

**Mayor**  
Kenneth Romney

**City Engineer/  
Zoning  
Administrator**  
Ben White

**City Recorder**  
Cathy Brightwell

# **WEST BOUNTIFUL PLANNING COMMISSION**

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**Chairman**  
Denis Hopkinson

**Commissioners**  
Laura Charchenko  
Mike Cottle  
Alan Malan  
Corey Sweat  
Dennis Vest, Alternate

## **THE WEST BOUNTIFUL PLANNING COMMISSION WILL HOLD A REGULAR MEETING BEGINNING AT 7:30 PM ON TUESDAY, DECEMBER 11, 2018 AT THE CITY OFFICES**

Prayer/Thought by Invitation

1. Accept Agenda.
2. Public Hearing Regarding Proposed Modifications to WBMC Title 16 - Subdivisions, to Address Conflicts with State Law, Clarify Process, and Make Housekeeping Changes.
3. Consider Final Plat Approval for Ferlin Subdivision at 918 Porter Lane.
4. Discuss Rear Yard Setbacks.
5. Consider Proposed Modifications to WBMC Title 16 – Subdivisions.
6. Staff report.
7. Consider Approval of Minutes from November 27, 2018 Meeting.
8. Adjourn.

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*Individuals needing special accommodations including auxiliary communicative aids and services during the meeting should notify Cathy Brightwell at 801-292-4486 twenty-four (24) hours before the meeting.*

*This notice has been sent to the Clipper Publishing Company and was posted on the State Public Notice website and the City's website on December 7, 2018 by Cathy Brightwell, City Recorder.*

**West Bountiful City  
Planning Commission Meeting**

**December 11, 2018**

*Posting of Agenda - The agenda for this meeting was posted on the State of Utah Public Notice website, on the West Bountiful City website, and at city hall on December 7, 2018 per state statutory requirement.*

Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday, December 11, 2018 at West Bountiful City Hall, Davis County, Utah.

**Those in Attendance:**

**MEMBERS PRESENT:** Alan Malan, Corey Sweat, Laura Charchenko, Mike Cottle, and Council member Kelly Enquist

**STAFF PRESENT:** Ben White (City Engineer), Cathy Brightwell (Recorder) and Debbie McKean (Secretary)

**MEMBERS EXCUSED:** Chairman Denis Hopkinson, Dee Vest (alternate)

**VISITORS:** Gary Jacketta, Rick and Lori Ferlin

The Planning Commission Meeting was called to order at 7:30 pm by Commissioner Sweat. Mike Cottle offered a prayer.

**1. Accept Agenda**

Corey Sweat reviewed the agenda. Mike Cottle moved to accept the agenda as presented and Laura Charchenko seconded the motion. Voting was unanimous in favor among all members present.

**2. Public Hearing Regarding Proposed Modifications to WBMC Title 16 - Subdivisions, to Address Conflicts with State Law, Clarify Process, and Make Housekeeping Changes.**

Ben White introduced the proposed modifications to WBMC Title 16 for the public hearing.

**ACTION TAKEN:**

*Alan Malan moved to open the Public Hearing Regarding Proposed Modifications to WBMC Title 16- Subdivisions, to Address Conflicts with State Law, Clarify Process, and Make Housekeeping Changes at 7:35 pm. Laura Charchenko seconded the motion and voting was unanimous in favor.*

There was no Public Comment

**ACTION TAKEN:**

*Laura Charchenko moved to close the Public Hearing at 7:36 pm. Mike Cottle seconded the motion and voting was unanimous in favor.*

### 3. Consider Final Plat Approval for Ferlin Subdivision at 918 Porter Lane.

Commission packets included a memorandum dated December 7, 2018 from Ben White regarding Ferlin Subdivision-Final Plat with an attached site plan.

