

**Mayor**  
Kenneth Romney

**City Engineer/  
Zoning  
Administrator**  
Ben White

**City Recorder**  
Cathy Brightwell

# **WEST BOUNTIFUL PLANNING COMMISSION**

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West Bountiful, Utah 84087

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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 ITS REGULAR MEETING AT 7:30 PM ON TUESDAY, NOVEMBER 12, 2019 AT THE CITY OFFICES**

### Prayer/Thought by Invitation

1. Accept Agenda.
2. Conditional Use Permit – Accessory Dwelling Unit – 731 W 845 North
3. Discuss Proposed Changes to WBMC 17.76 - Private Swimming Pools.
4. Discuss Proposed Changes to WBMC 17.52 - Off-street Parking.
5. Discuss Proposed Changes to WBMC 17.56 – Nonconforming Uses and Buildings
6. Discuss Proposed Changes to WBMC 17.08 - Zoning Administration, Construction, and Enforcement.
7. Staff report.
8. Consider Approval of Minutes from October 22, 2019 Meeting.
9. Adjourn.
- 10.

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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 November 8, 2019 by Cathy Brightwell, City Recorder.*

**West Bountiful City  
Planning Commission Meeting**

**November 12, 2019**

*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 November 8, 2019 per state statutory requirement.*

Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday, November 12, 2019 at West Bountiful City Hall, Davis County, Utah.

**Those in Attendance:**

**MEMBERS PRESENT:** Chairman Denis Hopkinson, Alan Malan, Dee Vest, Laura Charchenko, Mike Cottle, Corey Sweat, Council member Kelly Enquist

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

**VISITORS:** Gary Jacketta, Wendell Wild, Tyler Wild

The Planning Commission meeting was called to order at 7:30 pm by Chairman Denis Hopkinson. Dee Vest offered a prayer.

**1. Accept Agenda**

Chairman Hopkinson reviewed the agenda. Laura Charchenko moved to accept the agenda. Mike Cottle seconded the motion. Voting was unanimous in favor among all members present.

**2. Conditional Use Permit-Accessory Dwelling Unit – 731 West 845 North**

Commissioner packets included a memorandum from Ben White and Cathy Brightwell dated November 6, 2019 regarding an Accessory Dwelling Unit at 731 West 845 North with an attached Conditional Use Permit Application and Site Plans.

Ben White explained that Mr. Wild has been issued a building permit to construct a new house in the Stringham Farm subdivision. The house is designed in a way that by locking a single interior door, an accessory dwelling unit (ADU) would be created. A conditional use permit would be required prior to using the potential apartment as an ADU. Staff recommended that Mr. Wild obtain the Conditional Use Permit for the ADU now for the simple reason that municipal and building codes change from time to time and it would be unfortunate if future Code changes prohibited the ADU or required structural changes for its approval.

WBMC Chapter 17.82 allows a conditional use for an ADU subject to the development standards specifically listed in Section 17.82.050 and listed below.

- A. **Location.** An accessory dwelling unit (ADU) shall be allowed only within or attached to an owner-occupied single-family dwelling. *This condition is satisfied.*
- B. **Number of Accessory Dwelling Units.** A maximum of one (1) ADU shall be allowed within or attached to each single-family dwelling. No lot or parcel shall contain more than one ADU. *This condition is satisfied.*
- C. **Parking.** Adequate parking shall be made available to accommodate the residential use of an ADU, subject to the residential use parking requirements. At least one (1) space shall be designated for the ADU. Parking stalls shall be paved with concrete, masonry, asphalt, or concrete pavers. *This condition is satisfied.*

- D. **Utility Metering.** No separate utility metering for the ADU shall be allowed, and the utility service shall be in the property owner's name. *This condition can be satisfied.*
- E. **Size of Accessory Dwelling Unit.** An ADU shall contain a minimum of 300 square feet; provided, that the dimensions and sizes of living areas, kitchen areas, sleeping areas and bathroom facilities comply with applicable provisions of this title and the current building codes adopted by the City. *This condition is satisfied.*
- F. **Construction Codes.** An ADU shall comply with the construction housing codes in effect at the time the ADU is constructed, created as a separate dwelling, or subsequently remodeled. This shall include the obtaining of a building permit or other permits as the codes may require. *This condition will be satisfied as the house is constructed and inspected.*
- G. **Architecture.** An ADU that is added onto an existing single-family dwelling or a new single-family dwelling that is designed to accommodate an ADU shall not resemble a multi-family structure in terms of the scattered placement of garage doors, carports, or number or location of outside entries or porches. *This condition is satisfied.*
- H. **Owner Occupied.** The owner of the property on which the ADU is located, as listed in the County Recorder's Office, must reside on the property as their principal residence. At no time shall both the ADU and the primary single-family dwelling be rented as separate units. *This condition can be satisfied.*

Before any conditional use permit may be issued for an ADU, the Planning Commission shall make an affirmative finding that the ADU will not create any injurious impacts to surrounding neighbors and/or the neighborhood where the ADU is to be located, and that the ADU otherwise meets the requirements of Chapter 17.60 of this title.

