

Mayor
Kenneth Romney

**City Engineer/
Zoning
Administrator**
Ben White

City Recorder
Cathy Brightwell

WEST BOUNTIFUL PLANNING COMMISSION

550 North 800 West
West Bountiful, Utah 84087

Phone (801) 292-4486
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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.

MEMORANDUM



TO: PLANNING COMMISSION

DATE: OCTOBER 17, 2019

FROM: BEN WHITE

RE: PRIVATE SWIMMING POOLS – WBMC 17.76

Last year the City hired a consultant to review the city municipal code for compliance with current state and federal laws. Staff and the Planning Commission have been reviewing the land use code section by as resources permit. Attached is a red-line version of Chapter 17.76 Private Pools with both comments from the consultant as well as staff's recommended text changes.

As we have discussed, current state law does not give cities the same latitude with conditional use permits which they once enjoyed. As a result, we have been developing compliance criteria where possible.

Since 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.

PRIVATE SWIMMING POOLS

17.76 Swimming Pools And Recreational Facilities

17.76.010 Definitions

17.76.020 Private Pools And Use

17.76.030 Semi-Private Pools And Use

17.76.010 Definitions

As used in this chapter:

"**Private swimming pool**" means any constructed pool which is used, or intended to be used, as a swimming pool in connection with a single family residence and available only to the family of the household and private guests.

"**Semi-private swimming pool**" means any constructed pool which is used, or intended to be used, as a swimming pool in connection with a neighborhood recreational facility.

"**Swimming pool**" means any constructed pool used for bathing or swimming which is over twenty-four (24) inches in depth, or with a surface area exceeding two hundred fifty (250) square feet.

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

17.76.020 Private Pools And Use

Any private or semiprivate swimming pool not completely enclosed within a building having solid walls shall be set back at least ten (10) feet from property lines. Any swimming pool shall be completely surrounded by a fence or wall having a height of at least six feet. There shall be no openings larger than thirty-six (36) square inches, except for gates which shall be equipped with self-closing and self-latching devices. Such gates shall be securely locked when pool is not in use by persons invited by the owner. Private swimming pools will be permitted when they meet the necessary setback requirements. However, there must be no direct connection to the city's culinary water system or to the sewer system of the city.

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

17.76.030 Semi-Private Pools And Use

~~The planning commission may permit, temporarily or permanently, the use of land in any zoning district for~~ Semi-private swimming pools or recreational facilities may only be approved as part of a Planned Unit Development, provided that in all such cases the following conditions are met:

- A. The facilities are to be owned and maintained by the members, and a minimum of seventy-five (75) percent of the membership must be residents of the neighborhood or section of the subdivision in which the recreational facility is to be located.
- B. The area to be used for recreational purposes is of sufficient size to accommodate all proposed facilities, together with off-street parking, ~~when required by the planning commission,~~ of sufficient size to satisfy the needs of the area and still maintain a landscaped front yard of not less than thirty (30) feet and a landscaped side yard on both sides and rear of not less than ten (10) feet. Parking shall not be permitted in the front or street side yard setbacks.
- C. The area to be developed into a recreational area must be of such size and shape as to cause no undue infringement on the privacy of the abutting residential areas and be in keeping with the design of the neighborhood in which the recreational area is to be situated.

- D. A solid wall or substantial fence shall be required around the entire recreational area to a height of not less than six feet, the fence across the front of the property to be constructed no nearer to the front property line than the required front setback.
- E. Electrical.

a. ~~Overhead Conductor Clearances. No overhead electrical conductors are permitted. The following parts of swimming pools shall not be placed under existing service drop conductors or any other open overhead wiring; nor shall such wiring be installed above the following:~~

b. ~~Swimming pool and the area extending ten (10) feet horizontally from the inside of the walls of the pool;~~

c. ~~Diving structures; or~~

d. ~~a. Observation stands, towers and platforms.~~

2. Underground Conductor Clearances.

a. Distribution Lines Over Six Hundred (600) Volts. There shall be a minimum ten (10) feet horizontal separation between the closest edge of pool and lines distributing over six hundred (600) volts of electricity.

b. Service Lines Under Six Hundred (600) Volts. There shall be a minimum five feet horizontal separation between the closest edge of the pool and service lines carrying fewer than six hundred (600) volts of electricity.

F. Under no condition can any charge be made for the use of any of the facilities in the recreational area ~~unless specifically authorized by the planning commission. Notwithstanding, the owners shall share the cost of the facility's operations and maintenance.~~

G. Under no condition shall any type of retail or business facilities, ~~except including~~ vending machines ~~if approved as part of the Planned Unit Development,~~ be permitted in the recreational area, ~~except those specifically approved by the planning commission.~~

H. Club houses or any type of night-time indoor facilities will not be permitted in connection with such recreational and swimming pool facilities ~~except as specifically approved as part of the Planned Unit Development.~~

I. Before authorizing the recreational facility, complete plans for the development of the area must be submitted to the planning commission. In addition, a detailed outline showing how the area is to be financed and maintained shall be submitted. The planning commission may require a bond by the owners to guarantee compliance with the conditions upon which the area is approved. Failure to comply with any of these conditions shall render null and void the commission's authorization of the facility.

~~The planning commission shall notify owners of all abutting properties, and present the proposal at a public meeting, after which the commission shall recommend approval or disapproval of the application.~~

~~The planning commission will have the authority to place whatever additional conditions or restrictions, including a bond, which it may deem necessary to protect the character of the district and to insure the proper development and maintenance of such a recreational area. These conditions may include requiring that plans be approved which set forth the disposition or re-use of the property if the recreational area is abandoned by the developers or is not maintained in the manner agreed upon.~~

Commented [JJ1]: Policy - may want to clarify that owners share the costs but can't charge

Commented [JJ2]: State Law - excludes private improvements.
Policy - does the PC have the expertise to evaluate a financial plan - and should they?

