

# CITY COUNCIL MEETING

**DATE OF MEETING:** 17 September 2019

**TIME COMMENCED:** 6:00 p.m.

**LOCATION:** South Weber City Office at 1600 East South Weber Drive, South Weber, UT

<b>PRESENT:</b>	<b>MAYOR:</b>	Jo Sjoblom (excused)
	<b>MAYOR PRO TEM:</b>	Wayne Winsor
	<b>COUNCIL MEMBERS:</b>	Blair Halverson Kent Hyer (electronically) Angie Petty Merv Taylor Wayne Winsor
	<b>CITY ENGINEER:</b>	Brandon Jones
	<b>CITY RECORDER:</b>	Lisa Smith
	<b>CITY MANAGER:</b>	David Larson

**Transcriber:** Minutes transcribed by Michelle Clark

**ATTENDEES:** Tammy Long, Julie Losee, Lacey Westbroek, Hayley Alberts, Lynn Poll, Beth Clemenger, Erik Taylor, Bart Boren, Emily Boren, Michael Grant, Marci Poll, Traci P. Wiese, Tani Lynch, Corinne Johnson, Paul Sturm, Linda Marvel, Kathy Devino, Ember Davis, Mike Sampson, Chad Rackham, Amy Mitchell, Lisa Sweatfield, Kory Sweatfield, Jean Jenkins, Landy Ukena, Debbie Peterson, Ryan Harris, Sandra Layland, Natalie Browning, Stacy Eddings, Stacey Delamare, Tim Delamare, Brandyn Bodily, Joseph Cook, Michael Poff, Holly Williams, and Rebecca Morrill.

Mayor Pro Tem Winsor called the meeting to order and welcomed those in attendance. He excused Mayor Sjoblom from tonight's meeting.

Councilman Taylor moved to approve Councilman Hyer joining tonight's meeting electronically via phone. Councilman Halverson seconded the motion. Mayor Pro Tem Winsor called for the vote. Council Members Halverson, Petty, and Taylor voted aye. The motion carried.

**PLEDGE OF ALLEGIANCE:** Mayor Pro Tem Winsor

**PRAYER:** Councilwoman Petty

**Recognition: 2019 Country Fair Days Committee: Tani Lynch, Vicki Christensen, and Holly Williams.** Mayor Pro Tem Winsor recognized Holly Williams, Tani Lynch, and Vicki

Christensen as the 2019 Country Fair Days Committee and thanked them for their recent service with Country Fair Days. Councilman Hyer expressed his appreciation for these individuals and the opportunity to work with them. He also thanked their families for their sacrifice.

**PUBLIC COMMENT:**

- a. State your name and address**
- b. Each person may speak one time**
- c. Keep public comments to 3 minutes or less per person**
- d. Address the entire City Council**
- e. City Council will not respond during the public comment period**
- f. No comments allowed from the audience**

Councilwoman Petty read a letter for the record submitted by **Michelle Thorn of Sunshine Court**. In this letter, Michelle stated her concern about the parking along 2700 East referencing the narrow width, blind spots and use for a school bus stop. (see Addendum #1 Thorne)

**Corinne Johnson, 8020 S. 2500 E.**, was grateful for questions that have been answered and for feedback. She discussed the recently held town hall meeting in which Mayor Sjoblom and City Manager David Larson participated. She expressed hope for more discussion on the connection to Layton City. She requested clarification on the median that is proposed on 475 East. She proposed a dedicated section on the city website for South Bench Drive to address questions and answers. She brought up moving back the adoption date of the general plan. She asked the City Council to consider citizen's committees and advisory positions for the Lofts and the General Plan. She suggested no parking zones on 2700 East be implemented immediately. She noted citizens would be happy to paint the curb.

**Michael Grant, 2622 Deer Run Drive**, thanked the Council and Mayor for listening to the citizens' concerns. He wondered about a possible mixed-use overlay replacing the Commercial overlay zone. He petitioned the Council not to allow mixed-use anywhere in the city, except maybe Stake Parsons gravel pit. He felt high density housing would increase expenses and the need for more roads including South Bench Drive. He proposed more agriculture or no more than four detached houses per acre. He agreed with the red zone on 2700 East. He queried if the Mayor and City Council would consider one half hour of town hall style meeting in addition to one half hour of public comments. He believed the citizens get more answers in the former format. He proposed an oversight committee to sit with the City Council on all decisions. He proclaimed more eyes help prevent mistakes. (See Addendum #2 Grant)

**Paul Sturm, 2525 Deer Run Drive**, reviewed city codes for several cities in both Davis and Weber counties and did not find any small cities that have a "mixed-use" zone. He communicated the proposed mixed-use overlay appears to be a commercial overlay zone. He conveyed Ogden's mixed-use is for high density populations with a mix of commercial, entertainment, office, personal services, and a variety of residential dwellings in a compact design that encourages compatibility of uses. He stressed that it needs to be close to public transportation. (See Addendum #3 Sturm)

**Ryan Harris, 8039 S. Cedar Court**, compared Kaysville City's careful planning regarding high density to Layton City's poor planning. He revealed the crime rate for Kaysville City is one of the lowest in the country.

**Hayley Alberts, 7560 S. 1740 E.,** verified next week the City Council will be discussing mixed-use overlay. She worried the Planning Commission will be discussing the mixed-use overlay before the public comment period has ended. She pointed out the master plan survey asked citizens if they are interested in mixed-use, but no one knows what it is. She requested the Council postpone the adoption of the general plan until the mixed-use overlay is defined or extend the public comment period. She referred to the Council field trip visiting mixed-use zoning sites, noting Bountiful City had the only commercial that was doing well. She proposed finding unique ways to approach bringing different zoning into the community. She related Commissioner Taylor Walton talked about form-based zoning and described it as a more detailed zoning that allows opportunities to paint what we want for the city and then the developer builds it for us. She suggested parcel zoning and splitting it up which allows for more control. She conveyed smart planning can make South Weber exactly what citizens want. She declared something like the Lofts at Deer Run should never happen again.

**Amy Mitchell, 1923 Deer Run Drive,** related her family has benefited from growth in the city. She conveyed she is guilty of leaving the decision making to the Council. She attended City Council meetings when it directly affected her, but she vowed to no longer sit idly by and let the city officials make decisions without her voice being heard. She appreciated the time spent by city officials to serve and appreciated it takes time away from their families. She read the General Plan, researched and edited her survey comments. She worried that people are overwhelmed and stop before they are finished. She noted the graphs are especially confusing with colors that are hard to differentiate. She explained it is difficult to scroll back and forth to pick the right choice. She noticed that more than 70 people skipped that step and she felt that is unacceptable. She believed a citizens group could have created a survey that all people could understand and navigate easily. She suggested striking out the old and highlighting the new wording in red to give a guided record of what is being changed. She expressed the plan should not be adopted until it has been updated to reflect citizen input and then the citizens need to be able to review it again. She stated the general plan was a contradiction from start to finish. She recounted the master goal states that South Weber will never become a large city but refers to the Wasatch Choices 2050 Plan which is tailored to areas that can handle growth. She announced there can be controlled and smart growth that fits South Weber City. She requested removing all mixed-use from planning concepts until it can be defined by both the City Council and the residents. She articulated South Bench Drive is absolute madness creating a corridor for others to drive through the city on their way to Ogden or Layton. She desired the median on 475 East not be installed until the road is finished from start to end. She cautioned it may need to be removed because of complaints. She asked for a financial breakdown to be added to the city website on this stage of South Bench Drive. She described South Weber's lack of access to mass transit. She suggested the state look at mass transit for Highway 89. She declared the city should look at using the existing ingress/egress roads versus building more roads.

**Michael Poff, 154 Harper Way,** attended FEMA training and expressed the city is missing out on an opportunity for some improvements that he felt everyone could rally behind if the city had a mitigation plan as part of the general plan. He gave an example of the Weber River breaching the gravel pit and running down Canyon View Drive. He discussed a pedestrian access over to the trail might be eligible for some grants if it were in a mitigation plan. He stated there are a lot of questions, answers, and speculation. He thought the citizens need a source identified for questions to be answered from an official capacity whether it be through the City Manager or Mayor. He opined that the general plan was adopted via study without going through the proper



channels to add the portion of South Bench Drive. He purported that was removed from the general plan in 2014 via motion. He claimed a lot of the information from 2014 is no longer available. He encouraged delaying the approval of the general plan.

**Julie Losee, 2541 E. 8200 S.**, was grateful to the Mayor, City Manager, City Council, City Staff and Planning Commission for listening to citizens of this community. She appreciated the time given to ask questions and gather facts and information before deciding. She thanked the audience for their research, concerns, and well-thought-out comments. She questioned how much the city would be out in Transportation Utility Funds if the city doesn't choose three of the state's options for the moderate-income housing. She encouraged the City Council to define a minimum number of units that would be allowed with the mixed-use overlay zone and allowances that are reasonable, responsible and in keeping in line with the goals for future growth in South Weber. She queried how a real estate market downturn would affect the moderate-income numbers. She volunteered to paint the curb red along 2700 East.

