



EMIGRATION CANYON
METRO TOWNSHIP

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/msd-home/pds/>

Emigration Canyon Planning Commission

Public Meeting Agenda

Thursday, July 14, 2022 8:30 A.M.

Pursuant to Utah Code Ann. § 52-4-207(5), Andy Wallace has determined in his capacity as Chair of the Emigration Canyon 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.

Location

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)

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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) Approval of the June 16, 2022 Planning Commission Meeting Minutes. (Motion/Voting)
- 2) Other Business Items. (As needed)

PUBLIC HEARING(S)

OAM2022-000601 (Continued from June 16, 2022) - An Ordinance amending the Emigration Canyon Land Use Code, Foothill Canyons Overlay Zone (FCOZ), Section 19.72.130, “Stream Corridor and Wetlands Protection.” The proposed amendment will amend the Perennial Stream Corridor Setback for Buildings, accessory structures, and parking lots from 100’ to 50’ measured from the ordinary high-water mark. The proposed amendment will eliminate setback requirements for on-site wastewater disposal systems, which are regulated by Salt Lake County Health Department. **Planner:** Jim Nakamura (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.

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MEETING MINUTE SUMMARY EMIGRATION CANYON PLANNING COMMISSION MEETING Thursday, June 16, 2022 8:30 a.m.

Approximate meeting length: 1 hour 10 minutes

Number of public in attendance: 0

Summary Prepared by: Wendy Gurr

Meeting Conducted by: Commissioner Wallace

***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 |
|-------------------------|------------|--------------|--------|
| Andrew Wallace (Chair) | x | x | |
| Alex Pacanowsky | | | x |
| Jim Karkut | x | x | |
| Dale Berreth | x | x | |
| Tim Harpst (Vice Chair) | x | x | |

| Planning Staff / DA | Public Mtg | Business Mtg |
|---------------------|------------|--------------|
| Wendy Gurr | x | x |
| Jim Nakamura | x | x |
| Matt Starley | x | x |
| Lilian Taft | | |
| Adam Long | x | x |

BUSINESS MEETING

Meeting began at – 8:31 a.m.

- 1) Approval of the May 12, 2022 Planning Commission Meeting Minutes. (Motion/Voting)
Motion: To approve May 12, 2022 Planning Commission Meeting Minutes as presented.

Motion by: Commissioner Harpst

2nd by: Commissioner Karkut

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

- 2) Dark Skies Ordinance Working Update. **Planner(s):** Jim Nakamura/Matt Starley

Mr. Starley provided a PowerPoint presentation of the Dark Sky Ordinance Draft.

Commissioners and Staff had a brief discussion regarding non-conforming uses, use providing information, rather than providing assistance. Indoor lighting regulations, use intrusion rather than trespass as a violation of a vested property right. Legal should review the term “trespassing”.

Commercial properties should consider removing “Unshielded”, as that would be used for large parking lots.

Include permanent tower for municipal fire or police radio towers or phone company towers to come in and put up a tower with heavy lighting with FAA.

Commissioner Harpst said would like the time flushed out before first draft sent out. Definitions, the more the better. Approval process for applications, should be put into a position as much as possible is review and approved at an administrative level. Will there be requirements in existing lighting coming into compliance. Not have indoor lighting discussion until the ordinance is further along. Evaluate the content of drafts against dark skies internationals.

Commissioner Karkut said agrees with Mr. Harpst to the degree being precise with terms and rule out uncertainty, and who makes technical evaluations. Be precise about enforcement and using exceptions and variances. Likes the idea and the concept may allow lighting going forward not in compliance. Mulling things over and touching base with others and working on the draft before review and take the time to review moving forward and be part of this and works.

3) Other Business Items. (As needed)

No other business items to discuss.

PUBLIC HEARING(S)

OAM2022-000601 – An Ordinance amending the Emigration Canyon Land Use Code, Foothill Canyons Overlay Zone (FCOZ), Section 19.72.130, “Stream Corridor and Wetlands Protection.” The proposed amendment will amend the Perennial Stream Corridor Setback for Buildings, accessory structures, and parking lots from 100’ to 50’ measured from the ordinary high-water mark. The proposed amendment will eliminate setback requirements for on-site wastewater disposal systems, which are regulated by Salt Lake County Health Department. **Planner:** Jim Nakamura (Motion/Voting)

Greater Salt Lake Municipal Services District Planner Jim Nakamura provided an analysis of the staff report.