Commented [JJ3]: Policy - specify a type of use

Commented [JJ4]: State Law - the neighbors do not have to be invited to a "meeting"

Commented [JJ5]: State Law - probably need criteria for denial

Commented [JJ6]: State Law - bond issue again and character is a vague concept

PRIVATE SWIMMING POOLS

17.76 Swimming Pools And Recreational Facilities

17.76.010 Definitions

17.76.020 Private Pools And Use

17.76.030 Semi-Private Pools And Use

17.76.010 Definitions

As used in this chapter:

"**Private swimming pool**" means any constructed pool which is used, or intended to be used, as a swimming pool in connection with a single family residence and available only to the family of the household and private guests.

"**Semi-private swimming pool**" means any constructed pool which is used, or intended to be used, as a swimming pool in connection with a neighborhood recreational facility.

"**Swimming pool**" means any constructed pool used for bathing or swimming which is over twenty-four (24) inches in depth, or with a surface area exceeding two hundred fifty (250) square feet.

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

17.76.020 Private Pools And Use

Any private or semiprivate swimming pool not completely enclosed within a building having solid walls shall be set back at least ten (10) feet from property lines. Any swimming pool shall be completely surrounded by a fence or wall having a height of at least six feet. There shall be no openings larger than thirty-six (36) square inches, except for gates which shall be equipped with self-closing and self-latching devices. Such gates shall be securely locked when pool is not in use by persons invited by the owner. Private swimming pools will be permitted when they meet the necessary setback requirements. However, there must be no direct connection to the city's culinary water system or to the sewer system of the city.

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

17.76.030 Semi-Private Pools And Use

Semi-private swimming pools or recreational facilities may only be approved as part of a Planned Unit Development, provided that in all such cases the following conditions are met:

- A. The facilities are to be owned and maintained by the members, and a minimum of seventy-five (75) percent of the membership must be residents of the neighborhood or section of the subdivision in which the recreational facility is to be located.
- B. The area to be used for recreational purposes is of sufficient size to accommodate all proposed facilities, together with off-street parking, of sufficient size to satisfy the needs of the area and still maintain a landscaped front yard of not less than thirty (30) feet and a landscaped side yard on both sides and rear of not less than ten (10) feet. Parking shall not be permitted in the front or street side yard setbacks.
- C. The area to be developed into a recreational area must be of such size and shape as to cause no undue infringement on the privacy of the abutting residential areas and be in keeping with the design of the neighborhood in which the recreational area is to be situated.
- D. A solid wall or substantial fence shall be required around the entire recreational area to a height of not less than six feet, the fence across the front of the property to be constructed no nearer to the front property line than the required front setback.

E. Electrical.

- a. Overhead Conductor Clearances. No overhead electrical conductors are permitted.
2. Underground Conductor Clearances.
 - a. Distribution Lines Over Six Hundred (600) Volts. There shall be a minimum ten (10) feet horizontal separation between the closest edge of pool and lines distributing over six hundred (600) volts of electricity.
 - b. Service Lines Under Six Hundred (600) Volts. There shall be a minimum five feet horizontal separation between the closest edge of the pool and service lines carrying fewer than six hundred (600) volts of electricity.
- F. Under no condition can any charge be made for the use of any of the facilities in the recreational area. Notwithstanding, the owners shall share the cost of the facility's operations and maintenance.
- G. Under no condition shall any type of retail or business facilities, except vending machines if approved as part of the Planned Unit Development, be permitted in the recreational area..
- H. Club houses or any type of night-time indoor facilities will not be permitted in connection with such recreational and swimming pool facilities except as specifically approved as part of the Planned Unit Development
- I. Before authorizing the recreational facility, complete plans for the development of the area must be submitted to the planning commission. In addition, a detailed outline showing how the area is to be financed and maintained shall be submitted. The planning commission may require a bond by the owners to guarantee compliance with the conditions upon which the area is approved. Failure to comply with any of these conditions shall render null and void the commission's authorization of the facility.

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

MEMORANDUM



TO: PLANNING COMMISSION

DATE: OCTOBER 17, 2019

FROM: BEN WHITE

RE: OFF STREET PARKING - WBMC 17.52

Included with this memo is staff's recommended updates to the city's off-street parking ordinance. 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

17.52 OFF STREET PARKING

January 11, 2019

17.52.010 Off-Street Parking Required

At the time any commercial, industrial or retail use~~non-residential~~ building or structure is erected or enlarged or increased in capacity or any use is established, off-street parking spaces shall be provided for automobiles in accordance with the following requirements,~~or as otherwise required by conditional use permit.~~

HISTORY

Adopted by Ord. [374-15](#) on 11/18/2015

17.52.020 Size

~~Other than single family residential ,~~ the dimensions of each off-street parking space, exclusive of access drives or aisles, shall be at least ~~ten~~nine (109) feet by twenty (20) feet for diagonal and ninety (90) degree and diagonal spaces, and ten (10) feet by twenty-~~two~~four (224) feet for parallel spaces. ~~However, in parking lots of not less than twenty (20) parking spaces, upon site plan approval by the planning commission, up to forty (40) percent of such spaces may be seven and one-half feet by fifteen (15) feet if marked and used for compact automobiles only.~~ Drive aisle widths shall be a minimum of twenty-two (22) feet behind ninety (90) degree and parallel parking and sixteen (16) feet for angled parking.

