

Mayor
Kenneth Romney

**City Engineer/
Zoning
Administrator**
Ben White

City Recorder
Cathy Brightwell

WEST BOUNTIFUL PLANNING COMMISSION

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Chairman
Denis Hopkinson

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

THE WEST BOUNTIFUL PLANNING COMMISSION WILL HOLD ITS REGULAR MEETING AT 7:30 PM ON TUESDAY, OCTOBER 22, 2019 AT THE CITY OFFICES

Prayer/Thought by Invitation

1. Accept Agenda.
2. Discuss Proposed Changes to WBMC 17.76 - Private Swimming Pools.
3. Discuss Proposed Changes to WBMC 17.52 - Off-street Parking.
4. Discuss Proposed Changes to WBMC 17.56 – Nonconforming Uses and Buildings
5. Discuss Proposed Changes to WBMC 17.08 - Zoning Administration, Construction, and Enforcement.
6. Staff report.
7. Consider Approval of Minutes from October 8, 2019 Meeting.
8. 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 October 18, 2019 by Cathy Brightwell, City Recorder.

**West Bountiful City
Planning Commission Meeting**

October 22, 2019

***Posting of Agenda** - The agenda for this meeting was posted on the State of Utah Public Notice website, on the West Bountiful City website, and at city hall on October 18, 2019 per state statutory requirement.*

Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday, October 22, 2019 at West Bountiful City Hall, Davis County, Utah.

Those in Attendance:

MEMBERS PRESENT: Chairman Denis Hopkinson, Alan Malan, Dee Vest, Laura Charchenko, Mike Cottle, Corey Sweat (joined meeting at 7:55 pm) Council member Kelly Enquist

MEMBERS EXCUSED:

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

VISITORS: Gary Jacketta

The Planning Commission meeting was called to order at 7:32 pm by Chairman Denis Hopkinson. Mike Cottle offered a prayer.

1. Accept Agenda

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

2. Discuss Proposed Changes to WBMC 17.76- Private Swimming Pools

Commissioner packets included a memorandum dated October 17, 2019 from Ben White regarding WBMC 17.76 Private Swimming Pools with an attached copy of suggested changes and a current copy of that section of Code.

Ben White explained that last year the City hired a consultant to review the city's municipal code for compliance with current state and federal laws. Staff and Planning Commission have been reviewing the land use code sections as resources permit. A red-line version of Chapter 17.76 Private Pools was given to the Commission for their review. The document included comments from the consultant as well as staff's recommended text changes. Current state law does not give cities the same latitude with conditional use permits as they once enjoyed and so it is necessary to develop compliance criteria where possible.

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

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

Commissioner's Comments:

Alan Malan felt the underground electrical requirement was a bit excessive. Mr. White clarified his misunderstanding about it, and he was in support of the suggested change.

Laura Charchenko asked if the electrical underground is standard. Ben responded that it is not required but nice to have.

Dee Vest and Mike Cottle supports what Staff has proposed.

Chairman Dennis Hopkinson was supportive of the suggested changes.

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

Commissioner packets included a memorandum from Ben White dated October 17, 2019 regarding Off Street Parking – WBMC 17.52 with a red-line copy of and a clean copy of the document.

A few reasons why the update is appropriate include:

1. There are very few parking lots in the city that have parking stalls the size required by this code.
2. The city's parking stall size exceeds those generally accepted in the industry.
3. The current code does not address the required drive isle width between parking stalls
4. Conditional Use permits to establish appropriate conditions are difficult if no guidelines exist.
5. Need to clarify that there are different standards for residential and commercial.
6. Staff was recently contacted by a group working on a refinance of the Commons development. They were struggling with the parking compliance.
 - a. The parking stall sizes do not meet code
 - b. According to code, there should be 300 more parking spaces
 - c. Difficult for staff to explain/determine compliance when there is no conditional use permit or other approval mechanism

Introduction:

Ben White explained that a situation came up last month when it was realized that a business was out of compliance with our current code. He pointed out that many of our businesses are out of compliance. The draft proposal now includes standards, although he has not specifically addressed the number of parking stalls for various types of businesses - 17.52.040. He noted that businesses vary in needs and this item could be addressed on an individual case basis. He added that most parking stalls are 9 x 18 with a 24-foot drive isle width and he is in favor of bigger stalls.

