CITY OF LOGAN, UTAH
ORDINANCE NO. 15-05

AN ORDINANCE AMENDING TITLE 17 THE LAND DEVELOPMENT CODE OF LOGAN CITY, UTAH

BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF LOGAN, STATE OF UTAH AS FOLLOWS:

SECTION 1: That certain code entitled "Land Development Code, City of Logan, Utah" Chapter 17.01: "General" is hereby amended as attached hereto as Exhibit A, respectively:

SECTION 2: That certain code entitled "Land Development Code, City of Logan, Utah" Chapter 17.24: "Airport Limitations Overlay Zone" is hereby amended as attached hereto as Exhibit B, respectively:

SECTION 3: That certain code entitled "Land Development Code, City of Logan, Utah" Chapter 17.46: "Permit Authority" is hereby amended as attached hereto as Exhibit C, respectively:

SECTION 4: That certain code entitled "Land Development Code, City of Logan, Utah" Chapter 17.50: "Design Review" is hereby amended as attached hereto as Exhibit D, respectively:

SECTION 5: That certain code entitled "Land Development Code, City of Logan, Utah" Chapter 17.53: "Variances" is hereby amended as attached hereto as Exhibit E, respectively:

SECTION 6: That certain code entitled "Land Development Code, City of Logan, Utah" Chapter 17.55: "Procedures" is hereby amended as attached hereto as Exhibit F, respectively:

SECTION 7: That certain code entitled "Land Development Code, City of Logan, Utah" Chapter 17.57: "Appeals" is hereby amended as attached hereto as Exhibit G, respectively:

SECTION 8: This ordinance shall become effective upon publication.

PASSED BY THE LOGAN MUNICIPAL COUNCIL, STATE OF UTAH, _____ THIS DAY OF _____, 2015.

AYES:
NAYS:
ABSENT:

_____
Jeannie Simmonds, Chair

ATTEST:

_____

Teresa Harris, City Recorder

PRESENTATION TO MAYOR

The foregoing ordinance was presented by the Logan Municipal Council to the Mayor for approval or disapproval on the ____ day of _____, 2015.

_____

Jeannie Simmonds, Chair

MAYOR'S APPROVAL OR DISAPPROVAL

The foregoing ordinance is hereby _____ this ___ day of _____, 2015.

_____

Craig Petersen, Mayor

MEMORANDUM TO MUNICIPAL COUNCIL

DATE: January 27, 2015

FROM: Mike DeSimone, Director

SUBJECT: LDC Text Amendment – Land Use Appeal Board

Summary of Planning Commission Proceedings

Project Name:	Land Use Appeal Board
Request:	Code Amendment
Project Address:	City-wide
Recommendation of the Planning Commission:	Approval with modification

On January 22, 2015, the Planning Commission recommended that the Municipal Council **approve** a request to amend the Land Development Code Chapters 17.01 (General), 17.24 (Airport Limitations Overlay Zone), 17.46 (Permit Authority), 17.50 (Design Review), 17.53 (Variances), 17.55 (Procedures for Processing Project Applications) and 17.57 (Appeals) by eliminating the Board of Adjustment and Board of Appeals and creating a Land Use Appeal Board.

Planning Commissioners vote (5 - 0):
Motion to recommend approval: S. Sinclair
Second: M. Romero
Yea: R. Price, S. Sinclair, M. Romero, T. Jensen, A. Davis Nay: none

Attachments:
Staff Report
Ordinance 15-005
PC Meeting Minutes

Project #15-005
Land Use Appeal Board
Code Amendment

REPORT SUMMARY...

Project Name:	Land Use Appeal Board
Proponent/Owner:	Community Development Department
Project Address:	Citywide
Request:	Code Amendment
Type of Action:	Legislative
Date of Hearing:	January 22, 2015
Submitted By:	Mike DeSimone, Director

RECOMMENDATION
Staff recommends that the Planning Commission recommend **approva**l to the Municipal Council for the following amendments to the Land Development Code (LDC): Sections 17.01 (General), 17.24 (Airport Limitations Overlay Zone), 17.46 (Permit Authority), 17.50 (Design Review), 17.53 (Variances), 17.55 (Procedures for Processing Project Applications), and 17.57 (Appeals).

REQUEST
This proposed amendments to Sections 17.01 (General), 17.24 (Airport Limitations Overlay Zone), 17.46 (Permit Authority), 17.50 (Design Review), 17.53 (Variances), 17.55 (Procedures for Processing Project Applications), and 17.57 (Appeals) of the Land Development Code are based in a decision by Logan City to replace two existing boards, Board of Adjustment & Board of Appeals, with a single Land Use Appeal Board. The purpose of this action is to simplify the appeals process, reduce the expenses associated with having two separate appeals boards, and help the City in recruiting and retaining members willing to sit on an appeals board that meets relatively infrequently throughout the year.

The proposed amendments to Section 17.57 establishes the mechanics of the Land Use Appeal Board including how it is established, how it will function, how it will issue decisions, and the standard for it's review.

The other amendments are generally language changes where references to either the Board of Adjustment or the Board of Appeals are replaced by the Land Use Appeal Board.

GENERAL PLAN
The Land Development Code was prepared and adopted to implement the vision expressed in the General Plan. These proposed amendments simplify the appeals process by consolidating the Board of Appeals and the Board of Adjustment into a single appeals authority, the Land Use Appeal Board. The proposed amendments are consistent with the General Plan.

STAFF RECOMMENDATION AND SUMMARY
Staff would recommend that the Planning Commission forward a recommendation of approval to the Council for their consideration.