HISTORY

Adopted by Ord. [374-15](#) on 11/18/2015

17.52.030 Access To Individual Parking Space

Except for ~~single family and two-family residential~~ dwellings, direct access to each parking space shall be from a private driveway and not from a public street. All parking spaces shall have independent access not blocked by another parking space or other obstacle.

HISTORY

Adopted by Ord. [374-15](#) on 11/18/2015

17.52.040 Number Of Parking Spaces Required

An adequate number of off-street parking spaces shall be provided for all uses as follows:

1. Business or professional offices: one parking space for each two hundred (200) square feet of floor area.
2. Churches with fixed seating: one parking space for each 3.5 fixed seats, or one parking space for each seven feet of linear pew, whichever is greater.
3. Churches without fixed seats, sports arenas, auditoriums, theaters, assembly halls, meeting rooms: one parking space for each three seats of maximum seating capacity.
4. Dwellings: two parking spaces for each dwelling unit including garages and hard surface driveways.
5. Furniture and appliance stores: one parking space for each six hundred (600) square feet of floor area.
6. Hospitals: two parking spaces for each bed.
7. Hotels and motels: one space for each living or sleeping unit, plus parking space for all accessory uses as herein specified including employee parking.
8. Nursing homes: one ~~four~~ parking space for each employee at the highest shifts, plus one space for each five beds.
9. Restaurants, taverns, private clubs, and all other similar dining and/or drinking establishments: one parking space for each 3.5 seats or one parking space for each one hundred (100) square feet of floor area (excluding kitchen, storage, etc.), whichever is greater.

10. Retail stores (except as provided in subsection E of this section): one parking space for each one hundred (100) square feet of retail floor space.
11. Wholesale establishments, warehouses, manufacturing establishments and all industrial uses: as determined by ~~conditional use permit or by planned unit development requirements if applicable, or by the planning commission~~ zoning administrator, but in no case less than one space for each employee projected for the highest employment shift plus additional parking for vehicles used in conducting the business and customer parking.
12. Shopping center or other groups of uses not listed above: one parking space for each ~~two~~ one hundred ~~fifty~~ (20150) square feet of total floor space, or as determined by conditional use permit.
13. All other uses not listed above: as determined by ~~conditional use permit~~ zoning administrator based on the nearest comparable use standards.

HISTORY

Adopted by Ord. [374-15](#) on 11/18/2015

17.52.050 Access Requirements

Adequate ingress and egress to and from all uses shall be provided as follows:

1. Residential Lots. For each ~~R-1-10, R-1-22, and A-1~~ residential lot, not more than two drive approaches which shall be a minimum of twelve (12) feet each and a maximum of thirty-two (32) feet wide at the property line, with a separation island of a minimum width of twelve (12) feet, maximum combined drive approach width of thirty-two (32) feet. The drive approach flare entrance shall be no closer than four feet (4') to the abutting property line, or as approved by the City Engineer.
2. Other Than Residential Lots. Access shall be provided to meet the following requirements:
 1. Not more than two driveways shall be used for each one hundred (100) feet of frontage on any street;
 2. No two of said driveways shall be closer to each other than twelve (12) feet, and no driveway shall be closer to a side property line than three feet;
 3. Each driveway shall be not more than thirty-five (35) feet wide, measured at right angles to the center line of the driveway, except as increased by permissible curb return radii. The entire flare of any return radius shall fall within the right-of-way;
 4. No driveway shall be closer than ~~twenty~~ 24 (240) feet to the point of intersection of two property lines at any corner as measured along the property line, and no driveway shall extend across such extended property line; and
 5. On a street where there are no curbs or gutters, all driveways shall be well marked and protection provided the entire length of the frontage exclusive of the driveways as per approved plans.

HISTORY

Adopted by Ord. [374-15](#) on 11/18/2015

17.52.060 Maintenance Of Parking Lots

Every parcel of land used as a public or private parking lot shall be developed and maintained in accordance with the following requirements:

1. Surfacing. Each off-street parking lot shall be surfaced with an asphaltic or Portland cement or other binder pavement and permanently maintained so as to provide a dustless surface. The parking area shall be so graded as to dispose of all surface water consistent with WBMC 13.30 Storm Water Management. ~~If such water is to be carried to adjacent streets, it shall be piped under sidewalks.~~

2. Screening. The sides and rear of any off-street parking lot which adjoins an area which is to remain primarily residential shall be screened from such area by a masonry wall or solid visual barrier fence not less than four nor more than six feet in height.
3. Landscaping. Each parking lot shall provide along the entire frontage of the property a minimum depth of ten (10) feet of irrigated and permanently maintained landscaping. be adequately landscaped to comply with a plan approved by the planning commission and such landscaping shall be permanently maintained.
4. Lighting. Lighting used to illuminate any parking lot shall be arranged to reflect the light away from adjoining residential premises and from street traffic.

HISTORY

Adopted by Ord. [374-15](#) on 11/18/2015

17.52.070 Location Of Off-Street Parking

Off-street parking shall not be allowed in required front yard setbacks except by conditional use permit and in areas where the character of the street and general landscaping will not be adversely affected. Off-street parking in non-residential districts is allowed in the front setback provided that the parking area is set back the- a minimum ten (10) feet from the front property line, described- and the balance of the front yard setback along the entire frontage of the property is permanently landscaped.

HISTORY

Adopted by Ord. [374-15](#) on 11/18/2015

17.52 OFF STREET PARKING

17.52.010 Off-Street Parking Required

At the time any commercial, industrial or retail use building or structure is erected or enlarged or increased in capacity or any use is established, off-street parking spaces shall be provided for automobiles in accordance with the following requirements.

