



CENTERVILLE CITY PLANNING COMMISSION AGENDA

Due to Planning Commission Chair Daly's Determination public meetings will be held electronically via Zoom. Public meetings conducted via Zoom may be terminated at any time due to hackers or inappropriate content.

NOTICE IS HEREBY GIVEN THAT THE CENTERVILLE CITY PLANNING COMMISSION WILL HOLD ITS REGULAR PUBLIC MEETING AT 7:00 PM ON MAY 26, 2021 AT THE CENTERVILLE CITY HALL COUNCIL CHAMBERS, 250 NORTH MAIN STREET, CENTERVILLE, UTAH. THE AGENDA IS SHOWN BELOW.

Meetings of the Planning Commission of Centerville City may be conducted via electronic means pursuant to Utah Code Ann. 52-4-207, as amended. In such circumstances, contact will be established and maintained via electronic means and the meeting will be conducted pursuant to the Electronic Meetings Policy established by the City Council for electronic meetings.

Centerville City, in compliance with the Americans With Disabilities Act, provides accommodations and auxiliary communicative aids and services for all those citizens in need of assistance, including hearing devices. Persons requesting these accommodations for City-sponsored public meetings, services, programs, or events should call Jacob Smith, Administrative Services Director, at 801-295-3477, giving at least 24 hours notice prior to the meeting.

The full packet of backups can be found at <http://centerville.novusagenda.com/agendapublic>.

A. ROLL CALL

1. Chair Determination Letter & Zoom Information

In accordance with Utah Code 52-4-207(4) of the Utah Open and Public Meeting Act, I have determined that conducting an electronic meeting of the Centerville Planning Commission with an anchor location presents a substantial risk to the health and safety of those who may be present at the anchor location. This determination is based on the facts and circumstances surrounding the COVID-19 pandemic.

Join Zoom Meeting

[https://zoom.us/j/93914944381?](https://zoom.us/j/93914944381?pwd=d3E4R0VremVVbHISZGZkcWRxTTgwZz09)

[pwd=d3E4R0VremVVbHISZGZkcWRxTTgwZz09](https://zoom.us/j/93914944381?pwd=d3E4R0VremVVbHISZGZkcWRxTTgwZz09)

Meeting ID: 939 1494 4381

Passcode: 162935

Or Dial in:

+1 669 900 9128 US (San Jose)

B. PLEDGE OF ALLEGIANCE

C. PRAYER OR THOUGHT

D. COMMISSION BUSINESS

2. Public Hearing - Administrative Decision - Hafoka Residence - Site Plan
Review Conceptual Site Plan for Single-Family Dwelling in the Residential-Medium Zone at 522 West Porter Lane.
3. Bylaws Review and Edits
Review revised bylaws and recommend for approval to the City Council.
4. Land Use Training - Municipal Land Use, Development, and Management Act - Part 5 - Land Use Regulations
Land use training and discussion regarding Part 5 (Land Use Regulations) of the Municipal Land Use, Development, and Management Act (pages 1-4)
5. Community Development Director's Report

Next Planning Commission Meeting - June 9, 2021:

Tentative Applications or Items:

- *Legacy Lands PDO Amendment & Conceptual Site Plan - Lots 2&3 Legacy Crossing, Applicant - JF Capital*
- *[Moved to 6/23 Agenda] Initial ADU Ordinance Review by Planning Commission*

City Council Report:

- *Rezone - Pasture Business Park, Phase 3, **Council Approved***
- *City Council to schedule Goal Planning - 2021/22*

E. MINUTES REVIEW AND ACCEPTANCE

May 12, 2021

F. ADJOURNMENT

Mackenzie Wood
Centerville Assistant Planner

CENTERVILLE

Staff Backup Report 5/26/2021

Item No. 1.

Short Title: Chair Determination Letter & Zoom Information

Initiated By:

Staff Representative:

SUBJECT

In accordance with Utah Code 52-4-207(4) of the Utah Open and Public Meeting Act, I have determined that conducting an electronic meeting of the Centerville Planning Commission with an anchor location presents a substantial risk to the health and safety of those who may be present at the anchor location. This determination is based on the facts and circumstances surrounding the COVID-19 pandemic.

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Meeting ID: 939 1494 4381

Passcode: 162935

Or Dial in:

+1 669 900 9128 US (San Jose)

RECOMMENDATION

BACKGROUND

ATTACHMENTS:

Description

- ▣ 5-4-21 PC Electronic Meeting Determination Letter



CENTERVILLE CITY

250 North Main Centerville, Utah 84014-1824 • (801) 295-3477 • Fax: (801) 292-8034

Incorporated in 1915

Mayor

Clark A. Wilkinson

City Council

Tamilyn Fillmore

William Ince

Stephanie Ivie

George McEwan

Robyn Mecham

City Manager

Brant T. Hanson

Public Body: Planning Commission

Date: 5/4/2021 | 9:20 AM PDT

Written Determination Letter to Conduct

Electronic Meetings without an Anchor Location Due to Substantial Health and Safety Risk

In accordance with Utah Code 52-4-207(4) of the Utah Open and Public Meeting Act, I have determined that conducting an electronic meeting of the Planning Commission of Centerville City with an anchor location presents a substantial risk to the health and safety of those who may be present at the anchor location. This determination is based on the facts and circumstances surrounding the COVID-19 pandemic.

I hereby authorize the above listed public body of Centerville City to conduct electronic meetings without an anchor location for the duration of this determination. This determination and the reasons stated herein shall be included in the public notice for each meeting held electronically without an anchor location and shall be read at the beginning of each meeting. Public notice for each meeting shall also include directions for accessing the online meeting and information on how a member of the public may view or make a comment at the meeting.

This determination shall be effective for 30 days from the date of this determination and will continue to be reviewed and monitored for possible reissuance.

DocuSigned by:

62B6CEC69D0A4DF...

Name: Kevin Daly

Title: Chair



CENTERVILLE

Staff Backup Report 5/26/2021

Item No. 2.

Short Title: Public Hearing - Administrative Decision - Hafoka Residence - Site Plan

Initiated By: Monalisa and Atieli Hafoka, applicants

Staff Representative: Mackenzie Wood, City Planner

SUBJECT

Review Conceptual Site Plan for Single-Family Dwelling in the Residential-Medium Zone at 522 West Porter Lane.

RECOMMENDATION

Accept Conceptual Site Plan with conditions.

BACKGROUND

ATTACHMENTS:

Description

- ❑ 5-26-21 PC Staff Report Hafoka Conceptual Site Plan
- ❑ Hafoka 2021 Site Plan
- ❑ Hafoka 2021 Groundwater Study
- ❑ Hafoka 2021 Architectural Plan

**CENTERVILLE CITY
COMMUNITY DEVELOPMENT DEPARTMENT
655 North 1250 West, Centerville, Utah 84014
(801)292-8232**

**STAFF REPORT
AGENDA: ITEM 1**

APPLICANTS: **ATIELI & MONALISA HAFOKA
522 WEST PORTER LANE
CENTERVILLE, UT 84014
(mlhafoka9 at gmail dot com)**

PROPERTY LOCATION: **484 W & 522 W PORTER LANE (400 S)**

PARCEL: **03-001-0209**

PARCEL SIZE: **1.04 ACRES**

ZONING DISTRICT: **RESIDENTIAL-MEDIUM**

APPLICATION: **CONCEPTUAL SITE PLAN**

BACKGROUND

The applicants own the property at 522 West Porter Lane and wish to build a single family home on the lot. In 2019, the eastern portion of the property was rezoned to Residential-Medium to match the rest of the property. The map shows two dwellings (one at 522 West and one at 484 West), the eastern dwelling (484) has been demolished since the aerial photo was taken. The applicants currently live in the home on the lot, with the intention of demolishing the current home once the



proposed dwelling is built. As the property is located within the Residential-Medium Zone, any development requires review and approval by the Planning Commission.

CODE REQUIREMENTS

Centerville Zoning Code 12.21.110 requires Planning Commission review of conceptual site plans. “After due consideration, the Planning Commission shall accept, accept with conditions, or reject the application pursuant to the standards set forth herein. Any conditions of acceptance shall be limited to conditions needed to conform the conceptual site plan to approval standards and ordinance requirements.”

Per CZC 12.36.020 Single-Family Dwellings are permitted in the Residential-Medium Zone, with the note that any residential development in the R-M Zone shall also be subject to development standards set forth in CZC 12.32.055 (Additional Development Standards for R-M).

CZC 12.32.300 Development Standards for Residential Zones

	Standard	Proposed	In Compliance?
Maximum Height	35’	~27’	YES
Minimum Lot Area	10,000 SF	1 acre	YES
Minimum Frontage	60’	~200’	YES
Front Yard Setback	25’	30’	YES
Rear Yard Setback	20’	85.6’	YES
Interior Side Yards	8’ minimum, total width of both side yards: 18’	12’/140’	YES
Gross Density, Maximum	6 units per acre	1	YES

CZC 12.32.055 Additional Development Standards for R-M and R-H Zones

- a. Architectural Design Standards: ‘All primary buildings ... shall be designed by a licensed, professional architect and all drawings submitted for approval or permit shall bear the architect’s stamp for the State of Utah.

Staff Response: The prepared house plans have been compiled by Design Loft, Inc. but do not bear the stamp of a Utah-licensed architect.

- b. Exterior Design Standards: Primary buildings in the R-M Zone are to be considered with the following criteria with special attention to areas that are public facing.
 - 1. Overall theme
 - 2. Minimize mass of buildings
 - 3. Natural or natural-appearing materials, such as stone, cultured stone, brick, and wood, shall be the design gestures used in the architectural design of all primary buildings. Wood siding, cement fiber board siding, and other similar appearing materials shall be the other main materials used in the design of all residential buildings. Substantial or prominent use of synthetic stucco, and unnatural appearing materials, such as metal, vinyl, and plastics are to be used sparingly. Use of such secondary and/or accent materials shall not exceed 20% of the building or structure's exterior.
 - 4. The Planning Commission shall review and approve architectural design of buildings within the R-M and R-H Zones in accordance with the provisions set forth herein during conditional use permit and/or site plan review.

Staff Response: As there is only to be one building on site, the theme and mass of buildings should not be an issue. The building materials (mainly thin stone and fiber cement boards) meet the requirements for natural or natural-appearing materials.

- c. Landscaping and Open Space – CZC 12.32.055(c) exempts single family dwelling developments in the Residential-Medium Zone from following CZC 12.51 Landscaping and Screening.
- d. Use of Public and Private Roadways: All dwellings within residential developments in R-M and R-H Zones shall be accessed from a public roadway, unless otherwise approved as part of a planned development.
- e. Residential Development Style Limitations for R-M Zone. The residential development style for residential development within the R-M Zone shall be limited to single-family dwellings, twin homes, duplexes, or townhomes in tri-plex, four-plex, and six-plex formats that mimic a typical neighborhood style street on public or private roadways (as described in Subsection (d)). Higher density design formats such as stacked flats or apartment style buildings or buildings constructed with associated vehicular parking lot style facilities are prohibited in the R-M Zone.