#### The memorandum included the following information:

Rick and Lori Ferlin have applied for a 2-lot subdivision at approximately 918 West on the north side of Porter Lane. The property is within the A-1 zone. One of the two lots is a flag lot which received a Condition Use Permit from the Planning Commission in August of this year. Due to existing utility easements, the two homes will be placed in the same general area whether the subdivision is constructed with a flag lot or not.

Below is a summary of points of interest. The items in bold text need to be addressed by the Planning Commission.

- The proposed lots meet the minimum requirements for a subdivision. But while not a requirement for the subdivision, the houses must comply with the fire code for access and fire protection at the time of building permit application.
- The property is encumbered by multiple overhead and underground utility easements.
- Two street lights were installed at the street corners of the Birnam Woods subdivision and three street lights have been installed with the Kinross subdivision. **There is approximately 700 feet between the street lights in the two subdivisions.** If a new street light is recommended, staff suggests it be located near the flag lot driveway.
- Weber Basin secondary water is not immediately available to the property. **Service from Weber Basin needs to be finalized prior to recording the plat.**
- **Staff is recommending that curb and sidewalk be installed as part of this application.**

Items to be completed prior to recording the plat include:

- **Water rights will need to be deeded to the city or payment of water right fee.**
- **Title report review by the city attorney with no objectional entries.**
- **Payment of impact and inspection fees.**
- **Post appropriate improvement bonds**

Staff is requesting the Planning Commission direct the applicant regarding a new street light. Also, the following three options exist for the curb and sidewalk recommendation:

- Make a recommendation to City Council that curb and sidewalk not be installed.
- Recommend that curb be installed and that a design be submitted to the city for review prior to final plat consideration by the City Council.
- Table the application until a curb and sidewalk design can be reviewed by the Planning Commission.

Ben White introduced the Ferlin Subdivision and showed the site plan on an overhead map. Ben noted that due to the existing utility easements in his opinion this site plan is the best use of the land.

Questions for the Commission tonight included street lighting and discussion on whether to require curb and gutter. Mr. White informed the Commission that there is a light at the west side of Birnam Woods

and the east side of Kinross Estates leaving approximately 700 ft that does not have street lighting. City guidelines recommend one light per 300-350 feet. Regarding curb and sidewalk, Mr. White showed on the map that sidewalk exists to the west end of Birnam Woods on the north side of the street and to the east side of Kinross Estates on the south side of the road. He believes the best time to require improvements is at the time of subdividing although there is no curb or sidewalk immediately to either side of this property.

**Commissioner Comments:**

**Corey Sweat** asked if there was prior discussion requiring a street light when the conditional use was granted for the flag lot. He feels that for safety reasons a street light should be required.

**Alan Malan** feels there should be a street light required and wants the curb and gutter to be a requirement.

**Laura Charchenko** feels that a street light should be included for safety standards regardless of the subdivision size. Regarding the curb and gutter, she feels this area should be completed for safety, but would be okay with holding off for a year or two because of all the construction in the area. Laura asked if there are deferral agreements in place for the existing properties next to the Ferlin property. Ben was not sure but noted that deferral agreements are hard to call due.

**Mike Cottle** concurred regarding the street light and wants the address sign for the flag lot to be illuminated. He asked who would be responsible for putting in the curb and gutter on the properties that do not have them currently. He does not see why we would require it when the others in the area are not done. Ben responded that it is likely the city would have to pay for future curb and sidewalk for the properties not being developed. Mike asked where the water would flow to if curb and gutter were installed. Ben explained that there would be a catch basin.

**Mr. Ferlin** desires not to put the curb and gutter in because the surrounding properties do not currently have curb and gutter. He believes it will look bad by creating an island of curb and gutter.

**Councilmember Enquist** would like to keep things uniform in regard to the street lighting and would like to see similar lights used here as are being used at Birnam and Kinross. He added that he does not like having just an island of curb and gutter and does not mind deferring it.

Some discussion took place regarding installing secondary water. Ben White pointed out the locations of stub-ins in the area for Weber Water and which ones he believes will provide the best service.

