

**HEBER CITY CORPORATION  
75 North Main Street  
Heber City, UT 84032  
Planning Commission Meeting**

**April 8, 2025**

**6:00 p.m. – Regular Meeting**

-Time and Order of Items are approximate and may be changed as Time Permits-

Public notice is hereby given that the monthly meeting of the Heber City Planning Commission will be in the Heber City Office Building, 75 North Main, South door, in the Council Chambers upstairs.

**1. Regular Meeting:**

- I. Call to Order
- II. Roll Call
- III. Pledge of Allegiance: By Invitation
- IV. Prayer/Thought by Invitation ( )
- V. Recuse for Conflict of Interest

**2. Consent Agenda:**

- I. Planning Commission Minutes for Approval: 02.11.2025, 02.25.2025, 03.11.2025

**3. Action Items:**

- I. Public Hearing for a Text Amendment to Chapter 18.110 Telecommunications (Jamie Baron)
- II. Central Heber Overlay Zone (CHOZ) and Use Options for Historic Buildings. (Tony Kohler and John Janson)

**4. Work Meeting: N/A**

**5. Administrative Items:**

- I. City Council Communication Item
- II. 2025 PC Training:  
The Planning Commissioners will need one hour of training from the link below to fulfill four hours for 2025.  
As you complete your training please email Meshelle Kijanen with the Code or Codes where you took your training from:  
Any Parts 3 through 6:  
[https://le.utah.gov/xcode/Title10/Chapter9A/10-9a.html?v=C10-9a\\_1800010118000101](https://le.utah.gov/xcode/Title10/Chapter9A/10-9a.html?v=C10-9a_1800010118000101)

## 6. Adjournment:

Ordinance 2006-05 allows Commission Members to participate in meetings via telecommunications media.

In accordance with the Americans with Disabilities Act, those needing special accommodations during this meeting or who are non-English speaking should contact Meshelle Kijanen at the Heber City Offices at 435.657.7898 at least eight hours prior to the meeting.

Posted on 04.03.2025, in the Heber City Municipal Building located at 75 North Main, the Heber City Website at [www.heberut.gov](http://www.heberut.gov), and on the Utah Public Notice Website at <http://pmn.utah.gov>. Notice provided to the Wasatch Wave.

**HEBER CITY CORPORATION**  
**75 North Main Street**  
**Heber City, UT 84032**  
**Heber City Council Meeting Amended**  
**February 11, 2025**

**DRAFT Minutes**

**6:00 p.m. – Regular Meeting**

**1. Regular Meeting:**

I. Call to Order

Chairman Jordan called the Planning Commission Meeting to order at 6:00 PM and welcomed everyone present.

II. Roll Call

**Planning Commission Present:**

Chairman Phil Jordan  
Vice-Chair Tori Broughton  
Commissioner Dennis Gunn  
Commissioner Dave Richard  
Commissioner Darek Slagowski  
Commissioner Robert Wilson  
Commissioner Robert Mckinley

**Planning Commission Absent:**

Commissioner Josh Knight  
Commissioner Greg Royall

**Staff Present:**

Planning Manager Jamie Baron  
Planner Jacob Roberts  
City Engineer Ross Hansen  
Deputy Recorder Robin Raines

**Staff Participating Remotely:**

Anthon Beales

**Also Present:**

**Also Attending Remotely:**

Mr. Garner, Grace Doerfler

III. Pledge of Allegiance: By Invitation

Commissioner Gunn led the recitation of the Pledge of Allegiance.

IV. Prayer/Thought by Invitation: N/A

V. Recuse for Conflict of Interest N/A

**2. Consent Agenda:**

I. 01.14.2025 PC Draft Minutes for Approval

**Motion:** Commissioner Gunn moved to approve the items on the Consent Agenda. Commissioner Slagowski made the second.

**Discussion:** N/A

**Voting Yes:** Commissioner Gunn, Planning Commission Vice-Chair Richards, Commissioner Slagowski, Commissioner Jordan, Commissioner Wilson, Board Member Broughton.

**Voting No:** None. The Motion Passed 5-0 Commissioner Wilson abstained.

**3. Action Items:**

- I. ~~\*Public Hearing to Consider an Atlas Telecommunications Tower MDA Proposal (Jacob Roberts)~~

Moved to next agenda.

**4. Work Meeting:**

- I. Discuss Body Art Facilities in Commercial Zones (Planner Jacob Roberts)

Planner Jacob Roberts led this portion of the meeting. Planner Roberts said he was recently approached by some citizens looking to own and operate a body art facility within a salon that already existed. Planner Roberts reported that the citizens had already gone through the health code protocol and were then referred to him. Planner Roberts said he informed them that body art businesses otherwise known as tattoo parlors are not permitted in any zone. Planner Roberts said they could only have a business like this in home occupation, which was not an ideal situation for a tattoo shop.

Planner Roberts explained that no decisions would be made that evening and the purpose of the meeting was to gather the Commissioner's opinions on the matter. Chairman Jordan once again clarified that this item was on the agenda strictly for discussion.

The citizens came forward. They identified themselves as Julie and Oakley Franklin and stated that they lived in Heber City. Ms. Julie Franklin said she and her partner had spent thousands on permits for their business before they were informed that tattoo shops were prohibited, and opined that there was a communication issue between departments. She added that she had researched the Code extensively and did not see anything prohibiting body art facilities although she had been told that there were statues against it by Planner Roberts. Ms. Franklin said the State legislature had health regulations for body art facilities which she had followed and felt frustrated that she had followed these statewide codes only to be turned down at the local level. Ms. Franklin

advocated for body art as a profession and stressed the lucrative and creative nature of the tattoo industry. Ms. Franklin said body art should be considered its own entity totally separate from cosmetology. Ms. Franklin noted that the rules on body art were inconsistent as many salons and cosmetology businesses have permanent makeup services which are technically tattoos but are not designated as such by the state.

Commissioner Gunn asked why these regulations were in place. Ms. Franklin said many of these regulations are similar to food preparation, such as that there must be a sink, and all other existing regulations are incredibly thorough. Ms. Franklin said the industry was heavily regulated by the health department. Commissioner Gunn acknowledged her comments but again expressed confusion about the reason for the regulations.

Ms. Franklin said there was still a huge stigma surrounding body art. Commissioner Broughton said tattoo shops were still lumped in with pawn shops and could attract other seedier businesses. Commissioner Gunn still questioned why the City banned body art.

Commissioner Mckinley asked about licensing and how the regulators checked in on body art businesses. Ms. Franklin said Code Enforcement Officers often did not have the time and effort to check-in, so businesses got away with illegal activities until someone turned them in.

Commissioner McKinley asked if there was a groundswell for these businesses in the community. Ms. Franklin said yes - particularly for residents under the age of 35.

Commissioner McKinley asked the applicants not to oversell how many people were actually interested in tattoos in their area. Ms. Franklin said there were several body art places nearby which booked out well in advance.

Chairman Jordan confirmed that working a business from home required a business license from the City and asked if there are any additional licenses required. Planning Manager Baron said these requirements depended on the business type. Planning Manager Baron said these requirements varied across the State as well, and added that he was not aware of any requests to have a tattoo business in the owner's home. Planning Manager Baron said every business needs to have a sign-off and routine inspections regardless.

Chairman Jordan said he understood the residential business parameters via his experience in homeowner's associations. Chairman Jordan opined that they needed to review their zoning code updates from the last few years. Chairman Jordan said they had previously recommended to prohibit body art businesses and noted that, as of 2022, the public had no interest in tattooing.

Commissioner Broughton asked for the zoning map. Commissioner Broughton said most people were under the impression that tattooing was allowed somewhere. Commissioner Richards noted that tattooing was associated with sexually oriented businesses and was given conditional uses in industrial areas, per his recollection. Chairman Jordan this was conditional in that business owners needed to apply for permission.

Commissioner Slagowski said tattooing should be allowed in commercial zones and stressed that the market will decide if a tattoo parlor belongs in Heber.

Planning Manager Baron said they wanted to better understand where these types of businesses could be permitted, both in terms of land use laws and in terms of business traffic. Chairman Jordan said he was interested in learning where these businesses thrived elsewhere. Chairman Jordan added that the business designation of “sexually oriented business” came from a biased place and asked the Commission to investigate this further.

Ms. Julie Franklin chimed in and said her daughter had a studio near the clock tower. Ms. Franklin said they had already been paying rent for their business and insisted that they could bring in money.

Chairman Jordan asked Planning Manager Baron to look into other City permits for these businesses. Planning Manager Baron said they try to keep up with the businesses which opened in the Valley.

Commissioner Robert Wilson implored the Commission to think of what could happen next if they approved the idea. Commissioner Wilson said they need to consider what happens after they permitted these kinds of businesses. Ms. Franklin said she foresaw more good than bad.

Commissioner Richards asked if the State regulated the privacy Code. Ms. Franklin said yes. Commissioner Richards asked for elaboration. Ms. Franklin said the Code stipulated having a separate area for body art in all salons which featured either partitions or took place in an entirely separate room.

Commissioner Richards asked if they did scar work. Ms. Franklin said they did not and added that scarification was a relatively new thing in body art.

Chairman Jordan said they had areas where they specifically zone certain activity based on how it impacts the community. Chairman Jordan brought up welding as an example, noting that they had to consider the flow of materials into the zone along with the noise and foot traffic. Chairman Jordan said this was an extreme comparison but illustrated his larger point.

Chairman Jordan asked what came next. Planning Manager Baron said they could do the research, have a work meeting, then come back for a public hearing. Planning Manager Baron said the Planning office was most concerned with upholding the Health Code.

Commissioner Gunn asked about language for the ordinance. Planning Manager Baron said this language would be worked out as they investigated. Commissioner Slagowski reminded the Commission that these businesses occurred anyway and said they operated best under some degree of regulation.

## **5. Administrative Items:**

## I. City Council Communication Item

Planning Manager Baron overviewed the most recent Council meeting. He reported that there had a termination of agreement between the City and the Wasatch Water Efficiency team. Planning Manager Baron said the Council had determined the agreement to be redundant. Planning Manager Baron went through a review of parking strategies for downtown. He then shared that Roger Brooks had presented his ideas for parking efficiency, particularly at 100 West and between 300 South and 2300 North. Planning Manager Baron said most improvements involved street parking.

Planning Manager Baron then went through the Council retreat. He said most of the issues discussed pertained to downtown overlays. Planning Manager Baron said the Kroger had approved by the Council and the trail adjoining the property was public. Chairman Jordan asked if there was parking for the trail. Planning Manager Baron said there was no trailhead parking, but Jordan Park had public parking spaces.

Planning Manager Baron then reported that the Arts Committee presented on the amphitheater. Planning Manager Baron said they also approved a transfer of funds to the CRA for purchase for the old Heber Light & Power Building, and added that they were still working on a lease agreement.

Chairman Jordan asked that the documents pertaining to the retreat be emailed to the Commission. Chairman Jordan said it would be important for the commission to be aware of what they discussed more in-depth.

Chairman Jordan said they have been asked to review the Central Heber Overlay Zone documents. Chairman Jordan said the retreat documents could inform this. Planning Manager Baron said the retreat document is public, though he doubted it would help them much.

Commissioner Broughton said she had looked through the email they had received and said it did not include enough information about the open house.

Chairman Jordan said he would like to engage with the public in a workshop before the public hearing. Planning Manager Baron said the open house could not take place on February 25th because of a Planning Commission meeting.

Commissioner Broughton asked about the meeting on Wednesday for the City and County with SITLA. Planner Baron did not have details on it.

Chairman Gunn said he would not be able to attend the next two meetings. Chairman Slagowski said he would have to miss the next two meetings as well.

## II. 2025 PC Training:

Planning Office Admin Kijanen reminded the Planning Commissioners that they will need one hour of training from the link below to fulfill four hours for 2025. She requested that the Commissioners email her with the Code or Codes from where they took their training:

Planning Manager Baron said one training had been done during the latest Council retreat, the Utah Open Meetings Act training, and said the Commission also needed to have this training. Planning Manager Baron said this training addresses conflict of interest and said he would keep the Commission posted on training dates.

**6. Adjournment:**

Commissioner Gunn motioned to adjourn. Commissioner Broughton seconded the motion. All voted aye and the meeting was adjourned at 7:10 PM.

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Meshelle Kijanen, Administrative Assistant

**HEBER CITY CORPORATION**  
**75 North Main Street**  
**Heber City, UT 84032**  
**Heber City Council Meeting Amended**  
**February 25, 2025**

**DRAFT Minutes**

**6:00 p.m. – Regular Meeting**

**1. Regular Meeting:**

I. Call to Order

Chairman Phil Jordan called the meeting to order at 6:01 pm.

II. Roll Call

**Planning Commission Present:**

Chairman Phil Jordan  
Vice-Chair Tori Broughton  
Commissioner Josh Knight  
Commissioner Robert Wilson  
Commissioner Greg Royall  
Commissioner Robert Mckinley

**Planning Commission Absent:**

Commissioner Dennis Gunn  
Commissioner Dave Richard  
Commissioner Darek Slagowski

**Staff Present:**

Community Development Director Tony Kohler  
Heber City Prosecutor/Asst. City Manager Mark Smedley  
Planning Manager Jamie Baron  
Planner Jacob Roberts  
City Engineer Ross Hansen  
Deputy Recorder Robin Raines  
Consultant John Janson

**Staff Participating Remotely:**

Anthon Beales

**Also Present:**

Michael Levin, Samantha Levin, Tom Reed, Gary Bradley, Gaye Lynn Latimer, Pam Patrick, Stephen Rather, Ken McConnell, Steven Olsen, Cammie Nebeker, Gail Witkamp, Erin Shilt, Shane Cummings Deanna Cummings Sandra Layton, Deb Stenger, Wade Scroggins, Jen Scroggins, Vicky Smith, Steve Smith, Chris Grange, April Grange, Leanna Deherrera, Staci Basilius Hayres, Kent Bybee, Mark Evans, Greg Baldacci, Kristen Bybee,

Lynne Harms, Justin Mosley, TJ.  
Stephens, Danielle Coenen, Dan Moon  
Ford Harrison, Troy Johnson, Rick Lindsey  
Tanner Olson Larry Jenson

**Also Attending Remotely:**

Michael Powers ATLAS, Matt Tanner, Julie  
Schofield, Carri-Atlas Tower, Andrew  
Dudik, Abi, Wayne Michael Paulus, Mel  
McQuarrie, Shorty 5, Mike, J, PJ, RK

III. Pledge of Allegiance: By Invitation

Commissioner Wilson led the recitation of the Pledge of Allegiance.

IV. Prayer/Thought by Invitation: N/A

V. Recuse for Conflict of Interest: N/A

**2. Consent Agenda:**

I. 01.28.2025 PC Draft Minutes for Approval

**Motion:** Commissioner Knight moved to approve the items on the Consent Agenda.  
Commissioner Royall made the second.

**Discussion:** N/A

**Voting Yes:** All.

**Voting No:** None. The Motion 6-0.

**3. Action Items:**

I. Public Hearing to Consider an Atlas Telecommunications Tower MDA  
Proposal (Tony Kohler and John Janson)

Community Development Director Kohler led this portion of the meeting. Community Development Director Kohler began with a summary of Atlas Tower's contract with the City to build a cell tower. Community Development Director Kohler said the City would act as the property owner and explained this public hearing would solicit public input as part of both a development agreement and zone change process. He explained that the process entailed a public hearing and recommendation from the Planning Commission along with final approval from the City Council and clarified this would be a legislative act to construct a cell tower. Community Development Director Kohler gave some visual examples.

Sandra Layton came forward and identified herself as the project manager for Atlas and explained the need for the cell tower along with why this location was chosen. Ms. Layton said individuals in the area had come to expect cell service and this particular area is lacking coverage. Ms. Layton said the tower was consistent with the existing land use and clarified that the carriers had been made aware of how to move forward. Ms. Layton stated these towers were critical infrastructures which emergency services rely on, and she assured the audience that there would be a gap between the tower and current tenets. Ms. Layton said building the tower on a hill helped with the

necessary height requirements, and she assured the Commission that Atlas has been following all the correct procedures.

Deputy Recorder Bond outlined the rules for the public hearing. Chairman Jordan explained the Planning Commission's role in the hearing and opened the floor for public comments.

**The following comments were emailed to the City Recorder prior to the beginning of the meeting:**

“Hello,

I have grown up living in Valley Hills and now own a piece of land on Calloway to raise my young family. We do not support this tower!! We second all of the comments that were made in the public hearing. We don't understand why it's ok to go above the height limit. Please reconsider this decision to place this tower in a place that does not need to be there!!!

Regards, Abi Cieslak”

“Dear Heber City Planning Commissioners,

I would like to extend my gratitude for the opportunity to address the community's perspective on the zone change request concerning the property at 167 Center Street. As someone who tends to get nervous speaking in public, I may have veered off topic. My passion for establishing nonprofit community centers in Heber walkable downtown may have led me astray, but I assure you my concerns regarding the proposed zone change are genuine and well-founded.

Primarily, I wish to emphasize several key points that warrant consideration:

- 1.) Preservation of Unique Zoning Area: The current zoning configuration in this area functioned effectively for over five decades, serving as a vital buffer between commercial and residential domains. This setup has contributed to the cohesive fabric of our community and merits preservation.
- 2.) Respect of the Historic Residential Community: It's imperative to honor and preserve the character of our local historic residential neighborhoods. Any zoning changes must align with this objective to maintain the integrity and charm of our community.
- 3.) Opposition for Spot Zoning for Financial Gain: I express firm opposition to any attempts to spot zoning that primarily serve the financial interests of property owners. Such practices undermine the principles of the fair and equitable development and risk prioritizing profit over community well-being.
- 4.) Avoidance of Fragmented Disharmony: Introducing C3 zoning into residential areas poses a significant risk of fragmenting our community and disrupting the harmonious balance between different land uses. We must proceed with caution to prevent such disharmony taking root.
- 5.) Preservation for Philanthropic Endeavors: The unique zoning areas in our downtown present opportunities for creative and philanthropic initiatives aimed at

enhancing community life. It's essential to safeguard these spaces from purely profit-driven motives and encourage endeavors that prioritize the betterment of our resident's lives.

6.) Emulating Successful Models: Drawing inspiration from successful examples like Park City's designated arts district, we can envision a future where our downtown area flourishes as a hub of creativity and cultural enrichment. Protecting these spaces from unchecked development is crucial to realizing this vision.

In conclusion, I urge the Planning Commission to carefully consider long term implications of any proposed zoning changes for 167 Center Street. I was hopeful to hear the perspectives of many of the Planning Commissioners which clearly aligned with these concerns. However, I did have concerns that there was a two-week period added for the property owners to communicate when they were the initiators of the Zone change request yet failed to participate. I feel this devalues the community members that took the time to attend the scheduled meeting. Thank you for upholding the principles of community preservation, equity, and thoughtful development. I appreciate all that you do!

Sincerely, Alicia Power”

“My husband and I live on Oakwood Drive and are opposed to the installation of the Atlas Tower in our neighborhood. An MDA does not give Atlas Tower carte blanche to sidestep the rules and bypass burden of proof. Heber City's land use regulations have a foundational principle of protecting and safeguarding the health and welfare of residential neighborhoods. This is not a singular NIMBY case; no residential community wants a 69-foot telecommunications tower in their neighborhood. That's why cell towers are not allowed in R-1 areas. Direct Atlas Towers to appropriate locations in Heber and let them ask for a variance for height. Don't negotiate my neighborhood rights for cash or anyone else's residential neighborhood rights. Our cell coverage is just fine.

Lisa Albertson, Kurt Schmitt”

“Hello Heber City Planning Commission,

Concerning the Atlas Cell Phone Transmission Tower, I do not believe this tower makes sense for the community in the location that this developer has selected. First of all, given what I have seen in many neighbourhoods, these towers do not need to be so intrusive as to violate height restrictions. Suggesting otherwise is disingenuous. Secondly, we have zoning for a reason, so residents know what to expect from the city. This goes far outside the zoning restrictions for this part of Heber, and it is far outside the expectations of anyone who owns property in any area that zoned residential. Third, our cell phone reception in this area is great and the whole area has fiber optic internet. We don't need some ridiculous tower in our neighbourhood for our connectivity. If there are service problems elsewhere in Heber City, put the tower closer to the service problems. How about an area already zoned for industrial uses? This is just another attempt by a developer to take something of community value (our viewshed and the character of our residential neighborhoods) and make money for private gain. This is on City land. It should be an easy vote from the whole commission. It should always be a vote from the planning commission when a developer wants to DOUBLE height requirements and use our land for industrial purposes in residential neighborhoods, to enrich themselves at the expense of the community. If it's a lucrative

lease they are offering? Look at the property values and the development in Heber. If we cannot figure out how to survive on these tax revenues, we should look harder at how our city has managed development agreements and contracts.

Thank you for your consideration, Andrew Dudik”

“Dear Jacob Roberts,

I am writing as a homeowner near parcel # 00-0021-0538, the proposed site for the 69’ stealth telecommunication tower. Given my home’s close proximity to the construction site, I have several concerns I would like addressed before any approvals are made.

Primary Concerns:

1. Impact on Property Value & Neighborhood Aesthetics: Studies have shown that nearby cell towers can negatively impact home values. Has the city conducted a study on the potential property devaluation this may cause? Even as a “stealth” design, a 69-foot structure will likely stand out in a residential area. Can alternative locations be considered further from homes?

2. Health & Safety Considerations: What specific safety measures are in place to ensure the tower will not pose risks during severe weather or seismic events? While the FCC regulates RF radiation exposure, many residents are concerned about long-term effects, especially with the tower so close to our homes. Can you provide independent, third-party safety studies on this matter?

3. Noise, Lighting & Ongoing Disruptions: Will the tower require flashing lights at night for aviation safety? If so, this could significantly impact nearby homeowners. Will the tower produce low-frequency noise from cooling equipment or backup generators? If so, what measures will be taken to mitigate sound pollution? What is the expected duration of construction, and what efforts will be made to minimize disruption for nearby residents?

4. Future Expansion & Precedent for Additional Towers: If this tower is approved, will it be open to additional carriers leasing space, increasing its size or footprint? Will this approval make it easier for more towers to be placed in our neighborhood? I would appreciate a response addressing these concerns, as well as any available visual renderings, environmental impact reports, and safety documentation. Thank you for your time and consideration. I look forward to hearing your response.

Sincerely, Bryan and Cherolyn Rowland”

“Dear Heber City Planning Commission,

I am writing to express my opposition to the proposed 69-foot telecommunications tower by Atlas Tower to be located east of Valley Hills Blvd (Parcel Number: 00-0021-0538). As a resident who lives in the area that would be directly impacted by this tower, I have several serious concerns:

1. The proposed tower significantly exceeds the city’s height ordinance by 34 feet (nearly double the allowed 35-foot limit). The exception being requested sets a concerning precedent for future development projects seeking to bypass established city ordinances.

2. A structure of this size at the top of the water tower hill would loom over the

residential area, an eyesore that would negatively impact the visual aesthetics of many neighborhoods and potentially decrease property values.

3. The hillside in question is barren with nothing more than sagebrush. A 69-foot structure would stand out dramatically against this backdrop, making it an unavoidable eyesore visible throughout the area. There is simply no way to effectively disguise or camouflage such a structure in our sparse desert landscape.

4. There are concerns about the proximity of such a large telecommunications installation to residential homes and the potential long-term effects. While studies are ongoing, some residents have legitimate concerns about living in close proximity to telecommunications equipment that emits radio frequency radiation.

5. I expect that Heber City would benefit financially from lease payments as the landowner. Does this arrangement not create a potential conflict of interest in the approval process? The city stands to gain revenue, but it is the residents who would bear the true costs through decreased property values, compromised views, and altered community character.

I understand the need for telecommunications infrastructure. I believe there are better alternatives that would serve our city while preserving its character. There are numerous open hillsides surrounding our community that would provide the needed elevation for telecommunications purposes with far less visual impact on residential areas. In light of these concerns, I respectfully ask the Planning Commission to either reject this proposal outright or require Atlas Tower to identify alternative locations away from residential areas. At minimum, any approval should require the tower to comply with existing height ordinances that were established to protect our community's visual character. Thank you for including my comments in the public record and for your consideration of neighborhood concerns in your decision-making process.

Sincerely, Bryan Stallings”

“When in doubt, throw it out. [Graphic Image that included the text ‘Cell Phone Towers. What Distance is Safe to Live? thehealthyhomeeconomist.com.’] Sent from my iPhone. Cherie Reed”

“Tower Concerns – the Three “A”s Aesthetic detractor. Decrease property values – This is the first prominent object a visitor sees when traveling up Coyote (unfortunately, not our little predator statue down on the rocks at the bottom of Coyote). The Avionics - In certain situations, particularly near airports, the frequencies used by cell towers could potentially overlap with some avionics systems, causing interference (Google). This proposal is in the SE glide path for Heber Airport and is right under the glide path of planes lining up for landing. Albatross – Starlink and other future technology may eventually usurp the utility of this transmission tower rendering it obsolete. The tower would be abandoned, and the cost of removal would be up to our citizens. My wife and I, at 1323 Callaway vote a stern and firm NO on an MDA request put forth by Atlas for a proposed exception to current height allowances.

Sincerely, Daniel R Moon & Caryl G Salomon (Moon)”

“Good afternoon, I am writing to submit public comment for the proposed telcom tower being reviewed at the 25th meeting. As a resident and property owner in the Cove Estates neighborhood (within & yards of the proposed tower). I strongly express

dissent for the proposal. The proposed location is in a well-established neighborhood with homes surrounding it in all directions. I believe this type of project would greatly negatively impact our property values, our neighborhood feel, put risk to our community's health. In addition, the proposed location would not be discrete, but rather would be an unavoidable eyesore in our neighborhood of family homes and parks. I urge the city to deny this proposed development exception and respect the community's feedback.

Sincerely, Danielle Coenen - Valley Hills Resident"

"Good day,

I am deeply concerned about the proposed 69-foot 5G telecommunications tower being placed behind my house on Ridge Drive, off of Valley Hills Drive. While I understand the need for expanded technology, this particular installation raises significant concerns that I feel must be addressed. First, I question the long-term health implications of being surrounded by radiation emissions from a 5G tower. Research has suggested potential health risks associated with long-term exposure to high-frequency electromagnetic fields, including increased risks of headaches, sleep disturbances, and even potential links to certain cancers. Would you want your family exposed to such risks on a daily basis? In addition to health concerns, there is the issue of aesthetics and quality of life. Having a 69-foot tower looming behind my home would significantly alter the landscape and reduce the tranquility of my living environment. The visual impact of such a structure, especially as I enjoy my morning coffee or spend time outside, would be overwhelming and intrusive. For these reasons, I strongly oppose the placement of this tower in such close proximity to residential homes. I urge you to reconsider this decision and explore alternative locations that would not negatively impact the health, safety, or well-being of our community. David Eric Kratky"

"Dear Planning Commission,

I am a resident of the lower cove neighborhood, off of Valley Hills Blvd. I have read about the proposed Atlas tower in our neighborhood. I am opposed to this idea. We do not need a 69' tower in a residential area. This would be an eyesore that would distract from the peaceful neighborhood, making it look like an industrial zone. The 69' tower exceeds the 35' height limit currently allowed in Heber City. Please do not make an exception to this height limit. If a larger tower is needed, please find another location farther away from neighborhoods. Thanks,Dawn Jones"

"To whom it may concern,

As an owner of property directly adjacent to the site I am not supportive of the proposed telecom tower to be erected east of valley hills blvd. The tower should be within city code.

Sincerely, Deanna Cummings"

"A brief note regarding the proposed tower. After reviewing the code it appears this tower as proposed is not in compliance and this project should not move forward. If the planning board grants an exception to the height limits and approves this tower, I shall instruct my legal counsel to lodge a formal complaint as it would appear that Whaley v. Park City (code 76-10-303) sets precedent for a lawsuit against the city and Atlas

Tower.

Regards, Dr. Luke Surface”

“Heber City Council, I want to express my opposition to the 69-foot tower being built above Callaway Drive in the Cove. It’s an ugly addition to the skyline of our beautiful city. Plus, it emits radiation 24/7. Since this is a telecommunication tower, it can be installed on any high ground location or even the mountain North of Heber. Why does it have to be above a subdivision right here in Heber City? The Heber City Council has a habit of approving just about any project, even if it goes against current building codes. Just for once, try saying NO to large corporations asking for special favors in Heber City!

Gaylyn Latimer, Heber City Cove Resident”

“To whom it may concern,

I am writing to express my opposition to the proposed tower in the Valley Hills neighborhood. It is a huge eye sore and there are way too many concerns about the health impacts of such a tower in close proximity to homes. Please DO NOT allow this plan to move forward.

Thank you.

Heather Stoll, Heber city, Sent from my iPhone”

“To whom may concern,

I’ve been informed of the proposed cell 69 foot cell tower that is under consideration to be installed east of Valley Hills Drive. Although I do understand that as Heber expands, we need to expand utilities like cell towers, there certainly feels like there is a more prudent way to go about this than building a cell tower in the middle of a residential area whose primary draw was the views and nature that the valley offers. I’m sure all of those considering this can appreciate that nobody wants an ugly cell tower that is not only visually unappealing but also buzzing and, for some, concerned for their health (I do not fall into that category personally). My ask is simply that you find an area for needed cell towers throughout Heber that overly disruptive to the residence. For most, the largest investment is their home....a 69’ cell tower would certainly not add value to that investment. For most, the draw of Heber is the views of the mountains and the feel (to the extent possible), that you are living in nature along with a community of nature-loving individuals. a cell tower like the one being proposed doesn’t align with the value propositions of living in Heber. I am sensitive to the difficult task at hand and how long the conversations must be to expand prudently and effectively. There must be a better way of expanding cellular service than this tower being proposed.

Thanks so much for your time! Jake Runyan”

“I’m writing to express my concerns and definite objection to the proposed Atlas Tower in the Valley Hills area. I will not be able to attend the upcoming hearing so I’d like my concerned documented and read aloud.

1. Location - The location for a tower of this size and nature is wildly inappropriate. This is a highly residential area with hundreds of established families living, not to mention the massive amount of nearby development bringing even more residents nearby. A tower like this should be in a less densely populated area if for no other reason than

the health reasons listed below. Placing a massive tower on an already elevated and relatively barren hill takes an eyesore to a new level.

2. Health - I'm no hippy or anti vaxxer, I like my burgers and my scientists... Straight from the American Cancer Society: this does not mean that the RF waves from cell phone towers have been proven to be absolutely safe. Most expert organizations agree that more research is needed to help clarify this, especially for any possible long-term effects

From IAFF: Internationally acknowledged experts in the field of RF/MW radiation research have shown that RF/MW transmissions of the type used in digital cellular antennas and phones can have critical effects on cell cultures, animals, and people in laboratories and have also found epidemiological evidence of serious health effects. They link to SIXTEEN scientifically studied adverse reactions including more childhood leukemia in children exposed to RF (link) Placing a tower like this most likely containing new even less studied technology such as 5g not only near highly residential areas in general, but specifically one with SO many children when the health effects of such a tower are admittedly not understood is reckless endangerment of the people you represent.

3. Size - It is clearly a priority of the people of Heber Valley, as made clear by the Temple reactions, building height aversions, etc. to protect the skyline and charm of the valley. If a tower like this is deemed necessary at all the placement should be far more discreet, farther from residents, near other tall structures or trees, and stick to the approved height of 35'; which has allowed for plenty of calls and connectivity up until now and should continue to work for years to come as further studies are conducted. I thank you for your time and consideration of this important matter and your pledge to improve Heber Valley and the lives of us who call this place home!

Jannah Din Andrus

And no, this tower does not block my view ... my concerns are not superficial."

"I am AGAINST the Atlas tower. Please listen to the people. NOBODY wants this.

- CELL TOWERS ARE NOT ALLOWED IN AN R-1 ZONE

- THIS WILL DECREASE HOME VALUES 5-20%

- THIS EXCEEDS THE 35 FOOT RULE

- IT WILL LOOK HIDEOUS

- DO NOT RISK OUR HEALTH. 5G RADIATION IS A REAL THREAT. WE WANT MORE FOR OUR CHILDREN'S HEALTH.

- WHY???? WE HAVE GREAT CELL RECEPTION ALREADY. EVEN IF WE DIDN'T I WOULD NEVER EVER RISK MY OWN HEALTH AND THE HEALTH OF THOSE AROUND ME. PLEASE LISTEN TO WHAT OUR NEIGHBORHOOD WANTS. IT'S NOT THIS TOWER.

Jen Fauset"

"Dear Planning Commission,

I recently learned about the proposed cell tower on parcel number 00-0021-0538. The Heber City Planning Commission DRAFT Minutes February 25, 2025

public notice states that the developer is requesting a variance. Given that the parcel is city property, it appears that the city itself is the actual developer, as it's repurposing its land for an alternative use. While the city might argue that the developer is the telecommunications company operating the tower, I believe many would consider the city to be the true developer. This raises several questions that I believe warrant public disclosure:

- \* What type of lease is involved?
- \* What is the compensation for the lease?
- \* What is the city's involvement or financial contribution to developing the infrastructure?
- \* How will the city use the lease revenue? How will this be tracked and accounted for?
- \* Who conducted the valuation to determine the lease value?
- \* Which Atlas Telecommunications entity is involved? A Google search reveals multiple entities with this name. I respectfully request that these details be detailed for full transparency. In addition, I request and continuance on the final decision to allow stakeholders an opportunity to evaluate the information.

Thank you for your consideration. Sincerely, John Mendenhall”

“This issue is very important to us. We just found out about it recently and are out of town. Otherwise, we would be there in person to voice our concerns. Please do not increase the height of telecommunication towers in our valley. Please do not change the ordinance. We realize that the carriers probably would prefer to have fewer taller towers. This is in the sole best interest of the company, but it is not in the best interest of residents in our neighborhood. Homes were built with these ordinances in place. Please do not grant exceptions to them. The location of this tower is already in a very prominent, high location in our neighborhood. Making the towers even taller will create an eyesore, no matter what artificial facade they put on it. It will be visible from everywhere in our neighborhood. The existing tower is visible outside of all of the back and side windows of our home. I have an ongoing health concern that makes me very prone to headaches. We are concerned about the effects of increased radiation from this tower so close to our home. The company may tell you there are no health risks, but continuing research on the health effects to humans of transmission radiation is showing otherwise. This is very personal and concerning for our family. The ordinances are in place for a reason, to help protect neighborhoods. Please vote no to this exception.

Thank you, Josh and Lindsay Cieslewicz”

“To whom it may concern,

My wife and I have a home with 3 young children that would be within 1500 ft of this proposed telecom tower. I strongly oppose the install location of this tower for several reasons. The proposed location of this tower would sit on top of a hill that doesn't have a single real tree on it and is very visible to all the homes around it including from Hwy 40. This 69 ft. fake tree tower would stick out like a sore thumb and devalue the properties around it. I don't know many people that would want to live next to a cell tower. Even though it is city owned land, I don't understand why the city wouldn't

follow its own rules of prohibiting cell towers in R-1 zoned areas. I also don't understand the need for another tower at this location. I can't recall any times I have had issues with cell reception in our area including all the new coyote development area and the rest of Heber city. Looking at the large cellular providers such as Verizon, AT&T, and T-mobile, their coverage maps show full coverage of Heber city and surrounding areas with little to no gaps especially where the location of this tower would be. The last and most important reason for opposing this location for a cell tower is for health reasons. There have been 1000's of independent studies done on the biological effects of radiofrequency radiation that cell phones and these cell towers give off. I have included several links that contain hundreds of studies showing adverse effects from RF radiation.

Link 1 - <https://www.americansforresponsibletech.org/scientific-studies>

Link 2 - <https://childrenshealthdefense.org/emr/emf-wireless-health-impacts/>

I believe the city should review these studies to further educate what the impacts could be by placing a cell tower in a residential zoned area with many homes in very close proximity. Given the studies, there are undeniable risks associated with the RF radiation that cell towers give off 24/7 and to have one installed right in the middle of a residential zoned area with lots of families and young children seems irresponsible. Again, there are lots of homes in very close proximity to where this tower would be. If a tower was truly needed, I would imagine there are other places it could be installed a lot further away from residents and their homes where they spend most of their time. I hope we all can take a step back and put the health and wellness of our community first before moving forward with the need of this tower and its current proposed location.

Sincerely, Justin Mosley”

“Over the past several months and years you've passed ordinances which place restrictions on what and how we, the citizens of Heber City, conduct ourselves and what we can do with our property. You also control the growth of our community. Among other things, these ordinances are meant to enhance the comfort, beauty and safety of our town and surrounding areas. Most will agree that the amount of growth in this valley is out of control. It appears to me and others that large corporations, developers and those with deep pockets can, with little effort, usurp the ordinances and/or building codes to accomplish their desire to enhance their bottom line. And it seems that this city council is more than glad to help them accomplish this mission by approving their request. It seems that public meetings, such as this one, are nothing more than a show. It appears the special interests only need to wait until this council meets their legal obligation before they get approval for their projects. Little regard is given to the unforeseen circumstances that result from these projects such as increased traffic, expanded sewer needs, additional police and fire protection which result in ever increasing taxes. Now a corporation wants you to authorize a stealth telecommunication tower which is nearly twice the approved ordinance heights you passed so they can increase their business. Members of the City Council, how about you prove to the community that you're not just in the pockets of multimillion dollar corporations. Just for once, will you vote no on this request to install a nearly 70 foot, what is described as a, stealth tower and keep what's left of our beautiful skyline free of an obtrusive ugly structure over our city.