HISTORY

Adopted by Ord. [374-15](#) on 11/18/2015

17.52.020 Size

Other than single family residential , the dimensions of each off-street parking space, exclusive of access drives or aisles, shall be at least nine (9) feet by twenty (20) feet for diagonal and ninety (90) degree and diagonal spaces, and ten (10) feet by twenty-four (24) feet for parallel spaces.. Drive aisle widths shall be a minimum of twenty-two (22) feet behind ninety (90) degree and parallel parking and sixteen (16) feet for angled parking.

HISTORY

Adopted by Ord. [374-15](#) on 11/18/2015

17.52.030 Access To Individual Parking Space

Except for residential dwellings, direct access to each parking space shall be from a private driveway and not from a public street. All parking spaces shall have independent access not blocked by another parking space or other obstacle.

HISTORY

Adopted by Ord. [374-15](#) on 11/18/2015

17.52.040 Number Of Parking Spaces Required

An adequate number of off-street parking spaces shall be provided for all uses as follows:

1. Business or professional offices: one parking space for each two hundred (200) square feet of floor area.
2. Churches with fixed seating: one parking space for each 3.5 fixed seats, or one parking space for each seven feet of linear pew, whichever is greater.
3. Churches without fixed seats, sports arenas, auditoriums, theaters, assembly halls, meeting rooms: one parking space for each three seats of maximum seating capacity.
4. Dwellings: two parking spaces for each dwelling unit including garages and hard surface driveways
5. Furniture and appliance stores: one parking space for each six hundred (600) square feet of floor area.
6. Hospitals: two parking spaces for each bed.
7. Hotels and motels: one space for each living or sleeping unit, plus parking space for all accessory uses as herein specified including employee parking.
8. Nursing homes: one parking space for each employee at the highest shift, plus one space for each five beds.
9. Restaurants, taverns, private clubs, and all other similar dining and/or drinking establishments: one parking space for each 3.5 seats or one parking space for each one hundred (100) square feet of floor area (excluding kitchen, storage, etc.), whichever is greater.
10. Retail stores (except as provided in subsection E of this section): one parking space for each one hundred (100) square feet of retail floor space.
11. Wholesale establishments, warehouses, manufacturing establishments and all industrial uses: as determined by zoning administrator, but in no case less than one space for each employee projected

for the highest employment shift plus additional parking for vehicles used in conducting the business and customer parking.

12. Shopping center or other groups of uses not listed above: one parking space for each two hundred (200) square feet of total floor space, or as determined by conditional use permit.
13. All other uses not listed above: as determined by zoning administrator based on the nearest comparable use standards.

HISTORY

Adopted by Ord. [374-15](#) on 11/18/2015

17.52.050 Access Requirements

Adequate ingress and egress to and from all uses shall be provided as follows:

1. Residential Lots. For each residential lot, not more than two drive approaches which shall be a minimum of twelve (12) feet each and a maximum of thirty-two (32) feet wide at the property line, with a separation island of a minimum width of twelve (12) feet, maximum combined drive approach width of thirty-two (32) feet. The drive approach flare entrance shall be no closer than four feet (4') to the abutting property line, or as approved by the City Engineer.
2. Other Than Residential Lots. Access shall be provided to meet the following requirements:
 1. Not more than two driveways shall be used for each one hundred (100) feet of frontage on any street;
 2. No two of said driveways shall be closer to each other than twelve (12) feet, and no driveway shall be closer to a side property line than three feet;
 3. Each driveway shall be not more than thirty-five (35) feet wide, measured at right angles to the center line of the driveway, except as increased by permissible curb return radii. The entire flare of any return radius shall fall within the right-of-way;
 4. No driveway shall be closer than twenty (20) feet to the point of intersection of two property lines at any corner as measured along the property line, and no driveway shall extend across such extended property line; and
 5. On a street where there are no curbs or gutters, all driveways shall be well marked and protection provided the entire length of the frontage exclusive of the driveways as per approved plans.

HISTORY

Adopted by Ord. [374-15](#) on 11/18/2015

17.52.060 Maintenance Of Parking Lots

Every parcel of land used as a public or private parking lot shall be developed and maintained in accordance with the following requirements:

1. Surfacing. Each off-street parking lot shall be surfaced with an asphaltic or Portland cement or other binder pavement and permanently maintained so as to provide a dustless surface. The parking area shall be so graded as to dispose of all surface water consistent with WBMC 13.30 Storm Water Management.
2. Screening. The sides and rear of any off-street parking lot which adjoins an area which is to remain primarily residential shall be screened from such area by a masonry wall or solid visual barrier fence not less than four nor more than six feet in height.
3. Landscaping. Each parking lot shall provide along the entire frontage of the property a minimum depth of ten (10) feet of irrigated and permanently maintained landscaping.

4. Lighting. Lighting used to illuminate any parking lot shall be arranged to reflect the light away from adjoining residential premises and from street traffic.

HISTORY

Adopted by Ord. [374-15](#) on 11/18/2015

17.52.070 Location Of Off-Street Parking

Off-street parking in non-residential districts is allowed in the front setback provided that the parking area is set back a minimum ten (10) feet from the front property line, and the balance of the front yard setback along the entire frontage of the property is permanently landscaped.

HISTORY

Adopted by Ord. [374-15](#) on 11/18/2015

MEMORANDUM



TO: PLANNING COMMISSION

DATE: OCTOBER 17, 2019

FROM: BEN WHITE

RE: NONCONFORMING USES AND BUILDINGS CHAPTER 17.56

Staff is recommending changes to the Nonconforming Uses and Buildings chapter to clarify when, if, and how nonconformities can be expanded, moved or replaced.

