

Mayor
Kenneth Romney

**City Engineer/ Land
Use Administrator**
Kris Nilsen

**City Recorder/
Community
Development**
Cathy Brightwell

WEST BOUNTIFUL PLANNING COMMISSION

550 North 800 West
West Bountiful, Utah 84087

Phone (801) 292-4486
FAX (801) 292-6355
www.WBCity.org

Chairman
Denis Hopkinson

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

**THE PLANNING COMMISSION WILL HOLD A REGULAR MEETING
AT 7:30 PM ON TUESDAY, FEBRUARY 9, 2021 **VIA ZOOM (see info below)****

1. *The Mayor and the Planning Commission Chair have determined that due to the current COVID-19 pandemic and the physical distancing required to prevent the spread of infection, public meetings present a substantial risk to the health and safety of those who may be present at the meetings. That risk can be substantially mitigated by holding this meeting through electronic means that allow for public participation without an anchor location.*
2. Prayer/Thought by Commission Sweat.
3. Accept Agenda.
4. Discuss Height Regulations in Residential Districts.
5. Discuss Proposed Changes to WBMC 17.60 Conditional Uses.
6. Discuss Permitted and Conditional Uses Allowed in Residential and Commercial Districts.
7. Staff report.
8. Consider Meeting Minutes from January 26, 2021.
9. Adjourn.

JOIN ZOOM MEETING

<https://us02web.zoom.us/j/84046143390>

Meeting ID: **840 4614 3390**

Or, dial by your location
+1 408 638 0968 US (San Jose)
+1 669 900 6833 US (San Jose)
+1 253 215 8782 US (Tacoma)

This notice has been sent to the Davis Journal and was posted on the State Public Notice Website and the City's website on February 5, 2021 by Cathy Brightwell, City Recorder.

MEMORANDUM



TO: Planning Commission

DATE: February 5, 2021

FROM: Staff

RE: Review of Height Regulations in Residential Zones

At its last meeting, the planning commission began review of the current height regulations in residential zones to consider needed clarification.

BACKGROUND

In 2019, yard regulations, including accessory building height requirements in the residential zones were adopted. Prior to these changes, requests for additional height were presented to the planning commission as part of a conditional use application. To move away from the conditional use, a sliding scale was implemented that allowed additional height by increasing setbacks. See detail below:

- *In the R-1-10 zone, height can be increased from 20 ft to a maximum of 25 ft. if the accessory structure is set back an additional 2 feet beyond the minimum setbacks for every additional foot requested.*
- *In the R-1-22 zone, height can be increased from 20 ft. to a maximum of 30 ft. if the accessory structure is set back an additional 1 foot beyond the minimum setbacks for every additional foot requested.*
- *In the A-1 zone, height can be increased to a maximum of 40 feet if the main, accessory, or non-commercial structure is set back an additional 1 foot beyond the minimums required.*

DISCUSSION

1. At the last meeting, there was consensus that the sliding scale should be improved or replaced with clear standards. Minimum setbacks when determining height for accessory structures will be based on the standard setback of 6 ft, and not the reduced setback allowed for fire-rating of 3 ft. *Staff will provide an exhibit on Tuesday that assigns specific setbacks to specific building heights and will be prepared to discuss in more detail at the meeting.*
2. From where should the height measurement be made? Current code says it is measured from the *lowest finished ground level* which is not clear. *The exhibit referred to in #1 above will also include recommendations to best measure height.*

Staff recommends the following two measurements be considered together when determining height.

- a. Structure height – measured from lowest exposed foundation; and
- b. Total site height – elevation from middle (high point) of the road or top back of curb (TBC) based on a maximum amount of fill on the lot that can be included.

MEMORANDUM



TO: Planning Commission

DATE: February 5, 2021

FROM: Staff

RE: Review of Proposed Updates to WBMC 17.60 - Conditional Use Ordinance

BACKGROUND

John Janson and Jake Young reviewed the City's land use code and have suggested modifications to our Conditional Use ordinance that address issues in state law. Their proposals are intended to move us from vague concepts to standards and criteria.

It is suggested that conditional uses be used more sparingly based on legislative changes that limit the city's ability to deny conditional use requests when conditions can be imposed to mitigate the reasonably anticipated detrimental effects of the proposed use.

At its last meeting, commissioners discussed the draft REDLINE proposal suggested by the planners, made suggestions, and asked staff to prepare an update that incorporates the discussion.

DISCUSSION

A CLEAN version is provided for further discussion. This draft incorporates comments from commissioners, Steve Doxey, and staff.