Staff Response: The proposed use of Parcel 03-001-0209 (single-family dwelling) is exempt from the landscaping and screening requirements set forth in CZC 12.51. There are no proposed private roadways and the applicants intend to use the public street (400 South) as ingress and egress to the site. The single-family dwelling proposal meets the style limitations within the R-M Zone.

CZC 12.21.110 Site Plan Review

In order for an application to be deemed complete there are 18 items to be included in the application. The following items were not included in the application and need to be provided for further review.

- Topography of proposed lots
- Height of existing and proposed walls and fences
- Preliminary utility plans, including water, sewer, and storm drainage plans
- A development schedule indicating the approximate date when construction or its stages can be expected to begin and be completed

Groundwater Table

In staff review of the conceptual site plan, the City Engineer requested a geotechnical study to determine the groundwater on site. The provided report from Gordon Geotechnical Engineering, Inc. (G², attached) states that, “based on the depth of water encountered in the test pit, we recommend that a design groundwater table of five and one-half feet below existing grade be utilized...” and that they “recommend that all habitable floor slab be established a minimum of two feet above the design water table.”

Staff Response: The current proposed building plans do not match this recommendation from G², including a crawl space below the recommended grade. Staff recommends requiring updated architectural drawings that meet the recommendation from G².

Drainage

The proposed plan provides the removal of an existing dwelling, garage, and driveway. State requirements (to retain water on site) take effect if impervious surfacing is increased by more than 10 percent. Staff has reviewed the site plan for State drainage requirements, and the proposal does not exceed the 10% development threshold if the existing structures are removed.

Staff Response: Staff recommends requiring a demolition bond with issuance of the building permit in order to comply with State Statute. With the removal of existing structures the site can be drained to Porter Lane. City Staff recommends some tool to ensure demolition at Final Site Plan.

Site Plan

The engineering firm drafted site plan and the architect provided site plan do not match on the measurements for setbacks, specifically the distances in the rear yard.

Staff Response: Both plans show setbacks that are allowable, but Staff is unclear which is accurate and which to maintain as the official record. Staff recommends a condition of approval that will unify the plans.

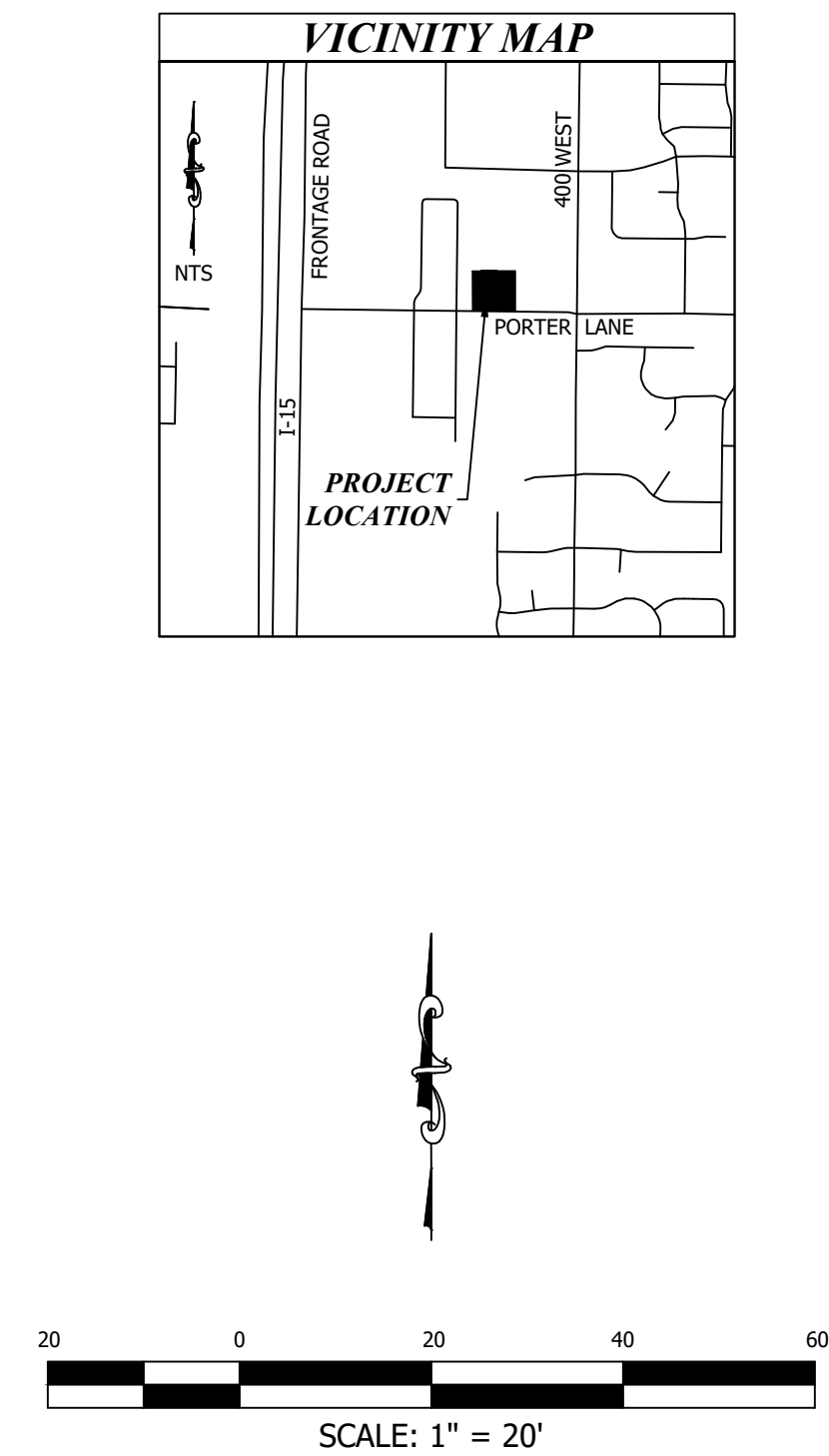
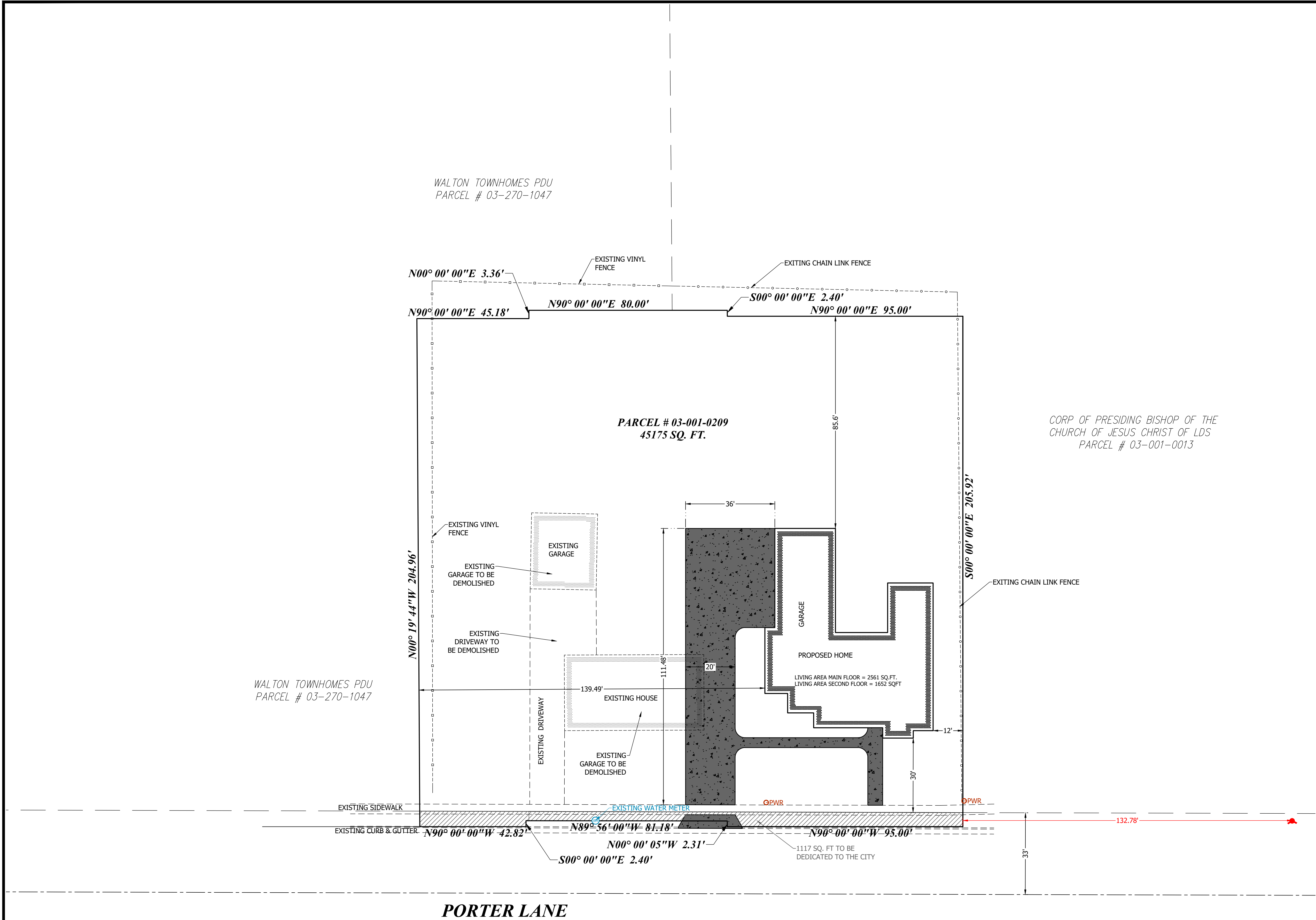
PLANNING STAFF RECOMMENDATION

I hereby make a motion to ACCEPT the conceptual site plan for the Hafoka Residence at approximately 522 West 400 South, parcel 03-001-0209 with the following conditions:

1. Final Site Plan shall be submitted in accordance with CZC 12.21.120 and include the list below.
2. Provide architectural plans for the dwelling, designed by a licensed, professional architect bearing the architect's stamp for the State of Utah.
3. Architectural plans shall have lowest floor elevation two feet above the design water table.
4. Provide utility plans for water, sewer, and storm drainage.
5. Include site topography in Final Site Plan application.
6. Provide height of existing and proposed fences or walls.
7. Include a development schedule with Final Site Plan application.
8. Provide architectural and engineering site plans that match.

Suggested Reasons for Approval Action (Findings):

- a. The Planning Commission finds that the conceptual site plan Submittal, with the conditions imposed complies or will comply with the applicable regulations of the City's Zoning Ordinances as detailed in the Staff Report.



PRELIMINARY
NOT FOR
CONSTRUCTION

ATELI AND MONALISA HAFOKE

484 AND 522 WEST PORTER LANE
PARCEL # 03-001-0209
LOCATED IN THE NW 1/4 OF SECTION 18, T.2 N., R.1 E., S.1 B. & M.
CENTERVILLE CITY, DAVIS COUNTY, UTAH

May 10, 2021
Job No. 943-001-21

Atielli and Monalisa Hafoka
522 West Porter Lane
Centerville, Utah 84014-2143

Attention: Mr. Atielli Hafoka

Ladies and Gentlemen:

Re: Summary Letter
Updated Groundwater Levels
Proposed Residential Structure
522 West Porter Lane
Centerville, Utah

It is our understanding that a single-family residential structure is to be constructed on a parcel immediately adjacent to the site of the recently constructed Walton Townhomes. Gordon Geotechnical Engineering, Inc. (G²) previously completed a geotechnical study for the site dated September 16, 2015¹. The City has requested updated groundwater levels for the site of the proposed residence.