**ACTION TAKEN:**

***Laura Charchenko moved to approve the final plat for the Ferlin 2-lot subdivision located at 918 Porter Lane with the following conditions: a street light is required to be located near the flag lot driveway; secondary water needs to be available to the property and be finalized prior to recording the plat; the requirement for curb, gutter and sidewalk be deferred at this time by deferral agreement; water rights need to be deeded to the City or a payment received for water right fees; title report needs to be reviewed by the City Attorney with no objectional entries; and improvement bonds need to be posted appropriately. Mike Cottle seconded the motion and voting was unanimous in favor.***

**4. Discuss Rear Yard Setbacks.**

Commissioner packets included a memorandum from Duane Huffman on December 7, 2018 regarding Rear Yard Setbacks and Covered Patios.

The opinion (letter) the Planning Commission forwarded to the City Council regarding covered patios within the rear setback was discussed at several city council meetings. The general line of questions they struggled with is, how is a deck encroaching into the setback different than a covered patio? Is there a place for both? They directed staff to take the matter back to Planning Commission for further evaluation, to hold a public hearing, and make a recommendation on how best to make regulations for decks and patio roofs consistent.

**History and Purpose of Rear Yard Setbacks**

A rear yard setback is the distance between a structure and the rear property line, and we generally discuss it in terms of the main structure. The reasoning behind rear yard setbacks appears to have morphed over time:

- Required rear yard setbacks were likely first related to sanitation and waste disposal.
- With the development of better public sewers and waste collection and the growth of land use planning, setbacks were justified as follows:
- “In general, the purpose of setbacks is to ensure that the use of a property does not infringe on the rights of neighbors, to allow room for lawns and trees, for light and sunshine in the home, for space for recreation outside the home, and to serve as filtration areas for storm water run-off.” Calvert County, MD.
- There is also evidence to suggest that some setbacks are required to try to create an open or rural aesthetic.
- Could not find any technical basis for when different setback lengths should be employed. Cities and neighborhoods decide on the lengths based on their own goals related to privacy, open space, neighborhood characteristics, etc.

A table was included which displayed research on rear yard setbacks of neighboring cities.

REAR	Bountiful	WX	NSL	Cent.	Layton	W. Point	West Bountiful
House	20'	30'	25'	20'	30'	25-30' (1)	30'
Decks	10' (2)				20'		20' CUP

(1) If front setback is 25 rear must be 30, or if front is 30 rear can be 25.

(2) Decks with permanent roof or canopy, open on 3 sides, not longer than 1/2 the width of main dwelling.

The city’s current code on rear yard setbacks requires an attached covered patio to be 30’ away from the rear property line, and an un-attached covered patio could be 5’ away from the house and 6’ away from the rear property line.

Decks are one exception to main structure setbacks in the city’s code. A deck may encroach into a rear yard setback with a conditional use permit meeting the following criteria:

- The entire deck is at least twenty (20) feet from the rear property line;
- The deck is no closer to a side lot line than the minimum required side yard or street side yard setback for the main structure;
- The deck does not encroach more than 200 square feet into the setback area;
- The floor of the deck is no higher than the highest finished floor of the main structure;
- The portion of the deck that extends into the rear yard setback is not covered;

- The railing is no more than forty-eight (48) inches high and is less than twenty-five percent (25%) transparent; and
- The deck satisfies other conditions required by the planning commission.

West Bountiful City has allowed a deviation from the rear yard setback requirements through a planned unit development. The rear setback for all lots in the Cottages at Havenwood is 15'. Now that most homes are built in this development, it is a good opportunity for the city to review how these setbacks impact the neighboring homes to the east and west.

### **Covered Patio Options**

Working on the premise that a setback change might be desirable, the City Council discussion centered on the following options with a modified option A as probably the most desirable:

- A. Provide covered patios the same allowances currently codified for decks, with the addition of height limitation of something like 10'-15'.
- B. Allow any portion of a main structure to follow the deck model, but with an additional height restriction. Under this scenario, the language specific to decks could be removed.
- C. Consider amending all rear yard setbacks to 25' or 20'.

