City of WASHINGTON TERRACE Utah

Planning Commission Meeting
Thursday, July 25, 2024
City Hall Council Chambers
5249 S. South Pointe Dr. Washington Terrace City
801-393-8681

1. **ROLL CALL** **6:00 p.m.**

2. **PLEDGE OF ALLEGIANCE**

3. **WELCOME**

4. **RECURRING BUSINESS**
   - **4.1 MOTION: APPROVAL OF AGENDA**
     Any point of order or issue regarding items on the Agenda or the order of the agenda need to be addressed here prior to the approval of the agenda.
   - **4.2 MOTION: APPROVAL OF MINUTES FOR JUNE 27, 2024**

5. **SPECIAL ORDER**
   Special orders will proceed as follows: Chair introduction of item, staff/applicant presentation, questions by commission, Chair opens public hearing, citizen input; Chair closes public hearing, then commission final discussion.

   5.1 PUBLIC HEARING: TO HEAR COMMENT IN SUPPORT AND OPPOSITION TO PROPOSED ORDINANCE AMENDING CHAPTER 17.10 RELATING TO IN-FILL RESIDENTIAL DEVELOPMENT

   5.2 PUBLIC HEARING: TO HEAR COMMENT IN SUPPORT AND OPPOSITION TO PROPOSED ORDINANCE AMENDING CHAPTER 17.76 RELATING TO THE APPEAL AUTHORITY

6. **NEW BUSINESS**

   6.1 MOTION/ORDINANCE 24-05: RECOMMENDATION TO APPROVE ORDINANCE 24-05 AMENDING CHAPTER 17.10 " IN-FILL RESIDENTIAL DEVELOPMENT"

   6.2 MOTION/ORDINANCE 24.06: RECOMMENDATION TO APPROVE ORDINANCE 24-06 AMENDING CHAPTER 17.76 "APPEAL AUTHORITY"

In compliance with the Americans with Disabilities Act, persons who have need of special accommodation should contact the City Recorder at 395-8283

CERTIFICATE OF POSTING
The undersigned, duly appointed City Recorder, does hereby certify that the above notice and agenda was posted in three public places within the City of Washington Terrace City limits and faxed to the *Standard Examiner* at least 24 hours prior to the meeting.
Amy Rodriguez, Washington Terrace City Recorder

6.2 DISCUSSION/ MOTION: APPROVAL OF PRELIMINARY PLAT FOR TERRACE PLAZA CHILDREN'S ACADEMY, LOCATED AT APPROXIMATELY 99 WEST 4700 SOUTH

6. UPCOMING BUSINESS

7. MOTION: ADJOURN THE MEETING

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CERTIFICATE OF POSTING

The undersigned, duly appointed City Recorder, does hereby certify that the above notice and agenda was posted in three public places within the City of Washington Terrace City limits and faxed to the *Standard Examiner* at least 24 hours prior to the meeting.
Amy Rodriguez, Washington Terrace City Recorder

City of Washington Terrace

Minutes of the Planning Commission Meeting held on
Thursday, June 27, 2024
City Hall, 5249 South 400 East, Washington Terrace City,
County of Weber, State of Utah

PLANNING COMMISSION AND STAFF MEMBERS PRESENT
Chairman Steve Jacobson
Vice- Chair Dwight Henderson
Commissioner Jethro Dee Watson
Commissioner Amy Morgan
Commissioner Dan Johnson
Commissioner Morgan Wilkins
Commissioner Matthew Roper
City Recorder Amy Rodriguez
General Planner Tyler Seaman
City Manager Tom Hanson
City Attorney Bill Morris

Others Present
None

1. **ROLL CALL** **6:00 p.m.**

2. **PLEDGE OF ALLEGIANCE**

3. **WELCOME**

4. **RECURRING BUSINESS**
   - **4.1 MOTION: APPROVAL OF AGENDA**
   - **4.2 MOTION: APPROVAL OF MINUTES FOR MARCH 28, 2024**

Items 4.1 and 4.2 were approved by general consent.