**Commissioner's Comments:**

Mike Cottle asked if the utility metering for the property is on one unit for the whole dwelling. Mr. White answered to the affirmative.

**ACTION TAKEN:**

*Corey Sweat moved to approve the Accessory Dwelling Unit at 731 West 845 North for Tyler Wild with the following findings and conditions the proposed use at the particular location is necessary or desirable to provide a service or facility that will contribute to the general well-being of the neighborhood and the community; will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity; accompanying improvements will not inordinately impact schools, utilities, and streets; and conditions to be imposed in the conditional use permit will mitigate the reasonably anticipated detrimental effects of the proposed use and accomplish the purposes of this subsection. Conditions that the applicant will construct the addition in such a manner that the Building Code requirements for a second dwelling unit are satisfied and will execute the Conditional Use permit which will also be recorded in the County Recorder's office. Alan Malan seconded the motion and voting was unanimous in favor.*

**3. Discuss Proposed Changes to WBMC 17.76- Private Swimming Pools**

Commissioner packets included a memorandum dated November 7, 2019 from Ben White regarding WBMC 17.76 Private Swimming Pools with an attached copy of suggested changes discussed from last meeting.

Semi-private pools are generally part of an active homeowner's association with commonly owned property and since common area can only be created within a Planned Unit Development (PUD), it seemed appropriate to transfer the pool approval mechanism from a conditional use permit to a PUD application.

Ben White explained there is not a lot of request for these in our City but can be requested as part of a Planned Unit Development and should be part of our code as we are updating it.

He noted that at the last meeting they discussed that this would only apply for a PUD and after some thought he decided there could be some cases where an individual lot could meet qualify even without a PUD so he changed the language to Homeowner's Association. A public hearing is necessary before this document can be forwarded to the City Council.

**Commissioner's Comments:**

**Alan Malan** is concerned that at some point the City may be required to assume responsibility for a HOA, as has happened in the past. Chairman Hopkinson pointed out that if the HOA was defunct the property would need to be sold to another property owner.

**Laura Charchenko** was concerned with the same issue as Commissioner Malan.

**Corey Sweat and Mike Cottle** supported the changes made in the document.

**Dee Vest** asked about language under "G" regarding vending machines. Ben White noted that the language has been stricken.

This item is ready for a public hearing to be scheduled.

**4. Discuss Proposed Changes to WBMC 17.52 – Off -Street Parking**

Commissioner packets included a memorandum from Ben White dated November 7, 2019 regarding Off Street Parking – WBMC 17.52 with a red-line copy of the document from the suggestion given during the last meeting.

There was discussion about the size of stalls. Ben White explained that the proposed 9 ft wide stall is industry standard and typical in the city. Staff would like a larger parking stall, but 9 foot is the minimum and each business can choose what will work best for their individual situation. At present, Costco is the only one in our city that has 10 ft. wide stalls. Some discussion took place regarding making a regulation for different types of stores to have different requirements, such as a grocery store because of the shopping carts and high turnover in the parking stalls. Mr. White prefers to let the business police themselves and decide what their individual needs are. Corey Sweat is in favor of keeping things as simple as possible.

**5. Discuss Proposed Changes to WBMC 17.56 – Nonconforming Uses and Buildings**

Included in the Commissioner's Packet is a red/blue-lined copy of proposed changes to Chapter 17.56 - Non-Conforming Uses and Buildings.

Ben White noted that he has included the discussed items for clarification in this document as requested by the Commissioners.

Councilmember Enquist asked why we would allow a non-conforming building to be rebuilt if it was destroyed. Mr. White explained that if a building is legal-nonconforming and it is destroyed, the

homeowner has a right to rebuild it in the same footprint. He explained the difference between non-conforming and illegal buildings. He also noted that this would be more likely with older homes that were built prior to new zoning requirements.

Commissioners are in support of this document as presented. This item is ready for a public hearing to be scheduled.

**6. Discuss Proposed Changes to WBMC 17.08 – Zoning Administration, Construction and Enforcement**

Commissioner packets included a memorandum dated November 8, 2019 from Ben White regarding Zoning Administration, Construction and Enforcement - WBMC 17.08, and a copy of the City Nuisance ordinance, WBMC Section 8.12 - *Nuisances*. The proposal is to add, "A. *Any violation of any of the provisions of this Title is hereby declared a nuisance as defined and governed by Title 8.12 and is subject to all legal remedies thereof*" to zoning code, Section 17.08.050 Legal Remedies For Violation.

Ben White researched similar size cities and other cities in our area and found that most cities have a part time code enforcement officer that handles these issues. Those with successful programs are using a process similar to what is suggested here. Fruit Heights being a smaller city has not been too successful due to not having the staff in place to enforce things. North Salt Lake uses this process and they are currently the court that handles West Bountiful violations. He provided background West Bountiful's code enforcement. When we had our court in place the prosecutor handled code violations. He identified problems and negotiated compliance. When our prosecutor left with the court, staff was given the responsibility to handle these problems but there is no clear process to get compliance.