Ken McConnell, Gaylyn Latimer, Heber City Residents

“This is why you need to deny the installation of a telecommunication tower in the Cove Subdivision:

How close is too close to live to cell phone towers and antennas and what to do if you discover that you are living within a distance that is impacting your health according to scientific research. Mobile phone use continues to expand rapidly around the world. Within the next year, the number of cell phone users world wide is projected to pass 5 billion. In the United States, well over 90% of adults now have a cell phone. The rate is nearly 50% among children as young as 10! Not surprisingly, with so many mobile devices in use, the infrastructure to support them has grown substantially as well. Cell towers are continuing to pop up everywhere. In my small town, two new applications were filed this year alone! If you don't see any in your neighborhood don't be fooled. Some cell towers are now disguised to look like trees especially if the tower is in a residential area. Disney World is famous for its tree-like cell phone infrastructure that blends almost invisibly with real foliage nearby.

The good news is that a growing number of people are now taking wise precautions to protect themselves from electromagnetic radiation (EMFs). Avoiding fitbits, wireless baby monitors and turning off wifi at night are wise steps. Opting out of digital monitoring with your local power company to avoid the health risks from smart meters is a good idea too particularly if it is on a wall near the bedroom area.

Cell Tower Radiation: But what about cell phone towers and mobile antennas attached to existing structures? You can't easily avoid them as they are everywhere. They are even constructed right next to schools in some cases.

What to Do if You Live Too Close: If you find that you live within the inner circle of cellular towers, my suggestion is to consider moving. Though inconvenient, this is by far the best option. I've already had one friend change homes because of extreme sensitivity to high EMFs in her area. To date, Sweden and Germany recognize electromagnetic hypersensitivity (EHS) as an actual medical condition. I expect that to grow in the coming years. (1, 2) If you cannot move, then you can use curtains, paint, and wallpaper that blocks 100% of EMFs including 5G. This is the company I've vetted, recommend, and buy from myself for these types of products. Another alternative are bioenergetic devices that claim to reduce the exposure and/or risks from electromagnetic radiation. Whether they work or not is up for debate. As of this writing, I haven't found any conclusive, randomized data to suggest they are helpful one way or another. However, if you can't move, they are probably at least worth a shot! Perhaps in the future, they might be proven beneficial. Another thing to be aware of is that EMF exposure has the potential to increase free radical activity in the body. Thus, living near a cell tower may decrease levels of certain protective nutrients. Thus, ensuring adequate levels of antioxidants such glutathione is a very good strategy.

Cell Tower Radiation: But what about cell phone towers and mobile antennas attached to existing structures? You can't easily avoid them as they are everywhere. They are even constructed right next to schools in some cases.

Scientific Research/ Living Close to a Cell Tower a Likely Cancer Risk: Many people seem to not worry about living or working in close proximity to cell towers and antennas. However, German and Israeli research to date gives cause for concern.

German Research on Cell Tower Safety: In a German study, doctors examined close to 1000 patients to see if living at the same address close to a cell tower for 10 years affected cancer risk. The social and age differences within the study group were small, with no ethnic diversity. They discovered that the proportion of newly developed cancer cases was three times higher for those living within 1300 feet (a quarter of a mile) of a cellular transmitter compared to those living further away. In addition, they found that the patients became ill with cancer on average 8 years earlier. A distance of 1300 feet (400m) is of particular importance. This is because computer simulation and measurements used in the study indicated that the radiation at that distance or less (the “inner area”) is 100 times greater than emissions beyond that distance (the “outer area”). Another important observation from the research is that for the first 5 years of living near a cell phone tower, the risks were no different than someone living far away from one. However, in years 6-10, the cancer risks jumped more than threefold for those living a quarter of a mile or less from a mobile tower. Even more concerning, the average age of diagnosis was much younger. Risk for breast cancer, prostate, pancreas, bowel, melanoma, lung, and blood cancer all increased substantially. The risks for breast cancer were most significant for those living in the inner area, with an average age of 50.8 year for a cancer diagnosis compared with nearly two decades later (70 years of age) for those in the outer area.

Israeli Mobile Phone Tower Research: Israeli research conducted by Tel Aviv University confirms a similar pattern. In this study, 622 people living 1148 feet (350m) or less from a cell phone transmission station for 3-7 years were compared to 1222 controls living further away. Out of the high exposure group, 8 cases of cancer were diagnosed within just one year. 3 cases of breast cancer and 1 case each of ovarian, lung, bone, kidney and lymphatic cancer. In the control group, only 2 cases of cancer occurred even though the control group was roughly twice as large as the highly exposed group. Based on these results, the researchers calculated the relative risk of cancer to be over four times higher for those living 350m or less (about one-fifth of a mile) from a cell phone transmitter. Women May Be More Susceptible to Cell Tower Radiation The Tel Aviv University research found that women appear to be more susceptible to the health effects of living near a cell tower than men.

Seven out of the eight cancers that arose during the first year were females. Thus, women living one-fifth of a mile or less from a cell tower experienced a ten fold increase in cancer risk compared with controls.

Cell Phone Tower Safety. What Should YOU Do?

If this research is concerning to you as it was to me, I would recommend that you check out [antennasearch.com](http://antennasearch.com). This site provides information on how many cell phone towers and mobile antennas are in your area. The exact distance of each from your home address is provided as well. Do not rely just on your visual observation of the neighborhood. Cell towers are increasingly disguised as trees. Moreover, even if no cell towers exist, there are likely plenty of cellular antennas on existing buildings and other structures. A typical mobile phone tower will hold 10 or more cellular antennas for various companies.

If you are planning to buy a home in the near future, consideration of cellular phone infrastructure nearby is very important. It ranks right up there with schools and other positives and negatives about the neighborhood. I fully expect that in the future, as more research concerning the effects of EMFs on human biology emerges, real estate

prices will be affected by their relative proximity to cell phone towers and/or antennas.

One word of warning. Don't be overly concerned when you initially check your home address for nearby cellular infrastructure. The number is likely to be extremely high! Wait until you see how close the towers and antenna are first! For example, I discovered that there are 81 towers and 124 antennas located within 4 miles of my front door! This is in a rural residential community too! However, once I looked more closely, I found that none of them is closer than a half mile away.

What to Do if You Live Too Close: If you find that you live within the inner circle of cellular towers, my suggestion is to consider moving. Though inconvenient, this is by far the best option. I've already had one friend change homes because of extreme sensitivity to high EMFs in her area. To date, Sweden and Germany recognize electromagnetic hypersensitivity (EHS) as an actual medical condition. I expect that to grow in the coming years. (1, 2) If you cannot move, then you can use curtains, paint, and wallpaper that blocks 100% of EMFs including 5G.

Ken McConnell, Heber City Resident

"To Whom It May Concern, This comment is regarding the proposed telecommunications tower along Valley Hills Blvd on parcel # 00-0021-0538. We are strongly against such a tall unsightly structure in our neighborhood! Please consider alternatives. Thank you!

Residents of 1255 N Cottonwood Cir, Heber City UT, Klara Daranyi, Gabor Lingauer and Eric Lingauer"

"I strongly disapprove of this proposed Telecommunications tower right behind my home. I live in Valley hills area of Heber, right along Ridge Drive and I have for the last 18 years. It's bad enough to have lost all that beautiful walking and biking trails and now this. This tower is not an improvement to the lost scenery and development. It would be incredibly disappointing to see this happen to our community. There are rules in place to protect our community and we should be more concerned with preservation then the money that comes with this kind of progress. A very concerned citizen of Valley Hills,

-Kristine Zanno Kratky

"Dear planning commission-

There are laws and ordinances in place to protect the citizens. Allowing the building of 69' cell tower (almost twice the height allowed) in an established residential area is wrong and grossly negligent. Please follow the law and ordinances, DO NOT allow a tower over the height limit of 35 feet.

Thank you, Liz

"Marl Shea

I am asking you to not approve the proposed 69 foot tower under any scenario.

Please do not approve it."

"Dear City Council Members,

I'm writing to express my concerns about the proposed Master Development  
Heber City Planning Commission DRAFT Minutes

February 25, 2025

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Agreement (MDA) for a 69-ft “stealth” cell tower on the hill near our home, in our residential neighborhood of Valley Hills. I wish I could attend tonight’s meeting to discuss this in person, but unfortunately, I’m unable to. I hope you’ll consider my input as you make this important decision that will affect our family and neighbors.

We’ve lived in this neighborhood for about 17 years, and while I understand the need for improved cell service, I’m worried about the potential impacts of putting such a tall structure so close to our homes—especially since it exceeds the maximum height allowance by 35 feet, requiring the MDA. To my understanding, cell towers aren’t even allowed in R-1 residential areas like ours under current zoning rules. Approving this MDA feels like it would override that protection, which is there for a reason—to keep our neighborhood safe and residential in character. From what I understand, that hill already has multiple antennae, on/near the water tower. The addition of such a large additional tower (even though the developer claims it will be “stealth”—if they’re referencing those awful fake-pine-tree towers, the tower will still be an unacceptable eyesore. It will stick out in our neighborhood completely surrounded by homes. It could change the whole feel of our community, making it less peaceful and attractive—something the R-1 zoning is meant to preserve. I’ve read that structures like this can lower property values—some studies suggest by as much as 20% for homes nearby. That’s a real worry for us, as our home is one of our biggest investments, and I’m sure our neighbors feel the same.

Beyond looks, I’m concerned about safety and health. With the tower so close to many homes, I wonder about the long-term effects of having it near where we live, sleep, and raise our family. I’ve read that there’s ongoing debate about radiofrequency radiation from cell towers, with some studies linking proximity to things like sleep problems, headaches, or even more serious health risks over time. I’m not an expert, but the idea of constant exposure so close to our house makes me uneasy.

I also worry about practical issues. A tower that size could pose safety risks—like what if it catches fire or gets damaged in a storm? I’ve read that cell towers can have hazardous equipment, and with it being on a hill so close to homes, any problem could affect us directly. Construction itself might disrupt our quiet neighborhood, too, with noise, traffic, and potential damage to the hill or surrounding area.

I’m not against progress, and I understand the company’s desire to improve cell service, but I am vehemently opposed to the location they’ve selected for this tower. It would be better if the council could stick to the R-1 zoning rules that protect our neighborhood and explore alternatives—maybe a shorter tower, a different location farther from homes, or even splitting the coverage between smaller installations that don’t require an MDA. Please remember that your job as council members is primarily to advocate for the city’s residents, and not to be persuaded by revenue promised by developers such as Atlas, when it goes against the best interests of your constituents. The lure of revenue for the city simply cannot and should not trump our best interests. Thank you for taking the time to read this and for all the work you do for our city. I hope you’ll keep our concerns in mind tonight as you discuss the proposal. Please let me know if there’s anything else I can do to stay involved. Sincerely,

Melissa McKrola”

“As a resident of the neighborhood, I couldn’t be more opposed to this approval. The tower is effectively double the height of the city ordinances. We have those for a

reason. The current ordinance is well thought out and should be adhered to. This isn't a public good, it's just a convenience for Atlas. Let's stick with the rules on the books.

-Michael Paulus"

"I'm writing as a Heber resident and specifically a Valley Hills resident of Callaway Drive to share my concerns and objections to the proposed Atlas Tower in the Valley Hills area. I will not be able to attend the upcoming hearing so I'd like my note documented and read aloud. The height of this tower request is insane. There is no reason a tower double the allowed height should be permitted, especially in a mountain side residential area. Not only is it an eyesore in a dense residential area but it also poses flight path safety concerns with the regular traffic of the private helicopter on that very hill and other planes that frequently fly low in this already elevated area. The location overall is a horrendous choice. It does not feel appropriate to put a giant cell tower in a neighborhood that is already so established and developed. If a new tower is required, which I'm not even sure it is but regardless, a far better choice would be to place a tower in the incoming development areas just North of the proposed area (Jordanelle Ridge) where no homeowners currently live and those moving into the area could assess their feelings about it when purchasing new homes as opposed to forcing it on already established areas. Developers could work around it and the location would provide similar if not better elevation, general location, and open air access. I oppose the height of the requested tower. I oppose any tower in this location at all. Mike Andrus"

"I'm not sure why there even needs to be a hearing: common sense should win outright. Here are just a few sources to dissuade this from ever being considered:

[https://www.microwavenews.com/news-center/cell-tower-radiation-linked-genetic-changes-](https://www.microwavenews.com/news-center/cell-tower-radiation-linked-genetic-changes-nearby-residents)

[nearby-residents](https://www.microwavenews.com/news-center/cell-tower-radiation-linked-genetic-changes-nearby-residents)

<https://www.stralskyddsstiftelsen.se/2020/11/12/det-har-behover-du-veta-om-stralning/>

[https://childrenshealthdefense.org/legal\\_justice/emr-litigation-efforts/](https://childrenshealthdefense.org/legal_justice/emr-litigation-efforts/)

<https://www.stralskyddsstiftelsen.se/2024/06/24/varldens-forsta-studie-av-5gs-halsoeffekter/>"

**"OVERALL HEALTH AND FINANCIAL RISKS WILL BE DEVASTATING TO HOME OWNERS OUR PROPERTIES VALUE WILL DROP, DO NOT ALLOW THIS TOWER TO BE BUILT**

Facts are as follows:

**CELL ANTENNAS LOWER PROPERTY VALUES:** Research finds, cell towers, 5G, high powered powerlines and electric substations near homes can drop property values up to 20%. "Cellphone towers bring extra tax revenue and better reception to a section of the city, but many are skeptical because of the potential health risks and the impact on property values. Increasing numbers of people don't want to live near cell towers. In some areas with new towers, property values have decreased by up to 20%."

-National Business Post: Your new neighbor, a cell tower, may impact the value of your home. A study published in the Journal of Real Estate Finance and Economics found

that for properties located within 0.72 miles [2362 feet] of the closest cell tower, property values declined 2.46% on average, and up to 9.78% for homes within tower visibility range compared to homes outside tower visibility range. “In aggregate, properties within the 0.72-miles band lose over \$24 million dollars.”

Additional research shows:

According to research, large communication towers, like cell phone towers, generally have a negative impact on property value, especially when located close to a residential property, as many people perceive them as visually unappealing and potentially harmful to health, leading to a decreased willingness to buy homes nearby; the closer the tower, the greater the potential decrease in value. Health risks to children and adults, studies show: <https://ehtrust.org/health-effects-of-cell-towers-near-homes-and-schools/#:~:text=Cell%20towers%20emit%20a%20type%20of%20radiation.&text=Effects%20from%20RF%20documented%20in,impacts%20to%20the%20nervous%20system>.

Owen Schmidt”

“Thank you for giving us the opportunity to express our views on the proposed exception to the current city ordinances. We live at 1800 N Cove Springs Way, near the proposed tower and strongly oppose the exception. Studies have shown that there can be negative health risks associated with such towers. In addition, there are reports that such towers may have strong negative impact on home values in nearby areas. We bought our property in Heber in good faith and have invested substantial capital in improving the property since we purchased our home, all based on the rules and regulations of Heber City. Waiving those rules and negatively impacting our home values, as well and potentially harming our health for the benefit of a for-profit developer as well as Heber City does not seem fair and a conflict of interest by the City. Thank you for your consideration,

Shane & Kimberly Kelly”

“Planning Commission,

Below are the additional comments I shared in the meeting last night, for your record. I can provide source references for my points if needed. I will be emailing these points to Jacob Roberts at the Planning and Zoning Office and also to each of the city council members. Thank you again for your time and commitment to our city!

I see no mention of limiting the RF radiation emitted from this tower. Has this been addressed, or will Atlas have free rein to expose surrounding families 24/7 to any level so long as it is within FCC standards? They want a taller tower to accommodate more antennae than 34’ would allow. (A 34’ tower would not be unusable, it just wouldn’t allow them to fit 3 carriers on the tower, thus getting more bang for their buck.) The more antennae on a tower, the higher the RF radiation. The American Cancer Society states that RF waves from cell towers aren’t proven to be entirely safe and that most experts agree more research is needed, especially regarding long-term effects. In August 2021, the U.S. Court of Appeals ruled the FCC’s decision to keep outdated 1996 RF exposure guidelines as arbitrary and capricious, & given the rise of new technologies like 5G. The court ordered the FCC to address this, but it hasn’t been done yet and the standards from almost 30yrs ago remain in effect. Cell tower radiation

is classified as “High Risk” by insurance companies and Verizon and other carriers acknowledge an unknown level of legal risk from health-related lawsuits due to the effects of RF transmitters.

My point is that there’s insufficient data on the long-term health effects of living near cell towers, but there’s enough evidence to raise concern. I have a 5-year-old son and a 3-year-old daughter, and this tower will be located just a few hundred feet from our property. For context, a white paper published in an Elsevier journal reviewed evidence linking RF radiation from cellular towers to negative health effects and recommends restricting antennas within 500 meters of schools and hospitals to protect companies from future liability. This is a radius of about 1/3 of a mile. I recognize the opportunity to argue a 34’ cell tower in our backyard has passed, the lease has been signed. The question is will the city approve an exception that exposes my children and those of all the surrounding families to higher amounts of RF radiation by approving a tower that is 2x the city limit (a limit that was just approved 3yrs ago)?

Lastly, As stated in the staff report, the property for the proposed telecom tower is zoned residential (R1). Also noted in the staff report, telecom towers are prohibited on private property under residential zoning. It is unclear why city property is exempt from the same requirement private property owners are expected to abide by, but even more concerning is that staff is recommending approval of a telecom tower that doesn’t meet current city standards. If this tower were being considered in an undeveloped area where no residents were currently living, consideration of a proposal outside of city standards might be reasonable and make sense. Given that this is a developed, existing residential neighborhood, and that the prohibition on telecom towers in residential areas inexplicably does not apply to city property, city staff at a minimum, in the spirit of being a good neighbor and maintaining the integrity of its own policies, should require its own standards be met. The proposed tower is not a project that is integral to the future success of Heber City and should not be granted special consideration, especially when that consideration negatively impacts existing residents. There are multiple ways for this developer to provide more service opportunities to private cell phone providers within existing city standards. They should be required to do so. I ask that the commission deny this request. If you are not inclined to do so, I ask that you move to continue this item to another meeting and direct staff to bring something back that is inline with city standards. Favoring the developer’s request at the expense of current residents is unneighborly and unreasonable.

Thank you. Staci and Dan Haynes”

“Dear Planning Commission:

I attended last night’s Planning Commission meeting as a concerned citizen regarding the proposed cel phone tower on the north end of town. I came as an interested citizen hoping to learn more about the proposal. Before the meeting, my mind was not made up. I think I am still open to the possibility of a new cel tower in Heber Valley, but the proceedings of the meeting substantially increased my concerns, but not for the reasons you might think. My serious concerns center on the process that Atlas Tower and the Commission seem to have followed to date. While the project manager for Atlas assured us that the established process has been followed to date, I must conclude that the procees was either not followed or fatally flawed. Why? I illustrate.

1. Transparency. Although negotiations between Atlas and the city have been on-

going, hardly anyone in the affected neighborhood was informed of the proposal. Transparency is a crucial part of all civic processes of this kind. Its widespread absence in this case indicates a fatal flaw in the process, if one had been followed.

2. Ignorance/disagreement. My professional experience with project management suggests that due diligence is step one in the process. That Atlas and the Commission were uninformed or misinformed about such basic information as legal rights-of-way, existing tower service, scientific studies re: RF radiation, alternate configurations/locations for the proposed tower, type and schedule of service vehicles accessing the tower through an established cul-de-sac, and visual impact of the proposed tower indicate a serious lack of up-front due diligence and/or a serious lack of communication among the stakeholders.

3. Report/formal presentation. On this point, I reflect on the recent UDOT by-pass process and the process surrounding the permitting of the LDS temple: Advocates for these projects went out of their way to document, illustrate, and share findings of their due diligence, hoping to inform if not convince citizens and city officials of the wisdom of their proposals. I was greatly disappointed that Atlas did not take or was not given the opportunity to convince us of the need.

4. Necessity. Given the widespread and serious concerns of city residents (no citizen spoke in favor of the proposal last night) and given the adoption of the RDA process for the formal review of the proposal — I would expect the city to provide a compelling reason for the proposal, much more than a financial windfall. That neither Atlas nor the Commission provided justification that overcame citizens' concerns suggests a serious deficiency in the process to date.

5. Timing. Despite statements to the contrary, the Commission seemed prepared last night to make a recommendation to the city regarding this proposal. Otherwise, the chair would not have needed to take the executive prerogative at the end of the meeting to assure all assembled, including other Commission members, that its formal action was to come later.

In short, while I was pleased for the civil decorum of last night's meeting, I felt that the Commission and Atlas missed an extraordinary opportunity to engage citizens in this democratic process, inform them of the benefits of the proposal, listen to their concerns, and seek more agreement through a meaningful exchange. I look forward to other opportunities to participate in the review process for this proposal and support the Commission's final recommendation to the city.

Sincerely,

Steve, Steven L. Olsen"

"I hope this email/letter finds you well. I am writing to formally express my concern regarding the proposed construction of a 69-foot stealth communication tower in the backyard of my property located at 1776 N. Callaway Dr. As a resident of this community, I understand the importance of reliable communication infrastructure; however, I believe the installation of this tower in such proximity to my home would have several negative consequences that must be addressed.

First and foremost, I am deeply concerned about the potential impact on my family's health and well-being. Although the tower is classified as "stealth," there is growing

evidence that prolonged exposure to electromagnetic fields (EMF) emitted by cell towers may pose health risks, including potential effects on fertility, sleep, and overall well-being. While the safety of such towers is often discussed, I would like to request further studies or reassurances regarding the safety and regulation of the radiation levels in this area, particularly given its proximity to residential spaces. Additionally, the height of the tower, at 69 feet, will significantly affect the aesthetic value of my property and the overall visual character of our neighborhood. The presence of such a tall structure in proximity will drastically change the appearance of the area and could lead to a decrease in property values, as potential buyers may be deterred by the view of the tower. As a homeowner, I am concerned that this alteration will negatively impact both my family's quality of life and the desirability of the neighborhood.

Lastly, I would like to address potential environmental concerns. A tower of this height might disrupt local wildlife, particularly in areas where there are birds or other species that are sensitive to such structures. I urge you to consider the potential ecological effects of this project before proceeding.

Additional Comments: Atlas Tower wants a 69-foot telecommunications tower in our neighborhood—twice Heber's 35-foot limit. It'll loom over our homes, an eyesore slashing property values 5-20%—our hard-earned savings at stake! They're sneaking past rules with an MDA, dodging proof a shorter tower won't work. Atlas is claiming the height is needed for multiple phone carriers.

Atlas Towers is Atlas Tower is a private entity focused on building and operating communication towers across North America and East Africa Why They're Using a Special Deal? They're using a Master Development Agreement (MDA) to sidestep normal rules. It's a custom contract with the city that lets them bend zoning laws, offering perks like better phone coverage or community cash to get approval. Without it, they'd have to prove a shorter tower won't work, which is tougher. Without an MDA, they'd likely need a variance or conditional use permit (CUP) under Utah zoning laws (e.g., UCA 10-9a- 507). Here's why proving a 35-foot tower won't work is key:

#### 1. Legal Requirement for Variances

a. To get a variance, Atlas must show "unnecessary hardship"—meaning the 35-foot limit prevents them from achieving a reasonable use (e.g., telecom coverage). They'd need evidence (e.g., signal maps) proving a shorter tower fails to serve carriers or the area, not just that it's less convenient.

b. Why Hard?: If a 35-foot tower provides any coverage, even suboptimal, the city could deny the variance, saying no hardship exists.

#### 2. Conditional Use Permit Standards

a. For a CUP, Heber's code likely requires telecom towers to meet specific conditions (e.g., minimal height for the use). Atlas would have to demonstrate 69 feet is the minimum necessary, proving 35 feet doesn't meet co-location or signal needs.

b. Why Tough?: Without hard data, the Planning Commission might cap it at 35 feet, forcing Atlas to compromise.

c. The proposal hinges on accommodating co-location, but it's unclear if Atlas Tower has provided robust data (e.g., coverage maps, signal propagation models) proving 69 feet is necessary versus 35 feet. In telecom siting, height exceptions often require

demonstrated “significant gaps” in coverage, a standard loosened for small cells by the FCC but still relevant locally.

### 3. MDA Advantage

a. An MDA skips this proof burden. Instead of justifying why 35 feet fails, Atlas negotiates with the council, pitching benefits (e.g., co-location, community perks) to win approval. It’s less about technical necessity and more about mutual agreement. Without compelling justification beyond carrier convenience, the proposal could be seen as prioritizing private profit over local standards.

b. In Utah, cities like Park City approve 80-foot towers via permits only after applicants show height is essential (e.g., mountain coverage). Atlas likely knows proving “35 feet won’t work” in Heber’s flatter valley could be shaky—terrain helps, but not as decisively as in canyons—so the MDA lets them pivot to persuasion over evidence.

Considering these concerns, I kindly request that you reconsider the placement of this cell tower and explore alternative locations that would minimize impact on nearby residents, the environment, and the overall

aesthetic of our community. If this is not possible, I would appreciate more information regarding how the tower will be regulated, the measures in place to ensure its safety, and any potential mitigation strategies for the issues mentioned above. Thank you for your attention to this matter. I look forward to hearing from you and working together to find a solution that respects the needs of both the community and the proposed infrastructure.

Look at these links for more information you should take into consideration.

<https://www.thehealthyhomeeconomist.com/cell-tower-safety/>  
<https://mdsafetech.org/cell-tower-health-effects/>

Sincerely,

Thomas and Deborah Stenger”

“Dear Planning Commission,

I live about 1 block away from the hill where Atlas Tower would like to place a tower. I believe that approval should not be given. I am concerned about the height and appearance of the tower. I am concerned about the exposure to increased wavelengths of radiation. I understand that we are all constantly being exposed to many different types of radiation. However, being near a tower of that size would be a huge increase of exposure. There are many well documented negative health effects connected to living near a communications tower. This article does a good job explaining some of the risks and the negative impact to health.

<https://mdsafetech.org/cell-tower-health-effects/>

I believe that having a tower of that size so near our homes will also not be helpful for those of us who may need to sell our homes in the future.

Thank you, Tosha Arnout”

**The following comments are public comments given during the meeting:**

TJ Stephens came forward first and identified himself as a lawyer from Heber City speaking on behalf of Cove Point. Mr. Stephens made a point opposing the tower construction as it would fall in an R1 Zone. Mr. Stephens said these towers were not typically permitted in residential areas unless there were specific conditional use permits. Mr. Stephens claimed the MDA process was being used inappropriately and argued that the City Council would not allow a tower like this in a public park and so, by extension, they should not allow it in a residential area. Mr. Stephens voiced concerns over 5G and how this could impact residential health, and added that the tower itself will be an aesthetic eyesore. Mr. Stephens asked that the tower move to an industrial zone.

Gary Bradley came forward next. Mr. Bradley also opposed the tower as he felt this tower would ruin the view. Mr. Bradley said he would not be opposed to a shorter tower and asked that it be put on the West side of the area. He proposed two 35' foot towers spread out, rather than one tall tower. Mr. Bradley said he had a property located east of the proposed tower and reported that he had been approached by Atlas, and he reiterated his opposition to the tower.

Erin Shilt came forward next. Ms. Shilt said she was located just next to the proposed tower location. Ms. Shilt said she had concern over the well-being of her community and stressed that zoning served a purpose and should be respected. Ms. Shilt expressed concern that this tower would devalue the property values, diminish the beauty of the area, expose the community to undue safety concerns, and bring about more noise. She also complained that the community had been left in the dark about the project plans which only intensified the community's distrust of the problem. Ms. Shilt said the community understood the need for connectivity but did not agree with the corporate overreach on display. Ms. Shilt asked the Planning Commission to at least postpone any actions until the community was better informed on the project parameters.

Staci Basilius Hayes came forward next and stated that she lived right next to Ms. Shilt and shared her concerns. Ms. Hayes said she previously sent an email expressing her concerns over RF waves and was particularly concerned over the height of the tower. Ms. Hayes said the FCC has been ordered to address this, but FCC standards have not changed for 30 years. Ms. Hayes said RF transmitters were recognized as a risk by insurance companies and she expressed fear over the potential health effects her children could experience. Ms. Hayes said it was unclear why this is being considered when it did not meet standards. Ms. Hayes insisted this tower be moved to a different area.

Justin Mosley came forward next. Mr. Mosley said he also has three young children and was also concerned over the tower's impact on their health. Mr. Mosley said he did not understand the need for a tower in this reason for coverage reasons. Mr. Mosley said all the major providers are covered in this area. Mr. Mosley asked the Planning Commission to consider the health of families.

Michael Leven reported that he owned the lot just below the water tower and noted how little work went to the water tower. Mr. Leven said he did not know about the proposal until a few days ago and opined that this project would devalue their property and be an ugly eyesore. Mr. Leven agreed with the health concerns and asked for

more information.

Tom Reed echoed previous concerns over the health risk of the tower.

Ted McConnell came forward next and said his two primary concerns were the pine tree growth and the potential health risks. Mr. McConnell asked for a show of hands to see if anyone present wanted the tower built. Mr. McConnell noted no one raised their hands.

Todd Anderson said he had no problems getting cell service anywhere in the City and did not see the need for more towers. Mr. Anderson asked for data and maps that could show what was being gained by building a cell tower in the area. Mr. Anderson said they had not been shown any positive aspects to the proposed project.

Wade Sproggins came forward next. Mr. Sproggins repeated earlier concerns and added that he was already in an area experiencing construction. Mr. Sproggins added that he had financial concerns and worried about disrupting an established area. Mr. Sproggins asked Atlas if other locations were in consideration.

Ms. Layton from Atlas answered and said the height of this area was a necessary factor along with access for service trucks. Mr. Sproggins said he understood the need for height, but felt that factor alone did not mean this location was the right one.

Pam Patrick voiced her support of neighbors and friends. Ms. Patrick asked why Atlas was not using the land annexed just north of them.

Christopher Grange reiterated what Ms. Patrick said almost verbatim. Mr. Grange said farther north would be a better location.

Troy Johnson asked what other exceptions will arise if they make an exception for this project.

Jennifer Sproggins came forward next. Mrs. Sproggins said this was also a financial decision and should be considered a financial loss for current residents. Mrs. Sproggins opined there was far too much growth in this neighborhood, and argued that the current service already worked perfectly. Mrs. Sproggins asked to see more about the financial side of this project along with a deeper dive into potential health risks.

**The following public comments were shared via Zoom:**

Michael Paulus shared his comments via Zoom. Mr. Paulus expressed concern over health issues and repeated what others had said before about the quality existing cell service. Mr. Paulus felt they needed to see proof that there was a problem which the cell tower could fix before the project was approved.

Matt Tanner unmuted for public comment. Mr. Tanner said his front porch faced the water and expressed his deep opposition to the tower. He said it was a direct violation of existing zoning laws and said these codes exist for a reason. He expressed that he did not like the precedent building this tower

sent, and repeated previous concerns over the potential devaluing of the neighborhood, along with the need to see potential benefits before moving forward.

Christian Thompson unmuted for public comment. Mr. Thompson echoed all the concerns voiced beforehand and stressed how much this tower did not belong in the neighborhood.

Jamie Hewlett unmuted for public comment. Ms. Hewlett asked what the legalities were if this project moves forward, and also commented that all the signs informing the area had been obfuscated after a snow storm.

Heber City Prosecutor/Asst. City Manager Smedley spoke about the MDA and noted there could always be amendments to the Code or a master development. Asst. City Manager Smedley said this was a solicitation from Atlas and required a lease with the City given the fact the City owned the land. Asst. City Manager Smedley reminded the Commission that they were not going to make a decision today, and there was time for other independent parties to come in and offer more insight. Asst. City Manager complimented the decorum of those present.

Community Development Director Kohler elaborated on why an MDA had been chosen. Community Development Director Kohler said a variance was neither appropriate nor legal as it was a quasi-judicial decision. Community Development Director Kohler said changing the code was legislative and involved negotiation. He elaborated as to why a development agreement was being used instead of a Code amendment, stating that a development agreement localized the agreement instead of making a global change.

**The following comments were given in person:**

Gaye Lynn Latimer came forward. Ms. Latimer said residents were being well-behaved only because they are in complete shock, and said only three residents in her neighborhood had this information sent to their home. Ms. Latimer asked if communication would improve.

Mel McQuarrie came forward and said he owned land around the site. Mr. McQuarrie said he had no problem with the tower as long as they followed proper procedures.

Shane Cummings spoke on behalf of his mother. Mr. Cummings asked how they would get access to the hill to build the tower properly.

Asst. City Manager Smedley replied they would come through the easement. Mr. Cummings noted that area was private property. Chairman Jordan asked Community Development Director Kohler if that area was private or City owned, to which Community Development Director Kohler responded though it was unintelligible [00:56:26]. Mr. Cummings said his father told him that was private property. Asst. City Manager Smedley said he would look into it further.

Mr. McQuarrie chimed in and said there was no easement across the property and said they would need to get permission in order to go along that area to build a tower. Mr.

McQuarrie said Mr. Cummings was correct.

Tammy Nebeker came up next and asked if Atlas had come to the City or vice versa. Chairman Jordan said Atlas came to the City. Ms. Nebeker said she wished the Planning Commission luck on having the courage to do what is right.

Rick Lindsay came forward next. Mr. Lindsay asked why the tower was exceeding 35 feet when that was against the rules. Mr. Lindsay opined that “nobody gave a shit about the property taxes” and stressed that he thought this tower was wrong. Mr. Lindsay said he had a bad feeling about what was happening and the precedent it set.

Chairman Jordan closed the public hearing.

Community Development Director Kohler presented the longstanding policy and reminded the public that the Commission would not make a decision that night. He then asked the Commission to consider all the alternatives presented. Chairman Jordan asked what the City Council will do next and Community Development Director Kohler replied this item will first go into a work meeting, which will then give Staff direction for the next meeting. Chairman Jordan asked if there would be more public meetings to which Community Development Director Kohler said there would be. Chairman Jordan said this would be the first of at least three public meetings and acknowledged that they have received 26 meetings from residents, and assured everyone that the Commission would consider public opinion.

Vice-Chair Broughton clarified to the residents present that there was already a cell tower present in the area. Vice-Chair Broughton then thanked the public for attending and informed the audience that the agreement with Atlas was public and on the City’s website.

Commissioner Knight said the document online was the exact thing the Commission saw as well. Commissioner Knight said it had been incredibly gratifying to watch citizens hold the Commission accountable and engage civically. Commissioner Knight echoed Asst. City Manager Smedley’s sentiments about the decorum, and added he had reservations as well about the proposal.

Commissioner McKinley asked how high the tower was at Chick’s Cafe and Chairman Jordan noted it was 35 feet. Commissioner McKinley asked for a rendering of the tower in order to better understand what they were working with.

Chairman Jordan repeated the Commission would not make any decisions that evening. Chairman Jordan said they would work to give more notice for future meetings, although he acknowledged that this meeting’s attendance had been great.

Commissioner Jordan asked about having a second shorter tower and Ms. Layton discussed why that was not ideal.

Commissioner Wilson commented on the well attended public hearing. He spoke about how he did not like the Chick’s Cafe tower and acknowledged the issues with the aesthetics of the cell towers, but expressed that they needed to think seriously about how they were going to manage the need to have cell coverage in Heber. He

thanked the residents for their comments.

Commissioner Royall asked Atlas how they knew an additional cell tower was needed and noted that he had adequate cell service in his home, which was located near the proposed tower site. Ms. Layton responded that they collected data on the coverage in the City to determine the need for coverage in certain areas. She explained that service within the home was usually supported by wifi, but that did not apply once people went outside. Commissioner Royall then asked about health issues and the property value of people's homes. Ms. Layton replied that the FCC had indicated there was not a high enough level of radiation from cell towers to be harmful and noted that the antennas themselves were located far away from the ground. Ms. Layton also discussed that property values should not be impacted by the cell tower, and in fact may be an asset since it ensured that the area would have ample cell coverage.

Vice-Chair Broughton asked if there was minimum spacing between towers. Ms. Layton replied that there was no minimum, but typically towers were spaced apart so that they did not cross signals. Generally, Ms. Layton said that towers were a mile or more apart from one another.

Chairman Jordan asked what carriers were currently in the area and if there was a need to have more towers in the City to support all the carriers, and Ms. Layton replied they had two carriers now, with a third carrier pending. Ms. Layton explained that the potential carrier could join the existing tower. Ms. Layton elaborated on their methodology for determining the location of new towers. Asst. City Manager Smedley clarified that the potential third carrier was not dependant on the construction of the new tower. Community Development Director Kohler clarified as well.

Chairman Jordan invited Micheal Leven to speak again although public comment was closed. Mr. Leven agreed with Ms. Layton in that property values were determined by what people were willing to pay, but opined that a cell tower would lower the property value of his home and he also disagreed with her that there were no health risks posed by the tower.

Chairperson Jordan explained the process going forward and made clear that the Commission would not make a decision that evening. He asked Community Development Director Kohler to look into an impartial third party who could investigate the health issue. Chairman Jordan commented that if the tower would be a source of revenue for the City, it was important to investigate any health impacts as well as possible alternative locations. Chairman Jordan expressed that the Commission was concerned about the precedent that would be set by this tower and acknowledged that although an MDA was specific to one project, it did set a precedent. Chairman Jordan acknowledged as well the input from the residents who lived near the area where the tower would be located.

Commissioner Knight clarified that the items which needed to be researched were the health issues, possible alternative sites, and transparency about the financial benefit to the City. Community Development Director Kohler commented about alternative sites. Vice-Chair Broughton added that she wanted to see the evidence

of what the unnecessary hardship on the residences in the area would be. Ms. Layton stated that she would email more information about the FCC and emphasized that the decision could not be made about the possible health issues, per federal regulations.