17.56 Nonconforming Buildings And Uses

17.56.010 Maintenance Permitted

17.56.020 Repairs And Alterations

17.56.030 Additions, Enlargements And Moving

17.56.040 Alteration When Parking Insufficient

17.56.050 Restoration Of Damaged Buildings

17.56.060 Continuance Of Nonconforming Use; Limitations

17.56.070 Effect Of Vacating A Nonconforming Building Or Ceasing A Nonconforming Use

17.56.080 Continuation Of Pre-Existing Nonconforming Use Permitted

17.56.090 Effect Of Change Of Use

17.56.100 Expansion Permitted; Limitations

17.56.110 Nonconforming Mobile Home Units

17.56.010 Maintenance Permitted

A nonconforming building may be maintained.

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

17.56.020 Repairs And Alterations

Repairs and structural alterations may be made to a nonconforming building or to a building housing a nonconforming use.

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

17.56.030 Additions, Enlargements And Moving

- A. A building or structure occupied by a nonconforming use or a building or structure noncomplying as to height, area or yard regulations shall not be added to or enlarged in any manner, or moved to another location on the lot, except upon issuance of a permit as provided in subsection (B) of this section.
- B. ~~The planning commission, after public hearing, may issue a permit authorizing a building or structure occupied by a nonconforming use or a~~ building or structure noncomplying as to height, area, or yard regulations to be added to, enlarged, or moved to a new location on the lot if ~~the commission finds:~~
- ~~The proposed change will bring the nonconformity into compliance; or That the proposed change will not be inconsistent with the purposes of this title or the policies expressed in the city's general plan;~~
 - ~~That the proposed change will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity of the nonconforming use or noncomplying structure; and~~

Commented [M1]: State Law/Policy: Need to address other NONCONFORMITIES in this chapter if you find you address them and also need to establish burden of proof for ESTABLISHING LEGAL EXISTENCE for the nonconformity and for continuation and abandonment. Also need to clarify the process for how one applies and that there is an appeal process. Also should add section dealing with other nonconformities..

Commented [M2]: Policy: Discussion. Is this the best process and do you need a hearing? Does this work for you? These are all choices not mandated by State

2. In the case of an addition to or enlargement of a building or structure which is noncomplying as to a yard setback, that the addition or enlargement will not encroach into the required yard setback, ~~farther than the noncomplying structure encroaches into the same yard setback.~~

~~C. The planning commission may attach conditions, such as landscape or buffering requirements, to any permit authorized under this section in order to mitigate the detrimental effects of the proposed change or otherwise achieve the purposes of this title.~~

~~D.C.~~ This section shall not be used or construed to permit the encroachment of an addition or enlargement into any yard setback in which a noncomplying building or structure is not located.

Commented [M3]: Policy/State law: I appreciate that you have some standards here but am concerned about discretion and limits. Discuss

Commented [M4]: State law: Just plainly state that a variance is required but your intent is that they must meet the existing zoning standards for the district. Right?

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

17.56.040 Alteration When Parking Insufficient

A building or structure lacking sufficient automobile parking space in connection therewith as required by this title may be altered or enlarged, provided additional automobile parking space is supplied to meet the requirements of this title for such alteration or enlargement.

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

17.56.050 Restoration Of Damaged Buildings

A nonconforming building or structure or a building or structure occupied by a nonconforming use which is damaged or is destroyed by fire, flood, wind, earthquake or other calamity or act of God, or the public enemy, may be restored. The occupancy or use of such building, structure or part thereof, which existed at the time of such damage or destruction may be continued or resumed; provided, that such restoration is started within a period of one year and is diligently prosecuted to completion in conformance with the ordinances of the city within two years.

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

17.56.060 Continuance Of Nonconforming Use; Limitations

A building used for a lawful and allowable use prior to the effective date of this zoning code, but which, after the effective date of said code, is nonconforming, may continue to be utilized for such nonconforming use unless the building is vacated or the use ceased for a continuous period in excess of three hundred sixty-five (365) calendar days. Land used for a lawful and allowable use prior to the effective date of this zoning code, but which, after the effective date of said code, is nonconforming may continue to be so used provided that such nonconforming use is not ceased for a continuous period in excess of three hundred sixty-five (365) calendar days. No such non-conforming use of land may in any way be expanded or extended, either in the same or on adjoining property, except as provided under Section 17.56.030.

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

17.56.070 Effect Of Vacating A Nonconforming Building Or Ceasing A Nonconforming Use

A vacant building may be occupied by a use for which the building or structure was used, designed or intended, if so occupied within a period of three hundred sixty-five (365) calendar days after the use became non-conforming.

However, a building or portion thereof occupied by a nonconforming use which is, or hereafter becomes, vacant and remains unoccupied by said nonconforming use for a continuous period in excess of three hundred sixty-five (365) calendar days, shall not thereafter be occupied except by a use which conforms to the use regulations of the district in which it is located.

Commented [M5]: State Law - And structure

West Bountiful Review April 2018

Should a nonconforming use of land be ceased for a period in excess of three hundred sixty-five (365) calendar days, any future use of such land shall be in conformity with the provisions of this title, and the previously authorized nonconforming use is expressly prohibited.

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

17.56.080 Continuation Of Pre-Existing Nonconforming Use Permitted

The occupancy of a building or use of land by a nonconforming use, existing on the effective date of the Revised Ordinances of West Bountiful 1965, and constituting a non-conforming use under the provisions of this title may be continued.

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

17.56.090 Effect Of Change Of Use

The nonconforming use of a building or structure may not be changed except to a conforming use; but when such change is made, the use shall not thereafter be changed back to a nonconforming use.

