

1 **West Bountiful City** **December 10, 2013**
2 **Planning Commission**

3 **Posting of Agenda** - The agenda for this meeting was posted on the State of Utah Public Notice
4 website and the West Bountiful City website, and sent to Clipper Publishing Company on
5 December 6, 2013 per state statutory requirement.

6 **Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday,**
7 **December 10, 2013, at West Bountiful City Hall, Davis County, Utah.**

8

9 **Those in Attendance:**

10

11 **MEMBERS PRESENT:** Chairman Denis Hopkinson, Terry
12 Turner, Alan Malan, Mike Cottle, and Laura Charchenko.

13

14 **STAFF PRESENT:** Ben White (City Engineer), Cathy
15 Brightwell (Deputy Recorder), Steve Doxey (City Attorney), and
16 Debbie McKean (Secretary).

17

18 **VISITORS:** Kelly Enquist.

19

20 The Planning Commission Meeting was called to order at 7:30 p.m. by the Chairman. Ben
21 White offered a thought from Ronald Reagan.

22 **I. Accept Agenda**

23 Chairman Hopkinson reviewed the agenda. Alan Malan moved to accept the agenda as
24 presented. Mike Cottle seconded the motion. Voting was unanimous in favor among members
25 present.

26 **Business Discussed:**

27 **II. Discuss Ordinance 356-13 establishing temporary restrictions on Retail Tobacco**
28 **Specialty Businesses**

29 Commissioner packets included a memorandum from Steve Doxey dated December 10, 2013
30 regarding Retail Tobacco Specialty Businesses giving a brief outline of the current statutory and
31 Municipal Code provisions regarding the above named businesses, suggestions on possible
32 approaches and a recommendation. Also included in the packet was a memorandum from Duane
33 Huffman dated December 2, 2013 regarding a Moratorium on Retail Tobacco Specialty
34 Businesses and a copy of Ordinance 356-13 passed by the City Council on December 3, 2013, a

35 copy of the updated Utah State Code 10-8-41.6. *Regulation of retail tobacco specialty business,*
36 and information regarding Utah Law and Electronic Cigarettes.

37 Chairman Hopkinson introduced Steve Doxey to the Commissioner's and reviewed the
38 documents received. He turned the time over to Mr. Doxey.

39 Mr. Doxey stated that he was here to answer questions and explain the documents he included in
40 the packet. He informed the Commission about the 2012 Utah State law that was passed
41 regulating retail tobacco specialty businesses. Regulations stipulate how far these types of
42 businesses can be located from residences, schools, churches, and other similar businesses, and
43 issue specific licenses. Cities can regulate these businesses pursuant to state law or enact stricter
44 regulations; we are not required to issue licenses. As a city, we could restrict them to a specific
45 zone or could require a greater distance from the list of protected businesses than mandated by
46 state. He informed the Commission that electronic cigarettes are included in the definition of
47 tobacco products. He encouraged the Commission to design an ordinance that follows the city's
48 desires and protects adolescents.

- 49 • Mike Cottle asked what would happen if we did not allow these types of business at all.
50 Mr. Doxey stated that there may be challenges but thought the city would prevail.
- 51 • Mr. White informed the Commission that interest has been shown by someone having
52 this type of business. He added that there is just a small portion of our city that would
53 even qualify under the current regulations. That area would be located by Barnes and
54 Noble but there is a question that even that area may not qualify because the movie
55 theatre has arcade games and arcades are listed as a business that must be 1000 feet away.
- 56 • Mike Cottle is not in favor of allowing these types of businesses. He does not feel it is
57 good and does not want to allow it.
- 58 • Terry Turner inquired regarding if this was an expansion of an existing business or just
59 an inquiry. Cathy Brightwell informed them that the requesting individual has a business
60 in Ogden that is very successful and she is interested in expanding to our City. The
61 business owner limits her sales to vapor cigarettes only and believes this is different than
62 tobacco products. Cathy stated that in their research of the issue it has been very difficult
63 to find positive articles on this matter.
- 64 • Laura Charchenko spoke to many residents this week and they are opposed. She feels it
65 would be hard to regulate and a slippery slope for the City.
- 66 • Alan Malan asked about the nearest location of other similar shops. There are several
67 within a block of the commons area located in Bountiful.
- 68 • Chairman Hopkinson inquired about what other products she would sell. Cathy
69 responded they would be selling devices and accessories for only the vapor products.
- 70 • Mr. Hopkinson does not want to throw money at this and feels it would suffice to just set
71 wider margins for locations. He is concerned about other things that will want to come
72 knocking on our door as our business area expands to the north.
- 73 • Ben White asked if we open ourselves up to exposure if we out right deny them or would
74 it be best to strengthen the footage where these types of businesses would be allowed.
- 75 • Mr. Doxey is not concerned about prohibiting this type of business.

