



CLEARFIELD CITY COUNCIL  
AGENDA AND SUMMARY REPORT  
October 8, 2024 - WORK SESSION

*Meetings of the City Council of Clearfield City may be conducted via electronic means pursuant to Utah Code Ann. § 52-4-207 as amended. In such circumstances, contact will be established and maintained via electronic means and the meetings will be conducted pursuant to the Electronic Meetings Policy established by the City Council for electronic meetings.*

55 South State Street  
Third Floor  
Clearfield, Utah

**6:00 P.M. WORK SESSION**

Discussion on a Development Agreement for the Property Located at 20 West 300 North

Discussion on a Zoning Text Amendment Request by Clearfield City to Amend Building Materials Standards in Title 11 of the Clearfield City Code

Discussion on Regulations for Accessory Dwelling Units in Clearfield City

Discussion on Appointing an Alternate Member to the Planning Commission

Update on the 975 South & 1480 West Project

Department Updates

*(Any item not fully addressed prior to the Policy Session will be addressed in a Work Session immediately following the Policy Session)*

***\*\*ADJOURN THE CITY COUNCIL WORK SESSION\*\****

Posted October 4, 2024.

/s/Chersty Titensor, Deputy City Recorder

The City of Clearfield, in accordance with the 'Americans with Disabilities Act' provides accommodations and auxiliary communicative aids and services for all those citizens needing assistance. Persons requesting these accommodations for City sponsored public meetings, service programs or events should call Nancy Dean at 801-525-2714, giving her 48-hour notice.

The complete public notice is posted on the Utah Public Notice Website - [www.utah.gov/pmn/](http://www.utah.gov/pmn/), the Clearfield City Website - clearfield.city, and at Clearfield City Hall, 55 South State Street, Clearfield, UT 84015. To request a copy of the public notice or for additional inquiries please contact Nancy R. Dean at Clearfield City, [nancy.dean@clearfieldcity.org](mailto:nancy.dean@clearfieldcity.org) & 801-525-2714



# Planning Commission

## STAFF REPORT

AGENDA ITEM

**#1**

**TO:** Clearfield City Planning Commission

**FROM:** Brad McIlrath, Senior Planner  
[brad.mcilrath@clearfieldcity.org](mailto:brad.mcilrath@clearfieldcity.org)  
(801) 525-2784

**MEETING DATE:** Wednesday, October 2<sup>nd</sup>, 2024

**SUBJECT:** Public Hearing, Discussion and Possible Action on **DA 2024-0506** for a development agreement for the subject location. **Location:** 20 West 300 North (TIN: 14-071-0085). **Parcel Area:** 0.769 Acres. **Zone:** C-C (Gateway Corridor Commerce). **(Legislative Action).**

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### STAFF RECOMMENDATION

Staff recommends that the Planning Commission forward a recommendation of **DENIAL** of **DA 2024-0506**, to the City Council for the proposed development agreement for the property located at 20 West 300 North (TIN: 14-530-0002). This recommendation is based upon the findings outlined in this report.

This recommendation is based upon the findings and discussion of the staff report; however, as the advisory body to the Clearfield City Council, the Planning Commission may make a different recommendation based upon careful consideration and analysis of the request.

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### PLANNING COMMISSION RECOMMENDATION OPTIONS:

After careful consideration and analysis of the information presented, the Clearfield City Planning Commission moves to:

- 1. Move to recommend approval of DA 2024-0506**, to the Clearfield City Council.
- 2. Move to recommend denial of DA 2024-0506**, to the Clearfield City Council.
- 3. Move to table DA 2024-0506**, to request additional time to consider the request.

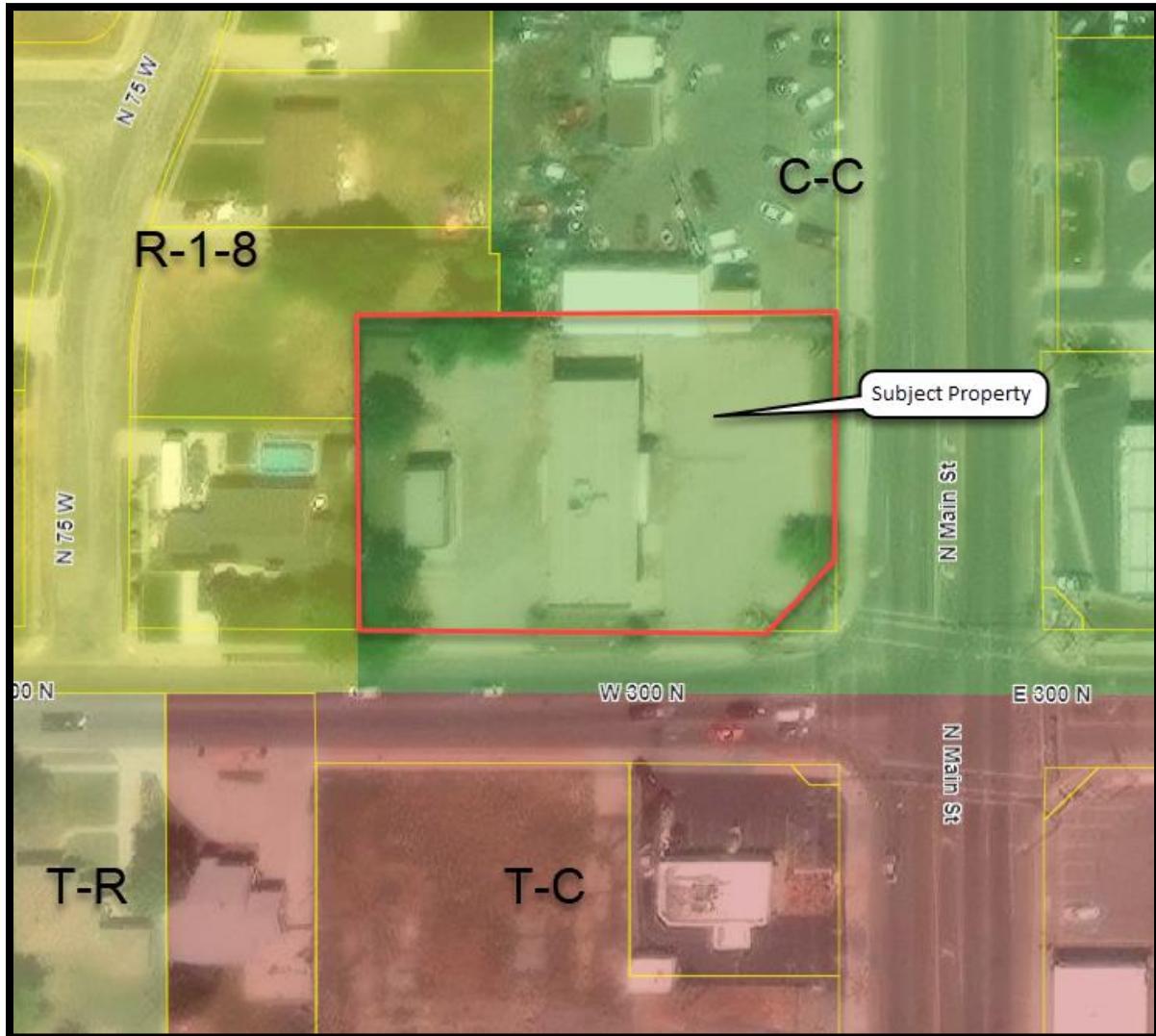
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### PROJECT SUMMARY

Project Information	
Project Name	20 West 300 North Development Agreement
Site Location	20 West 300 North
Tax ID Numbers	14-071-0085
Applicant	Jason Boal, Snell & Wilmer, LLP
Owner	Pearl Properties Group, LLC
Proposed Actions	Development Agreement Denial
Current Zoning	C-C (Gateway Corridor Commerce)
Site Area	0.769 Acres

Surrounding Properties and Uses:		Current Zoning District	General Plan Land Use Classification
North	Commercial	C-C (Gateway Corridor Commerce)	Commercial
East	Commercial	C-C (Gateway Corridor Commerce)	Commercial
South	Commercial & Vacant	T-C (Town Mixed Commerce)	Mixed Use
West	Residential Single-Family	R-1-8 (Residential)	Residential

Aerial Image &amp; Zoning



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## BACKGROUND & ANALYSIS

This property has been abandoned for many years and was the previous home to a gas station that was owned by BP Products North America Inc. with an address of 329 North Main Street. In May 2011, a deed was recorded against the property providing various restrictions. The "Petroleum-Related Restriction" is in full force and effect until 20 years from the date of the conveyance of the property (May 2031). That restriction prohibits the future use of the site for any petroleum-related business (i.e. fuel center, gas station, auto repair or service, oil change facility, etc.) by any brand that is not BP, Amoco, Arco, or any other BP brand. The "Environmental Matters" include restrictions on groundwater exposure, residential use restrictions, and construction and excavation restrictions.

In summary, this limits and requires any future property owner to obtain full approval from BP Products North America Inc. for any work and that all of that work, including removal of contaminated soils and storage tanks would be at the sole cost of the property owner and not BP. The only element that expires without BP approval is the "Petroleum-Related Restriction" mentioned above. These restrictions become problematic if the property redevelops, as any future development would involve the demolition and removal of the existing structures on site and the limitation of construction to a slab-on-grade building without a foundation. The end result is an expensive project with a low return for the cost.

### Form-Based Code Analysis

Attached to this report is an analysis of the draft development agreement (DA) (dated June 3, 2024) and development plans (dated September 20, 2024) with the standards of the Downtown Clearfield Form-Based Code. Each development standard that would apply to this property which is located in the C-C (Gateway Corridor Commerce) Zone was reviewed with the proposed modifications of the draft DA and the development plans.

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### PUBLIC COMMENT

A public hearing notice was posted the week of August 19<sup>th</sup>, 2024, on the State of Utah public notice website, and on the City's website. A public hearing notice sign was also placed in front of the property. On September 4<sup>th</sup>, 2024, the Planning Commission continued the application to the October 2<sup>nd</sup>, 2024 meeting. No public comment was provided at that meeting or has been received to date.

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### STAFF RECOMMENDATION/CONCLUSION

Staff recommends that the Planning Commission forward a recommendation of **DENIAL** to the City Council for the proposed development agreement based upon the following findings:

1. The proposed development agreement is inconsistent with the development standards and process of the Downtown Clearfield Form-Based Code.
2. The proposed development agreement does not include all of the needed modifications from the Downtown Clearfield Form-Based Code to facilitate the intended use.

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### ATTACHMENTS

1. Form-Based Code DA Analysis
2. Draft Development Agreement
3. Draft Site Plan



# 20 West 300 North

## Convenience Store & Car Wash

Items that comply with the FBC will have **green** text.

Items that are addressed in the DA will have **orange** text.

### A. STREET & BLOCK NETWORK; STREET & STREETSCAPE STANDARDS (FBC Chapters 4 & 5)

700 South; State/Main – Gateway Corridor – 5.12 Included in DA draft under subsection a.

Standard:	Staff Analysis:
<p><i>Pedestrian Realm</i></p> <ul style="list-style-type: none"><li>• <i>Pedestrian Facilities:</i> Minimum 6' wide clear sidewalk.</li><li>• <i>Street Buffer:</i> Minimum 8' planted street buffer.</li></ul>	<p><b>Non-Compliance with FBC.</b></p> <p><u>Staff Note:</u> The plan shows the continuation of the existing sidewalk and street buffer. This may be allowed with a development agreement, but the sidewalk as is does not meet FBC standards and requires a modification in a DA. <b>Included in DA draft under subsection a.</b> To comply with the FBC, property dedication and the widening of the sidewalk and street buffer would be required.</p>
<p><i>Street lighting is required on all streets within downtown and are to be placed within the landscape or furnishing zone.</i></p> <ul style="list-style-type: none"><li>• <i>Minimum Spacing:</i> 60 feet apart on center.</li><li>• <i>Maximum Spacing:</i> 90 feet apart on center.</li><li>• <i>Double Acorn Streetlights Required</i></li></ul>	<p><b>Non-Compliance with FBC.</b></p> <p><u>Staff Note:</u> Based upon the width of the property, it looks like two (2) double acorn streetlights would be required along Main Street within the street buffer (park strip area). The plans include one double acorn streetlight at about the center of the property frontage, but a second will need to be added and the spacing of the two (2) streetlights will need to comply the spacing minimums and maximums.</p>
<p><i>Street Trees:</i></p> <ul style="list-style-type: none"><li>• For Street Buffers 6 feet and less small and/or medium trees may be used.</li><li>• For Street Buffers wider than 6 feet medium and/or large trees may be used.</li><li>• Medium and small trees shall be spaced a minimum of 20 and a maximum of 40 feet on center.</li><li>• Large trees shall be spaced a minimum of 40 and a maximum of 60 feet on center.</li><li>• The minimum clear branch height is 7 feet.</li></ul>	<p><b>Non-Compliance with FBC.</b></p> <p><u>Staff Note:</u> The plans will need to be revised to add street trees along the entire length of Main Street within the street buffer or addressed in the development agreement. The current design addresses about 1/3 of the street frontage. As outlined above, property dedication and widening of the sidewalk would be necessary to comply with the FBC. According to staff measurements,</p>

<ul style="list-style-type: none"> <li>Must work with City Urban Forester/Arborist if the area between the curb and property line is less than nine feet to determine appropriate tree species.</li> <li>Tree Species and Diversity must comply with standards found on page 36 of FBC.</li> </ul>	the spacing of the street trees need to increase to comply with the twenty foot (20') minimum spacing standard.
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### **300 North – Commercial Street – 5.10**

<b>Standard:</b>	<b>Staff Analysis:</b>
<p><i>Pedestrian Realm</i></p> <ul style="list-style-type: none"> <li><i>Pedestrian Facilities:</i> Minimum 6' wide clear sidewalk.</li> <li><i>Street Buffer:</i> Minimum 5' planted street buffer.</li> </ul>	<p><b>Complies with FBC.</b></p> <p><u>Staff Note:</u> The plans show a widening of the sidewalk to six feet (6') with a five foot (5') street buffer. Dedication of the sidewalk area that extends into the property would be required so the sidewalk is part of the 300 North public right-of-way.</p>
<p><i>Street lighting is required on all streets within downtown and are to be placed within the landscape or furnishing zone.</i></p> <ul style="list-style-type: none"> <li><i>Minimum Spacing:</i> 40 feet apart on center.</li> <li><i>Maximum Spacing:</i> 80 feet apart on center.</li> <li><i>Single Acorn Streetlights Required</i></li> </ul>	<p><b>Non-Compliance with FBC.</b></p> <p><u>Staff Note:</u> The plans have been provided with three (3) new streetlights along 300 North within the street buffer. The plans will need to be revised to provide single acorn streetlights instead of double acorn streetlights.</p>
<p><i>Street Trees:</i></p> <ul style="list-style-type: none"> <li>For Street Buffers 6 feet and less small and/or medium trees may be used.</li> <li>For Street Buffers wider than 6 feet medium and/or large trees may be used.</li> <li>Medium and small trees shall be spaced a minimum of 20 and a maximum of 40 feet on center.</li> <li>Large trees shall be spaced a minimum of 40 and a maximum of 60 feet on center.</li> <li>The minimum clear branch height is 7 feet.</li> <li>Must work with City Urban Forester/Arborist if the area between the curb and property line is less than nine feet to determine appropriate tree species.</li> <li>Tree Species and Diversity must comply with standards found on page 36 of FBC.</li> </ul>	<p><b>Non-Compliance with FBC.</b></p> <p><u>Staff Note:</u> Street trees have been provided along 300 North within the Street Buffer. The applicant proposes to have a forty-five foot (45') access on 300 North. The FBC allows for a maximum thirty-four foot (34') wide access for non-residential properties. Due to the width of the proposed access, the spacing between the street trees on either side of the access exceeds the maximum spacing of forty feet (40'). The plans will need to be revised to reduce the access to the FBC standard along with approved street tree spacing.</p>

### **B. BUILDING TYPE STANDARDS (FBC Chapter 6)**

#### **Commercial Building Type - 6.8:**

##### **1. Building Site**

<b>Standard:</b>	<b>Staff Analysis:</b>
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<i>Maximum Impervious Coverage: 70%</i> <i>Additional Semi-Pervious Coverage: 20%</i>	<b>Non-Compliance with FBC.</b> <u>Staff Note:</u> Included in DA draft under subsection e.
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## 2. Site Access & Parking

Standard:	Staff Analysis:
<i>Parking &amp; Loading Location:</i> Rear & Interior Side Yard.	<b>Non-Compliance with FBC.</b> <u>Staff Note:</u> Included in DA draft under subsection b.
<i>Vehicular Access:</i> Alley only, if no alley exists, 1 driveway is permitted per UDOT requirements.	<b>Non-Compliance with FBC.</b> <u>Staff Note:</u> There are currently two (2) access driveways on 300 North. The applicant proposes to remove the east access and maintain the west access. The west access exceeds the allowed width of thirty-four feet (34') as required by the FBC. The west access will need to be revised to comply with the FBC or the width will need to be addressed in the DA.

