Mayor
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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

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THIS MEETING WILL BE HELD BOTH IN-PERSON AND ELECTRONICALLY

(See Zoom info below)

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THE PLANNING COMMISSION WILL HOLD ITS REGULAR MEETING AT 7:30 PM ON TUESDAY, JUNE 9, 2020 AT CITY HALL, 550 N 800 WEST

Prayer/Thought by Mike Cottle

1. Accept Agenda.
2. Consider Conditional Use Application for Michael & Pam Vogel for a Home Occupation business at 2122 N 1000 West.
3. Discuss Concept Plan for Woodhaven Mobile Home Park Expansion.
4. Discuss Petition for Land Use Decision for Proposed Cannabis Production Establishment and Medical Cannabis Pharmacy.
5. Staff report.
6. Consider Meeting Minutes from May 26, 2020.
7. Adjourn.

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Join Zoom Meeting – Meeting ID 862 6179 6143

https://us02web.zoom.us/j/86261796143

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Meeting ID: 862 6179 6143
Find your local number: https://us02web.zoom.us/u/kcrXZmo98Y

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 June 5, 2020 by Cathy Brightwell, City Recorder.

West Bountiful City **June 9, 2020**
Planning Commission Meeting

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 June 5, 2020 per state statutory requirement.*

Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday, June 9, 2020 at West Bountiful City Hall, Davis County, Utah.

Those in Attendance:

Due to the Coronavirus Pandemic participation in this meeting was held through a combination of in-person and Zoom.

MEMBERS ATTENDING: Chairman Denis Hopkinson, Vice Chairman Alan Malan – in person; Corey Sweat, Mike Cottle, Laura Charchenko, Dee Vest – via Zoom.

MEMBERS EXCUSED: Kelly Enquist (City Councilmember)

STAFF ATTENDING: Duane Huffman (City Administrator)- in person; Steve Doxey (city attorney), Cathy Brightwell (Recorder) and Debbie McKean (Secretary) – via Zoom.

VISITORS: In House were: Mike McCabe and Trent Williams (Woodhaven), Ryan Call, Bruce Baird, and Dino Pasqua (Representing Cannabis), DJ Schanz, Michael and Pam Vogel, and Gary Jacketta. Attending via Zoom: Alex Iorg, Stephen Heron, Richard Maloney, Chris Jeffrey.

The Planning Commission meeting was called to order at 7:33 pm by Chairman Denis Hopkinson. Mike Cottle offered a prayer. Chairman Hopkinson expressed condolences to council member Kelly Enquist and family in their recent loss of wife and mother, Norma.

1. Accept Agenda

Chairman Hopkinson reviewed and discussed the agenda. Mike Cottle moved to approve the agenda as presented. Laura Charchenko seconded the motion. Voting was unanimous in favor among all members present.

2. Consider Conditional Use Application for Michael and Pam Vogel for a Home Occupation business at 2122 N 1000 W.

Commission packets included a memorandum dated June 5, 2020 from Cathy Brightwell regarding a Conditional Use Application for Michael and Pam Vogel for a Home Occupation business at 2122 N 1000 W with an attached copy of application and site plan.

Cathy Brightwell explained that Michael and Pam Vogel have filed an application to have a home office in their house. They live on a half-acre lot in Kinross Estates that backs up to an empty field. They own a Crane service company that builds homes. The Vogel's own two crane trucks that they park at their home when not in use. When needed, the trucks are driven to and from a work site and oftentimes are left on the site. Their son, an employee of the company, lives with them and operates one of the trucks. These

'work' trucks are like other business vehicles property owners may drive to and from work and park at their homes.

Ms. Brightwell said that over the past year we have received several calls from neighbors wondering about the construction trucks on the property and asking if a business was being conducted there. Since that time, a fence has been installed on the side of their property and they plan to build a large garage soon. Once, complete, the trucks will be parked out of site in the garage.

As part of the home occupation licensing process, seven neighbors were contacted about the home business and none have raised any concerns. While not required, a conditional use permit, if issued, will provide documentation to the city and the homeowner that certain conditions must be met regarding business trucks and limitations of the business.

Duane Huffman referred to information contained in city code regarding business vehicles on residential property. He is concerned that business equipment such as cranes can change the residential nature of the neighborhood. He also cited a section of code that limits use of a garage to 25% when associated with a home occupation business. Given the size of the cranes it is likely that they will exceed the limit.

