



June 16, 2026

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## UTAH COUNTY PLANNING COMMISSION

### ADDENDUM TO THE STAFF REPORT

#### I. APPLICATION:

- |                  |   |   |
|------------------|---|---|
| A. APPLICATION # | - | 2026-06   |
| B. APPLICANT     | - | Craig Max Nelson  |
| C. REQUEST       | - | Proposed Utah County Land Use Ordinance text amendment to Section 4.44.A.8.c to replace the term "permanent perpetual easement" with "a written easement" or State or Federal equivalent," and to set "a sum of the easement's initial term plus any available renewal term or terms must be fifty or more years" |
| D. LOCATION      | - | Unincorporated Utah County  |

#### II. STAFF SUMMARY:

##### Background

The current frontage requirement provides that a lot or parcel used for a human-occupied facility must abut an official state road, county class B road, or city street (qualified road) with access across the parcel. An exception exists when frontage is unavailable due to land ownership by the State/or Federal government or a railroad right-of-way, in which case written permanent perpetual easement for land in State or Federal ownership is required.

The applicant owns a property (Tax Serial 61:155:0001) in MG-1 Zone and plans to build a single-family home on the site. An intervening gap land owned by the Bureau of Land Management (BLM) lies between the subject property and Tunnel Road, so the proposed access does not have direct abutment to a qualified road. The applicant intends to secure vehicular access to the subject property via an easement across intervening BLM land. The current ordinance requires a written permanent perpetual easement for land in State or Federal ownership. However, the BLM will not issue perpetual easements on private property; instead, it issues term-limited rights (initially 30 years) with renewal options. This mismatch between the applicant's expectation, BLM policy, and Utah Count Code is the primary driver for proposing an amendment to replace the perpetual-easement requirement

with a renewable-term instrument, supplemented by a defined minimum total duration and accompanying run-with-the-land protections.

#### Applicant Request

The applicant proposes to amend Section 4.44.A.8.c of the Utah County Land Use Ordinance to remove the term “permanent perpetual easement” and replace it with “renewable agreement.” (Detailed changes are provided in the applicant’s redlines.)

#### Staff Recommendation

After review of the applicant’s proposed changes, the current ordinance, and coordination with the BLM and the applicant, staff has concerns that the proposed “written renewable agreement” lacks a defined term, does not specify consequences if renewal is denied, and does not provide clarity on certainty, enforceability, or run-with-the-land protection. the applicant’s language does not meet the objective of long-term access with sufficient certainty. Staff recommend preserving the long-term access objective while substituting a clearly defined minimum duration (50 years total, initial term plus renewals). This approach provides long-term certainty without the legal complexities associated with perpetual rights.

The recommended approach maintains flexibility by allowing the grantor to require the form used (governmental entity or railroad), improves enforceability, and addresses ambiguities in the applicant’s draft (undefined term, grantor authority, inconsistent terms). It also introduces a clear termination rule if renewal is not granted and codifies key property-law features: run-with-the-land protection, allocation of costs/maintenance responsibilities, and a recorded instrument to provide notice to future owners.

The Staff Redlines reflect these changes.

### III. **ORDINANCE CHANGES**

#### Applicant’s Redlines

##### Proposed ordinance showing additions and deletions

Edits are shown below as follows.

##### Added Language

##### Deleted Language

#### 4.44 Frontage On An Approved Public Street Required, Exceptions

- A. For adequate access by emergency Vehicles and local occupants, the Frontage of each Lot or Parcel used as a site for a Dwelling, manned industrial plant or other facility or Structure occupied by humans, shall abut on an official state Road, county class “B” Road, or city street which has been paved under the direction of the unit of government having jurisdiction, and from which Frontage such facility gains vehicular and pedestrian access exclusively and entirely across the subject Lot or Parcel. The following are exceptions to the above requirement:

8. A parcel that lacks official road frontage solely because it is separated from such frontage by State or Federal land or by a railroad right-of-way, and that otherwise satisfies all applicable requirements for a dwelling, may establish vehicular access to the lot or parcel, provided that all of the following conditions are met:

- c. A written ~~permanent perpetual renewable Agreement easement~~ for land in State or Federal ownership or a private Road ~~access crossing agreement, and or written permanent perpetual easement, or the railroad's equivalent for a railroad right~~ Right-of-way be granted to the owner of the subject Lot or Parcel and appurtenant to the subject Lot or Parcel, in the form utilized by the governmental entity or railroad.