5. **NEW BUSINESS**

5.1 DISCUSSION: DISCUSSION ON THE SELECTED STRATEGIES FOR IMPLEMENTATION OF THE MODERATE INCOME HOUSING ELEMENT OF THE GENERAL PLAN

Hanson stated that the state feels that cities may be a roadblock to developers concerning affordable housing. He stated that we have received direction from the state legislature to submit a yearly moderate income housing plan. He stated that there are 24 objectives that the city can

adopt to promote affordable housing. The city is required to adopt a minimum of three of the objectives.

Hanson stated that the city has adopted the following parameters:

1. Rezone for densities necessary to facilitate the production of Moderate Income Housing.
2. Create or allow for, and reduce regulations needed to, internal or detached accessory dwelling units in residential zones.
3. 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.

<u>Rezone for densities necessary to facilitate the production of Moderate Income Housing</u>.

Hanson stated that the City was ahead of the curve by developing the Infill Ordinance years ago as one of the tools to help fill in the vacant properties in the city.
Commissioner Johnson inquired as to how the city comes to an agreement with the property owner to make it affordable housing. Hanson stated that we can encourage the density and a way to make the project work for the developer. Hanson stated that there is only so much that we can require them to do without backing the project financially. Hanson stated that our goal was to fill in vacant properties. Morris stated that the nature of high density lends itself to moderate income housing price points. Hanson stated that penalties to the city for not implementing the practices or complying with the Moderate Income Housing Plans and requirements can be up to $250 a day, loss of TIFF money, and loss of road funding.

Seaman stated that there are around 9-10 vacant lots on the infill property map that are not in construction and have not applied for building applications. Morris stated that the MIHP is to give people a chance to own their home. He stated that the governmental goal is to give the opportunity to people to own their own home. Morris stated that the challenge is that developers are building large homes that Moderate Income Housing potential owners cannot afford. The state is requiring cities to change ordinances and zoning to allow for smaller homes and townhomes that may be affordable housing for people. Seaman stated that the stated is basically making the cities create plans to come up with ways to allow for smaller homes, denser zones, and accessory dwelling units on parcels. Hanson stated that the state feels that cities are not allowing developers to develop their products. He stated that it is not the case, noting that the issue comes down to developers who do not want to build affordable developments. Many want to build the product in which they can make the most money. Hanson stated that we cannot force a developer to build affordable housing.

Hanson stated that infill property must be vacant land. Hanson stated that there has been a request from a resident to have his duplex declared infill property. Hanson stated that it has been denied, as that is not the intent of the infill ordinance.

Hanson stated that we could rezone commercial property to allow for mixed-use developments. This would be commercial on the main floor with residential on the floors above. Hanson stated that this would be an available option for many of our commercial properties.

Morris stated that another challenge is the current interest rate and building costs. Some developers are not building at this time**.** Morris stated that the legislature is still thinking that the cities are the problem, however, many cities have approved developments that are not being built at this time. This falls on the developer. Morris stated that the City is in compliance by allowing the developments.
Hanson stated that we are considering vacant properties that may be added to the infill designation. These properties will be brought to the Commission for their approval.

Create or allow for, and reduce regulations needed to, internal or detached accessory dwelling units in residential zones

Seaman stated that a challenge is to figure out a way to allow people to have accessory dwelling units. He stated that there are many parking limitations. He stated that the city has been proactive on auditing rentals within the city and keep track of homes that are renting out their basement as an accessory dwelling unit. He stated that the audit has shown many homes in the city where the upstairs and basement are both being rented out to two different families. He stated that this is challenging. He stated that there is a potential for parking limitations, as well as the home not being taken care of by the renters. He stated that there are many impacts to the city when allowing for more apartments and accessory dwelling units, noting that it is a bigger hit on our sewer and water systems. Morris stated that apartments are not the answer as this does not allow people to own their own homes. He stated that starter homes, or town homes, would be a better option to accomplish the goal of the state regarding affordable housing. Hanson stated that the accessory dwelling unit ordinance is only allowed if the owner lives in the home.