On May 7, 2021, a representative of G² visited the site to observe the excavation of a test pit near the location of the proposed structure. In the test pit, groundwater was observed at a depth of seven and one-half feet below existing grade.

Based on the depth of water encountered in the test pit, we recommend that a design groundwater table of five and one-half feet below existing grade be utilized for the design of the structure. We recommend that all habitable floor slab be established a minimum of two feet above the design water table or one foot above the level controlled by a foundation subdrain.

All other recommendations from the September 16, 2015 report remain valid.

¹ "Report, Geotechnical Study, Proposed Walton Townhomes, 564 West 400 South, Centerville, Utah", G² Job No. 102-005-15, Dated September 16, 2015.

Atielli and Monalisa Hafoka

Job No. 943-001-21

Updated Groundwater Levels

May 10, 2021

We appreciate the opportunity of providing this service for you. If you have any questions or require additional information, please do not hesitate to contact us.

Respectfully submitted,

Gordon Geotechnical Engineering, Inc.



Patrick R. Emery, State of Utah No. 7941710
Senior Engineer

PRE:sn

Addressee (email only)

CENTERVILLE

Staff Backup Report 5/26/2021

Item No. 3.

Short Title: Bylaws Review and Edits

Initiated By:

Staff Representative: Mackenzie Wood, City Planner

SUBJECT

Review revised bylaws and recommend for approval to the City Council.

RECOMMENDATION

I hereby make a motion to RECOMMEND the Centerville City Planning Commission Bylaws for review and approval to the City Council.

BACKGROUND

ATTACHMENTS:

Description

- ▣ 2021 Planning Commission Bylaws Draft

CENTERVILLE CITY PLANNING COMMISSION

BYLAWS

The following rules are intended to govern the conduct of public meetings of the Centerville City Planning Commission. Items and issues not addressed by these rules of conduct shall be determined by the Planning Commission Chair, using Roberts Rules of Order as a guide. These By-Laws are intended for internal use only and shall not be grounds for third party challenges.

Compliance with City Ordinances

Planning Commissioners shall comply with all Centerville City Codes and Ordinances and Utah State Statutes, including, but not limited to, the provisions of section 12.20.050 of the Centerville Zoning Code regarding powers and duties of the Planning Commission.

Meetings

1. Regular Meetings. Regular meetings of the Centerville City Planning Commission shall be held on the second and fourth Wednesdays of each month at 7:00 p.m.
2. Special Meetings. Special meetings may be held at other times at the call of the Chair, as warranted.

Meeting Agenda

The Community Development Director shall prepare a written agenda for each meeting of the Planning Commission. The Community Development Director shall review the proposed agenda with the Planning Commission Chair.

Order of Business

The order of business for the Planning Commission meetings shall be as follows:

- a. Welcome/Call to Order.
- b. Opening Comment/Legislative Prayer.
- c. Items of Business as designated on the Agenda.
- d. Community Development Director's Report
- e. Approval of prior meeting minutes.

Special Orders of Business

The Planning Commission may at any time on a motion supported by a majority of the Commission members present, proceed out of order to any item of business, or may return to an item already passed.

Consideration of Agenda Items

The following procedure for consideration of business items on the agenda will normally be observed. However, the procedure may be modified by the Chair if necessary, for the expeditious conduct of business.

- a. Chair introduces the agenda item.
- b. Staff makes presentation and recommendations.
- c. Applicant or designee makes presentation of proposal.
- d. Public hearing, if required, in accordance with City Ordinance and State Law.
- e. Staff and applicant respond to questions raised by public comment and/or Commissioners.
- f. Applicant provided opportunity to make concluding remarks.
- g. Commissioners discuss and debate the agenda item.
- h. Commissioners make motion and vote upon the agenda item. The Commission may approve, disapprove, table, or approve with conditions the agenda item before them.

Motions

1. Making Motions. Any Commissioner, including the Chair, may make a motion. Motions should include a statement of findings supporting the motion and any relevant conditions of approval.
2. Seconding Motions. A second by a Commissioner other than the maker of the motion is necessary before the motion may be discussed or a vote taken.
3. Changing a Motion. The maker of a motion may change the motion at any time before the vote is taken. A second to the changed motion is necessary before the changed motion may be further discussed or voted upon.
4. Withdrawing a Motion. The maker of a motion may withdraw the motion if no member of the Planning Commission objects to its withdrawal. If an objection is made to the withdrawal of the motion, the Chair may call for a vote of the Commission regarding the withdrawal of the motion.
5. Amending Motions. All amendments shall be offered as amendments to the main motion first made. The procedure for amendments shall be the same as for any motion. The Commission shall vote on the amendment before any action is taken on the main motion. Only one amendment shall be considered at a time by the Commission.
6. Non-debatable Motions. A motion to adjourn or to take a recess shall be voted upon without debate.

Debate

The Chair has the authority to limit debate or to bring order, as necessary, to the meeting.

Voting

1. Voting Process. A quorum of Commissioners must vote on a motion. All members present must vote unless the Commissioner declares an abstention or recusal due to possible or actual conflict of interest. All votes are to be cast verbally. A roll call vote shall be taken for agenda items requiring a public hearing and should be taken for all

other matters at the discretion of the Chair. Motions must receive a majority of the votes cast, with a minimum of three (3) favorable votes necessary in order for the motion to pass.

2. **Announcement of Decision.** Voting or changing a vote after the decision is announced by the Chair will not be allowed, unless by a motion to reconsider.
3. **Rationale for Vote.** Motions approved by the Commission should indicate the reasons for the decision and any conditions relevant to the motion. The reasons for voting against a motion may also be given and included in the minutes of the meeting, at the discretion of those voting against a motion.
4. **Tie Votes.** Tie votes on motions shall result in the failure of the motion.

Reconsideration

1. **Who May Move to Reconsider.** Any motion made in the course of a Planning Commission meeting may be reconsidered within a reasonable time after the meeting upon a showing of good cause and upon appropriate noticing of the reconsideration. Only a member of the Commission who voted with the majority on the motion in question may make a motion for reconsideration of the motion.
2. **Vote Required for Reconsideration.** When a motion to reconsider has been properly made, a majority of the members of the Commission present must vote in favor of reconsideration in order for the item to be reconsidered.

Conflicts of Interest

1. **Conflict of Interest Form.** Upon taking office, and annually thereafter, Commissioners should sign a Conflict-of-Interest Form as provided by the City Recorder disclosing interests as required by law.
2. **Recusal.** Commissioners should recuse themselves from any agenda item or discussion matter in which they have a personal interest that creates or has the appearance of creating a conflict of interest between the Commissioner's personal interests and his or her official duties as a member of the Planning Commission. Commissioners should state on the record their recusal and the reasons therefore at the introduction of the agenda item or discussion matter. After the recusal from an agenda item or discussion matter, the recused Commissioner should remove themselves from an interaction position during discussion and action on the agenda item or discussion matter.

Chair and Vice Chair

Elections for Chair and Vice Chair should be conducted by the Planning Commission at the first meeting in January or as soon thereafter as is feasible. Elections shall be by nomination and majority vote.

**CENTERVILLE
PLANNING COMMISSION
Staff Backup Report
5/26/2021**

Item No. 4.

Short Title: Land Use Training - Municipal Land Use, Development, and Management Act - Part 5 - Land Use Regulations

Initiated By:

Scheduled Time:

SUBJECT

Land use training and discussion regarding Part 5 (Land Use Regulations) of the Municipal Land Use, Development, and Management Act (pages 1-4)

RECOMMENDATION

BACKGROUND

The Planning Commission has agreed to the lofty goal for the calendar year 2021 to reading the entire Municipal Land Use, Development, and Management Act (LUDMA). LUDMA provides statutory provisions governing local land use regulation, including zoning and subdivisions. This month's training includes reading and discussing pages 1-4 of Part 5 (Land Use Regulations). Topics of the first few pages of Part 5 include preparation and adoption of zoning and land use regulations, historic districts, temporary zoning regulations, and zoning districts.

ATTACHMENTS:

Description

- ▣ LUDMA - Part 5 - Land Use Regulations
- ▣ LUDMA - Part 5 - Presentation

Effective 5/9/2017

Part 5

Land Use Regulations

10-9a-501 Enactment of land use regulation.

- (1) Only a legislative body, as the body authorized to weigh policy considerations, may enact a land use regulation.
- (2)
 - (a) Except as provided in Subsection (2)(b), a legislative body may enact a land use regulation only by ordinance.
 - (b) A legislative body may, by ordinance or resolution, enact a land use regulation that imposes a fee.
- (3) A legislative body shall ensure that a land use regulation is consistent with the purposes set forth in this chapter.
- (4)
 - (a) A legislative body shall adopt a land use regulation to:
 - (i) create or amend a zoning district under Subsection 10-9a-503(1)(a); and
 - (ii) designate general uses allowed in each zoning district.
 - (b) A land use authority may establish or modify other restrictions or requirements other than those described in Subsection (4)(a), including the configuration or modification of uses or density, through a land use decision that applies criteria or policy elements that a land use regulation establishes or describes.

Amended by Chapter 384, 2019 General Session

10-9a-502 Preparation and adoption of land use regulation.

- (1) A planning commission shall:
 - (a) provide notice as required by Subsection 10-9a-205(1)(a) and, if applicable, Subsection 10-9a-205(4);
 - (b) hold a public hearing on a proposed land use regulation;
 - (c) if applicable, consider each written objection filed in accordance with Subsection 10-9a-205(4) prior to the public hearing; and
 - (d)
 - (i) review and recommend to the legislative body a proposed land use regulation that represents the planning commission's recommendation for regulating the use and development of land within all or any part of the area of the municipality; and
 - (ii) forward to the legislative body all objections filed in accordance with Subsection 10-9a-205(4).
- (2)
 - (a) A legislative body shall consider each proposed land use regulation that the planning commission recommends to the legislative body.
 - (b) After providing notice as required by Subsection 10-9a-205(1)(b) and holding a public meeting, the legislative body may adopt or reject the land use regulation described in Subsection (2)(a):
 - (i) as proposed by the planning commission; or
 - (ii) after making any revision the legislative body considers appropriate.

- (c) A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation if the legislative body has provided for that consideration by ordinance.

Amended by Chapter 384, 2019 General Session

10-9a-503 Land use ordinance or zoning map amendments -- Historic district or area.