### **Comments from Commissioners:**

**Mike Cottle** wanted to know where the 30-foot setback standards came from. Councilmember Enquist responded that he thinks it came from wanting to match the front setbacks.

**Alan Malan** feels it is because of aesthetics and the desire to keep the rural feel with space between properties. He supports establishing some criteria that could be used for a covered deck with height limits).

**Corey Sweat** is not interested in changing the current setbacks but is willing to address the covered patio issue similar to how decks have been addressed.

Some discussion took place regarding the open space that the 30-foot setback standard keeps and some possible criteria that could be used regarding covered decks. Ben White stated that staff needs a good set of criteria and guidelines, so they can stand firm in the decisions they make to grant approvals. He noted that the Commission needs to address what the impact will be and why it will make the difference.

Councilmember Enquist would like to see some site examples showing what the impact would be by changing the setback requirements.

Corey Sweat suggested this item be put on the next agenda for further discussion and asked staff to draft some language and create some site examples for their review.

## **5. Consider Proposed Modification to WBMC Title 16-Subdivisions.**

Ben White and Cathy Brightwell pointed out the changes that have been made to this final draft document as requested in the previous meeting.

Some discussion and suggestions were made regarding 16.12.040(B) Lots on page 9. Commissioner Sweat does not like having the word "normal" because it is too subjective and suggested deleting the

language “which would be unusable for normal purposes” in the original language highlighted in yellow. Ben White showed an example on Google Earth in defense of keeping the language as is so there is some latitude to deal with unique situations. Commissioner Malan provided the alternate language highlighted in blue, “Lots shall not contain peculiarly shaped elongations of normally unusable area to provide necessary square footage of area, lot width, or frontage.” Further discussion took place. It was noted that “peculiar” means “odd” so making that change may help people understand the section more easily. The document will be sent to Legal Counsel and City Council with both suggestions.

Changes that were made in the document from the last meeting were reviewed and approved.

Corey Sweat asked if there were any further changes or suggestions. Laura Charchenko suggested switching the order of items B. and C. in 16.12.040 to make it flow better.

**ACTION TAKEN:**

*Laura Charchenko moved to approve the proposed modifications to WBMC Title 16-Subdivisions as presented and discussed switching the order of items B. and C. in Section 16.12.040 and send both suggestions for Section B. language as discussed to Legal Counsel and City Council for their review. Alan Malan seconded the motion and voting was unanimous in favor.*

**6. Staff Report**

**Ben White:**

- Atwater Subdivision was approved in the last City Council meeting.
- Moderate Income Housing Report is required every two years and includes a thorough review of our General Plan with updates as necessary. This item will be on the agenda in January.
- There will be **No Planning Commission** meeting until January 8

Mike Cottle noted that there are yard signs all around our City that are placed illegally and asked what the city can do about them. Ben White invited them to pull them if they are illegal and bring them to City Hall. Commissioner Cottle also noted that last week in one of his realtor meetings they talked about affordable housing and the changes made by Bountiful city to allow people rent out their basements and ADU's. He asked if the city has plans for something similar. Ben White explained that we have allowed that in our City for some time as long as the property meets the ADU requirements.

**7. Consider Approval of Minutes from November 27, 2018 meeting.**

**ACTION TAKEN:**

*Alan Malan moved to approve of the minutes of the November 27, 2018 meeting as corrected. Laura Charchenko seconded the motion and voting was unanimous in favor.*

8. Adjournment

**ACTION TAKEN:**

*Alan Malan moved to adjourn the regular session of the Planning Commission meeting at 8:40 pm.  
Laura Charchenko seconded the motion. Voting was unanimous in favor.*

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*The foregoing was approved by the West Bountiful City Planning Commission on January 8, 2019 by unanimous vote of all members present.*



Cathy Brightwell – City Recorder