Mr. Huffman continued to discuss potential violations and reminded Commissioners that they are setting a precedent in whatever decisions they make regarding this issue.

The question was posed as to what the differences are between equipment and business vehicles, and between a shop and a garage. Chairman Hopkinson commented that if you drive a vehicle back and forth to work it would be considered a vehicle. He added that size and height differentiate a garage and shop or accessory building. Duane Huffman stated that he does not believe shops are allowed in a residential zone. There were other comments that city code does not define either one, but instead defines accessory structures which are allowed throughout the city.

Commissioner Comments:

Mike Cottle does not think the cranes should be considered business equipment but considers them as business vehicles driven to and from work. He prefers they not be parked on the street.

Dee Vest stated that he feels if it is street worthy it is a vehicle. If it is not, then it is equipment.

Alan Malan does not believe the cranes should be considered business equipment, but he is concerned about damage to the curb and sidewalk from the heavy vehicles driving over them and suggested inspections be done by the city.

Corey Sweat believes the cranes are business equipment and if parked in the yard would be considered outside storage which is not allowed. He stated if the cranes are housed inside the shop there will be no conflict to the ordinance as they are no longer outside. He does not think the storage of their vehicles in the garage has anything to do with the 25% usage limitation.

Michael Vogel was invited to take the stand. He stated that the main reason they bought the property was so they could build a shop to house the two pieces of equipment they use to run their business which developer, Hamlet Homes, assured them would not be a problem. He added that all sidewalk and broken concrete will be replaced after the shop is finished and up to spec.

Chairman Hopkinson noted we do not want to set a precedent of having heavy equipment stored in residential zones but does not object to parking them in the garage. He asked the Vogel's about the neighbors' input. Mr. Vogel stated that their business has helped build 80% of the homes there and his neighbors are supportive of him. It is very important for him to not make things look bad for the area. He added that much of the time the cranes are left on the job site and not on his residential property. During those times, his wife picks him up from the job sites.

Regarding broken concrete, Cathy Brightwell noted that Mr. Vogel will be required to pay a bond when the garage is built to cover any damage to curb and sidewalks and such will be repaired or covered by the bond.

Duane Huffman stated that the crane is part of a business and he posed several questions for the Commissioners to ponder. He reiterated his understanding of the ordinance in regard to the 25% calculation. If the commission considers approving this request, it may be beneficial to take a look at the home occupation ordinance to see if changes might be appropriate for the future.

Mr. Doxey pointed out some principles of the Home Occupation Ordinance. He noted first that the business must be clearly incidental and secondary to the residence and cannot change the residential character of the residential zone. Garage and yard requirements up to the 25% of the accessory building can be used as long as it does not change the character of the residential zone. He pointed out that the code allows additional conditions for storage for equipment, if desired.

There was discussion about possible conditions such as parking, time of day the vehicles can operate, etc. Commissioner Sweat suggested the conditions be that the equipment cannot be stored outside of the accessory building. Commissioner Charchenko is concerned that restricting the time he can leave his property with the equipment could negatively impact his business.

Gary Jacketta asked what the tonnage of the cranes were. Mr. Vogel responded that it is approximately 40,000 lbs. and it was noted that the length of stick can extend to 100 feet in the air.

Chairman Hopkinson feels we need a little more information before deciding on this permit. He called for a motion to table this matter until staff can collect more information and commissioners can further study the issue.

Action Taken:

Corey Sweat moved to table the Conditional Use Application for Michael and Pam Vogel for a Home Occupation business to have Staff do some more research on the issue. Mike Cottle seconded the motion which passed with a 4-1 vote in favor. Voting against the motion was Alan Malan. Motion passed 4 to 1 favoring vote.

3. Discuss Concept Plan for Woodhaven Expansion.

Commissioner packets included a memorandum dated June 5, 2020 from Duane Huffman and Cathy Brightwell regarding a proposal to expand the Woodhaven Mobile Home park.

Duane Huffman described a presentation made to city council last week regarding expanding and upgrading the Park. The new owners are proposing two options. Their preferred option is to increase the number of lots from 44 to 52 by adding lots in the vacant area next to 500 South. The second option increases spaces to 48 and includes a 7000 sq. ft. flex space building on 500 South. Both proposals include

adding a new playground, fenced storage for residents, solid fencing along the I-15 exit for screening and privacy and relocating the mailbox to a more central location.