Commissioners and Staff had a brief discussion regarding Mayor Smolka request regarding citizens restriction and the 100’ have caused problems, perennial stream definition, Emigration stream issues different from other streams and studies done and to be done.

Commissioners are concerned with the lack of input and response from EID and the Health Department and think should be continued until the July meeting. Consideration needs to be completed, nothing wrong with more protection.

Commissioner Wallace motioned to open the public hearing.

PUBLIC PORTION OF HEARING OPENED

No one from the public present to speak.

PUBLIC PORTION OF HEARING CLOSED

Motion: To continue file #OAM2022-000601 to the July 14th Emigration Canyon Planning Commission with regards to an Ordinance amending the Emigration Canyon Land Use Code, Foothill Canyons Overlay

Zone (FCOZ), Section 19.72.130, “Stream Corridor and Wetlands Protection.” The proposed amendment will amend the Perennial Stream Corridor Setback for Buildings, accessory structures, and parking lots from 100’ to 50’ measured from the ordinary high-water mark. The proposed amendment will eliminate setback requirements for on-site wastewater disposal systems, which are regulated by Salt Lake County Health Department to allow Emigrations Canyon Improvement District and Salt Lake County Health Department an opportunity to submit comments regarding the proposed ordinance amendment.

Motion by: Commissioner Wallace

2nd by: Commissioner Karkut

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

Commissioner Wallace adjourn.

MEETING ADJOURNED

Time Adjourned – 9:41 a.m.

File # OAM2022-000601

Ordinance Amendment Related to Stream Setbacks in the Foothills and Canyons Overlay Zone

| | |
|-----------------------|---|
| Public Body | Emigration Canyon Planning Commission |
| Meeting Dates | July 14 th , 2022 |
| Proposal | An Ordinance amending the Emigration Canyon Land Use Code, Foothill Canyons Overlay Zone (FCOZ), Section 19.72.130, "Stream Corridor and Wetlands Protection." The proposed amendment will amend the Perennial Stream Corridor Setback for Buildings, accessory structures, and parking lots from 100' to 50' measured from the ordinary high-water mark. |
| Planner | Jim Nakamura |
| Recommendation | No Recommendation |

DESCRIPTION OF THE PROPOSAL

The Emigration Canyon Planning Commission has been engaged in the process of assessing and considering amendments to the Foothill Canyons Overlay Zone (FCOZ). The Planning Commission recognizes the need for consistency with partner agency standards and the standards in the FCOZ. 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 amendment to the FCOZ is to adjust the setback standard for development from a perennial stream to be consistent with the Salt Lake County Health Department and Salt Lake City Public Utilities water shed regulations. As such, the proposed amendment reduces the setbacks to a perennial stream corridor from 100 feet to 50 feet. Mention of the 100' Setback from an onsite wastewater system to a perennial stream corridor will be removed from chapter 19.72.130 as this Setback is regulated by the State of Utah and Health Department rules and regulations

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 on June 16, 2022.

At the time of writing this report, several comments have been received by the MSD Department of Planning and Development Services. The Emigration Improvement District is recommending approval of the ordinance but Salt Lake County Health, Salt Lake County Watershed Planning and the Salt Lake County Stormwater Manager all express concerns or recommend denial. These comments are included in this staff report as attachments 3, 4, 5 and 6.

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

Due to the varied reactions from the agencies submitting comments, staff has decided not to make a recommendation. The ordinance at issue is a policy decision for the Emigration Canyon Township.

