



Planning and Development Services

2001 S. State Street N3-600 • Salt Lake City, UT 84190-4050

Phone: (385) 468-6700 • Fax: (385) 468-6674

Brighton Town Planning Commission

Public Meeting Agenda

Wednesday, February 16, 2022 7:00 pm

Pursuant to Utah Code Ann. § 52-4-207(5), I, Don Despain, have determined consistent with Section 52-4-207(5) of the Utah Open and Public Meetings Act, in my capacity as Chair of the Town of Brighton to hold the public meeting without an anchor location due to COVID19, which presents a substantial risk to the health and safety of those who may be present at the anchor location. The Town is located in Salt Lake County and is still under a 'Moderate Level of Transmission' alert stage for the COVID-19 pandemic; and the regular meeting place for the Planning Commission (the Fire Station in the Canyon) does not have sufficient space in the meeting room to provide for the recommended physical distancing to keep people safe from infection. This written determination shall expire 30 days from today. This meeting will not have a physical anchor location. All attendees will connect remotely.

Join meeting in WebEx

Meeting number (access code): 961 841 420

<https://slco.webex.com/join/wgurr>

Join meeting in WebEx (download available at <https://www.webex.com/downloads.html> for Windows, Android, and Apple devices)

Tap to join from a mobile device (attendees only)

[+1-213-306-3065](tel:+12133063065),961841420## United States Toll (Los Angeles)

[+1-602-666-0783](tel:+16026660783),961841420## United States Toll (Phoenix)

Join by phone

+1-213-306-3065 United States Toll (Los Angeles)

+1-602-666-0783 United States Toll (Phoenix)

Access code: 961 841 420

[Global call-in numbers](#)

Join from a video conferencing system or application

Dial wgurr@slco.webex.com

You can also dial 173.243.2.68 and enter your meeting number.

Need help? Go to <http://help.webex.com>

UPON REQUEST, WITH 5 WORKING DAYS NOTICE, REASONABLE ACCOMMODATIONS FOR QUALIFIED INDIVIDUALS MAY BE PROVIDED. PLEASE CONTACT WENDY GURR AT 385-468-6707.

TTY USERS SHOULD CALL 711.

The Planning Commission Public Meeting is a public forum where, depending on the agenda item, the Planning Commission may receive comment and recommendations from applicants, the public, applicable agencies and MSD staff regarding land use applications and other items on the Commission's agenda. In addition, it is where the Planning Commission takes action on these items, which may include: approval, approval with conditions, denial, continuance, or recommendation to other bodies as applicable.

BUSINESS MEETING

- 1) 2022 Planning Commission Meeting Schedule for Approval. (Motion/Voting)
- 2) Approval of the December 15, 2021 Planning Commission Meeting Minutes. (Motion/Voting)
- 3) Discussion on Future Amendments to the Foothill Canyons Overlay Zone (FCOZ).
Planner: Jim Nakamura
- 4) Other Business Items. (As Needed)

PUBLIC HEARING(S)

OAM2022-000526 – An Ordinance amending the Brighton Land Use Code, Foothill Canyons Overlay Zone (FCOZ), Section 19.72.110, “Tree and Vegetation Protection.” The proposed amendments will amend the tree replacement standards and clarify that maintenance of defensible space around existing buildings for fire safety is an allowed use. **Presenter:** Melissa Anderson (Motion/Voting)

OAM2022-000527 - An Ordinance amending the Brighton Land Use Code, Sections 19.01.010, 19.02.060 and 19.02.150. The proposed amendments will remove Section 19.01.010 and adopt Section 19.02.060 to address scrivener errors. The proposed amendments will also adopt Section 19.02-150 to address Inactive Applications. **Presenter:** Melissa Anderson (Motion/Voting)

ADJOURN

Rules of Conduct for Planning Commission Meetings

PROCEDURE FOR PUBLIC COMMENT

1. Any person or entity may appear in person or be represented by an authorized agent at any meeting of the Commission.
2. Unless altered by the Chair, the order of the procedure on an application shall be:
 - a. The supporting agency staff will introduce the application, including staff's recommendations and a summary of pertinent written comments and reports concerning the application
 - b. The applicant will be allowed up to 15 minutes to make their presentation.
 - c. The Community Council representative can present their comments as applicable.
 - d. Where applicable, persons in favor of, or not opposed to, the application will be invited to speak.
 - e. Where applicable, persons opposing the application, in whole or in part will be invited to speak.
 - f. Where applicable, the applicant will be allowed 5 minutes to provide concluding statements.
 - g. Surrebuttals may be allowed at the discretion of the Chair.

CONDUCT FOR APPLICANTS AND THE PUBLIC

1. Speakers will be called to the podium by the Chair.
2. Each speaker, before talking, shall give his or her name and address.
3. All comments should be directed to the Commissioners, not to the staff or to members of the audience.
4. For items where there are several people wishing to speak, the Chair may impose a time limit, usually 3 minutes per person, or 5 minutes for a group spokesperson. If a time limit is imposed on any member or spokesperson of the public, then the same time limit is imposed on other members or spokespersons of the public, respectively.
5. Unless otherwise allowed by the Chair, no questions shall be asked by the speaker or Commission Members.
6. Only one speaker is permitted before the Commission at a time.
7. The discussion must be confined to essential points stated in the application bearing on the desirability or undesirability of the application.
8. The Chair may cease any presentation or information that has already been presented and acknowledge that it has been noted in the public record.
9. No personal attacks shall be indulged in by either side, and such action shall be sufficient cause for stopping the speaker from proceeding.
10. No applause or public outbursts shall be permitted.
11. The Chair or supporting agency staff may request police support to remove offending individuals who refuse to abide by these rules.
12. After the public comment portion of a meeting or hearing has concluded, the discussion will be limited to the Planning Commission and Staff.

This page intentionally left blank



Planning and Development Services

2001 S. State Street N3-600 • Salt Lake City, UT 84190-4050

Phone: (385) 468-6700 • Fax: (385) 468-6674

<https://msd.utah.gov/>

Town of Brighton Planning Commission 2022 Regular Meeting Schedule

Meeting Place: 6788 South Big Cottonwood Canyon Road

Time: 6:00PM *Unless otherwise posted*

The Public is Welcome to Attend

Wednesday January 19, 2022

Wednesday February 16, 2022

Wednesday March 16, 2022

Wednesday April 20, 2022

Wednesday May 18, 2022

Wednesday June 15, 2022

Wednesday July 20, 2022

Wednesday August 17, 2022

Wednesday September 21, 2022

Wednesday October 19, 2022

Wednesday November 16, 2022

Wednesday December 21, 2022

UPON REQUEST, WITH 5 WORKING DAYS NOTICE, REASONABLE ACCOMMODATIONS FOR QUALIFIED INDIVIDUALS MAY BE PROVIDED. PLEASE CONTACT WENDY GURR AT 385-468-6707. TTY USERS SHOULD CALL 711.

The Public May Attend. Meetings May Be Closed For Reasons Allowed By Statute.



Planning and Development Services

2001 S. State Street N3-600 • Salt Lake City, UT 84190-4050

Phone: (385) 468-6700 • Fax: (385) 468-6674

MEETING MINUTE SUMMARY TOWN OF BRIGHTON PLANNING COMMISSION MEETING Wednesday, December 15, 2021 7:00 p.m.

Approximate meeting length: 35 minutes

Number of public in attendance: 2

Summary Prepared by: Wendy Gurr

Meeting Conducted by: Commissioner Despain

***NOTE:** Staff Reports referenced in this document can be found on the State website, or from Planning & Development Services.

ATTENDANCE

Commissioners and Staff:

Commissioners	Public Mtg	Business Mtg	Absent
Donna Conway		x	
Don Despain (Chair)		x	
Ulrich Brunhart		x	
Tom Ward		x	
Ben Machlis (Vice Chair)			x
Phil Lanuette (Alternate)			x
John Carpenter (Alternate)		x	

Planning Staff / DA	Public Mtg	Business Mtg
Wendy Gurr		x
Jim Nakamura		x
Melissa Anderson		x
Kara John		x
Polly McLean		x

BUSINESS MEETING

Meeting began at – 7:09 p.m.

- 1) Approval of Minutes from the November 17, 2021 Planning Commission Meeting. (Motion/Voting)
Motion: To approve Minutes from the November 17, 2021 Planning Commission Meeting with one amendment.

Motion by: Commissioner Brunhart

2nd by: Commissioner Conway

Vote: Commissioners voted unanimous in favor (of commissioners present)

- 2) Discussion on potential changes to the FCOZ ordinance regarding tree replacement standards and maintaining defensible space around existing dwellings.

Jim Nakamura and Melissa Anderson provided the potential changes, concepts, illustrations, and limits of disturbed area. Commissioners and staff had a brief discussion regarding objective and changes, basic concepts, saplings and seedlings replacements outside of defensible space, 30 foot perimeter, within limits of disturbance, 10 seedlings per every one tree removed, arborist and fire service, two to one replacement, lidar protection buffer, and FCOZ landscape and reclamation plan.

- 3) Other Business Items. (As Needed)

Commissioner Conway motioned to adjourn, Commissioner Ward seconded that motion.

MEETING ADJOURNED

Time Adjourned – 7:44 p.m.

DRAFT



GREATER SALT LAKE
**Municipal Services
District**

To: Planning Commission, Town of Brighton

From: Jim Nakamura, MSD Planner

Date: February 4, 2022

Re: Discussion on Future Amendments to the Foothill Canyons Overlay Zone (FCOZ)

Please see below for additional FCOZ code amendments, for discussion to address Brighton's current development concerns.

1. Stream corridor Setback: update stream corridor setback to 50' vs. 100' (current) setback from "high water mark of stream corridor" to development activity to be consistent with current Salt Lake County Health department and Salt Lake City Public Utilities requirement of a 50' set back.
2. Limits of Disturbance (LOD): current ORD: Limits of Disturbance (LOD) allows for a maximum of 20,000 square feet, (plus additional disturbance on parcels exceeding 1 acre in size) regardless of the building lot size. Most of the building lots in Brighton are less than an acre in size therefore allowing disturbance potential of much of the lot. Thoughts on this revision could be either revising the max (LOD) to 10,000-15,000 square feet (plus bonus on parcels larger than acre) or limiting the LOD to a certain percentage of the lot or imposing a "hardscape limit" along with a maximum LOD, etc., The intent of this change is to reign in the size/scope of new development within the Town.
3. Other potential FCOZ items for discussion, see attached FCOZ summary notes:

Attachments:

1. Meeting Summary Notes regarding FCOZ

**Recommendations from the FCOZ Exploratory Committee Suggesting Possible Revisions to
the FCOZ Ordinance**

November 13, 2019

○ **Genesis of the FCOZ Exploratory Committee (FEC)**

Shortly after Lupita McClenning was appointed Director of Planning and Development Services for Salt Lake County, she was asked to appear before the Association of Community Councils Together (ACCT) at its monthly meeting in September, 2018 to discuss her department's duties and the future challenges that the impending reorganization of Salt Lake County's Service Organizations would present to her department and its employees. During the Q&A session after she concluded her presentation, I posed a question about the County's FCOZ Ordinance and some of the issues and challenges that the FCOZ Ordinance presents to developers and property owners as they seek approval from the County Planners for their development projects. Director McClenning stated that she and her department were aware that some of the FCOZ Ordinance's requirements were viewed by some applicants as unnecessary or overdone. The Director suggested that I organize an exploratory committee to review the Ordinance, the issues brought up by some of the applicants and make suggestions on how the Ordinance could be improved and/or made more "user friendly".

