

# Wasatch County Planning Commission July 13, 2023



## Item #1

Benloch Ranch Phase 3  
-Private Capital Diversified Fund-

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90-Day Extension

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PLANNING COMMISSION APPROVAL - DOES NOT GO ON TO COUNTY COUNCIL

# Memo



**To:** Wasatch County Planning Commission  
**From:** Planning Staff  
**Date:** June 24, 2023  
**Re:** Item # 1 – Benloch Ranch phase 3 final plat approval extension

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Commissioners,

Russell Skuse, representing Private Capital Diversified Fund, requests a 90 day extension under the provisions of WCC §16.01.16 to the Final Plat approval of Benloch Ranch Phase 3 (DEV-4466) which was granted by the Planning Commission on March 10, 2022 and set to expire June 8, 2023. If approved, the new expiration date of the approval will be September 6, 2023. (DEV-8025; Doug Smith)

Benloch Ranch phase 3 is a proposed residential subdivision consisting of 134 units on 189.62 acres. Phase 3 is part of the Benloch Ranch master plan. Phase 3 is located south of Highway 32 and east of Victory Ranch. Phase 3 is located closer to Highway 32 on the north side of the master plan. The property has been sold to a new developer and there have been a number of issues that have taken time to resolve. The applicant is requesting that the Planning Commission extend the expiration date 90 days from June 8, 2023 September 6, 2023.

Per Wasatch County Code 16.01.16:

- F. Upon written request of an applicant, the expiration date of an application or its approval, as the case may be, may be extended for ninety (90) days beyond the expiration date provided that:
1. *an application for an extension of time is submitted prior to the expiration date; and*
  2. *the Planning Commission or its designee finds, based on substantial evidence placed in the record:*
    - a. *Substantial progress is being made toward obtaining approval of the application, or the exercise of development rights authorized by an approved application, as the case may be;*
    - b. *In the case of an unapproved application, no changes to this Title have occurred or are being considered that may affect the application; and*
    - c. *In the case of an approved application, any conditions of approval are still viable based on currently applicable requirements of the Wasatch County Code.*
  3. *In no case shall the time period be extended for more than twelve (12) months from the original expiration.*

Attached is the applicant's request and the Report of Action from the March 10, 2022 Planning Commission meeting. The Planning Commission will need to state findings as part of any motion made on this item. If the Commission chooses to approve the extension request, the applicant's justification criteria provided in the attached letter may be considered the findings for approval.



May 31, 2023  
Wasatch County Planning  
Attention: Doug Smith, Director

SUBJECT: Benloch Ranch Phase 3 **Second** Extension

Dear Mr. Smith:

Horrocks respectfully requests another 90-day extension of time from the date of the prior approval for the above referenced approved Final Plans and Plat for Phase 3 in the Benloch Ranch Master Planned Community.

While we cannot speak to the master developer and delays incurred regarding progress in recording Phase 3 and more recently the ongoing unknow of an annexation into Hideout has further delayed our progress.

Our client, Cache Private Capital (Prospera) while developing Phases 4, 5, & 6 (P456) through Horrocks, has designed Skyfall as part of the Phase 3 plans including P456. With the purchase now complete of Phase 3, during our investigation of optimizing the site, we found inadequacies.

Horrocks recently met with both planning and engineering to facilitate this information, including the reviews of and optimization of the Phase 3 plans to be integrated into Phases 4, 5, & 6, thus necessitating the need for an additional extension.

Thank you in advance, we look forward to receiving further correspondence, attending all necessary meetings and if you have any questions regarding this request, please contact me at 702.580.1146 or russell.skuse@horrocks.com

Sincerely,  
Horrocks

Russell J Skuse  
Senior Associate  
Land Development Director  
Arizona & Utah Regions

Cc: Sean Clark, Prospera

Wasatch County Planning Commission  
**Report of Action**  
 10-March-2022

*Commissioner Chuck Zuercher was present as Chair.*

**ITEM #4** – AJ Fireside Park City LLC requests Large Scale Final Subdivision approval for Benloch Ranch Phase 3, a proposed residential phase consisting of 134 units on 189.62 acres (142.2 on final plat), 48 of which are townhouse units. Phase 3 is part of the Benloch Ranch master development located in the Jordanelle planning area in Sections 1 & 2, Townships 3 South & 2 South, Range 5 East in the Jordanelle Basin Overlay Zone (JBOZ). (DEV-4466; Doug Smith)

**STAFF PRESENTATION**

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations. Key points addressed in the Staff's presentation to the Planning Commission included the following:

- The retaining walls on the project and an agreement from the applicant that they would not be part of the approval discussion at this time.
- Discussion regarding open space deeding and plat recording procedures.
- Discussion regarding questions of whether final plans were substantially similar. Applicant has agreed to submit a revised preliminary plan for all future phases.

**APPLICANT AND PUBLIC COMMENT**

Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following:

- Guy Williams, civil engineer representing applicant, presented paper renderings of the walls to the Planning Commission and stated that they are eliminating the 10 foot walls and will do 4 foot walls instead. They are not trying to create flat pad sites, but instead create an interesting spaces for buyers to be able to have a yard. He indicated the code allows 4 foot walls regardless of length.
- Scott Kirkland, applicant, added that they want to have the walls move back and forth so it isn't a big blank wall.

**PLANNING COMMISSION DISCUSSION**

Key points discussed by the Planning Commission included the following:

- Commissioner Hendricks asked if the Commission will see the wall later once it is designed. Mr. Smith replied that the motion, if approving, may need to include a need for the wall to go to the Council if need be. Staff will need to see the new design of the retaining walls and decide if it needs to go to Planning Commission or not.
- Commissioner Hendricks asked if the conditions should be tweaked to reflect the discussion about retaining walls. Mr. Smith pointed out that it would affect either conditions or findings.

**MOTION**

Commissioner Hendricks made a motion to approve the applicant in light of findings outlined in the staff report with the exceptions of item #7 which should be deleted. Included in the motion are the recommended conditions with the exception of conditions six and seven to be modified as discussed.

Commissioner McMillan seconded the motion.

**VOTE**      ( 5 TO 1 )

Charles Zuercher	<u>AYE</u>	NAY	ABSTAIN	Doug Grandquis	AYE	<u>NAY</u>	ABSTAIN
Wendell Rigby	<u>AYE</u>	NAY	ABSTAIN	Kimberly Cook	<u>AYE</u>	NAY	ABSTAIN
Mark Hendricks	<u>AYE</u>	NAY	ABSTAIN	Karl McMillan	<u>AYE</u>	NAY	ABSTAIN

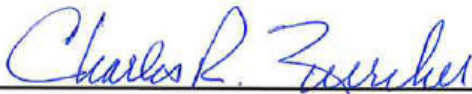
### **FINDINGS / BASIS OF PLANNING COMMISSION DETERMINATION**

The motion includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is generally consistent with the Staff analysis and determination.

1. The proposal is a conglomeration of three previous master plans and their associated densities granted by the County.
2. Due to a law suit against the Jordanelle Special Service District and a subsequent settlement agreement the property is vested with 2,046 ERU's.
3. Density is vested as long as the proposal is in compliance with the codes in place at the time of the entitlement agreement or appropriate ordinances.
4. The proposal is showing that all lots and attached and detached product are 1 ERU as represented to the County Council on May 9, 2018.
5. The DRC has forwarded the application for action by the planning commission.
6. The code requires extensive retaining walls to be approved by the County Council after a recommendation from the Planning Commission.

### **CONDITIONS**

1. Prior to the plat being signed final landscape plans need to show quantities and sizes of all landscaping as well as an irrigation plan. A bond will need to be provided at plat recording that complies with the approved plan.
2. As per the development agreement a deed needs to be recorded that assures the 56% open space can be met.
3. Compliance with DRC report and comments from all departments.
4. Prior to final plat recording the affordable housing payment will need to be made which is \$375,200.
5. Work with the trail planner to provide a plan that shows the backcountry trail connectivity to the development's trail master plan to the east, south and west and to the paved multi-use trail along Highway 32. Approval to connect to a Victory Ranch paved public trail to the northeast also needs to be provided otherwise the trail should connect to Highway 32 by the JSSD pump station as previously discussed.
6. The applicant will work with staff and present a grading plan for review by staff for compliance with code at staff discretion and if there is a disagreement to the interpretation or ability to approve the item will be brought back to Planning Commission for a recommendation to Council regarding the retaining walls.



Wasatch County Planning Commission - Chairman

The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action. Official action of the Planning Commission on this item is subject to the approved minutes.

# Wasatch County Planning Commission July 13, 2023



## Item #2

Strawberry Lakeview Phase B Lots 1 & 2  
-Alan Johnson-

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Minor Plat Amendment

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PLANNING COMMISSION APPROVAL - DOES NOT GO ON TO COUNTY COUNCIL



# **WASATCH COUNTY**

## **Planning Commission Staff Report**

### **Plat Amendment**

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**ITEM 2** Alan Johnson requests a Minor Plat Amendment to Strawberry Lakeview Phase B in order to combine lots 1 and 2 into one lot located at 5612 South Ridgecrest in Section 31, Township 3 South, Range 10 West in the Preservation (P-160) zone. (DEV-7326; Nathan Rosvall)

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#### **PROJECT SUMMARY**

**Applicant:** Alan Johnson  
**Hearing Date:** 13 July 2023  
**Property Owner(s):** Alan Johnson  
**Related Applications:** N/A

**Existing Zone:** P-160  
**Existing Land Use:** Residential  
**Existing Plat:** 95 Lots on 143.483 acres  
**Lots Affected:** Lot 1 and Lot 2

#### **BACKGROUND**

The applicant is seeking to amend the Strawberry Lakeview, LLC B Subdivision Plat for the purpose of combining lots 1 (parcel#00-0016-0403) and 2 (parcel#00-0016-0411) to create one lot.

On August 17 2017, Mr. Johnson amended his lot to adjust the common property line and the PUE's between the two to allow for construction of a future accessory structure. Lot 1 went from 1.66 acres to 1.51 acres. Lot 2 went from 1.0 acres to 1.15 acres. The lots are located at 5580 South (Lot1) and 5612 South (Lot2) Ridge Crest Drive in Heber, Utah.

Wasatch County Code requires notice to be sent to all property owners within the plat, as well as property owners within 500 feet of the requested plat amendment. State law requires a public hearing to amend any plat when the amendment is not signed by all the owners within the plat being amended. At the time of this report, no objections have been received in response to the notices sent.

Utah Code § 17-27a-609 allows the County to approve a plat amendment if the County finds that: (a) there is good cause for the vacation, alteration, or amendment; and (b) no public-street, right-of-way, or easement has been vacated or altered.

#### **STAFF ANALYSIS**

**-SETBACKS-**

A lot combination will not have an effect on setbacks. WCC 16.05.08.

– GOOD CAUSE –

Wasatch County Code 16.04.02 has defined “good cause” as:

*“Providing positive benefits and mitigating negative impacts, determined on a case-by-case basis to include such things as: providing public amenities and benefits, resolving existing issues and non-conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Wasatch County and furthering the health, safety, and welfare of Wasatch County.”*

Staff has reviewed the plat amendment and finds the proposal complies with the need to meet “good cause” as required by State Law. The previously platted building envelope was erroneously more restrictive than the code allows. The amendment would resolve the issue of non-conformity by permitting the code applicable setbacks. Proposed action will not affect the neighboring landowners negatively. The building envelope is the only thing affected by the proposed plat amendment. Proposal remains compliant with original approval.

– PUBLIC RIGHT-OF-WAY OR EASEMENTS –

No public-street, right-of-way, or easement is proposed to be vacated or altered by this amendment.

-NON-CONFORMING LOT-

The lots being considered are legal non-conforming lots. Since the lots were created, zoning regulations for the property have changed. Lots 1 and 2 will be combined together, with the end result being the removal of the property lines between the lots and maintaining the PUE of ten (10) feet along the front, rear and sides of the property.

## **DEVELOPMENT REVIEW COMMITTEE**

This proposal has been reviewed by the various members of the Development Review Committee (DRC) for compliance with the respective guidelines, policies, standards, and codes. A report of this review has been attached in the exhibits. The Committee has accepted the item for the Planning Commission to render a decision.

## **POTENTIAL MOTION**

Move to **Approve with Conditions** consistent with the findings and conditions presented in the staff report.

*Findings:*

1. Good cause for the amendment exists, as the amendment would create a more open character of the

space and will allow for more buildable area for any future accessory structures.

2. The subject properties are in the Strawberry Lakeview, LLC B Subdivision.
3. The proposal is to combine Lot 1 and Lot 2.
4. The proposal is consistent with Utah Code § 17-27a-609.
5. The proposed amendment maintains the acreages of all lots being amended.
6. Density does not increase with the proposed plat amendment.
7. No public or private roads are being vacated as part of this plat amendment.
8. This proposed amendment conforms to the Wasatch County development standards.
9. The Development Review Committee has reviewed the project and provided a favorable recommendation.

*Conditions:*

1. Provide documentation showing the pertinent utilities are aware and approve the abandonment of the PUE's along the side lot line being removed.
2. Buildable area should be continued and shown on plat.
3. One address on plat: 5612 South Ridge Crest Drive.

**ALTERNATIVE ACTIONS**

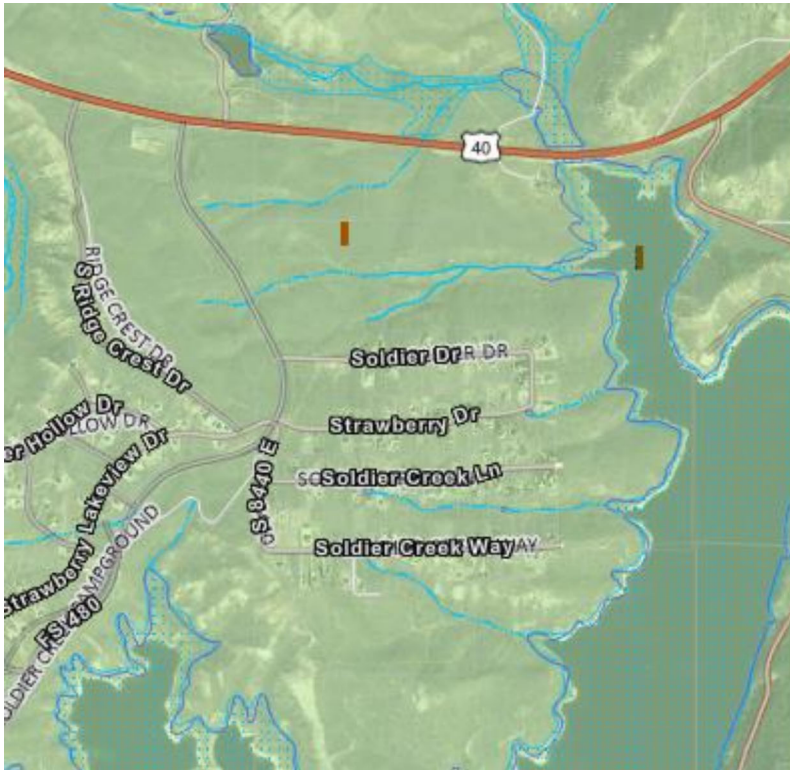
The following is a list of possible motions the Planning Commission can take. If the action taken is inconsistent with the potential findings listed in this staff report, the Planning Commission should state new findings.

1. Approve. This action may be taken if the Planning Commission finds that the Plat Amendment is compliant as proposed with Wasatch County Code and all other applicable ordinances.
2. Approve with Conditions. This action can be taken if the Planning Commission feels comfortable that remaining issues can be resolved subject to the conditions noted.
3. Continue. This action can be taken if the Planning Commission needs additional information before making a recommendation, if there are issues that have not been resolved, or if the application is not complete.
4. Deny. This action can be taken if the Planning Commission finds that the proposal does not meet applicable codes and/or ordinances.

**EXHIBITS**

- A. Vicinity Plan
- B. Existing Subdivision Plat
- C. Proposed Plat Amendment
- D. DRC Report

**EXHIBIT A – Vicinity Plan**





# EXHIBIT C – Proposed Plat Amendment

## SECOND AMENDED LOTS 1 AND 2, STRAWBERRY LAKEVIEW, LLC., PLAT "B", A PLANNED RECREATIONAL DEVELOPMENT

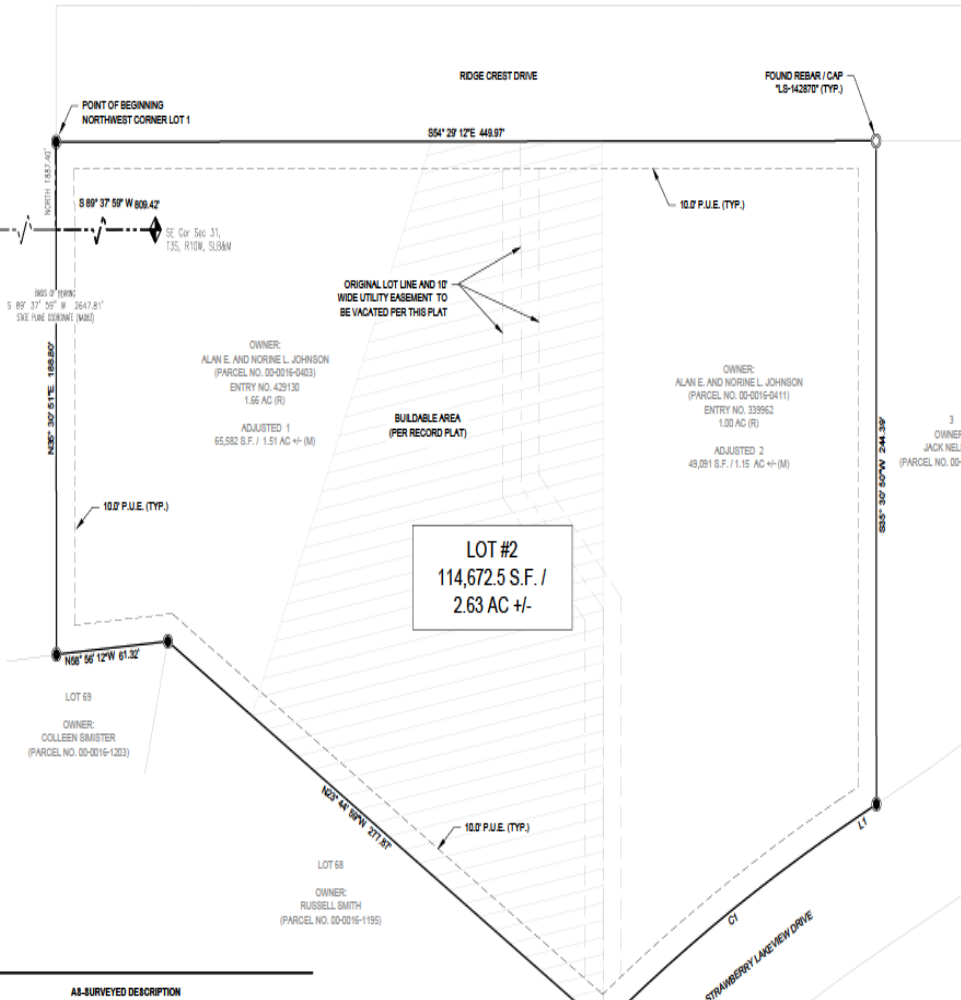
LOCATED IN THE:  
SOUTHEAST QUARTER OF SECTION 31, TOWNSHIP 3 SOUTH, RANGE 10 WEST  
UINTAH SPECIAL BASE AND MERIDIAN,  
WASATCH COUNTY, UTAH



Record Address Table	
Lot #	Address
2	5512 S. RIDGE CREST DRIVE

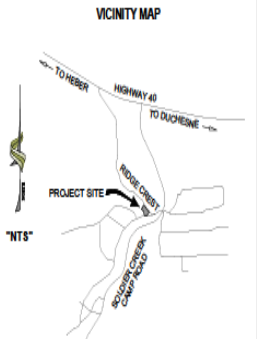
Parcel Line Table		
Line #	Length	Direction
L1	18.21	N7°56'16"W

Curve Table					
Curve #	Length	Radius	Delta	Chord Direction	Chord Length
C1	152.80	950.35	9°12'45"	N83°32'29"W	152.64



**LOT #2**  
114,672.5 S.F. /  
2.63 AC +/-

LEGEND	
PROPERTY LINE	—————
LOT LINE	- - - - -
10' UTILITY EASEMENT	-----
RECORD BUILDING AREA	▨▨▨▨▨
SET MONUMENT	●
FOUND MONUMENT	○



**AS-SURVEYED DESCRIPTION**  
A PART OF THE SOUTHEAST QUARTER OF SECTION 31, TOWNSHIP 3 SOUTH, RANGE 10 WEST, SALT LAKE BASE AND MERIDIAN:  
BEGINNING AT THE SOUTHEAST CORNER OF SECTION 31, TOWNSHIP 3 SOUTH, RANGE 10 WEST, SALT LAKE BASE AND MERIDIAN; THENCE, ALONG SAID SECTION LINE, S 89° 37' 59" W FOR A DISTANCE OF 809.42 FEET TO AND NORTH 1887.40 FEET TO THE POINT OF BEGINNING.  
THENCE, S 54° 29' 12" E FOR A DISTANCE OF 449.97 FEET TO A POINT ON A LINE.  
THENCE, S 35° 30' 50" W FOR A DISTANCE OF 244.39 FEET TO A POINT ON A LINE.  
THENCE, N 79° 56' 15" W FOR A DISTANCE OF 18.20 FEET TO THE BEGINNING OF A CURVE.  
SAID CURVE TURNING TO THE LEFT THROUGH AN ANGLE OF 89° 12' 45", HAVING A RADIUS OF 950.35 FEET, AND WHOSE LONG CHORD BEARS N 83° 32' 29" W FOR A DISTANCE OF 152.64 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENTIAL LINE.  
THENCE, N 23° 44' 59" W FOR A DISTANCE OF 277.87 FEET TO A POINT ON A LINE.  
THENCE, N 59° 56' 12" W FOR A DISTANCE OF 61.32 FEET TO A POINT ON A LINE.  
THENCE N 35° 30' 51" E A DISTANCE OF 189.80 FEET TO THE POINT OF BEGINNING

CONTAINS 2.63 ACRES +/-

EXHIBIT D – DRC Report



**Wasatch County  
DESIGN REVIEW  
COMMITTEE (DRC)  
COMMENTS**

PROJECT ID: DEV-7326  
PROJECT NAME: PLAT AM - LOT COMBINATION 1&2  
VESTING DATE: 12/23/2022  
REVIEW CYCLE #: 2

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**REVIEW CYCLE STATUS: READY FOR DECISION**

Project comments have been collected from reviewers for the above noted review cycle and compiled for your reference below. Please review the comments and provide revised plans/documents if necessary. **Resubmittals must include a plan review response letter** outlining where requested changes and corrections can be found. Failure to provide such a letter will result in the project being returned to you.

**When uploading revisions please name your documents exactly the same as it was previously uploaded. Revision numbers and dates are automatically tracked. There is no need to re-upload documents that aren't being changed. DO NOT DELETE documents and then upload new ones.**

Once you have addressed all of your items and successfully uploaded your revisions, be sure to re-submit your project for review. Resubmittal must be made through the portal in order to receive official review. Projects requiring Planning Commission approvals or recommendations will not be placed on a planning commission agenda until all DRC reviewers have recommended the item to move forward.

Entity	Decision
Planning Department	Ready for Decision
Recorder's Office	Ready for Decision

**Approved** = Reviewing entity has approved the project under consideration of their applicable codes. Any open comments are considered conditions of the entities recommendation.

**Ready for Decision** = Reviewing entity recommends the project move forward to a Planning Commission meeting (if applicable). Any open comments are considered conditions of the entities recommendation.

**Changes Required** = Reviewing entity has identified an issue(s) that needs to be resolved before recommending the project move forward.

**No Action** = Reviewing entity has not taken any action for the review cycle.

## OVERALL PROJECT COMMENTS

DRC Project Comments		
Comment ID	Entity	Comment
DRC-ENG2	ENG - Engineering	Condition of Approval: Before the mylar is signed, documentation should be provided showing that the pertinent utilities are aware of and approve of the abandonment of the PUEs along the side lot line being removed.
DRC-JSSD1	DRC - Jordanelle SSD	The sewer lateral for Adjusted Lot 1 will need to be abandoned. Prior to signing plat, the lateral will need to be abandoned as per SLSSD instruction or a deposit of \$2,500.00 will need to be paid to SLSSD, refundable upon completion of work.
FIRE-App-1	SSD - Fire SSD Approval	Fire Code as applicable for access, fire hydrant location, fire flow etc..... and as approved by Wasatch Fire

## PROJECT DOCUMENT SHEET COMMENTS BY REVIEWING ENTITY

DRC - Engineering Dept		
Comment ID	Sheet Name	Comment
DRC-ENG1	02b-Amended Plat	Condition of Approval: The buildable area per the existing plat should be continued onto this plat. Otherwise, you'll need to describe and show necessary exhibits as to why it is being eliminated.
DRC-ENG2		Condition of Approval: Before the mylar is signed, documentation should be provided showing that the pertinent utilities are aware of and approve of the abandonment of the PUEs along the side lot line being removed.

DRC - GIS Dept		
Comment ID	Sheet Name	Comment
DRC-GIS1	02b-Amended Plat	Condition of Approval: we only need 1 address on the plat. Please put 5612 S RIDGE CREST DR on the plat.

# Wasatch County Planning Commission July 13, 2023



## Item #3

Agricultural Protection Area for 20 acres  
-Margo France-

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# WASATCH COUNTY

## Planning Commission Staff Report

### Agricultural Protection Area

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#### ITEM 3

Margo France requests the creation of an Agriculture Protection Area of 20.07 acres encompassing parcel 12-8566 located at the corner of 1750 West and 1800 North in the Agriculture 20 (A-20) Zone. (AGPRO- 7954; Nathan Rosvall) *\*if forwarded, the recommendations by the Planning Commission and Agriculture Protection Area Advisory Board on this item will be considered by the County Council as a Legislative Body, at a Public Hearing on July 19, 2023.*

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#### PROJECT SUMMARY

**Property Owner:** North Field Stables, LLC

**Hearing Date:** July 13, 2023

**Related Applications:** N/A

**Acreage:** 20.07 acres

**Existing Zone:** Agricultural (A-20)

**Existing Land Use:** Agricultural

**Parcel Number:** 12-8566

#### BACKGROUND

The applicant Margo France, is requesting an Agriculture Protection Area for property located in the Agriculture (A-20) Zone at 1800 North and 1750 West in the North Fields. The property contains 20.07 acres.

The proposed Agriculture Protection Area includes 10 structures, all utilized for agricultural purposes. All buildings are located near the west end (rear) of the property and centrally located on the parcel. The property is a legal nonconforming lot of record. The agricultural use on the property includes horse boarding and husbandry with a pasture for grazing. The adjacent property owners currently use their properties primarily for residential and agricultural purposes.

The application is made pursuant to the recently adopted County code (16.29 Agricultural Protection Area) which code is allowed by the State code 17-41-201. The intent of these codes is to protect agricultural areas from encroachment of urban development and the impacts that come with it including nuisance complaints, future road expansion, changes in zoning regulations, eminent domain etc.

Wasatch County Code §16.29.04 requires the following noticing methods: sending notice to all property owners within 1,000 feet of the requested agricultural protection area, posting notices on the Utah Public Notice Website, and posting notice at five places within or near the proposed agriculture protection area.

The process for obtaining the designation of an agricultural protection area is review and recommendation by the Agricultural Advisory Board and the Planning Commission prior to the approval by the County Council.

At the time of this report, no objections have been received in response to the notices sent.

#### STAFF ANALYSIS

– Section 16.29.08 Evaluation Criteria –

Wasatch County Code 16.29.08 outlines the criteria necessary for creating an Agricultural Protection Area. The agricultural advisory board, planning commission and County Council will need to ensure that all the requirements contained in the code, as listed below, are met before recommendations and approvals can be made. Below are the 8 evaluation criteria contained in the code with staff responses in **bold**:

**16.29.08: EVALUATION CRITERIA**

1. Whether or not the land is currently being used for agriculture production;

**The County code defines agricultural production as follows: "Agriculture production" means production for commercial purposes of crops, livestock, and livestock products.**

- 1. "Agriculture production" includes the processing or retail marketing of any crops, livestock, and livestock products when more than 50% of the processed or merchandised products are produced by the farm operator.**

**According to the applicant they meet the definition for Agricultural production.**

**The applicant was, is currently and will continue in the future by utilizing the property for horse boarding and husbandry with pasture for grazing.**

2. Whether or not the land is zoned for agriculture use;

**The proposed area is located in the A-20 (Agriculture 20 acre minimum) zone. The primary purposes of the A-20 zone is to:**

- **Avoid excessive costs for public services in areas with high physical constraints;**
- **Provide a location where the cultivation of crops and the raising and keeping of livestock and related uses can be protected and encouraged;**
- **Prevent the necessity of having to pay excessive taxes on grazing lands;**
- **Preserve the beauty of the entry corridors of Wasatch County;**
- **Protect the underground water supply from pollution; and**
- **Maintain an open rural buffer between Heber and Midway City.**

**The allowed uses in the A-20 zone also include: raising of livestock, pasture and rangeland, agriculture, hay bailing and threshing services and field and seed crops etc.**

3. *What the General Plan land use recommendation is for the land;*

**The subject property is located in the Central Planning Area. As a matter of public policy, the Central Planning Area in the General Plan is expected to meet the following:**

- **It is to be maintained in its historical land use pattern of open meadows, and river and small stream riparian habitat.**
- **The use of this area for housing and other types of development is discouraged due to the physical constraints and the higher costs of providing governmental services.**
- **This area's scenic value contributes significantly to the real value of all land within the Heber Valley area.**
- **The preservation of open space in the Central Planning Area will also provide for a desired green belt separation between Heber City and Midway.**
- **The Development code should ensure that any development along state road 113 is set well back from the road and the rural character along this road is maintained.**

- Avoid excessive costs for public services in areas with high physical constraints.
- Preserve the beauty of the entry corridors of Wasatch County
- Maintain an open rural buffer between Heber and Midway City.

In addition, the General Plan explicitly supports agricultural farmers and operations by stating the Wasatch Counties mission to, “protect the rural agricultural economy of the County by establishing agricultural operations as a priority use of the land, protect existing and future agricultural operations, and encourage farmers and ranchers to stay on the land”. The General Plan also recommends adopting agricultural protections strategies.

**“12.1 OBJECTIVE: Implement “Agricultural Protection and Right to Farm” strategies requiring all non-agricultural activities to develop in a manner that is compatible with nearby agricultural operations.**

**12.1.1 POLICY: Create an Agricultural Protection Program in the Development Code, consistent with State Law, to protect agricultural lands and practices from impacts and complaints associated with nonagricultural growth and development on nearby properties.**

a. Establish an Agricultural Protection Area Advisory Board, as required by State Law, to recommend appropriate areas to the County legislative body and to assist in identifying and promoting bonafide active agricultural operations in Wasatch County. Chapter Three Wasatch County General Plan 14 Wasatch County – State of Utah.

b. Allow the creation of Agriculture Protection Areas so long as the area has a minimum of 20 acres in the agricultural operation and the entire area qualifies for a “greenbelt” designation.

c. Include provisions in the Development Code that protect the rights of farmers and ranchers from complaints regarding noise, odors, length of work hours, and general operation from non-agricultural neighbors.

d. Require protection and easements in and around developments for irrigation and other water courses, including land drainage systems.

e. Require new development to analyze irrigation patterns as part of any development review and ensure that current patterns are continued.

f. Require new developments to fence its perimeter if the development will have an effect on adjacent agricultural operations. Also buffers and screening between producing farms and ranches and non-agricultural users should be required.

g. Provide mechanisms, in the form of plat notes and other appropriate means, to educate new residents of protected agricultural land and activities.” General Plan Chapter 3, Goals and Policies.

Since the proposal is to protect the current agricultural use and land use pattern, the proposal is in alignment with the General Plan land use recommendations.

4. Compatibility of uses of neighboring properties for agricultural production;

**Aerial imagery of the site and the surrounding properties shows that the neighboring properties are involved in agricultural pursuits. All surrounding property is zoned A-20 and requires 20 acres for a building right or a lot of record.**

5. Whether or not the land is viable for agricultural production;

**The protection area is located in the agricultural (A-20) zone. The primary purpose of the A-20 zone is to provide a location where the cultivation of crops and raising of livestock is protected and encouraged. The subject property has and is currently being used for agricultural purposes. The owners have**

**demonstrated their plans to continue their agricultural use by expressing their desire to create an Agricultural Protection Area. The past, present, and future use of the land indicates the property is viable for agricultural production.**

6. The extent and nature of existing or proposed farm improvements;  
**The property owner is anticipating maintaining the existing farm operations, technology, and structures which, according to the application is horse boarding and husbandry.**
7. Anticipated trends in agricultural and technological conditions;  
**The anticipated trend in agriculture for the proposed area is that the subject property and neighboring properties continue their agricultural land uses. The Wasatch County General Plan states that Wasatch County will continue to discourage development in the central planning area due to physical constraints (such as the high water table) and maintain its historic land use pattern. The General plan would discourage any rezoning of the property to anything less than the existing density.**
8. Any other criteria to be considered under this Chapter, or related to the criteria of this Chapter.  
**§16.29.02(D) An agriculture protection area may include within its boundaries land used for a roadway, dwelling site, park, or other nonagricultural use, if that land constitutes a minority of the total acreage within the agriculture protection area.**

If the proposal is approved by the legislative body the County will need to do the following:

1. Designate the property as an Agricultural preservation area on the County zoning map.
2. Give constructive notice of the existence of the agriculture protection area to all persons who have, may acquire, or may seek to acquire an interest in land in or adjacent to the agriculture protection area, within ten days of the creation of an agriculture protection area, the County Planning Department shall file an executed document containing a legal description of the agriculture protection area with:
  1. the County Recorder; and
  2. the Planning Commission.
3. Within 10 days of the recording of the Agriculture Protection Area, the County Council Chair shall submit notification (via email at [agriculture@utah.gov](mailto:agriculture@utah.gov)) to the Utah Commissioner of Agriculture and Food that the Agriculture Protection Area has been created. The notification needs to provide the following information:
  - a. The number of landowners owning land within the Agriculture Protection Area;
  - b. The total acreage of the area;
  - c. The date of approval of the area; and
  - d. The date of recording

## **POTENTIAL MOTION**

Move to forward a *Recommendation for Approval* to the County Council consistent with the findings and conditions presented in the staff report.

Findings:

1. The request is to create an agriculture protection area to maintain the agricultural use and the rural

environment.

2. The subject property is located in the Agricultural (A-20) zone off 1800 North and 1750 West.
3. The parcel is 20.07 acres.
4. The property is a legal nonconforming parcel.
5. The current use of the property proposed for protection status is for horse boarding and husbandry with pasture for grazing.
6. The proposed area includes ten (10) existing structures on the parcel.
7. The existing use is compliant with the purpose and intent of the A-20 code and the goals of the General Plan for the area.
8. Wasatch County Code §16.29.08 outlines the evaluation criteria for granting the Agriculture Protection Area, and the proposal is consistent with the evaluation criteria of the code and the current agricultural uses on the property satisfy the evaluation criteria for the preservation status.
9. Surrounding properties are zoned A-20 and are used for similar agricultural pursuits.
10. No objections have been received in response to the notices sent or signs posted on the property.
11. If the agricultural protection area is approved, the approval will be in effect until its 20<sup>th</sup> calendar review year.

### **PROPOSED MODIFICATION(S):**

Section 16.29.06 allows for the review of the proposal with the options that include accepting the proposal, rejecting the proposal or modifying the proposal.

As a modification of the proposal and recommendation to the County Council staff recommends that the applicant be required to maintain historic irrigation channels and that the irrigation company would have the right to maintain and clean the canal/ditch to ensure downstream flows.

### **ALTERNATIVE ACTIONS**

The following is a list of possible motions the Planning Commission or agricultural advisory committee can make. If the action taken is inconsistent with the potential findings listed in this staff report, the Planning Commission or agricultural advisory committee should state new findings.

1. Approval with modification(s). This action can be taken if the planning commission or the agricultural advisory committee believes that there needs to be a modification to include an addition to the recommendation. ***\*This action would be consistent with the staff analysis.\****
2. Recommend Approval. This action may be taken if the Planning Commission or agricultural advisory committee finds that the Agriculture Protection Area is compliant as proposed with Wasatch County Code and all other applicable ordinances.
3. Continue. This action can be taken if the Planning Commission or agricultural advisory committee needs additional information before a recommendation, if there are issues that have not been resolved, or if the application is not complete.
3. Recommend Denial. This action can be taken if the Planning Commission or agricultural advisory committee finds that the proposal does not meet the intent of the ordinance.

### **EXHIBITS**

- A. Description of Agricultural Pursuits
- B. Legal Description
- C. Proposed Limits
- D. Site Plan
- E. Notarized Declaration
- F. Lot of Record Certificate
- G. General Plan map
- H. Zoning Map
- I. Existing Land Use Map of the General Plan
- J. Aerial Photo of Surrounding Conditions
- K. Central Soils Map

**EXHIBIT A – Description of Agricultural Pursuits**

**Description of Agricultural Pursuits**

Horse Boarding and Husbandry. Pasture.

EXHIBIT B – Legal Description

Parcel 2 was located by the Former Deed Point of Beginning North 00°03'52.9" West 1406.625 feet (Deed: North 1406.625 feet) from a reference South Quarter Corner of Section 25, Township 3 South, Range 4 East, Salt Lake Base and Meridian. Beginning at a point South 64°13'35" West 2938.738 feet from the East 1/4 corner of Section 25, Township 3 South, Range 4 East, Salt Lake Base and Meridian, and running thence: North 00°25'01" West 495.00 feet (Former Deed: North 495.00 feet), thence South 89°37'01" East 270.911 feet (Former Deed: South 89°12' East 264 feet), thence South 00°22'59" West 495.00 feet (Former Deed: South 00°48' West 495.00 feet), thence North 89°37'01" West 264.00 feet (Former Deed: North 89°12' West 264.00 feet) to the point of beginning of the Former Deed of Parcel 2.

Excepting: A West Overlap by Kohler Farms Deed along the West side of Parcel 1 described as follows: A West Overlap beginning at a point South 89°34'59" West 412.5 feet from the point of beginning of Parcel 1 and running thence: North 89°34'59" East 16.50 feet, along the Quarter line, thence South 00°22'59" West 1277.10 feet, thence South 88°46'59" West 16.5 feet, thence North 00°22'59" East 1277.10 feet to the West Overlap Point of Beginning.

Excepting: An East Overlap of 33 feet to the East Right of Way Line of North Field Road by Parcel 1 described as follows: An East Overlap beginning at a point North 89°34'59" East 280.518 feet from the point of beginning of parcel 1 and running thence: South 00°22'59" West 778.363 feet thence North 89°37'01" West 33.00 feet along a fence, thence North 00°22'59" East 777.902 feet along a fence, thence North 89°34'59" East 33.003 feet to the East Overlap Point of beginning.

Excepting: An East Overlap of Parcel 2 of 16.50 feet more or less along the West side of North Field Road described as follows: An East Overlap of Parcel 2 beginning at a point North 89°34'59" East 280.518 feet and South 00°22'59" West 778.096 feet and North 89°37'01" West 16.5 feet from the point of beginning of Parcel 1 and running thence: South 00°25'01" West 495 feet along a road, thence North 89°37'01" West 16.795 feet to the West Right of Way line of North Field Road, thence North 00°22'59" East 495.00 feet, thence South 89°37'01" East 16.50 feet to the East Overlap of Parcel 2 point of beginning.

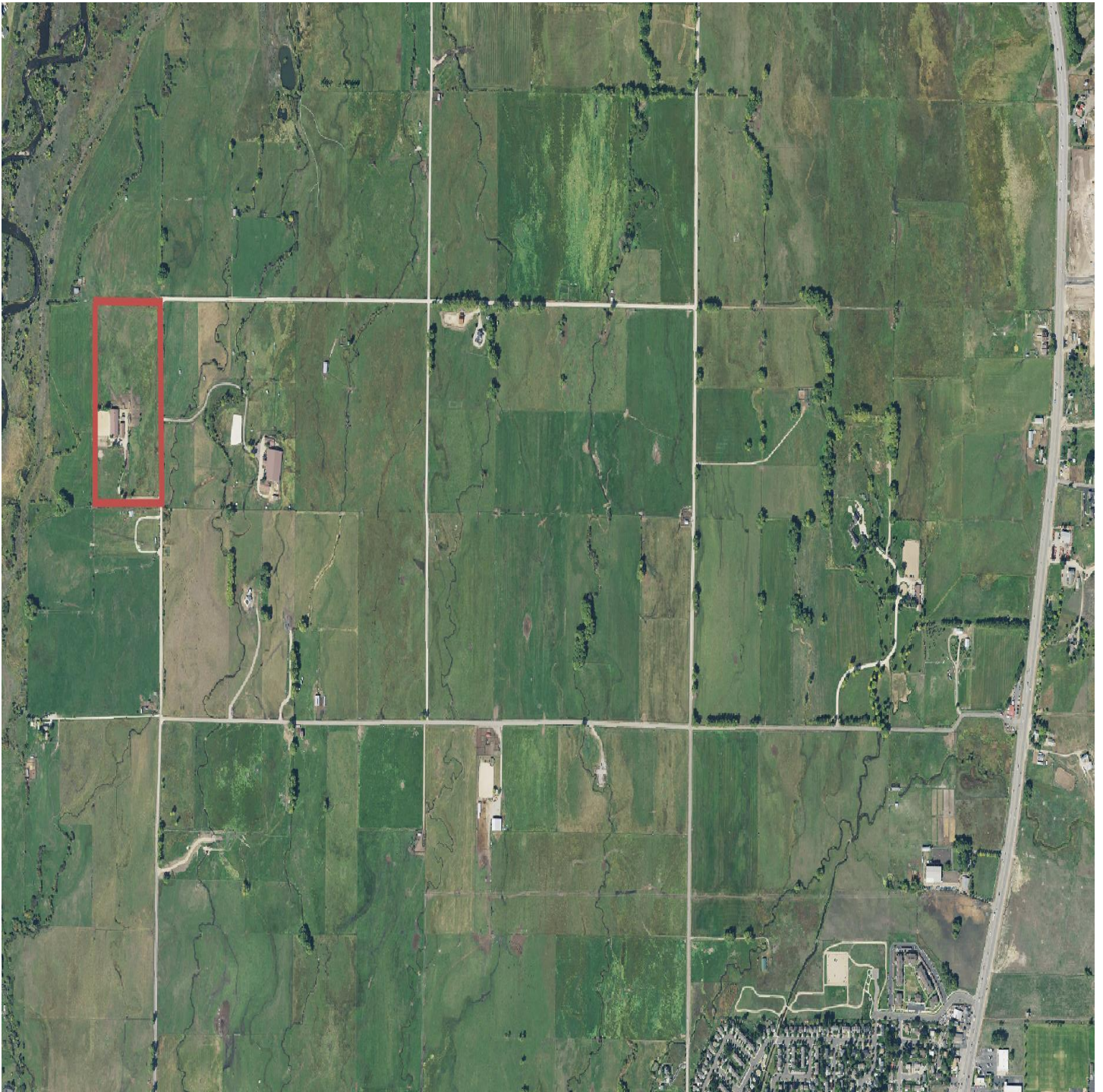
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**EXHIBIT C – Proposed Limits**

**Proposed Limits**

No Proposed Limits.

**EXHIBIT D – Site Plan**



**EXHIBIT E – Notarized Declaration**

DECLARATION GRANTING PERMISSION  
TO RECORD NOTICE OF AGRICULTURE PROTECTION AREA

I/ We Margo France, are the record owners of the Parcels listed in Exhibit A (for more than two owners provide separate notarized declarations). We have applied for property to be included in an Agriculture Protection Area, and we declare that the information contained in the application is true and correct to the best of our knowledge. We authorize Wasatch County to record a notice of agriculture protection area if all or part of the property from the Agriculture Protection Area Application is approved for inclusion in an agriculture protection area. After the initial approval, property may be removed from the agriculture protection area in accordance with the processes and requirements of the Utah Code 17-41-101 *et seq.*, as amended, and the Owner authorizes the County to record subsequent recorded notices reflecting such modifications or removals.

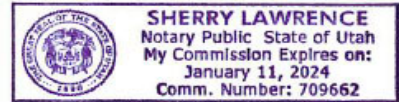
Owner(s)

[Signature]

STATE OF UTAH )  
 )  
:SS  
COUNTY OF wasatch )

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of May, 2023, by Margo France, who executed the foregoing instrument in his/her capacity as owner.

NOTARY PUBLIC [Signature]  
Residing at:  
My Commission Expires: Jan 11, 2024



STATE OF UTAH )  
 )  
:SS  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20[\_\_\_], by \_\_\_\_\_, who executed the foregoing instrument in his/her capacity as \_\_\_\_\_.

NOTARY PUBLIC  
Residing at:  
My Commission Expires: \_\_\_\_\_

EXHIBIT F – Lot of Record Certificate

August 15, 1994

**Certificate of Zoning Compliance**

**Vern Dickman**

Wasatch County, Utah

This Certificate issued pursuant to the Revised Zoning Ordinance of Wasatch County, Utah, for the building or use located at:

Address not assigned

Zone A-1

This is to certify that the building or use of land has been inspected and has been found to comply with the requirements of the Revised Zoning Ordinance of Wasatch County, Utah. This Certificate of Zoning Compliance authorizes only the following uses and no others. Any change of building or use, or any extension of a nonconforming use, must be approved by the Board of Adjustment of Wasatch County, Utah.

**Authorized use:** One single-family dwelling may be built on this parcel of 20 acres with 1,272.15 feet of frontage. This is conditional upon the dwelling being placed on upland ground and the access driveway meeting fire apparatus access standards as shown on the attached exhibit. The property is sensitive environmentally and may have other regulations that apply but are not listed here. It is expected that the road frontage will be dedicated to the County. The area has high groundwater and septic wastes may be difficult to approve. All other laws and ordinances apply. This area is involved in the planning for environmental mitigation for the CUP. It is probable there will be impacts to this property for water quality, fishing mitigation, and water delivery enhancements.

OWC 0265 1-025-034  
2-

Signed:   
Robert A. Mathis, Zoning Administrator

I (we) have examined this completed Certificate of Zoning Compliance and hereby certify that it sets forth the uses of land and buildings for which a building permit has been issued, that no other use of the land or buildings will be made, other than those specifically authorized and that I (we) will continue to occupy the land and buildings in accordance with the laws and ordinances of Wasatch County, Utah.