PUBLIC COMMENTS
As of the time the staff report was prepared, no public comments had been received.

PUBLIC NOTIFICATION

Legal notices were published in the Herald Journal on January 8, 2015, posted on the City's website and the Utah Public Meeting website on December 10, 2014, and noticed in a quarter page ad on January 4, 2015.

AGENCY AND CITY DEPARTMENT COMMENTS

No comments have been received.

RECOMMENDED FINDINGS FOR APPROVAL

The Planning Commission bases its decisions on the following findings:

1. Utah State Law authorizes local Planning Commission to recommend ordinance changes to the legislative body (Municipal Council).
2. The Code Amendment is done in conformance with the requirements of Title 17.51 of the Logan Municipal Code.
3. The proposed Code Amendments simplify the appeals process by consolidating two separate appeals boards into a single land use appeals authority and is consistent with Local and State law. The appeals process will remain relatively unchanged as this amendment does not remove or eliminate the ability of an individual to appeal a specific decision as permitted under Title 17.
4. The provisions of these amendments are consistent with the overall goals and objectives of the Logan General Plan.
5. No public comment has been received regarding the proposed amendment.

This staff report is an analysis of the application based on adopted city documents, standard city development practices, and available information. The report is to be used to review and consider the merits of the application prior to and during the course of the Planning Commission meeting. Additional information may be revealed by participants at the Planning Commission meeting which may modify the staff report and become the Certificate of Decision. The Director of Community Development reserves the right to supplement the material in the report with additional information at the Planning Commission meeting.

EXHIBIT A

Chapter 17.01: General

§17.01.010. Official Name

The official name of this Title of the Logan Municipal Code is the "Land Development Code of the City of Logan, Utah," which may be cited as the "Land Development Code." When references are made to a "zoning ordinance," "zoning code," "subdivision ordinance," "subdivision code," "subdivision regulations," or "zoning regulations," it shall be presumed that the reference is the Land Development Code and all its components, as amended from time to time.

§17.01.020. Purpose

The Land Development Code is the tool which most completely fulfills the goals and policies of the General Plan. The Land Development Code is enacted for the purpose of preserving and improving the public health, safety and general welfare of the citizens and businesses of the City of Logan. The Municipal Council finds and declares the following purposes for this Title:

A. The provisions of this Title manage growth and development in a way that contributes positively to the quality of the community called for in the General Plan.
B. This Title incorporates policies and programs to maintain and promote stability within the City's neighborhoods.
C. The provisions of this Title contribute to the protection and enhancement of the community's appearance.
D. This Title encourages quality development of business, commerce and economic expansion.
E. The Land Development Code incorporates the principle that development of interconnecting road networks, walkability, architecture, and site design each contribute to a quality community.
F. This Title incorporates development and performance standards to reduce adverse land use impacts.
G. The Land Development Code promotes predictability and consistency in the land development process – for neighborhood, business and development interests.
H. This title ensures appropriate opportunities for participation and involvement by all affected parties. It requires that regulations are fair to all.
I. The Land Development Code ensures that the public recognizes that the privilege and right of subdividing and development of land within the City of Logan is a discretionary action that requires appropriate levels of review.
J. This Title ensures that all subdivision, construction, and other development activities conform to the goals, policies, and actions of the Logan General Plan.

§17.01.030. Prohibitions

A. No lot may be sold, transferred, financed, or otherwise exchanged unless and until it has been created in conformance with the provisions of this title and stated law.
B. No land, building, or structure may be developed, used, occupied, erected, moved or altered without conformance with the provisions of this title and state law.

§17.01.040 General Plan Mandate

Land development and capital improvement projects shall be consistent with the General Plan. The City's administration and its departments shall carry out the purposes of the

General Plan when reviewing project proposals, development plans, and capital improvement programs.

A. Planning Commission Implementation
The Planning Commission shall not approve any project for which it cannot substantiate a finding that the project is consistent with the goals, policies, actions, and content of the General Plan.

B. ~~Board of Adjustment~~ Land Use Appeal Board-Implementation
The ~~Board of Adjustment~~ Land Use Appeal Board shall not approve any variance request for which it cannot substantiate a finding that the project is consistent with the goals, policies, actions, and content of the General Plan

C. Design Review Committee Implementation
The Design Review Committee shall not approve any project for which it cannot substantiate a finding that the project is consistent with the goals, policies, actions, and content of the General Plan

D. Historic Preservation Committee
The Historic Preservation Committee shall not recommend approval of any project for which it cannot substantiate a finding that the project is consistent with the goals, policies, actions, and content of the General Plan

E. Relationship of the General Plan to the Land Development Code
The General Plan has been adopted by the Municipal Council to manage development and resources of the community. The General Plan represents a lengthy public participation process and incorporates long range goals, identified polices, and actions to be taken. The content of the General Plan may be cited as a basis for making decisions or as a part of the finding to support actions initiated by this Land Development Code. The General Plan is adopted as a part of this code by reference. The General Plan provides the policies that enable the specific regulations of the Land Development Code to be accomplished. When there is a conflict between the General Plan and the Land Development Code, if the General Plan provides precise development standards, the General Plan is to be used. If the General Plan provides policy language and no specific development standards, the Land Development Code's specific measures are to prevail.

§17.01.050. Applicability

The provisions of the Land Development Code apply to all private and public development within the corporate limits of the City as prescribed in the Utah Code Annotated.

