



STAFF REPORT

To: Summit County Council
From: Ray Milliner, County Planner
Date of Meeting: August 29, 2018
Type of Item: Code Amendment – Public Hearing Possible Action
Process: Legislative

RECOMMENDATION: Staff recommends that the Summit County Council review the proposal to amend Chapter 11-2-3 of the Eastern Summit County Development Code, conduct a public hearing and approve the attached ordinance.

Proposal

Chapter 11-2-3 of the Development Code regulates water and sewer in new subdivisions and other developments in Eastern Summit County. It places requirements on when, where and how a developer must provide water and sewer in her development.

The purpose of the amendment is to bring water and sewer language in Chapter 11-2-3 of the Eastern Summit County Development Code into conformance with recent amendments in Chapter 4.

Background

On June 14, 2017 the Summit County Council adopted an ordinance significantly rewriting Chapter 4 of the Eastern Summit County Development Code. At the time of said approval, it was acknowledged that from time to time amendments to the Code may be necessary to correct scrivener's errors or inconsistencies created by the amendments.

One of the changes in chapter 4 was the replacement of the "minor subdivision" process with a process for "Subdivisions Consisting of Three or Less Lots". This process was designed by the Eastern Summit County Planning Commission and adopted by the County Council as an administrative process that would give property owners the ability to navigate the subdivision process quickly and efficiently.

One of the specific requirements of Chapter 11-2-3 of the Code is that a developer must demonstrate that "water of an adequate quantity" is available on site prior to the approval of any subdivision with the exception of a *minor subdivision*, which must demonstrate water is available prior to the issuance of a building permit.

Because “minor subdivision” was not replaced with “Subdivision Consisting of Three or Less Lots” in Chapter 2 the determination was made that all subdivisions must provide water in an adequate quantity prior to the approval of a subdivision plat. The purpose of this proposal is to replace all references to a minor subdivision in Chapter 2 with subdivision consisting of three or less lots.

Analysis

Section 11-5-3 of the Eastern Summit County Development Code establishes a process for amendments to the text of the Code, it states that whenever an amendment to the Code is initiated, it must be reviewed by the Planning Commission who will deliver a recommendation to the County Council. The County Council, after holding a public hearing, can approve, approve with modifications or deny the amendment. There is no criterion.

The Eastern Summit County General Plan has specific goals related to future amendments.

Goal 2.1. States:

“Develop land use codes which balance the diversity of desires of Eastern Summit County residents, including private property rights.”

Goal 2.1.i States:

“Create appropriate and predictable development procedures in the Development Code to ensure that all land use and development is adequately reviewed and determined to be consistent with the goals of this Plan before any approvals are granted.”

The Subdivisions Consisting of Three or Less Lots process was created by the Planning Commission and County Council as a simple and quick way for people in Eastern Summit County to subdivide land. The current language is not clear and references a process that no longer exists. The proposed changes will make Chapters 2 and 4 consistent and predictable.

Recommendation

Staff recommends that the Summit County Council review the proposal to amend Chapter 11-2-3 of the Eastern Summit County Development Code, conduct a public hearing and approve the attached ordinance per the findings of fact and conclusions of law written below.

Findings of Fact

1. The goal of Chapter 2 of the Eastern Summit County General Plan is to develop land use codes which balance the diversity of desires of Eastern Summit County residents, including private property rights.

2. In furtherance of this goal, §11-1-1 of the Eastern Summit County Code provides that “The eastern Summit County general plan was developed to ensure that the rural, agricultural and small town character of the eastern portion of the county shall remain, even in the presence of growth and change. The intention of the county is to assure the managed, proper and sensitive development of land to protect and enhance these desired qualities and the lifestyle that exists.”
3. Chapter 11-2-3 of the Development Code regulates water and sewer in new subdivisions and other developments in Eastern Summit County.
4. One of the specific requirements of Chapter 11-2-3 of the Code is that a developer must demonstrate that “water of an adequate quantity” is available on site prior to the approval of any subdivision with the exception of a *minor subdivision*, which must demonstrate water is available prior to the issuance of a building permit.
5. On June 14, 2017 the Summit County Council adopted an ordinance significantly rewriting Chapter 4 of the Eastern Summit County Development Code.
6. One of the changes in chapter 4 was the replacement of the “minor subdivision” process with a process for “Subdivisions Consisting of Three or Less Lots”.
7. “Minor subdivision” was not replaced with “Subdivision Consisting of Three or Less Lots” in Chapter 2.
8. All subdivisions must provide water in an adequate quantity prior to the approval of a subdivision plat.
9. The Subdivisions Consisting of Three or Less Lots process was created by the Planning Commission and County Council as a simple and quick way for people in Eastern Summit County to subdivide land.
10. The current language is not clear and references a process that no longer exists.
11. The proposed changes will make Chapters 2 and 4 consistent and predictable.

Conclusions of Law:

1. The amendment is consistent with the goals, objectives, and policies of the General Plan.
2. The amendment is consistent with the requirements established in chapter 5 of the Eastern Summit County Development Code.
3. The proposed amendment is not detrimental to public health, safety and welfare.

