

**West Point City
Planning Commission
3200 West 300 North
March 9, 2017**

Present: Brad Lee, Brian Vincent, Jeff Macfarlane, Jake Shepherd, Jeremy Strong, Kent Henderson – City Council Representative, Troy Moyes – City Planner, Michelle Bailey - Planning Commission Secretary

Excused: Korey Kap

Visitors: Rob Ortega

WORK SESSION

1. General Commission training

Troy Moyes did a brief training on Conditional Use Permits. The training material was taken directly from the Office of the Property Rights Ombudsman Utah Department of Commerce. *What is a Conditional Use?* A Conditional Use is a land use that has unique characteristics or negative effects that may not be compatible to an area without conditions to mitigate or eliminate the detrimental impacts. *What statute governs Conditional Uses?* The statutes governing conditional uses are found at [§ 10-9a-507](#) and [§ 17-27a-506](#) of the Utah Code. The statutes read as follows:

(1) A land use ordinance may include conditional uses and provisions for conditional uses that require compliance with standards set forth in an applicable ordinance.

(2)(a) 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.

(b) 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. Some examples were discussed. *How are Conditional Uses Designated and Approved?* A local government has authority to designate uses as conditional, but that designation must also refer to performance standards that guide decisions on what conditions may be applied. The designation must be in the local government's land use ordinance. A use may be listed as permitted in one zone or area, but be conditional in another zone or area.

The local government also establishes the method to consider applications for a conditional use permit. Consideration should focus on facts and applicable standards, and avoid "public clamor," or emotional arguments for or against a permit. An application may be denied only if the detrimental impacts cannot be mitigated by reasonable conditions.

2. Discussion regarding a Conditional Use Permit for a Major Home Occupation License, Hamblin Auto, located at 226 North 4000 West, Cary Hamblin, applicant.

Troy Moyes stated that Cary Hamblin has submitted a Conditional Use Permit application for a Major Home Occupation. The proposal is to operate Hamblin Auto which will provide minor auto repairs such as: brakes, tune ups, and other small diagnostics and auto repair on his property. This type of activity has been going on at this residence for some time now and the desire of the applicant is to come into compliance with West Point City Code. The Code states, "The following uses, by the nature of the investment or operation, have a pronounced tendency once started to increase beyond the limits permitted for the home occupations and thereby impair the use and value of a residentially zoned area for residential purposes and are more suited to professional or business districts. Therefore, the uses specified below are not ordinarily allowed as home occupation" "Minor or major auto repair (17.50.030(M))." The Planning Commission has the right to place "reasonable" conditions on the applicant to mitigate any detrimental impact on the neighborhood. City Code states that major home occupations "shall be incidental and secondary to the use of the dwelling for the dwelling purposes..." If the Commission so chooses, there are several things to consider when placing "reasonable" condition on this or other applications. 1. Sufficient off-street parking 2. Unregistered vehicles (see 8.15.030) 3. Inoperable vehicles.

Brian Vincent commented that there are a few issues to address: 1. Is he allowed to do what he is doing in the area he is in? The answer to that is yes. It's not normally allowed, but it may be allowed. 2. What negative affects is this having on his neighbors and the area? Boyd Davis said all three of his neighbors have signed the application. One of the neighbors has submitted a complaint on more than one occasion. Jeff Macfarlane asked what the specific complaint is regarding. Boyd responded that it is dealing with the number of cars there and the auto repair that is taking place there. The City Council has also mentioned the unsightly nature of the business as people are going to the City Cemetery. The Code states that before he can be granted a Conditional Use Permit, he must come into compliance with all other Codes. So if he isn't in compliance because of junk in his driveway, he must clean that up first before this can be granted. Staff feels that should be a condition placed on this. Mr. Hamblin has a shed in his backyard and he plans to move the debris from the driveway to the new shed. He also has a small red shed that he has sold so it will be gone soon.