○ **Committee Members on the FEC**

Initially, the FEC was composed of Lupita McClenning, Jim Nakamura (County Planner), Barbara Cameron, Don Despain and me. After two meetings, focusing on FCOZ issues in Big Cottonwood Canyon, the FEC was expanded to include representatives from each of the eastern Wasatch Canyons (Emigration, Parley's, Millcreek and Granite/Little Cottonwood). On occasion, other County Planning staff would also attend the FEC meetings. The expanded FEC held an additional three meetings.

○ **Possible Revision to the FCOZ Ordinance**

Earlier this year, the FEC was informed that the current FCOZ Ordinance would be revised and included in the new Wasatch Canyons General Plan set to be approved by the County Commission in December of this year. These recommendations will be considered when the County Planners are finalizing the Wasatch Canyons General Plan for presentation to the County Commission.

○ **Summary of Discussion Points for each FEC Meeting**

- **November 27, 2018:** General review by the FEC of the FCOZ Ordinance. Specific Ordinance sections that were addressed during the meeting that may need further consideration should a rewrite of the FCOZ Ordinance be undertaken:

- Chapter 19.72.110 Sections C and D (Removal and Replacement of Significant Trees).
- Doug Fry presented photographs of a meadow behind his cabin in Brighton. One photograph taken in 1999 shows the meadow, where a structure once stood, devoid of any new growth conifer trees. Another photograph of the same meadow was taken almost 20 years later (2018). These pictures demonstrate how this meadow has regenerated itself from a meadow into a forest over a 20-year period. The taller trees are now over twenty feet tall, and most of the other trees are around ten feet tall. The area involved is over an acre and the new growth is approximately 80 new conifer trees. These naturally regenerated conifers have never been nurtured, irrigated or thinned. Some of the transplanted nursery trees that survive don't achieve the growth rate or height of these naturally regenerating conifers over the same time period and, even with nurturing and irrigation, the nursery trees look spindly, with nonsymmetric crown growth and much less trunk caliper size than their cousins in our forests.
- Most property owners want to preserve the trees on their property not cut them down, but all of us are concerned with creating a defensible space for fire protection around our structures.
- In the higher elevations of the Wasatch Canyons most "significant trees" are coniferous trees. Section 19.72.110.E2c stipulates that replacement trees "Be on the Utah Fire Resistant Species list in the Wildland-Urban Interface Code". There are no coniferous tree species on this list. The only other tree species on this list that is native to these higher elevations is Quaking Aspens. This section doesn't address waivers should the above situation occur. I understand the intent of this section, but these areas of the canyons are already forested, mostly with conifers and a handful of replacement, non-fire resistant conifers pose little, if any, additional fire risk. I think that we can all agree that Quaking Aspens, however beautiful they are, don't match the majesty of an Englemann Spruce.
- The role of Quaking Aspens in nature is as a "succession" tree. Its job in the wild is to spread quickly in eroded or burned out areas, providing cover for seedlings of forest trees like pine, fir and spruce. As the forest trees get bigger, the aspens die out. During their early years, they require significant irrigation and as the root base spreads out and produces saplings, these new saplings may also require water. If Quaking Aspens are present on or near a building lot, there is no need to plant new aspen trees because the existing aspens will quickly spread. If they are not present on the lot, new conifers or naturally regenerating conifers are better alternatives. The pictures of the meadow behind my cabin have no Quaking Aspen growth over a twenty-year period.
-
- **January 22, 2019:** Scott Zeidler, Wasatch Front Area Forester, Utah Department of Natural Resources, Robert Sanders, Fire Warden for Salt Lake and Davis Counties, Utah

Department of Natural Resources and Katie Gobble, Wasatch Front Wildland Urban Interface Coordinator, Utah Department of Natural Resources were invited to the meeting to discuss the general health of our canyons' forests. The FEC was amazed to learn from Scott that some of our forests, particularly in Big Cottonwood Canyon, over the past several years have experienced an infestation of a tiny invasive pest, the Balsam Woolly Adelgid (BWA). This pest only attacks the Subalpine Fir forests in our area. The Subalpine Fir is the dominant conifer tree in the Big Cottonwood Canyon forest accounting for over 60% of the conifer trees in the canyon. The BWA has no natural predators and pesticide treatment is impractical because of the risk to beneficial insect species. Most, if not all, of the Subalpine Firs in the Big Cottonwood Canyon forest will succumb to this pest.

- **March 26, 2019:** This was the first FEC Meeting involving the expanded committee; the meeting was well attended. The format for this meeting was that each of the new members presented a list of issues/concerns that members of their communities had experienced when trying to navigate through the FCOZ approval process. Following is a list of the canyons/communities and their issues/concerns:
 - **Little Cottonwood Canyon/Wasatch Resort:**
 - Bill Clayton, the FEC Representative for this canyon and Tracy Giles, a resident of Wasatch Resort and recent applicant for FCOZ approval for his residential construction project, found that it is very difficult for a property owner planning new construction to fully understand the timing and impact of the FCOZ approval process. "Would have been nice to have a definitive plan (as much information upfront) prior to the application submission rather than find out new requirements as the process went on (*no surprises*)".
 - An "Orientation Session" (online video or PowerPoint presentation) prior to the application process would be very helpful to the applicant and possibly prevent later issues/surprises during the planning and construction phases of the project.
 - In this area of Little Cottonwood Canyon, stream setbacks, both ephemeral and perennial, always seem to present issues frequently due to inconsistencies with the setback requirements elsewhere in Little Cottonwood Canyon, the other canyons along the Wasatch Front and regulations imposed by other government agencies. The EPA, the Utah Division of Environmental Quality, the Salt Lake City Department of Public Utilities, and the Salt Lake County Health Department all mandate a minimum of building 50 feet from the high-water mark of any stream that flows year-round. Extensive studies have demonstrated that 50 feet provides ample protection of water quality. The FCOZ Ordinance, by contrast, mandates 100 feet setback. In our narrow canyons, this creates

many practical problems for private property owners. Can we do something that will bring a resolution to these conflicts?

- **Emigration Township/Emigration Canyon:**
 - Emigration Township has amended its FCOZ Ordinance to fit Emigration Canyon needs. It was suggested that the Town of Brighton and other incorporated areas subject to the FCOZ Ordinance may want to consider doing the same.
 - The FCOZ Ordinance should be revised to ensure that proper maintenance of existing septic tanks/systems (pumping tanks) is performed regularly and most certainly before overflows happen.
- **Parley's Canyon/Mt. Aire:**
 - Shaun Hoggan (the Parley's Canyon/Mt Aire FEC Representative) went through the FCOZ process to develop private recreational land and dwelling group approval over the past three years.
 - He found the process costly and cumbersome (somewhat hellish). He acknowledged that he found the County Planning staff to be cooperative and helpful during the process.
- **Millcreek Canyon/Log Haven:**
 - Ed Marshall, The FEC Representative from this canyon, expressed the same concerns as Bill Clayton (Little Cottonwood Canyon) with respect to the discrepancies regarding stream setbacks regulations required by various government agencies.
 - Mr. Marshall also felt that the maximum Limits of Disturbance were still too restrictive.
 - He also suggested that, in the canyons, fence heights should be permitted to be higher than the present limit of 42 inches primarily for security purposes.
- **Big Cottonwood Canyon/Brighton:**
 - Don Despain, from the community of Brighton, advocated for an "Orientation Session" discussed in the Little Cottonwood Canyon section above. He is also concerned that when property is offered for sale, the major red flags (slopes/streams/wetlands/geo hazards) that could affect future development of the property should be disclosed to the prospective buyers.
- **April 30, 2019:** Patrick Nelson, Watershed Program Manager, Salt Lake City Public Utilities (SLCPU) was invited to discuss his department's duties, challenges and to answer any questions that the Committee Members may ask. Mr. Nelson stated that cooperation between property owners, residents, the general public and the SLCPU is key to defining areas with problems regarding water issues and septic contamination. He thought, that with further study, the existing discrepancies regarding stream

setbacks that exist among the various governmental agencies and departments might be resolved resulting in decreased, more uniform, setback distances. In general, the water quality of our canyons' streams is good. Each stream has its own different set of issues that have the potential to impact water quality. Each community engaged with Mr. Nelson regarding some of the issues affecting their communities: Emigration Canyon requests that the septic systems in the canyon be more closely monitored and inspected. Little Cottonwood Canyon/Wasatch Resort wants to try to see the stream setback discrepancies resolved and the Geology review process required under the FCOZ Ordinance streamlined by allowing the FCOZ applicants to contract with other geological consultants in addition to the three firms under contract with the County. Millcreek Canyon wants the stream setback regulations discrepancies reconciled, and concern was expressed as to why stream setback distances are different for parking lots and roads. Members from Big Cottonwood Canyon echoed the concerns expressed by the other FEC members.

- **May 21, 2019:** Teresa Gray, Bureau Manager, Bureau Water Quality and Hazardous Waste, Salt Lake County Department of Health was invited to this last FEC Meeting to discuss her duties and some of the challenges that she faces as she carries out her responsibilities. Patrick Nelson, Watershed Program Manager from SLCPU, also attended the meeting. Her Bureau's principal duties are to ensure that the water we drink and use recreationally is safe for both us and the environment. Common property development issues that come before her and her staff that are frequently confronted by property owners who wish to develop/improve their property are as follows:
 - No access to legal water or water rights that are not operational year-round or have usage volume limitations that are insufficient for today's lifestyle (i.e., 50 gallons/day).
 - Cannot secure certain setbacks (property lines, easements, slope, stream, drinking water source protection zones or wetlands).
 - Unable to site verify existing septic systems and sewer is not available.
 - Unacceptable structure types (trailers, yurts, tiny homes or campgrounds).
 - Illegal modifications to structures or septic tanks.
- **Summary of Suggested Revisions to an Updated FCOZ Ordinance**

The issues discussed in this summary are not presented as a prioritized list. As you can see from the above summary of our FEC Meetings, many of the current FCOZ Ordinance issues/concerns of the various FEC Member communities are common to each of the canyons. This list sites the specific chapter and section of the current Ordinance which pertains to the issues/concerns that FEC wishes to be considered for revision.