Hanson stated that there are fairly small lots within the city. He noted that we don't have a lot of flexibility within the city. He stated that we can consider options and work towards a goal when appropriate.

Commissioner Morgan stated that Roosevelt elm. is already a title one school. She stated that by adding more students who qualify for title one adds more burden to the schools in the community. Hanson stated that he had not considered the impact to education and will include this in his report as a cause and effect. Commissioner Watson stated that it could become an issue with HOA's because the owner may say that the city allows for accessory dwelling units. Morris stated that the city cannot override HOA regulations.

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

Hanson stated that we are not a major transit corridor, however, we do have businesses. Hanson stated that we can consider allowing for mixed-use at the property across the street from city hall, as well as property down by the water tower. He stated that Golden West owns property within the city, noting that they are going to be able to develop it in the manner that they choose. Hanson stated that mixed-use properties work better than a single-story drive-thru restaurant. Hanson stated that a quality apartment could be a benefit for the city. Commissioner Johnson questioned why the city would allow more apartment complexes when there are many issues with current apartments within the city. He stated that he does not understand why we would

allow multi-use with apartments. Hanson stated that if a situation presents itself, it would come before the Commission for approval and Commission parameters to be set in the development agreement. Hanson stated that we encourage class A offices, noting we can have a better tax base if we allow for apartment density on top of the offices.

Commissioner Morgan stated that rezoning is an appropriate way to meet the requirements. Commissioner Wilkins stated that it sounds like the city does not have much of a choice or say in the matter and that we are doing the best that we can at this time. Hanson stated that the intent of the infill overlay map is to allow for higher density for properties that normally would not be allowed to build due to zoning.
Hanson stated that there is a balance between how high density affects the properties around it and the encouragement to help with the affordable housing goal. Hanson asked if the Commission feels that the plans in place are working, or would they like to look at rezoning.

Chairman Jacobson stated that there is no need to rezone right now, however, the Commission will consider rezoning if an applicant comes forward with a proposal.

Hanson stated that we will continue moving forward with the current ADU ordinance. We will continue to review and move forward with Infill Properties. He stated that we will bring applicants to the Commission that meet requirements for higher density.

5.2 DISCUSSION: DISCUSSION ON PROPOSED ORDINANCE CONCERNING THE ALLOWANCE OF BACKYARD CHICKENS WITHIN CITY LIMITS

Morris stated that he drafted the ordinance, following the Clearfield City ordinance. He stated that the license fee of $100.00 is negotiable. Chairman Jacobson stated that the requirement of a 20,000 sq foot lot only allows around ten lots in the city to be allowed chickens.

Morris explained that the severability clause is used to overturn portions of the ordinance if it is found illegal. It allows for an illegal portion to be taken off and the rest of the ordinance remains in tact.

Hanson stated that the issue of allowing backyard chickens has come up numerous times throughout the years. He stated that previous councils have been clear that they did not want to allow chickens. Hanson stated that there have been discussions with the current council who would like to consider allowing chickens within city limits.

Hanson stated the $100 fee is for licensing, inspections, paperwork, and processing for allowing the chickens. Hanson stated that we have people throughout the city who do not follow code to mow their lawns, however, they would like the added challenge of allowing chickens in their backyard.

Hanson stated that there have been about a dozen residents asking for chickens. Hanson stated that there have also been residents who come to council detailing why allowing chickens will be a challenge, stating that the community is small and has small lots.

Hanson stated that some residents have stated that they want to have chickens as a learning experience, they want the eggs, and want to take care of them. Other residents have stated that they feel that it is everyone's right to own what they want. Hanson stated that we live in a small community and there are regulations to protect everyone and their rights to peaceful living.

Seaman stated that there are about 3-5 homes that he knows of that have chickens. He stated that code enforcement is not allowed to look over fences to see if residents have chickens. He stated that he has gotten complaints from neighbors, but it is one of the smaller complaints that he receives. Seaman stated that the animal control officer spoke to council and stated some reasons why she is supportive of allowing them, as well as other reasons for why she is not supportive of them within the city.