**Commissioner Comments:**

**Chairman Hopkinson** has a lot of heartburn over a code enforcement officers. He feels that the police department should be the vehicle used to enforce code.

Ben White informed them that the city council has funded the police department to have a part-time position that would include code enforcement, but it is not clear exactly what or how much they would do. Some discussion took place.

**Alan Malan** is adamant that putting this language in place is not the best way to handle this. Some discussion took place about how to address nuisances. He feels that Elected Officials should be the one to deem it a nuisance, not staff as this language automatically deems the offender as a nuisance. Ben argues that the City Council puts the ordinance in place and the Staff is to fulfill the ordinance. He gave an example of how this works.

**Corey Sweat** disagrees with the whole nuisance ordinance and sympathizes with Staff and what they have to deal with. Some discussion took place. He is not in favor of having an individual go around and look for nuisances and prosecute them.

**Laura Charchenko** provided examples of how this language could work well. Violators typically know they are out of compliance especially when staff has already sent multiple warning letters. She agrees this would help staff deal with the problem.

**Dee Vest** agrees with Alan Malan and Corey Sweat.

**Mike Cottle** is trying to sort things out and feels that it is a no-win situation.

**Chairman Hopkinson** clarified that we are looking at the non-criminal part of the nuisance ordinance and this proposal will serve to give staff more legal ramifications to deal with non-criminal issues. He would like to have the Chief of Police come and describe his vision of how a code enforcement officer would function and describe what, when and how they would proceed with the process.

Ben White pointed out the language in the current Nuisance ordinance 8.12.060 and 8.12.070. Staff is just asking for a process that they can have in place that will bring people into compliance. Under the current system, there is no way to enforce our code, so why should we both to have one. Corey Sweat still feels that this would take away individuals due process in the way this code is written. Further discussion took place. Laura Charchenko continued to try to explain how the nuisance ordinance is a good avenue to have in place.

**Chairman Hopkinson** tried to clarify the definitions and processes in the nuisance ordinance in 8.12.060 to clear up the misunderstandings he feels are among some of the Commissioners. Some Commissioners fear that this will turn into an enforcement person being able to hunt down nuisances instead of nuisances being turned in to start the process. They would like language placed into the document as to what the officer can and cannot do to enforce the code. The fears are stemming from past experiences. Mr. Malan shared some of the things he has seen happen in past that he considers harassment. Chairman Hopkinson pointed out that this was in a day before our City was fully staffed. Mr. White tried to give Commissioners confidence in the way our Staff would handle things now and reminded them that their concerns are with sections of the nuisance ordinance that are already in place. He reminded them that the discussion this evening should not be about the nuisance ordinance but about the proposal to give staff process options regarding Zoning Administration, Construction and Enforcement.

**Alan Malan** continues to feel the language should be changed to having the City Council declare the nuisance. Corey Sweat suggested language be included in the definition of the enforcement officer as far as qualifications and a due process.

**Councilmember Enquist** insured them that they will do their best to resolve the issue in the least intrusive way.

**Laura Charchenko** reminded everyone that they are not discussing the nuisance ordinance but rather zoning enforcement and the need to have a workable process in place.

**Mike Cottle** feels the enforcement officer should not be allowed to be the judge and jury.

**Chairman Hopkinson** would like to see a document that outlines the whole process. Ben explained that we have not had the mechanisms in place to fulfil the whole process through issuing the citation. Chairman Hopkinson reiterated the concerns of some of the Commissioners.

Mr. White explained that he has been directed to schedule a public hearing for the next meeting. Chairman Hopkinson told him not to schedule a hearing but to bring more information back at the next meeting.

**7. Staff Report**

**Ben White**

The well is being pump tested this week pumping 1000 to 2000 gallons a minute. This is as good as they expected.

**Cathy Brightwell**

- The County website with Election results crashed on Election night. The problem has been identified and fixed. Final tallies will not be available until the canvass on November 19. Cathy reported that there was a very high turn-out. James Ahlstrom, Rod Wood and James Bruhn are the winning candidates. There may still be some votes coming in but not enough to affect the outcome of the election.
- Cathy asked the Commissioners if they want to hold the Planning Commission meeting the week of Thanksgiving? At present there is not much business to be discussed. The consensus was if business needs to be addressed the meeting will be held. Staff will let them know on the 21<sup>st</sup>.

**8. Consider Approval of Minutes from October 22, 2019 meeting.**

**ACTION TAKEN:**

*Corey Sweat moved to approve of the minutes of the October 22, 2019 meeting as presented. Laura Charchenko seconded the motion and voting was unanimous in favor.*

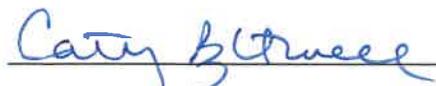
**9. Adjourn:**

**ACTION TAKEN:**

*Alan Malan moved to adjourn the regular session of the Planning Commission meeting at 9:20 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 December 10, 2019 by unanimous vote of all members present.*

  
Cathy Brightwell – City Recorder