76

77 Some discussion took place regarding what we want to restrict and what the next step would be.

- 78 • Cathy Brightwell stated this is a land use issue and we must hold a public hearing to
79 investigate the issue and effects on our city. We need to collect input from the public.
- 80 • Mr. Doxey suggested that we review our land use ordinance and the permitted businesses
81 in each zone. He stated we could either include the business in the prohibited list or state
82 that any business not specifically listed in the permitted or conditional list is not allowed.
- 83 • Alan Malan believes it is wrong to state everything is prohibited if it is not stated on the
84 list. He feels it goes against what America stands for. Mr. Doxey understood and felt
85 that he could draft ordinance language that would be satisfactory to Mr. Malan.
- 86 • Mr. Doxey suggested we may want to give this its own section in the code like the
87 Sexually Oriented Business.
- 88 • Kelly Enquist thought that we could run into problems restricting the types of things they
89 sell because other area businesses sell some of these products. Chairman Hopkinson
90 stated that it is not like Shopko or a gas station because their total sales are less than 35%
91 tobacco products.
- 92 • Mr. Doxey is only comfortable regulating if we stick with the state statute and keep things
93 simple referring to the Utah Code.

94 Some discussion took place regarding what zones should be included in the restrictions. It was
95 decided that we should consider restrictions in all zones.

96 Chairman Hopkinson would like everyone to do some more homework on this subject. Staff will
97 bring language for this ordinance on January 14, 2014.

98
99 **III. Consider setting public hearing on January 28, 2013 for item #2**

100

101 Mr. Hopkinson wants to review the posting before it goes out. He invited staff to invite the
102 business owner inquiring about this issue to that meeting.

103

104 **ACTION TAKEN:**

105 **Laura Charchenko moved to set a public hearing for public input on establishing**
106 **restrictions on Retail Tobacco Specialty Businesses on January 28, 2014 at 7:35 p.m. or as**
107 **soon thereafter as time permits. Alan Malan seconded the motion and voting was**
108 **unanimous in favor.**

109

110 **IV. Discuss Title 17- Yard regulations including setbacks, decks, area restrictions and yard**
111 **obstructions; area and frontage regulation; and height regulations in residential zones.**

112

113 Commissioner's packets included a memorandum dated December 6, 2013 from Ben
114 White/Cathy Brightwell regarding Title 17 reviewing prior discussion on this Title. A

115 comparison chart reflecting the discussion from the previous meeting was included, and staff
116 prepared a revision to clarify the “050.J” paragraph for each of the 3 residential zones.

117 **050.J Paragraph**

118 Ben White explained why he felt ‘050. J’ was included in the ordinance the way it was and that
119 it included items that did not apply to residential buildings. Mr. Hopkinson explained that it used
120 to be the practice to just add new changes to language in the back of the book and then it would
121 not get incorporated in the other ordinance that it pertained to.

122 Cathy Brightwell stated there was some confusion as to why the language in 050.J.1 “open to the
123 sky, was used. It was not clear whether it was intended for things to be vertically open to the sky
124 or an attempt to restrict neighboring properties from blocking the views of others. This section
125 was previously used to limit Reagan from building additional billboard signs. Some discussion
126 took place in regards to including fencing and it was decided to include fencing in the language.

127 Staff rewrote and pared down the paragraph but needs a decision from the commission regarding
128 what they want to accomplish.

129 Mr. Doxey asked the Commission to consider what the purpose of the restriction is and
130 encourage the commission to ask why the restrictions would be imposed.

131 Mr. Hopkinson feels the whole thing needs to be rewritten and reviewed each structure and
132 pointed out that it is already in place in the different zones. He feels the language needs to be
133 clear and simple with a definite purpose.

134 Mr. Doxey felt that it would be good for staff to do a little research to see what other cities do in
135 these regards. He feels we need to just address the issue and maybe not be so specific. Nobody
136 is sure why this paragraph is in the ordinance.