 - **19.72.130.(D) Setbacks:** Stream setbacks regulation in general was the single most discussed regulation in all our FEC Meetings. Of specific concern to most of our members was the inconsistencies between the FCOZ Ordinance setback requirements and regulations imposed by other government agencies. The EPA,

the Utah Division of Environmental Quality, the Salt Lake City Department of Public Utilities and the Salt Lake County Health Department all mandate a minimum of 50 feet building from the high-water mark of any stream that flows year-round. Extensive studies have demonstrated that 50 feet provides ample protection of water quality. The FCOZ Ordinance, by contrast, mandates a 100 feet setback. In our narrow canyons, this creates many practical problems for private property owners. The FEC would like to see changes in the Revised FCOZ Ordinance that achieves a level of consistency among the regulations of the other regulatory agencies and the Revised FCOZ Ordinance?

- **19.72.110.(D1a&b): Replacement of Significant Trees:** This chapter is another “hot button” issue for all canyon property owners who have experienced the FCOZ approval process. Safeguards need to be in place to ensure that property owners who are embarking on a project that requires FCOZ review and approval do not indiscriminately cut down “significant trees” (ST) on their property but the requirement that each ST be replaced by two nursery trees, the necessity to place a bond with Salt Lake County insuring that property owner will be responsible for caring for the new nursery trees and that the new trees will survive for two years seems like an overzealous regulation and an attempt to thwart Mother Nature.

Please review what I have written on Page 2 about this issue to better understand that the forest is more capable of regenerating itself without irrigation and nurturing than a spindly nursery tree that, if it survives, will never blend in with the native trees. Seventy to eighty percent of STs cut down as a result of development in Big Cottonwood Canyon are coniferous trees yet the only tree species approved for transplanting in these higher elevations is a Quaking Aspen. Please consider eliminating this regulation in the Revised FCOZ Ordinance. Also, we suggest that you consult with Scott Zeidler, the DNR Area Forester, in order to get his opinion regarding this regulation.

In order to try to place a number on the STs that may have been cut down as a result of development, I queried the Planning and Zoning staff at Salt Lake County about the number of Single Family Dwelling (sfd) permits issued for Big Cottonwood Canyon in the last five years. Their numbers show 17 sfd from 2013 to 2018 or 3.4 new sfd per year. Assuming that during the construction of each of these structures, five STs (probably high) were cut down, the total number of downed STs for this time period is around 85 or 17/year. I hardly doubt the Big Cottonwood Canyon forest of hundreds of thousands of coniferous trees has missed them. We should be a heck of a lot more concerned about the BWA infestation which may wipe out 50,000 to 100,000 trees over the next decade.

- **Preservation of Historic Structures:** Big Cottonwood Canyon communities and some of the other Wasatch Canyon communities are observing that some of their historic residential structures are being purchased, demolished and, in their place, large “McMansions” are built. The historic character of these communities is slowly changing from quaint family structures, passed down from generation to succeeding generation through the years, to mega edifices that hardly fit in with their neighboring older structures. Frequently, the current owners of these older structures would like to update their cabins, but when confronted with the requirements imposed by the FCOZ Ordinance and the cost of the improvements, these owners decide to put their property up for sale. In order to try to preserve the historic character of our canyon communities, is it possible to add a new Section to the FCOZ Ordinance that makes it easier and less costly to update an existing structure that is deemed to be a “Historic Structure”?

- **Summary of Suggested Revisions to other Salt Lake County Ordinance**
 - **Defensible Space:** Although not specifically addressed during the FEC Meetings, the recent wildfires that have occurred along the Wasatch Front and in California have led to heightened awareness of the risk of wildfires in the communities subject to the FCOZ Ordinance. In fact, wildfire is the predominant risk addressed in all the Wasatch Front communities’ Emergency Preparedness Plans. I performed a word search of the FCOZ Ordinance and the only reference in the Ordinance to “defensible space” is a definition located in Chapter 19.72.110.C(3). After this definition, this Chapter/Section continues as follows: “Appropriate defensible space surrounding a structure is established in Utah Wildland-Urban Interface Code incorporated in UFA Wildland-Urban Interface Site Plan/Development Review Guide. A copy of the approved fire protection plan shall be submitted to the zoning administrator for incorporation into the final approval documents.”

I realize that the FCOZ Ordinance only applies to new development projects which, as we have discussed, are minimal compared to the number of existing dwelling structures which are grandfathered and not subject to the FCOZ Ordinance, but I suggest that further research be conducted to determine the best approach to inform and possibly regulate the owners of these existing structures about the importance of creating defensible space around their structures.
 - **Inspection/Maintenance of Septic Tanks/Systems:** This topic was discussed at several of the FEC meetings and, because it is maintenance and not development

related, it may not fall within the scope of the FCOZ Ordinance. These septic tanks/septic systems are currently maintained by the property owner who might very well be a secondary residence owner and, possibly, that structure may also be a short-term rental property. On occasion, septic tanks/system maintenance is neglected, and overflow of the tank occurs. These overflows could have a dangerous negative impact on water quality. The FEC suggests that the Salt Lake County Department of Health (SLCHD) should conduct a study to determine whether regular inspections, conducted by SLCHD, should be implemented.

- **Misunderstandings and Experiences of FCOZ Applicants:** The FEC received input from some former FCOZ applicants regarding their experiences with navigating the FCOZ approval process. In general, there were few positive responses. Words like “hellish, surprises, costly, cumbersome, took far too long,” were used to describe how they viewed their FCOZ experience. The planning staff was complimented and described as “helpful and/or cooperative”. Most FCOZ applicants only go through the FCOZ approval process once in a lifetime so everything they experience with the process is “new” to them. These new applicants are not prepared for or knowledgeable about the regulations included in the FCOZ Ordinance. A logical solution to alleviate some of these negative experiences is to better educate the applicants. Obviously, these applicants should read the Ordinance and most applicants have read it but still don’t realize how long the process will take before they are able to begin construction.

Perhaps, the Planning and Development Services staff could produce a video or slide show that would be posted online. This “AV show” could walk the prospective applicant through the application process, provide timeline information, potential problems that other applicants have experienced, etc. Each applicant on their application would acknowledge that they have viewed the AV show. I realize that each applicant attends a Pre-Application Meeting after they have submitted a completed application, paid fees, perhaps engaged engineers and/or draftsmen and produced plans. Some applicants, when faced up front with the complications of development in the FCOZ, may rethink their development plans.

Exploratory Meeting Regarding the Impact of the FCOZ Ordinance on Private Development

General Comments, Observations, and Suggestions

Meeting date 11.27.18

In attendance...Lupita, Jim, Douglas, Barbara, Don

- The 2017 revision of the older FCOZ Ordinance, originally implemented in the late 1990's, is vastly improved when compared to its predecessor. It is better organized and much easier to read and navigate.
- The Ordinance very broadly defines "development" as: including all land disturbance activities such as grading, clearing, and excavation. Using this definition, a property owner who simply want to build or modify a residential structure on their land is held to the same standard of "development" as another property owner who wants to subdivide their property into multiple building lots. Using this logic, let's assume that the "subdivider" sells his lots for private development. As I interpret this definition, should the new land owner wish to build a structure on his property, he will have to go through the FCOZ approval process to build his structure. I realize that waivers can be obtained to lessen the impact of FCOZ, but perhaps, a separate, less onerous set of development standards for a single lot property owner, whose lot was purchased from a developer who adhered to the FCOZ Ordinance, could be considered.

Each lot must have water in order to legally subdivide as a building lot. Also, the underlying zone FR...FA...must be adhered to. New development is limited to "lots of record" or platted (subdivisions)lots

- Frequently, a property owner, who wishes to improve his structure or build a new structure, is the owner of a "Lot(s) of Record". Most structures being developed now in Big Cottonwood Canyon are being built on Lots of Record and certain FCOZ regulations are waived for these lots. Again, perhaps those property owners developing on lots of record could have a reduced set of standards relative to the FCOZ Ordinance when they choose to develop their property.

Most likely the waiver you are referring to is a waiver for development on slopes between 30-40% which is available to "lots of record" this is a Planning Commission approval. FCOZ regulations are never waived just because a lot is a "lot of record". Based on Brighton "town" incorporation happening next year options for your own FCOZ can be discussed.

- One of the most common complaints from land owners developing their properties is the replacement of “significant trees” cut down during the development of their property. A qualifying “significant tree” that has been cut down must be replaced by two trees and maintained by the property owner for two years after their planting. The property owner must place a bond guaranteeing that the replacement trees will live for one year. There are several problems and concerns that property owners have with this requirement:
 - Depending on the municipal water source that the property owner uses, many water suppliers in the canyons prohibit property owners from using municipal water for landscaping or irrigation purposes. Some water companies in the canyons who have water use agreements with Salt Lake City Public Utilities are prohibited from allowing use of their water for irrigation purposes.
 - Trees available from local nurseries are not local native trees, particularly the conifers. The trees that are available are generally grown at lower elevations and most are not compatible for healthy growth at higher elevations, more severe winter weather conditions and lower winter temperatures. About half of these transplanted trees die after several winters.
 - A healthy forest is perfectly capable of regenerating itself if left alone. I have pictures of a meadow behind my cabin in Brighton. A cabin once stood in this area and this meadow is its modern-day remnant. These pictures demonstrate how this meadow has regenerated itself from a meadow into a forest over a 20-year period. The taller trees are now over twenty feet tall and most of the other trees are around ten feet tall. The area involved is over an acre and the new growth is approximately 80 new conifer trees. Some of the transplanted nursery trees that live don’t achieve the growth rate or height of these naturally regenerating conifers over the same period of time.
 - Most property owners want to preserve the trees on their property not cut them down, but all of us are concerned with creating a defensible space for fire protection around our structures.
 - In the higher elevations of the Wasatch Canyons most “significant trees” are coniferous trees. Section 19.72.110.E2c stipulates that replacement trees “Be on the Utah Fire Resistive Species list in the Wildland-Urban Interface Code”. There are no coniferous tree species on this list. The only other specie on this list that is native to these higher elevations is Quaking Aspens. This section doesn’t address waivers should the above situation occur. I understand the intent of this section, but these areas of the canyons are already forested, mostly with conifers and a handful of replacement, non-fire resistive conifers pose little, if any, additional fire risk. I think that we can all agree that Quaking Aspens, however beautiful they are, don’t match the majesty of an Englemann Spruce.
 - The role of Quaking Aspens in nature is as a “succession” tree. Its job in the wild is to spread quickly in eroded or burned out areas, providing cover for seedlings of forest

trees like pine, fir and spruce. As the forest trees get bigger, the aspen die out. During their early years, they require significant irrigation and as the root base spreads out and produces saplings, these new saplings may also require water. If Quaking Aspens are present on or near a building lot, there is no need to plant new aspen trees because the existing aspens will quickly spread. If they are not present on the lot, new conifers or naturally regenerating conifers are better alternatives. Notice that the pictures of the meadow behind my cabin have no Quaking Aspen growth over a twenty-year period.