§17.01.060. Minimum Requirements

The provisions of the Land Development Code represent the minimum requirements necessary to advance its stated purposes. Unless otherwise specified within the code, it does not preclude adding standards and requirements necessary to achieve the policies of the General Plan, the purposes of this Title, or to protect the public health, safety, peace, morals, and general welfare.

§17.01.070 Zoning Map

A. Land Development Code and Zoning Map. The Land Development Code refers to the City of Logan Zoning Map (Zoning Map). Land and structures may be used or developed only as provided by the applicable land use (zoning) district, as designated on the Zoning Map, including all amendments thereto. Uses and structures shall comply with the provisions of this Code and the Zoning Map.

B. Content of Official Zoning Map. The boundaries of the base zones, overlay zones, and other map designations are shown on the Official Zoning Map of the City of Logan. The Official Zoning Map is published separately, but is a part of the Code. Maps that delineate areas subject to additional zoning regulations may be included in the Zoning Map and Code, adopted by separate ordinance, and/or adopted by reference. Examples include the location of historical landmarks, special street setbacks, and environmental resources. The City of Logan maintains the Official Zoning Map.

C. Changes to Official Zoning Map. A proposed change to the Official Zoning Map is subject to the amendment process described in Chapter 17.51.

D. Boundary Lines.

1. Where a zoning line is shown on the Official Zoning Map as being within an existing or vacated right-of-way, utility corridor, trail corridor, watercourse, or similar feature, the line is in the center unless specifically indicated otherwise.
2. The location of a zoning line is determined with a scaled dimension and/or cartographic overlay with another map acceptable to the City when a zoning line does not follow a lot line or identifiable landmark and its location is not specifically indicated.
3. Boundary line determinations and interpretations shall be made by the Community Development Director.

EXHIBIT B

Chapter 17.24: Airport Limitation (AL) Overlay Zone

§17.24.010. Purpose

The Airport Limitation Overlay Zone is intended to establish standards assuring the long-range, safe and beneficial use of the Logan-Cache County Airport.

§17.24.020. Applicability

The Airport Limitation Overlay Zone is applicable to properties located adjacent to the Logan-Cache County Airport and identified as "Lands of Limited Development" in the Logan-Cache Airport Specific Plan.

§17.24.030. Airport Zoning Commission

A. Commission Established.
   1. The City of Logan Planning Commission is designated as the "Airport Zoning Commission" as prescribed in Utah code §2-4-5.
   2. In this Title and State law, any references to the "Airport Zoning Commission" shall mean the City of Logan Planning Commission.
   3. If the Planning Commission is empowered in this Title to take actions that are duties of the Airport Zoning Commission as prescribed in Utah law, the Planning Commission shall be presumed to be functioning as the Airport Zoning Commission.

B. Duties.

   The Airport Zoning Commission shall recommend boundaries of the various zones to be established and the regulations to be adopted pertaining to any airport hazard area and to perform such other duties as may be assigned to it by the Municipal Council or Utah law.

§17.24.040. Airport ~~Board of Adjustment~~Land Use Appeal Board

A. Board Established.
   1. The City of Logan ~~Board of Adjustment~~Land Use Appeal Board is designated as the "Airport Board of Adjustment" as prescribed in Utah Code §2-4-5.
   2. In this Title and State law, any references to the "Airport Board of Adjustment" shall mean the City of Logan ~~Board of Adjustment~~Land Use Appeal Board.
   3. If the ~~Board of Adjustment~~Land Use Appeal Board is empowered in this title to take actions that are duties of the Airport Board of Adjustment as prescribed in Utah law, the ~~Board of Adjustment~~Land Use Appeal Board shall be presumed to be functioning as the Airport Board of Adjustment.

B. Duties.

   The Airport Board of Adjustment shall hear issues pertaining to any airport hazard area and to perform such other duties as may be assigned to it by the Municipal Council or Utah law.

§17.24.050. Permitted Uses

In lieu of the permitted uses identified in each of the base zoning districts, the following uses shall be permitted in the Airport Limitation Overlay Zone following conformance to development standards and issuance of appropriate permits:

1. Aircraft maintenance facilities;
2. Air service buildings and facilities at airports;
3. Agriculture, subject to airport hazard area regulations;
4. Hangars;
5. Warehousing and storage; mini storage warehouse;
6. Classrooms related to Utah State University's aviation-related educational program; and
7. All uses not prescribed in this section shall be conditional uses and shall be reviewed under the provisions pursuant to Chapter 17.49.

§17.24.060. Airport Master Plan

All uses and regulations pertaining to the Airport Limitation Overlay Zone shall be in compliance with, and subject to, the provisions of the Airport Master Plan, Airport Layout Plan, and Noise Contour Map as adopted by the Logan-Cache Airport Authority Board and is incorporated into this Chapter by reference.

§17.24.070. Regulations

A. No variance, permit, or use shall be allowed in the airport hazard area that would create or enhance an airport hazard.

B. No use shall be permitted which:
   1. Creates or tends to create electrical interference to navigational devices and communication between aircraft and airports;
   2. Creates or tends to create gas, smoke, dust, glare, or other visual hazard in the atmosphere around airports or in the airport hazard area;
   3. Creates or tends to create structures that interfere with aircraft safety; and
   4. Creates or tends to create any type of hazard for the airport that would inhibit or constrain safe and acceptable airport operations.

C. Height Limitation.
   No structure may be at a height that creates or tends to create an airport hazard.

§17.24.080. Airport Development Standards

The Municipal council may adopt by resolution or enact by ordinance uniform development standards and procedures for facilities within the Airport property.