ATTACHMENTS:

1. Public Notice
2. Proposed Ordinance 19.72.130
3. EID (Emigration Improvement District) email in response to setback change
4. Salt Lake County Watershed response to setback change
5. Salt Lake County Stormwater Manager response to setback change
6. Salt Lake County Health Department response to setback change



NOTICE OF PUBLIC HEARING EMIGRATION CANYON PLANNING COMMISSION

NOTICE IS HEREBY GIVEN Pursuant to Utah Code Title 10, Chapter 9a, Section 205, that the Emigration Canyon Planning Commission (the "Commission") will hold a public hearing on Thursday, June 16, 2022 at 8:30 AM. The purpose of the hearing is to receive public comment regarding the below proposed changes to land use ordinances as follows:

1. **OAM2022-000601** – An Ordinance amending the Emigration Canyon Land Use Code, Foothill Canyons Overlay Zone (FCOZ), Section 19.72.130, "Stream Corridor and Wetlands Protection." The proposed amendment will amend the Perennial Stream Corridor Setback for Buildings, accessory structures, and parking lots from 100' to 50' measured from the ordinary high-water mark. The proposed amendment will eliminate setback requirements for on-site wastewater disposal systems, which are regulated by Salt Lake County Health Department.

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.msd.utah.gov/>

Pursuant to Utah Code Ann. § 52-4-207(5), Andy Wallace has determined in his capacity as Chair of the Emigration Canyon 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.

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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 AMENDING EMIGRATION CANYON CODE, SECTION 19.72.130
STREAM CORRIDOR AND WETLANDS PROTECTION

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

WHEREAS, consistency with partner agency standards is an objective in Emigration Canyon; and

WHEREAS, the State of Utah and the Salt Lake County Health Department have rules requirements governing setbacks for onsite wastewater disposal systems; and

WHEREAS, the Foothills and Canyons Overlay Zone standards for setbacks for onsite wastewater disposal systems are unnecessary due to those State of Utah and Health Department rules and regulations; and

WHEREAS, the Foothills and Canyons Overlay Zone standards for setbacks from perennial streams should be amended from 100 feet to 50 feet to be consistent with partner agencies;

NOW, THEREFORE, BE IT ORDAINED by the Emigration Canyon Metro Township Council as follows:

SECTION 1. AMENDED. Section 19.72.130 is amended as redlined in Exhibit A.

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

PASSED AND APPROVED this ____ Day of _____, 2022.

**EMIGRATION CANYON
METRO TOWNSHIP**

By: _____
Joe Smolka, Mayor

ATTEST:

Town Clerk

19.72.130 Stream Corridor And Wetlands Protection

A. Purpose

The following requirements and standards are intended to promote, preserve, and enhance the important hydrologic, biological, ecological, aesthetic, recreational, and educational functions of stream corridors, associated riparian areas, and wetlands.

B. Applicability

Unless previously delineated by Township, boundaries for stream corridors and wetland areas are delineated according to the following standards:

1. Stream corridor and wetland area delineation shall be performed by a qualified engineer or other qualified professional with demonstrated experience and expertise to conduct the required site analysis. Delineations are subject to the approval of the Director.
2. Stream corridors shall be delineated at the ordinary high-water mark. Stream corridors do not include irrigation ditches that do not contribute to the preservation and enhancement of fisheries or wildlife.
3. Boundary delineation of wetlands are established using the current Federal Manual for Identifying and Delineating Jurisdictional Wetlands jointly published by the U.S. Environmental Protection Agency, the Fish and Wildlife Service, the Army Corps of Engineers, and the Soil Conservation Service.

