

Mayor Rowley and members of the Duchesne City Planning Commission:
(c/o office@duchesnecity.com)

June 20, 2024

RE: INITIAL REVIEW OF DUCHESNE CITY'S SUBDIVISION CODE

Thank you for partnering with our firm to update your subdivision code. My team has completed its initial audit of Duchesne City's subdivision ordinances. While many existing provisions are well designed and relevant, others have fallen out of compliance with state law (specifically with Utah Code §10-9a-6). Still other provisions could be adjusted to enhance administrative efficiency.

The major issues and opportunities for improvement are as follows:

- **Add a new subdivision application review process for 1-2 family residential use.** SB174 (the 2023 bill requiring state-wide subdivision ordinance updates) and HB476 (the 2024 update) introduce a new review and approval process for subdivision applications involving one- or two-family residential development. The City's code will need a new section to implement this process. Key points to keep in mind are these:
 - The Planning Commission (Planning and Zoning Board) can no longer be the decision maker for final applications (but still can for preliminary applications). The City Council is also prohibited from making any subdivision approval decision. Although these bodies are restricted from making some approval decisions, they can still be involved on the back end in the review process. The City can therefore continue to consider comments from the Mayor, City Council, and Planning and Zoning Board at all stages in the process. If it's important to the City that members of the Planning and Zoning Board still make final approval decisions, a potential workaround would be to create a "Subdivision/Development Review Committee" that includes members of the Planning and Zoning Board or other City staff. Ideally, this committee would be filled with individuals who have relevant technical backgrounds.
 - The City needs to describe an expedited timeline for review and approval. The City's current code gives the City 60 days to review and approve preliminary applications and an unlimited amount of time to review and approve final applications. Under the new state law, the City is required to complete an initial review of 1-2 family residential applications within **30 business days** after the developer submits a "complete" application that includes a subdivision improvement plan. The City can require modifications, but can take no longer than **120 business days** total to review subdivision improvement plans.

- The new law permits only one public hearing in the preliminary review process (and none in the final review process). The City's code does not explicitly require a public hearing, but it should be aware of this limitation.
 - The new law restricts the City to considering subdivision improvement plans (including construction drawings) in *either* the preliminary *or* final applications, but not both. Many municipalities have preferred to consider them in the preliminary phase, as that is when the Planning Commission can be involved. But it's also possible to delegate this responsibility to the City Engineer.
 - The new law gives the City a maximum of four "review cycles" when considering improvement plans for 1-2 family residential subdivisions.
 - The new law provides potential subdivision applicants the right to a pre-application meeting with the City. The City's current "Preliminary Consultation" will work but needs to be made optional. The new law also requires that a meeting to review the concept plan be scheduled within 15 days after the applicant requests one.
 - The new law requires municipalities to approve subdivision applications for 1-2 family residential use if those applications "check all the boxes" and are compliant with local ordinances. This would replace the City's discretion to approve with conditions or deny applications in some cases. The solution is to make sure that the City's land use ordinances and technical subdivision requirements are thorough and up to date.
- **Make improvement plans a requirement of plat approval.** While the City's code requires improvements, it does not currently require subdivision applicants to provide plans for the required improvements before subdivision approval. This also takes place currently after a final plat has been approved. The City needs to at least specify review guidelines for these improvements and, ideally, require improvement plans before a plat is approved.
 - **Add /refine subdivision title definitions.** The City's definition section in its subdivision title is mostly up to date, but a few definitions will need to be added or edited to incorporate SB174 changes.
 - **Add an appeal authority for subdivisions.** The City's ordinances currently do not specify how subdivision appeals should be handled. The state allows for flexibility on this point, but requires municipalities to have a process in place.
 - **Clarify and improve plat requirements.** The City code is relatively thorough in this area, but it is missing a few plat requirements, and a few other requirements could be clarified to guarantee state compliance.
 - **Add a requirement for the City to notify affected entities, water conveyance facilities and the Utah Geospace Resource Center.** At various points in the subdivision proposal, review, and

approval processes, Utah Code §10-9a-603 requires the municipality to notify various entities and receive feedback from them on specific timelines.

- **Clarify language around performance guarantees and required improvements.** Sections 11-6-2 and 11-6-3 of the City code will need some minor clarifying, especially after the code is adjusted to comply with SB174.
- **Acknowledge and incorporate the state-wide plat exemption for agricultural land** as found in Utah Code §10-9a-605(2). This exemption allows agricultural land to be subdivided without a plat and with fewer restrictions as long as the land's use will remain agricultural.
- **Describe the subdivision amendment process.** The City's code does not currently specify how existing subdivision plats may be amended. The City may require amendments to go through the same process as new subdivisions or may specify a more streamlined approach.
- **Update application forms.** Once we have completed the amendment to the City's subdivision code, we will adjust the City's application forms to match.
- **Adjust the requirements for minor and cluster subdivision approval.** Chapters 11-4-7 and 11-5-6 of the City's code are mostly compliant, but a few of the requirements need to be modified.
- **Clarify roles and expectations throughout.** While the City's existing code contains many elements required by state law, many sections could benefit from more explicit language about the City's limitations and powers and what applicants are expected to do.
- **Add a provision noting that the City may void transfers of land not done in accordance with a valid subdivision plat.** State law provides this remedy. The City's current penalty is just a class C misdemeanor.
- **Knock down the improvement completion bond amount** from the 150% required in the City's code to the maximum of 110% permitted by state law.
- **Edit for "plain language" throughout.** In addition to the material changes suggested above, more minor edits throughout could increase readability in the City's code.

