

ORDINANCE NO. 2018-01

AN ORDINANCE AMENDING SECTION 10.04.150 OF THE CENTERVILLE MUNICIPAL CODE REGARDING REQUIRED PUBLIC IMPROVEMENTS AND SECTION 10.04.170 OF THE SAME REGARDING DEFERRAL OF PUBLIC IMPROVEMENTS, AND AMENDING SECTION 12.55.190 OF THE CENTERVILLE ZONING CODE REGARDING STREET IMPROVEMENTS AND SECTION 12.55.200 OF THE SAME REGARDING DEFERRAL OF STREET IMPROVEMENTS

WHEREAS, the City Council directed Staff to prepare ordinance amendments to correct any discrepancies between the Centerville Municipal Code and Centerville Zoning Code provisions regarding the deferral of public improvements associated with development within the City; and

WHEREAS, Staff has prepared the proposed ordinance amendments to clarify and harmonize any discrepancies between the Centerville Municipal Code and Centerville Zoning Code provisions regarding the deferral of public improvements as more particularly set forth herein; and

WHEREAS, City Council has determined that the proposed amendments to the Centerville Municipal Code and Centerville Zoning Code are in the best interest of the City and the public and will provide consistent policies and procedures for the review and approval of applications for the deferral of public improvements; and

WHEREAS, the proposed amendments to the Centerville Zoning Code as set forth herein have been reviewed by the Planning Commission and the City Council and all appropriate public notices have been provided and appropriate public hearings have been held in accordance with Utah law to obtain public input regarding the proposed revisions to the Centerville Zoning Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF CENTERVILLE CITY, STATE OF UTAH, AS FOLLOWS:

Section 1. Amendment. Section 10.04.150 of the Centerville Municipal Code regarding Public Improvements Required is hereby amended to read in its entirety as follows:

10.04.150 Public Improvements Required

- (a) **Duty to Install.** Any person obtaining a permit hereunder to build or alter any structure upon a lot which is not improved by public improvements, such as asphalt, curbs, gutters, sidewalks, and sewage, storm and flood control facilities, shall be required to install all such improvements along the street frontage of said lot in accordance with all construction standards, regulations and applicable ordinances of the City. No Certificate of Occupancy or Final Inspection shall be issued until all such required improvements are complete and operable.

- (b) **Duty to Repair.** Any person obtaining a permit hereunder to build or alter any structure upon a lot which is improved by public improvements, such as asphalt, curbs, gutters, sidewalks, and sewage, storm and flood control facilities, shall be required to repair any damage to such improvements in accordance with all construction standards, regulations and applicable ordinances of the City. No Certificate of Occupancy or Final Inspection shall be issued until all such improvements are repaired.
- (c) **Security.** Applicants shall be required to enter into an Improvements Agreement acceptable to the City together with a bond providing sufficient security to insure installation, completion and/or repair of public improvements required herein in Subsections (a) and (b) and as more particularly set forth in CMC 10.04.160.
- (d) **Deferral.** In limited circumstances, upon the request of the applicant, the City may defer or waive the installation of any ~~or all~~ required public improvements in accordance with the provisions of CMC 10.04.170.

Section 2. Amendment. Section 10.04.170 of the Centerville Municipal Code regarding Deferral of Public Improvements is hereby amended to read in its entirety as follows:

10.04.170 Deferral of Public Improvements

- (a) Request for Deferral. In limited circumstance, upon request of the applicant, the City may defer or waive the installation of any ~~or all~~ required public improvements when deemed appropriate in accordance with the provisions of this Section. as, in its judgment, are not requisite in the interest of public health, safety, and general welfare, or which are inappropriate because of the inadequacy or lack of connecting facilities. The applicant must submit a written request for deferral of public improvements with the Public Works Director. Such written request must include the following:
 - (1) Summary of the evidence in support of the request and analysis of the factors required to qualify for the deferral as set forth in Subsection (f);
 - (2) Name and address of applicant;
 - (3) Address, legal description, and parcel number of subject property;
 - (4) Aerial view of subject property and adjacent properties showing existing infrastructure; and
 - (5) Application fee and professional services deposit for deferral agreements as set forth in the City Fee Schedule.
- (b) Public Works Director Review. The Public Works Director shall review the request for deferral of public improvements and confer with other departments or officials as deemed necessary. The Public Works Director shall thereafter prepare a Staff Report and recommendation to the City Council regarding the request.

(c) City Council Review. The City Council shall review and ~~approve approval~~ or deny the requested deferral of public improvements based on the factors set forth in Subsection (f) above.