**Natalie Browning, 926 E. 4200 S.**, discussed an April 2006 Deseret News article concerning a landslide in South Weber City and emphasized the southwest border of the city was designated as a landslide hazard. She related on 20 February 2005 the hillside slide destroyed a historic barn. She pointed out there was also another incident burying a house farther west. She referenced Utah Geology.gov which explained this area was formed by Lake Bonneville and is relatively fine-grained material that is prone to land sliding. She discussed her concerns with an isolated fire causing a need for a road to Layton City. She questioned why the Mayor and city leaders are willing to change the city for this road. She claimed after the Wasatch Front 2050 meeting the Mayor publicly expressed surprise because the Wasatch Front did not encourage any changes to the city's general plan. She disbelieved the state is pushing the city for any high-density or low-income housing. She challenged the recommended general plan with multiple commercial, high-density housing, and roads. She thought the city leaders are frantic for commercial money and trying to convince everyone. She expressed displeasure at the cost of South Bench Drive. She was troubled about the city paying for a lot from a citizen because they might need it in the future. She inquired if the Fire Department is spending too much for equipment. She opined city leadership has special interests and designed a plan to protect their projects. She proclaimed her profession has a code of ethics. She directed that citizens don't have time to study an issue and cast a ballot each time a decision is made so they elect a Mayor and City Council members to represent their interests. She declared the Council wasn't elected to turn over road plans to UDOT that take away people's land and risk injury to others, to have closed door special meetings on a Monday so that a Planning Commission member can walk in on Wednesday with a whole development of patio homes, nor to fill the town with high density housing and commercial buildings. She relayed the Council was elected because citizens put their faith and trust in them. (see Addendum #4 Browning)

**Ted Dallimore, 1077 East South Bench Drive**, feared the existing South Bench Drive and new South Bench Drive when connected will be an arterial road to Layton City (as per general plan). He argued the road is not wide enough to handle such a traffic flow. He identified pulling back curb and gutter on his small road would be an issue with his steep driveway. He reported his neighbor's property would be split in half. He lamented hearing this information from citizens and not the city. He questioned the grade and stability of the hillside. He proposed the city contact citizens by mail, email, etc. with information so they can comment and help with solutions. He felt including citizens in the decision-making process would make things go easier.

**Lisa Sweatfield, 8051 S. Cedar Court**, communicated some comments on the audio of a Planning Commission meeting she attended a few weeks ago were difficult to hear. She acclaimed her integrity and felt a duty to voice her concerns regarding that meeting. She was displeased with jokes made about citizen's concerns. She expressed gratitude for volunteer work that has a positive outcome on society. She alleged Tim Grubb told Mr. Osborne not to put something "on there" and that if it is not on the map, they won't even look at it. She claimed Tim Grubb never wanted a road going through connecting to Highway 84 because that is the road on which he lives. She was told by several people that was what was originally being looked at on the map in 2014. She opined Tim Grubb expressed years ago he didn't want this road. She believed he didn't want a road and did want a development, so he made them happen in a clever way. She conveyed all citizens of South Weber matter when it comes to making these decisions. Citizens count on elected officials to do what is best and right in general.

**Lynn Poll, 826 E. South Weber Drive**, hadn't seen this many people interested in South Weber ever. He echoed previously voiced concerns as valid. He revealed there are different web pages that people are looking at and he has never seen that before. He pointed out an election is coming. He petitioned the general plan not be approved before the election. He expressed the city doesn't need a South Bench Drive citing the pollution on the hillside. He communicated it can serve a purpose to D.R. Horton Subdivision.

**Joseph Cook, 2700 East and Deer Run**, stated painting the curb on 2700 East is hasty. He suggested waiting until a traffic study is conducted and civil engineering is completed. He verified he is happy to take corrective actions if there are sightline or life safety issues that arise after the studies are completed. He articulated there have been a lot of theatrics and emotion that have created the current situation. He expected to be treated fairly by the city and has been promised such by the staff. He promoted having factual data upon which to base decisions. He recounted a company was trying to conduct a traffic study last Thursday and certain people posted that fact on Facebook resulting in many people driving back and forth over the counter strips to sabotage the data. He voiced that behavior was uncalled for and iterated until such time as facts, logic, and civil engineering are conducted; painting the curb red along 2700 East would be premature. He clarified Sunset City has two mixed-use zones.

**Stacy Eddings, 2645 E. 7800 S.**, explained the purpose of the protest held on 2700 East was to show what parking would be like with the Lofts at Deer Run development. She reported the community is emotional because they feel lied to about this development. She hoped the City Council has heard what the citizens have said.

**Lacee Westbroek, 7475 Jace Lane**, recited from November to March 31<sup>st</sup> there is no parking allowed on 2700 East; however, she requested no parking year-round. She discussed the limited sight distance when vehicles were parked for the protest. She claimed not painting the curb red, endangers children at the bus stop. She urged the council to approve the parking prohibition.

**Kathy Devino, 2480 E. 8300 S.**, echoed the safety issues on 2700 East and anguished it might take a child dying before the curb is painted red.

**Linda Marvel, 8087 S. 2700 E.**, uttered an oversight committee will help everyone to get up to speed on some of the things going on in the city. She believed it could be beneficial to a new

Mayor or Council Member. She proffered there are four to five individuals who are willing to serve on a committee. She communicated the general plan isn't ready for approval. She volunteered to paint the curb red.

**Ember Davis, 7362 S. 2050 E.,** begged the Council not to wait until a kid dies to make this change happen. She urged the Council to let the citizens paint the curb red on 2700 East.

#### **Approval of Consent Agenda**

- **Minutes of 13 August 2019**
- **Minutes of 20 August 2019**
- **Minutes of 27 August 2019**

**Councilman Halverson moved to approve the consent agenda as written. Councilwoman Petty seconded the motion. Mayor Pro Tem Winsor called for the vote. Council Members Halverson, Hyer, Petty, and Taylor voted aye. The motion carried.**

**Discussion Parking restriction on 2700 E by Hayley Alberts:** Hayley Alberts, 7560 S. 1740 E., thanked the Mayor, City Manager, and Council for their willingness to discuss the parking restriction on 2700 East. She helped with the recent no parking protest on 2700 East. She recounted that even with 20 vehicles parked on the road, it was unsafe. She described the difficulty for buses and furniture trucks trying to drive on this road with vehicles parked on both sides of the street. She voiced a traffic study conducted now won't apply after the development completion. She revealed 80% of South Weber citizens are married which means most homes will have two vehicles. She pointed out there are 74 units being proposed for the Lofts at Deer Run. She emphasized it is not a matter of property owner rights but public safety. She then submitted a drawing of a red zone curb in Layton City on Marshall Way and Sugar Street. (see Addendum #5 Alberts)

Councilman Winsor asked if Hayley knew the reason Layton City painted the curb red. Hayley believed it was because it is a narrow road. Paul Sturm stated it was because Smith's grocery store truckers were parking on this road. Councilman Winsor asked for the width of the road and Hayley responded she did not know.

David Larson, City Manager, explained 2700 East is a UDOT owned road, although South Weber City maintains it. He discussed this road with a UDOT representative who told him parking regulations would be up to the discretion of the city. He revealed that areas painted red are usually fire hydrants, etc. and not long straight-of-ways. He pronounced if it is a safety concern, the Council can choose to limit parking. Councilman Winsor feared it would set a precedent for the city. David agreed circumstances here may be repeated in other areas of the city and any decision may set a precedent. He articulated more reasoning and logic behind the decision will be needed. Brandon Jones, City Engineer, said there is no policy on how to handle this situation. David echoed this is the first time the city has been approached with this request. He recommended setting a standard for processing this type of request throughout the city. Councilwoman Petty attended the protest and noticed how narrow the road was with vehicles parked along both sides of the street. She believed there are safety concerns; however, she noted the people who move into this development will be South Weber residents too, and the Council needs to look out for their interests as well. She wasn't sure if painting both sides of the street would help some and not others. Hayley hoped by limited parking the developer would look at

creating more parking in the development. David clarified the requirements for development are all off-street parking. David related Section 10, Chapter 8 discusses parking for all types of development in the city. He clarified part of the previously approved development agreement for The Lofts at Deer Run allows shared parking. Councilman Halverson said the on-street parking has not been calculated with this development. Brandon communicated this developer will have to provide a minimum of 168 parking stalls.

Mayor Pro Tem Winsor asked what a technical traffic study might address. Brandon replied a study will deal mainly with numbers. If there are concerns with a topographical approach, that may be addressed as well. Using the results of the study, the existing traffic and projections based on the proposed development determine if it will change the service level of the road. He supposed safety concerns (sight distance, slope etc.) probably wouldn't be addressed from a standard traffic study. The city would have to evaluate that itself.