## 3. Building Location

Standard:	Staff Analysis:
<i>Front Build to Zone:</i> 0-15 feet; up to 25' with Plaza or Porte-Cochere.	<b>Non-Compliance with FBC.</b> <u>Staff Note:</u> Included in DA draft under subsection e.
<i>Corner Build to Zone:</i> 0-10 feet	<b>Non-Compliance with FBC.</b> <u>Staff Note:</u> Included in DA draft under subsection e.
<i>Occupation of Corner:</i> Required	<b>Non-Compliance with FBC.</b> <u>Staff Note:</u> Included in DA draft under subsection e.
<i>Property Front Line Coverage:</i> 50%	<b>Non-Compliance with FBC.</b> <u>Staff Note:</u> Included in DA draft under subsection e.

## 4. Building Massing

Standard:	Staff Analysis:
<i>Ground Story:</i> Minimum Height – 12 feet <i>Maximum Height:</i> – 24 feet	Not able to determine with the renderings or sit plan. May need to be added to DA if not compliant.
<i>Permitted Roof Types:</i> Parapet, Pitched, Flat	<b>Non-Compliance with FBC.</b> <u>Staff Note:</u> The building and awning have a flat roof, but it is unclear if the eave meets the minimum requirement of 14 inches deep. If it is a parapet roof for both, then it needs to have a minimum height of 2' and max of 6'. Plans need to be revised to comply with the code standards, or added to the DA. (See page 73-74 of FBC) <u>Included in DA draft under subsection f.</u>

## 5. Street Façade Articulation/Details

Façade requirements apply to all facades facing a public or private right-of-way.

Standard:	Staff Analysis:
<i>Vertical Façade Divisions:</i> Every 25' of façade width.	<b>Non-Compliance with FBC.</b> <u>Staff Note:</u> Included in DA draft under subsection c.
<i>Front Façade Entrance Type:</i> Contemporary, Mixed-Use, or Stoop	<b>Non-Compliance with FBC.</b> <u>Staff Note:</u> Included in DA draft under subsection c.

## 6. Building Fenestration (Applicable to front/street facing facades only)

Standard:	Staff Analysis:
<i>Minimum Ground Story Transparency:</i> 55% As measured between 2 feet and 8 feet above grade.	<b>May be there but need more detail to verify.</b> <u>Staff Note:</u> Included in DA draft under subsection d.
<i>Principal Entrance:</i> Front Façade	<b>Non-Compliance with FBC.</b> <u>Staff Note:</u> Included in DA draft under subsection d.
<i>Required Number of Street Entrances:</i> 1 per each 150 feet of front façade.	<b>Non-Compliance with FBC.</b> <u>Staff Note:</u> Included in DA draft under subsection d.

## Building Design Standards

Standard:	Staff Analysis:
<p><i>Primary Façade Materials:</i> Primary materials shall be used for a minimum of 60% of each façade of the buildings in the T-C, T-R, and C-C zoning districts.</p> <p>(a) Permitted Primary Materials:</p> <ul style="list-style-type: none"> <li>(i) Stone</li> <li>(ii) Brick</li> <li>(iii) Wood Siding</li> <li>(iv) Fiber Cement Board (lapped, shingled, panels)</li> <li>(v) Glass</li> </ul> <p>(b) Primary building materials may not include vinyl siding or aluminum slat siding.</p>	<b>Non-Compliance with FBC.</b> <u>Staff Note:</u> Included in DA draft under subsection g.
<p><i>Secondary Façade Materials:</i> Secondary materials are to be used to highlight details and/or provide accents and architectural variety. Secondary materials shall be used for a maximum of 40% of each façade for buildings in the T-C, T-R, and C-C zoning districts.</p> <p>(a) Permitted Secondary Materials:</p> <ul style="list-style-type: none"> <li>(i) All primary materials may be used as secondary materials.</li> <li>(ii) Fiber reinforced materials for trim and cornice elements, including:</li> </ul>	<b>Non-Compliance with FBC.</b> <u>Staff Note:</u> Included in DA draft under subsection g.

<ul style="list-style-type: none"> <li>i. Glass Fiber Reinforced Concrete (GFRC)</li> <li>ii. Polymer-modified Glassfiber Reinforced Gypsum (PGRG)</li> <li>iii. Fiberglass Reinforced Plastic (FRP)</li> <li>iv. Glassfiber Reinforced Gypsum (GRG)</li> </ul> <p>(iii) Metal (beams, cast, sheet, extruded) for beams, lintels, trim, and ornamentation, and exterior architectural metal panels and cladding.</p> <p>(iv) Exterior Insulation and Finishing Systems (EIFS) and/or stucco.</p> <ul style="list-style-type: none"> <li>i. Permitted for trim only and/or on upper floor facades only in the U-C, U-R, and CV zoning districts.</li> </ul> <p>(v) Pre-cast Concrete</p> <p>(vi) Cast Stone</p>	
<p><i>Windows, Awnings, Shutters, and Doors Appropriate Grade of Materials. See Section 6.13.5 (4).</i></p>	<p><b>Non-Compliance with FBC.</b>  <u>Staff Note:</u> Included in DA draft under subsection g.</p>
<p><i>Drive-through Structures:</i></p> <ul style="list-style-type: none"> <li>(1) Structure/Canopy. Drive-through structures or canopies shall be located on the rear façade of the building or in the rear of the lot behind the building, where permitted by use. The structure shall not be visible from any Primary Street.</li> <li>(2) Stacking Lanes. Stacking lanes shall be located behind the building and accommodate at least two cars in a lane in addition to the car at the window.</li> <li>(3) The canopy and structure shall be constructed of the same materials utilized on the building.</li> </ul>	<p><b>Non-Compliance with FBC.</b>  <u>Staff Note:</u> Needs to be added to the DA separately and not referenced only in modification f.</p>

## C. SITE & LANDSCAPE STANDARDS (FBC Chapter 7)

The landscape chapter of the FBC outlines standards for site specific landscaping, parking lot landscaping and site buffering. The applicant has provided a landscape plan and will need to provide an irrigation plan for final approval. As required by code, the landscape plan has been prepared by a licensed landscape architect.

### 1. General Plant Requirements

Standard:	Staff Analysis:

<p><b>Plant Requirements:</b></p> <ul style="list-style-type: none"> <li>(a) 20 trees are required per 1 acre of project. Street trees do not count toward this requirement.</li> <li>(b) 50 shrubs are required per 1 acre of project. 2 ornamental grasses or perennials count as 1 shrub up to 60% of required shrubs.</li> <li>(c) The maximum amount of landscape area than may be turf grass is 15%. May not be located in areas less than eight (8) feet wide.</li> </ul>	<p><b>Partial compliance with FBC.</b></p> <p><u>Staff Note:</u></p> <p>(a) With a project area of 0.77 acres, a total of fifteen (15) trees are required. With existing trees that can be used and new trees, a total of sixteen (16) trees have been provided.</p> <p>(b) Thirty-nine (39) are required. With existing and new shrubs, a total of thirty-seven (37) shrubs are provided. Two (2) additional shrubs are needed.</p> <p>(c) The plans will need to be revised to indicate the percentage of turf grass that will be used. The amount may not be greater than fifteen percent (15%) of the total landscape area.</p>
<p><i>Plant material shall be placed around the perimeter of the building footprint in a 5 foot minimum planting strip with the exception of entrances, utilities, and where required setbacks are less than 5 feet. For setbacks less than 5 feet, plant materials shall be placed around the perimeter of the building footprint in a planting strip the dimension of the setback, unless no setback exists.</i></p>	<p><b>Non-Compliance with FBC.</b></p> <p><u>Staff Note:</u> Not sure this can be met. Likely need to add to DA.</p>
<p><b>Plant Selection:</b> Plant selection must be water wise. Plants may be selected from the State of Utah waterwise plant list at <a href="https://waterwiseplants.utah.gov">https://waterwiseplants.utah.gov</a> or the Conservation Garden Park database at <a href="https://conservationgardenpark.org/plants">https://conservationgardenpark.org/plants</a>.</p>	<p><b>Complies with FBC.</b></p> <p><u>Staff Note:</u> The plans indicate that the trees and shrubs will be provided from the lists provided in the FBC.</p>
<p><b>Size of Plants:</b> See Table 7.2 (1) for minimum sizing standards.</p>	<p><b>Non-compliance with FBC.</b></p> <p><u>Staff Note:</u> Same as previous comment.</p>

## 2. District Transition Buffer

This buffer is required along all property lines that abut a T-R district or existing residential that is not in the Downtown FBC area. This development is within the C-C zoning district and abuts properties to the west that are not within the Downtown area. The development must include a district buffer along the east property line that complies with the standards outlined on page 81 of the FBC. **Included in DA draft under subsection h.**

## 3. Parking Lot Buffer (Non-compliance with FBC)

This buffer applies to properties in all districts where a vehicular parking area is located along a front, rear, or side property line or adjacent to a right-of-way. This would apply to the Main Street and 300 North frontages. See page 82 of FBC.

Based on staff's review of the proposed parking lot buffer, a continuous hedge will need to be provided along the frontage of the property within the parking lot buffer.

## 4. Interior Parking Lot Landscaping

This will only apply if there is parking provided within the interior of the site and not along a property line. I don't believe this would be the case. See page 83 of FBC.

## 5. Landscaping Screening

Standard:	Staff Analysis:
<p><i>Open Storage &amp; Refuse Areas Screening Requirements:</i></p> <ul style="list-style-type: none"> <li>• No open storage or refuse area is permitted in the front or corner side yards, within 10 feet of a property line, and between the building and street.</li> <li>• An opaque screening wall is required on 3 sides of the dumpster and bin areas. The wall shall be the higher of the following: 1) 6 feet, 2) Height of the use being screened, 3) Height as determined by the City to accomplish the objective of screening.</li> <li>• Openings that can be visible from a public way or adjacent properties must be furnished with opaque gates.</li> <li>• If the refuse area is located within a larger paved area, landscape islands must be located on 3 sides of the area with at least 1 medium or large shade tree in 1 of the landscape areas.</li> </ul>	<p>Complies with FBC.</p> <p><u>Staff Note:</u> Additional detail will need to be provided regarding the type of design of the dumpster enclosure.</p>
<p><i>Utility Appurtenances Screening Requirements:</i></p> <ul style="list-style-type: none"> <li>• Shall be fenced with an opaque wood or brick-faced masonry on all sides facing a right-of-way.</li> <li>• A landscape screen with a shrub bed that has shrubs spaced no more than 36 inches apart on center shall be provided.</li> </ul>	<p>Required if utilities will be placed on the ground and not on buildings. There is no indication on the proposed plans of the location of the utilities. If utilities are located on the ground, then this standard will apply.</p>

### Miscellaneous Landscaping Requirements

The remaining sections of the landscape chapter provide requirements for the installation of landscaping, the condition of landscaping, bonding for landscaping, and ongoing maintenance of landscaping.

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#### D. CIVIC OPEN SPACE STANDARDS (FBC Chapter 8)

As outlined in Chapter 8 of the FBC, for non-residential developments totaling less than 5 acres in size, ten percent (10%) of the total property size shall be used to calculate a fee-in-lieu assessment for Civic Open Spaces. A fee of \$10.00 per square foot of required open space will be implemented for the creation or enhancement of civic open space or streetscape enhancements within the downtown area. With a property area of 33,541.20 square feet, ten percent (10%) of the property would be 3,354.12 square feet. At a rate of \$10.00 per square foot of required open space, a fee-in-lieu of Open Space in the amount of \$33,541.20 would be required. **Included in DA draft under subsection i.**

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#### E. PARKING STANDARDS (FBC Chapter 9)

##### *Motor Vehicle & Bicycle Parking*

As stated in the background section of this report, this building will have a total area of 1,408 square feet. Based upon the potential size of the indoor convenience store service area, the business does not require a lot of parking spaces and therefore, the eleven (11) parking spaces should be sufficient for the use.

The proposed development does not show bicycle parking and will need to be revised to provide one (1) bike rack that meets the minimum design standards outlined in the FBC. See page 108 of the FBC.

***Snow Removal***

As outlined in Clearfield City Code Section 11-13-5 G "Snow Stacking Area", "Every parking lot design shall plan for a snow stacking area to accommodate the stacking volume of a four-inch (4") snow base over the entire parking lot." Need to add the snow stacking area to the plans.

When Recorded Return To:

Bilal Khan  
4943 S. 1025 E.  
Ogden, UT 84403

Tax Parcel No. 140710085

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## **20 WEST 300 NORTH DEVELOPMENT AGREEMENT**

This Development Agreement (“**Agreement**”) is made with respect to the Property, as identified below, by Clearfield City, a political subdivision of the State of Utah (“**City**”), and Pearl Properties Group, LLC, a Utah limited liability company (“**Developer**”). Hereinafter, collectively referred to as the “**Parties**.”

### **RECITALS**

A. Developer is the owner of certain real property (“**Property**”) located at 20 West 300 North, Clearfield, Davis County, Utah, within the municipal limits of the City, as more particularly described in Exhibit A attached hereto.

B. In February 2020, the City changed the zoning of the Property to the form-based code of C-C (Gateway Corridor Commerce) (“**Form-Based Code**”).

C. Developer desires to develop the Property and its existing structure(s) as a freestanding, single tenant retail building, convenience store, or fuel station (“**Project**”) consistent with the Form-Based Code.

D. The Property is currently subject to an application for site plan approval of the Project (“**Site Plan Application**”). In connection with the City’s anticipated approval of the site plan and other required approvals for the Project (collectively, the “**Approvals**”), the Parties have agreed to certain terms and conditions regarding the use of the Property.

### **AGREEMENT**

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree to the following:

1. Incorporation of Recitals. The Recitals stated above and attached Exhibits are incorporated herein by this reference as a part of this Agreement.