(d) Payment of Costs or Deferral Agreement. ~~If the deferral is approved by the City Council, Whenever it is deemed appropriate to defer the construction of required improvements,~~ the applicant shall pay his or her share of the costs of such future improvements according to the reasonable estimate of the City Engineer, or may enter into a Deferral Agreement satisfactory to the City assuring completion of said improvements upon the demand of the City. No permit shall be issued until the appropriate costs required herein are deposited with the City or a Deferral Agreement has been executed between the parties and recorded against the property assuring the completion of such improvements upon demand of the City.

(a)(c) No Temporary Certificate of Occupancy Required. No Temporary Certificate of Occupancy shall be required when the appropriate costs required herein are deposited with the City or a Deferral Agreement has been executed between the parties and recorded against the property for the deferral of specified public improvements.

(b)(f) Required Factors for Deferral. In order to qualify for the deferral of public improvements, the City Council must determine that there is good cause for the deferral and that the application complies with the following requirements:

- (1) The property is a legally conforming lot or parcel as defined and regulated by the Centerville Zoning Code and applicable provisions of CMC 15 (Subdivisions);
- (2) The lot or parcel has frontage on a public street;
- (3) No street improvements exist on the same side of the street contiguous to the lot or parcel in one or both directions, unless otherwise approved by the City Council based on good cause, or the lot or parcel is in an area of the City specifically designated as an area where sidewalks are not required; and
- (4) The lot or parcel is not within a recorded subdivision, unless otherwise approved by the City Council based on good cause; provided, no deferral of improvements shall be allowed as part of a new subdivision development.

(e)(g) Veterans and First Responder Expedited Application Procedure. A veteran or service member of the armed forces or any public safety first responder that sustains a service connected disability that requires adjustment to his or her primary residence as a result of the service connected disability, shall be eligible for an expedited review and approval process for any request for deferral application as provided herein. The veteran, service member or first responder shall provide sufficient evidence of applicable employment status, service

connected disability, property ownership and primary residence status with the written request for deferral application.

(1) For purposes of this Section, “veteran or service member of the armed forces” shall include any veteran or service member of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or the reserve component of any such forces. For purposes of this Section, “public safety first responder” shall include any law enforcement officer or fire safety personnel of any city, county, local district, or other governmental agency.

(2) In order to qualify for this expedited process, the veteran, service member, or first responder applying for the deferral agreement must have sustained a service connected permanent disability. The home or residence must be in the veteran, service member or first responder’s name and must be his or her “primary residence” defined as the principal place where one actually lives.

(3) Any veteran or service member of the armed forces or any public safety first responder that sustains a service connected disability that requires adjustment to his or her primary residence as a result of the service connected disability, shall be eligible for an expedited review and approval process for deferral agreement applications allowing for final approval of such application by the City Manager (rather than having to go to the City Council for final approval). All other application requirements and procedures set forth in this Section shall apply. The Public Works Director shall still conduct the applicable review of the application and provide a recommendation to the City Manager in accordance with the provisions of Subsection (b). The City Manager shall thereafter conduct the final review and approval of the application based on the factors set forth in Subsection (f) and shall be authorized to enter into the deferral agreement on behalf of the City.

(3)(4) Any veteran, service member, or first responder adversely affected by a final decision of the City Manager under this Subsection (g) regarding the approval or denial of a deferral agreement application may appeal such decision to the City Council by filing a written appeal to the City Recorder within 30 days from the date of the City Manager’s decision. The appeal to the City Council shall be expedited to the extent feasible.

Section 3. Amendment. Section 12.55.190 of the Centerville Zoning Code regarding Street Improvements is hereby amended to read in its entirety as follows:

12.55.190 Street Improvements Required

(a) Street Improvements Required. No construction shall be permitted on an unimproved lot or parcel unless planned street improvements abutting the lot or parcel, as shown on the Master Street Plan, including without limitation, sidewalk, curb and gutter, parking strips and associated landscaping, street pavement and

fire hydrant improvements, are provided simultaneously in conformance with CMC 10.04.150 and applicable Construction Codes. Constructing such improvements shall be a condition precedent to final inspection and occupancy of any building and other improvement on the lot or parcel, subject to the provisions of this Section. Such improvements shall conform to City Standards and Specifications.