- (1) Only a legislative body may amend:
 - (a) the number, shape, boundaries, area, or general uses of any zoning district;
 - (b) any regulation of or within the zoning district; or
 - (c) any other provision of a land use regulation.
- (2) A legislative body may not make any amendment authorized by this section unless the legislative body first submits the amendment to the planning commission for the planning commission's recommendation.
- (3) A legislative body shall comply with the procedure specified in Section 10-9a-502 in preparing and adopting an amendment to a land use regulation.
- (4)
 - (a) As used in this Subsection (4):
 - (i) "Citizen-led process" means a process established by a municipality to create a local historic district or area that requires:
 - (A) a petition signed by a minimum number of property owners within the boundaries of the proposed local historic district or area; or
 - (B) a vote of the property owners within the boundaries of the proposed local historic district or area.
 - (ii) "Condominium project" means the same as that term is defined in Section 57-8-3.
 - (iii) "Unit" means the same as that term is defined in Section 57-8-3.
 - (b) If a municipality provides a citizen-led process, the process shall require that:
 - (i) more than 33% of the property owners within the boundaries of the proposed local historic district or area agree in writing to the creation of the proposed local historic district or area;
 - (ii) before any property owner agrees to the creation of a proposed local historic district or area under Subsection (4)(b)(i), the municipality prepare and distribute, to each property owner within the boundaries of the proposed local historic district or area, a neutral information pamphlet that:
 - (A) describes the process to create a local historic district or area; and
 - (B) lists the pros and cons of a local historic district or area;
 - (iii) after the property owners satisfy the requirement described in Subsection (4)(b)(i), for each parcel or, if the parcel contains a condominium project, each unit, within the boundaries of the proposed local historic district or area, the municipality provide:
 - (A) a second copy of the neutral information pamphlet described in Subsection (4)(b)(ii); and
 - (B) one public support ballot that, subject to Subsection (4)(c), allows the owner or owners of record to vote in favor of or against the creation of the proposed local historic district or area;
 - (iv) in a vote described in Subsection (4)(b)(iii)(B), the returned public support ballots that reflect a vote in favor of the creation of the proposed local historic district or area:
 - (A) equal at least two-thirds of the returned public support ballots; and
 - (B) represent more than 50% of the parcels and units within the proposed local historic district or area;

- (v) if a local historic district or area proposal fails in a vote described in Subsection (4)(b)(iii)(B), the legislative body may override the vote and create the proposed local historic district or area with an affirmative vote of two-thirds of the members of the legislative body; and
- (vi) if a local historic district or area proposal fails in a vote described in Subsection (4)(b)(iii)(B) and the legislative body does not override the vote under Subsection (4)(b)(v), a resident may not initiate the creation of a local historic district or area that includes more than 50% of the same property as the failed local historic district or area proposal for four years after the day on which the public support ballots for the vote are due.
- (c) In a vote described in Subsection (4)(b)(iii)(B):
 - (i) a property owner is eligible to vote regardless of whether the property owner is an individual, a private entity, or a public entity;
 - (ii) the municipality shall count no more than one public support ballot for:
 - (A) each parcel within the boundaries of the proposed local historic district or area; or
 - (B) if the parcel contains a condominium project, each unit within the boundaries of the proposed local historic district or area; and
 - (iii) if a parcel or unit has more than one owner of record, the municipality shall count a public support ballot for the parcel or unit only if the public support ballot reflects the vote of the property owners who own at least a 50% interest in the parcel or unit.
- (d) The requirements described in Subsection (4)(b)(iv) apply to the creation of a local historic district or area that is:
 - (i) initiated in accordance with a municipal process described in Subsection (4)(b); and
 - (ii) not complete on or before January 1, 2016.
- (e) A vote described in Subsection (4)(b)(iii)(B) is not subject to Title 20A, Election Code.

Amended by Chapter 384, 2019 General Session

10-9a-504 Temporary land use regulations.

- (1)
 - (a) A municipal legislative body may, without prior consideration of or recommendation from the planning commission, enact an ordinance establishing a temporary land use regulation for any part or all of the area within the municipality if:
 - (i) the legislative body makes a finding of compelling, countervailing public interest; or
 - (ii) the area is unregulated.
 - (b) A temporary land use regulation under Subsection (1)(a) may prohibit or regulate the erection, construction, reconstruction, or alteration of any building or structure or any subdivision approval.
 - (c) A temporary land use regulation under Subsection (1)(a) may not impose an impact fee or other financial requirement on building or development.
- (2) The municipal legislative body shall establish a period of limited effect for the ordinance not to exceed six months.
- (3)
 - (a) A municipal legislative body may, without prior planning commission consideration or recommendation, enact an ordinance establishing a temporary land use regulation prohibiting construction, subdivision approval, and other development activities within an area that is the subject of an Environmental Impact Statement or a Major Investment Study examining the area as a proposed highway or transportation corridor.
 - (b) A regulation under Subsection (3)(a):
 - (i) may not exceed six months in duration;

- (ii) may be renewed, if requested by the Transportation Commission created under Section 72-1-301, for up to two additional six-month periods by ordinance enacted before the expiration of the previous regulation; and
- (iii) notwithstanding Subsections (3)(b)(i) and (ii), is effective only as long as the Environmental Impact Statement or Major Investment Study is in progress.

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-505 Zoning districts.

- (1)
 - (a) The legislative body may divide the territory over which it has jurisdiction into zoning districts of a number, shape, and area that it considers appropriate to carry out the purposes of this chapter.
 - (b) Within those zoning districts, the legislative body may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and the use of land.
 - (c) A municipality may enact an ordinance regulating land use and development in a flood plain or potential geologic hazard area to:
 - (i) protect life; and
 - (ii) prevent:
 - (A) the substantial loss of real property; or
 - (B) substantial damage to real property.
- (2) The legislative body shall ensure that the regulations are uniform for each class or kind of buildings throughout each zoning district, but the regulations in one zone may differ from those in other zones.
- (3)
 - (a) There is no minimum area or diversity of ownership requirement for a zone designation.
 - (b) Neither the size of a zoning district nor the number of landowners within the district may be used as evidence of the illegality of a zoning district or of the invalidity of a municipal decision.
- (4) A municipality may by ordinance exempt from specific zoning district standards a subdivision of land to accommodate the siting of a public utility infrastructure.

Amended by Chapter 327, 2015 General Session

10-9a-505.5 Limit on single family designation.

- (1) As used in this section, "single-family limit" means the number of unrelated individuals allowed to occupy each residential unit that is recognized by a land use authority in a zone permitting occupancy by a single family.
- (2) A municipality may not adopt a single-family limit that is less than:
 - (a) three, if the municipality has within its boundary:
 - (i) a state university; or
 - (ii) a private university with a student population of at least 20,000; or
 - (b) four, for each other municipality.

Amended by Chapter 172, 2012 General Session

10-9a-506 Regulating annexed territory.

- (1) The legislative body of each municipality shall assign a land use zone or a variety thereof to territory annexed to the municipality at the time the territory is annexed.
- (2) If the legislative body fails to assign a land use zone at the time the territory is annexed, all land uses within the annexed territory shall be compatible with surrounding uses within the municipality.

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-507 Conditional uses.

- (1)
 - (a) A municipality may adopt a land use ordinance that includes conditional uses and provisions for conditional uses that require compliance with standards set forth in an applicable ordinance.
 - (b) A municipality may not impose a requirement or standard on a conditional use that conflicts with a provision of this chapter or other state or federal law.
- (2)
 - (a)
 - (i) 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.
 - (ii) The requirement described in Subsection (2)(a)(i) to reasonably mitigate anticipated detrimental effects of the proposed conditional use does not require elimination of the detrimental effects.
 - (b) If a land use authority proposes reasonable conditions on a proposed conditional use, the land use authority shall ensure that the conditions are stated on the record and reasonably relate to mitigating the anticipated detrimental effects of the proposed use.
 - (c) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the land use authority may deny the conditional use.
- (3) A land use authority's decision to approve or deny conditional use is an administrative land use decision.
- (4) A legislative body shall classify any use that a land use regulation allows in a zoning district as either a permitted or conditional use under this chapter.

Amended by Chapter 384, 2019 General Session

10-9a-508 Exactions -- Exaction for water interest -- Requirement to offer to original owner property acquired by exaction.

- (1) A municipality may impose an exaction or exactions on development proposed in a land use application, including, subject to Subsection (3), an exaction for a water interest, if:
 - (a) an essential link exists between a legitimate governmental interest and each exaction; and
 - (b) each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.
- (2) If a land use authority imposes an exaction for another governmental entity:
 - (a) the governmental entity shall request the exaction; and
 - (b) the land use authority shall transfer the exaction to the governmental entity for which it was exacted.
- (3)

- (a)
 - (i) A municipality shall base any exaction for a water interest on the culinary water authority's established calculations of projected water interest requirements.
 - (ii) Upon an applicant's request, the culinary water authority shall provide the applicant with the basis for the culinary water authority's calculations under Subsection (3)(a)(i) on which an exaction for a water interest is based.
 - (b) A municipality may not impose an exaction for a water interest if the culinary water authority's existing available water interests exceed the water interests needed to meet the reasonable future water requirement of the public, as determined under Subsection 73-1-4(2)(f).
- (4)
- (a) If a municipality plans to dispose of surplus real property that was acquired under this section and has been owned by the municipality for less than 15 years, the municipality shall first offer to reconvey the property, without receiving additional consideration, to the person who granted the property to the municipality.
 - (b) A person to whom a municipality offers to reconvey property under Subsection (4)(a) has 90 days to accept or reject the municipality's offer.
 - (c) If a person to whom a municipality offers to reconvey property declines the offer, the municipality may offer the property for sale.
 - (d) Subsection (4)(a) does not apply to the disposal of property acquired by exaction by a community reinvestment agency.

Amended by Chapter 350, 2016 General Session

10-9a-509 Applicant's entitlement to land use application approval -- Municipality's requirements and limitations -- Vesting upon submission of development plan and schedule.

- (1)
- (a)
 - (i) An applicant who has submitted a complete land use application as described in Subsection (1)(c), including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:
 - (A) in effect on the date that the application is complete; and
 - (B) applicable to the application or to the information shown on the application.
 - (ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays application fees, unless:
 - (A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or
 - (B) in the manner provided by local ordinance and before the applicant submits the application, the municipality formally initiates proceedings to amend the municipality's land use regulations in a manner that would prohibit approval of the application as submitted.
 - (b) The municipality shall process an application without regard to proceedings the municipality initiated to amend the municipality's ordinances as described in Subsection (1)(a)(ii)(B) if:
 - (i) 180 days have passed since the municipality initiated the proceedings; and
 - (ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.

- (c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.
- (d) A subsequent incorporation of a municipality or a petition that proposes the incorporation of a municipality does not affect a land use application approved by a county in accordance with Section 17-27a-508.
- (e) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.
- (f) A municipality may not impose on an applicant who has submitted a complete application a requirement that is not expressed in:
 - (i) this chapter;
 - (ii) a municipal ordinance; or
 - (iii) a municipal specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.
- (g) A municipality may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:
 - (i) in a land use permit;
 - (ii) on the subdivision plat;
 - (iii) in a document on which the land use permit or subdivision plat is based;
 - (iv) in the written record evidencing approval of the land use permit or subdivision plat;
 - (v) in this chapter; or
 - (vi) in a municipal ordinance.
- (h) Except as provided in Subsection (1)(i), a municipality may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:
 - (i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the land use permit or subdivision plat; or
 - (ii) in this chapter or the municipality's ordinances.
- (i) A municipality may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:
 - (i) the applicant and the municipality have agreed in a written document to the withholding of a certificate of occupancy; or
 - (ii) the applicant has not provided a financial assurance for required and uncompleted landscaping or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.
- (2) A municipality is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.
- (3) A municipality may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.
- (4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the municipality's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.
- (5)

- (a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(5)(a), the project's affected owner may rescind the project's land use approval by delivering a written notice:
 - (i) to the local clerk as defined in Section 20A-7-101; and
 - (ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Section 20A-7-607(5).
- (b) Upon delivery of a written notice described in Subsection (5)(a) the following are rescinded and are of no further force or effect:
 - (i) the relevant land use approval; and
 - (ii) any land use regulation enacted specifically in relation to the land use approval.

