

**Mayor**  
Kenneth Romney

**City Engineer/ Land  
Use Administrator**  
Kris Nilsen

**City Recorder/  
Community  
Development**  
Cathy Brightwell

# **WEST BOUNTIFUL PLANNING COMMISSION**

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**Chairman**  
Denis Hopkinson

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

## **THE PLANNING COMMISSION WILL HOLD A REGULAR MEETING AT 7:30 PM ON TUESDAY, JANUARY 12, 2021**

**Meeting will be held exclusively via Zoom (see info below)**

***The Mayor and the Planning Commission Chair have determined that due to the current COVID-19 pandemic and the physical distancing required to prevent the spread of infection, public meetings present a substantial risk to the health and safety of those who may be present at the meetings. That risk can be substantially mitigated by holding this meeting through electronic means that allow for public participation without an anchor location.***

Prayer/Thought by Alan Malan

1. Accept Agenda.
2. Public Hearing Regarding a Proposal to Eliminate the Historical Overlay District - WBMC 17.24.110 and Establish a New Historic District.
3. Consider Proposed Changes to WBMC 17.24.110 Historical Overlay District and Historic District Map.
4. Discuss Proposed Changes to the West Bountiful General Plan Associated with Historic Areas and Set Public Hearing.
5. Discuss Proposed Changes to WBMC 17.82.110 Accessory Dwelling Units
6. Staff report.
7. Consider Meeting Minutes from November 24, 2020.
8. Adjourn.

### **JOIN ZOOM MEETING**

<https://us02web.zoom.us/j/83245492865>

Meeting ID: **832 4549 2865**

Dial by your location

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*This notice has been sent to the Davis Journal and was posted on the State Public Notice Website and the City's website on January 8, 2021 by Cathy Brightwell, City Recorder.*

***Posting of Agenda*** - The agenda for this meeting was posted on the Utah Public Notice website and the West Bountiful City website on January 8, 2021 per state statutory requirement.

Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday, January 12, 2021 at West Bountiful City Hall, Davis County, Utah.

***Due to the COVID-19 Pandemic this meeting was held virtually via Zoom.***

**Those in attendance:**

**COMMISSIONERS:** (All attending via Zoom) Chairman Denis Hopkinson, Vice Chairman Alan Malan, Mike Cottle, Dee Vest, Corey Sweat, Laura Charchenko, and Council member Kelly Enquist.

**STAFF:** Kris Nilsen (City Engineer) and Cathy Brightwell (Recorder) in house; Steve Doxey (City Attorney) and Debbie McKean (Secretary) via Zoom.

**VISITORS: Via Zoom:** Brett Fisher, Sheena McFarland, Tanya Schenk, Boswells

The Planning Commission meeting was called to order at 7:30 pm by Chairman Hopkinson. Alan Malan offered a prayer.

***Chairman Denis Hopkinson read the following message:*** The Mayor and the Planning Commission Chair have determined that due to the current COVID-19 pandemic and the physical distancing required to prevent the spread of infection, public meetings present a substantial risk to the health and safety of those who may be present at the meetings. That risk can be substantially mitigated by holding this meeting through electronic means that allow for public participation without an anchor location.

**1. Accept Agenda**

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

**2. Public Hearing Regarding a Proposal to Eliminate the Historical Overlay District-WBMC 17.24.110 and Establish a New Historic District.**

**Introduction:**

Chairman Hopkinson welcomed the public and gave instruction for making public comment this evening via Zoom. Cathy Brightwell reviewed the letter sent out to residents and shared the

history of the Historical Overlay Zone and the reasons for the proposed changes along with the current proposed map of the historic district. She informed the public the proposal tonight does not impact the original and current Historic District.

**Action Taken:**

***Corey Sweat moved to open the public hearing at 7:42 pm. Mike Cottle seconded the motion. Motion passed unanimously in favor.***

**Public Comment:**

Brett Fisher lives in a historic home and wants to see it preserved. He likes the idea of having additional regulations in place that force an extra step to be taken by a homeowner wanting to make changes to a historic home because of its importance to our city and community. He does not feel the extra step is a burden. He wants the Historic District to remain in place.