2. Form-Based Code Modifications for Project Improvements. The City acknowledges the structure(s) existing on the Property as of the date of this Agreement as noncomplying structures under City code and applicable law. Therefore, the Parties agree that the

Project will comply with the Form-Based Code and City development standards in effect at the time of the Site Plan Application's submission while maintaining noncomplying structures status, as reasonably required in accordance with the approved Site Plan Application and with the exception of the following specific and limited modifications and exceptions, which shall be modifications or exceptions to the Form-Based Code to which the Project need not comply due to existing site constraints:

- a. Pedestrian Realm (700 South; State/Main – Gateway Corridor): (i) sidewalk width, and (ii) Street Buffer area width (Form-Based Code Section 5.4).
- b. Site Access and Parking: (i) Parking & Loading Location: Rear & Interior Side Yard; and (ii) Vehicular Access (existing driveway access on the Property closest to the intersection of 300 North and Main Street will be removed from the Property and on the Site Plan; one (1) driveway access to the Property will be permitted from 300 North and may be expanded by five feet (5') from its current dimensions to 50.6' in width) (Form-Based Code Section 6.3.2.(2), Table 6.8(1)).
- c. Street Façade Articulation/Details: (i) Vertical Façade Divisions; and (ii) Front Façade Entrance Type (Form-Based Code Section 6.3.5, Table 6.8(1)).
- d. Building Fenestration: (i) Minimum Ground Story Transparency; (ii) Minimum Ground Floor or Glazing Combination; (iii) Principal Entrance Location; and (iv) Required Number of Street Entrances (Form-Based Code Section 6.3.6.; Table 6.8(1)).
- e. Commercial Building Type: (i) Maximum Impervious Surface Coverage; (ii) Building Location (Front Build to Zone; (iii) Corner Build to Zone; (iv) Occupation of Corner; and (v) Front Property Line Coverage) (Form-Based Code Section 6.8, Table 6.8(1)).
- f. Building Massing (Permitted Roof Types; Flat Roof Type): eave depth will be in accordance with existing structure (Form-Based Code Section 6.12).
- g. Building Design Standards: (i) Primary Façade Materials; (ii) Secondary Façade Materials; (iii) Windows, Awnings, Shutters, and Doors Appropriate Grade of Materials; and (iv) Drive-through Structures (Form-Based Code Section 6.13).
- h. District Transition Buffer: Project will use existing buffer along east-west property line (Form-Based Code Section 7.3).
- i. Civic Open Space: no Civic Open Space or fee-in-lieu for Civic Open Space will be required in connection with the Project (Form-Based Code Chapter 8).

j. All other design standards reflected in the Form-Based Code but with which the approved Site Plan Application or existing noncomplying structures do not comply.

**Commented [BM1]:** A blanket statement. We are not okay with this. You call out each exception or you don't get them.

As a result of the foregoing modifications or exceptions to the Form-Based Code for the Project, the Project's development will comply with the Project plans and specifications submitted to the City in connection with the approved Site Plan Application or this Agreement.

3. Conditions Precedent. The following shall be conditions precedent to the effectiveness of this Agreement:

- a. Developer shall have acquired fee title to the Property.
- b. City shall have approved the Site Plan Application and issued the Approvals.

If the conditions precedent identified in this Section are not satisfied, then Developer may deliver a notice of rescission to the City to terminate this Agreement. Upon Developer's delivery of a notice of rescission pursuant to this Section, this Agreement shall automatically terminate whereupon the Parties shall have no further rights or obligations under this Agreement.

4. Runs with the Land. This Agreement and the terms and conditions therein will run with the land and inure to the benefit of and be binding on Developer and its respective successors, assigns, beneficiaries, and grantees. The Agreement will survive any subdivision of the Property and will apply in full force to each lot created on the Property.

5. Enforcement. This Agreement will be governed by the laws of the State of Utah. The Parties agree to the jurisdiction and venue of the state courts in the county where the Property is located to resolve any dispute arising from, or pertaining to, this Agreement. The City may enforce this Agreement against Developer, and any successor, assign, beneficiary, or grantee having, or claiming, any interest in the Property.

6. Validity and Severability. If any section, clause or portion of this Agreement is declared invalid by a court of competent jurisdiction for any reason, the remainder of this Agreement shall not be affected thereby and shall remain in full force and effect.

7. Amendments. This Agreement may be amended only in writing signed by the Parties hereto.

8. No Joint Venture. This Agreement does not create, and shall not be construed to create, a joint venture by the parties and no separate government entity is established by this Agreement.

9. Integration. This Agreement constitutes the entire understanding and agreement between the Parties, and supersedes any previous agreement, representation, or understanding between the Parties relating to the subject matter hereof.

*[Signatures appear on the following pages]*

DATED the \_\_\_\_ day of \_\_\_\_\_, 202\_.

## **DEVELOPER**

**Pearl Properties Group, LLC**, a Utah limited liability company

By: \_\_\_\_\_  
Name: Bilal Khan  
Its: \_\_\_\_\_

The foregoing Development Agreement was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 202\_\_\_\_, by Bilal Khan as \_\_\_\_\_ of Pearl Property Group, LLC, a Utah limited liability company.

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## NOTARY PUBLIC

**CITY**

## **CLEARFIELD CITY, a Utah municipality**

By: \_\_\_\_\_  
Name: Mark R. Shepherd  
Title: Mayor

**Attest:**

## City Recorder

STATE OF UTAH )  
 ) ss.  
COUNTY OF DAVIS )

The foregoing Development Agreement was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 202\_\_\_, by Mark R. Shepherd as Mayor of Clearfield City and Nancy R. Dean as City Recorder.

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**NOTARY PUBLIC**

**EXHIBIT A**  
**LEGAL DESCRIPTION OF PROPERTY**

Beginning at the intersection of the West line of U.S. Highway 91 and the North line of 300 North Street, in Clearfield, Utah, said point being West 56.201 feet and North 00°04'00" East 29.269 feet from the Southeast corner of Section 35, Township 5 North, Range 2 West, Salt Lake Base and Meridian; also said point being South 89°37'20" East 336.003 feet from the Southeast corner of Grand View Acres Subdivision as recorded and on file in the Davis County Recorder's office, to the point of beginning and running thence North 89°37'20" West 227.000 feet; thence North 00°04'00" East 148.703 feet; thence East 226.997 feet to the West line of said U.S. Highway 91; thence South 00°04'00" West 150.20 feet along said West line of U.S. Highway 91 to the point of beginning.

LESS AND EXCEPTING that portion conveyed to Utah Department of Transportation by Quit-Claim Deed recorded August 20, 2003 as Entry No. 1900706 in Book 3357 at Page 66 of official records, being more particularly described as follows:

A parcel of land in fee for a traffic safety improvement known as Project No. STP-0126(6)6, being part of an entire tract of property situated in the Southeast quarter of Section 35, Township 5 North, Range 2 West, Salt Lake Base and Meridian, the boundaries of said parcel of land are described as follows:

Beginning at the intersection of the West right-of-way line of State Route 126 (Main Street) and the North right-of-way of SR-107 (300 North) at a point 55.50 feet perpendicularly distant Westerly from the centerline of SR-126 of said project at Engineering Station 20+33.04, said point being West (equals North 89°36'32" West highway bearing) 56.20 feet (55.50 feet by Davis County survey tie sheet) and North 00°04'00" East (equals North 00°20'48" East highway bearing) 29.27 feet (33.00 feet per highway right of way) from the Southeast corner of said section and running thence South 89°37'20" West (equals North 89°36'32" West highway bearing) 33.00 feet to a point 33.00 feet perpendicularly distant Northerly from the centerline of said SR-107 at Engineering Station 9+11.47; thence North 44°39'25" East (equals North 45°00' East highway bearing) 46.95 feet to said West right of way line; thence South 00°04'00" West (equals South 00°20'48" West highway bearing) 33.43 feet to the point of beginning as shown on the official map of said project on file in the office of the Utah Department of Transportation.





## LANDSCAPING PLAN NOTES

- 1) STREET TREES:
  - 1) FOR STREET BUFFERS 6 FEET AND LESS SMALL AND/OR MEDIUM TREES MAY BE USED.
  - 2) FOR STREET BUFFERS WIDER THAN 6 FEET MEDIUM AND/OR LARGE TREES MAY BE USED.
  - 3) MEDIUM AND SMALL TREES SHALL BE SPACED A MINIMUM OF 20 AND A MAXIMUM OF 40 FEET ON CENTER.
  - 4) LARGE TREES SHALL BE SPACED A MINIMUM OF 40 AND MAXIMUM OF 60 FEET ON CENTER.
  - 5) THE MINIMUM CLEAR BRANCH HEIGHT IS 7 FEET.
- 6) MUST WORK WITH CITY URBAN FOREST/ARBORIST IF THE AREA BETWEEN THE CURB AND PROPERTY LINE IS LESS THAN NINE FEET TO DETERMINE APPROPRIATE TREE SPECIES.
- 7) TREE SPECIES AND DIVERSITY MUST COMPLY WITH STANDARDS FOUND ON PAGE 36 OF FBC.

**PLANT REQUIREMENTS (ON-SITE)**

TREES: 20 TREES PER ACRE - 0.766 ACRES \* 20 = 16 TREES REQUIRED  
SHRUBS: 50 SHRUBS PER ACRE - 0.766 ACRES \* 50 = 38 SHRUBS

## KEYED NOTES

④ PLANT NEW SMALL OR MEDIUM STREET TREE PER CLEARED CITY  
STREET. REQUIREMENTS: SELECT TREE FROM APPROVED CLEARED CITY STREET TREE LIST  
SEE STREET TREE NOTES.

⑤ EX. TREE TO REMAIN

NEW TREE. SELECT TREE FROM THE STATE OF UTAH WATERMISCE PLANT LIST AT  
[HTTPS://WATERMISCEPLANTS.UTAH.GOV](https://WATERMISCEPLANTS.UTAH.GOV) OR THE CONSERVATION GARDEN PARK  
DATABASE AT [HTTPS://CONSERVATIONGARDENPARK.ORG/PLANTS](https://CONSERVATIONGARDENPARK.ORG/PLANTS).

NOTE SIZE OF PLANTS SHALL BE IN ACCORDANCE WITH TABLE 7.2(1) FOR  
MINIMUM SIZING STANDARDS.

NEW SHRUB. SELECT TREE FROM THE STATE OF UTAH WATERMISCE PLANT LIST AT  
[HTTPS://WATERMISCEPLANTS.UTAH.GOV](https://WATERMISCEPLANTS.UTAH.GOV) OR THE CONSERVATION GARDEN PARK  
DATABASE AT [HTTPS://CONSERVATIONGARDENPARK.ORG/PLANTS](https://CONSERVATIONGARDENPARK.ORG/PLANTS).

NOTE SIZE OF PLANTS SHALL BE IN ACCORDANCE WITH TABLE 7.2(1) FOR  
MINIMUM SIZING STANDARDS.

CAS & ELECTRICAL METERS SHALL BE FENCED WITH AN OPAQUE WOOD OR  
BLOCK-FACE MASONRY WALL AT ALL SIDES FACING RIGHT-OF-WAY. A LANDSCAPE  
SCREEN WITH A SHRUB BED THAT HAS SHRUBS SPACED NO MORE THAN 36  
INCHES APART ON CENTER SHALL BE PROVIDED.

## SITE TABULATIONS

AS-SURVEYED PARCEL AREA: 33,369.70 SF  
LANDSCAPED AREA: 7,482.90 SF  
PAVED AND CONCRETE: 23,836.81 SF  
BUILDING AREA: 2,050.00 SF

PERCENT BUILDING DENSITY = 2050/33369.70 = 6.14%

PERCENT LANDSCAPING = 7482.90/33369.70 = 22.42%

## LANDSCAPING PLAN

LOCATED WITHIN THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 5 NORTH, RANGE 2 WEST  
SALT LAKE BASE & MERIDIAN  
CLEARFIELD CITY, DAVIS COUNTY, UTAH

EAST QUARTER CORNER  
SECTION 35, T5N, R2W  
SLB&M (FOUND BRASS CAN  
MON WITH RING & LID)

GRAPHIC SCALE

0 10 20 40

( IN FEET )

1 INCH = 20 FT.

A circular seal with a double-line border. Inside, the words "STATE OF UTAH" are at the bottom, "DAVID D. PETERSON" is in the center, and "01/2012" is at the top. The entire seal is stamped with a fine, wavy, circular pattern.

LANDSCAPING PLAN

PROJECT #: C-23-067  
DRAWN: M. CROFT  
CHECKED: S. PETERSON

**PETERSON ENGINEERING, P.C.**  
CONSULTING ENGINEERS & LAND SURVEYORS

PAGE: 3  
L1

1



# Planning Commission

## STAFF REPORT

AGENDA ITEM

#2

**TO:** Clearfield City Planning Commission

**FROM:** Tyson Stoddard, Planner  
[tyson.stoddard@clearfieldcity.org](mailto:tyson.stoddard@clearfieldcity.org)  
801-525-2718

**MEETING DATE:** Wednesday, October 2<sup>nd</sup>, 2024

**SUBJECT:** Public Hearing, Discussion and Possible Action on **ZTA 2024-0901**, a zoning text amendment request by Clearfield City to amend building materials standards from Title 11 of the Clearfield City Code. (**Legislative Matter**).

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### STAFF RECOMMENDATION

Staff recommends that the Planning Commission forward a recommendation of **APPROVAL** for **ZTA 2024-0901** to the City Council, a zoning text amendment request by Clearfield City to amend building materials standards from Title 11 of the Clearfield City Code. This recommendation is based upon the information and findings outlined in this report.

As the advisory body to the City Council, the Planning Commission may forward a recommendation of approval, denial, or move to table the decision as presented below in the Planning Commission Recommendation Options.

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### PLANNING COMMISSION RECOMMENDATION OPTIONS

Following careful consideration of the information included in this report, the Planning Commission may choose to forward the following recommendations:

1. **Move to recommend approval of ZTA 2024-0901** to the City Council, a zoning text amendment request by Clearfield City to amend building materials standards from Title 11 of the Clearfield City Code.
2. **Move to recommend denial of ZTA 2024-0901** to the City Council, a zoning text amendment request by Clearfield City to amend building materials standards from Title 11 of the Clearfield City Code.
3. **Move to table ZTA 2024-0901** to request additional information for consideration.

The Planning Commission may also make a recommendation that is different than those listed above such as a modified recommendation of approval.

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### BACKGROUND & ANALYSIS

Title 11 of the Clearfield City Code is also known as the Land Use Ordinance which includes the establishment of zones that often include design standards that address exterior building material requirements specific to each zone. As currently written, there is a list of permitted materials and depending on the zone, sometimes a requirement for certain materials like brick or stone to be used on the street facing façade of the building. The list of permitted materials is relatively small, especially given innovations and advances in the development of new building materials that are long lasting and of a high quality.

Earlier this year, the Planning Commission recommended approval to the City Council for an update to the building material standards of the Downtown Clearfield Form Based Code (FBC). The Council then adopted those updates which included the addition of several new materials to the list of permitted materials in the FBC. The permitted materials are intended to establish a high quality of appearance for buildings in the Downtown as well as enhance the pedestrian experience and character of the area.

Staff is now proposing updates to building materials standards found in Title 11 that would be similar to the recent updates that were made to the FBC. These Title 11 amendments would affect the zones in the city that are outside of the Downtown Area. In the spirit of continuous improvement, staff finds it appropriate to prepare for the ever-changing advancement in building materials by proposing the changes outlined in the attached document, "Title 11 Building Materials – Proposed Amendments." The intent is to be responsive to material advancements, provide greater flexibility to builders, and to enhance the look and character of the community. The structure of the proposed amendments is to only list non-permitted materials, leaving permitted materials open to other materials not specifically listed as non-permitted. The proposed amendments would continue to require brick, stone, or rock on the front or street facing façade for commercial and multifamily buildings.