Commissioner Wilkins stated that the proposed ordinance handles the guidelines well. He stated that people have to be serious and maintain the housing and care of the chickens properly.

Commissioner Morgan wondered if people who want them have done a cost analysis on their eggs. Chairman Jacobson stated that it is not cost beneficial. He stated that there are arguments for having your own chickens, but it is never financially beneficial.

Commissioner Roper stated that we don't want raccoons and rats within the city.
Commissioner Morgan stated that there are already racoons living across the street from her and does not want to add more to the city.

Seaman stated that he worked at Clearfield City when the ordinance was proposed. He stated that in the first year they had about 10 houses that they needed to inspect. He stated that it was not an impact to the city at that time. He stated that the people who are going to have chickens will have them regardless, and not due their due diligence. He stated that he feels that they will only do what is required when they get in trouble.

Commissioner Henderson asked the penalties for non-compliance. Hanson stated that it would go through the code process. Hanson stated that he cannot wrap his head around how people cannot take care of their property.

Hanson asked how the commission feels about this ordinance.

Commissioner Watson stated that an ordinance that holds their feet to the fire is better than allowing them on their own. Hanson stated that those who don't want the city to allow them are clear as to why, and those who do want them to be allowed will continue to have them and bring the subject back to council. Hanson stated that an ordinance will set parameters as to what the coop looks like and care of the chickens. Commissioner Wilkins stated that he likes the parameters so that coops do not become an eyesore and keeps chickens away from property lines. He stated that there may be an issue with the high lot size requirement, but feels that if it is enforced it may not affect too many people.

Commissioner Johnson asked if code enforcement is allowed to look over fences if it is in ordinance. Seaman stated that an ordinance would not allow code to do that, noting that they would only be able to observe if they have applied for the permit. Commissioner Henderson

stated that there will be people who will have chickens without getting the permit. Commissioner Wilkins stated that if neighbors will provide the evidence if they have issues.

Commissioners Roper and Johnson stated that they do not like the idea of allowing chickens within the city. Commissioner Wilkins stated that he likes the proposed ordinance, but would like a smaller lot size to be allowed. Commissioner Morgan stated that she would like the ordinance to consider and spell out a clear description as to what would happen (fines, shut down, revoked) if neighbors complain. She stated that she feels the ordinance needs to be specific on number and types of complaints. Commissioner Watson stated that there are lawsuits against HOA's now regarding support animals and chickens, and feels that we should approve the allowance of chickens. Chairman Jacobson stated that he has no desire to have chickens within the city, however, he stated that the time is coming and a strict ordinance is better than having noting in place.

6. UPCOMING BUSINESS

The Commission discussed future meetings and the availability of the Commission to have a quorum present.

Hanson stated that there has been a stop on infill property discussions at this time because there are things in the ordinance that need to be addressed.

Hanson stated that there have been discussions concerning allowing mixed-use at the city property that is for sale by the library.

7. MOTION: ADJOURN THE MEETING

Motion by Council Member Watson
Seconded by Council Member Johnson
To adjourn the meeting
Approved unanimously (7-0)
Time: 7:42 p.m.

_____ _____

Date Approved **City Recorder**

CITY OF WASHINGTON TERRACE
ORDINANCE 24-05

IN-FILL RESIDENTIAL DEVELOPMENT AMENDED

AN ORDINANCE OF THE CITY OF WASHINGTON TERRACE, UTAH, AMENDING CHAPTER 17.10 RELATING TO IN-FILL RESIDENTIAL DEVELOPMENT; SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Washington Terrace City (hereafter referred to as "City") is a municipal corporation, duly organized and existing under the laws of the State of Utah;

WHEREAS, *Utah Code Annotated* §10-8-84, 1953 as amended, grants municipalities broad authority to provide for safety and preserve health, and promote prosperity, improve morals, peace and good order, comfort, convenience, and for the protection of property;