This property and proposed expansion is complicated by at least the following factors:

1. The property is currently divided by two zones (Commercial General and Light Industrial).
2. The current use of a mobile home park is a non-conforming use in both zones.
3. Woodhaven pre-dates the city's current code on mobile home parks.
4. The city's current code on mobile home parks is outdated.
5. The property is in relatively proximity to the HollyFrontier refinery.
6. The property's sole access from 500 S is less than optimal.

Mr. Huffman said the city council was supportive of the request to maximize the use of the property and asked planning commission to work with the developers and staff to prepare proposals to deal with the issues described above. The existing Mobile Home Park ordinance needs to be updated and zoning amended so that the mobile home park is in one zone. He noted that the current General Plan identifies 500 South as an area where higher density housing options may make sense.

Discussion followed.

Chairman Hopkinson noted the complexity of the property and the importance of creating a quality development.

Corey Sweat and **Mike Cottle** support cleaning up the area and making changes to the ordinance that will allow them to maximize the use of the property.

Laura Charchenko is concerned about having a mobile home park in a commercial or industrial area and supports putting it in a zone by itself unique to mobile homes.

Dee Vest was supportive of the idea to create a new zone for the mobile home park.

Alan Malan is supportive and would like a development agreement with the owners.

Trent Williams and Mike McCabe were present to represent Woodhaven. Mr. McCabe described their plans for improving the Park and the experience they have with upgrading similar parks around the county including Winchester Estates in Murray. They offered to help with drafting an ordinance as they have experience in this area.

Commissioner Sweat asked if there might be any push back from Holly Refinery or existing businesses in the area by creating a new zone. Duane Huffman stated that all those things will be explored as we move through this process.

There was discussion about potential lot rent increases as a result of the expansion and upgrades that may force some tenants to leave. Mr. McCabe said he is not familiar with the increased costs associated with the changes but in his experience, most tenants appreciate and enjoy the changes.

Duane Huffman said that due to staff's limited staffing, it would be helpful for the Commission to review the current ordinance that was included in their packet to see if they had any concerns or proposals on what to change. The developer can begin working on a development agreement to include things like set-backs, amenities, maintenance, and access to 500 South.

4. **Discuss Petition for Land Use Decision for Proposed Cannabis Production Establishment and Medical Cannabis Pharmacy.**

Commissioner packets included a memorandum from Duane Huffman dated June 5, 2020 regarding a Petition from Wholesome Co. for Land Use Code Text Change for Cannabis Production Establishment and Medical Cannabis Pharmacy. The responses from Wholesome Therapy to questions from city council, planning commission, and staff have been provided for your review. Mr. Huffman noted that they have refiled their initial petition and are here tonight to answer any questions commissioners may have. The 45-day deadline is in place again; a public hearing will be held at the next meeting and a decision by city council is due by July 18.

Duane Huffman suggested the Commissioners consider, as the City Council has, if the use of the building is a good fit for this type of business and how it fits into the Commercial Zone. Contacts have been made with surrounding businesses, but no response received as of yet.

Bruce Baird provided additional information. He invited commissioners to ask questions from their review of the documents. He clarified that this is medical marijuana only and noted that except for the pharmacy, the public will not be aware of anything else going on in the building. The production and growth of the product will be invisible to the public. He pointed out that the building and parking area is not good for most retail uses, and he feels the cultivation and pharmacy is a great fit for the building. He does not see traffic issues as a concern.

Dino Pasco, the owner of the building, stated that he met with John Thackery Jr. and discussed their plans. He assured them there would not be an issue with odors from the facility. When he left the meeting, they stated that they want to get input from their tenants, but at this point he has not heard back from them.

Commissioner's Comments:

Alan Malan referred to the state inspections which will take place twice a month and requested that reports be shared with the City. He noted that the development agreement includes language about violations and he hopes they do not intend on making violations. Mr. Baird explained that there is no intent to violate but wants to cover the issue for both the city and company so there is a process and remedies in place if problems come up in the future.

Mike Cottle referred to an email he received on May 26th from Cynthia Coby of Thackery Company to the planning commission. Several commissioners had not received it so he will forward to staff and commission. He read the letter for the record. It stated that a large production facility of this type in such close proximity could be injurious to the existing shopping center. The email referred to reports from other locations, like Colorado, that show a decline in the number and types of retail operations that will locate in the area of a cannabis-based enterprise. There is concern that certain tenants may be opposed, and it may be a factor in decisions to continue their tenancy beyond current terms.

