



Staff Report to the Weber County Commission

Weber County Planning Division

Synopsis

APPLICATION INFORMATION

Agenda Item: ZTA 2023-11 and ZTA 2023-12. A public hearing to consider a County-initiated ordinance amendment to Title 106, Subdivisions, providing for changes relative to administrative land use authority, subdivision application review and approval procedures, and financial guarantees required for public improvements.

Agenda Date: Tuesday, January 16, 2024

Applicant: Planning Division

File Numbers: ZTA 2023-11 and ZTA 2023-12

STAFF INFORMATION

Report Presenter: Bill Cobabe
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Report Reviewer: CE

Applicable Ordinances

Utah State Code Section 17-27a-503 – Zoning District or Land Use Regulation Amendments
 Weber County Code Section 102-2-4 – Powers and Duties of the Planning Commission
 Weber County Code Title 106 - Subdivisions

Legislative Decisions

This is a legislative matter. There is wide discretion in making legislative decisions. Criteria for recommendations on a legislative matter suggest compatibility with the general plan, existing ordinances, and best practices. Examples of legislative actions are general plan, zoning map, and land use code amendments.

Summary

In the 2023 Legislative Session, the Utah State Legislature passed a law known as SB 174. This bill requires counties in Utah to change their subdivision review procedure, including several significant process changes that will be discussed in detail below. At the same time, the County desires to amend the provisions in the financial guarantee portion of the subdivision code to ensure the viability of the improvements and bonds the County accepts from developers. These changes must be completed prior to February 1, 2024.

Proposed Changes

The following is a brief explanation of the changes proposed:

1. **Section 106-1-4 Subdivision Application Requirements**, regarding the submittal requirements that the County needs. This is important because up to this point the County has had the option to receive partial submittals and the opportunity to work with developers to determine whether or not an application is complete. Due to the changes in State Code, this opportunity is being curtailed and the County must – from this time forward – only accept “complete” applications. More on that below.
2. **Section 106-1-5.20 Agency Review and Determination of Completeness**, regarding responsibility of the applicant to work with agencies outside of the County Planning Department/Engineering Department to obtain reviews prior to submitting their application and all subsequent revisions, and the requirement for the County to review submittals within 15 days for not more than four review cycles.
3. **106-1-5.30 Approval Procedure**, regarding the designation of the Planning Director as the “Administrative Land Use Authority” to review and approve subdivision plats.

4. **106-1-8.10 Final Plat Required**, regarding the determination of complete applications for final plat and the requirement for the County to review submittals within 20 days for not more than four review cycles.
5. **106-1-8.30 Final Plat Approval Process**, regarding the designation of the Planning Director as the Administrative Land Use Authority for final plat approvals.
6. **Section 106-4-1 (d) Improvements to be installed prior to the issuance of permits**, regarding the required improvements to be installed prior to issuance of permits and a financial guarantee.
7. **Section 106-4-2 Specific Requirements**, regarding specific requirements for improvement, including driveway aprons, and sidewalks and pathways.
8. **Section 106-4-3 Guarantee of Improvements**, regarding financial guarantee of improvements, including financial guarantee cost estimates, financial guarantee expiration and default, partial releases of financial guarantees, warranty guarantees (at conditional acceptance), and final acceptance of guarantees and release of the warranty guarantee. A new provision is added to allow for the authority of the County to use remaining funding to bring the subdivision improvements into compliance with the requirements.

Policy Analysis

Weber County Code Section 102-2-4 requires the Planning Commission to make a recommendation to the County Commission:

The planning commission shall be an advisory board to the county commission, and shall make recommendations regarding:

1. *Amendments to changes in zoning map.*
2. *Land Use Code text amendments.*

Utah State Code further explains the role of the Planning Commission, as found in Section 17-27a-503 Zoning District or Land Use Regulation Amendments:

- (1) *Only a legislative body may amend:*
 - (a) *the number, shape, boundaries, area, or general uses of any zoning district;*
 - (b) *any regulation of or within the zoning district; or*
 - (c) *any other provision of a land use regulation.*
- (2) *A legislative body may not make any amendment authorized by this section unless the legislative body first submits the amendment to the planning commission for the planning commission's recommendation.*
- (3) *A legislative body shall comply with the procedure specified in Section 17-27a-502 in preparing and adopting an amendment to a land use regulation.*