17.60 Conditional Uses

- 17.60.010 Purpose And Intent
- 17.60.020 Conditional Use Permit: When Required
- 17.60.030 Planning Commission Approval Required
- 17.60.040 Determination To Issue Conditional Use Permit
- 17.60.050 General Inspection
- 17.60.060 General And Performance Standards For Conditional Uses And Conditional Use Developments
- 17.60.070 Expiration Of Permit
- 17.60.080 Review And Revocation Of Permit
- 17.60.090 Farm Animals

17.60.010 Purpose And Intent

The purpose of this chapter is to provide for a reasonable application, review, and approval process for land uses classified as conditional in this title. Proposed conditional uses must comply with the Municipal Code and applicable federal and state law. If approved, they are to be properly integrated into the community through the imposition of conditions, based on applicable standards, intended to mitigate the reasonably anticipated detrimental effects of the particular conditional use. Conditional uses shall be approved, provided the applicant adequately demonstrates that the reasonably anticipated detrimental effects of the proposed use can be mitigated through the imposition of reasonable conditions, based on standards in the Municipal Code.

17.60.020 Conditional Use Permit: When Required

A conditional use permit shall be required for all uses classified as conditional in this title.

17.60.030 Planning Commission Approval Required

- A. Conditional uses are subject to approval by the Planning Commission.
 1. The Planning Commission shall consider a complete application for a conditional use at a public meeting. In the following instances, the Planning Commission shall also hold a public hearing:

If City staff or the Planning Commission determines that existing streets and thoroughfares are not of sufficient capacity to carry anticipated traffic resulting from the proposed use;
 2. If City staff or the Planning Commission determines that increases in traffic, light, noise, odor, or environmental pollution generated by the proposed use may significantly change the intended characteristics of the zoning district as outlined in this title.
 3. If City staff or the Planning Commission deems such a hearing to be in the public interest.
- B. All applications for conditional use shall be made by the property owner or a certified agent and shall be submitted using a form available on the City website or at City Hall.
- C. All applicants shall pay an application fee, as set periodically by the city council and listed in the consolidated fee schedule, for the processing of the Conditional Use, pay for any requested additional studies.

17.60.040 Determination To Issue Conditional Use Permit

- A. City staff shall review the application for completeness and determine if it meets the requirements of the Municipal Code and the City's minimum construction standards. Staff may identify any potential detrimental effects and possible remedies. Such applications may be referred to affected entities for comments, to be submitted prior to the Planning Commission meeting at which the application will be considered. Reviews may include site visits. Staff may reasonably require the applicant to provide additional studies or information prior to Planning Commission review.
- B. A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.
- C. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.
- D. As used in this section, "applicable standards" means the requirements of this chapter and all other applicable requirements of the Municipal Code and the City's minimum construction standards.
- E. All Conditional Use Permits are location specific, objective permits, and the City may require the applicant to record documents to that effect. Subsequent owners of a property with a conditional use permit are required to meet the conditions of the original approval. The Planning Commission and staff, in their review capacity, may impose site plan modifications and conditions to mitigate the reasonably anticipated detrimental effects of a conditional use. In addition to the standards applicable to the zoning district in which the use is located, the Planning Commission shall evaluate all conditional uses for potential detrimental effects and may impose conditions, as necessary, to achieve the following purposes according to the following standards:
 1. Compliance with the Municipal Code and federal and state law, as applicable to the location and characteristics of the proposed use.
 2. Substantial mitigation of reasonably anticipated detrimental effects arising from the conditional use, including, but not limited to:
 - a) Detrimental effects of decreased traffic service levels or altered traffic patterns. Conditions to mitigate such detrimental effects may include street modifications such as dedicated turn lanes, traffic control devices, safety, street widening, curb, gutter and sidewalks, location of ingress/egress, lot surfacing, off-street parking and circulation, loading docks, and other reasonable mitigation as determined by the City's engineering staff or a qualified traffic engineer or transportation planner.
 - b) Detrimental effects on the adequacy of utility systems, service delivery, and capacities. Conditions to mitigate such detrimental effects may include such items as relocating, upgrading, providing additional capacity to, or preserving existing systems, and other reasonable mitigation as determined by the City's engineering staff, contracted engineers, or utility service providers.
 - c) Detrimental effects on street/sidewalk connectivity and safety for pedestrians and bicyclists.
 - d) Detrimental effects of the use due to its nature, including noise that exceeds sound levels normally found in residential areas, odors beyond what is normally considered acceptable within a neighborhood, including such effects as environmental impacts, dust, fumes, smoke, vibrations, chemicals, toxins, pathogens, gases, heat, light, electromagnetic disturbances, and radiation. Conditions to mitigate such detrimental effects may include limitations on hours of operation and restrictions to prevent an attractive nuisance.