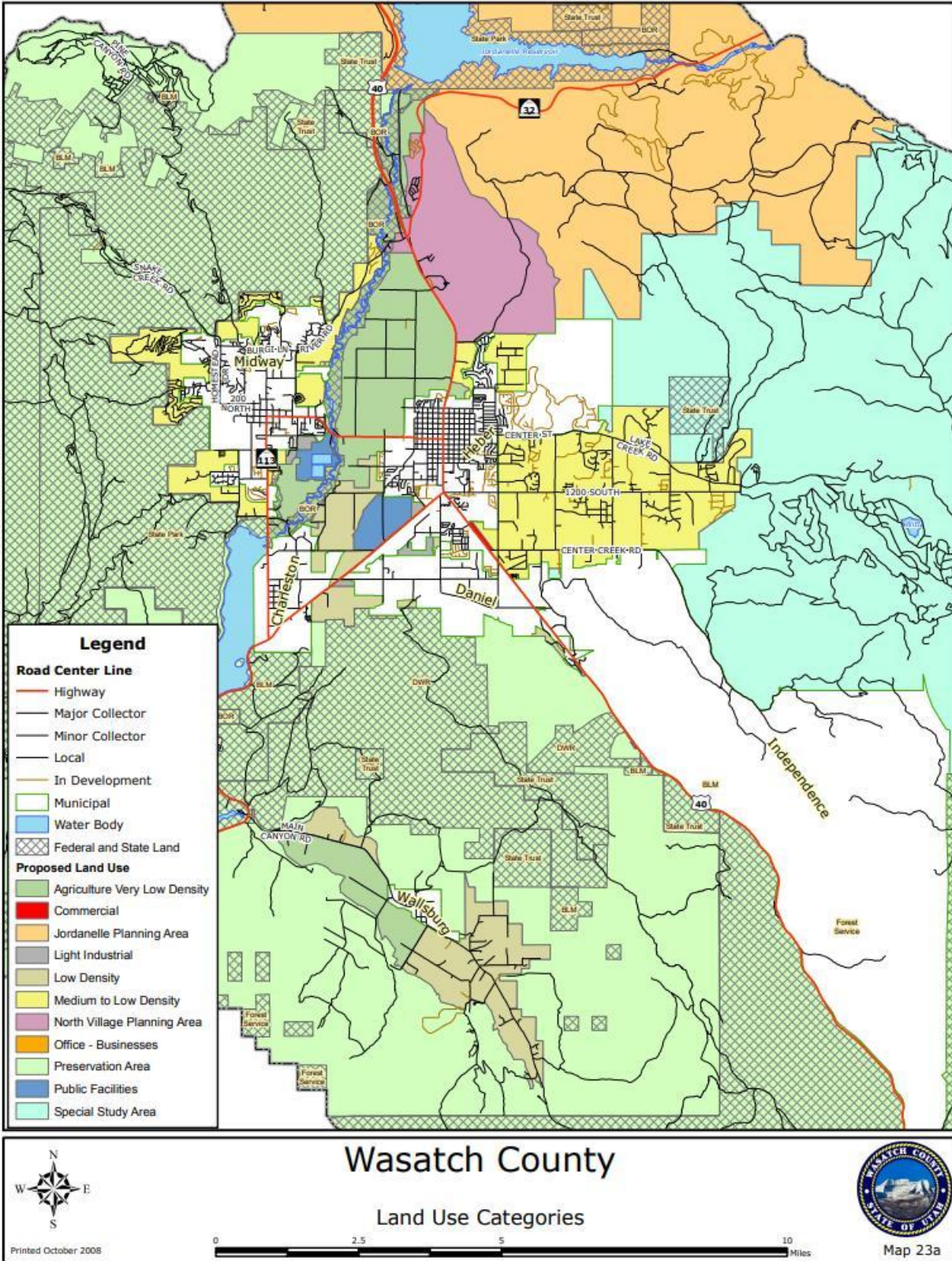
Signed \_\_\_\_\_ Signed \_\_\_\_\_  
Builder Owner

Date \_\_\_\_\_

- 1) This parcel lies near the 100-year flood FEMA Flood Zone and may have a high water table because of this proximity. A basement for this dwelling is not recommended but not prohibited. The structure should be built in a higher, built up, well-drained area, using such drainage techniques as French drains, etc., to prevent water damage to the home.
- 2) A County approved road/driveway will need to be constructed to the future dwelling from a road built to County standards. The easement for the road/driveway will need to be recorded and the easement must also be of ample width to satisfy County requirements when the parcel is developed.
- 3) This clearance is only by the Planning and Zoning Department. Construction of a single family dwelling still requires approval of a complete building permit application by the Building, Health, and Fire Departments, and approval of site plan by the Planning Office for appropriate setbacks, height regulations and any other regulations found in the Wasatch County Code.
- 4) It is possible that this lot will be connected to a public sewer system and subject to the fees of that district and /or the fees of the Heber Valley Special Service District. At such time as these services become available to you, you are required to hook-up to such services as soon as possible.

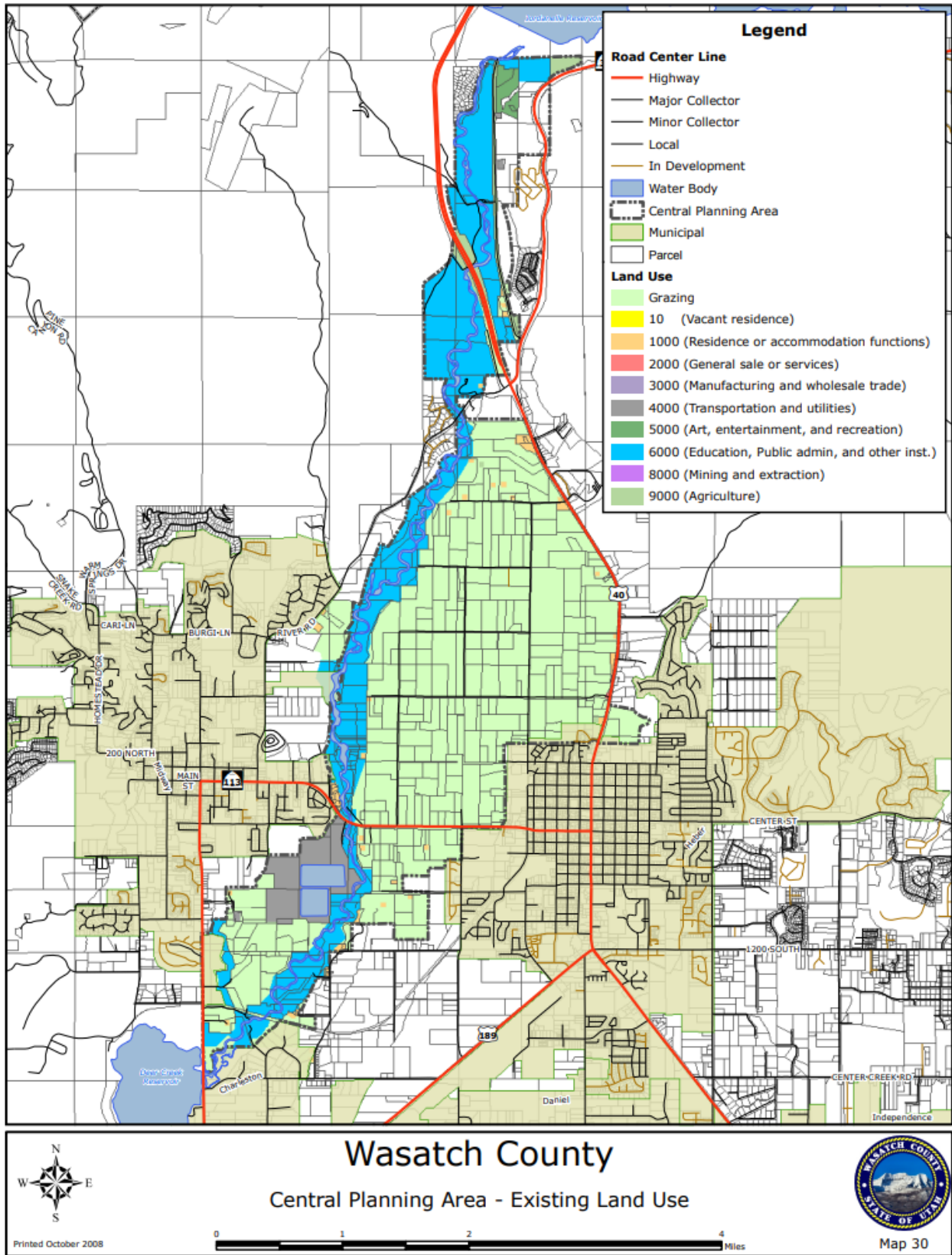
OWC-0265-1-025-034

**EXHIBIT G – General plan map**

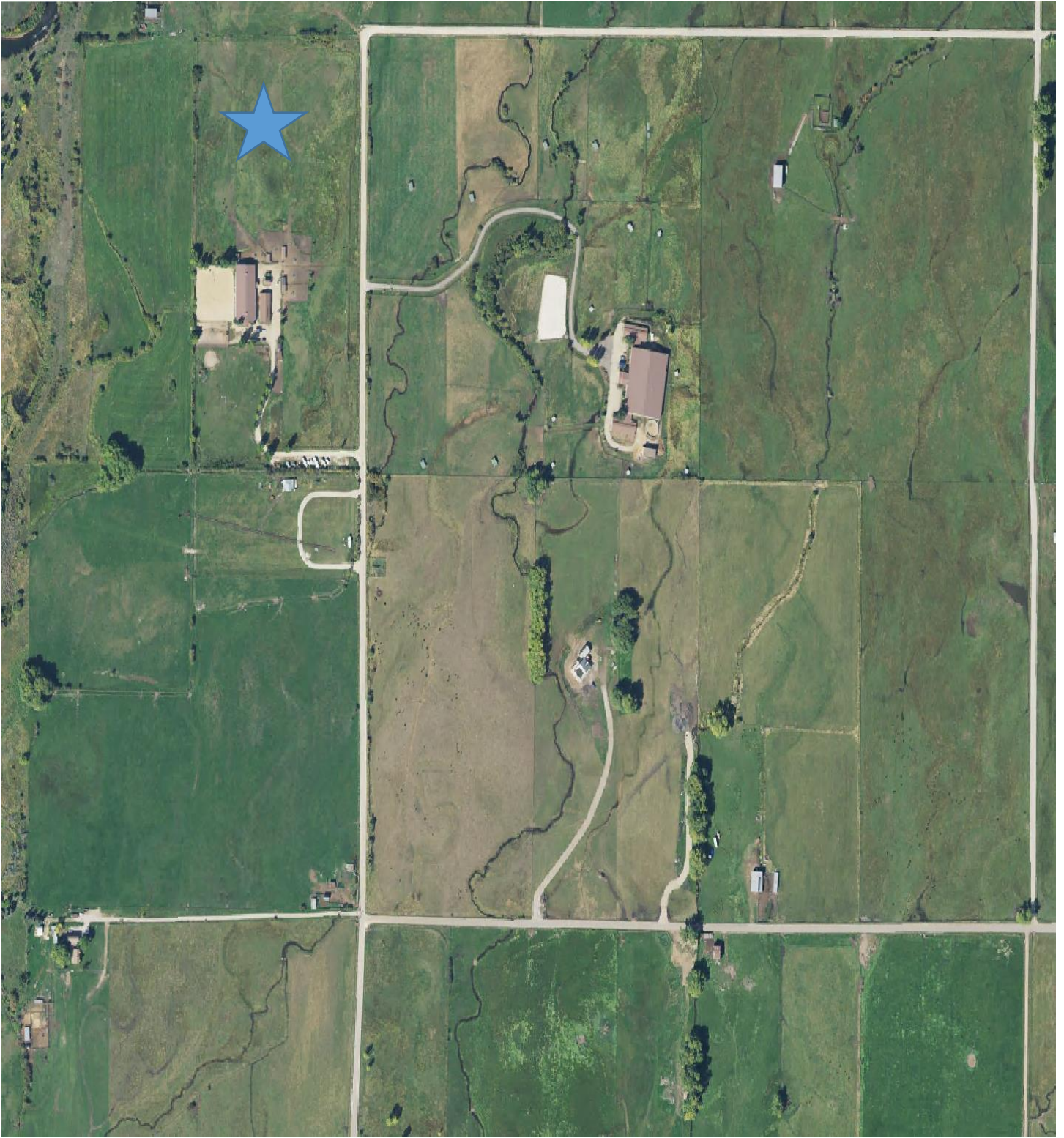




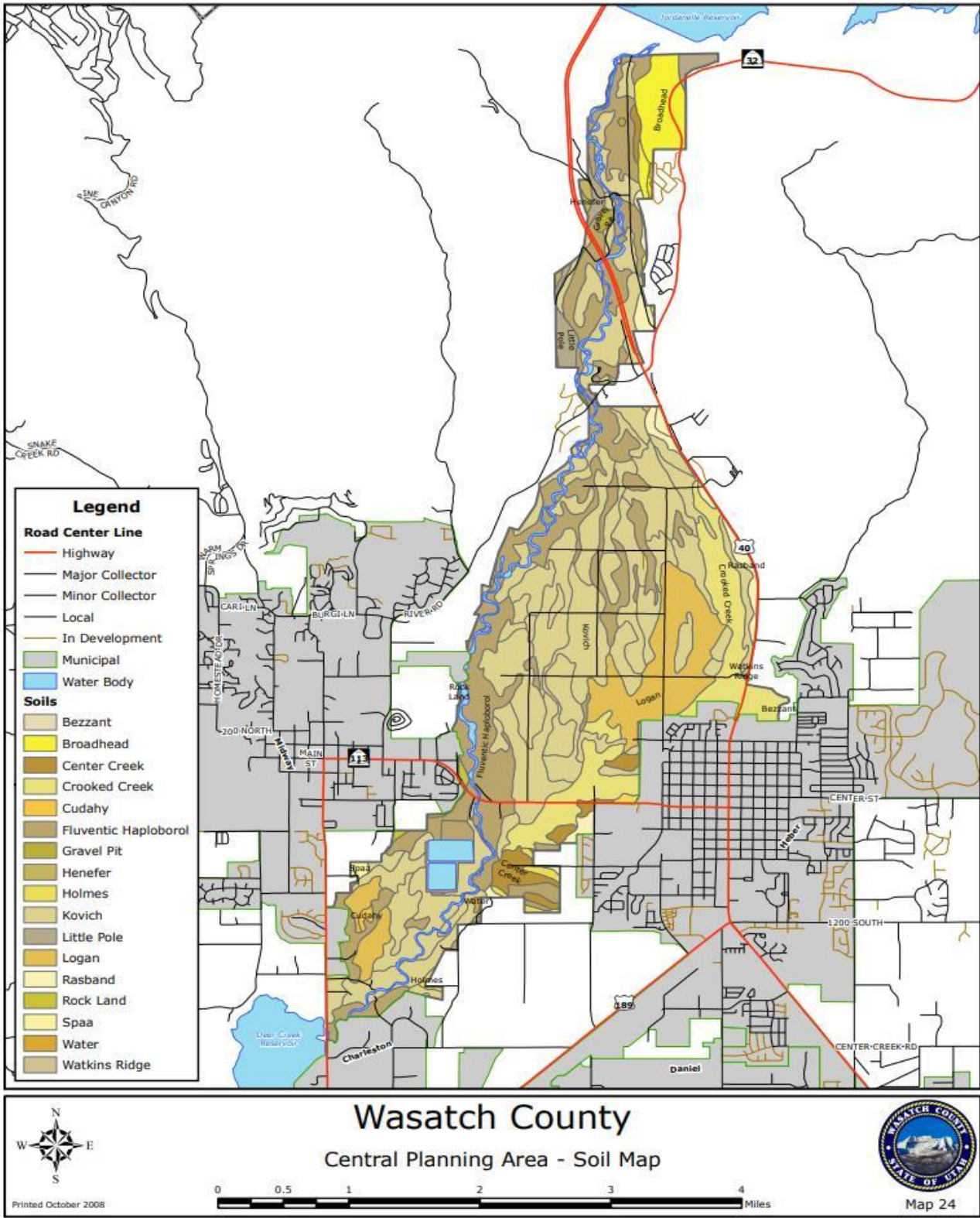
**EXHIBIT I – Existing land use map of the General Plan**



**EXHIBIT J – Aerial Photo of Surrounding Conditions**



**Exhibit K Central Soils Map**



# Wasatch County Planning Commission July 13, 2023



## Item #4

Agricultural Protection Area for 26.61 acres  
-Mary E Schwartz-

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# WASATCH COUNTY

## Planning Commission Staff Report

### Agricultural Protection Area

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#### ITEM 4

Deborah Knies representing Mary E. Schwartz request the creation of an Agricultural Protection Area of 42.29 acres in the North Fields encompassing parcels 12-7402 (23.42 acres), 07-7946 (12.03 acres), 07-7953 (1 acre), 07-8316 (5 acres), and 07-7979 (.84 acres). These parcels are all located off West Potter Lane in the Agricultural 20 (A-20) Zone. (PLN-AGPRO- 8001; Nathan Rosvall) *\*if forwarded, the recommendations by the Planning Commission and Agriculture Protection Area Advisory Board on this item will be considered by the County Council as a Legislative Body, at a Public Hearing on July 19, 2023.*

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#### PROJECT SUMMARY

**Property Owner(s):** Heritage Family Holdings Heber, LLC

**Hearing Date:** July 13<sup>th</sup> 2023

**Related Applications:** N/A

**Acreage:** 42.29 combined acres on a total of 5 parcels

**Existing Zone:** Agricultural (A-20)

**Existing Land Use:** Agricultural

**Parcel Number(s):** (See Noticing Language)

#### BACKGROUND

The applicant Deborah Knies representing Mary E. Schwartz, is requesting an Agriculture Protection Area for properties located in the Agriculture 20 (A-20) Zone of Wasatch County. There are a total of five (5) properties with 42.29 combined acres.

The proposed Agriculture Protection Area is operated as an integrated whole for agricultural purposes. The land is devoted to agriculture, including growing hay crops in the spring and summer using flood irrigation techniques, including canvas dams to divert the water in the ditches for irrigating the pastures. Grazing of livestock during the spring, summer, and fall in various pastures and during the winter months and into calving season the feeding of livestock. The owner anticipates maintaining the existing agricultural operation and structures. According to the applicant, more than 50% of the properties are used for agricultural purposes. The adjacent property owners currently use their properties primarily for residential and agricultural purposes.

The application is made pursuant to the recently adopted County code (§16.29 Agricultural Protection Area) which code is allowed by the State code §17-41-201. The intent of these codes is to protect agricultural areas from encroachment of urban development and the impacts that come with it including nuisance complaints, future road expansion, changes in zoning regulations, eminent domain etc.

Wasatch County Code §16.29.04 requires the following noticing methods: sending notice to all property owners within 1,000 feet of the requested agricultural protection area, posting notices on the Utah Public Notice Website, and posting notice at five places within or near the proposed agriculture protection area.

The process for obtaining the designation of an agricultural protection area includes review and recommendation by the Agriculture Advisory Board and the Planning Commission prior to the consideration of approval or denial by the County

Council. Wasatch County Code §16.29.06 requires that the Planning Commission and the Agriculture Advisory Board shall report their analysis to the County Council, which shall;

1. Analyze and evaluate the effects of the creation of the proposed area on the county’s planning policies and objectives.
2. Analyze and evaluate the proposal by applying the criteria contained in section 16.29.08;
3. Recommend any modifications to the land be included in the proposed agriculture protection area;
4. Analyze and evaluate any objections to the proposal; and
5. Include a recommendation to the county legislative body to either accept, accept and modify, or reject the proposal.

At the time of this report, no objections have been received in response to the notices sent.

### **STAFF ANALYSIS**

– Section 16.29.08 Evaluation Criteria –

Wasatch County Code 16.29.08 outlines the criteria necessary for creating an Agricultural Protection Area. The agricultural advisory board, planning commission and County Council will need to ensure that all the requirements contained in the code, as listed below, are met before recommendations and approvals can be made. Below are the 8 evaluation criteria contained in the code with staff responses in **bold**:

#### **16.29.08: EVALUATION CRITERIA**

1. Whether or not the land is currently being used for agriculture production;

**The County code defines agricultural production as follows: "Agriculture production" means production for commercial purposes of crops, livestock, and livestock products.**

**"Agriculture production" includes the processing or retail marketing of any crops, livestock, and livestock products when more than 50% of the processed or merchandised products are produced by the farm operator.**

**According to the applicant they meet the definition for Agricultural production.**

**The applicant was and currently is utilizing the properties for; growing hay crops in the spring and summer, grazing livestock from spring-fall and feeding livestock in the winter and into calving season.**

2. Whether or not the land is zoned for agriculture use;

**The proposed area is located in the A-20 (Agriculture 20 acre minimum) zone. The primary purposes of the A-20 zone is to:**

- **Avoid excessive costs for public services in areas with high physical constraints;**
- **Provide a location where the cultivation of crops and the raising and keeping of livestock and related uses can be protected and encouraged;**
- **Prevent the necessity of having to pay excessive taxes on grazing lands;**
- **Preserve the beauty of the entry corridors of Wasatch County;**
- **Protect the underground water supply from pollution; and**
- **Maintain an open rural buffer between Heber and Midway City.**

The allowed uses in the A-20 zone also include: raising of livestock, pasture and rangeland, agriculture, hay baling and threshing services and field and seed crops etc.

3. *What the General Plan land use recommendation is for the land;*

The subject property is located in the Central Planning Area. As a matter of public policy, the Central Planning Area in the General Plan is expected to meet the following:

- It is to be maintained in its historical land use pattern of open meadows, and river and small stream riparian habitat.
- The use of this area for housing and other types of development is discouraged due to the physical constraints and the higher costs of providing governmental services.
- This area’s scenic value contributes significantly to the real value of all land within the Heber Valley area.
- The preservation of open space in the Central Planning Area will also provide for a desired green belt separation between Heber City and Midway.
- The Development code should ensure that any development along state road 113 is set well back from the road and the rural character along this road is maintained.
- Avoid excessive costs for public services in areas with high physical constraints.
- Preserve the beauty of the entry corridors of Wasatch County
- Maintain an open rural buffer between Heber and Midway City.

In addition, the General Plan explicitly supports agricultural farmers and operations by stating the Wasatch Counties mission to, “protect the rural agricultural economy of the County by establishing agricultural operations as a priority use of the land, protect existing and future agricultural operations, and encourage farmers and ranchers to stay on the land”. The General Plan also recommends adopting agricultural protections strategies.

**“12.1 OBJECTIVE: Implement “Agricultural Protection and Right to Farm” strategies requiring all non-agricultural activities to develop in a manner that is compatible with nearby agricultural operations.**

**12.1.1 POLICY: Create an Agricultural Protection Program in the Development Code, consistent with State Law, to protect agricultural lands and practices from impacts and complaints associated with nonagricultural growth and development on nearby properties.**

a. Establish an Agricultural Protection Area Advisory Board, as required by State Law, to recommend appropriate areas to the County legislative body and to assist in identifying and promoting bonafide active agricultural operations in Wasatch County. Chapter Three Wasatch County General Plan 14 Wasatch County – State of Utah.

b. Allow the creation of Agriculture Protection Areas so long as the area has a minimum of 20 acres in the agricultural operation and the entire area qualifies for a “greenbelt” designation.

c. Include provisions in the Development Code that protect the rights of farmers and ranchers from complaints regarding noise, odors, length of work hours, and general operation from non-agricultural neighbors.

d. Require protection and easements in and around developments for irrigation and other water courses, including land drainage systems.

e. Require new development to analyze irrigation patterns as part of any development review and ensure that current patterns are continued.

f. Require new developments to fence its perimeter if the development will have an effect on adjacent agricultural operations. Also buffers and screening between producing farms and ranches and non-agricultural users should be required.

**g. Provide mechanisms, in the form of plat notes and other appropriate means, to educate new residents of protected agricultural land and activities.” General Plan Chapter 3, Goals and Policies.**

**Since the proposal is to protect the current agricultural use and land use pattern, the proposal is in alignment with the General Plan land use recommendations.**

4. Compatibility of uses of neighboring properties for agricultural production;  
**Aerial imagery of the sites and the surrounding properties shows that the neighboring properties are involved in agricultural pursuits. All surrounding property is zoned A-20 and requires 20 acres for a building right or a lot of record.**
5. Whether or not the land is viable for agricultural production;  
**The protection area is located in the agricultural (A-20) zone. The primary purpose of the A-20 zone is to provide a location where the cultivation of crops and raising of livestock is protected and encouraged. The subject property has and is currently being used for agricultural purposes. The owner has demonstrated their plans to continue their agricultural use by expressing their desire to create an Agricultural Protection Area.**
6. The extent and nature of existing or proposed farm improvements;  
**The property owner is anticipating maintaining the existing farm operations, technology, and structures which, according to the application is, hay production, grazing and feeding. Two (2) parcels have a single family dwelling and an out building on each, the remaining three (3) do not have any structures located on the parcels.**
7. Anticipated trends in agricultural and technological conditions;  
**The anticipated trend in agriculture for the proposed area is the subject property and neighboring properties continue their agricultural land uses. The Wasatch County General Plan states that Wasatch County will continue to discourage development in the central planning area due to physical constraints (such as the high water table) and maintain its historic land use pattern. The General plan would discourage any rezoning of the property to anything less than the existing density.**
8. Any other criteria to be considered under this Chapter, or related to the criteria of this Chapter.  
**§16.29.02(D) An agriculture protection area may include within its boundaries land used for a roadway, dwelling site, park, or other nonagricultural use, if that land constitutes a minority of the total acreage within the agriculture protection area.**

If the proposal is approved by the legislative body the County will need to do the following:

1. Designate the property as an Agricultural preservation area on the County zoning map.
2. Give constructive notice of the existence of the agriculture protection area to all persons who have, may acquire, or may seek to acquire an interest in land in or adjacent to the agriculture protection area, within ten days of the creation of an agriculture protection area, the County Planning Department shall file an executed document containing a legal description of the agriculture protection area with:

1. the County Recorder; and
2. the Planning Commission.
3. Within 10 days of the recording of the Agriculture Protection Area, the County Council Chair shall submit notification (via email at [agriculture@utah.gov](mailto:agriculture@utah.gov)) to the Utah Commissioner of Agriculture and Food that the Agriculture Protection Area has been created. The notification needs to provide the following information:
  - i. The number of landowners owning land within the Agriculture Protection Area;
  - ii. The total acreage of the area;
  - iii. The date of approval of the area; and
  - iv. The date of recording

### **POTENTIAL MOTION**

Move to forward a *Recommendation for Approval* to the County Council consistent with the findings and conditions presented in the staff report.

#### Findings:

1. The request is to create an agriculture protection area to maintain the agricultural use and the rural environment.
2. The subject properties are located in the Agricultural (A-20) Zone of Wasatch County (North Fields).
3. The combined acreage of the Agricultural Protection Area is 42.29 acres.
4. The current use of the property proposed for protection status is greater than 50 % of the land is devoted to agriculture, including growing hay crops utilizing flood irrigation techniques, grazing livestock and the feeding of livestock in the winter months going into calving season.
5. The proposed area includes two (2) existing single-family structures and two (2) outbuildings located on parcels 12-7402 and 07-7593. The remaining three (3) parcels have no structures; 07-7946, 07-8316, and 07-7979.
6. The five (5) parcels do not have a Lot of Record associated with the parcel.
7. Rock Creek runs through parcels 12-7402, 07-7946, and 07-7979.
8. The existing use is compliant with the purpose and intent of the A-20 code and the goals of the General Plan for the area.
9. Commonly found soils in the North Fields are; Fluventic Haploborol, this soil is common for tall grasses. Kovich, this soil occurs on broad valley floors and is a slow permeable soil. Logan, this soil is common for meadow hay and pasture.
10. Wasatch County Code §16.29.08 outlines the evaluation criteria for granting the Agriculture Protection Area, and the proposal is consistent with the evaluation criteria of the code and the current agricultural uses on the property satisfy the evaluation criteria for the preservation status.
11. Surrounding properties are zoned A-20 and are used for similar agricultural pursuits.
12. No objections have been received in response to the notices sent or signs posted on the property.
13. If the agricultural protection area is approved, the approval will be in effect until its 20<sup>th</sup> calendar review year.

### **PROPOSED MODIFICATION(S):**

Section 16.29.06 allows for the review of the proposal with the options that include accepting the proposal, rejecting the proposal or modifying the proposal.

As a modification of the proposal and recommendation to the County Council staff recommends that the applicant be required to maintain historic irrigation channels and that the irrigation company would have the right to maintain and clean the canal to ensure downstream flows.

### **ALTERNATIVE ACTIONS**

The following is a list of possible motions the Planning Commission or agricultural advisory committee can make. If the action taken is inconsistent with the potential findings listed in this staff report, the Planning Commission or agricultural advisory committee should state new findings.

1. Approval with modification(s). This action can be taken if the planning commission or the agricultural advisory committee believes that there needs to be a modification to include an addition to the recommendation. ***\*This action would be consistent with the staff analysis.\****
2. Recommend Approval. This action may be taken if the Planning Commission or agricultural advisory committee finds that the Agriculture Protection Area is compliant as proposed with Wasatch County Code and all other applicable ordinances.
3. Continue. This action can be taken if the Planning Commission or agricultural advisory committee needs additional information before a recommendation, if there are issues that have not been resolved, or if the application is not complete.
4. Recommend Denial. This action can be taken if the Planning Commission or agricultural advisory board finds that the proposal does not meet the intent of the ordinance.

### **EXHIBITS**

- A. Description of Agricultural Pursuits
- B. Legal Description
- C. Proposed Limits
- D. Site Plan
- E. Notarized Declaration
- F. General Plan map
- G. Zoning Map
- H. Existing land use map of the General Plan
- I. Aerial photo of surrounding conditions
- J. Central Planning Area Soils Map

## EXHIBIT A – Description of Agricultural Pursuits

The Agricultural Pursuits on our property include: growing hay crops in the Spring and through the Summer using flood irrigation techniques, including canvas dams, to divert water in the ditches for irrigating the pastures. Grazing livestock Spring, Summer and Fall in various pastures. Feeding livestock during Winter and into calving season.

Our properties have wildlife roaming too, including: Blue Heron, sandhill cranes, mule deer, ducks, Canadian geese and other more common wild animals.

EXHIBIT B – Legal Description

Parcel 00-0012-7402

**HERITAGE FAMILY HOLDINGS, L.L.C., A UTAH LIMITED LIABILITY COMPANY**, grantor, of Salt Lake County, State of Utah, hereby **CONVEYS** and **WARRANTS** against all claiming by, through or under it to **HERITAGE FAMILY HOLDINGS-HEBER, LLC, A UTAH LIMITED LIABILITY COMPANY**, grantee, of Salt Lake County, State of Utah, for the sum of **TEN AND NO/100 (\$10.00) DOLLARS**, and for other good and valuable consideration, the following described tract of land in **Wasatch County, State of Utah**:

**COMMENCING AT A POINT HAVING A STATE PLANE RECTANGULAR COORDINATES OF X:2020407.12 AND Y:806599.07 SAID POINT ALSO BEING SOUTH 1131.68 FEET AND WEST 866.78 FEET FROM THE NORTH QUARTER CORNER OF SECTION 19, IN TOWNSHIP 3 SOUTH, RANGE 5 EAST OF THE SALT LAKE MERIDIAN, AND RUNNING THENCE NORTH 89°07' EAST ALONG A FENCE LINE 1904.8 FEET; THENCE SOUTH 31°09' EAST ALONG THE SOUTHWESTERLY BOUNDARY OF U.S. HIGHWAY 40 307.5 FEET; THENCE SOUTH 00°17' EAST ALONG A FENCE LINE 812.0 FEET; THENCE NORTH 61°56'30" WEST ALONG A FENCE LINE 1038.5 FEET; THENCE SOUTH 7°41'30" EAST 769.5 FEET; THENCE NORTH 85°54'30" WEST 297.9 FEET; THENCE NORTH 07°41'30" WEST 233.21 FEET; THENCE WEST 297.07 FEET; THENCE NORTH 01°11' WEST 156.29 FEET, THENCE WEST 670 FEET MORE OR LESS TO A FENCE LINE; THENCE ALONG SAID FENCE LINE NORTH 01°02'30" EAST 919.43 FEET, MORE OR LESS TO THE POINT OF BEGINNING.**

**BEGINNING AT A POINT WHICH IS 12 RODS WEST AND SOUTH 0°48" WEST 1844.0 FEET AND NORTH 89°12' WEST 660 FEET AND SOUTH 0°48' WEST 651.0 FEET FROM THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN TO THE TRUE POINT OF BEGINNING AND RUNNING THENCE SOUTH 89°12' EAST 50.0 FEET; THENCE NORTH 0°48' EAST 379.37 FEET; THENCE NORTH 89°12' WEST 50.0 FEET; THENCE SOUTH 0°48' WEST 379.37 FEET TO THE POINT OF BEGINNING.**

**LESS AND EXCEPTING THE FOLLOWING DESCRIBED PROPERTY:**

**COMMENCING AT A POINT HAVING STATE PLANE COORDINATES OF X:2020407.12 AND Y:807220.34 (BASED ON THE LAMBERT CONFORMAL PROJECTION, UTAH CENTRAL ZONE), SAID POINT ALSO BEING SOUTH 1122.10 AND WEST 245.40 FEET FROM THE NORTH ONE QUARTER CORNER OF SECTION 19, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN; THENCE NORTH 89°07' EAST ALONG A FENCE LINE 1283.35 FEET; THENCE SOUTH 31°09' EAST ALONG THE SOUTHWESTERLY BOUNDARY OF U.S. HIGHWAY 40 307.5 FEET; THENCE SOUTH 00°17' EAST ALONG A FENCE LINE 812.0 FEET; THENCE NORTH 61°56'30" WEST ALONG A FENCE LINE 1038.5 FEET; THENCE NORTH ALONG A FENCE LINE 36.0 FEET; THENCE NORTH 82°00' WEST ALONG A FENCE LINE 525.5 FEET; THENCE NORTH 01°11' WEST 457.86 FEET TO THE POINT OF BEGINNING.**

**ALL LANDS CONTAINED WITHIN THAT CERTAIN WARRANTY DEED DATED MAY 19, 1982 AND RECORDED MAY 19, 1982 AS ENTRY NO. 126455 IN BOOK 148 AT PAGES 369-370 OF OFFICIAL RECORDS LYING NORTH OF THE NORTHERLY LINE OF A WASATCH COUNTY ROAD KNOWN AS POTTER LANE, WITHIN THE BOUNDARIES OF ABOVE REFERENCED GRANTEE. SAID NORTHERLY LINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**COMMENCING AT A FENCE CORNER LYING SOUTH 1131.68 AND WEST 866.78 FROM THE NORTH ONE QUARTER CORNER OF SECTION 19, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN (SAID NORTH QUARTER CORNER BEING THE SURVEY MONUMENT SET BY ASPEN ENGINEERING FOR WASATCH COUNTY IN 1975); THENCE SOUTH 0°02'30" WEST 1275.37 FEET ALONG A FENCE LINE TO A FENCE CORNER LYING ON THE NORTHERLY LINE OF POTTER LANE; THENCE ALONG THE NORTHERLY LINE OF POTTER LANE THE FOLLOWING TWO COURSES: SOUTH 89°17'30" EAST 671.32 FEET; THENCE SOUTH 85°54'30" EAST 622.7 FEET.**

**TOGETHER WITH WATER RIGHT #55-8729, APPLICATION #A67587.**

**SUBJECT TO EASEMENTS, RESTRICTIONS AND RIGHTS OF WAY APPEARING OF RECORD OR ENFORCEABLE IN LAW AND EQUITY AND GENERAL PROPERTY TAXES FOR THE YEAR 2019 AND THEREAFTER.**

**HERITAGE FAMILY HOLDINGS, L.L.C., A UTAH LIMITED LIABILITY COMPANY**, grantor, of Salt Lake County, State of Utah, hereby **CONVEYS** and **WARRANTS** against all claiming by, through or under it to **HERITAGE FAMILY HOLDINGS-HEBER, LLC, A UTAH LIMITED LIABILITY COMPANY**, grantee, of Salt Lake County, State of Utah, for the sum of **TEN AND NO/100 (\$10.00) DOLLARS**, and for other good and valuable consideration, the following described tract of land in **Wasatch County, State of Utah**:

**BEGINNING AT A POINT BEING SOUTH 2430.46 FEET AND WEST 89.76 FEET FROM THE ASPEN ENGINEERING MONUMENT SET IN 1975 AT THE NORTH QUARTER CORNER OF SECTION 19, TOWNSHIP 3 SOUTH, RANGE 5 EAST OF THE SALT LAKE BASE AND MERIDIAN, THE BASIS OF BEARINGS BEING SOUTH 45°10'29" EAST BETWEEN SAID MONUMENT AND THE WASATCH COUNTY MONUMENT ON THE EAST QUARTER CORNER OF SECTION 19, TOWNSHIP 3 SOUTH, RANGE 5 EAST OF THE SALT LAKE BASE AND MERIDIAN, SAID POINT ALSO BEING ON THE NORTHERLY BOUNDARY OF THE WASATCH COUNTY ROAD KNOWN AS POTTER LANE AND RUNNING THENCE NORTH 85°54'30" WEST 324.80 FEET; THENCE NORTH 89°17'30" WEST 604.68 FEET; THENCE LEAVING SAID POTTER LANE NORTH 00°48'00" EAST 356.05 FEET; THENCE EAST 642.12 FEET; THENCE SOUTH 01°11'00" EAST 156.29 FEET; THENCE EAST 297.07 FEET; THENCE SOUTH 07°41'30" EAST 233.21 FEET TO THE POINT OF BEGINNING.**

**SUBJECT TO EASEMENTS, RESTRICTIONS AND RIGHTS OF WAY APPEARING OF RECORD AND GENERAL PROPERTY TAXES FOR THE YEAR 2019 AND THEREAFTER.**

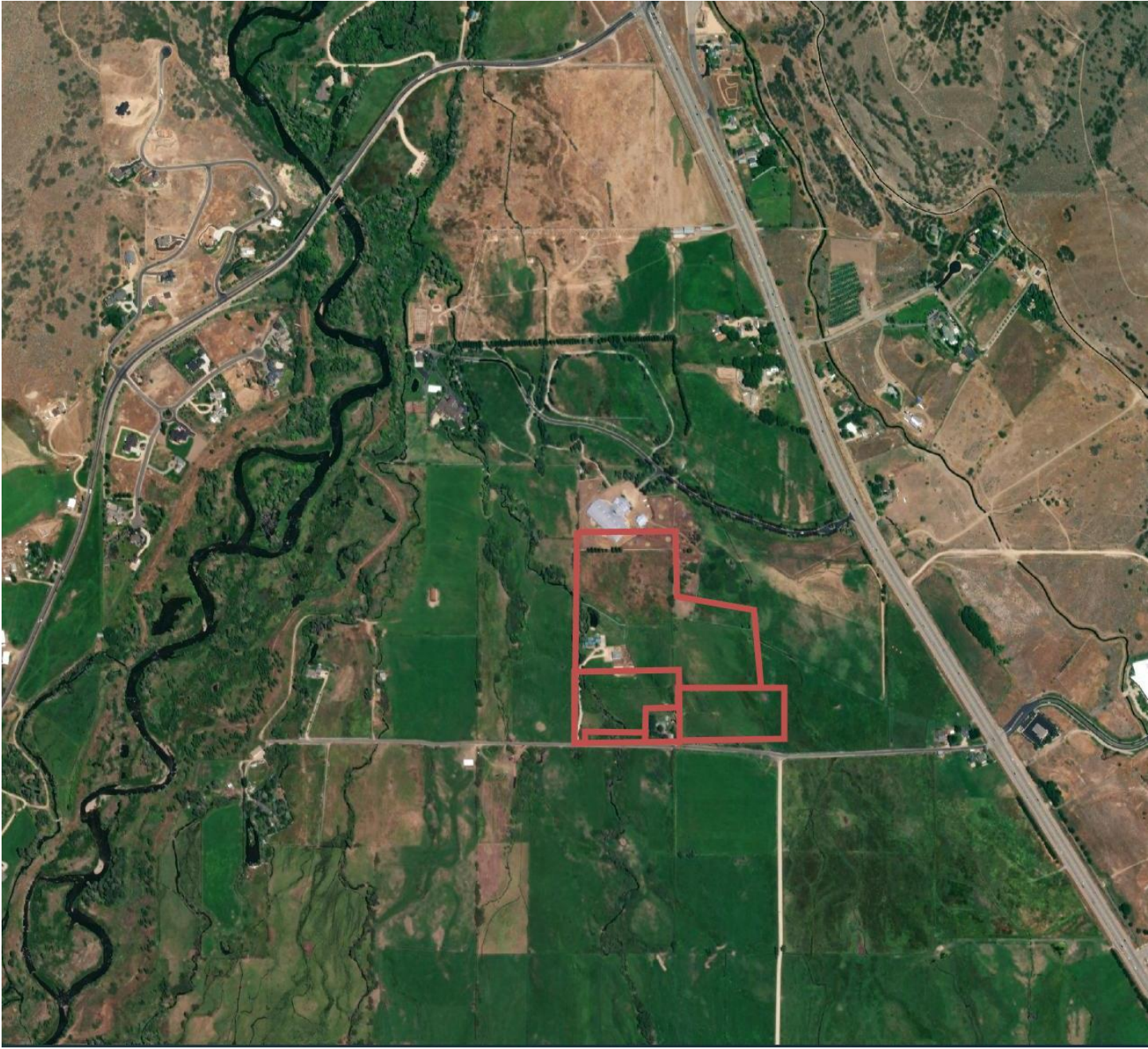
**EXHIBIT C – Proposed Limits**

**We have no proposed limits on the types of agricultural production to be allowed within the agricultural protection area at this time.**

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**EXHIBIT D – Site Plan**





**EXHIBIT E – Notarized Declaration**

DECLARATION GRANTING PERMISSION  
TO RECORD NOTICE OF AGRICULTURE PROTECTION AREA

I/ We MARY E SCHWARTZ, are the record owners of the Parcels listed in Exhibit A (for more than two owners provide separate notarized declarations). We have applied for property to be included in an Agriculture Protection Area, and we declare that the information contained in the application is true and correct to the best of our knowledge. We authorize Wasatch County to record a notice of agriculture protection area if all or part of the property from the Agriculture Protection Area Application is approved for inclusion in an agriculture protection area. After the initial approval, property may be removed from the agriculture protection area in accordance with the processes and requirements of the Utah Code 17-41-101 *et seq.*, as amended, and the Owner authorizes the County to record subsequent recorded notices reflecting such modifications or removals.

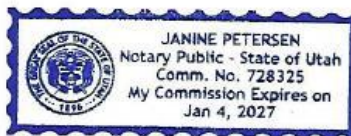
Owner(s)  
Mary E. Schwartz

STATE OF UTAH )  
 )  
:SS  
COUNTY OF Salt Lake )

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of May, 2023, by Mary Schwartz, who executed the foregoing instrument in his/her capacity as \_\_\_\_\_.

NOTARY PUBLIC  
Residing at:  
My Commission Expires: Jan. 4, 2027

Janine Petersen  
Janine Petersen

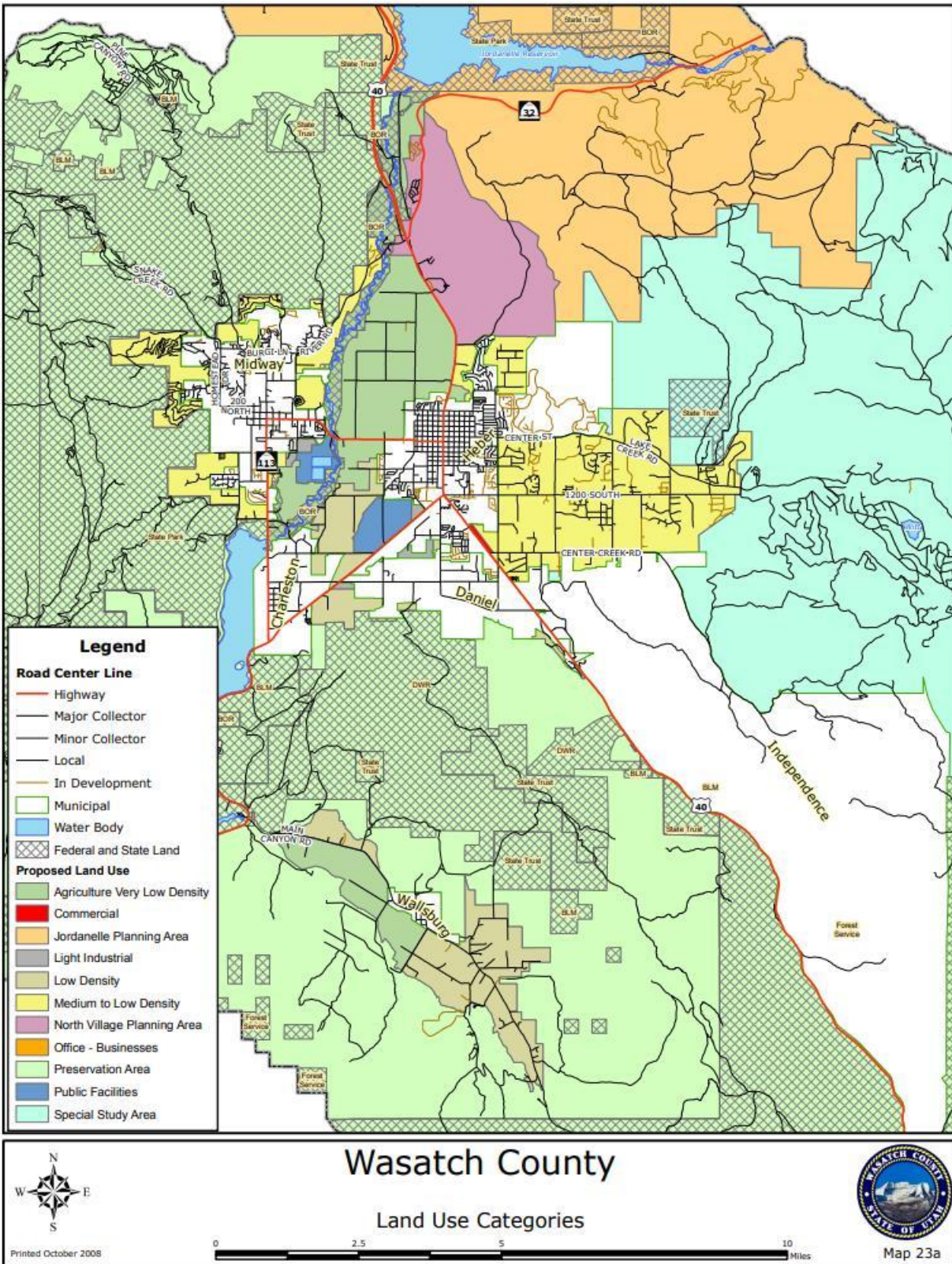


STATE OF UTAH )  
 )  
:SS  
COUNTY OF \_\_\_\_\_ )

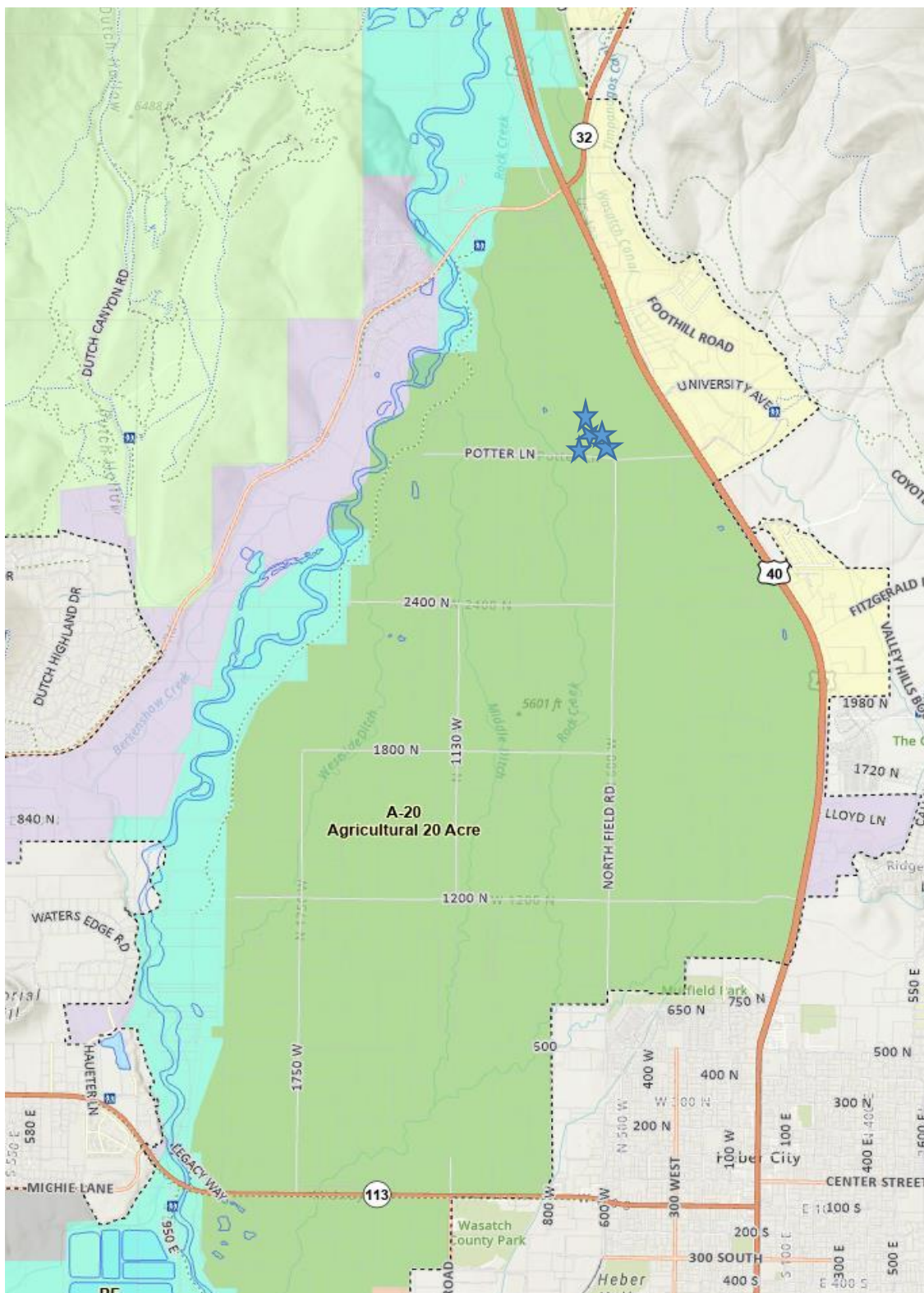
The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20[ ], by \_\_\_\_\_, who executed the foregoing instrument in his/her capacity as \_\_\_\_\_.