Amended by Chapter 434, 2020 General Session

10-9a-509.5 Review for application completeness -- Substantive application review -- Reasonable diligence required for determination of whether improvements or warranty work meets standards -- Money damages claim prohibited.

- (1)
 - (a) Each municipality shall, in a timely manner, determine whether a land use application is complete for the purposes of subsequent, substantive land use authority review.
 - (b) After a reasonable period of time to allow the municipality diligently to evaluate whether all objective ordinance-based application criteria have been met, if application fees have been paid, the applicant may in writing request that the municipality provide a written determination either that the application is:
 - (i) complete for the purposes of allowing subsequent, substantive land use authority review; or
 - (ii) deficient with respect to a specific, objective, ordinance-based application requirement.
 - (c) Within 30 days of receipt of an applicant's request under this section, the municipality shall either:
 - (i) mail a written notice to the applicant advising that the application is deficient with respect to a specified, objective, ordinance-based criterion, and stating that the application shall be supplemented by specific additional information identified in the notice; or
 - (ii) accept the application as complete for the purposes of further substantive processing by the land use authority.
 - (d) If the notice required by Subsection (1)(c)(i) is not timely mailed, the application shall be considered complete, for purposes of further substantive land use authority review.
 - (e)
 - (i) The applicant may raise and resolve in a single appeal any determination made under this Subsection (1) to the appeal authority, including an allegation that a reasonable period of time has elapsed under Subsection (1)(a).
 - (ii) The appeal authority shall issue a written decision for any appeal requested under this Subsection (1)(e).
 - (f)
 - (i) The applicant may appeal to district court the decision of the appeal authority made under Subsection (1)(e).
 - (ii) Each appeal under Subsection (1)(f)(i) shall be made within 30 days of the date of the written decision.
- (2)

- (a) Each land use authority shall substantively review a complete application and an application considered complete under Subsection (1)(d), and shall approve or deny each application with reasonable diligence.
 - (b) After a reasonable period of time to allow the land use authority to consider an application, the applicant may in writing request that the land use authority take final action within 45 days from date of service of the written request.
 - (c) Within 45 days from the date of service of the written request described in Subsection (2)(b):
 - (i) except as provided in Subsection (2)(c)(ii), the land use authority shall take final action, approving or denying the application; and
 - (ii) if a landowner petitions for a land use regulation, a legislative body shall take final action by approving or denying the petition.
 - (d) If the land use authority denies an application processed under the mandates of Subsection (2)(b), or if the applicant has requested a written decision in the application, the land use authority shall include its reasons for denial in writing, on the record, which may include the official minutes of the meeting in which the decision was rendered.
 - (e) If the land use authority fails to comply with Subsection (2)(c), the applicant may appeal this failure to district court within 30 days of the date on which the land use authority is required to take final action under Subsection (2)(c).
- (3)
- (a) With reasonable diligence, each land use authority shall determine whether the installation of required subdivision improvements or the performance of warranty work meets the municipality's adopted standards.
 - (b)
 - (i) An applicant may in writing request the land use authority to accept or reject the applicant's installation of required subdivision improvements or performance of warranty work.
 - (ii) The land use authority shall accept or reject subdivision improvements within 15 days after receiving an applicant's written request under Subsection (3)(b)(i), or as soon as practicable after that 15-day period if inspection of the subdivision improvements is impeded by winter weather conditions.
 - (iii) The land use authority shall accept or reject the performance of warranty work within 45 days after receiving an applicant's written request under Subsection (3)(b)(i), or as soon as practicable after that 45-day period if inspection of the warranty work is impeded by winter weather conditions.
 - (c) If a land use authority determines that the installation of required subdivision improvements or the performance of warranty work does not meet the municipality's adopted standards, the land use authority shall comprehensively and with specificity list the reasons for the land use authority's determination.
- (4) Subject to Section 10-9a-509, nothing in this section and no action or inaction of the land use authority relieves an applicant's duty to comply with all applicable substantive ordinances and regulations.
- (5) There shall be no money damages remedy arising from a claim under this section.

Amended by Chapter 126, 2020 General Session

10-9a-509.7 Transferable development rights.

- (1) A municipality may adopt an ordinance:
 - (a) designating sending zones and receiving zones within the municipality; and

- (b) allowing the transfer of a transferable development right from a sending zone to a receiving zone.
- (2) A municipality may not allow the use of a transferable development right unless the municipality adopts an ordinance described in Subsection (1).

Amended by Chapter 231, 2012 General Session

10-9a-510 Limit on fees -- Requirement to itemize fees -- Appeal of fee -- Provider of culinary or secondary water.

- (1) A municipality may not impose or collect a fee for reviewing or approving the plans for a commercial or residential building that exceeds the lesser of:
 - (a) the actual cost of performing the plan review; and
 - (b) 65% of the amount the municipality charges for a building permit fee for that building.
- (2) Subject to Subsection (1), a municipality may impose and collect only a nominal fee for reviewing and approving identical floor plans.
- (3) A municipality may not impose or collect a hookup fee that exceeds the reasonable cost of installing and inspecting the pipe, line, meter, and appurtenance to connect to the municipal water, sewer, storm water, power, or other utility system.
- (4) A municipality may not impose or collect:
 - (a) a land use application fee that exceeds the reasonable cost of processing the application or issuing the permit; or
 - (b) an inspection, regulation, or review fee that exceeds the reasonable cost of performing the inspection, regulation, or review.
- (5)
 - (a) If requested by an applicant who is charged a fee or an owner of residential property upon which a fee is imposed, the municipality shall provide an itemized fee statement that shows the calculation method for each fee.
 - (b) If an applicant who is charged a fee or an owner of residential property upon which a fee is imposed submits a request for an itemized fee statement no later than 30 days after the day on which the applicant or owner pays the fee, the municipality shall no later than 10 days after the day on which the request is received provide or commit to provide within a specific time:
 - (i) for each fee, any studies, reports, or methods relied upon by the municipality to create the calculation method described in Subsection (5)(a);
 - (ii) an accounting of each fee paid;
 - (iii) how each fee will be distributed; and
 - (iv) information on filing a fee appeal through the process described in Subsection (5)(c).
 - (c) A municipality shall establish a fee appeal process subject to an appeal authority described in Part 7, Appeal Authority and Variances, and district court review in accordance with Part 8, District Court Review, to determine whether a fee reflects only the reasonable estimated cost of:
 - (i) regulation;
 - (ii) processing an application;
 - (iii) issuing a permit; or
 - (iv) delivering the service for which the applicant or owner paid the fee.
- (6) A municipality may not impose on or collect from a public agency any fee associated with the public agency's development of its land other than:
 - (a) subject to Subsection (4), a fee for a development service that the public agency does not itself provide;

- (b) subject to Subsection (3), a hookup fee; and
 - (c) an impact fee for a public facility listed in Subsection 11-36a-102(16)(a), (b), (c), (d), (e), or (g), subject to any applicable credit under Subsection 11-36a-402(2).
- (7) A provider of culinary or secondary water that commits to provide a water service required by a land use application process is subject to the following as if it were a municipality:
- (a) Subsections (5) and (6);
 - (b) Section 10-9a-508; and
 - (c) Section 10-9a-509.5.

Amended by Chapter 200, 2013 General Session

10-9a-511 Nonconforming uses and noncomplying structures.

- (1)
- (a) Except as provided in this section, a nonconforming use or noncomplying structure may be continued by the present or a future property owner.
 - (b) A nonconforming use may be extended through the same building, provided no structural alteration of the building is proposed or made for the purpose of the extension.
 - (c) For purposes of this Subsection (1), the addition of a solar energy device to a building is not a structural alteration.
- (2) The legislative body may provide for:
- (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or substitution of nonconforming uses upon the terms and conditions set forth in the land use ordinance;
 - (b) the termination of all nonconforming uses, except billboards, by providing a formula establishing a reasonable time period during which the owner can recover or amortize the amount of his investment in the nonconforming use, if any; and
 - (c) the termination of a nonconforming use due to its abandonment.
- (3)
- (a) A municipality may not prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure that is involuntarily destroyed in whole or in part due to fire or other calamity unless the structure or use has been abandoned.
 - (b) A municipality may prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure if:
 - (i) the structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six months after the day on which written notice is served to the property owner that the structure is uninhabitable and that the noncomplying structure or nonconforming use will be lost if the structure is not repaired or restored within six months; or
 - (ii) the property owner has voluntarily demolished a majority of the noncomplying structure or the building that houses the nonconforming use.
 - (c)
 - (i) Notwithstanding a prohibition in the municipality's zoning ordinance, a municipality may permit a billboard owner to relocate the billboard within the municipality's boundaries to a location that is mutually acceptable to the municipality and the billboard owner.
 - (ii) If the municipality and billboard owner cannot agree to a mutually acceptable location within 180 days after the day on which the owner submits a written request to relocate the billboard, the billboard owner may relocate the billboard in accordance with Subsection 10-9a-513(2).
- (4)

- (a) Unless the municipality establishes, by ordinance, a uniform presumption of legal existence for nonconforming uses, the property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use.
- (b) Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment.
- (c) Abandonment may be presumed to have occurred if:
 - (i) a majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the municipality regarding an extension of the nonconforming use;
 - (ii) the use has been discontinued for a minimum of one year; or
 - (iii) the primary structure associated with the nonconforming use remains vacant for a period of one year.
- (d) The property owner may rebut the presumption of abandonment under Subsection (4)(c), and has the burden of establishing that any claimed abandonment under Subsection (4)(b) has not occurred.
- (5) A municipality may terminate the nonconforming status of a school district or charter school use or structure when the property associated with the school district or charter school use or structure ceases to be used for school district or charter school purposes for a period established by ordinance.

Amended by Chapter 239, 2018 General Session

10-9a-511.5 Changes to dwellings -- Egress windows.