- e) Detrimental effects that increase the risk of contamination of or damage to adjacent properties and injury or sickness to people arising from, but not limited to, waste disposal, fire safety, geologic hazards, soil or slope conditions, liquefaction potential, site grading/topography, storm drainage/flood control, high ground water, aquifer/well, environmental health hazards, or wetlands, as determined by the City Engineer or other qualified specialists.
 - f) Detrimental effects of modifications to or installation of signs and exterior lighting that conflict with neighborhood compatibility.
 - g) Detrimental effects arising from incompatible designs in terms of use, scale, intensity, height, mass, setbacks, character, construction, solar access, landscaping, fencing, screening, and architectural design and exterior detailing/finishes and colors within the neighborhood in which the conditional use will be located.
 - h) Detrimental effects on the tax base and property values.
 - i) Detrimental effects on the current level of economy in governmental expenditures.
 - j) Detrimental effects on emergency fire service and emergency vehicle access.
 - k) Detrimental effects on usable open space and parks.
3. Maintenance of the property and structures in perpetuity, including performance measures, compliance reviews, and monitoring.

F. As requested by City staff or the Planning Commission in their review, the applicant, at the applicant's cost, shall provide any report and/or study relating to utilities, traffic impact, school impact, soil impact, water impact, existing conditions, vehicular line-of-sight, or building massing, as well as any other information reasonably requested by the City.

G. Staff shall provide the applicant with a record of the permit which shall generally include an approved site plan and letter of agreement containing the conditions of approval.

17.60.050 General Inspection

Each property for which a conditional use permit application is submitted is subject to an inspection to ensure compliance with the Municipal Code and to determine appropriate conditions for issuance of a conditional use permit. Following the issuance of a conditional use permit, the City may inspect the property from time to time to verify compliance with the Municipal Code and the conditions established in the conditional use permit. For uses involving buildings or construction, the City, at its discretion, may require the applicant or permit holder to pay for an inspection by a building inspector. In all other cases, City staff may perform the inspection.

17.60.060 General And Performance Standards For Conditional Uses And Conditional Use Developments

Applicants for conditional use permits shall meet all applicable requirements of the Municipal Code. The Planning Commission may impose additional requirements as specified in the conditional use permit.

17.60.070 Expiration Of Permit

A. Every conditional use permit shall expire and become null and void if the use authorized by the permit has not been commenced within two (2) years after issuance of the permit. If the permit holder files a written application for an extension before the expiration of the permit and presents satisfactory evidence that unusual difficulties, such as weather, material shortages, labor shortages

or financing difficulties, have prevented commencement of the use within the specified time limit, the zoning administrator may grant a reasonable extension of time, up to an additional one hundred eighty (180) days, to commence the use. Commencement of the use includes applying for and obtaining all necessary building permits and other permits for the proposed use.

- B. A conditional use permit for uses which are of a temporary nature may be issued for the intended duration of the temporary use, as determined by the Planning Commission for up to two years if no other time frame is stipulated.

17.60.080 Review And Revocation Of Permit

- A. Conditional use permits under this chapter are subject to review by the Planning Commission upon complaint.
- B. No conditional use permit shall be modified, revoked or suspended for more than 30 days without a hearing before the Planning Commission. The permit holder shall be notified in writing of the hearing and the grounds for convening the hearing. Such notice shall be served to the permit holder by registered or certified mail or personal service at least seven (7) days prior to the hearing, which may be held at a public meeting. At the hearing, the permit holder shall be given an opportunity to be heard, and may call witnesses and present evidence. Following the hearing, the Planning Commission shall determine whether the permit shall remain in place, whether additional or different conditions shall be imposed, or whether the permit shall be suspended or revoked. The permit holder may appeal the Planning Commission's decision to the appeal authority in the manner provided in Section 17.08.120.
- C. Notwithstanding the foregoing, the Zoning Administrator may impose a temporary suspension on a conditional use, not to exceed thirty (30) days, under the circumstances described in this subsection.
 - 1. Before imposing a temporary suspension, the Zoning Administrator must find, after investigation, that
 - a) the permit holder has violated the conditions of the permit or has violated the provisions of the Municipal Code or other laws applicable to the conditional use; and
 - b) The violation has caused, or is likely to cause, immediate or irreparable harm to the health, safety, or welfare of persons in the community.
 - 2. The temporary suspension will be effective immediately upon notification to the permit holder, which may be effected in any reasonable manner, including by posting on the property and, at the same time, following up with certified mail.

MEMORANDUM



TO: Planning Commission

DATE: February 5, 2021

FROM: Staff

RE: Discussion of Proposed Updates to Permitted and Conditional Uses

BACKGROUND

At its last meeting, the planning commission began review of the Conditional Use ordinance in an attempt to reduce the number of conditional uses in code when standards and criteria are already in place. A determination of permitted vs. conditional uses is an important part of this process.

The Commission discussed the Uses listed in the residential zones and generally agreed that many of the conditional uses could be moved into the permitted section. Staff was asked to review the lists, provide information for the other zones, and make suggestions for further discussion.

DISCUSSION

Staff has attached a current list of Permitted and Conditional Uses in Residential and Commercial zones within the city for review and discussion. Those we believe can be moved into the Permitted section have been moved and are shown in red. New uses/language added are shown in green. Those requiring discussion are highlighted.