NOTARY PUBLIC  
Residing at:  
My Commission Expires: \_\_\_\_\_

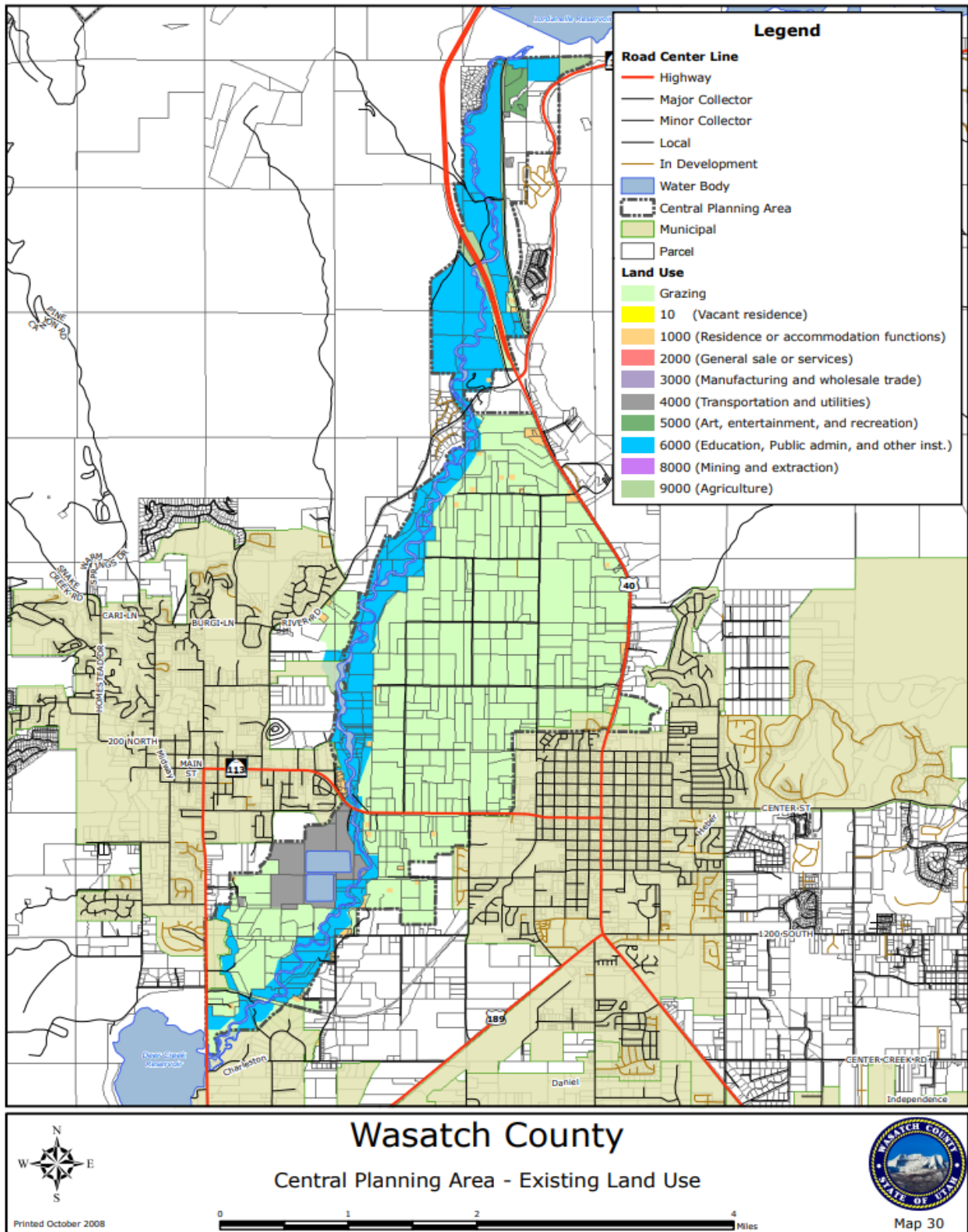
**EXHIBIT F – General plan map**



**EXHIBIT G – Zoning Map**



**EXHIBIT H – Existing land use map of the General Plan**



**EXHIBIT I – Aerial photo of surrounding conditions**

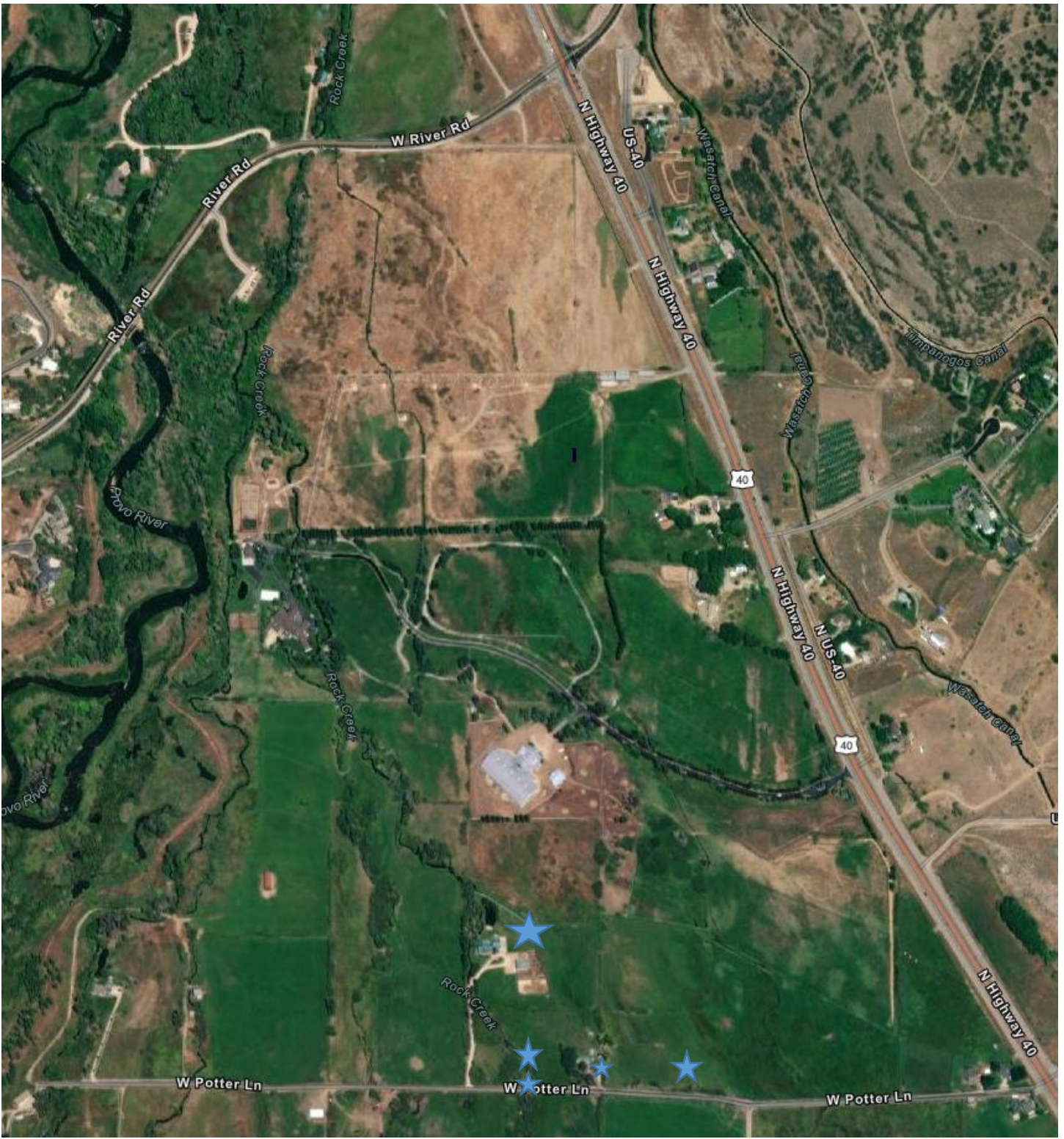
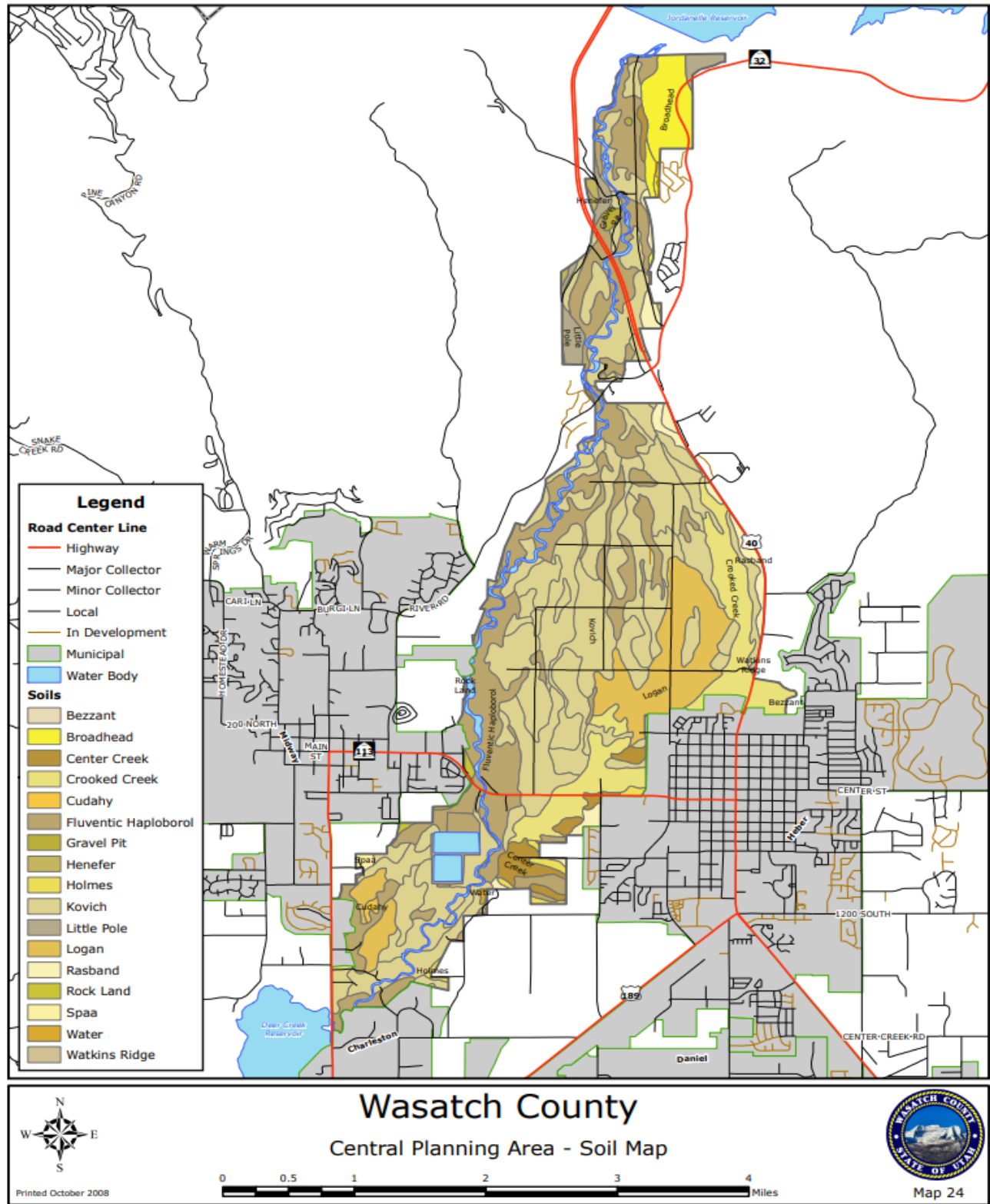


Exhibit J- Central Planning Area Soils Map



# Wasatch County Planning Commission July 13, 2023



## Item #5

Meadow Views  
-Signature Developers-

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Final Subdivision Approval

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PLANNING COMMISSION APPROVAL - DOES NOT GO ON TO COUNTY COUNCIL



# **WASATCH COUNTY**

## **Planning Commission Staff Report**

### **Final Subdivision Approval**

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**ITEM 5** Lindzi Bishop, representing Signature Developers, requests Final Subdivision Approval for Meadow Views Subdivision, a proposed residential subdivision consisting of 21 lots on 28.28 acres located at approximately 2000 South 4000 East (parcel 09-3679) in the Residential Agriculture 1 (RA-1) zone. (DEV-7857; Austin Corry)

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#### **PROJECT SUMMARY**

<b>Applicant:</b> Lindzi Bishop, B3 Civil	<b>Existing Land Use:</b> Agriculture
<b>Hearing Date:</b> 13 July 2023	<b>Proposed Land Use:</b> Residential Single Family
<b>Property Owner:</b> Signature Developers	<b>Acreeage:</b> 28.28
<b>Existing Zone:</b> RA-1	<b>Proposed Density:</b> 1.35 a/u (21 ERUs)
<b>Related Applications:</b> Preliminary 2023 (DEV-7595)	<b>Council Action Required:</b> No

#### **BACKGROUND**

Meadow Views is a proposed residential subdivision in the Center Creek area of the County north of Center Creek road and between 3600 East and the yet-to-be-built 4200 East. Two recent subdivisions border the property. Center Creek Meadows on the west boundary and Sahale on the east boundary. Both of those subdivisions are currently under construction. This subdivision would continue the road and trail system between each of the other subdivision, resulting in a connected system between all three.

Preliminary approval for this proposal was granted in May 2023 with a few conditions. This proposal seeks to resolve those conditions and does not deviate in layout from what was reviewed at the preliminary stage.

#### **STAFF ANALYSIS**

##### **– LAND USE AND DENSITY –**

The RA-1 zone is a 5 acre lot size zone, but permits the development of single-family detached home lots at a maximum density of 1.3 acres per unit if the project is developed with public sewer and water infrastructure. The project consists of 28.28 acres which could allow up to 21 lots. This proposal seeks to maximize that density at 21 lots ranging from 1 to 1.74 acres. Two open space parcels are landscaped retention areas of roughly a half acre each.

##### **– SETBACKS –**

There are no special circumstances associated with this project area. Standard setbacks would apply of 30 feet front and rear setbacks and 10 foot side yards needing to equal 24 feet total.

– *ROADS AND ACCESS* –

Wasatch County Code requires developments to provide access and connectivity within the development and to potential development areas. Block lengths are required to be every 400 to 1,300 feet. Code requires developers to submit a connectivity plan that demonstrates the proposal can fit within the required block lengths, provide acceptable access to adjacent undeveloped property, and any exceptions are justified through topography or land ownership configurations that preclude the ability to meet the 400 to 1,300 foot requirement.

The application includes a plan that shows block lengths within the maximums required by code. Potential connections to the north and south are unknown without development, but have been demonstrated as possible. To the east and the west, connections are satisfied through the neighboring subdivisions.

Two temporary cul-de-sacs are proposed at the north and south of the property. An escrow for removal of these cul-de-sacs and reconstruction of landscaping, sidewalks, etc. will be required as part of the subdivision process.

– *TRAILS* –

Trail access is provided by using the residential road with a trail in-lieu of a sidewalk. This matches the standard used for Center Creek meadows and transitions to a sidewalk at an intersection inside the Sahale development. There is one trail connection that is off-street made at the northwest corner of the project that is required to tie into a trail on the north side of Center Creek Meadows. It is anticipated this could become a full road at some point in the future, but the trail is the only connection required at this time.

– *STORM WATER* –

Storm water is proposed to be handled by two retention areas on the west side of the property. These will be landscaped as open space within the development. Engineering review of the proposal has indicated sufficient capacity and soil permeability to handle this proposed treatment.

– *SEWER/WATER* –

All lots are required to provide adequate water rights for the culinary use, as well as sufficient water to irrigate any land that has been historically irrigated. In addition, developments more dense than five acres per unit are required to be connected to a public sewer system. Water will be provided by the Center Creek Water and Center Creek Irrigation Company. Sewer services will be provided by Twin Creeks SSD. A draft will serve letter has been provided by the district and will require a final will serve letter from the district prior to final approval.

– *BONDING* –

All unfinished improvements must be bonded for in compliance with county bonding policies previous to plat recording.

**DEVELOPMENT REVIEW COMMITTEE**

This proposal has been reviewed by the various members of the Development Review Committee (DRC) for compliance with the respective guidelines, policies, standards, and codes. A report of this review has been attached in the exhibits. The Committee has accepted the item for Planning Commission to render a decision.

## POTENTIAL MOTION

Move to Approve consistent with the findings and conditions presented in the staff report.

### Findings:

1. The subject property is 28.28 acres located between the recent Center Creek Meadows and Sahale subdivisions.
2. The proposal is to develop 21 lots resulting in a density of 1.35 acres per unit.
3. The RA-1 zone is a 5 acre minimum lot size zone unless public water and sewer infrastructure is provided by the development.
4. The property will be serviced by Center Creek Water and Irrigation Company and Twin Creeks SSD.
5. The density being proposed is consistent Wasatch County Code 16.08.04(C) and the preliminary approval granted in May 2023.
6. The Development Review Committee has reviewed the project and has indicated the proposal complies with current applicable laws.

## ALTERNATIVE ACTIONS

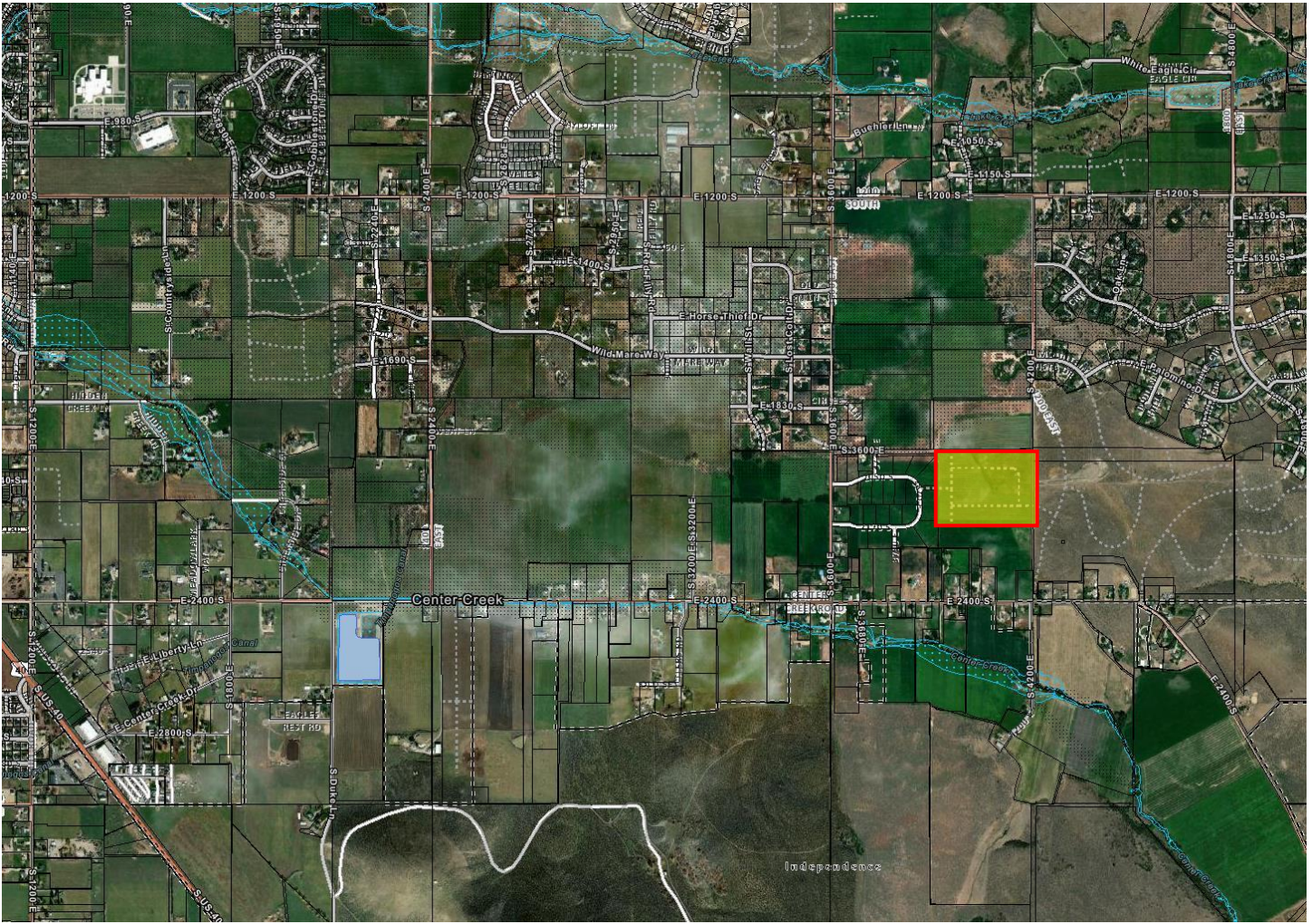
The following is a list of possible motions the Planning Commission can take. If the action taken is inconsistent with the potential findings listed in this staff report, the Planning Commission should state new findings.

1. Approve. This action may be taken if the Planning Commission finds that the Final Subdivision request is compliant as proposed with Wasatch County Code and all other applicable ordinances. ***\*This action is consistent with the staff analysis.\****
2. Approve with Conditions. This action can be taken if the Planning Commission finds that issues can be resolved subject to the conditions noted.
3. Continue. This action can be taken if the Planning Commission needs additional information before making a recommendation, if there are issues that have not been resolved, or if the application is not complete.
4. Deny. This action can be taken if the Planning Commission finds that the proposal does not meet applicable codes and/or ordinances.

## EXHIBITS

- A. Vicinity Plan
- B. Proposed Subdivision Plat
- C. Landscape Plan
- D. DRC Report

**EXHIBIT A – Vicinity Plan**



# EXHIBIT B – Proposed Subdivision Plat

## MEADOW VIEWS SUBDIVISION

LOCATED IN THE SOUTHWEST 1/4 OF SECTION 11, TOWNSHIP 4 SOUTH, RANGE 9 EAST, SALT LAKE BASIN & MERIDIAN

OWNER	DATE	ACRES	BEARING	TANGENT
C1	18.86	18.86	S89°00'00"E	18.86
C2	18.86	18.86	S89°00'00"E	18.86
C3	18.86	18.86	S89°00'00"E	18.86
C4	18.86	18.86	S89°00'00"E	18.86
C5	18.86	18.86	S89°00'00"E	18.86

OWNER	DATE	ACRES	BEARING	TANGENT
C1	18.86	18.86	S89°00'00"E	18.86
C2	18.86	18.86	S89°00'00"E	18.86
C3	18.86	18.86	S89°00'00"E	18.86
C4	18.86	18.86	S89°00'00"E	18.86
C5	18.86	18.86	S89°00'00"E	18.86

AS A CONDITION OF DEVELOPMENT, THE DEVELOPER WAS REQUIRED TO PROVIDE AN ERECTION WATER FULL SEASON WATER. THIS WATER RIGHT IS SUBJECT TO THE TERMS AND CONDITIONS OF THE ORIGINAL STIPULATED IN THE CENTER CREEK DELIVERED TO EACH STOCKHOLDER'S CONDITIONAL ON THE ORIGINAL TURN OF CENTER CREEK DRAINAGE.

### SURVEYOR'S CERTIFICATE

IN ACCORDANCE WITH SECTION 10-9A-402 OF THE UTAH CODE ANNOUATED 2018, I, THE SURVEYOR, HAVE BEEN DULY QUALIFIED AS A PROFESSIONAL LAND SURVEYOR HOLDING A LICENSE TO PRACTICE UNDER THE PROVISIONS OF CHAPTER 52 OF THE PROFESSIONAL ENGINEERS AND SURVEYORS ACT. I HEREBY CERTIFY THAT I HAVE COMPLETED THE SURVEY OF THE PLAT DESCRIBED ON THE PLAT IN ACCORDANCE WITH THE UTAH CODE, SECTIONS 10-9A-402 THROUGH 10-9A-407, AND THE MEASUREMENTS AND CALCULATIONS HAVE BEEN REPRODUCED ON THE PLAT.

DATE: \_\_\_\_\_  
SIGNATURE: \_\_\_\_\_

### COUNTY EXECUTIVE

THE COUNTY OF WASATCH APPROVES THIS SUBDIVISION AND HEREBY ACCEPTS THE RESPONSIBILITY FOR THE PERPETUAL USE OF THE PUBLIC SUBJECT TO THE FOLLOWING CONDITIONS:

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

COUNTY CLERK: \_\_\_\_\_

WASATCH COUNTY SHERIFF'S OFFICE: \_\_\_\_\_

WASATCH COUNTY WATER RESOURCES: \_\_\_\_\_

WASATCH COUNTY SURVEYOR: \_\_\_\_\_

WASATCH COUNTY FIRE CHIEF: \_\_\_\_\_

WASATCH COUNTY PLANNING OFFICE: \_\_\_\_\_

### OWNER'S DEDICATION AND CONSENT TO RECORD

WE, THE UNDERSIGNED OWNERS OF THE TRACT OF LAND SHOWN AND DESCRIBED ON THE SUBDIVISION PLAT, HEREBY DEDICATE AND CONSENT TO RECORD AS MEASURED, SUBDIVISION, AND FOR THE PERPETUAL USE OF THE PUBLIC ALL STREETS, EASEMENTS, AND PUBLIC UTILITY EASEMENTS TO WASATCH COUNTY THE PUBLIC UTILITY EASEMENTS ATTACHED FOR PUBLIC USE.

IN WITNESS WHEREOF, WE HAVE HERETOFORE SET OUR HANDS AND SEALS ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

### ACKNOWLEDGMENT

STATE OF UTAH: \_\_\_\_\_  
COUNTY OF \_\_\_\_\_: \_\_\_\_\_  
DATE: \_\_\_\_\_

DAVE WILSON, SOWATLURE DEVELOPERS, LLC  
DIRECTOR

### COUNTY ENGINEER DEPARTMENT

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

DIRECTOR, ENGINEERING DEPARTMENT: \_\_\_\_\_

### HEALTH DEPARTMENT

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

DIRECTOR, COUNTY HEALTH DEPARTMENT: \_\_\_\_\_

### PUBLIC WORKS DEPARTMENT

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

DIRECTOR, PUBLIC WORKS: \_\_\_\_\_

### TWIN CREEKS SPECIAL SERVICE DISTRICT

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

MANAGER: \_\_\_\_\_

### WASATCH COUNTY SOLID WASTE

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

DIRECTOR: \_\_\_\_\_

### WASATCH COUNTY RECREATION DEPARTMENT

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

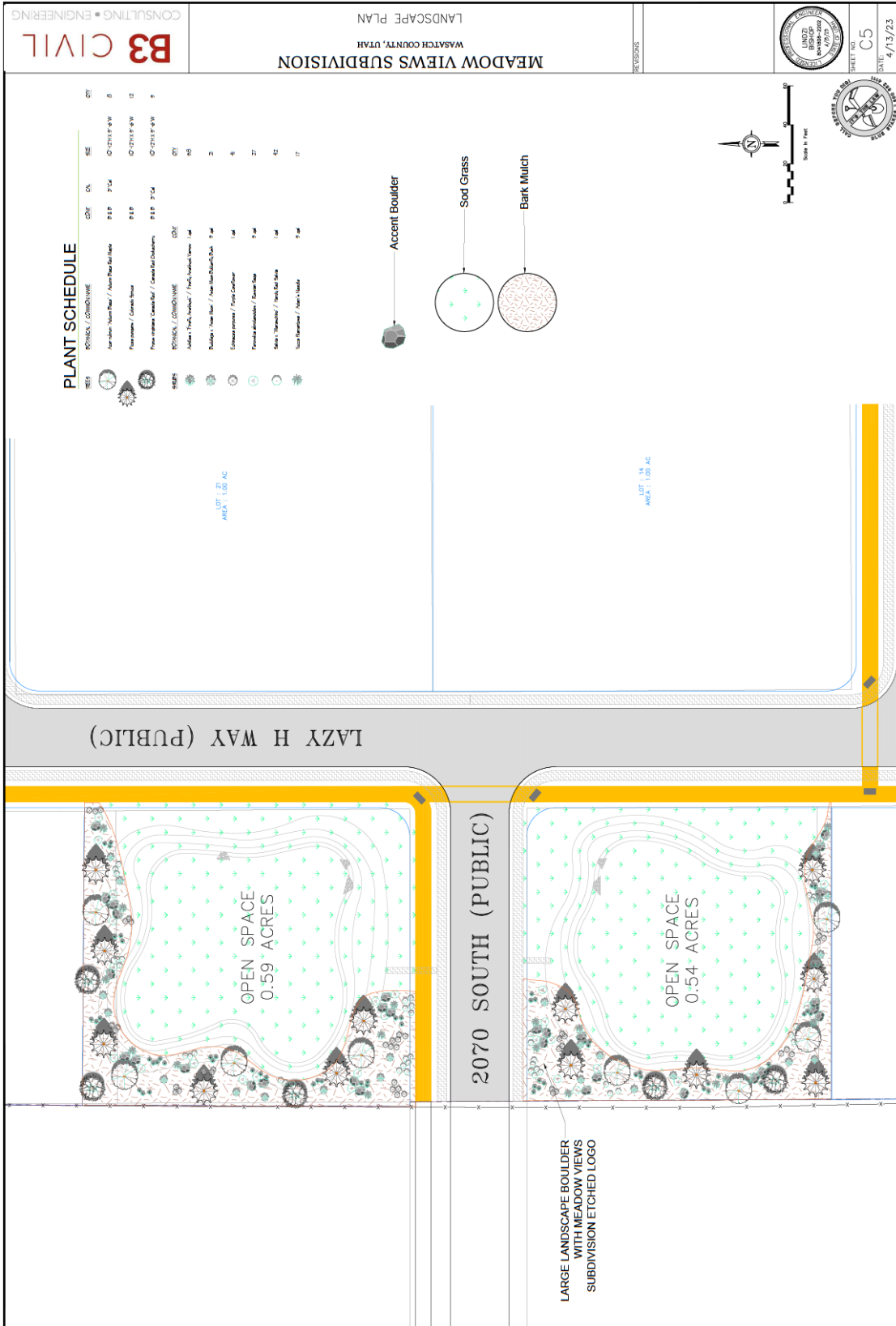
DIRECTOR: \_\_\_\_\_

### APPROVAL AS TO FORM

APPROVED AS TO FORM THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

COUNTY ATTORNEY: \_\_\_\_\_

# EXHIBIT C – Landscape Plan



**EXHIBIT D – DRC Report**



**Wasatch County  
DESIGN REVIEW  
COMMITTEE (DRC)  
COMMENTS**

PROJECT ID: DEV-7857  
PROJECT NAME: FINAL SUB - MEADOW VIEWS  
VESTING DATE: 4/28/2023  
REVIEW CYCLE #: 2

**REVIEW CYCLE STATUS: READY FOR DECISION**

Project comments have been collected from reviewers for the above noted review cycle and compiled for your reference below. Please review the comments and provide revised plans/documents if necessary. **Resubmittals must include a plan review response letter** outlining where requested changes and corrections can be found. Failure to provide such a letter will result in the project being returned to you.

**When uploading revisions please name your documents exactly the same as it was previously uploaded. Revision numbers and dates are automatically tracked. There is no need to re-upload documents that aren't being changed. DO NOT DELETE documents and then upload new ones.**

Once you have addressed all of your items and successfully uploaded your revisions, be sure to re-submit your project for review. Resubmittal must be made through the portal in order to receive official review. Projects requiring Planning Commission approvals or recommendations will not be placed on a planning commission agenda until all DRC reviewers have recommended the item to move forward.

Entity	Decision
Weed Department	Ready for Decision
Building Department	Ready for Decision
Public Works Department	Ready for Decision
Health Department	Ready for Decision
County Surveyor	Ready for Decision
Sheriff's Office	Ready for Decision
Manager's office	Ready for Decision
DRC - SSA 1 Water	Ready for Decision
Planning Department	Ready for Decision
Recorder's Office	Ready for Decision
GIS Department	Ready for Decision
Environmental Quality	Ready for Decision
DRC - Twin Creeks SSD	Ready for Decision
Fire SSD	Ready for Decision
Engineering Department	Ready for Decision
Assessor's Office	No Action Taken
Housing Authority	No Action Taken
MAG Regional Trail Planner	No Action Taken

**Ready for Decision** = Reviewing entity recommends the project move forward to a Planning Commission meeting (if applicable). Any open comments are considered conditions of the entities recommendation.

**Changes Required** = Reviewing entity has identified an issue(s) that needs to be resolved before recommending the project move forward.

**No Action** = Reviewing entity has not taken any action for the review cycle.

## OVERALL PROJECT COMMENTS

### PROJECT DOCUMENT SHEET COMMENTS BY REVIEWING ENTITY

DRC - Recorder Office		
Comment ID	Sheet Name	Comment
DRC-REC1	02a - PLAT_C4-MEADOW VIEWS	Plat looks good.

# Wasatch County Planning Commission July 13, 2023



## Item #6

Amendment to Wasatch County Code  
§16.23 and §16.27 and to add a section  
§16.43, Public Impact Discussions  
-Ray Quinney & Nebeker P.C.-

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Code Text Amendment



# WASATCH COUNTY

## Planning Commission Staff Report

### Zoning Code Text Amendment

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#### ITEM 6

Ray Quinney & Nebeker P.C. requests an amendment to Wasatch County Code §16.23 and §16.27 and to add a section §16.43, Public Impact Discussions, and other technical updates to Title 16 sections in order to add requirements for additional noticing and public meetings for proposals to amend County Code, Zoning Maps, the General Plan, Conditional Use Permits, Subdivisions and other land use development applications. The proposal also includes additional requirements to the conditional use criteria including specific standards for height as related to a conditional use permit. (DEV-7699; Austin Corry)

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#### APPLICATION SUMMARY

**Applicant:** Ray Quinney & Nebeker P.C.

**Hearing Date:** 13 July 2023

**Related Applications:** None

**Affected Zone(s):** All

**Applicable Code Section(s):** 16.02.05 (Procedure to Amend Title, Code, or Zoning Map), 16.03.04 (General Plan Amendments), 16.04 (Definitions), 16.23 (Conditional Uses), 16.27.05 (General Procedures for Development Applications), 16.43 (Public Impact Discussions)

#### LEGAL

The Planning Commission, staff, and the Council should be aware that Ray Quinney & Nebeker has filed a Petition for Review regarding the recently enacted Ordinance 23-01 in Case # 230500048. Ray Quinney & Nebeker is representing Laurie Brown, Richard Getz, Julie Levinson, Randy Schroder, and the Save Wasatch Back Dark Skies, an alleged citizen group, in that case. The County Attorney office gives this warning because of the possibility that Ray Quinney & Nebeker could try to use discussion of this application against the County in the pending lawsuit, or in another lawsuit.

Under Utah law, the political nature of the decision making process underlying land use regulations demands that the power to make such decisions be vested in persons [the council] who are publicly accountable for their choices. *Bradley v. Payson City Corp.*, 2003 UT 16, at ¶ 11. A reviewing court will presume that a land use regulation properly enacted under the authority of this chapter is valid; and determine only whether the land use regulation is expressly preempted by, or was enacted contrary to, state or federal law; and it is reasonably debatable that the land use regulation is consistent with this chapter. Utah Code 17-27a-801. In considering an application for a land use regulation, the council is not obligated to approve the application even if it is consistent with the General Plan or the general welfare. *Petersen v. Riverton City*, 2010 UT 58, ¶ 13, 243 P.3d 1261 (Sup.Ct.). If an ordinance enactment or denial could promote the general welfare, or even if it is only reasonably debatable that it is in the interest of the general welfare, the courts will uphold the council's decision, whether it be through a council maintaining the current status of the code, or by enacting an amended code. *Harmon City, Inc. v. Draper City*, 2000 UT App 31, ¶ 14, 997 P.2d 321.

## **BACKGROUND**

On March 23, 2023, the applicant filed a proposed amendment to Wasatch County Code primarily for the purpose of establishing additional requirements for noticing and public meetings for certain land use applications. These additional noticing requirements are proposed to apply to amendments to Wasatch County Code, amendments to the General Plan, amendments to the Wasatch County zoning map, Conditional Use Permits, Cannabis Production Establishments or Medical Cannabis Pharmacies, and all subdivision applications except for Minor Agricultural Subdivisions. Land use applications that would not be affected by the proposal would be Master Plan and Density Determinations, boundary line adjustments, minor agricultural subdivisions, and temporary use permits.

The primary addition made by the proposed language is to create a new meeting type in addition to the currently required meetings, called a Public Impact Discussion. This meeting, according to the applicant, is to “provide for sufficient public engagement on certain issues that have an outsized public impact on County residents and/or County policy.” The remainder of the amendment proposal describes the technical aspects of the public impact discussion and also a proposal to add criteria to the conditional use permit applications for a benefits analysis, FAA analysis, and visual impact studies.

The DRC reviewed the proposal and noted some significant concerns at the onset of the review. The applicant resubmitted with alterations that make the applicant responsible for noticing and arranging the Public Impact Discussion (PID). The applicant has indicated they believe this eliminates the risk of the PID from being classified as a public meeting subject to the Open and Public Meetings Act (UCA 52-4-104). Planning staff noted that the alteration does not address the primary concern of potential state law violations regarding the state’s intent for public meetings. In other words, because the County would be *requiring* such a meeting to be held, the PID would be considered a public meeting regardless of who organizes the meeting. The applicant has indicated that they disagree with the staff concerns and would like the opportunity to pursue their applied for code amendment as presented.

There are a few instances where the proposed code language and the applicant’s reply to the DRC are not coordinated. Staff will provide analysis to the proposed language as written in the absence of any alternative language proposed by the applicant.

## **PURPOSE AND INTENT**

Wasatch County Code 16.02.05 requires that amendments to Title 16 “shall not be made except to promote more fully the objectives and purposes of the general plan and this title.” Staff analysis will focus on an analysis of conformance with existing established policies or goals, and also, an analysis of technical/practical aspects of the proposal. A code amendment proposal of this nature involves a significant policy decision which is ultimately at the discretion of the County legislative body.

## **STAFF ANALYSIS**

### *– GENERAL PLAN –*

The first consideration in determining whether a code text amendment should be approved or denied is the language contained in the General Plan. The General Plan provides the guidance that is made more specific as part of the zoning ordinance or zoning map.

The applicant primarily cites purpose sections of the code as the basis for enacting such codes. In two instances the General Plan is cited by the applicant. The focus of these citations is more on the impact of certain land use applications rather than support or discouragement for public input. The citations are as follows:

*Policy 1.1.2: Promote preservation of views and ridge-lines from development as viewed from prominent locations by prohibiting structures from encroaching above the ridge-line.*

*Policy 1.1.7: Preserve the views of the night sky and reduce the health impacts of artificial light by requirement all development to have dark sky compliant lighting.*

The proposal seeks to create a new set of regulations for “tall structures” which the proposal defines as structures exceeding 45 feet in height. The applicant purports that these new regulations promote the above referenced policies. The new regulations would add a visual impact analysis for tall structures and would preclude the use of certain lighting types to satisfy FAA requirements, if applicable.

Considering the citation of policy 1.1.2 regarding the protection of ridgelines, the current County code section 16.27.22 is the established regulation for ridgeline/viewshed regulations. The proposal does not include any amendments to this section. Instead, the applicability of additional standards is limited to if the application is both classified as a “tall structure” and requires a conditional use permit.

#### – LOCALIZED IMPACT PROJECTS –

The proposed amendment first establishes a criteria for evaluating which land use applications are subject to the new provisions. The proposal identifies these project types as ‘Localized Impact Projects’ which are listed as:

1. Any amendment to Title 16 or the County’s zoning map;
2. Any amendment to the General Plan;
3. All subdivisions except Minor Agricultural Subdivisions;
4. Conditional Use Permits except for utility uses and accessory buildings;
5. The construction or approval of Cannabis Production Establishments or Medical Cannabis Pharmacies.

Of the land use applications the Planning Department is responsible for processing, the above list includes the majority of those applications. In the last three years, the Planning Department processed 491 total land use applications. Of those, it is estimated that approximately 270 of those would have been classified as ‘Localized Impact Projects’ under these provisions. This should be clearly understood that this proposed change is not simply a requirement for a limited few applications, but would be a significant change for the County.

Of the application types listed above, it is also important for the County to consider what type of land use action these applications are. Amendments to the general plan, zoning code, or zoning maps are legislative actions (UCA 17-27a-103(37)). Subdivision approvals, conditional use permits, and cannabis establishments are all administrative actions (UCA 17-27a-103(35)). The type of land use action is critically important to understand legally what the County can and cannot do. Legislative actions have the highest level of discretion and establish laws and policies (UCA 17-27a-801). Administrative actions are the application of those laws which means the discretion available to the County is limited only to applicable law established by the legislative actions.

Staff concerns with the proposal are largely focused on the administrative land use decisions. Utah Code Annotated 17-27a establishes the County Land Use, Development, and Management Act (CLUDMA). This chapter of state law is the enabling act from the state legislature that grants the County the ability to regulate

land use and zoning. With those provisions come standards that the County is required to follow and the County cannot write a local zoning provision that conflicts with state law (UCA 17-27a-104 & 501). The County values public input and engagement during the land use process as allowed by the applicable laws. Because most administrative decisions are not discretionary type decisions, they can only be made based on substantial evidence on the record and that evidence being relative to proving or disproving an applicable law (UCA 17-27a-801). In rendering administrative decisions, the County boards and commissions must regularly evaluate any public comment received to determine if the information is relevant to applicable law or if it is what the courts sometimes refer to as 'public clamor'. Uintah Mt. RTC, L.L.C. v. Duchesne Cty., 2005 UT App 565, 127 P.3d 1270.

Where public input and engagement is most valuable is during legislative actions. These actions have a high level of discretion and are where policy is established that ultimately guides the growth and development of the county. For this reason, the value of the public engagement is significantly higher. It should be noted that, although not acknowledged in the proposed amendment, CLUDMA has higher standards for noticing and public participation requirements for the creation or modification of the General Plan, code amendments, and zoning map amendments. The current county code already incorporates the higher noticing requirements in compliance with CLUDMA.

– PUBLIC IMPACT DISCUSSIONS –

If a project is identified as a Localized Impact Project, the project will be subject to holding what the proposal refers to as a Public Impact Discussion (PID) as part of the application process with the County. The proposal requires an applicant to organize a meeting which is open to the public and which requires them to allow public comment on the proposed application. The location of the meeting, noticing for the meeting, minutes of the meeting, and website hosting of a recording of the meeting are required of the applicant. Because it is a publicly noticed meeting and the applicant is required to take public comment, this would meet the definition of a public hearing as defined in CLUDMA. Utah Code 17-27a-103(56).

In organizing the meeting, the applicant is required to send notice to all property owners within one mile of the subject property. The notice is required to be sent 21 days prior to the meeting. Both the one mile notice and the 21 day period are substantially longer and farther than any other noticing provisions of the code. It is unclear in the application how the County would oversee the process to ensure the applicant met the noticing requirements listed therein and it is uncertain who then would be the appeal authority if a party argues that the applicant did not follow the requirements. The lack of an appeal authority could be a violation of state law. Utah Code 17-27a-701.

Nothing has been identified in the General Plan that provides policy guidance regarding the additional meeting created by the proposal. However, as noted earlier, the County has been proactive in providing noticing and public engagement where practical, compliant with applicable laws, and with fiscal consideration and, in fact, provides more noticing than required by state code by, among other things and depending upon the subject of the application, also posting notices in the local newspaper. This said, staff has raised a concern that the proposal may create a conflict with State Law. Recent legislative sessions have increasingly precluded local jurisdictions from holding certain public hearings. Most recently, the 2023 Utah legislative session passed Senate Bill 174 that directly targets both who the land use authority for subdivisions can be as well as how many public meetings can be required of a subdivision application. SB174 states that for a preliminary subdivision application the County may "hold no more than one public hearing." In addition, it precludes the legislative body from acting as an administrative land use authority. This lends itself to focusing the public input process to legislative decisions where policy is being established rather than administrative actions.

Some trainings to local governments have also encouraged counties and cities to limit public comment on administrative decisions due to the propensity for some land use authorities throughout the state to deny applications based on ‘public clamor,’ as opposed to substantial evidence on the record.

Also, in one instance recently, a participant in the Property Rights Coalition, a company engaged in lobbying the Utah legislature on behalf of developers, threatened the County that they would work with the Utah legislature to eliminate local land use authority altogether in the State of Utah if the County was not more accommodating to developers on certain things. While this threat should not directly shape how the County legislative body enacts land use regulations, it is important for the planning commission and the County legislative body to be aware that county processes and regulations that are out of line with the practices of other local governments in Utah, and which potentially substantially burden development activities, are likely to become a target of the PRC, and the Utah legislature.

It should be understood that SB174 also instituted a “shot clock” for application reviews meaning that once an application is complete, the DRC must review the application for compliance with codes within 20 days for preliminary subdivisions and within 15 days for final subdivisions. It is uncertain how this required process would fit into the shot clock provisions, but it is clear from the state legislature that they are seeking ways to expedite subdivision reviews for developers. It is staff’s belief that the implementation of an ordinance as proposed that creates a 21 day noticing and public hearing requirement before an applicant is allowed to proceed with DRC reviews would be looked upon unfavorably by the state and likely result in additional state legislation to make adoption of such provisions illegal.

Staff raised this concern with the applicant and the applicant has indicated they disagree with staff’s interpretation and would like the item taken through the hearing process for consideration.

Although the burden of organizing, noticing, and recording the meeting is placed on the applicant in the proposed language, it is staff’s belief that the state and the courts would consider this requirement to be a public hearing. Utah Code 17-27a-103(56). Since the ordinance requires the applicant to hold such a meeting as part of the application process and the ordinance requires public noticing and public comment be allowed, it is likely this would be considered a public meeting, regardless of who the organizing entity is, and considering this is a requirement for certain applications. If the County is interested in providing opportunities for local neighborhood meetings of this regard and wanted to encourage applicant’s to hold such meetings, the language could be written to allow applicant discretion to do so. Currently, the County will sometimes encourage applicants to meet with neighborhoods prior to formal meetings with the planning commission or Council, but this has typically been presented as a suggestion that the applicant has the discretion of whether or not they would like to pursue those discussions.

Of more minor consequence, the use of the acronym ‘PID’ throughout the proposed code text is potentially problematic in that the state has established PID to refer to Public Infrastructure Districts under land use law. If approved, the Council should determine a different name for these meetings to avoid conflicts.

– *CONDITIONAL USE REQUIREMENTS* –

A separate arm of the proposed ordinance is to add criteria to the Conditional Use Permit review found under WCC §16.23.07. This section is the standards and findings required in order to grant a conditional use permit. Paragraph C currently states “the use will be compatible with surrounding structures in use, location, scale, mass, design and circulation;” and requires that the land use authority finds that to be true. The proposal adds a subparagraph C.1 that would require any conditional use to prove that the use would be ‘beneficial’ to the community. Staff has noted a concern that this conflicts with UCA 17-27a-506(2) which states “a land use

authority shall approve a conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.” The premise of a conditional use, as allowable under today’s state code, is that the determination of the acceptability of the use being allowed in the zone has previously been determined during the legislative process.<sup>1</sup>

Per the drafted ordinance, any conditional use permit that involves a structure over 45 feet in height would become subject to a review of FAA requirements and a visual impact analysis. During review, staff noted that the proposed language is unclear whether the requirements are in addition to the FAA requirements or is attempting to supersede the federal requirements. The applicant’s reply to this comment is “the intent of this section is that if lighting is required then the structure is not in the right location for proximity to the airport or the applicant needs to reconsider their application for further mitigation so that FAA lighting is not required or will be shielded with FAA approved shielding.” Based on the applicant reply, and the wording in the ordinance, it appears that this proposed language is not appropriately targeted and is more specifically intended to address exterior lighting regulations or to remove specific uses from the zoning ordinance. The County will need to be careful about any requirement that appears to usurp federal requirements. Furthermore, the language is not narrowly crafted to apply only to projects where FAA guidelines would require. Instead, any project of 45 feet or more would be required to obtain an FAA determination whether that project was in an area requiring such analysis or not. This language should be reconsidered.

The County currently has a viewshed/ridgeline ordinance to address visual impacts of certain projects from identified viewpoints listed in the code. As proposed, the visual impact study listed in the proposal requires a conditional use permit applicant to provide a study for all properties within two miles of a proposed structure. It is unclear what this study is intended to look like and if approval or denial would be based on certain findings. The term used in the proposal simply states “the visual impact the tall structure will have on properties.” This addition is a significant increase of analysis that could result in projects with hundreds of analysis documents to produce. The Council will need to determine if the costs to the applicant and to the county in review of such documents is compatible with the potential benefits of such an analysis.