The referenced State Code Section 502 states that:

- (1) *A planning commission shall:*
 - (a) *provide notice as required by Subsection 17-27a-205(1)(a) and, if applicable, Subsection 17-27a-205(4);*
 - (b) *hold a public hearing on a proposed land use regulation;*
 - (c) *if applicable, consider each written objection filed in accordance with Subsection 17-27a-205(4) prior to the public hearing; and*
 - (d)
 - (i) *review and recommend to the legislative body a proposed land use regulation that represents the planning commission's recommendation for regulating the use and development of land within:*
 - (A) *all or any part of the unincorporated area of the county; or*
 - (B) *for a mountainous planning district, all or any part of the area in the mountainous planning district; and*

- (ii) *forward to the legislative body all objections filed in accordance with Subsection 17-27a-205(4).*
- (2)
 - (a) *The legislative body shall consider each proposed land use regulation that the planning commission recommends to the legislative body.*
 - (b) *After providing notice as required by Subsection 17-27a-205(1)(b) and holding a public meeting, the legislative body may adopt or reject the proposed land use regulation described in Subsection (2)(a):*
 - (i) *as proposed by the planning commission; or*
 - (ii) *after making any revision the legislative body considers appropriate.*
 - (c) *A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation if the legislative body has provided for that consideration by ordinance.*

Today's public hearing is in fulfillment of these requirements.

Staff Recommendation

Staff recommends that the Planning Commission consider ZTA 2023-11 and -12 and if the Planning Commission approves, the Planning Commission may forward a positive recommendation to the County Commission for the proposal.

This recommendation may come with the following findings:

1. The proposal helps to accomplish amendments to the subdivision ordinance as required by State statute as well as clarifying and modifying other subdivision requirements.

Planning Commission Recommendations

On December 12, 2023, the Western Weber Planning Commission, and on December 19, 2023, the Ogden Valley Planning Commission met and held public hearings on the proposed changes. By a unanimous vote, the respective planning commissions voted to recommend approval by the County Commission of the proposed changes as outlined below. The only alteration to the staff-proposed language is that the Planning Commissions wished to have the Administrative Land Use Authority reviewing and granting approvals for preliminary plats remain the respective planning commission. Staff has made those changes per the Planning Commission request.

The other change included beyond what the Planning Commission has seen is with regard to the requirement for a pre-application meeting. Staff, in consultation with the UAC legal counsel, has modified the language of Section 106-4-1 (a), eliminating the requirement for a pre-application meeting and adding language that it is strongly recommended.

Exhibits

Exhibit A. Draft Ordinance Language

1 **Title 106 Subdivisions**

2 [Chapter 106-1 General Provisions](#)

3 [Chapter 106-2 Subdivision Standards](#)

4 [Chapter 106-3 Condominium Projects](#)

5 [Chapter 106-4 Subdivision Improvements Required](#)

6 [Chapter 106-5 Enforcement And Permits](#)

7 [Chapter 106-6 Penalty, Validity And Repealer](#)

8 [Chapter 106-7 Owner's Dedication](#)

9 [Chapter 106-8 Signature Blocks](#)

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12 State Law reference—County Land Use, Development, and Management Act subdivision ordinances,
13 U.C.A. 1953, § 17-27a-601 et seq.

14 **Chapter 106-1 General Provisions**

15 [Sec 106-1-1 Purpose And Intent](#)

16 [Sec 106-1-2 \(Reserved\)](#)

17 [Sec 106-1-3 Applicability](#)

18 [Sec 106-1-4 Subdivision Application Requirements](#)

19 [Sec 106-1-5 Preliminary Plan/Plat Requirements And Approval Procedure](#)

20 [Sec 106-1-6 \(Reserved\)](#)

21 [Sec 106-1-7 Subdivision Time Limitations](#)

22 [Sec 106-1-8 Final Plat Requirements And Approval Procedure](#)

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26 **Sec 106-1-4 Subdivision Application Requirements**

27 (a) *Pre-application meeting* ~~required~~. [The county strongly suggests that Each](#) ~~each~~ person who
28 proposes to subdivide land shall confer with the county planning staff before submitting any plats,
29 charts, or plans in order to become familiar with the county subdivision requirements and existing
30 general plans and to discuss the proposed development of the tract. Additional required submittal
31 information will be identified during the pre-meeting, such as sensitive lands, slope analysis,
32 wetlands, wells, taxes, state roads, neighborhood circulation plan, landscape design, and water
33 budget submittal.