With the most recent FCOZ rewrite... is allowing staff (director) Landscaping and tree replacement options which had not previously existed with old FCOZ. With education from Experts and Fire we can further look into the above concerns.

- Some contractors building in the canyons have complained that certain agencies (SLC Public Utilities) are not responding in a timely fashion when submitting their approvals or comments.

Yes, SLC watershed will not sign off on FCOZ project with snow cover. So potentially this can delay FCOZ approvals until mid-Summer months depending on Mother Nature.

- Some homeowners, who have navigated the FCOZ Ordinance approval process, often get different answers to their questions from the planning staff. Often one staffer will require something that another staffer disagrees with, so the homeowner is forced to amend his application.

Please refer them to Jim Nakamura or Curtis Woodward as we are most involved in FCOZ development.

Suggestions for Discussion

- As stated above, the 2017 revision of the FCOZ Ordinance was a vast improvement over the older ordinance, however, it is still daunting to some property owners, particularly those who only wish to remodel or increase the size of their existing structures. Also, an owner of Lot of Record wishing to build on his lot has to jump through many of the same hoops as a large developer subdividing a large parcel into smaller building lots or building a Cluster Development. Many opportunities for waivers from some of the FCOZ regulations are available but most of these waivers are granted by the Director, whose time might be better utilized. Should the permitting process be less "one size fits all with waivers" and more "permitting by the

development task the property owner wishes to undertake? Following are some of these smaller scale development tasks:

- Interior and exterior remodeling of an existing structure on a Lot of Record without increasing either the foot print or vertical height of the structure.
- Enlarging an existing structure on a Lot of Record either vertically or by increasing the foot print of the structure.
- Building a new, single family structure on a Lot of Record less than (1) one acre in size.
- Building a new, single family structure on a Lot of Record more than (1) one acre in size
- Detached storage sheds built on already FCOZ permitted lots with single family structures.

Education of the FCOZ ordinance on the above will be further discussed. Then the BCC can better understand more how different types of remodels/additions and non conforming issues are delt with in the FCOZ process. Sewer should be a factor in development activities especially simple remodel applications.

Separate sections in the Ordinance could be added to spell out the specific permitting process for each of these smaller scale developments. Fewer waivers would be necessary for most of these smaller projects and professional engineering and consulting fees for the property owner would be decreased. The large development projects would still be subject to the entirety of the FCOZ Ordinance.

- Perhaps, a section could be added to the FCOZ Ordinance requiring a reply or submittal of approval from other regulatory agencies within a ten-day period or the application will be considered as an approval. We do ask for a 2-work week period for initial comments. This cannot be enforced by ordinance, because some agencies as SLC watershed is not under County Jurisdiction.
- A logical solution to prevent conflicting input from the planning staff would be to assign one planner as a “Plan Leader” that the homeowner interacts with during the approval process Jim Nakamura
- Many of the problems and concerns discussed above can be addressed in the separate sections that will be added to the Ordinance.

Date: 3.26.19/SLCO North Building 3600 (S conference room)

In Attendance

Barbara Cameron	barbaracameron@hotmail.com
Don Despain	dondespain3@gmail.com/solid@qwestoffice.net
Douglas Fry	fryslc@comcast.net
Shaun Hoggan	shaunhoggan@gmail.com
Tracy Gilies	tracyg@tagtruck.com
Ed Marshall	edmarshall246@gmail.com
Gary Bowen	agarybowen@msn.com
Jim Nakamura	jnakamura@slco.org
Gregory Baptist	gbaptist@slco.org
Curtis Woodward	cwoodward@slco.org

Tracy Giles experience in dealing with the FCOZ process

Tracy Giles a homeowner in Little Cottonwood Canyon (Wasatch Resort)

Went thru the FCOZ process approx. 4-5 years ago it was “hell” a lot of \$\$ not much cooperation with outside agencies (SLC utilities noted)

Is concerned in the future how difficult it is for him or other prop owners to develop based on his experience.

Would have been nice to have a definitive plan (as much information upfront) prior to application submission rather than find out new requirements as the process went on (*no surprises*)

Tracy emphasized that he did receive help from certain staff members for which we was grateful for.

Understands we have a ordinance to uphold, however common sense does not necessarily play into some of it, in particular uphill ephemeral stream setbacks

Gary Bowen FCOZ comments in general and specifically Emigration Canyon

Gary Bowen Emigration Property owner, Emigration Council member

Emigration township has amended its FCOZ ordinance to fit Emigration Canyon, he suggested that Brighton/other FCOZ areas look at doing the same..

Dealings with SLC Watershed/Utilities has never been easy....?? How can they justify the Monopoly they hold on the canyons. We clarified that protected SLC watershed exists in Killyons/Pinecrest the majority of Emigration canyon is out of SLC watershed protected boundary

****attached memo** for reference recognizing additional watershed in Emigration Cyn**

Current EID vs existing Wells civil battle

Based on past interaction with a SLCO staff (not with Planning/Development), enforcement of FCOZ??can it be enforced?

How to insure maintenance of existing septic (pumping tanks)

Power system which runs from Emigration into Parleys should be noted (Ed Marshall)

Bill Clayton concerns

Bill Clayton Property owner, Wasatch Resort

50' stream setback (100' setback) ephemeral/perennial. How does this apply to existing non-conforming structures (additions/remodels) 100' setbacks can be reduced to 75'(50') based on criteria set forth in the FCOZ ordinance

Stream setbacks when you are developing in non-FCOZ areas (will be determined thru flood control requirments)

Rebuilding of non-conforming/foundation replacement can be allowed per FCOZ ordinance

10.72.200 DEFINITIONS

Significant Trees

Live trees of six-inch caliper or greater, groves of five or more smaller live trees, or clumps of live oak or maple covering an area of fifty square feet to the drip line perimeter.

(See page 55 of the FCOZ Ordinance)

Shaun Hoggan comments/concerns

Shaun Hoggan Parley's community council

Property owner, Mt Aire Canyon (dwelling group)+Rec land

Went thru the FCOZ process to develop private rec land and dwelling group approval in the past 3 years

Process costly and cumbersome (somewhat hellish) did acknowledge staff cooperation and helpfulness during the process

Concern that owners of property in FCOZ will loose value due to restrictions and resources reqd to get thru a FCOZ approval

Ed Marshall comments/concerns

Log Haven (Millcreek Canyon) management
Parking lot setback from stream why does this apply the same as structure
Fire breaks (fueling fire) they own a fire truck (Log Haven)
Tree replacement still not making sense
General Plan consistency with Zoning (FCOZ)
Admin 2 tier setback relief from streams (75/50) criteria

Don Despain comments

MPDPC chair/Big Cottonwood Cyn property owner
Is it possible for a prospective buyer know what is possible on property....we stated staff has worked to let prospective buyers of the major redflags (slopes/streams/geo hazards) prior to any application submitted
Ok to remove dying or dead growth can easily be approved per staff
Camp Williams wild fire comment
How Code enforcement works in FCOZ (process and manpower)
Parley's canyon gravel pit Dust control, to what extent is this enforced by County

Summary

1. General frustration over the lack of clarity for applicants who go through the process. It seems to take a long time and go from agency to agency to get a final answer. (All)
2. It would be simpler to have a stream setback of 50' rather than 100' with exceptions. (All)
3. The County might want to consider what they are going to do if there is a takings issue.
4. It would be good to have a partnership with the local community council to assist applicants who are trying to navigate the process. (All)
5. The fact that the setback is the same from streams that may be uphill from a property as downhill makes no sense. (Giles)

6. **Need better resolution to the conflict between fire protection and tree replacement requirements. (All)**
7. The difference between stream setback requirements for private properties and public streets seems hypocritical. (Marshall)

Next Meeting

4.30.19, SLCO building North (conference room TBD)

Date: 4. .19/SLCO North Building 3600 (S conference room)

In Attendance

Barbara Cameron	barbaracameron@hotmail.com
Patrick Nelson	Patrick.Nelson@slcgov.com
Douglas Fry	fryslc@comcast.net
Linda Johnson	gostalinda73@gmail.com
Ed Marshall	edmarshall246@gmail.com
Gary Bowen	agarybowen@msn.com
Jim Nakamura	jnakamura@slco.org
Lupita McClenning	LMcClenning@slco.org
Curtis Woodward	cwoodward@slco.org

Patrick Nelson (SLC Watershed)guest

Residents and Public cooperation with SLCPU is key to defining areas of with problems regarding water issues and septic contamination

Health section 14 (Teresa Gray will be attending the May 21 FCOZ meeting) wetlands/streams setbacks regarding development/septic. Which we can further discuss other areas in BCC

Chapter 19 (FCOZ) is only setback (100' from perennial) which does not coincide with 50 ft which all other depts go with. Noted this can be reduced from 100' to 75' and possibly 50' when meeting conditions.

Little Cottonwood creek zinc...

Wetlands contact Hollis Jenks (Army Corp)

BCC will have more flexibility based on sewer avail in majority of developed areas

MPC (general plan) will be avail to public summer of 2019

Overall health of Canyon determined thru Baseline data

LCCreek ranks as one of the best in the Country overall it does have its own issues as with the other main Creeks in the Valley.

Gary Bowen FCOZ comments in general and specifically Emigration Canyon

Gary Bowen Emigration Property owner, Emigration Council member

No enforcement on septic in Emigration Canyon...

Mr Bowen's input helped spark Rocky Mtn project (parleys canyon) new alignment and replacement of power lines into emigration cyn from sub in Parleys

Bill Clayton concerns

Bill Clayton Property owner, Wasatch Resort

Rules on rebuilding a non-conforming structure (in relationship to LCC)

Flood years how it affects the area below Wasatch resort

Justification of the 50' setback vs travel up/down canyon is non-significant as far as impact to the watershed

Mis-informed on the FCOZ process of reviewing Geology (applicant can only use one off the SLCO list?) the County has 3 reviewers under contract to review geology reports. The applicant can hire any geologist they want.

Douglas Fry BCCC

Tree replacement live item for discussion

Irrigation water (allowed?) water rights...not enforced by SLCPU

Linda Johnson comments/concerns

MPDPC

Funding (Canyons General Plan) coordination

Forest service has no extra

Ski industry pitching in?

\$\$ from state

From residents

General plan then implementation of Zoning ordinance

Can "Realtors" takes some responsibilities in marketing these FCOZ properties??

FCOZ info should be easily avail for public viewing....would it actually be read?

Maybe a point system is a good idea to incorporate into FCOZ reviews

Ed Marshall comments/concerns

Noted Curtis Woodward diligently researched the 50' setback as adequate, however it was not accepted and the 100' setback was set in ordinance, purely political.