C. Prohibited Activities

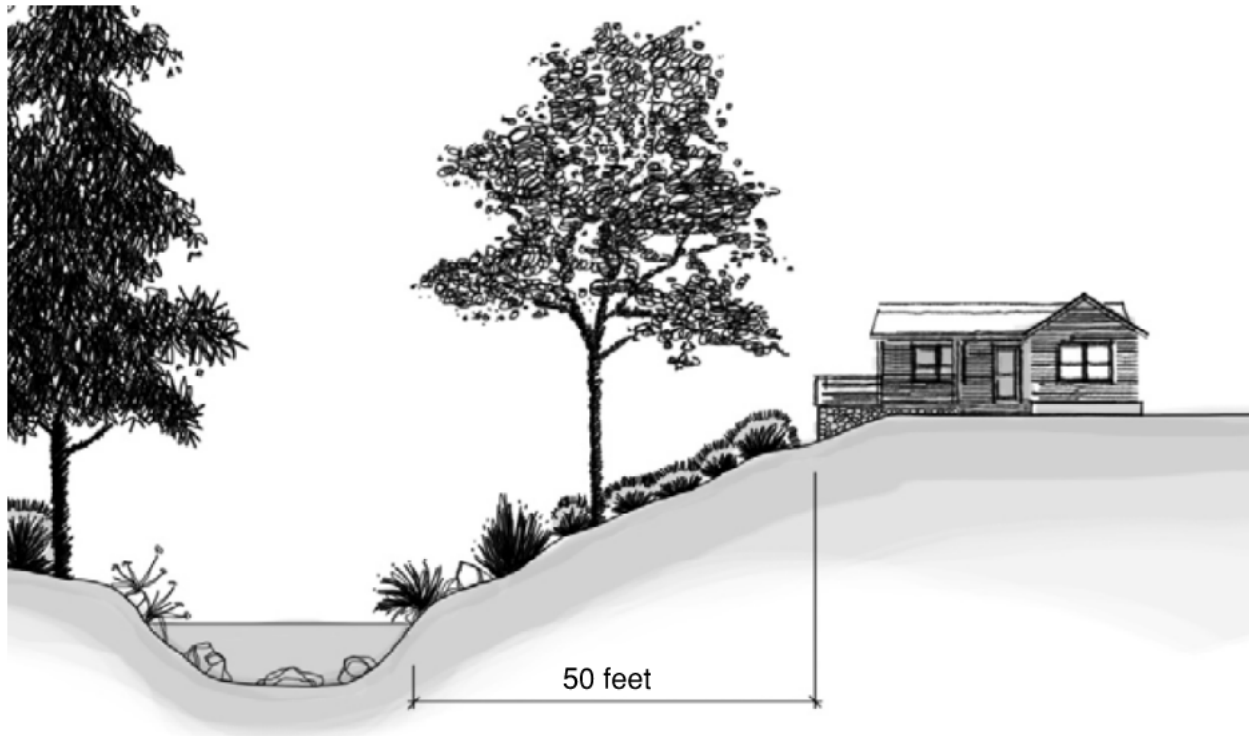
No development activity may be conducted that disturbs, removes, fills, dredges, clears, destroys, or alters, stream corridors or wetlands, including vegetation, except for restoration and maintenance activities allowed in this Chapter as approved by Salt Lake County Flood Control, the Utah State Engineer's Office (Division of Water Rights), and other applicable authorities.

D. Setbacks

1. Perennial Stream Corridors

All buildings, accessory structures and, parking lots, ~~and all on-site wastewater disposal systems~~ shall be set back at least ~~one hundred fifty~~ (100 50) feet horizontally from the ordinary high-water mark of perennial stream corridors. (See Figure 19.72.7: Setback from Stream Corridor)

FIGURE 19.72.7: SETBACK FROM STREAM CORRIDOR



2. Wetlands

All buildings, accessory structures, and parking lots shall be set back at least fifty (50) feet, ~~and all on-site wastewater disposal systems shall be set back at least one hundred (100) feet~~ horizontally from the delineated edge of a wetland.

3. Ephemeral Streams

~~Leach fields shall be set back 100 feet from the channel of an ephemeral stream.~~ All buildings, accessory structures, and parking areas or parking lots shall be set back at least 50 feet from the channel of an ephemeral stream. The Director may recommend to the land use authority modifications to this prohibition upon finding that the modification is likely to cause minimal adverse environmental impact or that such impact may be substantially mitigated. For properties located within the Salt Lake City watershed, the Director shall consult with Salt Lake City Public Utilities prior to making a recommendation.

4. Natural Open Space/Landscape Credit for Setback Areas

All setback areas are credited toward any relevant private natural open space or landscape requirements, but are not credited toward public trail access dedication requirements.

E. Preservation of Vegetation

All existing vegetation within the stream corridor or wetland setback area shall be preserved to provide adequate screening or to repair damaged riparian areas, supplemented where necessary with additional native or adapted planting and landscaping.

F. Bridges

Any bridge over a stream corridor and within the stream setback area may be approved, provided the Director affirms that the bridge is planned and constructed in such a manner as to minimize impacts on the stream corridor.