34 (b) *Subdivision application submittal*. Subdivision applications shall be submitted to the planning
35 division. Only complete applications will be accepted. A complete application shall include all
36 applicable submittal requirements for subdivision review as required by this Land Use Code,
37 including, but not limited to:

38 (1) *Application form*. A complete subdivision application form, signed by the property
39 owners.

40 (2) *Preliminary plan*. A preliminary plan meeting the requirements, [standards, codes,](#)
41 [regulations, and all other specifications](#), listed in this title [and other applicable regulatory](#)
42 [documents](#). This includes a phasing plan if phasing is proposed.

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46 **Sec 106-1-5.20 Agency Reviews and Determination of Completeness**

47 (a) *Agency review*. The Planning Division shall distribute copies of the preliminary plan to other
48 [County divisions or departments. Any](#) ~~or other reviews by non-county agencies~~ or

49 organizations, outside of the County's direct organization, as ~~authorized by State Law~~ required by
50 County or State Code, that ~~it deems~~ necessary to ensure thorough review of the proposed plan,
51 shall be submitted to the County by the applicant.

52 ~~(b)~~ (b) Application Determination of Completeness. Upon determination of a complete
53 application, the County shall not require more than four review cycles, as outlined in Utah State
54 Code Section 17-27a-604.2, unless mutually agreed upon otherwise by the County and the
55 applicant. The ~~reviewing agencies~~ County shall have ~~30 days~~ 15 business days to review the
56 preliminary plans and return detailed, itemized, and all other applicable information and
57 recommendations to the ~~planning division, after which the planning division shall send the review~~
58 ~~to the applicant.~~

59 *UDOT corridor review.* A subdivision proposed within a designated UDOT corridor preservation area
60 shall be sent to the UDOT regional office for review and comment.

61 HISTORY

62 *Adopted by Ord. 2021-23 on 7/6/2021*

63 **Sec 106-1-5.30 Approval Procedure**

64 (a) *Subdivision approval.* After the applicable staff and agency reviews, the preliminary plan/plat,
65 including the phasing plan, shall be presented to the Land Use Authority. The Land Use
66 Authority shall review the preliminary plan/plat to verify compliance with applicable ordinances.
67 After determining compliance with applicable ordinances, or determining compliance after
68 adding conditions of approval to ensure compliance with applicable laws, the Land Use Authority
69 shall approve the preliminary plan/plat. When considering conditions of approval, the Land Use
70 Authority shall follow the decision requirements found in Section 108-4-4 of this Land Use Code,
71 and the conditional use standards of Section 108-4-5. A decision on a subdivision that includes
72 conditions of approval shall not constitute a conditional use or require a conditional use permit.

73 (b) *Small subdivision review.* Preliminary plan/plat approval of a small subdivision, as defined in
74 Section 101-2-20 of this Land Use Code, is not required. The preliminary plan/plat required in
75 this section shall be reviewed simultaneously with the final plat.

76 (c) *Administrative Land Use Authority designated.* The Administrative Land Use Authority for
77 preliminary ~~plan~~ plat approval of a subdivision other than a small subdivision, as defined in
78 Section 101-2-20 of this Land Use Code, is the applicable planning area Planning Commission.

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81 **Sec 106-1-8 Final Plat Requirements And Approval Procedure**

82 Sec 106-1-8.10 Final Plat Required

83 Sec 106-1-8.20 Final Plat Requirements

84 Sec 106-1-8.30 Final Plat Approval Process

85 Sec 106-1-8.40 Final Plat Recordation

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87 **Sec 106-1-8.10 Final Plat Required**

88 1. After compliance with the preliminary plan/plat provisions of Section 106-1-5, the applicant shall
89 digitally submit a draft final plat and draft improvement plans, meeting the remaining
90 requirements of this Title and any additional conditions set by the Administrative Land Use
91 Authority. The registered land surveyor's certification on such plats shall indicate all lots meet the
92 requirements of the Land Use Code.

