

Mayor
Kenneth Romney

**City Engineer/
Zoning
Administrator**
Ben White

City Recorder
Cathy Brightwell

WEST BOUNTIFUL PLANNING COMMISSION

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Chairman
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Mike Cottle
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Corey Sweat
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THE WEST BOUNTIFUL PLANNING COMMISSION WILL HOLD ITS REGULAR MEETING AT 7:30 PM ON TUESDAY, MARCH 26, 2019 AT THE CITY OFFICES

Prayer/Thought by Invitation

1. Accept Agenda.
2. Discuss Group Housing Code – Duane Huffman
3. Discuss Code Enforcement for Land Use – Duane Huffman.
4. Discuss Updates to General Plan – Ben White, Cathy Brightwell.
5. Staff report.
6. Consider Approval of Minutes from the February 26, 2019 Meeting.
7. Adjourn.

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 March 21, 2019 by Cathy Brightwell, City Recorder.

MEMORANDUM



TO: Planning Commission

DATE: March 21, 2019

FROM: Duane Huffman

RE: **Group Homes Code**

This memo introduces a proposed re-drafting of the city's land use code in relation to group home residential uses. This is a proactive effort, and not the result of any current or reasonably pending applications.

Background

Evolving case law and practices related to residential group home arrangements requires cities to regularly review land use codes to ensure that they are not discriminatory. West Bountiful's code (17.84) currently sets many standards for residential facilities for persons with disabilities (e.g. no more than five residents, and full compliance with ADA), and it requires the planning commission to make determinations on reasonable accommodations. It also sets up standards for residential facilities for elderly persons, which is not necessarily something that is protected by federal law.

Recommendation

In conjunction with a legal consultant that works extensively on group home issues, staff recommends that the planning commission consider the attached draft ordinance that would replace the current section 17.84. This draft ordinance takes a new approach to group homes. Instead of trying to define and regulate residential facilities for persons with disabilities, it defines a process whereby reasonable accommodations may be requested – otherwise all land use regulations apply – including the city's definition of single-family use as "not more than four unrelated persons, living together as a single housekeeping unit."

The purpose of the discussion for the planning commission meeting on March 26th is to discuss your overall thoughts on this approach, along with noting any questions or concerns you may have for further research.

WEST BOUNTIFUL CITY

ORDINANCE NO _____

AN ORDINANCE AMENDING TITLE 17 OF THE WEST BOUNTIFUL CITY MUNICIPAL CODE

PART I

FINDINGS

1. The City recognizes, through its observation, study and experience, as the United States Supreme Court recognized in *Village of Belle Terre v. Boraas*, 416 U.S. 1, 9, 94 S.Ct. 1536, 1541, 39 L.Ed.2d 797 (1974), that groups of unrelated persons living together in a single dwelling (“Group Living Arrangements”), including “[t]he regimes of boarding houses, fraternity houses, and the like present urban problems.” Among other things, “[m]ore people occupy a given space; more cars rather continuously pass by; more cars are parked; noise travels with crowds.” *Id.*

2. The U.S. Supreme Court, in an attempt to help clarify the appropriate role of local government with respect to community planning noted:

“The values it represents are spiritual as well as physical, aesthetic as well as monetary. It is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well balanced as well as carefully patrolled.”

Berman v. Parker, 348 U.S. 26, 33, 75 S. Ct. 98, 102-03, 99 L.Ed. 27 (1954).

The Supreme Court subsequently further commented in *Boraas* with respect to the right of a community in the preservation of residential areas:

A quiet place where yards are wide, people few, and motor vehicles restricted are legitimate guidelines in a land use project addressed to family needs. The police power is not confined to elimination of filth, stench, and unhealthy places. It is ample to lay out zones where family values, youth values, and the blessings of quiet seclusion and clean air make the area a sanctuary for people.”

3. The United States Supreme Court and federal appellate courts continue to recognize that “[l]and use planning and the adoption of land use restrictions constitute some of the most important functions performed by local government.” *Bryant Woods Inn, Inc. v. Howard County*, 124 F.3d 597, 603 (4th Cir. 1997) (citing *FERC v. Mississippi*, 456 U.S. 742, 768 n. 30, 102 S.Ct. 2126, 2141 n. 30, 72 L.Ed.2d 532 (1982) (“regulation of land use is perhaps the quintessential state activity”)). These courts continue to recognize that local land use ordinances may legitimately be utilized “to preserve ‘the character of neighborhoods, securing “zones where family values, youth values, and the blessings of quiet seclusion and clean air make the area a sanctuary for people.”” *Id.* (quoting *City of Edmonds v. Oxford House, Inc.*, 514 U.S. 725, 732-33, 115 S.Ct. 1776, 1780, 131 L.Ed.2d 801 (1995) (quoting *Village of Belle Terre v. Boraas*, 416 U.S. 1, 9, 94 S.Ct. 1536, 1541, 39 L.Ed.2d 797 (1974))).

4. According to the latest U.S. Census Bureau data for West Bountiful City, the average household size is 3.31 persons per household, 92.5% of housing is owner-occupied, and, for the years 2013-2017, 91.9% of individuals living in West Bountiful City lived in the same house for 1 year or more, representing a very low rate of resident transiency.

5. Among other things, Group Living Arrangements tend to introduce transiency, congestion, increased traffic, increased parking and other urban problems and challenges into communities.

6. Regulation of Group Living Arrangements serves to preserve housing densities consistent with both reality (in terms of the average composition of single family households in the City) and the goals and objectives of the General Plan. It also promotes permanence and stability in neighborhood composition, which promotes the general health and welfare of the City's residents.

7. Regulating Group Living Arrangements is an essential aspect of fostering the goals of the General Plan and the City's zoning scheme, which seeks uncrowded, stable (non-transitory) single family neighborhoods. For example, the City's Community Vision Statement embodied in the General Plan states:

West Bountiful is primarily a residential community that is proud of its agricultural history and highly values its rural atmosphere.

....

The residents view the City as one where residents live together as a community and actively participate in the betterment of their neighborhoods. Residents insist on attractive and high-quality development, and clean, well-maintained neighborhoods and streets.

(General Plan, June 5, 2007, at p. 6, § 1.2 (Community Vision Statement, Land Use).)

Residents of West Bountiful City value the high quality of homes and residential lifestyle of their community. Residents also value the opportunity to remain in the City as lifetime residents.

(*Id.* at p. 7 (Housing).)

These values are stated throughout the General Plan, including Goal 3 of the Land Use Element, which includes the goal to "[p]rotect the quality of existing residential neighborhoods," (*Id.* at p.22 (GOAL 3)), and "maintain existing neighborhood densities, while allowing for flexibility for various dwelling sizes in appropriate places." (*Id.* (OBJECTIVE 2, POLICY 1).)

8. The City also recognizes the need, in certain demonstrable circumstances, for individuals with handicaps or disabilities to live in a Group Living Arrangements. The City has consulted experts in the field and recognizes the need to provide some type of accommodation to them. However, there is tremendous variety in the type and nature of handicaps or disabilities that may need to be accommodated. There is also great variability in the scope and extent of required accommodations depending upon individual circumstances, the particular nature of the disability(ies) at issue, and other factors that are difficult to anticipate and predict through legislation. Additionally, the methods and means of treating or ameliorating those handicaps or disabilities is constantly changing and evolving. Therefore, the City has determined that the best

method for accommodating individuals with handicaps or disabilities is to create a fair and reasonable process for making accommodations in those instances where an accommodation is demonstrably necessary and reasonable.

9. In order to fulfill the purposes of the General Plan while accommodating the demonstrable needs of individuals with handicaps or disabilities to live in Group Living Arrangements, which are generally prohibited for individuals without disabilities or handicaps, the City desires to clarify its ordinances and define its practices and policies with regard to these issues.

WHEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF WEST BOUNTIFUL CITY, UTAH, AS FOLLOWS:

PART II

TEXT OF ORDINANCE

SECTION 1. Section 17.84 of the Municipal Code is hereby repealed in its entirety and replaced with the following text:

17.84.010 Reasonable Accommodation

- A. **Purpose.** The purpose of this chapter is to comply with the federal Fair Housing Act, Title II of the Americans with Disabilities Act, the Rehabilitation Act, the Utah Fair Housing Act, and any other federal or state law requiring necessary and reasonable accommodation for persons with a disability.
- B. **Interpretation.** None of the requirements of this zoning ordinance shall be interpreted to limit any reasonable accommodation necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling as required by federal or state law. To the extent there is a conflict between the provisions of this zoning ordinance and federal or state law, the federal or state law shall govern.
- C. **Reasonable Accommodations Required.** The City shall make reasonable accommodations in its rules, policies, practices, or services, when such accommodations may be necessary to afford persons with a disability equal opportunity to use and enjoy a dwelling.

17.84.020 Reasonable Accommodation Process

- A. **Application.** Any person or entity desiring an accommodation from any of the provisions of this zoning ordinance or any of the City's rules, policies, practices, or services shall make a written application to the zoning administrator. Each application shall specify, with supporting attachments and exhibits, the following:
 - 1. The name, mailing address, and phone number of the applicant(s);
 - 2. The address of the property to which the accommodation will be applied;
 - 3. The precise ordinance, rule, policy, practice or procedure from which the applicant seeks an accommodation;

4. Evidence of the nature and extent of the disability;
5. A description of the applicant's requested or proposed accommodation;
6. Evidence demonstrating why the accommodation is necessary to afford persons with a disability equal opportunity to use and enjoy a dwelling;
7. Evidence demonstrating why the accommodation is reasonable; and
8. All other evidence necessary for the findings set forth in Section 17.84.020.E.3.