Council examined the idea of the city having an independent study conducted. The approximate cost for such study for this area was projected to be \$2,000 to \$5,000. Mayor Pro Tem Winsor asked who would be responsible to pay for it. Brandon suggested there needs to be a policy as to how this case is handled now and in the future.

Hayley understood Council's reluctance to set a precedent but appealed this disallowance should be passed sooner rather than later. Councilwoman Petty proposed painting only one side of the street red to alleviate some concerns. Councilman Halverson recommended referring the matter to a public safety committee with Hayley Alberts involved. It was decided Council members Halverson and Taylor, David Larson, Brandon Jones, and Chief Tolman form the committee along with Hayley Alberts and a citizen of her choice. They will meet to discuss safety concerns, sight distance, possible transportation study, whether to paint the curb red etc. and bring it back to the City Council for a more informed discussion.

Councilman Hyer discussed laws and ordinances established in the city. He summarized the outcry for public safety is because of the number of proposed units and parking stalls. He challenged the developer to listen to the citizens and their concerns, analyzing how it will impact everyone. He gave example of those living in Sandalwood Cove who struggle with limited parking. He mentioned concerns of little green space and lack of room for snow removal. He vocalized the Council must consider the future citizens that will be living in this development.

Hayley reiterated that this development is unique to the city. Councilman Taylor explained misgivings with painting the curb red and setting a precedent for safety concerns throughout the city. He urged the Council not to jump into a decision and questioned if the citizens want this change because they are mad at the developer. Hayley communicated it is strictly because of safety concerns.

Joseph Cook spelled out these units are not apartments but high-end condominiums. He explained there will be an elevator in the interior and owners will pay in excess of \$200/square foot. He described there are over 2.3 parking stalls per unit. He mentioned the property on the other side of the canal may be used for additional parking. He promised to discuss parking further with his engineer. He pronounced it is logical to analyze before making any decisions.



Mayor Pro Tem Winsor appealed to the developer to consider the other properties along 2700 East that may develop in the future and contribute to future traffic congestion.

### **New Business:**

The City Council considered extending the general plan timeline. David divulged the only hard deadline is December 1<sup>st</sup> for submission of the moderate-income housing plan.

### **Reports:**

**Councilman Taylor:** He reviewed complaints concerning vehicles using the South Weber Exit as a U-turn and expressed UDOT is aware of the problem. He inquired on the fill material recently dumped across the street on the Ray property and verified no development has been approved. Code enforcement officer Chris Tremea will follow up. Councilman Taylor reported a grant has been approved for \$47,000 for trails. He argued in favor of access in and out of the city, especially if there were a natural disaster. He acknowledged the concern for the city to remain rural but noted property will be sold and developed. He professed no one in city government is involved for personal gain. He related individuals have recused themselves at times. He petitioned the citizens not to rely on rumors and mob violence, but to stick to the facts.

**Councilman Halverson:** He revealed the Planning Commission recommended to the City Council the removal of the commercial overlay zone. In addition, Commissioner Osborne requested mixed-use be defined as soon as possible by the City Council. He related a short-term rental on Canyon Drive was approved for conditional use. He received an email and phone call inquiring how citizens would purchase a digital solar speed limit sign. David suggested the Public Safety Committee address that topic in their meeting. Councilman Halverson thanked citizens for their public comment.

**Councilwoman Petty:** She conveyed the Parks and Recreation Committee met to discuss improvements on city parks. David updated the Council concerning Canyon Meadows Park wetlands. The city has been given a timeline of November 5, 2019 to submit restoration plans. Councilman Taylor felt those who installed the fill should pay to remove it. Councilwoman Petty voiced she is not against a citizens committee, but she encouraged citizens to contact the Council members as well.

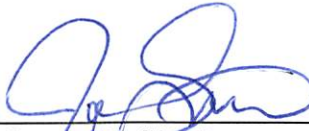
**Councilman Winsor:** He announced the Short-Term Rental Committee will be meeting soon. He resolved questions regarding South Bench Drive referencing audio from the September 23, 2014 Council meeting around hour 2 minute 10. He explained the road was called Old Fort Road and was later changed to South Bench Drive.

**David Larson, City Manager:** He attended the Utah League of Cities and Towns conference. Keynote Speaker Andrew Card, who was the Chief of Staff for President George W Bush, spoke about what took place on September 11<sup>th</sup> and September 14<sup>th</sup>, 2001. David was reminded that people gave their lives to uphold the opportunities given to citizens of this great nation as demonstrated tonight such as convene public meetings, express varied opinions, and govern.


**ADJOURNED:** Councilman Halverson moved to adjourn the Council Meeting at 8:05 p.m. Councilman Taylor seconded the motion. Council Members Halverson, Hyer, Petty, and Taylor voted yes. The motion carried.



**APPROVED:**

  
\_\_\_\_\_  
Mayor: Jo Sjoblom

Date October 8, 2019

  
\_\_\_\_\_  
Transcriber: Michelle Clark

Attest:

  
\_\_\_\_\_  
City Recorder: Lisa Smith

**Lisa Smith**

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**From:** Michelle Thorne <michthorne22@gmail.com>  
**Sent:** Tuesday, September 17, 2019 3:41 PM  
**To:** Lisa Smith  
**Subject:** Re: Question

I would like to make some comments regarding parking on 2700 East.

1. This is a very narrow road. For anyone that participated in the Park and Protest event, it was obvious how congested that road can get if parking is allowed on that street.
2. I lived in Park City for nearly 20 years and there are many roads that did not allow parking on them due to how narrow they were and snow removal needs as well as the general congestion it caused. Even during non-winter months, it creates blind spots for traffic trying to turn in and out of neighborhood streets connected to it.
3. This is a road that is used by the school buses to pick up children. Cars parked on the road creates blind spots for kids running into the streets and getting on and off buses.

There is a place for street parking, but 2700 East is not it. Even down near the Maverick as that becomes more commercial. It'll just create more gridlock.

Thanks for your time!

Michelle Thorne

On Tue, Sep 17, 2019 at 3:30 PM Lisa Smith <[lsmith@southwebercity.com](mailto:lsmith@southwebercity.com)> wrote:

I would be happy to accept that and have it read at the meeting.

Lisa

**From:** Michelle Thorne <michthorne22@gmail.com>  
**Sent:** Tuesday, September 17, 2019 3:27 PM  
**To:** Lisa Smith <[lsmith@southwebercity.com](mailto:lsmith@southwebercity.com)>  
**Subject:** Question

I know the city council will be discussing the issue of parking on 2700 East. I cannot be there but wanted to email my thoughts on this. Is this where I can do that or do I need to submit it some place else via email?

Michelle Thorne

# Cc 2019-09-17 Addendum #2 Grant

City Council

Thanks for listening to us. I still feel that we need to keep reminding the City Council of our issues else they might slip into their old ways.

For example hopefully the Commercial Overlay would be buried by you tonight, but then Mixed Use might start evolving. It is like your garden weeds. They keep coming back.

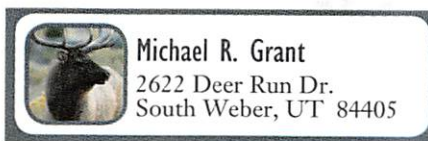
Please don't allow any mixed use anywhere, except maybe Staker Parson's pit when decommissioned.

High density housing is going to increase expenses and need for more roads including South Bench Drive. Therefore from the very get go, don't even have high density housing. It should be either agricultural or no more than four detached houses per acre.

Please approve of Red Zone no parking zone on Frontage Road. Remember the idea is to make the Lofts more palatable to the rest of us by enforcing City Code. Really each unit in the Lofts should have two parking spots. They need to increase the size of their parking lot and reduce the number of units.

Consider one half hour of town hall style meeting here in addition to one half hour of public comments. Town hall style meeting is where we get our answers. It was a big hit last week.

Also I would recommend an Oversight Committee who can sit with City Council on all decisions. They obviously won't have voting rights on any issue but they will safeguard our interest and agenda.