Mr. Fisher noted that he is in the process of applying to add his property to the national registry. He is concerned that the city has the right to make changes that could impact his efforts. Chairman Hopkinson explained the difference between the city and national historic districts and noted that the proposal being discussed will not impact any home on the national registry. Both historic districts will remain in place.

Sheena McFarland lives within the district and has enjoyed the unique individual architecture within the historic district and appreciates people being able to make changes as they desire. She supports removing the overlay zone.

No other members of the public made public comment.

**Action Taken:**

***Mike Cottle Moved to close the public hear regarding Proposal to Eliminate the Historical Overlay District-WBMC 17.24.110 and Establish a New Historic District and accept public comment at 7:49 pm. Corey Sweat seconded the motion. Motion passed unanimously in favor.***

**3. Consider Proposed Changes to WBMC 17.24.110 Historical Overlay District and Historic District Map.**

Commissioner packets included a memorandum dated January 8, 2021 from Staff regarding the Historical Overlay District, Historic District map, copy of letter to historic district property owners, and an updated redline and clean copy of ordinance changes.

The planning commission has been researching and discussing issues related to the Historical Overlay District for several months. At its last meeting, commissioners supported proposed

changes to WBMC 17.24.110 - Historical Overlay District, relevant changes to the General Plan that complement these changes, and a new Historic District. As separate public hearings for the code change and the general plan are required, a second hearing addressing proposed changes to the General Plan will be set for a future meeting.

Cathy Brightwell reviewed the proposed changes to the ordinance. The requirements discussed at the last meeting to have homeowners provide pictures of their homes prior to any major changes including demolition have been removed. She explained that we have pictures from when the homes were added to the National Historic District and have taken current pictures so that additional documentation exists.

**Chairman Hopkinson** noted that the proposed changes include what has been previously discussed and makes it easier for staff. He prefers that the paragraph to remain in code is better left in its separate section rather than included as part of the Purpose section.

Mr. Doxey stated that the proposed regulations will still allow anyone in the district to be a part of the federal historic registry which can provide property owners more protection and options.

Ms. Brightwell stated she has all the information from the national registry for the homes located within our Historic District and will be happy to share the information with any property owners who request it.

**Action Taken:**

***Alan Malan moved to table the proposed changes to WBMC 17.24.110 Historical Overlay District and Historic District Map as presented this evening until the public hearing for the general plan changes have been heard. Laura Charchenko seconded the motion and voting was unanimous in favor.***

**4. Discuss Proposed Changes to the West Bountiful General Plan Associated with Historic Areas and Set Public Hearing.**

Commissioner packets included a memorandum dated January 8, 2021 from Staff regarding Proposed Changes to the West Bountiful General Plan associated with Historic Areas along with a clean copy of proposed changes to the general plan language.

As stated above, the planning commission has been researching and discussing issues related to the Historical Overlay District and Historic Areas within the City for several months. As part of these discussions, commissioners supported proposed elimination of WBMC 17.24.110 - Historical Overlay District, which requires updates to the General Plan to be consistent.

Specific changes were discussed at the last meeting and staff was asked to bring a clean copy of its proposal for a final review. As separate public hearings for the code change and the general

plan are required, staff is asking to set a public hearing for the changes proposed to the General Plan.

Cathy Brightwell reviewed the changes that are proposed in the general plan for the Historic District to make it consistent with what is proposed in the code.

Corey Sweat stated he liked what staff has done with language changes in the general plan under the Historic District. Alan Malan, Dee Vest, Laura Charchenko and Mike Cottle concurred.

A public hearing will be set as soon as possible to receive public comment for changes to the general plan.

