

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 26, 2021**

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

Prayer/Thought by Laura Charchenko

1. *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.*
2. Accept Agenda.
3. Discuss Proposed Changes to WBMC 17.60 Conditional Uses
4. Discuss Non-Commercial Structures in the A-1 District.
5. Discuss Height Regulations in Residential Districts.
6. Staff report.
7. Consider Meeting Minutes from January 12, 2021.
8. Adjourn.

JOIN ZOOM MEETING

<https://us02web.zoom.us/j/86241379056>

Meeting ID: **862 4137 9056**

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

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 22, 2021 by Cathy Brightwell, City Recorder.

MEMORANDUM



TO: Planning Commission

DATE: January 22, 2021

FROM: Staff

RE: Discussion on Proposed Updates to Conditional Uses

John Janson and Jake Young have reviewed the City's land use code and have suggested modifications to our Conditional Use ordinance that address issues in state law. Their proposals are intended to move us from vague concepts to standards and criteria.

It is suggested that conditional uses be used more sparingly based on legislative changes that limit the city's ability to deny conditional use requests when conditions can be imposed to mitigate the reasonably anticipated detrimental effects of the proposed use. Once language is adopted, we will want to look at the list of Uses in each zone to see if conditional use designation is really appropriate and if each Use is listed in the correct zone.

A draft redline version of WBMC 17.60 with comments for planning commission review is attached. Also attached is the current list of Permitted and Conditional Uses in the three residential zones.

January 22, 2021 Redline

17.60 Conditional Uses

- 17.60.010 Purpose And Intent
- 17.60.020 Conditional Use Permit: When Required
- 17.60.030 Planning Commission Approval Required
- 17.60.040 Determination To Issue Conditional Use Permit
- 17.60.050 General Inspection
- 17.60.060 General And Performance Standards For Conditional Uses And Conditional Use Developments
- 17.60.070 Expiration Of Permit
- 17.60.080 Review And Revocation Of Permit
- 17.60.090 Farm Animals

17.60.010 Purpose And Intent

The purpose of this chapter is to provide for a reasonable application, review, and approval process for land uses that are specified as "conditional." Proposed new land uses are to comply with City ordinances, Federal and State Law, and are properly integrated into the community through the imposition of conditions, based on standards, intended to mitigate the reasonably anticipated detrimental effects of a particular conditional use. Conditional uses shall be approved on a case-by-case basis provided the applicant adequately demonstrates that the reasonably anticipated detrimental effects of the proposed use can be mitigated through the imposition of reasonable conditions, based on standards in the City ordinances.

~~The purpose and intent of this chapter is to promote the health, safety, convenience and general welfare of the inhabitants of the city. This chapter accomplishes this by providing sufficient flexibility to allow in certain areas compatible integration of uses which are related to the permitted uses of the district or are of a temporary nature, but which may be suitable only in certain locations and/or under certain development conditions.~~

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

17.60.020 Conditional Use Permit: When Required

A conditional use permit shall be required for all uses classified as conditional in this title.

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

17.60.030 Planning Commission Approval Required

- A. Conditional uses are subject to approval by the Planning Commission in districts permitting such uses under this title.
- ~~B. Public Hearings. A public hearing may shall be held after a complete application is received for a conditional use when deemed by the planning commission to be in the public interest. However, in the following instances the holding of a public hearing shall be mandatory:~~
- ~~1. The planning commission determines that existing streets and thoroughfares are not suitable and adequate to carry anticipated traffic, and increased densities resulting from the proposed use may generate traffic in such amounts as to overload the street network outside the district;~~

Commented [JJ1]: State Law - allows a just a public meeting. It does not have to be a hearing. Seems like an extra step to go to the PC to decide if a hearing should be held.

Commented [CB2R1]: We do not currently hold public hearings for conditional use applications. They are routinely considered in a regular meeting. The PC can request a hearing after the CU application has been presented if they feel like they need more info.

Commented [JJ3]: Policy - Most communities are requiring a traffic study if the ZA thinks it is needed or simply requiring it

2. ~~The planning commission determines that increases in traffic, light, odor or environmental pollution generated by the proposed use may significantly change the intended characteristics of the district as outlined in this title;~~
 3. ~~The planning commission determines that the architectural design of the proposed use varies significantly from the architectural characteristics of the district, as outlined in this title, in which such use is proposed.~~
- C. All applications use shall be made by the property owner or a certified agent and shall be submitted using a form available on the City website or at City Hall. All applications shall be reviewed for completeness by the City staff and rejected if incomplete.
- D. All applicants shall pay a fee for the processing of the Conditional Use and other fees, if applicable.