Chairman Jordan reiterated that the Commission was deferring on any action that evening and as such, no motion needed to be made. He thanked the public for their attendance and comments that evening and invited them to continue to comment about the issue.

#### **4. Work Meeting:**

##### I. Central Heber Overlay Discussion (Tony Kohler and John Janson)

Community Development Director Kohler reported an update on the Central Heber Overlay zone and provided a history of the item. He explained that he wanted to make changes to the schedule and postpone the public Open House to ensure that the Commission approved of the new slide deck. Community Development Director Kohler highlighted the changes made to the new slide deck. Planner Janson also indicated that the individual slides would each be made into posters for the Open House and requested that the Commissioners attend the event. Chairman Jordan confirmed that the Commission would be present. Planner Janson then went through the slides.

Vice-Chair Broughton felt the Envision poster had too much 'inside jargon' on it and was unreadable to the average reader. Community Development Director Kohler acknowledged her point and discussed some options to make the language more accessible. Chairman Jordan commented that it needed to be made clear what the purpose and mission of Envision Central Heber was first, before moving into the information on the posters. Planner Jansen noted that they had originally included more background information, but had removed it since it seemed confusing. Community Development Director Kohler commented about what background information would be relevant to include, and emphasized that the overall goal was to make the zoning ordinance match the vision of the General Plan. Vice-Chair Broughton said that point needed to be highlighted at the Open House.

Planner Janson then indicated how the two overlays were depicted on a map and made the comment that the overlay zone did not extend all the way to the high school. Community Development Director Kohler explained the reason for that was because the zone was based off of an overlay zone that had been established back in 2002, although he said they could extend the zone if they wanted to. Chairman Jordan commented they should keep the wording on the slides to a minimum and expressed that simplicity was important. Commissioner Richards also made suggestions about how to best represent the zones on the slides and proposed adding collector streets and main arteries to the map. Commissioner Richards noted that not everyone was well-versed in how to read maps.

Community Development Director Kohler said that the order of the posters could be changed and reminded the Commissioners that since all the slides would be on separate posters, they could reorder them on the evening of the event. Chairman Jordan thought that the 'Purpose of the Central Heber Overlay Zone' slide was still

somewhat wordy and felt it would be better to reduce the text to bullet points that summarized the main points. Commissioner Knight agreed that too much text meant that the main points got lost. Vice-Chair Broughton reiterated her point about not including jargon and also opined that the pictures be removed.

Chairman Jordan noted that the phrase 'Midway Corridor' could be misleading and suggested that it either be rephrased, or have a series of definitions be included. Planner Janson agreed that the word 'corridor' should have a definition. Community Development Director Kohler said that once they got the presentation in place for the Open House, the process could move forward more quickly. Planner Janson commented that they would need to provide ample time for the noticing process so the public could make it to the meeting.

Community Development Director Kohler explained an interactive slide in which residents could indicate what uses for the district they liked and disliked. Chairman Jordan thought putting the map next to the list of uses was not needed, although Chairman Jordan disagreed. Commissioner Knight commented that many of the residents attending the Open House would not know what uses were already allowed- or conditionally allowed- in Heber City. Vice-Chair Broughton suggested that they use the phrase 'sometimes allow' rather than 'conditional use,' and noted that there was a finite amount of information that they could provide the public during the Open House. Community Development Director Kohler proposed alternate ways for the public to indicate which uses they approved and disapproved of on the posters. The Commissioners discussed that some people may be confused by the green and red dots that were to be placed on the use labels. Chairman Jordan commented they needed to make sure the interactive elements were easy for the public to understand and engage with.

Community Development Director Kohler spoke about the phrase 'subordinate dwelling unit' and asked the Commissioners if there was another term that would be more clear. Community Development Director Kohler recalled that the Commission had changed the name from 'accessory dwelling unit' and the Commissioners determined that 'subordinate' was a better term. Community Development Director Kohler asked the same question about flag lots and the Commissioners expressed they were in favor of the photograph that was used to illustrate flag lots.

Community Development Director Kohler confirmed that the City Code would be available to the public. Planner Janson discussed that printouts and QR Codes could be made available at the meeting. Vice-Chair Broughton expressed that it was important to make the Code available so that the public could be assured that these changes were not permitted to happen all over town; just in specific zones. Chairman Jordan thought it would be helpful to add background information about each item on the poster; for instance, there should be more information about what a flag lot was on the poster that asked if flag lots should be permitted. Vice-Chair Broughton reiterated that adding more information would keep the public more calm as they considered the changes.

Planner Janson thought they should clarify the owner-occupancy requirements for flag lots and subordinate dwelling units. Commissioner Knight clarified that SDUs were platted separately and Planner Janson confirmed that they were, and added that flag

lots were not. Planner Janson elaborated on the ownership requirements for both kinds of lots and Vice-Chair Broughton highlighted that subordinate lots could not be rented out.

Chairman Jordan asked Vice-Chair Broughton her thoughts on background information and Vice-Chair Broughton discussed that they needed to have clear information, but avoid overwhelming people with too much information.

Planner Janson proposed that they group all of the infill information together. Commissioner Wilson asked for clarification about SBU lots and Community Development Director Kohler clarified the distinction between the unit itself and the lot.

Planner Janson then brought up duplexes and asked for feedback on the posters. Chairman Jordan and Commissioner Knight opined that they liked the graphics on the posters. Vice-Chair Broughton thought that if there were bullet points on the other posters, then this poster should have some as well. She suggested that one of the pictures be removed so that some text could be added. Commissioner Knight expressed his opinion about the images of the townhouses that were included on the slides. Community Development Director Kohler also shared that he preferred rear-loaded or side-loaded townhomes; he noted that front-loaded townhomes raised several issues, including parking. Community Development Director Kohler acknowledged that none of the pictures showed townhomes that were actually in Heber, but pointed out that none of the townhomes in the City followed the standards that they wanted to have.

Community Development Director Kohler asked for direction from the Commission about the poster that asked the public for their thoughts on design criteria for multi-family buildings. Commissioner Knight provided some suggestions about how to make the question more clear and engaging, and expressed that it was important to highlight that the Commission was soliciting opinions and considering several options.

Vice-Chair Broughton made the same point about the poster for mixed-use buildings. Commissioner Knight questioned the mixed use buildings and commented that several residents had asked him about empty commercial spaces on the bottom floor of buildings. Planner Janson stated that mixed use worked well in full districts and walkable areas. Vice-Chair Broughton also confirmed that the posters were only asking about design styles, not materials used and Planner Janson confirmed that was correct.

Commissioner Knight anticipated that there may be pushback from the public on the Historic Building Use Flexibility poster, and he opined that they needed to make it clear that the goal was to preserve the character of Heber City. He expressed that they needed to illustrate that putting new uses in historic properties meant that they were not at risk of being torn down. Planner Janson agreed that they needed to make their purpose clear on the poster. The Commissioners also discussed the photos that had been selected for the poster. Vice-Chair Broughton asked about owner-occupancy stipulations for historic buildings and Planner Janson replied it was not always required.

Planner Janson overviewed a poster which stated that 'infill will not occur all at once

and will not occur everywhere’ and he expressed that the purpose of the poster was to assure the public that the redevelopment was not going to be all-encompassing and overwhelming. The Commissioners discussed what language was going to be best to use, and Chairman Jordan opined that the word ‘redevelopment’ might scare people since it implied there was a problem with what existed. Chairman Jordan proposed the phrase ‘infill toolkit.’

Community Development Director Kohler noted that senior citizens in Heber City were worried that they were going to be forced out of their homes and said it was important that they assured those residents that was not going to happen. Vice-Chair Broughton commented that the first bullet point on the list was redundant and the other Commissioners agreed. Commissioner Knight commented that they should clarify that the goal was not to bulldoze everything in the City and start over; but in fact these changes were intended to increase the property value of residents home. Vice-Chair Broughton also emphasized that they were not changing the zoning.

Planner Janson confirmed that they were going to postpone the Open House, which would give them time to update the posters before they presented them to the public. He asked the Commissioners what dates worked well for them and it was determined that they should hold the Open House on March 19th, with a public hearing on the 25th. Commissioner Knight thought that was acceptable and clarified the noticing process for the public. Planner Janson said with that schedule, the Commission should be ready to send a recommendation to the Council on April 8th. The Commission debated about what the ideal length of time in between the Open House and the public hearing should be, with Chairman Jordan noting that the intended purpose of the Open House was to make the public aware about the issues so that they could make informed comments at the public hearing.

## **5. Administrative Items:**

I. Conflict of Interest Training (City Attorney Jeremy Cook)

*This item was moved to another date.*

II. 2025 PC Training:

*This item was moved to another date.*

[https://le.utah.gov/xcode/Title10/Chapter9A/10-9a.html?v=C10-9a\\_1800010118000101](https://le.utah.gov/xcode/Title10/Chapter9A/10-9a.html?v=C10-9a_1800010118000101)

III. City Council Communication Item

*This item was not discussed.*

## **6. Adjournment:**

Commissioner Knight motioned to adjourn. Commissioner Wilson seconded the motion. All voted yes and the motion passed.

DRAFT

**HEBER CITY CORPORATION  
75 North Main Street  
Heber City, UT 84032  
Heber City Council Meeting  
March 11, 2025**

**DRAFT Minutes**

**6:00 p.m. – Regular Meeting**

**1. Regular Meeting:**

I. Call to Order

Charman Phil Jordan called the Planning Commission Meeting to order at 6:00 p.m. and welcomed everyone present.

II. Roll Call

**Planning Commission Present:**

Chairman Phil Jordan  
Vice-Chair Tori Broughton  
Commissioner Dave Richard  
Commissioner Darek Slagowski  
Commissioner Robert Wilson  
Commissioner Greg Royall  
Commissioner Robert Mckinley

**Planning Commission Absent:**

Commissioner Dennis Gunn  
Commissioner Josh Knight

**Staff Present:**

Planning Manager Jamie  
Baron Planner Jacob Roberts  
Planning Office Admin Meshelle Kijanen

**Staff Participating Remotely:**

City Attorney Jeremy Cook  
It Specialist Anthon Beales

**Also Present:**

N/A

**Also Attending Remotely:**

Den and Kevin Homer

III. Pledge of Allegiance: By Invitation

Chairman Broughton led the recitation of the Pledge of Allegiance.

IV. Prayer/Thought by Invitation: N/A

V. Recuse for Conflict of Interest: N/A

**2. Consent Agenda:**

I. VZW 14911047 - Heber City~Telecommunications Application, located at 99 North 600 West. (Jacob Roberts)

**Motion:** Commissioner Wilson moved to approve the items on the Consent Agenda. Board Member Broughton made the second.

**Discussion: N/A**

**Voting Yes:** Planning Commission Chairman Jordan, Vice Chair Broughton, Commissioner Richards, Commissioner Slagowski, Commissioner Wilson, Commissioner Royall, Commissioner McKinley

**Voting No:** None. The Motion Passed 7-0.

II. Amsource 6th and Main, 4th Amended Plat Amendment, located at 72 East 600 South. (Jacob Roberts)

**Motion:** Commissioner Wilson moved to approve the items on the Consent Agenda. Commissioner Broughton made the second.

**Discussion: N/A**

**Voting Yes:** Planning Commission Chairman Jordan, Vice Chair Broughton, Commissioner Richards, Commissioner Slagowski, Commissioner Wilson, Commissioner Royall, Commissioner McKinley

**Voting No:** None. The Motion Passed 7-0.

**3. Action Items: N/A**

**4. Work Meeting: N/A**

**5. Administrative Items:**

I. Conflict of Interest Training (City Attorney Jeremy Cook)

*This item was discussed after item II.*

City Attorney Cook directed this portion of the meeting. City Attorney Cook began by reading through the purpose of the Municipal Officers and Employees Ethics Act, which essentially was to ensure there was proper disclosure about possible conflicts of interest on the part of City employees. He defined that Planning Commissioners would be considered both 'appointed officers' and 'elected officers' for the purposes of the act. He then stated that the goal of the Act was to ensure that the office was not used for personal benefit to officers or City employees, and he then read through several definitions outlined in the Act and provided some examples of what 'personal benefit' might look like.

City Attorney Cook explained the '\$50' limit, which basically assumed that any gift worth less than \$50 was permissible since the value was considered to be low enough to not influence an officer's position. He shared some examples of gifts that would be considered acceptable or not, and added that although the \$50 rule generally applied, there were circumstances in which it was still inappropriate to accept a gift worth less than that. He urged the Commissioners to reach out to him directly if there was ever a question as to if they could accept a gift.

City Attorney Cook then stated that officers could not agree to receive compensation for offering assistance in any transaction that involved a municipality. He also provided some examples in which this scenario might arise, and he explained that the officer would have to disclose the information to all members of the given municipal body and also disclosed to the mayor in a public meeting. He also explained the timeline in which those disclosures would need to be made was ten days.

City Attorney Cook next identified how officers who had an substantial interest in any business that was regulated by the municipality must disclose the position that they held or the nature of their relationship to that business. He added that the officer must announce their involvement in the business at the time of their appointment to office, and any changes after their appointment must also be disclosed. City Attorney Cook noted there was some ambiguity about what exactly constituted 'regulation,' since it could be interpreted that all businesses within Heber City were regulated by the municipality. He summarized that the important element was if regulations by the City substantially impacted the operations or revenue of the business. He also added it was better to err on the side of over-disclosure. City Attorney Cook stated that if an officer who was involved with a company wished to do business with the City, they would need to disclose their position as well.

City Attorney Cook clarified that all of the scenarios that he had outlined required disclosure of involvement, but officers were still permitted to participate and vote on items that involved their business. However, he did recommend that the officers recuse themselves if there was a conflict of interest, although he explained that this was not a legal requirement. He stated that recusal was considered best practice and it avoided any potential backlash.

Commissioner McKinley asked how to navigate a scenario in which someone from an officer's personal life asked for feedback on how to approach the Planning Commission on an issue, or a situation in which someone that the officer knew personally appeared before the Commission. City Attorney Cook said that the main thing to consider was any financial obligation, and he explained that if the officer stood to potentially make any money or other benefit by a proposal, they must disclose that. City Attorney Cook added that officers were not permitted to receive compensation for any advice given. However, City Attorney Cook explained that if there was no money involved, officers did not have to recuse themselves if they happened to personally know an applicant or a petitioner who came before the Commission, although it would be best practice to disclose their relationship with the individual.

Commissioner McKinley also asked how and to whom the disclosures needed to be made. City Attorney Cook replied that different cities had various rules about how

disclosures worked, and he also noted that the rules were different for different types of officials. He said that in Heber City, disclosures were made to the Mayor and City Recorder, and he added that the disclosures were typically made public and posted on the City website as well. City Attorney Cook said that for some kinds of disclosures, there were actual forms that needed to be filled out, although that was not always the case.

City Attorney Cook reiterated that the main takeaway was that most things were a disclosure issue, rather than recusal. He recommended that the officers always disclose all matters that they felt might be relevant, even if they were not sure. Chairman Jordan asked if officers could participate in the discussion of an item in which they had disclosed that they had a conflict of interest, but then abstain from the vote. City Attorney Cook said that was an option.

**[The audio cuts out at 34:16]**

II. 2025 PC Training:  
*This item was discussed first.*

Planning Office Admin Kijanen explained the required training for the Commissioners and noted it was an assigned reading and it could be completed as a group. Chairman Jordan and Planning Office Admin Kijanen determined how they would move forward with the trainings as a group.

The Planning Commission was instructed to complete one hour of training from the link included here in order to fulfill four hours of training for 2025. Once completed, the Commissioners were to email Planning Office Admin Kijanen the Code(s) that they took their training from.

[https://le.utah.gov/xcode/Title10/Chapter9A/10-9a.html?v=C10-9a\\_1800010118000101](https://le.utah.gov/xcode/Title10/Chapter9A/10-9a.html?v=C10-9a_1800010118000101)

III. City Council Communication Item

Planner Baron summarized the most recent Council meeting.

**6. Adjournment:**

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Meshelle Kijanen, Administrative Assistant



## Planning Commission Staff Report

|                             |  |
|-----------------------------|--|
| <b>MEETING DATE:</b>        | 4/8/2025   |
| <b>SUBJECT:</b>             | Public Hearing for a Text Amendment to Chapter 18.110 Telecommunications (Jamie Baron) |
| <b>RESPONSIBLE:</b>         | Jamie Baron  |
| <b>DEPARTMENT:</b>          | Planning   |
| <b>STRATEGIC RELEVANCE:</b> | Community and Economic Development   |

### SUMMARY

APC is proposing a text amendment to 18.110 Telecommunications to increase the height of Cell Towers and permit monopole throughout the City to improve the cell coverage in the area. The proposed amendment increases the height in non-residential areas, prohibits poles in the down town area of the City, and maintains the stealth requirements.

The Policy Questions are as follows:

1. Should the City increase the height of cell towers in non-residential areas?
2. Should cell towers be restricted in the down town?
3. Does the City support the use of Stealth poles?

### RECOMMENDATION

Staff is recommending the Planning Commission hold a public hearing, take public comment, and forward a positive recommendation of the proposed amendment, with or without changes.

### BACKGROUND

APC Towers approached the City about a tower site on the south side of town, as their client is looking to increase cellular coverage in this area. During that process, APC raised the issue of the current height limit of 35' as being problematic, as it would only allow for a single provider and would require more poles to serve the growing population. APC initially proposed (see Exhibit 2) a text amendment that would allow cell towers of 120 feet in height in all areas of the City, including residential zones. Additionally, the proposal removed the stealth requirements. Staff has been working with the applicants to refine the amendment as the planning commission recently received considerable public opposition to a 69-foot tower in a residential neighborhood. Staff and the

applicant have worked together on the proposed text amendment (exhibit 3), with the applicant requesting the removal of the stealth requirements.

## DISCUSSION

### Height

The current height limit on Cellular towers is 35'. A 35' tower would only allow for a single provider on the pole. By collocating additional providers, the number of poles is reduced. Each provider needs 15.

In researching other municipalities, most range from 60'-100'.

| Other Municipalities Entity | Height Limit  | Process                       | Where  |
|-----------------------------|---|-------------------------------|--|
| Heber City                  | 35'   | Permitted and Conditional Use | All Zones  |
| Spanish Fork                | 60'   | Permitted                     | Commercial and Industrial                                      |
| Saratoga Springs            | Zone Maximum - 100', depending on size of property. | Permitted                     | All Zones  |
| Herriman                    | 50' - 100'  | Conditional Use               | Most Zones   |
| Midway                      | 40' - 60', up to 80' variance                       | Conditional Use               | All Zones  |
| Wasatch County              | 60' - 100'  | Conditional Use               | Industrial, Preservation, Mountain, and Highway Services Zones |

The Proposed Heights are as follows:

| Commercial, Mixed Use, and Industrial Zones |    |      |       |      |      |      |     |     |  |
|---|----|------|-------|------|------|------|-----|-----|--|
| C2  | C3 | C4   | MURCZ | NVOZ | I1   | I2   | BMP | IPF |  |
| 100'  | -  | 100' | 65'   | 35'  | 100' | 100' | 65' | 65' |  |

| Residential, Mountain, and Agricultural Zones |     |     |     |     |     |     |     |
|---|-----|-----|-----|-----|-----|-----|-----|
| R1  | R2  | R3  | PC  | MCZ | A2  | RA1 | RA2 |
| 35'   | 35' | 35' | 35' | 35' | 65' | 35' | 35' |

### Uses

| Commercial, Industrial, and Mixed Use Zones Permitted Use Table    |     |     |     |       |      |     |     |     |     |   |
|--|-----|-----|-----|-------|------|-----|-----|-----|-----|---|
| P – Permitted, N – Not Permitted (Prohibited), C – Conditional Use |     |     |     |       |      |     |     |     |     |   |
| Telecom Uses   | C-2 | C-3 | C-4 | MURCZ | NVOZ | I-1 | I-2 | BMP | IPF | Limitations                                   |
| Monopoles  | C*  | N   | C*  | C     | C    | P   | P   | C   | C   | Must use stealth when a conditional use. *Not |

|                                    |   |   |   |   |   |   |   |   |   |  |
|------------------------------------|---|---|---|---|---|---|---|---|---|--|
|                                    |   |   |   |   |   |   |   |   |   | permitted between 500 North and 600 South, and 600 West and 600 East   |
| Lattice Tower                      | N | N | N | N | N | N | N | N | N |  |
| Guy Tower                          | N | N | N | N | N | N | N | N | N |  |
| Freestanding - Other               | N | N | N | N | N | N | N | N | N |  |
| Roof Mounted                       | C | C | C | C | C | P | P | P | P | Antenna not to exceed 5' in height when conditional  |
| Wall Mounted                       | C | N | C | C | C | P | P | C | C |  |
| Stealth Antenna                    | C | N | C | C | C | P | P | C | C |  |
| Co-Location on Existing Facilities | P | P | P | P | P | P | P | P | P | Facility must be legally constructed, including legal non-conforming facilities that meet the FCC definition of an Eligible Facility |
| Eligible Facilities Modification   | P | P | P | P | P | P | P | P | P | Facilities defined as an Eligible Facility by the FCC  |

**Residential and Agricultural Zones Permitted Use Table**  
P – Permitted, N – Not Permitted (Prohibited), C – Conditional Use

| Telecom Uses         | R-1 | R-2 | R-3 | PC | MCZ | A-2 | RA-1 | RA-2 | Limitations   |
|----------------------|-----|-----|-----|----|-----|-----|------|------|---|
| Monopoles            | C   | C   | C   | C  | C   | C   | C    | C    | Must use stealth and be located on government land or private with non-residential uses |
| Lattice Tower        | N   | N   | N   | N  | N   | N   | N    | N    |   |
| Guy Tower            | N   | N   | N   | N  | N   | N   | N    | N    |   |
| Freestanding - Other | N   | N   | N   | N  | N   | N   | N    | N    |   |
| Roof Mounted         | N   | N   | N   | N  | N   | N   | N    | N    |   |
| Wall Mounted         | N   | N   | N   | N  | N   | N   | N    | N    |   |
| Stealth Antenna      | C   | C   | C   | C  | C   | C   | C    | C    | Must be located on government land or private land with non-residential uses            |

|                                    |   |   |   |   |   |   |   |   |  |
|------------------------------------|---|---|---|---|---|---|---|---|--|
| Co-Location on Existing Facilities | P | P | P | P | P | P | P | P | Facility must be legally constructed, including legal non-conforming facilities that meet the FCC definition of an Eligible Facility |
| Eligible Facilities Modification   | P | P | P | P | P | P | P | P | Facilities defined as an Eligible Facility by the FCC  |

**Stealth**

The City amended the code in 2022 to add stealth requirements to cellular towers. APC is requesting to remove the stealth tower requirements, claiming that the stealth causes the tower to be more noticeable than the regular tower, as well as that some types of stealth reduce the effectiveness of the Cell Towers.

**Process**

Text Amendments require a mailed summary of the text change to all property owners within the zones the amendment affects. Notices were mailed to all property owners in the C2, C-3, C-4, MURCZ, I-1, I-2, BMP, IPF, MCZ, A2 Zones.

**FISCAL IMPACT**

N/A

**CONCLUSION**

ACP Towers is requesting a text amendment to allow for taller cell towers. The amendment only amends the height in the commercial, industrial, and mixed use zones. This item has been noticed as a public hearing. Staff is recommending the planning commission forward a positive recommendation to the City Council with the following findings and conditions:

Findings

1. The Planning Commission held a public hearing on April 8, 2025.
2. The Planning Commission forwarded a positive recommendation on April 8, 2025.
3. The text amendment allows for additional cellular service to support the community, while preserving residential areas.

Conditions

1. Any conditions or changes by the Planning Commission\_\_\_\_\_.

**ALTERNATIVES**

## Staff Recommended Option - Positive Recommendation

I move to forward a **positive recommendation** of the Telecommunication Text Amendment as presented, with the findings and conditions as presented in the conclusion of the staff report.

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## POTENTIAL MOTIONS

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## ACCOUNTABILITY

**Department:** Planning  
**Staff member:** Jamie Baron, Planning Manager

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## EXHIBITS

1. UT-1863 - Text Amendment
2. Original ACP Proposal
3. 18.110 Recommended Proposal

# *Proposed Changes to Heber City's Code*

Heber City Public Hearing  
4/8/2025

 APC Towers

\*Existing APC Towers  
Telecommunications  
Facility in West  
Jordan, UT

# ***What Are We Proposing?***

- APC Towers is working with T-Mobile to build a new telecommunications facility in Heber City, UT
- The telecommunications facility would improve cell signal on the south side of Heber City and will allow for other carriers to collocate
- Currently, Heber City's zoning code only allows for 35' tall telecommunications facilities in all zones and has language saying that all telecommunications facilities must be stealth
- APC Towers proposes the following changes to the zoning code:
  - Allow for taller telecommunications facility heights (120' is preferred by APC and T-Mobile) in Commercial Zones
  - Allow for non-stealth telecommunications facilities in Commercial Zones

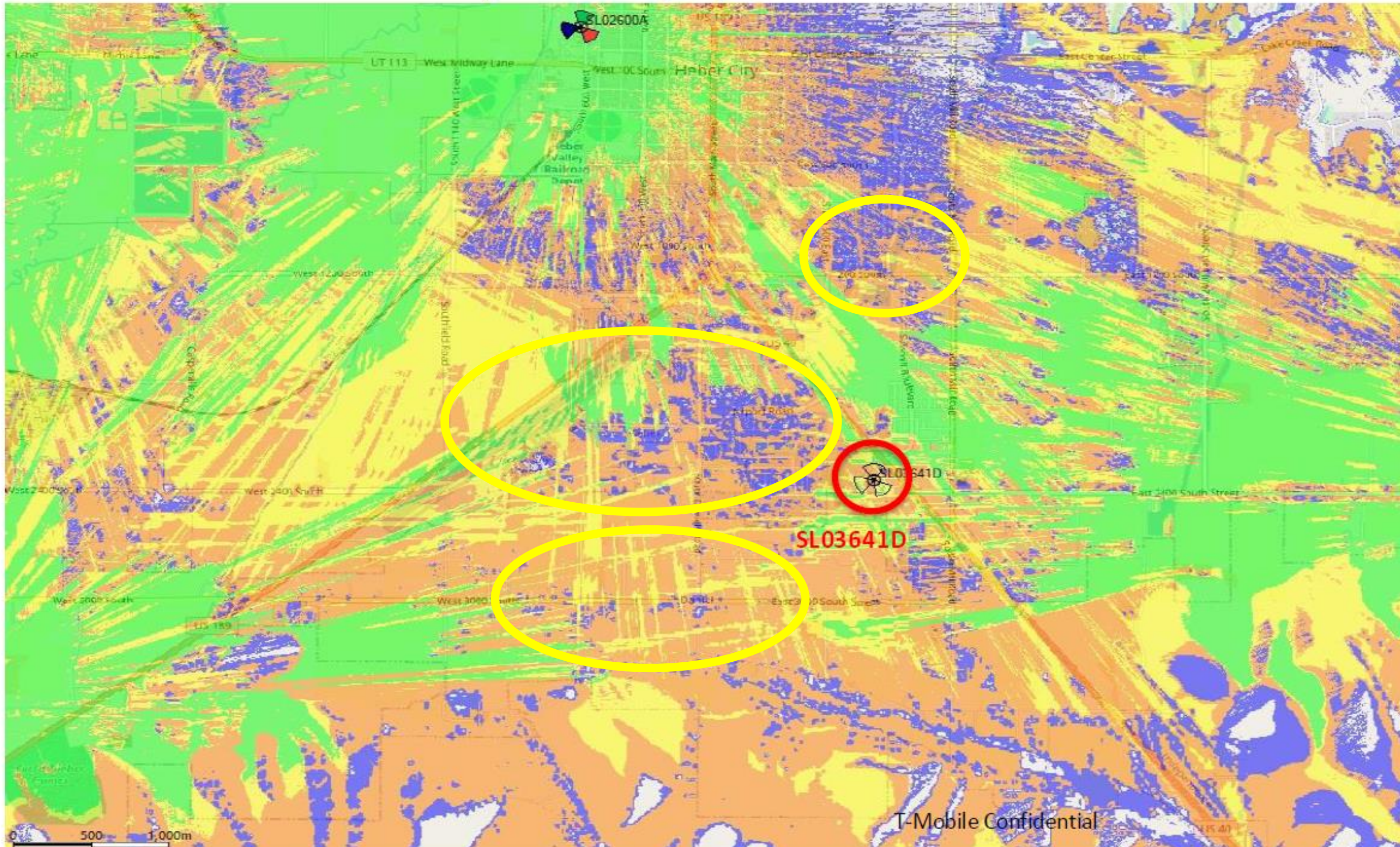
# ***Why Do We Need Taller Telecommunications Facilities?***

- The taller the telecommunications facility the further the signal can travel without being blocked by buildings, trees, hills, etc.
- Allows for additional carriers to collocate rather than building their own telecommunications facility
- Reduces the need for additional telecommunications facilities to be built within the same area due to the higher height
- Carriers have stopped supporting development of multiple short telecommunications facilities in areas with strict ordinances that prohibit the regular height facilities. Instead, they will invest in communities that have more business-friendly ordinances and policies that allow them to deploy fewer towers to cover the same areas
- Better coverage and faster data speeds for customers!

# Current T-Mobile Coverage in Heber, UT

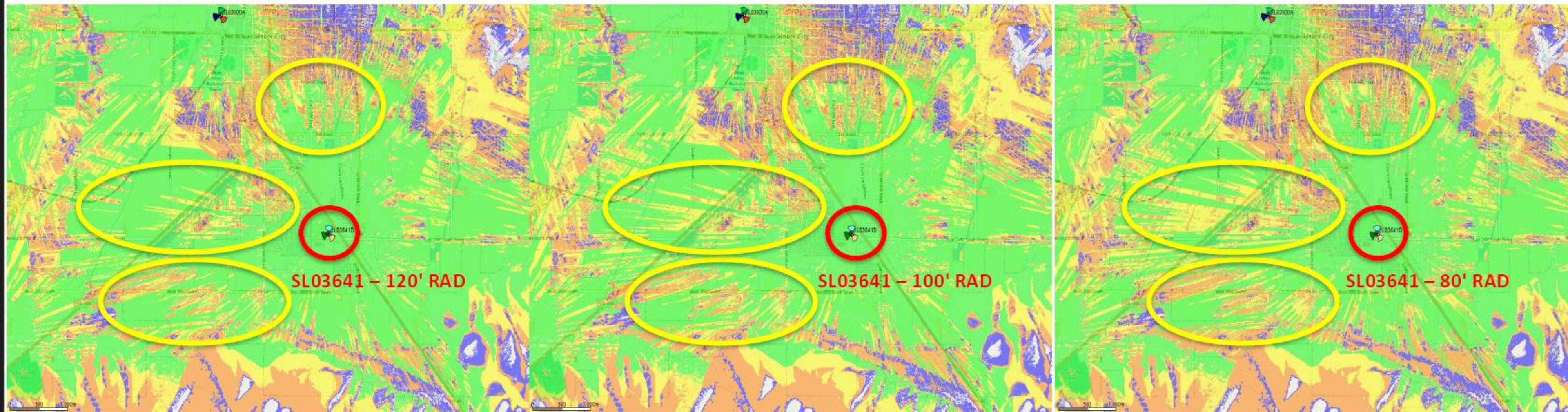
## Current coverage without proposed site SL03641D

As the coverage Map shows, in the Blue & Orange areas, Customers experience low/weak signal levels resulting in poor quality calls (garble, sounding like a robot), slow text & SMS messaging, very slow-to-no data speeds. A new site is needed to improve the in-building signal level in this area of Heber, UT



- In-Building Commercial Coverage
- In-Building Residential Coverage
- In-Vehicle Coverage
- Outdoor Coverage

# New T-Mobile Coverage showing RAD differences



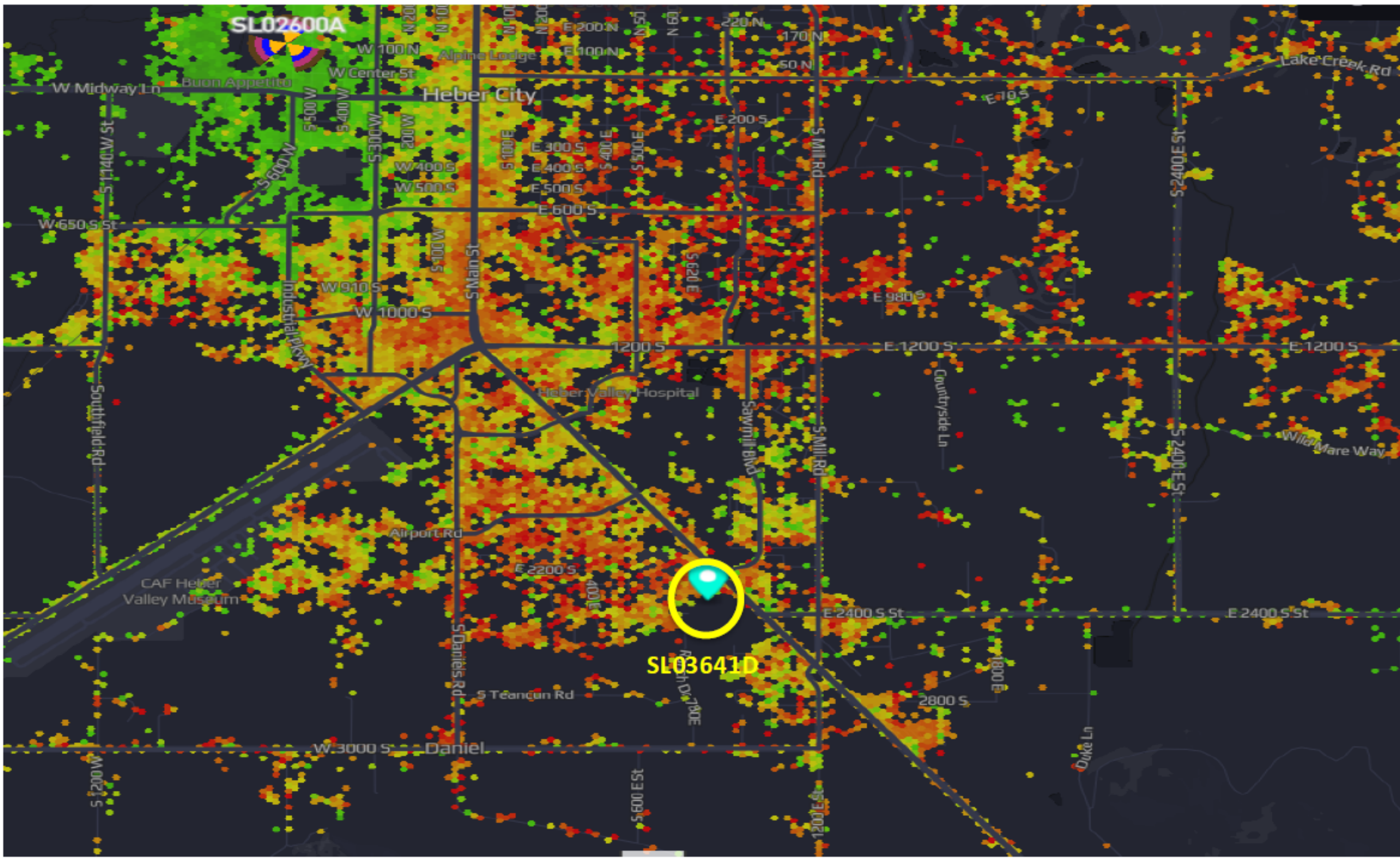
120' RAD will provide In-Building coverage (Green & Yellow) to 1340 more Population and 2.75 sq miles of In-Building level signal than the 80' RAD  
120' RAD will provide In-Building coverage (Green & Yellow) to 824 more Population and 1.2 sq miles of In-Building level signal than the 100' RAD

T-Mobile prefers the 120' RAD to cover the most population and sq miles at an in-building signal level within Heber without the need for another site in the southern part of Heber. This will allow more of our customers to make & receive higher quality calls, have faster data speeds and be able to add T-Mobile's Home Internet service.