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## PUBLIC COMMENT

A public hearing notices were posted on September 20, 2024. No public comment has been received to date.

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## GENERAL FINDINGS

### Zoning Ordinance Text Amendment

Clearfield Land Use Ordinance Section 11-6-3 establishes the following findings the Planning Commission shall make to approve Zoning Ordinance Text Amendments. The findings and staff's evaluation are outlined below:

Review Consideration		Staff Analysis
1)	The proposed amendment is in accordance with the General Plan and Map; or	The proposed amendments are in accordance with the General Plan which encourages continual evaluation and modifications to adopted ordinances as circumstances require. The proposed amendments provide greater flexibility in building design and construction.
2)	Changed conditions make the proposed amendment necessary to fulfill the purposes of this Title.	The proposed amendment is based on continual evaluation of Title 11 regulations and to incorporate advances in building technologies that allow for more affordable construction with materials that are of high quality and long lasting.

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## FINDINGS & CONCLUSION

Based upon a review of the existing and proposed ordinance standards Staff concludes the following:

1. The Clearfield City Land Use Ordinance should be continually evaluated to address local and market needs identified through code implementation and plan reviews.
2. The proposed amendment recognizes ongoing advancements in building construction materials and the ways they can be used to provide a high quality and long-lasting product.

**ATTACHEMENTS**

1. Title 11 Building Materials - Proposed Amendments

## **ZTA 2024-0901 Title 11 Building Materials - Proposed Amendments**

### **(C-1 ZONE) 11-11A-12: OTHER REQUIREMENTS:**

A. Landscaping And Open Space: A minimum of ten percent (10%) of the total lot or parcel area shall be provided as landscaped open space. All landscaping shall comply with the provisions of chapter 21 of this title.

B. Garbage Dumpsters: Garbage dumpsters shall be completely screened when adjacent to a residentially zoned parcel, or in any location where they can be viewed from a public right of way.

C. Walls And Fences: Walls or fences may be required along all property lines which are adjacent to a residential zone or use or public right of way. The exact location, height and type of materials of the wall or fence shall be approved by the planning commission as part of the site plan approval process.

#### **D. Exterior Building Materials:**

1. Non-Permitted exterior building materials for main buildings ~~shall be brick, stucco, stone, rock, or~~ are vinyl siding, aluminum siding, fiber cement panels, unfinished poured concrete, rusted metal, and sheet metal.

~~2. Vinyl siding shall not be permitted on the front elevation of a main building.~~

~~3. 2.~~ Accessory buildings shall be built with a finished, all weather exterior material. Detached garages and carports shall be finished to match the exterior of the main building.

~~4. 3.~~ Any ~~front~~ building elevation ~~or elevation~~ facing a street or right of way shall include at least ~~two~~ ~~(2)~~ one (1) of the following: brick, ~~stucco~~, stone, or rock.

E. Footings And Foundation Required: All main buildings shall be constructed on a permanent footing and foundation.

F. Restrictions: No area needed to meet the lot width, frontage, area, setback or other requirements of this article may be divided, sold, or leased separate from such lot or building.

G. Design Standards: All new site development or construction in the C-1 commercial zone shall incorporate the appropriate design standards described in chapter 18 of this title. (Ord. 2009-36, 11-24-2009; amd. Ord. 2022-06, 2-22-2022)

### **(C-2 ZONE) 11-11B-12: OTHER REQUIREMENTS:**

A. Landscaping And Open Space: A minimum of ten percent (10%) of the total lot or parcel area shall be provided as landscaped open space. All landscaping shall comply with the provisions of chapter 21 of this title.

B. Garbage Dumpsters: Garbage dumpsters shall be completely screened when adjacent to a residentially zoned parcel, or in any location where they can be viewed from a public right of way.

C. Walls And Fences: Walls or fences may be required along all property lines which are adjacent to a residential zone or use or public right of way. The exact location, height and type of materials of the wall or fence shall be approved by the planning commission as part of the site plan approval process.

D. Exterior Building Materials:

1. Non-Permitted exterior building materials for main buildings ~~shall be brick, stucco, stone, rock, or~~ are vinyl siding, aluminum siding, fiber cement panels, unfinished poured concrete, rusted metal, and sheet metal.

~~2. Vinyl siding shall not be permitted on the front elevation of a main building.~~

~~3. 2.~~ Accessory buildings shall be built with a finished, all weather exterior material. Detached garages and carports shall be finished to match the exterior of the main building.

~~4. 3.~~ Any front building elevation or elevation facing a street or right of way shall include at least ~~two (2)~~ one (1) of the following: brick, ~~stucco~~, stone, or rock.

E. Footings And Foundation Required: All main buildings shall be constructed on a permanent footing and foundation.

F. Restrictions: No area needed to meet the lot width, frontage, area, setback or other requirements of this article may be divided, sold, or leased separate from such lot or building.

G. Design Standards: All new site development or construction in the C-2 commercial zone shall incorporate the appropriate design standards described in chapter 18 of this title. (Ord. 2009-37, 11-24-2009; amd. Ord. 2022-06, 2-22-2022)

#### **(R-2 ZONE) 11-9D-11: OTHER REQUIREMENTS:**

A. Landscaping And Open Space: A minimum of twenty percent (20%) of the total project area shall be provided as landscaped open space. All landscaping shall comply with the provisions of chapter 21 of this title.

B. Floor Area: Each single-family and two-family dwelling unit shall have a minimum finished floor area of not less than one thousand two hundred (1,200) square feet above grade for ramblers with a full basement; all other styles shall have a minimum finished floor area of not less than one thousand five hundred (1,500) square feet above grade. Multiple-family dwellings shall have a minimum finished floor area of not less than one thousand sixty (1,060) square feet per dwelling unit.

C. Garages: Each single-family and two-family dwelling unit shall have an attached two (2) car garage, which shall be a minimum of four hundred (400) square feet in size.

D. Development Agreement: A development agreement may be required for all new development in the R-2 zone. All applications for a rezone, preliminary plat, or site plan approval shall be conditioned upon final approval of the development agreement by the city council.

E. Multiple-Family Dwelling Exterior Building Materials:

1. Non-Permitted exterior building materials for main buildings ~~shall be brick, stucco, stone, rock, wood, or fiber cement board~~ are vinyl siding, aluminum siding, fiber cement panels, unfinished poured concrete, rusted metal, and sheet metal.

~~2. Vinyl siding shall not be a permitted exterior building material for multiple-family dwellings.~~

~~3. 2.~~ Accessory buildings shall be built with a finished, all weather exterior material. Detached garages and carports shall be finished to match the exterior of the main building.

~~4. 3.~~ Any ~~front~~ building elevation ~~or elevation~~ facing a street or right of way shall include at least ~~two (2)~~ ~~one (1)~~ of the following: brick, ~~stucco~~, stone, or rock.

F. Footings And Foundation Required: All main buildings shall be constructed on a permanent footing and foundation.

G. Restrictions: No area needed to meet the lot width, frontage, area, setback or other requirements of this article may be divided, sold, or leased separate from such lot or building.

H. Design Standards: All new site development or construction in the R-2 residential zone shall incorporate the appropriate design standards described in chapter 18 of this title. (Ord. 2009-29, 11-24-2009; amd. Ord. 2022-06, 2-22-2022; Ord. 2022-07, 4-12-2022)

#### **(R-3 ZONE) 11-9E-13: OTHER REQUIREMENTS:**

A. Landscaping And Open Space: A minimum of twenty-five percent (25%) of the total project area shall be provided as landscaped open space. All landscaping shall comply with the provisions of chapter 21 of this title.

B. Floor Area: Each single-family and two-family dwelling unit shall have a minimum finished floor area of not less than one thousand two hundred (1,200) square feet above grade for ramblers with a full basement; all other styles shall have a minimum finished floor area of not less than one thousand five hundred (1,500) square feet above grade. Multiple-family dwellings shall maintain an average finished floor area of not less than one thousand sixty (1,060) square feet per dwelling unit above grade. In no case, however, shall a multiple-family dwelling unit have a minimum finished floor area of less than seven hundred (700) square feet.

C. Walls And Fences: Walls or fences may be required around all multiple-family developments. The height, type, location, and materials of such walls and fences shall be approved by the planning commission as part of the site plan review.

D. Garages: Each single-family and two-family dwelling unit shall have an attached two (2) car garage, which shall be a minimum of four hundred (400) square feet in size.

E. Development Agreement: A development agreement may be required for all new development in the R-3 residential zone. All applications for a rezone, preliminary plat, or site plan approval shall be conditioned upon final approval of the development agreement by the city council.

F. Multiple-Family Dwelling Exterior Building Materials:

1. Non-Permitted exterior building materials for main buildings ~~shall be brick, stucco, stone, rock, wood, or fiber cement board~~ are vinyl siding, aluminum siding, fiber cement panels, unfinished poured concrete, rusted metal, and sheet metal.

~~2. Vinyl siding shall not be a permitted exterior building material for multiple-family dwellings.~~

~~3. 2.~~ Accessory buildings shall be built with a finished, all weather exterior material. Detached garages and carports shall be finished to match the exterior of the main building.

~~4. 3.~~ Any **front** building elevation **or elevation** facing a street or right of way shall include at least ~~two~~ ~~(2)~~ one (1) of the following: brick, ~~stucco~~, stone, or rock.

G. Footings And Foundation Required: All main buildings shall be constructed on a permanent footing and foundation.

H. Restrictions: No area needed to meet the lot width, frontage, area, setback or other requirements of this article may be divided, sold, or leased separate from such lot or building.

I. Design Standards: All new site development or construction in the R-3 residential zone shall incorporate the appropriate design standards described in chapter 18 of this title. (Ord. 2009-30, 11-24-2009; amd. Ord. 2022-06, 2-22-2022)

#### **(B-1 ZONE) 11-10-11: OTHER REQUIREMENTS:**

A. Landscaping And Open Space: A minimum of ten percent (10%) of the total project area shall be provided as landscaped open space. All landscaping shall comply with the provisions of chapter 21 of this title.

B. Garbage Dumpsters: Garbage dumpsters shall be completely screened when adjacent to a residentially zoned parcel, or in any location where they can be viewed from a public right of way.

C. Walls And Fences: Walls or fences may be required along all property lines which are adjacent to a residential zone or use or public right of way. The exact location, height and type of materials of the wall or fence shall be approved by the planning commission as part of the site plan approval process.

D. Exterior Building Materials:

1. Non-Permitted exterior building materials for main buildings ~~shall be brick, stucco, stone, rock, or~~ are vinyl siding, aluminum siding, fiber cement panels, unfinished poured concrete, rusted metal, and sheet metal.

~~2. Vinyl siding shall not be permitted on the front elevation of a main building.~~

~~3. 2.~~ Accessory buildings shall be built with a finished, all weather exterior material. Detached garages and carports shall be finished to match the exterior of the main building.

~~4. 3.~~ Any **front** building elevation **or elevation** facing a street or right of way shall include at least ~~two~~ ~~(2)~~ one (1) of the following: brick, ~~stucco~~, stone, or rock.

E. Footings And Foundation Required: All main buildings shall be constructed on a permanent footing and foundation.

F. Restrictions: No area needed to meet the lot width, frontage, area, setback or other requirements of this article may be divided, sold, or leased separate from such lot or building.

G. Design Standards: All new site development or construction in the B-1 buffer zone shall incorporate the appropriate design standards described in chapter 18 of this title.

H. Development Agreement: A development agreement shall be required for all new development in the B-1 buffer zone. All applications for a rezone, preliminary plat, or site plan approval shall be conditioned upon final approval of the development agreement by the city council.

I. Lot Coverage: Lot coverage by all buildings, including main and accessory buildings, shall be not more than sixty percent (60%) of the total lot or parcel area. (Ord. 2009-34, 11-24-2009; amd. Ord. 2022-06, 2-22-2022)

**(P-F ZONE) 11-10A-12: OTHER REQUIREMENTS:**

A. Landscaping And Open Space: A minimum of fifteen percent (15%) of the total project area shall be provided as landscaped open space. All landscaping shall comply with the provisions of chapter 21 of this title. Certain types of landscaping to buffer noise, structures or other elements may be required along any or all property lines if determined by the planning commission.

B. Garbage Dumpsters: Garbage dumpsters shall be completely screened when adjacent to a residentially zoned parcel, or in any location where they can be viewed from a public right of way.

C. Walls And Fences: Walls or fences may be required along all property lines which are adjacent to a residential zone or use or public right of way. The exact location, height and type of materials of the wall or fence shall be approved by the planning commission as part of the site plan approval process.

D. Exterior Building Materials:

1. Non-Permitted exterior building materials for main buildings ~~shall be brick, stucco, stone, rock, or~~ are vinyl siding, aluminum siding, fiber cement panels, unfinished poured concrete, rusted metal, and sheet metal.

~~2. Vinyl siding shall not be permitted on the front elevation of a main building.~~

~~3. 2.~~ Accessory buildings shall be built with a finished, all weather exterior material. Detached garages and carports shall be finished to match the exterior of the main building.

~~4. 3.~~ Any front building elevation ~~or elevation~~ facing a street or right of way shall include at least ~~two~~ ~~(2)~~ one (1) of the following: brick, ~~stucco~~, stone, or rock.

E. Footings And Foundation Required: All main buildings shall be constructed on a permanent footing and foundation.

F. Restrictions: No area needed to meet the lot width, frontage, area, setback or other requirements of this article may be divided, sold, or leased separate from such lot or building.

G. Design Standards: All new site development or construction in the PF public facilities zone shall incorporate the appropriate design standards described in chapter 18 of this title. (Ord. 2009-35, 11-24-2009; amd. Ord. 2022-06, 2-22-2022)

(CHAPTER 18 DESIGN STANDARDS) 11-18-5: COMMERCIAL BUILDING DESIGN STANDARDS:

F. Materials: High quality, long lasting materials shall be required for all buildings in order to contribute to the aesthetics of the community over the long term. Permanence in design and construction will add to the overall value and sustainability of the community.

1. A minimum of three (3) colors per elevation shall be required.
2. Color utilization should be sensitive to existing development within the vicinity and the natural landscape in which the project is situated.
- ~~3. All projects shall submit a sample board containing actual samples of all exterior surface materials, including roofing materials, in all the colors that will be used. No photos shall be permitted.~~

(CHAPTER 18 DESIGN STANDARDS) 11-18-7: INDUSTRIAL BUILDING DESIGN STANDARDS:

C. Color And Materials:

1. A comprehensive material and color scheme shall be developed for each site. Material and color variations in multi-building complexes must be complementary and compatible among buildings.
2. A minimum of three (3) colors per elevation shall be required.
3. Color utilization should be sensitive to existing development within the vicinity and the natural landscape in which the project is situated.
4. Materials that contribute to the aesthetics of the community over the long term shall be required for all buildings. Permanence in design and construction will add to the overall value and sustainability of the community.
- ~~5. All projects shall submit a sample board containing actual samples of all exterior surface materials, including roofing materials, in all the colors that will be used.~~
6. Primary Materials: Each exterior wall facade shall include two (2) of the following primary materials: brick, tilt-up concrete, architectural block, stone, or glass. Unfinished gray concrete block is not permitted. The use of non-insulated metal siding exclusively on any wall is prohibited. All finish material shall be durable to the effects of weather and soiling.
7. Expanses of primary materials, or other uniform material shall be broken up with pop outs, recesses, awnings, staggered facades, metal structures, glass, change in material or texture, or the addition of other designed three (3) dimensional architectural features, every one hundred feet (100').