**QUESTIONS / COMMENTS  
FOR  
SOUTH WEBER CITY - CITY COUNCIL**

**CITY COUNCIL MEETING DATE: 17SEP19**

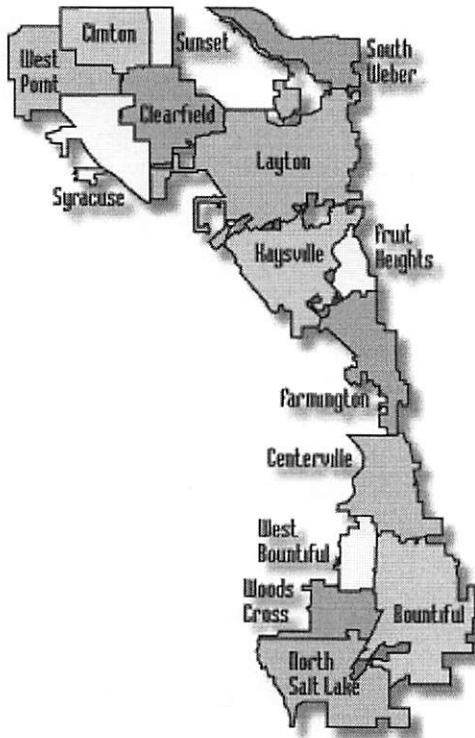
**TOPIC: "MIXED USE"**

I reviewed the city codes for over a dozen cities in both Davis and Weber Counties, have yet to find any small-sized city that has a "Mixed Use" zone in their city codes. This included using a list of Davis County cities (Exhibit #1 - Attached) with its small population cities varying between Sunset at 5,176 to Woods Cross at 10,930. The only Mixed Use zone that I have been able to locate is from Ogden, with a population of approximately 87,000. A copy of that code is contained in Exhibit #2 (Attached), including the website where it is located.

It is startling to read what this "Mixed Use" code states. It is a re-incarnation of the C-O zone in many places, the zone that we just removed from South Weber City. We are not an Ogden and do not ever want to become like that city! The "Mixed Use" zone appears to be for high density populations with a mix of commercial, entertainment, office, Personal Services, and a variety of residential dwellings,...in a compact design that encourages compatibility of uses. It also stresses that it needs to be close to public transportation.

# EXHIBIT #1

## Cities in Davis County



Approximate Populations of Davis County Cities (2016)

City	Population	Date Incorporated
<u>Bountiful</u>	43,428	December 5, 1892
<u>Centerville</u>	16,727	May 5, 1915
<u>Clearfield</u>	30,483	July 17, 1922
<u>Clinton</u>	21,210	August 29, 1936
<u>Farmington</u>	21,983	December 15, 1892
<u>Fruit Heights</u>	5,840	August 3, 1939
<u>Kaysville</u>	29,799	March 15, 1868
<u>Layton</u>	72,413	December 30, 1937
<u>N. Salt Lake</u>	18,753	September 3, 1946
<u>S. Weber</u>	6,762	December 2, 1920
<u>Sunset</u>	5,176	August 27, 1938
<u>Syracuse</u>	26,668	September 3, 1935
<u>W. Bountiful</u>	5,436	December 31, 1948
<u>West Point</u>	10,112	October 14, 1935
<u>Woods Cross</u>	10,930	September 4, 1930
Unincorporated Davis County	3,572	-----





EXHIBIT #2

Ogden City, UT

Ogden City  
POPULATION (2017)

87,031

Please contact the municipality for questions regarding regulations.

Ogden, UT webpage / (801) 399-4357

## Chapter 39

### MIXED USE ZONE MU

#### 15-39-1: PURPOSE AND INTENT:

#### 15-39-2: APPLICATION OF MIXED USE ZONE:

#### 15-39-3: USES WITHIN A MIXED USE (MU) ZONE:

#### 15-39-4: GENERAL DEVELOPMENT STANDARDS:

#### 15-39-5: PROJECT MASTER PLAN REQUIREMENTS:

#### 15-39-6: DEVELOPMENT AGREEMENT REQUIREMENTS:

#### 15-39-7: MIXED USE (MU) APPLICATION AND REVIEW PROCEDURE:

#### 15-39-8: USES AND STANDARDS ALLOWED FOR MIXED USE ZONE PROJECTS:

#### 15-39-1: PURPOSE AND INTENT:

The purpose of the mixed use (MU) zone is to establish a zoning district to allow the development or redevelopment of land in a manner that requires projects to be designed and planned to provide a mix of uses created by various commercial, entertainment, recreation, open space and a variety of higher density residential styles that creates a quality design and urban community or village feel. The mixed use development standards help to encourage vibrant, active centers by a variety of uses in a pedestrian friendly environment and promote architectural quality in building designs. The scale and intensity of a mixed use development may vary depending on location, types of mixed uses and development theme.

(Ord. 2011-23, 5-3-2011)

#### 15-39-2: APPLICATION OF MIXED USE ZONE:

A. The mixed use zone with its regulations is intended to be applied to two (2) types of locations:

1. The downtown area of Ogden typically being designed for use as a transit oriented development project, or
2. An approved redevelopment district

B. The MU zone shall only be applied to create and maintain mixed use projects that are mixed use in a vertical or horizontal manner. Vertical mixed use projects incorporate different land use types within the same building (e.g., residential, office or retail). Horizontal mixed use projects incorporate different land uses within adjacent buildings on the same site. Both types of mixed use styles in a project are encouraged.

(Ord. 2011-23, 5-3-2011)

#### 15-39-3: USES WITHIN A MIXED USE (MU) ZONE:

A. The variety of uses allowed in an MU zone are intended to create a mix of commercial, entertainment, office, personal services, and a variety of residential dwelling land use types that can be developed in a compact design that encourages compatibility of uses. Each mixed use zone application may have a different theme that is identified in the approval process that establishes the type of mixed uses proposed. For redevelopment districts this is identified in the redevelopment plan. A key component is that a mix of land use types (i.e., commercial, office, personal services, entertainment or recreational, and residential) is required either vertically or horizontally in the development. A mixed use development is required to have at least three (3) different land use types with one type being residential. If the mixed use development theme is residential, no one specific residential building type may exceed more than sixty percent (60%) of the residential building types proposed for the project master plan. If the mixed use theme is transit oriented development or commercial, no more than sixty percent (60%) of the total square footage of the buildings may be commercial. The permitted uses of a mixed use zone and design standards shall be those uses and standards specified in the approval process and shall be included in section 15-39-8 of this chapter as permitted uses and standards for the specified development.

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B. To ensure compatibility of uses, the following uses shall not be permitted in any MU zone:

Any business with outdoor storage.

Business with drive-through window service.

Car wash.

Convenience store/service station/auto lube and oil centers.

Manufacturing uses.

Motor vehicle or motor recreational vehicle sales and display.

Motor vehicle repair and service.

Recycling centers/recycling collection areas.

Rehabilitation/treatment, protective housing, transitional housing, or boarding house.

Sexually oriented businesses.

Short term loan businesses.

Single-family detached dwelling on lots over three thousand (3,000) square feet.

Single retail unit space over forty thousand (40,000) square feet.

Social clubs/taverns/cabaret below or above residential dwellings or within one hundred (100) linear feet of residential dwellings.

Warehousing as the main use.

C. The MU zone is a mixture of uses with no one land use type being a constant dominant or prevailing use. Since the land uses allowed are determined by the project master plan and development agreement with mixtures of land use types dependent upon location and type of project being developed, the MU zone shall not be considered as a commercial or a manufacturing zone for the purpose of consideration of off premises signage location under state law.

(Ord. 2011-23, 5-3-2011)

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#### 15-39-4: GENERAL DEVELOPMENT STANDARDS:

A. The mixed use zone is intended to be applied in various locations in the downtown area or redevelopment districts. To create a true mixed use, the master plan and actual development of each location shall be in a manner that the design of the buildings, parking, land uses and landscaping create a compact development and quality design of building and spaces. Attention to the design is required to create a vibrant, interactive and connected development both internally and to its surroundings. The approved project master plan shall demonstrate that the project is developed paying attention to these standards as well as the development theme being proposed. The development agreement and, in redevelopment areas, approval of each phase of the development will determine site specific details, setbacks and building placements and use locations following the concepts of the approved project master plan which incorporates these standards. In order to guide the development of the project master plan each project approval will be guided by the compliance to the following mixed use general development standards.

##### 1. Site Design:

###### a. Downtown area:

(1) Setbacks: Buildings with ground level commercial uses should be located next to street property lines in order to create a street edge and give visual preference to pedestrian related access to the structures. Some variation for a portion of the building setback may be considered when outdoor spaces for the ground level use are developed such as outdoor dining or entrance features. Buildings with ground level residential use shall have a landscaped transition space from the street property line to the building of not greater than fifteen feet (15') which allows porches, stairways, or a common building entrance to create a transition area from the public sidewalk to the building. All other side and rear setbacks will be determined based on potential impacts of noise, service areas, and objectionable views created by the service areas or use impacts. Other setbacks may be required by the planning commission when the design and the appropriate distance mitigation is needed along the perimeter of the development to transition from the mixed use to the surrounding developments.

(2) Compact Design: Buildings in a mixed use design need to be clustered so that they are easily accessible for pedestrians and to shared parking areas. Clustering occurs by having the buildings tightly grouped along the street frontage or pedestrian access.

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(3) **Building Orientation:** Buildings shall be designed so that the front of the buildings are oriented to the street. Development projects with deep parcel depths that have buildings going into the property away from main streets shall also have the buildings placed on either side of a central plaza, green space, natural feature or walkway with the buildings fronting that walkway or plaza. When space is limited it may be necessary to create a secondary entrance from the parking area to the building which faces the street.

