

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
FAX (801) 292-6355

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, NOVEMBER 12, 2019 AT THE CITY OFFICES

Prayer/Thought by Invitation

1. Accept Agenda.
2. Conditional Use Permit – Accessory Dwelling Unit – 731 W 845 North
3. Discuss Proposed Changes to WBMC 17.76 - Private Swimming Pools.
4. Discuss Proposed Changes to WBMC 17.52 - Off-street Parking.
5. Discuss Proposed Changes to WBMC 17.56 – Nonconforming Uses and Buildings
6. Discuss Proposed Changes to WBMC 17.08 - Zoning Administration, Construction, and Enforcement.
7. Staff report.
8. Consider Approval of Minutes from October 22, 2019 Meeting.
9. Adjourn.
- 10.

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 November 8, 2019 by Cathy Brightwell, City Recorder.

MEMORANDUM



TO: Planning Commission

MEETING DATE: November 6, 2019

FROM: Ben White, Cathy Brightwell

RE: Accessory Dwelling Unit – 731 West 845 North

Mr. Wild has been issued a building permit to construct a new house in the Stringham Farm subdivision. The house is designed in a way that by locking a single interior door, an accessory dwelling unit (ADU) would be created. A conditional use permit would be required prior to using the potential apartment as an ADU. Staff recommended that Mr. Wild obtain the Conditional Use Permit for the ADU now for the simple reason that municipal and building codes change from time to time. It would be unfortunate if future changes to code prohibited the ADU or required structural changes for its approval.

WBMC Chapter 17.82 allows a conditional use for a ADU subject to the development standards specifically listed in Section 17.82.050, and listed below.

- A. **Location.** An accessory dwelling unit (ADU) shall be allowed only within or attached to an owner-occupied single-family dwelling. *This condition is satisfied.*
- B. **Number of Accessory Dwelling Units.** A maximum of one (1) ADU shall be allowed within or attached to each single-family dwelling. No lot or parcel shall contain more than one ADU. *This condition is satisfied.*
- C. **Parking.** Adequate parking shall be made available to accommodate the residential use of an ADU, subject to the residential use parking requirements. At least one (1) space shall be designated for the ADU. Parking stalls shall be paved with concrete, masonry, asphalt, or concrete pavers. *This condition is satisfied.*
- D. **Utility Metering.** No separate utility metering for the ADU shall be allowed, and the utility service shall be in the property owner's name. *This condition can be satisfied.*
- E. **Size of Accessory Dwelling Unit.** An ADU shall contain a minimum of 300 square feet; provided, that the dimensions and sizes of living areas, kitchen areas, sleeping areas and bathroom facilities comply with applicable provisions of this title and the current building codes adopted by the City. *This condition is satisfied.*
- F. **Construction Codes.** An ADU shall comply with the construction housing codes in effect at the time the ADU is constructed, created as a separate dwelling, or subsequently remodeled. This shall include the obtaining of a building permit or other permits as the codes may require. *This condition will be satisfied as the house is constructed and inspected.*

- G. **Architecture.** An ADU that is added onto an existing single-family dwelling or a new single-family dwelling that is designed to accommodate an ADU shall not resemble a multi-family structure in terms of the scattered placement of garage doors, carports, or number or location of outside entries or porches. *This condition is satisfied.*
- H. **Owner Occupied.** The owner of the property on which the ADU is located, as listed in the County Recorder's Office, must reside on the property as their principal residence. At no time shall both the ADU and the primary single-family dwelling be rented as separate units. *This condition can be satisfied.*

Before any conditional use permit may be issued for an ADU, the Planning Commission shall make an affirmative finding that the ADU will not create any injurious impacts to surrounding neighbors and/or the neighborhood where the ADU is to be located, and that the ADU otherwise meets the requirements of Chapter 17.60 of this title.

Staff recommends the following Findings of Fact and Conditions be applied to this conditional use permit.

Findings:

1. The proposed use at the particular location is necessary or desirable to provide a service or facility that will contribute to the general well-being of the neighborhood and the community;
2. The proposed use 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;
3. The proposed use and/or accompanying improvements will not inordinately impact schools, utilities, and streets;
4. The conditions to be imposed in the conditional use permit will mitigate the reasonably anticipated detrimental effects of the proposed use and accomplish the purposes of this subsection.