B. Appointment of Hearing Officer. Within ten (10) business days of the zoning administrator's receipt of the accommodation application, the city shall appoint a neutral hearing officer with demonstrated experience as a hearing officer and knowledge of the federal Fair Housing Act, Title II of the Americans with Disabilities Act, the Rehabilitation Act, and the Utah Fair Housing Act to review the request for accommodation.

C. City Response to Application. Within ten (10) days of the hearing officer's appointment, the city shall transmit to the applicant and the hearing officer its written response to the accommodation application. The city's response shall include the city's position, if any, on the applicant's compliance with the accommodation application requirements and may include a staff report, discussion of any relevant provisions of law, and any other information or evidence relevant to the application and the findings set forth in Section 17.84.020.E.3.

D. Applicant Reply. Within five (5) days of receiving the city's response to the application under Section 17.84.020.C, the applicant may submit to the zoning administrator and the hearing officer a written reply, addressing any items or issues raised in the city's response to the application.

E. Hearing Officer Review.

1. Notice of hearing. Within five (5) days of receiving the applicant's reply or expiration of the reply period in Section 17.84.020.D, whichever occurs first, the hearing officer shall provide written notice to the applicant and the city of the date, time, and location of the informal hearing on the application, which hearing shall be held no later than fourteen (14) days from the date of such notice, unless otherwise mutually agreed by the applicant and city. The city shall ensure that notice of the hearing is provided to the public in compliance with the requirements for public meetings under the Utah Open and Public Meetings Act.
2. Hearing procedures. The hearing officer shall preside at the informal hearing. The hearing officer may direct the order and presentation of evidence and witnesses and determine all hearing procedures. The hearing shall give the applicant, the city and any other interested persons a reasonable opportunity to be heard on matters pertaining to the application. It is the applicant's burden to demonstrate that the accommodation is necessary and reasonable under the standards and definitions set forth in federal and state law, including federal and state case law.

3. Findings. Within fourteen (14) days after the final hearing, the hearing officer shall issue and serve the applicant and city with a written decision on the accommodation application. The hearing officer may either grant, grant with modifications or conditions, or deny a request for accommodation. The hearing officer may grant an accommodation only upon a finding that all of the following have been established:
 - a. The housing, which is the subject of the request for accommodation, will be used by a person with a disability.
 - b. The requested accommodation is necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling.
 - c. The requested accommodation is reasonable, including the following:
 - i. The requested accommodation will not impose an undue financial or administrative burden on the city; and
 - ii. The requested accommodation will not (a) be a fundamental alteration in the nature of or departure from the city's land use, zoning or building programs and (b) be fundamentally incompatible with surrounding land uses or change the residential character of a neighborhood.
 - d. The requested accommodation will not result in a dwelling being made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.
4. Other considerations. The hearing officer may weigh and consider any other relevant considerations under federal or state law, impose any necessary or reasonable conditions upon the granting of an accommodation request as the circumstances dictate or allow, receive and consider evidence or written submissions from the public or any interested persons, require additional written submissions from the city or applicant, and reasonably extend or modify any of the deadlines contained in this chapter with the exception of the deadline for filing appeals, which shall not and may not be extended.

F. **Other Laws/Effect of Decision.** While a request for accommodation is pending, all laws and regulations otherwise applicable to the applicant or the property that is the subject of the request shall remain in full force and effect. The written decision of the hearing officer shall constitute a final, appealable decision. Any reasonable accommodation shall not be deemed a variance, shall be personal to the applicant, and shall not run with the land.

G. **Appeal.** Any person or party aggrieved or adversely affected by the decision of the hearing officer may appeal the hearing officer's decision by filing a petition for review of the decision with the district court within thirty (30) days after the date of the written decision. The review of all such appeals shall be based upon the record presented to the hearing officer and shall not be *de novo*.

SECTION 2. Section 17.04.030 of the Municipal Code is hereby revised and amended as follows (terms underlined are added and terms lined through are deleted unless otherwise noted with terms to be inserted/deleted in alphabetical order):

“Disability” means a physical or mental impairment that substantially limits one or more of a person’s major life activities, including a person having a record of such an impairment or being regarded as having such an impairment. “Disability” includes a handicap or disability as defined by the federal Fair Housing Act, Title II of the Americans with Disabilities Act, the Rehabilitation Act, and the Utah Fair Housing Act. “Disability” does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. § 802, as amended.

“Group Living Arrangement” means a group living or congregate living arrangement where groups of more than four but not more than eight unrelated persons live together in a single dwelling or housekeeping unit. A Group Living Arrangement does not include hospitals, inpatient clinics or medical clinics.

~~“Hospital” means an institution providing health services, primarily for in-patients, and medical or surgical care of the sick or injured, including as an integral part of the institution such related facilities as laboratories, outpatient departments, training facilities, central service facilities, and staff offices.~~

“Hospital” means an institution licensed by the State of Utah which provides diagnostic, therapeutic, and rehabilitative services to individuals on both an inpatient and outpatient basis by or under the supervision of one or more physicians. A medical clinic or professional office which offers any inpatient or overnight care, or operates on a twenty-four (24) hour basis shall be considered to be a hospital. A hospital may include necessary support service facilities such as laboratories, outpatient units and training and central services, together with staff offices necessary to operate the hospital.

~~“Nursing home” (also “rest home” or “convalescent home”) means a home for the aged, chronically ill, or incurable persons in which three or more persons not of the immediate family are received, kept or provided with food and shelter or care for compensation; but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.~~

“Nursing home” means an intermediate care/nursing facility or a skilled nursing facility licensed by the state of Utah, for the care of individuals who, due to illness, advanced age, disability, or impairment require assistance and/or supervision on a twenty-four (24) hour per day basis.

“Residential facility for disabled family member” means a separate dwelling unit within a single family dwelling that provides independent living arrangements for a person with a disability who is related by blood, marriage, adoption or guardianship to the family occupying the single family dwelling. A dwelling housing a residential facility for disabled family member must appear from its exterior to be a single family dwelling, and its interior must provide for

~~access between the separate dwelling units. O more than two separate residential facilities for disabled family member shall, in addition to the primary single family dwelling unit, shall be allowed in any single family dwelling. A conditional use permit for a residential facility for disabled family member may be issued for a period of two years. The permit may be renewed for successive two year periods upon submission to the city of a report identifying the facility's occupants, and certifying the disability of one or more of the occupants as well as compliance with the zoning ordinance.~~

~~"Residential facility for elderly persons" means a single family or multiple family dwelling unit that meets the requirements of Utah Code Ann. § 10-9a-516, but does not include a health care facility as defined by Utah Code Ann. § 26-21-2.~~

~~"Residential facility for persons with a disability" means a residence:~~

- ~~1. In which more than one person with a disability resides; and~~
- ~~2. Is licensed or certified by the Department of Human Services under Utah Code Annotated, Title 62A, Chapter 2, Licensure of Programs and Facilities or is licensed or certified by the Department of Health under Utah Code Annotated, Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.~~
- ~~3. Which meets the requirements of Utah Code Ann. § 10-9-605, as amended.~~

~~"Residential health care facility" means a facility providing assistance with activities of daily living and social care of two or more residents who require protected living arrangements. Residents shall meet the following criteria before being admitted:~~

- ~~1. Be ambulatory or mobile and be capable of taking life-saving action in an emergency;~~
- ~~2. Have stable health and:~~
 - ~~1. require no assistance or only minimal assistance from facility staff in the activities of daily living;~~
 - ~~2. be capable of managing their own medication;~~
 - ~~3. be able to manage their personal hygiene;~~
- ~~3. A physician shall provide a written statement that the resident is capable of functioning in a residential care facility with minimal assistance.~~

SECTION 3. Sections 17.16.020, -17.16.030, 17.20.020, -17.20.030, -17.24.020, -17.24.030, -17.28.020, -17.28.030, -17.28.035, -17.32.020, -17.32.030, -17.32.035, -17.34.020, -17.34.030, -17.34.040, -17.36.020, -17.36.030, -17.36.035, -17.40.020, -17.40.030, -17.40.035, of the Municipal Code are deleted in their entirety and shall be replaced with the following text:

Permitted, conditional or prohibited uses of property in this zone are set forth in the table of uses found in Section 17.45.010 (Table of Uses).

SECTION 4. Section 17.45 of the Municipal Code is hereby enacted and shall provide as follows:

17.45.010 Permitted, Conditional and Prohibited Uses

Development or use of property not specifically allowed in the following Table of Uses or approved by the provisions of this zoning ordinance and the Municipal Code are prohibited:

Table of Uses

P = permitted, C = conditional. Uses that are neither permitted nor conditional uses are prohibited.