### **REQUIRED FUTURE APPROVALS**

The proposed amendment, if approved, is not specific to any one project. Instead, this would alter the process for the land use application types listed in the proposed ordinance for most new, unvested applications made after the date of the ordinance approval. If approved, application checklists will need to be updated to reflect the new requirement(s). Any projects previously approved, or currently in process with the County will typically have vested rights that preclude the County from applying these new standards. Utah Code 17-27a-508.

### **DEVELOPMENT REVIEW COMMITTEE**

This proposal has been reviewed by the various members of the Development Review Committee (DRC) for compliance with the respective guidelines, policies, standards, and codes. The comments raised in this review have been incorporated into the staff analysis above. At the request of the applicant, the Committee has forwarded the item for the Planning Commission and County Council to render a decision without resolving the concerns raised by the DRC.

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<sup>1</sup> SB 60(2005) changed the Conditional Use standards in CLUDMA from stating a conditional use “may be allowed, allowed with conditions, or denied in zoning districts” to “a conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects . . . .” This and other changes to CLUDMA shifted the state law requirements in such a way so as to take away a lot of the discretion of a land use authority to deny a conditional use permit application, and functionally made them allowed unless the detrimental effects of the use cannot be substantially mitigated in a particular application.

## CONCLUSION

Wasatch County has policies and history of seeking and respecting public comment and engagement. The County complies with state law in their noticing requirements and provides additional notification beyond what the state requires. Staff recommends the County should continue to seek valuable ways to implement public participation throughout policy making decisions. However, staff recommends that while the original stated intent of the applicant may be worth consideration and may be inherent in the Wasatch County value statement, the proposal as written, poses legal risks due to recently adopted state laws, the impact it could have on the Utah Property Rights Coalition and the Utah Legislature, and the financial costs that are not balanced with the currently known values of the community.

## POTENTIAL MOTION

Move to forward a Recommendation for Denial to the County Council.

### *Findings:*

1. The application is for a code text amendment to amend Wasatch County Code 16.02.05, 16.03.04, 16.04, 16.23, 16.27.05, and to add a new chapter 16.43.
2. The proposed amendment seeks to classify certain land use development applications as Localized Impact Projects.
3. As classified, Localized Impact Projects would be the majority of land use development applications currently processed by the County.
4. The proposed amendment adds a new chapter 16.43 that would subject Localized Impact Projects to additional criteria such as a requirement to hold Public Impact Discussions (PIDs) as part of the application requirements.
5. The proposal requires an applicant to organize a PID meeting, provide public notice, present their development proposal, take public comment, record meeting meetings, and host a record of the meeting in perpetuity. The County would not participate in the meeting, but would be requiring the meeting as part of the application. As the PID is a requirement to develop land, the requirement would be considered a land use regulation that must be complied with to make a land use application. Utah Code 17-27a-103.
6. The proposal requires an applicant to also submit a response to each public comment presented at the PID meeting, regardless of whether the comment relates to an applicable law, policy, or standard. This requires an applicant to consider standards or requirements not expressed in the Utah Code or the Wasatch County Land Use and Development Code, in violation of UCA 17-27a-508(e).
7. Per the applicant statement, the purpose of the amendment is to “provide for sufficient public engagement on certain issues that have an outsized public impact on County residents and/or County policy.”
8. Based on the proposed language, the applicant considers the majority of land use applications in the County to have an “outsized public impact” as defined in the applicant code text amendment application.
9. State Law mandates procedures for public meetings through the Open and Public Meetings Act (UCA §52-4).
10. The proposal seeks to avoid OPMA requirements by placing the burden of the meeting on the applicant.
11. Since the County development application would require the applicant to hold this meeting, it is believed by the County that such a requirement would be viewed as a public meeting subject to OPMA.
12. Senate Bill 174 (2023) precludes more than one public hearing for preliminary subdivision applications. Inclusion of a public hearing before any DRC reviews and subsequent application modifications would likely become problematic by precluding the Planning Commission from holding a hearing after DRC review as the current process dictates. This could result in a lack of transparency and a frustration to the public as projects tend to adjust through the review process.
13. The proposal requires a conditional use permit applicant to prove a positive benefit of the project and requires the County to deny a conditional use permit if the applicant cannot demonstrate positive benefit.
14. UCA §17-27a-506(2) states “a land use authority **shall** approve a conditional use if reasonable conditions are

proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.”

15. The DRC review listed a number of concerns with the imposition of requirements to administrative land use decisions that become “potentially unfruitful for everyone involved. Requiring [the] meetings would encourage consideration of public clamor that would violate state law, and could create liabilities for the county from a risk management perspective.”
16. The applicant states that a positive impact of the proposal is to add public scrutiny to projects that will aid the applicant in mitigating such impacts.
17. The applicant states that a negative impact of the proposed change could be reduced growth due to “additional hurdles to developers and other applicants.”
18. The applicant acknowledges that holding additional meetings and administrative duties will increase the burden on County staff.
19. No analysis was provided in the application to clearly support the ability to add the proposed regulations to Cannabis Production Establishments. As such, it is uncertain at this time whether federal or state laws preclude the County’s ability to add such requirements. See UCA 17-27a-525(2).
20. The proposal includes different noticing requirements (timeline, distance, and method) than other areas of the County code and, as written, presents a number of challenges for procedural issues and conflicts with other sections of County code which were written to more currently align with State code requirements.
21. The implementation and management of public impact discussions and impact assessment criteria being required of the applicant are unclear.
22. Based on staff’s training and experience, the proposed requirements are out of line with what most local land use authorities throughout Utah require. If enacted, this creates a greater probability of the Utah legislature creating new regulations that more clearly prohibit the PID because the unique burdens on development this regulation would impose. Enacting the proposal could also negatively affect the Utah legislature’s perception of the County for issues that are not essential to the County welfare.
23. It is unclear who the appeal authority would be if a party to the PID were aggrieved. UCA §17-27a-701 requires the County to have an appeal authority available.
24. The application seeks to require the FAA to produce documentation outside of their designated process.
25. The County has no jurisdiction over a federal or state agency and cannot require actions on their part, unless specifically allowed by federal law. U.S. Const. art. VI.
26. The proposal establishes a visual impact analysis for conditional uses that is undetermined what conflict or consistency such requirements would have with the currently existing regulations in the County for ridgeline and viewshed analysis and other sections of code regarding building height provisions.
27. The Wasatch County Council, as the legislative body, has broad discretion for amendments to the Wasatch County Code.
28. The proposal, as written, raises numerous concerns and potential conflicts that have not been resolved by the applicant. Without supporting information, the legal risks to the county are uncertain.
29. The County determines that the interest of the public is best served by clear standards and processes so that all parties can have clear expectations as to rights and responsibilities related to land use and development.
30. The County encourages public engagement and interaction throughout all stages of the process, as permissible by applicable laws. Specifically, public engagement during the early planning stages such as review and implementation of the general plan and other legislative actions where the county holds a higher level of discretion under the jurisdictional authority granted by the State. It is during these actions that a greater influence on the growth and development of the County can be achieved.
31. The additional burdens of the PID would raise the costs of development activity in the County without sufficient benefit to the general welfare.
32. The County planning commission and the County Council conducted properly noticed public hearings and public meetings as required under applicable law.

## **ALTERNATIVE ACTIONS**

The following is a list of possible motions the Planning Commission can take. If the action taken is inconsistent with the potential findings listed in this staff report, the Planning Commission should state new findings.

1. Recommendation for Approval. This action may be taken if the Planning Commission finds that the General Plan and proposed amendments are consistent and compatible.
2. Recommendation for Approval with Conditions. This action can be taken if the Planning Commission feels comfortable that remaining issues can be resolved prior to final approval.
3. Continue. This action can be taken if the Planning Commission needs additional information before making a recommendation, if there are issues that have not been resolved, or if the application is not complete.
4. Recommendation for Denial. This action may be taken if the Planning Commission finds that the proposed code amendment is not appropriate at this time and/or is not supported by the General Plan.

## **EXHIBITS**

- A. Applicant Proposed Language
- B. Applicant Amendment Justification
- C. Applicant Request for Hearing and Position on OPMA

EXHIBIT A – Applicant Proposed Language

Addition of New Chapter – Chapter 16.43

Chapter 16.43 - Public Impact Discussion

16.43.01 - Public Impact Discussions Required for Certain Applications.

The Public Impact Discussion is an informal opportunity for the developer to inform the surrounding area residents and property owners within a one-mile radius from the property boundaries, the details of a proposed development and Development Application, how the developer intends to meet the standards contained in this title, and to receive public comment and encourage dialogue at an early time.

In the event: any person or entity submits a Development Application concerning or relating to any of the matters identified in Section 16.43.02 (a “Localized Impact Project”) the applicant will, in addition to any other procedures and notices required by this Title 16, hold a Public Impact Discussion concerning such Localized Impact Project (a “Public Impact Discussion”) pursuant to the terms of this Section prior to the submission of a Project Development Application.

16.43.02 - Localized Impact Project. Development Applications concerning or relating to the following matters will be required to participate in Public Impact Discussions:

- A. Any amendment to this Title 16 or the County’s zoning map;
- B. Any amendment to the General Plan;
- C. Any conditional use permit, excluding conditional use permits for those uses described in Section 16.01.05(B)(1)(b)-(d), (f)-(j), (2), (3), (7), (9) – (10);
- D. Small Scale, Large Scale, and Cluster Developments; and
- E. The construction or approval of Cannabis Production Establishments or Medical Cannabis Pharmacies.

16.43.03 - Scheduling and Location of Public Impact Discussions. The applicant shall organize and hold a Public Impact Discussion and use as a public meeting place within the community when the meeting place is available. The Public Impact Discussion will be held prior to the submittal of a Development Application. The applicant will be required to record the meeting and provide information to the public and planning staff where the audio can be viewed, downloaded or obtained.

16.43.04 - Notices for Public Impact Discussions.–The applicant shall mail a written notice (a “PID Notice”) to all persons or entities that own property within one mile (as the crow flies) of the property boundaries that is the subject of the Localized Impact Project. The PID Notice must: (i) be mailed to the Required PID Notice Recipients at least twenty-one (21) days in advance of the applicable Public Impact Discussion; and (ii) contain the following information:

- A. The location where the Public Impact Discussion will be held;
- B. The date and time of the Public Impact Discussion;

C. Indicate that all members of the public may appear at the Public Impact Discussion and make in-person comments on the Localized Impact Project in accordance with the County’s generally accepted practices for public meetings, or submit written comments that will be received by the planning staff

D. A brief summary of the nature, scope, and purpose of the Localized Impact Application; and

E. Indicate where and how the Localized Impact Project can be viewed, downloaded, or obtained.

16.43.05 - Impact Discussion Summary. Following each Public Impact Discussion, the applicant will prepare a written summary of the Public Impact Discussion (the “Impact Discussion Summary”) and submit such Impact Discussion Summary to the Planning Department with the Development Application. The Impact Discussion Summary must include the following:

A. The date of the Public Impact Discussion;

B. The approximate number of persons that attended the Public Impact Discussion;

C. A summary of the concerns, issues, and/or problems expressed or identified by members of the public during the Public Impact Discussion (the “Public Impact Discussion Issue List”); and

D. In the event such Development Application is related to a conditional use permit to which Section 16.23.07(C.1.), or (D.1) - (D.3.) applies, outlining the additional requirements posed by such Sections (the “Additional Conditional Use Requirements” and together with the Public Impact Discussion Issue List, the “Public Issue List”).

16.43.06 - Response to Public Issue List. The applicant will respond, in writing, to all issues raised in or requirements of the Public Issue List and then submit such responses (the “Public Issue List Responses”) to the planning staff with the Development Application.

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**Amendment to Section 16.23.07 – General Standards and Findings Required (Conditional Use Permits)**

These standards shall be in addition to other standards set forth in this land use and development code for the conditional use proposed. If there is a direct conflict between these standards and those set forth for the appropriate zoning district, the more specific standards control. If reasonable conditions are proposed, or can be imposed by the land use authority, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards, and compliance with all other requirements of the land use and development code have been demonstrated by the applicant, the land use authority shall approve the conditional use permit application. The land use authority shall not issue a conditional use permit unless the applicant demonstrates, and the land use authority finds:

A. The application complies with all requirements of this title;

- B. The business shall maintain a business license, if required;
- C. The use will be compatible with surrounding structures in use, location, scale, mass, design and circulation;

C.1. Benefit Analysis – Conditional Use Permits in Residential-Agricultural, Mountain, Agricultural, or Preservation Zones. A conditional use permit for which a Localized Impact Discussion is required shall not be issued by the applicable land use authority in a Residential-Agricultural Zone (RA-1 or RA-5), Mountain Zone (M), Agricultural Zone (A-20), or Preservation Zone (P-160) (each a “Protected Zone” and collectively the “Protected Zones”) unless the applicant for such permit has explained the following in its Public Issue List Responses: (1) why the use requested by the conditional use permit will provide a material benefit to the surrounding properties in such Protected Zone that such properties do not already enjoy; and (2) why it would materially benefit the County to allow the Requested Conditional Use in such Protected Zone rather than in another zone where the Requested Conditional Use is already permitted.

- D. The visual or safety impacts caused by the proposed use can be adequately mitigated with conditions;

D.1. FAA Determination for Certain Structures. If the Requested Conditional Use involves constructing a structure that is more than forty-five (45) feet tall or consists of more than three stories (a “Tall Structure”), then the applicant must submit a Federal Aviation Authority (“FAA”) determination letter to the planning staff as part of the applicant’s Public Issue List Responses. The FAA determination letter must entail, in addition to any and all requirements already required by the FAA: (1) whether the Tall Structure poses an aviation hazard; (2) any and all lighting requirements that the FAA will impose on such Tall Structure (the “FAA Required Lighting”); (3) a record of any negotiations, if any, between the FAA and the applicant concerning the FAA Required Lighting; and (4) how the light pollution generated by the FAA Required Lighting will be shielded or otherwise directed vertically so as to minimize the impact the FAA Required Lighting has on properties within one mile of the Tall Structure (the “FAA Light-Shielding Measures”). The FAA determination letter must be paid for by the applicant.

D.2. Visual Impact Analysis for Certain Structures. If a Requested Conditional Use involves constructing a Tall Structure, then the applicant must submit a visual impact study (a “TS Visual Impact Study”) as part of its Public Issues List Responses. Each TS Visual Impact Study must include summaries of the following: (1) the visual impact the Tall Structure will have on properties located within five hundred (500) feet, two thousand five hundred (2,500) feet, and two (2) miles of the Tall Structure; (2) the visual impact the Tall Structure will have at night (if different from the visual impact of the Tall Structure during the day); (3) the visual impact the Tall Structure will have on natural features surrounding the Tall Structure (such as trees and mountains); and (4) what

the applicant plans to do, if anything, to mitigate the visual impacts of the Tall Structure.

D.3. Lighting of Certain Structures. If a Restricted Conditional Use involves constructing a Tall Structure, then such Tall Structure may not be illuminated after sundown or before sunrise unless illuminating the Tall Structure is required by this Title 16 or by state or federal law.

- E. The use is consistent with the Wasatch County general plan;
- F. The effects of any future expansion in use or scale can be and will be mitigated through conditions;
- G. All issues of lighting, parking, the location and nature of the proposed use, the character of the surrounding development, the traffic capacities of adjacent and collector streets, the environmental factors such as drainage, erosion, soil stability, wildlife impacts, dust, odor, noise and vibrations have been adequately mitigated through conditions;
- H. The use will not place an unreasonable financial burden on the County or place significant impacts on the County or surrounding properties, without adequate mitigation of those impacts;
- I. The use will not adversely affect the health, safety or welfare of the residents and visitors of Wasatch County; and
- J. Any land uses requiring a building permit shall conform to the international uniform building code standard.

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### **Related Technical Amendments Necessitated by the Proposed Amendments**

#### **Amendment to Section 16.27.05(D) – General Procedures for Development Applications<sup>1</sup>**

D. Placement On Agenda: After (i) an item is determined to be complete and has been given a recommendation for approval by the various members of the development review committee, and (ii) in the case of Localized Impact Project, all the requirements of Chapter 16.43 have been met, the planning staff shall issue an administrative land use decision if so authorized, or shall place the matter on the agenda for appearance before the planning commission. The planning staff shall then write a report to the planning commission, taking into consideration the requirements of Chapter 16.43 (if applicable) and the

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<sup>1</sup> If all or part of an existing subsection is not listed in any of the Sections amended in this “technical amendment section,” we are not proposing any amendments to such subsections. As an example, while we have made proposed revisions to Section 16.27.05(D), we are not proposing that any amendments be made to Sections 16.27.05(A) – (C) or (E) – (F).

recommendations of the development review committee, and propose any conditions necessary to satisfy any remaining DRC comments. If at any time issues are found that have not been satisfactorily addressed, the item may be pulled off the agenda.

**Amendment to Section 16.23.05 – Notice/Posting of Matters to be determined by Staff (Conditional Use Permits)**

- A. Prepare a written notice containing a summary of the information included in the application, and inviting comments or objections to be submitted to the planning department within ten (10) days of the date the notice is published.
- B. Mail the notice to all owners whose real property adjoins or lies within five hundred feet (500') of all parts of the parcel on which the proposed conditional use is to be established (hereafter the "affected owners")The county may send this notice to the last known address of the owner as listed on the county tax rolls.
- C. If no objections are received and the conditional use is one that has been delegated to planning staff for determination, which, for the avoidance of doubt, does not include any conditional use for which a Localized Impact Project must be submitted, the planning staff may deny the permit, grant the permit, or grant the permit with specified conditions. If objections are received, planning staff shall refer the matter to the planning commission for a public hearing. Notice of this hearing shall be provided to all affected property owners within five hundred feet (500') and in accordance with 16.02.02 of this title. Planning commission motions shall list all conditions of approval specifically.

**Amendment to Section 16.02.05(B) – (E) (addition of new Subsection (B); amendment of Subsection C)) – Procedure to Amend Title, Code or Zoning Map**

B. Planning Commission Public Hearing: After any notices required under the Utah Code, this title, the planning commission shall hold a public hearing on any properly proposed amendment to this title or the zoning map, and shall consider any written comments received. The planning commission may recommend approval, modify, recommend denial, decline to recommend a change and advance the matter to the County legislative body, or continue the matter. They shall forward any written comments they received to the County legislative body with their recommendation.

C. Council Public Hearing: After providing any notices required under the Utah Code, the County legislative body shall, after the application is advanced from the planning commission, hold a public hearing to consider whether the proposed amendment to this title or the zoning map is in the interest of the public, and is consistent with the goals and policies of the Wasatch County general plan. The legislative body may approve the proposed amendment to this title or the zoning map or they may modify, deny, or continue the matter.

D. The County legislative body may amend the number, shape, boundaries or area of any zoning district, or any regulation of or within a zoning district, or any other provision of this title.

**Amendment to Section 16.03.04(B) – General Plan Amendments**

B. Amendment Frequency: Proposed amendments to the general plan will only be considered by the County legislative body once each calendar year in November. All general plan amendments shall be effective January of the following year when the general plan is updated, however applicants can pursue development approvals prior to January if approval to the new general plan has been granted.

1. The county legislative body may propose and authorize the expedited enactment of an amendment to the general plan by requiring the planning commission, ~~or the~~ planning director to only follow the minimum requirements under the Utah Code to amend the general plan if the county legislative body finds that expedited enactment of amendment to the general plan is necessary, the planning director, planning commission, and other necessary county personnel shall act with haste, and are hereby authorized to follow the minimum requirements of the State Code, to recommend an amendment to the general plan, or to decline to recommend the proposed amendment after holding a properly notice public hearing.

**Amendment to Section 16.04.02 – Definitions of Terms and Words<sup>2</sup>**

ADDITIONAL CONDITIONAL USE REQUIREMENTS: shall have the meaning given to Protected Zones.

FAA DETERMINATION: An evaluation referring to aeronautical studies conducted by the Federal Aviation Administration (FAA) for any object that may affect the national airspace, air navigation facilities, or airport capacity.

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<sup>2</sup> The proposed amendments necessitate the following definitions to be added to Section 16.04.02. For the sake of brevity, we have not listed out all the definitions already included in Section 16.04.02.

March 15, 2023  
Page 7 of 3

FAA LIGHT-SHIELDING MEASURES: shall have the meaning given to such FAA Required Lighting and will be shielded or otherwise directed vertically so as to minimize the impact the FAA Required Lighting has on properties within one mile of the Tall Structure (the “FAA Light-Shielding Measures”). This shielding may not derogate the lighting system’s intended purpose.

FAA REQUIRED LIGHTING: shall have the meaning given to such term in an FAA DETERMINATION.

IMPACT DISCUSSION SUMMARY: is a written summary of the Public Impact Discussion.

LOCALIZED IMPACT PROJECT: shall have the meaning given to such term in Section 16.43.01.

PID NOTICE: is defined as a written and mailed notice to all persons or entities that own property within one mile of the property boundaries that is the subject of the Localized Impact Project.

PROTECTED ZONE(S): is defined as Residential-Agricultural Zone (RA-1 or RA-5), Mountain Zone (M), Agricultural Zone (A-20), or Preservation Zone (P-160)

PUBLIC IMPACT DISCUSSION: shall have the meaning of an informative discussion including the surrounding area residents and property owners within a one-mile radius from the property boundaries of the Localized Impact Project.

PUBLIC IMPACT DISCUSSION ISSUE LIST: a written list of all issues discussed during the Public Impact Discussion.

PUBLIC ISSUE LIST RESPONSES: shall have the meaning of which the applicant responds to all issues raised in or requirements of the Public Issue List .

TALL STRUCTURE: is defined as any structure measuring from the natural, unaltered ground elevation that is more than forty-five (45) feet tall or consists of more than three stories (a “Tall Structure”) above ground level.

TS VISUAL IMPACT STUDY: is defined as a Visual Impact Study involving a Tall Structure.

**EXHIBIT B – Applicant Amendment Justification**

RAY QUINNEY & NEBEKER

**APPLICATION TO AMEND THE WASATCH COUNTY CODE**

**Date:** March 15, 2023

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**To:** Wasatch County Planning Staff  
**From:** Jeffrey Appel & Andrew Applegate

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This application to amend certain sections of Title 16 of the Wasatch County Code (the “Code”) is being submitted by Ray Quinney & Nebeker P.C. (“RQN”) on behalf of a large group of Wasatch County Residents (the “Resident Group”). The Resident Group is concerned that Title 16 of the Code (“Title 16”) does not: (1) provide for sufficient public engagement prior to the Wasatch County Planning Commission or County Council making decisions regarding (a) amendments to the Code, County Zoning Map, or General Plan, (b) certain conditional use permits, (c) certain developments, and (d) the approval of certain uses that concern or relate to cannabis; or (2) contain sufficiently stringent requirements for (a) the granting of conditional use permits in certain zones, or (b) the construction of structures of a certain height pursuant to a conditional use permit.

This application is organized as follows. First, the text of each proposed amendment is presented in red text. Second, for amendments that are not solely technical in nature, the reason/justification for each such amendment is discussed in addition to how the proposed amendment further promotes the objectives of the County’s General Plan and the purposes of Title 16 in accordance with Section 16.02.05(B) of the Code. Per County requirements, the text of the proposed amendments have also been submitted in a separate, standalone document.

**Addition of New Chapter – Chapter 16.43**

**Chapter 16.43 - Public Impact Discussions**

**16.43.01 - Public Impact Discussions Required for Certain Applications. In the event: (i) any person or entity submits an application concerning or relating to any of the matters identified in Section 16.21.49(B) below (each, a “Localized Impact Pre-Application”); and (ii) the planning staff (and development review committee, as applicable) determines that such Localized Impact Pre-Application is complete, all applicable fees have been paid, and the Application otherwise complies with all applicable requirements of this Title 16 (each, a “Localized Impact Application”).**



then the planning staff will, in addition to any other procedures and notices required by this Title 16, hold a public discussion concerning such Localized Impact Application (a “Public Impact Discussion”) pursuant to the terms of this Section 16.21.49 prior to the planning staff drafting a report concerning, or the planning staff or planning commission approving (whether at a public hearing or otherwise), such Localized Impact Application.

**16.43.02 - Localized Impact Applications.** Applications concerning or relating to the following matters will be considered Localized Impact Applications:

A. Any amendment to this Title 16 or the County’s zoning map;

B. Any amendment to the General Plan;

C. Any conditional use permit, excluding conditional use permits for those uses described in Section 16.01.05(B)(1)(b)-(d), (f)-(j), (2), (3), (7), (9) – (10);

D. Small Scale, Large Scale, and Cluster Developments; and

E. The construction or approval of Cannabis Production Establishments or Medical Cannabis Pharmacies.

**16.43.03 - Scheduling and Location of Public Impact Discussions.** Public Impact Discussions will be: (i) included on the agenda of the planning staff’s regularly scheduled meetings; and (ii) held at the location the planning staff conducts its regularly scheduled meetings, unless the planning staff determines that a Public Impact Discussion merits a separate, stand-alone meeting or should be held at a different location to better accommodate members of the public. All members of the public may attend Public Impact Discussions and make comments at the same in accordance with the County’s generally accepted practices for public meetings. The planning staff will also read into the public record any comments relating to a Localized Impact Application that are submitted electronically or via mail to the planning staff.

**16.43.04 - Notices for Public Impact Discussions.** Upon receipt of a Localized Impact Application, the planning staff shall mail a written notice (a “PID Notice”) to all persons or entities that own property within one mile (as the crow flies) of the property that is the subject of the Localized Impact Application (the “Required PID Notice Recipients”). The PID Notice must: (i) be mailed to the Required PID Notice Recipients at least twenty-one (21) days in advance of the applicable Public Impact Discussion; and (ii) contain the following information:

A. The location where the Public Impact Discussion will be held;

B. The date and time of the Public Impact Discussion;

C. Indicate that all members of the public may appear at the Public Impact Discussion and make in-person comments on the Localized Impact Application in accordance with the County’s generally accepted practices for public meetings, or submit written comments that will be read by the planning staff at the Public Impact Discussion;

D. A brief summary of the nature, scope, and purpose of the Localized Impact Application; and

E. Indicate where and how the Localized Impact Application can be viewed, downloaded, or obtained.

**16.43.05 - Impact Discussion Summary.** Following each Public Impact Discussion, the planning staff will prepare a written summary of the Public Impact Discussion (the “Impact Discussion Summary”) and submit such Impact Discussion Summary to the person or entity who submitted the Localized Impact Application. The Impact Discussion Summary must include the following:

A. The date of the Public Impact Discussion;

B. The approximate number of persons that attended the Public Impact Discussion;

C. A summary of the concerns, issues, and/or problems expressed or identified by members of the public during the Public Impact Discussion (the “Public Impact Discussion Issue List”); and

D. In the event such Localized Impact Application is related to a conditional use permit to which Section 16.23.07(C.1.), or (D.1) - (D.3.) applies, outlining the additional requirements posed by such Sections (the “Additional Conditional Use Requirements” and together with the Public Impact Discussion Issue List, the “Public Issue List”).

**16.43.06 - Response to Public Issue List.** Upon receipt of an Impact Discussion Summary, the applicant who has submitted a Localized Impact Application will respond, in writing, to all issues raised in or requirements of the Public Issue List and then submit such responses (the “Public Issue List Responses”) to the planning staff. If the planning staff determines, in its sole and reasonable discretion, that the Public Issue List Responses have adequately responded to each issue on the Public Issue List and otherwise complied with the requirements of the Public Issue List, then the planning staff will: (i) place the Localized Impact Application on the agenda of the planning commission’s next available meeting; and (ii) issue a report to the planning commission and/or the County legislative body, as applicable, that includes the Impact Discussion Summary, the Public Issue List Responses, and any other information that is required by this Title 16 or which the planning staff determines is relevant to the Localized Impact Application.

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***Reasons for addition of Chapter 16.43.*** The Resident Group is concerned that the Code does not provide for sufficient public engagement on certain issues that have an outsized public impact on County residents and/or County policy (see those issues identified in Section 16.43.02 above). Particularly concerning to the Resident Group is the fact that, under the Code as currently written, members of the public are first permitted to meet to discuss their concerns about an item before the Planning Staff or Planning Commission *in the same meeting* in which members of the Planning Staff or Planning Commission make, or can make, a binding decision concerning such item. As a result, members of the public often do not have sufficient time to digest and prepare thoughts

relating to agenda items and members of the Planning Staff or Planning Commission often do not have sufficient time to properly consider public input prior to deciding on an item before the Staff or Commission.

The Resident Group believes that, for those applications identified as Localized Impact Applications in Chapter 16.43 above: (i) greater public input and discourse should be required; (ii) the Planning Staff or Planning Commission should be provided increased lead time to consider such public input; and (iii) the applicant submitting a Localized Impact Application should be required to respond to public concerns in writing. While it is true that, in some instances, the Planning Staff provides notice of certain items and invites written comments from the public prior to the meeting in which the Planning Staff or Planning Commission makes a decision on such item, providing written feedback to the Staff or Commission is often onerous for residents (more so than attending a meeting), and does not capture or provide the value that derives from residents coming together and discussing their views.<sup>1</sup>

***Potential negative impacts of the proposed Chapter 16.43:***

- Some applicants may elect to not submit an application for certain types of developments or conditional uses given the increased public scrutiny and input required by the proposed Chapter 16.43. While the Resident Group believes that such public input will have a positive impact on the growth and trajectory of the County, the Resident Group recognizes that the proposed Chapter 16.43 presents additional hurdles to developers and other applicants that may slow rapid development in the County (which may be viewed as a negative effect by some County residents).
- The Resident Group also recognizes that holding and noticing Public Impact Discussions may increase the administrative duties of the Planning Staff. In an effort to minimize any additional burdens on the Planning Staff, the proposed Chapter 16.43 was intentionally drafted to require no additional, or separate Planning Staff meetings to facilitate Public Impact Discussions. Section 16.43.03 holds that Public Impact Discussions should be woven into already existing agendas for the Planning Staff and that such Discussions only be held during the Planning Staff's regularly scheduled meetings. Similarly, while the proposed Chapter 16.43 requires the Planning Staff to send out notices of Public Impact Discussions: (i) the notice range—one mile from the property that is subject to the Localized Impact Discussion—is narrow (particularly for properties located in rural zones); and (ii) the items to be included in such PID Notice are not substantially different from those already required for notices of a conditional use permit application (see Section 16.23.05). Finally, while the proposed Chapter 16.43 does require the planning staff to draft the Public Issue List, the County already publishes meeting minutes, or summaries, of its County Council Meetings and Planning Commission Meetings. The Planning Staff could utilize the same person or persons who draft the meeting minutes for County Council Meetings and Planning Commission Meetings to draft the Public Issue Lists relating to Public Impact Discussions.

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<sup>1</sup> Note to County: for the sake of simplicity, we are proposing that the "Public Impact Discussions" Chapter be added as Chapter 16.43 (which would be the final Chapter in Title 16) so as to not require the County to renumber the existing Chapter references or cross references in Title 16 and throughout the Code generally.

*How the proposed Chapter 16.43 furthers the purposes of the Code and the General Plan:*

- Section 16.01.01(M) states that one of the purposes of Title 16 is to “require new developments to be fiscally responsible by providing all required improvements and adequately mitigating any impacts to the County.” The proposed Public Impact Discussions will help each development applicant to better understand the concerns and impacts of their proposed development, which will in turn aid that applicant in mitigating such impacts.
- Section 16.01.01(L) states that one of the purposes of Title 16 is to regulate development that “may detract from the quality of life in the community.” Through the proposed Public Impact Discussions, the Planning Staff, Planning Commission, and County Council better understand what residents consider to be important aspects of their “quality of life” as residents of the County.
- Section 16.01.01(d) states that one of the purposes of Title 16 is to “[p]rotect and conserve the Wasatch County property values and minimize conflicts among uses of the land and structures.” The proposed Public Impact Discussions will help the Planning Staff, Planning Commission, and County Council to better understand what conflicts exist between land uses and structures (as they will likely have greater public input). With a better understanding of potential land use conflicts, the County will be better able to address and mitigate such conflicts.
- Section 16.03.01(A) states that “[t]he purpose of the general plan is to set policies to guide future growth and development in a manner consistent with the goals and quality of life desired by Wasatch County citizens.” (Emphasis added). The additional public engagement proposed in Chapter 16.43 above will help the County administrative and legislative bodies to better understand what the goals of Wasatch County citizens are and what quality of life is desired by such citizens.
- Section 16.03.01(B) states that “the general plan is based on community values and an understanding of existing and projected conditions and needs, all of which are subject to change.” With increased public engagement on select issues that have an outsized public impact, the County administrative and legislative bodies will better understand exactly what community values are most important to County residents.

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**Amendment to Section 16.23.07 – General Standards and Findings Required (Conditional Use Permits)**

These standards shall be in addition to other standards set forth in this land use and development code for the conditional use proposed. If there is a direct conflict between these standards and those set forth for the appropriate zoning district, the more specific standards control. If reasonable conditions are proposed, or can be imposed by the land use authority, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards, and

compliance with all other requirements of the land use and development code have been demonstrated by the applicant, the land use authority shall approve the conditional use permit application. The land use authority shall not issue a conditional use permit unless the applicant demonstrates, and the land use authority finds:

- A. The application complies with all requirements of this title;
- B. The business shall maintain a business license, if required;
- C. The use will be compatible with surrounding structures in use, location, scale, mass, design and circulation;

C.1. Benefit Analysis – Conditional Use Permits in Residential - Agricultural, Mountain, Agricultural, or Preservation Zones. A conditional use permit for which a Localized Impact Application is required shall not be issued by the applicable land use authority in a Residential-Agricultural Zone (RA-1 or RA-5), Mountain Zone (M), Agricultural Zone (A-20), or Preservation Zone (P-160) (each a “Protected Zone” and collectively the “Protected Zones”) unless the applicant for such permit has explained the following in its Public Issue List Responses: (1) why the use requested by the conditional use permit (the “Requested Conditional Use”) will provide a material benefit to the surrounding properties in such Protected Zone that such properties do not already enjoy; and (2) why it would materially benefit the County to allow the Requested Conditional Use in such Protected Zone rather than in another zone where the Requested Conditional Use is already permitted.

- D. The visual or safety impacts caused by the proposed use can be adequately mitigated with conditions;

D.1. FAA Determination for Certain Structures. If the Requested Conditional Use involves constructing a structure that is more than forty-five (45) feet tall or consists of more than three stories (a “Tall Structure”), then the applicant must submit a Federal Aviation Authority (“FAA”) determination letter to the planning staff as part of the applicant’s Public Issue List Responses. The FAA determination letter must entail, in addition to any and all requirements already required by the FAA: (1) whether the Tall Structure poses an aviation hazard; (2) any and all lighting requirements that the FAA will impose on such Tall Structure (the “FAA Required Lighting”); (3) a record of any negotiations, if any, between the FAA and the applicant concerning the FAA Required Lighting; and (4) how the light pollution generated by the FAA Required Lighting will be shielded or otherwise directed vertically so as to minimize the impact the FAA Required Lighting has on properties within one mile of the Tall Structure (the “FAA Light-Shielding Measures”). The FAA determination letter must be paid for by the applicant.

D.2. Visual Impact Analysis for Certain Structures. If a Requested Conditional Use involves constructing a Tall Structure, then the applicant must submit a visual impact study (a “TS Visual Impact Study”) as part of its Public Issues List

Responses. Each TS Visual Impact Study must include summaries of the following: (1) the visual impact the Tall Structure will have on properties located within five hundred (500) feet, two thousand five hundred (2,500) feet, and two (2) miles of the Tall Structure; (2) the visual impact the Tall Structure will have at night (if different from the visual impact of the Tall Structure during the day); (3) the visual impact the Tall Structure will have on natural features surrounding the Tall Structure (such as trees and mountains); and (4) what the applicant plans to do, if anything, to mitigate the visual impacts of the Tall Structure.

D.3. Lighting of Certain Structures. If a Restricted Conditional Use involves constructing a Tall Structure, then such Tall Structure may not be illuminated after sundown or before sunrise unless illuminating the Tall Structure is required by this Title 16 or by state or federal law.

- E. The use is consistent with the Wasatch County general plan;
- F. The effects of any future expansion in use or scale can be and will be mitigated through conditions;
- G. All issues of lighting, parking, the location and nature of the proposed use, the character of the surrounding development, the traffic capacities of adjacent and collector streets, the environmental factors such as drainage, erosion, soil stability, wildlife impacts, dust, odor, noise and vibrations have been adequately mitigated through conditions;
- H. The use will not place an unreasonable financial burden on the County or place significant impacts on the County or surrounding properties, without adequate mitigation of those impacts;
- I. The use will not adversely affect the health, safety or welfare of the residents and visitors of Wasatch County; and
- J. Any land uses requiring a building permit shall conform to the international uniform building code standard.

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***Reasons for the proposed amendment to Section 16.23.07(C).*** The Resident Group believes that conditional use permits for properties in the Residential-Agricultural, Mountain, and Preservation Zones (the “*Protected Zones*”) should be subject to increased scrutiny by County administrative and legislative bodies. Each Protected Zone is important to the rural and outdoor character of the County and, as a result, merit greater protection than other zones. Importantly, the proposed amendment does not quash the granting of conditional use permits in Protected Zones; instead, it requires applicants to present a convincing case as to why the conditional use permit should be granted in a Protected Zone.

***Potential negative impacts of the proposed amendment to Section 16.23.07(C).*** See the first bullet point to in response to the “Potential Negative Impacts of Chapter 16.43.” Additional requirements

for applicants seeking conditional use permits may slow development in the County. Slowed development may be viewed as a negative impact by some County residents.

***How the proposed amendment to Section 16.23.07(C) furthers the purposes of the Code and the General Plan:***

- Section 16.01.01 states that one of the purposes of Title 16 is to “**protect and conserve the character** and stability of Wasatch County.” (Emphasis added). The County has always had a rural character with an emphasis on agriculture, outdoor, opportunities, and outdoor connection. The proposed amendment further protects and conserves such rural character while continuing to allow and promote development in those zones where such development is already permitted or encouraged.
- Section 3.06.01 states that the purpose of Title 3 of the Code is as follows: “Wasatch County is characterized by valuable open space and sensitive lands resources that contribute to the region's character and overall quality of life. **Residents have long enjoyed views of and recreational access to the mountains, lived with abundant wildlife, and farmed the valley floors.** They enjoy the ample open space that exists along main roads, which **provide wide views along and into natural spaces and farmlands.** While residents expect that real estate development will occur as population increases, they would **like to see the rural heritage conserved for the enjoyment of future generations.** **Wasatch County's high value critical open spaces** have ecological, agricultural, cultural, economic, tourism and recreational qualities, functions, and potential uses, and these lands **are worthy of careful planning and conservation.**” (Emphasis added). The proposed amendment further protects the rural heritage and open spaces of the County.

***Reasons for proposed amendments to Section 16.23.07(D).*** As currently written, Section 16.23.07(D) is vague and does not require an applicant to meet specific visual impact and safety standards. Conversely, the proposed amendment to 16.23.07(D) provides clear safety and visual impact guidelines for Tall Structures. Specific and stringent guidelines are appropriate for Tall Structures built pursuant to a conditional use permit as such Tall Structures have the potential to significantly impact the visual landscape of the County—particularly when such Tall Structures are built in a zone where the surrounding structures or homes are not as tall or imposing. In the same vein of thought, a Tall Structure should not be allowed to be illuminated—unless required by law—after sunrise or before sundown in an area where such Tall Structure would not be permitted to be built if not for the granting of a conditional use permit. Allowing a Tall Structure to be built and illuminated at night in a residential neighborhood, agricultural zone, or an area of open space would fundamentally alter the character of the surrounding landscape and the experience of the residents living or recreating in such space.

***Potential negative impacts of the proposed amendment to Section 16.23.07(D):*** See first bullet point in response to “Potential Negative Impacts of Chapter 16.43” and response to “Potential Negative Impacts the proposed amendment to Section 16.23.07(C).”

***How the proposed amendments to Section 16.23.07(D) further the purposes of the Code and the General Plan:***

- As outlined above, Section 3.06.01 holds that “[r]esidents have long enjoyed views of . . . the mountains . . . the ample open space . . . [and] the wide views along and into natural spaces and farmlands.” Tall Structures built in zones that don’t already allow the construction of such Structures will invariably block views of the mountains and visually constrict the open space of the County. The proposed amendments to Section 16.23.07(D) help ensure that residents of the County and the administrative and legislative bodies of the County will understand the visual impacts that a Tall Structure could have on the neighboring properties and the County as a whole. With a better understanding of the visual impact a Tall Structure could have, members of the Planning Staff, Planning Commission, and County Council will be able to make informed decisions for the County that are more likely to be consistent with the purposes of the Code and the General Plan.
- Policy 1.1.2 of Chapter 3 of the General Plan states that the County should: “[p]romote **preservations of views** and ridge-lines from development as viewed from prominent locations by prohibiting structures from encroaching above the ridge-line.” Tall Structures built in areas that don’t permit the construction of such Structures without a conditional use permit could very likely eliminate or limit the views of the surrounding residents. The specific requirements of the proposed amendments to Section 16.23.07(D) will help mitigate such impacts.
- Policy 1.1.7 of Chapter 3 of the General Plan states that the County should: “[p]reserve **the views of the night sky and reduce the impacts of artificial light by requiring all development to have dark sky compliant lighting.**” Section 16.23.07(D.3.) would prohibit Tall Structures from being illuminated at night, which would in turn preserve the views of the night sky and the dark-sky character of the County.

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### Related Technical Amendments Necessitated by the Proposed Amendments

#### **Amendment to Section 16.27.05(D) – General Procedures for Development Applications<sup>2</sup>**

D. Placement On Agenda: After (i) an item is determined to be complete and has been given a recommendation for approval by the various members of the development review committee, and (ii) in the case of Localized Impact Application, all the requirements of Chapter 16.43 have been met, the planning staff shall issue an administrative land use decision if so authorized, or shall place the matter on the agenda for appearance before the planning commission. The planning staff shall then write a report to the planning commission, taking into consideration the requirements of Chapter 16.43 (if applicable) and the recommendations of the development review committee, and propose any conditions necessary to satisfy any remaining DRC

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<sup>2</sup> If all or part of an existing subsection is not listed in any of the Sections amended in this “technical amendment section,” we are not proposing any amendments to such subsections. As an example, while we have made proposed revisions to Section 16.27.05(D), we are not proposing that any amendments be made to Sections 16.27.05(A) – (C) or (E) – (F).

comments. If at any time issues are found that have not been satisfactorily addressed, the item may be pulled off the agenda.

**Amendment to Section 16.23.05 – Notice/Posting of Matters to be determined by Staff (Conditional Use Permits)**

- A. Prepare (i) a written notice containing a summary of the information included in the application, and inviting comments or objections to be submitted to the planning department within ten (10) days of the date the notice is published, or (ii) if the application is a Localized Impact Application, a PID Notice as described in Section 16.43.04 at least twenty-one (21) days prior to any related Public Impact Discussion.
- B. Mail (i) the notice to all owners whose real property adjoins or lies within five hundred feet (500') of all parts of the parcel on which the proposed conditional use is to be established (hereafter the "affected owners"), or (ii) in the event a PID Notice is required, mail the PID Notice to all Required PID Notice Recipients. The county may send this notice, or the Required PID Notice Recipients, as applicable, to the last known address of the owner as listed on the county tax rolls.
- C. If no objections are received and the conditional use is one that has been delegated to planning staff for determination, which, for the avoidance of doubt, does not include any conditional use for which a Localized Impact Application must be submitted, the planning staff may deny the permit, grant the permit, or grant the permit with specified conditions. If objections are received, planning staff shall refer the matter to the planning commission for a public hearing. Notice of this hearing shall be provided to all affected property owners within five hundred feet (500') and in accordance with 16.02.02 of this title. Planning commission motions shall list all conditions of approval specifically.

**Amendment to Section 16.02.05(B) – (E) (addition of new Subsection (B); amendment of Subsection C) – Procedure to Amend Title, Code or Zoning Map**

B. All amendments seeking to amend this Title 16 or the County Zoning Map shall be subject to the requirements of Chapter 16.43.

C. Planning Commission Public Hearing: After (i) the planning staff has providing provided any notices required under the Utah Code, and this title, and Section 16.43.04, and (ii) the applicant and planning staff have otherwise complied with all of the other requirements of Chapter 16.43, the planning commission shall hold a public hearing on any properly proposed amendment to this title or the zoning map, and shall consider any written comments received. The planning commission may recommend approval, modify, recommend denial, decline to recommend a change and advance the matter to the County legislative body, or continue the matter. They shall forward any written comments they received to the County legislative body with their recommendation.

D. Council Public Hearing: After providing any notices required under the Utah Code, the County legislative body shall, after the application is advanced from the planning commission, hold a public hearing to consider whether the proposed amendment to this title or the zoning map is in the interest of the public, and is consistent with the goals and policies of the Wasatch County general plan. The legislative body may approve the proposed amendment to this title or the zoning map or they may modify, deny, or continue the matter.

E. The County legislative body may amend the number, shape, boundaries or area of any zoning district, or any regulation of or within a zoning district, or any other provision of this title.

#### **Amendment to Section 16.03.04(B) – General Plan Amendments**

B. Amendment Frequency: Proposed amendments to the general plan will only be considered by the County legislative body once each calendar year in November, provided that each such proposed amendment has previously complied with all the requirements of Chapter 16.43. Proposed amendments to the general plan that have not complied with the requirements of Chapter 16.43 prior to the County legislative body’s November meeting will not be considered by the County legislative body. All general plan amendments shall be effective January of the following year when the general plan is updated, however applicants can pursue development approvals prior to January if approval to the new general plan has been granted.

1. The county legislative body may propose and authorize the expedited enactment of an amendment to the general plan by requiring the planning commission, ~~or the~~ planning director to only follow the minimum requirements under the Utah Code to amend the general plan if the county legislative body finds that expedited enactment of amendment to the general plan is necessary, the planning director, planning commission, and other necessary county personnel shall act with haste, and are hereby authorized to follow the minimum requirements of the State Code, to recommend an amendment to the general plan, or to decline to recommend the proposed amendment after ~~holding a properly notice public hearing complying any applicable requirements of Chapter 16.43 and holding any other public hearings required by this Title 16.~~

#### **Amendment to Section 16.04.02 – Definitions of Terms and Words<sup>3</sup>**

ADDITIONAL CONDITIONAL USE REQUIREMENTS: shall have the meaning given to such term in Section 16.43.05.

FAA: shall have the meaning given to such term in Section 16.23.07(D.1.).

FAA LIGHT-SHIELDING MEASURES: shall have the meaning given to such term in Section 16.23.07(D.1.).

<sup>3</sup> The proposed amendments necessitate the following definitions to be added to Section 16.04.02. For the sake of brevity, we have not listed out all the definitions already included in Section 16.04.02.

FAA REQUIRED LIGHTING: shall have the meaning given to such term in Section 16.23.07(D.1.).

IMPACT DISCUSSION SUMMARY: shall have the meaning given to such term in Section 16.43.05.

LOCALIZED IMPACT APPLICATION: shall have the meaning given to such term in Section 16.43.01.

LOCALIZED IMPACT PRE-APPLICATION: shall have the meaning given to such term in Section 16.43.01.

PID NOTICE: shall have the meaning given to such term in Section 16.43.04.

PROTECTED ZONE(S): shall have the meaning given to such term in Section 16.23.07(C.1.).

PUBLIC IMPACT DISCUSSION: shall have the meaning given to such term in Section 16.43.01.

PUBLIC IMPACT DISCUSSION ISSUE LIST: shall have the meaning given to such term in Section 16.43.05.

PUBLIC ISSUE LIST: shall have the meaning given to such term in Section 16.43.05.

PUBLIC ISSUE LIST RESPONSES: shall have the meaning given to such term in Section 16.43.06.

REQUESTED CONDITIONAL USE: shall have the meaning given to such term in Section 16.23.07(C.1.).

REQUIRED PID NOTICE RECIPIENTS: shall have the meaning given to such term in Section 16.43.04.

TALL STRUCTURE: shall have the meaning given to such term in Section 16.23.07(D.1.).

TS VISUAL IMPACT STUDY: shall have the meaning given to such term in Section 16.23.07(D.2.).

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The amendments listed in the immediately preceding section are all technical in nature and necessitated by the proposed addition of (i) Chapter 16.43: Public Impact Discussions, and (ii) the proposed amendments to Section 16.23.07. The reasons for such amendments how they promote the purposes of the Code and the General Plan are outlined above.