137 Chairman Hopkinson charged staff with getting some ideas from other cities.

138

139 **Comparison Worksheet Discussion**

140 • Chairman Hopkinson liked the comparison sheet and would like it to remain with the
141 other things that will go to Council for approval.

142 • Chairman Hopkinson disagreed with several of the recommendations agreed to by the
143 other commissioners at the previous meeting when he was absent. He prefers to keep the
144 rear yard coverage to 25% rather than increasing it to 35%. He also prefers to keep the
145 distance an accessory building can be from a main building to 10 feet rather than
146 decreasing it to 8 feet.

147 • Alan Malan likes to have the % increase because it allows people to put away the stuff
148 they own and not have it stored out in the open. He noted that we are the lowest % across
149 the board in comparison to other cities around us and likes increasing it to 35%.

150 • Terry Turner is in support of Mr. Malan’s feelings of allowing a greater % to allow
151 people the opportunity to do what they want on their property but still have a limit.

152 • Laura Charchenko wants to allow the maximum without impacting their neighbors; she
153 supports increasing to 35%, with a CUP over 35 %.

- 154 • Denis Hopkinson feels provisions for CUP enable us to say yes but doesn't allow us to
 155 say no. He feels that we should set the maximum and keep it like that without a CUP. It
 156 is hard to regulate Conditional Use Permits.
- 157 • Alan Malan feels we could have 35% with a 45% maximum with a Conditional Use
 158 Permit.
- 159 • Mike Cottle suggested having 25% with a Conditional Use Permit to 35%.

160 **Yard Decks** - Mr. Hopkinson pointed out besides Layton we are the only ones that have
 161 restrictions on decks. He and other Commissioner's are in favor of the Conditional Use Permit
 162 to decide case by case if the rear setback is less than 30 feet.

163 **Distance Accessory from Main Structure** - Some discussion took place and it was decided to
 164 recommend keeping the 10 foot limit.

165 **Conclusion of Recommendations on the Comparison Sheet**

- 166 • Alan Malan agrees with all the proposed changes except for the 10 ft. distance between a
 167 main and accessory structure and feels that should be reduced to 8 feet.
- 168 • Laura Charchenko, Terry Turner, Alan Malan agree to increase the rear yard coverage to
 169 35%. No decision was made regarding a CUP for over 35%.

170

171 **V. Consider setting a public hearing on January 28, 2014 for item #4**

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173 **ACTION TAKEN:**

174 **Laura Charchenko moved to set a public hearing for public input on Title 17 changes on**
 175 **January 28, 2014 at 7:40 p.m., or as soon thereafter as time permits. Terry Turner**
 176 **seconded the motion and voting was unanimous in favor.**

177

178 **VI. Staff Report**

- 179 • Alice Acres is moving forward but struggling with drainage and not having Weber Water
 180 sign off on the front yard water lines. He informed them that they will only see this
 181 application before them one more time so they need to decide what they are comfortable
 182 with or not.
- 183 • Cathy Brightwell reminded them there would be no meeting on December 24 and wished
 184 all a Merry Christmas.
- 185 • Ben reported that Holly received their air quality permit. Still waiting for their plan to
 186 exit onto 1100 West and plans for a culvert.
- 187 • Chairman Hopkinson inquired about a lot of trucks of fill dirt going down on Christensen
 188 property. Mr. White thought it was a precursor to development.

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191 VII. Approval of Minutes dated November 26, 2013 meeting minutes.
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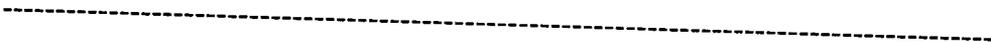
193 ACTION TAKEN:

194 Terry Turner moved to approve of the minutes dated November 26, 2013 as corrected.
195 Mike Cottle seconded the motion and voting was unanimous in favor among those
196 members present.
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198 VIII. Adjournment
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200 ACTION TAKEN:

201 Alan Malan moved to adjourn the regular session of the Planning Commission meeting.
202 Mike Cottle seconded the motion. Voting was unanimous in favor. The meeting adjourned
203 at 9:15 p.m.
204



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206
207
208 *The foregoing was approved by the West Bountiful Planning Commission by unanimous vote of all*
209 *members present on Tuesday, January 14, 2014.*

210

211
212 Cathy Brightwell
213 CATHY BRIGHTWELL-DEPUTY RECORDER
214



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