WHEREAS, *Utah Code Annotated* §10-8-60, 1953 as amended, grants municipalities broad authority to declare what shall be a nuisance, abate the same, and to impose fines for the such nuisances;

WHEREAS, Title 10, Chapter 9a, of the *Utah Code Annotated*, as amended, enables municipalities to regulate land use and development;

WHEREAS, the City finds it necessary to update its land use ordinances in order to meet the challenges presented by development and to protect public health, safety, and welfare;

WHEREAS, after publication of the required notice, the Planning Commission held its public hearing on _____, 2024, to take public comment on this Ordinance, and subsequently gave its recommendation to deny this Ordinance;

WHEREAS, the City Council received the recommendation from the Planning Commission and held its public meeting on _____, 2024, and desires to act on this Ordinance;

NOW, THEREFORE, be it ordained by the City Council of the City of Washington Terrace as follows:

Section 1: Repealer.
Any ordinance or portion of the municipal code inconsistent with this Ordinance is hereby repealed and any reference thereto is hereby vacated.

Section 2: Amendment.
Chapter 17.10 of the *Washington Terrace Municipal Code* is hereby adopted to read as follows:

Chapter 17.10
Single Family In-fill Residential Development

Sections:

17.10.010 Purpose And Intent.
17.10.020 Application Process.
17.10.030 Application Contents.
17.10.040 Development Agreement.
17.10.050 Eligibility And Guidelines.
17.10.060 Administration.

17.10.010 Purpose and Intent.

The City Council finds that standard zoning practices are inadequate to address the development of certain undeveloped, vacant, and empty residential ~~in-fill~~ parcels identified by the City to ensure that ~~these developments~~ such parcels can be developed as single-family or townhome residential development in manner that is ~~are~~ well-planned, sensitive to adjoining properties, and accommodates the needs of the City. This Chapter is intended to address challenges presented by in-fill parcel~~,~~ configuration~~, phasing projects,~~ and other challenges presented by in-fill development. The City recognizes that for certain projects it is appropriate to create zoning and other land use requirements on a property-by-property basis with the development of the property carefully agreed to by the City and the property owner. It is also acknowledged in-fill development is a legislative function that include a zoning map amendment and accompanying zoning map amendment to the "In-fill Overlay Zone" and adoption of a Master Development Agreement that includes to the site plan, land use regulations for the overlay zone, and applicable setback within the overlay zone ~~that regulations be enforced and assured in accordance with a development agreement~~. This Chapter ~~is to~~ creates the enabling provisions for adopting ~~a specialized~~ said overlay zone for in-fill residential development and applying them to particular properties, this Chapter is not intended or to be interpreted to provide for redevelopment and is limited to single-family dwellings.

17.10.020 Application Process.

In order to be eligible to file an application under this Section, the parcel ~~owner, or the owner's authorized agent, of an eligible property~~ must be identified on the "In-fill ~~Development~~ Overlay Map" that is adopted by ordinance as part of the City's General Plan. If a parcel is identified on said In-fill Overlay Map, then a property owner may petition the City to create an individual "In-fill ~~Development~~ Overlay Zone" (I~~D~~OZ) which is a ~~sub-~~overlay zone and applies to a particular property. The application shall include the elements listed in this Chapter. The Planning Commission shall consider the application and make a recommendation to the City Council in the same manner as the City considers any other zoning text and mapping petitions at the time of the application. The City Council, acting in its legislative capacity, shall determine whether to create the ~~sub-~~overlay zone, map it to the property and approve the Master Development Agreement required in this Chapter. The application for a sub-zone creates no rights in the

property owner until any such sub-zone and the Master Development are approved by the City Council and recorded on the applicable ~~against~~ the property.