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

17.56.100 Expansion Permitted; Limitations

A nonconforming use may be extended to include the entire floor area of the existing building in which it is conducted at the time the use became nonconforming.

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

17.56.110 Nonconforming Mobile Home Units

If a nonconforming mobile home is removed from the premises, it cannot thereafter be returned, except that:

- A. If such removal was upon order of the building inspector for correction of deficiencies or by decision of the owner for the purpose of correcting deficiencies within sixty (60) days; or
- B. A new mobile home may be moved on the premises if:
 - 1. Accomplished within sixty (60) days;
 - 2. The restored or new mobile home is owned by the same owner as the mobile home removed; and
 - 3. The mobile home is occupied for a continuous period of at least six months by the same occupant(s) as the mobile home removed.

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

17.56 Nonconforming Buildings And Uses

17.56.010 Maintenance Permitted

17.56.020 Repairs And Alterations

17.56.030 Additions, Enlargements And Moving

17.56.040 Alteration When Parking Insufficient

17.56.050 Restoration Of Damaged Buildings

17.56.060 Continuance Of Nonconforming Use; Limitations

17.56.070 Effect Of Vacating A Nonconforming Building Or Ceasing A Nonconforming Use

17.56.080 Continuation Of Pre-Existing Nonconforming Use Permitted

17.56.090 Effect Of Change Of Use

17.56.100 Expansion Permitted; Limitations

17.56.110 Nonconforming Mobile Home Units

17.56.010 Maintenance Permitted

A nonconforming building may be maintained.

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

17.56.020 Repairs And Alterations

Repairs and structural alterations may be made to a nonconforming building or to a building housing a nonconforming use.

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

17.56.030 Additions, Enlargements And Moving

- A. A building or structure occupied by a nonconforming use or a building or structure noncomplying as to height, area or yard regulations shall not be added to or enlarged in any manner, or moved to another location on the lot, except upon issuance of a permit as provided in subsection (B) of this section.
- B. A building or structure noncomplying as to height, area, or yard regulations to be added to, enlarged, or moved to a new location on the lot if:
 - 1. The proposed change will bring the nonconformity into compliance; or;
 - 2. In the case of an addition to or enlargement of a building or structure which is noncomplying as to a yard setback, that the addition or enlargement will not encroach into the required yard setback.
- C. This section shall not be used or construed to permit the encroachment of an addition or enlargement into any yard setback in which a noncomplying building or structure is not located.

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

17.56.040 Alteration When Parking Insufficient

A building or structure lacking sufficient automobile parking space in connection therewith as required by this title may be altered or enlarged, provided additional automobile parking space is supplied to meet the requirements of this title for such alteration or enlargement.

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

17.56.050 Restoration Of Damaged Buildings

A nonconforming building or structure or a building or structure occupied by a nonconforming use which is damaged or is destroyed by fire, flood, wind, earthquake or other calamity or act of God, or the public enemy, may be restored. The occupancy or use of such building, structure or part thereof, which existed at the time of such damage or destruction may be continued or resumed; provided, that such restoration is started within a period of one year and is diligently prosecuted to completion in conformance with the ordinances of the city within two years.

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

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- B. A new mobile home may be moved on the premises if:
 - 1. Accomplished within sixty (60) days;
 - 2. The restored or new mobile home is owned by the same owner as the mobile home removed; and
 - 3. The mobile home is occupied for a continuous period of at least six months by the same occupant(s) as the mobile home removed.

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

MEMORANDUM



TO: PLANNING COMMISSION

DATE: OCTOBER 17, 2019

FROM: BEN WHITE

RE: ZONING ADMINISTRATION, CONSTRUCTION AND ENFORCEMENT CHAPTER 17.08

There are three general enforcement mechanisms available to the City to address land use violations.

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 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. Chapter 8.12 defines nuisances and the abatement process available.

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.

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

October 8, 2019

3 **PENDING – NOT APPROVED**

4 **Posting of Agenda** - The agenda for this meeting was posted on the State of Utah Public Notice website,
5 on the West Bountiful City website, and at city hall on October 7, 2019 per state statutory requirement.

6 Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday, October 8, 2019
7 at West Bountiful City Hall, Davis County, Utah.

8 **Those in Attendance:**

9 **MEMBERS PRESENT:** Chairman Denis Hopkinson, Alan Malan, Dee Vest, Laura Charchenko, Council
10 member Kelly Enquist

11 **MEMBERS EXCUSED:** Mike Cottle, Corey Sweat

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

14 **VISITORS:** Gary Jacketta, Jack Williams, Julie Williams, Mandi Klein

15 The Planning Commission meeting was called to order at 7:30 pm by Chairman Denis Hopkinson. Laura
16 Charchenko offered a prayer.

17 **1. Accept Agenda**

18 Chairman Hopkinson reviewed the agenda. Laura Charchenko moved to accept the agenda. Dee Vest
19 seconded the motion. Voting was unanimous in favor among all members present.

20 **2. Public Hearing – Updates to the General Plan, Including a Land Use Element, A**
21 **Transportation and Traffic Element and a Moderate-Income Housing Element**

22 **Introduction:**

23 Chairman Hopkinson explained that they have been reviewing this document for the past eight months.
24 Last update was done in 2010. He thanked the Staff for all their hard work. He invited public to make
25 comment.