93 ~~The final plat and accompanying information shall be submitted to the planning division at least~~
94 ~~45 days prior to a regularly scheduled Administrative Land Use Authority meeting.~~

95 ~~2.~~ Upon determination of a complete application submittal, the County shall not require more than
96 four review cycles, as outlined in Utah State Code Section 17-27a-604.2. The County, in each
97 review cycle, shall return detailed comments to the applicant within 20 days of submittal from the
98 applicant. Reviews by the County shall be detailed, itemized, and complete.
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100 **Sec 106-1-8.20 Final Plat Requirements**

101 The following are requirements for final plat consideration:

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- 104 1. ***Signature block.*** A signature block conforming to State Code and county ordinances
105 shall be included on the plat for the following:
- 106 1. Private licensed land surveyor's "certificate of survey";
 - 107 2. Owner's dedication certificate;
 - 108 3. Notary public's acknowledgment;
 - 109 4. County Administrative Land Use Authority's certificate of approval, to be signed
110 by the ~~planning director~~ Planning Director or designee;
 - 111 5. County Engineer's certificate of approval;
 - 112 6. County Attorney's certificate of approval;
 - 113 7. Board of County Commissioners' certificate of acceptance;
 - 114 8. County Clerk's certificate of attest;
 - 115 9. County Surveyor's certificate of approval;
 - 116 10. Local health department certificate of approval, if required by the local health
117 department;
 - 118 11. Culinary water authority certificate of approval, if not the local health
119 department; and
 - 120 12. Sanitary sewer authority certificate of approval, if not the local health
121 department.
 - 122 13. In lieu of a signature block on the final plat for the culinary water authority or
123 sanitary sewer authority, the applicant may furnish a final plat approval letter
124 from either or both of these entities, if applicable. The final plat approval letter
125 shall indicate the water or sewer authority's unconditioned approval of the final
126 plat and the proposed improvements for their respective facilities, and shall
127 include a copy of the final plat and final improvement drawings for which they
128 are granting approval. A conditional letter of approval is not allowed.
- 129 2. ***Recorder's block.*** A three-inch by three-inch space in the lower right-hand corner of the
130 drawing for recording information.
- 131 3. ***Subdivision boundary.*** The subdivision boundary corners, lot corners and centerline
132 street monuments shall be noted on the final plat in conformance with county ordinances.
- 133 4. ***Map narrative.*** A map narrative that complies with U.C.A. 1953, § 17-23-17 and Section
134 45-3-4 of the Weber County Code of Ordinances.
- 135 5. ***Occupation lines.*** All evidence of occupation such as fence lines, walls, curbs, etc. shall
136 be shown on the dedication plat, as directed by the County Surveyor.
- 137 6. ***Easements.*** All easements observed, recorded in the Office of the County Recorder, or
138 included in a preliminary title report unless legally vacated by all easement holders.

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141 **Sec 106-1-8.30 Final Plat Approval Process**

