describe each deficiency in the report and the actions needed to cure each deficiency;
- (ii) state that the specified municipality has an opportunity to cure the deficiencies within 90 days after the day on which the notice is sent; and
- (iii) state that failure to cure the deficiencies within 90 days after the day on which the notice is sent will result in ineligibility for funds under Subsection (7).

(7)

(a) A specified municipality is ineligible for funds under this Subsection (7) if the specified municipality:

- (i) fails to submit a moderate income housing report to the division; or
- (ii) fails to cure the deficiencies in the specified municipality's moderate income housing report within 90 days after the day on which the division

sent to the specified municipality a notice of noncompliance under Subsection (6).

- (b) The following apply to a specified municipality described in Subsection (7)(a) during the fiscal year immediately following the fiscal year in which the report is required:
    - (i) the executive director of the Department of Transportation may not program funds from the Transportation Investment Fund of 2005, including the Transit Transportation Investment Fund, to projects located within the boundaries of the specified municipality in accordance with Subsection 72-2-124(5); and
    - (ii) the Governor's Office of Planning and Budget may not award financial grants to the specified municipality under the COVID-19 Local Assistance Matching Grant Program in accordance with Subsection 63J-4-802(7).
  - (c) Upon determining that a specified municipality is ineligible for funds under this Subsection (7), the division shall send a notice of ineligibility to the legislative body of the specified municipality, the Department of Transportation, and the Governor's Office of Planning and Budget.
  - (d) The notice described in Subsection (7)(c) shall:
    - (i) name the specified municipality that is ineligible for funds;
    - (ii) describe the funds for which the specified municipality is ineligible to receive;
    - (iii) specify the fiscal year during which the specified municipality is ineligible for funds; and
    - (iv) state the basis for the division's determination that the specified municipality is ineligible for funds.
- (8) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 10-9a-404(4)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

## County Land Use Code

### Definitions - UCA 10-9a-103

- (43) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.
- (52) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:
  - (a) an estimate of the existing supply of moderate income housing located within the county;
  - (b) an estimate of the need for moderate income housing in the county for the next five years;

- (c) a survey of total residential land use;
- (d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and
- (e) a description of the county's program to encourage an adequate supply of moderate income housing.
- (f) an estimate of the existing supply of moderate income housing located within the municipality;
- (g) an estimate of the need for moderate income housing in the municipality for the next five years;
- (h) a survey of total residential land use;
- (i) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and
- (j) a description of the municipality's program to encourage an adequate supply of moderate income housing.

### General Plan Requirement - 17-27a-401(3)(a)

- (i) The general plan of a specified county, as defined in Section 17-27a-408, shall include a moderate income housing element that meets the requirements of Subsection 17-27a-403(2)(a)(iii).
- (ii) On or before October 1, 2022, a specified county, as defined in Section 17-27a-408, with a general plan that does not comply with Subsection (3)(a)(i) shall amend the general plan to comply with Subsection (3)(a)(i).

### Moderate Income Housing Element - UCA 17-27a-403(2)

- (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:
  - (i) a land use element that:
    - (A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and
    - (B) includes a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;
  - (ii) a transportation and traffic circulation element that:
    - (A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;
    - (B) addresses the county's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce; and
    - (C) correlates with the population projections, the employment projections, and the proposed land use element of the general plan;

- (iii) for a specified county as defined in Section 17-27a-408, a moderate income housing element that:
    - (A) provides a realistic opportunity to meet the need for additional moderate income housing within the next five years;
    - (B) selects three or more moderate income housing strategies described in Subsection (2)(b)(ii) for implementation; and
    - (C) includes an implementation plan as provided in Subsection (2)(e); and
  - (iv) a resource management plan detailing the findings, objectives, and policies required by Subsection 17-27a-401(3).
- (b) In drafting the moderate income housing element, the planning commission:
- (i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:
    - (A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and
    - (B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life; and
  - (ii) shall include an analysis of how the county will provide a realistic opportunity for the development of moderate income housing within the planning horizon, including a recommendation to implement three or more of the following moderate income housing strategies:
    - (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 for the construction or rehabilitation of moderate income housing;
    - (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, 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;
    - (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;
    - (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;