~~(b) — Extent of Improvements. When the size of a lot or parcel exceeds the minimum requirements of the zone in which the lot or parcel is located, the Planning Commission may reduce the extent of required improvements if the lot frontage adjoining a public street is, in its judgment, substantially more than the minimum required lot frontage and not roughly proportional to the developer's fair share of needed public improvements. However, frontage improvements shall be provided for no less than the minimum lot width required by the zone in which the lot or parcel is located.~~

~~(e)(b) Dedication and Construction of Improvements. When widening of a public street is planned, as shown on the Master Street Plan, street right-of-way and frontage improvements associated with proposed development shall be dedicated to the public and improved without cost to the City to the extent the such improvements are roughly proportional to the developer's fair share of needed public improvements, as determined by the Planning Commission after receiving a recommendation from the City Engineer.~~

~~(c) Appeal. If a street dedication and improvement requirement is alleged to not be roughly proportional to the demand created by new development, such requirement may be appealed to the Board of Adjustment as provided in CZC 12.21.200.~~

~~(d) Deferral. In limited circumstances, upon the request of the applicant, the City may defer or waive the installation of any required street improvements in accordance with the provisions of CZC 12.55.200.~~

Section 4. Amendment. Section 12.55.200 of the Centerville Zoning Code regarding Street Improvements – Deferral is hereby amended to read in its entirety as follows:

12.55.200 Street Improvements –Method of Providing Deferral

In limited circumstances, the City may allow the developer to defer or waive the installation of any required public improvements when deemed appropriate in accordance with and subject to the provisions of CMC 10.04.170.

~~In lieu of requiring full frontage or right-of-way improvements as provided in CZC 12.55.190, the City may authorize a developer to satisfy street frontage improvement obligations in one of the following ways:~~

~~(a) — Form Special Improvement District. Form a special improvement district to complete the developer's fair share of improvements and additional improvements to benefit the area.~~

- ~~(b) — Pay Assessment. Place funds in an escrow account equal to the estimated cost the developer's fair share obligation for frontage improvements, as determined by the Planning Commission according to calculations by the City Engineer. Such funds shall be used to install street and frontage improvements in projects selected by the City according to its discretion and priority. Placement of funds into an escrow account shall not be construed to imply or guarantee to the developer a specific time when improvements will be installed on the frontage or right of way with funds from a City sponsored improvement project. Such escrow shall exempt the developer from participating in a special improvement district formed by the City for the same improvements. Any interest which may accrue on escrowed funds shall be available to the City for use in the improvement project.~~
- ~~(c) — Delay Installation. Sign and record an agreement, binding the developer to install required improvements at a later date upon demand by the City, subject to all of the following requirements:~~
- ~~(1) — The development of the property is for one single family dwelling only;~~
 - ~~(2) — The property is a legal conforming lot or parcel as defined in this Title;~~
 - ~~(3) — The lot or parcel has frontage on a public street;~~
 - ~~(4) — No street improvements exist on the same side of the street contiguous to the lot or parcel in either direction; and~~
 - ~~(5) — The lot or parcel is not within a recorded subdivision.~~
- ~~(d) — Execute Waiver of Protest Agreement. Where property is proposed to be developed in areas of the City where other streets are not fully improved and no other properties in the immediate areas are developed with curb, gutter and sidewalk and other street improvements, a building permit may be issued if the property owner executes an agreement waiving the right to vote against a special improvement district in the event the City elects to create such a district to construct street improvements benefitting the property.~~

Section 5. Severability. If any section, part or provision of this Ordinance is held invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect any other portion of this Ordinance, and all sections, parts and provisions of this Ordinance shall be severable.

Section 6. Omission Not a Waiver. The omission to specify or enumerate in this ordinance those provisions of general law applicable to all cities shall not be construed as a waiver of the benefits of any such provisions.

Section 7. Effective Date. This Ordinance shall become effective immediately upon publication or posting, or thirty (30) days after passage, whichever occurs first.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF CENTERVILLE CITY,
STATE OF UTAH, ON THIS 16th DAY OF JANUARY, 2018.**

ATTEST:

CENTERVILLE CITY

Mackenzie Wood
Mackenzie Wood, City Recorder

By: Clark A. Wilkinson
Mayor Clark A. Wilkinson

Voting by the City Council:

	"AYE"	"NAY"	"ABSENT"
Councilmember Fillmore	<u>X</u>	<u> </u>	
Councilmember Ince	<u>X</u>	<u> </u>	
Councilmember Ivie	<u>X</u>	<u> </u>	
Councilmember McEwan	<u>X</u>	<u> </u>	
Councilmember Mecham	<u> </u>	<u> </u>	<u>X</u>

CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING

According to the provisions of the U.C.A. § 10-3-713, as amended, I, the municipal recorder of Centerville City, hereby certify that foregoing ordinance was duly passed by the City Council and published, or posted at: (1) 250 North Main; (2) 655 North 1250 West; and (3) RB's Gas Station, on the foregoing referenced dates.

Mackenzie Wood
MACKENZIE WOOD, City Recorder

DATE: Jan. 22, 2018

RECORDED this 22 day of Jan, 2018.

PUBLISHED OR POSTED this 22 of January, 2018.