8. The ends or corners of buildings shall be articulated with at least two (2) prominent architectural feature such as a change in primary material (i.e. change from tilt-up concrete panel to brick), increased roof projection of parapet, increased transparency; or
9. Bright, contrasting colors should be used for small areas of building and for accents only.
10. Design and colors of wall signs should be compatible with the main buildings on the site.
11. Materials, design, and colors of monument signs shall be compatible with the main buildings on the site.



# STAFF REPORT

**TO:** Mayor Shepherd and City Council Members  
**FROM:** Brad McIlrath, Senior Planner  
**MEETING DATE:** Tuesday, September 17<sup>th</sup>, 2024  
**SUBJECT:** Discussion on Regulations for Accessory Dwelling Units in Clearfield City

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## **RECOMMENDED ACTION**

Staff recommends that the Mayor and City Council review the attached materials and direct staff regarding the desire for the regulations for Accessory Dwelling Units in Clearfield.

## **DESCRIPTION / BACKGROUND**

The Legislature continues to discuss housing and options to address the growing issue. One ongoing discussion to meet the needs across the state is the idea of Accessory Dwelling Units (ADUs) both internal and external. Staff continues to attend and participate in these discussions and is presenting information this evening regarding internal and external ADUs. In September of 2021, Clearfield City adopted an Internal Accessory Dwelling Unit (IADU) ordinance to comply with state code to allow (at a minimum) internal accessory dwelling units within residential zones. State code was subsequently updated during the 2023 legislative session to permit more IADUs within municipalities with less restrictive regulations. As such, Clearfield City's IADU ordinance needs an update to comply with state code. Along with the needed updates, new City Council members, and the ongoing discussions and analysis regarding a housing shortage, a discussion on ADUs in Clearfield City is imperative. In preparation for this discussion, staff has reviewed and summarized the ADU regulations of Clearfield, Syracuse, Layton, and Murray. A summary spreadsheet of key ADU regulations is attached to this report. Staff reviewed the regulations of Farmington City but omitted those regulations from the spreadsheet due to the complexity of that ordinance and applicability to Clearfield. Further discussion about those regulations could be arranged if that is the desire of the Mayor and Council to do so.

Attached to this report are also to reference documents provided by the Utah League of Cities & Towns and the Utah Land Use Institute; the former guide created in 2019, and the latter article created in March 2023. With these resources, staff looks forward to a healthy discussion to understand the options that are most appropriate for Clearfield City.

## **SCHEDULE/TIME CONSTRAINTS**

There is not an imposed timeline or constraint that staff is working under. Following the discussion Staff will undertake the process for drafting of an updated ordinance to address state code requirements including any new regulations that may be recommended by the Council. A draft ordinance will be presented to the Planning Commission and City Council per the typical public process prior to adoption.

## **CORRESPONDING POLICY PRIORITIES**

- ***Providing Quality Municipal Services***

A key tenant of this policy priority is 'continuous improvement through innovation.' Continued dialogue about the city's regulations and evaluation of potential changes supports this policy priority to be open and provide continuous improvement. This policy priority also addresses fiscal responsibility and having a 'well-planned...infrastructure.' Discussing the potential fiscal and infrastructure impacts of ADUs is further supported by this policy.

- ***Improving Clearfield's Image, Livability, and Economy***

The allowance of ADUs in a community has an impact on the city's image and directly impacts livability and as indirect benefits and challenges to the local economy. The city's livability can be enhanced by providing ADUs with appropriate regulation to maintain the single-family residential character of the community's stable and long-standing neighborhoods. Providing additional housing options in Clearfield can support the local economy with patrons of local businesses and sales tax generation through direct and online purchases. Property values are also increased with the greater value that is offered to the property owners and what can be done on a property.

## **ALTERNATIVES**

Staff welcomes the discussion of alternatives not addressed in this report or the attachments. Full copies of the ADU regulations of the cities discussed can also be provided

## **FISCAL IMPACT**

The proliferation of internal and external ADUs in Clearfield will have an increased demand on city utilities. Depending on the amount of ADUs created in the city, there may be a need to upsize and replace infrastructure to address this growth.

## **LIST OF ATTACHEMENTS**

- Accessory Dwelling Unit Summary Chart
- Utah League of Cities & Towns ADU Guide for Local Governments – 2019
- Utah Urban Land Use Institute ADU Article – March 2023

### Accessory Dwelling Units - Summary Chart

City	Zoning	Owner Occupancy Required	Types of ADUs Permitted	Limit per Lot	Min. Lot Area	Setbacks & Height	Utilities or Impact Fees	# of Occupants	ADU Size	ADU Entrance	Exterior Design	Parking	Separate Living Areas Required	Address	Building Permit Required	Business License Required
Clearfield	Single-Family Zones	Yes	Internal & Attached	1	6,000 SF	Same as primary residence.	1 meter	1 person alone, or 2 related or unrelated adults and their children plus a temporary guest (less than 30 days in a year)	50% or less of the total SF of the primary residence	Should be on side or rear. If below grade then may be on front but maintains SF character.	Similar to primary dwelling unit.	1 additional off-street space.	Yes (eating, sleeping, & full bathroom)	Same as primary residence with Unit B.	For remodelling.	If it is a rental.
Syracuse	Single-Family Zones	Yes, with two exceptions: 1. Bonafide temporary absence of 3 years or less for military, temporary job assignment, sabbaticals, or voluntary service. 2. Owner placed in hospital, nursing home, assisted living facility that provides regular medical care. Excluding retirement facilities or communities.	Internal, Attached & Detached	1	Detached: 10,000 SF Internal or Attached: As required by zone.	Same as primary residence except for conversions of existing accessory structures (cannot increase nonconforming setbacks) or construction of detached ADU (meet accessory structure standards).	Separate connection not allowed for internal ADU. Lots with ADUs charged for two city utility connections.	May not exceed # allowed under "family" definition.	Internal & Attached: 50% of gross SF of principal dwelling. Detached: Not to exceed footprint of main dwelling or 1,500 SF, whichever is less.	Internal & Attached: From an existing entrance on street-facing façade. No new street-facing entrances may be added unless located 20 feet behind front façade of principal dwelling. Detached: May be along street-facing façade of detached ADU if located 20 feet behind front facade of principal dwelling.	Shall comply with exterior design standards for accessory buildings.	Studio & 1-Bedroom: 1 additional off-street space. Bedrooms: 2 additional off-street spaces. Parking may be tandem for accessory unit only when sufficient on-street parking is available and lot is not in a cul-de-sac.	Not specified.	Not specified.	Yes. Regardless of method of creation.	Not specified.
Layton	All Single-Family Zones	Yes. May be temporarily waived under these 3 conditions: 1. Bonafide temporary absence of 3 years or less for a job assignment, sabbatical, or voluntary service; 2. The dwelling was the owner's primary residence prior to the leave of 3 or less years; 3. The owner intends to make the primary or accessory dwelling their primary residence upon return.	Internal, Attached & Detached	1	6,000 SF for detached ADUs	Internal & Attached: Same as the primary dwelling. Detached Single-Story: 16' roof height to peak. Min. side setback 5' and Min rear setback 10'. Corner side yard setback same as primary dwelling. Detached Two-Story: 25' roof height to peak. Min. side setback 10' and Min rear setback 20'. Corner side yard setback same as primary dwelling.	Same meter and utilities as primary dwelling.	3 non-related individuals and an individual or single family related by blood, marriage, legal guardianship, fostership, or adoption.	Attached ADU: 50%	Subordinate to primary dwelling entrance. Must be located on side or rear of primary dwelling.	The primary dwelling with an <u>interior ADU</u> shall maintain SF appearance. <u>Attached ADUs</u> must appear as an extension and match the home. <u>Detached ADUs</u> shall be complimentary to primary dwellings architecture, etc. Min and max roof pitch established.	1 parking space in addition to the primary dwelling. Must be on an approved driveway if in the front or side yard setback.	Interior access between the main dwelling and an internal or attached ADU must be maintained unless sufficient means of egress have been provided according to building & fire code standards.	Must share same address as primary dwelling.	Yes. For improvements to address building code and life safety or any remodeling.	Not specified.
Murray (Pending Adoption)	All zones that allow single-family dwellings as a permitted use.	Yes.	Attached & Detached	1	10,000 SF for detached ADUs	Maximum height of 20' or the height of the primary dwelling, whichever is less. Setbacks: Rear of 10', side of 10', & corner side of 20'.	Separate meter not permitted.	Not specified.	50% of the primary dwelling with maximum size of 1,000 SF.	Located to the side or rear of the principal residence.	Not specified.	1 additional off-street space. Total of 3 off-street spaces required (2 for the primary dwelling and 1 for ADU)	Not specified.	Not specified.	Yes. For improvements to address building code and life safety or any remodeling.	Yes, if it is a rental.

**Notes:**

All prohibit the individual ownership or sale of an ADU.

Approval processes vary from city to city.

All allow home occupations with no clientele.

All prohibit nightly/short-term rentals.

# One Key to Housing

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## Accessory Dwelling Units

### A Resource Guide for Municipal Officials and Staff

**ULCT** UTAH LEAGUE OF  
CITIES AND TOWNS

# 2019





*QUALITY HOUSING,  
AFFORDABLE TO ALL RESIDENTS, IS KEY TO AN  
ECONOMICALLY STRONG AND SECURE UTAH.  
MANY PARTNERS HOLD DIFFERENT KEYS TO  
THAT SUCCESS.*

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## Who Holds the Keys to Housing Opportunities in our State?



### **Municipalities hold one key in providing housing.**

As elected officials, you set the land use policies for your community. What gets built where and how? The state requires us all to follow the same noticing and processing procedures to enact ordinances but leaves the core policy decisions for land use choices up to the local legislative body. Municipalities hold the key to the development pattern in our communities through zoning. With great power over land use policy comes great responsibility. We lay the framework for others to build. These patterns and policies are shaped and reshaped over time. Zoning is for the future. Our land use patterns are not what they were 50 years ago or even 10 years ago.

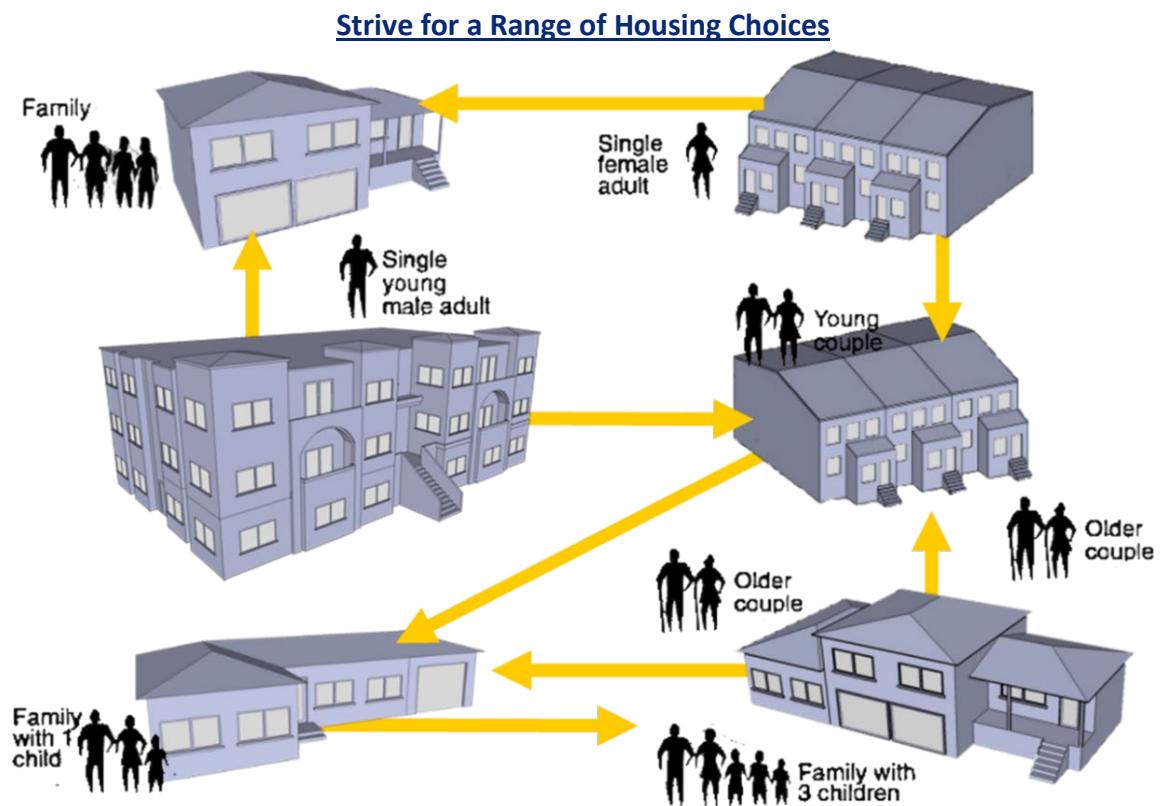
Utah has added almost 53,000 people to its population each year since 2000. This translates into nearly 16,700 households per year and is the equivalent of adding a city with the population of Taylorsville to our state each year! Zoning, like population growth, is not static. However, population growth is not the sole determinant of housing growth. Housing is also dependent upon industry and market factors. Cities play a part in the larger picture with our regulatory practices in land use.

Land use policies are unique to each jurisdiction and are influenced by objective and subjective factors such as:

- Quality of life: community character and lifestyle
- Availability and condition of infrastructure and transportation options
- Access to opportunity (jobs, education, and recreation)
- Population changes
- Topography/natural features, climate, and water availability/water rights
- Economic development and jobs
- Availability of city staff and resources
- Past experiences that shaped growth/future opportunities for growth

Our local actions on land use impact the region and the state. We need to think regionally even though we act locally. We are all connected and interdependent on a variety of influences and factors such as roads, transit, recreational opportunities, access to employment, access to schools, and the market cost of land, labor, and construction. Whether cities desire to or can provide a range of housing opportunities are shaped by these ever-changing variables. Housing policy is also rife with variables and different understandings of the basic concepts. What does “housing” mean to individuals? What does it mean to municipal leaders? What does it mean to state leaders? What does it mean to builders, realtors, bankers, and investors?

Housing, affordable housing, and housing affordability can mean many different things to different stakeholders, and there is certainly not one type or one style that fits every community. There is not a one-size-fits-all approach to housing policy because every community is unique. Most communities strive to provide a range of opportunities and options so that residents, including residents of various backgrounds and professions, can live there during all stages of life. What housing choices do families and residents have in your community?



Source: Wasatch Regional Front Council

**WHY ACCESSORY DWELLING UNITS?** Across the United States, communities are experiencing challenges in building the housing they need to maintain affordability and accommodate future growth. Accessory dwelling units (ADUs), or separate small dwellings embedded within single-family residential properties, are one effective solution due to their low cost and immediate feasibility, with homeowners building in their own backyards. In fact, researchers out of California suggest that such small-scale infill development could account for as much as half of new development capacity in coming decades (*McKinsey Global Institute, 2016*). Many cities and states have recently passed legislation easing zoning and permitting regulations for ADUs.

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### ***Converging Interests Require Collaboration & Cooperation***

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This guide intends to provide you with information on one strategy for additional housing development that may fit into the unique fabric of your community. Utilizing Accessory Dwelling Unit strategies may help you as you fulfill the state requirement for the five-year Moderate-Income Housing Plan (MIHP) for your municipality. Rome wasn't built in a day and a complete array of housing for our communities won't be either. You as municipal leaders have a great opportunity to shape how we accommodate the population growth we anticipate in our state over the coming decades.