Conditions:

1. Applicant will construct the addition in such a manner that the Building Code requirements for a second dwelling unit are satisfied.
2. The applicant will execute the Conditional Use permit which will also be recorded in the County Recorder's office.



CONDITIONAL USE PERMIT APPLICATION

West Bountiful City

PLANNING AND ZONING

550 N 800 W, West Bountiful, UT 84087

Phone: (801) 292-4486

Fax: (801) 292-6355

www.wbcity.org

PROPERTY ADDRESS: 731 WEST 845 NORTH WEST BOUNTIFUL, UTAH

PARCEL NUMBER: 06-381-0003 ZONE: R-110 DATE OF APPLICATION: 10-25-19

Name of Business: _____

Applicant Name: TYLER WILD

Applicant Address: 735 WEST 1000 NORTH WEST BOUNTIFUL, UTAH 84087

Primary phone: 801-663-1565 Fax Number: _____

E-mail address: wildtyler@gmail.com

Describe in detail the conditional use for which this application is being submitted. Attach a site plan which clearly illustrates the proposal. A separate sheet with additional information may be submitted if necessary.

ADU - ACCESSORY DWELLING UNIT application. additional living quarters for
family or guests.

The Applicant(s) hereby acknowledges that they have read and are familiar with the applicable requirements of Title 17.60 of the West Bountiful City Code, pertaining to the issuance of Conditional Use Permits. If the applicant is a corporation, partnership or other entity other than an individual, this application must be in the name of said entity, and the person signing on behalf of the Applicant hereby represents that they are duly authorized to execute this Application on behalf of said entity.

Fee must accompany this application - \$20 for Residential Zone, \$50 for Business Zone

I hereby apply for a Conditional Use Permit from West Bountiful City in accordance with the provisions of Title 17, West Bountiful Municipal Code. I certify that the above information is true and correct to the best of my knowledge.

Date: 10-24-19

Applicant Signature: 