EXHIBIT C

Chapter 17.46: Permit Authority

§17.46.010. Purpose

Permit review procedures are intended to provide an opportunity for a property owner to learn and understand the development standards and regulations of the City prior to initiating development of a site. The various permits are intended to provide the City with an opportunity to work with a property owner in ensuring safe development that meets City standards.

§17.46.020. Application Review Standards

Standards for approving, conditionally approving or denying a project are contained within the specific provisions of this Article. Table 17.46.020 identifies the decision-makers and appeals boards for all project and application types.

Table 17.46.020: Application Decision-Makers and Appeals Boards

Project Type	Chapter	Applications Heard By:
Certificate of Appropriateness	§17.27	Historic Preservation Commission
Subdivisions	§17.47	Planning Commission
Boundary Line Adjustment	§17.48	City Engineer
Conditional Use Permit	§17.49	Planning Commission
Design Review, all other projects	§17.50	Planning Commission
Amendments to the Land Development Code	§17.51	Planning Commission[1] Municipal Council
Amendments to the Official Zoning Map	§17.51	Planning Commission[1] Municipal Council
Amendments to the General Plan	§17.52	Planning Commission[1] Municipal Council
Variances	§17.53	~~Board of Adjustment~~Land Use Appeal Board
Appeals of Staff Decisions	§17.57	~~Board of Adjustment~~Land Use Appeal Board
Appeals of Staff's General Plan Interpretations	§17.57	Municipal Council
Appeals of Boundary line Adjustments	§17.57	~~Board of Appeals~~Land Use Appeal Board
Appeals of Subdivisions, Design Review, Use Permits, or Planning Commission Decisions	§17.57	~~Board of Appeals~~Land Use Appeal Board
Appeals of Amendments to the Land Development Code, Official Zoning Map, General Plan, Variances, or actions of the Board of Appeals	§17.57	District Court

§17.46.030. Permit Required Before Proceeding

The construction, alteration, repair, removal, use or occupancy of any site improvements, site development, structure, or any part thereof shall not commence or proceed until the issuance of an appropriate permit(s).

A. Complete Applications.
   A complete permit application shall be submitted prior to review by the appropriate department. Permits may be issued following a review to ensure that the proposed project is in compliance with the Logan Municipal Code.
B. Permits Issued Only For Complying Projects.
   Permits shall be issued only upon the approval of a site plan meeting the requirements of the Department of Community Development and the International Building Code. The Chief Building Official, in association with the Public Works Director, City

Engineer, and the Director, shall prepare a list of the requirements for site plan submittal. In order to obtain a permit, the project must comply with all applicable standards, specifications, and code requirements.

C. Site Plan Review Required.
   1. All site plans shall be reviewed and signed by representatives of the City's development-related departments.
      a. Generally, the development departments within the City include, and are not limited to: Building Inspection Division, Planning and Zoning Division, Department of Public Works, City Engineering, Street Division, Light and Power Department, Water and Sewer Divisions, Environmental Health Department, and Fire Department.
      b. Other departments may be required to review site plans if the proposed project involves their areas of responsibility.
   2. Any department may require additional studies or plans as necessary to review or address site specific conditions.
   3. Site plans for multiple family dwellings of three or more units, all commercial, all industrial, and non-residential development shall be prepared by a professional architect, landscape architect, or engineer licensed within the State of Utah. Site plans shall be based upon a recorded survey prepared by a land surveyor, licensed in the State of Utah, that shows accurate dimensions, location of all monuments, existing buildings, utility structures and lines, and all easements and rights-of-way.

D. Compliance with Discretionary Conditions Required Prior To Building Permit.
   When a project has been before the Planning Commission, Historic Preservation Commission, ~~Board of Adjustment~~Land Use Appeal Board, or the Municipal Council, no permits shall be issued until the Director has confirmed that the project is in compliance with all appropriate conditions.

E. Permit Voidable If Issued In Conflict With Title.
   Should any permit or license be issued in conflict with the provisions of this chapter, such permit or license shall be voidable.

F. Permit Voidable If Issued on the Basis of Inaccurate Information.
   Should any permit, license, or approval be granted on the basis of inaccurate, incomplete, or fraudulent information, the permit shall be voidable.

§17.46.040. Creation of Building Site

A. Lots Shall Be Legally Existing.
   Permits for the construction, alteration, use or occupancy of any building, structure or part thereof upon any tract or plot shall be issued only after a building site or lot has been created in compliance with the provisions of the Logan Municipal Code.
   1. The record lot was created in full compliance with the provisions of subdivision and zoning regulations within the Logan Municipal Code and Utah law.
   2. The lot is all or part of a preliminary or final plat map or site plan officially approved by the City. The site has been or is being developed in conformance with City requirements for all utility and drainage easements, alleys, streets, and other public improvements necessary to meet the normal requirements for platting including the designation of building areas, dedication of easements, alleys, streets, and other property required to be dedicated.

B. Certificate of Occupancy, Approval to Use or Occupancy.
   No land shall be used or occupied nor shall a building be used or changed in use, until a Certificate of Occupancy has been issued by the Chief Building Official. Certificates of Occupancy may be issued only after the Director has issued a clearance indicating that the permit holder has complied with all appropriate conditions imposed on the project.

§17.46.050. Public Dedications

The owner may be required to dedicate streets, utility easements or rights-of-way, parklands, trail easements, water rights, or other lands for public purposes as may be defined in the Logan Municipal Code or the City's General Plan and other master plan documents.