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- 143 1. *Final subdivision approval.* After the applicable staff and agency reviews, the final plat shall be
144 presented to the Land Use Authority. The Land Use Authority shall review the final plat to verify
145 compliance with applicable ordinances. After determining compliance with applicable
146 ordinances, or determining compliance after adding conditions of approval to ensure compliance
147 with applicable laws, the Land Use Authority shall approve the final plat. If applicable, when
148 considering conditions of approval, the Land Use Authority shall follow the decision
149 requirements found in [Section 108-4-4](#) of this Land Use Code, and the conditional use standards
150 found in [Section 108-4-5](#). A decision on a subdivision that includes conditions of approval shall
151 not constitute a conditional use or require a conditional use permit.
- 152 2. *Land Use Authority designated.* ~~The Land Use Authority for final plat approval of a subdivision~~
153 ~~other than a small subdivision, as defined in [Section 101-2-20](#) of this Land Use Code, is the~~
154 ~~County Commission, after recommendation from the applicable planning area Planning~~
155 ~~Commission.~~ ~~The [Administrative](#) Land Use Authority for final plat approval of a small~~
156 ~~subdivision is the County Planning Division Director.~~
- 157 3. *Submittal of final plat and final improvement plans.* After approval of the final plat, the
158 applicant shall submit a final plat printed on a 24-inch by 36-inch mylar sheet that includes the
159 required signatures of all non-county employees. With the mylar, the applicant shall submit final
160 improvement plans to the County Engineer for final approval, pursuant to [Title 106, Chapter 4](#).
161 After the final plat mylar has all required official approval signatures, and after the final
162 improvement plans have received final approval by the County Engineer, the final plat may be
163 recorded in the Office of the County Recorder, at the expense of the applicant.
- 164 4. *Tax clearance.* The county may withhold an otherwise valid plat approval until the owner of the
165 land provides a tax clearance letter indicating that all taxes, interest, and penalties owing on the
166 land have been paid.

167 *Record of survey.* A copy of the subdivision mylar shall be filed as a record of survey in the county
168 surveyor's Office, prior to the Weber County Surveyor signing the dedication plat.

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1 Title 106 Subdivisions

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3 Chapter 106-4 Subdivision Improvements Required

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5 Sec 106-4-1 General Requirements

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7 ~~(d) **Improvements to be installed prior to issuance of permits.** All required subdivision~~
8 ~~improvements shall be installed and pass inspection, pursuant to , prior to issuance of any land~~
9 ~~use permit in a subdivision. This shall not apply to street trees or other required landscaping the~~
10 ~~asphalt, chip and seal, landscaping, street monuments, or curb, gutter, and sidewalk as long as a~~
11 ~~sufficient financial guarantee of improvements exists or is provided as required by for the~~
12 ~~incomplete improvements. A certificate of occupancy shall not be issued until the missing~~
13 ~~improvements are installed and pass inspection.~~

14 ~~(d)~~ **(d) Improvements to be installed prior to issuance of permits.**

15 (1) All required subdivision improvements shall be installed and pass inspection, pursuant to
16 Section 106-4-3 prior to issuance of any land use permit in a subdivision.

17 (2) This shall not apply to the required ~~asphalt, chip and seal, landscaping, street monuments, or~~
18 ~~curb, gutter, and sidewalk~~, street trees, and other required landscaping (and associated
19 irrigation and controls) as long as a sufficient financial guarantee of improvements exists or is
20 provided as required by Section 106-4-3 for the incomplete improvements.

21 (3) A certificate of occupancy shall not be issued until the missing improvements are installed
22 and pass inspection or if an updated financial guarantee has been provided as required by
23 Section 106-4-3.

24 (4) For the purpose of ensuring that improvements are not damaged or neglected during
25 construction, in the event that a property is not granted certificate of occupancy outside of the
26 one year warranty guarantee period, a separate landscaping, sidewalk, and curb and gutter
27 bond shall be posted in the amount for those improvements where the lots have not been
28 given certificate of occupancy, as determined by the County. The County shall retain this
29 bond until certificate of occupancy is granted to each subsequent lot.

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31 Sec 106-4-2 Specific Requirements

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33 Sec 106-4-2.050 Curbs And Gutters

34 (a) **Curb and gutter.** Curbs and gutters shall be installed on existing and proposed streets by the
35 applicant. The County Engineer may allow curb and gutter to be deferred to a later time if it is in
36 the best interest of the street system. Deferrals shall be documented by recorded agreement, in a
37 form as approved by the County Attorney, between the County and the owner. Curb and gutter
38 shall be installed by the applicant in subdivisions along abutting Utah State Highways unless
39 specified in writing by the Utah State Department of Transportation.

40 (b) **Driveway aprons.** The applicant shall install driveway aprons to each Lot that has a Lot Width of
41 60 feet or less. These driveway aprons shall be provided on construction drawings. No such
42 driveway apron shall be of greater width than ~~25-20~~ feet and no lot shall have more than one
43 driveway apron. Driveway aprons shall be constructed of concrete. Installation of a driveway apron
44 for a Lot that has a Lot Width greater than 60 feet may be postponed until after the approval of a
45 site plan.