General Plan consistency with Zoning (FCOZ)

How the watershed can be affected by fire impact (treatment plants)

Why treat parking lots different from roads in relation to stream SB (maintaining non-conforming parking lots)

Barbara Cameron BCCC (chair)

Areas in BCC to pursue the sewer vs going back to septic

Cardiff intake is no good

Pushing for (150') 300' defensible fire gap for mitigation working between Unified/USFS

Asked Patrick (watershed) what is frustrating to his dept...his answer is keeping up with Growth.

General comments

UDOT..Canyon Plan is all-encompassing
(parking and mass transport etc.,) toll idea not really a great tool

Need to pursue all agencies to line up all requirements for coordination sake.

For example Fire road req and Traffic road req.....and as already discussed setbacks from Streams should just be 50'

Summary

1. Is there a way Salt Lake City water can do a preliminary review of properties in the winter that by virtue of topography and/or location obviously have no watershed issues?
2. Is it possible to use the State Forestry Division to help people to an on-site analysis of existing trees to determine whether replacement trees are warranted or not?
3. What can be done for parking areas near a stream? Can they be expanded? Do the rules for expansions of existing non-conforming structures apply to parking lots? Is there a study that shows whether there is a significant difference between the impact of a road and the impact of a parking lot on a stream?
4. A FCOZ discussion semi-annual with BCCC good idea

Next Meeting

5.21.19, SLCO building North (conference room TBD)

FCOZ/MONTHLY MEETING

Date: 4.30.19

5.21.19

Name/attend	Email		
Barbara Cameron <i>BTC</i>	barbaracameron@hotmail.com	Brighton	X
Don Despain	solid@qwestoffice.net	Brighton	
Douglas Fry <i>DF</i>	fryslco@comcast.net	Brighton	X
Gary Bowen <i>GB</i>	agarybowen@msn.com	Emigration	X
Patrick Nelson	Patrick.nelson@slcgov.com <i>SLPU</i>	SLPU <i>PN</i>	X
		SLPU	
		SLPU	
LINDA JOHNSON	gostalinda73@gmail.com	MPC	X
ED MARSHALL	edmarshall246@gmail.com	Mill Creek Canyon	0
Bill Clayton	williamclayton4house@gmail.com	GCC	X
Jim Nakamura <i>✓</i>	jnakamura@slco.org	staff	X
Lupita McClenning <i>LM</i>	LMcClenning@slco.org	staff (Director)	0
Curtis Woodward <i>CW</i>	cwoodward@slco.org	staff	X
Teresa Gray	tgray@slco.org	SLCHD	X
Greg Baptist	GBaptist@slco.org	PDS	X

1875

1876

1877 1878 1879 1880 1881 1882 1883 1884 1885 1886 1887 1888 1889 1890 1891 1892 1893 1894 1895 1896 1897 1898 1899 1900

FCOZ Exploratory Meeting
SL County Complex
North Building, Room N3-600

Agenda

Date: May 21, 2019
Time: 10:00 a.m.

- **Self-Introduction of Attendees**
- **Approval of April 30th Meeting Minutes**
- **Introduction of Invited Guest: Teresa Gray, Bureau Manager, Bureau Water Quality and Hazardous Waste, Salt Lake County Department of Health**
- **Discussion by Teresa Gray of Previous Meetings Minute Items and Other Issues Relating to her Bureau's Challenges during the FCOZ Application Approval Process**
- **Discussion and Questions from the Community Representatives and SL County Planning Attendees about the Discussion of Previous Minute Items and Other Issues Addressed by the Teresa Gray**
- **Prepare a Summary of the Items of Agreement and the Items that Need Further Discussion**
- **Adjournment**



Tips for Owning Property in the Canyon

1. Be very sure your property/home has a Title to a Water Share. Water shares are separate from the Property Title. No building or remodeling is allowed on property without a valid Water Share.
2. No dogs are allowed in the canyons due to watershed regulations. Check with the Salt Lake City Watershed Department if you own a dog.
3. Property owners must pay for snowplowing, sewer, water, and trash collection. These costs are not covered by Salt Lake County or any canyon town.
4. Create a Defensible Space safety zone around your home. A minimum of 30 ft. shaded fuel break is needed, but up to 100 ft. is advised. FCOZ regulations will not require the planting of 2 trees for every one removed in the 30 ft. Defensible Space zone.
5. Limb trees up to about 6 ft. or higher to prevent ladder fuels from conducting fire to the tree canopy.
6. The US Forest Service allows homeowners to create Defensible Space up to 150 ft from their home. A permit is required, however.
7. Remove rocks along the roadside for emergency vehicle access and evacuation needs.
8. Stack firewood away from structures, fences, or anything else that may be combustible.
9. Canyon water companies do not permit the use of water for landscape purposes; only culinary water is permitted. The use of fertilizer and pesticides is prohibited by Salt Lake City Watershed regulations.
10. Be sure your home address is displayed with a reflective, metal sign.

(T6)

Common development issues in the canyons

No access to legal water

No sufficient water (system not operational year round, only 50 gallons per day rights)

Unable to sight septic system and sewer is unavailable

Cannot get setbacks from property lines, easements, slope, stream, drinking water well, drinking water source protection zones, or wetlands.

Illegal modification to structure or septic tanks

Problem

Easements

Trailers/yurts/tiny homes/campgrounds

→ Issues
up - coming

Regulations

<https://slco.org/health/regulations/>

#2 DESIGN, CONSTRUCTION, AND OPERATION OF POOLS

#3 HOUSING REGULATION

#4 PUBLIC LODGING FACILITIES REGULATION

#11 INDIVIDUAL WATER SYSTEMS

2.3.2. has a grouted annular space between the drilled hole and the well casing at least two inches thick and extending a minimum of 100 feet below the surface or into an effective geologic seal to eliminate water of questionable quality from seeping alongside the casing into the water bearing aquifer; and

4.6.1. A deep well shall be isolated from concentrated sources of pollution for a distance of at least 100 feet, except as allowed by sections 4.5.2 (i).

4.6.2. Approved Shallow Wells. Except as allowed by section 4.5.3, a shallow well shall be isolated from concentrated pollution sources as follows: (i) On all lands equal to or above the operating water level in the well the protection zone shall extend at least 1,500 feet from the well head. (ii) On all lands below the operating water level in the well protection zone shall extend at least 100 feet beyond the point of intersection of the operating water level elevation with the ground surface, or 1,500 feet, whichever is less.

4.6.3. At the discretion of the Director, a specially constructed sewer(s) may be permitted to be located no less than 300 feet from a shallow well on all lands equal to in elevation or above the operating water level in the well. The specially constructed sewer(s) may be permitted to be no less than 30 feet downhill beyond the point of intersection of the operating water level elevation with the ground surface.

4.6.4. Protection Zone for Spring Areas. (i) All land at elevations equal to or higher than and within 1,500 feet horizontal to the spring source shall be protected against concentrated sources of pollution. (ii) All land at an elevation lower than and within 100 feet horizontal to the spring source shall be protected against concentrated sources of pollution, except as allowed by section 4.5.4 (iv)

(iv) If approved by the Director, a specially constructed sewer may be permitted no less than 300 feet from a spring on all lands equal to or above the spring source elevation. On lands below the spring source elevation a specially constructed sewer(s) may be permitted to no less than 30 feet from the spring.

#12 SUBDIVISION REGULATION

4.2. Requirements For Health Department Subdivision Approval. To obtain Subdivision Approval from the Department, the person in charge of the subdivision shall:

4.2.1. Cause a planning agency referral to be submitted to the Department;

4.2.2. Submit proof of adequate drinking water. Proof of adequate drinking water may be demonstrated in one of two ways: (i) If an existing community or non-community public drinking water system, approved by the Utah State Department of Environmental Quality, Division of Drinking Water, is to furnish water for the proposed development, the person in charge of the system shall furnish to the Department a letter from the relevant water district stating that the system can adequately serve the development. The Department may prescribe the form and contents of the letter as a precondition of approval; or (ii) If an individual drinking water system is to be used for the proposed development, the person in charge of the subdivision shall submit documents to the Department demonstrating that the proposed system meets the requirements of Salt Lake Valley Health Department Regulation #11, Individual Water Systems;

4.2.3. Submit proof of adequate wastewater service. Proof of adequate wastewater service may be demonstrated in one of two ways: (i) If an existing public sewer system is to furnish sewer service for the proposed development, the person in charge of the subdivision shall furnish to the Department a letter from the relevant sewer district stating that the sewer system can adequately serve the development under existing conditions and for a reasonable future time, and that the development will not hydraulically or organically overload the waste water treatment plant; or (ii) If an individual wastewater disposal system is to be used for the proposed development, the person in charge of the subdivision shall submit to the Department documents demonstrating that the proposed system meets the requirements of Utah Administrative Code R317; and 5

4.2.4. Submit the Subdivision Plan Review fee stated in section 5.0 of this regulation SUBDIVISION REGULATION

#13 WASTEWATER DISPOSAL REGULATION

4.1. Allowed Onsite Wastewater Systems. Systems not listed below are prohibited in Salt Lake County. The allowed onsite wastewater systems include: (i) Conventional onsite wastewater system; (ii) Pressure distribution; (iii) At-grade system; (iv) Mound system; and (v) Packed bed media systems but does not include peat filter systems.

4.11. Mandatory Connection to Sewer. The wastewater drainage system of each dwelling, building or premises shall receive all wastewater (including but not limited to bathroom, kitchen, and laundry wastes) and shall have a connection to a public sewer except when such sewer is not available or practicable for use, in which case connection shall be connected to an onsite wastewater system found to be adequate and constructed in accordance with the requirements of Utah Administrative Code R317-4.

4.11.1. The owner of real property shall connect the building to the sewer system within 60 days after receiving written notice of the sewer connection availability, if any part of the sewer conveyance system is situated within 300 feet of any point of the property line. The Department may waive this section if the property owner can demonstrate substantial and unusual hardship which does not present a significant public health risk.

#14 WATERSHED REGULATION

4.2.10. To permit any cattle, horses, sheep, hogs, or other domestic animal(s) to run at large within the watershed area except by permit obtained from the United States Forest Service and the Director of Public Utilities. Under no circumstances shall a domestic animal(s) be permitted to run at large within 1,000 feet of any watercourse or source of water supply within the watershed area;

4.2.11. To camp overnight, except in areas posted as campgrounds for overnight camping. Such areas shall be open for camping only during the camping season established by the United State Forest Service or governing entity. This shall not prohibit camping in conjunction with backpacking if the campsite is maintained over 200 feet from any water source, one half mile from any road, and 200 feet from any trail;

4.2.15. To dispose of any dead animal, garbage, manure, compost, or other solid waste into any spring, marsh, watercourse, water source, reservoir, or into or upon the ground; except for game entrails buried 6 inches deep, at least 200 feet from any road, trail, or watercourse; or

4.5.1. Department Approval for Water-Using Facilities and Wastewater Disposal Systems. It shall be unlawful for any person, without first obtaining written approval from the Director, to construct, provide, use, or maintain any privy, chemical toilet, composting toilet, or similar receptacle; or a wastewater disposal system; a public pool as defined in Salt Lake Valley Health Department Regulation No. 2 or private residential swimming pool as defined in Salt Lake Valley Health Department Regulation No. 2 within a watershed area. The Director shall issue written approval only upon compliance with

all applicable Department regulations and upon the condition that facilities will not endanger the sanitary condition of the drinking water supply.