Uses	Zones								
	A-1	R-1-22	R-1-10	C-N	L-O	C-G	C-H	L-I	I-G
<i>Agricultural/Residential</i>									
Accessory Dwelling Units (ADU)	C	C	C						
Agricultural	P	P	P						
Child day care or nursery (pursuant to Chapter 5.28 Home Occupations)	C	C	C						
Equestrian facilities, commercial stables	C								
Farm animals	P	P	P						
Flag lots	C	C	C						
Group Living Arrangement									
Home occupations	P	P	P						
Kennels	C								
Natural resource extraction	C								
Public or quasi-public uses	C	C	C						
Restricted Lots (see definitions, Section 17.04.030)	C	C	C						
Single family dwellings	P	P	P						
<i>Commercial/Industrial</i>	A-1	R-1-22	R-1-10	C-N	L-O	C-G	C-H	L-I	I-G
Appliance and small equipment repair, including shoe repair				P	P	P	P	P	
Banking and financial services				C	P	P			
Car wash as ancillary to a convenience store							C		
Carpet cleaning				P					

	A-1	R-1-22	R-1-10	C-N	L-O	C-G	C-H	L-I	I-G
Ceramic business				P					
Commercial schools					C	C			
Computers: software and hardware, sales and service				P					
Contractor offices, including but not limited to general, electrical, mechanical, heat, ventilation and air conditioning, plumbing, and landscaping				C			P		
Convenience store					P	P	P		
Convenience store, less than two thousand (2,000) square feet;				P					
Correctional facilities or facilities with similar uses									
Custom woodworking (as approved by fire marshal)				C			C		
Drinking places (alcoholic beverages)					C	C	C		
Drug store				P	P	P			
Dry cleaning pickup station				P	P	P			
Equipment sales, service and/or repair, including outdoor repair and welding							C	P	P
General merchandise sales					P	P	C		
General merchandise sales (retail and wholesale) less than two thousand (2,000) square feet				P					
Grocery store					C	C			
Group Living Arrangement				P					
Hospitals and medical service facilities					C	C			
Hotel, Motel and extended stay facilities					C	C			
Indoor fabrication, machining or welding of materials or equipment not for resale							C		
Indoor storage units							P		
Lawn and yard care				C			P		
Learning studios such as karate, dance, gymnastics				P					

	A-1	R-1-22	R-1-10	C-N	L-O	C-G	C-H	L-I	I-G
Light manufacturing, compounding, processing, milling or packaging of products, which must be accomplished entirely within an enclosed structure, including but not limited to the following: 1. Automotive parts and accessories, but not including tires and batteries; 2. Steel structural members and related products; 3. Lumber and wood products; 4. Apparel and other textile products; 5. Paper and allied products; 6. Rubber and plastic products; and 7. Electronic and electrical products								C	
Liquor, retail, package store					C	C	C		
Lumber and other building material, retail sales					C	C	C		

[illegible]

	A-1	R-1-22	R-1-10	C-N	L-O	C-G	C-H	L-I	I-G
Outdoor storage of merchandise or equipment									C
Parts yards									
Personal services				P	P	P			
Printing and publishing				C			P	P	P
Public and quasi-public institutions				P	P	P	P	P	P
Real estate and/or insurance offices				P					
Reception center, meeting hall				C		C	C		
Recycling centers/recycling collection areas									
Research and development								P	P
Retail commercial uses								P	
Retail e-cigarette specialty businesses							C		C
Retail tobacco specialty businesses									
Reception center, meeting hall					C				
Restaurants, cafeterias and fast food eating establishments				C	P	P			
Salvage yards									
Schools and churches									
Sexually oriented businesses								P	
Sheet metal				C					
Silkscreening				C			P		
Single retail unit space over seventy-five thousand (75,000) square feet									
Storage of inflammable bulk liquids									C
Storage of petrochemicals, not for retail sales									
Theaters					C	C			
Warehousing and storage facilities								P	P
Warehousing, as a primary use							C		
Uses which are similar to those listed in this section for the zone in question as				C	C	C	C	C	C

determined by the planning commission									
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SECTION 5. Section 17.26.030.E.11 of the Municipal Code is hereby revised as follows:

11. ~~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.~~ Group Living Arrangements.

PASSED AND ORDERED PUBLISHED BY THE CITY COUNCIL OF WEST BOUNTIFUL CITY, UTAH, THIS ____ DAY OF _____ 20__.

The Mayor

ATTEST:

City Recorder

MEMORANDUM



TO: Mayor and City Council

DATE: March 21, 2019

FROM: Duane Huffman

RE: Land Use Enforcement Options

This memo is intended to start a discussion on potential changes or additions to the city code in relation to how the city enforces regulations in the land use code.

Background

As a small city, West Bountiful does not have resources dedicated specifically to enforcement of the land use code. Most enforcement that takes place now is preventative in nature – staff educates residents with questions and only issues building permits or business licenses if the property and use are compliant. However, city staff is regularly made aware of violations of the land use code. These violations can be in the form of illegal buildings, non-compliance with the farm animal regulations, unauthorized uses, and so on. In this regard, the city does not have a good track record of or tool box for enforcement.

I recently asked the city's legal counsel to summarize the city's options for enforcement per our current city code. Here is the list of our current tools:

1. Criminal Enforcement. Unless otherwise specified, violation of any city code is a Class B misdemeanor, and could be referred to the city prosecutor for prosecution. I believe that the League of Cities and Towns highly discourages the use of criminal enforcement for land use codes, but I am seeking more information on why.
2. Civil Action. The city can go to court to seek compliance with city code. This has been tried in the past, and the city has found the legal fees and process to be both expensive and ineffective.
3. Private Enforcement. Any affected property owners can take their own legal action against violators. I have found that residents do not respond well to the idea of taking upon themselves the burden of enforcement when they are unhappy with their neighbors.

In addition to these options, staff has also made use of attaching "Certificates of Non-Compliance" onto properties that have land use violations. These certificates incentivize property owners to come into compliance if they ever wish to obtain a building permit or sell the property. While useful, this solution can take a long time to bring a property into compliance.

Additional Options

Staff is interested in the planning commission's ideas and recommendations for further use of current tools and additional enforcement options. Such additional options could include administrative fines or integrating land use violations and nuisances (which already includes language for administrative fines).

The American Planning Association provides a chapter on land use enforcement in its on-line guidebook: <https://www.planning.org/growingsmart/guidebook/eleven.htm>

17.26 Blended Use District, B-U

17.26.010 Purpose

17.26.020 Application

17.26.030 Uses Within Blended Use (B-U) Zone

17.26.040 General Development Standards

17.26.050 Project Master Plan Requirements

17.26.060 Blended Use Application And Review Procedure

17.26.070 Development Agreement Requirements

17.26.010 Purpose

The purpose of the blended use (B-U) zone is to encourage vibrant, active centers through a variety of uses in a pedestrian, equestrian, and bicycle friendly environment and to promote architectural quality in building designs. Developments in the B-U zone shall focus on connecting to and extending the Legacy trail system and other city trail features. Additionally, developments in this zone shall ensure vibrant, quality projects that adequately buffer the traditional rural uses in the B-U zone and areas adjacent to the zone. The scale and intensity of a blended use development may vary depending on location, types of proposed uses and development theme.

The blended use development standards allow for the development or redevelopment of land in a manner that requires projects to be designed and planned to provide a suitable blend of residential, commercial, office, entertainment, recreation, technology based enterprises, open space, and other types of uses that create a quality design. Examples include an independent film production studio and related back lot operations, a distinctive retail destination with unique design plans, and a campus-type headquarters for a major and respected corporation. These examples are by way of illustration only and are not intended to exclude other projects that will satisfy the purposes of the B-U zone.

Adopted by Ord. 374-15 on 11/18/2015

17.26.020 Application

A. The blended use zone regulations apply to:

1. All property within the blended use (B-U) designation of the West Bountiful City zoning map; and
2. Any approved redevelopment/community development district within the B-U zone.

B. Projects in the B-U zone may incorporate blended uses in a vertical or horizontal manner. Vertical projects incorporate different land use types within the same building (e.g., office, retail, and commercial). Horizontal projects incorporate different land uses within adjacent buildings or areas on the same site. Both types of blended use in a project are encouraged.

HISTORY

Adopted by Ord. 374-15 on 11/18/2015

17.26.030 Uses Within Blended Use (B-U) Zone

- A. The variety of uses allowed in the B-U zone are intended to create a blend of commercial, entertainment, office, independent film production studio and related back lot operations, distinctive retail destination with unique design plans, campus-type headquarters for major corporations, personal services, and residential dwelling land use types that can be developed in a compact design that encourages compatibility of uses. Each B-U zone application may have a different theme, identified in the approval process that establishes the type of blended uses proposed. For redevelopment and community development districts this is identified in the associated development agreement. In addition, each project submitted for approval in this zone will be designed to be compatible with other adjacent or nearby projects so that the entire B-U zone, once fully developed, appears to have been seamlessly planned as one overall development, and the entire B-U zone follows a theme and pattern of development consistent with the overall purposes of this ordinance.

A key component of this zone is the requirement of a realistic blend of land use types, such as commercial, office, personal services, entertainment, recreational, and residential. A blended use development is required to have at least three (3) different land use types, unless the planning commission and city council for good cause approve fewer uses in the development and the development is otherwise consistent with this chapter. Developments in the B-U zone are expected to maintain an adequate balance of all uses within the project area, unless otherwise approved by the planning commission and city council. The permitted uses of the B-U zone shall be the uses specified in Section 17.26.030.D, as incorporated in a development that is finally approved under the processes set forth in this chapter.