FOR OFFICIAL USE ONLY

Application Received Date: 10/24/19

Permit Number: 19-007

Application Fee Received Date: 10/24/19

Fire Inspection Date: NA

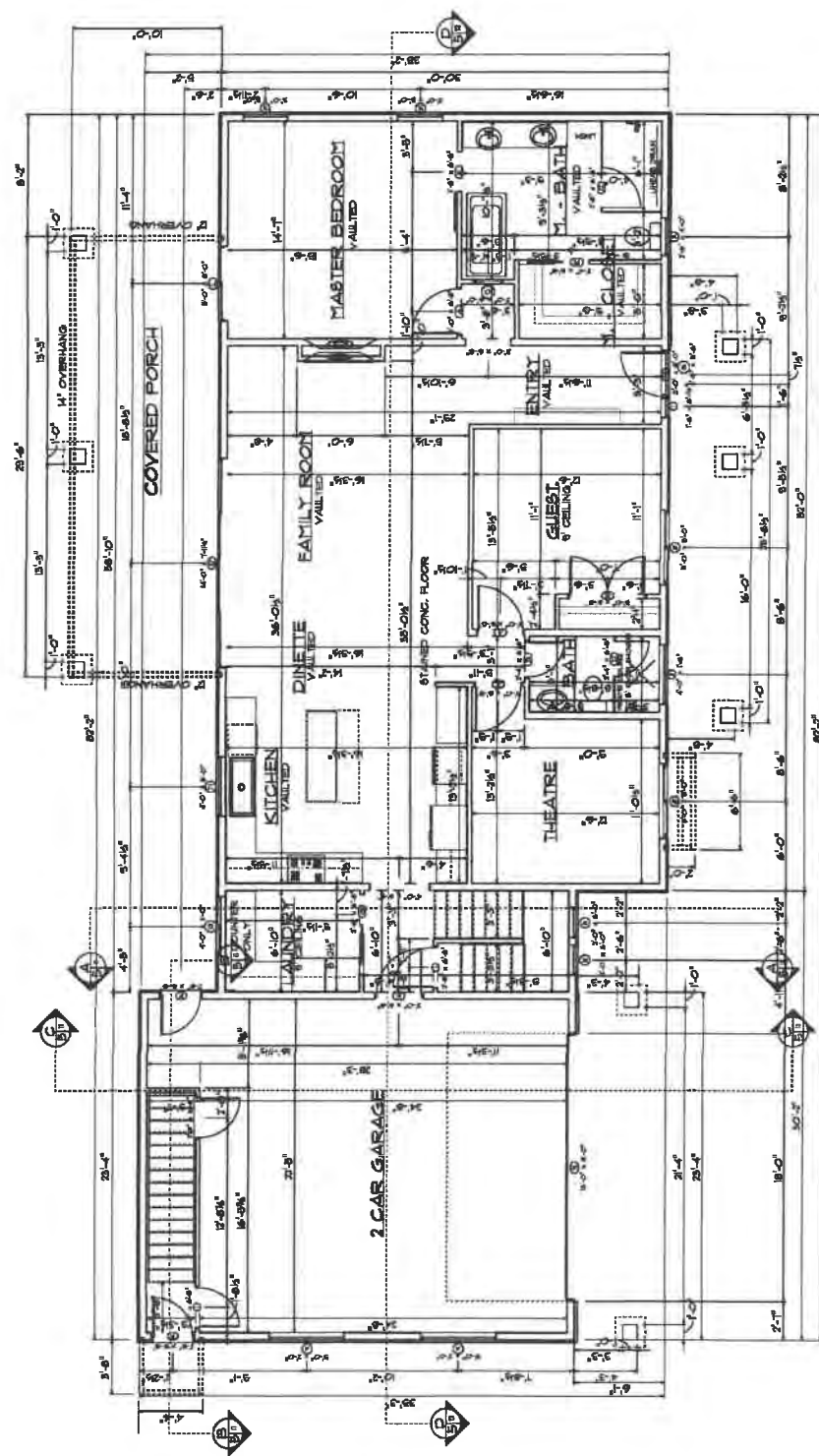
Permit Approval: _____

Tyler Wild Michael Archbold
 801-292-2223
 731 W 845 N
 West Bountiful
 Utah 84087

IMPRINT HOMES
 942 S 250 E | Farmington, UT 84025
 801.458.8388 | gade@ciobuilders.com