4.5.4. Building Near Water Source Prohibited. Unless otherwise approved, it shall be unlawful for any person to build any house, cottage, cabin, or other structure to be occupied by people within 50 feet of any watercourse or source of drinking water within the watershed area or within the watercourse buffer area established by the Department. Unless otherwise approved, it shall be unlawful for any person to build any kennel, stable, barn or other structure to be occupied by animals, any onsite wastewater disposal system, or any holding tank within 100 feet of any watercourse or source of drinking water within the watershed areas or within the watercourse buffer area established by the Department. In extraordinary cases, relief from the 50 foot requirement for human inhabited structures may be granted by the Director and the Director of Public Utilities or watershed superintendent over the impacted watershed, based upon a written application demonstrating that: (i) No reasonable alternative is available based on property boundaries in existence as of January 1, 2007; (ii) Groundwater and surface waters will be protected from runoff or contamination; and (iii) Specific conditions or requirements deemed necessary by the Director and the Director of Public Utilities or watershed superintendent will be followed.

#33 FLUORIDATION IN PUBLIC WATER SUPPLIES

Rules (Environmental Quality)

<https://rules.utah.gov/publications/utah-adm-code/#/Environment>

Title R309. Drinking Water.

Rule R309-515. Facility Design and Operation: Source Development.

Rule R309-545. Facility Design and Operation: Drinking Water Storage Tanks.

Rule R309-600. Source Protection: Drinking Water Source Protection For Ground-Water Sources.

Rule R309-605. Source Protection: Drinking Water Source Protection for Surface Water Sources.

Title R317. Water Quality.

Rule R317-4. Onsite Wastewater Systems.

4. Ground Water Requirements...shall be at least 1 foot below the bottom of absorption systems and at least 4 feet below finished grade

E. Information Required.

b. Sloping Ground.

Absorption systems placed in 10% or greater sloping ground shall be designed so that there is a minimum of 10 feet of undisturbed earth measured horizontally from the bottom of the distribution line to the ground surface. This requirement does not apply to drip irrigation.

(4) Conformance with the minimum setback distances in Section R317-4-13 Table 2, except for the following that require a minimum of 50 feet of separation:

- (a) watercourses, lakes, ponds, reservoirs;
- (b) non-culinary springs or wells;
- (c) foundation drains, curtain drains; or
- (d) non-public culinary grouted wells, constructed as required by Title R309.

TABLE 2

Minimum Separation Distances in Feet (a)

Item Requiring Setback	Minimum Separation Distances in Feet (a)		
	From Building Sewers and Effluent Sewers	From Septic, Pump, and Other Tanks	From Absorption Area and Replacement Area

Absorption and Replacement Areas	5	(b)
----------------------------------	---	-----

Public Culinary	(c)	100 (c)	100 (c)
Water Sources			

Individual or	25	50	100 (e)
Non-public			
Culinary Water			
Sources (d)			

Culinary Water	(f)	10 (f)	10 (f)
Supply Line			

Non-culinary Well	10	25	100
or Spring			

Lake, Pond,	10	25	100
Reservoir (a)			

Watercourse (live or		25	100 (g)
ephemeral stream,			
river, subsurface			

drain, canal, storm water
drainage systems,
etc.)

Building Foundation

Without foundation		5	5 (h)
drain			
With foundation		10	100 (i)
drain			

Curtain drains	10	10	100 (i)
----------------	----	----	---------

Dry washes, gulches, and gullies		25	50
-------------------------------------	--	----	----

Swimming pool, below ground	3	10	25
--------------------------------	---	----	----

Dry wells, catch basins		5	25
----------------------------	--	---	----

Down slopes that	10	50 (j)
exceed 35%. This		
includes all		
natural slopes or		
escarpments and any		
manmade cuts,		
retaining walls,		
or embankments.		

Property line	5	5	5
---------------	---	---	---

NOTES

- (a) All distances are from edge to edge. Where surface waters are involved, the distance shall be measured from the high-water line.
- (b) See Subsection R317-4-6.14 for setback requirements.
- (c) All distances shall be consistent with Rules R309-600 and R309-605.
- (d) Compliance with separation requirements does not guarantee acceptable water quality in every instance. Where geological or other conditions warrant, greater distances may be required by the regulatory authority.
- (e) For ungrouted wells and springs the distance shall be 200 feet. A private or individual well is considered to be grouted if it meets the construction standards required in Section R655-4-11, which requires a minimum 30-foot deep grout surface seal. Private or individual wells not constructed to this minimum standard are considered to be ungrouted. Although this distance shall be generally adhered to as the minimum required separation distance, exceptions may be approved by the regulatory authority, taking into account geology, hydrology, topography, existing land use agreements, consideration of the drinking water source protection requirements, protection of public health and potential for pollution of water source. Any person proposing to locate an absorption system closer than 200 feet to an individual or nonpublic ungrouted well or spring must submit a report to the regulatory authority that considers the above items. In no case shall the regulatory authority grant approval for an onsite wastewater system to be closer than 100 feet from an ungrouted well or a spring.
- (f) If the water supply line is for a public water supply, the separation distance shall comply with the requirements of Rule R309-550. No culinary water service line shall pass through any portion of an absorption area.

(g) Lining or enclosing watercourses with an acceptable impervious material may permit a reduction in the separation requirement. In situations where the bottom of a canal or watercourse is at a higher elevation than the ground in which the absorption system is to be installed, a reduction in the distance requirement may be justified, but each case shall be decided on its own merits by the regulatory authority.

(h) Horizontal setback between a deep wall trench or seepage pit and a foundation of any building is at least 20 feet.

(i) The regulatory authority may reduce the separation distance, if it can be shown that the effluent will not enter the drain, but each case must be decided on its own merits by the regulatory authority. In no case shall the regulatory authority grant approval for an absorption area to be closer than 20 feet.

(j) This setback may be reduced if a 53-foot reference line originating at the bottom of the distribution pipe, sloped at 35% below horizontal, will not daylight or intersect the ground surface.

R317-401. Graywater Systems.

Rule R317-560. Rules for the Design, Construction, and Maintenance of Vault Privies and Earthen Pit Privies.

Rules Health

Title R392. Disease Control and Prevention, Environmental Services.

Rule R392-300. Recreation Camp Sanitation.

Rule R392-301. Recreational Vehicle Park Sanitation.

R392-302. Design, Construction and Operation of Public Pools.

R392-400. Temporary Mass Gatherings Sanitation.

R392-402. Manufactured Home Community Sanitation.

Ordinance

https://library.municode.com/ut/salt_lake_county/codes/code_of_ordinances?nodeId=TIT9HESA

Chapter 9.24 - CULINARY WATER PROTECTION

Chapter 9.25 - WATER SOURCE PROTECTION

Appendix A (Restricted (R), Prohibited Uses (X), Allowed (A))

Potential Contamination Sources	Z1	Z2	Z 3-4
Geothermal heat pumps, less than 30 feet deep	X	R	R
Geothermal heat pumps, more than 30 feet deep	X	X	X
Recreational vehicles campers, snowmobiles, etc.) use, storage	X	R	R
Septic system (gray water) and black water holding tank	X	X	R
"Septic system, conventional" shall mean an underground wastewater disposal system for domestic wastewater. It consists of a building sewer, a septic tank and an absorption system.	X	X	R
Swimming pool	X	R	R

Chapter 9.26 - FLUORIDATION OF PUBLIC WATER SUPPLIES IN SALT LAKE COUNTY

Chapter 9.28 - INDIVIDUAL WATER SYSTEMS

Chapter 9.32 - WASTEWATER DISPOSAL SYSTEMS

Chapter 9.36 - PUBLIC SWIMMING POOLS

Chapter 9.40 – SEWERS

Chapter 9.44 - OPEN WELLS, CESSPOOLS AND PRIVY VAULTS

Chapter 9.50 - INSTITUTIONAL CONTROLS

File # OAM2022-000526

Ordinance Amendment

Related to the Foothill Canyons Overlay Zone

Public Body	Brighton Town Planning Commission
Meeting Dates	February 16 th , 2022
Proposal	An Ordinance amending the Brighton Land Use Code, Foothill Canyons Overlay Zone (FCOZ), Section 19.72.110, " <i>Tree and Vegetation Protection</i> ." The proposed amendments will amend the tree replacement standards and clarify that maintenance of defensible space around existing buildings for fire safety is an allowed use.
Planner	Melissa Anderson
Recommendation	Recommend approval of the ordinance to the Brighton Town Council

DESCRIPTION OF THE PROPOSAL

The Brighton Planning Commission has been engaged in the process of assessing and considering amendments to the Foothill Canyons Overlay Zone (FCOZ). The Planning Commission recognizes a priority need for fire protection in Brighton and its environs. As such, the MSD Planning staff was directed to craft an ordinance to amend the FCOZ for the health, safety, and well-being of its residents and visitors.

The purpose of the proposed code amendments to the FCOZ is to:

- A. Make clear in the code that maintenance of a 30-foot perimeter of defensible space around existing buildings is allowed without a permit. Creating and maintaining defensible space around a dwelling increases protection against wildfire.
- B. Provide tree replacement standards that are more appropriate for the Town of Brighton. The specific proposal is to replace significant trees removed from the Limits of Disturbance (LOD), to be replaced with 10 bare-root seedlings (rather than a 2:1 tree replacement). If significant trees must be removed due to construction activity, replacing trees with bare-root seedlings, and requiring them to be outside the defensible space protects against wildfire. Bare-root seedlings also have a greater chance of surviving.

PUBLIC NOTICE AND COMMENT

Public notice was provided in accordance with Utah Code 17-27a-205. Public notice was mailed to affected entities, notice was posted in three public locations, and notice was posted on the Utah Public Notice Website at least 10 days prior to the public hearing.

At the time of writing this report, no written comments have been received by the MSD Department of Planning and Development Services.

OPTION FOR THE PLANNING COMMISSION

The Planning Commission has three options with respect to the proposed ordinance amendment:

- Option 1: Recommend approval of the ordinance as proposed to Council; or
- Option 2: Recommend approval of the ordinance with amendments to Council; or
- Option 3: Recommend denial of the ordinance to Council.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission recommend approval of the ordinance as proposed to the Brighton Town Council.