- B. Developments in the B-U zone must be sensitive to the following specific blended use standards:
1. All projects in the B-U zone are required to respect the traditional character of development patterns of West Bountiful City. As such, any project in the northern portion of the B-U zone may incorporate and blend only single family detached residential dwellings, equestrian centers and associated facilities, parks and park amenities, trails and related trail amenities, open spaces, and other facilities that will enhance the rural character of this area within the B-U zone. Any project in the southern portion of the B-U zone may blend permitted uses such as: commercial, entertainment, office, independent film production studio and related back lot operations, distinctive retail destinations with unique design plans, campus-type headquarters for major corporations, and personal services. Projects in this portion of the zone shall be developed in a way that appropriately buffers residential areas located to the north and east of this area. The Davis

County A-1 Canal, as it runs through the B-U zone as of the enactment of this chapter, and the same alignment in the event the A-1 Canal is removed or realigned, will serve as the general line of demarcation between the southern and northern portions of this zone. Any planned project located within 300 feet of the A-1 Canal will be required to blend the appropriate residential, commercial, entertainment, office, campus-type uses, personal services, parks and park amenities, trails and related trail amenities, and open space in such a way that tapers densities and sufficiently transitions the respective uses of the southern and northern portions of the zone.

2. Projects in the B-U zone are encouraged to establish amenities that protect and enhance the equestrian center and associated facilities located in the northern portion of this zone.
 3. Projects in the B-U zone are encouraged to establish open space, recreational facilities, and trails or provide amenities that enhance existing city parks and trails.
 4. Projects in the B-U zone are encouraged to establish amenities that enhance the Lakeside Golf Course as an area attraction.
- C. The B-U zone is a unique blend of uses with no one land use type being a constant, dominant or prevailing use. Since the land uses allowed are determined by the project development plan and development agreement, with land uses dependent upon location and the type of project being developed within the B-U zone, this zone shall not be considered a commercial or a manufacturing zone for the purpose of off premise signage location under state law.
- D. The following uses shall be permitted for blended use zone projects, subject to approval as required in this chapter:
- a. Dining:
 - i. Restaurants (sit-down restaurants, but not fast food establishments);
 - ii. Specialty food or drink businesses with a maximum of two thousand (2,000) square feet of floor area.
 - b. Personal services:

Limited to hairdresser, barber, manicurist, tanning salon, and any other service expressly determined by the city council to be needed in the B-U area upon a finding of good cause.
 - c. Professional or business office:

Building footprint square footage limited to fifty thousand (50,000) square feet, except as otherwise approved by the planning commission and city council upon a finding of good cause.
 - d. Research, business park, and campus facility use:
 - i. General product research or development businesses and product assembly; provided there is no outdoor storage of

materials or product, and the use does not produce odors or create noise audible from the exterior of the building.

- ii. Individual buildings limited to fifty thousand (50,000) square foot footprint, except as otherwise approved by the planning commission and city council upon a finding of good cause.
- e. Residential of the following types: Single family dwelling units. The minimum residential lot size in the B-U zone shall be one lot per one (1) acre; this shall not apply to PUDs, which shall be regulated by provisions of Chapter 17.68 of the Municipal Code. Single family dwelling units in the B-U zone shall comply with the building standards and other provisions of Sections 17.16.040 through 17.16.080 of the Municipal Code.
- f. Retail of the following types: General retail sales, provided that individual retail use is limited in size to a maximum of seventy-five thousand (75,000) square feet, except as otherwise approved by the planning commission and city council upon a finding of good cause.
- g. Open space, parks, and other recreational facilities.
 - i. "Green" developments or other eco-friendly developments are encouraged.
 - ii. Public facilities – public parks, public open spaces, and public recreation facilities are highly encouraged in the B-U zone.
- h. Entertainment facilities and related venue developments of the following types:
 - i. Production studios – film, music, multimedia, digital media, sound stages, etc.
 - ii. Event venues – amphitheaters, outdoor stages, auditoriums, etc.
 - iii. Arenas and similar facilities.
- i. Equestrian centers and associated facilities. This includes large animal veterinary clinics, tack shops, riding school facilities, horse arenas, and other similar equestrian use facilities.

E. To ensure compatibility of uses, the following uses shall not be permitted in the B-U zone:

1. Any business with outdoor storage or storage containers (this includes storage parking, storage dismantling, and storage repair activities).
2. Any business with indoor storage units.
3. Any business with drive-through window service, except any such service that is determined to be an integral feature of a non-food service industry that will provide a desirable service to the community within the B-U zone. This determination will be made by the city council upon recommendation by the planning commission.
4. Car wash.

5. Convenience store, gas station, service station, auto lube and oil centers.
6. Manufacturing uses determined by the city council to be akin to industrial uses or otherwise use-intensive so as to be out of character with the overall design and purpose of the B-U zone.
7. Motor vehicle or motor recreational vehicle sales or display (whether wholesale or retail, and whether indoor or outdoor).
8. Motor vehicle repair, service, warehousing, salvage, or storage (whether indoor or outdoor).
9. Private clubs/taverns/cabarets.
10. Recycling centers/recycling collection areas.
11. 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.
12. Correctional facilities or facilities with similar uses.
13. Sexually oriented businesses.
14. Single retail unit space over seventy-five thousand (75,000) square feet, except as otherwise approved by the planning commission and city council upon a finding of good cause.
15. Shipping centers or other freight-oriented hubs.
16. Warehousing as a primary use.
17. Any use not specifically listed in this section as a permitted use in the B-U zone.

17.26.040 General Development Standards

- A. The blended use zone is intended to be applied only in the designated mapped B-U area of the city. The development of each blended use project shall be accomplished in a manner that the design of the buildings, parking, land uses and landscaping create a compact development (as described in Section 17.26.040.A.1.b) and quality design of building and spaces that are cohesive with other prior projects approved in the B-U zone after enactment of this ordinance. Attention to the design is required to create a vibrant, interactive and connected development, both internally and with respect to its surroundings. The approved project master plan and development agreement will determine site specific details, setbacks and building placements and use locations, within the limitations of this chapter, as each project will create its own individuality but still blend into an overall development theme for the B-U zone. Each project approved in the B-U Zone will be planned in a way to be cohesive and compatible with other adjacent or nearby projects so that the entire B-U zone, once fully developed, appears to have been seamlessly planned as one overall development that features pedestrian-friendly trails and accessibility with easy access to existing Legacy trail features. In order to guide the development of the project master plan each project approval will be required to comply with the following blended use general development standards.

a. Site Design:

General standards in the B-U zone, including redevelopment and community development districts:

- i. Setbacks: Buildings with ground level commercial uses should be located next to street property lines in order to create a street edge and give visual preference to pedestrian related access to the structures. Some variation for a portion of the building setback may be considered when outdoor spaces for the ground level use are developed such as outdoor dining or entrance features, but in no case will the front setback be more than thirty (30) feet without planning commission and city council approval upon a finding of good cause. The important consideration is maintaining the character of the existing streetscape massing and having building setbacks that respond appropriately to those characteristics. All side and rear setbacks will be determined based on potential impacts of noise, service areas, objectionable views created by the types of uses and the design and the appropriate mitigation needed along the perimeter of the development to transition from the blended use to the surrounding developments. In no case will the side setbacks be less than ten (10) feet (twenty (20) feet if the side setback is facing a street on a corner lot) and the rear setbacks less than twenty (20) feet without planning commission and city council approval upon a finding of good cause. For residential developments, the setbacks shall conform to the requirements of Section 17.16.050.
- ii. Compact Design: Buildings in a blended use project generally should be clustered so that they are easily accessible for pedestrians and for easy access to shared parking areas. Compact designs create walking connections between buildings. Clustering occurs by grouping the buildings so that several buildings can be accessed from one parking area and from common pedestrian accessways. The implementation of trail systems and connection to the Legacy trail system, where possible, is anticipated in order to encourage pedestrian, equestrian, and bicycle use throughout the B-U zone. Specific plans for buffering of neighboring residential areas shall be required as part of the design process.
- iii. Building Orientation: Buildings shall be designed so that the front of any building is oriented to the street. Development projects with buildings that are greater in depth (front to rear) than in width, shall have a central plaza or walkway between such buildings so the buildings front the plaza or walkway. When space is limited it may be necessary to create a

secondary entrance, which faces the street, from the parking area to the building.

- iv. **Parking/Access/Service Areas:** Parking lots shall be located to the side of buildings that front on a street or to the rear of the building areas so that they can service a variety of buildings in a clustered design concept rather than creating one large central parking area. Access to the parking areas should be directed to come from secondary streets when possible in order to create a continuity of buildings along the main street frontage. When parking is to the side of a building, it shall be set back from the front of the building a minimum of one-third ($1/3$) the depth (front to rear) of the building and the area in front of the parking shall be landscaped. Surface parking lots shall be landscaped with islands or peninsulas which include trees to help unify the parking lot as a visual amenity to the development. The separation of pedestrian access from vehicular traffic is an important design consideration. Service areas for buildings should be away from pedestrian access areas and public streets, and should be located in a way to be as hidden and non-intrusive as reasonably possible. The use of alleys for service access is encouraged.
- b. **Parking Requirements:** General standards in the B-U zone, including redevelopment and community development districts: The parking requirements for the land uses shall be based on the requirements of Chapter 17.52 of this title and these shall be considered as minimum parking requirements. Shared parking reductions are encouraged with the exception of shared parking for residential dwelling units. A minimum of two (2) stalls per dwelling unit is required. The residential parking shall be designed into the dwelling unit or in a detached structure on the same lot as the dwelling unit.
- c. **Building Design:**
 - i. Except as otherwise provided in Section 17.26.030.D.5, no building or other structure in the B-U zone may be erected to a height greater than fifty (50) feet; provided, that upon a finding of good cause, the planning commission and city council may authorize a non-residential building or structure to be erected to a height of up to one hundred (100) feet.

Penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and fire or parapet walls, skylight, towers, steeples, flagpoles, chimneys, smokestacks, water tanks, wireless or television masts, theater lofts, silos or similar structures may be erected above the height limits herein prescribed, but no space above the height limit shall be allowed for the purpose of providing additional floor space, nor shall such increased height be in violation of any other

ordinance or regulation of the City.

- ii. Any multilevel building in the B-U zone is intended to promote architectural quality in building design that this type of development needs. Visual interest is an important requirement in the building designs. Visual interest is created by, but not limited to, the following features:
 - 1. The building design has a visually distinct base, body and cap. These are generally achieved by means of the ground level being the base, the body being the middle portion of the building and the cap being the cornice.
 - 2. Upper story elements (balconies, windows, terraces) that overlook the street, plaza, and other pedestrian walkways.
 - 3. The perceived height and bulk of the building is relieved by variation in massing and articulation of facades to reduce the visual length of long walls. Variation of rooflines may also be used to reduce the apparent size of blended use buildings and provide visual interest.
 - 4. Building heights vary in the development to create visual relief and the building height transitions from taller buildings to lower heights to achieve compatibility with adjacent properties when the adjacent properties have a one- or two-story maximum height limitation.
- iii. Quality of the development is related to the choice of exterior materials used in a blended use project. Brick, atlas brick or stone should be the main exterior solid surface building materials. Simulated materials that provide a similar visual appearance may also be considered. Trims and accent materials may be architectural metals, wood or wood appearing materials.
- iv. Uses which are nonresidential at the ground level should have the primary frontages of the building that either front a street, plaza or pedestrian accessway designed with a minimum of seventy percent (70%) of the frontage in transparent glass to create storefront appearances and a transparency between the building and the pedestrian traffic.
- v. All sides of the buildings shall receive equal design consideration to the extent they are visible to the pedestrian access areas and the general street system or the building rises above other buildings and is visible from all sides.
- d. Open Space: Usable open space shall be provided within the blended use development. The amount and type of open space for any development will depend on the size, scale, and nature of the development. However, the minimum landscaping/open space

requirement for a development will be twenty (20) percent of the total development area. Approved open space may include, but is not limited to, commons, pocket parks, plazas, courtyards, landscape features, water fountains and features, greenbelts, and trail connections. The design shall encourage comfortable and safe pedestrian, equestrian, and bicycle use, including landscaping, seating areas, lighting, and related amenities (including water fountains and restrooms), as appropriate, as well as emphasis given to connections to public access such as connections to trail systems and water features. Unless otherwise specified in a separate written agreement with the city, all open space areas shall be maintained by property owners or homeowner associations. Particular emphasis should be placed on trail access to the Legacy Byway trail system and related amenities as well as providing connection routes that will allow and encourage pedestrian and bicycle access to nearby public transit stations such as the Frontrunner station near the Woods Cross and West Bountiful border.

- e. Signage: Proper signage design in a blended use development is important to the overall theme of the development and sign locations need to be part of the design of the project. Flat wall mounted signs and projecting signs designed at a pedestrian scale (between eight (8) and twelve (12) feet above the sidewalk) placed on the storefronts are the typical sign method that will be considered as appropriate if they otherwise meet the requirements of this title. Developments may be allowed one freestanding monument sign not to exceed eight feet (8') in height for each street frontage, provided the monument sign is constructed of the same materials as the adjacent buildings in the development and the sign fits in context with the development. Signage in this zone shall be compliant with the Legacy design overlay specifications.

17.26.050 Project Master Plan Requirements

- A. A project master plan is required for each project within the B-U zone. The project master plan establishes the project design, proposed uses and spatial relationships within the project and with adjacent properties, both inside and outside of the B-U zone. A proposed and final project master plan for the B-U zone shall consist of the following:
 - 1. A map or maps showing the proposed configuration of the project, including all buildings, parking, landscaping improvements, the general location of necessary public and/or private roads, development areas, open space areas (including both improved open space and natural open space), public and private trails, public and private parks and recreational facilities, public building sites, any major storm water drainage ways, any planned waterways, and the anticipated location of any other major public facilities

required to serve the residents and property owners within, as well as the residents outside of, the project area.

2. A description of the proposed uses for each development area shown on the project master plan map and phasing of the development, if any, including a description of the residential densities and commercial, office, entertainment, and technology facility intensities of development that are proposed within each development area or phase.
 3. Proposed building elevations showing design, materials and colors proposed for the buildings. For redevelopment/community development district projects that are considered for blended use zoning this will be required only at final approval of the redevelopment/community development project.
 4. A written description of any specific elements of the proposed project which are required to explain the project master plan map and the uses, densities, and intensities of development. Such descriptions shall include descriptions of any specific public facilities, open space elements, parks, trails, recreational facilities, roads or other improvements, alternative development options, phasing requirements, and any limitations to development due to environmental site conditions or potential impacts on adjacent uses.
 5. A description of the buffering efforts planned for the project to ensure minimal adverse impact on existing residential properties within 1,500 feet of the edge of the project or the boundary of the B-U zoning district, whichever distance is greater.
 6. Any other information deemed by the planning department to be useful or helpful in evaluating the proposed project.
- B. The proposed project master plan shall be reviewed at the same time as the proposed development agreement. The final project master plan shall be modified to incorporate any changes required in a final approval by the city; any conditions or limitations to the development of the land required in the final approval by the city; and any agreements, approvals or other matters anticipated or required by the city as necessary to develop the subject land. The project master plan shall be deemed approved upon incorporation into a final development agreement that is adopted by the planning commission and city council in accordance with the provisions of this chapter. In the event of any conflict between the provisions of a specific development agreement and the provisions of this chapter, the more restrictive provisions shall govern unless the development agreement expressly provides otherwise.

17.26.060 Blended Use Application And Review Procedure

- A. General Requirements: The planning commission will consider together an application for the use of property in the B-U zone and for project development agreement approval. The planning commission may recommend approval, approval with modifications, or denial of the application and development agreement. The city council will consider and take final action on the recommendation. Other related, project specific applications requiring approval of

the city council, including, without limitation, any necessary general plan text or map amendments shall be considered together and approved or denied at the same time as the application for the B-U zone use and the development agreement. All contiguous property under single ownership shall be planned in a unified and comprehensive fashion, and shall be included in an application for use within the B-U zone and project development agreement approval.

Notwithstanding any provision of this chapter to the contrary, a development project in the northern portion of the B-U zone (as defined in Section 17.26.030.B.1) involving only a permitted residential use under Section 17.26.030.D.5 of no more than five (5) lots, shall be exempt from the requirements of this chapter, as long as the project complies with the applicable provisions, requirements and processes of this title, including Chapter 17.16; Title 16; and other applicable laws.

B. Initial Application Requirements: The initial application shall include the following information:

1. A proposed project master plan containing the information required by Subsection 17.26.050.A of this chapter;
2. The key provisions proposed to be contained in a proposed development agreement, addressing all of the information required by Subsection 17.26.070.A of this chapter;
3. A statement addressing each of the findings required for the approval and adoption of a B-U zone application and development agreement, accompanied by such information as may be necessary or appropriate to allow the city to assess the project in light of the required findings;
4. A description of the existing ownership of the property, any property transactions necessary to implement the project master plan, and a description of how development responsibilities are intended to be handled in light of such ownership;
5. Any fee required for processing such application under chapter 16.08 of this code; and
6. The planning department may require the submission of additional preliminary site development information, including slope analysis and other conceptual planning information, to the extent reasonably necessary to permit the city to evaluate the proposed development.

C. Pre-application Conference: The applicant is encouraged to have a pre-application conference with a member of the planning department and city engineer to ascertain the appropriate scope of any additional information that may reasonably be expected in connection with any application for B-U zone use and development agreement approval. The applicant is also encouraged to meet with the building official and the fire marshal to be advised of how building and fire code requirements may affect the proposed development standards.

D. Technical Review Committee (TRC):

1. The city hereby establishes a Technical Review Committee (TRC) to review applications for B-U zone use and development agreement approval. The TRC will consist of up to seven (7) members who are professionals in specific fields, which may include architecture, civil engineering, landscape architecture, geotechnical engineering, traffic engineering, lighting design, and other professions as the city deems necessary.
2. The mayor, with the advice and consent of the city council, will appoint members of the TRC following consideration of responses to a request for qualifications. Members may be appointed for up to two (2) terms of (3) years each. The initial term shall be staggered, with two (2) members appointed for one (1) year, two (2) members appointed for two (2) years, and three (3) members appointed for three (3) years. Following the initial term, all terms will be three (3) years each, unless a member resigns or is removed earlier. Members of the TRC may be removed under the same procedures as for removal of members of the planning commission.