Commissioner's Comment:

Alan Malan asked about Costco parking stalls. Ben didn't know their size for sure but said most at the Commons are 9' x 18' with a 24' drive isle. Alan feels that 17.52.040 – 13. *All other uses not listed above: as determined by zoning administrator based on the nearest comparable use standards*, is ambiguous and should have a default. Some discussion took place and Ben explained how he came up with that language. Mr. Malan asked for an explanation for 17.52.050 – 4. *Access Requirements* where the

distance to a corner was changed from ten feet to twenty feet. Mr. White explained his rationale for the change to require driveways to be back 20 feet from corners. Alan was in support of that.

Laura Charchenko supports the proposed changes.

Dee Vest favors upsizing parking stalls instead of downsizing. Commissioner Vest asked if the reference to “hard surfaces” in 17.52.040 - 4 *Dwellings* means we are eliminating gravel? Ben explained that it was not the intent to do so but rather to keep people from parking on the grass/yard area. Staff will add clarify the language.

Dennis Hopkinson suggested rethinking the length of the stalls because of the crew cabs that have extra length. Some discussion took place. Ben reminded the Commission that the proposed size requirements are minimums.

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

Included in the Commissioner’s Packet is a redlined copy and a copy that was last reviewed in April 2018 of proposed changes to Chapter 17.56 - Non-Conforming Uses and Buildings. Staff is recommending changes to clarify when, if, and how nonconformities can be expanded, moved or replaced.

Commissioner’s Comments:

Chairman Hopkinson noted that the point to owning property is for owners to be able to do as they would like to do with their property. He referred to buildings that existed prior to the code being set and does not feel they should have to come into compliance. Ben stated the proposals have to do with setbacks, heights and additions to the current dwelling.

Corey Sweat supports the language that has been proposed. He understands the language to read that minor repairs are fine and would not apply to this. However, he has concerns with language in the current Nuisance ordinance.

Dee Vest wanted clarification that minor repairs should not be included as part of coming in compliance. Ben supported that and reiterated that it would be for additions only. Staff will clarify language.

Laura Charchenko is in support of the language. Ben stated that just because a dwelling is old does not mean it is grandfathered in. It is grandfathered in because it was existing before code was in place.

Alan Malan is concerned with Section 17.56.050- *Restoration of Damaged Buildings*. He would like to see clear language that if the building was destroyed by an act of god that it would be allowed to be replaced in the same footprint (especially those of a historical nature). Staff will make some improvements to the language.

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

Commissioner packets included a memorandum dated October 17, 2019 from Ben White regarding Zoning Administration, Construction and Enforcement - WBMC 17.08, and a copy of the City Nuisance ordinance, WBMC Section 8.12 - *Nuisances*.

Ben White explained that there are three general enforcement mechanisms available to the City to address land use violations as follows.

1. The City can file a notice of noncompliance with the County Recorder and hope that someday in the future a situation arises which would cause the property owner to become compliant.
2. City may bring a legal action against a property owner. This is a costly and time intensive process that even when the City is successful in being awarded a judgment, the judgment does not guarantee compliance.
3. Seek criminal charges. As with number 2, this is a lengthy process. Criminal charges may not be the most appropriate action for many land use violations. Nonetheless, it is one of the few mechanisms available.

Staff suggested the following language be adopted:

17.08.050 Legal Remedies For Violation

A. Any violation of any of the provisions of this Title is hereby declared a nuisance as defined and governed by Title 8.12 and is subject to all legal remedies thereof.

B. Any person, firm or corporation, whether as principal, agent or employee, who violates or causes the violation of any of the provisions of this title shall be guilty of a Class B misdemeanor and upon conviction thereof shall be punished as provided by law.

In addition, the following may institute injunction, mandamus, abatement or any other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, or maintenance or use:

1. *The city by action of the city council; or*
2. *Any owner of real estate within the zoning district in which an alleged violation of this title has occurred.*

Ben White explained that we receive a lot of complaints from residents and neighbors and in many cases, staff has difficulty doing anything about it. For the past couple of years, the city has placed tax liens on properties out of compliance with zoning and building code issues but his only works when the homeowner decides to sell and needs to clear the title. This proposal would create a way for action to be taken by following processes already set up in the Nuisance Ordinance. Staff feels this may be a better way to deal with complaints and violations for which there is currently no clear process in place.