PERMITTED AND CONDITIONAL USES FOR RESIDENTIAL ZONES

R-1-10

17.24.020 Permitted Uses

1. Agricultural;
2. Single family dwellings;
3. Accessory dwelling units (ADU) – attached to primary structure;
4. Flag lots;
5. Home occupations;
6. Child day care, nursery or preschool (pursuant to Chapter 5.28 Home Occupations); and
7. Farm animals.

17.24.030 Conditional Uses

1. Public, quasi-public uses;
2. Restricted lots, (see Definitions in Section 17.04.030);
- ~~3. Accessory Dwelling Units (ADU);~~
- ~~4. Flag lots; and~~
- ~~5. Child day care or nursery (pursuant to Chapter 5.28 Home Occupations).~~

R-1-22

17.20.020 Permitted Uses)

1. Agricultural;
2. Single-family dwellings;
3. Accessory dwelling units (ADU) – attached to primary structure;
4. Flag lots;
5. Home occupations;
6. Child day care, nursery or preschool (pursuant to Chapter 5.28 Home Occupations); and
7. Farm animals.

17.20.030 Conditional Uses

1. Public, quasi-public uses;
 2. Restricted lots, (see Definitions in Section 17.04.030);
 - ~~3. Accessory Dwelling Units (ADU); and~~
 - ~~4. Child day care or nursery (pursuant to Chapter 5.28 Home Occupations);~~
 - ~~5. Flag lot;~~
-

17.16.020 Permitted Uses

1. Agricultural;
2. Single-family dwellings;
3. Accessory dwelling units (ADU) – attached to primary structure;
4. Flag lots;
5. Home occupations;
6. Child day care, nursery or preschool (pursuant to Chapter 5.28 Home Occupations);
7. Farm animals; and
8. Non-commercial structure.

17.16.030 Conditional Uses

1. Public or quasi-public uses;
 2. Restricted lots (see definitions in Section 17.04.030);
 3. Equestrian facilities, commercial stables;
 4. Kennels (pursuant to Chapter 5.28 Home Occupations);
 - ~~5. Child day care or nursery (pursuant to Chapter 5.28 Home Occupations);~~
 - ~~6. Flag lots;~~
 - ~~7. Accessory Dwelling Units (ADU).~~
-

CN - Commercial Neighborhood

17.28.020 Permitted Uses

1. Appliance and small equipment repair, including shoe repair;
2. Drug store;
3. Dry cleaning pickup station;
4. General merchandise sales (retail and wholesale) less than two thousand (2,000) square feet;
5. Offices, business or professional;
6. Personal services;
7. Public and quasi-public institutions uses;
8. Convenience store, less than two thousand (2,000) square feet
9. Learning studios such as **tutoring**, karate, dance, gymnastics, **pre school**;
- ~~10. Real estate and/or insurance offices;~~
- ~~11. Computers, : software and hardware, sales and service;~~
12. Office machine, **computer** sales and service;
13. Ceramic business;
- 14. Custom wood working**
- 15. Sheet metal**
- 16. Printing and publishing**
17. Carpet cleaning; and
18. Medical cannabis pharmacy, as defined in Chapter 17.62.

17.28.030 Conditional Uses

1. Reception center, meeting hall;
2. Restaurants, cafeterias and fast food eating establishments;
3. Banking and financial services;
- ~~4. Custom woodworking (as approved by fire marshal)~~
- ~~5. Sheet metal;~~
6. Contractor: general, electrical, mechanical and plumbing, etc.
- ~~7. Printing and publishing;~~
- ~~8. Silkscreening;~~
9. Lawn and yard care;
10. Residential healthcare facility; and
11. Business and uses which are similar to those listed in this section and Section 17.28.020 and other small businesses determined suitable for a neighborhood environment by the planning commission.

17.28.035 Prohibited Uses

1. Retail tobacco specialty businesses;
 2. Retail e-cigarette specialty businesses;
 3. Sexually oriented businesses; and
 4. Cannabis production establishment, as defined in Chapter 17.62.
-

CG – Commercial General

17.32.020 Permitted Uses

1. Appliance and small equipment repair;
2. Tailor, seamstress, shoe repair;
3. Drug store;
4. Dry cleaning;
5. General merchandise sales and service;
6. Offices, business and professional;
7. Personal services;
8. Public and quasi-public institutions;
9. Convenience store, car wash, gas station;
10. Reception center, meeting hall;
11. Grocery store;
12. Theaters;
13. Commercial schools, Learning studios;
14. Lumber and other building material, retail sales;
15. Marine, RV, Motorcycle, and aircraft retail sales and service and accessories;
16. Banking and financial services;
17. Non-motorized recreation, pool, gymnasium
18. Restaurants, cafeterias, and fast food eating establishments
19. Medical cannabis pharmacy, as defined in Chapter 17.62.