G. Modification of Setbacks

1. The Director, in behalf of the Township, has discretion to administratively reduce the ~~perennial stream corridor and~~ wetlands setbacks by a maximum of twenty-five percent (25%) where applicable upon satisfaction of the following criteria:

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.

H. ~~Perennial Stream Corridor and~~ Wetland Setback Requirements for Lots of Record

1. Existing Legally-Established Structures

A structure legally existing on the effective date of this Ordinance that is within fifty (50) feet of a ~~perennial stream corridor or~~ wetland may be renovated, altered, or expanded or reconstructed if damaged or destroyed by fire, flood, or act of nature as follows:

a. Renovations or alterations or reconstruction of a damaged or destroyed structure that will not increase the gross floor area of the original, existing structure are permitted.

b. Renovations, alterations, or expansions that will increase the gross floor area of the original, existing structure are limited to a cumulative total expansion of no more than 250 square feet of gross floor area located closer than 50 feet to a perennial stream corridor or wetland.

c. Renovations, alterations, expansions, or reconstruction of a damaged or destroyed structure that increase the gross floor area of the original, existing structure but which are no closer than fifty (50) feet to a perennial stream corridor or wetland are permitted, subject to compliance with all other applicable regulations and standards.

2. New Structures

For new developments, the Director may authorize construction to ~~no closer than fifty (50) feet from a perennial stream corridor or to~~ no closer than twenty-five (25) feet from a wetland subject to the following criteria:

a. Denial of an encroachment of more than the twenty-five percent (25%) into the ~~stream or~~ wetlands setback area allowed by 19.72.130(G) would render the site

undevelopable.

b. No alternative location for the development further away from the stream or wetland is feasible or available.

c. Creative architectural or environmental solutions have been incorporated into the development proposal in order to ensure that the purposes of stream corridor protection, as set forth in Subsection 19.72.130 are achieved.

d. No federal or state laws, or other County ordinances or regulations are violated.

3. Limitation

In allowing for the preceding improvements, the Director may not:

a. Increase the maximum limits of disturbance set forth in Subsection 19.72.160.

b. Authorize the encroachment of more than five-hundred (500) square feet of gross floor area of structural improvements (cumulative total) ~~within the land area between seventy-five (75) feet and fifty (50) feet from a perennial stream corridor or~~ within the land area between fifty (50) and twenty-five (25) feet of a wetland

Attachment 3

From: [Eric Hawkes](#)
To: [Wendy Gurr](#)
Cc: [Jim Nakamura](#)
Subject: Re: Emigration Canyon Improvement District
Date: Thursday, June 23, 2022 8:29:00 AM
Attachments: [image001.png](#)
[OAM2022-000601 Notice Emigration.pdf](#)
[Ordinance-Stream Setback 19.72.130 for 6-16-2022.pdf](#)

Hi Wendy,

Thanks for reaching out. The Emigration Improvement District is in full support of the proposed changes and have no concerns.

Thank you!
Eric Hawkes
801-243-5741

Sent from my iPhone

On Jun 22, 2022, at 8:00 AM, Wendy Gurr <WGurr@msd.utah.gov> wrote:

Good morning, Eric,

We had mailed notice of a public hearing to the Emigration Canyon Improvement District as an Affected Entity on June 3rd. We held this public hearing on June 16th with the Emigration Canyon Planning Commission. The results of that meeting were to continue the item, until we receive a response from ECID, whether there are concerns or not. Would you be so kind to review the attached notice, draft ordinance, and provide any feedback to be presented to the Planning Commission at our July meeting?

Please let myself or Jim Nakamura know if you have any questions.

Thank you for your time.

Wendy Gurr

Planning Coordinator
Planning & Development Services
Greater Salt Lake Municipal Services District
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Email: wgurr@msd.utah.gov
Phone: 385.468.6707



GREATER SALT LAKE
Municipal Services
District

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SLCo Watershed Planning and Restoration Comments:

The proposed changes in “Staff Report 601” reduce the already inadequate stream buffers in the Emigration Canyon FCOZ Ordinance. This action runs contrary to published recommendations in Watershed Plans and industry accepted scientific recommendations. As a result, it is recommended the Emigration Planning Commission reject proposed FCOZ changes.