### Conclusion

Thank you for your time and consideration of the important amendments outlined above. If you have any questions or would like to discuss this submittal you can reach out to us (Jeffrey Appel and Andrew Applegate) at any time at [jappel@rqn.com](mailto:jappel@rqn.com) and [aapplegate@rqn.com](mailto:aapplegate@rqn.com) or by phone at 801-323-3302 and 801-323-3684. We look forward to working with you.

**EXHIBIT C – Applicant Request for Hearing and Position on OPMA**

**Austin Corry**

---

**From:** Austin Corry  
**Sent:** Thursday, June 22, 2023 11:15 AM  
**To:** 'Alissa Haynes'  
**Cc:** Doug Smith  
**Subject:** RE: DEV-7699 Response

Alissa,

Per your request, I will place you on the July 13, 2023 agenda.

Regards,

**Austin Corry, PLA, AICP**

*Wasatch County Planning Department  
35 South 500 East  
Heber City, UT 84032  
435.657.3205*

**From:** Alissa Haynes <j.alissa.haynes@gmail.com>  
**Sent:** Tuesday, June 20, 2023 8:28 AM  
**To:** Austin Corry <ACorry@wasatch.utah.gov>  
**Cc:** Doug Smith <dsmith@wasatch.utah.gov>; j.alissa.haynes@gmail.com  
**Subject:** Re: DEV-7699 Response

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good morning Austin.

Yes, we would like to be on the July 13 agenda for this case.

As to the County's concern, we disagree that a meeting held and organized by an applicant would be considered a public hearing "held by the County." The County has provided no support or evidence as to why it thinks a court would consider a meeting held by an applicant as a meeting held by the County. Also, the Utah code clarifies that a "public meeting" can only be held by a "public body." And an applicant is not—in nearly all cases—a public body (see analysis contained herein).

SB174 allows only one public hearing for subdivision amendments. As revised, the Amendment also only requires one public hearing per Wasatch County's normal application process. The "Public Impact Discussion" we propose in the modified Amendment is not a public hearing as it is organized and held by the applicant, rather than county staff, and (2) the notice requirements of our proposed Public Impact Discussion are not the same (or as robust as) the notice requirements for a "public hearing." (See notice requirements of public meeting in Section 52-4-202 of the Utah Open and Public Meetings Act as compared to our notice requirements in proposed Section 16.43.04).

The Utah Open and Public Meetings Act clarifies that a "public meeting" or "public hearing" must be held by a "public body." The applicants submitting what we refer to as "Localized Impact Applications" in Section 16.43.02 of our modified Amendment would not (in nearly all cases) be a public body.

We would like to move forward with our application with one adjustment to the Localized Impact Application Section:

“Applications concerning or relating to the following matters, except in the case such application is submitted by a “public body” as defined in the Utah Open and Public Meetings Act, will be considered Localized Impact Applications”.

Thank you,

Alissa Haynes  
907-727-7907

On Fri, Jun 16, 2023, 11:57 AM Alissa Haynes <[j.alissa.haynes@gmail.com](mailto:j.alissa.haynes@gmail.com)> wrote:

Perfect. Thank you.

On Fri, Jun 16, 2023, 11:04 AM Austin Corry <[ACorry@wasatch.utah.gov](mailto:ACorry@wasatch.utah.gov)> wrote:

You can let me know Monday. I just wanted to make sure the previous email wasn't lost in your inbox since I hadn't heard a reply yet.

Thanks,

**Austin Corry, PLA, AICP**

*Wasatch County Planning Department*

*35 South 500 East*

*Heber City, UT 84032*

*435.657.3205*

**From:** Alissa Haynes <[j.alissa.haynes@gmail.com](mailto:j.alissa.haynes@gmail.com)>

**Sent:** Friday, June 16, 2023 11:02 AM

**To:** Austin Corry <[ACorry@wasatch.utah.gov](mailto:ACorry@wasatch.utah.gov)>

**Cc:** Doug Smith <[dsmith@wasatch.utah.gov](mailto:dsmith@wasatch.utah.gov)>

**Subject:** Re: DEV-7699 Response

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hi Austin.

Thank you for your email. Can I get back to you on Monday re: scheduling for July 13?

A

On Fri, Jun 16, 2023, 10:58 AM Austin Corry <[ACorry@wasatch.utah.gov](mailto:ACorry@wasatch.utah.gov)> wrote:

Alissa,

I'm following up on this email to see if you have decided how you would like to proceed with your application. Please let me know as we are beginning to prepare our agenda for the July Planning Commission meeting.

Regards,

**Austin Corry, PLA, AICP**

*Wasatch County Planning Department*

*35 South 500 East*

*Heber City, UT 84032*

*435.657.3205*

---

**From:** Austin Corry

**Sent:** Monday, June 12, 2023 2:53 PM

**To:** '[j.alissa.haynes@gmail.com](mailto:j.alissa.haynes@gmail.com)' <[j.alissa.haynes@gmail.com](mailto:j.alissa.haynes@gmail.com)>; Doug Smith <[dsmith@wasatch.utah.gov](mailto:dsmith@wasatch.utah.gov)>

**Subject:** RE: DEV-7699 Response

Hi Alissa,

I can understand your thought process in how you believe the amendment wouldn't be adding an additional public hearing to the process. Having the applicant organize the meeting, at face value, appears to avoid the public body from holding a meeting. On the other hand, if the public body (the County in this case) is requiring the applicant to hold such a meeting in order to make an application, we believe the courts would look at such a requirement the same as if the meeting was held by the County.

I obviously am not the policy maker on a legislative decision, so you will need to determine if you would rather proceed forward with Planning Commission and Council meetings or if you would like to continue working on revisions to your proposal. Hopefully what has been provided for you gives you a sufficient level of understanding of concerns the planning department has with implementation of your proposal as written. Let me know if you have other questions or if you would like to proceed with hearings or not.

Regards,

**Austin Corry, PLA, AICP**

*Wasatch County Planning Department*

*35 South 500 East*

*Heber City, UT 84032*

*435.657.3205*

**From:** [j.alissa.haynes@gmail.com](mailto:j.alissa.haynes@gmail.com) <[j.alissa.haynes@gmail.com](mailto:j.alissa.haynes@gmail.com)>

**Sent:** Monday, June 12, 2023 9:57 AM

**To:** Doug Smith <[dsmith@wasatch.utah.gov](mailto:dsmith@wasatch.utah.gov)>; Austin Corry <[ACorry@wasatch.utah.gov](mailto:ACorry@wasatch.utah.gov)>

**Cc:** Amy Graves <[AGraves@wasatch.utah.gov](mailto:AGraves@wasatch.utah.gov)>

**Subject:** DEV-7699 Response

**Importance:** High

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good morning Doug and Austin,

In response to the DEV-7699 review, I would like to address your department comments and concerns re: SB174.

After review of your modifications of the Amendment, SB174, and the planning department's comments, I'm not sure how the language of the Amendment (as modified by my recent revisions) conflicts with SB174.

SB174 allows only one public hearing for subdivision amendments. As revised, the Amendment also only requires one public hearing per Wasatch County's normal application process. The "Public Impact Discussion" we propose in the modified Amendment is not a public hearing as it is organized and held by the applicant, rather than county staff, and (2) the notice requirements of our proposed Public Impact Discussion are not the same (or as robust as) the notice requirements for a "public hearing." (See notice requirements of public meeting in Section 52-4-202 of the Utah Open and Public Meetings Act as compared to our notice requirements in proposed Section 16.43.04).

The Utah Open and Public Meetings Act clarifies that a “public meeting” or “public hearing” must be held by a “public body.” The applicants submitting what we refer to as “Localized Impact Applications” in Section 16.43.02 of our modified Amendment would not (in nearly all cases) be a public body.

Would the concern by the planning department be if a public body proposes an amendment to a subdivision? In that case, the public body would not be able to hold two “public hearings” on a subdivision. I’m not sure why a public body would propose its own amendment to a subdivision, but if that’s the planning department’s concern, we can adjust the language of 16.43.02 to clarify that applications submitted by a public body will not be considered a Localized Impact Application (and thus not subject to our Public Impact Discussion requirement).

Something like the below could work:

“Applications concerning or relating to the following matters, *except in the case such application is submitted by a “public body” as defined in the Utah Open and Public Meetings Act*, will be considered Localized Impact Applications”.

Please let me know if this is acceptable and resolved so we can be scheduled for the July 13 hearing.

Thank you,

Alissa Haynes

907-727-7907

# Wasatch County Planning Commission July 13, 2023



## Item #7

Amendment to Wasatch County Code  
16.21.16, Outdoor Lighting Regulations,  
and 16.15.25, JBOZ Sign Standards  
-Ray Quinney & Nebeker-

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Code Text Amendment



# WASATCH COUNTY

## Planning Commission Staff Report

### Zoning Code Text Amendment

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**ITEM 7** Ray Quinney & Nebeker requests an amendment to Wasatch County Code 16.21.16, Outdoor Lighting Regulations, and 16.15.25, JBOZ Sign Standards, regarding how outdoor lighting is regulated by the County. The amendment as proposed contains, among other things: lighting zones with varying degrees of regulation, enforcement of lighting standards in residential zones, lower Kelvin levels, prohibits uplighting, regulates holiday lighting, lowers the amount of lighting allowed on buildings and lowers the allowable levels of Lumens per improved acre. *\*If forwarded, the recommendation by the Planning Commission on this item will be considered by the County Council as the Legislative Body, at a Public Hearing on July 19, 2023.* (DEV-7830; Doug Smith)

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#### APPLICATION SUMMARY

**Applicant:** Andrew Applegate, representing a resident group

**Hearing Date:** 13 July 2023

**Related Applications:** Exterior lighting code/sign code approved on April 19, 2023 (Ord 23-01)

**Affected Zone(s):** Countywide

**Applicable Code Section(s):** 16.21.16 (Exterior Lighting Regulations), 16.25 (Sign Regulations)

#### LEGAL BACKGROUND

The Planning Commission, staff, and the Council should be aware that Ray Quinney & Nebeker has filed a Petition for Review regarding the recently enacted Ordinance 23-01 in Case # 230500048. Ray Quinney & Nebeker is representing Laurie Brown, Richard Getz, Julie Levinson, Randy Schroder, and the Save Wasatch Back Dark Skies, an alleged citizen group, in that case. The County Attorney office gives this warning because of the possibility that Ray Quinney & Nebeker could try to use discussion of this application for an amended lighting ordinance against the County in the pending lawsuit, or in another lawsuit.

Under Utah law, the political nature of the decision making process underlying municipal zoning demands that the power to make such decisions be vested in persons [the council] who are publicly accountable for their choices. *Bradley v. Payson City Corp.*, 2003 UT 16, at ¶ 11. A reviewing court will presume that a land use regulation properly enacted under the authority of this chapter is valid; and determine only whether the land use regulation is expressly preempted by, or was enacted contrary to, state or federal law; and it is reasonably debatable that the land use regulation is consistent with this chapter. Utah Code 17-27a-801. In considering an application for a land use regulation, the council is not obligated to approve the application if it is consistent with the General Plan or the general welfare. *Petersen v. Riverton City*, 2010 UT 58, ¶ 13, 243 P.3d 1261 (Sup.Ct.). If an ordinance enactment or denial could promote the general welfare, or even if it is only reasonably debatable that it is in the interest of the general welfare, the courts will uphold the council's decision, whether it be through a council maintaining the current status of the code, or by enacting an amended code. *Harmon City, Inc. v. Draper City*, 2000 UT App 31, ¶ 14, 997 P.2d 321.

## **BACKGROUND**

This is a proposed code amendment to change the recently adopted exterior lighting code approved on April 19<sup>th</sup> of this year (Ordinance 23-01). This proposal is by Ray Quinney & Nebeker, a law firm representing a citizen group who are not in agreement with the code that was adopted in April, though this application was received a few days before the exterior lighting code was approved. As the planning commission and county council are aware the public hearings for the lighting code were well attended by groups both in support and opposed to the proposed code. Many of the public comments for the lighting code showed support and opposition for the LDS temple.

The LDS church has submitted applications for site plan and subdivision approval for the LDS temple. The applications are considered vested under the approved lighting code, pursuant to Utah Code 17-27a-508. The county anticipates that the temple itself as well as the grounds will be reviewed using the lighting code approved on April 19<sup>th</sup> regardless of what happens with this proposed amendment.

The initial application for the lighting code amendment that led to Ordinance 23-01, was submitted by the LDS Church, who has an interest in the code due to the proposed temple and its associated lighting. Requests to amend the County code required the applicant to provide proposed code language the applicant wants changed, which the LDS Church provided.

The County ended up adopting a different code than that which was submitted by the LDS Church. The County staff, including a consultant, reviewed the proposed code by the LDS Church and determined that a more comprehensive overhaul of the ordinance could better meet the needs of the County than either the LDS Church proposed code or the existing code.

After working extensively with a county consultant, a three member sub-committee made up of county councilmembers and staff, the lighting code was placed on the Planning Commission agenda for a public hearing on March 30, 2023 at the Senior Center.

Ray Quinney & Nebeker opposed holding the meeting where the public hearing was conducted. They formally requested a 60 day postponement of the planning commission meeting, through a March 27, 2023 letter to the Wasatch County Attorney, the Wasatch County Council, the Wasatch County Planning Commission, Heber City officials, and Midway City officials. They explained they were preparing an alternative code amendment to address what they perceived as shortcomings in the proposed amendment, among other concerns.

The meeting went forward as planned. At the public hearing before the planning commission, there were around 300 persons physically in attendance, and more on zoom. Many spoke against the proposal and many spoke for the proposal. John Barentine, the lighting expert the County retained, spoke extensively on the proposal. The planning commission forwarded the proposal to the County Council with a 7-0 vote with the recommendation that the County Council consider the following items (See exhibit D):

- Use of lighting zones
- No exemption for higher governmental agencies
- Require residential lighting to comply
- No exemption for parking lots
- Provisions for enforcement

- Curfew to adjust for seasonal changes; and
- Lower the allowance for holiday lighting. (Report of action of the meeting is attached)

The public hearing with the County Council was on April 5<sup>th</sup> at the Senior Center. This meeting was another well attended public hearing again with around 300 people physically in attendance, and many more on zoom. Staff presented, and John Barentine gave a detailed presentation to the council. Among other things, Mr. Barentine explained:

- We have tried to keep the proposed lighting ordinance about best practice.
- We have identified some best practices after lighting over many years that are intended to provide light where and when it is needed and in the right amount and with the right color, etc., while minimizing the resulting potential for harm to the night sky and the night time environment.
- If these are enacted in substantial form that they are in now this will make Wasatch County one of the most progressive counties in the United States in regards to its lighting policy.

After a lengthy public comment period and a robust discussion by the council, there was a motion by Erik Rowland and seconded by Steve Farrell. The motion was to continue the item to April 19<sup>th</sup> to allow staff time to present additional information with respect to the following items:

- Methods for measuring candelas
- Curfews
- Holiday lighting
- Requiring compliance on residential
- Enforcement
- Definition of uplighting

The motion was unanimously approved.

On April 14, 2023, Ray Quinney & Nebeker again sent a letter to the County Council requesting at least a 90 day extension of the agenda item on the lighting code amendment scheduled for April 19, 2023. They explained they had submitted their own application to amend the County's Outdoor lighting ordinance which they demanded to have considered at the same time. They threatened litigation if the County did not postpone the item.

A staff report was provided for the Council addressing the above issues and was further discussed at the April 19<sup>th</sup> meeting (Exhibit E). The public meeting was held in the regular council chambers. There was systematic discussion by the council on each of these items:

- The kelvin level or the color of the lighting and whether it is 3000 Kelvin or 3500 Kelvin.
- Determination on the use of candelas or lumens and a limit of 27 candelas per square meter if candelas are used. If lumens are used 8 lumens per square foot.
- If the recommendation for regulating light trespass in the proposed code be maintained.
- A determination on sign curfew times. Sign lighting extinguished after regular business hours and remain unlit until one hour before sunrise.
- A determination on duration of time for motion sensor lights to remain on. Allow for a five minute trigger duration.
- Adopt the proposed curfew language as originally proposed or the new language

including a possible 1 hour after sunset provision and possibly stricter standards for conditional uses.

- Adopt the proposed holiday lighting, which only regulates non-residential properties.
- Determination on enforcement on residential lighting.
- Determination of the enforcement provisions outlined above, including 16.01.09, 16.01.14, conditional use section of the code and development agreement and if that is sufficient.
- Approve the provided definitions for up lights.
- Approve the provided method for measuring candelas.

There was not another public hearing at this meeting, but John Barentine was asked to by the council provide input on several issues. After discussion among the council there was a vote that approved the following:

- No more than 27 candelas per square meter on the building
- Curfews as written in the proposed code
- Holiday lighting as allowed in the proposed code
- No enforcement at this time on residential
- Enforcement for violations as allowed in the existing sections of the code and future development agreement
- Approved allowing uplighting and with the added definition in the code

The following discussion after the motion is germane to this issue of the proposed amendment:

**Councilman Steve Farrell:** I am going to vote yes with the understanding that this is a work in process and this ordinance can be changed as we see fit and change it and work it out that we are comfortable with it.

**Councilmember Erik Rowland:** Yes

**Councilmember Mark Nelson:** Yes

**County Manager Dustin Grabau:** It would be helpful for us to know if you want us to start working now on additional changes for this or not.

**Councilmember Erik Rowland:** The residential?

**County Manager Dustin Grabau:** Lighting regulations, lighting zones, do you want us to pursue specific code amendments? Do you want us to reconvene the sub-committee and talk about things? How do you want to handle it or at some future point?

**Councilmember Erik Rowland:** I think with residential let's see trying to because that is not a focus. I would love to start soliciting feedback from those in the County with respect to what they would like to see and start to get a sense of their interest so that we can help determine what this might be. I want to decide what we are up against. Just to really get a respect for what this ordinance may involve. Then whether we want to continue using Dr. Barentine and would be happy to continue using him for his expertise.

**Councilmember Steve Farrell:** I think before we do much work on this we ought maybe to take it to inter-local and see if we can get the other municipalities to work in the same direction because it is a waste of time for the County to pass a residential lighting ordinance if the municipalities don't follow through and do the same thing.

The above discussion can be clarified as this proposal goes to through the process with the County

Council. What staff interpreted from the above motion is that we should wait and see how this ordinance is working and see if the other municipalities in the County are enforcing regulations on residential.

This application for an amendment to the approved code was made on April 17<sup>th</sup> before the amended code was actually approved. This proposed amendment uses the code approved on April 19<sup>th</sup> as a basis and redlines that version.

The material submitted with this application states the following as part of the reason for the proposed code amendment:

*The staff proposed amendment to these codes recently presented at the April 5<sup>th</sup> (and later April 19<sup>th</sup>) County Council meeting(s) does not:*

- (1) Include all the recommendations of the County paid consultant John Barentine of Dark Sky Consulting LLC; and;*
- (2) meet the General Plan guidance in Chapter 1: Introduction: Purpose and intent and use of the General Plan: The purpose, intent and use of this General Plan is to provide a comprehensive approach to the coordination of development, natural resources and open space in such a way as to provide a harmonious relationship that meets the needs of present and future residents and also promotes the health, safety and general welfare of the residents of the County.” In addition, under chapter 3, policy 1.1.7 of the General Plan is the most directly applicable as it establishes a policy to, “Preserve the views of the night sky and reduce the health impacts of artificial light by requiring all development to have dark sky compliant lighting.*

*The submitted Resident Group’s Amendment is constructed using Mr. Barentine’s recommendations and analysis of the County’s Current Outdoor Lighting Regulations and the joint IDA-IES Model Lighting Ordinance (MLO) as a basis for changes to the staff proposed amendment. The main purpose of the resident’s group amendment is to address moving Wasatch County towards a Dark Sky community with the potential for IDA certification and further promotes the objectives of the County’s General Plan (see exhibits A and B for the complete citizen group application).*

*Reason for request – Neither the staff proposed amendments, nor the current Wasatch County Outdoor Lighting Regulations (section 16.21.16) will preserve the community’s views of the night sky and reducing health impacts of artificial light. The staff proposed amendments does not follow best practices for Dark Sky communities and appears to have been constructed primarily to address the Core Architecture proposed amendment as a means to enable the Church of Jesus Christ of Latter Day Saints to use architectural uplighting of their proposed temple. This situation is unfortunate as the code amendments would apply to the entire County in which there is dramatic development expected over the next decades. The public has the right to demand a comprehensive approach to updating the code.*

The statements of Ray Quinney & Nebeker represent a fundamental misunderstanding of the role of attorneys in enacting legislation. Under Utah Code, “Only a legislative body, as the body authorized to weigh policy considerations, may enact a land use regulation.” Utah Code 17-27a-501(1). Experts do not enact land use regulations. Attorneys cannot force the county to enact a particular land use regulation desired by their client. The Utah Supreme Court explained, “The political nature of the decision making

process underlying municipal zoning demands that the power to make such decisions be vested in persons who are publicly accountable for their choices.”

Ray Quinney & Nebeker demanded the council postpone meetings. Ray Quinney & Nebeker has demanded the council change its agenda. Ray Quinney & Nebeker has filed a lawsuit against the county regarding the enactment of the amended lighting ordinance. Ray Quinney & Nebeker has opposed building the temple on the property, and has stated, in a June 21, 2023 letter to the County Council, the planning commission, the county attorney, the county manager, and the planning department, that:

The Applicant does not lack resources to purchase another property (see Subpart A above) and could utilize or otherwise sell the Property if the Applicant is not permitted to construct the Building on the Property or the height of the Building is limited in such a way that the Applicant desires to construct the Building elsewhere.

During public hearings, discussions between the staff, consultant, public, planning commission and County Council the major issues raised as part of this application were discussed. That said the application has been forwarded by the DRC with the general statement that the proposed amendments are all decisions that the county council needs to make as the legislative body.

Some of the main issues discussed at the public hearings included:

1. Lighting zones
2. Up lighting
3. Enforcement of code on residential zones
4. CCT Kelvin levels
5. Lumens per improved acre and inclusions in that cap
6. Candela per square meter
7. FAA, IBC and IES lighting standards, and how they would relate to the amended lighting ordinance
8. Holiday lighting
9. Curfew times

Below is a synopsis of some major items contained in the newly adopted code<sup>1</sup>:

1. Establishes the improved acreage for the site. This is the total amount of the site minus areas that are not hard surface, buildings or improved landscaping.
2. The improved acreage amount is multiplied by the 25,000 lumens per improved acre to come up with the total lumens allowed on the site.
3. In an effort to balance safety, aesthetics, and preservation of the dark sky, the code exempts any lighting required by the IBC, FAA or recommended IES minimum standards for parking lot lighting from the number of lumens per improved acre. In essence, the exterior of the building and any other “optional” lighting is the only lighting subject to this total cap. Any lighting besides architectural uplighting that is not required by the IBC, FAA, or the IES recommendations for parking lots, will be required to comply with IES recommendations.
4. The code allows for lighting of structures, including uplighting, as long as it’s limited to 25,000 lumens per improved acre and lighting is shielded by the building with full cutoff on

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<sup>1</sup> The Adopted Ordinance 23-01 is more precise than this synopsis, and detailed analysis should focus on the text.

all fixtures that stops lighting at edge of walls and roof such that the light emitted by the fixture(s) is completely captured by the target surface and is not emitted directly into the night sky or toward any other property. The brightest spots on the building, which will typically be the spots closest to the fixture, is limited to a maximum of 27 candelas per square meter.

5. The code, as proposed, sets the CCT at 3000 kelvin.

Staff has debated how to approach writing this staff report. The application has an 8 page introduction (exhibit A) and 20 pages of proposed amendments to the code (Exhibit B) primarily using the code considered and later approved on April 19<sup>th</sup> as the starting place for the proposed amendments.

This staff report is not a review of the proposed language or a critique of the acceptability of the proposal. Due to the in depth review during the code approval process provided by the staff and Dr. Barentine, the substantial public input recently considered by the planning commission and council, and the extensive discussion of the council on dark sky issues, staff does not see the need to state objections or support for various aspects of the proposal beyond what was presented to the Council in previous staff reports. All of these major issues were debated on April 5<sup>th</sup> and 19<sup>th</sup>. The specific issues brought up in the proposal, and contrary to what got adopted, will need to be either affirmed or opened up for more discussion by the council. If the Council would like to open some or all of the items up for further discussion staff would need to do a more in depth analysis of the proposed language, make recommendations, look at impacts and put in ordinance form. If this proposal was an amendment to a code that has been in place for a number of years this staff report would be approached differently.

The analysis section of this report below will point out the changes to the proposed to the code.

## **ANALYSIS**

### *-Consultant Recommendations -*

The County uses consultants on a regular basis to help in areas where County staff does not have specific expertise. These hired consultants may include: traffic consultants, trail and pedestrian consultants, Geotechnical engineers, water quality experts, park and trail planners, etc. Consultant's recommendations, especially for code amendments in areas that are not considered life safety issues, may or may not be followed by the legislative body. This is consistent with guidance of the Utah Supreme Court which says a council is not required to receive advice from experts before making a legislative zoning decision, and may rely on either public comment, or the personal knowledge of the council in making such legislative decisions. *Bradley v. Payson City Corp.*, 2003 UT 16, ¶ 28, 30, 70 P.3d 47 (Sup.Ct.).

Some of the statements in the application for this amendment is that the initial recommendations of John Barentine were not followed. This is true, but ignores the fact that the council would be abdicating its responsibility if they simply rubber stamped an expert's initial recommendations. Staff and the lighting sub-committee discussed recommendations and listened to comments by Dr. Barentine. These issues were thoughtfully considered and debated by the sub-committee, staff, Dr. Barentine and the council as a whole as part of the public hearing. In this situation the consultant helped provide expert advice to help decision makers make informed decisions. Utah Code does not require cities or counties to adopt dark sky ordinances (or any lighting ordinance for that matter) or follow consultant's recommendations.

*-DRC review and process-*

The typical process for a code amendment is to work with staff through the DRC process. The proposed code amendment was reviewed and comments made by the planning department. The comments are listed in the DRC report (attachment C). Staff forwarded the proposal not necessarily because we agree or disagree with the changes but because it is the legislative body that needs to decide if they desire to further review or consider the proposed changes.

*-Lighting Zones-*

Pages 5, 6 and 7 of the proposed lighting code recommends 4 lighting zones. Lighting zones were discussed as part of the recently adopted code, and some council members expressed interest in exploring this issue in future amendments. The lighting zones, as proposed, allow for a total Lumen output per improved acre. The lumens per improved acre, as proposed, count all lighting including IBC, IES and FAA. The council recently made a policy decision to not count certain lighting towards the lighting limits in order to facilitate lighting that would meet safety objectives, including IBC required lighting, parking lot lights, and FAA lighting.

As a comment on the proposed language: the proposed code designates the entire Jordanelle area as an LZ-1. The Jordanelle and JSPA area would be limited to 10,000 total lumens per improved acre. This will be very difficult for compliance when some of the areas are intended to be dense villages with multi-story hotels that include ground floor retail, restaurants, urban street lighting and storefront lighting. Some of these are in various stages of entitlements. This level of restriction runs counter to the plans for the area which are intended to encourage 4 and 5 star hotels, retail, dining, entertainment, resort features, amenities, and gathering places that create a vibrant village center area.

In previous public meetings staff expressed concerns over the complexity of applying varied standards to different parts of the county, and Dr. Barentine indicated that many governmental entities that do enact lighting regulations do not employ lighting zones, though lighting zones are not unusual in the United States for places that regulate outdoor lighting at all. The decision to have lighting zones, as proposed in this code, is a legislative decision and would be up to the legislative body, but as proposed it is contrary to policy decisions recently made by the legislative body.

*-Residential Lighting Enforcement -*

The proposal would regulate residential lighting. Lighting would be enforced with new building permits and potentially with remodels. As mentioned in the previous portion of this report part of the enforcement on residential is done through lighting zones. The lower the lighting zone number the more restrictive the lighting requirements. In staffs opinion this could raise costs for residential construction, due to the costs of purchasing compliant lighting fixtures, due to the reports that would need to be submitted by the applicant to show compliance with the ordinance, and due to the inspections that would need to be made to ensure the lighting complied with the approved lighting plan. For residential there would be a requirement to have fully shielded lighting in the LZ-0 and LZ-1 and total lumens would be limited to 5,000 per improved acre. In the LZ-2 and LZ-3 total lumens would be capped at 10,000 lumens per improved acre. Enforcement costs on the county would also need to be considered, as would the perceived invasiveness of applying these standards on residential homes. This was discussed by the legislative body during the review of the code and some council members expressed interest in exploring this further in future amendments. However, it was determined that the lighting provisions would not be enforced on residential uses at this time.

*-Amortization-*

The proposal has an amortization requirement which is the same language that was approved with the new code but if approved would include any lighting, including residential, that is legally non-conforming. There is not a time frame that would require enforcement however remodels and changing fixtures could require compliance. Again this is a decision for the legislative body.

*-Up-lighting-*

The proposal prohibits any uplighting (pg. 11). This was discussed as part of the review of the recently adopted code. The legislative body will need to make a decision regarding uplighting. Dr. Barentine indicated that uplighting was not incompatible with dark sky interests if it was done properly, as the amended lighting ordinance sought to do for non-residential uses. However, this proposal goes against the policy decisions recently made by the legislative body.

*-Holiday Lighting-*

Holiday lighting in section K was discussed by the legislative body and approved as per the language in the recently adopted code. There is a concern about enforcement of the time frame and that bulbs would be limited to 7 watts each. This is a legislative decision, but as proposed it runs against policy decisions recently made by the legislative body.

*-Kelvin Levels-*

CCT is proposed to be at 2700 Kelvin. The CCT was discussed at length by the legislative body as part of the recently adopted code. The Legislative body decided that 3000K was the appropriate color. This will need to be reviewed by the legislative body, but as proposed it runs against policy decisions recently made by the legislative body.

*-Curfew Limits-*

The proposal sets curfew limits for lighting by lighting zone and includes residential. Curfew on residential would need to be enforced at 30 minutes before sunset in LZ0. In LZ-1 lights are proposed to be turned off 30 minutes before sunset or close of normal business hours. The proposal would certainly require additional planning resources, enforcement resources, and attorney resources, and court resources. Staff is also concerned that enforcement on residential homes in strictly requiring outdoor lighting curfews will be perceived as invasive by the citizens of the county. This is a policy decision by the legislative body.

*-Candela Levels-*

The proposal sets the limit for Candelas at 10 per square meter. The candela limit was extensively discussed by the council, and regulating candelas is not a typical standard used in the United States, though Dr. Barentine indicated it is used in parts of Europe. It is an additional standard Wasatch County decided to use, and limits lighting in ways most governmental entities in the United States, that do seek to protect dark skies, do not even consider. The current code allows 27 candela's per square meter. Setting the candela level is up to the legislative body, but as proposed it runs against policy decisions recently made by the legislative body.

*-ARCHITECTURAL LIGHTING –*

The proposed code does allow for lighting of buildings but the lighting must be under the soffit or wall mounted. If wall mounted there is a limit of 16' in height. As proposed, this runs against policy decisions recently made by the legislative body.

*-PARKING LOT AND PATHWAY LIGHTING –*

The proposed amendments to the code have a cap on the total number of lumens per improved acre. The proposal county the total number of lumens on the site and does not exempt FAA, IBC or IES level parking lot lighting. The total lumens per improved acre are limited by the lighting zone the project is located in. For projects in the LZ-0 there is a total of 5,000 lumens per improved acre, in the LZ-1 there is a total of 10,000 lumens per improved acre allowed, in the LZ-2 15,000 total lumens per improved acre is allowed and in the LZ-3 there is 25,000 lumens per improved acre allowed.

The adopted code allows for 25,000 lumens per improved acre but doesn't count FAA, IBC or lowest levels of IES recommended lighting for parking lots. In other words, the primary lighting that gets counted under the recently enacted lighting ordinance is the architectural lighting on structures outside of the lighting required by the FAA, landscape lighting, and lighting for trails that is not required by the IBC.

*-Fiscal Analysis-*

Fiscal factors were considered by the legislative body in enacting the amended lighting ordinance. If the council desires to again amend the code, staff recommends the council direct additional fiscal review be done on this proposal. If adopted as proposed there would be an impact to inspections and enforcement that would be borne by residential applicants costs in a way the recently adopted code does not.

*-GENERAL PLAN RECOMMENDATIONS –*

The General Plan provides high level goal and policy guidance that are made more specific through code text and zoning maps. As part of the review for a code amendment, the proposal would typically need to be in compliance with the recommendations of the General plan. If not in compliance with the recommendations of the General Plan, the General Plan should be amended or the code should not be approved.

The applicant has stated that the purpose for this application is to be in compliance with the General Plan and more specifically the sections noted below.

Chapter 1: Introduction: Purpose, Intent, and Use of the General Plan: The purpose, intent, and use of this general plan is to provide a comprehensive approach to the coordination of development, natural resources and open space in such a way as to provide a harmonious relationship that meets the needs of present and future residents and also promotes the health, safety and general welfare of the residents of the County.

Policy 1.1.7 of the General Plan is the most directly applicable to the proposal being considered at this time. It establishes a policy to "Preserve the views of the night sky and reduce the health impacts of artificial light by requiring all development to have dark sky compliant lighting."

Chapter 4: Environmental: Light Pollution: In order to prevent the night skies from being dulled by pollution from street lights, homes, commercial and industrial establishments, the Development Code established lighting standards that would reduce light pollution.

The staff report provided to the County Council on April 5<sup>th</sup> provided a list of findings. One of those

findings specifically stated policy 1.1.7. The County Council approved the proposal with the conditions and findings listed in the staff report including finding that Policy 1.1.7 is in compliance with the adopted code. The staff also notes that this application compromises certain health, safety, welfare interests advanced by allowing outdoor lighting, at the expense of better protecting the night sky.

**-PROPOSED SIGN CODE CHANGES –**

The proposal would lower the luminance allowed for a sign from 40 candelas per square meter to 10 candelas per square meter. The CCT is also proposed to be regulated which it currently is not. The CCT is proposed to be 2700 Kelvins.

**-SYNOPSIS OF CODE CHANGES –**

The following synopsis lists the main changes that are being proposed to be made to the code.

<b>Proposed code amendment items</b>	<b>Current County code adopted 4-19-2023</b>
2700 Kelvin	3000 Kelvin
10 candela per square meter for down lit architectural lighting	27 candela per square meter and allows uplighting on structures
Four lighting zones Lumens per improved acre: (LZ-0) 5,000 lumens, (LZ-1) 10,000, (LZ-2) 15,000, (LZ-3) 25,000 counts all lighting including FAA, IBC and parking lot lighting.	No lighting zones 25,000 Lumens per improved acre but does not count IBC, IES minimum parking lot lighting, or FAA lighting
0.5 fc at the property line for non-residential and 0.1 fc for residential	Strict adherence to the definition (i.e., numerical threshold at the property line)
Signs allowed to be lit depending on lighting zone LZ-0 30 minutes before sunset, LZ-1 earlier of 30 minutes before sunset or close of business, LZ-2 the earlier of 30 minutes after close or 9:00 pm., LZ-3 the earlier of 30 minutes after close or 10:00pm.	Sign lighting extinguished after regular business hours and remain unlit until one hour before sunrise
Enforcement of lighting code on new and remodeled residential construction in residential zones	No enforcement of lighting standards on lower density (townhomes and detached single family) residences in residential zones
Amortization of non-conforming lighting for all zones	No amortization of lighting in residential zones
No up-lighting allowed (pg. 16)	Up-lighting allowed as long as full cutoff is provided by building
Lowers heights of pole mounted luminaries to 8' in LZ-1 and LZ-0 lighting zones	Allows for 20' high pole mounted luminaries in commercial zones and 15' high poles in residential zones.
Allows for wall mounted luminaries (directed down) but limits height to 16' unless the source is not visible from the ground.	Allows for building uplighting. Allows downlighting attached to a structure at any height, provided it complies with other applicable standards (trespass, candela, lumen, and cutoff regulations)
Adds a requirement for low lumen bulbs (not exceeding 7 wats each) for holiday lighting and	Allows for 60 days in one calendar year consecutive or non-consecutive

specifies from Thanksgiving to January 15 <sup>th</sup>	
Curfew hours that get stricter depending on the lighting zone. (pg. 14)	Specific hours general for all commercial.
Enforcement: added section citing sections of the County code as well as State code.	Relies on the existing sections of the code as well as development agreements which regulate lighting
Stricter sign lighting standards, (10) candelas, and curfew times as per the lighting standards. Adds CCT of 2700	Allows for 40 candelas per square meter for signs. Must extinguish lit signs at the end of business hours.

**REQUIRED FUTURE APPROVALS**

The Wasatch County Council and staff recently put many hours into the substantial update to the lighting ordinance. It will take some time for planning staff, the council, and the development community to utilize the new standards, and learn areas where it appears the standards and procedures are working well, and where adjustments may be desirable. The council may want to consider allowing additional time to pass before enacting significant revisions to the new lighting ordinance unless urgent problems or deficiencies are apparent. The council may consider denying this application so the pending lawsuit on the amended lighting ordinance can be resolved before the council considers additional changes to the recently enacted outdoor lighting regulations.

Despite the planning commission and the council encouraging comments to stay focused on the lighting ordinance, and not the temple, a fair amount of the public comment regarding the amended lighting ordinance focused on opposition to, and support of the temple. It may also be beneficial for the council to wait to amend the lighting ordinance again in order to allow for the council to evaluate if the amended ordinance is protecting the general welfare of the county as intended throughout the county, as opposed to amending the ordinance when so much controversy surrounds how an amended ordinance, if applicable, could affect a single project.

If the County Council decides to entertain some or all of the proposed amendments staff would encourage the council to direct staff to do an in depth review of the proposed language, make recommendations for the changes and provide in ordinance form.

**RECOMMENDED MOTION**

Move to forward a Recommendation for Denial with Conditions to the County Council consistent with the findings

*Findings:*

1. The current lighting code is the result of the amended lighting ordinance which was adopted on April 19, 2023, subject to the requirements for the ordinance to go into effect, which were complied with.
2. The amended lighting ordinance replaced a code that was in place in substantially similar form since 2003.
3. The code allows for uplighting with cutoff provided by the building but also limits the amount of

lighting allowed on a site.

4. The 2003 code allowed any amount of light on a site or building without limits as long as it is directed down.
5. A Public hearing was held by the planning commission on March 30, 2023.
6. A Public hearing was held by the County Council on April 5, 2023
7. An application to amend the lighting code was submitted on April 17, 2023.
8. The amended lighting ordinance was approved on April 19, 2023.
9. The LDS church submitted a complete application for the temple project after the date the amended lighting ordinance went into effect, and the application is therefore vested under the amended lighting code as applicable.
10. During the public hearing, council deliberation, and in presentation by Dr. Barentine, there was significant discussion on the major issues proposed to be amended by this application.
11. The code approved on April 19<sup>th</sup> is contrary to many of the changes proposed in this lighting code, however there was discussion by the legislative body that some of the aspects of the code may be looked at further at a future date.
12. A consultant was used for technical guidance and for maintaining working drafts of the amended lighting ordinance.
13. The County uses consultants regularly to provide guidance and advice on various projects, though the consultants are not the land use authority or the legislative body who have certain powers under CLUDMA.
14. The guidance from the consultant was discussed, debated and considered by staff, the planning commission, the lighting sub-committee and the legislative body in public hearings and in public meetings.
15. The County consultant and staff provided information for the County Council to make an informed decision on enacting a land use regulation.
16. State code does not require the County to have a lighting code or follow the recommendations of a consultant.
17. The Wasatch County Council and staff has recently put many hours into the substantial update to the lighting ordinance. It will take some time for planning staff, the council, and the development community to utilize the new standards, and learn areas where it appears the standards and procedures are working well, and where they could use adjustments. The council may want to consider allowing additional time to pass before enacting significant revisions to the new lighting ordinance unless urgent problems or deficiencies are apparent.
18. This staff report is not a review of the proposed language or a critique of the acceptability of the proposal. Due to the recent in depth review during the code approval process provided by the staff and Dr. Barentine, the substantial public input recently considered by the planning commission and council, and the extensive discussion of the council on dark sky issues, staff does not see the need to state objections or support for various aspects of the proposal beyond what was presented to the Council in previous staff reports. All of these major issues were debated on March 30<sup>th</sup>, April 5<sup>th</sup> and 19<sup>th</sup>.
19. If the County Council decides to entertain some or all of the proposed amendments staff would encourage the council to direct staff to do an in depth review of the proposed language, make recommendations for the changes and provide in ordinance form.
20. It was determined that the adopted code met the intent of the General Plan to: "Preserve the views of the night sky and reduce the health impacts of artificial light by requiring all development to have dark sky compliant lighting" (Policy 1.1.7).
21. It was determined that the adopted code complied with the purpose and intent statements of the former code and new code to; "not unreasonably interfere with the reasonable use and

enjoyment of property and astronomical observations within the county. It is the intent of this section to encourage, through regulation of types, kinds, constructions, installation and uses of outdoor electricity, lighting practices and systems which will reduce light pollution, conserve energy, provide consistent lighting standards, reduce maintenance and replacement costs while increasing nighttime safety, utility, security and productivity”.

22. It was determined that the adopted code brought the County closer to compliance with the best management practices (BMP’s) as required of municipalities by the International Dark Sky Association requirements for accreditation as International Dark Sky Communities.
23. It was determined, and the legislative body again determines, that the recently adopted amended lighting ordinance balances the health, safety, welfare interests of adequate lighting required under the IBC, FAA, and recommendations of the IES with the welfare interests in reducing light pollution.
24. The staff report is adopted except as modified by, respectively, the Council or the Planning Commission.
25. All public hearings and noticing requirements under the Wasatch County Code and the Utah Code for adopting or modifying a land use regulation were followed by the County.
26. Written comments were considered by the planning commission and forwarded to the council.
27. It was determined, and the legislative body again determines, that the recently adopted amended lighting ordinance was in the interest of the public, and is consistent with the goals and policies of the Wasatch County General Plan.
28. The Wasatch County Council, as the legislative body, had broad discretion in approving the recently adopted amended lighting ordinance.

*Possible specific findings for recommendation to the Council:*

A recommendation to the Council regarding looking into changes to the lighting code or leaving the existing code as adopted. If the recommendation to the council includes changes to the lighting code specific issues should be included in the motion.

**ALTERNATIVE ACTIONS**

The following is a list of possible motions the Planning Commission can take. If the action taken is inconsistent with the potential findings listed in this staff report, the Planning Commission should state new findings.

1. Advance to the Council without a recommendation for approval or a denial. The Planning Commission can take this action if they believe the policy determinations would be best made by the elected officials of the County Council.
2. Recommendation for Denial. This action may be taken if the Planning Commission finds that the proposed code amendment is not appropriate at this time and/or is not supported by the General Plan.
3. Recommendation for Approval with Conditions. This action can be taken if the Planning Commission feels comfortable that remaining issues can be resolved with conditions.
4. Continue. This action can be taken if the Planning Commission needs additional information before making a recommendation, if there are issues that have not been resolved, or if the

application is not complete.

5. Recommendation for Approval. This action may be taken if the Planning Commission finds that the General Plan and proposed code amendments are consistent and compatible.

Exhibits:

- A. Applicant explanation of proposal
- B. Applicant proposed code
- C. DRC report
- D. March 30, 2023 Planning Commission Report of Action
- E. April 19, 2023 County Council staff report
- F. April 19, 2023 County Council motion minutes
- G. Ordinance 23-0

EXHIBIT A – Applicant explanation of proposal

RAY QUINNEY & NEBEKER

APPLICATION TO AMEND THE WASATCH COUNTY CODE

**Date:** April 14, 2023

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**To:** Wasatch County Planning Staff  
**From:** Jeffrey Appel & Andrew Applegate

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This application to amend certain sections of Title 16 of the Wasatch County Code (the “Code”) is being submitted by Ray Quinney & Nebeker P.C. (“RQN”) on behalf of a large group of Wasatch County Residents (the “Resident Group”). The Resident Group is concerned that Title 16 of the Code (“Title 16”) namely: 16.21.16 (Outdoor Lighting Regulations), 16.26 (Sign Regulations) as the Staff proposed Amendment to these codes recently presented at the April 5 County Council meeting does not: (1) include all of the recommendations of the county paid consultant John Barentine of Dark Sky Consulting LLC; and (2) meet the General Plan guidance in Chapter 1: Introduction: Purpose, Intent, and Use of the General Plan: “The purpose, intent, and use of this general plan is to provide a comprehensive approach to the coordination of development, natural resources and open space in such a way as to provide a harmonious relationship that meets the needs of present and future residents and also promotes the health, safety and general welfare of the residents of the County.” In addition, under Chapter 3, Policy 1.1.7 of the General Plan is the most directly applicable as it establishes a policy to “Preserve the views of the night sky and reduce the health impacts of artificial light by requiring all development to have dark sky compliant lighting.”

The submitted Resident Group’s Amendment is constructed using Mr. Barentine’s recommendations and analysis of the County’s current Outdoor Lighting Regulations and the Joint IDA - IES Model Lighting Ordinance (MLO) as a basis for changes to the Staff Proposed Amendment. The main purpose of the Resident Group’s Amendment is to address moving Wasatch County toward a Dark Sky community with the potential for IDA certification and further promotes the objectives of the County’s General Plan. Per County requirements, the text of the proposed amendments has also been submitted in a separate, standalone document.

This application is organized as follows. First, contained in this document is the Letter of Request required elements. In addition, two attachments are presented as supporting analysis to the proposed amendments. Attachment A is a comparison using the consultant’s analysis of the Applicant’s (Core Architecture) proposed amendment and of the current County code, and the



Staff's proposed code with comments and the Save Wasatch Back Dark Skies group position, to show Aspects of the Proposed Code that there is NOT a Consensus. Attachment B is a revised and more comprehensive comparison of Relevant Dark Sky Lighting Ordinances of Relevant Cities and Counties, then was originally presented by the County Planning Department Staff.

Second, per County requirements, the text of the proposed amendments have been submitted in a separate, standalone document with modifications of the text of each proposed amendment is presented in **red** text.

### **Reason for the Request**

Neither the staff proposed amendment, nor the current Wasatch County OUTDOOR LIGHTING REGULATIONS (Section 16.21.16) will preserve the community's views of the night sky and reducing health impacts of artificial light. The staff proposed amendment does not follow best practices for Dark Sky communities and appears to have been constructed primarily to address the Core Architecture proposed amendment as a means to enable the Church of Jesus Christ of Latter-Day Saints to use architectural uplighting of their proposed Temple. This situation is unfortunate as the code amendments would apply to the entire county in which there is dramatic development expected over the next decades. The public has the right to demand a comprehensive approach to updating the code.

### **Positive Impact of Proposed Changes**

The proposed changes significantly progress the code toward best practice for communities seeking and achieving the Dark Sky designation, thereby preserving natural nighttime dark conditions. Establishing significant and comprehensive exterior lighting standards will ensure regulation of the challenging and subjective lighting design environment in Wasatch County.

### **Negative Impact of Proposed Changes**

Some in the community may prefer minimal regulations. Lighting is technical and requires appropriate engineering. Any proposed amendment should govern all elements of lighting design and ensure that the community is protected. Otherwise, excessive exterior lighting will have a negative impact on the environment and the overall community goal to preserve the night sky.

### **Promote the Goals and Objectives of the General Plan**

The proposed Exterior Lighting Ordinance amendment specifically promotes the Wasatch County General Plan Chapter 1, Chapter 3, and Chapter 4 and furthermore, Policy 1.1.7 of Chapter 3 solidifies the policy is "to preserve the views of the night sky and reduce the impacts of artificial light so that all developments have dark sky compliant lighting." Dr. Barentine stated in his analysis, "While we find merit in some of the elements of the Church proposal, there are a number

of others with which we disagree or find flaws that could lead to problematic outcomes for the County.” Unfortunately, Dr. Barentine’s documents confirmed that the County did not adopt his recommendations for an ordinance amendment that would be Dark Sky compliant.

International Dark Sky week is April 15 - 22 and Utah honors Dark Skies for the month of April. 80% of the people in North America cannot see the Milky Way. Utah has 24 (5 national parks, 10 state parks, 2 towns and other areas) accredited International Dark Place places. “Dark skies are integral to the well-being of many animal and plant species and are demonstrated to have positive health impacts to human beings,” Gov. Spencer J. Cox stated in his declaration of Dark Skies Month. “We wish to recognize the efforts and advocacy of federal, state, local and nonprofit agencies as well as Utah’s recreation, tourism and education sectors which make night sky opportunities in our state available for all to enjoy.”

### **Conclusion**

The County should follow its General Plan and seek to be a certified Dark Sky community. The Staff recommended amendment does not enhance the County code to be consider a “Dark Sky” Ordinance. Due to the major development ongoing in the County, it’s time to be proactive in preserving our rural, beautiful nature and to follow the county paid consultant’s recommendations included in this proposed amendment.