Wild Custom
 Main
 SCALE: 1/8" = 1'-0"
 DATE: 9/19/2019

PAGE:
 5/12



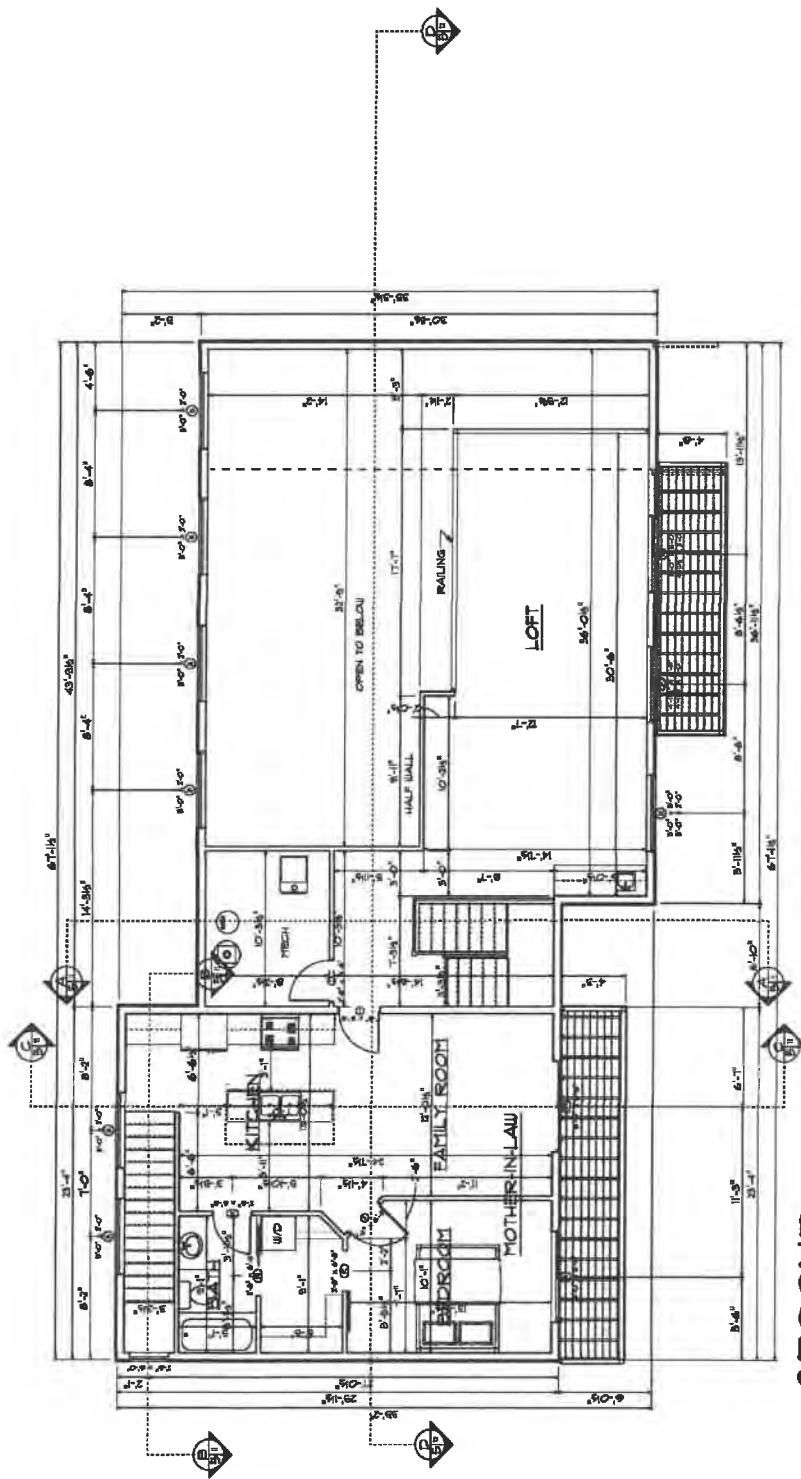
MAIN
 SCALE: 1/8" = 1'-0"

Tyler Wild Michael Archbold
 801-292-2223
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 942 S 250 E Farmington, UT 84405
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Wild Custom
 Second
 SCALE: 1/8" = 1'-0"
 DATE: 9/19/2019

PAGE:
 7/12



SECOND

MEMORANDUM



TO: PLANNING COMMISSION

DATE: November 7, 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.

In the last Planning Commission meeting, we discussed pool ownership and whether a PUD was the only mechanism to approve a semi-private pool. The proposed draft includes revised language in 17.76.030 that requires semi-private pools to be owned by an HOA or similar non-profit entity.

Where paragraph 17.76.030 includes minimum requirements which a semi-private pool must meet and where some of those requirements can only be approved as part of a PUD, it seems to make sense to allow semi-private pools outside of a PUD.

A public hearing is required before a recommendation can be made to City Council.

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 owned as part of a Homeowners Association (HOA) or similar non-profit entity, 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. Unless approved as part of the Planned Unit Development, no retail or business facilities shall 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.

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

PRIVATE SWIMMING POOLS

17.76 Swimming Pools And Recreational Facilities

17.76.010 Definitions

17.76.020 Private Pools And Use

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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 owned as part of a Home Owners Association (HOA) or similar non-profit entity, 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, including vending machines Unless approved as part of the Planned Unit Development, no retail or business facilities shall 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.~~

J. ~~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

MEMORANDUM



TO: PLANNING COMMISSION

DATE: NOVEMBER 7, 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. The Costco parking lot has 10' wide stalls, but no one else. While a property owner can always build above the minimum, to build below the minimum creates "illegal" circumstances; not "grandfathered". Where 9' wide parking stalls is a current industry standard, it makes more sense to use 9' in our code.
2. The current code does not address the required drive isle width between parking stalls. A proposed minimum width is now included.
3. Conditional Use permits to establish appropriate conditions are difficult if no guidelines exist. Staff is suggesting that when uses are proposed that are not similar to those currently included in our code, that staff work with the applicant to develop an appropriate parking limit.
4. Need to clarify that there are different standards for residential and commercial.