- In-Building Commercial Coverage
- In-Building Residential Coverage
- In-Vehicle Coverage
- Outdoor Coverage

# Current T-Mobile Customer Experience in Heber, UT

## Actual Customer Experience in the SL03641D area of Southern Heber

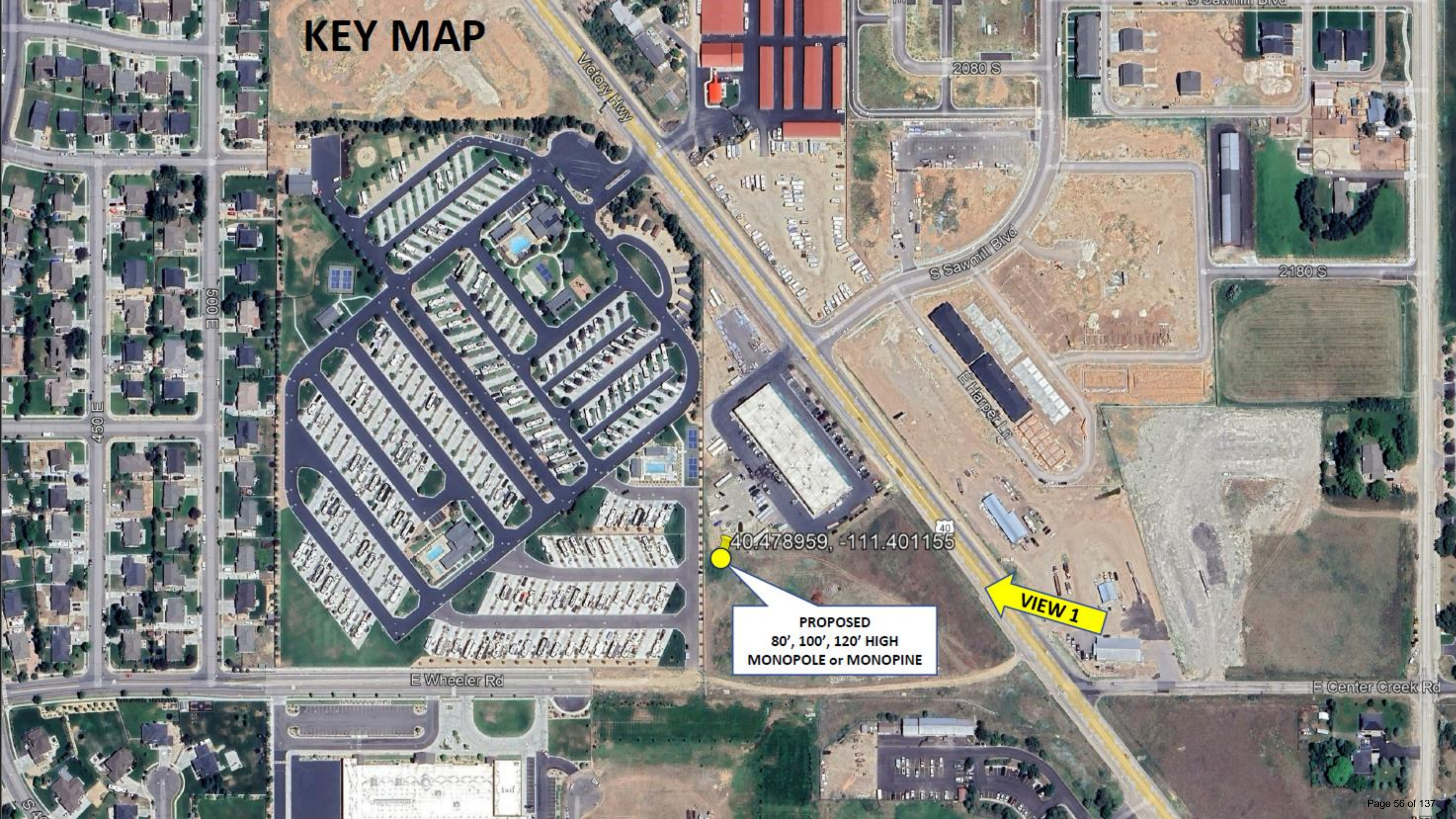


The Orange & Red dots indicate low to very low signal. This means current customers will experience low/weak signal levels resulting in poor quality calls (garble, sounding like a robot), slow text & SMS messaging, very slow-to-no data speeds. A new site is needed to improve the in-building signal level in this part of Heber, UT

# ***Why Are Non-Stealth Telecommunications Facilities Better?***

- Stealth telecommunications facilities attract more attention than non-stealth telecommunications facilities
- Monopines (faux trees) will stand out in areas where there's not a lot of trees
- Eyesores
- Stealth sites require additional:
  - Upkeep
  - Construction constraints

# KEY MAP



40.478959, -111.401155

**PROPOSED  
80', 100', 120' HIGH  
MONOPOLE or MONOPINE**

**VIEW 1**

# VIEW 1 - BEFORE



# VIEW 1 – 80' HIGH MONPOLE



# VIEW 1 – 100' MONOPOLE



# VIEW 1 – 120' MONOPOLE



# VIEW 1 – 80' MONOPINE



# VIEW 1 – 100' MONOPINE



# VIEW 1 – 120' MONOPINE



## **18.110 Telecommunication Facilities**

18.110.010 Purpose

18.110.020 Findings

18.110.030 Definitions

18.110.040 Applicability

18.110.050 Application Requirements

18.110.060 Approval Process

18.110.070 Location

18.110.080 Uses

18.110.090 Co-Location

18.110.100 Lease Agreement

18.110.110 Development Standards

18.110.120 Additional Regulation For Monopoles And Towers

18.110.130 Area Limitations For Wall And Roof Mounted Antennas

18.110.140 Safety

18.110.150 Site Requirements

18.110.160 Site Disturbance

18.110.170 Signs

18.110.180 Subdivision And Condominium Covenants

18.110.190 Related Provisions

18.110.200 REPEALED Expansion, Alteration, And Nonconforming Uses

18.110.210 REPEALED Telecommunication Facilities To Permit, As A Conditional Use, A Radio Antenna

### **18.110.010 Purpose**

The purposes of this ordinance are:

- A. To regulate wireless services antennas and related electronic equipment and structures.
- B. To provide for the orderly establishment of wireless services facilities in the City.
- C. To minimize the number of antenna support structures by encouraging the use of stealth or monopole facilities, by encouraging the co-location of multiple antennas on a single structure, by encouraging the location of antennas on pre-existing support structures, and by encouraging the use of City and Government-owned property for antenna support structures.
- D. To establish siting, appearance, and safety standards that will help mitigate potential impacts related to the construction, use and maintenance of wireless services facilities.
- E. To comply with the Telecommunications Act of 1996 by establishing regulations that (1) do not prohibit or have the effect of prohibiting the provision of wireless services, (2) do not unreasonably discriminate among providers of functionally equivalent services, and (3) are not based on the environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communication Commission's regulations concerning such emissions.

### **18.110.020 Findings**

The City Council makes the following findings: A. Wireless services devices are an integral part of the rapidly growing and evolving telecommunications industry and present unique zoning challenges and concerns for the City. B. The City needs to balance the interests and desires of the telecommunications industry and its customers to provide competitive and effective telecommunications systems in the City, against the sometimes differing interests and desires of others concerning health, safety, welfare,

aesthetics, and orderly planning of the community. C. The City has experienced an increased demand for wireless services facilities to be located in the City and expects the increased demand to continue into the future. D. It is in the best interests of the City to have quality wireless services available, which necessarily entails the erection of wireless services facilities in the City. E. The unnecessary proliferation of wireless services facilities throughout the City creates a negative visual impact on the community. F. The visual effects of wireless services facilities can be mitigated by fair standards regulating their siting, construction, maintenance and use. G. The City and other government entities own parcels of property spread throughout the City where wireless services facilities can be located so as to be as inoffensive as possible to the residents and businesses of the City. H. Spacing wireless services facilities evenly throughout the city reduces the negative impact created by the proliferation of telecommunication towers. I. Because of the height and appearance of some wireless services facilities, surrounding properties bear a disproportionate share of the negative impacts of a telecommunications tower. J. A private property owner who leases space for a wireless services facility is the only one who receives compensation for the facility, even though numerous other property owners in the area are adversely affected by the location of the facility. K. Encouraging wireless services facilities to be located on City and Government property, with lease payments paid to the City or other Governments instead of an individual property owner, indirectly compensates all citizens of the community for the adverse impacts of the facilities and is therefore the fairest method of distributing burden and benefit. L. Locating antennas on existing buildings and structures, or constructing an antenna as a stealth or monopole facility, creates less of a negative visual impact on the community than the erection of lattice or guy towers. M. Buildings and structures on public property are capable of being used to provide support for antenna arrays, thus reducing the proliferation of towers in all areas of the City. N. The public policy objectives to reduce the proliferation of telecommunication towers and to mitigate their impact can best be facilitated by encouraging the use of less visually intrusive antennas and permitting the locating of wireless communication systems on telecommunication towers and antenna support structures that are located on property owned, leased, or used by the City or other Governments. O. The requirements set forth in this ordinance for the placement of wireless services facilities on property owned, leased or used by the City or other Governments are necessary to protect the health, safety and general welfare of the community. P. The Utah Code grants cities the authority to create or acquire sites to accommodate the erection of telecommunication towers in order to promote the location of telecommunication towers in a manageable area and to protect the aesthetics and environment of the area. The law also allows the City to require the owner of any tower to accommodate the multiple use of the tower by other companies where feasible and to pay the City or other Governments the fair market rental value for the use of any City or other Government-owned site.

### **18.110.030 Definitions**

A. ANTENNA. A device that transmits and/or receives telecommunications and/or radio signals for telecommunications and communication equipment that transmits or receives an electromagnetic radio frequency signal used in the provision of wireless service. B. ANTENNA SUPPORT STRUCTURES. Any structure that can be used for the purpose of supporting an antenna(s). C. ANTENNA, DRIVE TEST. A temporary antenna which is used for field testing of telecommunications signals and possible locations but does not provide telecommunications to customers. D. ANTENNA, ENCLOSED. An antenna or series of individual antennas entirely enclosed inside a structure including but not limited to a cupola or wall of a building or chimney. E. ANTENNA, FREESTANDING. An antenna mounted on or within a stand-alone support structure including but not limited to a wooden pole, steel pole, lattice tower, utility pole, lift tower, light standard, flag pole or other vertical support. F. ANTENNA, ROOF MOUNTED. An antenna or series of individual antennas mounted on a roof of a building. G. ANTENNA, TEMPORARY. An antenna used for a time period of less than thirty (30) days. H. ANTENNA, WALL MOUNTED. An antenna or series of individual antennas mounted fully against the exterior face of a building including on the face of a chimney or penthouse. A wall or face of a building is defined as the entire area of all exposed vertical surfaces of a building that are above ground and facing

approximately the same direction. I. APPLICABLE CODES: The International Building Code, the International Fire Code, the National Electrical Code, the International Plumbing Code, and the International Mechanical Code, as adopted and amended under Utah Code Annotated, title 15A, State Construction and Fire Codes Act. J. APPLICABLE STANDARDS: The structural standards for antenna supporting structures and antenna, known as ANSI/TIA-222, from the American National Standards Institute and the Telecommunications Industry Association. K. APPLICANT: A wireless provider or their authorized agent who submits an application. L. APPLICATION: A request submitted by a wireless provider for a permit to co-locate a small wireless facility in a right-of-way or to install, modify or replace a utility pole or a wireless support structure. M. CITY. The City of Heber, Utah. N. CITY-OWNED PROPERTY. Real property that is owned, leased or controlled by the City. O. CO-LOCATION. The location of telecommunication facility on an existing structure, tower or building in a manner that precludes the need for that telecommunications facility to be located on a free-standing structure of its own. P. DIRECTOR. The Planning Director or designee. Q. ELIGIBLE SUPPORT STRUCTURE: Any monopole, utility pole, wireless support structure or related accessory equipment, as defined in this chapter, provided that it is existing at the time the relevant application is filed with the City. R. EQUIPMENT SHELTER. A cabinet or building used to house equipment for telecommunications facilities. S. GOVERNMENT-OWNED PROPERTY. Real property that is owned, leased or controlled by an agency of State, Federal, or Local government other than Heber City. T. LATTICE TOWER. A self-supporting three or four-sided, open steel frame structure used to support telecommunications equipment. U. MONOPOLE. A ~~structure in the right-of-way erected by an applicant or provider specifically to support SWFs and a~~ single, self-supporting, cylindrical pole constructed without guy wires or ground anchors, that acts as the support structure for antennas. V. MONOPOLE ANTENNA WITH PLATFORM. A monopole with antennas and antenna support structure exceeding two feet (2') in width, but not exceeding fifteen feet (15') in width or eight feet (8') in height. W. MONOPOLE ANTENNA WITH NO PLATFORM. A monopole with antennas and antenna support structure not exceeding two feet (2') in width or ten feet (10') in height. X. PERMIT. Written authorization from the City allowing the provider to perform work pursuant to the installation of a small wireless facility. Y. PERMITTED. An application that is permitted pursuant through the standard building permit process. Z. Personal Wireless Services. Commercial mobile telecommunications services, unlicensed wireless telecommunications services, and common carrier wireless telecommunications exchange access services. AA. Personal Wireless Services Antenna. An antenna used in connection with the provision of personal wireless services. BB. Personal Wireless Services Facilities. Facilities for the provision of personal wireless services. Personal wireless services facilities include transmitters, antennas, structures, supporting antennas, and electronic equipment that is typically installed in close proximity to a transmitter. CC. RIGHT-OF-WAY. Refers to any area within, on, below, or above a public road, highway, street or alley, and may include sidewalks, park-strips and other areas associated with them and controlled by the City. DD. STEALTH TELECOMMUNICATIONS FACILITY. A telecommunications facility which is disguised as another object or otherwise concealed from public view. EE. TELECOMMUNICATIONS. The transmission between or among points specified by a user of information of the user's choosing without change in the form or content of the information as sent or received. FF. TELECOMMUNICATIONS FACILITY. A Telecommunications Facility consists of antenna, equipment shelters and related structures used for transmitting and/or receiving telecommunications and/or radio signals. GG. TOWER. A free-standing structure, such as a monopole tower, lattice tower, or guy tower, that is used as a support structure for antenna(s). HH. WHIP ANTENNA. An antenna that is cylindrical in shape. Whip antennas can be directional or omni directional and vary in size depending on the frequency and gain for which they are designed. II. TECHNICAL NECESSITY. A particular design, placement, construction, or location of a telecommunications facility that is technically necessary for telecommunications consistent with the Federal Telecommunications Act of 1996, as amended.

#### **18.110.040 Applicability**

This ordinance applies to both commercial and private low power radio services and facilities, such as “cellular” or PCS (personal communications system) communications and paging systems, and to wireless Internet service providers. This ordinance shall not apply to the following types of communications devices, although they may be regulated by other City ordinances and policies:

A. Amateur Radio. Any antenna owned and operated by an amateur radio operator licensed by the Federal Communications Commission. B. Satellite/television antenna. Any device designed for over-the-air reception of television broadcast signals, multichannel multipoint distribution service or direct satellite service. C. Cable. Any cable television head-end or hub towers and antennas used solely for cable television services.

### **18.110.050 Application Requirements**

Any person desiring to develop, construct or establish a personal wireless services facility in the City shall submit an application for site plan approval to the City. The City shall not consider the application until all required information has been included. A complete application shall include all elements of the proposed telecommunications facility and shall produce all information required by the telecommunications facility application. Applicants shall provide the following submittal requirements.

A. Fee. As adopted by the Heber City Consolidated Fee Schedule. B. Site Plan. A site plan meeting the City’s standard requirements for site plans. C. Written Information.

1. Environment. A full description of the environment surrounding the proposed facility, including a description of adjacent uses, any adjacent residential structures, and any structures and sites of historic significance. 2. Maintenance. A description of the anticipated maintenance needs for the facility, including frequency of service, personnel needs, equipment needs, and traffic noise or safety impacts of such maintenance. 3. Service Area. A description of the service area for the antenna or tower and a statement as to whether the antenna or tower is needed for coverage or capacity. 4. Location. A map showing the site and the nearest or associated telecommunications facility sites within the network. Describe the distance between the telecommunications facility sites. Describe how this service area fits into the service network.

a. An Applicant proposing to erect a new telecommunications facility shall provide documentary evidence that a legitimate attempt has been made to locate the new telecommunications facility on City or Government owned properties, existing buildings or structures or co-location. Such evidence shall include a radio frequency engineering analysis of the potential suitability of existing buildings or structures or co-location sites in the radio frequency coverage area for the proposed telecommunications facility. Efforts to secure such locations shall be documented through correspondence between the applicant and the property owner(s) of the existing buildings, structures or co-location sites. b. Applicants proposing to construct new telecommunications facilities shall document the locations of all of the applicant's existing telecommunications facilities that provide telecommunications within the City, as well as any changes proposed within the following twelve (12) month period, including plans to discontinue or replace such existing telecommunications facilities. Applicants shall provide competent testimony from a radio qualified professional regarding the suitability of potential telecommunications facility locations in relation to the applicant's existing telecommunications facilities. c. Each application shall include a site location alternative analysis describing the location of other sites considered for the proposed telecommunications facility, the availability of those sites, the extent to which other sites do or do not meet the applicant's telecommunications needs and the reason the subject site was chosen for the proposed telecommunications facility. The analysis shall address the following issues:

1) How the proposed location and telecommunications facility relate to the object of providing full telecommunications services within the City area; 2) How the proposed telecommunications facilities

relates to the location of the applicant's existing telecommunications facilities that provide telecommunications within and near the City; 3) How the proposed telecommunications facility relates to the applicant's anticipated need for additional telecommunications facilities that provide telecommunications within and near the City; 4) If applicable, how the applicant's plans specifically relate to, and are coordinated with, the needs of all other telecommunications providers within and near the City.

5. Licenses and Permits. Copies of all licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of the antenna. 6. Radio Frequency Emissions. A written commitment to comply with applicable Federal Communications Commission radio frequency emission regulations. 7. Visibility Impact. A visual impact study, graphically simulating through models, computer enhanced graphics or similar techniques, the appearance of any proposed telecommunications facility and indicating its view from at least five (5) locations around and within one (1) mile of the proposed telecommunications facility will be most visible. 8. Liaison. The name of a contact person who can respond to questions concerning the application and the proposed facility. Include name, address, telephone number, facsimile number and electronic mail address, if applicable. 9. Additional information requirements for monopoles. If the applicant desires to construct a monopole, the applicant shall also submit a detailed written description of why the applicant cannot obtain coverage using existing buildings or structures. 10. Additional information requirement for facilities not located on highest priority site. If the applicant desires to locate antennas on a site other than the highest priority site (as described in Section 18.110.070), the applicant shall provide the following information to the approving authority:

a. Higher priority sites. The identity and location of any higher priority sites located within the desired service area. b. Reason for rejection of higher priority sites. The reason(s) why the higher priority sites are not technologically, legally or economically feasible. c. Justification for proposed site. Why the proposed site is essential to meet the service demands of the geographic service area and the citywide network.

### **18.110.060 Approval Process**

All telecommunication facilities shall be reviewed by the Planning Director or designee, pursuant to its standard site plan and building permit approval process. Permitted uses are reviewed and approved but the Planning Director or Designee, Conditional Use Permits are approved by the Planning Commission as regulated in Chapter 18.70. It shall be unlawful to install any telecommunication facility without first having a permit from the Planning and Building Departments of the City.

### **18.110.070 Location**

A. Priority of antenna site locations. Personal wireless services antennas shall be located as unobtrusively as is reasonably possible. To accomplish this goal, the provider shall make a good faith effort to locate antennas on sites in the following order of priority:

1. Structures located on City-owned property. Existing buildings, structures and antenna support structures located on City-owned property.
2. Structures located on Government-owned property. Existing buildings, structures and antenna support structures located on Government-owned property.
3. Existing Structures. Lawfully existing buildings, structures and antenna support structures on private property, provided that the buildings, structures or support structures are either: (1) located in a non-residential zone, or (2) located in a residential zone on property that is being used for non-residential uses (e.g. government, school or church). Monopoles located on City or Government-owned property.
4. Monopoles located on City or Government-owned property. Existing Structures. Lawfully existing buildings, structures and antenna support structures on private property, provided that the buildings,

~~structures or support structures are either: (1) located in a non-residential zone, or (2) located in a residential zone on property that is being used for non-residential uses (e.g. government, school or church).~~

5. Monopoles on Non-residential Private Property. Monopoles constructed on private property, provided that the private property is (1) located in a non-residential and non-C-3 commercial zone, or (2) located in a residential zone on property that is used for a non-residential use (e.g. government, school or church).

6. Other. Sites other than those listed above.

B. Burden of Proof. The applicant shall attempt to locate its antennas on sites in the order of priority set forth above. If the applicant desires to locate antennas on a site other than the highest priority site, the applicant shall have the burden of demonstrating to the approving authority why it could not locate antennas on sites with a higher priority than the site chosen by the applicant. To do so, the applicant shall provide the following information to the approving authority.

1. Higher Priority Sites. The identity and location of any higher priority sites located within the desired service area

2. Reason for rejection of higher priority sites. The reason(s) why the higher priority sites are not technologically, legally or economically feasible. The applicant must make a good faith effort to locate antennas on a higher priority site. The City may request information from outside sources to justify or rebut the applicant's reasons for rejecting a higher priority site.

3. Justification for proposed site. Why the proposed site is essential to meet the service demands of the geographic service area and the citywide network.

### **18.110.080 Uses**

#### **A. Permitted Uses**

1. Existing Structures on City-owned property. Existing buildings, structures and antenna support structures located on City-owned property. 2. Industrial Zone. Monopoles, roof mounted, wall mounted, and stealth antenna on City, Government, or private property. 3. Commercial C-2 and C-4 Zones. Roof mounted antenna located on private or public property when the antenna is 5 feet or less in height. 4. Monopole towers shall be allowed in any zone.

B. Prohibited Uses. The following antenna types and antenna locations are not permitted:

1. Residential Zones. All telecommunications facilities, including freestanding antenna, roof mounted antenna, wall mounted antenna, and stealth antenna on private property in residential zones 2. Lattice Towers and Guy Towers. All freestanding towers, including lattice towers, guy towers, and other towers, with the exception of monopoles, are prohibited in any zone. ~~3. Monopoles in Residential Zones on Private Property. All freestanding towers and monopoles located on residentially zoned private property, if the residentially zoned property has a residential use (as opposed to a school, church, or other non-residential use). 4. Freestanding towers and monopoles in the C-3 Commercial Zone. All freestanding towers and monopoles are prohibited in the C-3 Commercial Zone.~~

C. Conditional Uses. The following are conditional uses:

1. Stealth Monopoles located in residential and commercial zones on City and Government owned property. 2. Stealth Monopoles located in commercial zones (except C-3 Commercial Zone) on private property. 3. Roof mounted antenna located in commercial zones on City, Government, and private property when the roof antenna exceeds 5 feet in height. 4. Wall mounted antenna located in commercial zones on City, Government, or private property. 5. Enclosed/Stealth antenna located in residential zones

on City, Government, and private property containing non-residential uses. 6. Enclosed/Stealth antenna located in commercial zones on public and private property. 7. Antennas proposed for any other location, provided that the use is not prohibited by this ordinance, and the applicant complies with other applicable laws and regulations. **8. Monopole towers in any zone.**

### **18.110.090 Co-Location**

Every new monopole shall be designed and constructed to be of sufficient size and capacity to accommodate at least ~~two~~**three** additional wireless telecommunications providers on the structure in the future. Any conditional use permit for a monopole may be conditioned upon the agreement of the applicant to allow co-location of other personal wireless providers on such terms as are common in the industry. Co-location on a lot may be permitted by the Planning Director or designee, if all setbacks, design and landscape requirements are met for each telecommunications facility. The application shall include any existing or approved, but unbuilt, telecommunications facility within the telecommunications area that may meet the needs of the applicant. The supplied documentation shall evaluate the following factors:

A. Structural capacity of the antenna towers; B. Geographic telecommunications area requirements; C. Mechanical or electrical incompatibilities; D. Inability or ability to locate equipment on existing antenna towers; and E. Any restriction or limitation of the Federal Communication Commission that would preclude the shared use of the antenna tower.

### **18.110.100 Lease Agreement**

Applicants for telecommunication facilities on public facilities shall sign and agree to a development agreement with the public agency addressing items including, but not limited to access and security, maintenance of site and facilities, utility costs, and a fee for use of the public facility. The City shall enter into a standard lease agreement with the applicant for any facility built on City property. The lease shall contain the condition that the site plan and/or conditional use permit must first be approved by the designated land use authority before the lease can take effect, and that failure to obtain such approval renders the lease null and void.

### **18.110.110 Development Standards**

Standards for Antennas and Antenna Support Structures. Personal wireless services facilities are characterized by the type or location of the antenna structure. There are four general types of antenna structures allowed by this ordinance: wall mounted antennas; roof mounted antennas; monopoles with no platform; and monopoles with a platform. If a particular type of antenna structure is allowed by this ordinance as a permitted or conditional use, the minimum standards for that type of antenna are as follows, unless otherwise provided in a conditional use permit:

A. Wall Mounted Antennas.

1. Maximum Height. Wall mounted antennas may not extend above the roof line of the building or structure or extend more than twelve (12) inches from the face of the building. 2. Setback. Wall mounted antennas shall not be located within one hundred feet (100') feet of any residence. 3. Mounting Options. Antennas mounted directly on existing parapet walls, penthouses, or mechanical equipment rooms are considered to be wall mounted antennas if no portion of the antenna extends above the roof line of the parapet wall, penthouse, or mechanical equipment room. 4. Color. Wall mounted antennas, equipment and supporting structures shall be painted to match the color of the building or structure or the background against which they are most commonly seen. Antennas and the supporting structure on the

building shall be architecturally compatible with the building. Whip antennas are not allowed on a wall mounted antenna structure.

#### B. Roof Mounted Antennas.

1. Maximum Height. Roof mounted antenna, placed on a flat roof, may extend up to ten (10) feet above the existing structure, provided that the antenna setback from the edge of the roof is a minimum distance equal to or greater than the height of the antenna. Roof mounted antenna, placed on a pitched roof, may extend a maximum of five (5) feet above the existing structure. 2. Setback. Roof mounted antennas shall be located at least five feet (5') from the exterior wall of the building or structure, and at least fifty (50') feet from any residence. 3. Mounting options. Roof mounted antennas may be mounted on top of existing penthouses or mechanical equipment rooms if the antennas and antenna support structures are enclosed or visually screened from view. The screening structure may not extend more than eight (8') feet above the existing roof line of the penthouse or mechanical equipment room. 4. Color. Roof mounted antennas, equipment and supporting structures shall be painted to match the color of the building or structure or the background against which they are most commonly seen. Antennas and supporting structures shall be architecturally compatible with the building.

#### C. Monopoles with no Platform.

1. Maximum Height and Width. The maximum height of the monopole or monopole antenna shall be ~~thirty five (35)~~ 120 feet. The entire antenna structure mounted on the monopole shall not exceed two feet (2') in width. The antenna itself shall not exceed ten feet (10') in height. 2. Setback. Monopoles shall be set back a minimum of 115% of the height of the monopole from any residential lot line, measured from the base of the monopole to the nearest residential lot line. 3. Color. Monopoles, antennas, and related support structures shall be stealth and painted a neutral color or a color intended to match the stealth concept.

#### D. Monopoles with Platform.

1. Maximum Height and Width. The maximum height of the monopole or monopole antenna shall be ~~thirty five (35)~~ 120 feet. The antennas and antenna mounting structures on the monopole shall not exceed eight feet (8') in height or fifteen feet (15') in width. The antenna itself shall not exceed ten feet (10') in height. 2. Setback. Monopoles shall be set back a minimum of 115% of the height of the monopole from any residential lot line, measured from the base of the monopole to the nearest residential lot line. 3. Color. Monopoles, antennas, and related support structures shall be stealth and painted a neutral color or a color intended to match the stealth concept.

### **18.110.120 Additional Regulation For Monopoles And Towers**

A. Distance from other Monopoles. Monopoles and towers shall be located at least ~~two thousand feet (2000')~~ one mile (5,280 feet) from each other, except upon a showing of necessity by the applicant, or upon a finding by the City Council that a closer distance would adequately protect the health, safety and welfare of the community. This distance requirement shall not apply to antennas attached to lawful structures such as transmission towers, utility poles, outdoor lighting structures, and water tanks.

B. Location on Parcel. Monopoles shall be located as unobtrusively on a parcel as possible, given the location of existing structures, nearby residential areas, and service needs of the applicant. Monopoles shall not be located in a required landscaped area, buffer area or parking area.

### **18.110.130 Area Limitations For Wall And Roof Mounted Antennas**

Any building may have a combination of wall and roof mounted antennas. The total area for all wall and roof mounted antennas and supporting structures on any one building shall not exceed the lesser of sixty (60) square feet or 5 percent (5%) of each exterior wall of the building.

#### **18.110.140 Safety**

##### A. Regulation Compliance.

1. Compliance with FCC and FAA Regulations. All operators of personal wireless services facilities shall demonstrate compliance with applicable Federal Communication Commission (FCC) and Federal Aviation Administration (FAA) regulations, including FCC radio frequency regulations, at the time of application and periodically thereafter as requested by the City. Failure to comply with the applicable regulations shall be grounds for revoking a site plan or conditional use permit approval. 2. Other Licenses and Permits. The operator of every personal wireless services facility shall submit copies of all licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of the facility to the City, shall maintain such licenses and permits in good standing, and shall provide evidence of renewal or extension thereof upon request by the City.

B. Protection Against Climbing. Monopoles shall be protected against unauthorized climbing by removing the climbing pegs from the lower 20 feet of the monopole.

C. Fencing. Monopoles and towers shall be fully enclosed by a minimum 6-foot tall fence or wall, as directed by the Planning Director or designee unless the Director determines that a wall or fence is not needed or appropriate for a particular site due to conditions specific to the site.

D. Security Lighting Requirements. Monopoles and towers shall comply with the FAA requirements for lighting. If security lighting is used, the lighting impact on surrounding residential areas shall be minimized by using indirect lighting, where appropriate.

E. Abandonment. The applicant, or the applicant's successor(s) and/or assign(s) shall be responsible for the removal of unused telecommunications facilities within ninety (90) days of abandonment of use. If such tower is not removed by the property owner, then the City may employ all legal measures, including as necessary, obtaining authorization from a court of competent jurisdiction, to remove the tower, and after removal may place a lien on the subject property for all direct and indirect costs incurred in dismantling and disposal of the tower, including court costs and reasonable attorney fees.

1. Notice. Notice to remove shall be given in writing by personal service, or by certified mail addressed to the operator's last known address. 2. Violation. Failure to remove the antennas and monopoles after receiving written notice to remove is a violation of the terms of this Chapter. The City may initiate criminal and/or civil legal proceeding against any person, firm, entity or corporation, whether acting as principal, agent, property owner, lessee, lessor, tenant, landlord, employee, employer or otherwise, for failure to remove antennas and monopoles in accordance with this Chapter. The City may seek a civil injunction requiring the removal of any structures on the site in accordance with this Chapter. Any lease agreement with the City may also stipulate failure to remove the antennas and monopoles after receiving written notice to do so pursuant to this Chapter automatically transfers ownership of the antennas, monopoles, support buildings and all other structures on the site to the City. 3. Nuisance. Abandoned, unmaintained, or telecommunication devices that pose an immediate threat to public health and safety are hereby declared to be a nuisance.

#### **18.110.150 Site Requirements**

A. Setbacks. The placement of telecommunications facilities on a lot shall comply with the setbacks of the underlying zone as stated herein. Telecommunications facilities shall comply with the setbacks for main structures and shall not be determined accessory structures.

B. Regulations for Accessory Structures.

1. Storage Areas and Solid Waste Receptacles. No outside storage or solid waste receptacles shall be permitted on the site. 2. Equipment Enclosures. All electronic and other related equipment and appurtenances necessary for the operation of any personal wireless services facility shall, whenever possible, be located within a lawfully pre-existing structure or completely below grade. 3. Accessory Buildings. Freestanding accessory buildings used with a personal wireless services facility shall not exceed 350 square feet and shall comply with the setback requirements for structures in the zone in which the facility is located.

C. Parking. The City may require a minimum of one (1) parking stall for sites containing a monopole, tower, and/or accessory buildings, if there is no parking available on the site.

D. Maintenance Requirements. All personal wireless services facilities shall be maintained in a safe, neat and attractive manner.

E. Landscaping. All sites with a personal wireless services facility shall be landscaped in accordance with the zone requirements where the facility is located.

F. Height. The height shall be measured from the grade or roof beneath to the top of the antenna or mounting hardware, whichever is higher. G. Design

1. Antenna and associated equipment shall incorporate materials and colors present in the context of the surrounding area. Stealth telecommunications in the commercial zones C2 and C4, Chapter 18.28. Stealth design includes structures that look like trees, church steeples, art, large light poles or ones that blend with the building they are located on and are designed in a manner to blend with the existing and natural environment. Monopoles, antennas, and any associated buildings or equipment shall be painted to blend with their surroundings and/or the stealth concept being used. 2. Panel Antennas shall be no more than five square feet (5 sq. ft.) in Area per face.

**18.110.160 Site Disturbance**

Any application, temporary or permanent, which requires the removal of significant vegetation or proposes any new, or improvements to driveways or roads a length greater than twenty feet (20') and/or a width greater than ten feet (10') wide, shall require a conditional use permit. As used herein, "Significant Vegetation" includes trees six inch (6") in diameter or greater measured four feet six inches (4'6") above the ground, groves of small trees or clumps of oak and maple covering an Area of twenty square feet (20 sq. ft.) or more measured at the drip line. Plans must show all such trees within twenty (20) feet of a proposed telecommunications facility. The Planning Director or designee shall determine the Limits of Disturbance.

**18.110.170 Signs**

Signs shall only be permitted if they are related to the health and safety of the general public. All proposed signs shall be submitted with the telecommunications facility application and subject to review by the Planning Department for compliance with Chapter 18.103 Sign Regulations.

**18.110.180 Subdivision And Condominium Covenants**

Many Subdivision and Condominium Covenants may address the location of telecommunications facilities within Condominium units and the lots of a Subdivision. The City is not a party to those covenants, and no permit from the City shall effect the enforceability of such covenants which might be more restrictive than this ordinance. Applicants for the installation of telecommunications facilities are advised to determine what private land use restrictions apply to their site before applying for the permit from the City. If the proposed installation is within the Common Area of a Condominium or Planned Unit Development, and the application submitted is not in the name of the Home Owner's Association or

management committee, the applicant shall provide a letter from the Home Owner's Association or management committee indicating consent to the location of the telecommunications facilities within the Common Area has been granted as a part of the permit application filed with the City.

**18.110.190 Related Provisions**

• Chapter 18.12 Administration • Chapter 18.08 Definitions • Chapter 18.108 Conditional Use Permits • Chapter 18.72 Off Street Parking and Loading • Chapter 18.103 Sign Regulations • Chapter 18.78 Lighting • Chapter 18.174 Enforcement • Chapter 17 Subdivisions • Heber City C-2/C-4 Zone Design Standards and guidelines

**18.110.200 REPEALED Expansion, Alteration, And Nonconforming Uses**

This ordinance shall not make existing, non-conforming and/or illegal telecommunication facilities legal or conforming. Any expansion or alteration of a telecommunications facility shall comply with the provisions and procedures of this ordinance. Expansion and alteration include any change to the facility, including but not limited to structural, electrical, aesthetic and functional changes. Non-conforming telecommunication facilities, when expanded or altered, shall meet the requirements of this ordinance.

A. Any pre-existing facilities located in a commercial or industrial zone which were placed without a building permit prior to the effective date of this ordinance may apply for a building permit and be approved if the facility meets the application height, setback and location provisions of this ordinance, subject to Section 18.110.070. B. Existing, illegal facilities which cannot or do not meet the height, setback, and location provisions of this ordinance may apply to the Appeal Authority for a special exception. The Board may approve such an exception, only upon condition it meet all of the following findings:

1. That the existing facility was erected prior to the effective date of this ordinance. 2. That the existing facility is compatible, aesthetically and otherwise, with the surrounding uses. 3. That the facility does not present a prominent position by itself to the skyline, as viewed from the public street, and if so, that said facility may be moved within the site to a position so as not to be visibly prominent in the skyline. 4. That the facility is currently being used and has not been abandoned for a period longer than that allowed by Section 18.110.150 E, of this ordinance.

C. The Appeal Authority may place any additional conditions of approval it may deem fit and advisable to safeguard the aesthetics of the community as viewed from the public street. D. As part of the Conditional Use permit approval for modification of an existing monopole, the Planning Commission may waive the height and setback requirements for approved co-location monopoles in existence prior to this ordinance which are located within the I-1 Industrial Zone.

**18.110.210 REPEALED Telecommunication Facilities To Permit, As A Conditional Use, A Radio Antenna**

The following use shall be permitted, as a Conditional Use, in the C-3 Central Commercial Zone:

1. A radio antenna may be constructed with a maximum height of 50 feet from ground level, with a minimum setback of 50 feet from main Street, and a minimum setback of 50 feet from any residential zone.
2. Any antenna devices, weather sensing facilities or sending and receiving secondary antennas shall be located on the antenna near the top of the roof of the associated studio building so as not to be observable from Main Street. In no event shall any such antennas or facilities be higher than 50 feet from ground level.



## **18.110 Telecommunication Facilities**

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18.110.200 REPEALED Expansion, Alteration, And Nonconforming Uses

18.110.210 REPEALED Telecommunication Facilities To Permit, As A Conditional Use, A Radio Antenna

### **18.110.010 Purpose**

The purposes of this ordinance are:

- A. To regulate wireless services antennas and related electronic equipment and structures.
- B. To provide for the orderly establishment of wireless services facilities in the City.
- C. To minimize the number of antenna support structures by encouraging the use of stealth facilities, by encouraging the co-location of multiple antennas on a single structure, by encouraging the location of antennas on pre-existing support structures, and by encouraging the use of City and Government-owned property for antenna support structures.
- D. To establish siting, appearance, and safety standards that will help mitigate potential impacts related to the construction, use and maintenance of wireless services facilities.
- E. To comply with the Telecommunications Act of 1996 by establishing regulations that (1) do not prohibit or have the effect of prohibiting the provision of wireless services, (2) do not unreasonably discriminate among providers of functionally equivalent services, and (3) are not based on the environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communication Commission's regulations concerning such emissions.