Can you spot the entrance to this accessory unit in Lehi, UT?



***"Lehi City officials approve apartment units in homes, with conditions"***

*A separate entrance to the basement of this new home build in Lehi gives the option for the homeowner to have an income generating apartment in the basement under the new city approved Accessory Dwelling Unit ordinance. |*

*Gina Halladay /Lehi Free Press October 2018*

# Accessory Dwelling Units

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*One Word,  
Many Forms...*

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## What are they?

According to AccessoryDwellings.org, An accessory dwelling unit (ADU) is a simple and old idea. It refers to the idea of having a second small dwelling right on the same grounds (or attached to) your regular single-family house, such as:

- an apartment over the garage
- a tiny house (on a foundation) in the backyard; or
- a basement apartment

In Utah under the Land Use Development and Management Act (LUDMA) the definition reads as:

*"Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot. ([Utah Code § 10-9a-103 \(1\)](#))*

Regardless of its physical form (backyard cottage, basement apartment, etc.), an ADU is legally part of the same property as the main home. It cannot be bought or sold separately, as a condominium or a dwelling on wheels might be. The owner of the ADU is the owner of the main home.

ADUs have been around for decades but are making a resurgence and gaining popularity across the country. Planners call them ADUs, but they're also known as granny flats, in-law units, secondary dwelling units, and mother-in-law units, to cite a few. ADUs can be tiny houses, but tiny houses aren't always ADUs. In fact, some communities in Utah are looking at subdivisions specifically made for tiny home living.

People build them for lots of reasons, but the most common goals are gaining income through rent and housing family members, such as aging parents, young couples and the like. In many communities you can get legal rental income from a permitted ADU, or, if you want, you can live in the ADU and rent out the other dwelling.

Flexibility in housing makes sense for environmental, lifestyle, and financial reasons. Though many people buy houses and live in them for decades, their actual needs change over time. Accessory dwelling units are now being built into new subdivisions to allow for flexibility in living situations as residents' needs change. The Daybreak development in South Jordan is one example.

The Utah State Legislature, through [Senate Bill 34](#) (2019), encourages communities to implement ADU ordinances that make sense for the local jurisdiction. It goes one more step and asks that if municipalities do choose to adopt an ADU ordinance that they make sure that the ordinance incentives ADU use and does not create barriers for residents, such as difficult or expensive permitting processes.

This guide will provide you with a summary of examples throughout the State, questions to consider if you implement an ADU ordinance, a look at potential barriers to implementation, and a list of nationwide resources.

# Typical Regulations for ADUs In Utah

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## *Local Choices*

## *Common Outcomes*

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In reviewing codes across the state, we find some common themes for requirements in local Utah codes for enforcement, exceptions and incentives. Your city or town may find some of these concepts useful in your own ordinance.

### **Local requirements for allowing ADUs**

- Owner occupancy (at least 6 months per year) of either the home or the ADU.
- Owner must sign an owner-occupancy covenant in order to construct or use an ADU.
- Occupancy limit for unrelated persons for both units.
- Limit one (1) ADU per owner occupied unit within single family zones.
- Limitation of ADU unit sizes (minimums/ maximums) based on lot sizes of a residential zone.
- Detached ADU setback/height restrictions.
- Separate entry door orientations for ADUs.
- Providing for additional parking stalls (see exception below)
- Minimum pervious surface requirements for entire property.
- Building & safety regulations for sleeping areas, kitchens, etc. for the use of ADUs.

### **Ordinance Enforcement for ADUs**

- Receiving some type of official city approval for construction and use.
- Recordation of ADU covenants for the property.
- Removal of select features if ADU is abandoned.
- Establishing legalization for illegal ADU units or their removal.
- Requirements for submittal, approval, and permit issuance to establish ADUs.
- Process for tracking compliance.

### **Ordinance exceptions/incentives for ADUs**

- Waiver of parking requirements based on proximity to mass transit, employment centers, or for historic preservation purposes.
- Exemptions or reductions of approval fees, building permit fees, or inspection fees.

- Loans, grants, or waivers if tied to affordability measures.
- Fewer regulations in commercial areas.
- Adjusting height and setbacks to accommodate detached structures.

### Motivations

- The biggest single motivation to create an ADU, shown in studies nationwide, is extra income for the home owner.
- This is followed by the goal of housing a family member, helper, or other person close to the developer. The homeowner-developers often have plans to use the ADU as their life stages progress. For example, parents may move in to the ADU when the kids are grown and rent out the main house for income.
- The unit fits into the existing fabric of the community.

### Barriers

- Financial: challenges of obtaining financing, paying for construction, or permitting fees.
- Design constraints: local requirements like setbacks, height limits, etc.
- Process barriers: Working through the planning and permitting process.
- Owner occupancy criteria can reduce flexibility.

### Sample of Utah cities & counties with an ADU ordinance

Alpine	Mapleton	Sandy
Bluffdale	Moab	Salt Lake City
Bountiful	Millcreek	St. George
Brigham City	Murray	Springdale
Cedar Hills	North Salt Lake	Summit County
Centerfield	Park City	Taylorsville
Clinton	Payson	Tooele County
Cottonwood Heights	Ogden	Weber County
Draper	Orem	West Point
Eagle Mountain	Pleasant Grove	West Valley
Grand County	Pleasant View	Vineyard
Lehi	Providence	
Lindon	Provo	
Logan	Salem	

# Examples of ADUs in Utah

## Types of ADUs

1. Dwelling created in a portion of an existing single-family home (e.g. basements, attics).
2. Dwelling created as a dedicated addition to an existing single-family home.
3. Dwelling created as a free-standing building (e.g. guest house, cottage, tiny home).
4. Dwelling created by converting the garage into livable space.
5. Dwelling purposely designed into the footprint of new construction.

## Existing Home Renovation



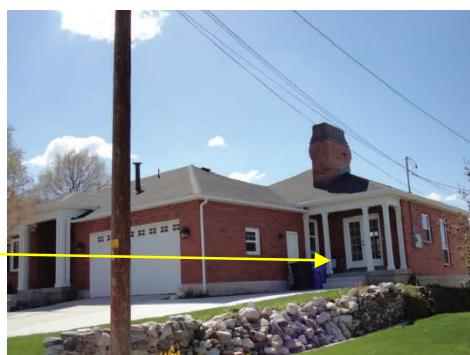
## ADU Guest House/Cottage



## Garage Conversion



## Dedicated ADU Additions



## Integrated New Construction



# Ordinance Considerations

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## *Lay the Framework.*

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### Ownership

#### Considerations:

A major decision for communities is to determine how they would like to handle the issue of managing ADUs. Is this simply a new “property right” for the owner who lives in the unit, who can manage the rental portion of his or her home; or is it reasonable to allow the entire home to be rented out, essentially as a duplex, where the owner does not live on the property? Communities have approached this issue in different ways. Some communities believe that a greater mix of housing types within a neighborhood creates healthier, more affordable communities. Other communities have concerns that have arisen from absentee landlords such as home or yard exterior maintenance or tenant problems. Regardless, your city leadership can create guidelines to achieve the right balance for your neighborhoods.

#### Community decision:

Decide which direction works best for your community. Remember that you can have different requirements for different zones. One blanket ordinance may not meet the variety in districts in your community. If a decision is made to require the owner to live on the property, then additional work is needed to assure that happens. Some communities have decided against this requirement simply because of the potential enforcement issue.

#### Ordinance options:

If a community decides the owner must live in the home, then consider enacting these ordinance requirements:

- An agreement/statement called a deed restriction, as part of the application, that the owner signs and is recorded, stating they will continue to live on the property if they continue to rent the second unit. Anyone that buys the home is subject to same deed restriction.
- An annual business license renewal requirement if applicable.

- An enforcement ordinance with penalties for non-compliance with the ownership requirement. This could just be a minor amendment to an existing penalty portion of your ordinances for zoning violations. It simply needs to be clear that the owner can be fined, and the unit discontinued, if non-compliance is found. Obviously, evicting one of the tenants is not an easy task and politically not favorable, but that would be the implication of this ordinance amendment.
- If a community decides to require the owner to live in one of the units, then there may be a need to allow for times when the owner may be away for an extended period of time, such as a new work assignment, a sabbatical, or a volunteer activity away from home. Some communities call this a Temporary Owner Absence Allowance. If you enact one just make sure it can turn into a good acronym. Planners love them!



## Types

### Considerations:

- Interior: Usually located in a basement or an attic or simply a part of the existing home. These are still semi-independent but probably share sewer, water, electricity and gas but need to have their own heating and each unit needs access to their circuit breaker panel. Most likely these are the least expensive to convert and perhaps the least obvious, from the adjacent street.
- Addition: These are add-ons to an existing home and are attached to the side or rear, generally. These may be semi-independent sharing everything with the existing home except heating and still need access to the circuit breaker panel which could be a separate panel just for the new unit. Unless well designed, additions in a side yard may be more visible than other options.
- Detached: These could be units over or behind a detached garage or home. Some communities allow a separate detached unit in the rear or side yard that still meets setbacks. Some communities allow “tiny” homes or small on-site “stick built” homes on a foundation in the side or rear yard. If these are built in the rear yard and still meet the

zoning ordinance setback requirements for the primary dwelling, they would not be visible from the street but may be visible for abutting neighbors just like a shed or barn. Some communities have reduced setbacks and to encourage these types of units.

### **Community decision:**

The community decision is this: which types of ADUs should be allowed? The least visible neighborhood impact would be to allow the ADUs only within the existing dwelling. The most visual impact could be an attached or detached side yard ADU. In communities with large lots, detached units could fit in easily.

### **Ordinance options:**

- Conduct a housing needs assessment to determine the current need and demand for rental units in general, and ADUs.
- Detail in zoning code regulations and standards that allow ADUs to be attached, detached, or both.



## **Size**

### **Considerations:**

Many communities set maximum and minimum sizes to assure that the new unit is subordinate or smaller than the main dwelling. The range in sizes varies considerably from one town to the next. Some base the maximum on lot size while most base it on the size of the existing home. If the community believes it should subordinate to the main dwelling, then it is often formula based like 25% or 30%. Some instead suggest a simple minimum like 300 square feet up to a maximum of 900 to 1200 square feet.

Some may combine the two. For example, the percentage formula calculates a number that is felt to be too small, like 200 square feet or too big like 2000 square feet, then the minimum size

or maximum size limit is used. In addition, some communities might restrict the number of bedrooms to one or two, in effect controlling the number of people allowed in the ADU.

#### **Community decision:**

The community decision is this: to set or not to set some sort of limit on size. If the community decides they want to limit the size then decisions about square footage, or a percentage, or both need to be made. Limiting the number bedrooms may be another means of getting at this issue.

Some communities may also want to control the number of people that live in the ADU. This suggests creating restrictions on the number of related people and then the possibly the number of unrelated people. The community's definition of a family may be a reference point for review and you should consult with your attorney for any federal laws surrounding this issue.

#### **Ordinance Options:**

- Determine where ADUs will be permitted and then determine the minimum lots size.



## **Appearance**

#### **Considerations:**

Many communities are concerned about the appearance of the existing home. If there is an addition, does it need to blend with the existing building? Can the second unit have a door that faces the street? Essentially these design decisions are about the appearance from the street. For the different types of ADUs, you may have different design requirements or as a community the decision may be that we don't have concerns about the design.

#### **Community decision:**

The community decision is this: how much blending or compatibility shall we require? For basement and detached ADUs (maybe for the over the garage type, however), that does not seem like an issue. However, for ADUs in the form of additions in the side yard, the view from

the street becomes more important. If the community just want to avoid the “duplex look,” then the door location is the most important factor.

**Ordinance options:**

- Develop guidelines that govern the design and appearance of homes with ADUs to preserve the visual and single-family character of a neighborhood.

If the community wants address design, then here is a typical list of considerations:

- **Doors:** In an addition that is attached to the home in a side yard, can the doors face the street? Most neighborhood concerns about door location are based on trying not to have the “duplex” look, which, again, some communities are unconcerned about. An option could be to have the door, if it needs to face the street, be located below grade.
- **Architectural style:** Usually the suggestion is to require some consistency in architectural style. However, few communities have that for a regular addition to a single-family home, so is it reasonable to require that for an ADU? What if the existing home does not have a style that is desirable for enhancement with an addition?
- **Windows:** Some communities limit the location of or the number of windows if the proposed ADU is detached in the backyard and can be located closer to the side property lines than regular standards require. The idea behind this is to decrease the privacy issues that might arise with neighbors.
- **Materials:** If the intent is to fully blend a unit with the existing home, then detail the materials that are required. This is mostly an issue for side yard additions.
- **Storage container housing:** Currently there is growing interest in reusing shipping and/or storage containers for housing. These may provide a less expensive start to a dwelling unit, but they may have significant rehab costs including cleaning up whatever was stored in the container and building code requirements for habitation. Even though these may be in the backyard some design controls may be warranted, such as elimination of rust, dents, new color coordinated paint, windows, a deck, etc. The compatible materials discussion may make them unacceptable in some communities, even though they may help promote a more affordable option.
- **Mailboxes and addressing:** Two mailboxes may make sense but do raise some very minor appearance issues. Labeling the ADU as unit “B” but using the same address is important for emergency response times to prevent confusion about where the medical or fire issue is within the home. Separate addresses using the “B” concept is important.



## Parking

### **Considerations:**

A hot button! Most communities want to be assured that the additional unit has off street parking, but some realize that if you have three teenagers, you probably have a lot of on-street parking needed for a regular single-family home. Or your grown kids come back after finishing college and bring a couple of cars (and maybe grandkids) with them. The boomerang effect! Obviously, there is a debate about whether to require more off-street parking or to just “allow” it to be on-street.

Some communities waive any parking requirement if the unit is located within  $\frac{1}{4}$  mile (sometimes up to  $\frac{1}{2}$  mile) of a transit station. Stations are generally more than just a bus stop and usually include Frontrunner, TRAX, or Bus Rapid Transit fixed stations. However, if bus frequency is every 30 minutes or less, being close to a bus route could be a situation where communities could waive parking requirements.

Many ordinances base a parking requirement on the number of bedrooms, usually requiring one parking spot for a one bedroom and maybe 1.5 to 2 spaces for a two bedroom. Nationwide data shows that more than one space is generally not necessary. Some communities want them out of the front yard setback, which may become a difficult objective to achieve in a smaller lot.

### **Community decision:**

First, decide if you are flexible enough to just allow the ADU occupants to park on the street. If the decision is to not allow on-street parking, then the next decision is how many parking spaces to require. Again, nationwide data shows that one extra space is generally enough. Be realistic and remember, try to be flexible!

### **Ordinance options:**

Many Utah communities are adjusting their parking policies. See this North Salt Lake ordinance for one example of a community that has parking flexibility standards.

<https://www.nslc.org/DocumentCenter/View/1993/ADU-02282019>

After you enact any regulation see the results of how it works in practice and then you can always adjust accordingly.



## Utilities

### Considerations:

There are some communities that want the ADUs to be totally independent with their own sewer, water, gas, and electric, but most are not concerned that the units are fully independent. Fully independent utilities could lead to an eventual twin home (separately owned units) or make it easier to consider it a duplex. Building code does not require that the utilities be separate, just that the units are safe.

### Community decision:

The community decision is whether to simply rely on the building code or consider allowing separate utilities.

### Ordinance options:

- Draft clear standards in your ordinance as to the final decision.