- (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, an employer that provides contracted services for the county, or any other public employer that operates within the county;
  - (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 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;
  - (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;
  - (Q) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;
  - (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) 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; and
  - (W) demonstrate implementation of any other program or strategy to address the housing needs of residents of the county 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.
- (iii) If a specified county, as defined in Section 17-27a-408, has created a small public transit district, as defined in Section 17B-2a-802, on or before January 1, 2022, the specified county shall include as part of the specified county's recommended strategies under Subsection (2)(b)(ii) a recommendation to implement the strategy described in Subsection (2)(b)(ii)(Q).
- (c) In drafting the land use element, the planning commission shall:
- (i) identify and consider each agriculture protection area within the unincorporated area of the county or mountainous planning district;
  - (ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture; and

- (iii) consider and coordinate with any station area plans adopted by municipalities located within the county under Section 10-9a-403.1.
- (d) In drafting the transportation and traffic circulation element, the planning commission shall:
  - (i)
    - (A) consider and coordinate with the regional transportation plan developed by the region's metropolitan planning organization, if the relevant areas of the county are within the boundaries of a metropolitan planning organization; or
    - (B) consider and coordinate with the long-range transportation plan developed by the Department of Transportation, if the relevant areas of the county are not within the boundaries of a metropolitan planning organization; and
  - (ii) consider and coordinate with any station area plans adopted by municipalities located within the county under Section 10-9a-403.1.
- (e)
  - (i) In drafting the implementation plan portion of the moderate income housing element as described in Subsection (2)(a)(iii)(C), the planning commission shall establish a timeline for implementing each of the moderate income housing strategies selected by the county for implementation.
  - (ii) The timeline described in Subsection (2)(e)(i) shall:
    - (A) identify specific measures and benchmarks for implementing each moderate income housing strategy selected by the county; and
    - (B) provide flexibility for the county to make adjustments as needed.

#### Applicability - UCA 17-27a-408(1)(e)

"Specified county" means a county of the first, second, or third class, which has a population of more than 5,000 in the county's unincorporated areas.

#### Reporting Requirement - UCA 17-27a-408(2)-(4)

- (2)
  - (a) Beginning in 2022, on or before October 1 of each calendar year, the legislative body of a specified county shall annually submit a written moderate income housing report to the division.
  - (b) The moderate income housing report submitted in 2022 shall include:
    - (i) a description of each moderate income housing strategy selected by the specified county for implementation; and
    - (ii) an implementation plan.
  - (c) The moderate income housing report submitted in each calendar year after 2022 shall include:
    - (i) the information required under Subsection (2)(b);
    - (ii) a description of each action, whether one-time or ongoing, taken by the specified county during the previous fiscal year to implement the moderate income housing strategies selected by the specified county for implementation;
    - (iii) a description of each land use regulation or land use decision made by the specified county during the previous fiscal year to implement the

