

From: Tony Pitman - 10/29/24

Moderate Income Housing in Pleasant View

Pleasant View City seems to be pushing for more high density housing. When I have listened during planning commission and city council meetings, the comments I hear from the city administrator and mayor are that the state of Utah is requiring us to do this.

Comments were made that indicated that if we don't have more high density housing we would lose \$500,000 in state road funding and start getting fines that could be \$90,000 or more per year.

I reached out to my Utah state representative, Matt Gwyen, and asked about it. He reached out to those in the legislature that he understood to be specializing in the moderate housing issue.

I was told that as long as our city has an approved Moderate Income Housing plan and is following it, we are not in danger of losing funding or getting fined by the state.

I asked the city to provide me with a copy of our Moderate Income Housing plan. Cities over a certain population are required to choose from a set of items that they will work on and then plan how they will work on them.

Pleasant View City chose these 3 items:

Strategy One (1)

Rezone for densities necessary to facilitate the production of moderate-income housing (§ 10-9a-403(2)(b)(iii)a).

Measure/Benchmark

Application of Mixed-Use West zoning designation.

Strategy Two (2)

Demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate-income housing (§ 10-9a-403(2)(b)(iii)b)

Measure/Benchmark

Completion of [mobile home] park expansion and mobile home pad improvements, building permits and inspections; new roadway infrastructure installed to complement safe travel for residents and solidify longevity of the housing development.

Strategy Three (3)

Create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones (§ 10-9a-403(2)(b)(iii)e)

Measure/Benchmark

Completion of ordinance amendments to allow attached, owner-occupied, Accessory Dwelling Units as a permitted land use instead of being a conditional land use requiring Planning Commission approval; and consideration of additional ordinance amendments encouraging and/or promoting new construction

The city has been implementing each of those strategies as shown in the Measure / Benchmark sections.

When I spoke with the city administrator and mayor about this, they told me that the issue is the annual report we have to submit to the state.

That report is in the form of a lot of questions about what the city is doing to implement our plan. We are asked specific questions about how many new housing units we have approved and what types of units and other similar questions.

As far as I can tell that is not something that is intended by the law itself, but is done by the regulating body for the law. That regulating body is the Utah Department of Labor.

That appears to be the disconnect between the law as written and the way it is being implemented.

Representative Gwyen told me that as long as we are following our plan, we are in compliance.

In a follow up call where I told him about the report requiring specific numbers of units, his question back to me was something to the effect of: how can a city control when builders will actually build units? I said I agreed with him.

I continue to discuss this with Rep. Gwyen. I am trying to get more information and a better understanding of how to resolve this.

I think the main reason our city administrator and mayor are in the position they are is out of fear of what the labor department might do as that department threatens to fine us and withhold road funding.

I strongly believe this is very wrong and not the intent of the law for moderate income housing.

The current law allows the flexibility that is needed by different cities.

Some cities have a much better ability to support high density housing. Many have great locations and plenty of commercial income to support the services and space for high density housing.

Pleasant View City does not. That is why the law can be vague and up to interpretation...so that each city can plan according to what they are best able to do.

The issue we are dealing with is a regulatory body that doesn't seem to understand that.

As citizens we need to contact our representatives and bring up this issue.

As a city administration we need to not jump to the tune of this regulatory body. Be bold and ask questions. Don't change the city's general plan unless the changes align with the intent of the general plan and align with our city's moderate housing plan.

This means making changes to allow the Mixed Use West zoning and not generic high density zoning.

I know the mayor and city administrator are both trying to work on this, but their positions may have their hands somewhat tied. At the very least they are justifiably concerned about the possible ramifications.

It is up to us as residents of Pleasant View, the planning commission and the city council to push back and help the regulators understand our situation.

The plan is very clear. It outlines things we can do. One that really sticks out to me is that our main focus for high density housing is to be coupled with commercial development in the form of our mixed use west zoning.

I wholeheartedly agree with the use of this zone to the west of 89 and along the 2700 corridor. That is exactly what this zone was made for. As I said above our moderate income housing plan calls it out specifically and that plan has been approved by the state.

This zone allows us to support high density affordable housing with the commercial development that goes along with it.

The other 2 strategies in our plan are also brilliant. They are things that align with our city's values and are achievable. They also meet the goals of encouraging moderate income housing.

Please keep in mind that the state approved our plan. The issue is in how the regulatory body is tracking "meaningful progress" that is at issue.

UPDATE (2024-09-17)

My representative called me back with good news. He told me that he had done some more research including talking with the person at the department of labor who is responsible for reviewing city reports.

She told him that the state acknowledges it cannot force builders to build homes.

As long as the plan is being followed, cities should not be punished if houses are not being constructed since developers and builders ultimately decide whether they will build and not the city itself.

Meaningful progress is related to how we are doing on our part in fulfilling the plan that was approved by the state.

The recent changes to our general plan that allow high density housing is not in alignment with our moderate income housing plan because our plan specifically says we will use the mixed use west zone.

That means that even though the change will technically allow for more housing, it can't be considered meaningful progress towards our plan.

I believe this shows a lack of understand of this whole process by our city staff and mayor.

This is not their fault however. This is due to the lack of good communication.

Matt Gwyen told me the person he talked to has not spoken to our city manager or mayor. If they had they could have come to the same understanding I have come to.

UPDATE (2024-10-03)

One of the things the manager at the labor department told me in an email was to look at the Moderate Income Housing Website for Utah. Here is a link to that page:

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

One of the interesting things on that page is right near the bottom. It talks about the benefits of participating in this program. One of the benefits is tied to the road funding that has been talked about several times as mentioned above.

This particular statement I believe is where the feeling that we will lose road funding and start getting fines comes from:

"Alternatively, jurisdictions that do not submit their annual report or do not meet the minimum requirements will be deemed ineligible for the following funding:

- Transportation Investment Fund of 2005, including the Transit Transportation Investment Fund
- State Tax Commission Distribution of Sales and Use Tax to fund Highways for certain jurisdictions (UCA 59-12-2220)

Starting in 2024, a \$250/day penalty fee will be applied to communities which are determined to be non-compliant and ineligible for the above funding sources. At the beginning of a community's consecutive year of being ineligible for funds, the fee will double to \$500/day."

The thing is that it can be interpreted differently. I take that to mean that if we do not file the report or are not working to implement our strategies, we could lose funding and get fined.

That doesn't mean that if we are not having units built in our city it will happen.

As far as I can tell the number of units being built is just reported, but not part of the requirement. Our ONLY requirement is to have a strategy that is approved by the state and that we are working to implement it.

We are doing that!!!