## Enactment & Citizen Participation

### Considerations:

It is a good idea to start the process of creating an ADU ordinance with some sort of public engagement process or a committee composed of city residents, maybe some realtors, homebuilders and possibly City Council and Planning Commission members. Use this workbook as a tool to lead the discussions and as part of the local decision making is how to process an ADU. Look at other ordinances for ideas but make your regulations fit your community.

### Community decision:

- Decide whether ADUs can be regulated as a permitted use, with an administrative review, or as a conditional use subject to public hearing.

The following suggestions address possible application processes for ADUs:

### **Home occupation with standards (Permitted Use):**

With the many standards suggested by the ordinance sections described above, it seems logical that the use be a permitted use. Since it is operating via the home, it also makes sense to consider it as an amendment to the home occupation ordinance or create a separate ordinance but include the use under the home occupation category. Potential home occupations are expanding as trends in employment (such as more people working from home) are evolving across the nation and the uses allowed under that category are becoming more flexible.

There was a time where many communities outlawed construction contractors from using their home/property to conduct their business, but today that issue seems to be fading. New home occupations are showing up such as dog walking and pet boarding, which simply were not a factor ten years ago. Short term rentals were unheard of in the past but have become commonplace today.

Similar to how home occupations must be evaluated under state law, communities should focus on the actual impacts the ADU has, if any, on the neighborhood. If the community addresses the suggested sections above to minimize ADUs impacts, it may be difficult to ascertain that the unit is there. In that situation, the community establishes the right to have an ADU, sets standards to assure compatibility with the neighborhood, and then allows the use as an over the counter permitted use application.

**Permitted Use:**

Some communities prefer to handle some uses within a residential neighborhood as their own individual use classification. Even though it is clearly an occupation associated with a home, it could deserve a separate designation. This option would require you to define your standards, documents to be recorded, building permit requirements, inspections and any annual business license up front. This would be similar to standards that you may have, for example, for a single-family home permit. If non-owner occupied ADUs are allowed, this may be the preferred option.

**Conditional Use:**

Although Utah State Law does not require public hearings for conditional uses, many communities still choose to hold a hearing, usually based on “transparency” concerns. State Law sets a very high bar for denying conditional uses. The applicant must “mitigate” legitimate code concerns that are raised. Mitigate simply means reduce the impact of, not eliminate.

Holding public hearings where neighbors just want the city to say “no” is detrimental to the city’s perceived neutrality/transparency. Even with a raucous crowd suggesting denial, the city will most likely have to approve the use or risk litigation. The city needs factual objective input and not emotional opinions in the conditional use process. A conditional use process is an administrative decision by the city. It is a decision based on the standards in the ordinance and a property owner is entitled to the use if they meet the standards.

If the community decides to consider an ADU a conditional use, it is advisable to not mail out notice and hold public hearings for individual applications. The ordinance essentially addresses all the potential impacts and the neighborhood input will not usually have a factual basis, making for a difficult hearing. Accusations of “you have already made your mind up” are common in conditional use hearings and in a sense are correct, since the ordinance, which was previously approved, allows the ADU if it can meet the defined standards. The time for public input is when the city is considering the ordinance in the first place.

**Ordinance options:**

The community decision for processing an ADU should fall into one of the three options covered above. Zoning theory would suggest that if you have sufficient standards, then the use should be a permitted use under a home occupation use. Under state law, the planning

commission holds a public hearing and then forwards its recommendation to the city council. The council, in a public meeting, adopts, modifies or rejects the recommendation for the ordinance. Check your own regulations to see if you have added any processing steps and be sure to follow them!

# Illegal Units

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*To be or not to be.*

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Most Utah communities have accessory units that may not meet your municipal ordinance.

## **What are some options for communities?**

Amnesty? Time limits to comply? Fee waivers for upgrades for affordable rent limitations?

There is no magic bullet that has had easy success in Utah, but many communities have tried a variety of options.

From experience it appears that existing units that were illegal but now can become legal, will encounter a difficult, and potentially costly, building inspection process. Since the unit was built without a permit or before your city had an ordinance, it is obvious that there may be building code violations.

Hopefully the owner or their contractor knew what the correct construction was and followed through, but unfortunately that is not always the case. Most likely, to bring the unit into compliance will require some costs but will be legal and not potentially forced to remove or remodel the unit to become an integrated part of the single-family home again. That should provide enough incentive to improve the unit by bringing it up to code.

The community decision to address illegal units is about improving safety. To the best extent possible, achieving the resolution of life safety issues should be the community goal.

## **What do building officials look for?**

All construction is subject to the state-adopted International Building Code. This is not just for illegal units; these requirements would be part of the building permit process for a new ADU.

The scope of an ADU inspection is generally left up to the discretion of the local inspector as only he or she will know the potential hazards and risk involved with any remodel that was done without the required periodic inspections. The building official will only know if there are issues by making the physical inspection of the premises.

If proper inspections had been performed, an inspector could be sure all water piping, gas piping, and electrical cables that were concealed behind walls were secured to prevent accidental puncture by nails and screws for wall hangings, curtain rods, etc. for the life of the home. Some hazards might be concealed between walls and in the ceilings. An inspector can require walls removed to allow for inspection, if there is something that is suspect.

The following is a typical list that an inspector might review:

- Evidence of gas line and/or water piping leaks.
- Internal structure. Sometimes the ADU construction removes existing walls which can lead to eventual partial collapse of a floor or roof overtime if an adequate beam is not installed.
- Is there an escape window of adequate size (minimum 5 square feet) in every bedroom?
- Are there smoke detectors and CO detectors installed where required?
- Are windows located in hazardous locations?
- Are there visible electrical wiring hazards?
- Are there enough electrical outlets?
- Have any gas appliances been added that could overwhelm the existing gas supply creating a carbon monoxide problem?
- Does each habitable room have sufficient heat?
- Have plumbing fixtures been installed in a way that could create health hazards or sewage back-up?
- Does every bathroom have a window or exhaust fan to prevent mold?
- Is the furnace or water heater located in a bedroom?
- Are the outside walls of the habitable rooms insulated?
- Will the addition of gas appliances overwhelm the gas meter?
- Will each tenant have ready access to shut off devices for heat, power, and water supply?
- Are the ceiling heights and projections appropriate?
- Does the unit have proper ingress and egress?



Most inspectors will help a homeowner by suggesting options to consider. An example might be that the owner changes the use of a bedroom that has no windows. They could change it to a study, an office, a TV room, but it could not remain a bedroom unless windows were installed. That same issue of devising options would occur in a bedroom that has a window smaller than 5 square feet, but maybe enlarging that window would be the best option (which will require an engineer's evaluation). Sprinkling the room would also be an option.

Another option to protect the municipality is to have the homeowner sign some sort of statement that provides guidance about the inspection limitations and owner liability, such as, "THIS INSPECTION IS LIMITED TO CONSTRUCTION AND POTENTIAL HAZARDS READILY VISIBLE WITHOUT THE REMOVAL OF CONSTRUCTION MATERIALS."

The community policy of limiting the inspections to more obvious visible problems is a good way to assure your illegal units will try to come in for a permit. Your obligation here is to be reasonably assured that the unit is safe. The community could be liable in the case of a fire or other disaster if inspections are lax.

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## *Helpful Resources*

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### National

**A one-stop source about accessory dwelling units, multigenerational homes including a model code:** <https://accessorydwellings.org/>

**Nuts and Bolts - Technical Assistance Booklet for ADUs in California:**  
<http://www.hcd.ca.gov/policy-research/AccessoryDwellingUnits.shtml#booklet>

**Jumpstarting the market for ADUs:**  
[http://ternercenter.berkeley.edu/uploads/ADU\\_report\\_4.18.pdf](http://ternercenter.berkeley.edu/uploads/ADU_report_4.18.pdf)

**Zoning for Garage Apartments:**  
<https://planning-org-uploaded-media.s3.amazonaws.com/publication/online/Zoning-Practice-2018-05.pdf>

**Parking Reductions:**  
<https://www.smartcitiesdive.com/news/parking-guru-donald-shoup-has-3-new-recommendations-for-cities/522034/>

**AARP - Aging In Place with Invisible Infill ADUs:**  
[https://www.asaging.org/sites/default/files/files/AARP\\_Housing\\_DPinkston.pdf](https://www.asaging.org/sites/default/files/files/AARP_Housing_DPinkston.pdf)

**American Planning Association - ADUs:**  
<https://www.planning.org/knowledgebase/accessorydwellings/>

**Building an ADU – An online resource to everything you need to know**  
<http://www.buildinganadu.com/>

## Local

**A guide on how to build an ADU in Salt Lake City:**

[http://www.slcdocs.com/Planning/Guides/ADU\\_handbook.pdf](http://www.slcdocs.com/Planning/Guides/ADU_handbook.pdf)

**A survey by Spanish Fork to residents on how to better accommodate ADUs:**

[https://www.spanishfork.org/departments/community\\_development/planning/accessory\\_dwelling\\_units.php](https://www.spanishfork.org/departments/community_development/planning/accessory_dwelling_units.php)

**How to Create an ADU on your property – Salem UT:**

<https://www.cityofsalem.net/Pages/accessory-dwelling-unit-rules.aspx>

**Salem UT Video for residents Accessory Dwelling Units, “Why we need them”**

**Councilor Steve McCoid 2017:**

[https://youtu.be/tLdzCy\\_3dEQ](https://youtu.be/tLdzCy_3dEQ)

**North Salt Lake ADU application:**

<https://www.nsldocs.org/DocumentCenter/View/1993/ADU-02282019>

**The Ins and Outs of ADUs – Land Use Academy of Utah:**

<https://luau.utah.gov/wp-content/uploads/sites/28/2018/09/ADU-Presentation-for-ULCT-sept-13-2018.pdf>

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all the dedicated staff planners and municipal officials who are  
working hard at the local level across Utah's communities to  
plan for a range of housing choices for Utah residents.*

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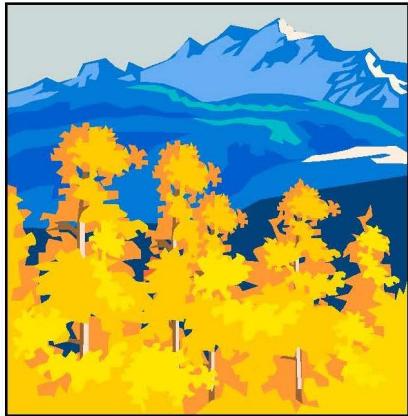
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# THE UTAH LAND USE INSTITUTE

## Accessory Dwelling Units

*Utah Land Use Regulation Topical Series*

Melanie Clark, Author

March 2023

Funding for these materials is provided by the Utah Department of Workforce Services, Division of Housing and Community Development. The Office of the Property Rights Ombudsman has also provided funding for this training program from the 1% surcharge on all building permits in the State of Utah. The Utah Land Use Institute deeply appreciates the ongoing support of the S. J. and Jessie E. Quinney Foundation and Salt Lake County as well.



## ACCESSORY DWELLING UNITS

*Author: Melanie R. Clark<sup>1</sup>*

*Utah Land Use Institute<sup>2</sup>*

*March 2023*

### Introduction

Allowing property owners to provide a second living unit on the lot now occupied by a single family home is nothing new, but the details of how this is to be done has become a vital topic in current land use regulation. The chronic shortage of housing units for middle income individuals and families is causing many conversations about the options to address that shortage. Using existing lots for more housing solves a number of issues, and avoids the new streets, sewers, water lines and power sources that new subdivisions require.

The Utah Legislature has recently stepped in to encourage more use of “ADU’s”. This outline is meant to inform local decision makers as well as land use applicants and neighbors about the laws related to ADU’s. This outline concludes with considerations in making decisions related to ADU’s and tips for implementing ADU regulations.

Those reviewing this may also be interested to read Todd Sheeran’s summary of the law related to Short Term Rentals, found in this same series of topical summaries at the Land Use Library at [utahlanduse.org](http://utahlanduse.org). A video of a presentation of both subjects is also available there.

This summary includes changes made to the code by the 2023 General Session of the Utah State Legislature.

### I. Relevant Law

#### a. Background.

- i. New governing statutes were adopted in 2021. There is not yet any published case law interpreting these statutes.
- ii. Statutory limitations primarily relate to the way a municipality or county can regulate, restrict, or prohibit *internal* accessory dwelling units.<sup>3</sup>

#### b. Definitions.

- i. An “accessory dwelling unit” (frequently referred to as an “ADU”) is a livable unit that could be:

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<sup>1</sup> Melanie Clark is a partner and Business Law Department attorney with Foley & Lardner LLP. Melanie is based in the Salt Lake City office where she is a member of the firm’s Real Estate Practice Group. Melanie’s practice focuses on advising on all aspects of large-scale real estate projects including acquisition and disposition of land, leasing, financing, and project development.

<sup>2</sup> The Office of the Property Rights Ombudsman has provided funding for this update from the 1% surcharge on all building permits in the State of Utah. Appreciation is also expressed to the Division of Housing and Community Development of the Department of Workforce Services for funding the project which produces these topical summaries of land use regulations. The Utah Land Use Institute also expresses continuing appreciation for the ongoing funding provided by the S. J. and Jessie E. Quinney Foundation and the Dentons Law Firm.

<sup>3</sup> Utah Code Ann. §§ 10-9a-530 and 17-27a-526.

1. converted from existing space within a single-family home (e.g., a basement apartment),
2. an addition to a single-family home (typically on the side or back),
3. part of a separate building on the same lot as a single-family home (e.g., above a detached garage), or
4. a stand-alone building on the same lot as a single-family home (e.g., a tiny home in the backyard).<sup>4</sup>

- ii. An “internal accessory dwelling unit” is an accessory dwelling unit that is within the footprint of the primary detached dwelling unit (occupied as the primary residence of the owner) and created for the purpose of being offered for rent for 30 consecutive days or longer.<sup>5</sup>

- c. Moderate Income Housing. Only a couple of statutes apply broadly to all ADUs, these include:
  - i. The general plan for a county or municipality must include a moderate income housing element.<sup>6</sup> The statute lists 24 different potential recommendations on implementing moderate income housing strategies. Two of these recommendations that *could* be included in the general plan are:
    1. allowing or reducing regulations for accessory dwelling units in residential zones and
    2. eliminating impact fees for non-internal accessory dwelling units.
  - ii. Municipalities and counties must submit annual moderate income housing reports. Starting in calendar year 2023 the report must include information on the number of accessory dwelling units for which a building permit or business license was issued.<sup>7</sup>
- d. Limitations on Regulation of Internal Accessory Dwelling Units.
  - i. In 2021 the State legislature imposed limits on how a municipality or county may regulate internal accessory dwelling units in residential zones. Any regulations adopted or contained in existing ordinances must be within the statutory allowances.
  - ii. One internal ADU in a primary detached dwelling generally must be a permitted use in any area zoned primarily for residential use and may not be restricted except as provided below.<sup>8</sup>
  - iii. A municipality or county may not impose a requirement governing:
    1. the size of the internal ADU in relation to the primary dwelling;
    2. the total lot size (except requiring a minimum lot of 6,000 square feet); or
    3. street frontage.
- e. Permitted Restrictions on Internal Accessory Dwelling Units.<sup>9</sup>
  - i. A municipality or county may:

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<sup>4</sup> Utah Code Ann. §§ 10-9a-103 and 17-27a-103.

<sup>5</sup> Utah Code Ann. §§ 10-9a-511.5, 10-9a-530, 17-27a-510.5, and 17-27a-526.

<sup>6</sup> Utah Code Ann. §§ 10-9a-403 and 17-27a-403.