17.32.030 Conditional Uses

1. Liquor, retail, package store;
2. Drinking places with alcoholic beverages;
3. Residential health care facility;
4. ~~Reception center, meeting hall;~~
5. Motor vehicle sales and service (excluding auto body repair);
6. ~~Grocery store;~~
7. ~~Lumber and other building material, retail sales;~~
8. ~~Marine, RV, and aircraft retail sales and accessories;~~
9. ~~Theaters;~~
10. ~~Commercial schools;~~
11. Hospitals and medical service facilities;
12. Hotel, Motel and extended stay facilities; and
13. Other retail businesses which are similar to those listed in this section and Section 17.32.020, as determined by the planning commission.

17.32.035 Prohibited Uses

1. Retail tobacco specialty businesses;
2. Retail e-cigarette specialty businesses;
3. Sexually oriented businesses; and
4. Cannabis production establishment, as defined in Chapter 17.62.

CH – Commercial Highway

17.34.020 Permitted Uses

1. Appliance and small equipment repair;
2. Lawn and yard care;
3. Printing and publishing;
4. Offices, business and professional;
5. General merchandise sales
6. Custom woodworking (as approved by the fire marshal);
7. Contractor offices, including but not limited to general, electrical, mechanical, heat, ventilation and air conditioning, plumbing, and landscaping;
8. Marine, RV, motorcycle, and aircraft retail sales and service accessories;
9. Lumber and other building materials retail sales;
10. Motor vehicle sales and service (excluding auto body repair) and outdoor storage of retail vehicle inventory;
11. Indoor fabrication, machining or welding of materials or equipment not for resale;
12. Equipment sales, service and/or repair, including outdoor repair and welding;
13. Pawnshop;
14. Silk screening;
15. Public and quasi-public facilities not prohibited in Section 17.34.040;
16. Convenience store, including car wash, gas station;
17. Contractor offices, including but not limited to general, electrical, mechanical, heat, ventilation and air conditioning, plumbing, and landscaping;
18. Indoor storage units;
19. Laboratory; and
20. Medical cannabis pharmacy, as defined in Chapter 17.62.

17.34.030 Conditional Uses

1. Liquor, retail, package store;
2. Drinking places with alcoholic beverages;
3. ~~Motor vehicle sales and service (excluding auto body repair) and outdoor storage of retail vehicle inventory;~~
4. Reception center, meeting hall;
5. ~~Marine and aircraft retail sales and accessories;~~
6. ~~Lumber and other building materials retail sales;~~
7. ~~Custom woodworking (as approved by the fire marshal);~~
8. Warehousing, as a primary use, unless prohibited in Section 17.34.040;
9. ~~Car wash as ancillary to a convenience store;~~
10. General merchandise sales;
11. Pawnshop;
12. Outdoor storage of equipment, landscaping materials and seasonal inventory incidental to an approved permitted or conditional use;
13. ~~Indoor fabrication, machining or welding of materials or equipment not for resale;~~
14. ~~Equipment sales, service and/or repair, including outdoor repair and welding;~~
15. Retail e-cigarette specialty businesses; and
16. Other commercial businesses which are similar to those listed in this section and Section 17.34.020, as determined by the planning commission.

17.34.040 Prohibited Uses

1. Salvage yards;
 2. Parts yards;
 3. Residential dwelling units;
 4. Motor vehicle warehousing, salvage, or storage (whether indoor or outdoor);
 5. Recycling centers/recycling collection areas;
 6. Rehabilitation/treatment centers, transitional housing, residential facilities for elderly persons, residential facilities for persons with a disability, boarding homes, and any other facility subject to the regulations of Chapter 17.84 of this title;
 7. Schools and churches;
 8. Storage of petrochemicals, not for retail sales;
 9. Correctional facilities or facilities with similar uses;
 10. Sexually oriented businesses;
 11. Retail tobacco specialty businesses;
 12. Single retail unit space over seventy-five thousand (75,000) square feet; and
 13. Cannabis production establishment, as defined in Chapter 17.62.
-

1 **West Bountiful City**
 2 **Planning Commission Meeting**

January 26, 2021

3

4 **Posting of Agenda** - The agenda for this meeting was posted on the State of Utah Public Notice
 5 website, on the West Bountiful City website on January 22, 2020.

6

7 Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday, January
 8 26, 2021 at West Bountiful City Hall, Davis County, Utah.

9 **Those in Attendance:**

10 **Due to the Coronavirus outbreak this meeting was held electronically using Zoom.**

11 **MEMBERS ATTENDING: All attending via Zoom:** Chairman Denis Hopkinson, Vice Chairman
 12 Alan Malan, Mike Cottle, Dee Vest, Corey Sweat, Laura Charchenko, and Council member Kelly
 13 Enquist.