EXHIBIT D

17.50: Design Review Permits

§17.50.010. Purpose

The purpose of design review is to encourage high quality development design and enhance neighborhood character. The design review process is intended to ensure conformance to city standards and encourage superior design while providing for flexibility in project design. Two procedural "tracks" are provided whereby an applicant can choose to follow the prescriptive (Track 1) standards in Title 17, or propose an alternative design (Track 2) that is consistent with the purpose and intent of Title 17 and results in a superior design.

§17.50.020. Design Review Authority

The Planning Commission shall review Track 2 design review applications, including proposed site layout and building design for conformity with Title 17 and shall follow the notice and meeting requirements of Section 17.50.070. The Director shall review Track 1 design review applications, including proposed site layout and building design, grading and drainage for conformity with Title 17 and shall follow the notice requirements of Section 17.50.070.

§17.50.030. Standing To Apply

Any property owner, or proponent with the written permission of the property owner, may apply for consideration of a design review permit..

§17.50.040. Design Review Permits

A. Design Review Permits are required for the following types of development:
   1. Single family dwellings located above the 4950' elevation;
   2. Attached single family dwellings;
   3. Townhomes and Townhouses;
   4. Multi family residential buildings;
   5. Subdivisions;
   6. Commercial development;
   7. Industrial development;
   8. Recreation development;
   9. Public development;
   10. Freestanding signs;
   11. Wall art over 10% of the first story façade area; and
   12. Wireless Telecommunication Facilities.

B. Design Review Permit is required for certain modifications to uses.
   1. All remodeling, renovation or additions, including parking and access, that result in an increase in size by more than 25% or 20,000 square feet, whichever is less; or
   2. Exterior remodeling or renovation that is found by the Director to result in an increase in a nonconforming design condition.

§17.50.050. Procedures

Design Review Permits shall be processed as either a Track 1 Permit or a Track 2 Permit, and the review process shall follow the procedural requirements in Section 17.55.

§17.50.060. Design Review Track 1: The Director shall be the review authority for Track 1 design review applications. The Director shall review Track 1 applications according to Section 17.54.

A. Track 1 Design Review Permits shall meet the following criteria:

1. The project or use does not require any variance or conditional use permit;
2. The applicant has not requested any adjustment or modification to the standards in Title 17;
3. The Director has not referred the application for a Design Review Permit to the Planning Commission for any other reason. The Director may refer applications to the Planning Commission Section 17.50.070 (Track 2) at his or her discretion where the application does not clearly demonstrate compliance with the applicable standards and criteria of Title 17; and
4. The application meets all of the approval criteria in Section 17.50.080.

B. The applicant shall be notified of the design review permit decision.

C. Appeals shall be heard by the ~~Board of Appeals~~Land Use Appeal Board following the provisions of Chapter 17.57.

D. The Administrative Record of Decision shall serve as the administrative record of proceedings.

§17.50.070. Design Review Track 2: The Planning Commission shall be the reviewing authority for design review applications that do not meet the criteria under Section 17.50.060.A. The Planning Commission shall review Track 2 applications according to Section 17.55.

§17.50.080. Approval Criteria

The Planning Commission may approve a design review permit upon substantiating the following findings:

A. The maximum allowable density under the applicable zoning district has not been exceeded, unless a density bonus has been approved for the subject site in conformance with this Title.

B. The design review permit substantially conforms to the requirements of Title 17 of the Logan Municipal Code.

C. Where an adjustment to a provision of Title 17 is requested as part of the design review application, the following criteria shall apply:
   1. The adjustment is consistent with the purpose and intent of the zoning district in which the project is located;
   2. The adjustment is consistent with the purpose of the standard for which the adjustment is requested;
   3. Permitted use standards, including conditional use standards, shall not be adjusted;
   4. Density standards shall not be adjusted;
   5. Adjustments to height, bulk, open space, landscaping, setbacks, lot coverage and floor area requirements may be approved provided that the adjustment does not exceed ten (10) percent of the base standard. Adjustments to design standards and guidelines such as building placement, building orientation, form, materials, fenestration, articulation, wall planes or façade variation may be approved by the Planning Commission with findings that demonstrate the proposed design changes are not due to financial considerations on behalf of the project proponent, are consistent with surrounding land use patterns and community design, will not compromise future projects or design, and any deviations reflect the City's desire to encourage and permit development that has lasting value to the community; and
   6. Historic district guidelines shall not be adjusted through this procedure.

§17.50.090. Conditions and Modifications

A. Permit Approval Conditions.

In reviewing an application for a design review permit, the decision making body may modify the project or impose conditions concerning site development, site design, and

building design features to ensure conformance to applicable development and design standards, consistent with the purpose of this section. The issues that may be reviewed include and are not limited to:

1. Size and location of site, including all property owned by the proponent;
2. Streets and roads in the area;
3. Ingress and egress to adjoining existing and proposed public streets. Where adjoining streets are regulated by the Utah Department of Transportation, access to street(s) shall conform to the requirements of the Cache Access Management Plan;
4. Location and amount of off street parking;
5. Internal traffic circulation system;
6. Pedestrian and vehicular connectivity to adjoining properties;
7. Fencing, screening and landscaped separations;
8. Building bulk and location;
9. Architecture design and detailing;
10. Usable open space;
11. Landscaping, screening and/or buffering;
12. Signs and lighting;
13. Noise, vibration, air pollution, adverse effects of lighting, and other development factors;
14. Setbacks as approved or modified by the Planning Commission from the site plan in conformance with the provisions of this Title; or
15. Existing trees, water bodies or other natural features.