(4) **Parking/Access/Service Areas:** Parking lots shall be located in the central portions of the development and not along streets so that they can service a variety of buildings. Access to the parking areas should be directed to come from secondary streets when possible in order to create a continuity of buildings along the main street frontage. Surface parking lots shall be landscaped with islands which include trees to help unify the parking lot as a visual amenity to the development. The separation of pedestrian access from vehicular traffic is an important design consideration. Service areas for buildings should be away from pedestrian accesses and public streets. The use of alleys for service of residential parking access is encouraged.

b. **Redevelopment districts outside downtown area:**

(1) **Setbacks:** The appropriate setback from the street will be determined based on the uses on either side of the development on the same side of the street. The important consideration is maintaining the character of the existing streetscape massing and having building setbacks that respond appropriately to those characteristics. All other side and rear setbacks will be determined based on potential impacts of noise, height of structures, service areas, objectionable views created by the types of uses and the design and the appropriate mitigation needed along the perimeter of the development to transition from the mixed use to the surrounding developments.

(2) **Compact Design:** Buildings in a mixed use design need to be clustered so that they are easily accessible for pedestrians and for easy access to shared parking areas. Compact designs create walking connections between buildings. Clustering occurs by grouping the buildings so that several buildings can be accessed from one parking area and from common pedestrian accessways.

(3) **Building Orientation:** Buildings shall be designed so that the front of the buildings are to the street. When central plazas or walkways are part of the design those central buildings shall front the central plaza, green space, natural features or walkway. When space is limited it may be necessary to create a secondary entrance from the parking area to the building which faces the street.

(4) **Parking/Access/Service Areas:** Parking lots shall be located to the side of buildings that front on a street or to the rear of the building areas so that they can service a variety of buildings in a clustered design concept rather than creating one large central parking area. Access to the parking areas should be directed to come from secondary streets when possible in order to create a continuity of the streetscape along the main street frontage. When parking is to the side of a building it shall be set back from the face of the building a minimum of one-third ( $\frac{1}{3}$ ) the depth of the building and the area in front of the parking shall be landscaped. Surface parking lots shall be landscaped with islands which include trees to help unify the parking lot as a visual amenity to the development. The separation of pedestrian access from vehicle traffic is an important design consideration. Service areas for buildings should be away from pedestrian accesses, and public streets. The use of alleys for service access should be encouraged.

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2. **Parking Requirements:**

a. **Downtown area:** The parking requirements for the land uses shall be based on the requirements of section 15-12-3 of this title and these shall be considered as maximum parking requirements. Shared parking reductions according to section 15-12-7 of this title are encouraged with the exception of shared parking for residential dwelling units. A minimum of one stall per dwelling unit is required. Unless a different standard is adopted in an architectural design book, residential parking shall be designed into the dwelling unit if the design is townhomes, detached dwellings or row houses. Multi-story apartments or condos are encouraged to design the parking into the building as much as possible. Exceptions to reduce the residential parking requirement below the minimum requirement through means such as shared vehicles, mass transit system connections or other means can be considered. Nonresidential parking may also consider parking on the public street as meeting the development's parking requirement.

b. **Redevelopment districts outside downtown area:** The parking requirements for the land uses shall be based on the requirements of section 15-12-3 of this title and these shall be considered as the maximum parking requirements. Shared parking reductions according to section 15-12-7 of this title are encouraged with the exception of shared parking for residential dwelling units. A minimum of one and one-half ( $1\frac{1}{2}$ ) stalls per dwelling unit is required. Unless a different standard is adopted in an architectural design book, residential parking shall be designed into the dwelling unit if the design is townhomes, detached dwellings or row houses. Multi-story apartments or condos are encouraged to design the parking into the building as much as possible. Exceptions to reduce the residential parking requirement below the minimum requirement through means such as shared vehicles, mass transit system connections or other means can be considered.

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3. **Building Design:**

a. **Multilevel mixed use buildings** are encouraged to promote architectural quality in building design that a mixed use development needs. Visual interest is an important requirement in the building designs. Visual interest is created by, but not limited to, the following features:

(1) The building design has a visually distinct base, body and cap. These are generally achieved by means of the ground level being the base, the body being the middle portion of the building and the cap being the cornice.

(2) Upper story elements (balconies, windows, terraces) that overlook the street, plaza, and other pedestrian walkways.

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- (3) The perceived height and bulk of the building is relieved by variation in massing and articulation of facades to reduce the visual length of long walls. Variation of rooflines may also be used to reduce the apparent size of mixed use buildings and provide visual interest.
- (4) Building heights vary in the development to create visual relief and the building height transitions from taller buildings to lower heights to achieve compatibility with adjacent properties when the adjacent properties have a one- or two-story maximum height limitation. If the adjacent zone does not have a height limit the taller buildings of the mixed use project shall be located on street corners, major street frontages or as focal points in the development.
- b. Quality of the development is related to the choice of exterior materials used in a mixed use project. Brick, atlas brick or stone shall be the main exterior solid surface building materials on the first level of a building as a minimum and preferably as the main solid surface material for all the building exterior. Simulated materials that provide a similar visual appearance may also be considered above the first floor. Trims and accent materials may be stucco, architectural metals, wood or wood appearing materials. If the mixed use project has an architectural design book for architectural styles, building types, design details and material approved with the master plan that design book will determine the design, materials and all other specified requirements for buildings acceptable for the project.
- c. Uses which are nonresidential at the ground level shall:
- (1) Have the primary frontages of the building either face a street, plaza or pedestrian accessway depending where the primary building frontage is located.
- (2) Have the primary frontage designed with a minimum of seventy percent (70%) in transparent glass to create storefront appearances and a transparency between the building and the pedestrian traffic.
- (3) Have a floor to ceiling height on the ground level between twelve feet (12') and sixteen feet (16').
- d. All sides of the buildings shall receive equal design consideration when they are visible to the pedestrian access areas and the general street system or the building rises above other buildings and is visible from all sides.
4. Open Space: The project master plan shall include an open space element that defines the objectives desired with open space and how open space will be established throughout the development. In approving the open space element of the master plan, the planning commission shall consider how the usable open space shall be provided within the mixed use development with the amount and type of open space depending upon size, scale, and nature of the development. Approved open space may include, but is not limited to, commons, pocket parks, plazas, courtyards, landscape features, water fountains and features, greenbelts, and trail connections. The design shall encourage comfortable and safe pedestrian use, including landscaping, seating areas, and lighting as appropriate as well as connections to public access such as connections to trail systems, and water features. Unless otherwise specified through special agreement or understanding with the city, all open space areas shall be maintained by property owners or homeowners' associations.
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5. Signage: Proper signage design in a mixed use development is important to the overall theme of the development and sign locations need to be part of the design of the project.
- a. Business signs are limited to flat wall mounted signs and projecting signs designed at a pedestrian scale (between 10 feet and 14 feet above the sidewalk) placed on the storefronts and are the typical sign method that will be considered as appropriate, except that building names, development names and directional signage are also permitted if they integrate into the building or theme design of the development.
- b. Developments outside of the downtown area may be allowed one freestanding monument tenant sign not to exceed eight feet (8') in height for each street frontage, provided the monument sign is constructed of the same materials as the adjacent buildings in the development and that the sign fits in context with the development.
- c. Other sign types may be used when allowed by a section of this chapter governing a particular mixed use zone.
6. Application To Existing Buildings:
- a. When a mixed use zone is applied on property outside of a redevelopment district plan area the project master plan may include the use of all or portions of existing buildings provided there is also new construction on the site in connection with the existing building which create a compact mixed use development following the general development standards. If existing buildings comply with the mixed use building design standards, the new construction shall be designed to integrate its design and materials with the existing buildings. When existing buildings do not meet the standards outlined in this section then revisions to the exterior of the existing buildings to create an integrated mixed use development are required as part of the MU zoning consideration.
- b. When the mixed use zoning is applied to a redevelopment district plan area the existing buildings may not be reused if they are deemed a blight by the redevelopment plan or if such reuse of the building hinders the attainment of the overall project master plan by noncompliance with the general development standards and the redevelopment plan.

#### 6. Application To Existing Buildings:

- a. When a mixed use zone is applied on property outside of a redevelopment district plan area the project master plan may include the use of all or portions of existing buildings provided there is also new construction on the site in connection with the existing building which create a compact mixed use development following the general development standards. If existing buildings comply with the mixed use building design standards, the new construction shall be designed to integrate its design and materials with the existing buildings. When existing buildings do not meet the standards outlined in this section then revisions to the exterior of the existing buildings to create an integrated mixed use development are required as part of the MU zoning consideration.
- b. When the mixed use zoning is applied to a redevelopment district plan area the existing buildings may not be reused if they are deemed a blight by the redevelopment plan or if such reuse of the building hinders the attainment of the overall project master plan by noncompliance with the general development standards and the redevelopment plan.