Emigration Creek is listed as impaired for not meeting Water Quality standards for E. coli on the EPA list of impaired waters (303(d) list) and has been since 2011. Numerous studies have been conducted that indicate failing septic systems located within the canyon are the likely source of the impairment. Salt Lake County Watershed Planning and Restoration has collected data in Emigration Canyon for over a decade and identified numerous stressors to the water quality in Emigration Creek. These stressors include an unstable stream corridor, development on floodplains, lack of riparian corridor preservation, and urban development pressures. These stressors lead to increased stormwater pollution loads and increased pollution from on-site waste disposal systems as documented in the State of Utah and EPA accepted Integrated Watershed Plan (Salt Lake County, 2015). This plan also provides recommendations to protect against identified stressors including floodplain re-establishment, riparian buffer restoration and/or enhancement and channel restoration/enhancement among others.

According to the peer-reviewed publication “Scientific Recommendations on the Size of Stream Vegetated Buffers Needed to Protect Water Quality” (Montana DEQ, 2008), a publication that reviewed 77 scientific studies detailing the widths of vegetated buffers needed to protect water quality, a VEGETATED buffer width of 100’ is recommended to protect water quality from fecal Coliform pollution (which includes E. coli). The existing FCOZ ordinance provides only a building setback of 100’ which does not meet the scientific recommendation. Furthermore, the Scientific Recommendations publication discussed structural setbacks and vegetated buffers on page 3. In summary, building or structural setbacks need to be wide enough to preserve the recommended vegetated buffer but also provide space for use areas like lawns and gardens outside the vegetated buffer width to protect water quality. The existing FCOZ ordinance provides only a building setback of 100’ which does not meet the scientific recommendation.

Additionally, “Linking fecal bacteria in rivers to landscape, geochemical and hydrologic factors and sources at the basin scale” (Verhougstraete et al., 2015) looked at using bacterial tracers to identify source pollutants related to E. coli in mixed use watersheds. The research indicates that, “Pollution arising from septic system discharges is likely more important than previously realized”. A similar research project was performed in 2021 along Emigration Creek. The results from this study indicated that E. coli contamination in Emigration Creek is strongly related to human tracers.

Currently the Emigration Metro Township Council is working on the Upper Emigration Canyon Watershed Action Strategy. In a draft from March 2022 the plan states, “The purpose of this Upper Emigration Canyon Watershed Action Plan is to provide a living watershed restoration plan document for the Emigration Metro Township Council (ECMT) and other project partners to develop and implement best management practices that will reduce non-point source pollution loading, improve the water quality, and reduce impairments to aquatic life beneficial uses”. The proposed changes to the FCOZ will result in actions that undermine these objectives.

Salt Lake County Watershed does not support the proposed ordinance changes in "Staff Report...601". Emigration Creek is currently impaired for E. coli by the State of Utah and numerous data sources indicate the proposed changes will further impair Emigration Creek.

Stormwater Manager Comments:

As the Stormwater Manager responsible for documenting Utah Pollutant Discharge Elimination System Permit (UPDES or Stormwater Permit) compliance activities on behalf of the Emigration Canyon Metro Township, it is my recommendation the Planning Commission reject the changes proposed in “Staff Report 601” for the following reasons.

Stormwater pollution can contain a variety of pollutants including *E. coli*, sediment, nutrients, oils and others. This pollution originates from storm related runoff flowing from impervious surfaces like roads, driveways, roofs, etc. These pollutants, when they make their way to Emigration Creek, will add to the existing pollutants of concern summarized in the Upper Emigration Creek Total Maximum Daily Load (TMDL) study (DWQ, 2011). The first Best Management Practice listed in the Emigration Creek TMDL study to help control *E. coli* contamination in the stream is “Improve/Increase Streamside Vegetated Buffers”, (DWQ, 2011). The proposed FCOZ changes accomplish the opposite of the recommended BMP.

The state DWQ is currently producing a TMDL study for the entire County which will have additional recommendations and requirements for all UPDES permitted municipal bodies, which includes the Emigration Canyon metro township. The State DWQ regulates compliance with UPDES permitted activities and requirements and can levy fines for activities that violate said requirements. An example of these fines include the \$280,000 fine paid by Salt Lake County for UPDES violations observed in the 2012 DWQ audit.