E. TRC Process

1. The applicant shall submit the initial application and concept plan details with a site plan outlining general development concepts, road systems, parking facilities, trail and park amenities, landscaping features, and all other related design features proposed to be included in the development, as required by this chapter. Upon submission of this information, the planning department will designate, based on the size, nature, location, and complexity of the proposed project, TRC members to review the submissions for technical feasibility and compliance with the requirements of this chapter. The designated members will review the submitted information and provide comments to the city, developer, and property owners. Development review by designated members of the TRC may be waived only by express formal action taken by the planning commission and city council based on the size, nature, location, and complexity of the project. TRC members shall have the ability to prepare reports or summaries as needed to assist in their review process.
2. Fees associated with TRC review of proposed development plans, including for any needed reports or summaries, will be assessed by the city and included as part of the application process. Payment of TRC fees will be expected prior to proceeding forward for further review. Any unused funds will be refunded to the developer or transferred to be used as payment toward respective application fees, at the request of the developer. All TRC members designated to review a particular project must approve the conceptual development plans before the project may move forward for further review by the planning commission and city council. Following approval by the designated TRC members, the applicant is encouraged to have a follow-up conference with a member of the planning department and city engineer.

- F. Visual Presentation: If not provided as part of the proposed project master plan, the applicant shall provide for the review of the planning commission and the city council a visual presentation, preferably using computer graphics, depicting the buildings to be constructed under the proposed project master plan within the context of existing, surrounding development. For projects in a redevelopment plan this presentation occurs at the time of the final development application.
- G. Planning Commission Review of Initial Application; Preparation of Proposed Development Agreement:

1. Following TRC review, the initial application shall be referred to the planning commission for review and comment at a public meeting. The city shall mail notice of the first such public meeting to owners of property within 2000 feet of the proposed project in accordance with applicable law. The purpose of such review is not to provide or indicate any approval or denial of such application, but to provide any comments that would assist the planning department in negotiating the actual terms and conditions of a proposed development agreement with the applicant; and to identify any other related, project-specific petitions requiring approval of the city council, such as required plan amendments, which petitions must be filed for concurrent consideration with the application.
2. After such review and comment of the planning commission, the planning department, with the assistance of the city attorney, and with the concurrence of the applicant, shall prepare a proposed development agreement containing all of the information required by Subsection 17.26.070.A of this chapter. After such proposed agreement is completed, the application shall then be scheduled for preliminary review before the planning commission, along with any other related, project-specific petitions requiring approval of the city council. For blended use consideration on an approved redevelopment or community development plan area, Subsection F.1 of this section and this Subsection F.2 are considered satisfied by the approval of the redevelopment/community development plan.
3. If the planning department and the applicant cannot concur on the terms and conditions of a proposed development agreement, the applicant may prepare and submit on his own behalf a proposed development agreement containing all of the information required by Subsection 17.26.070.A of this chapter. Upon the submission of such agreement, and the submission of any other related, project-specific plans requiring approval of the city council, the application shall be scheduled and noticed before the planning commission. The city shall mail notice of the first such public meeting to consider such preliminary review to owners of property within 2000 feet of the proposed project in accordance with applicable law.
4. The initial application under Section 17.26.060, together with the proposed development agreement containing all of the information required by Subsection 17.26.070.A of this chapter and the complete submission of all other related, project-specific petitions requiring approval of the city council, shall constitute a final application for development in the B-U zone.

H. Review of Final Application: The final application for development in the B-U zone shall be processed and reviewed following the normal processes and procedures for the review and approval of a development. The planning commission shall consider a recommendation of approval of the final application at a public meeting. The city shall mail notice of the public meeting to owners of property within 2000 feet of the proposed project in accordance with applicable law. Additionally, the city shall mail notice to owners of property within 2000 feet of the proposed project in accordance with applicable law of the first public meeting at which the city council may consider approval of the final application. If general plan amendments are required, the normal processes and procedures for plan amendments shall also be followed, including all noticing and public hearing requirements. Before a development is approved, the city council, after review and recommendation of the planning commission, shall make findings that:

1. The proposed blended use project to be developed in the B-U zone may be approved consistent with any general plan policies for the establishment of blended use projects or B-U zoning and the provisions of this chapter;
2. The proposed blended use project is described in a conceptual project master plan meeting the requirements of this chapter showing the general configuration of the project, including the general location of development areas and including the types of uses contemplated within each development area, necessary public and/or private roads, recreational and open space amenity areas reasonably anticipated to meet the needs of the residents, any public facilities and other features of the project, which conceptual project master plan is to be incorporated into, and adopted along with, the development agreement;
3. Adequate public and private utility services, streets and other public services can service the proposed development, and if improvements are needed, the development agreement contains a mechanism to assure the provision of such services in connection with any development approved pursuant to the development agreement;
4. The applicant has demonstrated the feasibility of complying with all necessary site development standards required for development in West Bountiful City and will establish mechanisms necessary to assure compliance with all applicable city ordinances;
5. The proposed development (considering such mitigating conditions as may be imposed) will not have a material adverse impact on other property in the vicinity of the development, including all property within the B-U zone and property within 1,500 feet of any border of the B-U zone;
6. The applicant has a reasonable financial plan providing for the construction and maintenance of all reasonably required facilities and other improvements in connection with the development of the project;
7. The proposed development furthers goals and objectives of the general plan;
8. Approving the development in the B-U zone will not adversely affect the public health, safety, and general welfare; and

9. The proposed development satisfies the purposes and requirements of this chapter.

Upon approval of an application for development in the B-U zone, the adoption of the final development agreement and the incorporation of the final project master plan shall be published as a key element of the development's approval. The city council's approval shall provide for the execution of the final development agreement and the recording of such agreement against the land covered by the project approvals.

- I. Application for Construction, Expansion and Use in a Redevelopment/Community Development District:

When a blended use zone is applied to the area of a redevelopment/community development district generally the properties have current development or uses on them which the redevelopment/community development plan seeks to upgrade or change. The application of the blended use zone on these properties based on the redevelopment/community development plan creates a new zoning regulation on the properties. The existing properties may continue their use at the time of development but any consideration of exterior improvements (excluding normal maintenance) to the site, new uses on the property, expansion of existing structures, proposals to construct new buildings or use vacant buildings shall not be allowed until such proposals are reviewed and approved as being consistent with the master development plan by which the property is zoned to B-U, unless special provisions for reuse are approved during the project review process and the conditions explained as additions to this section. A proposal for site improvements, new uses on the property, expansion of existing structures, new construction or use of vacant buildings shall be considered as a final project master plan and development agreement, and shall follow the general development standards and requirements of this chapter in order to receive approval.

17.26.070 Development Agreement Requirements

- A. The development agreement sets the specific standards and requirements that are attached to a specific blended use project. The conditions and limitations of the development agreement shall be based on the approval process and compliance with the general standards of this chapter and specific requirements established during the approval process. A proposed and final project development agreement shall include the following minimum requirements:

1. A legal description for the land covered by the proposed project and the names of all persons holding legal title to any portion of such land;

2. The configuration of the project as shown on a project master plan;
3. Development standards covering all proposed regulations governing the design, form, location, placement or configuration of any improvement to real property, whether privately or publicly owned, including, without limitation, standards for lot sizes, setbacks, height limitations, landscaping and parking requirements, lighting, signage, fencing, wall and buffer standards, and architectural design guidelines and specifications;
4. Development standards that may vary from development standards and regulations generally applicable to development in the city, regardless of zoning classification, but that are consistent with the general development standards of this chapter;
5. Development widths for public and private rights of way that may vary from existing city standards and specifications;
6. A description of the public facilities, services and utilities to be provided and a mechanism to assure that such facilities and services will be provided in connection with any development of the land;
7. A description of recreational or open space facilities and amenities to be provided and a mechanism to assure that such facilities and amenities will be provided in connection with any development of the land, including but not limited to specific plans for connectivity to existing trail features (in particular the Legacy trail system) and related trail amenities;
8. A description of plans established to buffer densities between existing residential areas and increasingly denser uses within the development area.
9. A description of the timing and phasing of development;
10. A description of the various city approvals required before the commencement of construction and other procedures that will be required after approval of the development agreement;
11. A description of such agreements, conditions or restrictions necessary to cause the project to achieve compliance with the general plan or redevelopment/community development plan, or otherwise necessary to make a finding required for approval of the project;
12. A requirement that the project be subject to periodic reviews to ascertain compliance with the requirements of the development agreement;
13. The terms and conditions under which the rights and benefits derived under the development agreement will expire or terminate based on the applicant's failure to meet the conditions of approval or commence development within a reasonable period of time, as well as any other terms and conditions affecting the duration of the agreement;
14. Provisions for enforcement of the terms and conditions of the development agreement;
15. Provisions for making amendments to the development agreement;
16. Such other terms as may be proposed and agreed to between the city and developer; and
17. Signatures by all owners of the property subject to the development agreement, and consented to by any holders of equitable interests in the property.