46 Sec 106-4-2.060 Sidewalks and Pathways

47 (a) Sidewalk. Five foot wide sidewalks are required on both sides of the street, unless specified
48 otherwise in this Land Use Code or other adopted street right-of-way standard. Regardless of any
49 other provision otherwise, all sidewalks are required to be six inches (6") in depth. Where no
50 sidewalk currently exists in the area, or where a subdivision's required sidewalk is premature given
51 existing conditions, the required sidewalk may, at the sole discretion of the County Engineer, be
52 deferred to a later time by recording a deferral agreement to each lot in a form as approved by the
53 County Attorney, County Engineer, and County Planning Director.

54 ~~(a)~~(b) Pathway. A pathway, either paved or concrete as determined by the County Engineer
55 given site conditions, shall be substituted for a sidewalks along routes that are delineated on an
56 adopted trail or pathway plan or map, or as may be required in this Land Use Code. Otherwise, at
57 the option of the developer, a pathway may be substituted for a sidewalk as long as it is constructed
58 of a material as determined by the County Engineer.

59 ...
60 **Sec 106-4-3 Guarantee of Improvements**

61 (a) Financial guarantee for the completion of improvements. An applicant who desires to record any
62 subdivision plat prior to the completion of subdivision improvements shall provide a financial
63 guarantee ~~to assure for the~~ completion of ~~incomplete the~~ improvements within a two year period.

64 (1) Financial guarantee cost estimate. The applicant shall furnish and file with the county an
65 escrow agreement or a letter of credit in an amount equal to ~~110-100~~ percent of the
66 estimated future cost of the installation of ~~incomplete the~~ improvements, plus a 10 percent
67 warranty guarantee. ~~at the termination of the two year improvement completion period,~~
68 The estimated future cost shall include a 10 percent construction contingency that is
69 separate from the 10 percent warranty guarantee. The estimated cost shall be as estimated
70 provided by the applicant's engineer and verified by the county engineer, to assure the
71 installation of improvements within two years.

72 ~~(1)~~(2) Financial guarantee expiration and default. If the subdivision is not complete
73 within two years, the financial guarantee is in default unless an extension of the financial
74 guarantee is requested, in writing, by the applicant and approved by the County Engineer.
75 An extension shall not be granted unless the applicant provides an updated estimated
76 future cost for remaining improvements to be installed. At this time the financial guarantee
77 shall be reassessed and increased to reflect cost increases, if any.

78 ~~(2)~~(3) Allowed financial guarantees.

- 79 a. **Escrow agreement.** An escrow agreement, and the associated funds, requires
80 the approval of the County Engineer and County Attorney. Escrow funds shall be
81 deposited with the County Treasurer at the time the escrow agreement is
82 executed.
83 b. **Letter of credit.** An applicant may only use a letter of credit if the following
84 conditions are met:

- 85 1. The engineer's cost estimate for installation of the improvements exceeds
86 ~~\$54,000,000.00;~~
87 2. The applicant and, if applicable, the applicant's subsidiaries and the
88 applicant's members or shareholders has a history of positive
89 performance, with no incidences of negative performance, in its
90 development related contractual obligations in the State of Utah, and has
91 a history of positive performance, with no incidences of negative
92 performance, in completing developments in the State of Utah. The
93 Planning Director or County Engineer may require the applicant to provide
94 a performance history from other jurisdictions;
95 3. The applicant's financial institution has a history of positive performance
96 in fulfilling its financial obligations, as determined by the county treasurer
97 and based on typical conventions of the financial industry;

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4. The applicant's financial institution provides the letter of credit on a standard letter of credit form supplied by Weber County or in a form that provides equal or greater financial protection to the county, as determined by the County Attorney;
5. The County Attorney, County Treasurer, and County Engineer approve the letter of credit, which they shall do if all of the conditions above are met unless they have reasonable, objective indications of a substantial risk that either the applicant or the applicant's financial institution will not fulfill its obligations related to the completion of improvements or the financial guarantee; and
6. A cash escrow is deposited with the county treasurer at the time the letter of credit is executed equal to the full cost to revegetate any removed vegetation in the event the applicant, his successors or heirs, or his financial institution fails to perform.