<sup>7</sup> Utah Code Ann. §§ 10-9a-408 and 17-27a-408.

<sup>8</sup> Utah Code Ann. §§ 10-9a-530(2) and 17-27a-526(2).

<sup>9</sup> Utah Code Ann. §§ 10-9a-530(4) and 17-27a-526(4).

1. prohibit installation of a separate utility meter for the internal ADU;
2. require that the ADU be designed so that the appearance of the primary dwelling unit doesn't change.
3. Require one additional on-site parking space for the ADU, unless four or more spaces are already required.
4. Require replacement of any parking spaces lost if an ADU is constructed in what was previously a garage or carport.
5. Require the owner to obtain a license for renting the ADU.
6. Prohibit renting the ADU for fewer than 30 consecutive days.
7. Prohibit rental if the primary dwelling unit is not occupied as the owner's primary residence.

- ii. A municipality or county may prohibit creation of internal accessory dwelling units altogether:
  1. In zoning districts that are not primarily for residential use (in other words, zones where the primary use is commercial, industrial, or agricultural);
  2. In primary dwellings already containing an internal ADU;
  3. In attached homes, mobile homes, and within detached garages;
  4. Within a zoning district that:<sup>10</sup>
    - a. Geographically covers 25% or less than the total area zoned primarily for residential use.<sup>11</sup>
    - b. Geographically covers 67% or less than the total area zoned primarily for residential use if the main campus of a state or private university with a student population of 10,000 or more is located within the county or municipality.<sup>12</sup>
  5. In primary dwelling units with failing septic tanks.
  6. On lots with 6,000 or fewer square feet.

f. Rights of Municipalities and Counties

- i. If a municipality or county adopts permitted regulations and those regulations are violated, the municipality or county may hold a lien against the property after going through the following procedure:<sup>13</sup>

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<sup>10</sup> The wording in this section of the statute allows a municipality or county to "prohibit the creation" of an internal ADU in these districts. This is not written as an exception to the requirement that the use of an internal accessory dwelling unit is a permitted use in any area zoned primarily for residential use. This could be interpreted to mean that the use must be permitted, but the municipality or county could prohibit creating **new** internal ADUs in the described districts.

<sup>11</sup> As drafted, each zoning district is evaluated separately and there is no cumulative limitation. In other words, technically if a municipality had 1,000 acres zoned primarily for residential use, split evenly among 4 residential zoning districts (each with 250) acres, the municipality could prohibit the creation of internal accessory dwelling units in all of those zoning districts. However, the intent may have been that the creation of internal accessory dwelling units may only be prohibited in 25% (or 67%) of the total residential areas within the municipality or county.

<sup>12</sup> Right now this would likely apply to Orem (Utah Valley University), Provo (Brigham Young University), Salt Lake City (University of Utah), Ogden (Weber State University), Logan (Utah State University), Cedar City (Southern Utah University), and St. George (Utah Tech University).

<sup>13</sup> Utah Code Ann. §§ 10-9a-530(5) and 17-27a-526(5).

1. Written notice of violation to the owner (mailed and posted on the property);
2. Hearing regarding the violation (only if owner files a written objection within 14 days of the notice being postmarked or posted on the property);
3. Owner fails to cure (14-day cure period for violating a 30-day rental requirement; 30-day cure period for all other violations);
4. Written notice of lien to owner (mailed and posted on the property); and
5. Record lien in county records in the amount up to \$100 for each day the violation continues after the cure period.

- ii. If a municipality or county issues a rental license or building permit for an internal ADU, the municipality or county may record a notice in the county records with a description of the primary dwelling, a statement that it contains an internal ADU, and a statement that the internal ADU may be used only in accordance with applicable land use regulations. If such a notice is recorded, a copy must be sent to the property owner.<sup>14</sup>

- g. Emergency Egress Windows.
  - i. One other statute addresses internal accessory dwelling units. Generally a municipality or county may require installation of an emergency egress window in a bedroom. There are a few instances in which adding the window cannot be required, but these exceptions do not apply to internal accessory dwelling units.<sup>15</sup>
  - ii. In other words, a municipality or county may require installation of an emergency egress window in the bedroom of an internal ADU.

## II. Considerations for Making Decisions

- a. The above described statutes were adopted in the context of a state-wide housing shortage and escalating home prices. In adopting any regulations on ADUs the legislative body should consider how the proposed regulation will affect the availability of housing, particularly moderate income and affordable housing.
- b. While internal ADUs generally may not be prohibited in residential zones and may be prohibited in non-residential zones, the legislative body should consider where additional housing may be needed and would fit with the character of existing neighborhoods. A zone with primarily commercial uses, but with mixed-use projects that include residential units may be a good place to have accessory dwelling units.
- c. There are some inverse implications in the general requirement that one internal ADU in a primary detached dwelling must be a permitted use in a residential zone.
  - i. By stating that internal ADUs must be a permitted use in areas zoned primarily for residential use the following is implied:
    1. external/detached ADUs do not need to be a permitted use in any zone.

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<sup>14</sup> Utah Code Ann. §§ 10-9a-530(6) and 17-27a-526(6).

<sup>15</sup> Utah Code Ann. §§ 10-9a-511.5 and 17-27a-510.5.

2. internal ADUs may be a conditional or prohibited use in non-residential zones.
- ii. By defining an internal ADU as being within a primary dwelling, and defining a primary dwelling as a single-family detached dwelling that is owner occupied, the following is implied:
  1. internal ADUs may be prohibited in, and the statutory limitations do not otherwise apply to multi-family or attached dwellings.<sup>16</sup>
  2. internal ADUs may be prohibited in vacation homes or dwellings occupied by renters.

### **III. Tips for Implementing Local Regulations**

- a. Requiring a rental license, which is expressly permitted by the statute, will allow municipalities and counties to identify where ADUs are located, making it easier to enforce any restrictions. Also, part of the license process could include verifying that the applicant owns and occupies the home as a primary residence.
- b. Municipalities and counties should be consistent in how and when they enforce any restrictions. As in all regulations, no special treatment should be given to certain neighborhoods or higher-income areas.
- c. As these statutes were newly adopted in 2021, municipalities and counties should watch for legislative amendments and court cases interpreting the statutes and implementing ordinances.

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<sup>16</sup> Unfortunately, the term “attached dwelling” is never defined by statute, but is used in the Community Association Act, Utah Code Title 57, Chapter 8a, to refer to dwellings that are physically connected to another dwelling. The only statutory definition of a “detached dwelling” is found in the Community Association Act, in the context of solar energy systems, where it is defined as a dwelling where the owners association does not have an ownership interest in the roof. In common usage a “detached” home refers to a stand-alone single-family home where no part of the building is connected to another home or building and an “attached” home would include any home where there was a shared wall or ceiling/floor connecting one home to another home or unit.



# STAFF REPORT

**To:** Mayor Shephard and City Council Members  
**From:** Brad McIlrath, Senior Planner  
**Meeting Date:** Tuesday, September 17<sup>th</sup>, 2024  
**Subject:** Planning Commission Alternate Appointment

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## **RECOMMENDED ACTION**

Based upon the Planning Commission interviews and City Council discussion on January 30<sup>th</sup>, 2024, staff recommends that the City Council review the applicants that were not appointed for possible appointment as a Planning Commission alternate.

## **DESCRIPTION / BACKGROUND**

According to the Planning Commission Rules and Regulations (Revised 4/15/2020), Clearfield City will attempt at all times to have a minimum of seven (7) residents appointed to the commission. In addition to the regular seven (7) commissioners, the City will attempt at all times to have two (2) appointed alternate commissioners to fill in for regular members due to absence or for other circumstances. The term length of each Planning Commission member (regular and alternates) is a maximum of five (5) years with no limit to the maximum number of terms a resident can serve.

On February 13<sup>th</sup>, 2024, Riley Wheeler was appointed as a regular member to the Planning Commission with Brian Swan and Danielle Sikes appointed as alternates. With the resignation of Commissioner Lauren DeSpain in April 2024, Brian Swan was appointed to complete the term vacancy which ends in February 2026. With Commissioner Swan's appointment, an alternate vacancy was created that has a term expiration of February 2027.

Due to the recency of an application period and appointment of new commission members in February 2024, review of unselected applicants from that application window would be appropriate. Staff recommends that the Mayor and City Council review the remaining applicants that were not appointed to the Planning Commission to determine a possible replacement. Following the discussion, if an alternate is not selected for appointment, or if the individual is unable to accept the appointment, the City can readvertise for a Planning Commission alternate vacancy. The following individuals were previously interviewed as part of the application window in February 2024.

- Kent Bush
- Elaine Nelson
- Nick Dragon

## **CORRESPONDING POLICY PRIORITY**

The appointments to the Planning Commission support the policy priority of “Providing Quality Municipal Services” by placing interested and experienced community members in a position of responsibility. These residents provide valuable insight and experience that will continue to have a positive impact on the city as they continue to serve on the Planning Commission.

## **ALTERNATIVES**

Each commission member is appointed by the Mayor, subject to the advice and consent of the City Council. The Mayor and City Council may decide an alternate direction than appointing an applicant from the last round of applications.

## **ATTACHMENTS**

TERM EXPIRATION	NAME	STATUS / PROPOSED ACTION
February 2029	Chad Mortensen	
February 2029	Kathryn Murray	
February 2026	Brian Swan	
February 2025	David Bloomfield	
February 2028	Brogan Fullmer - Chair	
February 2027	Robert Browning – Vice Chair	
February 2025	Riley Wheeler	
<b>February 2027</b>		<b>Vacant / Appoint or Readvertise.</b>
February 2026	Danielle Sikes – Alternate	
June 2025	Jaylee Bouwhuis – Youth Commission Ambassador	



# STAFF REPORT

**TO:** Mayor Shepherd and City Council Members

**FROM:** Braden Felix, Assistant Public Works Director

**MEETING DATE:** October 8, 2024

**SUBJECT:** 975 South & 1480 West Project Updates

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## **RECOMMENDED ACTION**

Comment on status of 975 South and 1480 West Reconstruction Project

## **DESCRIPTION / BACKGROUND**

### Finances:

When the project was bid earlier this year, we were pleased to hire a contractor that came in nearly \$1 million under budget (\$2.65 million budgeted). Shortly thereafter, we received bids for our 350 South reconstruction project that came in over budget. Accounting for contingencies in both projects, we said we'd have a surplus of \$540,000 combined.

Now that our contractor has installed nearly all the utilities in 975 South and 1480 West, we've run into a couple of change orders and want to inform the Council.

- Change Order #1 & 2: \$11,875 – Replacing a deteriorated 21" concrete storm drain line (found when laying the new sewer) with a 21" PVC line to allow clearance for the new sewer.
- Change Order #3: \$113,034 – Rebuilding 975 South completely. It was originally the plan to pulverize the top 4" of the road. In milling activities, it was found that the road was not built on road base, which would explain why it was falling apart so badly. This change order will allow us to remove more of the native material to allow for a full road section with road base and asphalt.

There have been no change orders with 350 South yet, but that will likely change soon with a couple of small items.

With these three change orders, we are left with a total surplus of \$494,187 remaining.

### Schedule:

The contractor is falling behind with some utility installation issues. The most problematic has been



the difficulty in getting the waterlines to pass our testing methods. We are continually working with our contractor to get the lines cleaned well enough to pass our testing. As a result of the delays, the contractor has hired 3XL to come help them get the water services connected (after passing tests) and continue the road work. The hope is still to get the road paved before the temperatures are consistently below our 50-degree threshold as specified in our standards.

### **CORRESPONDING POLICY PRIORITIES**

- Providing Quality Municipal Services

The Public Works department is excited to get the budgeted projects built to improve the city's aging infrastructure.

### **HEDGEHOG SCORE**

21

### **FISCAL IMPACT**

\$125,000 in change orders for 975 and 1480 West.

### **SCHEDULE / TIME CONSTRAINTS**

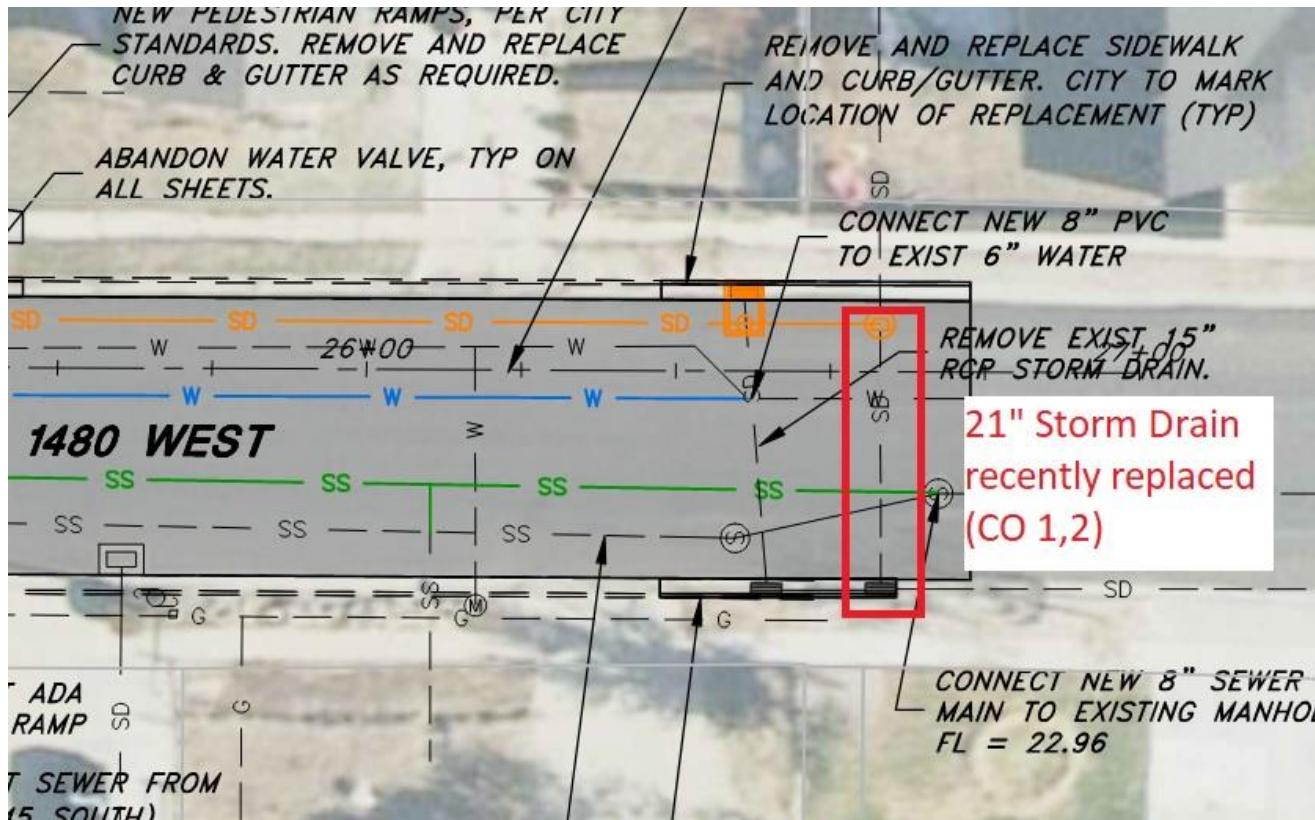
The contractor is falling behind in scheduling. Thankfully, they are bringing in outside help to get the work done.

### **LIST OF ATTACHMENTS**

- Change Orders 1-3 Exhibits



## Change Orders #1 & #2



## Change Order #3