14

15 **STAFF ATTENDING:** Kris Nilsen (City Engineer), Cathy Brightwell (Recorder) in house, Steve
 16 Doxey (City Attorney) and Debbie McKean (Secretary) via Zoom.

17 **VISITORS: Via Zoom:** John Janson, Gary Jacketta, Tina Ellis, Chyanne Pope, Sage ?

18

19 The Planning Commission meeting was called to order at 7:32 pm by Chairman Hopkinson.
 20 Laura Charchenko offered a thought and prayer.

21

22 1. **Chairman Denis Hopkinson read the following message:** *The Mayor and the*
 23 *Planning Commission Chair have determined that due to the current COVID-19*
 24 *pandemic and the physical distancing required to prevent the spread of infection,*
 25 *public meetings present a substantial risk to the health and safety of those who may*
 26 *be present at the meetings. That risk can be substantially mitigated by holding this*
 27 *meeting through electronic means that allow for public participation without an*
 28 *anchor location.*

29

30 2. **Accept Agenda**

31 Chairman Hopkinson reviewed the proposed agenda. Mike Cottle moved to approve the
 32 agenda as presented. Corey Sweat seconded the motion. Voting was unanimous in favor
 33 among all members present.

34

35 3. **Discuss Proposed Changes to WBMC 17.60- Conditional Uses**

36

37 Commissioner packets included a memorandum from Staff dated January 22, 2021 regarding
 38 discussion of proposed updates to conditional uses along with a draft redline copy of WBMC

39 17.60- Conditional Uses. Staff included a current list of Permitted and Conditional Uses in the
40 three residential zones.

41

42 The memorandum explained that John Janson and Jake Young reviewed the City's land use
43 code and have suggested modifications to our Conditional Use ordinance. Their proposals are
44 intended to move us from vague concepts to standards and criteria. It is suggested that
45 conditional uses be used more sparingly based on legislative changes that limit the city's ability
46 to deny conditional use requests when conditions can be imposed to mitigate the reasonably
47 anticipated detrimental effects of the proposed use. Once language is adopted, we will want to
48 look at the list of Uses in each zone to see if conditional use designation is really appropriate
49 and if each Use is listed in the correct zone.

50

51 Chairman Hopkinson led the commissioners and staff through the document reading the old
52 language and redlined changes.

53

54 **17.60.010 Purpose and Intent** – parts of this section are still vague and there was concern
55 about removing the reference to “health, safety, and general welfare.” Mr. Doxey stated that
56 those issues are the overall purpose of the whole municipal code and is stated throughout so it
57 is not necessary to repeat here unless the commission wants to.

58

59 **17.60.030 Planning Commission Approval Required** – currently, public meetings are required
60 for conditional use permits and public hearings are mandatory in certain cases. Clarification will
61 be added so that planning commission can require a hearing if they need more information
62 after discussing an application. In cases where traffic studies may be necessary, it will be clear
63 on the application form that it will be required.

64

65 Commissioner Malan wants the language in D. to be clear that fees other than the application
66 fee will not be required prior to approval of the application but will be a condition of the
67 application. He suggested “if applicable after approved” be added.

68

69 **17.60.040 Determination to Issue Conditional Use Permit** – current affirmative findings have
70 been removed and replaced with a new list that is intended to be based on standards rather
71 than vague concepts. Corey Sweat felt that the current language is not as vague as the new
72 proposed language. Some discussion took place with Mr. Janson explaining what his objective
73 was with the proposed changes. Mr. Doxey recommended that we should include the current
74 legislative language as well. Mr. Sweat feels it still falls short of permitted uses and needs to be
75 more specific and not have so many gray areas. The detrimental effects need to be clarified
76 and added to. He pointed out that this does not help staff to understand the direction to take.
77 Alan Malan concurred with Commissioner Sweat and added that some of the language is
78 beyond the scope of what the city can do regarding environmental impacts. Mr. Janson stated
79 that more detailed language could be in added, but it would be a huge undertaking that would
80 not be worth the time or effort and is not necessary to accomplish the goals and intent of the
81 section. Additional language could be made under other areas of the code like lighting, noise,

82 etc. Further discussion took place regarding making the list more specific to the detrimental
83 effects to make a clear picture of what is acceptable and what is not.

84

85 Concern was raised over several references to federal requirements. Chairman Hopkinson
86 explained that our city does not always include federal legislative references in the land use
87 code, but it is included in the state legislative land use regulations. Mr. Doxey said that
88 language could be changed to create a softer clause regarding the federal legislation.

89

90 Mr. Doxey asked the commissioners to consider whether conditional uses are necessary. He
91 noted that there are only about five different conditional uses listed in residential code that
92 may need to continue. In most cases, language can be crafted to include specific regulations
93 and standards for these items within the code. He noted that conditional uses can be valuable
94 in commercial zones.