A Note on the New Review and Approval Process for Small Residential Applications:

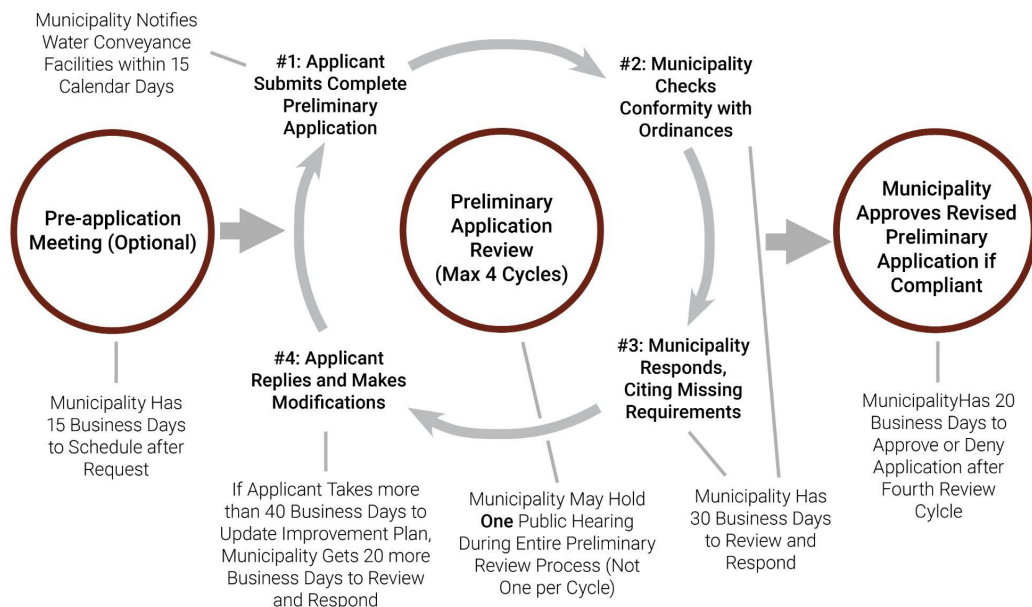
The Utah Legislature designed the SB174 (and the recent HB476) process to streamline development. The law does this by (1) limiting the City to four "review cycles" of back and forth with a developer when considering subdivision improvement plans and one public hearing in the preliminary review phase, (2) instituting review deadlines, (3) prohibiting the City from considering subdivision improvement plans in

both “preliminary” and “final” application phases, (4) making subdivision decisions administrative, and (5) requiring the City to approve applications that are compliant with local ordinances.

The City’s current ordinances use a two-phase review process for residential subdivisions: an applicant must get both a preliminary approval and a final approval. This is a common approach. One way the City could become compliant with the new law is to adapt its current approach to reviewing 1-2 family residential subdivision applications to match the process described in the following flowcharts.