Thank you for your time and consideration regarding this very important code amendment for the future of the county. If you have any questions or would like to discuss this submittal you can reach out to us (Jeffrey Appel and Andrew Applegate) at any time at [jappel@rqn.com](mailto:jappel@rqn.com) and [aapplegate@rqn.com](mailto:aapplegate@rqn.com) or by phone at 801-323-3302 and 801-323-3684. We look forward to working with you.

Attachment A – Aspects of the Proposed Code that there is NOT a Consensus

Aspects of the proposed code that there is NOT a consensus	Applicant	Dark Skies Consulting Recommendations On Applicant Proposed Code	Dark Skies Consulting Recommendations Of County <b>current</b> code.	County Comments on County Proposed Code	Save Wasatch Back Dark Skies Requests
<p>Overview Analysis</p> <p>The current Wasatch County <b>OUTDOOR LIGHTING REGULATIONS</b> (Section 16.21.16) seem to have been written to govern very simple outdoor lighting conditions consistent with the character of the County when they were adopted. The proposed amendments allow the County to objectively govern installation of lighting systems on new and upgraded existing properties while protecting the original intent of the lighting code.</p>	<p>The Purpose statement is modified in part to "encourage rather than discourage" the "creative use of current light fixture technologies to appropriately highlight building architecture and to enhance outdoor enjoyment and security". It seems like the intent is to do away with the full cutoff requirement in the current code that seems to otherwise preclude architectural uplighting.</p> <p>o That said, this is an important and useful statement: "Lumen limits included herein are upper limits and not the design goal. Lighting should be designed to the lowest output level possible."</p> <p>While we find merit in some of the elements of the Church proposal, there are a number of others with which we disagree or find flaws that could lead to problematic outcomes for the County. We analyzed in detail the provisions in the proposal and provide below an assessment of each and recommendations as to whether they should be considered in a future code update.</p> <p>Recommend detailed list of compliance triggers for A and B.</p> <p>C) Not recommended, no exemption it allows existing, non-conforming lighting to remain in that state indefinitely until and unless one or more compliance triggers occur.</p>	<p>The public interest would be best served by updating the County code in a manner incorporating outdoor lighting best practices for dark skies and considering some of the specific changes in the amendments proposed by the LDS Church (see "LDS Church Lighting Ordinance Amendment Proposal: Analysis and Recommendations").</p>	<p>Statement Of Purpose: The purpose of this code is to establish standards for the erection and use of signs, symbols, markings and advertising devices within the JBOZ. These standards are designed to promote and protect the public welfare, health and safety of persons within the community and to aid in the development and promotion of business and industry by providing sign regulations which encourage aesthetic creativity, effectiveness and flexibility in the design and use of such devices without creating detriment to the general public.</p> <p><b>NO MENTION OF DARK SKIES</b></p>	<p>Achieve dark sky approval from IDA. Establish Lighting Zones, No uplighting in LZ0, LZ1</p>	
<p>Non-Conforming (NC) Lighting Exempt to be brought into compliance</p> <p>Existing NC Only by A) expansion in size greater than 25% B) Change of Use or C) Exempt if cost is greater than 25% of project cost</p>			<p>Add process for amortizing existing, non-conforming lighting. We recommend an applicability section like that suggested here in order to make clear that the code specifically applies to new installations moving forward and</p>	<p>In order to ensure that existing non-conforming lighting is not allowed to persist indefinitely, we recommend a series of compliance triggers associated with changes to the use or condition of parcels.</p>	

Attachment A – Aspects of the Proposed Code that there is NOT a Consensus

<p>Facade Lighting Candelas and Lumens (measuring reflection off the building)</p>	<p>8 lumens per square foot</p>	<p>The problem with this approach is that it leaves the surface luminance unconstrained. Luminance is the more relevant parameter in terms of determining impact, not illuminance (i.e., foot-candles). The resulting luminance will be determined by luminance distance and light distribution, and surface material characteristics like roughness and albedo. To achieve the implied goal of this provision, it would be better to set a luminance limit instead.</p>	<p>Concept ok (No Uplighting, Full shield required)</p>	<p>The intent of this provision is to restrict the intensity of light reflected from building surfaces so as to limit the potential for light trespass while achieving the aesthetic goals of architectural lighting design. We specify a 27 cd/m2 luminance limit to correspond approximately to an 8 lumen per square foot (i.e., 8 foot-candle) illuminance where the light is assumed to fall on a surface fairly described as an ideal Lambertian adhering to Lambert's cosine law.</p>	<p>Agree with Dr. Barentine - No uplighting permitted, full shielding required.  Measure light levels by luminance, restrict to lower level of not more than 10 cd/m2</p>
<p>Residential Exemptions</p>	<p>All residential Lighting Exempt</p>	<p>Not Recommended. Sensible regulation of residential lighting is suggested.</p>	<p>This is reasonable. No exemptions.</p>	<p>Not Addressed to why it is to be exempt</p>	<p>Agree with Dr. Barentine - Residential to be included in code.</p>
<p>Agricultural Lighting</p>	<p>Exempt</p>	<p>Should be subject to reasonable regulation</p>	<p>Included. This is reasonable.</p>	<p>Not Addressed to why it is to be exempt.</p>	<p>Agree with Dr. Barentine. Agricultural to be included in code.</p>
<p>Lumens per improved acre</p>	<p>55,000 per improved acre (includes parking and government required lighting)</p>	<p>This limit is too high. We recommend a zone-based approach that maxes out at 10,000 lumens per developed acre in the highest development zone.</p>	<p>Lighting allowances/restrictions that scale according to Lighting Zone</p>	<p>25,000 Lumens per improved acre. An overall cap on site light emissions is established here by limiting the allowed values of illuminances for various lighting applications according to whether the application is governed by the requirements of the International Building Code (IBC). Its requirements are currently limited to points of egress from buildings and the pathways from those egress points to the public right of way. Those applications specifically must meet the IBC illuminance requirements. All other site lighting must adhere to the recommended minimum illuminance values in IES Recommended Practices documents, which are collected together in its Lighting Handbook</p>	<p>Agree with Dr. Barentine. 10,000 lumens per developed acre in LZ2, lower for LZ0 and LZ1.</p>

Attachment A – Aspects of the Proposed Code that there is NOT a Consensus

<p>Exempt Lighting for Required Governmental Lighting</p>	<p>Exempt from total site lumens</p>	<p>Only lighting that is required by the higher-level jurisdiction. Not "allowed".</p>	<p></p>	<p>(see <a href="https://www.ies.org/standards/">https://www.ies.org/standards/</a>). In other words, the minimum value considered safe and recommended by the IES becomes the maximum permissible illuminance. Architectural and landscape lighting, including uplighting of building facades, in particular are regulated separately in item I of this section. Staff requested an overall site lumen per improved acre limit in addition to the IBC/IES provisions here. An additional exemption of parking lot lighting was requested for safety reasons.</p>	<p>Government lighting should not be exempted from site lumen limit.</p>
<p>Exemption from the general curfew for walkways, stairs, parking lot lighting, controlled by motion sensors</p>	<p>11pm to 5:30AM for uplighting and parking lot lights. Parking Curfew w/15 minute motion sensors</p>	<p>Disagree with the notion of fully exempting light that is merely "allowed" (but not required) by the law of a higher-level jurisdiction.</p>	<p>Curfew by lighting zones, general curfew for non-residential lighting recommended.</p>	<p>10 pm or one hour of close. 5 minute trigger/motion sensor period.</p>	<p>Agree with Dr. Barentine. 1 hour after sunset or close of business, established by LZ</p>
<p>Architectural Lighting/Uplighting</p>	<p>Will remove full cut off lighting and allow uplighting and architectural lighting.</p>	<p>Not recommended. Encourages use of bright, unshielded lighting. It seems like the intent is to do away with the full cutoff requirement in the current code that seems to otherwise preclude architectural uplighting.</p>	<p>Add Lighting allowances/ restrictions that scale according to Lighting Zone  i. A full shielding requirement;  ii. A limit on the amount of unshielded lighting allowed on a parcel; and  iii. A limit on the total number of installed lumens from luminaires in all shielding states allowed on a parcel.</p>	<p>This provision, and the one that follows, are suggested as a compromise that allows for aesthetic lighting of building facades and other surfaces using directed uplighting, provided that such lighting (1) does not yield direct light emission into the night sky and (2) does not exceed the stated luminance (surface brightness) limit. The language about "information on the construction materials of illuminated surfaces, their colors and finishes" is intended to equip lighting engineers with sufficient data to compute valid luminance models</p>	<p>Agree with Dr. Barentine. Full shielding lighting required, no uplighting.</p>
<p>Enforcement</p>	<p>Not Stated</p>	<p>Not Stated</p>	<p>Not stated.</p>	<p>Not addressed</p>	<p>Include enforcement section that is applicable to Land Use 16.21</p>

Attachment A – Aspects of the Proposed Code that there is NOT a Consensus

<p><b>Holiday Lighting</b></p>	<p>Specific Dates</p>	<p>Language is impractical and residential Lumen is too high.</p>	<p>Not stated.</p>	<p>Low-intensity string lights, whose luminous output does not exceed fifty (50) lumens per linear foot, and fully-shielded floodlights, whose luminous output does not exceed one thousand (1,000) lumens and which are aimed and oriented in such a way as to not directly emit any light into the night sky, and operated only during prescribed periods of time during the calendar year or 60 days per year.</p>	<p>Specific Date range and type of lights permitted should be stated.</p>
<p><b>Flag Pole Lighting</b></p>	<p>Uplighting</p>	<p>Flag pole lighting should be lit from top down. (USFag Code 4.U.S.C § 6a</p>	<p>Add guidelines.</p>	<p>The following provisions require top-down lighting for taller flagpoles. In the case of shorter poles typical of residential properties, bottom-up illumination is allowed with meaningful restrictions.</p>	<p>Agree with top down according to USFag Code.</p>
<p><b>Lighting Standards</b></p>		<p>Written specifically to allow elements of the Heber City temple lighting. Will result in problems involving intrusive light.</p>	<p>Add to Lighting Standards some additional provisions:  a. Lighting allowances/ restrictions that scale according to Lighting Zone  i. A full shielding requirement;  ii. A limit on the amount of unshielded lighting allowed on a parcel; and  iii. A limit on the total number of installed lumens from luminaires in all shielding states allowed on a parcel.</p>	<p>IEC Public Lighting, Emergency Lighting, Temporary Lighting, Residential Exemptions.  See Section I-1-8</p>	<p>Agree with Dr. Barentines Lighting Standards providings a.i,ii,iii.</p>
<p><b>Lighting Zones</b></p>	<p>None</p>	<p>Recommended</p>	<p>Establish Lighting Zones as overlays on existing land use zones that scale lighting allowances with development density</p>	<p>Not Addressed.</p>	<p>Agree with Dr. Barentines recommendation to include Lighting Zones.</p>
<p><b>Ext Lighting</b></p>	<p>IES Standards</p>	<p>Caution – imposes material cost on property owners and inadvertently discourage compliance</p>	<p>Add prohibited lighting sources.</p>	<p>Searchlights, skybeams, floods, lasers except as permitted in section L. The intent of this prohibition is to differentiate wasteful and generally uncontrolled</p>	<p>Shielded and no uplighting permitted.</p>

Attachment A – Aspects of the Proposed Code that there is NOT a Consensus

LED Lighting	LED Only	Not recommend. Code should adapt to technology.	Not stated.	floor lighting from the kind of targeted effect yielded by spotlights and similar sources. The latter are allowed in an unshielded condition for architectural lighting purposes, subject to the restrictions stated later in the proposed amendments.	Not stated. Agree w/ Dr. Barentine that lighting should adapt to technology.
Color Limit (CCT)	4000 CCT	A 2700K correlated color temperature limit for all lighting.	A 2700K correlated color temperature limit for all lighting.	3000K has been adopted by many municipalities and is consistent with the current (2018) International Dark-Sky Association guidelines for International Dark Sky Communities. A wide variety of lighting products are available on the market at this and even lower CCT values.	Agree with Dr. Barentine for 2700 CCT limit. Max 3000 CCT for eligibility for Dark Sky Certification
Shielding	5,000 lumens per fixture and over.	We would not recommend this. This number is very high, roughly equivalent to the output of a 333-Watt incandescent lamp. Instead, we suggest reasonable, zone-based allowances while generally prohibiting unshielded flood lighting.	Lighting allowances/restrictions that scale according to Lighting Zone	Fully shielding required – Unless exempted in this section, all exterior lighting luminaires shall be fully shielded. Residential shielding is except, unshielded lighting of any intensity is allowed on Residential & Agricultural.	Agree with Dr. Barentine for reasonable zone based allowances and prohibiting unshielded flood lighting.
Unshielded	Flood lighting up to 5,000 lumens per fixture	Not recommended. We would not keep light from being directly emitted into the night sky, it will yield a lot of diffuse upward reflection from building surfaces. In addition, it has the potential to yield high luminances on those surfaces that neighbors will find objectionable.	Recommended requirements by LZ Limit not specified.	Permitted as long as direct light is not emitted DIRECTLY into night sky. This provision, and the one that follows, are suggested as a compromise that allows for aesthetic lighting of building facades and other surfaces using direct uplighting, provided that such lighting (1) does not yield direct light emission into the night sky and (2) does not exceed the stated luminance (surface brightness) limit. The language about “information on the construction materials of illuminated surfaces, their colors and finishes” is intended to equip lighting engineers with sufficient data to compute valid luminance models.	Agree with Dr. Barentine that unshielded light with diffuse upward reflection and yield to light pollution. Unshielded fixtures not permitted.

Attachment A – Aspects of the Proposed Code that there is NOT a Consensus

Façade Lighting	8 lumens per square foot	Not recommended. The problem with this approach is that it leaves the surface luminance unconstrained. Luminance is the more relevant parameter in terms of determining impact, not illuminance (i.e., foot-candles). The resulting luminance will be determined by luminaire distance and light distribution, and surface material characteristics like roughness and albedo. To achieve the implied goal of this provision, it would be better to set a luminance limit instead.	Not stated	Permitted – 10 lumens per vertical foot, 1,000 lumens per developed acre.	Agree with Dr. Barentine. Set limit to luminance. No uplighting permitted.
Limits of unshielded Lighting per developed acre	15,000 lumens per developed acre	Caution. Recommend zone based approach with 5,000 lumens per developed acre in highest development zone.	Lighting allowances/restrictions that scale according to Lighting Zone	Permitted	Not permitted.
Illuminances for Parking lot and Walkway	IES Adherence	Caution – imposes material cost on property owners and inadvertently discourage compliance	Not stated.	Not included.	Shielded lighting required. Included in total site lumen allowance.
Site Lumens	55,000 lumen per developed acre	Not recommended. Limit is too high. Zone based approach recommended with maximum of 10,000 lumens per developed acre in the highest development zone.	A limit on the total number of installed lumens from luminaires in all shielding states allowed on a parcel.	25,000 lumen per developed acre excluding parking and government lighting..	Agree with Dr. Barentine to limit to 10,000 lumen per developed acre in highest development zone (LZ)
General Site Lighting	BUG	This is a decision point for the County. Going with BUG renders certain other provisions about shielding redundant. The Church's recommendation of upright ratings of U0 undercuts its evident desire for significant architectural uplighting, which would be prohibited by that standard.	Create a new Lighting Standards subsection that addresses all of the technical requirements	New Standards section included.	
Curfew	11pm	Caution – 11pm is rather late for lighting installations in residential zones.	A general curfew time for non-residential lighting.	10pm or within 1 hour of close of normal business hours or usual operations, whichever is later.	Lighting Zones, 1 hour after sunset or times established by zone.

Attachment A – Aspects of the Proposed Code that there is NOT a Consensus

Projects designed for individuals with visual impairments	Allows granting up to double the amount of light otherwise specified here	We are unclear on the reasoning for this. Any such additional allowances would already be covered under lettered item A (adherence to IES standards).	Not included.	Not included.	NA
Light Trespass	.5 fc at the property line for NR and .1fc for Residential	We support the notion of limiting the influence of light trespass, but we would recommend other ways to achieve this goal.	A prohibition of light trespass 0 FC for Commercial and Residential (Agr exempt)	Light Trespass prohibited for all uses including Res and Agricultural.	Light Trespass prohibited for all uses including Res and Agricultural.
Height Limits Pole Mounted Luminaires	20/15	This seems redundant to the existing §16.21.16(E), which the Church proposal inexplicably strikes only to reinstate here, so perhaps it's just a matter of consolidating the lighting standards into one subsection.	Not stated.	As noted in the Definitions section, the use of the term "standard" in this context may cause confusion with other instances of the same word having a different meaning in the amendments proposed here. We therefore recommend replacing "heights of standards" with "mounting heights" using the definition added in the present amendment proposal. References to "areas" have been replaced with "zones" (zones 20' in commercial or industrial and 15' in residential or other).	Maximum 15' in all zones
Fixture Type HOA/CCR	Only Decorative HOA/CCR Governs	Not recommended	Not stated.	Removed.	No uplighting
Service Stations	100 lumens per SF of canopy including full shielding and total lighting	We are unclear on the reasoning for this, given that such lighting is otherwise subject to the jurisdiction of the County code.	Not included.	Removed.	NA
Public Lights/ Street Lighting	Specifies BUG limits for street lighting, "general site lighting" and "lighting adjacent to residential areas when within twenty-five feet of residential property lines"	Should follow IES guidelines of illuminance at canopy.	Add guidelines.	Full shielding required not to exceed IES recommended minimum values	Full shielding required not to exceed IES recommended minimum values L22, 3 only
		Follow recognized best practices	Incorporate street lighting technical standards into a new "Public Lighting" section that includes: a. Adherence to shielding and color temperature requirements for all other lighting. b. A warranting statement for new public lighting installations. c. An overnight curfew period, exempting lighting that is adaptively controlled; and	Conclusion drawn from the best management practices in IDA's guidelines (2018). No link provided.	Agree with Dr. Barentine to follow recognized best practices and include public lighting section a,b,c,d.

Attachment A – Aspects of the Proposed Code that there is NOT a Consensus

Temporary Lighting	Emergency Lighting Included	Agree with this.	d. General prohibition in Lighting Zone 0. Add a section describing in more detail the process by which temporary lighting installations are to be allowed.	In the interest of temporary “emergency lighting” not becoming semi-permanent, a requirement is added that ties the use of such lighting to the formal recognition of ongoing emergency conditions. It also clarifies that the exemption applies to emergency lighting that is permanently installed on buildings.	Agree
Illuminated Signs	New sign illumination	This item seems to merely codify the existing status quo	Add some additional restrictions to the operation of illuminated signs and curfew time.	IDA and the IES both recommend this luminance limit for illuminated signs in Lighting Zone 2, which corresponds to the highest density expected in unincorporated Wasatch County. Sign Curfew 1 hour after regular close of business.	Too late in residential area and agricultural operations.

**Attachment B: Dark sky lighting ordinances for relevant cities and counties.** This table represents a revised and corrected version of the table assembled by Wasatch County staff and presented in Page 10 of the Packet. We researched and doubled checked all data in the original table by examining the code for each city/county (see hyperlinks in Column 1). **Entries in yellow highlighting represent data that was either factually incorrect or was misleading without additional detail.** Column 9 highlighted in green represents new data indicating whether parking lot lights were exempt for site lighting limits. New columns were added for Architectural/Decorative Lighting, Residential Exemption, Limits on Holiday Lighting and Lumen Exemption for Required Government Lighting. Rows were added to document the lighting ordinances in Midway and Torrey, again highlighted in green.

City or Town	State	Last Revised	IDA Certified	Lighting Zones	Shielding Threshold (lumens/fixture)	Allows Uplighting	Commercial & Residential Site Limits (lumens/acre)	Parking Lights Exempt from Limits?	Color Temperature Limit	Architectural/Decorative Lighting Allowed	Residential Exemption	Limits on Holiday Lighting	Lumen Exemption for Required Gov't Lighting	Curfew Hour
Tucson	AZ	2012	No	Yes	3000	Varies by zone (Table 401.1) Residential and Commercial/Industrial Option 3: E1a(5) – No E1b(6), E1c, E2 – 2700 E3a – 9,000 E3 – 11,000	Commercial, Industrial and Multi-Family 12,500-350,000 Residential: 0-55,000	No	3500	Varies, controlled by total light output Table 401.1	No	Exempt from Table 401.1 Permitted Thanksgiving through 1/15.	No	Unshielded lighting extinguished from 11pm to sunrise (Section 403).
Flagstaff 10.50.70	AZ	2022	Yes	Yes	Commercial and Industrial Multi-Family: 0 for class 1, 2 and 3; 1750 for class 3 ZN2 Single-Family and Duplex: 0 for ZN1 and ZN2	No	Commercial, Industrial and Multi-Family: 17,500 for Zone 1; 35,000 for Zone 2 Single-Family and Duplex: 1,500 for Zone 1; 900 for Zone 2	No	2700	Yes Class 3 Lumens/Parcel Commercial, Industrial and Multi-Family: 1750 Full Shield ZN1; 3850 Partial Shield ZN2 Single-Family and Duplex: 700 Full Shield ZN1; 2000 Partial Shield ZN2	No	Low Lumen Permitted 11/15 to 1/15.	No	30 minutes after close of business; 9 pm / 11 pm for sports facilities
Campe Verde	AZ	2018	Yes	Yes, Commercial/Residential	1500	Up to 1500 lumens per fixture, max 5,500 per acre	Commercial 100,000 maximum per acre Only 5,500 lumens of that total may be unshielded	Yes	3000	Yes, Class 3 5,000 lumens/acre	No	Not Stated	No	10pm
Fountain Hills	AZ	2018	Yes	Yes	2250	Yes, under 1125 lumens per fixture.	20,000 Residential 100,000 maximum per acre Up to 50,000 total allowed unshielded Residential Exempt from maximum light output	No	3000	Yes, less than 1125 lumens/fixture per 25 foot radius	No. Lights over 2250 shall be fully shielded, 1125 to 2250 partially shielded. All other permitted.	Exempt, reasonably before holiday through 2 weeks after.	No	Decided by Council. Not published in current code. Wasatch County reported 11 pm but that is strictly for outdoor recreational facilities

<a href="#">Julian</a>	CA	2020	Yes	Yes – City of Julian is in Zone C	1000	Yes Only under 1,000 lumens per fixture up to 5,000 per acre	50,000 per acre, only 10% can be unshielded	No	3000	Yes, Class 3, controlled >1,000 lumens Full Shield 20% maximum of the allowed lumens per site.	No	Exempt, 60 days in a 12 month period.	No	Two hours after sunset or 30 min after close of business, whichever is later
<a href="#">Ridgeway</a>	CO	2019	Yes	Yes, Commercial/Residential	850 for single family residential, 1500 for multifamily, mixed use and non-residential	No	25,000 Multi-Family, Mixed-Use and Non Residential Residential 5,100 Single Family 6,500 Single Family with ADU	No	3000	No	No	Exempt, permitted Nov 15-January 31.	No	One hour after close
<a href="#">Fredericksburg</a>	TX	2019	Yes	Yes, Residential/Commercial	300/600 unshielded per fixture	No (4c) Figure B	Non-Residential 75,000 15,000 unshielded	No	3000	300 Unshielded >300 Full Shielding Only 20% maximum of allowed lumens per site	No	Not Stated	No	Yes, time not stated (City Manager)
<a href="#">Helper</a>	UT	2018	Yes	Yes, Residential/Commercial	1500	No (18.97 K-1-5) Uplighting to illuminate buildings, other structures or vegetation, Flashing, blinking lights, flood lights, spotlights, laser... are Prohibited	Residential 17,500 Non-Residential 15,000 Residential 10,000	No	3000	No Uplighting permitted Controlled by Site Total Light Output Standards 18.97.040G, H	No	Temporary Holiday Lighting Permitted	Yes 18.97.020-A-4	None
<a href="#">Heber City</a>	UT	2021	No (pending approval)	Yes, NR, MFR, SFR	No 18.78.040-1	No	100,000	No	3000	No Uplighting Permitted Controlled by Site Total Light Output Limit of 100,000 Lumens.	No	Exempt	No	No. 18.78.040A9 Businesses adjacent to residential property shall dim exterior lighting to reduce impact
<a href="#">Park City</a> Section 15-5-5	UT	2021	No	No	0	No (15-5-5-1-15 a)	100000 shielded/ 2,500 lumen per fixture	Yes	3000	No, Architectural, Landscape lighting are prohibited.	Yes	Winter – November to March Low Lumen Residential 11:00PM Commercial: Midnight	No	11:00pm
<a href="#">Summit County</a>	UT	2019	No	No	1000	No	None	No	None	No. 15-5-5-G. Architectural and Landscape are prohibited.	No	Exempt – November 15 to February 1. No nuisances permitted.	No	11:00
<a href="#">Vint</a>	UT	2021	No	No	0 – Unshielded light is Not permitted 16.23.105-22a	No 16.23.105-9	None	No	3000	Yes, partially shielded required.	No	Exempt – Timeline not defined.	No	30 minutes within close of business.

Midway Chapler 5.02.080	2022	2014	No	No	0 – Unshielded lighting is Not permitted	No	None	None	None	No. 5.02.080-D.	No	Exempt Nov 15-Jan 20, Valentines, Washington's Birthday, Juneteenth, Memorial Day, Independence Day, Pioneer Day, Labor Day, Columbus Day, Halloween, Veterans Day	No	None
Torrey	UT	2014	Yes	Yes, Commercial & Residential Zones.	1000	No	25,000 Commercial 5,000 Residential	3000	No	Yes, low voltage pathway lighting permitted under 18" in height. Architectural lights are exempted from full cutoff fixture requirements. May not exceed lumen requirements and Maximum Site Light Output	No	Exempt Nov 15-January 15, No Nuisances.	No	One hour after closing
Wasatch County (current)	UT	2014	No	No	4000	No	None	None	No	Yes, Full Shielding Only Height, Residential 15'.	No	No	No	None
General Plan Wasatch County (applicant)	UT	2023	No	No	5000	Yes	55,000	4000	No	Yes, BUG is proposed.	Yes	Exempt, 20,000 lumens per acre or less Nov 15-Jan 21, Valentines, Washington's Birthday, Juneteenth, Independence Day, Pioneer Day, Labor Day, Columbus Day, Halloween, Veterans Day	Yes	10:00pm
Wasatch County (staff proposal)	UT	2023	No	No	Not Stated/None?	Yes	25,000 Commercial Residential & Agricultural Exempt	3000	Yes	Yes, not to exceed 27 candelas per square meter. Landscape uplighting not to exceed 10 lumens per vertical foot and 1,000 lumens per acre.	Yes except for light trespass.	60 calendar days per year. Exempt 50 lumens per linear foot for string lighting. 1000 lumens for flood lights/fixture.	Yes	10:00pm

EXHIBIT B- Applicant Proposed code

16.21.16: EXTERIOR LIGHTING REGULATIONS

The purpose of the exterior lighting regulations is to establish standards for exterior lighting so that its use does not unreasonably interfere with the reasonable use and enjoyment of property and astronomical observations within the county. It is the intent of this section to encourage, through regulation of types, kinds, constructions, installation and uses of outdoor electricity, lighting practice and systems which will reduce light pollution, conserve energy, provide consistent lighting standards, reduce maintenance and replacement costs while increasing nighttime safety, utility, security, and productivity.

In the event that any provisions contained within this title conflict with the provisions contained in the section, the provisions of the more restrictive regulations shall apply.

- A. Definitions: When used in the section, the following words, terms, and phrases, and their derivations shall have the meanings provided in this section, except where the context clearly indicates a different meaning. Other words not defined shall have their respective and commonly understood meanings.

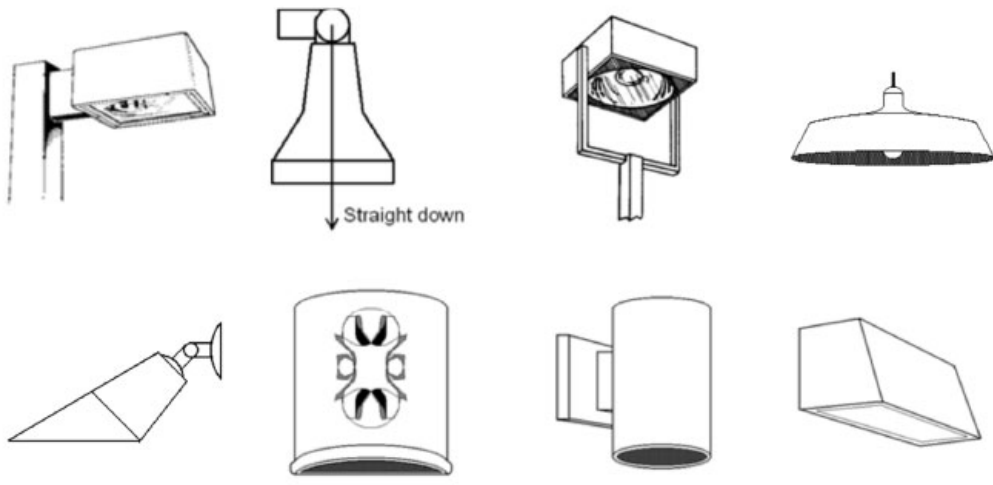
**CORRELATED COLOR TEMPERATURE (CCT):** The absolute temperature of a blackbody whose chromaticity most nearly resembles that of the light source. CCT values, measured in units of Kelvins (K), are typically provided in lighting manufacturer data sheets.

CURFEW: A time established for listed lighting systems to be automatically extinguished.

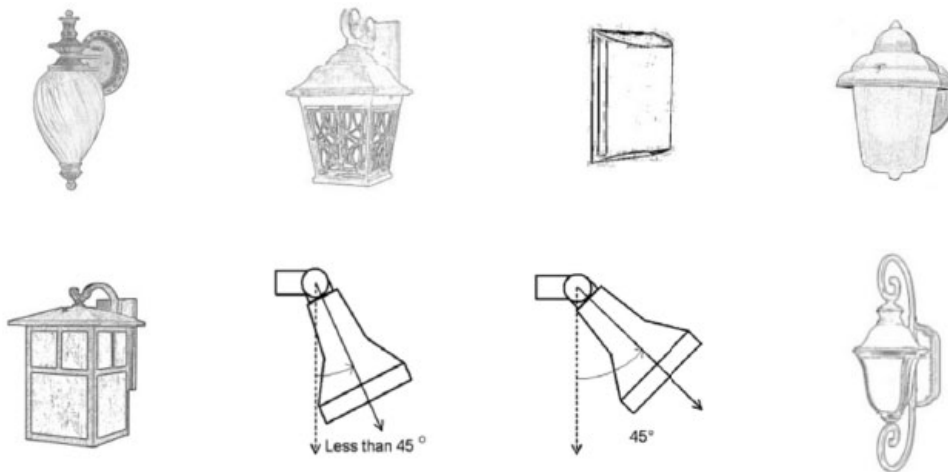
**EXTERIOR LIGHTING:** All lighting, including, without limitation, street lighting; parking lot lighting; commercial, industrial, and institutional lighting, where the light source originates outside the exterior walls of a structure, and lighted exterior signs whether illuminated internally or externally.

—FIXTURE: See “LIGHT FIXTURE, OUTDOOR”

FIXTURE, FULLY SHIELDED: A light fixture or luminous tube constructed and mounted such that all light emitted by the fixture or tube, either directly from the lamp, tube, or diffusing element, or indirectly by reflection or refraction from any part of the light fixture, is projected below a horizontal plane running through the lowest point on the fixture where light is emitted such that the fixture emits no direct Uplight. If the lamp or tube, any reflective surface, or lense cover (clear or prismatic) is visible when viewed from above or directly from the side, from any angle around the fixture or tube, the fixture or tube is not fully shielded. Examples of fully shielded light fixtures include, but are not limited to, those illustrated below: (Note: to be fully shielded these fixtures must be closed on top and mounted such that the bottom opening is horizontal):



**FIXTURE, PARTIALLY SHIELDED:** A light fixture constructed and mounted such that most light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the fixture, is projected below the horizontal. Light emitted at or above the horizontal direction (sideways or upwards) arises only from incidental decorative elements or strongly colored or diffusing materials such as “honey” or colored glass or plastic. Fixtures using spot or flood lamps are considered partially shielded if the lamps are aimed no higher than 45 degrees above straight down (half-way between straight down and straight to the side). Examples of partially shielded fixtures include, but are not limited to, those illustrated below:



**FOSSIL FUEL LIGHTING:** Lighting whose emissions are directly produced by the combustion of fossil fuels such as natural gas and propane are permitted so long as the light source is completely enclosed in a suitable housing such as a lantern.

**FULLY SHIELDED:** The condition of an outdoor luminaire constructed such that in its installed position all of the light emitted by the luminaire is projected below the horizontal plane passing through the lowest light-emitting part of the luminaire. In the IES Luminaire Classification System for Outdoor Luminaires, these luminaires have an uplight rating of U0.

**GLARE:** Light emitting from a luminaire, directly from the luminaire or indirectly from reflective surfaces, with an intensity great enough to reduce a viewer's ability to see and in extreme cases, causing momentary blindness.

**HOLIDAY LIGHTING:** Low-intensity string lights, whose luminous output does not exceed fifty (50) lumens per linear foot, and fully shielded floodlights, whose luminous output does not exceed one thousand (1,000) lumens and which are aimed and oriented in such a way as to not directly emit any light into the night sky; and operated only during prescribed periods of time during the calendar year.

**ILLUMINANCE:** the areal density of the luminous flux incident at a point on a surface. Illuminance is a measure of the light received by or on a surface.

**ILLUMINATING ENGINEERING SOCIETY (IES):** An industry supported, nonprofit learned society headquartered at 120 Wall Street, New York City, New York, recognized as an authoritative body on the science and application of lighting that publishes and promotes recommended practices for a variety of specific lighting applications.

**IMPROVED ACRE:** The gross acreage of a parcel less any acres that are not covered by structures, impervious surfaces and manicured or irrigated landscape areas. Landscape areas not accessible to pedestrians, stormwater facilities and areas of native vegetation are considered unimproved for the purposes of the definition.

**INTERNATIONAL DARK SKY ASSOCIATION (IDA):** A nonprofit advocacy organization headquartered at 5049 E. Broadway Boulevard #105, Tucson, Arizona which is a recognized global authority on light pollution.

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**LIGHT FIXTURE:** See "LIGHT FIXTURE, OUTDOOR"

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**LIGHT FIXTURE, OUTDOOR:** A complete lighting assembly (including the lamp, housing, reflectors, lenses, and shields), less the support assembly (pole or mounting bracket); a light fixture includes luminous tubes, lamps, or similar devices, permanently installed or portable, used for illumination, decoration, or advertising on building and structures.

LIGHT POLLUTION: Any adverse effect of artificial light including but not limited to Skyglow, Light Trespass, and Glare. Light Pollution washes out starlight in the night sky, disrupts ecosystems, wastes energy, compromises citizen safety and security, and is documented to have adverse effects on human health.

LIGHT TRESPASS: A condition in which artificial light emitted from a luminaire on one property, not inclusive of light incidentally scattered or reflected from adjacent surfaces, is directed in such a manner that the lamp or light source is visible ~~from any other property~~ across property boundaries, on property not containing the originating light source.

LUMEN: The SI unit of luminous flux equal to the luminous flux emitted within a unit solid angle (one steradian) by a point source having a uniform luminous intensity of one candela.

LUMINAIRE: A complete lighting unit consisting of a light source (s) and ballast(s) or driver(s) (when applicable), together with the parts designed to distribute the light, to position and protect the light source(s), and to connect the light source(s) to the power supply. Also known as a light fixture.

LUMINANCE: The amount of light that passes through, is emitted, or reflected, from a particular area, and that falls within a given solid angle. Luminance is a measure of light emitted by or from a surface. The SI unit of luminance is candela per square meter (cd/m<sup>2</sup>).

NUISANCE: Any condition that substantially interferes with the use and enjoyment of property by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities.

OUTDOOR SPORTS LIGHTING: Lighting equipment designed and installed specifically to illuminate outdoor venues used for the practice and play of any outdoor sport or similar recreation activity. This term refers only to lighting directed toward, or intended to facilitate, play or recreation on outdoor surfaces, or to illuminate spectator viewing stands, but not for illumination of any other part of a connected or adjacent property.

POLE HEIGHT: The distance in the vertical direction above finished grade to lamp or light source of a pole-mounted luminaire.

SINGLE-FAMILY RESIDENTIAL LOT: A lot for a detached single-family residence, half of a twinhome, or townhome, and ancillary uses. IADUs, accessory residential units, and caretaker accessory dwelling units do not alone exclude the lot as a single-family residential lot.

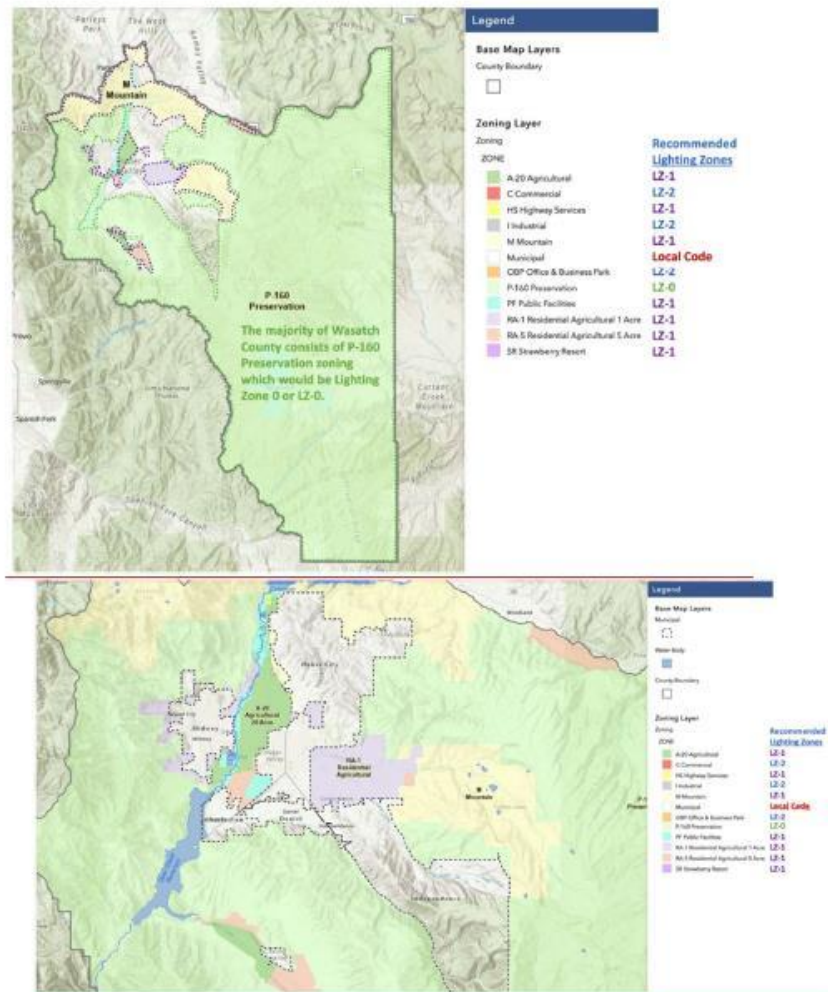
SKYGLOW: The brightening of the nighttime sky that results from scattering and reflection of artificial light by moisture and dust particles in the atmosphere. Skyglow is caused by light directed or reflected upwards or sideways and reduces one's ability to view the night sky.

UPLIGHT: Lighting that is directed in such a manner as to project light rays above the horizontal plane running through the lowest point of the fixture where light is emitted.

. Establishment of Lighting Zones.

1. Four Lighting Zones are established, with varying development standard specific to their location within the County. Lighting Zones are shown in Figure A (Lighting Zone Map).
2. The boundaries of the Lighting Zones are illustrated in Figure A (Lighting Zone Map).
3. A parcel located in more than one of the described zones shall be considered to be only in the more restrictive Lighting Zone.
4. The Lighting Zone shall determine the limitations for lighting as specified in this regulation. The Lighting Zones shall be defined as follows:
  - a. LZ-0: No ambient lighting. Areas where the natural environment will be seriously and adversely affected by lighting. Impacts include disturbing the biological cycles of flora and fauna and/or detracting from human enjoyment and appreciation of the natural environment. The vision of human residents and users is adapted to the darkness, and they expect to see little or no lighting. When not needed, lighting should be extinguished.
  - b. LZ-1: Low ambient lighting. Areas where lighting might adversely affect flora and fauna or disturb the character of the area. Lighting may be used for safety and convenience, but it is not necessarily uniform or continuous. After Curfew, most lighting should be extinguished or reduced as activity levels decline.
  - c. LZ-2: Moderate ambient lighting. Areas of human activity where vision of human residents and users is adapted to moderate light levels. Lighting may typically be used for safety and convenience, but it is not necessarily uniform or continuous. After curfew, lighting may be extinguished or reduced as activity levels decline.
  - d. LZ-3: Moderately high ambient lighting. Areas of human activity where the vision of human residents and users is adapted to moderately high light levels. Lighting is generally desired for safety, security and/or convenience and it is often uniform and/or continuous. After curfew, lighting may be extinguished or reduced in most areas as activity levels decline.

**Figure A**  
**Lighting Zone Map**



**C. Total Outdoor Light Output**

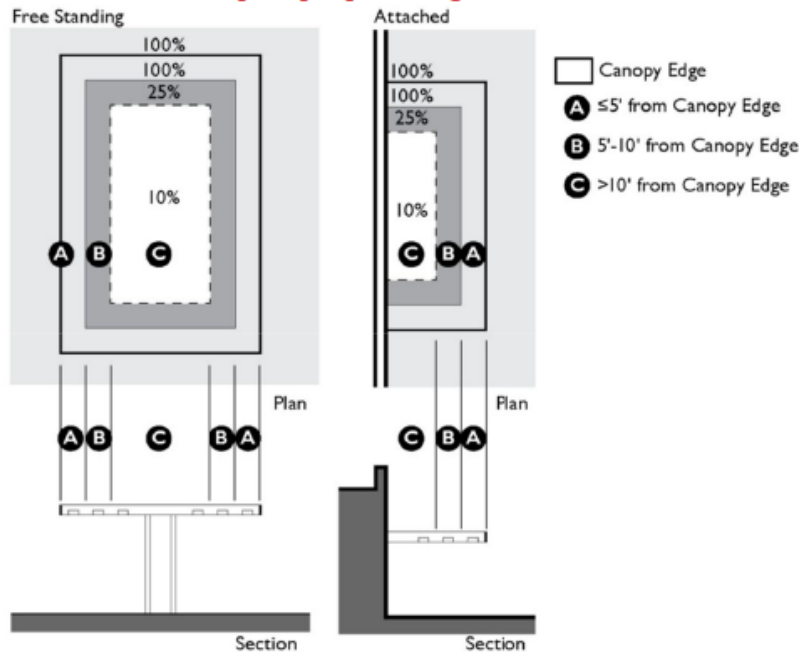
1. Excluding streetlights and pedestrian lighting used to illuminate public rights-of-way, any exterior lighting shall not exceed the following limits per improved acre, unless the parcel(s) on which residence, commercial structure, or other improvement has been built is less than one acre (each, an “Improved Parcel”, in which case the lighting limits in Figure B below shall apply to each such Improved Parcel. (Values listed are total initial lamp lumens per improved acre and per residence.) (See Figure B).

<u>Figure B</u> <u>Maximum Total Outdoor Light Output Standards</u> <u>(Values listed are total initial lamp lumens per improved acre and per residence)</u>				
<u>Land Use</u>	<u>LZ-0</u>	<u>LZ-1</u>	<u>LZ-2</u>	<u>LZ-3</u>
<u>Commercial, Industrial, and Multi-family Residential (lumens per net acre and per residence inclusive of accessory structures and parking)</u>				
<u>Total (Fully Shielded and Partially Shielded)</u>	<u>5,000</u>	<u>10,000</u>	<u>15,000</u>	<u>25,000</u>
<u>Partially Shielded only</u>	<u>0</u>	<u>2,500</u>	<u>2,500</u>	<u>5,000</u>
<u>Single-family Residential and Agricultural uses (lumens per parcel inclusive of accessory structures and parking)</u>				
<u>Total (Fully Shielded and Partially Shielded)</u>	<u>5,000</u>	<u>5,000</u>	<u>10,000</u>	<u>10,000</u>
<u>Partially Shielded only</u>	<u>0</u>	<u>1,000</u>	<u>2,000</u>	<u>3,000</u>

2. For determining compliance with this Section, light emitted from outdoor lighting is to be included in the Total Outdoor Light Output as follows (see Figure C): Light fixtures installed as described below shall be included in the Total Outdoor Light Output by adding one hundred (100) percent of the initial lumen outputs of the lamps used:
  - a. All partially shielded fixtures, regardless of location; and
  - b. Light fixtures installed on poles (such as parking lot light fixtures); and
  - c. Light fixtures installed on the side of buildings or other structures but not located as described in paragraphs b. or c. below; and
  - d. Light fixtures installed within open parking garages, or under canopies, building overhangs, or roof eaves that are not fully shielded or are fully shielded but not located as described in paragraphs 3. or 4. below.
3. Fully shielded light fixtures installed as described below shall be included in the Total Outdoor Light Output by adding only twenty-five (25) percent of the initial lumen outputs of the lamps used:
  - a. Fully shielded light fixtures located within open parking garages, or located under canopies, building overhangs, or roof eaves, where all parts of the light fixture are located at least five feet but less than ten (10) feet from the nearest outdoor opening, canopy, or overhang edge.
4. Fully shielded light fixtures installed as described below shall be included in the Total Outdoor Light Output by adding only 10 percent of the initial lumen outputs of the lamps used:
  - a. Fully shielded light fixtures located within open parking garages, or located under canopies, building overhang, or roof eaves, where all parts of the light fixture are located ten (10) feet or more from the nearest outdoor opening, canopy, or overhang edge.

Figure C

Elevation and section views of a freestanding and attached canopy or overhang, showing fixture location and initial lamp output percentage counted toward total outdoor light output.



#### B.D. Applicability

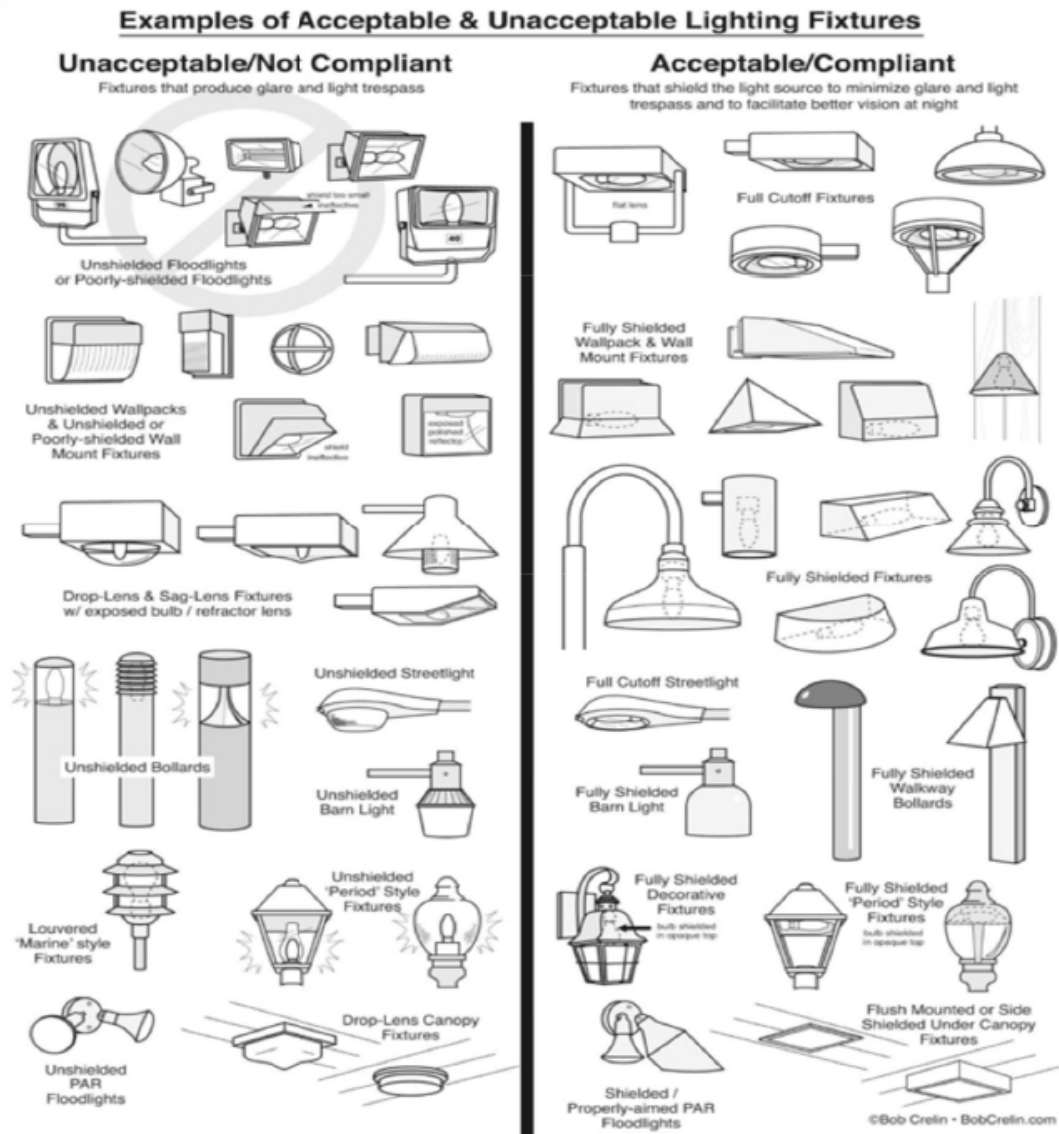
1. All exterior lighting installed after the effective date of this section in the County, except where specifically state in Subsection I, shall be in conformance with the requirements established by this section and any other applicable ordinances. ~~Single-family residential lots and agricultural uses shall be exempt from these requirements, except for light trespass requirements.~~ The provisions of this section shall apply to all new development of real property that involves:
  - a. New construction for which a land use application is required; or
  - b. Remodeling of an existing building or structure for which a land use application is required; provided, however, that compliance with the requirements of this section is required for a remodel of an existing building or structure only with respect to the remodeled portion of the existing building or structure unless the amortization provisions of this section require all lighting to comply; or
  - c. Installation of new outdoor luminaires for any purpose.
2. The Land Use Authority may require, as part of a conditional use, for exterior lighting to comply with standards that are stricter than those in this section when the specific land use requires a conditional use permit and the conditional use standards support greater restriction for the use.
3. Once new lighting is installed, the owner has the continuing obligation to ensure existing lighting remains in compliance and all new lighting fixtures comply with the Exterior Lighting Regulations.
- 3.4. In case of conflict between any of the provisions of this section, or any other applicable law, the most restrictive shall apply.