Things to be discussed would be the number of cars allowed at any given time relating to the business. Another nuisance is the improper parking or storage of inoperable vehicles; anything that is damaged or otherwise lacking essential parts or equipment for safe and lawful travel on public roads. Staff feels that if the Commission wants to approve this business, maybe a condition could be that he would only be allowed to work on cars inside the garage and is limited on the number of cars allowed to be in his driveway. A lengthy discussion took place regarding how to feasibly determine how many cars should be allowed at his residence for the business at one time. Staff also suggested that a condition could be placed on the permit stating that he shouldn't have any customer's cars parked on the street; they should only be parked in his driveway or the garage. The Code states that cars that are there must be registered. The customer may need to obtain a temporary license for their car so it may legally be parked on the property. Mr. Hamblin

may also need to require the vehicle owners to keep their cars at their home until he is ready to work on it. Troy Moyes stated that it all comes down to the sentence in the Code which states, "The use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes." There was a common consensus that allowing three cars at his home for repair would be a feasible amount. The conditions discussed were 1. All cars must be registered; if they are not registered, they must remain in the garage or behind a fence. 2. A three car maximum with no cars parked on the street overnight. 3. No repair work may be done on the street. 4. The debris on the property must be cleaned up so he is in compliance with City Code. A time frame was discussed regarding how long he would be given to clean up the debris on the property. The commission felt that 45 days would be ample time to come into compliance. The business license will not be issued until all of the conditions are met and the property is in compliance.

3. Discussion regarding multi-family dwellings in West Point City.

Troy Moyes wanted to have further discussion on the LAND USE Section under the Setbacks heading. These seem to vary drastically from city to city. He has seen five foot setbacks from sidewalk to property line clear up to a thirty foot setbacks. It's apparent that some developments are pushing the apartments out to the setback as far as possible so they can provide more open space within the complex for people to be. Jeremy Strong asked, "Could it possibly be a variable condition inside that zone, for example, traditional setbacks are 20 feet, but if you do A, B, C and D, you can have 10 feet." Troy Moyes said we could craft something like that, or if they propose something, we could just go through the regular channels and change the Code. A brief discussion took place regarding different scenarios where a smaller setback would be fine and other scenarios where a larger setback would be necessary. Troy Moyes suggested that it could be set according to whether it is located on a major road or a minor collector street. It was suggested that the Code be set at 25 feet if located on a major road and 10 feet on a minor collector street.

Under the BUILDING DESIGN Section and Articulation heading, Troy mentioned that they would need to discuss the Roofline and Walls next time.

Under the LANDSCAPING/LIGHTING Section and Open Space heading, they discussed what percentage they feel would work best. There was a general consensus that 30% open space was reasonable.

REGULAR MEETING

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Prayer:** given by Jake Shepherd
4. **Approval of Minutes from February 23, 2017.**

Jeff Macfarlane made a motion to approve the minutes from the meeting held on February 23, 2017, as written. Brad Lee seconded the motion. All voted aye.

5. **Public Comments:** None given
6. **Planning Commission Comments**

Jeff Macfarlane thanked Staff for the work they do!

Jeremy Strong thanked Staff as well. He also welcomed Jake Shepherd back to the commission.

Brad Lee welcomed Jake Shepherd back. Brad also expressed appreciation to Curtis Seeds for his service for the Planning Commission. Brad wished Curtis the best in his future endeavors and commented what a pleasure and honor it was to serve with him.

Jake Shepherd thanked the commission for the warm welcome and expressed how good it was to be back on the commission. Jake also told Staff that he has a couple of neighbors who are asking what will happen this summer with the area by the Loy Blake Park. Boyd Davis responded that there are no solid plans as of yet. This is a high priority for the City Council. They have put out a plan to have a splash pad and a soccer field. They would like to get started on those as soon as possible, but there are a lot of details that still need to be worked out.

Brian Vincent thanked the commission for the preparation they did for the work session today. He expressed appreciation for the professionalism that is exhibited in the meetings.

7. **Adjournment**

Brad Lee made a motion to adjourn at 7:11 p.m. Brian Vincent seconded the motion. All voted aye.


Chairperson – Brian Vincent


Secretary – Michelle Bailey