(Ord. 2013-33, 6-25-2013)

#### 15-39-5: PROJECT MASTER PLAN REQUIREMENTS:

A. One of the key requirements in consideration of a request for the mixed use zone is a project master plan. The project master plan establishes the project concept, the general design, proposed mixture of uses and spatial relationships within the project and with adjacent properties outside of the proposed zone. A proposed project master plan for a mixed use (MU) zone shall consist of the following:

1. A map or maps showing the proposed configuration of the project, including all buildings, parking, landscaping improvements, the general location of necessary public and/or private roads, development areas, open space areas (including both improved open space and natural open space), public and/or private trails, public and/or private parks and recreational facilities, public building sites, any major stormwater drainageways, any planned waterways, and the anticipated location of any other major public facilities required to serve the residents and property owners within the project area.
2. A description of the proposed uses for each development area shown on the project master plan map, phasing of development, if any, and shall also include a description of the residential densities or commercial intensities of development that are proposed within each development area or phase.
3. Proposed building elevations showing design, materials and colors being proposed for the buildings. For redevelopment district projects that are being considered for mixed use zoning this will be required only at final approval of each phase of the redevelopment project.
4. A written description of any specific elements of the proposed project that are required to explain the project master plan map and the uses, densities, and intensities of development. Such descriptions shall include descriptions of any specific public facilities, open space elements, parks, trails, recreational facilities, roads or other improvements, alternative development options, phasing requirements, and any limitations to development due to environmental site conditions or potential impacts on adjacent uses.

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B. The proposed project master plan, if the development is outside a redevelopment district, shall be reviewed at the same time as the proposed development agreement. The project master plan shall be modified to incorporate any changes required by the city, any conditions or limitations to the development of the land required by the city and any agreements, approvals or other matters anticipated or required by the city as necessary to develop the subject land. The project master plan, with these corrections, shall be deemed approved upon incorporation into a final development agreement that is adopted by an ordinance in connection with the reclassification of the subject land to mixed use conditional (MU) zoning in accordance with the provisions of this chapter.

C. An approved master plan for the complete area within a redevelopment district that has MU zoning, approved by resolution of the redevelopment agency board, is required before new development is permitted for construction. The master plan shall meet the requirements of this section, the standards of this chapter and also the purposes of the redevelopment district that has been established for the specific redevelopment district.

(Ord. 2011-23, 5-3-2011)

#### 15-39-6: DEVELOPMENT AGREEMENT REQUIREMENTS:

A. The development agreement sets the specific standards and requirements that are attached to a specific mixed use project. The conditions and limitations are based on the approval process and compliance with the general standards and specific requirements established during the approval process for rezoning and the associated master plan. For a development in a redevelopment district plan area the development agreement requirements apply to only the area being considered for final approval to allow construction of a phase of the development, which may or may not include the full development. A proposed and final project development agreement shall include the following minimum requirements:

1. A legal description for the land covered by the proposed project and the names of all persons holding legal title to any portion of such land;
  2. The configuration of the project as shown on a project master plan;
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3. Development standards covering all proposed regulations governing the design, form, location, placement or configuration of any improvement to real property, whether privately or publicly owned, including, without limitation, standards for lot sizes, setbacks, height limitations, landscaping and parking requirements, lighting, signage, fencing, wall and buffer standards, and architectural design guidelines and specifications;
  4. Development standards that may vary from development standards and regulations generally applicable to development in the city, regardless of zoning classification but that are consistent with the general development standards of this chapter;
  5. Development widths for public and private rights of way that may vary from existing city standards and specifications;
  6. A description of the public facilities, services and utilities to be provided and a mechanism to assure that such facilities and services will be provided in connection with any development of the land;
  7. A description of recreational or open space facilities and amenities to be provided and a mechanism to assure that such facilities and amenities will be provided in connection with any development of the land;
  8. A description of the timing and phasing of development;
  9. A description of the various city approvals required before the commencement of construction and other procedures that will be required after approval of the development agreement;
  10. A description of such agreements, conditions or restrictions necessary to cause the project to achieve compliance with the general plan or redevelopment plan, or otherwise necessary to make a finding required for approval of the project;
  11. A requirement that the project be subject to periodic reviews to ascertain compliance with the requirements of the development agreement;
  12. The terms and conditions under which the rights and benefits derived under the development agreement will expire or terminate based on the applicant's failure to meet the conditions of approval or commence development within a reasonable period of time, as well as any other terms and conditions affecting the duration of the agreement;
  13. Provisions for enforcement of the terms and conditions of the development agreement;
  14. Provisions for making amendments to the development agreement;
  15. Such other terms as may be proposed and agreed to between the city and developer; and
  16. Signed by all owners of the property subject to the development agreement, and consented to by any holders of equitable interests in the property.
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**B. The development agreement shall:**

1. Be reviewed at the same time as the proposed project master plan for a rezoning or, in the case of a redevelopment district, at the time of the final approval to allow construction of a phase of the development.
  2. Be modified to incorporate any changes required in the final approval by the city either for the rezoning or to allow development to proceed. The modifications shall include any conditions or limitations to the development of the land required in the final approval by the city and any agreements, approvals or other matters anticipated or required by the city as necessary ultimately to develop the subject land.
  3. For projects not included in a redevelopment district, be adopted and approved as part of an ordinance approving the reclassification of the subject land to the mixed use (MU) zone classification, after review and recommendation of the planning commission and compliance with all notice and hearing requirements.
  4. For projects included in a redevelopment district, be adopted and approved after review and recommendation of the planning commission and compliance with all notice and hearing requirements. If the property to be developed includes land owned by the redevelopment agency, the development agreement shall be approved or denied by the redevelopment agency. If the property to be developed is privately owned, the development agreement shall be approved or denied by the mayor. A development agreement may not be approved or adopted under this subsection B4 if it proposes to make a major change to the approved master plan unless an amendment to the master plan is first approved by the redevelopment agency. Major changes are those changes which would:
    - a. Relocate or remove a street, but not including relocation of parking areas, alleyways or paved surfaces designed for access to individual units or buildings which still comply with the standards of this chapter;
    - b. Relocate, reduce or remove areas of open space, including improved open space or natural open space, designated in the open space element of the master plan as public open space or as publicly accessible green space that is privately maintained;
    - c. Relocate, reduce or remove any public building or public facility;
    - d. Result in a change of use for more than ten percent (10%) of the buildings as designated in the master plan for the phase or development area included in the development agreement;
    - e. Result in an increase or decrease of more than ten percent (10%) of the total number of buildings as designated in the master plan for the phase or development area included in the development agreement;
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- f. Result in a decrease in the density of residential units of more than ten percent (10%) as designated in the master plan for the phase or development area included in the development agreement;
  - g. Result in an increase or decrease in the square footage of nonresidential uses of more than ten percent (10%) as designated in the master plan for the phase or development area included in the development agreement; or
  - h. Result in any one land use type violating the percentage restrictions contained in section 15-39-3 of this chapter.
- C. The development agreement may contain uses, densities and site development standards that may vary from uses, densities and site development standards applicable in different zoning districts, in different MU zones and with respect to different projects. Development regulations and standards of general application, including all applicable requirements of the sensitive area overlay zone, shall apply to the MU zone, unless specifically waived or varied in the development agreement.
- D. The development standards required and allowed in an MU zone adopted pursuant to this chapter shall be those development standards specified in an approved development agreement for the subject project and such other development standards and regulations as are contained in the zoning, subdivision and other land use and development laws and regulations of the city that are not specifically waived or varied in the approved development agreement. The development agreement may provide that the provisions of the development agreement shall control over any inconsistent development standard contained in this title.
- E. The development approval processes and procedures that apply to projects governed by a development agreement, including, without limitation, subdivision, site plan, and other land use approvals, shall be those processes and procedures contained in the city's zoning, subdivision and other land use and development laws and regulations in existence and effective on the date of the application for the applicable land use approval.
- F. Except as set forth in the following sentence, a development agreement and a project master plan for a project covered by a development agreement may be amended on such terms and following such processes as is provided in the final development agreement. Notwithstanding the provisions of the development agreement, any amendment to a development agreement that alters or modifies the duration of the development agreement, modifies the allowed uses, increases the maximum density or intensity of use, deletes any major public amenity described therein, or modifies provisions for reservation and dedication of land, including open space dedications, shall be deemed a substantial amendment and shall require the review and recommendation of the planning commission and a decision by the city council, after complying with all noticing and public hearing requirements for the rezoning of property.
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- G. A development agreement may vest the right of the developer to develop the property that is the subject of the development agreement in accordance with the uses, densities, intensities, general configuration of development and any other development standards described and incorporated into the approved development agreement. Any such vested right shall be subject to the following reserved legislative powers: No provision of a development agreement shall limit the future exercise of the police power of the city in enacting generally applicable land use laws after the date of the approval of a development agreement and to apply such land use laws to modify the vested rights established by an approved development agreement provided that the policies, facts and circumstances applicable to the new land use laws meet the compelling, countervailing public interest exception to the vested rights doctrine in the state of Utah.
- H. Contiguous parcels of land under separate ownership (or proposed to be developed by separate developers) may be included in a single MU zone on the condition that each parcel is covered by the development agreement, the development agreement is signed by all owners and, where applicable, any separate proposed developer. A single development agreement may address the joint or separate obligations of two (2) or more owners or two (2) or more developers of parcels within the property covered by the development agreement. Alternatively, the city may elect to require separate applications and/or separate development agreements under circumstances where property within a single MU zone is or will be owned and/or developed by two (2) or more owners or developers. The city may elect to process related applications for development agreements separately or together. Notwithstanding the above, the city may impose additional conditions and requirements deemed necessary to ensure the implementation of the project master plan considering existing and future ownership scenarios and the likelihood that more than one developer may be involved.
- I. The terms of a development agreement shall be binding on the city and all successors in the ownership and occupancy of any portion of the project property covered by the development agreement. A development agreement may require that the land that is the subject of a development agreement be encumbered and regulated by private covenants, conditions and restrictions consistent with the requirements of the development agreement. The form and content of the covenants, conditions and restrictions shall be determined by the project owner, but the city shall review the instrument prior to recording and may require the inclusion or revision of provisions necessary to implement the approved development agreement.
- J. The development agreement shall be in a form approved by the city attorney. For purposes of final execution, the applicant shall demonstrate to the satisfaction of the city attorney that the agreement will be executed by the owners of all of the property subject to the development agreement, by delivering to the city attorney a copy of a title policy or other documentation acceptable to the city attorney verifying such ownership.