A public hearing is required before a recommendation can be made to City Council.

17.52 OFF STREET PARKING

November 6, 2019 (Clean)

17.52.010 Off-Street Parking Required; Purpose

The purpose of this chapter is to set a minimum standard for off-street parking to ensure that ample parking for the generated demand of the use will be available.

Sufficient parking should be provided to assure maximum utilization of the facilities on site will not unduly impose on neighbors in the vicinity, or create an unsafe environment.

Off-street parking is required for residential, commercial, industrial and retail buildings and structures based on current use, size and capacity in accordance with the following requirements.

HISTORY

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

17.52.020 Size

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 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:

- A. Business or professional offices: one parking space for each two hundred (200) square feet of floor area.
- B. 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.
- C. Churches without fixed seats, sports arenas, auditoriums, theaters, assembly halls, reception centers, meeting halls: one parking space for each three seats of maximum seating capacity.
- D. Residential Dwellings: two parking spaces for each dwelling unit including garages and driveways.
- E. Furniture and appliance stores: one parking space for each six hundred (600) square feet of floor area.
- F. Hospitals: two parking spaces for each bed.
- G. Hotels and motels: one space for each living or sleeping unit, plus parking space for all accessory uses as herein specified including employee parking.
- H. Residential Health Care Facilities: one parking space for each five beds, plus one parking space for each employee at the highest shift.
- I. 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.
- J. 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.

- K. 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.
- L. 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.
- M. Medical/Dental office: one parking space for each 200 square feet of gross floor area or five spaces per doctor, whichever is greater.
- N. Fast Food: one parking space for each 75 square feet of floor area with a minimum of 5 spaces, plus 3 stacking spaces per drive-through lane.
- O. Auto Dealer: one parking space for each 200 square feet of sales office area plus one space for every ten vehicles displayed, or five spaces, whichever is greater. Separate storage area for vehicles for sale or under repair shall be provided.
- P. Grocery Store: one parking space per every 200 square feet of floor area.
- Q. All other uses not listed above: as determined by zoning administrator based on the nearest comparable use standards, 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.

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. Each residential lot, can have 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 and maximum combined drive approach width of thirty-two (32) feet on any single street frontage. 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. No driveway shall be closer than twenty (20) feet to the point of intersection of two property lines at any street corner as measured along the property lines.
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 street 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 street frontage and pedestrian access 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 gravel, asphaltic or Portland cement or other binder pavement and permanently maintained so as to provide a dustless surface. The parking area shall be designed and maintained 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 directed downward and arranged to reflect the light away from adjoining residential premises and from street traffic.
5. All surfacing, screening, landscaping, lighting, and any other parking area elements shall be continually and properly maintained in good condition.

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

17.52 OFF STREET PARKING

November 6, 2019

17.52.010 Off-Street Parking Required; Purpose

The purpose of this chapter is to set a minimum standard for off-street parking to ensure that ample parking for the generated demand of the use will be available on-site to avoid the necessity of parking on the street, except in certain areas designated by the City where off-street parking requirements cannot be met and where other programs are in effect to mitigate the parking problem.

Sufficient parking should be provided to assure maximum utilization of the facilities on site will not unduly impose on neighbors in the vicinity, or create an unsafe environment., and any reasonable future use will have adequate parking

Off-street parking is required for residential, commercial, industrial and retail buildings and structures based on current use, size and capacity in accordance with the following requirements.

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, or as otherwise required by conditional use permit. HISTORY

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

17.52.020 Size

The dimensions of each off-street parking space, exclusive of access drives or aisles, shall be at least ~~ten~~nine (10) feet by twenty (20) feet for diagonal and ninety (90) degree spaces, and ten (10) feet by twenty-two~~four~~ (22) 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:

- A. Business or professional offices: one parking space for each two hundred (200) square feet of floor area.
- B. 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.
- C. Churches without fixed seats, sports arenas, auditoriums, theaters, assembly halls, reception centers, meeting halls~~rooms~~: one parking space for each three seats of maximum seating capacity.
- D.
~~D.—Residential~~ Dwellings: two parking spaces for each dwelling unit including garages and hard surface driveways.
- E. Furniture and appliance stores: one parking space for each six hundred (600) square feet of floor area.
- F. Hospitals: two parking spaces for each bed.