C.E. Amortization of non-conforming installations.

1. All exterior lighting luminaires that were lawfully installed prior to the effective date of this section, but that do not comply with the requirements of this section, are declared to be legal non-conforming luminaires.
2. All legal non-conforming luminaires may continue to be used and maintained after the adoption of this section, but legal non-conforming luminaires shall be brought into compliance with its requirements upon the first to occur of any of the following:
  - a. Approval of any land use permit or building permit that includes structures or real property where the luminaire is placed; or
  - b. A change of use of the property from a single-family residential-~~Use use~~ or agricultural use to any other use; or
  - c. Any renovation to a structure or other improvement where the luminaire is placed equal to or exceeding twenty (20) percent of its assessed value; or
  - d. Reconstruction of a structure where the luminaire is placed if more than fifty (50) percent of the total appraised value of a structure, as determined from the county's assessment records, is destroyed; or
  - e. A determination by the Planning Director that the legal non-conforming luminaire constitutes a public hazard or nuisance; or
  - f. The replacement of any legal non-conforming luminaire with new lighting equipment, not inclusive of lamps or similar consumable parts.
3. Conformity shall occur prior to issuance of a certificate of occupancy, final inspection, return of any bonds or improvement assurances associate with the project, or approval by the County of the improvement(s). For other permits, the applicant shall have a maximum of sixty (60) days from date of permit issuance to bring the lighting into conformance.

D.F. Approved Materials and Methods of Construction or Installation/Operation: The provisions of this section are intended to prevent the use of any design, material or method of installation or operation of an outdoor luminaire not specifically prescribed by this section. See Figure AC for examples of acceptable, i.e., fully shielded, and unacceptable luminaires.

**FIGURE AC**  
**ACCEPTABLE SHIELDING, HOODING AND AIMING OF OUTDOOR LIGHT FIXTURES**



**E.G. Heights of Pole-Mounted Luminaires:** The pole heights of [pole-mounted luminaires shall not exceed twenty feet (20') in **commercial or industrial zones LZ-3** and fifteen feet (15') in **residential or any other zones LZ-2**, and eight feet (8') in LZ-1 and LZ-0.

**H. Height of Building Mounted Luminaires:** All building mounted luminaires either under soffit or wall mounted shall be sixteen feet (16') or less unless the source is not visible to pedestrians on the ground.

F.I. Prohibited Lighting: Without limitation to other prohibited luminaires, the use of the following types of exterior lighting is prohibited except as specifically exempted here or elsewhere in this section.

1. Uplighting to illuminate buildings, other structures, or vegetation.
- ~~1.2.~~ Outdoor flood lighting by projection of light above the horizontal plane running through the lowest light-emitting portion of a luminaire, ~~except as permitted in subsection L of this section.~~
- ~~2.3.~~ Searchlights, skybeams, and similar lighting, except as ~~required by first responders permitted in the performance~~ Subsection K.2 of their duties ~~this section.~~
- ~~3.4.~~ Lasers, except Class 2 or lower laser light sources as used only for holiday lighting.
- ~~4.5.~~ Any luminaire that dynamically varies its output by intermittently fading, flashing, blinking, or rotating. This type of lighting includes strobe lighting.
- ~~5.6.~~ Any luminaire that uses mercury vapor lamps or sealed, low-pressure tubes containing inert gasses such as neon.
7. The nighttime use of white lighting or strobe lighting for communications towers is prohibited. (Nighttime white strobe lighting is not required by the FAA.) Exemptions may be permitted if proof of any such FAA requirement is submitted, and an alternate lighting plan is not available.

G.J. Plan Required:

1. A lighting plan shall be submitted as part of any development application. Single-family residential lots and agricultural uses shall be exempt from this lighting plan requirement. The lighting plan shall address the following:
  - a. Type of illumination; and
  - b. Mounting height above finished grade; and
  - c. Location at intersections of streets and at fire hydrants; and
  - d. Source(s) of light; and
  - e. Whether the luminaires are fully shielded; and
  - f. Correlated Color Temperature of light sources; and
  - g. Inclusion of any equipment intended to actively control the light output of luminaires; and
  - h. The number of lumens of light per improved acre; and
  - i. Lighted area for each source light which is proposed; and
  - j. A rendering of any pole-mounted street and roadway luminaires; and
  - k. Demonstration that all lighting meets the requirements in Section ~~I(3);L;~~ and
  - ~~l. Calculations or photometric models indicating the maximum luminance value for any illuminated surface or any building or vertical structure.~~
  - l. A photometric site plan showing illuminance (point x point) covering the entire site at grade with point spacing no greater than fifteen feet by fifteen feet (15' x 15'). Hardscape areas shall be separated statistically. Shadowing of structures must be considered if relevant.
  - m. In LZ-2, and LZ-3, if building surfaces have been illuminated a photometric plan of all illuminated surfaces is required showing calculated luminance (point x point) on each surface with point spacing no greater than five feet by five feet (5' x 5'). The assumed surface reflectance must be shown for each surface.

2. Sufficiency of plans. The above required plans and descriptions shall be sufficiently complete to enable the Planning Director to readily determine whether compliance with the requirements of this section can be determined. If such plans and descriptions cannot enable this determination, by reason of the nature or configuration of the devices, luminaires or lamps proposed, the applicant shall submit evidence of compliance by certified test reports as performed by a recognized lab. The Planning Director may use third-party plan reviewers, the cost of whose services shall be charged to the applicant. The Planning Director shall further have the authority to request additional information consistent with the purposes of this section.
3. Amendment to approved plans. Any change to approved exterior luminaires or lamps must be approved prior to installation.

L.K. Exemptions: The following are exempt from compliance with all provisions of this section, except as noted.

1. Public lighting, subject to the requirements of subsection JN of this section.
2. All temporary emergency lighting needed by first responders only for as long as conditions which warrant the emergency lighting so identified by first responders continue to exist. This includes temporary lighting illuminating the activities of law enforcement, fire, and other emergency services, as well as building egress lighting whose electric power is provided either by battery or generator.
3. Temporary lighting required to save life, limb, or property from imminent peril, provided that use persists only during the hours of peril.
4. Lighting employed during repairs of roads, utilities, and similar infrastructure, including unshielded lighting.
5. All hazard warning lighting required by any county, state, or federal agencies.
6. Holiday lighting, ~~for~~ using low-lumen bulbs (not exceeding 7 watts each) from Thanksgiving to the 15<sup>th</sup> of January, in addition to a period not to exceed sixty (60)fourteen (14) days, whether consecutive or non-consecutive, in one calendar year. The total quantity of light meeting this definition permitted is not limited, but excessive displays are liable to be declared public nuisances. All holiday lighting must be fully extinguished each night between the hours of 11 P.M. and 5 A.M. during the allowed period.
7. Outdoor sports lighting, provided that its design and installation adhere to the version of the International Dark Sky Association's Criteria for Community-Friendly Outdoor Sports Lighting operative at the time when the land use application is submitted to the County for review.
8. Underwater lighting of swimming pools and similar water features provided that such lighting is not oriented in any direction above the horizontal.
9. Fossil fuel lighting.
10. Lighting required by law to be installed on motor vehicles.
11. String, festoon, and similar lighting provided that the emission of no individual lamp exceeds fifty (50) lumens, and no installation of such lighting exceeds, in the aggregate, three thousand (3,000) lumens.
12. Temporary lighting allowed by obtaining a temporary use permit as described in Section 16.24 and subsection KN of this section.
13. Any form of lighting whose use is mandated or otherwise governed by a legal jurisdiction higher than that of the County.
- ~~14. Exterior lighting installed on single-family residential lots and agricultural uses, except for light trespass requirements.~~

1.L Lighting Standards.

1. Minimum Necessary: Outdoor lighting should be the minimum necessary to provide for safety and functionality. The lowest wattage light source necessary for a lighting application should be used.
- 1.2. Compliance with building codes: All exterior lighting luminaires installed in conformance with this section shall comply with all applicable building codes in effect at the time of installation under appropriate permitting and inspection,
- 2.3. Full Shielding required: Unless exempted in this section, all exterior lighting luminaires shall be fully shielded.
- 3.4. Lighting application illuminance limits:
  - a. Exterior lighting required by the International Building Code (IBC) version incorporated by reference in Section 7.04.01, including but not limited to points of egress and along the path of travel for the exit discharge from each exit to the public way, shall employ illuminances that adhere to, but not exceed, the IBC-required values.
  - b. For all other exterior lighting applications not governed by IBC requirements, excluding architectural lighting, the illuminance employed in each application shall adhere to, but not exceed, the IES-recommended minimum value for the application.
  - e. ~~With the exception of lighting exempted from regulation in subsection H, item 13 of this section and permanent light of drive aisles and parking areas that adhere to the current IES recommendations found in ANSI/IES RP-8, Table 17-2, in no case shall exterior lighting installed on any site exceed 25,000 lumens per improved acre.~~
- 4.5. Spectrum management: The Correlated Color Temperature of light sources shall not exceed 3000two thousand seven hundred Kelvins. (2700K).
- 5.6. Light trespass prohibited: No luminaire shall create conditions of light trespass, except as authorized by this section. Light Trespass. Without limitation, single-family residential lots and agricultural uses are prohibited from light trespass.
7. General curfew: AllCurfew: Except for Exemptions listed in this section, all exterior lighting shall be extinguished either by 10 P.M.; or within one (1) hour of according to the close of normal business hours; or at the conclusion of usual operations, whichever occurs later, and remain extinguished until no earlier than one (1) hour before sunrise. Curfew limits in Figure D:

**Figure D**  
**Lighting Curfew by Lighting Zone**

	<u>Time limit when outdoor lights must be turned off</u>	<u>Time limit when lights may be turned back on</u>
<u>LZ-0</u>	<u>30 minutes before sunset</u>	<u>After sunrise</u>
<u>LZ-1</u>	<u>The earlier of 30 minutes before sunset or close of normal business hours</u>	<u>The later of 30 minutes after sunrise or start of normal business hours</u>
<u>LZ-2</u>	<u>The earlier of 30 minutes after the close of normal business hours or 9:00 p.m.</u>	<u>The later of 30 minutes before sunrise or 5:00 a.m.</u>
<u>LZ-3</u>	<u>The earlier of 30 minutes after close of normal business hours or 10:00 p.m.</u>	<u>The later of 30 minutes before sunrise or 5:00 a.m.</u>

The following lighting applications shall be exempt from the Curfew:

- ~~6.a.~~ Businesses whose normal operating hours are twenty-four (24) hours per day, ~~or as determined by the land use authority if a conditional use, may be exempt from this provision. The following lighting applications shall be exempt from the general curfew:~~
  - ~~a.b.~~ Walkway bollard, ramp, and in-step stair luminaires provided with individual motion sensing switches for resumption of illumination at one hundred percent (100%) of their normal lumen levels for no more than a five (5) minute period per trigger.
  - ~~b.c.~~ Individual pole-mounted parking lot luminaires provided with individual motion sensing switches for resumption in illumination at ~~seventy-five~~fifty percent (~~75~~50%) of their normal lumen levels for no more than a five (5) minute period per trigger.
- ~~7.8.~~ Flagpoles: Property owners are encouraged to not illuminate flagpoles at night, but rather to hoist flags after dawn and lower flags before sunset. ~~If National and State flags are only may be illuminated at night, lighting. Lighting~~ of up to a total of two (2) flags per property is permitted with the following conditions:
  - a. If nighttime illumination is used, flagpoles with a height greater than 20 feet above ground level shall be illuminated only from above. This may be achieved by utilizing a luminaire attached to the top of the flagpole or a luminaire mounted above the top of the flagpole and must comply with all sections of this section. The total light output from any luminaire mounted on top of or above a flagpole shall not exceed 800 lumens.
  - b. ~~IN LZ-3, and LZ-2~~ Flagpoles with a height equal to or less than twenty (20) feet above ground level may be illuminated from below. If ground level illumination is used, flagpoles may be illuminated with up to two (2) spot type luminaires, utilizing shields or diffusers to reduce glare, whose maximum combined lumen output is 75 lumens per linear foot of pole height, measured from the level of the luminaire above finished grade to the top of the flagpole. Luminaires are to be mounted so that their lenses are perpendicular to the flagpole and the light output points directly toward the flag(s).
  - c. Flagpoles are prohibited from illumination in LZ-0 and LZ-1.
- ~~8.9.~~ Service station canopies: All luminaires mounted on or recessed into the lower surface of service station canopies shall be fully shielded and utilize only flat lenses or windows.

Shielding must be provided by luminaire itself, and not by surrounding structures such as canopy edges. Illuminance values shall not exceed the IES-recommended minimum values.

M. Public lighting: All exterior lighting owned or operated by the County, a special service district, an interlocal governmental entity, or a municipality, installed after the effective date of this section shall ~~meet~~adhere to all ~~of~~standards in this Title as indicated, in addition to the following requirements:

J.

1. Warranting. Except for streetlights, new installations of exterior lighting will only be installed on public properties and rights-of-way upon determination by the County Manager, of that person's designee, that a public health, safety, or welfare benefit due to the use of lighting exists. Criteria warranting the use of street lighting are ~~stated~~stated in Section 14.02.08.
2. Curfew. All public lighting not adaptively controlled must be fully extinguished by ~~11~~10 P.M., or within one hour of the end of occupancy of the structure or area ~~to~~to be lit, whichever is ~~later~~earlier, and remain extinguished until no earlier than one (1) hour before sunrise. Street lighting is exempt from this requirement.
3. Adaptive controlling. All new installations of exterior lighting on public properties and rights of way must be regulated with adaptive controls such that the lighting of areas is restricted to times, places and amounts required for safe occupancy. Street lighting is exempt from this requirement.
4. Additional street lighting requirements. In addition to the above, the following shall be required on all streetlights for consistency of maintenance:
  - a. Bulb: LED, fifty (50) to seventy (70) watt max.
  - b. One hundred twenty (120) volt.
  - c. Toolless replacement and interchangeable ballast.
  - d. Twistlock photocell.
  - e. Head: Glass or acrylic, asymmetric.
  - f. Mounting condition: Concrete base with J bolts.
  - g. Pole: As required in this section. A different pole may be allowed with the understanding that if the pole needs to be replaced it will be replaced with the typical pole provided by the service provider. Poles other than the typical poles provided by the service provider will be paid for by the homeowners' association or property owners.
  - h. Fixture head type: Fully shielded with full top aluminum reflector.
  - i. Fixture style: As agreed to by the County and the service provider in compliance with this title.

K.N. Temporary Lighting: Temporary lighting that does not conform to the provisions of this section may be approved at the discretion of the Planning Director subject to submission of an acceptable temporary use permit for exterior lighting. In addition to the requirements in Section 16.24, temporary lighting is subject to the following requirements.

1. Permit term and renewal. Permits shall be valid for no more than thirty (30) calendar days and subject to no more than one renewal at the discretion of the Planning Director, for an additional thirty (30) calendar days.

2. Conversion to permanent status. Any lighting allowed that remains installed after sixty (60) calendar days from the issue date of the permit is declared permanent and is immediately subject to all of the provisions of this section and enforcement provisions of this title.
3. Exterior lighting permit contents. A request for temporary exemption to any provision of this section shall contain minimally the following listed information:
  - a. Specific exemptions requested;
  - b. Previous temporary exemptions, if any;
  - c. Duration of time requested exemption;
  - d. Type and use of exterior light involved;
  - e. Type and lumens of proposed lamps;
  - f. A plan. With proposed luminaire locations; and
  - g. Manufacturer data sheets for proposed luminaires.
4. In addition to the above data, the Planning Director may request any additional information which would enable a reasonable evaluation of the request for temporary exemption.

L.O. Architectural and Landscape Lighting: Exterior lighting used to illuminate the walls or architectural features of a building or structure, and landscape lighting used to illuminate trees or other landscape elements, is permitted subject to the following conditions:

1. All such lighting must be downward facing and shall comply with the curfew other criteria set forth in this ordinance including, but not limited to, prohibition on Uplighting, the Curfew requirement and light trespass ~~Light Trespass~~ prohibition specified in this section.
2. ~~Luminaires used for uplighting of structures may be unshielded by design provided that their direct light is completely captured by architectural surfaces and not emitted directly into the night sky. In the event that an applicant wishes to illuminate surfaces in this manner, the applicant shall also provide with the lighting plan required in Subsection G of this section information on the construction materials of illuminated surfaces, their colors and finishes.~~
2. Architectural and landscape lighting that is directed downward onto a wall, tree or other landscape feature shall be included in the Total Outdoor Light Output standards provided in Table B, based on whether a fully shielded or partially shielded light fixture is used.
3. The luminance of architectural surfaces shall not exceed 2710 ~~2710~~ candelas per square meter. ~~Luminaires used for uplighting of trees or other landscaping elements may be unshielded by design provided that their direct light is mostly captured by trees or landscaping and not emitted directly into the night sky. In the event that an applicant wishes to illuminate trees or landscaping in this manner the applicant shall also provide with the lighting plan required in Subsection G of this section, information the height of the trees or landscaping. The luminaires used for uplighting of trees or other landscaping elements shall not exceed 10 lumens per vertical foot of the trees or landscaping and may not exceed 1,000 lumens per improved acre. This limit does not create an additional allowance beyond the site lumen threshold state in subsection I, item 3e of this section.~~
4. P. Enforcement: Enforcement and penalties for a violation of the Exterior Lighting Regulation are included in Section 16.01.14 and 16.01.15 of this Title. In addition, any declared a Nuisance as defined in this Section and Utah State Code 76-10-801 will be subject to Section 16.01.12 of the Wasatch County Code.

## **16.15.25: SIGN STANDARDS**

- A. Statement Of Purpose: The purpose of this code is to establish standards for the erection and use of signs, symbols, markings and advertising devices within the JBOZ. These standards are designed to promote and protect the public welfare, health and safety of persons within the community and to aid in the development and promotion of business and industry by providing sign regulations which encourage aesthetic creativity, effectiveness and flexibility in the design and use of such devices without creating detriment to the general public.
- B. Use Authorized: This code authorizes the use of signs, provided they are:
1. Compatible with their surroundings, pursuant to the objectives of proper design and zoning amenities;
  2. Designed, installed and maintained to meet the sign user's needs, while at the same time promoting the amenable environment desired by the general public;
  3. Designed, constructed, installed and maintained in such a manner that they do not endanger public safety or traffic safety;
  4. Legible, readable and visible from the adjacent travelway or closest right of way in the circumstances in which they are used;
  5. Respectful of the reasonable rights of other advertisers whose messages are displayed;
  6. Comply with the other requirements of this code and 16.21.16 Exterior Lighting Regulations including but not limited to Sections B Lighting Zones, C Total Outdoor Light Output, and L7 Curfew Requirements.
- C. Short Title: This section shall be known as the SIGN CODE OF THE JORDANELLE BASIN OVERLAY ZONE, or may be so cited and pleaded and shall be referred herein as the code.
- D. Definitions: The definitions used in chapter 16.26 of this title shall apply to the sign standards of this section.
- E. Permits Required:
1. Except as otherwise provided in this code, it shall be unlawful for any person to erect, construct, enlarge, move or convert any sign in the county, or cause the same to be done, without first obtaining a sign permit for each such sign. This does not apply to changing the copy of any existing sign, nor for the repainting, cleaning or other normal maintenance of such sign, so long as the sign is not modified in any way, and so long as the existing sign complies with the terms of this code as to size, location, lighting and composition as outlined in this code.
  2. Any permits issued shall become null and void if such sign is not erected within one hundred eighty (180) days from the issuance of said permit.
- F. Construction Specifications:

1. No sign shall be constructed to block any road, driveway, exit, fire escape, door or window, or any means of ingress or egress for persons to and from the building, or for automobiles to and from the property or adjoining property;
2. No sign shall exceed thirty two (32) square feet in size, excluding any supports therefor;
3. No sign shall exceed seven feet (7') in height;
4. All signs shall be made of either wood or an approved material which has the same appearance as wood;
5. All lettering on the sign shall be approved as to size, color and style;
6. Lighted signs, whether illuminated internally or externally, shall comply with all of the following:
  - a. Adhere to all provisions of Section 16.21.16. Internally illuminated signs are exempt from the full shielding requirement.
  - b. Not exceed, in any design or message element, a luminance of ~~forty (40)~~ ten (10) candelas per square meter ~~between one (1) hour after sunset and one (1) hour before sunrise~~ subject to curfew limitations by Lighting Zone as specified in Section 16.21.16 L7.
  - c. ~~Be fully extinguished after the end of regular business hours and remain in that state until no earlier than one (1) hour before sunrise~~ The Correlated Color Temperature (CCT) of light sources shall not exceed 2700 Kelvins in adherence with Section 16.21.16 L5.
7. All signs shall be readable from the adjacent travelway or closest right of way.

G. Prohibited Signs:

1. Animated and intensely lighted signs;
2. Moving signs;
3. Banners, flags, pennants, search lights, twirling signs, sandwich board signs, sidewalk or curb signs, balloons or other gas filled figures (this does not include a temporary "for sale" sign placed by a realtor or owner of property which is for sale, or "open house" signs);
4. Roof signs;
5. Video signs;
6. Off premises signs;
7. Billboards;
8. Projections signs;
9. Electronic message signs;
10. Other signs:
  1. Signs which bear or contain statements, words or pictures of an obscene or pornographic character;

2. Signs which are painted on or attached to any fence, wall or structure (unless a permit has been granted therefor) other than a means of posting the name of the occupant or address of a residence;
3. Signs which emit audible sound, odor or matter;
4. Signs which are an imitation of an official traffic sign or signal, or may be confused with such;
5. Any sign or combination of signs which cover more than ten percent (10%) of the building facade on any side of such building.

H. Master Sign Plans:

1. Buildings or clusters of buildings within a project or premises, having more than one tenant or use, shall provide a master sign plan for the entire structure or project prior to any sign permit approval by the planning department.
  2. The master sign plan shall be designed to establish a common theme or design for the entire building, using similar construction methods, compatible colors, scale, and identical backgrounds.
  3. Master sign plans for office buildings must focus primarily on the identification of the building. Individual tenants may be identified with lettering on exterior windows, doors or a building directory.
  4. Total sign area within the master sign plan is subject to the size limitation identified in subsection F2 of this section, except the planning director may grant additional sign area, provided the total area requested does not exceed five percent (5%) of the building face to which the signs are attached. The planning director must make findings based on the following criteria:
    1. Signs must be designed to fit within and not detract from or obscure architectural elements of the building facade;
    2. Signs must establish a visual continuity with adjacent building facades and be oriented to emphasize pedestrian or vehicle visibility;
    3. The building must have more than one tenant in more than one space; and
    4. The building must have more than seventy feet (70') of street frontage.
- I. Setback Requirements: Signs shall not be placed in the setback area as defined for the zone in which the sign is located, except in the commercial area. Signs in the commercial area may be set back ten feet (10') from the property line. The planning director may decrease the setback if it is determined that the public will benefit from a sign located otherwise, due to site specific conditions such as steep terrain, integration of sign on retaining walls, heavy vegetation, or existing structures on the site or adjoining properties.
- J. Maintenance And Repair: All signs shall be maintained in a safe, presentable and good structural condition at all times, including the repair or replacement of defective or worn parts, painting, repainting, cleaning and any other acts required for the maintenance of said sign. If a sign is not made to comply with the standards of this code within ten (10) days

of written notice to comply, such sign may be removed and the owner may be charged for the cost of such disposal.

- K. **Abandoned Signs:** Any signs which remains on the premises which becomes vacant and remains unoccupied for a period of ninety (90) days or more, or any sign which pertains to an event, time or purpose which no longer applies, shall be deemed to have been abandoned. All such abandoned signs shall be removed by the owner of the premises on which the sign is located. If not so removed within ten (10) days of written notice to remove such sign, the sign may be removed and the owner may be charged for the cost of such disposal.
- L. **Notices:** The notice shall be mailed to the owner of the property on which the sign is located. An additional notice shall be posted on or very near the sign itself.
- M. **Disposal Of Signs:** Any sign removed under this code becomes the property of the county and may be disposed of in any manner deemed appropriate by the county. The cost of removal of the sign shall be considered a debt owed to the county and may be recovered in an appropriate court action, including any and all incidental expenses incurred in connection with the sign removal.
- N. **Dangerous Signs:** When it is determined by the county zoning administrator that any sign would cause an imminent danger to the public safety and contact with the owner cannot be made immediately, no written notice or posting shall be required. In this emergency situation, the sign may be removed by the county immediately.
- O. **Conflict:** If any portion of this section is found to be in conflict with any other provision of any zoning, building, fire safety or health ordinance, the provision which establishes the more restrictive standard shall prevail.

EXHIBIT C – DRC report



**Wasatch County  
DESIGN REVIEW  
COMMITTEE (DRC)  
COMMENTS**

PROJECT ID: DEV-7830  
PROJECT NAME: TEXT AM - LIGHT ORDINANCE  
VESTING DATE: 4/17/2023  
REVIEW CYCLE #: 1

**REVIEW CYCLE STATUS: READY FOR DECISION**

Project comments have been collected from reviewers for the above noted review cycle and compiled for your reference below. Please review the comments and provide revised plans/documents if necessary. **Resubmittals must include a plan review response letter** outlining where requested changes and corrections can be found. Failure to provide such a letter will result in the project being returned to you.

**When uploading revisions please name your documents exactly the same as it was previously uploaded. Revision numbers and dates are automatically tracked. There is no need to re-upload documents that aren't being changed. DO NOT DELETE documents and then upload new ones.**

Once you have addressed all of your items and successfully uploaded your revisions, be sure to re-submit your project for review. Resubmittal must be made through the portal in order to receive official review. Projects requiring Planning Commission approvals or recommendations will not be placed on a planning commission agenda until all DRC reviewers have recommended the item to move forward.

Entity	Decision
County Surveyor	Ready for Decision
MIDA - Coordinator	Ready for Decision
Fire SSD	Ready for Decision
Manager's office	Ready for Decision
Sheriff's Office	Ready for Decision
Engineering Department	Ready for Decision
Health Department	Ready for Decision
Planning Department	Ready for Decision
Building Department	No Action Taken
Public Works Department	No Action Taken

**Approved** = Reviewing entity has approved the project under consideration of their applicable codes. Any open comments are considered conditions of the entities recommendation.

**Ready for Decision** = Reviewing entity recommends the project move forward to a Planning Commission meeting (if applicable). Any open comments are considered conditions of the entities recommendation.

**Changes Required** = Reviewing entity has identified an issue(s) that needs to be resolved before recommending the project move forward.

**No Action** = Reviewing entity has not taken any action for the review cycle.

## OVERALL PROJECT COMMENTS

DRC Project Comments		
Comment ID	Entity	Comment
C-PLN-App-2	PLN - County Planning Approval	Page 5 of the proposed lighting code recommends 4 lighting zones. Lighting zones were discussed as part of the recently adopted code, and some council members expressed interest in exploring this issue in future amendments. The lighting zones, as proposed, allow for a total Lumen output per improved acre. The lumens per improved acre count all lighting including IBC, IES and FAA. The council recently made a policy decision to not count certain lighting towards the lighting limits in order to facilitate lighting that would meet safety objectives, including IBC required lighting, parking lot lights, and FAA lighting. The decision to have lighting zones, as proposed in this code, is a legislative decision and would be up to the legislative body, but as proposed it is contrary to policy decisions recently made by the legislative body.
C-PLN-App-3	PLN - County Planning Approval	The proposes to regulate residential lighting. This was discussed by the legislative body during the review of the code recently adopted, and some council members expressed interest in exploring this decision further in future amendments. However, it was determined that the lighting provisions would not be enforced on residential uses. Staff is concerned that adding residential lighting to regulations could increase the cost of residential housing construction, by both requiring residential applicants to propose compliant construction, and through requiring additional county review of plans, and require field verification. This could run against the intent of the Utah legislature to facilitate affordable housing through limiting land use reviews. It could also increase enforcement costs for the county, requiring additional planning resources, enforcement resources, attorney resources, building resources, and court resources. Staff is also concerned that enforcement on residential homes will be perceived as invasive by the citizens of the county. This decision is up to the legislative body.
C-PLN-App-4	PLN - County Planning Approval	The proposal has an amortization requirement for any lighting that is legally non-conforming including residential. There is not a time frame that would require enforcement however remodels to changing fixtures would require compliance. Fixtures that are compliant can be more costly, and limited options are available at local retailers. Monitoring compliance of fixture replacement can be difficult to enforce. Requiring remodels to demonstrate compliance in their plans is also more costly. Again this is a decision for the legislative body.
C-PLN-App-5	PLN - County Planning Approval	The proposal prohibits uplighting. This was discussed as part of the review of the recently adopted code. The legislative body will need to make a decision regarding uplighting. However, the proposal goes against the policy decisions recently made by the legislative body.

C-PLN-App-6	PLN - County Planning Approval	Holiday lighting in section K was discussed by the legislative body and approved as per the language in the recently adopted code. There is a concern about enforcement of the time frame and the bulbs not exceeding 7 watts each. This is a legislative decision, but as proposed it runs against policy decisions recently made by the legislative body.
C-PLN-App-7	PLN - County Planning Approval	CCT is proposed to be at 2700 Kelvin. The CCT was discussed at length by the legislative body as part of the recently adopted code. The Legislative body decided that 3000K was the appropriate color. This will need to be reviewed by the legislative body, but as proposed it runs against policy decisions recently made by the legislative body.
C-PLN-App-8	PLN - County Planning Approval	The proposal sets curfew limits for lighting by lighting zone. This also appears to include residential. Residential does not appear to be exempted anywhere although it appears to be more concerned with regulating businesses. If this is the case curfew on residential would need to be enforced at 30 minutes before sunset in LZ0 and LZ1? I am not sure how logistically that could be enforced. It would certainly require additional planning resources, enforcement resources, and attorney resources, and court resources. Staff is also concerned that enforcement on residential homes in strictly requiring outdoor lighting curfews will be perceived as invasive by the citizens of the county. This is a policy decision by the legislative body.
C-PLN-App-10	PLN - County Planning Approval	The proposal sets the limit for Candelas at 10 per square meter. Thee candela limit was extensively discussed by the council. The current code allows 27 candela's per square meter. Setting the candela level is up to the legislative body, but as proposed it runs against policy decisions recently made by the legislative body
C-PLN-App-12	PLN - County Planning Approval	Staff recommends a fiscal review done on this proposal if the council wants to approve the proposal. If adopted as proposed there would be an impact to inspections and enforcement that would be borne by residential applicants in a way the recently adopted code does not.
C-PLN-App-13	PLN - County Planning Approval	The proposed code designates the entire Jordanelle area as an LZ-1. The Jordanelle and JSPA area would be limited to 10,000 total lumens per improved acre. This will be very difficult for compliance when some of the areas are dense villages with multi-story hotels that include ground floor retail, restaurants, urban street lighting and storefront lighting. Some of these are in various stages of entitlements. This level of restriction runs counter to the plans for the area which are intended to encourage 4 and 5 star hotels, retail, dining, entertainment, resort features, amenities, and gathering places that create a vibrant village center area. Development in the MIDA control area, on the west side of highway 40 is not subject to any county approved lighting ordinance. Lighting on the west side includes light pollution resulting from new ski slopes being lit, and the other development in the MIDA area. Similarly, the Dark Sky rules would not apply in Hideout.

C-PLN-App-14	PLN - County Planning Approval	The Wasatch County Council and staff recently put many hours into the substantial update to the lighting ordinance. It will take some time for planning staff, the council, and the development community to utilize the new standards, and learn areas where it appears the standards and procedures are working well, and where they could use adjustments. The council may want to consider allowing additional time to pass before enacting significant revisions to the new lighting ordinance unless urgent problems or deficiencies are apparent.
C-PLN-App-15	PLN - County Planning Approval	The Wasatch County Council recently met with other local governmental entities to discuss ways that lighting ordinances might be made more unified throughout Wasatch County, and its municipalities. There may be some areas where consistency can be reached. This avenue would be up to the county council.
C-PLN-App-16	PLN - County Planning Approval	At the time of the adoption of the recent lighting ordinance, some of the members of Wasatch County Council did express they would like to explore some issues in future amendments to the lighting ordinance. However, this proposal is counter to some of the policy issues the council recently decided. It seems that it was not done with an understanding of the densities in the different overlay zones in the county and the planning policies that the overlay zones are intended to advance. These are decisions for the legislative body.
C-PLN-App-17	PLN - County Planning Approval	The typical process for a code amendment is to work with staff through the DRC process. Where this amendment proposes to change a code that was adopted on April 19th of this year the proposed changes should be reviewed by the legislative body. Since this is under the discretion of the County Council none of the comments stated would keep the proposal from moving forward with the public hearing process and in fact that would be the typical next step for this item after the DRC report.

## PROJECT DOCUMENT SHEET COMMENTS BY REVIEWING ENTITY

Wasatch County Planning Commission

Report of Action

30-March-2023

*Commissioner Charles Zuercher was present as Chair.*

**ITEM #1** – Core architecture, representing the Church of Jesus Christ of Latter Day Saints, is requesting an amendment to Wasatch County Code §16.21.16 and §16.26 that will affect how outdoor lighting is regulated by the County. (DEV-7336; Doug Smith)

**STAFF PRESENTATION** - The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations. Key points addressed in the Staff's presentation to the Planning Commission included the following:

- Doug Smith began with clarifying background of what the application is and what the application is not. Considering the emailed public comment received thus far, it appears there is confusion about what the applicant has submitted for review by the County. The application is for an amendment to lighting regulations in the county code, and not a request for a variance or exemption for a specific project.
- Mr. Smith then went through the content in the staff report and resulting proposed code.
- Dr. John Barentine, consultant for the County, presented on the technical nature of what a comprehensive lighting ordinance can address to give a jurisdiction the ability of achieving their goals. Dr. Barentine then shared a summary of some key highlights of the proposed ordinance.

**APPLICANT AND PUBLIC COMMENT** - Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following:

- Curtis Miner, applicant, gave a summary of the process and discussions that lead to them being the applicant for the proposal and working with the staff to facilitate a comprehensive code update. He provided a powerpoint presentation with a summary of research the applicant did to come up with the recommendations they provided in their draft ordinance.
- Mr. Miner stated that their goal is to help the County come up with reasonable standards to better regulate lighting. After our initial proposal, the County has then taken that ordinance and become the owner of the document.
- Mr. Miner stated they are in agreement with all changes the County staff made to the proposal with the exception of three things. The Church supports the efforts of Wasatch County to establish a comprehensive and enforceable ordinance that limits outdoor lighting quantities and we are offering to make significant reductions to it temple lighting standards to comply with the ordinance. What we request is:
  - 3,500 Kelvin instead of 3,000 Kelvin
  - Use of Lumens per Square Foot instead of Candelas per Square Meter
  - Increase lighting allowance from 25,000 Lumens per Acre to 35,000 Lumens per Acre
- 46 residents then addressed the Planning Commission. Comments included questions/concerns/comments both in favor of the proposal and opposed to the proposal. Included, but not limited to, were the following themes:
  - The proposed code is too lenient vs too strict.
  - Questions whether the IDA Model Lighting Ordinance or looking at Heber City's ordinance was done.
  - Uplighting (there should be none vs. controlled/regulated is good)
  - Residential homes should be included.
  - What should be included in the total lumen budget for a site.
  - Ability for the County to enforce.
  - Curfew times.
  - In favor of a temple or opposed to a temple.
  - The proposed curfew is good timing vs. there should be a tighter curfew.
  - Balance of safety, beauty, land rights.
  - Motion sensors (animals, length of timing, etc.)
  - Higher level government exemptions.
  - Should collaborate with all cities in the County as well.
- 181 written comments were received and delivered to the Planning Commission prior to the meeting.

**PLANNING COMMISSION DISCUSSION** - Key points discussed by the Planning Commission included the following:

- Commissioner Brubaker stated that between the information presented now and the new proposal, it appears that if we do nothing we couldn't stop a project from moving forward under our current ordinance and it would miss the mark of what I think the County would want to see. The only question I have is regarding the lumens and the Kelvin. Mr. Brubaker asked for the applicant to clarify why they want something different than what is in the County staff proposal.

- Commissioner Hronek asked what the driving factor was in not considering the lighting from the parking lot, IBC, and FAA. He noted that excluding those items would mean there are extra lumens on a site that seems contrary to the rest of the proposed ordinance which he likes the rest of the ordinance. Mr. Smith replied that it is all up for negotiation but they had excluded it because the County wouldn't have an ability to regulate a higher governmental agencies requirements.
- Commissioner Hendricks stated that there is no question that the code needs to be updated and that we have at least two good code proposals in front of us. It seems like one of the best ways to come to a good resolution is to have the opposing parties work differences out and see if there can be a better resolution proposed by working together. It would be up to the applicant to drive that decision though whether they are comfortable continuing the item to work through these issues. Commissioner Grandquis agreed. He added that some of the input given tonight should be considered.
- Commissioner Cook stated she thinks the items needs more time but it should be up to the applicant to decide if they want to do that or not.
- Commissioner Rigby noted that as he has reviewed the documents, it appears the staff proposal better aligns with the recommendations from IDA to protect the community than the applicant version of the proposal. He shared some personal experiences seeing the impact of lighting as the County has grown. He would like to see the staff proposal move forward and get things put into place. As more things come up, we can readdress the code again. Commissioner Brubaker agreed.
- Commissioner Zuercher stated he thinks the two parties could resolve the issues they are different on. In his view, the two parties aren't as far apart as one might think and both are interested in heading the same direction. Does the applicant feel they could find common ground and work these out with the County? Mr. Miner responded that one of the interests they have is making sure there is adequate time for not only the Commission, but also the community to really learn about the issues and to come to informed decisions. There has been a lot of discussion tonight and it has been great to hear the feedback and they would be happy to take the assignment and continue to work with staff and Dr. Barentine to address those issues raised. Ultimately, the decision will be made by the Council, so one of the ways to resolve those would be to forward the majority of the concepts to the Council with a note that there is a need to address those items. You could also suggest that the meeting be later than April 5<sup>th</sup> and instead choose a later date to give more time too.
- Doug Smith raised a concern that if the Planning Commission continued the item there could be a lot of time spent hashing through other scenarios without getting the input for the policy items that really need to come from the Council. If the Commission does forward this to the Council though, there should be specific suggestions in the motion so that there is a good direction of what the Commission is thinking.
- The Commission further discussed what motions they could make and the constraints if they opted for other meetings.

**MOTION**

Commissioner Grandquis made a motion recommending to the County Council that this move forward with the recommendation that the County Council consider the following items: use of lighting zones, no exemptions for higher government agencies, require residential lighting to comply, no exemption for parking lots, provisions for enforcement, curfew to adjust for seasonal changes, and too much allowance for holiday lighting.

Commissioner Brubaker seconded the motion.

**VOTE** ( 7 TO 0 )

Charles Zuercher	<u>AYE</u>	NAY	ABSTAIN	Doug Grandquis	<u>AYE</u>	NAY	ABSTAIN
Wendell Rigby	<u>AYE</u>	NAY	ABSTAIN	Scott Brubaker	<u>AYE</u>	NAY	ABSTAIN
Kimberly Cook	<u>AYE</u>	NAY	ABSTAIN	Doug Hronek	<u>AYE</u>	NAY	ABSTAIN
Mark Hendricks	<u>AYE</u>	NAY	ABSTAIN				

  
 \_\_\_\_\_  
 Wasatch County Planning Commission - Chairman

The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action. Official action of the Planning Commission on this item is subject to the approved minutes.



# WASATCH COUNTY

## Planning Commission Staff Report

### Zoning Code Text Amendment

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**ITEM 1** Core architecture, representing the Church of Jesus Christ of Latter Day Saints, is requesting an amendment to Wasatch County Code §16.21.16 and §16.26 that will affect how outdoor lighting is regulated by the County. (DEV-7336; Doug Smith)

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#### APPLICATION SUMMARY

**Applicant:** Curtis Miner, representing the LDS Church

**Hearing Date:** 19 April 2023

**Related Applications:** None

**Affected Zone(s):** Countywide

**Applicable Code Section(s):** 16.21.16 (Outdoor Lighting Regulations), 16.26 (Sign Regulations)

#### BACKGROUND

As was stated in the previous staff reports the proposal is a lighting code that, if approved, would regulate lighting on a countywide basis.

The proposed amendments to the lighting code went to the Planning Commission on March 30<sup>th</sup>. After a lengthy public comment period the item was forwarded to the County Council. The County Council heard the item on Wednesday April 5<sup>th</sup>. The County Council reviewed the proposed lighting code, listened to public comment, closed public comment and continued the proposal to the April 19<sup>th</sup> meeting. The motion by Erik Rowland and seconded by Steve Farrell included the requirement that staff look into the following items:

- Method for measuring candelas
- Curfews
- Holiday lighting
- Requiring compliance on residential
- Enforcement
- Definition of uplighting

The motion was unanimously approved.

In the following analysis each of the above items are addressed in the above listed order.

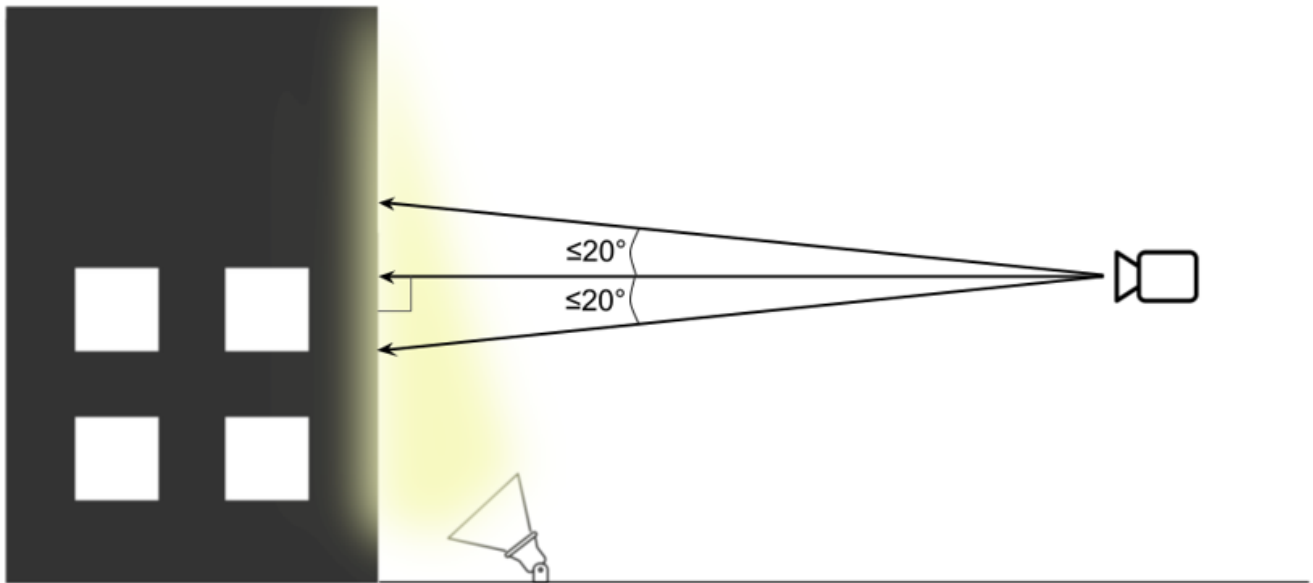
#### ANALYSIS

The following language has been added to the code in section (L, 3).

##### *-METHOD FOR MEASURING CANDELAS-*

Luminance of a surface shall be measured in a line of sight direction to the observer at an angle perpendicular to the surface being measured. The final measurement shall be the median value of three (3) measurements. A margin of error

not to exceed twenty (20) degrees from perpendicular viewing angle is acceptable for purposes of measurement. The device used to measure the luminance shall have a margin of error of not more than ten (10) percent. Measurements associated with enforcement actions may only be taken by the planning director or his designee. Measurements shall be taken at a distance of not less than 10 feet from the surface, to avoid anomalies due to polished, reflective or irregular materials.



#### **-CURFEWS-**

Below is the updated section regarding lighting curfew. This was not in the copy presented in the meeting on April 5<sup>th</sup>. The red underlined language is added to the language presented at the April 5<sup>th</sup> meeting.

*1, 6 General Curfew: All exterior lighting shall be extinguished one hour after sunset; or within one (1) hour of the close of normal business hours; or at the conclusion of usual operations and remain extinguished until no later than one (1) hour before sunrise. Businesses whose normal operating hours are twenty-four (24) hours per day are exempt from these provisions. Conditional uses may require stricter standards as determined by the land use authority.*

#### **-HOLIDAY LIGHTING-**

There may be some confusion regard holiday lighting. We have never enforced holiday lighting and the proposed code would not regulate residential holiday lighting. The code would only regulate commercial holiday lighting. If the Council determines that the code should regulate residential lighting the holiday portion of the code would most likely apply. Concerns were raised regarding the constitutionality of limiting lighting for religious holidays. The below language has not changed from the language proposed in the draft code. The planning department, as far as I am aware, has never received a complaint regarding holiday lighting. The proposed language is as follows:

*Holiday lighting, for a period not to exceed sixty (60) days, whether consecutive or non-consecutive, in one calendar year. The total quantity of light meeting this definition permitted is not limited, but excessive displays are liable to be declared public nuisances. All holiday lighting must be fully extinguished each night between the hours of 11 P.M. and 5 A.M. during the allowed period.*

#### **-COMPLIANCE FOR RESIDENTIAL-**

The only restriction on residential lighting in the propose code is prohibiting light trespass of direct light. Pros of implementing a more comprehensive code regulating residential outdoor lighting:

- Places limits on an important source of light pollution
- Can help defuse potential neighbor disputes by articulating clear standards
- Helps maintain the visual aesthetic of neighborhoods and desirable nighttime ambience
- With or without a provision requiring amortization of existing non-conforming residential lighting, proper review of residential lighting plans for new construction plus replacement of non-compliant fixtures at end of life in theory will eventually bring all lighting into compliance
- Would bring the code closer to compliance with IDA intent

Cons of regulating residential outdoor lighting:

- Public opposition to regulations affecting private property
- The public may ignore the regulations after enactment creating larger numbers of enforcement actions, which takes planning staff, legal staff, court staff, and enforcement officer resources.
- Amortization complications if amortization is proposed
- Residential lighting fixture swaps do not need building permits
- Many residential light fixtures are easily altered by the end user to defeat design elements like shielding
- Most off the shelf lighting fixtures do not meet full cutoff requirements
- Invasiveness of enforcement and entering private residential property to determine the compliance of outdoor lighting
- Added costs for fixtures, inspections, enforcement

#### **-ENFORCEMENT-**

Section 16.01.14 and 16.01.15 are the most direct of the enforcement sections of the code (see attachment A). In addition to the enforcement section of the code additional enforcement options for the county include; 16.23.06 conditional uses and development agreements. Also, permits are not issued on properties that either do not demonstrate compliance with applicable code, or which have known compliance issues. WCC 16.01.09. There are many incentives for property owners to obtain required permits, and costs and penalties to not obtaining required permits.