Corey Sweat stated that the city has no control over the location of the pharmacy and production of the product must be located somewhere. He is concerned with traffic bringing product in and out if it is located somewhere else. He noted that if it is not allowed at this site, we may still have to accommodate production in the A-1 Zone. He believes the Carr building is a good fit but is concerned about the impact to surrounding businesses. He suggested that information on inspections be given to surrounding businesses. He would also like to know more about the letter from Thackeray Company and if it is just an opinion or fact as there may be differences between cannabis facilities in Utah and Colorado.

Laura Charchenko is also concerned with the letter and wondered what their specific problem is - is it the pharmacy or production? She said she has talked to some residents and they would rather not have it at all, but if we have to accommodate them, they prefer having the production in the Carr building and not in the A-1 zone. She is open to all considerations presented and can see pros and cons for all options put before them.

Dee Vest is concerned with the potential for odor issues.

Chairman Hopkinson stated that all of us need to be receiving the same information in order to make decisions. Changes in use that would cause negative effects to the property deserves serious thought and discussion. It is important that all businesses are contacted before making the decision. He stressed that it is imperative that we carefully decide if this is a good fit in the area and if the current tenants will accept them as part of the community of the Commons shopping center.

Mr. Baird noted that the email referred to this evening, predated the packet that included a lot more detail regarding how the production is handled and the safeguards that are in place. He said they will forward the new information to Thackeray. He described Colorado cannabis facilities that are recreational and as such they do not try to control or disguise the appearance of the building or control odors of their production. He committed that this will not be the case here. He guarantees there will be no odors disseminating from the building and assures that there will not be anything detectable outwardly of what type of business it is.

Chairman Hopkinson is concerned with the waste after processing. He noted that waste byproduct in other areas have been known to ferment and produce a stench. We will want to see how the waste is processed and removed as part of their contractual agreement. Chairman Hopkinson is very interested in hearing specifically from Costco and Lowe's. He reiterated we cannot in any way harm the other businesses in the area and suggested there are other options available.

Alan Malan asked if there is any intent to sell wholesale to other suppliers. They said at the current time, they plan to only grow enough for themselves and are not anticipating extra product to wholesale. They will only produce 200 lbs. of product at a time in that facility which is not a huge amount of product.

Ryan Call, representing the Utah Cannabis Assn, described the Cannabis industry in Utah. Production and processing is different for strictly medical uses then it is for recreational uses. He said they have the buy-in of the Governor, the LDS Church, and Utah Medical Association. He noted that they have worked hard to make sure the business, including the name, fits in with Utah values and communities. They work closely with their members and the State for transparency and high standards. They want everyone to understand this business/industry and feel comfortable with it in their community. He invited members of the planning commission, city council, and staff to tour one of their existing businesses in Tooele.

Chairman Hopkinson was open to that invitation and asked staff to see who would be interested. He looks forward to reviewing the language and development options that will be presented to them before the 23rd.

Mr. Huffman invited both the Commission and Wholesome Co. representatives to share any language with him that they would like to see as part of the agreement.

5. **Staff Report**

Cathy Brightwell:

- The County has made zoning changes that impact residents on the west side of the city which has led to a few residents expressing interest in annexation. Loveland Nursery may be interested in annexing into the city if they can work out issues related to maintaining their current nursery business. There is also a resident on 1450 West, who previously opposed annexation, that may be interested but will contact neighbors first to see if they would be willing to join in. Chairman Hopkinson would prefer to bring them all in at the same time so we do not have to deal with annexation multiple times.

Duane Huffman:

- Reported that the city has advertised for the vacant City Engineer/Land Use Administrator position. So far, they have received 4 applications with more expected before the final review next week.

6. **Consider Meeting Minutes from May 26, 2020 meeting.**

Action Taken:
Mike Cottle moved to approve of the minutes of the May 26, 2020 meeting as presented. Alan Malan seconded the motion and voting was unanimous in favor.

7. **Adjourn.**

Action Taken:
Alan Malan moved to adjourn the regular session of the Planning Commission meeting at 9:40 pm. Corey Sweat seconded the motion. Voting was unanimous in favor.

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The foregoing was approved by the West Bountiful City Planning Commission on June 23, 2020, by unanimous vote of all members present.

Cathy Brightwell – City Recorder

WEST BOUNTIFUL CITY CORPORATE SEAL DAVIS COUNTY UTAH