## **5. Discuss Proposed Changes to WBMC 17.82.110 Accessory Dwelling Units**

Commissioner packets included memorandum dated January 8, 2021 from Staff regarding proposed changes to WBMC 17.82.110 Accessory Dwelling Units along with a redline copy of the ordinance with proposed changes of regulations for ADU's.

### **Background**

As part of Senate Bill 34, West Bountiful was required to identify strategies to assist with the implementation of moderate-income housing options in the city. One of West Bountiful's strategies was to "create or allow for, and reduce regulations related to, accessory dwelling units in residential zones." The housing section of the city's general plan puts an emphasis on the value of ADUs in expanding the range of housing options within the city. In listing benefits of ADU's, the general plan states: "In addition to providing affordable rental housing, they can allow first-time homeowners to gain access to homes that would otherwise be out of reach by renting out an additional unit."

John Janson and Jake Young, professional planners, were hired by the City to assist with land use issues, including working on the city's stated goals. They presented information to the planning commission in November and generally discussed draft changes to the city's land use code regarding accessory dwelling units (ADUs).

### **Discussion**

Staff has put together a list of items and is looking for direction on how best to proceed which includes more detailed discussion of the following topics.

1. Conditional Uses should be used sparingly. Elimination of the conditional use requirement for ADUs may be appropriate as the necessary criteria is already included in code. This is consistent with previous changes made by the city in other areas.
2. Recorded Agreement. Current regulations require homeowner to sign an agreement saying they will live in the home.
3. Detached ADU's are not allowed in West Bountiful. Is there interest in adding them?

4. Building Code Requirements for ADUs. Should they be added to Code or referenced?
5. Should there be a provision allowing temporary conditions where a homeowner is not onsite?
6. Should 'landlords' be required to obtain business licenses as a way to track and enforce ADUs?
7. How to deal with illegal ADUs. What are appropriate administrative remedies?

#### **Commissioner Comments:**

**Corey Sweat** commented on the 7 points requested by the staff. He feels item 1 should be a permitted use and supports items 2 through 7. He stated that permitted uses are better than conditional uses as we know what is acceptable to city code and would not be subjected to having residents bring individual requests.

**Alan Malan** concurs with Corey on item 1 and is agreeable with item 2 if it is in larger zoned areas. He would like item 4 to be referenced in our codes to keep it simple to update. He supports item 5 but feel that item 6 regarding business license is not necessary. Mr. Malan is not sure how to handle item 7 but wants to preserve citizen's rights to a due process.

**Dee Vest** agrees with item 1 and with Alan Malan on Items 2-6. Regarding item 7, he is not sure how to address that matter because most ADU's in our city are not up to code and he suggested we may want to look at it down the road.

**Laura Charchenko** supports items 1, 2, and 4. She concurs that item 3 be allowed just in the A-1 zone. Ms. Charchenko supports item 5 but feels that items 6 & 7 could be dovetailed in order to police the ADU's. She noted that this would seem to be a lot of work for staff but she understands why the regulations are in place for safety purposes.

**Mike Cottle** stated that from a real estate agent standpoint, he feels we do not have enough property for everyone and believes that ADU's are important to have in place. Regarding item 7, he asked what an illegal ADU is. Cathy Brightwell gave some examples, noting garages turned into apartments, unattached buildings turned into living space, etc. At present they are not being policed unless there are safety concerns that are brought to the city's attention by residents. Regulations are in place to guard people's safety. Ms. Brightwell noted that there has been an increase in requests for ADU's to be included as part of new home construction. The older homes are difficult to convert into legal ADU's based on building code.

**Chairman Hopkinson** noted that we need to preserve the value of the single-family home. He stated that the separate ADU issue should only be referenced in our A-1 and R-1-22 zones as land less than one half acre would not be acceptable for separate or detached ADU's. He reiterated that the original intent for ADU's was not have backyard rental units but to help families take care of family members in need and pointed out that extra rental units can impact our utilities, school and services which needs to be considered for a city our size.