### **18.110.020 Findings**

The City Council makes the following findings: A. Wireless services devices are an integral part of the rapidly growing and evolving telecommunications industry and present unique zoning challenges and concerns for the City. B. The City needs to balance the interests and desires of the telecommunications industry and its customers to provide competitive and effective telecommunications systems in the City, against the sometimes differing interests and desires of others concerning health, safety, welfare,

aesthetics, and orderly planning of the community. C. The City has experienced an increased demand for wireless services facilities to be located in the City and expects the increased demand to continue into the future. D. It is in the best interests of the City to have quality wireless services available, which necessarily entails the erection of wireless services facilities in the City. E. The unnecessary proliferation of wireless services facilities throughout the City creates a negative visual impact on the community. F. The visual effects of wireless services facilities can be mitigated by fair standards regulating their siting, construction, maintenance and use. G. The City and other government entities own parcels of property spread throughout the City where wireless services facilities can be located so as to be as inoffensive as possible to the residents and businesses of the City. H. Spacing wireless services facilities evenly throughout the city reduces the negative impact created by the proliferation of telecommunication towers. I. Because of the height and appearance of some wireless services facilities, surrounding properties bear a disproportionate share of the negative impacts of a telecommunications tower. J. A private property owner who leases space for a wireless services facility is the only one who receives compensation for the facility, even though numerous other property owners in the area are adversely affected by the location of the facility. K. Encouraging wireless services facilities to be located on City and Government property, with lease payments paid to the City or other Governments instead of an individual property owner, indirectly compensates all citizens of the community for the adverse impacts of the facilities and is therefore the fairest method of distributing burden and benefit. L. Locating antennas on existing buildings and structures, or constructing an antenna as a stealth facility, creates less of a negative visual impact on the community than the erection of lattice or guy towers. M. Buildings and structures on public property are capable of being used to provide support for antenna arrays, thus reducing the proliferation of towers in all areas of the City. N. The public policy objectives to reduce the proliferation of telecommunication towers and to mitigate their impact can best be facilitated by encouraging the use of less visually intrusive antennas and permitting the locating of wireless communication systems on telecommunication towers and antenna support structures that are located on property owned, leased, or used by the City or other Governments. O. The requirements set forth in this ordinance for the placement of wireless services facilities on property owned, leased or used by the City or other Governments are necessary to protect the health, safety and general welfare of the community. P. The Utah Code grants cities the authority to create or acquire sites to accommodate the erection of telecommunication towers in order to promote the location of telecommunication towers in a manageable area and to protect the aesthetics and environment of the area. The law also allows the City to require the owner of any tower to accommodate the multiple use of the tower by other companies where feasible and to pay the City or other Governments the fair market rental value for the use of any City or other Government-owned site.

### **18.110.030 Definitions**

A. ANTENNA. A device that transmits and/or receives telecommunications and/or radio signals for telecommunications and communication equipment that transmits or receives an electromagnetic radio frequency signal used in the provision of wireless service.

B. ANTENNA SUPPORT STRUCTURES. Any structure that can be used for the purpose of supporting an antenna(s).

C. ANTENNA, DRIVE TEST. A temporary antenna which is used for field testing of telecommunications signals and possible locations but does not provide telecommunications to customers.

D. ANTENNA, ENCLOSED. An antenna or series of individual antennas entirely enclosed inside a structure including but not limited to a cupola or wall of a building or chimney.

E. ANTENNA, FREESTANDING. An antenna mounted on or within a stand-alone support structure including but not limited to a wooden pole, steel pole, lattice tower, utility pole, lift tower, light standard, flag pole or other vertical support.

F. ANTENNA, ROOF MOUNTED. An antenna or series of individual antennas mounted on a roof of a building.

G. ANTENNA, TEMPORARY. An antenna used for a time period of less than thirty (30) days.

H. ANTENNA, WALL MOUNTED. An antenna or series of individual antennas mounted fully against the exterior face of a building including on the face of a chimney or penthouse. A wall or face of a building is defined as the entire area of all exposed vertical surfaces of a building that are above ground and facing approximately the same direction.

I. APPLICABLE CODES: The International Building Code, the International Fire Code, the National Electrical Code, the International Plumbing Code, and the International Mechanical Code, as adopted and amended under Utah Code Annotated, title 15A, State Construction and Fire Codes Act.

J. APPLICABLE STANDARDS: The structural standards for antenna supporting structures and antenna, known as ANSI/TIA-222, from the American National Standards Institute and the Telecommunications Industry Association.

K. APPLICANT: A wireless provider or their authorized agent who submits an application.

L. APPLICATION: A request submitted by a wireless provider for a permit to co-locate a small wireless facility in a right-of-way or to install, modify or replace a utility pole or a wireless support structure.

M. CITY. The City of Heber, Utah.

N. CITY-OWNED PROPERTY. Real property that is owned, leased or controlled by the City.

O. CO-LOCATION. The location of telecommunication facility on an existing structure, tower or building in a manner that precludes the need for that telecommunications facility to be located on a free-standing structure of its own.

P. DIRECTOR. The Planning Director or designee.

Q. ELIGIBLE SUPPORT STRUCTURE: Any monopole, utility pole, wireless support structure or related accessory equipment, as defined in this chapter, provided that it is existing at the time the relevant application is filed with the City.

R. EQUIPMENT SHELTER. A cabinet or building used to house equipment for telecommunications facilities.

S. GOVERNMENT-OWNED PROPERTY. Real property that is owned, leased or controlled by an agency of State, Federal, or Local government other than Heber City.

T. LATTICE TOWER. A self-supporting three or four-sided, open steel frame structure used to support telecommunications equipment.

U. MONOPOLE. A ~~structure in the right-of-way erected by an applicant or provider specifically to support SWFs and a~~ single, self-supporting, cylindrical pole constructed without guy wires or ground anchors, that acts as the support structure for antennas.

V. MONOPOLE ANTENNA WITH PLATFORM. A monopole with antennas and antenna support structure exceeding two feet (2') in width, but not exceeding fifteen feet (15') in width or eight feet (8') in height.

W. MONOPOLE ANTENNA WITH NO PLATFORM. A monopole with antennas and antenna support structure not exceeding two feet (2') in width or ten feet (10') in height.

- X. PERMIT. Written authorization from the City allowing the provider to perform work pursuant to the installation of a small wireless facility.
- Y. PERMITTED. An application that is permitted pursuant through the standard building permit process.
- Z. Personal Wireless Services. Commercial mobile telecommunications services, unlicensed wireless telecommunications services, and common carrier wireless telecommunications exchange access services.
- AA. Personal Wireless Services Antenna. An antenna used in connection with the provision of personal wireless services.
- BB. Personal Wireless Services Facilities. Facilities for the provision of personal wireless services. Personal wireless services facilities include transmitters, antennas, structures, supporting antennas, and electronic equipment that is typically installed in close proximity to a transmitter.
- CC. RIGHT-OF-WAY. Refers to any area within, on, below, or above a public road, highway, street or alley, and may include sidewalks, park-strips and other areas associated with them and controlled by the City.
- DD. STEALTH TELECOMMUNICATIONS FACILITY. A telecommunications facility which is disguised as another object or otherwise concealed from public view.
- EE. TELECOMMUNICATIONS. The transmission between or among points specified by a user of information of the user's choosing without change in the form or content of the information as sent or received.
- FF. TELECOMMUNICATIONS FACILITY. A Telecommunications Facility consists of antenna, equipment shelters and related structures used for transmitting and/or receiving telecommunications and/or radio signals.
- GG. TOWER. A free-standing structure, such as a monopole tower, lattice tower, or guy tower, that is used as a support structure for antenna(s).
- HH. WHIP ANTENNA. An antenna that is cylindrical in shape. Whip antennas can be directional or omni directional and vary in size depending on the frequency and gain for which they are designed.
- II. TECHNICAL NECESSITY. A particular design, placement, construction, or location of a telecommunications facility that is technically necessary for telecommunications consistent with the Federal Telecommunications Act of 1996, as amended.

#### **18.110.040 Applicability**

This ordinance applies to both commercial and private low power radio services and facilities, such as “cellular” or PCS (personal communications system) communications and paging systems, and to wireless Internet service providers. This ordinance shall not apply to the following types of communications devices, although they may be regulated by other City ordinances and policies:

- A. Amateur Radio. Any antenna owned and operated by an amateur radio operator licensed by the Federal Communications Commission. B. Satellite/television antenna. Any device designed for over-the-air reception of television broadcast signals, multichannel multipoint distribution service or direct satellite service. C. Cable. Any cable television head-end or hub towers and antennas used solely for cable television services.

#### **18.110.050 Application Requirements**

Any person desiring to develop, construct or establish a personal wireless services facility in the City shall submit an application for site plan approval to the City. The City shall not consider the application until all required information has been included. A complete application shall include all elements of the proposed telecommunications facility and shall produce all information required by the telecommunications facility application. Applicants shall provide the following submittal requirements.

A. Fee. As adopted by the Heber City Consolidated Fee Schedule. B. Site Plan. A site plan meeting the City's standard requirements for site plans. C. Written Information.

1. Environment. A full description of the environment surrounding the proposed facility, including a description of adjacent uses, any adjacent residential structures, and any structures and sites of historic significance. 2. Maintenance. A description of the anticipated maintenance needs for the facility, including frequency of service, personnel needs, equipment needs, and traffic noise or safety impacts of such maintenance. 3. Service Area. A description of the service area for the antenna or tower and a statement as to whether the antenna or tower is needed for coverage or capacity. 4. Location. A map showing the site and the nearest or associated telecommunications facility sites within the network. Describe the distance between the telecommunications facility sites. Describe how this service area fits into the service network.

a. An Applicant proposing to erect a new telecommunications facility shall provide documentary evidence that a legitimate attempt has been made to locate the new telecommunications facility on City or Government owned properties, existing buildings or structures or co-location. Such evidence shall include a radio frequency engineering analysis of the potential suitability of existing buildings or structures or co-location sites in the radio frequency coverage area for the proposed telecommunications facility. Efforts to secure such locations shall be documented through correspondence between the applicant and the property owner(s) of the existing buildings, structures or co-location sites. b. Applicants proposing to construct new telecommunications facilities shall document the locations of all of the applicant's existing telecommunications facilities that provide telecommunications within the City, as well as any changes proposed within the following twelve (12) month period, including plans to discontinue or replace such existing telecommunications facilities. Applicants shall provide competent testimony from a radio qualified professional regarding the suitability of potential telecommunications facility locations in relation to the applicant's existing telecommunications facilities. c. Each application shall include a site location alternative analysis describing the location of other sites considered for the proposed telecommunications facility, the availability of those sites, the extent to which other sites do or do not meet the applicant's telecommunications needs and the reason the subject site was chosen for the proposed telecommunications facility. The analysis shall address the following issues:

1) How the proposed location and telecommunications facility relate to the object of providing full telecommunications services within the City area; 2) How the proposed telecommunications facilities relates to the location of the applicant's existing telecommunications facilities that provide telecommunications within and near the City; 3) How the proposed telecommunications facility relates to the applicant's anticipated need for additional telecommunications facilities that provide telecommunications within and near the City; 4) If applicable, how the applicant's plans specifically relate to, and are coordinated with, the needs of all other telecommunications providers within and near the City.

5. Licenses and Permits. Copies of all licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of the antenna. 6. Radio Frequency Emissions. A written commitment to comply with applicable Federal Communications Commission radio frequency emission regulations. 7. Visibility Impact. A visual impact study, graphically simulating through models, computer enhanced graphics or similar techniques, the appearance of any proposed telecommunications facility and indicating its view from at least five (5) locations around and within one (1) mile of the proposed telecommunications facility will be most visible. 8. Liaison. The name of a

contact person who can respond to questions concerning the application and the proposed facility. Include name, address, telephone number, facsimile number and electronic mail address, if applicable. 9.

Additional information requirements for monopoles. If the applicant desires to construct a monopole, the applicant shall also submit a detailed written description of why the applicant cannot obtain coverage using existing buildings or structures. 10. Additional information requirement for facilities not located on highest priority site. If the applicant desires to locate antennas on a site other than the highest priority site (as described in Section 18.110.070), the applicant shall provide the following information to the approving authority:

a. Higher priority sites. The identity and location of any higher priority sites located within the desired service area. b. Reason for rejection of higher priority sites. The reason(s) why the higher priority sites are not technologically, legally or economically feasible. c. Justification for proposed site. Why the proposed site is essential to meet the service demands of the geographic service area and the citywide network.

### **18.110.060 Approval Process**

All telecommunication facilities shall be reviewed by the Planning Director or designee, pursuant to its standard site plan and building permit approval process. Permitted uses are reviewed and approved but the Planning Director or Designee, Conditional Use Permits are approved by the Planning Commission as regulated in Chapter 18.70. It shall be unlawful to install any telecommunication facility without first having a permit from the Planning and Building Departments of the City.

### **18.110.070 Location**

A. Priority of antenna site locations. Personal wireless services antennas shall be located as unobtrusively as is reasonably possible. To accomplish this goal, the provider shall make a good faith effort to locate antennas on sites in the following order of priority:

1. Structures located on City-owned property. Existing buildings, structures and antenna support structures located on City-owned property.
2. Structures located on Government-owned property. Existing buildings, structures and antenna support structures located on Government-owned property.
3. Monopoles located on City or Government-owned property.
4. Existing Structures. Lawfully existing buildings, structures and antenna support structures on private property, provided that the buildings, structures or support structures are either: (1) located in a non-residential zone, or (2) located in a residential zone on property that is being used for non-residential uses (e.g. government, school or church).
5. Monopoles on Non-residential Private Property. Monopoles constructed on private property, provided that the private property is (1) located in a non-residential and non-C-3 commercial zone, or (2) located in a residential zone on property that is used for a non-residential use (e.g. government, school or church).
6. Other. Sites other than those listed above.

B. Burden of Proof. The applicant shall attempt to locate its antennas on sites in the order of priority set forth above. If the applicant desires to locate antennas on a site other than the highest priority site, the applicant shall have the burden of demonstrating to the approving authority why it could not locate antennas on sites with a higher priority than the site chosen by the applicant. To do so, the applicant shall provide the following information to the approving authority.

1. Higher Priority Sites. The identity and location of any higher priority sites located within the desired service area

2. Reason for rejection of higher priority sites. The reason(s) why the higher priority sites are not technologically, legally or economically feasible. The applicant must make a good faith effort to locate antennas on a higher priority site. The City may request information from outside sources to justify or rebut the applicant's reasons for rejecting a higher priority site.

3. Justification for proposed site. Why the proposed site is essential to meet the service demands of the geographic service area and the citywide network.

### **18.110.080 Uses**

~~A. Permitted Telecommunication Uses are as outlined in the following tables. Any use not listed is prohibited.~~Uses

~~1. Existing Structures on City-owned property. Existing buildings, structures and antenna support structures located on City-owned property.~~

~~2. Industrial Zone. Monopoles, roof mounted, wall mounted, and stealth antenna on City, Government, or private property.~~

~~3. Commercial C-2 and C-4 Zones. Roof mounted antenna located on private or public property when the antenna is 5 feet or less in height.~~

~~B. Prohibited Uses. The following antenna types and antenna locations are not permitted:~~

~~1. Residential Zones. All telecommunications facilities, including freestanding antenna, roof mounted antenna, wall mounted antenna, and stealth antenna on private property in residential zones~~

~~2. Lattice Towers and Guy Towers. All freestanding towers, including lattice towers, guy towers, and other towers, with the exception of monopoles, are prohibited in any zone.~~

~~3. Monopoles in Residential Zones on Private Property. All freestanding towers and monopoles located on residentially zoned private property, if the residentially zoned property has a residential use (as opposed to a school, church, or other non-residential use).~~

~~4. Freestanding towers and monopoles in the C-3 Commercial Zone. All freestanding towers and monopoles are prohibited in the C-3 Commercial Zone.~~

~~C. Conditional Uses. The following are conditional uses:~~

~~1. Stealth Monopoles located in residential and commercial zones on City and Government owned property.~~

~~2. Stealth Monopoles located in commercial zones (except C-3 Commercial Zone) on private property.~~

~~3. Roof mounted antenna located in commercial zones on City, Government, and private property when the roof antenna exceeds 5 feet in height.~~

~~4. Wall mounted antenna located in commercial zones on City, Government, or private property.~~

~~5. Enclosed/Stealth antenna located in residential zones on City, Government, and private property containing non-residential uses.~~

~~6. Enclosed/Stealth antenna located in commercial zones on public and private property.~~

~~7. Antennas proposed for any other location, provided that the use is not prohibited by this ordinance, and the applicant complies with other applicable laws and regulations.~~

Commercial, Industrial, and Mixed Use Zones Permitted Use Table

P – Permitted, N – Not Permitted (Prohibited), C – Conditional Use

| <u>Telecom Uses</u>                       | <u>C-2</u> | <u>C-3</u> | <u>C-4</u> | <u>MURCZ</u> | <u>NVOZ</u> | <u>I-1</u> | <u>I-2</u> | <u>BMP</u> | <u>IPF</u> | <u>Limitations</u>  |
|---|------------|------------|------------|--------------|-------------|------------|------------|------------|------------|---|
| <u>Monopoles</u>                          | <u>C*</u>  | <u>N</u>   | <u>C*</u>  | <u>C</u>     | <u>C</u>    | <u>P</u>   | <u>P</u>   | <u>C</u>   | <u>C</u>   | <u>Must use stealth when a conditional use. *Not permitted between 500 North and 600 South, and 600 West and 600 East</u>                   |
| <u>Lattice Tower</u>                      | <u>N</u>   | <u>N</u>   | <u>N</u>   | <u>N</u>     | <u>N</u>    | <u>N</u>   | <u>N</u>   | <u>N</u>   | <u>N</u>   |   |
| <u>Guy Tower</u>                          | <u>N</u>   | <u>N</u>   | <u>N</u>   | <u>N</u>     | <u>N</u>    | <u>N</u>   | <u>N</u>   | <u>N</u>   | <u>N</u>   |   |
| <u>Freestanding - Other</u>               | <u>N</u>   | <u>N</u>   | <u>N</u>   | <u>N</u>     | <u>N</u>    | <u>N</u>   | <u>N</u>   | <u>N</u>   | <u>N</u>   |   |
| <u>Roof Mounted</u>                       | <u>C</u>   | <u>C</u>   | <u>C</u>   | <u>C</u>     | <u>C</u>    | <u>P</u>   | <u>P</u>   | <u>P</u>   | <u>P</u>   | <u>Antenna not to exceed 5' in height when conditional</u>  |
| <u>Wall Mounted</u>                       | <u>C</u>   | <u>N</u>   | <u>C</u>   | <u>C</u>     | <u>C</u>    | <u>P</u>   | <u>P</u>   | <u>C</u>   | <u>C</u>   |   |
| <u>Stealth Antenna</u>                    | <u>C</u>   | <u>N</u>   | <u>C</u>   | <u>C</u>     | <u>C</u>    | <u>P</u>   | <u>P</u>   | <u>C</u>   | <u>C</u>   |   |
| <u>Co-Location on Existing Facilities</u> | <u>P</u>   | <u>P</u>   | <u>P</u>   | <u>P</u>     | <u>P</u>    | <u>P</u>   | <u>P</u>   | <u>P</u>   | <u>P</u>   | <u>Facility must be legally constructed, including legal non-conforming facilities that meet the FCC definition of an Eligible Facility</u> |
| <u>Eligible Facilities Modification</u>   | <u>P</u>   | <u>P</u>   | <u>P</u>   | <u>P</u>     | <u>P</u>    | <u>P</u>   | <u>P</u>   | <u>P</u>   | <u>P</u>   | <u>Facilities defined as an Eligible Facility by the FCC</u>  |

Residential and Agricultural Zones Permitted Use Table

P – Permitted, N – Not Permitted (Prohibited), C – Conditional Use

| <u>Telecom Uses</u> | <u>R-1</u> | <u>R-2</u> | <u>R-3</u> | <u>PC</u> | <u>MCZ</u> | <u>A-2</u> | <u>RA-1</u> | <u>RA-2</u> | <u>Limitations</u>  |
|---------------------|------------|------------|------------|-----------|------------|------------|-------------|-------------|---|
| <u>Monopoles</u>    | <u>C</u>   | <u>C</u>   | <u>C</u>   | <u>C</u>  | <u>C</u>   | <u>C</u>   | <u>C</u>    | <u>C</u>    | <u>Must use stealth and be located on government land</u> |

|   |          |          |          |          |          |          |          |          |   |
|---|----------|----------|----------|----------|----------|----------|----------|----------|---|
|   |          |          |          |          |          |          |          |          | <u>or private with non-residential uses</u>   |
| <u>Lattice Tower</u>                      | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> |   |
| <u>Guy Tower</u>                          | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> |   |
| <u>Freestanding - Other</u>               | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> |   |
| <u>Roof Mounted</u>                       | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> |   |
| <u>Wall Mounted</u>                       | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> | <u>N</u> |   |
| <u>Stealth Antenna</u>                    | <u>C</u> | <u>C</u> | <u>C</u> | <u>C</u> | <u>C</u> | <u>C</u> | <u>C</u> | <u>C</u> | <u>Must be located on government land or private land with non-residential uses</u>   |
| <u>Co-Location on Existing Facilities</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>Facility must be legally constructed, including legal non-conforming facilities that meet the FCC definition of an Eligible Facility</u> |
| <u>Eligible Facilities Modification</u>   | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>Facilities defined as an Eligible Facility by the FCC</u>  |

**18.110.090 Co-Location**

Every new monopole shall be designed and constructed to be of sufficient size and capacity to accommodate at least ~~two~~ three ~~additional~~ wireless telecommunications providers on the structure in the future. Any conditional use permit for a monopole may be conditioned upon the agreement of the applicant to allow co-location of other personal wireless providers on such terms as are common in the industry. Co-location on a lot may be permitted by the Planning Director or designee, if all setbacks, design and landscape requirements are met for each telecommunications facility. The application shall include any existing or approved, but unbuilt, telecommunications facility within the telecommunications area that may meet the needs of the applicant. The supplied documentation shall evaluate the following factors:

- A. Structural capacity of the antenna towers;
- B. Geographic telecommunications area requirements;
- C. Mechanical or electrical incompatibilities;
- D. Inability or ability to locate equipment on existing antenna towers; and
- E. Any restriction or limitation of the Federal Communication Commission that would preclude the shared use of the antenna tower.

### **18.110.100 Lease Agreement**

Applicants for telecommunication facilities on public facilities shall sign and agree to a development agreement with the public agency addressing items including, but not limited to access and security, maintenance of site and facilities, utility costs, and a fee for use of the public facility. The City shall enter into a standard lease agreement with the applicant for any facility built on City property. The lease shall contain the condition that the site plan and/or conditional use permit must first be approved by the designated land use authority before the lease can take effect, and that failure to obtain such approval renders the lease null and void.

### **18.110.110 Development Standards**

Standards for Antennas and Antenna Support Structures. Personal wireless services facilities are characterized by the type or location of the antenna structure. There are four general types of antenna structures allowed by this ordinance: wall mounted antennas; roof mounted antennas; monopoles with no platform; and monopoles with a platform. If a particular type of antenna structure is allowed by this ordinance as a permitted or conditional use, the minimum standards for that type of antenna are as follows, unless otherwise provided in a conditional use permit:

#### A. Wall Mounted Antennas.

1. Maximum Height. Wall mounted antennas may not extend above the roof line of the building or structure or extend more than twelve (12) inches from the face of the building. 2. Setback. Wall mounted antennas shall not be located within one hundred feet (100') feet of any residence. 3. Mounting Options. Antennas mounted directly on existing parapet walls, penthouses, or mechanical equipment rooms are considered to be wall mounted antennas if no portion of the antenna extends above the roof line of the parapet wall, penthouse, or mechanical equipment room. 4. Color. Wall mounted antennas, equipment and supporting structures shall be painted to match the color of the building or structure or the background against which they are most commonly seen. Antennas and the supporting structure on the building shall be architecturally compatible with the building. Whip antennas are not allowed on a wall mounted antenna structure.

#### B. Roof Mounted Antennas.

1. Maximum Height. Roof mounted antenna, placed on a flat roof, may extend up to ten (10) feet above the existing structure, provided that the antenna setback from the edge of the roof is a minimum distance equal to or greater than the height of the antenna. Roof mounted antenna, placed on a pitched roof, may extend a maximum of five (5) feet above the existing structure. 2. Setback. Roof mounted antennas shall be located at least five feet (5') from the exterior wall of the building or structure, and at least fifty (50') feet from any residence. 3. Mounting options. Roof mounted antennas may be mounted on top of existing penthouses or mechanical equipment rooms if the antennas and antenna support structures are enclosed or visually screened from view. The screening structure may not extend more than eight (8') feet above the existing roof line of the penthouse or mechanical equipment room. 4. Color. Roof mounted antennas, equipment and supporting structures shall be painted to match the color of the building or structure or the background against which they are most commonly seen. Antennas and supporting structures shall be architecturally compatible with the building.

#### C. Monopoles ~~with no Platform.~~

1. ~~Maximum Height and Width~~ Antenna Height. ~~The maximum height of the monopole or monopole antenna shall be thirty-five (35) feet. The entire antenna structure mounted on the monopole shall not exceed two feet (2') in width.~~ The antenna itself shall not exceed ten feet (10') in height.

2. Setback. Monopoles shall be set back a minimum of 115% of the height of the monopole from any residential lot line, measured from the base of the monopole to the nearest residential lot line.

3. Color. Monopoles, antennas, and related support structures shall be stealth and painted a neutral color or a color intended to match the stealth concept.

~~D. Monopoles with Platform.~~

~~1. Maximum Height and Width. The maximum height of the monopole or monopole antenna shall be thirty five (35) feet. The antennas and antenna mounting structures on the monopole shall not exceed eight feet (8') in height or fifteen feet (15') in width. The antenna itself shall not exceed ten feet (10') in height. 2. Setback. Monopoles shall be set back a minimum of 115% of the height of the monopole from any residential lot line, measured from the base of the monopole to the nearest residential lot line. 3. Color. Monopoles, antennas, and related support structures shall be stealth and painted a neutral color or a color intended to match the stealth concept.~~

D. Tower Height by Zone. The maximum height for any tower shall be as follows:

| <u>Commercial, Mixed Use, and Industrial Zones</u> |           |             |              |             |             |             |            |            |
|--|-----------|-------------|--------------|-------------|-------------|-------------|------------|------------|
| <u>C2</u>  | <u>C3</u> | <u>C4</u>   | <u>MURCZ</u> | <u>NVOZ</u> | <u>I1</u>   | <u>I2</u>   | <u>BMP</u> | <u>IPF</u> |
| <u>100'</u>  | <u>-</u>  | <u>100'</u> | <u>65'</u>   | <u>35'</u>  | <u>100'</u> | <u>100'</u> | <u>65'</u> | <u>65'</u> |

| <u>Residential, Mountain, and Agricultural Zones</u> |            |            |            |            |            |            |            |
|--|------------|------------|------------|------------|------------|------------|------------|
| <u>R1</u>  | <u>R2</u>  | <u>R3</u>  | <u>PC</u>  | <u>MCZ</u> | <u>A2</u>  | <u>RA1</u> | <u>RA2</u> |
| <u>35'</u>   | <u>35'</u> | <u>35'</u> | <u>35'</u> | <u>35'</u> | <u>65'</u> | <u>35'</u> | <u>35'</u> |

**18.110.120 Additional Regulation For Monopoles And Towers**

A. Distance from other Monopoles. Monopoles and towers shall be located at least ~~two thousand feet (2000')~~one mile (5,280 feet) from each other, except upon a showing of necessity by the applicant, or upon a finding by the City Council that a closer distance would adequately protect the health, safety and welfare of the community. This distance requirement shall not apply to antennas attached to lawful structures such as transmission towers, utility poles, outdoor lighting structures, and water tanks.

B. Location on Parcel. Monopoles shall be located as unobtrusively on a parcel as possible, given the location of existing structures, nearby residential areas, and service needs of the applicant. Monopoles shall not be located in a required landscaped area, buffer area or parking area.

**18.110.130 Area Limitations For Wall And Roof Mounted Antennas**

Any building may have a combination of wall and roof mounted antennas. The total area for all wall and roof mounted antennas and supporting structures on any one building shall not exceed the lesser of sixty (60) square feet or 5 percent (5%) of each exterior wall of the building.

**18.110.140 Safety**

A. Regulation Compliance.

1. Compliance with FCC and FAA Regulations. All operators of personal wireless services facilities shall demonstrate compliance with applicable Federal Communication Commission (FCC) and Federal Aviation Administration (FAA) regulations, including FCC radio frequency regulations, at the time of application and periodically thereafter as requested by the City. Failure to comply with the applicable regulations shall be grounds for revoking a site plan or conditional use permit approval. 2. Other Licenses and Permits. The operator of every personal wireless services facility shall submit copies of all licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of the facility to the City, shall maintain such licenses and permits in good standing, and shall provide evidence of renewal or extension thereof upon request by the City.

B. Protection Against Climbing. Monopoles shall be protected against unauthorized climbing by removing the climbing pegs from the lower 20 feet of the monopole.

C. Fencing. Monopoles and towers shall be fully enclosed by a minimum 6-foot tall fence or wall, as directed by the Planning Director or designee unless the Director determines that a wall or fence is not needed or appropriate for a particular site due to conditions specific to the site.

D. Security Lighting Requirements. Monopoles and towers shall comply with the FAA requirements for lighting. If security lighting is used, the lighting impact on surrounding residential areas shall be minimized by using indirect lighting, where appropriate.

E. Abandonment. The applicant, or the applicant's successor(s) and/or assign(s) shall be responsible for the removal of unused telecommunications facilities within ninety (90) days of abandonment of use. If such tower is not removed by the property owner, then the City may employ all legal measures, including as necessary, obtaining authorization from a court of competent jurisdiction, to remove the tower, and after removal may place a lien on the subject property for all direct and indirect costs incurred in dismantling and disposal of the tower, including court costs and reasonable attorney fees.

1. Notice. Notice to remove shall be given in writing by personal service, or by certified mail addressed to the operator's last known address. 2. Violation. Failure to remove the antennas and monopoles after receiving written notice to remove is a violation of the terms of this Chapter. The City may initiate criminal and/or civil legal proceeding against any person, firm, entity or corporation, whether acting as principal, agent, property owner, lessee, lessor, tenant, landlord, employee, employer or otherwise, for failure to remove antennas and monopoles in accordance with this Chapter. The City may seek a civil injunction requiring the removal of any structures on the site in accordance with this Chapter. Any lease agreement with the City may also stipulate failure to remove the antennas and monopoles after receiving written notice to do so pursuant to this Chapter automatically transfers ownership of the antennas, monopoles, support buildings and all other structures on the site to the City. 3. Nuisance. Abandoned, unmaintained, or telecommunication devices that pose an immediate threat to public health and safety are hereby declared to be a nuisance.

### **18.110.150 Site Requirements**

A. Setbacks. The placement of telecommunications facilities on a lot shall comply with the setbacks of the underlying zone as stated herein. Telecommunications facilities shall comply with the setbacks for main structures and shall not be determined accessory structures.

B. Regulations for Accessory Structures.

1. Storage Areas and Solid Waste Receptacles. No outside storage or solid waste receptacles shall be permitted on the site. 2. Equipment Enclosures. All electronic and other related equipment and appurtenances necessary for the operation of any personal wireless services facility shall, whenever possible, be located within a lawfully pre-existing structure or completely below grade. 3. Accessory

Buildings. Freestanding accessory buildings used with a personal wireless services facility shall not exceed 350 square feet and shall comply with the setback requirements for structures in the zone in which the facility is located.

C. Parking. The City may require a minimum of one (1) parking stall for sites containing a monopole, tower, and/or accessory buildings, if there is no parking available on the site.

D. Maintenance Requirements. All personal wireless services facilities shall be maintained in a safe, neat and attractive manner.

E. Landscaping. All sites with a personal wireless services facility shall be landscaped in accordance with the zone requirements where the facility is located.

F. Height. The height shall be measured from the grade or roof beneath to the top of the antenna or mounting hardware, whichever is higher. G. Design

1. Antenna and associated equipment shall incorporate materials and colors present in the context of the surrounding area. Stealth telecommunications in the commercial zones C2 and C4, Chapter 18.28. Stealth design includes structures that look like trees, church steeples, art, large light poles or ones that blend with the building they are located on and are designed in a manner to blend with the existing and natural environment. Monopoles, antennas, and any associated buildings or equipment shall be painted to blend with their surroundings and/or the stealth concept being used. 2. Panel Antennas shall be no more than five square feet (5 sq. ft.) in Area per face.

#### **18.110.160 Site Disturbance**

Any application, temporary or permanent, which requires the removal of significant vegetation or proposes any new, or improvements to driveways or roads a length greater than twenty feet (20') and/or a width greater than ten feet (10') wide, shall require a conditional use permit. As used herein, "Significant Vegetation" includes trees six inch (6") in diameter or greater measured four feet six inches (4'6") above the ground, groves of small trees or clumps of oak and maple covering an Area of twenty square feet (20 sq. ft.) or more measured at the drip line. Plans must show all such trees within twenty (20) feet of a proposed telecommunications facility. The Planning Director or designee shall determine the Limits of Disturbance.

#### **18.110.170 Signs**

Signs shall only be permitted if they are related to the health and safety of the general public. All proposed signs shall be submitted with the telecommunications facility application and subject to review by the Planning Department for compliance with Chapter 18.103 Sign Regulations.

#### **18.110.180 Subdivision And Condominium Covenants**

Many Subdivision and Condominium Covenants may address the location of telecommunications facilities within Condominium units and the lots of a Subdivision. The City is not a party to those covenants, and no permit from the City shall effect the enforceability of such covenants which might be more restrictive than this ordinance. Applicants for the installation of telecommunications facilities are advised to determine what private land use restrictions apply to their site before applying for the permit from the City. If the proposed installation is within the Common Area of a Condominium or Planned Unit Development, and the application submitted is not in the name of the Home Owner's Association or management committee, the applicant shall provide a letter from the Home Owner's Association or management committee indicating consent to the location of the telecommunications facilities within the Common Area has been granted as a part of the permit application filed with the City.

#### **18.110.190 Related Provisions**

• Chapter 18.12 Administration • Chapter 18.08 Definitions • Chapter 18.108 Conditional Use Permits • Chapter 18.72 Off Street Parking and Loading • Chapter 18.103 Sign Regulations • Chapter 18.78 Lighting • Chapter 18.174 Enforcement • Chapter 17 Subdivisions • Heber City C-2/C-4 Zone Design Standards and guidelines



# Planning Commission Staff Report

|                             |   |
|-----------------------------|---|
| <b>MEETING DATE:</b>        | 4/8/2025  |
| <b>SUBJECT:</b>             | Central Heber Overlay Zone (CHOZ) and Use Options for Historic Buildings. (Tony Kohler and John Janson) |
| <b>RESPONSIBLE:</b>         | Tony Kohler   |
| <b>DEPARTMENT:</b>          | Planning  |
| <b>STRATEGIC RELEVANCE:</b> | Community Development   |

## SUMMARY

After the Central Heber Vision was adopted last year, the City has been working on implementation. Already pieces of the Vision are underway. As part of that Vision, transitions from the commercial/mixed downtown (the C-3 zone) area into the Central Neighborhoods and the possibility of creating infill options for the Central Neighborhoods became recommendations within the Vision. The draft Central Heber Overlay Zone, CHOZ, is intended to implement those parts of the Vision.

CHOZ includes two sub-districts. One sub-district, the Transition Corridor (TCD) covers the transition areas located essentially in a north south direction east and west of the C-3 zone but also including the Midway Lane area, west to about 600 West. The second sub-district, the Central Neighborhoods (CND), covers the downtown existing neighborhood generally in the R-2 and R-3 zones.

In addition to the CHOZ, a draft ordinance to allow for more land use options to help preserve historic homes in the Central Neighborhoods, has been prepared for the public hearing. The intent of that draft to provide more options to distinctive older homes that could provide additional revenues to address maintenance issues that seem fairly frequent in older homes.

Policy Questions for the Planning Commission include:

- Should Heber City adopt the CHOZ?
- Should Heber City adopt the CHOZ Map?
- Should Heber City adopt the Use Options for Historic Buildings?

## RECOMMENDATION

Staff recommends approval of the proposed CHOZ Text, CHOZ Map and Use Options for Historic Buildings, with changes as identified in red in the attached drafts. The Planning Commission might consider approval of the proposed changes in stages to simplify tasks. Some approvals, if needed could be bumped to a future meeting. Staff recommends moving forward first with the CHOZ Map and CHOZ Text, and coming back later if needed for the Use Options for Historic Buildings Ordinance.

Stages of approval with separate motions could include the following options:

1. CHOZ Map
2. CHOZ Text
3. Use Options for Historic Buildings

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## BACKGROUND

Envision Heber Phase 3, included the Vision for Central Heber, a grass roots process that created a series of recommendations for the Downtown area. The Planning Commission held a public hearing on March 25<sup>th</sup> and received comments from interested residents concerning CHOZ. An open house was held on March 20<sup>th</sup> with notices advertising the open house and public hearing sent to every property owner. Part of the public hearing included a summary of the comments received at the open house.

### Public Noticing

The April 8, 2025 meeting is a public meeting, requiring 24 hours public notice. As required by the state code, notice was given as follows:

1. Agenda posted on the Utah PMN website.
2. Agenda posted in 8 public places, including Heber City Hall, Wasatch County Admin, Wasatch County Planning, Wasatch County Fire, Midway City, Wasatch County Health Department, Heber Valley Tourism and Wasatch County Public Works.
3. Agenda and materials uploaded to the City website.
4. Notice sent to Wasatch Wave.

## DISCUSSION

Within the general CHOZ Overlay, there are two sub-districts: Central Neighborhoods for the neighborhoods, and the Transition Corridor District (east and west of Main Street and along Midway Lane). The intent of each district is as follows:

**Central Neighborhoods District (CND).** The Central Neighborhoods District, as part of the Central Heber Overlay Zone, has been established to allow for various forms of infill. These include flag lots, small lots, and certain missing middle housing types. The CND adds additional housing flexibility to the R-2 and R-3 zones in the Downtown area.

In general, additional uses are proposed, especially for various housing types. Some new housing

concepts are proposed including, flag lots, smaller lots (based on the current infill ordinance), courtyard buildings, duplexes, and ADUs which are already allowed. Some spatial requirements have been made more flexible but all development types will accommodate needed easements for Public Works.

