

**West Bountiful City
Planning Commission**

January 11, 2011

Posting of Agenda -The agenda for this meeting was posted on the State of Utah and City of West Bountiful Web-Site and sent to Clipper Publishing Company on January 7, 2011 per state statutory requirement.

Minutes of the Planning and Zoning Commission of West Bountiful City held on Tuesday, January 11, 2011, at West Bountiful City Hall, Davis County, Utah.

Those in Attendance:

MEMBERS PRESENT: Chairman James Ahlstrom; Denis Hopkinson, Steve Schmidt, Terry Turner, Tori Boggess; Commissioners, and Alan Malan (Alternate) Commissioner.

MEMBERS/STAFF EXCUSED: Craig Howe; City Administrator,

STAFF PRESENT: Ben White; City Engineer, Heidi Voordeckers (City Recorder) and Debbie McKean (Secretary).

VISITORS: Richard and Terri Steed, Val Shaw; City Council, Mayor Ken Romney.

The Planning and Zoning Meeting was called to order at 7:00 p.m. by Chairman James Ahlstrom. Denis Hopkinson offered a thought.

Accept Agenda

Chairman James Ahlstrom reviewed the agenda as posted. Tori Boggess moved to accept the agenda as presented. Denis Hopkinson seconded the motion. Voting was unanimous in favor among those present.

Business Discussed:

Consider Approval of Home Occupation Permit for Richter HVAC Consulting, LLC- Teresa Steed

Chairman Ahlstrom reviewed the process of applying for a Home Occupation permit and why the application from Richter HVAC Consulting, LLC is coming before the commission for approval. The issue at hand is whether or not there are two home occupation permits in one household/address. It is for this reason that this application comes before the commission for consideration. The ordinance does not prohibit a second home occupation but must be brought before the commission for consideration and conditions.

Mrs. Voordecker advised the commission that they can make appropriate conditions on the approval of the permit along with approving the permit.

Mr. Richard Steed residing at 1117 N. 800 W. West Bountiful presented an application for a Home Occupation Permit for a service only (consulting and bidding) HVAC jobs. The business name will be Richter HVAC Consulting, LLC. He explained that they are of the age that they would like to consider retirement. His son will take over the business but Richard would still be doing some consulting. There will be no different activity involved than with the current home occupation permit they hold. There will be a room inside the home for a home office and there will be two employees which are family members Richard and Teresa Steed residents at 1117 N. 800 W. There will be no heavy equipment used only general office machines (computer, fax, copier, etc.)

Denis Hopkinson feels positive about the application and feels that the only difference is of a legal nature and the business is functioning as one. The commission as a whole was supportive of the application.

ACTION TAKEN:

Terri Turner moved to accept the application for a home occupation permit for Richter HVAC Consulting, LLC as presented applying the definition of one per lot being that the business presented is one in function. Denis Hopkinson seconded the motion and voting was unanimous in favor among those.

Discussion on updating West Bountiful Municipal Code, Section 17.80 Home Occupation

Included for review in the Planning Commission packet was a copy of Chapter 17.80 Home Occupation and a memorandum dated January 7, 2011 from Heidi Voordeckers suggesting changes to the code.

Chairman Ahlstrom reviewed some likely changes that could be discussed this evening as proposed in the memorandum. He asked the commission to consider things that they would like to prohibit in a residential area concerning businesses. This ordinance is twenty years or older and needs to be reviewed and updated.

- Heidi noted that a public hearing needs to be held in order to make changes to this ordinance.
- Mr. Turner asked if the definition of home occupation could include something about having business being related.
- Ben White suggested that we not include this as a restriction. With technology a household could easily have more than one business without impacting the neighborhood.
- Mr. Hopkinson noted that with the requirement to have neighbors sign in agreement to have a home business that would limit what type of business and how many could be tolerated.
- Mrs. Voordeckers suggested that the notification be done by the city and not by the individuals for signing off on the business.
- Denis feels that it is the responsibility of the business owner to get those signatures and not the responsibility of the staff. This creates an open communication among the applicant and neighbors. It was also noted that there is no process to bring back home occupation permits back for review.
- Mr. Ahlstrom suggests that the city only become involved where there is a neighbor that has concerns and that neighbors do not hold up the application. The signatures are just a way of letting the neighbors know what is going on.
- It was also suggested by Commissioner Malan to have the applicant provide certified letter by a city form letter.

Commission and Staff was instructed by Chairman Ahlstrom to:

- Review and send comments to Heidi by the next scheduled Planning Commission meeting.
- Schedule a public hearing for February.
- Send the information by email and copy everyone on the commission so that the information can be considered and formulated for the next meeting.
- Heidi will compile and provide a uniformed copy of the suggestions that were discussed this evening and provided by email from each of the commissioners, along with staff suggestions.

Discussion and potential approval of changes to Chapter 17.04.030- Definitions of “Dwelling”, “Dwelling Unit”, “Dwelling Unit, Accessory”, “Easement”, and “Family”

City Engineer, Ben White presented to the commission Zoning Ordinance revisions and definitions. He noted that a public hearing will be held to pass the ordinance at the City Council level.

Chairman Ahlstrom called for a decision from the commission to either accept the proposal of definitions, tweak them and send them on to the city council for approval.