Exhibits

Exhibit A. Proposed Ordinance

**SUMMIT COUNTY, UTAH
ORDINANCE NO. _____**

**AN ORDINANCE AMENDING THE EASTERN SUMMIT COUNTY
DEVELOPMENT CODE SECTIONS 11-2-3: NATURAL RESOURCES, ADEQUATE WATER**

PREAMBLE

WHEREAS, Utah Code Annotated (“UCA”) §17-27a-102(b) provides that counties can enact all ordinances that they consider necessary or appropriate to govern, among other things, water quality; and,

WHEREAS, the goal of Chapter 2 of the Eastern Summit County General Plan is to develop land use codes which balance the diversity of desires of Eastern Summit County residents, including private property rights; and

WHEREAS, In furtherance of this goal, §11-1-1 of the Eastern Summit County Code provides that “The eastern Summit County general plan was developed to ensure that the rural, agricultural and small town character of the eastern portion of the county shall remain, even in the presence of growth and change. The intention of the county is to assure the managed, proper and sensitive development of land to protect and enhance these desired qualities and the lifestyle that exists.” and,

WHEREAS, on June 6, 2017 the Summit County Council adopted an ordinance significantly rewriting Chapter 11-4 of the Eastern Summit County Development Code; and,

WHEREAS, one of the changes in chapter 11-4 was the replacement of the “minor subdivision” process with a process for “Subdivisions Consisting of Three or Less Lots”; and,

WHEREAS, “Minor subdivision” was not replaced with “Subdivision Consisting of Three or Less Lots” in Chapter 11-2-3; and,

WHEREAS, chapter 11-2-3 of the Development Code regulates water and sewer in new subdivisions and other developments in Eastern Summit County; and,

WHEREAS, the current language is not clear and references a process that no longer exists and the proposed changes will make Chapters 11-2-3 and 11-4 consistent and predictable.

WHEREAS, the Eastern Summit County Planning Commission held a public hearing and forwarded a positive recommendation to the County Council on July 19, 2018; and

WHEREAS, the Eastern Summit County Planning Commission recommended adoption of the amended sections of the Eastern Summit County Development Code on July 19, 2018; and

WHEREAS, the Summit County Council held a public hearing on August 29, 2018; and,

NOW, THEREFORE, the County Council of the County of Summit, State of Utah, ordains as follows:

Section 1. **EASTERN SUMMIT COUNTY DEVELOPMENT CODE** The Eastern Summit County Development Code is amended as depicted in Exhibit A.

Section 2. **Effective Date.** This Ordinance shall take effect immediately after publication.

Enacted this 29th day of August, 2018.

ATTEST:

SUMMIT COUNTY COUNCIL

Kent Jones
Summit County Clerk

Kim Carson, Chair

APPROVED AS TO FORM

David L. Thomas
Chief Civil Deputy

VOTING OF COUNTY COUNCIL:

Councilmember Carson	_____
Councilmember Robinson	_____
Councilmember Wright	_____
Councilmember Armstrong	_____
Councilmember Clyde	_____

EXHIBIT A
PROPOSED AMENDMENTS TO CHAPTER 2

11-2-3: WATER AND SEWAGE:

A. Memorandum Of Decision Required: New residential, commercial and industrial development shall not be approved in accordance with the provisions of [chapter 4](#) of this title, nor shall a building permit be issued on a previously platted lot, without evidence of a memorandum of decision from the state engineer demonstrating that water of adequate quantity is available on the site and that water on the site can be used by the applicant to serve the proposed uses/lots, or a commitment from a municipality or private service company to provide water of adequate quantity and quality to serve the proposed use/lot. However, lots within all ~~minor subdivisions~~ [Subdivision Consisting Of Three Or Less Lots](#) shall not be required to have a memorandum of decision from the state engineer nor commitment from a municipality or private service company for each lot. The applicant shall submit documentation indicating what type of water system shall be utilized within the ~~minor subdivision~~ [Subdivision Consisting Of Three Or Less Lots](#), i.e., private wells, municipality or private service company. A note shall be included on the subdivision plat that indicates:

It shall be the responsibility of each lot owner to demonstrate that water of adequate quantity is available for each lot prior to the issuance of a building permit. This shall be accomplished with a memorandum of decision from the state engineer for a private well or a written commitment from a municipality or private service company.

B. Capacity And Capability: No new development or building permit for a previously platted lot, for which water and/or sewer service will be provided by a private service provider, will be approved until the service provider has submitted documentation demonstrating that it has the capacity and capability to serve the development/lot and that it is committed to providing the service.

C. Sewage Collection: New residential, commercial and industrial development shall not be approved in the vicinity of existing well and spring protection zones, which are used for domestic consumption purposes, without a contained sewage collection and disposal system. The impact on protection zones shall be determined based on distance, soil conditions, slope and drainage patterns, or in compliance with state law. Individual septic disposal systems will not be allowed when these zones can be impacted.

D. Sewage Treatment: No development shall be approved without suitable sewage treatment capacity point of discharge, and dependability for the specific use proposed.

E. Adequate Water: No subdivision, low impact use, conditional use or commercial or industrial development shall be approved without adequate water quantity, quality, pressure and dependability to support the use intended and to provide for protection from fire.

1. Applicability: With the exception of ~~minor subdivisions~~ [Subdivisions Consisting Of Three Or Less Lots](#) and low impact uses, the standards for adequate water to serve a project shall be satisfied prior to the approval of a final subdivision plat or final site plan for the proposed development.

~~Water standards for cluster bonus/agricultural preservation minor subdivisions of three (3) or more lots shall be satisfied prior to the recordation of the final plat. Water standards for minor subdivisions of one to two (2) lots~~ [Subdivisions Consisting Of Three Or Less Lots](#) and low impact uses shall be satisfied prior to the issuance of a building permit.