B. Permit Modifications.

Modifications to an approved site plan and/or elevations may be approved by the Director upon finding that the modification substantially conforms to the design review permit and is not a change of more than ten (10) percent from the approved plan (i.e., for any quantitative standard, specification or condition of approval).

EXHIBIT E

Chapter 17.53: Variances

§17.53.010. Purpose

When literal interpretation of the provisions of Title 17 of the Logan Municipal Code results in a situation where the property owner does not have the opportunity to exercise basic property rights, the City may consider an application to vary the standards of this Title. The purpose of a variance is to relate only to the hardship identified and to ensure that the property is not deprived of privileges generally granted to other properties in the same area or zoning district.

§17.53.020. Standing to Apply for a Variance

Any person who owns, leases, or otherwise holds an interest in property may apply to the ~~Board of Adjustment~~Land Use Appeal Board for consideration of a variance. If the person making the application is not a record owner of the subject property, written permission of the property owner is required prior to acceptance of the variance application as complete.

§17.53.030. Procedures, Reports and Hearings

Applications for variances are processed under the provisions of Chapter 17.55 and the requirements as set forth in Utah law. Applications for variances are heard before the ~~Board of Adjustment~~Land Use Appeal Board. Variances run with the land and the Land Use Appeal Board~~Board of Adjustment~~ may not grant a use variance.

§17.53.040. Approval Criteria

The ~~Board of Adjustment~~ Land Use Appeal Board ~~–~~may grant a variance only in compliance with Utah Law. ~~if all the following criteria apply:~~

~~A. Literal enforcement of the Land Development Code would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the code;~~

~~B. There are special circumstances attached to the property that do not generally apply to other properties in the same zone;~~

~~C. Granting the variance is essential to the enjoyment of a substantial property right possessed by other properties in the same zone;~~

~~D. The variance will not substantially affect the General Plan and will not be contrary to the public interest; and~~

~~E. The spirit of the Land Development Code is observed and substantial justice done.~~

~~**§17.53.050. Conditions of Approval**~~

~~The Board of Adjustment may impose additional requirements on the applicant that will:~~

~~A. Mitigate any harmful effects of the variance; or~~

~~B. Serve the purpose of the standard or requirement that is waived or modified.~~

EXHIBIT F

Chapter 17.55: Procedures for Processing Project Applications

§17.55.010. Uniform Project Review Procedures

All applications for projects or appeals to be heard by ~~the Board of Adjustment,~~ the Planning Commission, the Historic Preservation Commission, or the Land Use Appeal Board~~Board of Appeals~~ shall be processed with the uniform procedures of this chapter. This chapter is not applicable to application for amendments or modifications to the General Plan, Land Development Code, or Zoning Map as set forth in chapters 17.51 and 17.52.

§17.55.020. Pre-application Conference

Prior to submitting an application for a Design Review Permit, an applicant shall submit a conceptual development plan to the Community Development for review by Staff. The review process will allow staff to work with the proponent to make a complete and accurate submission to the Planning Commission. This step will also minimize false start design costs and redesign costs for the developer. When it is determined by staff that the concept plan meets the intent of the Land Development Code, a formal application for a Design Review Permit may be submitted. Conceptual development plans shall include a scaled drawing accurately depicting property lines, critical lands, buildings, setbacks, paving, trees, and other site features. The proposed plan shall also identify any proposed buildings, parking, landscaping, signs and building elevations. The review and clearance for a conceptual development plan does not require notice to the public or affected entities.

§17.55.030. Application Requirements

A. Complete Application Required.

An application for review by Community Development shall not be accepted nor scheduled for review unless is it determined to be "complete" and meets the following:

1. Be submitted by the property owner or a person who has written authorization from the property owner to act as "agent" on their behalf;
2. Be completed on a form prescribed by the City;
3. Include supporting information such as drawings, deeds, graphics, plat maps, plans, or other materials required by this Code or deemed necessary by the decision-making body and Director demonstrating compliance with the applicable review and approval criteria;
4. Be accompanied by the appropriate filing fee as set forth in the adopted Fee Schedule; and
5. Provide proof of ownership in the form of a deed, or other recorded document.

B. Distribution of Application.

The Director shall distribute copies of the proposed project to appropriate City and public agencies, and public utilities for purposes of soliciting comments.

§17.55.040. Public Notice

A. Mailed Notice.

Not less than ten (10) calendar days prior to the hearing date before the decision-making or recommending body (as specified in section 17.55.010), the Director shall send by first class mail a written notice to owners of real property as shown on the latest official County assessor's rolls within three hundred feet of the perimeter boundaries of the subject property. This notice shall be in addition to any other requirements as specified by Utah law. The notice shall include:

1. The date, time and place of the meeting;
2. The body before which the hearing is scheduled;

3. The case number, project docket number, or other identification number of the project, and the project's title;
4. The project's address;
5. The name of the proponent;
6. The type of project or projects, including an identification of all types of actions required;
7. A general description of the proposed project as submitted by the proponent. The Director may edit the description to more clearly define the legal parameters under which the project is to be reviewed. The description should be neutral in tone and not be inappropriately embellished to create a belief that the City either favors or disapproves of the application;
8. A statement explaining when and where interested persons can obtain information;
9. The name and direct phone number of the staff member assigned to review the application; and
10. An explanation as to how to participate in the hearing.

B. Published Notice For All Projects.
At least ten (10) calendar days before the meeting, the City shall cause to be published a notice or copy of the agenda in a newspaper of general circulation in and for the City of Logan.