Discussion among the Commission included:

- Alan Malan did not like the suggested changes and felt that we were going in the wrong direction. Dwelling unit should not limit kitchen area(s) in the housing unit. Zoning Administration should not have to determine if it is an ADU. He felt it was too ambiguous and capricious. Did not like the suggested limit on what constitutes a family (4) unrelated persons per the LUDMA requirements.
- Denis felt that the definition flows better as it now reads and that it is clear what is meant.
- Ben White noted that without the ADU Ordinance you get one dwelling unit. This ordinance allows the exception but must be kept tightly. The process is in place where there is an appeal process if the zoning administrator turns away the application.
- Terry Turner thinks that there is some control of interpretation for the ADU as it is presented.
- Mr. Ahlstrom asked when and how will the interpretation be made? Ben White answered that he will review the plans and make the determination per each individual application and use. Deed restrictions will be filed in the case of any ADU. Mr. Malan does not like the idea that the zoning administration makes that decision.
- Mr. Ahlstrom pointed out the LUDMA regulations and feels that the ordinance needs to be made clear in order to impose authority. He continued to stress that the ordinance needs to be spelled out enough that the applicant knows what the conditions are.
- Mr. Schmidt inquired how a duplex are titled. What is being addressed with the ADU is whether or not a mother-in-law can come and live within a household and create a separate living quarters.
- Mr. Hopkinson reined the discussion in to have commissioners consider the existing dwellings in our city and not those that may be built in the future. He noted that what we are trying to discourage is not the housing of a family member, but the discouraging of renting out the area in the single family dwelling when a family member no longer occupies the space in that dwelling. The ordinance prohibits that from happening as the title is. He suggested if we like the language that we move this ordinance forward to the Council and let the public have a turn at giving comments. He feels the ordinance give the city teeth to enforce the issue of not having rentals in a single family home.
- Heidi noted that seven (7) homes were up for sale and that the city cannot give them honest direction to the questions that arise when realtors and home owners what to rent the basement out to help pay for the mortgage.
- Mr. Ahlstrom and Mr. Malan both felt that it should not necessarily be the kitchen that triggers the determination of an ADU.
- Mr. White pointed out where there is more criteria to consider in the decision of the ADU. It was determined that "kitchen" would be eliminated and that "other remote areas" would replace that definition. The second sentence under the definition of "Dwelling Unit" needs to include a broader definition including entrances, dividing walls, etc. Mr. Ahlstrom suggested to include language such as "that is capable of being rented as separate units". Mr. White noted that he does not only consider the first use of the property, rather the future use.

Mr. White will work with Steve Doxey to make the suggested changes. Mr. Hopkinson suggested that we focus on the ADU definition and hold off the rest of the suggested changes until that definition is determined.

Things to consider when focusing on the purpose of the ADU Ordinance are:

- What general process do we want to have the applicant go through.
 - Renewal process defined,
 - Garage Use issue defined.
 - Definition of the Home Occupation
 - Will we continue to have the 10 day notice requirement?
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- Mr. Malan does not like the locked door concept and feels it cannot be regulated so it is useless to include it. Mrs. Boggess feels that it provides a way to enforce the ordinance and not necessarily a means to regulate.
 - The triggers driving the ADU is whether or not two families can occupy a single dwelling home.
 - Steve Schmidt feels like it will be hard to catch an offender, but an ordinance needs to be in place for when one appears to be evident in the community.
 - Ben White noted that it is not just whether it is a rental or not but the look and feel of it brings to the community. We want to provide the opportunity of having families live together as needs exist, but have a home look like a single home and not a duplex.
 - It was suggested by Mr. Ahlstrom that we set perimeters and then let individuals live as they need to live.
 - Some discussion took place that it is needed to have an ordinance in place to establish consistency within the city and the allowance not be in the hands of the staff that changes individuals from time to time.

Mr. Ahlstrom suggested that we focus on what we don't want to allow and include that in the language in a simple and clear fashion. A change in the dwelling unit definition needs to include language which states what the use will be of the home.

- What really is the problem and concern?
- Major concerns are what happens after the original use of dwelling to house family when the family moves out.
- Community appearance and concerns.
- Parking issues when more than one family resides in a home.
- Multiple entrance points to the interior which limits access to the dwelling as a whole.

It was decided that each commissioner would review the ordinance and submit their changes for considerations.

Mr. Hopkinson attempted to bring the discussion to a close by focusing on the three areas of concern being that:

- Need a definition for an addition in a single dwelling unit.
- Need a deed restriction attached to it to keep it from becoming a rental.
- At the time of build out it has specific language that has attributes of what an ADU is.

Discussion and potential approval of Chapter 17.82 Accessory Dwelling Units (ADU)

ACTION TAKEN:

Denis Hopkinson moved to refer back to staff for further development of the definition clause of 17.04.030 and table the ADU ordinance until that definition is developed. Steve Schmidt seconded the motion and voting was unanimous in favor.

Staff Report- Proposal HB 197

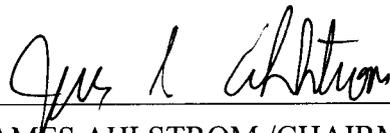
- Included in the packet is a draft copy of House Bill 197. The jest of it is that they want to take away the power from the local governing agencies to signs that are on the property of the business owner. Mr. White suggested that we limit our discussion on signs until the legislature finishes their work on this bill.

Approval of Minutes dated December 30, 2010

Tori Boggess moved to approve the minutes dated December 30, 2010 as corrected. Terri Turner seconded the motion voting was unanimous in favor.

Adjournment

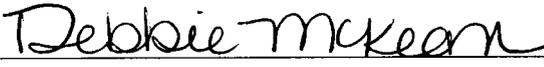
Steve Schmidt moved to adjourn the regular session of the Planning Commission meeting. Tori Boggess seconded the motion. Voting was unanimous in favor. The meeting adjourned at 9:30 p.m.



 JAMES AHLSTROM /CHAIRMAN



 HEIDI VOORDECKERS /CITY RECORDER



 DEBBIE MCKEAN /SECRETARY