Design standards are based on the type of building being proposed.

A new small lot concept is also suggested which would allow for a detached ADU-like lot accessed by a permanent easement with a requirement for the owner to live in the new dwelling.

**Transition Corridors District (TCD).** The Central Heber Vision suggests an additional mix of uses could be considered as a transition to the residential neighborhoods east and west of the Main Street area and along Midway Lane. The Transition Corridors District (TCD) has been established to promote limited uses with a mix consisting of residential and commercial uses. The mix of uses would allow for medium to higher density residential uses, with occasional corners for lower intensity commercial uses. A portion of the TCD, between 150 West and 150 East, has been identified by the Central Heber Vision, as an area to be considered for rezoning to C-3 Commercial.

**Use Options for Historic Homes in the Central Heber Overlay Zone.** As a new chapter this draft ordinance provides for additional use options for historic buildings with certain architectural features. The intent is to provide additional income possibilities that could assure the continuation of these older buildings. If the area becomes eligible for an historic designation or additional homes get designated, businesses within the dwellings can help provide tax credits to the property owner.

Through the open house considerable input was received. The following is a summary of that input:

### **CND and TCD options**

Duplexes and Twin homes seemed questionable

Townhouses mixed but Mansion style mixed – staff is suggesting no more than 5 attached units – poster said 4 (a type-error) and draft said 6 – we suggest going in between and using 5

Flag lots – somewhat positive

Subordinate dwelling units – mixed but could provide an affordable ownership option

Height is an issue – 25’ suggested several times – pros and cons to this – market issues and is considerably lower than what the R-2 and R-3 allow now (40’). Staff suggests that 35’ is needed, but the subordinate dwelling units will be lower

**IF** historic building use flexibility is offered – consider lower impact uses (Commercial Daycare) Are Mansion Style apartments ok in an historic building?

### **TCD Only – generally more acceptable infill options in this transition area**

**IF** multi-family is allowed – having design standards matters

**IF** commercial is allowed – having design standards matters

**IF** mixed use buildings are allowed – having design standards matters

From the Public Hearing, the following comments were garnered:

Concerns about parking and traffic impacts

Clarified that utilities are separate for flag lots (subordinate dwelling units too)

Typo on note “2” (fixed in updated draft)

Concern that the historic building draft doesn’t go far enough – maybe that reflects a date further

back than what Federal Law allows. Draft suggests 1950 and defines “distinctive” architecture” to address the more interesting historic homes in the neighborhoods. Federal law would allow a 1972 or older building as part of an historic district but the intent of that draft is to address the more distinctive homes.

Duplex, town homes, mansion homes, and courtyards were mentioned as inappropriate for the Central Neighborhood District

Concerns raised about real estate investment corporations in homes and then becoming rentals As a new additional concept, “Pocket Neighborhoods” were discussed. They are not unlike PUDs but likely have more house size restrictions. Adding a new, significant concept like that would suggest the process has to start over. It could be discussed as a separate process.

Positive comments were made about the building materials.

As a result of the input, the draft has been updated with possible changes in red and a few portions crossed out. Here is a summary of the **CHOZ changes suggested** after public input and staff evaluation:

- Updated town house section – suggest no more than 5 attached units – Max of 5 total units in a project in the CND but no project size limitation in the TCD, just the 5 attached units
- Drop duplexes/twin homes from CND – discuss garage location options
- Drop commercial daycare from the CND (already was that way in the chart, poster differed (sorry) but made it red)
- Drop the double deep flag lots
- Drop Mansion homes from CND except if within a historic building
- Keep flag lots and SDUs even though input was mixed – rely on standards that make them subordinate to avoid the “neighbors in my backyard” issue
- Could have height at 25’ for CND and 35’ for TCD but staff suggests keeping the 35’
- Do not do the Pocket Neighborhoods yet due to noticing issues – too big of a change/addition – could be covered by PUD already. Consider a separate process but also consider if PUD covers it.

### Alts for Flexible Uses in Historic Buildings

- A Multi-family allowance covers the mansion home suggestion. Historic homes converted into several units would need to be within the historic home – this is not new construction except on the interior of the home.
- Added the ICC restrictions on live/work – 50% of main floor, no more than 3000 square feet, no more than 5 employees. Without those limitations the live/work falls under the commercial code and therefore would have more requirements.
- Suggest not changing the date (1950) to 1972, as per Rachel Kahler's recommendation. What we are trying to do is different – preservation of the actually interesting historical homes, not just a general allowance. Also think that is too big of a change.

### FISCAL IMPACT

None.

## CONCLUSION

The CHOZ is intended to implement the Central Heber Vision of the General Plan.

## ALTERNATIVES

### Staff Recommended Option - Approval

I move to **approve**: **1. The CHOZ Map; 2. The CHOZ Text; and 3. The Use Options for Historic Homes** as presented, with the findings and conditions as presented in the conclusion above.

### Alternative 2 - Continuance

I move to **continue the item** to another meeting on , with direction to the applicant and/or Staff on information and / or changes needed to render a decision, as follows:

### Alternative 3 - DENIAL

I move to **deny the item** with the following findings.

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## POTENTIAL MOTIONS

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## ACCOUNTABILITY

**Department:** Planning  
**Staff member:** Tony Kohler, Community Development Director

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## EXHIBITS

1. CHOZ Draft 04-08-25
2. CHOZ PH for PC
3. Historic Options Draft-04-08-25

## 18.83 Central Heber Overlay Zone (CHOZ)

Draft Date: April 8, 2025

|                  |                                       |
|------------------|---------------------------------------|
| <b>18.83.010</b> | <b>Purpose</b>                        |
| <b>18.83.020</b> | <b>Permitted and Conditional Uses</b> |
| <b>18.83.030</b> | <b>Spatial Requirements</b>           |
| <b>18.83.040</b> | <b>Design Requirements</b>            |
| <b>18.83.050</b> | <b>Visual Screening</b>               |
| <b>18.83.060</b> | <b>Definitions</b>                    |
| <b>18.83.070</b> | <b>Related Provisions</b>             |

### 18.83.010 Purpose

To implement the Central Heber Vision of the General Plan, the Central Heber Overlay Zone (CHOZ) is hereby created to include two distinct land use districts. If the use of the Overlay is desired by an applicant, the uses and standards of this chapter shall apply.

- A. **Central Neighborhoods District (CND)** is established to allow for various low intensity forms of infill, combined with options to preserve historic homes. Infill options include certain missing middle housing types and historic building use flexibility.
- B. **Transition Corridors District (TCD)** is established to permit a moderate intensity mixture of residential and commercial uses. The TCD serves as a transition area from the C-3 Commercial Zone westward and eastward of Main Street to existing residential neighborhoods. The district also serves as a connecting land use from the C-3 Commercial Zone westward to the area containing the new high school, railroad and Southfield Park. The TCD promotes missing middle housing types, historic building use flexibility, mixed use buildings and lower intensity commercial uses. A portion of this area, located between 150 W/E to the C-3 Commercial Zone, has been identified by the General Plan as an area to be considered for rezoning to the C-3 Commercial Zone, in the future.

### 18.83.020 Permitted and Conditional Uses

The underlying zone uses remain. The CHOZ includes additional uses and limitations as described below. In order to accomplish the objectives and purposes of this title and to stabilize and protect the essential district characteristics, the following uses are allowed the CHOZ:

#### A. Land Use Regulations Terms

P = PERMITTED USE (P) A site plan application is required with staff processing. Site plan applications are approved, when and if they meet the ordinance standards.

C = PLANNING COMMISSION CONDITIONAL USE REVIEW (C). A site plan application with Planning Commission review is required.

N = not allowed in the particular overlay area

- B. Within the Table, if a use is not specifically designated below, then it is prohibited, except as specified in the underlying zone.

All uses listed in the use table, that require a building permit shall also require a site plan application.

## Permitted and Conditional Use Chart

**18.83.020.1**

| Land Use  | CND | TCD | Limitations  |
|---|-----|-----|--|
| Residential <b>attached units</b>                                 | P   | P   | See Section 18.83.040 for permitted building types per district. <b>5 or less units per building and project is limited to 5 units</b>   |
| Residential <b>attached units over 5 units</b>                    | N   | C   | See Section 18.83.040 for permitted building types per district,   |
| Artist studios & live-work  | N   | P   |  |
| Office, Retail, Services and Secondhand Stores                    | N   | P   | <ul style="list-style-type: none"> <li>• Max 5000 sf footprint</li> <li>• See note 1 below</li> <li>• Tattoo parlors, tobacco shops, adult related businesses, pawn shops &amp; cannabis facilities are prohibited)</li> </ul>   |
| Cafes/restaurants, bakery, outdoor dining                         | N   | C   | <ul style="list-style-type: none"> <li>• No drive-up windows</li> <li>• No fast food</li> <li>• <b>See note 1 below</b></li> </ul>   |
| Hotels  | N   | C   | See note 1 below   |
| Medical offices, clinics  | N   | P   | See note 1 below   |
| Institutional/Religious, Museums & Public Uses                    | C   | P   |  |
| Fitness centers & gymnasiums                                      | N   | P   | See note 1 below   |
| Commercial day care   | N   | P   | As regulated by State Law  |
| Home occupations, home based pre-school, daycare and micro-school | P   | P   | As regulated by Section 18.68.609 & State Law  |
| Public/Private schools  | C   | P   | As regulated in State Law and Section 18.68.230. <b>Size limitations may be imposed.</b>   |
| Signs   | N   | P   | <ul style="list-style-type: none"> <li>• As regulated by Section 18.104</li> <li>• Further limited to one monument sign (max 15 square feet and 4' in height) with a rock/brick base, and one wall sign (max 24 square feet and 3' in height) or one projecting sign (as per the standards in 18.104)</li> </ul> |

Note 1 - For the TCD, permitted only for properties fronting 100 South and for properties fronting 100 East and 100 West

**18.83.030 Spatial Standards**

- A. The minimum spatial standards shall be as set forth in the underlying zone, with the addition of Small lots, Flag lots and SDADUs, as described below.
- B. The maximum height of all principal structures shall be thirty-five feet and accessory buildings shall follow the requirements of the underlying zone.

**Spatial Requirements by Building Type\***

**Table 18.83.030.1**

| <b>Frontage</b>   | <b>Min Front Setback</b>   | <b>Min Rear Setback</b>  | <b>Min Side Setback</b>  | <b>Min Area &amp; Depth</b>       | <b>Max Height</b>   |
|---|--|--------------------------|--|-----------------------------------|---|
| 98 foot min for courtyard building;<br><br>All other buildings must meet the frontage requirements of the underlying zone | 15 feet min from public right of way; 10 feet min for flag lots from PUE/access easement to any building | 15 feet to property line | 5 feet min to each side property line;<br><br>15 feet min from public right of way | 98 foot min depth for corner lots | 20 foot max for flag lots;<br><br>35 foot max for all other buildings |

\*Other standards may apply elsewhere in this code, such as 18.83.040 (E).

**18.83.040 Building Typologies & Design Requirements**

**Table of Permitted Building Type per District**

**18.83.040.1**

| <b>Building Typology</b>  | <b>CND</b>     | <b>TCD</b> |
|---|----------------|------------|
| Courtyard Residential Building                                  | N              | C          |
| Small lot   | P              | N          |
| Flag lot  | P              | P          |
| Subordinate Dwelling Unit (SDU)                                 | P              | P          |
| Detached and Internal Accessory Dwelling Unit (ADUs)            | P              | P          |
| Townhouses (small – no more than 5 attached units and max of 5) | P              | P          |
| Townhouse complexes   | N              | C          |
| Mansion style apartments  | N <sup>1</sup> | C          |
| Duplexes & Twin Home  | N              | P          |
| Commercial Building   | N              | P          |
| Mixed Use Building  | N              | P          |

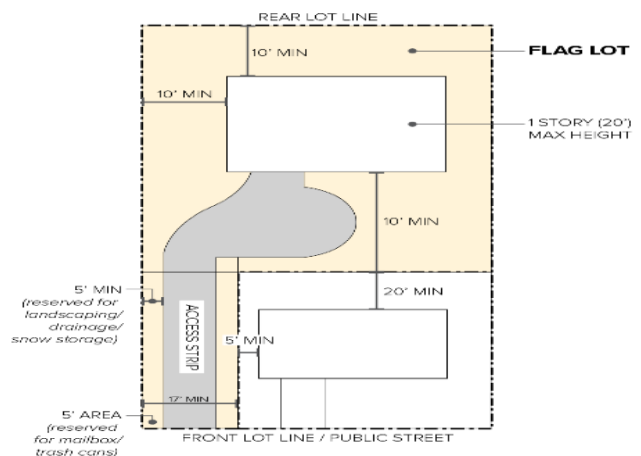
**Note 1 – allowed if located within an historic building**

- A. Those who desire to convert homes, lots or other buildings to commercial use or multi-family use shall maintain the required landscaping. No parking is allowed in a front yard.**

- B. Rooftops** may be used as garden type open space, and/or passive recreation space.
- C. All Rooftop** Heating, Ventilating, and Air Conditioning equipment (HVAC) shall be enclosed or screened such that it is not readily recognizable as HVAC equipment.
- D. Special Standards** for certain uses and structures.
  1. Non-residential uses shall not produce noise exceeding fifty-five (55) decibels as measured at the property line, vibration, fumes smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, electrical interference or other objectionable effects.
  2. Where garages are built, they shall be wired for a minimum of 220 Volt vehicle charging.
  3. Temporary outdoor sales are allowed.
- E. Small lots.** Smaller lots than the standard lot size required in the R-2 and R-3 zones are allowed as follows:
  1. Such interior lots may have a width no less than 49' at the front yard setback and if located on a corner, 56' wide.
  2. Any street facing garage shall be setback from the front face of the dwelling by at least ten feet.
  3. Lots with a detached rear yard garage are required to have a minimum twelve (12') foot side yard from the side property line, to accommodate a driveway to the required rear parking. The opposite side yard setback is a minimum of six (6) feet.
  4. A minimum lot size of 3,500 square feet is required.

- F. Flag lots.** Flag lots shall meet the following requirements. These requirements supersede the requirements for flag lots in Section 18.52.050:
  1. One flag lot may be created from an existing parcel of property.
  2. The flag lot shall be used exclusively as a single-family residential dwelling which includes the potential for one internal Accessory Dwelling Unit and shall be located to the rear of the original or front lot. If the dwelling on the front lot is torn down, any new dwelling shall face the adjacent street.

3. The main body of a flag lot, exclusive of the access strip, shall be no smaller than 50% of the required lot area in the zone in which it is located.
4. The existing front lot shall meet the required lot area, lot width, front yard, side and rear yard setback requirements for the governing zoning district in which it is located.
5. The access strip portion of a flag lot:
  - a. Shall be at least 17' wide for its entire length from the street to the point where the access strip adjoins the main body of the flag lot;
  - b. Shall be paved except for the 5' reserved for landscaping/drainage/snow storage adjacent to the neighboring property line, unless agreed to in writing by the adjoining property owner;
  - c. Hard surfaced driveways shall be located a minimum of 5' from any existing home on the original or neighboring lots;
  - d. Shall front on a public street; and

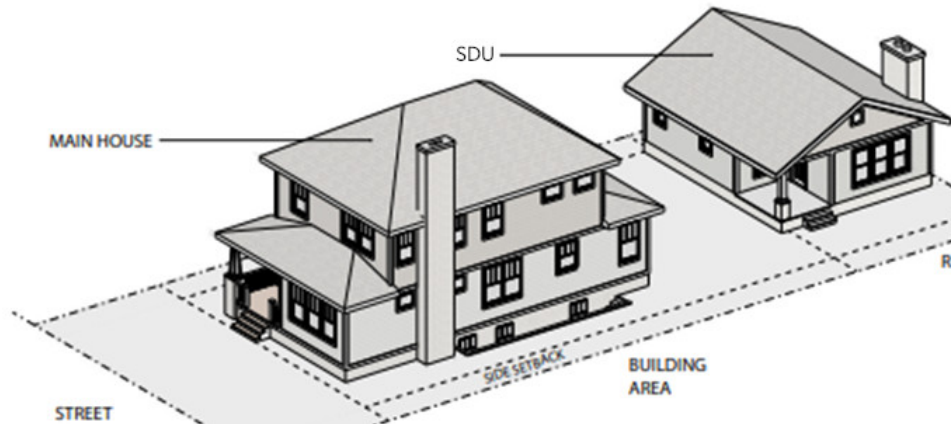


- e. Shall not exceed one hundred fifty feet (150') in length unless approved by the Fire Department
  - 1) Where the 5' landscaped area abuts the public street, it shall contain a mailbox (s), displaying the lot address (s), and a gravel or paved area for trash cans.
- 6. Two (2) adjoining flag lots may share a common access strip only if the access strip is twenty (20') wide or greater – this includes a 5' landscaped drainage/snow storage area and 15' of pavement.
- 7. The access strip portion of a flag lot shall be platted as a contiguous portion of the flag lot(s) or as an easement but require public utility easements for access and public utilities from the original lot and to the adjacent street, in addition to recorded agreements about maintenance by the property owners.
- 8. The subdivision plat shall include an outline of the buildable area proposed for the home (s).
- 9. 2 parking spaces are required for the home, as well as a turnaround area to prevent the need to back out through the driveway/access strip.
- 10. The address of the flag lot dwelling shall be clearly visible on the home when viewed from the access strip.

### **G. Subordinate Dwelling Units (SDU)**

- 1. These ordinance provisions only apply to lots 5000 square feet and larger and located in the CHOZ. If an SDU can be located on a property, it is considered an additional voluntary benefit provided to the homeowner and therefore is subject to additional regulations.
- 2. A Permitted use application for a Subordinate Dwelling Unit (SDU) is required. Such applications shall show the footprint and height, materials/design of the SDU, the proposed lot, side yards, rear yards, the designated front yard, and the proposed permanent access easement. In addition, a subdivision plat and processing is required.
- 3. Standards: The following standards and conditions shall apply to all SDUs:
  - a. Location: A SDU shall only be allowed as part of, or in conjunction with, a single-household dwelling, and SDUs shall contain no more than a one-story (15') building (pitched roof excluded) and shall have minimum side and rear yard of 5 feet. The front yard shall have a minimum of 10' unless adjacent to a street or alley, where 15' minimum is required.
  - b. Number: A maximum of one SDADU is allowed and only the original, existing dwelling may contain an additional internal ADU. The SDU shall not have an internal ADU.
  - c. Parking: At least one off-street parking stall shall be provided for the SDU. The required parking space may be a designated tandem space on the original lot as a permanent easement area. Parking spaces shall be identified on the subdivision plat.
  - d. Design And Character: The SDU shall be designed to reflect the architecture of the existing home and as a small home with painted wood, composite wood-like appearing materials, brick or stone exteriors as well as a pitched roof, 3 by 12 minimum.
- 4. Size: An SDU shall be subordinate to the footprint of the original single-household dwelling. The SDU shall not have less than a three hundred (300) square foot footprint or more than an eight hundred (800) square foot footprint.
- 5. Lot Size and Frontage:

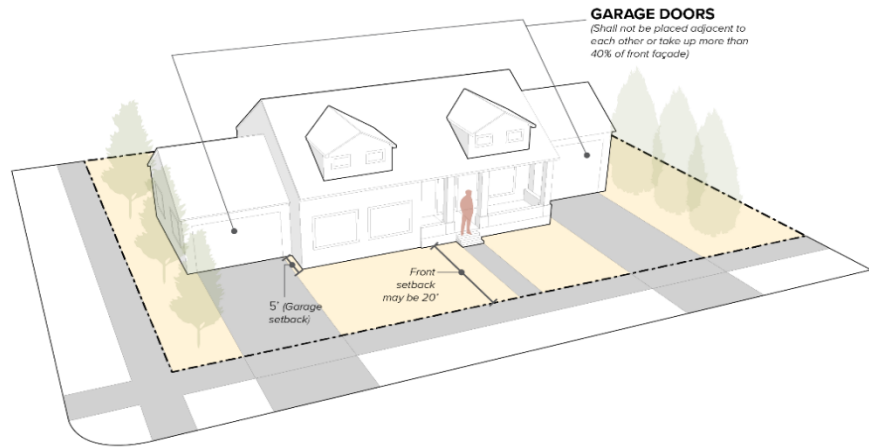
- a. The original home shall be located on a lot that is at least 5000 square feet and meet the setbacks as specified in this ordinance.
- b. No frontage on a public street or alley is required for an SDU, but a walkable or drivable permanent access easement is required (see 11 below).
6. Foundation: The SDU shall be secured to a permanent concrete foundation in accordance with the International Building Code, as adopted and amended by the City.
7. Occupants: The SDU shall be occupied exclusively by one household.



8. The SDU shall be occupied by the owner. The City may require the recording of an instrument with the property to notify the public of this requirement.
9. The SDU shall have separate utilities from the original dwelling.
10. An SDU shall have a recorded permanent access easement or a deeded driveway. If the permanent access easement can only accommodate pedestrians, then the original lot shall accommodate the required one additional parking space. Such walkable pathways shall be a width of 5' to 12'.
11. Accessory buildings shall meet the standards for accessory buildings in the existing zone. Accessory buildings shall be subordinate in height to the SDU. Once a front yard is designated, accessory buildings are not allowed in the front yard.
12. The front entry shall include a covered ~~or uncovered~~ porch at least 6' deep and containing at least 60 square feet.

**H. Duplexes and Twin homes:** as an extra allowance in the CHOZ, construction of a duplex or a twin home is considered an additional voluntary benefit provided to the property owner and therefore is subject to additional regulations.

1. If garages are proposed, the garage door shall encompass no more than 40% of the front façade (A) and shall be recessed, a minimum of 5', as per the drawing below.

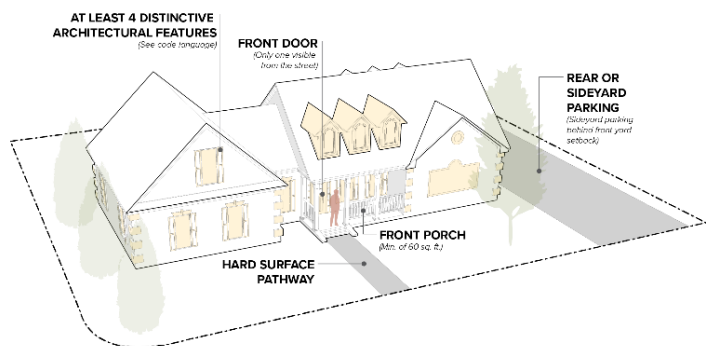


2. If garages are proposed for each unit, they shall not be placed adjacent to each other.
3. Vinyl, aluminum siding and stucco are not allowed.
4. Separate utility lines and connections are required for each unit.
5. Duplexes located on a corner lot shall have one unit facing each street.

**I. Mansion Style Apartments.** Mansion Style Homes shall be designed to resemble larger homes, and shall only have one visible front door as viewed from the public street. The front door area shall include a porch with a minimum of 60 square feet and a hard surfaced pathway to the street. Parking shall be provided to rear or side beyond front yard setback. Vinyl, aluminum and stucco wall surfaces are not allowed.

All Mansion Style apartment buildings shall include at least 4 distinctive architectural features from the following list (only one item from each numbered item below, as a minimum) and shall be incorporated in each building:

1. Ornamental details such as knee braces, exposed joists, decorative vents, window shutters.
  2. Box or bay windows
  3. Balconies with at least 50 square feet.
  4. A minimum of 5 windows, 12 square foot minimum on the front façade.
  5. A substantial/noticeable change of material applied to the front façade.
  6. A substantial/noticeable change of color applied to the front façade.
  7. A change of pattern that is substantial/noticeable on the façade (Example: changing brick work from face brick to a soldier course or basket weave pattern.)
  8. Brick or stone along the front of the building, covering at least 25% of the front of the building.
  9. Materials – brick, stone, wood, cement composite materials, and metal accents
- Separate utilities for each unit are required if condominium units are proposed.

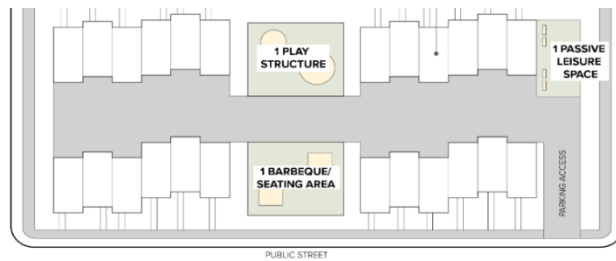
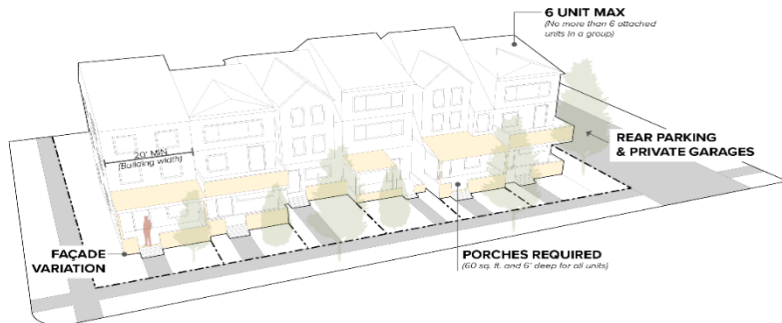


**J. Townhouse.** Horizontally attached multi-story units in a rowhouse configuration. This building type can include live/work units. If live work is included, such units shall not exceed 3000 square feet of business usage, not more than 50% of the floor, and no more than 5 employees. If end units face the street, they shall include windows covering at least 25% of the façade for each floor. Parking and private garages shall be to the rear of the building allowing the primary façade to front a public street or public greenspace. Garages shall include the infrastructure for a 220 outlet capable of faster car charging. Provide outdoor **covered** balconies or patios for 100% of the units at a minimum of 6 feet deep and 60 square feet each.

Building width shall be a minimum of 20'. Guest parking shall not include any driveway area that accesses a garage. No more than **6** attached units per building.

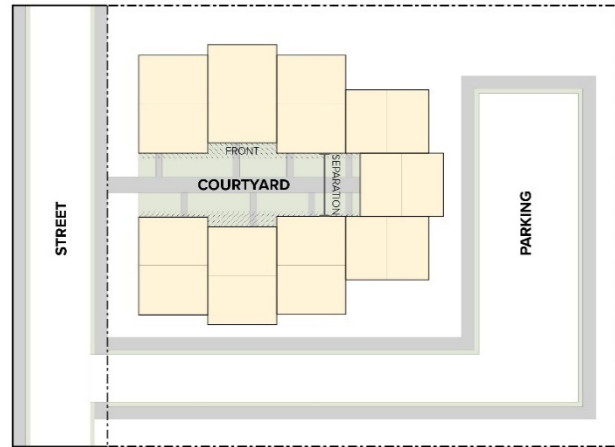
Setbacks **for each unit** shall be varied **at least 2' feet** where a development has more than **5** units.

Townhouse developments with over 12 units shall include at least a play structure and a barbeque/seating area and one passive leisure space of at least 3000 square feet. Separate utilities for each unit are required and may require easements for units that are distant from a public street. Building heights shall not exceed 2 stories in the CND and no more than 3 stories in the TCD, and in no case shall either situation exceed 35 feet.

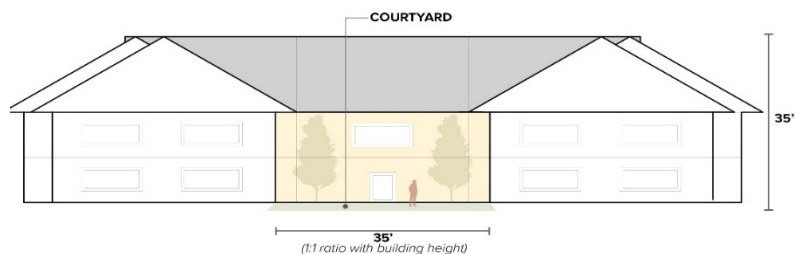


**K. Multi-family Courtyard Oriented Development:** A building (s) that contains residential uses, oriented toward a courtyard with parking to the rear. Provide outdoor covered balconies or patios for 100% of the units at a minimum of 6 feet deep and 60 square feet each. If end units face the street, they shall include windows, covering at least 25% of the façade for each floor. Multi-family developments with over 12 units shall provide recreational amenities, with at least a play structure and a barbeque/seating area and one passive leisure space of at least 3000 square feet. Unit diversity shall be accomplished by constructing at least 20% of the units with different numbers of bedrooms. Parking shall occur at the side or rear of the building. If located to the side, it shall be setback at least 10' and that setback shall be landscaped to obscure the parking lot.

Exterior materials of a durable or resilient nature such as brick, stone, composite materials, or other materials of similar quality, hardness, and low maintenance characteristics are required. Roughhewn, exposed wood beams, columns and supports are required for all facades facing a street. ~~New development in the TCD shall incorporate common, locally found materials such as granite, stone, sandstone, wood, and brick as part of the first floor of each building for at least 75% of the first floor, excluding the windows.~~ All stories above the first floor shall incorporate at least 50% of the above specified materials. Stucco and EIFS are prohibited for use as materials on any façade visible from a right-of-way, but may be used on second and third floor if additional scoring provides a brick-like appearance. Other materials may be considered by the Planning Director for soffits, or as accents or unique architectural features. Twenty-five year guaranteed architectural shingles or other longer-lasting materials are required for sloped roofs.



Up to two stories may be constructed for this type of development. Separate utilities for each unit are required and may require easements for units that are distant from a public street.



- L. Mixed-use buildings.** Intended for a mix of primarily residential with commercial/office or commercial and office uses required to be located on the first floor, and optional above the first floor at or near the front build-to-line with parking to the rear, underground, or podium type. No podium parking is allowed to front a street. This building type may support office, retail, hotel/hospitality or residential uses mixed vertically. For residential units, provide outdoor balconies or patios for 100% of the residential units at a minimum of 6 feet deep and 60 square feet each. No wood burning fireplaces, stoves, appliances, or outdoor fire pits are allowed. Provide indoor bike storage or bike lockers. Rooftop patios are allowed but shall be recessed ten feet from the edge of the building.

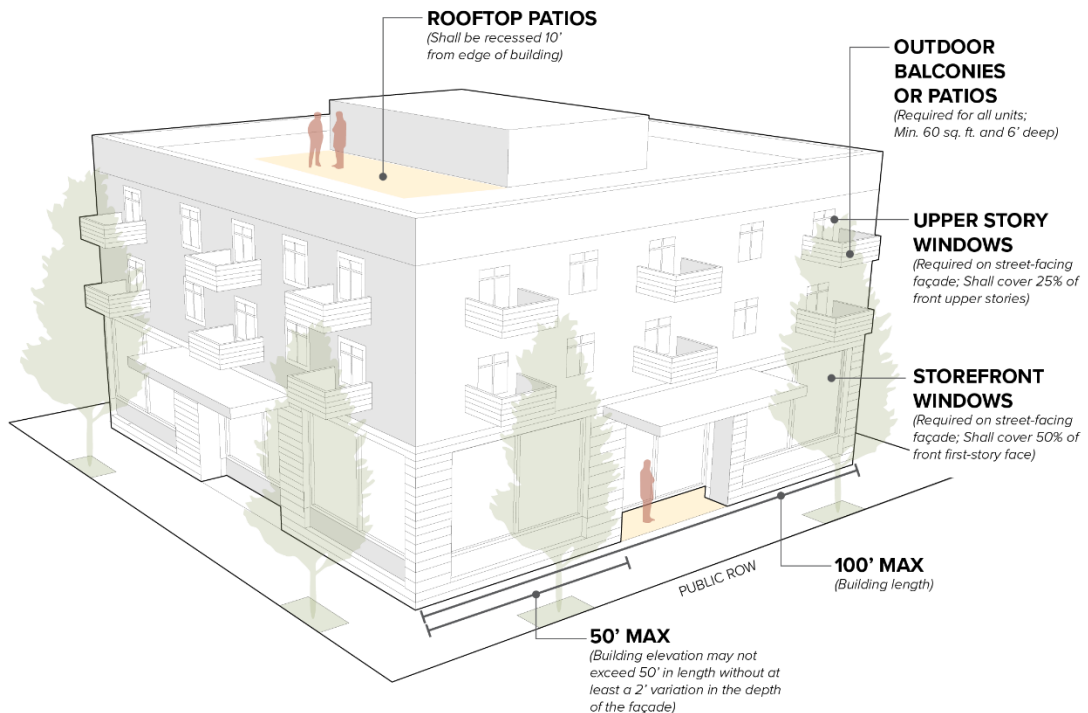
Exterior materials of a durable or resilient nature such as brick, stone, composite materials, or other materials of similar quality, hardness, and low maintenance characteristics are required. Roughhewn, exposed wood beams, columns and supports are required for all facades facing a street. New development in the TCD shall incorporate common, locally found materials such as granite, stone, sandstone, wood, and brick as part of the first floor of each building for at least 75% of the first floor, excluding the windows. All stories above the first floor shall incorporate at least 50% of the above specified materials. Stucco and EIFS are prohibited for use as materials on any façade visible from a right-of-way, but may be used on second and above stories if additional scoring provides a brick-like appearance.

Other materials may be considered, by the Planning Director for soffits, or as accents or unique architectural features. Twenty-five year guaranteed architectural shingles or other longer-lasting materials are required for sloped roofs. 360 degree architectural consistency is required.

No new building elevation may exceed 50 feet in length without at least a 2-foot variation in the depth of the façade along the public right of way and a 1-foot variation on other facades. Residential unit balconies shall not be interpreted to meet this requirement. No single building shall exceed 100 feet.

Parking shall be to the rear of the building.

Storefront windows are required on the street facing façade and street facing windows shall be cover a minimum of 50% of the front first story face and 25 percent of all upper stories.



10 foot wide dry utility easements shall be provided along each public and private right of way. Dry utility placement shall occur in the public Right of Way or through negotiated locations such as the private drive/street, an alley or a public utility easement (PUE) on private property. A determination of the best locations for utilities shall occur during the application process with an application requirement for a conceptual utility plan as part of that process. No above ground utilities, especially utility boxes, shall be placed in the clear view of an intersection or driveway. Any above ground utilities shall be located in an easement (PUE) behind the front face of the building, and preferably to the rear of the building.

Sewer, water, and irrigation shall be metered from the public ROW and distributed through the development as private ownership. Such extensions are not a City responsibility.

### **M. Commercial Buildings.**

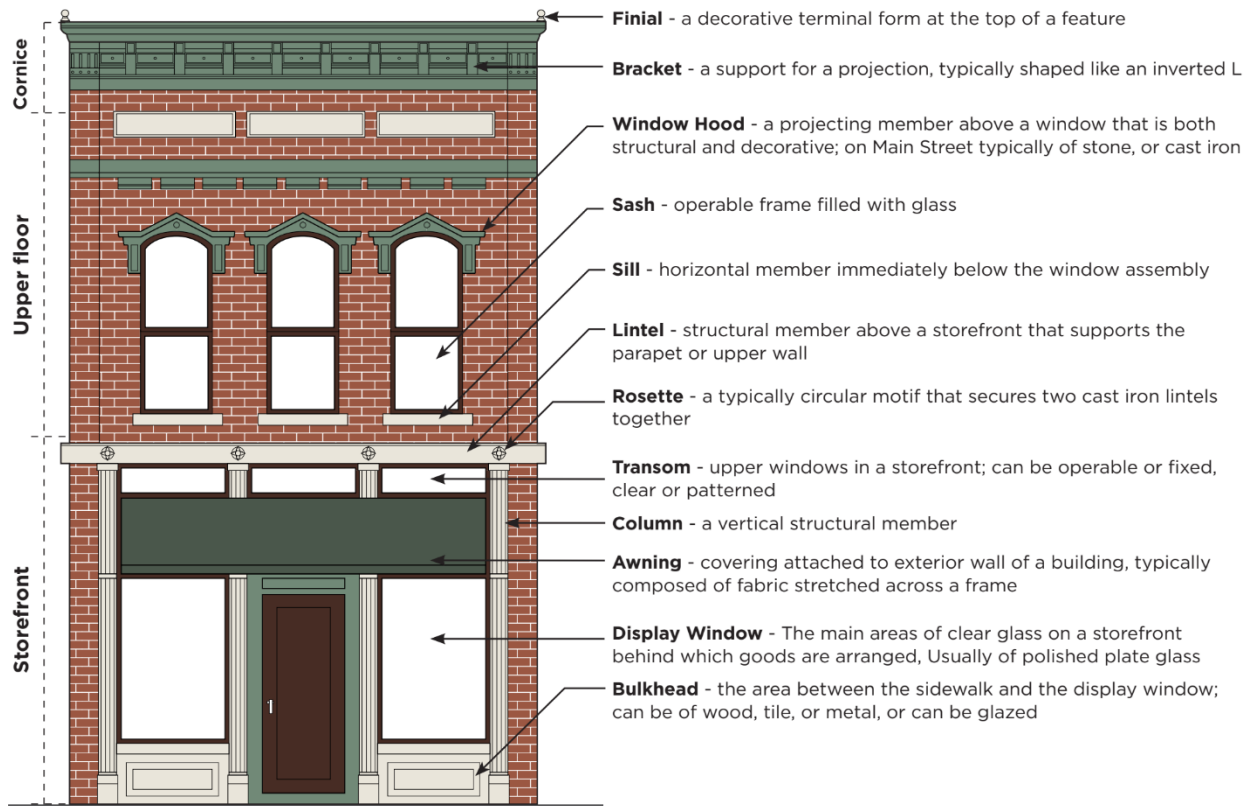
Minimum 2-story building with the primary use of office, retail, civic or commercial use. All such buildings shall include at least 1 vehicle charging station per building.