## 15-39-7: MIXED USE (MU) APPLICATION AND REVIEW PROCEDURE:

- A. General Requirements: Applications for the reclassification of property to an MU zone and for a project development agreement approval shall be considered together and recommended approved or denied at the same time by the planning commission with the city council taking final action on the recommendation. Other related, project specific applications requiring approval of the city council, including, without limitation, any necessary general plan text or map amendments shall be considered together and approved or denied at the same time as the application for the MU zone and the development agreement. For rezoning requests other than those in redevelopment districts where the MU zone may be applied, all contiguous property under one ownership shall be planned in a unified and comprehensive fashion and shall be included in an application for MU zone and project development agreement consideration and approval.
- B. Nonredevelopment Project Area Initial Rezoning Application Requirements: The initial application for projects not included in a redevelopment district shall include the following information:
1. Proposed Project Master Plan: A proposed project master plan containing the information required by subsection 15-39-5A of this chapter;
  2. Proposed Development Agreement: The key provisions proposed to be contained in a proposed development agreement, addressing all of the information required by subsection 15-39-6A of this chapter;
  3. Findings: A statement addressing each of the findings required for the approval and adoption of an MU zone, accompanied by such information as may be necessary or appropriate to allow the city to assess the project in light of the required findings;
  4. Description: A description of the existing ownership of the property, any property transactions necessary to implement the project master plan, and a description of how development responsibilities are intended to be handled in light of such ownership;
  5. Fees: Any fee required for processing such application under title 4, chapter 6 of this code; and
  6. Additional Information: The director may require the submission of additional preliminary site development information including slope analysis and other conceptual planning information to the extent reasonably necessary to permit the city to evaluate the proposed development;
  7. Preapplication Conference: The applicant is encouraged to have a preapplication conference with the director to ascertain the appropriate scope of any additional information that may reasonably be expected in connection with any application for an MU zone and development agreement approval. The applicant is also encouraged to meet with the building official and the fire marshal to be advised of how the proposed development standards may affect building and fire code requirements;
  8. Visual Presentation: The applicant shall provide as part of the proposed master plan for the review of the planning commission and the city council a three-dimensional visual presentation, preferably using computer graphics, depicting the buildings to be constructed under the proposed project master plan within the context of existing, surrounding development.
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- C. Planning Commission Review Of Nonredevelopment Project Area Initial Rezoning Application; Preparation Of Proposed Development Agreement: For projects not included in a redevelopment district:
1. The initial application shall first be referred to the planning commission for review and comment at a public meeting. The purpose of such review is not to provide or indicate any approval or denial of such application, but to provide any comments that would assist the director in negotiating the actual terms and conditions of a proposed development agreement with the applicant, and to identify any other related, project specific petitions requiring approval of the city council, such as required plan amendments, which petitions must be filed for concurrent consideration with the application.
  2. After such review and comment of the planning commission, the director, with the assistance of the city attorney, and with the concurrence of the applicant, shall prepare a proposed development agreement containing all of the information required by subsection 15-39-6A of this chapter. After such proposed agreement is completed, the application shall then be scheduled and noticed as a petition for rezoning before the planning commission, along with any other related, project specific petitions requiring approval of the city council.
  3. If the director and the applicant cannot concur on the terms and conditions of a proposed development agreement, the applicant may prepare and submit on its own behalf a proposed development agreement containing all of the information required by subsection 15-39-6A of this chapter. Upon the submission of such agreement, and the submission of any other related, project specific petitions requiring approval of the city council, the application shall be scheduled and noticed as a petition for rezoning before the planning commission.
  4. The initial application, together with the proposed development agreement containing all of the information required by subsection 15-39-6A of this chapter and the complete submission of all other related, project specific petitions requiring approval of the city council, shall constitute a final application for MU zoning.
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D. Review Of Final Application Of Nonredevelopment Project Area: The final application for an MU zone shall be processed and reviewed following the normal processes and procedures for the adoption or amendment of the zoning ordinances and the zoning map. In any area, if general plan amendments are required, the normal processes and procedures for plan amendments shall also be followed, including all noticing and public hearing requirements. For projects not included in a redevelopment district, before an MU zone is designated, the city council, after review and recommendation of the planning commission, shall determine that:

1. The proposed mixed use project to be covered by the MU zone may be approved consistent with any general plan policies for the establishment of mixed use projects or MU zoning and the provisions of this chapter;
2. The proposed mixed use project is described in a conceptual project master plan meeting the requirements of this chapter showing the general configuration of the project, including the general location of development areas and including the types of uses contemplated within each development area, necessary public and/or private roads, recreational and open space amenity areas reasonably anticipated to meet the needs of the residents, any public facilities and other features of the project, which conceptual project master plan is to be incorporated into, and adopted along with, the development agreement;
3. Adequate public and private utility services, streets and other public services can service the proposed development and that if improvements are needed the development agreement contains a mechanism to assure the provision of such services in connection with any development approved pursuant to the development agreement;
4. The applicant has demonstrated the feasibility of complying with all necessary site development standards required for developments in Ogden City and will establish mechanisms necessary to assure compliance with all applicable city ordinances;
5. The proposed development (considering such mitigating conditions as may be imposed) will not have a material adverse impact on other property in the vicinity of the development;
6. The applicant has a reasonable financial plan providing for the construction and maintenance of all reasonably required facilities and other improvements in connection with the development of the project;
7. The proposed development furthers goals and objectives of the general plan; and
8. Approving the MU zone classification will not adversely affect the public health, safety, and general welfare.

Upon approval of an application for an MU zone, the ordinance reclassifying the property to an MU zone and adopting the final development agreement and incorporating the final project master plan shall be published as an amendment to the zoning ordinances and the zoning map. The ordinance shall provide for the execution of the final development agreement and the recording of such agreement against the land covered by the project approvals.

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E. Redevelopment Project Area Rezoning Procedures: A petition or request to rezone property within an established redevelopment district to MU:

1. May be applied for by an interested party or begun by the city.
2. Shall follow the normal procedure for changing zoning of property within Ogden City limits.
3. Shall follow the procedures required by the city.
4. Shall be reviewed by the planning commission in a public hearing after which the planning commission may recommend approval or denial of the request based on the request complying with the general plan and that such zoning change would be in the best interest in furthering the attainment of the purposes of the established redevelopment district.
5. Shall be referred to the city council who, after review and recommendation of the planning commission, shall determine that:
  - a. The proposed mixed use project to be covered by the MU zone may be approved consistent with any general plan policies for the establishment of mixed use projects or MU zoning and the provisions of this chapter;
  - b. The proposed development (considering such mitigating conditions as may be imposed) will not have a material adverse impact on other property in the vicinity of the development;
  - c. The proposed development furthers goals and objectives of the general plan;
  - d. Approving the MU zone classification will not adversely affect the public health, safety, and general welfare; and
  - e. Approving the MU zone classification will further the attainment of the purposes of the established redevelopment district.

F. Master Plan For A Redevelopment MU Zone: Once an area has been rezoned MU in an established redevelopment district, but prior to any new construction, an owner, developer or the redevelopment agency shall submit a master development plan for the entire area that is zoned MU.