- B. The development agreement shall be reviewed at the same time as the proposed project master plan or in the case of a redevelopment/community development district at the time of the final approval. The development agreement shall be modified to incorporate any changes required in the final approval by the city; any conditions or limitations to the development of the land required in the final approval by the city; and any agreements, approvals or other matters anticipated or required by the city as necessary ultimately to develop the subject land. The development agreement shall be adopted and approved by the city council as part of the overall approval of the development of land in the blended use (B-U) zone classification, following review and recommendation of the planning commission and compliance with all notice and hearing requirements.
- C. All applicable development regulations and standards, including all applicable requirements of the Legacy overlay zone, shall apply to the B-U zone.
- D. The development standards required and allowed in the B-U zone adopted pursuant to this chapter shall be those development standards specified in an approved development agreement for the subject project and such other development standards and regulations as are contained in the zoning, subdivision and other land use and development laws and regulations of the city that are not specifically waived or varied in the approved development agreement. The development agreement may provide that the provisions of the development agreement shall control over any inconsistent development standard contained in this title; provided, that no development agreement provision that is less restrictive than the development standards of this chapter may be approved except upon a finding of good cause.
- E. The development approval processes and procedures that apply to projects governed by a development agreement, including, without limitation, subdivision, site plan, and other land use approvals, shall be those processes and procedures contained in the city's zoning, subdivision and other land use and development laws and regulations in existence and effective on the date of the application for the applicable land use approval, as applicable to the B-U zone and the unique criteria found in this chapter.
- F. Except as set forth in the following sentence, a development agreement and a project master plan for a project covered by a development agreement may be amended on such terms and following such processes as is provided in the final development agreement. Notwithstanding the provisions of the development agreement, any amendment to a development agreement that alters or modifies the duration of the development agreement, modifies the allowed uses, increases the maximum density or intensity of use, alters building height or setback requirements to the extent a finding of good cause would be necessary under this chapter, deletes any major public amenity described therein, or modifies provisions for reservation and dedication of land, including open space dedications, shall be deemed a substantial amendment. Such an amendment may be made only upon the review and recommendation of the planning commission and approval of the city council, after complying with all noticing and public hearing requirements for amendment of a development agreement.
- G. A development agreement may vest the right of the developer to develop the property that is the subject of the development agreement in accordance with the uses, densities, intensities, general configuration of development and any other

development standards described and incorporated into the approved development agreement. Any such vested right shall be subject to the following reserved legislative powers: No provision of a development agreement shall limit the future exercise of the police power of the city in enacting generally applicable land use laws after the date of the approval of a development agreement and to apply such land use laws to modify the vested rights established by an approved development agreement provided that the policies, facts and circumstances applicable to the new land use laws meet the compelling, countervailing public interest exception to the vested rights doctrine in the state of Utah.

- H. Contiguous parcels of land under separate ownership (or proposed to be developed by separate developers) may be included in the B-U zone on the condition that each parcel is covered by the development agreement, the development agreement is signed by all owners and, where applicable, any separate proposed developer. A single development agreement may address the joint or separate obligations of two (2) or more owners or two (2) or more developers of parcels within the property covered by the development agreement. Alternatively, the city may elect to require separate applications and/or separate development agreements under circumstances where property within the B-U zone is or will be owned and/or developed by two (2) or more owners or developers. The city may elect to process related applications for development agreements separately or together. Notwithstanding the above, the city may impose additional conditions and requirements deemed necessary to ensure the implementation of the project master plan considering existing and future ownership scenarios and the likelihood that more than one developer may be involved.
- I. The terms of a development agreement shall run with the land and shall be binding on the city and all successors in the ownership and occupancy of any portion of the project property covered by the development agreement. A development agreement may require that the land that is the subject of a development agreement be encumbered and regulated by private covenants, conditions and restrictions consistent with the requirements of the development agreement. The form and content of the covenants, conditions and restrictions shall be determined by the project owner, but the city shall review the instrument prior to recording and may require the inclusion or revision of provisions necessary to implement the approved development agreement.
- J. The development agreement shall be in a recordable form approved by the city attorney. For purposes of final execution, the applicant shall demonstrate to the satisfaction of the city attorney that the agreement will be executed by the owners of all of the property subject to the development agreement, by delivering to the city attorney a copy of a title policy or other documentation acceptable to the city attorney verifying such ownership.

II. LAND USE

2.2 Goals & Objectives

GOAL 1: Maintain the existing quality of life and predominantly rural image of West Bountiful.

OBJECTIVE 1: ~~Maintain a~~Update and adopt a future land use map that serves as a vision statement for the land use of the City, protects the characteristics of West Bountiful that are important to the community, and supports development and growth in appropriate areas.

POLICY 1: Review, and revise as necessary, the land uses categories identified in the City Code to ensure that they provide the necessary tools to implement the land use plan.

POLICY 2: Identify in the land use plan appropriate areas for future commercial development which will not adversely impact existing neighborhoods.

POLICY 3: Identify in the land use plan areas for future residential development.

POLICY 4: Identify in the land use plan key agricultural areas or open spaces to be preserved.

OBJECTIVE 2: Maintain large tracts of open or agricultural space in appropriate places to preserve the rural character of the City, but still allow for future commercial and residential development.

~~POLICY 1: Explore the feasibility of a transfer of development rights (TDR) program, including possible coordination with neighboring cities, to protect undeveloped space within the City, allow private property owners to realize property values, and enhance the viability of new development along 500 South and the new commuter rail station.~~

POLICY ~~12~~: Consider expanding the use of clustered development in areas with low density zoning to allow development potential, while still preserving large tracts of open space and the rural character of the community.

POLICY ~~23~~: Primarily maintain maximum density in designated residential areas, while considering the use of some flexible controls such as overlay zones, cluster development, or transfer of development rights (TDR)s to provide for some flexibility in lot sizes, and preserve open space.

POLICY ~~34~~: Regulate~~Avoid~~ development in areas less suitable for development. These may include areas with high water tables, wetlands, wildlife or waterfowl habitat, and other sensitive areas.

GOAL 2: Promote pride for West Bountiful City with clean, attractive, and well maintained districts and gateways.

OBJECTIVE 1: Identify key areas of the City for beautification efforts.

POLICY 1: ~~Encourage~~**Require** street tree planting with all new development proposals, and the proper maintenance of existing street trees.

POLICY 2: Develop standards that minimize site disturbance and preserve large, mature trees, views, and other rural qualities in areas of future development.

POLICY 3: Review and enforce all zoning laws, especially those that control abandoned vehicles and the accumulation of junk and debris.

OBJECTIVE 2: Major gateways into West Bountiful City should be identified, protected, and enhanced in order to emphasize, preserve, and protect the character and appearance of the community.

POLICY 1: Maintain consistent sidewalk, park strip, curb, gutter, and sidewalk standards at gateways to the City and along key transportation corridors.

POLICY 2: Implement and monitor a sign control ordinance capable of providing for the needs of commercial areas while at the same time protecting West Bountiful City from the negative impact of visual clutter.

POLICY 3: Provide adequate, visible, and attractive street signs. Encourage the placement of "Welcome to West Bountiful City" signs at major entry points such as 500 South, 400 North, 1600 North, 500 West, and the north entrance to the City at 640 West.

POLICY 4: Promote the use of street and yard lights in new and existing neighborhoods.

GOAL 3: Protect the quality of existing residential neighborhoods, ensure new residential development is of high quality, and provide a variety of housing opportunities.

OBJECTIVE 1: Ensure architectural consistency and quality design for all new residential development.

POLICY 1: Develop a series of residential design guidelines to ensure new development meets the City's standards.

POLICY 2: Encourage new residential development to be compatible in lot size, design, and layout with adjacent neighborhoods.

OBJECTIVE 2: Provide housing opportunities for West Bountiful residents of all stages of life.

POLICY 1: Protect and maintain existing neighborhood densities, while allowing for flexibility for various dwelling sizes in appropriate places.

POLICY 2: Identify in the land use plan appropriate areas for a variety of dwellings sizes, to meet the changing needs of existing West Bountiful residents.

POLICY 3: Consider the use of multi-family or townhome mixed-use development as buffers between commercial and single-family residential areas, in the vicinity of the commuter rail station, and other appropriate areas.

GOAL 4: Promote a stable economy by encouraging high-quality commercial and office development in appropriate areas.

OBJECTIVE 1: Provide for commercial, office, and light manufacturing development in appropriate places to strengthen the economic base of West Bountiful City.

POLICY 1: ~~Maintain~~~~Develop~~ commercial design guidelines to ensure that new commercial development fits into the existing character of the West Bountiful community.

POLICY 2: Cooperate with neighboring jurisdictions to plan for commercial and office development along key transportation corridors and near the Legacy Parkway interchanges.

POLICY 3: Allow for small-scale neighborhood retail establishments in appropriately zoned areas West of I-15 to meet resident needs.

POLICY 4: Encourage regional retail development at 500 West and 400 North.

POLICY 5: Encourage business park development near the Legacy Parkway interchange, or within designated annexation boundaries.

OBJECTIVE 2: Establish clear guidelines regarding the ability to conduct business from home.

POLICY 1: Establish clear policies that allow for appropriate home businesses and that encourage cottage industries. Respect of the character of residential neighborhoods and do not allow for home businesses with undue levels of traffic, noise, unusual hours of operation, unsightly appearance or disruption of neighborhoods.

GOAL 5: Promote and protect West Bountiful City's heritage and historic areas.