ATTACHMENT

- 1. Public Notice
- 2. Proposed Ordinance



NOTICE OF PUBLIC HEARINGS TOWN OF BRIGHTON PLANNING COMMISSION

NOTICE IS HEREBY GIVEN Pursuant to Utah Code Title 10, Chapter 9a, Section 205, that the Town of Brighton Planning Commission (the "Commission") will hold a public hearing on Wednesday, February 16, 2022 at 7:00 PM. The purpose of the hearing is to receive public comment regarding the below proposed changes to land use ordinances as follows:

- **OAM2022-000526** – An Ordinance amending the Brighton Land Use Code, Foothill Canyons Overlay Zone (FCOZ), Section 19.72.110, "Tree and Vegetation Protection." The proposed amendments will amend the tree replacement standards and clarify that maintenance of defensible space around existing buildings for fire safety is an allowed use. **Presenter:** Melissa Anderson.
- **OAM2022-000527** - An Ordinance amending the Brighton Land Use Code, Sections 19.01.010, 19.02.060 and 19.02.150. The proposed amendments will remove Section 19.01.010 and adopt Section 19.02.060 to address scrivener errors. The proposed amendments will also adopt Section 19.02-150 to address Inactive Applications. **Presenter:** Melissa Anderson.

The Planning Commission will act on the proposed ordinances after taking comments from the public during the public hearing. The public and affected entities are also invited to review and inspect the proposed ordinances at <https://www.utah.gov/pmn/index.html> and <https://www.brighton.utah.gov/>

Pursuant to Utah Code Ann. § 52-4-207(5), Don Despain has determined in his capacity as Chair of the Town of Brighton Planning Commission that this meeting and/or public hearing will be held electronically without an anchor location given the ongoing Coronavirus disease 2019 (COVID-19) pandemic, which the Chair has determined to present a substantial risk to the health and safety of those who may be present at an anchor location. To participate in the meeting and to make public comments where indicated in the agenda, please use the below webinar instructions.

Join meeting in WebEx

Meeting number (access code): 961 841 420

<https://slco.webex.com/join/wgurr>

Join meeting in WebEx (download available at <https://www.webex.com/downloads.html> for Windows, Android, and Apple devices)

Join by phone

Tap to call in from a mobile device (attendees only)

+1-213-306-3065 United States Toll (Los Angeles)

+1-602-666-0783 United States Toll (Phoenix)

Access code: 961 841 420

Global call-in numbers

Join from a video conferencing system or application

Dial wgurr@slco.webex.com

You can also dial 173.243.2.68 and enter your meeting number.

Need help? Go to <http://help.webex.com>

You may also obtain copies of the ordinances and submit written comments prior to the public hearing by contacting Wendy Gurr at wgurr@msd.utah.gov or (385) 468-6707. Individuals needing special accommodations (including ancillary communicative aids and services) during this public hearing should contact Ms. Gurr three days before the public hearing.

ORDINANCE NO. 2022-0-__ -__

ORDINANCE AMENDING BRIGHTON CODE SECTION 19.72.110 TREE AND
VEGETATION PROTECTION

WHEREAS, the Town of Brighton (“Brighton”) Town Council ("Council) is authorized to enact ordinances for the health, safety, and well-being of its residents and visitors; and

WHEREAS, fire protection is a grave concern in Brighton;

WHEREAS, creating defensible space around a dwelling increases protection against wildfire;

WHEREAS, if significant trees must be removed due to construction activity, because of the already dense nature of the foliage, staff recommends replacing trees with bare-root seedlings and requiring them to be outside the defensible space;

NOW, THEREFORE, BE IT ORDAINED by the Brighton Town Council as follows:

SECTION 1. AMENDED. Section 19.72.110 is amended as redlined in Attachment A.

SECTION 2. Effective Date. This Ordinance shall go into effect upon publication.

PASSED AND APPROVED this ____ Day of _____, 2022.

TOWN OF BRIGHTON

By: _____
Dan Knopp, Mayor

ATTEST:

Kara John, Town Clerk

19.72.110 - Tree and vegetation protection.

- A. Purpose. Protection of existing tree and vegetation cover is intended to:
 - 1. Preserve the visual and aesthetic qualities of the Brighton's foothills and canyons.
 - 2. Encourage site design techniques that preserve the natural environment and enhance the developed environment.
 - 3. Control erosion, slippage, and sediment run-off into streams and waterways.
 - 4. Increase slope stability.
 - 5. Protect wildlife habitat and migration corridors.
 - 6. Conserve energy, in proximity to structures, by reducing building heating and cooling costs.
- B. Applicability. These provisions apply to all development in the foothills and canyons overlay zone, with the following exceptions:
 - 1. The removal of dead or naturally fallen trees or vegetation to protect public health, safety, and welfare.
 - 2. The selective and limited removal of trees or vegetation necessary to obtain clear visibility at driveways or intersections, to perform authorized field survey work, or to protect structures from fire consistent with the Utah Wildland-Urban Interface Code.
 - 3. The removal of trees or vegetation on land zoned or lawfully used for agricultural and forestry activities, including tree farms, or pursuant to approved forest management programs. In the event a site is substantially cleared of trees pursuant to such legitimate activities, no development or site plan applications for other types of development may be accepted by the town within thirty-six months from the date of the clearing.
 - 4. The director has discretion to administratively offer relief of the standards in this section by up to twenty-five percent if either of the following circumstances applies:
 - a. The modification is designed to yield:
 - i. More effective preservation of existing mature trees, vegetation, riparian areas, rock outcrops, or other significant natural features of the site;
 - ii. Less visual impact on the property or on the surrounding area; or
 - iii. Better protection of wildlife habitat; or,
 - b. Strict application of the standard(s) would render a site undevelopable.
- C. Tree/Vegetation Removal
 - 1. Outside the Limits of Disturbance. No trees or vegetation may be removed outside the approved limits of disturbance unless specifically exempted by this section.
 - 2. Within the Limits of Disturbance. Significant trees removed from within the limits of disturbance shall be replaced as set forth in this section.
 - 3. Wildfire Hazards and Tree/Vegetation Removal. Defensible space is defined as the required space between a structure and wildland area that, under normal conditions, creates a sufficient buffer to slow or halt the spread of wildfire to a structure. Appropriate defensible space surrounding a structure is established in Utah Wildland-Urban Interface Code incorporated in UFA Wildland-Urban Interface Site Plan/Development Review Guide. See subsection G below. A copy of the approved fire protection plan shall be

submitted to the zoning administrator for incorporation into the final approval documents.

4. Tree/Vegetation Removal for Views Prohibited. No trees or vegetation may be removed solely for the purpose of providing open views to or from structures on a site.

D. Replacement of Significant Trees.

1. When a significant tree is removed from inside the established ~~L~~imits of ~~D~~isturbance, which removal is not required by wildland-urban interface standards referenced in C.3. above, the applicant or developer shall replace such tree(s) on the lot, according to the following schedule and requirements:
 - a. A significant tree that is removed shall be replaced ~~by two trees with a minimum size of one inch caliper for deciduous trees and a minimum height of four feet for coniferous trees~~ with 10 bare-root seedlings native to the surrounding area and placed in locations on the lot that are appropriate, feasible, ~~and~~ practical for growth, outside the defensible space and that comply with fire requirements and standards, as determined by the ~~zoning administrator~~ planning director or their designee.
 - ~~b. Replacement trees shall be maintained through an establishment period of at least two years. The applicant shall post a bond in the amount of ten percent of the value of all replacement trees guaranteeing their health and survival during the first year of the establishment period.~~
2. If the remainder of the lot outside the permitted limits of disturbance is heavily wooded, defined as areas of trees with canopies that cover eighty percent of the area, and is not suitable to the planting of replacement ~~trees~~ bare-root seedlings, the requirement to plant replacement ~~trees~~ requirement bare-root seedlings may be waived by the ~~zoning administrator~~ planning director or their designee.
- ~~3. Planting replacement trees may be allowed by the zoning administrator on parcels within the subdivision or adjoining open space or forest service land upon the written consent of the property owner or representative of the property owner of the parcel(s) where the trees are being planted. In order to minimize disturbance of public land, saplings may be used in lieu of the larger trees listed in subsection 1.(a) above at the rate of ten saplings per required replacement tree, for trees planted on publicly owned land.~~

E. Revegetation and Land Reclamation Plan.

1. On a parcel of land that has been or will be altered from its natural condition by man-made activities, a revegetation and land reclamation plan prepared and certified by a qualified professional may be required for review and approval by the director. The plan shall incorporate the elements of the fire protection plan, and shall indicate a timeframe for revegetation that is acceptable to Brighton and that takes into account optimal seasonal growing conditions.
2. The revegetation and land reclamation plan shall depict the type, size, number, and location of any vegetation and trees to be planted and illustrate how the site will be recontoured with sufficient topsoil to ensure that vegetation is successful. All new trees shown on the plan shall:
 - a. Comply with the Vegetation Clearance Guidelines of the Wildland-Urban Interface Code;

- b. Be spaced no closer than twenty feet on center; and,
 - c. Be on the Utah Fire Resistant Species list in the Wildland-Urban Interface Code.
 - 3. Any slope exposed or created in new development shall be landscaped or revegetated with native or adapted trees and plant material. New vegetation shall be equivalent to or exceed the amount and erosion-control characteristics of the original vegetation cover in order to mitigate adverse environmental and visual effects.
 - 4. On man-made slopes of twenty-five percent or greater, plant materials with deep rooting characteristics shall be selected to minimize erosion and reduce surface runoff. The planting basin shall be kept level with a raised berm around the base of the plant to help retain moisture.
 - 5. Topsoil that is removed during construction may be conserved for later use on areas requiring revegetation or landscaping, such as cut-and-fill slopes.
 - 6. The land reclamation plan may not include landscaping or other elements that conflict with the approved fire protection plan.
- F. Tree/Vegetation Protection During Construction and Grading Activities.
- 1. Limits of disturbance, as established in [Section 19.72.160](#), shall be shown on the final plans for development and shall be clearly delineated on site with fencing or other separation methods approved by the director prior to the commencement of excavation, grading, or construction activities on the site.
 - 2. Within the limits of disturbance, fencing, at a minimum, shall be placed around each significant tree that will not be removed and around stands of twelve or more smaller trees. Such fencing shall be placed at the edge of the individual or outermost tree's drip zone. No construction, grading, equipment or material storage, or any other activity is allowed within the drip zone, and the fencing must remain in place until all land alteration, construction, and development activities are completed.
 - 3. If it is necessary to fill over the root zone, compacted soils shall be avoided by sandwiching fabric, rocks, and more fabric under the area to be filled.
 - 4. If fill creates a tree well or depression around a tree or shrubs, such area shall be filled in or drained so that the vegetation is not drowned by the pooling of rainfall or irrigation.
 - 5. If a significant tree that will not be removed has roots that are cut, the branches shall be trimmed by an amount equal to the percent of roots that were lost. Cutting more than thirty percent is prohibited. Roots shall be pruned cleanly prior to digging and not ripped off by heavy equipment. If the tree whose roots have been cut dies within a two-year period, the replacement provision in section D above applies.
 - 6. Utility trenches near trees shall be avoided. If a line must be near a tree, tunneling, auguring, or other mitigation measures shall be used.
- G. [Maintenance of Defensible Space](#)
- 1. [Trees, undergrowth, and other plant material within 30 feet of a dwelling or to the property line, whichever is less, may be removed without permitting or approval. This applies to new and existing construction and the maintenance of the defensible space.](#)
 - 2. [Trees located more than 30 feet, but no more than 100 feet from a dwelling may only be removed for fire safety reasons if approved by the planning department under the following conditions:](#)
 - a. [Location of trees:](#)

1. A site plan drawn to scale is submitted to the planning department that identifies the size, species and location of any tree proposed to be removed; and
2. The crown of any tree proposed to be removed is located 10 feet or less from the crown of adjacent trees and structures, overhead electrical facilities or unmodified fuel; or
- b. The tree is dead or dying.
3. Undergrowth and dead plant material may be removed from all areas on the lot at all times without a permit.