**Council member Enquist** asked if the questions posed in the above items are from staff or city planners. Ms. Brightwell responded that staff is interested in the planning commission's feelings on each item so they can begin drafting language.

Cathy Brightwell reviewed the proposed language changes and comments from the city planners and Mr. Doxey. She noted that most is just clean up changes and things that need to be included in current code.

Chairman Hopkinson asked that staff put language in that no detached ADU's will be allowed in the R-1-10 zone. Restrictions should be made on size of the ADU as to whether a structure can be attached or detached. He stressed that we do not want to impact neighbors with two story ADU's and such.

In continued discussion, commissioners felt there should be limitations on structure sizes. Alan Malan suggested that detached ADU's can only be one story and a certain percentage of the original home. In addition, we may also want to consider larger setbacks on the sides to protect neighbors.

Some discussion took place whether detached units should have separate billing for utilities, sewer, etc. The question was asked if there could be a separate tax id number with the county? Mr. Doxey explained that taxes are assessed for each parcel not each unit. ADU's are not principal dwellings and cannot be charged as such.

Chairman Hopkinson warned that we need to be careful to consider all regulations because once we open the gate it is out of our hands without specific regulations in place. Height and setbacks are important for privacy issues and safety as well.

Ms. Brightwell suggested that she will put some proposals together and bring them back for discussion. She noted that parking is an important issue to consider as well.

Mr. Doxey suggested a joint work session with the City Council to discuss thoughts and proposals for changing the ADU's.

Staff will prepare some proposals for the Commission to review and then a joint work session can be scheduled with the City Council.

Dee Vest noted that Mr. Jansen informed us at the last meeting, that there are only 3% - 5% ADU's in cities. He feels it is a positive thing to allow ADU's. Mr. Chairman stated that he feels there are a lot more that we are unaware of and that low of a percentage does not reflect a real picture in our city.

## **6. Staff Report**

### **Kris Nilsen:**

- Beverly Estates has been approved by city council with a concern for lot #1 for secondary water but that issue is being addressed.
- The Desert Harbor “family gathering” building located on 400 N west of 1100 W is addressing the height of the building which is about 5 feet above regulations. The permit for that building is for family gatherings and personal storage and they have signed a non- commercial structure agreement which prohibits commercial and residential use. The building is located on the far southeast corner of the property that fronts 400 North and is nearly 2 acres in size.
- Pickle Ball neighborhood meeting was held today but nobody showed up. Moving forward as the bid has been awarded. He responded to questions about lighting. There will be lighting in the schedule “B” phase that includes a hooded down path type lighting on a timer like the volleyball courts at city park.
- The Overpass Well house is on schedule for bid opening on January 22<sup>nd</sup> and is expected to cost approximately 1.1 million to complete.

Laura Charchenko inquired about the school ingress/egress into the south parking lot. It is not well marked and is causing safety issues with people attempting to turn left across 400 North. Better signage is needed. Kris will look into it.

### **Cathy Brightwell:**

- The city has received a request for variance from a builder in Mountain View Estates with a pipeline running through it. They are asking for the home to be 20 ft away from their pipe in the easement. The home will need to be smaller than required or the setbacks adjusted.
- Doug Coons will meet with staff tomorrow to talk about his developmental plans for his 3- lot subdivision on 1000 North. The house on 800 West has been demolished but the property is still a mess with tree stumps and debris.
- She reported that city council would like the planning commission to review the codes for Accessory Building in consideration of the building being built on 400 North and 1100 West. Setbacks, Heights, and building requirements. The building appears to be out of place for that area but is within city code regulations.

## **7. Consider Meeting Minutes from November 24, 2020**

### **Action Taken:**

***Mike Cottle moved to approve of the minutes of the November 24, 2020 meeting as presented. Corey Sweat 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 9:15 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 January 26, 2021, by unanimous vote of all members present.*

*Cathy Brightwell*

Cathy Brightwell – City Recorder