In short we have the following ways to enforce code compliance:

- The entire sections of 16.01.09, 16.01.14 and 16.01.15 are regarding enforcement
- There is an entire section of the development agreement devoted to enforcement
- If a commercial use has a business license the renewal of the license can be withheld for code violations
- Conditional uses have an enforcement provision for violations

**-DEFINITION FOR UPLIGHTING-**

The following definition is proposed to be added to the definitions section of the lighting code:

Uplighting: Lighting designed and installed in such a manner as to directly cast its light at any angle or toward any direction above the local horizontal plane.

**POTENTIAL MOTION**

At the April 5<sup>th</sup> meeting the following findings were not presented but were part of the staff report. If the Council wants to move forward with approval of the ordinance (ordinance 23-01) they should adopt the following findings. If the council is going to deny the proposal additional findings for denial should be made.

Motion for Approval with the following findings and resolving the following specific findings, which are to be implemented by staff in the ordinance:

Findings:

1. The existing lighting code has been in place, in a somewhat similar form, since 2003 with several amendments throughout the years.
2. The current code requires a full 90 degree cutoff directed down, and the primary application has mostly been used to regulate street lighting.
3. Attached residential lighting and non-residential building lighting has not been strictly enforced with the code.
4. Application to amend the code was made by the LDS Church. As part of that application the LDS Church submitted a proposed lighting code. The version of the code proposed by the LDS Church allowed for building uplighting.
5. The County is proposing a version of the code that is more comprehensive than the LDS Church proposed code and the existing code and allows for regulated uplighting.
6. The existing code allows any amount of light on a site or building without limits as long as it is directed down.
7. The proposed code places a cap on the total site lighting.
8. The proposed code does not count, as part of the cap, the minimum amount of lighting required by the IBC, FAA and minimum safety lighting for parking lots as regulated using the recommended standards of the IES.
9. The code proposes to use the IES (Illuminating Engineering Society) recommended standards as the requirements for lighting of areas like the parking lots and other pathways not regulated by the IBC. The IES is a nationally recognized organization in lighting standards.
10. The proposed code takes advantage of new technology and best management practices that allows for LED lighting, dimmers, photo cells, timers, motion sensors, directional cutoff and kelvin adjustability.
11. The code is for the entire County and if approved will be used in areas that are proposing institutional uses, multi-story hotels, retail, office areas and other developments.
12. The General Plan requires the County to: "Preserve the views of the night sky and reduce the health impacts of artificial light by requiring all development to have dark sky compliant lighting" (Policy 1.1.7).
13. The purpose and intent statements of the existing code and proposed code is to; "not unreasonably interfere with the reasonable use and enjoyment of property and astronomical observations within the county. It is the intent of this section to encourage, through regulation of types, kinds, constructions, installation and uses of outdoor electricity, lighting practices and systems which will reduce light pollution, conserve energy, provide consistent lighting standards, reduce maintenance and replacement costs while increasing nighttime safety, utility, security and productivity".
14. If uplighting is going to be allowed, an updated lighting code needs to be in place prior to a site plan and conditional use approval of the temple so that the allowed lighting and associated impacts of the lighting can be

determined and mitigated.

15. The proposed code brings the County closer to compliance with the best management practices (BMP's) as required of municipalities by the International Dark Sky Association requirements for accreditation as International Dark Sky Communities.
16. The proposed amendment balances the health, safety, welfare interests of adequate lighting required under the IBC, FAA, and recommendations of the IES with the welfare interests in reducing light pollution.
17. The staff report is adopted except as modified by, respectively, the Council or the Planning Commission.
18. All public hearings and noticing requirements under the Wasatch County Code and the Utah Code for adopting or modifying a land use regulation have been followed by the County.
19. Written comments have been considered by the planning commission and forwarded to the council.
20. The proposed amendment is in the interest of the public, and is consistent with the goals and policies of the Wasatch County General Plan.
21. The Wasatch County Council, as the legislative body, has broad discretion for amendments to the Wasatch County Code.

*Possible specific findings to be implemented by staff in the executed ordinance, in accordance with the options in the staff reports:*

1. Approval of CCT (Kelvin levels) 3000 Kelvin or 3500 Kelvin.
2. Determination on the use of candelas or lumens and a limit of 27 candelas per square meter if candelas are used. If lumens are used 8 lumens per square foot.
3. If the recommendation for regulating light trespass in the proposed code be maintained.
4. A determination on sign curfew times. Sign lighting extinguished after regular business hours and remain unlit until one hour before sunrise?
5. A determination on duration of time for motion sensor lights to remain on. Allow for a 5 minute trigger duration?
6. Adopt the proposed curfew language as originally proposed or the new language including a possible 1 hour after sunset provision and possible stricter standards for conditional uses?
7. Adopt the proposed holiday lighting, which only regulates non-residential properties.
8. Determination on enforcement on residential lighting.
9. Determination if the enforcement provisions outlined above, including 16.01.09, 16.01.14, conditional use section of the code and development agreement is sufficient.
10. Approve the provided definitions for uplighting?
11. Approve the provided method for measuring candelas?

### **ALTERNATIVE ACTIONS**

The following is a list of possible motions the Council can take. If the action taken is inconsistent with the potential findings listed in this staff report, the Council should state new findings.

1. Recommendation for Approval with Conditions. This action can be taken if the Council finds that remaining issues can be resolved with conditions.
2. Continue. This action can be taken if the Council needs additional information before making a recommendation, if there are issues that have not been resolved, or if the application is not complete.
3. Denial. This action may be taken if the Council finds that the proposed code amendment is not appropriate at this time or is not supported by the General Plan.

Exhibits:

- A. Enforcement options
- B. Updated proposed code
- C. Ordinance 23-01
- D. IDA eligibility analysis
- E. List of possible changes from the current code

EXHIBIT F- April 19<sup>th</sup> County Council motion minutes

**So I (Councilman Erik Rowland) would make a recommendation or a motion if it is possible to table this discussion until the 19<sup>th</sup> to allow staff time to present additional information in respect to methods for measuring in candelas.**

Dustin Grabau indicated there was mentioned curfews and I imagine that includes best practices with curfews, holiday lighting code changes and lighting zones, residential lighting . Councilman Kendall Crittenden replied that up lighting wasn't mentioned in that list.

28



**Councilman Steve Farrell indicated that he will second the motion:** but I would like to say something first. I have a hard time recognizing that we are not just approving the temple lighting plan. We are approving an ordinance that is going to be affected all over the County. As Councilman Erik Rowland has said in the Jordanelle Basin we are going to have a lot of big developments up there. That is going to have to abide by some form of this lighting ordinance. I think the time is here. We need to take the steps and the ordinance that we have got is a good foundation. I think that we can refine it a little bit better. I question that maybe we ought to put a little emphasis on enforcement. What does it mean if they violate it? Is there an enforcement arm to this that we need to address? I like to see a little more on definitions. I like to see a condition of what we are going to approve and if we allow up lighting. Like to see that in the definition a definite form so that we know what we are approving. Just to say up light it could be anything. I think that addresses everything. I would like to give it some time and I agree with Councilman Erik Rowland that the 19<sup>th</sup> would be a time that we ought to be able to wade through it and weed it out so with that being said I will second that motion.

Councilman Karl McMillan replied that I just have one comment. Is there anything that the planning staff feels that we are being delinquent on getting guidance? Doug Smith, the Wasatch County Planner indicated that what he has got listed is methods of measuring candelas, curfews, holiday lighting, residential lighting, enforcement and then a definition of up lighting and I want to make sure that I understand what you are saying Steve. Councilman Steve Farrell replied that what we need in the ordinance by up lighting.

**Chair Spencer Park indicated that I have got a motion and a second. Is there any more discussion. If not we will go ahead and vote on the motion.**

**AYE: Mark Nelson  
AYE: Erik Rowland  
AYE: Steve Farrell  
AYE; Chair Spencer Park  
AYE: Kendall Crittenden  
AYE: Luke Searle  
AYE: Karl McMillan.**

**EXHIBIT G – Ordinance 23-01**

Ent 532015 Bk 1440 Pg 1712-1739  
Date: 01-MAY-2023 3:57:42PM  
Fee: None Filed By: KM  
MARCY M MURRAY, Recorder  
WASATCH COUNTY CORPORATION  
For: WASATCH COUNTY CLERK

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**ORDINANCE NO. 23-01**

Ordinance to amend section 16.21.16 (Outdoor Lighting Regulations) and 16.26 (Sign Regulations) of the Wasatch County Code. The proposed amendment adds a number of new and updated language as well as provides clarification for building lighting.

**RECITALS**

**WHEREAS**, Chapter 16.21.16 of the Wasatch County Code outlines the requirements for Outdoor lighting in the County; and

**WHEREAS**, 16.26 of the Wasatch County Code regulates signs and how they are illuminated; and

**WHEREAS**, the outdoor lighting code, in its substantial form, has been used since 2003; and

**WHEREAS** the existing code allows any amount of light on a site or building without limits as long as it is directed down; and

**WHEREAS**, the existing ordinance is somewhat limited on regulations for lighting of buildings; and

**WHEREAS**, outdoor lighting technology has changed substantially in the two decades since adoption of the original code and the current code does not use any of the latest technology to control lighting; and

**WHEREAS**, the proposed code brings the County closer to compliance with the best management practices (BMP’s) as required of municipalities by the International Dark Sky Association requirements for accreditation as International Dark Sky Communities; and

**WHEREAS**, the proposed amendment balances the health, safety, welfare interests of adequate lighting required under the IBC, FAA, and recommendations of the IES with the welfare interests in reducing light pollution; and

**WHEREAS**, the findings of the legislative body made in adopting this ordinance are hereby incorporated into the whereas section of this ordinance;

**WHEREAS**, Utah Code 17-27a-502 requires Wasatch County to give notice of public hearing as provided in Utah Code 17-27a-205(1)(a), and to hold a public hearing; and

**WHEREAS**, Wasatch County gave notice of all public meetings and public hearings related to this ordinance as required, and the planning commission and the legislative body held a public hearings as required; and

**WHEREAS**, the legislative body has considered public comment, has considered staff recommendations, and has deliberated on the proposal; and

**WHEREAS**, the legislative body hereby determines that the amendment is in the interest of the public, and is consistent with the goals and policies of the Wasatch County general plan;

**NOW THEREFORE**, the County Legislative Body of Wasatch County ordains that the Wasatch County Land Use and Development Code be amended as follows:

46

47 SECTION I: **Enactment.** The following amendments, additions, and deletions to Title 16, the Land Use  
48 and Development Code, are hereby enacted: See attached exhibit.

49

50 SECTION II: **Repealer.** If any provisions of the County Code heretofore adopted are wholly  
51 inconsistent with this ordinance, they are hereby repealed.

52

53 SECTION III: **Amendment of Conflicting Ordinances.** To the extent that any ordinances,  
54 resolutions, or policies of Wasatch County partially conflict with this ordinance, they are hereby amended  
55 to comply with the provisions hereof.

56

57 SECTION IV: **Effective Date.** This Ordinance shall become effective immediately upon execution by  
58 the Chair of the County Council and the completion of public notice requirements imposed by state  
59 statute.

60

61 SECTION V: **Severability.** If any section, subsection, sentence, clause, or phrase of this ordinance is  
62 declared invalid or unconstitutional by a court of competent jurisdiction, said portion shall be severed and  
63 such declaration shall not affect the validity of the remainder of this ordinance.

64

65 SECTION VI: **Public Notice.** The Wasatch County Clerk, and ex officio Clerk of the Wasatch County  
66 Council, is hereby ordered, in accordance with the requirements of Section 17-53-208, Utah Code  
67 Annotated, 1953, as amended, to do as follows:

68

- a. Enter at length this ordinance in the ordinance book;
- b. Deposit a copy of this ordinance in the office of the County Clerk;
- c. Publish a short summary of this ordinance, together with a statement that a complete  
69 copy of the ordinance is available at the County Clerk’s office and with the name of the  
70 members voting for and against the ordinance, for at least one publication in a newspaper  
71 published in and having general circulation in the county; or post a complete copy of this  
72 ordinance in nine (9) public places within the County.

73

74


75

76 **APPROVED** and **PASSED** this 19 day of April, 2023.

77

78 Attest:

79 WASATCH COUNTY COUNCIL:

80  
81   
82 Joey Granger  
83 Wasatch County Clerk / Auditor

84   
85 Spencer Park, Chairman  
86 Wasatch County Council

87 **VOTE**

- 87 Spencer Park, Chairman
- 88 Mark Nelson, Vice Chair
- 89 Erik Rowland
- 90 Karl McMillan
- 91 Kendall Crittenden

92 Steve Farrell  
93 Luke Searle

✓  
✓

96 ADOPTION OF ORDINANCE AFFIDAVIT

97  
98 STATE OF UTAH )  
99 ): ss.  
100 COUNTY OF WASATCH )

102 I, the undersigned, the duly qualified and acting County Clerk of Wasatch County, Utah, and ex  
103 officio Clerk of the Wasatch County Council do hereby further certify, according to the records of said  
104 Council in my official possession, and upon my own knowledge and belief, that I have fulfilled the  
105 requirements of Section 17-53-208, Utah Code Annotated, 1953, as amended, by:

- 107 [ ✓ ] (a) Causing this ordinance to be entered at length in the ordinance book;
- 109 [ ✓ ] (b) Causing three (3) copies of this ordinance to be deposited in the office of the County Clerk;
- 111 [ ✓ ] (c) Causing a short summary of this ordinance, together with a statement that a complete copy of  
112 the ordinance is available at the County Clerk’s office and with the name of the members voting for and  
113 against the ordinance to be published for at least one publication in *The Wasatch Wave*, a newspaper of  
114 general circulation within the geographical jurisdiction of Wasatch County; or posting a complete copy of  
115 this ordinance in nine (9) public places within the County.

117 IN WITNESS WHEREOF, I have hereunto subscribed my official signature and impressed  
118 hereon the official seal of the County Council of Wasatch County, Utah, this 19 day of  
119 April, 2023.

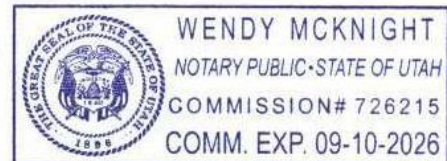
122 Joey Granger  
123 Joey Granger  
124 Wasatch County Clerk / Auditor



126 SUBSCRIBED AND SWORN to me, a Notary Public, this 19 day of  
127 April, 2023.

130 Wendy McKnight  
131 Notary Public

132 Residing in: Wasatch  
133 My commission expires 09/10/2026



## TABLE OF CONTENTS

<b>16.21.16: EXTERIOR LIGHTING REGULATIONS</b>	<b>1</b>
A. Definitions	1
B. Applicability	6
C. Amortization of non-conforming installations	6
D. Approved Materials And Methods Of Construction Or Installation/Operation	8
E. Heights Of Pole-Mounted Luminaires Standards	10
F. Prohibited Lighting	10
G. Plan Required	10
H. Exemptions	12
I. Lighting Standards	14
1. Compliance with building codes	14
2. Full shielding required	14
3. Lighting application illuminance limits	14
4. Spectrum management	15
5. Light trespass prohibited	15
6. General curfew	15
7. Flagpoles	15
8. Service station canopies	16
J. Public Lighting	17
1. Warranting	17
2. Curfew	17
3. Adaptive controlling	17
4. Additional street lighting requirements	18
K. Temporary Lighting	18
1. Permit term and renewal	18
2. Conversion to permanent status	18
L. Architectural and Landscape Lighting	19
<b>16.15.25: SIGN STANDARDS</b>	<b>21</b>
A. Statement Of Purpose	21
B. Use Authorized	21
C. Short Title	21
D. Definitions	21
E. Permits Required	22
F. Construction Specifications	22
G. Prohibited Signs	23
H. Master Sign Plans	24
I. Setback Requirements	25
J. Maintenance And Repair	26
K. Abandoned Signs	25

L. Notices	25
M. Disposal Of Signs	26
N. Dangerous Signs	26
O. Conflict	26

**16.21.16: ~~OUTDOOR~~ EXTERIOR LIGHTING REGULATIONS**

The purpose of the ~~outdoor~~ exterior lighting regulations is to establish standards for all ~~outdoor~~ exterior lighting so that its use does not unreasonably interfere with the reasonable use and enjoyment of property and astronomical observations within the county. It is the intent of this section to encourage, through regulation of types, kinds, constructions, installation and uses of outdoor electricity, lighting practices and systems which will reduce light pollution, conserve energy, provide consistent lighting standards, reduce maintenance and replacement costs while increasing nighttime safety, utility, security and productivity.

In the event that any provisions contained within this title conflict with the provisions contained in this section, the provisions of the more restrictive regulations shall apply.

- A. Definitions: When used in this section, the following words, terms, and phrases, and their derivations shall have the meanings provided in this section, except where the context clearly indicates a different meaning. Other words not defined shall have their respective and commonly understood meanings.

~~CUTOFF: The point at which all light rays emitted by a lamp, light source or luminary are completely eliminated (cut off) at a specific angle above the ground.~~

~~CUTOFF ANGLE: The angle formed by a line drawn from the direction of light rays at the light source and a line below a horizontal plane running through the lowest point on the fixture where light is emitted (see figure A of this section).~~

~~CUTOFF TYPE LUMINARY: A unit of illumination with elements such as shield, reflectors or refractor panels that direct and cut off the light at a cutoff angle less than ninety degrees (90°).~~

~~CORRELATED COLOR TEMPERATURE (CCT): The absolute temperature of a blackbody whose chromaticity most nearly resembles that of the~~

light source. CCT values, measured in units of Kelvins (K), are typically provided in lighting manufacturer data sheets.

EXTERIOR LIGHTING: All lighting, including, without limitation, street lighting; parking lot lighting; commercial, industrial, and institutional lighting, where the light source originates outside the exterior walls of a structure, and lighted exterior signs whether illuminated internally or externally.

~~FOOT CANDLE: A unit of illumination produced on a surface, all points of which are one foot (1') from a uniform point source of one candle.~~

FOSSIL FUEL LIGHTING: Lighting whose emissions are directly produced by the combustion of fossil fuels such as natural gas and propane are permitted so long as the light source is completely enclosed in a suitable housing such as a lantern.

FULLY SHIELDED: The condition of an outdoor luminaire constructed such that in its installed position all of the light emitted by the luminaire is projected below the horizontal plane passing through the lowest light-emitting part of the luminaire. In the IES Luminaire Classification System for Outdoor Luminaires, these luminaires have an upright rating of U0.

~~FIGURE A  
ACCEPTABLE SHIELDING, HOODING AND AIMING OF OUTDOOR LIGHT  
FIXTURES~~

*[Figure A removed at this location]*

GLARE: Light emitting from a luminary luminaire with an intensity great enough to reduce a viewer's ability to see and in extreme cases, causing momentary blindness.

HOLIDAY LIGHTING: Low-intensity string lights, whose luminous output does not exceed fifty (50) lumens per linear foot, and fully-shielded floodlights, whose luminous output does not exceed one thousand (1,000) lumens and which are aimed and oriented in such a way as to not directly emit any light into the night sky, and operated only during prescribed periods of time during the calendar year.

**HORIZONTAL PLANE:** A plane that is locally tangent to the Earth's surface and perpendicular to the nadir.

**ILLUMINANCE:** The areal density of the luminous flux incident at a point on a surface. Illuminance is a measure of the light received by or on a surface.

**ILLUMINATING ENGINEERING SOCIETY (IES):** An industry-supported, nonprofit learned society headquartered at 120 Wall Street, New York City, New York, recognized as an authoritative body on the science and application of lighting that publishes and promotes recommended practices for a variety of specific lighting applications.

**IMPROVED ACRE:** The gross acreage of a parcel less any acres that are not covered by structures, impervious surfaces and manicured or irrigated landscape areas. Landscape areas not accessible to pedestrians, stormwater facilities and areas of native vegetation are considered unimproved for the purposes of this definition.

**INTERNATIONAL DARK-SKY ASSOCIATION (IDA):** A nonprofit advocacy organization headquartered at 5049 E. Broadway Boulevard #105, Tucson, Arizona, which is a recognized global authority on light pollution.

**LIGHT TRESPASS:** A condition in which artificial light emitted from a luminaire on one property, not inclusive of light incidentally scattered or reflected from adjacent surfaces, is directed in such a manner that the lamp or light source is visible from any other property.

**LUMEN:** The SI unit of luminous flux equal to the luminous flux emitted within a unit solid angle (one steradian) by a point source having a uniform luminous intensity of one candela.

~~**LUMINARY LUMINAIRE:** A complete lighting unit consisting of a light source and all necessary mechanical, electrical and decorative parts~~ **A complete lighting unit consisting of a light source(s) and ballast(s) or driver(s) (when applicable), together with the parts designed to distribute the light, to position and protect the light source(s), and to connect the light source(s) to the power supply. Also known as a light fixture.**

- 5 -

LUMINANCE: The amount of light that passes through, is emitted, or reflected, from a particular area, and that falls within a given solid angle. Luminance is a measure of light emitted by or from a surface. The SI unit of luminance is candela per square meter (cd/m<sup>2</sup>).

NADIR: The local vertical direction pointing toward the center of the Earth.

~~OUTDOOR LIGHTING: For purposes of this section, "outdoor lighting" shall refer to all street lighting, commercial lighting, and all lighting in a residential neighborhood, excepting small porch lights using not over one hundred (100) watt bulbs, and garden lights under one hundred (100) watts and under the height of seven feet (7').~~

OUTDOOR SPORTS LIGHTING: Lighting equipment designed and installed specifically to illuminate outdoor venues used for the practice and play of any outdoor sport or similar recreation activity. This term refers only to lighting directed toward, or intended to facilitate, play or recreation on outdoor surfaces, or to illuminate spectator viewing stands, but not for illumination of any other part of a connected or adjacent property.

POLE HEIGHT: The distance in the vertical direction above finished grade to the lamp or light source of a pole-mounted luminaire.

~~STANDARDS: As used in this section, reference to a standard shall be the pole portion of the structure not including the fixture or the concrete base.~~

SINGLE-FAMILY RESIDENTIAL LOT: a lot for a detached single-family residence, half of a twinhome, or a townhome, and ancillary uses. IADUs, accessory residential units, and caretaker accessory dwelling units do not alone exclude the lot as a single-family residential lot.

UPLIGHTING: Lighting designed and installed in such a manner as to directly cast its light at any angle or toward any direction above the horizontal plane.

B. Applicability.

1. All exterior lighting installed after the effective date of this section in the County, except where specifically stated in subsection I, shall be in conformance with the requirements established by this section and any other applicable ordinances. Single-family residential lots and agricultural uses shall be exempt from these requirements, except for light trespass requirements. The provisions of this section shall apply to all new development of real property that involves:
  - a. New construction for which a land use application is required;
  - b. Remodeling of an existing building or structure for which a land use application is required; provided, however, that compliance with the requirements of this section is required for a remodel of an existing building or structure only with respect to the remodeled portion of the existing building or structure unless the amortization provisions of this section require all lighting to comply; or
  - c. Installation of new outdoor luminaires for any purpose.
2. The land use authority may require, as part of a conditional use, for exterior lighting to comply with standards that are more strict than those in this section when the specific land use requires a conditional use permit and the conditional use standards support greater restriction for the use.
3. In case of conflict between any of the provisions of this section, or any other applicable law, the most restrictive shall apply.

C. Amortization of non-conforming installations.

1. All exterior lighting luminaires that were lawfully installed prior to the effective date of this section, but that do not comply with the requirements of this section, are declared to be legal non-conforming luminaires.
2. All legal non-conforming luminaires may continue to be used and maintained after the adoption of this section, but legal non-conforming luminaires shall be brought into compliance

with its requirements upon the first to occur of any of the following:

- a. Approval of any land use permit or a building permit that includes structures or real property where the luminaire is placed;
- b. A change of use of the property from a single-family residential use or agricultural use to any other use;
- c. Any renovation to a structure or other improvement where the luminaire is placed equal to or exceeding twenty (20) percent of its assessed value;
- d. Reconstruction of a structure where the luminaire is placed if more than fifty (50) percent of the total appraised value of a structure, as determined from the county's assessment records, is destroyed;
- e. A determination by the Planning Director that the legal non-conforming luminaire constitutes a public hazard or nuisance; or
- f. The replacement of any legal non-conforming luminaire with new lighting equipment, not inclusive of lamps or similar consumable parts.

3. Conformity shall occur prior to issuance of a certificate of occupancy, final inspection, return of any bonds or improvement assurances associated with the project, or approval by the County of the improvement(s). For other permits, the applicant shall have a maximum of sixty (60) days from date of permit issuance to bring the lighting into conformance.

D. Approved Materials And Methods Of Construction Or Installation/Operation: The provisions of this section are intended to prevent the use of any design, material or method of installation or operation of an outdoor luminaire not specifically prescribed by this section. See Figure A for examples of acceptable, i.e., fully shielded, and unacceptable luminaires.

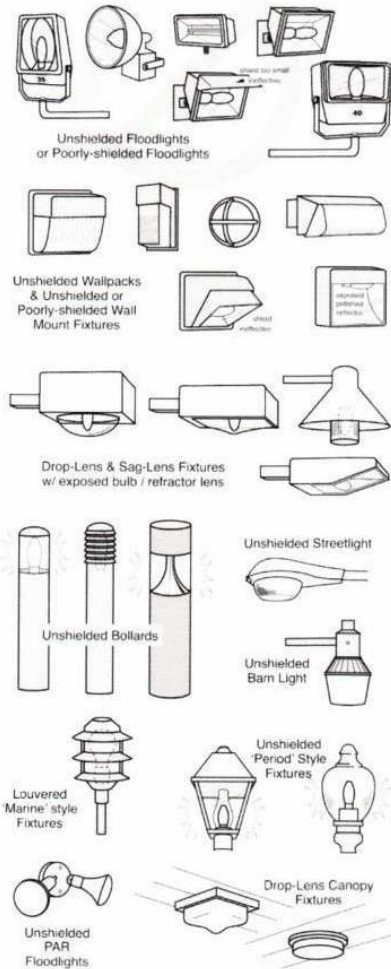
FIGURE A

ACCEPTABLE SHIELDING, HOODING AND AIMING OF OUTDOOR LIGHT FIXTURES

**Examples of Acceptable & Unacceptable Lighting Fixtures**

**Unacceptable/Not Compliant**

Fixtures that produce glare and light trespass



**Acceptable/Compliant**

Fixtures that shield the light source to minimize glare and light trespass and to facilitate better vision at night



~~Cutoff Angle: All light shall require a luminary or shield with less than a ninety (90) degree full cutoff. All light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted (see figure A of this section).~~

~~FIGURE A~~

~~ACCEPTABLE SHIELDING, HOODING AND AIMING OF OUTDOOR LIGHT FIXTURES~~

- E. ~~Heights Of Pole-Mounted Luminaires Standards:~~ The pole heights of ~~standards~~ pole-mounted luminaires shall not exceed twenty feet (20') in commercial or industrial ~~areas zones~~ and fifteen feet (15') in residential or any other ~~areas zones~~.
- F. ~~Prohibited Lighting:~~ ~~Flashing lights, searchlights and neon lighting~~ Without limitation to other prohibited luminaires, the use of the following types of exterior lighting is prohibited, except as specifically exempted here or elsewhere in this section.
1. Outdoor flood lighting by projection of light above the horizontal plane running through the lowest light-emitting portion of a luminaire, except as permitted in subsection L of this section.
  2. Searchlights, skybeams, and similar lighting, except as required by first responders in the performance of their duties.
  3. Lasers, except Class 2 or lower laser light sources as used only for holiday lighting.
  4. Any luminaire that dynamically varies its output by intermittently fading, flashing, blinking, or rotating. This type of lighting includes strobe lighting.
  5. Any luminaire that uses mercury vapor lamps or sealed, low-pressure tubes containing inert gasses such as neon.
- G. Plan Required:
1. ~~During the approval process of a development, a~~ A lighting plan shall be submitted as part of ~~the application~~ any development application. Single-family residential lots and agricultural uses shall be exempt from this lighting plan requirement. The lighting plan, ~~which~~ shall address the following:
    - a. Type of illumination;
    - b. ~~H~~Mounting height above finished grade;

- 10 -

- c. Location at intersections of streets and at fire hydrants;
- d. Source(s) of light;
- e. Whether the luminaires are fully shielded;
- f. Correlated color temperature of light sources;
- g. Inclusion of any equipment intended to actively control the light output of luminaires;
- h. The number of lumens of light per improved acre, broken down in a manner that indicates:
  - i. Lighting required by the IBC;
  - ii. Lighting required by the Federal Aviation Administration (FAA);
  - iii. Lighting of walkways or parking lots required to comply with IES recommendations;
  - iv. Lighting on a structure not required by IBC or FAA, or in compliance with IES recommendations for walkways or parking lots;
  - v. Landscape lighting, along the height of the landscaping element being lit;
  - vi. Uplighting on a structure; and
  - vii. Lighting on flags and sign lighting;
- i. Lighted area for each source light which is proposed; and
- j. A rendering of any pole-mounted street and roadway luminaires;
- k. Demonstration that all lighting meets the requirements in Section I(3); and
- l. Calculations or photometric models indicating the maximum luminance value for any illuminated surface of any building or vertical structure.

~~1. Type of illumination;~~

~~2. Height above grade;~~

~~3. Location at intersections of streets and at fire hydrants;~~

~~4. Source of light;~~

~~5. Lighted area for each source light which is proposed; and~~

~~6. A different standard may be allowed with the understanding that if the standard needs to be replaced it will be replaced with the typical standard provided by the service provider.~~

- 11 -

~~Standard other than the typical standard provided by the service provider will be paid for by the homeowners' association or property owners. The requirements in subsection I of this section must still be complied with.~~

~~7. Rendering of the standard approved by Heber Light And Power or other applicable service provider in accordance with the requirements of this title.~~

2. Sufficiency of plans. The above required plans and descriptions shall be sufficiently complete to enable the Planning Director to readily determine whether compliance with the requirements of this section can be determined. If such plans and descriptions cannot enable this determination, by reason of the nature or configuration of the devices, luminaires or lamps proposed, the applicant shall submit evidence of compliance by certified test reports as performed by a recognized lab. The Planning Director may use third-party plan reviewers, the cost of whose services shall be charged to the applicant. The Planning Director shall further have the authority to request additional information consistent with the purposes of this section.

3. Amendment to approved plans. Any change to approved exterior luminaires or lamps must be approved prior to installation.

I. ~~Exceptions~~ Exemptions: The following are exempt from compliance with all provisions of this section, except as noted.

1. Public lighting, subject to the requirements of subsection J of this section.

2. All temporary emergency lighting needed by ~~the police, fire department or other emergency services~~ first responders only for as long as conditions which warrant the emergency lighting so identified by first responders continue to exist. This includes temporary lighting illuminating the activities of law enforcement, fire and other emergency services, as well as building egress lighting whose electric power is provided by either battery or generator. ~~, as well as all vehicular lighting, shall be exempt from the requirements of this section, and~~

3. Temporary lighting required to save life, limb or property from imminent peril, provided that use persists only during the hours of the peril.
4. Lighting employed during repairs of roads, utilities and similar infrastructure, including unshielded lighting.
5. All hazard warning lighting required by any county, state or federal agencies.
6. Holiday lighting, for a period not to exceed sixty (60) days, whether consecutive or non-consecutive, in one calendar year. The total quantity of light meeting this definition permitted is not limited, but excessive displays are liable to be declared public nuisances. All holiday lighting must be fully extinguished each night between the hours of 11 P.M. and 5 A.M. during the allowed period.
7. Outdoor sports lighting, provided that its design and installation adhere to the version of the International Dark-Sky Association's Criteria for Community-Friendly Outdoor Sports Lighting operative at the time when the land use application is submitted to the County for review.
8. Underwater lighting of swimming pools and similar water features provided that such lighting is not oriented in any direction above the horizontal.
9. Fossil fuel lighting.
10. Lighting required by law to be installed on motor vehicles.
11. String, festoon, and similar lighting, provided that the emission of no individual lamp exceeds fifty (50) lumens, and no installation of such lighting exceeds, in the aggregate, three thousand (3,000) lumens.
12. Temporary lighting allowed by obtaining a temporary use permit as described in Section 16.24 and subsection K of this section.

13. Any form of lighting whose use is mandated or otherwise governed by any legal jurisdiction higher than that of the County.
14. Exterior lighting installed on single-family residential lots and agricultural uses, except for light trespass requirements.

I. Lighting Standards+.

1. Compliance with building codes: All exterior lighting luminaires installed in conformance with this section shall comply with all applicable building codes in effect at the time of installation under appropriate permitting and inspection.
2. Full shielding required: Unless exempted in this section, all exterior lighting luminaires shall be fully shielded.
3. Lighting application illuminance limits:
  - a. Exterior lighting required by the International Building Code (IBC) version incorporated by reference in Section 7.04.01, including but not limited to points of egress and along the path of travel for the exit discharge from each exit to the public way, shall employ illuminances that adhere to, but not exceed, the IBC-required values.
  - b. For all other exterior lighting applications not governed by IBC requirements, excluding architectural lighting, the illuminance employed in each application shall adhere to, but not exceed, the IES-recommended minimum value for the application.
  - c. With the exception of lighting exempted from regulation in subsection H, item 13 of this section, and permanent lighting of drive aisles and parking areas that adhere to the current IES recommendation found in ANSI/IES RP-8, Table 17-2, in no case shall exterior lighting installed on any site exceed 25,000 lumens per improved acre.

4. Spectrum management: The correlated color temperature of light sources shall not exceed 3000 Kelvins.
5. Light trespass prohibited: No luminaire shall create conditions of light trespass, except as authorized by this section. Without limitation, single-family residential lots and agricultural uses are prohibited from light trespass.
6. General curfew: All exterior lighting shall be extinguished one hour after sunset; or within one (1) hour of the close of normal business hours; or at the conclusion of usual operations and remain extinguished until no earlier than one (1) hour before sunrise. Businesses whose normal operating hours are twenty-four (24) hours per day are exempt from these provisions. Conditional uses may require stricter standards as determined by the land use authority. The following lighting applications shall be exempt from the general curfew:
  - a. Walkway bollard, ramp, and in-step stair luminaires provided with individual motion-sensing switches for resumption of illumination at one hundred percent (100%) of their normal lumen levels for no more than a five (5) minute period per trigger.
  - b. Individual pole-mounted parking lot luminaires provided with individual motion-sensing switches for resumption of illumination at seventy-five percent (75%) of their normal lumen levels for no more than a five (5) minute period per trigger.
7. Flagpoles: Property owners are encouraged to not illuminate flagpoles at night, but rather to hoist flags after dawn and lower flags before sunset. If flags are illuminated at night, lighting of up to a total of two (2) flags per property is permitted with the following conditions:
  - a. If nighttime illumination is used, flagpoles with a height greater than 20 feet above ground level shall be illuminated only from above. This may be achieved by utilizing a luminaire attached to the top of the flagpole or a luminaire mounted above the top of the flagpole on a structure within fifteen (15) feet of the

- 15 -

flagpole and must comply with all sections of this section. The total light output from any luminaire mounted on top of or above a flag pole shall not exceed 800 lumens.

- b. Flag poles with a height equal to or less than twenty (20) feet above ground level may be illuminated from below. If ground-level illumination is used, flagpoles may be illuminated with up to two (2) spot type luminaires, utilizing shields or diffusers to reduce glare, whose maximum combined lumen output is 75 lumens per linear foot of pole height, measured from the level of the luminaire above finished grade to the top of the flagpole. Luminaires are to be mounted so that their lenses are perpendicular to the flag pole and the light output points directly toward the flag(s).

8. Service station canopies: All luminaires mounted on or recessed into the lower surface of service station canopies shall be fully shielded and utilize only flat lenses or windows. Shielding must be provided by the luminaire itself, and not by surrounding structures such as canopy edges. Illuminance values shall not exceed the IES-recommended minimum values.

~~The following shall be required on all streetlights for consistency of maintenance:~~

- ~~1. Bulb: LED, fifty (50) to seventy (70) watt max.~~
- ~~2. One hundred twenty (120) volt.~~
- ~~3. Toolless replacement and interchangeable ballast.~~
- ~~4. Twistlock photocell.~~
- ~~5. Head: Glass or acrylic, asymmetric.~~
- ~~6. Temperature: 4000 K.~~
- ~~7. Photocell: Twistlock.~~
- ~~8. Mounting condition: Concrete base with J bolts.~~

~~9. Pole: As required in this section.~~

~~10. Fixture head type: Cutoff with full top aluminum reflector.~~

~~11. Fixture style: Washington Acorn HCSS 16530 or similar style approved by the service provider in compliance with this title.~~

~~12. The fixture shall comply with the cutoff standards listed in subsection D of this section.~~

J. Public Lighting: All exterior lighting owned or operated by the County, a special service district, an interlocal governmental entity, or a municipality, installed after the effective date of this section shall meet all of the following requirements:

1. Warranting. Except for street lights, new installations of exterior lighting will only be installed on public properties and rights-of-way upon determination by the County Manager, or that person's designee, that a public health, safety or welfare benefit due to the use of lighting exists. Criteria warranting the use of street lighting are stated in Section 14.02.08.
2. Curfew. All public lighting not adaptively controlled must be fully extinguished by 10 P.M., or within one hour of the end of occupancy of the structure or area to be lit, whichever is later, and remain extinguished until no earlier than one (1) hour before sunrise. Street lighting is exempt from this requirement.
3. Adaptive controlling. All new installations of exterior lighting on public properties and rights of way must be regulated with adaptive controls such that the lighting of areas is restricted to times, places and amounts required for safe occupancy. Street lighting is exempt from this requirement.
4. Additional street lighting requirements. In addition to the above, the following shall be required on all streetlights for consistency of maintenance:

1. Bulb: LED, fifty (50) to seventy (70) watt max.
2. One hundred twenty (120) volt.
3. Toolless replacement and interchangeable ballast.
4. Twistlock photocell.
5. Head: Glass or acrylic, asymmetric.
6. Mounting condition: Concrete base with J bolts.
7. Pole: As required in this section. A different pole may be allowed with the understanding that if the pole needs to be replaced it will be replaced with the typical pole provided by the service provider. Poles other than the typical poles provided by the service provider will be paid for by the homeowners' association or property owners.
8. Fixture head type: Fully shielded with full top aluminum reflector.
9. Fixture style: As agreed to by the County and the service provider in compliance with this title.

K. Temporary Lighting: Temporary lighting that does not conform to the provisions of this section may be approved at the discretion of the Planning Director subject to submission of an acceptable temporary use permit for exterior lighting. In addition to the requirements in Section 16.24, temporary lighting is subject to the following requirements:

1. Permit term and renewal. Permits shall be valid for no more than thirty (30) calendar days and subject to no more than one renewal, at the discretion of the Planning Director, for an additional thirty (30) calendar days.
2. Conversion to permanent status. Any lighting allowed that remains installed after sixty (60) calendar days from the issue date of the permit is declared permanent and is immediately subject to all of the provisions of this section and enforcement provisions of this title.

3. Exterior lighting permit contents. A request for temporary exemption to any provision of this section shall contain minimally the following listed information:

- a. Specific exemptions requested;
- b. Previous temporary exemptions, if any;
- c. Duration of time requested exemption;
- d. Type and use of exterior light involved;
- e. Type and lumens of proposed lamps;
- f. A plan with proposed luminaire locations; and
- g. Manufacturer data sheets for proposed luminaires.

4. In addition to the above data, the Planning Director may request any additional information which would enable a reasonable evaluation of the request for temporary exemption.

L. Architectural and Landscape Lighting: Exterior lighting used to illuminate the walls or architectural features of a building or structure, and landscape lighting used to illuminate trees or other landscape elements, is permitted subject to the following conditions:

1. All such lighting shall comply with the curfew requirement and light trespass prohibition specified in this section.
2. Luminaires used for uplighting of structures may be unshielded by design provided that their direct light is completely captured by architectural surfaces and not emitted directly into the night sky. In the event that an applicant wishes to illuminate surfaces in this manner, the applicant shall also provide with the lighting plan required in subsection G of this section information on the construction materials of illuminated surfaces, their colors and finishes.
3. The luminance of architectural surfaces shall not exceed 27 candelas per square meter. Luminance of a surface shall be measured in a line of sight direction to the observer at an angle perpendicular to the surface being measured. The final

measurement shall be the median value of three (3) measurements. A margin of error not to exceed twenty (20) degrees from perpendicular viewing angle is acceptable for purposes of measurement. The device used to measure the luminance shall have a margin of error of not more than ten (10) percent. Measurements associated with enforcement actions may only be taken by the planning director or his designee. Measurements shall be taken at a distance of not less than ten (10) feet from the surface, to avoid anomalies due to polished, reflective or irregular materials.

4. Luminaires used for uplighting of trees or other landscaping elements may be unshielded by design provided that their direct light is mostly captured by trees or landscaping and not emitted directly into the night sky. In the event that an applicant wishes to illuminate trees or landscaping in this manner, the applicant shall also provide with the lighting plan required in subsection G of this section, information on the height of the trees or landscaping. The luminaires used for the uplighting of trees or other landscaping elements shall not exceed 10 lumens per vertical foot of the trees or landscaping, and may not exceed 1,000 lumens per improved acre. This limit does not create an additional allowance beyond the site lumen threshold stated in subsection I, item 3c of this section.

HISTORY

Adopted by Ord. 13-15 on 10/16/2013

Amended by Ord. 14-05 on 11/5/2014

**16.15.25: SIGN STANDARDS**

- A. Statement Of Purpose: The purpose of this code is to establish standards for the erection and use of signs, symbols, markings and advertising devices within the JBOZ. These standards are designed to promote and protect the public welfare, health and safety of persons within the community and to aid in the development and promotion of business and industry by providing sign regulations which encourage aesthetic creativity, effectiveness and flexibility in the design and use of such devices without creating detriment to the general public.
- B. Use Authorized: This code authorizes the use of signs, provided they are:
1. Compatible with their surroundings, pursuant to the objectives of proper design and zoning amenities;
  2. Designed, installed and maintained to meet the sign user's needs, while at the same time promoting the amenable environment desired by the general public;
  3. Designed, constructed, installed and maintained in such a manner that they do not endanger public safety or traffic safety;
  4. Legible, readable and visible from the adjacent travelway or closest right of way in the circumstances in which they are used;
  5. Respectful of the reasonable rights of other advertisers whose messages are displayed;
  6. Comply with the other requirements of this code.
- C. Short Title: This section shall be known as the SIGN CODE OF THE JORDANELLE BASIN OVERLAY ZONE, or may be so cited and pleaded and shall be referred herein as the code.
- D. Definitions: The definitions used in section 16.26 of this title shall apply to the sign standards of this section.

E. Permits Required:

1. Except as otherwise provided in this code, it shall be unlawful for any person to erect, construct, enlarge, move or convert any sign in the county, or cause the same to be done, without first obtaining a sign permit for each such sign. This does not apply to changing the copy of any existing sign, nor for the repainting, cleaning or other normal maintenance of such sign, so long as the sign is not modified in any way, and so long as the existing sign complies with the terms of this code as to size, location, lighting and composition as outlined in this code.
2. Any permits issued shall become null and void if such sign is not erected within one hundred eighty (180) days from the issuance of said permit.

F. Construction Specifications:

1. No sign shall be constructed to block any road, driveway, exit, fire escape, door or window, or any means of ingress or egress for persons to and from the building, or for automobiles to and from the property or adjoining property;
2. No sign shall exceed thirty two (32) square feet in size, excluding any supports therefor;
3. No sign shall exceed seven feet (7') in height;
4. All signs shall be made of either wood or an approved material which has the same appearance as wood;
5. All lettering on the sign shall be approved as to size, color and style;
6. ~~All lighting of the sign shall be approved before issuance of a permit and shall comply with the lighting code.~~ Lighted signs, whether illuminated internally or externally, shall comply with all of the following:
  - a. Adhere to all provisions of Section 16.21.16. Internally illuminated signs are exempted from the full shielding requirement.

- b. Not exceed, in any design or message element, a luminance of forty (40) candelas per square meter between one (1) hour after sunset and one hour before sunrise; and
- c. Be fully extinguished after the end of regular business hours and remain in that state until no earlier than one (1) hour before sunrise.

7. All signs shall be readable from the adjacent travelway or closest right of way.

G. Prohibited Signs:

- 1. Animated and intensely lighted signs;
- 2. Moving signs;
- 3. Banners, flags, pennants, search lights, twirling signs, sandwich board signs, sidewalk or curb signs, balloons or other gas filled figures (this does not include a temporary "for sale" sign placed by a realtor or owner of property which is for sale, or "open house" signs);
- 4. Roof signs;
- 5. Video signs;
- 6. Off premises signs;
- 7. Billboards;
- 8. Projections signs;
- 9. Electronic message signs;
- 10. Other signs:
  - a. Signs which bear or contain statements, words or pictures of an obscene or pornographic character;
  - b. Signs which are painted on or attached to any fence, wall or structure (unless a permit has been granted

therefor) other than a means of posting the name of the occupant or address of a residence;

- c. Signs which emit audible sound, odor or matter;
- d. Signs which are an imitation of an official traffic sign or signal, or may be confused with such;
- e. Any sign or combination of signs which cover more than ten percent (10%) of the building facade on any side of such building.

H. Master Sign Plans:

1. Buildings or clusters of buildings within a project or premises, having more than one tenant or use, shall provide a master sign plan for the entire structure or project prior to any sign permit approval by the planning department.
2. The master sign plan shall be designed to establish a common theme or design for the entire building, using similar construction methods, compatible colors, scale, and identical backgrounds.
3. Master sign plans for office buildings must focus primarily on the identification of the building. Individual tenants may be identified with lettering on exterior windows, doors or a building directory.
4. Total sign area within the master sign plan is subject to the size limitation identified in subsection F2 of this section, except the planning director may grant additional sign area, provided the total area requested does not exceed five percent (5%) of the building face to which the signs are attached. The planning director must make findings based on the following criteria:
  - a. Signs must be designed to fit within and not detract from or obscure architectural elements of the building facade;
  - b. Signs must establish a visual continuity with adjacent building facades and be oriented to emphasize pedestrian or vehicle visibility;

- c. The building must have more than one tenant in more than one space; and
  - d. The building must have more than seventy feet (70') of street frontage.
- I. Setback Requirements: Signs shall not be placed in the setback area as defined for the zone in which the sign is located, except in the commercial area. Signs in the commercial area may be set back ten feet (10') from the property line. The planning director may decrease the setback if it is determined that the public will benefit from a sign located otherwise, due to site specific conditions such as steep terrain, integration of sign on retaining walls, heavy vegetation, or existing structures on the site or adjoining properties.
- J. Maintenance And Repair: All signs shall be maintained in a safe, presentable and good structural condition at all times, including the repair or replacement of defective or worn parts, painting, repainting, cleaning and any other acts required for the maintenance of said sign. If a sign is not made to comply with the standards of this code within ten (10) days of written notice to comply, such sign may be removed and the owner may be charged for the cost of such disposal.
- K. Abandoned Signs: Any signs which remains on the premises which becomes vacant and remains unoccupied for a period of ninety (90) days or more, or any sign which pertains to an event, time or purpose which no longer applies, shall be deemed to have been abandoned. All such abandoned signs shall be removed by the owner of the premises on which the sign is located. If not so removed within ten (10) days of written notice to remove such sign, the sign may be removed and the owner may be charged for the cost of such disposal.
- L. Notices: The notice shall be mailed to the owner of the property on which the sign is located. An additional notice shall be posted on or very near the sign itself.

- M. Disposal Of Signs: Any sign removed under this code becomes the property of the county and may be disposed of in any manner deemed appropriate by the county. The cost of removal of the sign shall be considered a debt owed to the county and may be recovered in an appropriate court action, including any and all incidental expenses incurred in connection with the sign removal.
- N. Dangerous Signs: When it is determined by the county zoning administrator that any sign would cause an imminent danger to the public safety and contact with the owner cannot be made immediately, no written notice or posting shall be required. In this emergency situation, the sign may be removed by the county immediately.
- O. Conflict: If any portion of this section is found to be in conflict with any other provision of any zoning, building, fire safety or health ordinance, the provision which establishes the more restrictive standard shall prevail.

HISTORY

Adopted by Ord. 09-04 on 3/13/2009

Amended by Ord. 09-06 on 5/28/2009