G.H. Tree Removal not Authorized by this Section.

1. If a significant tree(s) is removed contrary to any provision in this section, the person(s) responsible for the removal shall pay to Brighton the value of the tree(s).
 - a. The value of the tree(s) shall be determined by a tree appraiser who is an ISA (International Society of Arboriculture) certified arborist with at least five years of experience appraising trees using the appraisal methods outlined in the current edition of "The Guide for Plant Appraisal," authored by the Council of Tree and Landscape Appraisers (CTLA). The appraiser shall prepare an appraisal report using these methods, and adding to the value from these methods an analysis of the tree(s) contributory value, i.e., the value that the tree(s) contributed to the overall value of the property on which they were located.
 - b. The appraiser shall be chosen by the person(s) responsible for the removal and Brighton.
 - c. The person(s) responsible for the removal shall pay the cost of the appraisal.
2. If a significant tree(s) is removed contrary to this section, all development and Brighton permitting and processing of the land use application shall be put on hold for up to sixty days from the date of Brighton's discovery of removal. During that time, Brighton will inventory the significant tree(s) that were removed, and the process of valuing the tree(s) that were removed shall commence, pursuant to paragraph 1 above.
3. The person(s) responsible for removing the significant tree(s) shall pay for the cost of site restoration, including the removal of the stump(s). The stump(s) may not be removed until an appraisal is completed pursuant to paragraph 1. above.
4. The person(s) responsible for removing the significant tree(s) shall also replace the tree(s) in accordance with the provisions in this section. The bond referenced in subsection (D)(1)(b) of this section shall be a surety bond for those that unlawfully remove trees.
5. In addition to the civil penalties provided in paragraphs 1—4 of this subsection (G), the person(s) responsible for removing the significant tree(s) may also be subject to criminal prosecution as a Class B misdemeanor for each significant tree unlawfully removed.

File # OAM2022-000527

Ordinance Amendment

Related to Inactive Land Use Applications and Code Corrections

Public Body	Brighton Town Planning Commission
Meeting Dates	February 16 th , 2022
Proposal	An Ordinance amending the Brighton Land Use Code, Sections 19.01.010, 19.02.060 and 19.02.150. The proposed amendments will remove Section 19.01.010 and adopt Section 19.02.060 to address scrivener errors. The proposed amendments will also adopt Section 19.02-150 to address Inactive Applications.
Planner	Melissa Anderson
Recommendation	Recommend approval of the ordinance to the Brighton Town Council

DESCRIPTION OF THE PROPOSAL

The proposed ordinance amends the Brighton Land Use Code to address the following items:

- A. Section 19.01.010, “*Adoption of Salt Lake County Code*” is proposed to be removed. After the legislative session in 2021, the Town of Brighton was granted land use authority by the Utah State Legislature and adopted a land use code. Section 19.01.010 should have been deleted when the local land use code was adopted.
- B. Section 19.02.060, “*Licensing Requirements*” is proposed for adoption. When the Brighton Land Use Code was adopted, 19.02.060 was inadvertently omitted and the proposed amendment corrects this omission.
- C. Section 19.02.150, “*Inactive Applications*” is proposed for adoption. Inactive applications use staff resources and create confusion regarding vesting and process. Establishing when inactive applications can be closed will resolve this situation.

PUBLIC NOTICE AND COMMENT

Public notice was provided in accordance with Utah Code 17-27a-205. Public notice was mailed to affected entities, notice was posted in three public locations, and notice was posted on the Utah Public Notice Website at least 10 days prior to the public hearing.

At the time of writing this report, no written comments have been received by the MSD Department of Planning and Development Services.

OPTION FOR THE PLANNING COMMISSION

The Planning Commission has three options with respect to the proposed ordinance amendment:

- Option 1: Recommend approval of the ordinance as proposed to Council; or
Option 2: Recommend approval of the ordinance with amendments to Council; or
Option 3: Recommend denial of the ordinance to Council.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission recommend approval of the ordinance as proposed to the Brighton Town Council.

ATTACHMENT

1. Public Notice
2. Proposed Ordinance



NOTICE OF PUBLIC HEARINGS TOWN OF BRIGHTON PLANNING COMMISSION

NOTICE IS HEREBY GIVEN Pursuant to Utah Code Title 10, Chapter 9a, Section 205, that the Town of Brighton Planning Commission (the "Commission") will hold a public hearing on Wednesday, February 16, 2022 at 7:00 PM. The purpose of the hearing is to receive public comment regarding the below proposed changes to land use ordinances as follows:

- **OAM2022-000526** – An Ordinance amending the Brighton Land Use Code, Foothill Canyons Overlay Zone (FCOZ), Section 19.72.110, "Tree and Vegetation Protection." The proposed amendments will amend the tree replacement standards and clarify that maintenance of defensible space around existing buildings for fire safety is an allowed use. **Presenter:** Melissa Anderson.
- **OAM2022-000527** - An Ordinance amending the Brighton Land Use Code, Sections 19.01.010, 19.02.060 and 19.02.150. The proposed amendments will remove Section 19.01.010 and adopt Section 19.02.060 to address scrivener errors. The proposed amendments will also adopt Section 19.02-150 to address Inactive Applications. **Presenter:** Melissa Anderson.

The Planning Commission will act on the proposed ordinances after taking comments from the public during the public hearing. The public and affected entities are also invited to review and inspect the proposed ordinances at <https://www.utah.gov/pmn/index.html> and <https://www.brighton.utah.gov/>

Pursuant to Utah Code Ann. § 52-4-207(5), Don Despain has determined in his capacity as Chair of the Town of Brighton Planning Commission that this meeting and/or public hearing will be held electronically without an anchor location given the ongoing Coronavirus disease 2019 (COVID-19) pandemic, which the Chair has determined to present a substantial risk to the health and safety of those who may be present at an anchor location. To participate in the meeting and to make public comments where indicated in the agenda, please use the below webinar instructions.

Join meeting in WebEx

Meeting number (access code): 961 841 420

<https://slco.webex.com/join/wgurr>

Join meeting in WebEx (download available at <https://www.webex.com/downloads.html> for Windows, Android, and Apple devices)

Join by phone

Tap to call in from a mobile device (attendees only)

+1-213-306-3065 United States Toll (Los Angeles)

+1-602-666-0783 United States Toll (Phoenix)

Access code: 961 841 420

Global call-in numbers

Join from a video conferencing system or application

Dial wgurr@slco.webex.com

You can also dial 173.243.2.68 and enter your meeting number.

Need help? Go to <http://help.webex.com>

You may also obtain copies of the ordinances and submit written comments prior to the public hearing by contacting Wendy Gurr at wgurr@msd.utah.gov or (385) 468-6707. Individuals needing special accommodations (including ancillary communicative aids and services) during this public hearing should contact Ms. Gurr three days before the public hearing.

ORDINANCE NO. 2022-____-

ORDINANCE REMOVING 19.01.010 ADOPTION OF SALT LAKE COUNTY CODE AND
ADOPTING 19.02.060 LICENSING REQUIREMENTS AND 19.02.150 INACTIVE
APPLICATIONS

WHEREAS, the Town of Brighton (“Brighton”) Town Council ("Council) is authorized to enact ordinances for the health, safety, and well-being of its residents and visitors; and

WHEREAS, after the legislative session in 2021, the Town of Brighton was granted land use authority by the Utah State Legislature and adopted a land use code. Section 19.01.010 should have been deleted when the local land use code was adopted;

WHEREAS, when the Brighton Land Use Code was adopted, 19.02.060 was inadvertently omitted;

WHEREAS, inactive applications use staff resources and create confusion regarding vesting and process;

WHEREAS, the Council wishes to enact an ordinance establishing when inactive applications shall be closed.

NOW, THEREFORE, BE IT ORDAINED by the Brighton Town Council as follows:

SECTION 1. AMENDED. Section 19.01.010 is deleted as written in below:

19.01.010 Adoption Of Salt Lake County Code

~~Pursuant to Utah Code Section 17-27a-901 and Utah Code Section 10-9a-304, the Town of Brighton hereby adopts Title 19 Zoning of the Salt Lake County Code as local law within the incorporated boundaries of the town, and all subsequent amendments to Title 19 of the Salt Lake County Code shall be enforceable within the town's jurisdiction.~~

SECTION 2. ADOPTED. Sections 19.02.060 LICENSING REQUIREMENTS and 19.02.150 INACTIVE APPLICATIONS is adopted as written below:

19.02.060 - Licensing requirements.

All departments, officials and public employees of the town which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this title and shall issue no permits or licenses for use, building or purpose where the same would be in conflict with the provisions of this title, and any such permit or license, if issued in conflict with the provisions of this title, shall be null and void.

19.02.150 INACTIVE APPLICATIONS:

All applications for property development and/or use permits shall be actively pursued to a final decision by the town. If no activity has occurred on an application for one hundred eighty (180) days from the submittal date, the application will be deemed as inactive and the file closed. The applicant may submit a written request to maintain the application as active, wherein upon finding that there is good cause and reasonable belief that the application will be pursued to completion, the zoning administrator may grant a one-time ninety (90) day extension. Once a file is closed, an applicant will be required to reapply for permits or development.

SECTION 2. Effective Date. This Ordinance shall go into effect upon publication.

PASSED AND APPROVED this ____ Day of _____, 2022.

TOWN OF BRIGHTON

By: _____
Dan Knopp, Mayor

ATTEST:

Kara John, Town Clerk