§17.55.050. Staff Report and Analysis

A. Written Staff Report Required.
The Director shall review the applications for conformance with submittal requirements. The staff shall prepare a written report for the decision-makers that generally include the following items when relevant:
1. Analyzes the proposed project for conformance with the plans, policies, and provisions of this title;
2. Incorporates the comments of other City and public agencies, and public utilities;
3. Incorporates all public comments received prior to the date of publication;
4. Incorporates the analysis and comments of the Planning Division staff;
5. Incorporates the analysis and comments of the City Engineer;
6. Includes a recommendation to approve, conditionally approve, or deny the request;
7. Includes recommended conditions of approval, if needed; and
8. Includes the findings of fact on which staff bases its recommendation, with the understanding that the decision-makers may accept or reject these facts based on the information it finds at the public hearing.

B. Distribution of Copies.
Copies of the staff report shall be distributed to the decision-makers, proponent, and commenting departments at least three days prior to the Commission or Board meeting.

§17.55.060. Public Hearing

The decision-makers or recommending body shall hold a public hearing at which it considers the application, the staff report, and any comments by interested members of the public or other organizations. The decision-makers or recommending body shall conduct the public hearing according to adopted by-laws or other accepted meeting procedures.

§17.55.070. Action

A. Action Following a Public Hearing.
Following the public hearing, the decision-making or recommending body shall take a vote to approve, conditionally approve, deny the project application, or continue the matter to a future meeting.

B. Continuing a Project to a Future Meeting.
The decision-makers may continue a project hearing or deliberations to a future meeting, but in no case shall a period of no more than six months pass from the first public hearing to the date of action.
1. Continuing a matter to a date and time specific shall not require mailed notices to be sent for the continued meeting unless specifically directed by the decision-makers.
2. Continuing a matter to a non-specified meeting date requires that the new public notices in conformance with this chapter be published and mailed.
3. Matter may be continued if the proponent is not present at the public hearing or if the decision-making body finds that there is inaccurate information or insufficient information from which to make a decision.
4. Unless otherwise determined by the decision-making or recommending body, a project which has been continued for more than six months shall be deemed withdrawn from any consideration.

§17.55.080. Findings of Fact Required

A. All Decisions Shall Be Supported With Findings.
Based on the requirements within the individual chapters for types of applications (Refer to §17.55.010), the decision-making or recommending body shall not be able to take action without making the appropriate findings of fact specified in the chapter.

B. Failure To Make Findings.
The decision-makers may deny a proposed project when they are not able to find facts in the record to substantiate the required findings in this section.

§17.55.090. Records of Decision

The Director shall prepare a Record of Decision enumerating the action of the decision-makers, the conditions imposed (if any), and the findings adopted to support the action. The Record of Decision may be signed by the proponent, shall be signed by the Director, and shall be recorded against the Tax Identification Number with the County Recorder.

§17.55.100. Completion of Projects

All projects shall be initiated prior to the expiration dates specified in the appropriate code sections. If not extended pursuant to Section 17.58, the permits shall become null and void.

§17.55.110. Standards for Development

All project applications shall be processed by the regulations in effect at the time a complete application was accepted by the Director.

EXHIBIT G

Chapter 17.57: Appeals

§17.57.010. Purpose

The purpose of this chapter is to provide uniform appeals procedures for development-related actions of the City.

§17.57.020. Standing to File an Appeal

The proponent or any affected party who participated in the hearing process may file an appeal of a decision type set forth in Table §17.57.030.

§17.57.030. ~~Body to Hear Appeals~~Land Use Appeal Board – Appointed Members

A. The Mayor shall appoint three (3) members and up to two (2) alternates, with advice and consent of the City Council, to serve as the Land Use Appeal Board for requests and appeals of decisions by a Land Use Authority, including variances under Title 10, Chapter 9a, Part 7 of the Utah Code.

B. A member shall be a resident of the City.

C. A member shall have experience in land use matters.

D. A member shall be appointed for a term of five (5) years and may not serve more than three (3) consecutive terms.

E. A member may be removed by the Mayor for any reason.

F. Three members are required to constitute a quorum.

~~Table 17.57.030: Appeals Boards and Project Types~~

~~Type of Project~~	~~Appeal is Heard Before~~
~~Interpretations of the Land Development Code~~	~~Board of Adjustment~~
~~Administrative Interpretations of Historic Design Standards~~	~~Historic Preservation Commission~~
~~Certificate of Appropriateness (HPC Decision)~~	~~Board of Appeals~~
~~Boundary Line Adjustments~~	~~Board of Appeals~~
~~Conditional Use Permits~~	~~Board of Appeals~~
~~Design Review Permits~~	~~Board of Appeals~~
~~Subdivisions~~	~~Board of Appeals~~
~~All Other Zoning Related Actions by Staff~~	~~Board of Adjustment~~

§17.57.35. Authority of Land Use Appeal Board

A. The Land Use Appeal Board shall hear and decide:

1. Requests for variances from the requirements of the City's land use ordinances;
2. Appeals from decisions by a Land Use Authority applying the City's land use ordinances;
3. Appeals from a fee charged in accordance with Section 10-9a-510 of the Utah Code;
4. Appeals of the denial by a Land Use Authority of a request for a reasonable accommodation; and
5. Any other appeal of a decision delegated to the Land Use Authority by the Logan Land Development Code or the Logan Municipal Code.

B. The Land Use Appeal Board shall:

1. Act in a quasi-judicial manner;

2. Serve as the final arbiter of issues involving the interpretation or application of City land use ordinances subject to appeal to the Utah District Courts as provided in Section 10-9a-801 of the Utah Code.