Commented [JJ4]: Policy - same comment

Commented [JJ5]: State Law - this is a vague concept

Commented [JJ6]: SC/P - this begs reviewing your use lists to determine if all the ones you have should be CUs

Commented [CB7]: Most of our applications are for businesses so the applicant is the business owner, not necessarily the property owner, although we do require their information on the application.

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

17.60.040 Determination To Issue Conditional Use Permit

- A. City staff shall review the application for completeness and determine if it meets City standards and application requirements as defined in this Code and in the Public Works Standards. Staff may also identify any potential detrimental effects and possible remedies and include those in the staff report. Such applications may be referred to affected entities for comments, to be submitted prior to the Planning Commission hearing. Reviews may include site visits. Staff may suggest additional studies that will be needed prior to the Planning Commission review.
- B. A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.
- C. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.
- D. As used in this section, "applicable standards" means the requirements of this chapter and all other applicable requirements of the Municipal Code.
- E. ~~In order to approve a conditional use, the Planning Commission shall consider whether:~~
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, under the circumstances of the particular case, 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 proposed use will provide for appropriate buffering of uses and buildings, proper parking and traffic circulation, the use of building materials and landscaping which are in harmony with the area, and compatibility with adjoining uses;~~
 5. ~~The proposed use will comply with the regulations and conditions specified in the land use ordinance for such use;~~
 6. ~~The proposed use will conform to the intent of the city's general plan; and~~
 7. ~~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.~~

Commented [JJ8]: State Law - needs to be based on standards not vague concepts

All Conditional Use Permits run with the land and the City may require the applicant to record documents to that effect. The Planning Commission and staff, in their review capacity, may impose site plan modifications and conditions to mitigate the reasonably anticipated detrimental effects of a conditional use. In addition to the standards found in related chapters and the zone in which the use is located, all conditional uses shall be evaluated for potential detrimental effects and meet the following standards:

- a. The proposed conditional use shall comply with City ordinances, Federal, State Law, as applicable to the site where the conditional use will be located.
- b. Substantial mitigation of reasonably anticipated detrimental effects arising from the conditional use, including, but not limited to:
 1. Detrimental effects of decreased street vehicle and bicycle service levels and/or traffic patterns including the need for street modifications such as dedicated turn lanes, traffic control devices, safety, street widening, curb, gutter and sidewalks, location of ingress/egress, lot surfacing and off-street parking and circulation, loading docks, as well as compliance with off-street parking standards, including other reasonable mitigation as determined by a qualified traffic engineer or transportation planner.
 2. Detrimental effects on the adequacy of utility systems, service delivery, and capacities, including the need for such items as relocating, upgrading, providing additional capacity, or preserving existing systems, including other reasonable mitigation as determined by the City's engineering staff, contracted engineers, and utility service providers.
 3. Detrimental effects on street/sidewalk connectivity and safety for pedestrians and bicyclists.
 4. Detrimental effects by the use due to its nature, including noise that exceeds sound levels normally found in residential areas, odors beyond what is normally considered acceptable, within a neighborhood including such effects as environmental impacts, dust, fumes, smoke, odor, noise, vibrations, chemicals, toxins, pathogens, gases, heat, light, electromagnetic disturbances, and radiation. Detrimental effects by the use may include hours of operation and the potential to create an attractive nuisance.
 5. Detrimental effects that increase the risk of contamination of or damage to adjacent properties and injury or sickness to people arising from, but not limited to, waste disposal, fire safety, geologic hazards, soil or slope conditions, liquefaction potential, site grading/topography, storm drainage/flood control, high ground water, aquifer/well, environmental health hazards, or wetlands, as determined by City Engineer, City geologist and other qualified specialists.
 6. Detrimental effects of modifications to or installation of signs and exterior lighting that conflict with neighborhood compatibility.
 7. Detrimental effects arising from incompatible designs in terms of use, scale, intensity, height, mass, setbacks, character, construction, solar access, landscaping, fencing, screening, and architectural design and exterior detailing/finishes and colors within the neighborhood in which the conditional use will be located.
 8. Detrimental effects on the tax base and property values.