OBJECTIVE 1: Protect and enhance West Bountiful's historic district as the heart and focal point of the City.

POLICY 1: ~~Maintain~~Establish a local Historic Preservation Overlay Zone, which encompasses the nationally recognized West Bountiful Historic District and additional historic properties near the heart of the City, as a local regulatory tool to ensure protection and enhancement of the City's historic properties.

POLICY 2: ~~Develop and M~~maintain a Historic Preservation Overlay Zone ordinance, including performance criteria and design guideline language, to ensure that all new development, and redevelopment of existing historic properties, within the historic district respects and enhances the historic integrity of the district.

POLICY 3: Erect historic or vintage street signs with the original street names and numbering system along Onion Street, Howard Street, etc.

POLICY 4: Coordinate planning efforts within the historic district with the West Bountiful City Historic Preservation Commission to ensure that all new construction and streetscape projects enhance rather than compromise the integrity of the historic district.

OBJECTIVE 2: Identify opportunities for expanding the protection of historic structures within the City.

POLICY 1: Encourage the nomination of historic homes outside of the official West Bountiful Historic District for the National Register of Historic Places.

POLICY 2: Explore opportunities for designating additional nationally recognized historic districts, such as 1100 West, or expanding the boundaries of the current district.

POLICY 3: Consider the development of demolition and alteration restrictions for contributing historic structures in the City.

GOAL 6: Protect the safety and general welfare of the residents of West Bountiful City.

OBJECTIVE 1: Minimize the impact of industrial land uses on adjacent neighborhoods.

POLICY 1: Develop guidelines for the establishment of adequate buffer zones between industrial land uses and abutting commercial and residential uses.

POLICY 2: Where possible, Set~~est~~ablish minimum acceptable standards for noise levels, air quality, on-site lighting, odor, and water pollution.

**West Bountiful City
Planning Commission Meeting**

February 26, 2019

PENDING- Not Yet Approved

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 February 22, 2019 per state statutory requirement.

Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday, February 26, 2019 at West Bountiful City Hall, Davis County, Utah.

Those in Attendance:

MEMBERS PRESENT: Chairman Denis Hopkinson, Alan Malan, Mike Cottle, Laura Charchenko, Corey Sweat, Dee Vest (alternate)

STAFF PRESENT: Cathy Brightwell (Recorder) and Debbie McKean (Secretary)

EXCUSED: Council member Enquist, Ben White (City Engineer)

VISITORS: Gary Jacketta, Todd Willey, Jay Gough

The Planning Commission Meeting was called to order at 7:33 pm by Chairman Hopkinson. Alan Malan offered a prayer.

1. Accept Agenda

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

2. Consider Amended Plat for Highgate Estates Subdivision.

The Highgate Estates Subdivision plat was recorded earlier this month. As recorded, the plat contains 23 residential lots and one commercial lot. Two of the residential lots are 2-acres each. The subdivision owners desire to subdivide the two 2-acre lots into four 1-acre lots.

The proposed amended plat includes 25 residential lots and one commercial lot. Where the division of the 2-acre lots into four lots constitutes a subdivision, the Planning Commission must make a recommendation to the City Council before they can consider the request. Besides dividing the two 2-acres lots, the only other notable change to the plat is the Holly Drain Line Easement that extended through Lots 7 and 9 has been removed. The Owner has informed the City that an agreement to vacate the easement has been executed and it is waiting recordation with the County Recorder.

Commissioner Malan questioned Note 7 on the plat that identifies wells on lots 1, 3, 5, and 14. The developer confirmed that wells are located on lots 1, 3, and 13.

ACTION TAKEN:

Corey Sweat moved to approve the amended plat for Highgate Estates Subdivision with the correction to Note 7 that wells are located on lots 1, 3, and 13. Alan Malan seconded the motion and voting was unanimous in favor.

37

38 **3. Discuss Process for General Plan Update**

39 Commissioner packets included a memorandum dated February 22, 2019 from Ben White and Cathy
40 Brightwell regarding the 2019 General Plan Update, a copy of Utah Municipal Code for General Plan
41 Preparation, a copy of ULCT Staff Analysis of Senate Bill 34, and copies of Section II – Land Use and
42 Section VI – Housing.

43 Cathy Brightwell explained that West Bountiful City’s last full General Plan update concluded in
44 2007. While state law does not require that the full plan be updated after any set number of years, it
45 is recommended that it be updated every 8-10 years. Additionally, in 2018, the legislature required
46 that a city adopt the following elements to its General Plan by the end of 2019:

- 47 (a) a land use element as provided in Subsection [10-9a-403\(2\)\(a\)\(i\)](#)
48 (b) a transportation and traffic circulation element as provided in Subsection [10-9a-403\(2\)\(a\)\(ii\)](#);
49 (c) for a municipality, other than a town, after considering the factors included in Subsection
50 [10-9a-403\(2\)\(b\)\(ii\)](#), a plan to provide a realistic opportunity to meet the need for additional
51 moderate income housing within the next five years.

52 Chairman Hopkinson stated that the last time this document was reviewed there was lots of
53 discussion with hired consultants and many citizen committee representatives and it was a tough,
54 lengthy process. It’s not clear that we need to be that extensive this time.

55 Ms. Brightwell agreed that the process can be complicated, take a lot of time and be costly but
56 staff feels that the update can be handled in a simpler less complicated manner. Staff is currently
57 reviewing the document to see if there are areas that should be updated to match the current
58 environment or can be removed to simplify the document. Other than adding the required
59 information required by the recent legislation, they are looking to remove fluff and clean it up to be a
60 more usable/workable document. Chairman Hopkinson asked staff to consult the Commission before
61 excluding information from the last general plan document.

62 Although the city has experienced some major changes since 2007 as listed below, the values
63 expressed in the visioning statements probably still reflect the views of the community.

- 64 • Development resulting in 20% population growth (4,675 to 5,650), with more to come;
65 • Completion of Legacy Parkway;
66 • Completion of the Frontrunner Rail System;
67 • Major expansion of HollyFrontier Refinery;
68 • Significant upgrades to the city’s water, road, and parks infrastructure.

69 Chairman Hopkinson feels we are in compliance and meet the standards of the requirements for
70 low income housing due to multiple families in single dwelling homes and rentals. He does not believe
71 that more apartments are the answer to lower income housing, but that more affordable homes are
72 the answer. There was discussion about how the trailer park on 500 South is considered low income
73 housing.

Chairman Hopkinson explained that the Blended Use and Overlay Zones were used in the last Plan to satisfy the high-density requirement. It was felt by many that high density would have the least impact if it were on the outer edges of the City. There would also be less impact for ingress/egress to our City.

Corey Sweat would like to tighten up the language dealing with density and multi-family housing since the west side of our city is yet to be developed.

Mr. Malan inquired about the Agriculture Protection Area and asked if we should include our A-1 Zone as part of the protected area. Some discussion took place and it was suggested that we keep this in mind while reviewing the document.

Dee Vest suggested that we look at unincorporated county property that may be annexed into our City limits. Chairman Hopkinson stated that City Staff has been working with property owners in these areas to invite/entice them into our Community when neighboring properties have been annexed.

Cathy Brightwell briefly reviewed the Moderate-Income Housing report they submit bi-annually, and the level of detail requested regarding population, income, owner-occupied vs. rental properties, vacancies, mortgages, etc. Chairman Hopkinson commented that these figures are skewed and may not show a real picture.

As far as process, Chairman Hopkinson would like each Commissioner to review the Blended Use Zone and Overlay before they delve into the whole documents. He noted that this is a complicated area for many reasons, and it will take some serious study before making changes. Cathy will prepare copies of this part of the code for the next Planning Commission meeting. Chairman Hopkinson desires to review the Zoning section of the General Plan first and then review the Housing Section.

4. Staff Report

Cathy Brightwell:

- Ms. Brightwell provided an update on the Legacy Parkway truck ban. A new bill was introduced by Rep. Ballard and heard in committee on Monday. There was a large turn-out and a lot of very good arguments made but like the earlier Senate bill, it was not voted out of committee, (although with a vote of 5-6, it was a lot closer than the Senate bill). City Council planned to consider a supporting Resolution at its meeting next week, but it seems to be a dead point.

Chairman Hopkinson stated he has heard they may have a lawsuit on their hands.

- Cathy summarized the discussion from the city council's deliberation on yard regulations and the appreciation they had for the time and hard work put in by the planning commission. She noted they liked their suggestions and changes but may consider extending the distance using a step back process when determining heights/setbacks for accessory structures. The issue will be back on city council agenda next week.

113 5. **Consider Approval of Minutes from February 12, 2019 meeting.**

114 **ACTION TAKEN:**

115 *Laura Charchenko moved to approve of the minutes of the February 12, 2019 meeting as*
116 *corrected. Alan Malan seconded the motion and voting was unanimous in favor.*

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118

119 6. **Adjournment**

120 **ACTION TAKEN:**

121 *Alan Malan moved to adjourn the regular session of the Planning Commission meeting at*
122 *8:40 pm. Laura Charchenko seconded the motion. Voting was unanimous in favor.*

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126 *The foregoing was approved by the West Bountiful City Planning Commission on March 12, 2019 by*
127 *unanimous vote of all members present.*

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129

130 _____
Cathy Brightwell – City Recorder

131