§17.57.040. Filing Appeals

A. All administrative appeals shall be filed in writing with the Director in the offices of the Department of Community Development within ~~fifteen~~ ten calendar days of the action being appealed. An appeals application not filed in the Department of Community Development shall not constitute a filing for purposes of meeting the ~~15~~ 10 day limit.

B. The filing of a written appeal or request does not stay the decision of the Land Use Authority. The Appellant may petition the Land Use Appeal Board to stay the Land Use Authority decision. Upon petition, the Land Use Appeal Board may order the decision of the Land Use Authority stayed pending review by the Land Use Appeal Board.~~Appeals filed with District Court shall be filed in conformance with the requirements of State law and court procedures. Nothing in this chapter is intended to imply changes to, other procedures for, or otherwise override standard procedures and timelines of District Court.~~

§17.57.050. Contents of the Request for an Appeal

A. Administrative Procedures.
The Director shall prepare administrative procedures and an application form for filing an appeal before the ~~Board of Appeals or the Board of Adjustment~~Land Use Appeal Board.

B. Minimum Requirements for a Request to Appeal.
At a minimum, the request for an appeal shall be filed in writing and include the following:

1. The name of the person or persons filing the appeal, a mailing address and daytime telephone number;
2. The project file number and the name of the project as it appeared on the agenda, or if appealing a staff decision, a description of the decision;
3. The date of the original hearing or staff decision;
4. Any required appeal application fee;
5. The specific issues being appealed. The appeal may not merely appeal the action of the decision-making body, but must specify how the Land Use Authority erred. ~~be an appeal based on at least one of the following:~~
   ~~a. If the project was conditionally approved and specific conditions are being appealed, the request for an appeal shall specify the conditions being appealed and the reasons for the appeal;~~
   ~~b. If the project was approved without conditions, the request for appeal shall specify the findings used by the decision-making body that have generated the appeal request; or~~
   ~~c. If the project was denied, the request for appeal shall specify the findings used by the decision-making body that have generated the appeal request.~~
~~6. A statement shall be included indicating that the appellant was a participant in the original hearing process by:~~
   ~~a. Submitting written comments prior to or during the public hearing;~~
   ~~b. Verification that the appellant was in attendance at the decision-making body's hearing; or~~
   ~~c. The appellant spoke at the decision-making body's hearing.~~

C. Incomplete Applications.
An incomplete application for an appeal shall not be accepted and shall not waive, defer, or delay the ~~15~~ 10 day appeal deadline.

§17.57.060. ~~Public Notice~~Standard of Review

A. The review by the Land Use Appeal Board of the appeal or request shall be limited to the record of the land use application process resulting in the decision made by the Land Use Authority which is the subject of the appeal or request including written communications, the written land use decision and the written appeal or request.

B. The Land Use Appeal Board may not accept or consider any evidence outside the record of the Land Use Authority unless that evidence was offered to the Land Use Authority and the Board determines that it was improperly excluded. The Appellant has the burden of proving that the Land Use Authority erred.

C. For the granting of variances, the Land Use Appeal Board may grant a variance only as allowed under Utah law.

~~After giving notice in conformance with Chapter 17.55, the Board of Appeals or Board of Adjustment shall hold a public meeting.~~

§17.57.070. Staff Report Required

A. Appeals of Commissions and Committees.
The appeal proceedings shall include a staff report updated from the Commission or Committee meeting with the results of the meeting and a summary of the actions or finding being appealed.

B. Appeals of Staff Decisions and Boundary Line Adjustments.
The staff person rendering the decision being appealed shall provide the Land Use Appeal Board and appellant with a written report or memorandum explaining the basis of the decision or interpretation. This report or memorandum shall serve as the administrative record of decision.

§17.57.080. Appeal Meeting

Not less than ten (10) calendar days following the mailing of a public notice, the ~~Board of Appeals or Board of Adjustment~~ Land Use Appeal Board shall hold a public meeting to hear the appeal. At that meeting, the Land Use Appeal Board shall hear the Staff's report including a summary of the action being appealed, the testimony of the appellant, and the testimony of the proponent, if different from the appellant~~, and any comments from the public. The Board may take testimony and comments from the general public, and it may consider new information and facts in reaching its decision.~~

§17.57.090. Decision of the Appeal

The Land Use Appeal Board shall render its decision at the meeting by majority vote of the three member Board. If the Board overturns or modifies the action of the Land Use Authority, the Board shall make findings substantiated in conformance with the requirements of procedures for the type of action being appealed. If the Board upholds the appealed action, no additional findings are required and the Board's action automatically affirms the previously adopted findings. The Board may, upon upholding the Land Use Authority, add, clarify, or enhance findings based upon the facts of the appeal meetings ~~present, unless the matter is continued to a future meeting pending a request of the Board for more information. The Board may overturn the decision-makers on the basis of its findings, it may uphold the decision-makers, or if new information is presented that was not previously presented to the decision-makers, the Board may return the matter to them for new proceedings. The action of the Board is the final administrative procedure within the City's process.~~

§17.57.100. ~~**Findings Required to Overturn or Modify the Decision-Makers Action**~~**Final Decision**
A decision of the Land Use Appeal Board takes effect on the date when the Land Use Appeal Board issues a written decision. ~~If the Board overturns or modifies the action of the decision-makers, the Board shall make findings substantiated in conformance with the requirements of procedures for the type of action being appealed. If the Board upholds the appealed action, no additional findings are required, the Board's action automatically affirms the previously adopted findings. The Board may, upon upholding the decision-makers, add, clarify, or enhance findings based upon the facts of the appeal meeting.~~