17.10.030 Application Contents.

1. Compliance. Compliance with the eligibility requirements and guidelines.
2. Application. Any application under this Chapter for a sub-zone shall include the following:
a. A fee equal to the anticipated costs incurred by the City.
b. An engineered plat ~~map~~ of the property proposed for the ~~sub-~~overlay zone including the proposed development and/or subdivision of the property within the requirement of the subdivision ordinance and municipal code, improvement drawings, and topographical information ~~at 2' contours or more detailed~~.
c. The proposed ~~sub-~~overlay zone text specifying the permitted, conditional, and accessory uses to be more fully detailed in the Master Development Agreement.
d. A proposed Master Development Agreement.

17.10.040 Master Development Agreement.

1. The City Council, in its legislative discretion, shall exercise its general policy determination functions in considering or may make any modification to a Master Development Agreement that the City Council deems appropriate and in applying the Master Development Agreement to the property as a part of the creation and mapping of the ~~sub-~~overlay zone.

2. Required elements in the Master Development Agreement include but are not limited to:

a. Pla~~n~~t of the entire project showing residential layout that complies to the subdivision ordinance and municipal code to the greatest extent possible, and indicates where exceptions are requested.

b. The approximate location of major infrastructure such as main public roads, water tanks, utility lines.

c. Proposed development standards for residential including lot areas, dimensions, and setbacks.

d. Proposed design standards addressing building height, massing and orientation, common and private open space, natural resource protection, architectural design and materials, landscaping and buffering standards, parking, and signage.

e. Proposed process for implementing, administering, enforcing, and making modifications to the proposed project.

f. A provision ensuring that the City cannot be held liable for any damages arising out of the project and the Development Agreement.

g. Construction and escrow.

h. Any other items that the City Attorney deems appropriate.

17.10.050 Eligibility And Guidelines.

1) Eligible Parcels. The In-fill ~~Development~~ Overlay Map set forth in Exhibit "A" adopted as part of the City's General Plan and incorporated herein by this reference specifies the eligible parcels that may be used for in-fill development subject to the requirements of this title. Parcels not identified on the In-fill ~~Development~~ Overlay Map are not eligible. ~~The Owner of any parcel not identified on the In-fill Development Overlay Map may request to be added to said Map by Ordinance if the size and configuration meet the purpose and intent of this Chapter.~~
2) Requirements. The existing zoning and General Plan shall be residential zoned where the property includes empty and vacant parcels that have been undeveloped for a period of more than ten (10) year without any structures.
3) Guidelines. The following guideline apply:
a) Size and Access. Meet the size and access criteria as follows:
i) Be a single-family residential dwelling unit or townhouse design, ~~Being~~ accessed from a public street.
ii) Be of sufficient size for egress without interfering with adjoining properties and be of sufficient size for a residential use without reduction of residential setbacks for the zone by more than twenty-five (25%).
iii) Be of sufficient size for fire access in accordance with the specifications of the Fire Marshall and the applicable code.
iv) Be capable of being serviced by utilities and infrastructure.
v) Be no more than two (2) stories, including any basement.
b) Architecture and Design. Meet the architecture and design criteria as follows:
i) Each unit shall have a minimum two (2) car attached garage, private driveway parking in the front set-back area equivalent to one (1) vehicle, and off-street guest parking located in the overall development site plan equal to one (1) additional vehicle for each unit.
ii) Provide for the following architectural features:
(1) Minimum sixty (60) percent of the front exterior of the residential structure shall be brick, stone, or cultured stone material. Remainder of the exterior structure shall consist of: cement board, architectural shingles, heavy timber, or stucco. No vinyl or metal siding is permitted.
(2) Color schemes, such as earth-tones, that promote curb appeal.
(3) Varied rooflines that include: decorative dormers, gabled or hipped pitched roofs, and parapets or cornices.
(4) Front porches shall include decorative exterior lighting.
c) Density. The density of lots in any in-fill development shall be calculated based upon the average density of the single-family or townhome residential uses immediately adjoining to, and across the street from, the property seeking in-fill development under this Chapter on a per acre basis as determined and calculated by the Building Official. No commercial, multi-family or similar zoning shall be used in any calculation, in-fill development shall only be use to add additional single-family or townhouse dwelling units to a parcel that is odd shaped or otherwise cannot meet the single-family development standards.