95

96 Commissioner Sweat agreed and said he believes that in most cases, conditional uses are
97 unnecessary in residential zones. He stressed that residential zones should be either permitted
98 or not permitted because no matter how much language is used there will always be gray area.

99

100 **17.60.070 Expiration of Permit** - There was discussion about expiration of permits. Ms.
101 Brightwell stated it is extremely hard for staff to keep track of all this. It was decided that it is
102 not necessary to have an expiration date unless the conditions are not being met. Mr. Janson
103 noted that conditional use permits typically run with the land. Several examples were discussed
104 where this may not be the case, for example, ADUs and farm animal permits, which now expire
105 when the property owner sells forcing new owners to re-apply. This is intended to ensure that
106 they understand the regulations. Mr. Jansen will check on “run with the land” issue.

107

108 **17.60.080 Review and Revocation of Permit** – Mr. Janson asked what the section means and if
109 a policy is listed somewhere. Chairman Hopkinson stated that the revocation language was put
110 in place to have a means to quickly shut down things for a maximum of 30 days that were not
111 allowed by city code and detrimental to the health, safety, and welfare of a neighborhood. Mr.
112 Doxey wants the section left in place but agreed more specificity can be added.

113

114

115 Chairman Hopkinson instructed commissioners to review the proposed redline language and
116 the list of permitted and conditional uses and submit their suggestions to staff. Mr. Janson and
117 Mr. Doxey will make changes as well. This will allow us to see where we agree/disagree or
118 where the holes are.

119

120 **4. Discuss Non-Commercial Structures**

121

122 Commissioner packets included a memorandum from Staff dated January 22, 2021 regarding
123 Review of Non-Commercial Structure Regulations that included the following information.

124

125 Last year, a new permitted use, Non-Commercial Structure (NCS), was added in the A-1 District.
 126 The primary reason for considering the change was to deal with multiple requests from
 127 property owners who had a need for storage structures when there was no home on the
 128 property. Zoning code at the time referred only to accessory structures, but the concept of
 129 accessory structures is to be “on the same lot with, and of a nature customarily incidental and
 130 subordinate to, the principal use or building.”

131

132 A Non-Commercial Structure is defined as a structure that:

- 133 (1) is not designed or used for commercial purposes.
- 134 (2) is not designed or used as a dwelling,
- 135 (3) is not accessory to a principal building or use on the same lot,
- 136 (4) is not a landscape enhancement such as an arbor or trellis.

137

138 Such conditions are stipulated in a recorded agreement between the city and property owner.
 139 If a principal building or use is established on the same lot as a non-commercial structure, the
 140 non-commercial structure will be deemed an accessory structure subject to all regulations
 141 governing accessory uses, buildings, or structures.

142

143 Building permits for two non-commercial structures have been approved since the new code
 144 was established. One is a standard storage building and the other a family gathering and
 145 storage building. Agreements have been recorded on the properties of each NCS that clearly
 146 state the structure cannot be used for commercial or residential purposes.

147

148 Cathy Brightwell explained that as a result of numerous complaints about one of these
 149 buildings, the city council has asked the planning commission to review the issue to determine
 150 if changes to the ordinance are warranted. The following discussion points were presented.

151

- 152 • Should a Non-commercial structure continued to be allowed?
- 153
- 154 • Should a NCS be a conditional use where conditions can be imposed to mitigate
 155 reasonably anticipated detrimental effects based on the specifics of each proposed
 156 building?
- 157
- 158 • Should the structure be limited to a maximum size? For example, compared to main
 159 structures, neighboring structures, or other measurement?
- 160
- 161 • Should different setbacks be established? Currently the smaller setbacks for accessory
 162 structures are applied – not main structure setbacks.

163

164 **Commissioner Comments:**

165

166 Laura Charchenko feels we need to be consistent and follow code which does not limit size.
 167 Mike Cottle concurred. Dee Vest noted he has gotten many calls on the building in question.
 168 He read from another city’s code that limited size of accessory structures to a % of total lot size.

169 We may want to consider something similar if we think there is a problem. Corey Sweat noted
170 that the reasons provided at the time convinced the commission there was a need to allow for
171 this type of building on land without a primary dwelling in place. A property owner should be
172 able to build whatever fits based on the code.

173

174 There was discussion about what setbacks and height restrictions should be established for
175 these buildings. They are currently able to use the setbacks and height regulations for accessory
176 structures.

177

178 There was agreement that increased setbacks should apply but no specific numbers or
179 consensus on how to deal with height. It is unreasonable to require a non-commercial or
180 accessory structure to be smaller or shorter than a primary dwelling in the A-1 zone but does
181 make sense in smaller residential zones. There was discussion about size as a percentage of the
182 total lot or whether increased setbacks were sufficient to deal with the size issue. The current
183 35% rear yard coverage restriction only applies when a primary structure is on the lot.