Exterior materials of a durable or resilient nature such as brick, stone, composite materials, or other materials of similar quality, hardness, and low maintenance characteristics are

required. Roughewn, exposed wood beams, columns and supports are required for all facades facing a street. New development in the TCD shall incorporate common, locally found materials such as granite, stone, sandstone, wood, and brick as part of the first floor of each building for at least 75% of the first floor, excluding the windows. All stories above the first floor shall incorporate at least 50% of the above specified materials. Stucco and EIFS are prohibited for use as materials on any façade visible from a right-of-way, but may be used on second and above stories if additional scoring provides a brick-like appearance. Other materials may be considered, by the Planning Director for soffits, or as accents or unique architectural features. Twenty-five year guaranteed architectural shingles or other longer-lasting materials are required for sloped roofs. 360 degree architectural consistency is required.

Principal entrance shall face the street or be located on the corner of the building and recessed. Front façade shall include a storefront type appearance and include at least two additional features from the sketch below:

## ANATOMY OF A MAIN STREET BUILDING



### 18.83.050 Visual Screening

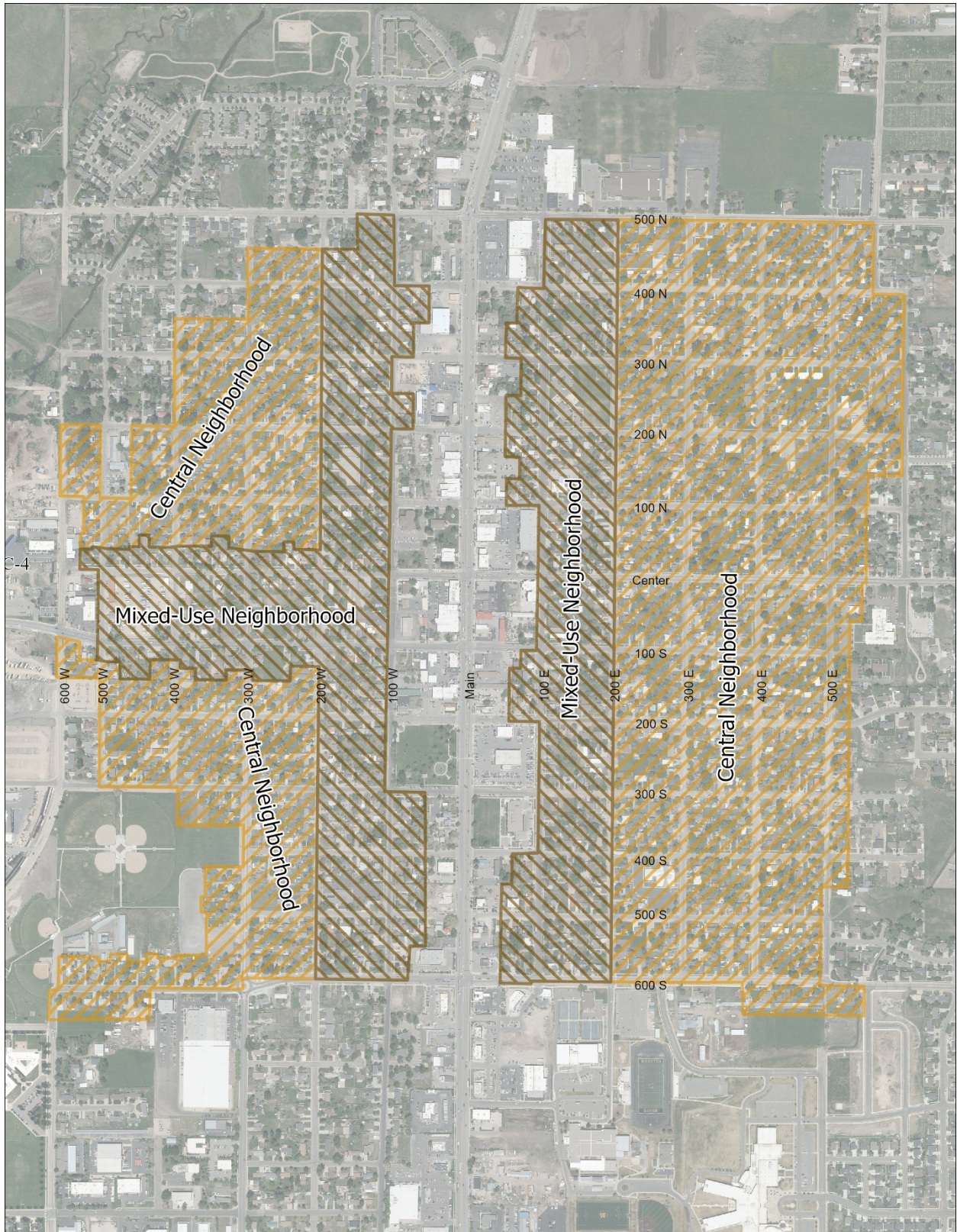
All commercial lots within the zone shall have a six-foot rear yard sight obscuring fence.

### 18.83.060 Definitions (added as needed and likely relocated to the definitions chapter)

**18.83.070 Related Provisions**

|                |                                |
|----------------|--------------------------------|
| Chapter 18.12  | Administration                 |
| Chapter 18.08  | Definitions                    |
| Chapter 18.68  | Supplementary Regulations      |
| Chapter 18.108 | Conditional Use Permits        |
| Chapter 18.72  | Off-Street Parking and Loading |
| Chapter 18.103 | Sign Regulations               |
| Chapter 18.78  | Lighting                       |
| Chapter 18.174 | Enforcement                    |
| Chapter 18.117 | Subdivisions                   |

**CHOZ Overlay Zone Map**



# Central Heber Overlay Zone (CHOZ) Process

- A **Envision Heber 2050 General Plan** is a guiding policy document that provides a vision for the long-term, comprehensive land use goals and policies for Heber – adopted in 2022
- In 2023, Heber City adopted an amendment to the **General Plan** for Central Heber entitled “Envision Central Heber”
  - Identifies a new future vision for Central Heber
  - Recommends changes to current zoning ordinance
- The **CHOZ** is an Overlay Zone that implements the goals & policies of Envision Central Heber and overlays the R-2 and R-3 Residential Zoning Districts
- The current zoning remains in place (R-2 and R-3) but the overlay adds new infill housing options

# Certain Spatial Regulations for the R-2 and R-3 zones

| <b>ZONE</b> | <b>MIN. LOT AREA</b> | <b>HEIGHT</b>               |
|-------------|----------------------|-----------------------------|
| <b>R-2</b>  | 8,000 square feet*   | 40' max. main bldg. Min 12' |
| <b>R-3</b>  | 6,500 square feet*   | 40' max. main bldg. Min 12' |

# Will CHOZ cause my home or neighborhood to change significantly?

No. The CHOZ just provides new infill development options.

- The Base Zoning Districts R-2 & R-3 Residential stay in place.
- Homeowners choose if an infill option works for them, not the city or developers.
- Many homeowners may not want to use the infill development options.
- Adoption of the CHOZ does not mean the city is going to condemn your property.
- Development standards limit what can be built there and include:
  - 35-foot height limit
  - Minimum building setbacks from property lines
  - Open space maintained through setbacks and building configurations
  - Architectural design standards

# Heber Overlay Zone (CHOZ)

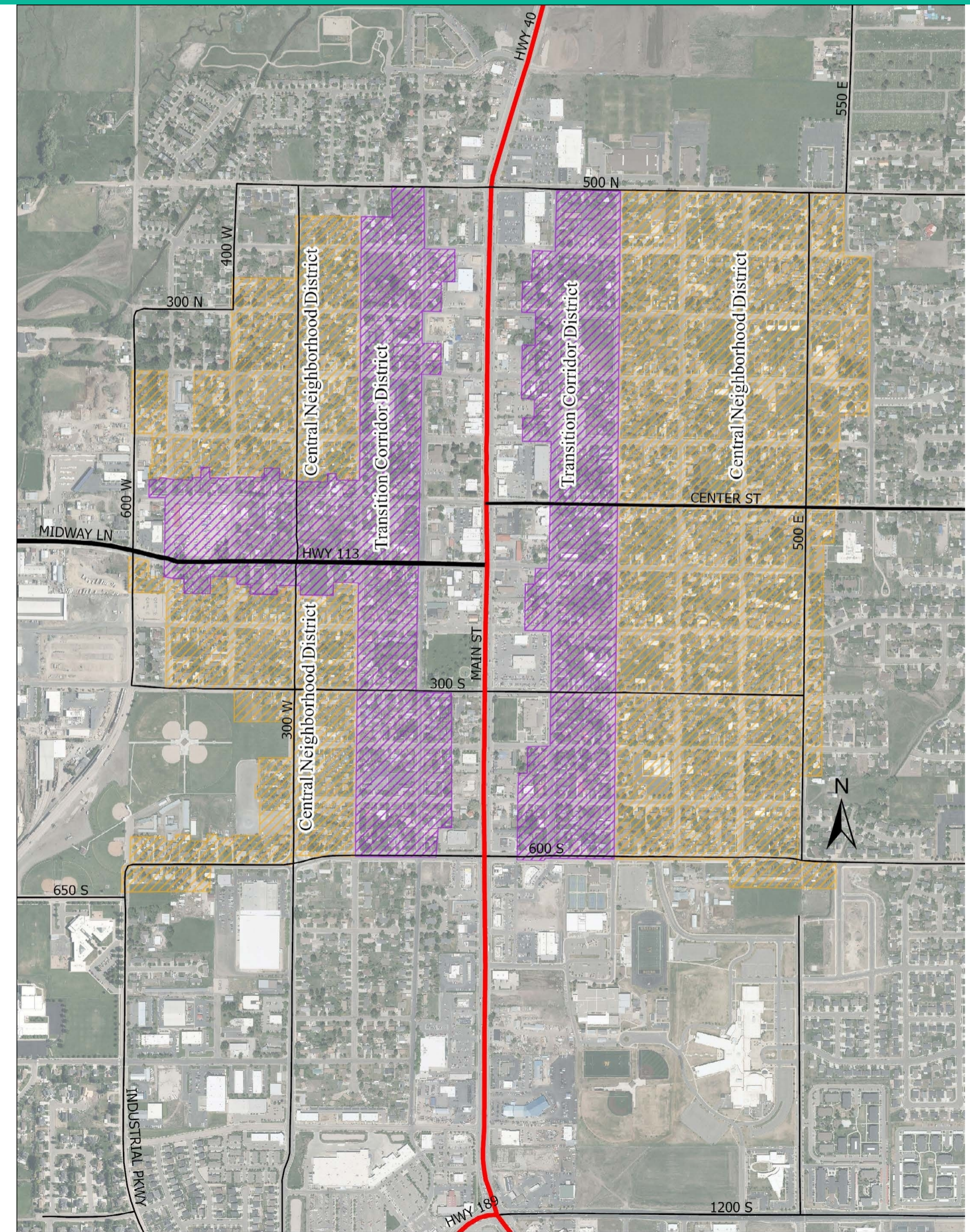
## Two Sub-Districts within CHOZ

### 1. Central Neighborhoods District (CND)

- 200 West/East to about 600 West/East

### 2. Transition Corridors District (TC)

- From about 100 West/East to 200 West/East
- Along Midway Lane and Center Street westward from 100 West to about 600 West



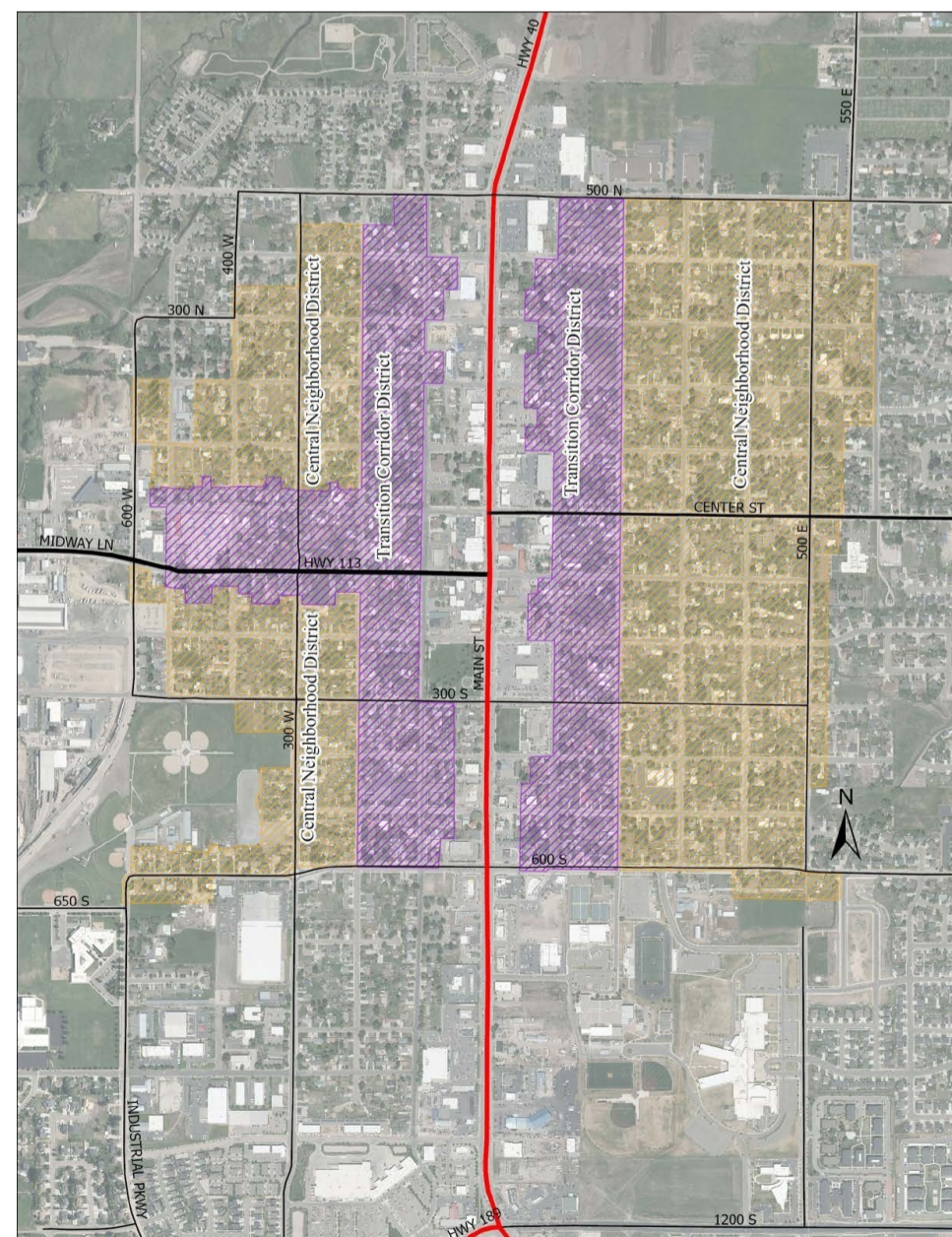
# Purpose of Central Heber Overlay Zone (CHOZ) based on the Envision Central Heber Plan

## Central Neighborhoods District (CND)

- Lower density residential infill
- Flexible uses for historic buildings

## Transition Corridors District (TCD)

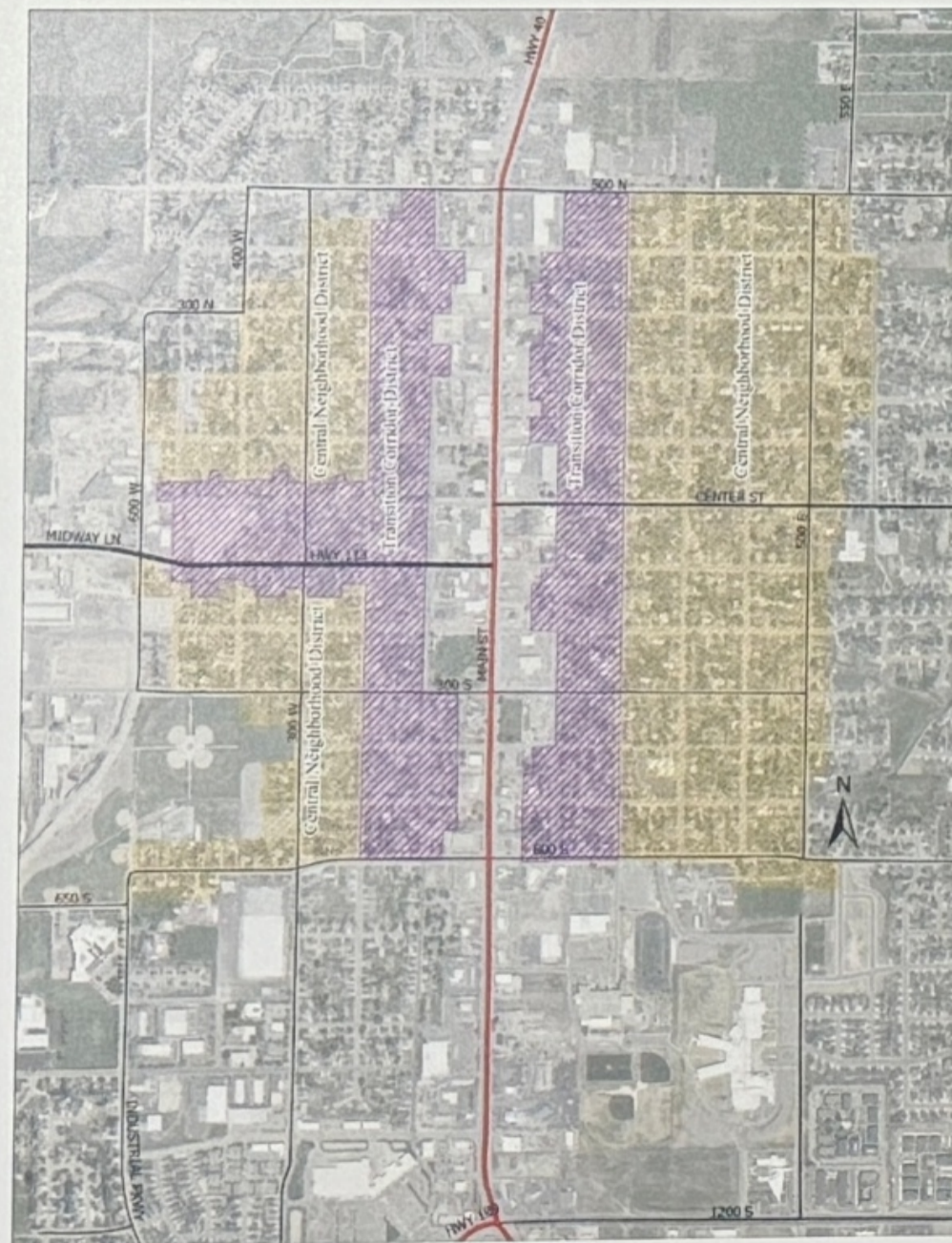
- Area of transition from Main Street Commercial to Residential Area
- Moderate density residential infill
- Low intensity commercial
- Flexible Uses for historic buildings



# Purpose of Central Heber Overlay Zone (CHOZ)

## Central Neighborhoods District (CND)

- Lower density residential infill
- Flexible uses for historic buildings



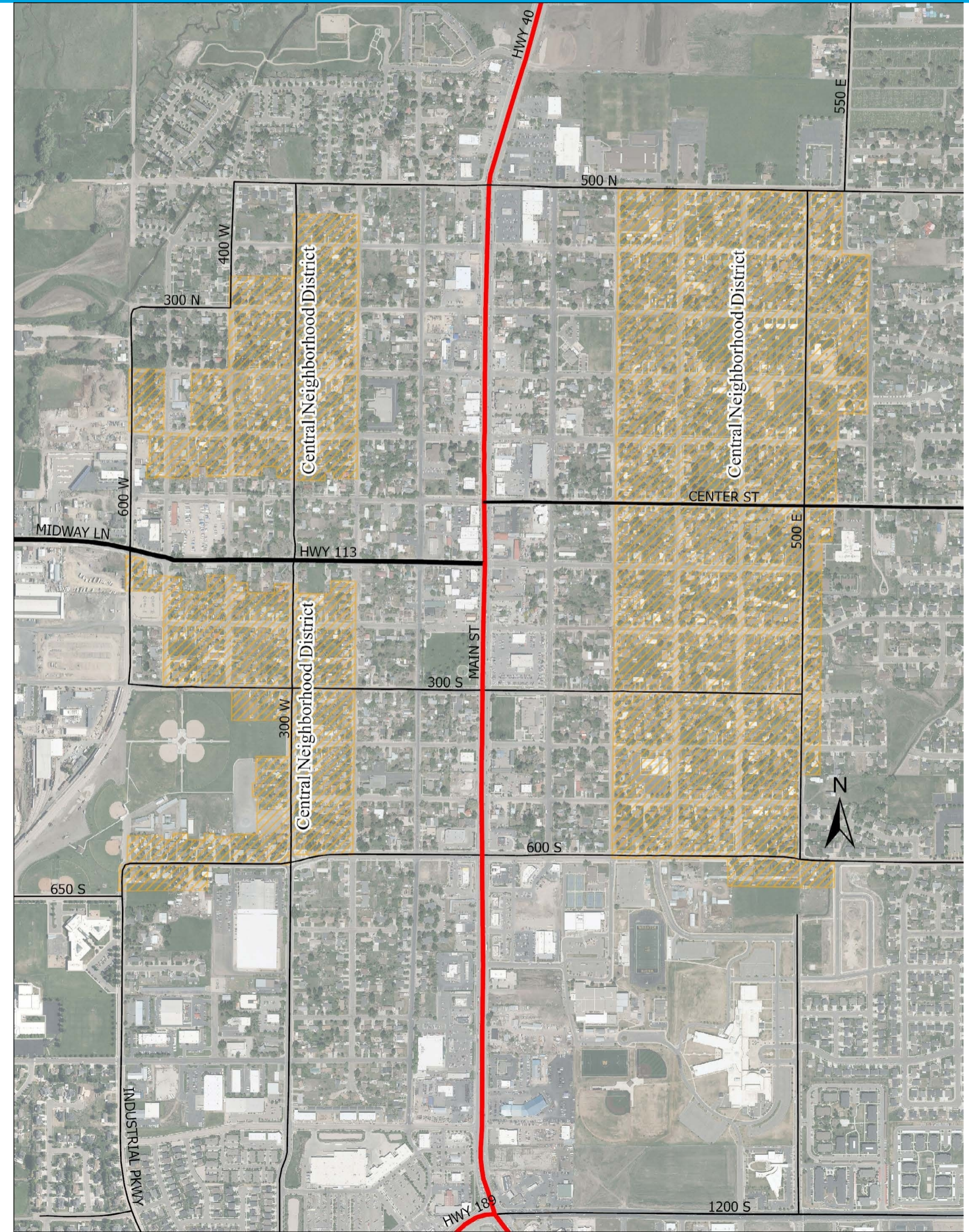
## Transition Corridors District (TCD)

- Area of transition from Main Street Commercial to Residential Area
- Moderate density residential infill
- Low intensity commercial
- Flexible Uses for historic buildings

# Central Heber Neighborhoods District (CND)

## Lower Density Residential Uses:

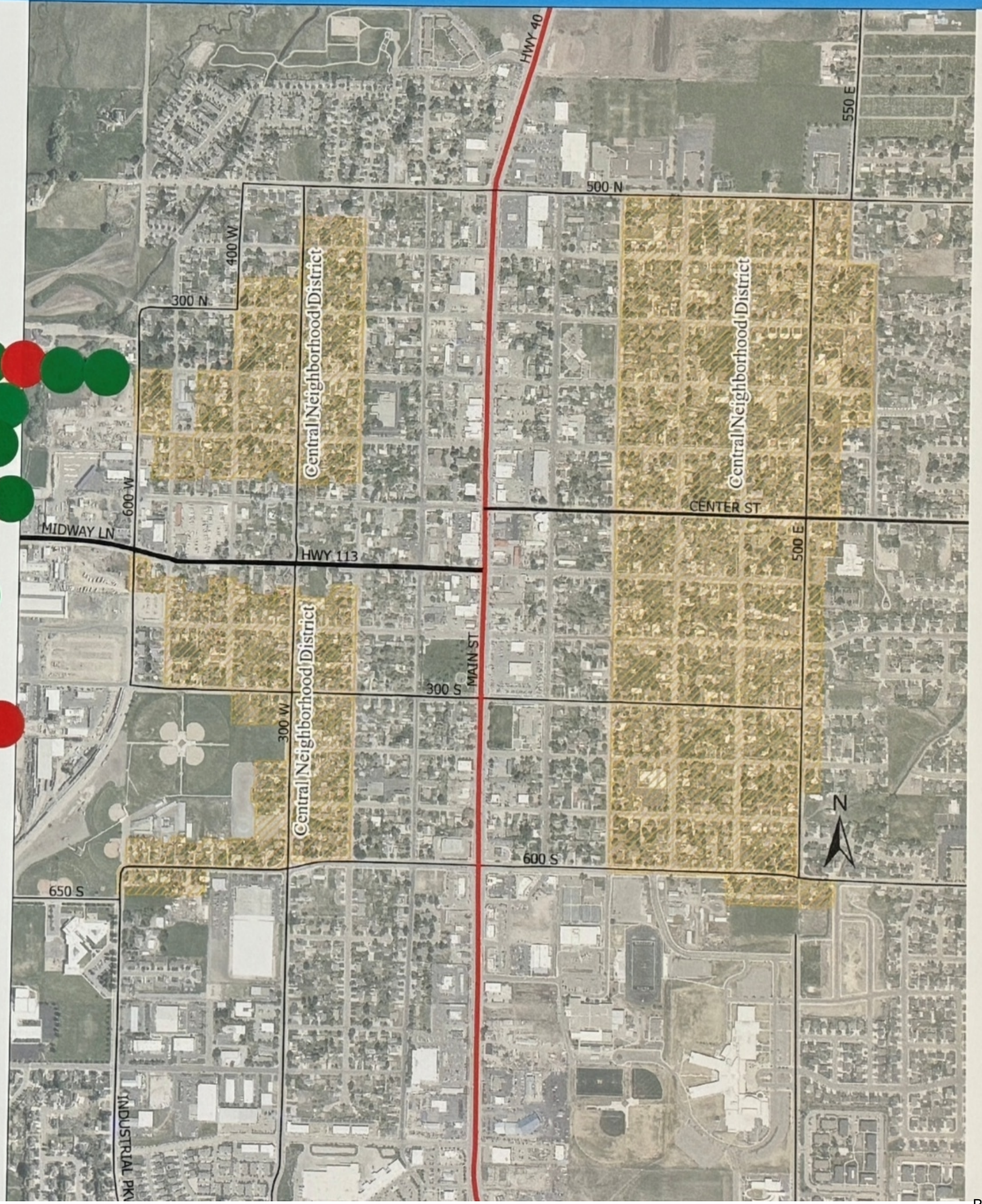
- Duplex and twin home
- Flag lots
- Mansion style apartments
- Small lots
- Subordinate dwelling unit
- Townhouses
- Internal and detached accessory dwellings
- Flexible uses for historic buildings



# Central Heber Neighborhoods District (CND)

## Lower Density Residential Uses:

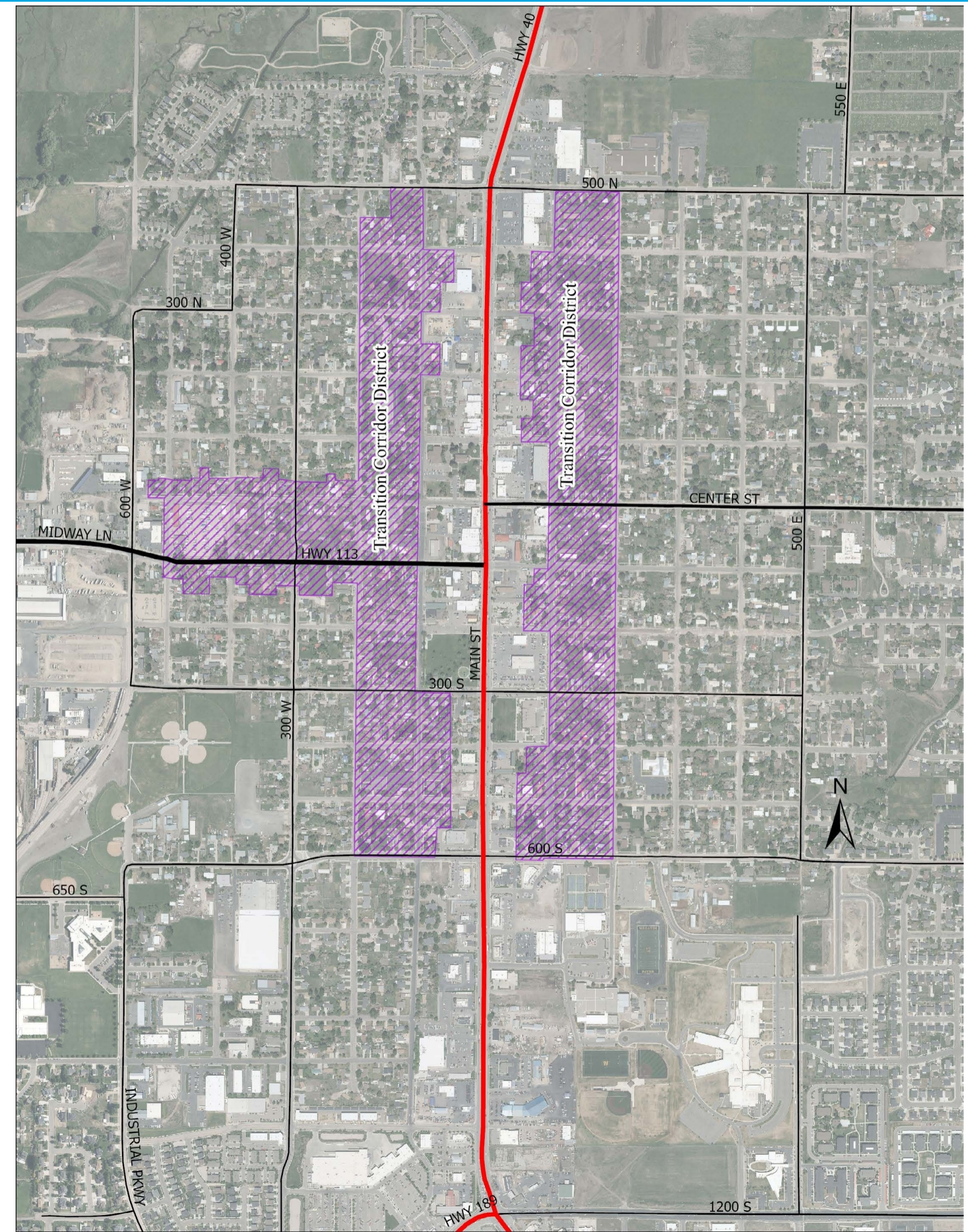
- Duplex and twin home
- Flag lots
- Mansion style apartments
- Small lots
- Subordinate dwelling unit
- Townhouse
- Internal and detached accessory dwellings
- Flexible uses for historic buildings



# Transition Corridors District (TCD)

Moderate density residential  
uses and low intensity  
commercial uses:

- Commercial Buildings
- Duplexes & Twin Homes
- Flag Lots
- Mansion Style Apartments
- Multi-family Courtyard
- Mixed Use Buildings
- Townhouses
- Subordinate dwelling unit
- Internal and external  
accessory dwelling units

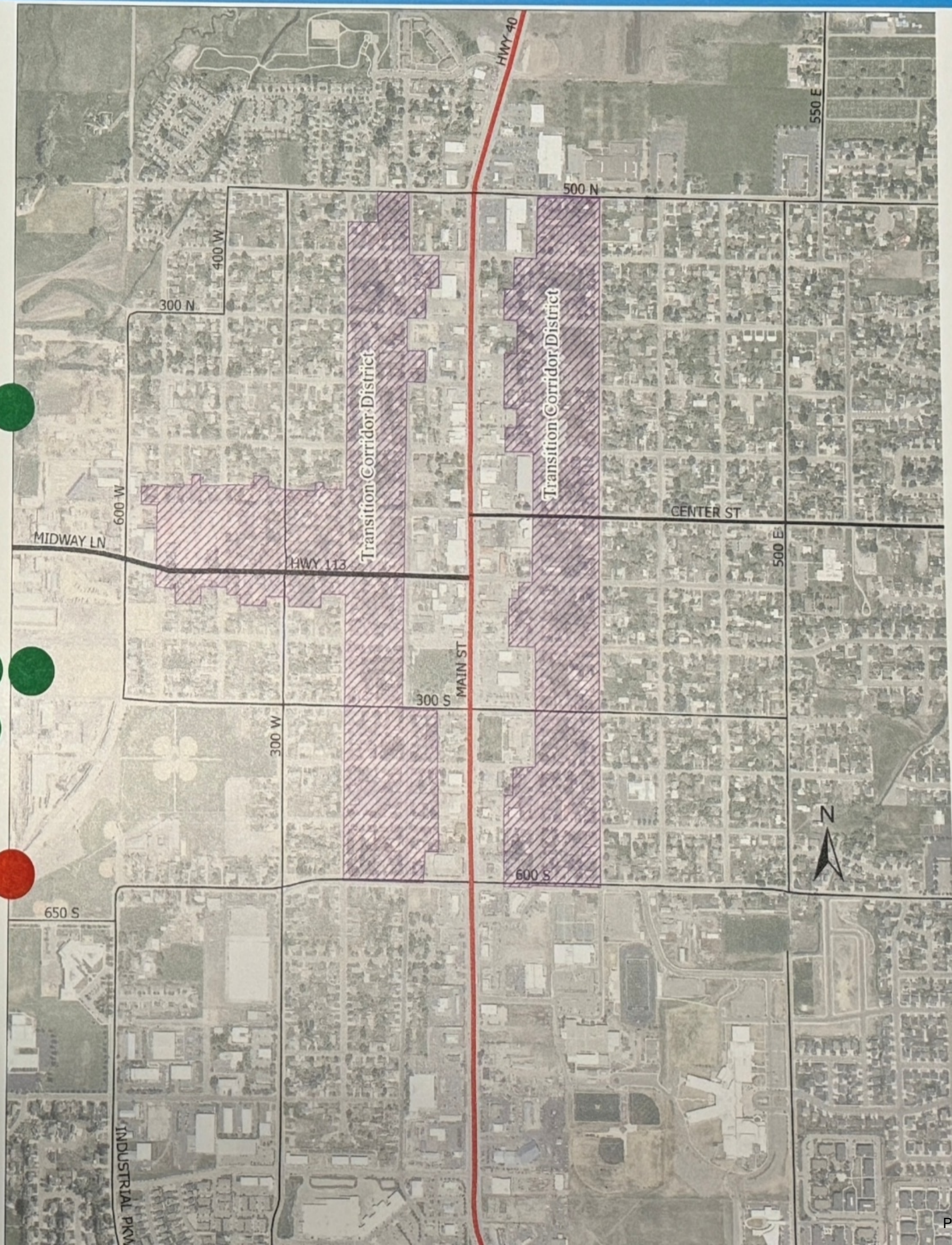


# Transition Corridors District (TCD)

Moderate density residential uses and low intensity commercial uses:

TEMP USES  
POP UPS  
BIKE CHARGERS

- Commercial Buildings
- Duplex & Twin Home
- Flag Lots
- Mansion Style Apartments
- Multi-family Courtyard
- Mixed Use Buildings
- Townhouses
- Subordinate dwelling unit
- Internal and external accessory dwelling units



# Flag Lots and Subordinate Dwelling Units

Place a *Green* dot near items you like & a *Red* dot near items you dislike

## Flag Lots

- Separate lot with lot connecting to street with “flag pole”



## Subordinate Dwelling Unit (SDU)

- New Owner has occupancy required
- Separate lot with easement to street



# Flag Lots and Subordinate Dwelling Units

Place a **Green** dot near items you like & a **Red** dot near items you dislike

## Flag Lots

Separate lot with lot connecting to street with "flag pole"