Staff is recommending changes to the language in paragraph 17.08.050 *Legal Remedies for Violation* to declare land use violations a Nuisance. Nuisances have their own remediation process geared more toward fines for noncompliance as outlined in WBMC-Chapter 8.12.

Alan Malan feels adding this into the current Nuisance Code may have a lot of unintended consequences. He feels it is hard for a reason and should be kept that way. He pointed out that Section 8.12.040 is illegal. Nobody should be able to come on your property without a warrant and stated that this is against the 4th amendment. He noted that due process needs to be in place. Some

discussion took place regarding the legality of the ordinance. Mr. Malan stated that the police can issue citations, but our department doesn't wish to do so.

Laura Charchenko asked how we can balance the rights of the individuals versus the needs Staff has to keep things in check. She is open-minded to suggestions.

Dee Vest asked how other cities handle this situation. Mr. White will research other cities processes.

Mike Cottle feels this is a problem and very difficult to bring into balance.

Corey Sweat feels this is not a good document to adopt. Criminal activity is not our business to deal with. After some discussion he still doesn't feel that we have a right to do as the Nuisance ordinance is suggesting. He does feel that there are some situations where this could be useful like with a contractor, but not for individual residents. Ben pointed out that this Nuisance ordinance was adopted by city council in 2015; staff's proposal is just to refer to it in cases of enforcement related to zoning and building code violations.

Chairman Hopkinson explained why Staff is needing this support document to keep things in balance. He wants to make sure due process is in place. He noted that tonight they are trying to come up with language for a remedy to bring people into compliance primarily on zoning and building code issues. He explained how this document came to be in the past years to deal with situations that were occurring in our city years ago. A definition of nuisance would be helpful to sustain this document as a guideline for what can be included as a nuisance.

Ben White stated that he is trying to get a process put into place that will help Staff keep things in check that have become difficult to deal with. If we can't enforce our Code, why even have it? Residents are learning that violations do not typically come with consequences. There needs to be a way to convince people to follow our Code.

Staff will continue to work on suggestions to bring to the Commission for their consideration that is closer to what they desire be put into place and have proven to be successful in administering.

Chairman Hopkinson explained that we need to make comparisons to cities that are in close relation to what we are as a City (size, structure, etc.).

6. Staff Report

Ben White

- Ben provided an update on the well project. There is not much to report at this point. A sub-contractor is on site now cleaning up the well. He hopes to have information for them by the next meeting. Water quality test cannot be done until the well is clean and running clear water.
- Ben was asked about a project on the west side. He deferred to Councilman Enquist who reported that a southwest project (Smith Property) is being discussed with Woods Cross and has come up with a preliminary drawing of a blended use idea. Woods Cross will hold some open houses to introduce the proposal from the Smith's. The Smiths have stated they do not want to be annexed into West Bountiful and have requested to be annexed into Woods Cross City. Chairman Hopkinson would like to be notified when they are having those public meetings. Dee Vest suggested having a citizen's committee to follow that development. He suggested that maybe his son Trent and Gary Jacketta be part of that committee. He does not want to see Woods Cross take the area of that property that should be in West Bountiful.

- Dee Vest wants to discuss a proposal he has for the ADU Ordinance put on the next agenda. Chairman Hopkinson would like to postpone that agenda item for now.

Cathy Brightwell

- The next ULCT Land Use training will be held on November 2nd. Let her know if you are interested in attending. Chairman Hopkinson is interested in finding and attending a more in-depth training than what these workshops have to offer.

7. Consider Approval of Minutes from October 8, 2019 meeting.

ACTION TAKEN:

Dee Vest moved to approve of the minutes of the October 8, 2019 meeting as presented. Alan Malan seconded the motion and voting was unanimous in favor.

8. Adjourn:

ACTION TAKEN:

Alan Malan moved to adjourn the regular session of the Planning Commission meeting at 8:56 pm. Laura Charchenko seconded the motion. Voting was unanimous in favor.

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The foregoing was approved by the West Bountiful City Planning Commission on September 10, 2019 by unanimous vote of all members present.


Cathy Brightwell – City Recorder