- moderate income housing strategies, including an explanation of how the land use regulation or land use decision supports the specified county's efforts to implement the moderate income housing strategies;
- (iv) a description of any barriers encountered by the specified county in the previous fiscal year in implementing the moderate income housing strategies; and
  - (v) information regarding the number of internal and external or detached accessory dwelling units located within the specified county for which the specified county:
    - (A) issued a building permit to construct; or
    - (B) issued a business license to rent;
  - (vi) a description of how the market has responded to the selected moderate income housing strategies, including the number of entitled moderate income housing units or other relevant data; and
  - (vii) any recommendations on how the state can support the specified county in implementing the moderate income housing strategies.
- (d) The moderate income housing report shall be in a form:
- (i) approved by the division; and
  - (ii) made available by the division on or before July 1 of the year in which the report is required.
- (3) Within 90 days after the day on which the division receives a specified county's moderate income housing report, the division shall:
- (a) post the report on the division's website;
  - (b) send a copy of the report to the Department of Transportation, the Governor's Office of Planning and Budget, the association of governments in which the specified county is located, and, if the unincorporated area of the specified county is located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization; and
  - (c) subject to Subsection (4), review the report to determine compliance with Subsection (2).
- (4)
- (a) The report described in Subsection (2)(b) complies with Subsection (2) if the report:
    - (i) includes the information required under Subsection (2)(b);
    - (ii) demonstrates to the division that the specified county made plans to implement three or more moderate income housing strategies; and
    - (iii) is in a form approved by the division.
  - (b) The report described in Subsection (2)(c) complies with Subsection (2) if the report:
    - (i) includes the information required under Subsection (2)(c);
    - (ii) demonstrates to the division that the specified county made plans to implement three or more moderate income housing strategies;
    - (iii) is in a form approved by the division; and
    - (iv) provides sufficient information for the division to:
      - (A) assess the specified county's progress in implementing the moderate income housing strategies;
      - (B) monitor compliance with the specified county's implementation plan;
      - (C) identify a clear correlation between the specified county's land use decisions and efforts to implement the moderate income housing strategies; and



- (D) identify how the market has responded to the specified county's selected moderate income housing strategies.

## Incentives & Restrictions - UCA 17-27a-408(5)-(8)

- (5)
  - (a) A specified county qualifies for priority consideration under this Subsection (5) if the specified county's moderate income housing report:
    - (i) complies with Subsection (2); and
    - (ii) demonstrates to the division that the specified county made plans to implement five or more moderate income housing strategies.
  - (b) The following apply to a specified county described in Subsection (5)(a) during the fiscal year immediately following the fiscal year in which the report is required:
    - (i) the Transportation Commission may give priority consideration to transportation projects located within the unincorporated areas of the specified county in accordance with Subsection 72-1-304(3)(c); and
    - (ii) the Governor's Office of Planning and Budget may give priority consideration for awarding financial grants to the specified county under the COVID-19 Local Assistance Matching Grant Program in accordance with Subsection 63J-4-802(6).
  - (c) Upon determining that a specified county qualifies for priority consideration under this Subsection (5), the division shall send a notice of prioritization to the legislative body of the specified county, the Department of Transportation, and the Governor's Office of Planning and Budget.
  - (d) The notice described in Subsection (5)(c) shall:
    - (i) name the specified county that qualifies for priority consideration;
    - (ii) describe the funds or projects for which the specified county qualifies to receive priority consideration;
    - (iii) specify the fiscal year during which the specified county qualifies for priority consideration; and
    - (iv) state the basis for the division's determination that the specified county qualifies for priority consideration.
- (6)
  - (a) If the division, after reviewing a specified county's moderate income housing report, determines that the report does not comply with Subsection (2), the division shall send a notice of noncompliance to the legislative body of the specified county.
  - (b) The notice described in Subsection (6)(a) shall:
    - (i) describe each deficiency in the report and the actions needed to cure each deficiency;
    - (ii) state that the specified county has an opportunity to cure the deficiencies within 90 days after the day on which the notice is sent; and
    - (iii) state that failure to cure the deficiencies within 90 days after the day on which the notice is sent will result in ineligibility for funds under Subsection (7).
- (7)
  - (a) A specified county is ineligible for funds under this Subsection (7) if the specified county:
    - (i) fails to submit a moderate income housing report to the division; or