1. The master plan shall comply with the regulations and procedures outlined in this chapter in order to be considered for approval.
  2. Approval of the master plan, including any architectural design book, shall be by the redevelopment agency board upon recommendation of the planning commission that the master plan complies with the standards of this chapter, the general plan and the purposes of the redevelopment district. If an architectural design book is utilized, it may be approved or amended in conjunction with the approval of the master plan or at any time thereafter.
  3. An approved master plan for the complete area within a redevelopment district that has MU zoning is required before new development can be considered for a final development agreement.
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**G. Application For Construction, Expansion And Use In A Redevelopment District:**

1. Uses: When a mixed use zone is applied to the area of a redevelopment district, generally the properties have current development or uses on them which the redevelopment plan seeks to upgrade or change. The application of the mixed use zone on these properties based on the redevelopment plan creates a new zoning regulation on the properties.
  - a. The existing properties may continue their use at the time of rezoning but any consideration of exterior improvements (excluding normal maintenance) to the site, new uses on the property, expansion of existing structures, proposals to construct new buildings or use vacant buildings shall not be allowed until such proposals are reviewed and approved as being consistent with the master plan unless special provisions for reuse are approved during the rezoning and the conditions explained as additions to this section.
  - b. A proposal for site improvements, new uses on the property, expansion of existing structures, proposals for new construction or use of vacant buildings shall be considered as final project master plans and development agreement, and shall follow the general development standards and requirements of this chapter in order to receive approval.
  - c. If the property to be developed is owned by the redevelopment agency, the final site plan shall be reviewed by the planning commission and approved or denied by the redevelopment agency. If the land is privately owned the final site plan shall be reviewed by the planning commission and approved or denied by the mayor.
2. Reuse Provisions For Ogden River Redevelopment Plan: Only the existing buildings west of Lincoln Avenue and east of Wall Avenue in the Ogden River redevelopment mixed use zone shall be considered for reuse under the provisions of subsection G1 of this section, provided the reuse complies with the provisions of a change of nonconforming use as required in subsection 15-6-3C of this title. No consideration of expansion of a nonconforming use will be allowed to be considered. The ability to use this provision is lost if the use is no longer nonconforming.

(Ord. 2011-23, 5-3-2011)

**15-39-8: USES AND STANDARDS ALLOWED FOR MIXED USE ZONE PROJECTS:**

**A. Uses allowed in the Ogden River redevelopment MU zone between 18th and 20th Streets, and Wall Avenue to Washington Boulevard:**

**1. Dining:**

- a. Restaurants, provided that if adjacent to the river, required to have outdoor dining areas as part of service. Maximum floor space limited to three thousand (3,000) square feet.
- b. Specialty food or drink businesses with a maximum of two thousand (2,000) square feet of floor area.

**2. Personal services:**

- a. Limited to hairdresser, barber, manicurist, tanning salon.
- b. Must have residential units on floors above personal service business if a ground floor use.

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**3. Professional or business office:**

- a. Building footprint square footage limited to ten thousand (10,000) square foot maximum and required to have dwelling units on floors above office area.

**4. Residential of the following types:**

- a. Attached row homes/townhomes of a minimum of one thousand three hundred (1,300) square feet per dwelling.
  - b. Apartment buildings with average unit size of nine hundred fifty (950) square feet. An apartment building may also include common laundry area or other personal services on main floor in building which are not counted in the average unit size but would not alter the building type as an apartment. An average unit size of nine hundred (900) square feet is allowed if the apartment building provides an on site fitness, meeting or social room, or a combination thereof, larger than the largest unit in the apartment complex on the block.
  - c. Dwelling units above nonresidential space except live-work: Single story of dwelling units above nonresidential space shall have an average unit size of one thousand one hundred (1,100) square feet if three (3) or more units. Where only one residential unit above nonresidential space, unit shall have the same exterior dimensions as the building below. Single story of dwelling units above nonresidential space with two (2) units shall have the same exterior dimensions as the building below and may have one unit a minimum of four hundred (400) square feet for the smallest unit with second unit occupying remainder of the building footprint. Two (2) or more stories of residential above nonresidential space shall have an average unit size of nine hundred (900) square feet.
  - d. Single-family detached dwelling units on lots up to three thousand (3,000) square feet with a density of at least ten (10) dwelling units per acre, provided that the total number of single-family detached dwelling units does not exceed twenty percent (20%) of the total number of residential units in the development.
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5. Retail of the following types:

- a. General retail sales, provided that individual retail use per unit is limited in size to a maximum of ten thousand (10,000) square feet, with no individual building having a footprint larger than fifteen thousand (15,000) square feet and no outdoor storage areas.
- b. Live-work space with a maximum total floor area size of two thousand five hundred (2,500) square feet per live-work combined unit. The ground floor retail space and the dwelling unit above the space shall be internally connected. The product sold on the main floor may also be manufactured or assembled on site provided there is no outdoor storage of materials and only the finished product may be displayed in approved display areas in front of store during business hours and the use does not produce obnoxious odors, fumes, dust or noise detectable or audible from the exterior of the building.

B. Special design standards for Ogden River redevelopment MU zone between 18th and 20th Streets, and Wall Avenue to Washington Boulevard:

1. The height of any building on the south side of the Ogden River shall be limited to a height that will not cast a shadow at twelve o'clock (12:00) noon on December 21 into the closest edge of the water in the river. The edge of the water is determined by the height of the water during the average flow in the river during December.
2. There are two (2) main building categories permitted in the development: a small building category and a large building category.
  - a. In the small building category there are six (6) building types which may be used and are limited to:
    - (1) Cottages;
    - (2) Carriage homes;
    - (3) Townhomes;
    - (4) Apartment buildings of six (6) or less units with one parking stall per unit built into the building;
    - (5) Mixed use buildings with a maximum footprint of one thousand five hundred (1,500) square feet and a maximum of two (2) dwelling units above the nonresidential space; or
    - (6) Live-work.
  - b. The large building category is limited to three (3) building types:
    - (1) Apartment;
    - (2) Mixed use; or
    - (3) Retail.
  - c. There shall be a mixture of at least four (4) different building types on a development block. Buildings from the large building category shall not exceed fifty percent (50%) of the total number of buildings on a development block.

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d. A "development block" is defined as the area bounded by public streets creating the exterior four (4) sides of a development area. When a development block is divided by the Ogden River, a minimum of thirty three percent (33%) of the buildings on each side of the river shall be from the small building category with the entire development block not having more than fifty percent (50%) of the buildings being from the large building category.

3. Within each building type are defined architectural styles that may be used in the development project. The architectural styles that shall be used for the small building types are: arts and crafts, victorian and transitional modern. The architectural styles that shall be used for the large building types also include loft/industrial. Live-work and small mixed use type buildings may use all four (4) architectural styles. The general design characteristics of these architectural styles and by which any building development will be evaluated for compliance to this requirement is found in the "Ogden River Project Design Guide" book. On any one "development block" as defined in subsection B2 of this section there shall be a minimum of three (3) architectural styles used.
  4. No individual large building type shall be longer than one hundred fifty feet (150') along a public street frontage except for the frontages of Wall, Washington and 20th Street. The maximum individual large building type length on those streets is two hundred fifty feet (250'); except the frontage between Lincoln and Grant on 20th Street where the length of the building may equal the length of the block. The maximum individual building length of a large building type facing the Ogden River is one hundred twenty feet (120').
  5. Screening walls are permitted only to screen service areas, dumpsters or to provide separation of transition between spaces. Screening wall design and materials shall match the architectural themes and materials of the buildings in the area they are located.
  6. Fencing shall meet the following standards:
    - a. No fencing of individual spaces is permitted between the front of a building and a public street or between the fronts of buildings and common open space area.
    - b. No fencing is permitted between buildings and the Ogden River unless such fence is used to define a required outdoor dining area and the materials and design are compatible with the building with which it is associated.
    - c. Fencing used to define space between a cottage and an allowed detached garage is limited to wood or ornamental metal fences.
    - d. No chainlink or vinyl fencing is permitted.
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7. Temporary and banner signs meeting the following standards and complying with section 18-3-11 of this code shall be permitted:

a. Temporary Signs: A-frame signs are the only type of temporary signage allowed and are limited to the Ogden River Parkway frontage or the Park Boulevard frontage. A-frame signs along the river frontage must be on private property and may not be located between the river and the south edge of the trail.

b. Banner Signs:

(1) Perpendicular building banner signs and light pole banner signs are the only type of banner signage allowed and are limited to use on commercial, mixed use and live-work buildings.

(2) Light pole banner signs are only allowed in parking lots.

8. The front of buildings located adjacent to 20th Street between Grant Avenue and Washington Boulevard may orient to common open space rather than 20th Street.

(Ord. 2013-24, 5-28-2013; amd. Ord. 2013-33, 6-25-2013; Ord. 2013-34, 6-25-2013; Ord. 2013-43, 10-1-2013)

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Across of Smiths Parting lot  
Layton Marshall Way and Sugar Street.

Hayley Alberts

CC 2019-09-17  
Addendum #4  
Alberts