184

185 Should room for a future building be required? Discussion was that it does not make sense to
186 require that if someone only wants a non-commercial structure and no primary or accessory
187 structure. If they decide later that they want to add a building and there is not enough room, an
188 additional building will not be allowed.

189

190 Staff will put together some ideas and check to see when a joint meeting can be scheduled with
191 city council to discuss these policy changes.

192

193 **5. Discuss Height Regulations in Residential Districts**

194

195 Commissioner packets included a memorandum dated January 22, 2021 from Staff regarding
196 Review of Height Regulations in Residential Zones with an attached copy of the height
197 regulations for each of the three residential zones.

198

199 **BACKGROUND**

200

201 In 2019, new yard regulations, including accessory building height requirements in the R-1-10,
202 R-1-22, and A-1 residential zones were adopted. Prior to these changes, requests for additional
203 height were presented to the planning commission as part of a conditional use application. To
204 move away from the conditional use, a sliding scale was implemented that allowed additional
205 height by increasing setbacks. See detail below:

206

207 • In the R-1-10 zone, height can be increased from 20 ft to a maximum of 25 ft. if the
208 accessory structure is set back an additional 2 feet beyond the minimum setbacks for
209 every additional foot requested.

210 • In the R-1-22 zone, height can be increased from 20 ft. to a maximum of 25 ft. if the
211 accessory structure is set back an additional 1 foot beyond the minimum setbacks for
212 every additional foot requested.

- 213 • In the A-1 zone, height can be increased to a maximum of 40 feet if the main,
214 accessory, or non-commercial structure is set back an additional 1 foot beyond the
215 required minimums.
216

217 Now that the new regulations have been in place for a while, staff is asking for clarification in
218 several areas:
219

- 220 1. Where should the height measurement be made? Current language says it is measured
221 from the lowest finished ground level which is not clear. What is the intent?
222 a. Lowest visible foundation, e.g., walkout basement?
223 b. Front door landing?
224 c. Top back of curb?
225 d. Lowest point of graded yard?
226
- 227 2. What does “minimum setbacks” mean? Currently, setbacks can be reduced from 6 ft to 3 ft
228 if the building meets fire code standards. Does the reduced setback for fire-rating count as
229 part of the minimum setback calculation for height? For example, if the standard setback is
230 6 ft. and 2 ft is added to account for additional height the total setback = 8 ft. If the reduced
231 setback is 3 ft. due to fire-rating and 2 ft is added to account for additional height the total
232 setback = 5 ft.
233
- 234 3. In the R-1-10 and R-1-22 districts, the height for accessory structures cannot be taller than
235 the main structure. Should something similar be considered in the A-1 zone?
236
- 237 4. In the R-1-10 and R-1-22 districts, lighting and window regulations for accessory structures
238 were put in place to minimize potential impacts to neighboring properties while allowing a
239 property owner to construct a taller building. Should something similar be considered in the
240 A-1 zone?
241

242 There was discussion on the questions. Commissioners were not in favor of the sliding scale
243 calculation and want something with standards that include larger setbacks. Reductions for
244 fire-rated walls should not be included in the calculation. They also do not agree that an
245 accessory structure in the A-1 cannot be taller than the main structure.
246

247 They directed staff to come up with other options that include clear standards. Mr. Doxey
248 cautioned them to envision the maximum of what they put into place because someone is
249 going to build the max. He suggested a reverse sliding scale. Further discussion took place
250 regarding possible ways to calculate height and setbacks in the various zones. Each zone will
251 need its own regulations put into place.
252

253 Chairman Hopkinson stressed that we need to be concise and consistent in our language.
254
255
256

257 **6. Staff Report**

258

259 **Kris Nilson:**

- 260 • Beverly Estates subdivision has been approved but still waiting on final plat.
- 261 • Pickle Ball award has been made.
- 262 • 400 North Wellhouse bids are due this week.
- 263 • Signage and striping, previously discussed, are underway at the Elementary School’s
- 264 south exit.

265

266 **Cathy Brightwell:**

- 267 • Public Hearing that was scheduled for tonight will be at the February 9th meeting
- 268 due to public notice issues.
- 269 • Municipal Election coming up this year for mayor and two council seats.

270

271 **7. Consider Meeting Minutes from January 12, 2021**

272

273 **Action Taken:**

274 ***Corey Sweat moved to approve of the minutes of the January 12, 2021 meeting as presented.***

275 ***Mike Cottle seconded the motion and voting was unanimous in favor.***

276 **8. Adjourn**

277 **Action Taken:**

278 ***Laura Charchenko moved to adjourn the regular session of the Planning Commission meeting***

279 ***at 9:45 pm. Alan Malan seconded the motion. Voting was unanimous in favor.***

280

281

282 *The foregoing was approved by the West Bountiful City Planning Commission on February 9,*

283 *2021, by unanimous vote of all members present.*

284 _____

285 *Cathy Brightwell – City Recorder*

286

287

288