- (ii) fails to cure the deficiencies in the specified county's moderate income housing report within 90 days after the day on which the division sent to the specified county a notice of noncompliance under Subsection (6).
  - (b) The following apply to a specified county described in Subsection (7)(a) during the fiscal year immediately following the fiscal year in which the report is required:
    - (i) the executive director of the Department of Transportation may not program funds from the Transportation Investment Fund of 2005, including the Transit Transportation Investment Fund, to projects located within the unincorporated areas of the specified county in accordance with Subsection 72-2-124(6); and
    - (ii) the Governor's Office of Planning and Budget may not award financial grants to the specified county under the COVID-19 Local Assistance Matching Grant Program in accordance with Subsection 63J-4-802(7).
  - (c) Upon determining that a specified county is ineligible for funds under this Subsection (7), the division shall send a notice of ineligibility to the legislative body of the specified county, the Department of Transportation, and the Governor's Office of Planning and Budget.
  - (d) The notice described in Subsection (7)(c) shall:
    - (i) name the specified county that is ineligible for funds;
    - (ii) describe the funds for which the specified county is ineligible to receive;
    - (iii) specify the fiscal year during which the specified county is ineligible for funds; and
    - (iv) state the basis for the division's determination that the specified county is ineligible for funds.
- (8) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 17-27a-404(5)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

1 **West Bountiful City**  
 2 **Planning Commission Meeting**

**August 9, 2022**

3 ***PENDING – NOT APPROVED***

4 **Posting of Agenda** - The agenda for this meeting was posted on the State of Utah Public Notice website,  
 5 on the West Bountiful City website, and at city hall on August 5, 2022, per state statutory requirement.

6 Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday, August 9, 2022, at  
 7 West Bountiful City Hall, Davis County, Utah.

8 ***Those in Attendance:***

9 **MEMBERS ATTENDING:** Chairman Alan Malan, Mike Cottle, Laura Mitchell, and Council member Kelly  
 10 Enquist.

11  
 12 **MEMBERS EXCUSED:** Commissioners Corey Sweat, Dennis Vest

13 **STAFF ATTENDING:** Kris Nilsen (City Engineer), Cathy Brightwell (Recorder) and Debbie McKean  
 14 (Secretary).

15 **VISITORS:** Gary Jacketta, Paul Giles, Omar Mansour, Dave Badham (Badham Construction), Richmond  
 16 Thornley, Deby Marshall.

17

18 The Planning Commission meeting was called to order at 7:30 pm by Chairman Malan.

19 **1. Prayer by Council Member Enquist - Pledge of Allegiance- Commissioner Cottle**

20

21 **2. Confirm Agenda**

22 Chairman Malan reviewed the proposed agenda. Mike Cottle moved to approve the agenda as presented.  
 23 Laura Mitchell seconded the motion. Voting was unanimous in favor among all members present.

24

25 **3. Super Stop Convenience Store Rebuild, 560 West 500 South**

26

27 Commissioner packets included a memorandum dated August 5, 2022, from Staff regarding the Super  
 28 Stop Convenience Store rebuild at 560 W 500 South with attached site plan.

29

30 Kris Nilsen introduced Omar Mansour and explained his request to demolish and rebuild his Super Stop  
 31 convenience store at 560 W 500 South. He said the current issue is landscaping. The city requires 15% of  
 32 the total site be landscaped and that 25% of the front landscaped area be vegetation.

33

34 Dave Badham, Mr. Mansour's contractor, informed the commission that they have been working on this  
 35 plan for 3 years after putting it on hold during Covid. He stated that Omar's main goal is to improve the  
 36 appearance of the site and increase business. They have tried various things to make the landscaping  
 37 comply with city code, but it has been challenging especially after UDOT claimed 10 feet of their property  
 38 on 500 South. He asked for some recommendations from the commission as to what they feel would  
 39 make things work so they can move forward.

40

41 Mr. Badham also referred them to the site plan and the need to obtain approval for a zero setback for the  
 42 building along the northeast property line. He said the building will have a flat roof and all water drained

43 from the roof will go into their storm drain system. In addition, those walls will be fire-rated as required  
 44 by building and fire code.