- (1) For purposes of this section, "rental dwelling" means the same as that term is defined in Section 10-8-85.5.
- (2) A municipal ordinance adopted under Section 10-1-203.5 may not:
 - (a) require physical changes in a structure with a legal nonconforming rental dwelling use unless the change is for:
 - (i) the reasonable installation of:
 - (A) a smoke detector that is plugged in or battery operated;
 - (B) a ground fault circuit interrupter protected outlet on existing wiring;
 - (C) street addressing;
 - (D) except as provided in Subsection (3), an egress bedroom window if the existing bedroom window is smaller than that required by current State Construction Code;
 - (E) an electrical system or a plumbing system, if the existing system is not functioning or is unsafe as determined by an independent electrical or plumbing professional who is licensed in accordance with Title 58, Occupations and Professions;
 - (F) hand or guard rails; or
 - (G) occupancy separation doors as required by the International Residential Code; or
 - (ii) the abatement of a structure; or
 - (b) be enforced to terminate a legal nonconforming rental dwelling use.
- (3) A municipality may not require physical changes to install an egress or emergency escape window in an existing bedroom that complied with the State Construction Code in effect at the time the bedroom was finished if:
 - (a) the dwelling is an owner-occupied dwelling or a rental dwelling that is:
 - (i) a detached one-, two-, three-, or four-family dwelling; or
 - (ii) a town home that is not more than three stories above grade with a separate means of egress; and

- (b)
 - (i) the window in the existing bedroom is smaller than that required by current State Construction Code; and
 - (ii) the change would compromise the structural integrity of the structure or could not be completed in accordance with current State Construction Code, including set-back and window well requirements.
- (4) Nothing in this section prohibits a municipality from:
 - (a) regulating the style of window that is required or allowed in a bedroom;
 - (b) requiring that a window in an existing bedroom be fully openable if the openable area is less than required by current State Construction Code; or
 - (c) requiring that an existing window not be reduced in size if the openable area is smaller than required by current State Construction Code.

Enacted by Chapter 205, 2015 General Session

10-9a-512 Termination of a billboard and associated rights.

- (1) A municipality may only require termination of a billboard and associated rights through:
 - (a) gift;
 - (b) purchase;
 - (c) agreement;
 - (d) exchange; or
 - (e) eminent domain.
- (2) A termination under Subsection (1)(a), (b), (c), or (d) requires the voluntary consent of the billboard owner.
- (3) A termination under Subsection (1)(e) requires the municipality to:
 - (a) acquire the billboard and associated rights through eminent domain, in accordance with Title 78B, Chapter 6, Part 5, Eminent Domain, except as provided in Subsections 10-9a-513(2)(f) and (h); and
 - (b) after acquiring the rights under Subsection (3)(a), terminate the billboard and associated rights.

Amended by Chapter 239, 2018 General Session

10-9a-513 Municipality's acquisition of billboard by eminent domain -- Removal without providing compensation -- Limit on allowing nonconforming billboards to be rebuilt or replaced -- Validity of municipal permit after issuance of state permit.

- (1) As used in this section:
 - (a) "Clearly visible" means capable of being read without obstruction by an occupant of a vehicle traveling on a street or highway within the visibility area.
 - (b) "Highest allowable height" means:
 - (i) if the height allowed by the municipality, by ordinance or consent, is higher than the height under Subsection (1)(b)(ii), the height allowed by the municipality; or
 - (ii)
 - (A) for a noninterstate billboard:
 - (I) if the height of the previous use or structure is 45 feet or higher, the height of the previous use or structure; or

- (II) if the height of the previous use or structure is less than 45 feet, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than 45 feet; and
- (B) for an interstate billboard:
 - (I) if the height of the previous use or structure is at or above the interstate height, the height of the previous use or structure; or
 - (II) if the height of the previous use or structure is less than the interstate height, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than the interstate height.
- (c) "Interstate billboard" means a billboard that is intended to be viewed from a highway that is an interstate.
- (d) "Interstate height" means a height that is the higher of:
 - (i) 65 feet above the ground; and
 - (ii) 25 feet above the grade of the interstate.
- (e) "Noninterstate billboard" means a billboard that is intended to be viewed from a street or highway that is not an interstate.
- (f) "Visibility area" means the area on a street or highway that is:
 - (i) defined at one end by a line extending from the base of the billboard across all lanes of traffic of the street or highway in a plane that is perpendicular to the street or highway; and
 - (ii) defined on the other end by a line extending across all lanes of traffic of the street or highway in a plane that is:
 - (A) perpendicular to the street or highway; and
 - (B)
 - (I) for an interstate billboard, 500 feet from the base of the billboard; or
 - (II) for a noninterstate billboard, 300 feet from the base of the billboard.
- (2)
 - (a) If a billboard owner makes a written request to the municipality with jurisdiction over the billboard to take an action described in Subsection (2)(b), the billboard owner may take the requested action, without further municipal land use approval, 180 days after the day on which the billboard owner makes the written request, unless within the 180-day period the municipality:
 - (i) in an attempt to acquire the billboard and associated rights through eminent domain under Section 10-9a-512 for the purpose of terminating the billboard and associated rights:
 - (A) completes the procedural steps required under Title 78B, Chapter 6, Part 5, Eminent Domain, before the filing of an eminent domain action; and
 - (B) files an eminent domain action in accordance with Title 78B, Chapter 6, Part 5, Eminent Domain;
 - (ii) denies the request in accordance with Subsection (2)(d); or
 - (iii) requires the billboard owner to remove the billboard in accordance with Subsection (3).
 - (b) Subject to Subsection (2)(a), a billboard owner may:
 - (i) rebuild, maintain, repair, or restore a billboard structure that is damaged by casualty, an act of God, or vandalism;
 - (ii) relocate or rebuild a billboard structure, or take another measure, to correct a mistake in the placement or erection of a billboard for which the municipality issued a permit, if the proposed relocation, rebuilding, or other measure is consistent with the intent of that permit;
 - (iii) structurally modify or upgrade a billboard;
 - (iv) relocate a billboard into any commercial, industrial, or manufacturing zone within the municipality's boundaries, if the relocated billboard is:

- (A) within 5,280 feet of the billboard's previous location; and
- (B) no closer than 300 feet from an off-premise sign existing on the same side of the street or highway, or if the street or highway is an interstate or limited access highway that is subject to Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distance allowed under that act between the relocated billboard and an off-premise sign existing on the same side of the interstate or limited access highway; or
- (v) make one or more of the following modifications, as the billboard owner determines, to a billboard that is structurally altered by modification or upgrade under Subsection (2)(b)(iii), by relocation under Subsection (2)(b)(iv), or by any combination of these alterations:
 - (A) erect the billboard:
 - (I) to the highest allowable height; and
 - (II) as the owner determines, to an angle that makes the entire advertising content of the billboard clearly visible; or
 - (B) install a sign face on the billboard that is at least the same size as, but no larger than, the sign face on the billboard before the billboard's relocation.
- (c) A modification under Subsection (2)(b)(v) shall comply with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, to the extent applicable.
- (d) A municipality may deny a billboard owner's request to relocate or rebuild a billboard structure, or to take other measures, in order to correct a mistake in the placement or erection of a billboard without acquiring the billboard and associated rights through eminent domain under Section 10-9a-512, if the mistake in placement or erection of the billboard is determined by clear and convincing evidence, in a proceeding that protects the billboard owner's due process rights, to have resulted from an intentionally false or misleading statement:
 - (i) by the billboard applicant in the application; and
 - (ii) regarding the placement or erection of the billboard.
- (e) A municipality that acquires a billboard and associated rights through eminent domain under Section 10-9a-512 shall pay just compensation to the billboard owner in an amount that is:
 - (i) the value of the existing billboard at a fair market capitalization rate, based on actual annual revenue, less any annual rent expense;
 - (ii) the value of any other right associated with the billboard;
 - (iii) the cost of the sign structure; and
 - (iv) damage to the economic unit described in Subsection 72-7-510(3)(b), of which the billboard owner's interest is a part.
- (f) If a municipality commences an eminent domain action under Subsection (2)(a)(i):
 - (i) the provisions of Section 78B-6-510 do not apply; and
 - (ii) the municipality may not take possession of the billboard or the billboard's associated rights until:
 - (A) completion of all appeals of a judgment allowing the municipality to acquire the billboard and associated rights; and
 - (B) the billboard owner receives payment of just compensation, described in Subsection (2)(e).
- (g) Unless the eminent domain action is dismissed under Subsection (2)(h)(ii), a billboard owner may proceed, without further municipal land use approval, to take an action requested under Subsection (2)(a), if the municipality's eminent domain action commenced under Subsection (2)(a)(i) is dismissed without an order allowing the municipality to acquire the billboard and associated rights.
- (h)

- (i) A billboard owner may withdraw a request made under Subsection (2)(a) at any time before the municipality takes possession of the billboard or the billboard's associated rights in accordance with Subsection (2)(f)(ii).
 - (ii) If a billboard owner withdraws a request in accordance with Subsection (2)(h)(i), the court shall dismiss the municipality's eminent domain action to acquire the billboard or associated rights.
- (3) Notwithstanding Section 10-9a-512, a municipality may require the owner of a billboard to remove the billboard without acquiring the billboard and associated rights through eminent domain if:
 - (a) the municipality determines:
 - (i) by clear and convincing evidence that the applicant for a permit intentionally made a false or misleading statement in the applicant's application regarding the placement or erection of the billboard; or
 - (ii) by substantial evidence that the billboard:
 - (A) is structurally unsafe;
 - (B) is in an unreasonable state of repair; or
 - (C) has been abandoned for at least 12 months;
 - (b) the municipality notifies the billboard owner in writing that the billboard owner's billboard meets one or more of the conditions listed in Subsections (3)(a)(i) and (ii);
 - (c) the billboard owner fails to remedy the condition or conditions within:
 - (i) 180 days after the day on which the billboard owner receives written notice under Subsection (3)(b); or
 - (ii) if the condition forming the basis of the municipality's intention to remove the billboard is that it is structurally unsafe, 10 business days, or a longer period if necessary because of a natural disaster, after the day on which the billboard owner receives written notice under Subsection (3)(b); and
 - (d) following the expiration of the applicable period under Subsection (3)(c) and after providing the billboard owner with reasonable notice of proceedings and an opportunity for a hearing, the municipality finds:
 - (i) by clear and convincing evidence, that the applicant for a permit intentionally made a false or misleading statement in the application regarding the placement or erection of the billboard; or
 - (ii) by substantial evidence that the billboard is structurally unsafe, is in an unreasonable state of repair, or has been abandoned for at least 12 months.
- (4) A municipality may not allow a nonconforming billboard to be rebuilt or replaced by anyone other than the billboard's owner, or the billboard's owner acting through a contractor, within 500 feet of the nonconforming location.
- (5) A permit that a municipality issues, extends, or renews for a billboard remains valid beginning on the day on which the municipality issues, extends, or renews the permit and ending 180 days after the day on which a required state permit is issued for the billboard if:
 - (a) the billboard requires a state permit; and
 - (b) an application for the state permit is filed within 30 days after the day on which the municipality issues, extends, or renews a permit for the billboard.

Amended by Chapter 239, 2018 General Session

10-9a-514 Manufactured homes.

- (1) For purposes of this section, a manufactured home is the same as defined in Section 15A-1-302, except that the manufactured home shall be attached to a permanent foundation in accordance with plans providing for vertical loads, uplift, and lateral forces and frost protection in compliance with the applicable building code. All appendages, including carports, garages, storage buildings, additions, or alterations shall be built in compliance with the applicable building code.
- (2) A manufactured home may not be excluded from any land use zone or area in which a single-family residence would be permitted, provided the manufactured home complies with all local land use ordinances, building codes, and any restrictive covenants, applicable to a single family residence within that zone or area.
- (3) A municipality may not:
 - (a) adopt or enforce an ordinance or regulation that treats a proposed development that includes manufactured homes differently than one that does not include manufactured homes; or
 - (b) reject a development plan based on the fact that the development is expected to contain manufactured homes.