- G. Hotels and motels: one space for each living or sleeping unit, plus parking space for all accessory uses as herein specified including employee parking.
- H. ~~Nursing homes~~ Residential Health Care Facilities: ~~four parking spaces, plus one parking space for each five beds, plus one parking space for each employee at the highest shift.~~
- I. 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.
- J. 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.
- K. 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.
- ~~L.~~ L. Shopping center or other groups of uses not listed above: one parking space for each ~~two~~ one hundred ~~fifty (150)~~ 200 square feet of total floor space, or as determined by conditional use permit.
- ~~M.~~ M. Medical/Dental office: one parking space for each 200 square feet of gross floor area or five spaces per doctor, whichever is greater.
- ~~N.~~ N. Fast Food: one parking space for each 75 square feet of floor area with a minimum of 5 spaces, plus 3 stacking spaces per drive-through lane.
- ~~O.~~ O. Auto Dealer: one parking space for each 200 square feet of sales office area plus one space for every ten vehicles displayed, or five spaces, whichever is greater. Separate storage area for vehicles for sale or under repair shall be provided.
- ~~L.P.~~ L.P. Grocery Store: one parking space per every 200 square feet of floor area.
- ~~Q.~~ Q. All other uses not listed above: as determined by ~~conditional use permit~~ zoning administrator based on the nearest comparable use standards, 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 ~~employee~~ parking.
- ~~M.~~

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, can have 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; and maximum combined drive approach width of thirty-two (32) feet on any single street frontage. 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. No driveway shall be closer than twenty (20) feet to the point of intersection of two property lines at any street corner as measured along the property lines.
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 ~~twentyen~~ (2019) feet to the point of intersection of two property lines at any street 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 street frontage and pedestrian access 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 gravel, 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 designed and maintained consistent with WBMC 13.30 Storm Water Management. The planning commission may grant some industrial uses the ability to utilize dustless gravel for parking and outside storage areas through the site plan review process, provided there is a detention area in the parking lot. 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 directed downward be-and arranged to reflect the light away from adjoining residential premises and from street traffic.
- 4.5. All surfacing, screening, landscaping, lighting, and any other parking area elements shall be continually and properly maintained in good condition.

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 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.

The proposed changes clarify that:

1. Para. 17.56030(B) any movement or addition to a non-conforming structure will be in compliance with current requirements.
2. Para. 17.56.030 (C) Minor renovations and routine maintenance are exempt from requirements.
3. Para. 17.56.060 clarifies that if non-conforming structures were destroyed by fire, earthquake, etc. that they could be replaced in the same footprint.

A public hearing is required prior to making a recommendation to City Council.

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:~~
 - 1. ~~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;~~
 - 2. ~~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~~

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. Minor interior renovations and routine maintenance are not subject to the provisions of this chapter.~~

~~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.

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 within the original structure footprint; 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.

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

MEMORANDUM



TO: PLANNING COMMISSION
DATE: NOVEMBER 8, 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 has researched how other cities handle code enforcement and inquired into their effectiveness. There are two basic ways that municipalities successfully do code enforcement. (1) A code enforcement officer is authorized to issue civil citations. (2) The prosecuting attorney is used as the code enforcement officer. Years ago, while the city operated its own court, we were moderately successful with option 2.

Option 1 is staff's recommendation to add to the City's language in paragraph 17.08.050 - *Legal Remedies for Violation* to declare land use violations a Nuisance. The process outlined for nuisance violations is the process that successful city's use for zoning code violations.

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.*

A public hearing is required before a recommendation may be made to City Council.

**West Bountiful City
Planning Commission Meeting**

October 22, 2019

PENDING – NOT 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 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 WBMChapter 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 issues 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