45  
 46 Omar Mansour took the stand and stated he is concerned about the city landscape code. He said he has  
 47 very limited space in the front of the property and feels that adding landscape along 500 South to meet  
 48 the 25% requirement will cause the drive aisle into the pumps to be unsafe. Staff suggested that the front  
 49 area is flexible and could be set at either the front of the pump canopy or the front of the building  
 50 whichever better meets their plan. Mr. Mansour also suggested some other ideas where he would  
 51 maintain an easement of landscape from the surrounding property owners and those areas count  
 52 towards his percent requirement.

53  
 54 There was discussion on his proposals. It is not likely the city will be able to apply property towards his  
 55 percent requirement that is owned by someone else. There was discussion about variances and  
 56 conditional uses. Ms. Brightwell noted that the city is currently looking at making changes to its  
 57 landscape regulations and this may be an area of consideration. there could be changes made in the  
 58 landscape plan regarding commercial businesses.

59  
 60 Discussion took place on possible ways to work through the challenges. Mr. Nilsen said they will review  
 61 the code and consider changes that may improve the situation when the issue is discussed later in this  
 62 meeting (agenda item 5).

63

#### 64 **4. Belmont Farms- Phase 1 Final Plat**

65

66 Commission packets included a memorandum dated August 9, 2022, from Kris Nilsen regarding Belmont  
 67 Farms Subdivision – Preliminary/Final Plat with attached site plan.

68

69 Mr. Nilsen explained that Ivory Development has applied for a seven-lot subdivision located on the west  
 70 side of 1450 West at 400 North and consisting of 10.37 acres. The property is within the B-U zone and the  
 71 proposed use is single family detached residential dwellings, matching the existing use adjacent to the  
 72 property on the east and south. The B-U zone requires any project located within 300 feet of the A-1 canal  
 73 to blend a combination of appropriate uses, this project is not within 300 feet of the A-1 canal and  
 74 therefore not required to blend additional uses with residential. The project has been reviewed by staff to  
 75 meet the underlying A-1 zone requirements for size (min. 43,560 sf) and frontage (min. 85 ft.), as  
 76 represented.

77

78 Kris reviewed the outstanding items from the Preliminary and Final Plat Review Checklists. The main items  
 79 are:

- 80 • Copies of agreements with Rocky Mountain Power for proposed utility crossing.
- 81 • Copies of agreements with Ivory Development for storm drain improvements outside the
- 82 subdivision boundary.
- 83 • A comprehensive geotechnical and soils report
- 84 • Satisfactory evidence from South Davis Sewer, Weber Basin, and Davis County that all utilities and
- 85 services will be available, and easements have been reviewed.
- 86 • A Davis County development and construction permit (Floodplain Permit).
- 87 • Prior to recording, a mylar plat with required signatures and recent title report.

88

89 He recommended that approval by the Planning Commission be subject to the following conditions:

90

- 91 1. Address all remaining check list items and additional staff review comments.

- 92           2. Address all Planning Commission comments.  
 93           3. Submit a revised Final Plat and Plans for Review by City Staff

94  
 95 Commissioners expressed their concern with approving the subdivision with the various outstanding  
 96 issues. They were also concerned with Phase 2 not being part of the final.

97  
 98 Skylar Tolbert, representing Ivory Development, noted that they have broken this project into two phases  
 99 because they are anxious to get a model home built and some of the issues yet to be completed affect  
 100 drainage and bridge work on 1450 West and will take some time to work through. The county works  
 101 slower than the city in this process. Mr. Tolbert stated that they have met all city requirements and does  
 102 not think they should be held up because of the county issues.

103  
 104 After much discussion it was decided that final approval could not be given at this point. The developer  
 105 will continue to work on the outstanding issues.

106  
 107           **5. Miscellaneous Landscape Corrections**

108  
 109 Commissioner packets included a memorandum dated August 5, 2022, from staff regarding general  
 110 landscape references in West Bountiful Municipal Code with an attached redline copies of affected codes.