17.10.060 Administration.

1) Administrative Function. It is policy that after the legislative adoption of the In-fill ~~Development Sub-zone (In fill SZ)~~ Overlay Zone and accompanying Master Development Agreement, that implementation shall be an administrative function and not legislative.
2) Maintenance. Unless otherwise provided in the Master Development Agreement, all infrastructure in the sub-zone shall be maintained and operated by an owner association established for that purpose.
3) Covenants. Any covenants, conditions, and restriction shall be approved by the City as part of the Master Development Agreement.
4) Escrow. As part of the Master Development Agreement, the applicant shall enter into an Escrow Agreement. The escrow funds shall be deposit in escrow account with a federally insured financial institution approved by the City and be in the amount equal to the cost of the improvements not yet installed and as estimated or approved by the City Engineer. The City shall be authorized to draw upon the funds to complete any improvement, and the escrow amount shall additionally include costs incurred by the City for approval of the development, and ten percent of the total costs of improvements as determined by the City Engineer as a contingency warrant amount.

Planning Commission
Staff Report

Author: Amy Rodriguez
Subject: Amendment to Appeal Authority code
Date: 7/25/24
Type of Item: Public Hearing and recommendation to Council

Summary Recommendation: After a public hearing is held, staff recommendation is for Planning Commission to discuss and give any comments or direction to staff in order to give a favorable recommendation to Council to approve the ordinance.

Description:

A. **Topic:** Amendment to Chapter 17.76 "Appeal Authority"

B. **Background:** In 2010, state law enabled cities to use administrative processes to handle land use appeals, rather than committees. City code was changed by ordinance at that time, repealing and re-enacting all municipal code regarding the Appeal Authority. It was recently found that a section of the municipal code was in potential conflict with provisions set in Chapter 2.14, which regulates the Appeal Authority. The amendment to Chapter 17.76 will bring that section of the code in compliance with current state law and city code and diminish any confusion as to the Appeal Authority process.

C. **Fiscal Impact: None**

D. Department Review: Legal, Recorder, Planning

CITY OF WASHINGTON TERRACE
ORDINANCE NO 2024-06

APPEAL AUTHORITY AMENDMENTS

AN ORDINANCE OF THE CITY OF WASHINGTON TERRACE CITY, UTAH, AMENDING CHAPTER 17.76 TO CONFORM TO CHAPTER 2.14; SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Washington Terrace ("City") is a municipal corporation, duly organized and existing under the laws of the State of Utah;

WHEREAS, *Utah Code Annotated* §§ 10-8-84 and 10-8-60 allow municipalities in the State of Utah to exercise certain police powers and nuisance abatement powers, including but not limited to providing for safety and preservation of health, promotion of prosperity, improve community well-being, peace and good order for the inhabitants of the City;

WHEREAS, Title 10, Chapter 9a, of the *Utah Code Annotated*, 1953, as amended, enables municipalities to regulate land use and development;

WHEREAS, there is potential conflicting provisions in the *Washington Terrace Municipal Code* relating to the Appeal Authority that the City seeks to address;

WHEREAS, the City seeks to adopt changes in state law to improve the *Washington Terrace Municipal Code*;

WHEREAS, after publication of the required notice the Planning Commission held its public hearing on _____, to take public comment on this proposed Ordinance, and subsequently gave its recommendation to _____ this Ordinance;

WHEREAS, the City Council received the recommendation from the Planning Commission and held its public meeting on _____, and desires to act on this Ordinance;

NOW, THEREFORE, be it ordained by the City Council of the City of Washington Terrace as follows:

Section 1. **Repealer.** Any Ordinance that conflict with this Ordinance is repealed.

Section 2. **Amendment.** Chapter 17.76 is hereby adopted to read as follows:

Chapter 17.76
~~APPEAL AUTORITY~~ APPEALS

Sections:
17.76.010 **~~Created-Organization~~ Appeals.**
17.76.020 **Powers and Duties.**
17.76.030 **~~Appeals-Procedure~~ Procedure.**

17.76.010 ~~Created-Organization~~ Appeals.