26 **ACTION TAKEN:**

27 *Laura Charchenko moved open the public hearing for updates to the General Plan at 7:35 pm. Alan*
28 *Malan seconded, and voting was unanimous in favor.*

29 Public Comment: No public comment was made.

30 **ACTION TAKEN:**

31 *Laura Charchenko moved to close the public hearing AT 7:36 pm with no public comment. Alan Malan*
32 *seconded the motion and voting was unanimous in favor.*

33

34 **3. Public Hearing- Proposed Changes to Land Use Fees in the Consolidate Fee Schedule.**

35 **Introduction:**

36 Ben noted one change from the last document regarding water rates. One fee for the building permit is
37 a charge for one-month cost of water while you are building. The new fee is \$50.00 to match the
38 current water rate.

39 **ACTION TAKEN:**

40 ***Laura Charchenko moved to open the public hearing for Land Use Fee Schedule at 7:37 pm. Dee Vest***
41 ***seconded and voting was unanimous in favor.***

42 Public Comment: No public comment was made.

43 ***Laura Charchenko moved to close the public hearing at 7:38 pm with no public comment. Dee Vest***
44 ***seconded the motion and voting was unanimous in favor.***

46 **4. Public Hearing- Proposed Changes to Recording Requirements for Accessory Dwelling**
47 **Units- WBMC 17.82.040**

48 **ACTION TAKEN:**

49 ***Alan Malan move to open the public hearing for proposed changes to recording requirements for***
50 ***Accessory Dwelling Units- WBMC 17.82.040 at 7:40 pm. Laura Charchenko seconded the motion, and***
51 ***voting was unanimous in favor.***

52 Public Comment: No public comment was made

53 ***Dee Vest moved to close the public hearing at 7:41 pm with no public comment. Alan Malan seconded***
54 ***the motion and voting was unanimous in favor.***

56 **5. Conditional Use Permit for Arts & Smarts for Little Hearts at 764 West 2300 North**

57 Commissioner packets included a memorandum dated October 4, 2019 from Cathy Brightwell regarding
58 a Conditional Use Permit from Mandi Klein 764 West 2300 North, for Home Occupation- Arts & Smarts
59 for Little Hearts with an attached Conditional Use Permit Application with Site Plan, Business License
60 Application and Notice to Neighbors with signatures.

61 Cathy Brightwell explained initially the preschool will be held from 9:30 to 11:30 am with an afternoon
62 session possible in the future. She plans to enroll a maximum of 8 children so traffic will consist of
63 parents dropping off and picking up their children only during those times. Parents will drop their
64 children in front of the house and Ms. Klein will greet them at the gate. If any parent has a need to stay,
65 they can park in the driveway or in front of the house.

66 The Utah Department of Health does not require a license when care is provided for less than 4 hours
67 per day. The South Davis Fire Agency issued a fire inspection clearance on September 24, 2019, and staff
68 has received a copy of Ms. Klein's Criminal Background Clearance dated September 24, 2019.

Staff believes this preschool meets the requirements of West Bountiful Municipal Code, Chapter 5.28 Home Occupation and Chapter 17.60 Conditional Uses and recommends approval of the Conditional Use Permit.

Mandi Klein was invited to take the stand. Dee Vest asked if she would have help and she answered to the negative. He inquired how old the children will be and she answered ages 3-5 years.

ACTION TAKEN:

Laura Charchenko moved to approve the Conditional Use Permit for Mandi Klein, Arts & Smarts for Little Hearts at 764 West 2300 North with the following affirmative findings and conditions: The proposed use is desirable to provide a service that will contribute to the general well-being of the neighborhood and community; will not be detrimental to the health, safety, or general welfare of persons residing in the vicinity, or injurious to property in the vicinity; shall not inordinately impact the streets in the area; and will comply with the regulations specified in the R-1-10 zoning ordinance, parents will be told to drop off and pick up their children directly in front of the home, or park in the driveway or immediately in front of the home; no external signage will be used for the preschool; and a person who is not a resident of the dwelling shall not be employed to work on the premises. Alan Malan seconded the motion and voting was unanimous in favor from those members present.

6. Consider Tailgate Acres 4-lot Subdivision at 140 South 1100 West

Commissioner packets included a memorandum from Ben White dated October 2, 2019 regarding Tailgate Acres Subdivision with an attached preliminary plat application and site plans.

Ben White explained to the Commission that Jack Williams lives on 1100 West just south of the recently approved Highgate Subdivision. He owns 11.37 acres which is predominantly in the A-1 zone with the westerly proposed 1.13-acre Lot 4 being in the B-U zone. The proposed development is a little unique. Mr. White noted the following:

- All 4 lots contain at least one acre.
- The house on Lot 1 was constructed as a flag lot more than 30 years ago where the only road frontage was 1100 West. With the creation of the Highgate Subdivision, the entire north line of Lot 1 is adjacent to a street right of way. Due to the designation when the house was originally constructed, staff considers the east side of the lot as the front yard and the west side of the lot as the rear yard.
- Lot 2 has 59.46 feet of road frontage. However, at the thirty-foot front setback line, the lot exceeds the minimum 85 ft. required.
- Lot 3 is a 3.85 acre lot which also includes a temporary turn around for 1450 West street.
- Lot 4 is a 1.13 acre lot located in the B-U zone. Staff considers this lot a commercial lot.

Utilities

Lot 1 and 2 Utility Services: water, sewer and irrigation services were stubbed to lots 1 and 2 as part of the Highgate subdivision construction.

1450 West Utilities: A city water line already extended through the proposed 1450 West street extension. The water line was constructed years ago to provide service to the auto auction. The only water line work required is to stub services to Lots 3 and 4. Sanitary sewer and irrigation lines were also installed in the 1450 West extension while the Highgate Subdivision was being constructed. Storm drainage will flow north along the newly constructed 1450 West. There is also a drainage behind Lot 4.