This new TMDL study could be very impactful to the Emigration Canyon Metro Township as it states **“MS4s potential “high-priority” facility list, and those with increased risk of *E. coli* discharges shall be identified as “high priority.” Sites that have been identified as potential sources of *E. coli* must have BMPs (structural and/or nonstructural) that reduce the potential of the discharge of *E. coli*.”**

Areas with septic are known sources of *E. coli* contamination. According to the language in the TMDL, these areas are to be given special protections in the form of Best Management Practices known to reduce the *E. coli* loading to waterways, like vegetated stream buffers. The reduction of such areas is contrary to industry accepted best practices and does not satisfy the intent of the TMDL.

Additionally, Emigration Canyon Metro Township is in the process of drafting a new watershed plan that identifies stormwater runoff as one of the three issues of concern for the Emigration Creek Watershed (Emigration Creek Watershed Plan, page 3, 2022). This plan is only in draft form and has not been accepted by the state or EPA, but eventually it could be used to leverage grant funds from the State of Utah to assist with non-point source pollution related problems. Reducing stream setbacks is not protective of water quality as the UPDES Permit requires and is not in keeping with the intent of the Watershed Plan.

For these reasons it is recommended the Emigration Planning Commission reject the proposed changes to the FCOZ ordinance.

Attachment 6

From: [Ronald Lund](#)
To: [Jim Nakamura](#)
Cc: [Erik Nebeker](#); [Jessica Antezano](#); [Eric Peterson](#); [Dan Moore](#); [Tim Bywater](#); [Tom Hudachko](#); [Angela Dunn](#)
Subject: Comments
Date: Tuesday, July 5, 2022 9:18:20 AM
Attachments: [image001.png](#)

The Health Department has shared concerns with the original recommendation to change the planning ordinances and objects to any implication or change that Health Department Regulations do not apply in Emigration Canyon. Health Department Regulations are governed by the Salt Lake County Board of Health and apply to the Health Department's jurisdiction, which in this case, is the incorporated and unincorporated County. In addition, the Health Department is tasked with enforcing applicable State rules and laws related to Environmental Quality and Health.

The Department and State rules have provisions related to setbacks in the watershed and onsite wastewater systems. Both may be issues in part or all of Emigration Canyon. These setbacks do require certain elements of a building to be outside of 100' of a stream, waterway, pond, lake, and so on. Further, there may be other interested parties to this issue. Specifically, Robert Thompson, with Salt Lake County Flood Control has the responsibility to protect rivers and streams from contamination from a variety of sources, and has been involved with riparian corridor and set backs to protect from animal waste, proper vegetation and maintenance, and other aspects of protection.

The Health Department encourages that the MSD and Emigration planning continue to work with us, to protect the Waters of the State. Changes to ordinances by the planning commission will not remove the responsibility for property owners to meet Health Department rules and regulations, as well as, applicable State laws and rules.

If you have any questions, you may contact me at 385-468-3835.

Sincerely,

Ron



Ron Lund, MPH
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ENVIRONMENTAL HEALTH

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From: Jim Nakamura <JNakamura@msd.utah.gov>
Sent: Thursday, June 16, 2022 10:06 AM

From: [Wendy Gurr](#)
To: larryh@aquaaenviron.com
Cc: [Jim Nakamura](#)
Subject: Emigration Canyon Public Hearing
Date: Wednesday, June 22, 2022 1:25:00 PM
Attachments: [image001.png](#)
[OAM2022-000601 Notice Emigration.pdf](#)
[Ordinance-Stream Setback 19.72.130 for 6-16-2022.pdf](#)

Good afternoon, Larry,

We had mailed notice of a public hearing to the Spring Glen Water Company as an Affected Entity on June 3rd. We held this public hearing on June 16th with the Emigration Canyon Planning Commission, and this item was continued to July. Today I received the notice returned from the post office of the address we have on record for Spring Glen Water Company as no such number. Would you be so kind to update our office of a good mailing address for future noticing? I've also attached a copy of the notice and draft ordinance for your review.

Please let myself or Jim Nakamura know if you have any questions.

Thank you for your time.

Wendy Gurr

Planning Coordinator

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