The Appeal Authority set forth in Chapter 2.14 of the municipal code shall govern all appeals under this Title. ~~An appeal authority is created and constituted as provided in section 2.28.020 of this code. The city council may appoint one or more residents in accordance with section 2.28.020 of this code to serve as alternate members of the appeal authority. Alternate members may participate in discussion on any appeal, but may not vote unless there is less than three (3) voting members present. If the city council has not designated a member of the appeal authority as an alternate, then the chair of the appeal authority may designate the same.~~

17.76.020 Powers and Duties.

The Appeal Authority shall exercises the powers and duties provided by law for administrative land use decisions made by a land use authority. ~~The appeal authority shall exercise the powers and duties prescribed in section 2.28.020 of this code.~~

17.76.030 ~~Appeals-Procedure~~ Procedure.

1. Written Appeal. Unless otherwise provided by law, each appeal shall be filed with the City Recorder in writing by a party with standing within ten (10) calendar days of the decisions of the land use authority. The written appeal shall detail the rational for the appeal under the applicable code. Any notice of the appeal shall be provided as set forth in state law. ~~Each appeal to the appeal authority shall be on a form provided by the city, and all information called for by such form shall be furnished by the appellant. Before making its decision, the appeal authority shall hold a public meeting upon the appeal. The agenda of such meeting shall be posted according to law. Before any appellant shall be entitled to any meeting, he shall pay to the city the appropriate filing fee for the appeal. Such fee is to be paid at the time of the filing of the appeal. The appeal authority may give notice to other interested persons and organizations.~~
2. Fee. A fee as specified on the City's fee schedule shall accompany each written appeal. If no fee is specified then such fee shall be the estimated cost incurred by the City to conduct the appeal.
3. Expert Panel. Only an appeal related to a geological hazard is eligible for an expert panel subject to Utah Code §10-9a-703. ~~Each appeal, filed in proper form with the required fees, shall be docketed and placed upon the agenda of the appeal authority. The agenda of the appeal authority shall be posted in accordance with law.~~
4. Review. The scope of review of any appeal shall be de novo. The appeal shall be conducted in accordance with the applicable state law set forth in Title 10, Chapter 9a, Part 7 of the Utah Code Annotated, this Chapter, and as outlined in Chapter 2.14 of the municipal code ~~The decision or any other action of the appeal authority shall be recorded in the appropriate minutes book, together with the vote of each member of the appeal authority, those absent being so marked~~.
5. Court. The decisions of the Appeal Authority is final and may be appealed to the District Court within the time limitations provided in state law. All appeals under this Title shall be made to the Second District Court.

Section 3: **Severability.** If a court of competent jurisdiction determines that any part of this Ordinance is unconstitutional or invalid, then such portion of this Ordinance, or specific application of this Ordinance, shall be severed from the remainder, which remainder shall continue in full force and effect.

Section 4: **Effective date.** This Ordinance takes effect immediately upon adoption and posting.

PASSED AND ADOPTED by the City Council on this _____ day of _____, 20___.

_____
Mayor

ATTEST:

_____
City Recorder

RECORDED this ____ day of _____, 20___.
PUBLISHED OR POSTED this ____ day of _____, 20___.

CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING

In accordance with Utah Code Annotated §10-3-713, 1953 as amended, I, the City Recorder of Washington Terrace City, hereby certify that foregoing ordinance was duly passed and published, or posted at: 1) _____, 2) _____, and 3) _____.

_____ DATE:_____
City Recorder

Planning Commission
Memo

City of WASHINGTON TERRACE Utah

THE PLANNING COMMISSION PACKET WILL BE UPDATED AS STAFF ITEMS ARE RECEIVED FOR CERTAIN AGENDA ITEMS. IF A PACKET IS UPDATED, IT WILL BE POSTED ON THE WEBSITE AS "UPDATED"