Amended by Chapter 14, 2011 General Session

10-9a-515 Regulation of amateur radio antennas.

- (1) A municipality may not enact or enforce an ordinance that does not comply with the ruling of the Federal Communications Commission in "Amateur Radio Preemption, 101 FCC 2nd 952 (1985)" or a regulation related to amateur radio service adopted under 47 C.F.R. Part 97.
- (2) If a municipality adopts an ordinance involving the placement, screening, or height of an amateur radio antenna based on health, safety, or aesthetic conditions, the ordinance shall:
 - (a) reasonably accommodate amateur radio communications; and
 - (b) represent the minimal practicable regulation to accomplish the municipality's purpose.

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-516 Regulation of residential facilities for persons with disabilities.

A municipality may only regulate a residential facility for persons with a disability to the extent allowed by:

- (1) Title 57, Chapter 21, Utah Fair Housing Act, and applicable jurisprudence;
- (2) the Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., and applicable jurisprudence; and
- (3) Section 504, Rehabilitation Act of 1973, and applicable jurisprudence.

Repealed and Re-enacted by Chapter 309, 2013 General Session

10-9a-520 Licensing of residences for persons with a disability.

The responsibility to license programs or entities that operate facilities for persons with a disability, as well as to require and monitor the provision of adequate services to persons residing in those facilities, shall rest with:

- (1) for programs or entities licensed or certified by the Department of Human Services, the Department of Human Services as provided in Title 62A, Chapter 5, Services for People with Disabilities; and
- (2) for programs or entities licensed or certified by the Department of Health, the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

Amended by Chapter 309, 2013 General Session

10-9a-521 Wetlands.

A municipality may not designate or treat any land as wetlands unless the United States Army Corps of Engineers or other agency of the federal government has designated the land as wetlands.

Enacted by Chapter 388, 2007 General Session

10-9a-522 Refineries.

- (1) As used in this section, "develop" or "development" means:
 - (a) the construction, alteration, or improvement of land, including any related moving, demolition, or excavation outside of a refinery property boundary;
 - (b) the subdivision of land for a non-industrial use; or
 - (c) the construction of a non-industrial structure on a parcel that is not subject to the subdivision process.
- (2) Before a legislative body may adopt a non-industrial zoning change to permit development within 500 feet of a refinery boundary, the legislative body shall consult with the refinery to determine whether the proposed change is compatible with the refinery.
- (3) Before a land use authority may approve an application to develop within 500 feet of a refinery boundary, the land use authority shall consult with the refinery to determine whether the development is compatible with the refinery.
- (4) A legislative body described in Subsection (2), or a land use authority described in Subsection (3), may not request from the refinery:
 - (a) proprietary information;
 - (b) information, if made public, that would create a security or safety risk to the refinery or the public;
 - (c) information that is restricted from public disclosure under federal or state law; or
 - (d) information that is available in public record.
- (5)
 - (a) This section does not grant authority to a legislative body described in Subsection (2), or a land use authority described in Subsection (3), to require a refinery to undertake or cease an action.
 - (b) This section does not create a cause of action against a refinery.
 - (c) Except as expressly provided in this section, this section does not alter or remove any legal right or obligation of a refinery.

Enacted by Chapter 306, 2010 General Session

10-9a-523 Parcel boundary adjustment.

- (1) A property owner:
 - (a) may execute a parcel boundary adjustment by quitclaim deed or by a boundary line agreement as described in Section 57-1-45; and
 - (b) shall record the quitclaim deed or boundary line agreement in the office of the county recorder.
- (2) A parcel boundary adjustment is not subject to the review of a land use authority.

Enacted by Chapter 334, 2013 General Session

10-9a-524 Boundary line agreement.

- (1) As used in this section, "boundary line agreement" is an agreement described in Section 57-1-45.
- (2) A property owner:
 - (a) may execute a boundary line agreement; and
 - (b) shall record a boundary line agreement in the office of the county recorder.
- (3) A boundary line agreement is not subject to the review of a land use authority.

Enacted by Chapter 334, 2013 General Session

10-9a-525 High tunnels -- Exemption from municipal regulation.

- (1) As used in this section, "high tunnel" means a structure that:
 - (a) is not a permanent structure;
 - (b) is used for the keeping, storing, sale, or shelter of an agricultural commodity; and
 - (c) has a:
 - (i) metal, wood, or plastic frame;
 - (ii) plastic, woven textile, or other flexible covering; and
 - (iii) floor made of soil, crushed stone, matting, pavers, or a floating concrete slab.
- (2) A municipal building code does not apply to a high tunnel.
- (3) No building permit shall be required for the construction of a high tunnel.

Enacted by Chapter 129, 2015 General Session

10-9a-526 Homeless shelters.

- (1) As used in this section, "homeless shelter" means a facility that:
 - (a) is or is proposed to be located within a municipality;
 - (b) provides or is proposed to provide temporary shelter to homeless individuals; and
 - (c) has or is proposed to have the capacity to provide temporary shelter to at least 50 individuals per night.
- (2) A municipality may not adopt or enforce an ordinance or other regulation that prohibits a homeless shelter:
 - (a) from operating year-round if the homeless shelter began operation on or before January 1, 2016; or
 - (b) from being built if the site of the homeless shelter is approved by and receives funding through the Homeless Coordinating Committee, with the concurrence of the Housing and Community Development Division within the Department of Workforce Services, in accordance with the requirements of Section 35A-8-604.

Amended by Chapter 21, 2017 General Session

10-9a-527 Historic preservation authority.

- (1)
 - (a) A legislative body may designate a historic preservation authority.
 - (b) A legislative body may not designate the legislative body or the municipality's governing body as a historic preservation authority.

- (2) In making administrative decisions on land use applications, a historic preservation authority shall apply the plain language of the land use regulations to a land use application.
- (3) If a land use regulation does not plainly restrict a land use application, the historic preservation authority shall interpret and apply the land use regulation to favor the land use application.

Enacted by Chapter 17, 2017 General Session

10-9a-528 Cannabis production establishments and medical cannabis pharmacies.

- (1) As used in this section:
 - (a) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102.
 - (b) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.
- (2)
 - (a)
 - (i) A municipality may not regulate a cannabis production establishment in conflict with:
 - (A) Title 4, Chapter 41a, Cannabis Production Establishments, and applicable jurisprudence; and
 - (B) this chapter.
 - (ii) A municipality may not regulate a medical cannabis pharmacy in conflict with:
 - (A) Title 26, Chapter 61a, Utah Medical Cannabis Act, and applicable jurisprudence; and
 - (B) this chapter.
 - (b) The Department of Agriculture and Food has plenary authority to license programs or entities that operate a cannabis production establishment.
 - (c) The Department of Health has plenary authority to license programs or entities that operate a medical cannabis pharmacy.
- (3)
 - (a) Within the time period described in Subsection (3)(b), a municipality shall prepare and adopt a land use regulation, development agreement, or land use decision in accordance with this title and:
 - (i) regarding a cannabis production establishment, Section 4-41a-406; or
 - (ii) regarding a medical cannabis pharmacy, Section 26-61a-507.
 - (b) A municipality shall take the action described in Subsection (3)(a):
 - (i) before January 1, 2021, within 45 days after the day on which the municipality receives a petition for the action; and
 - (ii) after January 1, 2021, in accordance with Subsection 10-9a-509.5(2).

Enacted by Chapter 5, 2019 Special Session 1

10-9a-529 Specified public utility located in a municipal utility easement.

A specified public utility may exercise each power of a public utility under Section 54-3-27 if the specified public utility uses an easement:

- (1) with the consent of a municipality; and
- (2) that is located within a municipal utility easement described in Subsection 10-9a-103(40)(a) through (e).

Enacted by Chapter 434, 2020 General Session



Utah Land Use Development and Management Act

PART 5 – LAND USE REGULATIONS (PAGES 1-4)

May 26, 2021

An aerial photograph of the Annapurna Base Camp region. In the foreground, a valley filled with small, colorful houses and green fields is visible. In the background, a range of high, rugged mountains with significant snow cover stretches across the horizon under a clear blue sky. The text 'ANNAPURNA BASE CAMP' and '2016' is overlaid in white on the lower half of the image.

ANNAPURNA BASE CAMP 2016

Enactment of Land Use Regulation (Zoning Code)

Effective 5/9/2017

Part 5 Land Use Regulations

10-9a-501 Enactment of land use regulation, land use decision, or development agreement.

- (1) Only a legislative body, as the body authorized to weigh policy considerations, may enact a land use regulation.
- (2)
 - (a) Except as provided in Subsection (2)(b), a legislative body may enact a land use regulation only by ordinance.
 - (b) A legislative body may, by ordinance or resolution, enact a land use regulation that imposes a fee.
- (3) A legislative body shall ensure that a land use regulation is consistent with the purposes set forth in this chapter.
- (4)
 - (a) A legislative body shall adopt a land use regulation to:
 - (i) create or amend a zoning district under Subsection 10-9a-503(1)(a); and
 - (ii) designate general uses allowed in each zoning district.
 - (b) A land use authority may establish or modify other restrictions or requirements other than those described in Subsection (4)(a), including the configuration or modification of uses or density, through a land use decision that applies criteria or policy elements that a land use regulation establishes or describes.
- (5) A municipality may not adopt a land use regulation, development agreement, or land use decision that restricts the type of crop that may be grown in an area that is:
 - (a) zoned agricultural; or
 - (b) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act.

Amended by Chapter 60, 2021 General Session

10-9a-502 Preparation and adoption of land use regulation.

- (1) A planning commission shall:
 - (a) provide notice as required by Subsection 10-9a-205(1)(a) and, if applicable, Subsection 10-9a-205(4);
 - (b) hold a public hearing on a proposed land use regulation;
 - (c) if applicable, consider each written objection filed in accordance with Subsection 10-9a-205(4) prior to the public hearing; and
 - (d)
 - (i) review and recommend to the legislative body a proposed land use regulation that represents the planning commission's recommendation for regulating the use and development of land within all or any part of the area of the municipality; and
 - (ii) forward to the legislative body all objections filed in accordance with Subsection 10-9a-205(4).
- (2)
 - (a) A legislative body shall consider each proposed land use regulation that the planning commission recommends to the legislative body.

Amendment to Land Use Regulation (Zoning Code)

- (b) After providing notice as required by Subsection 10-9a-205(1)(b) and holding a public meeting, the legislative body may adopt or reject the land use regulation described in Subsection (2)(a):
 - (i) as proposed by the planning commission; or
 - (ii) after making any revision the legislative body considers appropriate.
- (c) A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation if the legislative body has provided for that consideration by ordinance.

Amended by Chapter 384, 2019 General Session

10-9a-503 Land use ordinance or zoning map amendments -- Historic district or area.