Street Cross Sections

Staff is proposing the standard 50' wide street right of way which includes a 4' sidewalk and 4' park strip on both sides of the road with the sidewalk stopping short of the temporary turn around.

Since this is a dead end street and the owner/applicant does not intend to sell Lot 3 or 4 immediately, he is requesting that the construction of the sidewalk for these two lots be deferred until a building permit application is submitted or until 1450 West is extended further south. Staff is also recommending a note be added to the plat notifying the owner of lot of the responsibility to remove the temporary cul-de-sac turn around and construct the appropriate curb and sidewalk improvements in the future when 1450 West does extend.

Street Lighting

Highgate has the responsibility to install a streetlight on 1450 West at the south boundary of their development. Staff is not recommending an additional streetlight.

Geotechnical Study

Staff is not recommending a separate geotechnical report for this project. Most infrastructure is already constructed and there has been no indication that conditions vary from what has been observed at Highgate.

Existing Structures

There is an accessory structure straddling the Lot 1 and 2 property line. This structure must be removed as a condition of plat recordation. Also, there are two existing accessory structures on Lot 2 which will need to be removed as a condition of a building permit on that lot. (One is in the front yard setback and one violates the side yard setback).

When final approval is given, Staff proposes that the following be included as requirements/conditions:

1. Provide a title report with no objectionable entries;
2. Payment of Inspection fee and storm water impact fee;
3. Post the appropriate improvement bonds;
4. Execute an Improvement Agreement with the City;
5. Deed the required water rights to the City

In addition, all bolded text in the memorandum submitted by Ben White on October 2, 2019 be included as well. Ben further proposed no funds be held out since it may be 25 years down the road before improvements are put in.

143 Staff is suggesting ½ acre foot for 3 lots or Mr. Williams can buy it from the City.

144 Existing structures need to be removed that are conflicting with property boundaries. There is a
145 streetlight on the bottom of 1450 to the north and a fire hydrant is located on the north side of the
146 property that fulfill requirements for a subdivision. Mr. White informed them that the hydrant is a
147 looped line. There is water service available west of 1500 West.

148 Mr. White noted that all utilities have been stubbed in and all that is needed is asphalt.

149 **Commissioner Comments:**

150 Chairman Hopkinson asked Mr. Williams if there were any wells on the property and Mr. Williams
151 pointed out one well just off the staff of his flag lot and informed him that Holly Refinery owns 1/12th of
152 the well.

153 Laura Charchenko asked if Mr. Williams has plans for the lot located in the BU zone. Mr. Williams
154 responded that they have no plans for development at this time.

155 **ACTION TAKEN:**

156 *Alan Malan moved to approve the Preliminary and Final Plat for the Tailgate Subdivision for Jack*
157 *Williams at 140 South 1100 West. Dee Vest seconded the motion and voting was unanimous in favor*
158 *from those members present.*

159

160 **7. Consider Updates to Land Use Fees in Consolidated Fee Schedule**

161 Alan Malan asked about the sign permit and what ‘building façade’ consisted of. Ben White explained
162 that it means each face of the building. Alan suggested that they clarify the language to something like
163 “*elevation*” to make it clear that all sides are included in the calculation. Mr. Malan asked about the
164 water use fee how that is considered. Ben White explained why and how this is done and that the fee is
165 for one month’s use of water but will cover usage through the duration of construction. This fee is
166 included in the building permit but was never listed on the fee schedule.

167 Chairman Hopkinson asked about the bonds and what they include. Mr. White explained that the public
168 works improvement bond is for fixing broken concrete during construction. The historic district covers
169 the requirement for the historic design process and is only used with those permits needing historical
170 design reviews.

171 **ACTION TAKEN:**

172 *Laura Charchenko moved to approve the Land Use Fees in the Consolidated Fee Schedule. Dee Vest*
173 *seconded the motion and voting was unanimous in favor from those members present.*

174

175 **8. Consider Accessory Dwelling Units/County Recording Requirements**

176 **ACTION TAKEN:**

Alan Malan moved to approve the Accessory Dwelling Unit update/County Recording Requirements of Section 17.82.o40 Dee Vest seconded the motion and voting was unanimous in favor from those members present.

9. Consider Updates to the West Bountiful General Plan

Ben White informed the Commission that all updates and requests have been done except for several appendices. Chairman Hopkinson shared his appreciation for all the work done by Staff. He noted that when it is time to do this process again, he would like to hire it out and hold the neighborhood committee meetings as was done with the last one.

ACTION TAKEN:

Laura Charchenko moved to approve the updated edition of the West Bountiful General Plan. Alan Malan seconded the motion and voting was unanimous in favor from those members present.

Chairman Hopkinson requested that a memorandum be sent to the City Council along with this document noting the efforts and time the Commission and Staff spent reviewing and revising this document and their intense considerations. He stated that their best efforts have been submitted.

10. Staff Report

Ben White

- Well on 4th North has been drilled to completion. They continue to test and clean the well out. It looks promising but he will bring an update at the next meeting when he knows for sure. City Council will decide when the well will be tied into. When all is done there will only be a big pipe sticking out of the ground.

Cathy Brightwell

- No report

11. Consider Approval of Minutes from September 24, 2019 meeting.

ACTION TAKEN:

Laura Charchenko moved to approve of the minutes of the September 24, 2019 meeting as corrected. Alan Malan seconded the motion and voting was unanimous in favor.

12. Adjourn:

ACTION TAKEN:

Alan Malan moved to adjourn the regular session of the Planning Commission meeting at 8:24 pm. Laura Charchenko seconded the motion. Voting was unanimous in favor.

.....

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

213 _____

214 *Cathy Brightwell – City Recorder*

215

216