## Subordinate Dwelling Unit (SDU)

Owner occupancy required

- Separate lot with easement to street

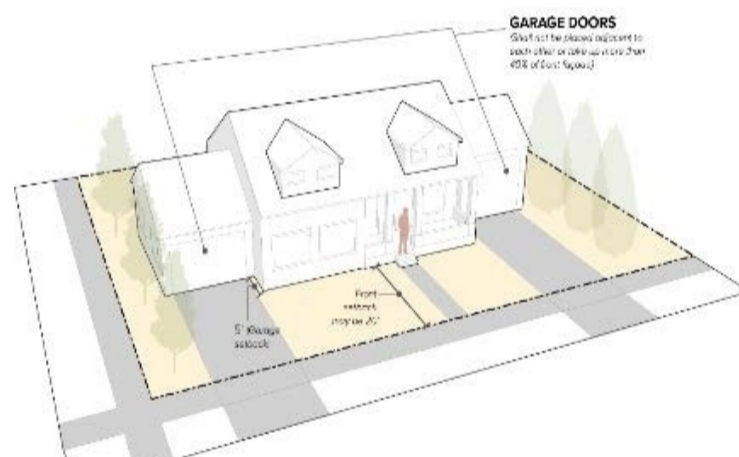


# Duplexes/Twin Homes & Mansion Style Apartments

Place a *Green* dot near items you like & a *Red* dot near items you dislike

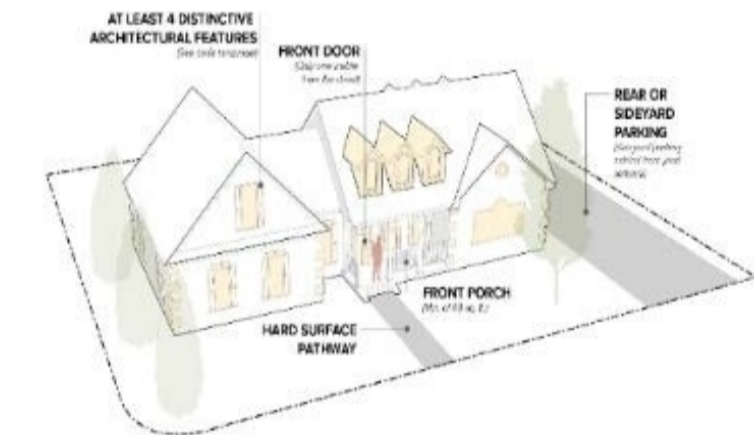
## Duplexes/Twin Homes

- Architectural design standards



## Mansion Style Homes

- One front door facing the street
- Architectural design standards

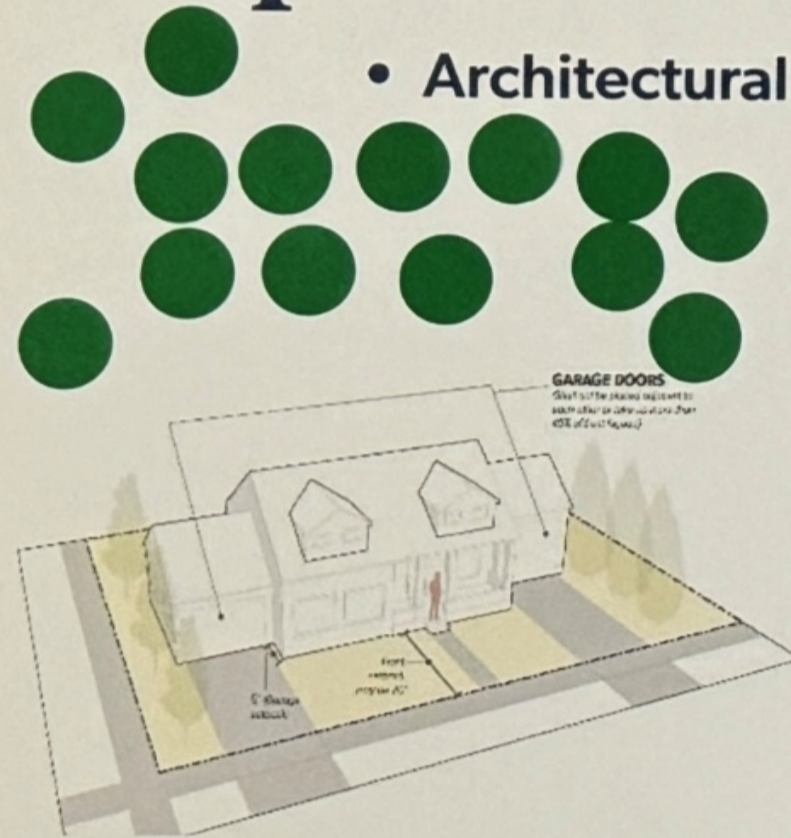


# Duplexes/Twin Homes & Mansion Style Apartments

Place a **Green** dot near items you like & a **Red** dot near items you dislike

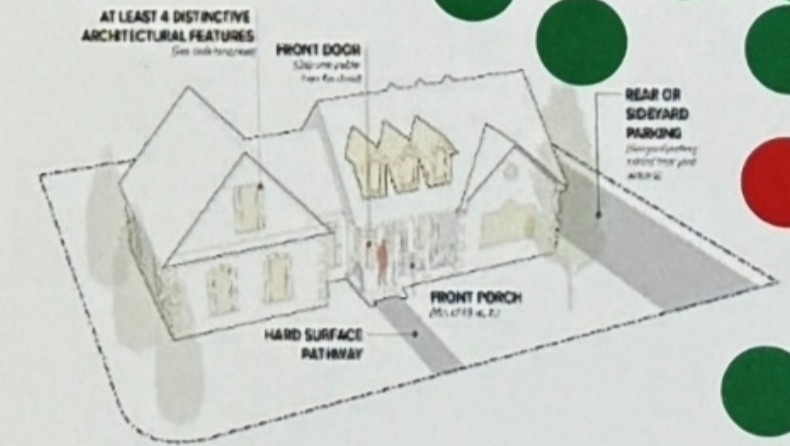
## Duplexes/Twin Homes

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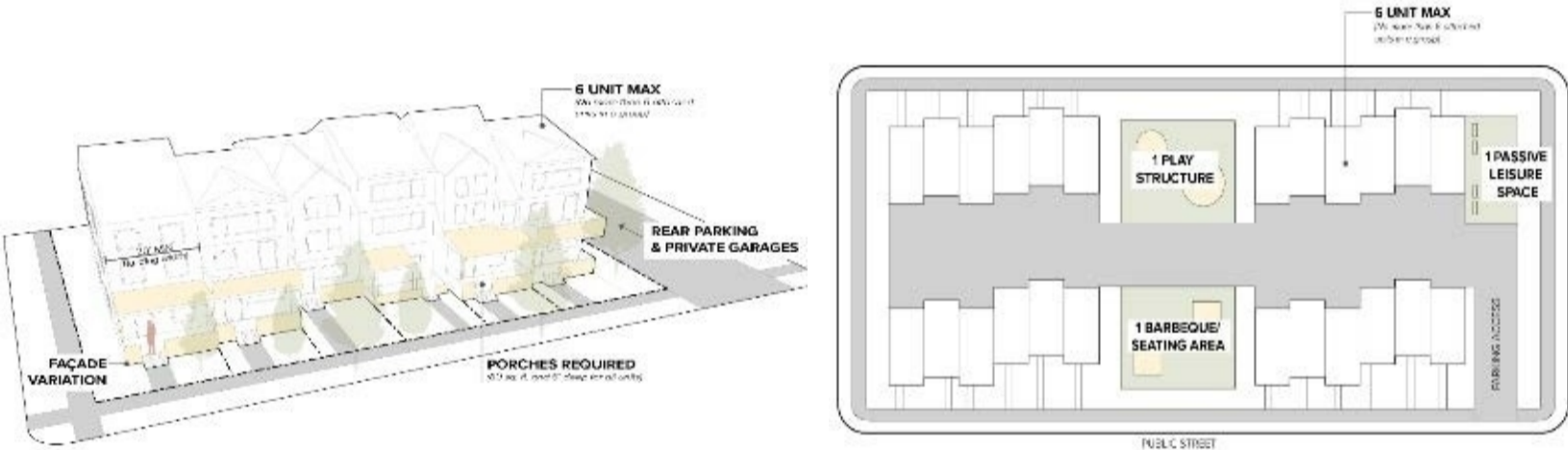


# Townhouses and Multi-Family Courtyard Homes

Place a *Green* dot near items you like & a *Red* dot near items you dislike

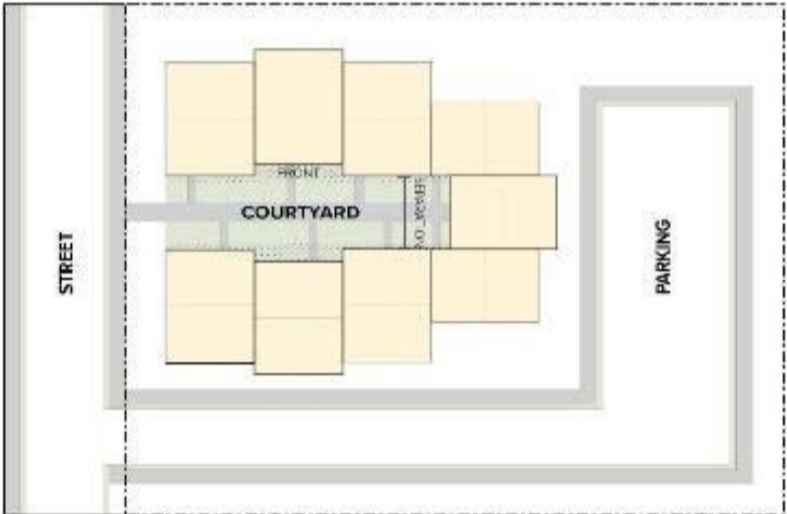
## Townhouses

- No more **than 4 units** per building
  - Rear loaded garages
- Architectural design standards



## Multi-Family Courtyard Buildings

- Apartments with street facing courtyard
- Architectural design standards

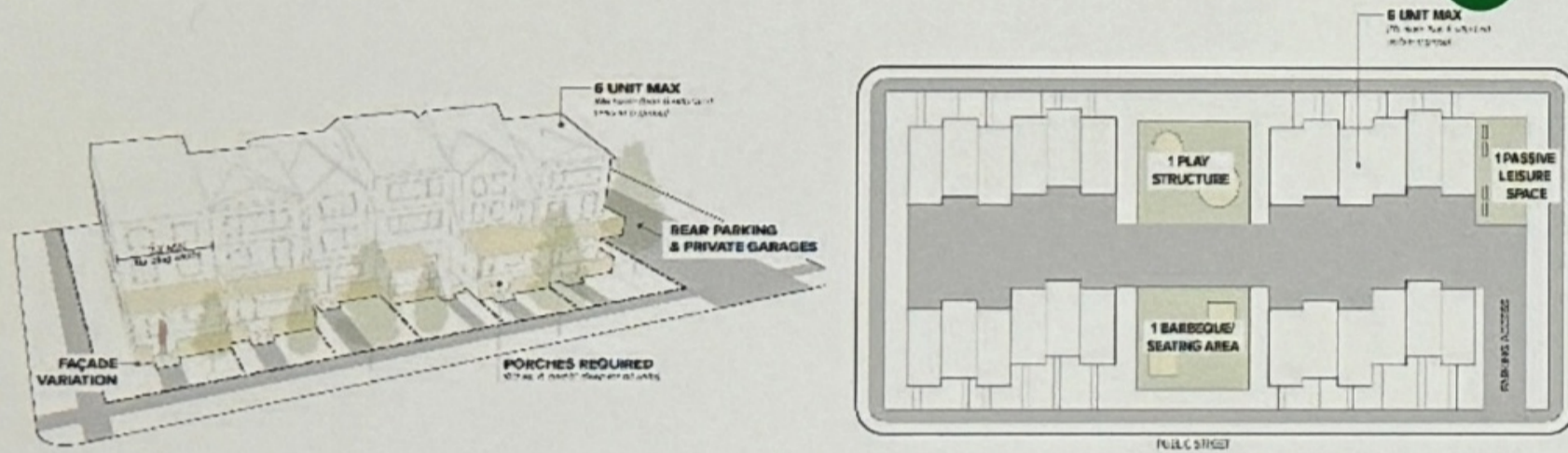


# Townhouses and Multi-Family Courtyard Homes

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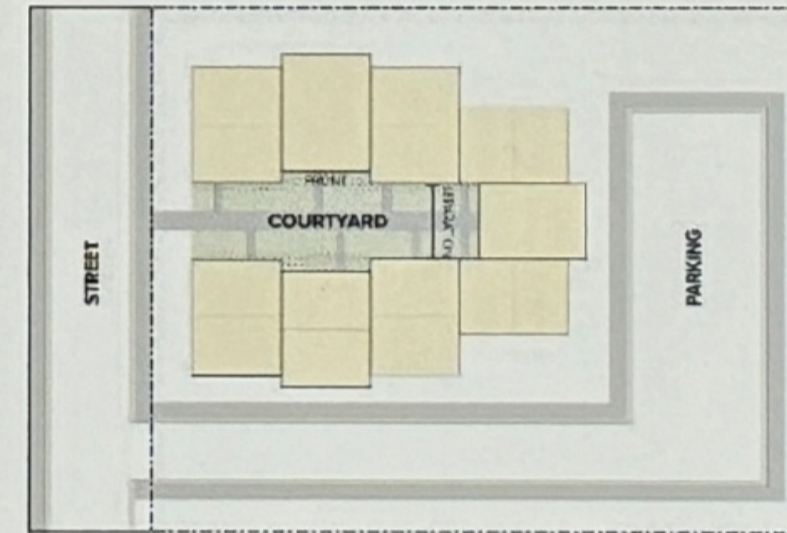
## Townhouses

- No more than 4 units per building
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- Architectural design standards



## Multi-Family Courtyard Buildings

- Apartments with street facing courtyard
- Architectural design standards



# Design features for multi-family buildings

Place a *Green* dot near items you like & a *Red* dot near items you dislike

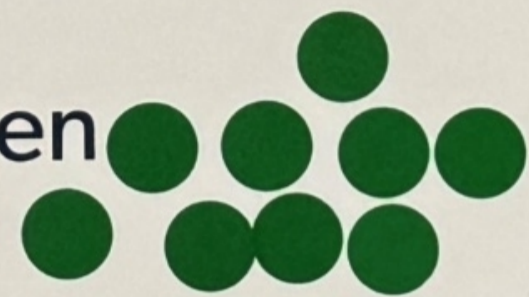




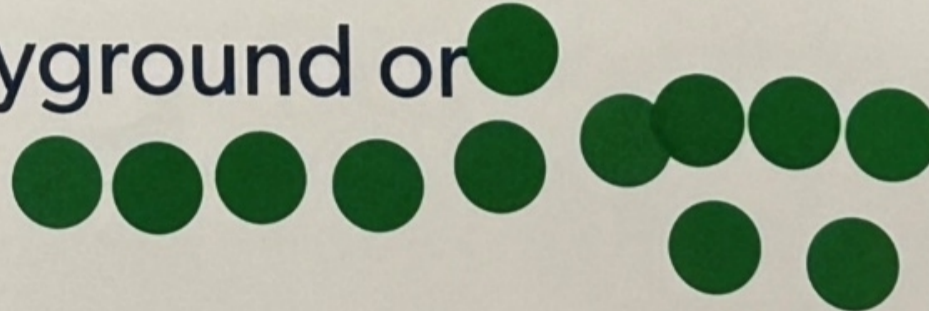
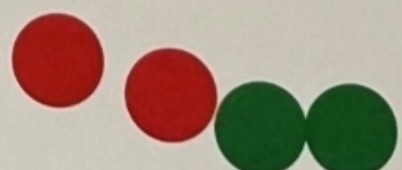
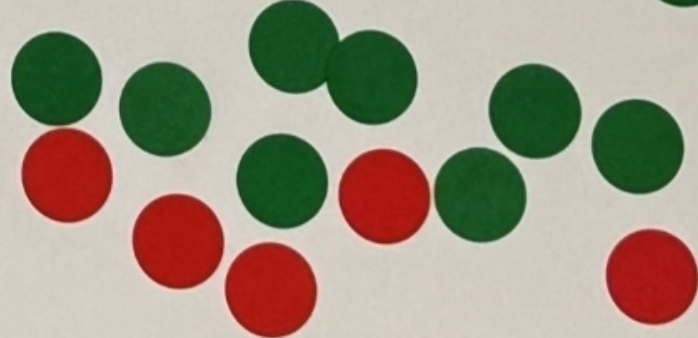
**What design elements are important to you?**

- Brick, rock/stone, board and batten siding
- Balconies (for multi-family homes)
- Doors on the street with patios/porches
- Rear loaded garages
- Pitched roofs and/or decorative varying height parapets
- Open space type playground or recreational features
- Rooftop patios (townhouses)
- 35 foot height limit

# Design features for multi-family buildings

Place a **Green** dot near items you like & a **Red** dot near items you dislike

What design elements are important to you?

- Brick, rock/stone, board and batten siding 
- Balconies (for multi-family homes) 
- Doors on the street with patios/porches 
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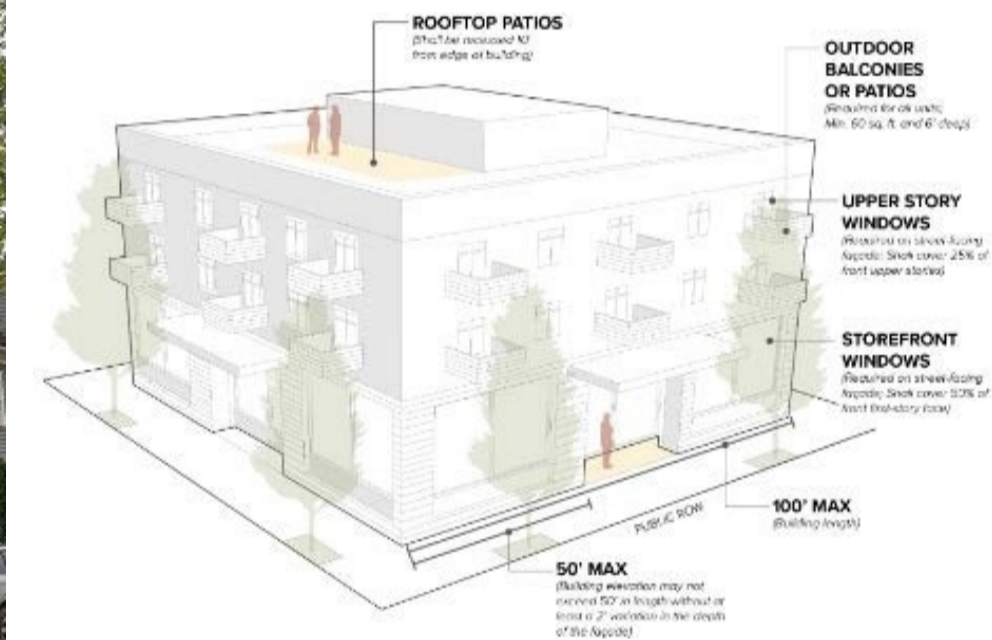
No higher than 25'

# Mixed-Use Buildings (Permitted in Transition Corridor District only)

Place a *Green* dot near items you like & a *Red* dot near items you dislike

## What design elements are important to you?

- First floor commercial use
- Awnings
- Upper story balconies
- Materials – brick, stone, composites
- Stepbacks on upper floors
- Façade indentations
- Gooseneck light fixtures
- Defined sign spaces
- Varying height parapets
- 35 foot height limit

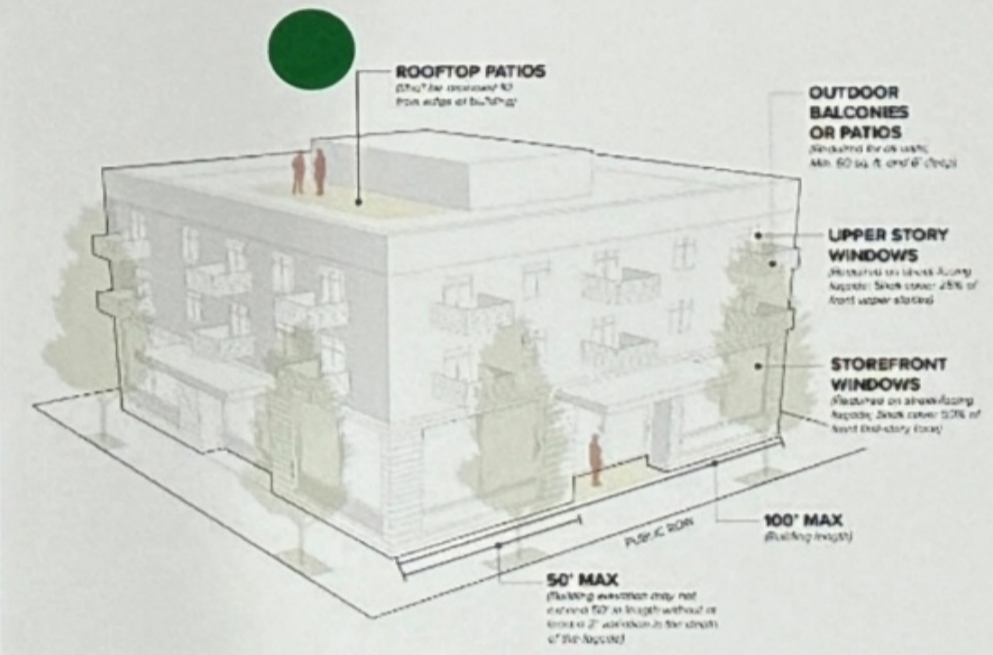


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## What design elements are important to you?

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- Materials – brick, stone, composites
- Stepbacks on upper floors
- Façade indentations
- Gooseneck light fixtures
- Defined sign spaces
- Varying height parapets
- 35 foot height limit



NO MORE THAN 25 ft

Not higher than 25 ft  
↓ thanks

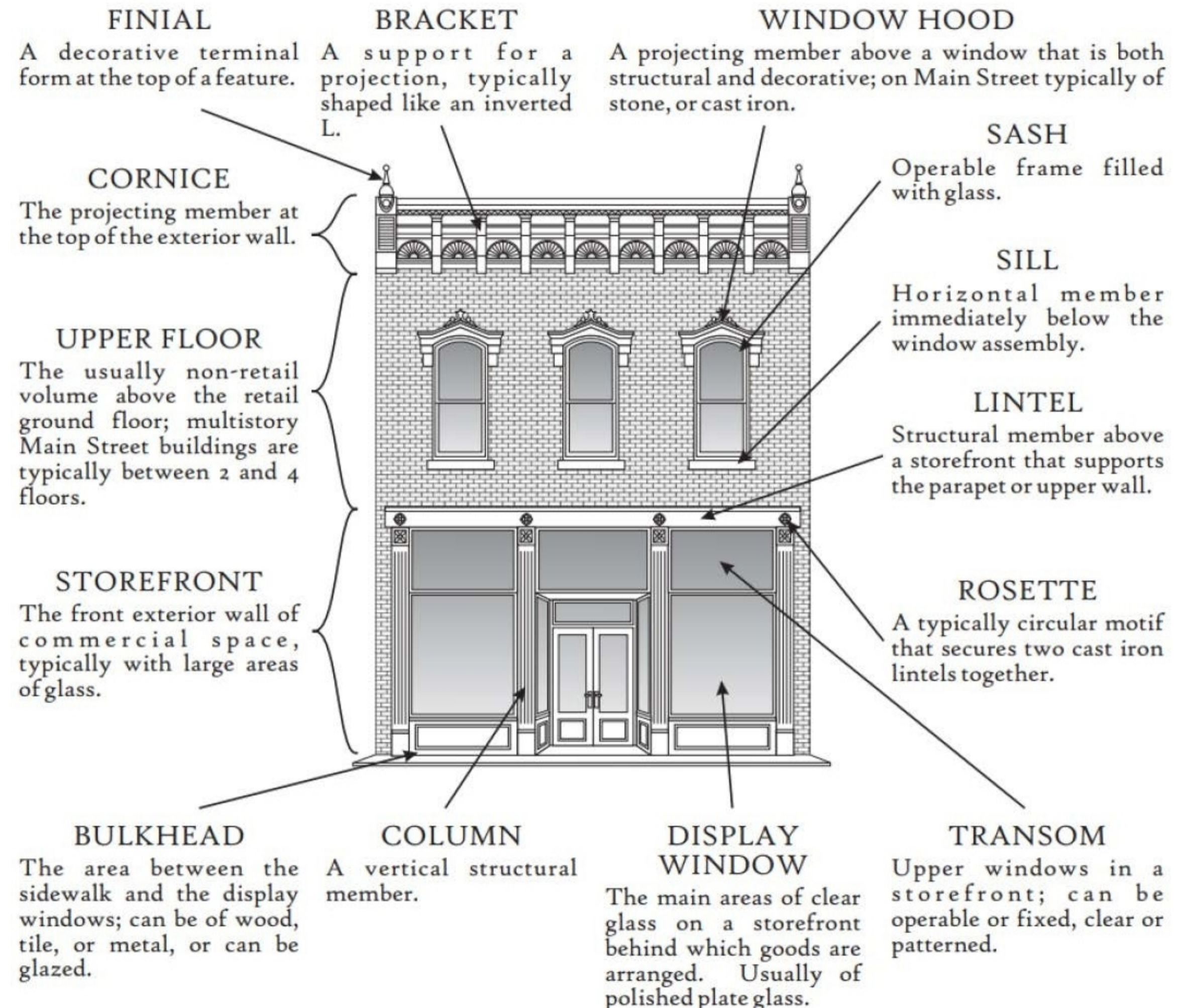
We don't want any higher than 25 feet. No big tall buildings in town. Can't see the beautiful mountains around.

We don't want mixed use

# Commercial Buildings (Permitted in Transition Corridor District only)

Place a *Green* dot near items you like & a *Red* dot near items you dislike

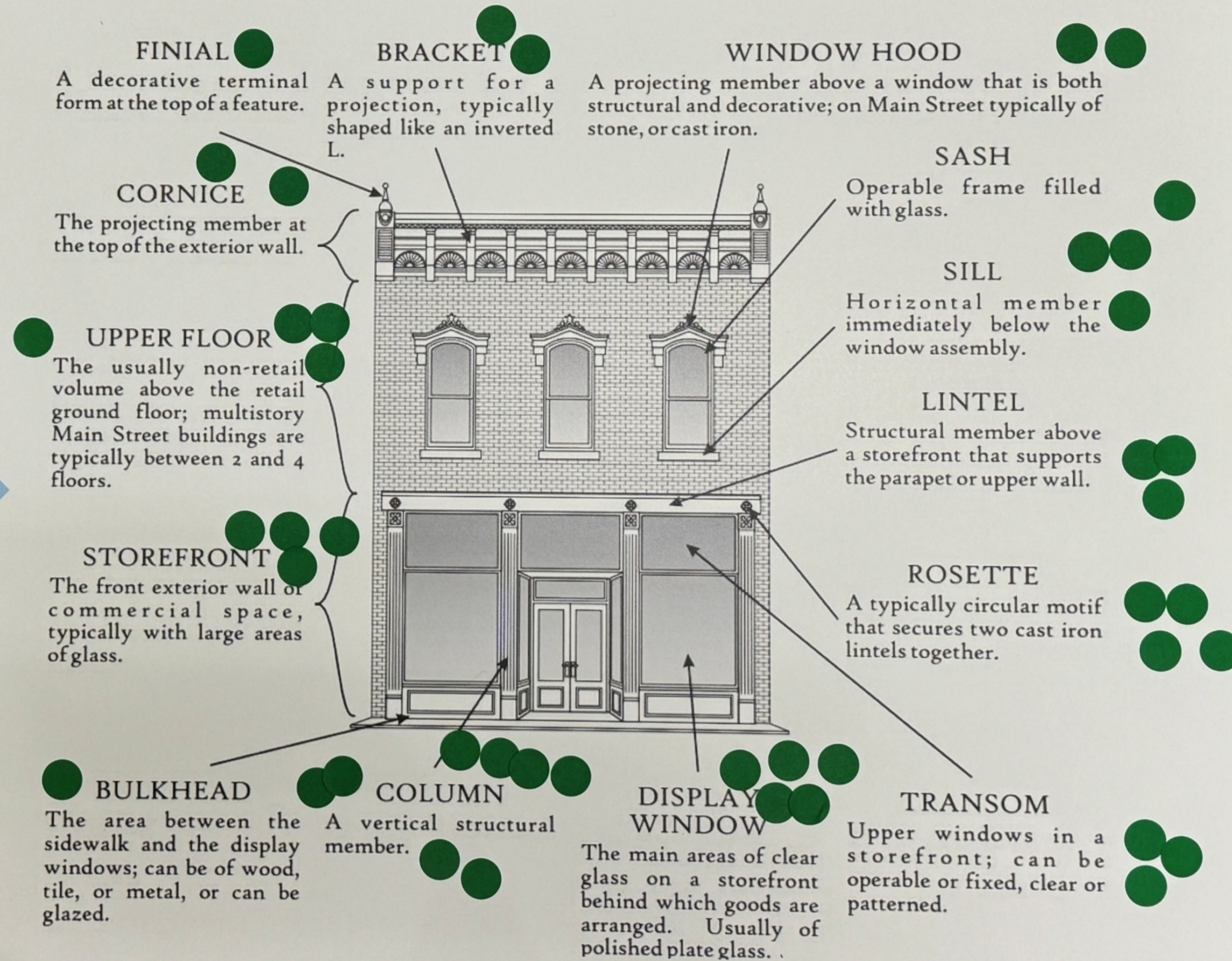
Which design features do you like the most?



# Commercial Buildings (Permitted in Transition Corridor District only)

Place a **Green** dot near items you like & a **Red** dot near items you dislike

Which design features do you like the most?



# Historic Building Use Flexibility

Place a *Green* dot near items you like & a *Red* dot near items you dislike

## Which uses do you most support?

- Bed & Breakfast
- Commercial Daycare (TCD only)
- Instructional/private schools
- Mansion Style Apartment Housing
- Minor retail/sales/galleries
- Personal services
- Offices
- Restaurant/Bakery/Coffee shop



Purpose: to provide historic building owners with additional permitted uses so they will be less likely to tear down their historic building

# Historic Building Use Flexibility

Place a *Green* dot near items you like & a *Red* dot near items you dislike

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- Offices
- Personal services
- Restaurant/Bakery/Coffee shop



Purpose: to provide historic building owners with additional permitted uses so they will be less likely to tear down their historic building

# Summary from the public input (not scientific but provides guidance)

## CND and TCD options

Duplexes and Twinhomes questionable

Townhouses mixed but Mansion style mixed

Flag lots – somewhat positive

Subordinate dwelling units – mixed

Height is an issue – 25' suggested several times – pros and cons to this – market issues

Is higher ok in the TCD?

**IF** historic building use flexibility is offered – consider lower impact uses (Commercial Daycare) Are Mansion Style apartments ok in an historic building?

## TCD Only

**IF** multi-family is allowed – having design standards matters

**IF** commercial is allowed – having design standards matters

**IF** mixed use buildings are allowed – having design standards matters

# Want additional opportunity for input? Email by COB April 3rd

Scan this QR Code  
to see a copy of the  
proposed CHOZ  
regulations



See also  
envisionheber  
.com

Possible decision to  
make a recommendation  
to the CC on April 8th

- Email comments

[pcpublic@heberut.gov](mailto:pcpublic@heberut.gov)

## 18.53 Use Options for Historic Homes in the Central Heber Overlay Zone (CHOZ)

Draft date: April 8, 2025

- 18.53.010 Purpose
- 18.53.020 Applicability
- 18.53.030 Permitted and Conditional Uses
- 18.53.040 Design Standards for Rehabilitation and Additions

### 18.53.010 Purpose

Many of Heber's older Central Neighborhoods, generally encompassed by the R-2 and R-3 zones, have historic homes that exhibit character and designs not often found in today's newer neighborhoods. The intent of this chapter is to provide land use options that could assist in the desire to retain these older buildings instead of eventually being knocked down or entering a state of neglect. These options are intended to incentivize owners to maintain their buildings and remain in the City. These buildings reinforce the historic urban character of Heber's neighborhoods and could provide convenience and walkability benefits for area residents, as well as a new revenue stream for existing historic homes.



### 18.53.020 Applicability

- A. Eligible Homes.** Homes that are eligible for approval as per this code must meet the following requirements.
  - 1. Originally built before 1950.
  - 2. The home must include the design features described in 18.53.020 B.
- B. Design Features.** At least one feature from each category of the following architectural features shall be present on the building (these features must have been on the original building as well as on the present building):
  - 1. **Materials:** brick, sandstone, painted or stained wood
  - 2. **Ornamental features:** decorative features, including eave trim, railings, and/or intricate molding/frames (lintels, keystones, arches, corbelling etc.)
  - 3. **Projections:** façade variations, including bay windows, porches, balconies, chimney (s), and/or dormers
  - 4. **A pitched roof**
  - 5. **Doors:** doors that are recessed with a non-traditional shape, and/or include a complimentary window schemes (transom, sidelight, etc.),
  - 6. **Windows:** stained glass or defined decorative sills, windowpanes and intricate frames
- C. Setbacks.** Existing non-conforming setbacks shall not impact any new use. Additions to historic buildings shall be consistent with the following :
  - 1. **Front:** a minimum of 15 feet from right of way
  - 2. **Side** at minimum of 5 feet from property line
  - 3. **Side street:** a minimum of 15' from any public right of way
  - 4. **Rear:** a minimum of 15 feet from property line

- D. Parking.** On-site parking requirements are waived except as per the table (18.53.031) below.
1. No parking lot with more than three parking stalls (a typical three-car driveway width) shall be located within a front yard. Parking lots larger than a typical driveway need to be reviewed and approved by the Engineering Department for conformance to storm drain requirements and located within a side or rear yard.
  2. Any provided parking, including within a public right of way, shall be hard-surfaced. Parking in the right of way shall conform to the standards found in the Heber City Standards and Specifications manual.
  3. Parking spaces adjoining the property, and located within the right of way, count for required parking, but shall be hard-surfaced and require Engineering Department's approval.
  4. Parking may be shared from/with an adjoining private property owner upon an executed written recorded agreement stating permission by that property owner to use the adjacent off-site private property parking for a time period of at least 5 years.
  5. Historic buildings and structures (built prior to 1950), shall not be torn down to provide parking.
- E. Height.** The height of the structure may only be increased by one story.
- F. Architecture.** Additions shall reflect the style of the existing building and/or features identified in "B" above.
- G. Area.**
1. The maximum site area shall be one acre.
  2. The maximum total business area shall be 5,000 square feet, including any accessory buildings.
- H. Signs and Outdoor Displays.** Each building may have one 10 square foot free standing monument sign that includes a rock/brick base equal to 1/3 of the sign face, not exceeding 4 feet in height and must meet the required placement standards of the sign ordinance in Section 18.104 of the code. Monument signs shall not be internally lit, exterior lighting with an historic appearance such as downlit gooseneck lighting is allowed. One unlit wall sign or blade sign is permitted, not exceeding 3 square feet. Temporary outside displays and A-frame advertising are allowed if such items are removed and placed inside the building daily.
- I. Exterior building lighting.** Shall be downlit and reflect an historic theme consistent with the building's age.
- J. Occupancy.** The home shall continue to be owner and/or manager occupied as per Table 18.53.03.1.
- K. Deterioration.** Significantly deteriorated buildings shall be disqualified from these use options when they display clear evidence of neglect such as broken windows, rust, rot, missing railings, broken stairs, and peeling paint. If such buildings are permitted to use one of these options, through an agreement, the building shall be repaired within 90 days or lose their use permit (s) and cease the business-related operations. Buildings when approved under one of these use options shall maintain the building to avoid the appearance of neglect, or after written notice, lose their permit approval.
- L. Street & Utility Improvements.** Historic building sites, when converted to a non-residential or multi-family use, are not required to install curb, gutter & sidewalk or buried power, unless the historic property adjoins another property that contains existing curb, gutter & sidewalk. A deed restriction shall be recorded with the property requiring property owner financial participation if such improvements are initiated by the City in the future or by other property owners along the street.
1. A paved driveway shall be installed to connect street pavement to any onsite parking.

**M. Additional Standards for Rehabilitation and Additions.** See Section 18.53.040 for additional Design Standards for Rehabilitation and Additions.

**N. Reviews and Approvals.** It is the intent of this chapter that use flexibility for Historic Buildings will receive a priority and expedient review. The Community Development Director or its designee serves as the Land Use Authority responsible for approving permitted non-residential use conversions and associated site plans/elevations for new uses in historic buildings per this chapter, while the Planning Commission serves as the Land Use Authority for any new use that requires a Conditional Use. Building permits and business licenses are required as per City ordinances.

**18.53.030 Permitted and Conditional Uses**

The following table displays the potential uses allowed for historic buildings in the Central Neighborhood’s residential zones.

**Table 18.53.03.1**

| <b>Re-use options for Historic Buildings in the R-2 and R-3 Residential zones</b> | <b>Permitted (P) or Conditional (C) Use</b> | <b>Limitations</b>  |
|---|---|---|
| Personal Services/care  | P   | Cannabis, adult related businesses and financial institutions prohibited. Homeowner or manager required to live in the building   |
| Office  | P   | Homeowner or manager required to live in the building   |
| Art galleries, bookstores & reception centers                                     | P   | Homeowner or manager encouraged to live in the building   |
| Private Schools   | C   | As regulated by Section 18.68.230, except with no lot size minimum. Homeowner or manager encouraged to live in the building. Size limitations may be imposed.   |
| Indoor Commercial Retail Sales  | P   | Tattoo parlors, tobacco shops, adult related businesses, pawn shops, drive-up windows & cannabis facilities are prohibited). Homeowner or manager required to live in the building.   |
| Café/Restaurant, Bakery and/or Coffee shop  | C   | Hours of operation limited to 7 AM to 10 PM. Outside dining limited to 9 PM. No drive-up windows. No onsite coffee roasting. One parking stall per 1,000 square feet required. Homeowner or manager encouraged to live in the building. |
| Institutional/Religious Land Uses, Museums, and Public Uses                       | P   |   |
| Multi-Family Dwelling Units   | C   | Minimum 500 square feet per dwelling unit. Minimum of one off-street parking stall per unit.  |

| Re-use options for Historic Buildings in the R-2 and R-3 Residential zones | Permitted (P) or Conditional (C) Use | Limitations   |
|--|--------------------------------------|---|
|  |                                      | Homeowner or manager encouraged to live in the building                         |
| Live/work unit   | P                                    | For approved uses only<br>Homeowner or manager required to live in the building |

**18.53.040 Design Standards for Rehabilitation and Additions**

The following suggested standards shall be incorporated for any building renovations, rehabilitations, and additions. Disturbance of the site is also addressed. The intent of these provisions is to ensure appropriate treatment of historic properties.

**A. Design Standards for Rehabilitation and Additions:**

1. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that provide the historic character of a property should be avoided.
2. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
3. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall reflect the style, be complimentary to the existing building, and be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment. No accessory building shall be larger than the main building.
4. Removal of any portions of the building, including additions, shall be accomplished in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.