- (1) Only a legislative body may amend:
 - (a) the number, shape, boundaries, area, or general uses of any zoning district;
 - (b) any regulation of or within the zoning district; or
 - (c) any other provision of a land use regulation.
- (2) A legislative body may not make any amendment authorized by this section unless the legislative body first submits the amendment to the planning commission for the planning commission's recommendation.
- (3) A legislative body shall comply with the procedure specified in Section 10-9a-502 in preparing and adopting an amendment to a land use regulation.
- (4)
 - (a) As used in this Subsection (4):
 - (i) "Citizen-led process" means a process established by a municipality to create a local historic district or area that requires:
 - (A) a petition signed by a minimum number of property owners within the boundaries of the proposed local historic district or area; or
 - (B) a vote of the property owners within the boundaries of the proposed local historic district or area.
 - (ii) "Condominium project" means the same as that term is defined in Section 57-8-3.
 - (iii) "Unit" means the same as that term is defined in Section 57-8-3.
 - (b) If a municipality provides a citizen-led process, the process shall require that:
 - (i) more than 33% of the property owners within the boundaries of the proposed local historic district or area agree in writing to the creation of the proposed local historic district or area;
 - (ii) before any property owner agrees to the creation of a proposed local historic district or area under Subsection (4)(b)(i), the municipality prepare and distribute, to each property owner within the boundaries of the proposed local historic district or area, a neutral information pamphlet that:
 - (A) describes the process to create a local historic district or area; and
 - (B) lists the pros and cons of a local historic district or area;
 - (iii) after the property owners satisfy the requirement described in Subsection (4)(b)(i), for each parcel or, if the parcel contains a condominium project, each unit, within the boundaries of the proposed local historic district or area, the municipality provide:
 - (A) a second copy of the neutral information pamphlet described in Subsection (4)(b)(ii); and
 - (B) one public support ballot that, subject to Subsection (4)(c), allows the owner or owners of record to vote in favor of or against the creation of the proposed local historic district or area;



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Temporary Land Use Regulation (Moratorium)

- (iv) in a vote described in Subsection (4)(b)(iii)(B), the returned public support ballots that reflect a vote in favor of the creation of the proposed local historic district or area:
 - (A) equal at least two-thirds of the returned public support ballots; and
 - (B) represent more than 50% of the parcels and units within the proposed local historic district or area;
- (v) if a local historic district or area proposal fails in a vote described in Subsection (4)(b)(iii)(B), the legislative body may override the vote and create the proposed local historic district or area with an affirmative vote of two-thirds of the members of the legislative body; and
- (vi) if a local historic district or area proposal fails in a vote described in Subsection (4)(b)(iii)(B) and the legislative body does not override the vote under Subsection (4)(b)(v), a resident may not initiate the creation of a local historic district or area that includes more than 50% of the same property as the failed local historic district or area proposal for four years after the day on which the public support ballots for the vote are due.
- (c) In a vote described in Subsection (4)(b)(iii)(B):
 - (i) a property owner is eligible to vote regardless of whether the property owner is an individual, a private entity, or a public entity;
 - (ii) the municipality shall count no more than one public support ballot for:
 - (A) each parcel within the boundaries of the proposed local historic district or area; or
 - (B) if the parcel contains a condominium project, each unit within the boundaries of the proposed local historic district or area; and
 - (iii) if a parcel or unit has more than one owner of record, the municipality shall count a public support ballot for the parcel or unit only if the public support ballot reflects the vote of the property owners who own at least a 50% interest in the parcel or unit.
- (d) The requirements described in Subsection (4)(b)(iv) apply to the creation of a local historic district or area that is:
 - (i) initiated in accordance with a municipal process described in Subsection (4)(b); and
 - (ii) not complete on or before January 1, 2016.
- (e) A vote described in Subsection (4)(b)(iii)(B) is not subject to Title 20A, Election Code.

Amended by Chapter 384, 2019 General Session

10-9a-504 Temporary land use regulations.

- (1)
 - (a) A municipal legislative body may, without prior consideration of or recommendation from the planning commission, enact an ordinance establishing a temporary land use regulation for any part or all of the area within the municipality if:
 - (i) the legislative body makes a finding of compelling, countervailing public interest; or
 - (ii) the area is unregulated.
 - (b) A temporary land use regulation under Subsection (1)(a) may prohibit or regulate the erection, construction, reconstruction, or alteration of any building or structure or any subdivision approval.
 - (c) A temporary land use regulation under Subsection (1)(a) may not impose an impact fee or other financial requirement on building or development.
- (2) The municipal legislative body shall establish a period of limited effect for the ordinance not to exceed six months.
- (3)
 - (a) A municipal legislative body may, without prior planning commission consideration or recommendation, enact an ordinance establishing a temporary land use regulation prohibiting



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construction, subdivision approval, and other development activities within an area that is the subject of an Environmental Impact Statement or a Major Investment Study examining the area as a proposed highway or transportation corridor.

- (b) A regulation under Subsection (3)(a):
 - (i) may not exceed six months in duration;
 - (ii) may be renewed, if requested by the Transportation Commission created under Section 72-1-301, for up to two additional six-month periods by ordinance enacted before the expiration of the previous regulation; and
 - (iii) notwithstanding Subsections (3)(b)(i) and (ii), is effective only as long as the Environmental Impact Statement or Major Investment Study is in progress.

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-505 Zoning districts.

- (1)
 - (a) The legislative body may divide the territory over which it has jurisdiction into zoning districts of a number, shape, and area that it considers appropriate to carry out the purposes of this chapter.
 - (b) Within those zoning districts, the legislative body may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and the use of land.
 - (c) A municipality may enact an ordinance regulating land use and development in a flood plain or potential geologic hazard area to:
 - (i) protect life; and
 - (ii) prevent:
 - (A) the substantial loss of real property; or
 - (B) substantial damage to real property.
- (2) The legislative body shall ensure that the regulations are uniform for each class or kind of buildings throughout each zoning district, but the regulations in one zone may differ from those in other zones.
- (3)
 - (a) There is no minimum area or diversity of ownership requirement for a zone designation.
 - (b) Neither the size of a zoning district nor the number of landowners within the district may be used as evidence of the illegality of a zoning district or of the invalidity of a municipal decision.
- (4) A municipality may by ordinance exempt from specific zoning district standards a subdivision of land to accommodate the siting of a public utility infrastructure.

Amended by Chapter 327, 2015 General Session

10-9a-505.5 Limit on single family designation.

- (1) As used in this section, "single-family limit" means the number of individuals allowed to occupy each residential unit that is recognized by a land use authority in a zone permitting occupancy by a single family.
- (2) A municipality may not adopt a single-family limit that is less than:
 - (a) three, if the municipality has within its boundary:
 - (i) a state university; or
 - (ii) a private university with a student population of at least 20,000; or
 - (b) four, for each other municipality.

Zoning Districts

Single-Family Limit



ANNAPURNA 2016



The End

**CENTERVILLE
PLANNING COMMISSION
Staff Backup Report
5/26/2021**

Item No. 5.

Short Title: Community Development Director's Report

Initiated By: Planning Commission

Staff Representative: Community Development Director

SUBJECT

Next Planning Commission Meeting - June 9, 2021:

Tentative Applications or Items:

- *Legacy Lands PDO Amendment & Conceptual Site Plan - Lots 2&3 Legacy Crossing, Applicant - JF Capital*
- *[**Moved to 6/23 Agenda**] Initial ADU Ordinance Review by Planning Commission*

City Council Report:

- *Rezone - Pasture Business Park, Phase 3, **Council Approved***
- *City Council to schedule Goal Planning - 2021/22*

RECOMMENDATION

BACKGROUND

CENTERVILLE

Staff Backup Report
5/26/2021

Item No.

Short Title: May 12, 2021

Initiated By:

Staff Representative:

SUBJECT

RECOMMENDATION

BACKGROUND

ATTACHMENTS:

Description

- ▣ May 12, 2021 Planning Commission Draft Minutes

1 **PLANNING COMMISSION MINUTES OF MEETING**

2 **Wednesday, May 12, 2021**

3 **7:00 p.m.**

4
5 A quorum being present electronically via Zoom and live streamed on the Centerville
6 City YouTube channel due to Infectious Disease COVID-19, the meeting of the Centerville City
7 Planning Commission was called to order at 7:00 p.m.

8
9 **MEMBERS PRESENT**

10 Kevin Daly, Chair
11 Cheylynn Hayman
12 Mason Kjar
13 Heidi Shegrud
14 Christina Wilcox

15
16 **MEMBERS ABSENT**

17 Spencer Summerhays
18 Becki Wright

19
20 **STAFF PRESENT**

21 Cory Snyder, Community Development Director
22 Lisa Romney, City Attorney
23 Mackenzie Wood, Assistant Planner

24
25 **DETERMINATION**

Chair Daly read a determination regarding electronic meetings
without an anchor location due to COVID-19

26
27
28 **PLEDGE OF ALLEGIANCE**

29
30 **OPENING COMMENTS/LEGISLATIVE PRAYER** Commissioner Wilcox

31
32 **PUBLIC HEARING – RANDALL PROPERTY ZONE MAP AMENDMENT**

33
34 Assistant Planner Mackenzie Wood explained the City recently acquired the property at
35 285 North 100 East, near the City Hall complex and across from Centerville Elementary School.
36 The City desired to add the parcel to the William R. Smith Park and City Hall complex. Ms.
37 Wood explained the four approval factors for zoning map amendment, and said Staff
38 recommended approval of the proposed Zone Map Amendment. City Attorney Lisa Romney
39 added that General Plan amendments related to the Zone Map may be presented to the
40 Planning Commission for consideration following Council review at the next City Council
41 meeting.

42
43 Chair Daly opened a public hearing at 7:09 p.m., and closed the public hearing seeing
44 that no one wished to comment. Commissioner Hayman **moved** to approve the Zone Map
45 Amendment for Parcel 02-099-0005 to Public Facilities-Medium, with the following reasons for
46 action. Commissioner Wilcox seconded the motion, which passed by unanimous vote (5-0).

47
48 **Reasons for Action:**

- 49
- 50 a. The Planning Commission finds that there has been a sufficient review and
 - 51 consideration of the criteria found in CZC Section 12.21.080(e).
 - 52 b. The Planning Commission finds that the zone map amendment is substantially
 - 53 consistent with the goals of the General Plan, as described in the staff report.
 - 54 c. The Planning Commission finds the request for Public Facilities-Medium Zoning
 - 55 designation is appropriate.
 - 56

PARKING DISCUSSION – COMPLETED PARKING DISCUSSION MEMO

The Planning Commission recently completed a review of off-street parking requirements. Community Development Director Cory Snyder reviewed the complete list of uses identified as likely needing further parking modification with the Commission. Ms. Romney reported Staff were working on a proposal related to ADUs in response to recent State legislation.

COMMUNITY DEVELOPMENT DIRECTOR REPORT

The Planning Commission was scheduled to meet next on May 26, 2021. Mr. Snyder and Ms. Romney informed the Commission of recent Council agenda items. Mr. Snyder said a joint City Council/Planning Commission work session would be scheduled soon.

MINUTES REVIEW AND ACCEPTANCE

Minutes of the April 28, 2021 Planning Commission meeting were reviewed. Commissioner Hayman **moved** to accept the minutes. Commissioner Wilcox seconded the motion, which passed by unanimous vote (5-0).

ADJOURNMENT

At 7:23 p.m., Chair Daly **moved** to adjourn the meeting. Commissioner Hayman seconded the motion, which passed by unanimous vote (5-0).

Jennifer Hansen, Deputy Recorder

Date Approved

Katie Rust, Recording Secretary