111  
 112 This memo discusses general landscape references throughout the municipal code that have been  
 113 reviewed to complement and be consistent with the newly adopted Water Efficient Landscape ordinance,  
 114 WBMC 12.28.

115  
 116 Cathy Brightwell stated that the city council recently adopted Ordinance 455-22 (WBMC 12.28) amending  
 117 its landscape regulations to promote water conservation and efficient use of water. Other sections of the  
 118 municipal code have been identified and changes are proposed to complement and be consistent with the  
 119 new ordinance.

120  
 121 She added that staff is also proposing some changes for large commercial parking lots for the commission  
 122 to discuss. Currently, the city does not require landscaped islands in parking lots. When comparing the  
 123 city's two major shopping centers, The Commons' parking lots have landscaped islands that clearly define  
 124 drive aisles and ends of parking rows. The Gateway shopping center has very limited islands which make  
 125 driving more hazardous. In addition, parking islands provide a space for trees that add shade. In  
 126 researching the issue, she said she used language from Centerville and Farmington's parking ordinances  
 127 because of their experience with large parking lots.

128  
 129 Discussion took place regarding what percentage landscaping should be required for commercial areas.  
 130 WBMC 12.28 requires 25% of the front landscaped area to be vegetation. Should this apply to both  
 131 residential and commercial properties? Mr. Nilsen noted that in most commercial zones, code requires  
 132 15% of the total site to be landscaped with 25 % of the front landscape area to be vegetation . This  
 133 requirement was intended to provide a buffer from the street and be attractive.

134  
 135 Several options were discussed based on the earlier issues raised by Mr. Mansour and how the landscape  
 136 requirements affect his plans to rebuild his convenience store. Percentages could be modified, or a  
 137 conditional use option made available. Staff will research how percentage changes may impact existing  
 138 properties and discuss options with legal counsel.

139  
 140 Staff will put a draft together in preparation for a public hearing at the next meeting.

141  
142  
143  
144  
145  
146  
147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158  
159  
160  
161  
162  
163  
164  
165  
166  
167  
168  
169  
170  
171  
172  
173  
174  
175  
176  
177  
178  
179

**6. Consider Meeting Minutes from July 12, 2022**

**Action Taken:**

**Laura Mitchell moved to approve the minutes from July 12, 2022, as presented. Mike Cottle seconded the motion and voting was unanimous in favor.**

**7. Staff Report**

**Cathy Brightwell:**

- Moderate Income Housing Plan 2022 - Cathy explained that the 2022 Plan is due soon. Our contract planners, John Janson and Jake Young are working on putting options together for our review based on the city’s previous submission. A draft will likely be ready for the next meeting.
- ULCT is holding an online lunch training on September 6, from 12-1 pm - Your Land, Your Plan- Using Public Assets for Healthier Communities. She suggested commissioners try to attend if possible as this will count towards the annual required training.
- Ms. Brightwell noted that staff met with Omar Mansour last week regarding the Retail Tobacco Specialty License issues discussed at the last meeting and he agreed to stop selling flavored tobacco.

**Kris Nilsen:**

- 600 West road construction – the north portion will be roto-milled beginning August 22 (the first day of school) with paving scheduled for early September. The south section is paved.
- Public Works Building is working on foundation, concrete and walls and prepping for a floor pour.
- 400 North Well will receive its final fluoride testing in two weeks. Public Works will receive training on the well system.

**8. Adjourn.**

**Action Taken:**

**Laura Mitchell moved to adjourn the regular session of the Planning Commission meeting at 9:14 pm. Mike Cottle seconded the motion. Voting was unanimous in favor.**

.....

*The foregoing was approved by the West Bountiful City Planning Commission on August 23, 2022, by unanimous vote of all members present.*

\_\_\_\_\_  
*Cathy Brightwell – City Recorder*