#### Staff's Redlines

##### Proposed ordinance showing additions and deletions

Edits are shown below as follows.

##### Added Language

##### Deleted Language

#### 4.44 Frontage On An Approved Public Street Required, Exceptions

A. For adequate access by emergency Vehicles and local occupants, the Frontage of each Lot or Parcel used as a site for a Dwelling, manned industrial plant or other facility or Structure occupied by humans, shall abut on an official state Road, county class "B" Road, or city street which has been paved under the direction of the unit of government having jurisdiction, and from which Frontage such facility gains vehicular and pedestrian access exclusively and entirely across the subject Lot or Parcel. The following are exceptions to the above requirement:

8. A parcel that lacks official road frontage solely because it is separated from such frontage by State or Federal land or by a railroad right-of-way, and that otherwise satisfies all applicable requirements for a dwelling, may establish vehicular access to the lot or parcel, provided that all of the following conditions are met:

- c. A written ~~permanent perpetual~~ easement or State or Federal equivalent for land in State or Federal ownership ~~or a private Road crossing agreement, written permanent perpetual easement,~~ or the railroad's equivalent for a railroad right-of-way, or a private road crossing agreement granted to the owner of the subject Lot or Parcel and appurtenant to the subject Lot or Parcel, in the form utilized by the governmental entity or railroad, as permitted by the grantor. The sum of the easement's initial term plus any available renewal term or terms must be fifty or more years to qualify for this exception. If the easement renewal is denied or the grantor does not extend the easement upon expiration, the easement shall terminate at expiration, and any permits conditioned on access under this easement shall automatically terminate and be of no force or effect as of the expiration date. This easement runs with the land and binds successors and assigns of the subject Lot or Parcel.

h. The owner of the subject Lot or Parcel shall sign and record in the Office of the Utah County Recorder a restrictive covenant and acknowledgment, in a form acceptable to the Zoning Administrator, which provides that, if 1) the written ~~permanent perpetual~~ easement or State or Federal equivalent for land in State or Federal ownership, ~~or the private Road crossing agreement, written permanent perpetual easement~~, or the railroad's equivalent for a railroad right-of-way, or a private road crossing agreement is terminated, for any reason, or 2) the access Road is not maintained to meet the applicable requirements of this section, the Occupancy Permit issued by Utah County will immediately and automatically be revoked and become null and void, and the subject Lot or Parcel will not be used for human occupancy, either temporarily or permanently, until such time as the written ~~permanent perpetual~~ easement or State or Federal equivalent for land in State or Federal ownership is reinstated ~~or a new private Road crossing agreement, written permanent perpetual easement~~, or the railroad's equivalent for a railroad right-of-way, or a private road crossing agreement as specified above and approved by the Zoning Administrator, and the access Road is determined to meet all applicable access Road standards by the Zoning Administrator or applicable agency.

#### IV. **APPLICABLE ORDINANCES & STATUTES:**

The proposed changes to the ordinance are shown in the staff's redline document.

#### V. **STAFF FINDINGS:**

1. The application for land use ordinance amendment would appear to meet the requirements of Section 16.92.C and Section 16.100 of the Utah County Land Use Ordinance, which establish the criteria for Planning Commission recommendation of approval to the County Commission for a land use ordinance amendment.
2. The application appears to be supportive of the stated intent and purpose of the Utah County Land Use Ordinance by promoting the efficient and economical utilization, conservation, and production of land, water and other resources and facilities, by providing property owners with greater flexibility in the utilization of their property.

#### VI. **MOTION:**

##### Approval

That the Utah County Planning Commission recommend approval of the staff proposed text amendments to Utah County Land Use Ordinance 4.44, along with any applicable re-

numbering and re-formatting, based on the findings specified in this staff report under subsection V.

Denial

That the Utah County Planning Commission recommend denial to the Utah County Commission of the proposed text amendment to Utah County Land Use Ordinance 8.44, based on the following findings... (*findings to be determined by Planning Commission*)