(2) **Acceptance of financial guarantee.** A financial guarantee under this section is accepted when the County Engineer signs a standard subdivision improvement agreement and an escrow agreement or letter of credit. After the subdivision improvement agreement is approved and executed, the applicant may record the subdivision, as long as all other recording requirements have been met. The recording of the subdivision will allow the developer to sell the lots, but not allow building and/or land use permits to be issued until all improvements are installed, except as listed in this Title.

(b) **Partial release of financial guarantee.** Unless otherwise specified by the terms of the subdivision improvement agreement, the county is only obligated to offer a partial release of the financial guarantee for an independent improvement system, ~~including but not limited to those specified in section 106-4-2,~~ that is completed to the satisfaction of the County Engineer. An independent improvement system includes but is not limited to those improvements specified in Section 106-4-2. At no time shall the balance of the financial guarantee be reduced below the actual cost to complete an incomplete improvement system, regardless of the engineer's cost estimate. If, in the opinion of the County Engineer, costs are increasing or have increased greater than anticipated by the initial engineer's cost estimate, the guarantee shall be reassessed and increased to reflect cost increases, if any.

(c) ~~Warranty guarantee, and conditional acceptance of improvements.~~

(1) Upon satisfactory completion of all improvements, as determined by the County Engineer, the improvements shall enter a conditional acceptance period. At this time, remaining financial guarantee funds may be released, except those necessary for the warranty guarantee, as specified in Subsection (c)(2) of this section. If street trees or other required landscaping, or driveway aprons for Lots with a Lot Width greater than 60 feet, are not installed by the time the rest of all other required improvements meet satisfactory completion, then, at the discretion of the County Engineer, all other improvements may enter the conditional acceptance period.

~~(+)(2)~~ Ten percent of the approved estimated cost of all improvements, using current market costs as approved by the County Engineer, ~~financial guarantee~~ shall be remitted or retained by the county for an ~~improvement warranty guarantee~~, for a period as defined by U.C.A. 1953, § 17-27a-103. If any improvement fails within the warranty guarantee period, the failure shall be remediated by the developer, and the warranty guarantee period shall restart. At the discretion of the ~~county County engineer~~ Engineer, the warranty ~~guarantee period and conditional acceptance~~, may be restarted for ~~any~~ individual improvements needing replacement or repairs, rather than restarting the entire warranty guarantee period, prior to the end of the conditional acceptance period.

~~(e)(d)~~ **Final acceptance of improvements.** After the warranty ~~guarantee~~ period has expired, if the improvements have performed to the County Engineer's satisfaction, the County Engineer shall release the ~~remainder of the financial~~ warranty guarantee. At this time the County Engineer may also offer final acceptance of the improvements. Final acceptance may be withheld if circumstances unforeseen at the time of conditional acceptance become known that expose the county or the public to unreasonable financial or safety risk. The county is not responsible for operations or maintenance of public improvements that have not received final acceptance. At the time of final

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acceptance of all other improvements, if street trees or other required landscaping is not satisfactorily installed or has not satisfactorily performed through the minimum warranty period, then the appropriate amount of financial guarantee shall be retained by the County in an amount sufficient to satisfactorily install the trees or other landscaping, and to ensure proper performance of the trees or other required landscaping through the duration of the minimum required warranty period. If the amount of remaining financial guarantee and warranty guarantee is not sufficient to pay for the County's current costs to install the street trees, an updated engineer's cost estimate and financial guarantee shall be retained by the County.

(e) **County's authority under default.** If a financial guarantee authorized by this section is defaulted, the County shall have the authority, in its sole discretion, to use the remaining defaulted funds to make whatever improvements the County deems necessary to bring the subdivision into or closer to compliance with the requirements of this Land Use Code. For any subdivision that has a defaulted financial guarantee, the County is authorized, but not obligated, to release financial guarantee funds to a third party that performs the work that the County has deemed necessary.