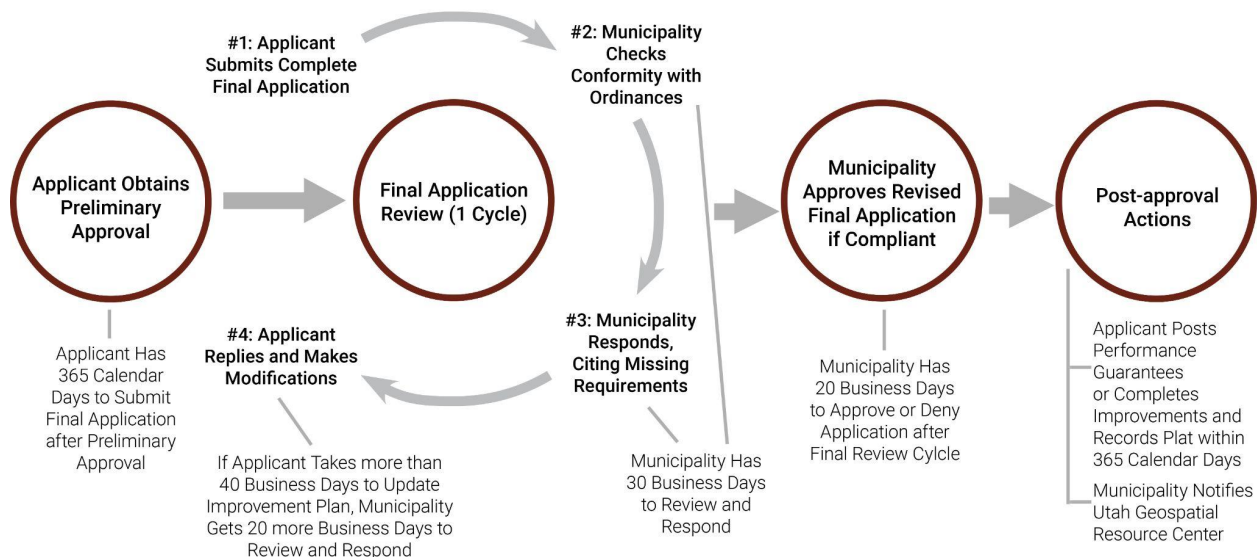


SUBDIVISION APPLICATION FOR 1-2 FAMILY RESIDENTIAL PRELIMINARY REVIEW PROCESS





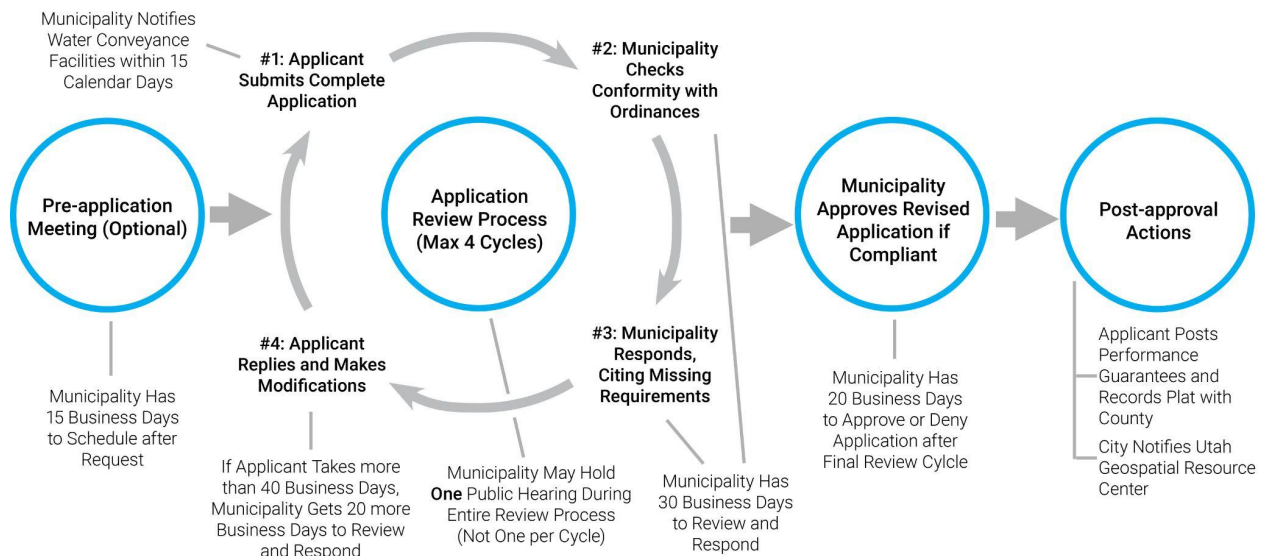
SUBDIVISION APPLICATION FOR 1-2 FAMILY RESIDENTIAL FINAL REVIEW PROCESS



Another option authorized by the new law is to combine the preliminary and final processes into one. We think this process would be beneficial for the City to consider because it simplifies the process for everyone involved and gives the City maximum flexibility with the limited review cycles. The following flowchart shows an example of how this combined process could work.



SUBDIVISION APPLICATION FOR 1-2 FAMILY RESIDENTIAL TIMELINE + PROCESS [COMBINED APPROACH]



Before my team and I proceed with our edits, *please let us know your preferences on the following:*

1. Whether you would like to proceed with a two-phase or a combined approach for 1-2 family residential subdivisions.
2. If you prefer to stick with the two-phase approach, please let us know whether you would like to review subdivision improvement plans in preliminary *or* final phases. Note that the Planning Commission cannot be the land use authority for the final phase. Given this, many municipalities choose to review improvement plans in the preliminary phase.
3. Whether you would like the process we develop to apply only to applications for 1-2 family residential use, or whether you would like all subdivisions in the City to follow the same process. If you prefer having one process for all applications, then we can lengthen the review timeline and allow for more review cycles and/or hearings for applications that are not for 1-2 family residential use. We can also make the Planning Commission or City Council the land use authorities for other applications.

My team will soon begin drafting an amendment to the City's subdivision ordinances based on your feedback.

Respectfully,



Mike Hansen, Hansen Planning Group