Commented [CB9]: We have our Farm Animal CUPs set up so they expire upon the sale of the property (see Farm Animal section below). The intent is to have each new property owner go through the CU process so we know they are aware of the restrictions/conditions. (Similar to ADU agreements we require from the property owner)

9. Detrimental effects on the current level of economy in governmental expenditures.
10. Detrimental effects on emergency fire service and emergency vehicle access.
11. Detrimental effects on usable open space and parks.

- F. Inadequate maintenance of the property and structures in perpetuity including performance measures, compliance reviews, and monitoring. In addition to staff, the Planning Commission in its review, the applicant, at his or her cost, shall provide any report and/or study relating to utilities, traffic impact, school impact, soil impact, water impact, existing conditions, vehicular line-of-sight and building massing, and any other information reasonably requested by the City.
- G. Conditional use approval may include limitations or requirements as to street or trail dedication; the height, size, location, and design of structures; landscaping; density; ingress; egress; fencing; parking; lighting; noise; hours of operation; and similar obligations or restrictions intended to mitigate the reasonably anticipated detrimental effects of the proposed use. Height, density and size requirements for structures in each zone are maximums, and may be reduced or modified as conditions of approval of any conditional use.

Commented [JJ10]: State Law - these are the sort of "standards/topics" that the State is looking for. May want to review the list and add other considerations that you have imposed in the past or might want to in the future

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

17.60.050 General Inspection

Each property for which a conditional use permit application is submitted is subject to an inspection to ensure compliance with the Municipal Code and to determine appropriate conditions for issuance of a conditional use permit. Following the issuance of a conditional use permit, the City may inspect the property from time to time to verify compliance with the Municipal Code and the conditions established in the conditional use permit. For uses involving buildings or construction, the City, at its discretion, may require the applicant or permit holder to pay for an inspection by a building inspector. In all other cases, City staff may perform the inspection.

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

17.60.060 General And Performance Standards For Conditional Uses And Conditional Use Developments

Applicants for conditional use permits shall meet all specific requirements of the City building code, land development and zoning codes, including those set forth in the subdivision ordinance and the City's development standards and specifications, as they apply to the zone for which the permit is requested. The Planning Commission may establish additional requirements as established through this process and specified in the conditional use permit related to the health, safety and welfare of area residents.

Commented [JJ11]: State Law - too vague

Staff shall provide the applicant with a record of the permit which shall generally include an approved site plan and letter of agreement containing the conditions of approval.

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

17.60.070 Expiration Of Permit

- A. Every conditional use permit shall expire and become null and void if the use authorized by the permit has not been commenced within one hundred eighty (180) days. If the permit holder files a written application for an extension before the expiration of the permit and presents satisfactory evidence that unusual difficulties, such as weather, material shortages, labor shortages or financing difficulties, have prevented commencement of the use within the specified time limit, the zoning administrator may grant a reasonable extension of time, up to an additional one hundred eighty (180) days, to commence the use. Commencement of the use includes applying for and obtaining all necessary building permits and other permits for the proposed use.

- B. A conditional use permit for uses which are of a temporary nature may be issued for the intended duration of the temporary use, as determined by the Planning Commission ~~in its sole discretion, or~~ for up to two years if no other time frame is stipulated.

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

17.60.080 Review And Revocation Of Permit

- A. Conditional use permits under this chapter are subject to review by the Planning Commission upon complaint.
- B. No conditional use permit shall be modified, revoked or suspended for more than 30 days without a hearing before the Planning Commission. The permit holder shall be notified in writing of the hearing and the grounds for convening the hearing. Such notice shall be served to the permit holder by registered or certified mail or personal service at least seven (7) days prior to the hearing, which may be held at a public ~~hearing meeting~~. At the hearing, the permit holder shall be given an opportunity to be heard, and may call witnesses and present evidence. Following the hearing, the Planning Commission shall determine whether the permit shall remain in place, whether additional or different conditions shall be imposed, or whether the permit shall be suspended or revoked. The permit holder may appeal the Planning Commission's decision to the Appeal Authority ~~to the city council in the manner provided in Chapter 17.08.120~~.
- C. Notwithstanding the foregoing, the Zoning Administrator may impose a temporary suspension on a conditional use, not to exceed thirty (30) days, under the circumstances described in this subsection. Before imposing a temporary suspension, the Zoning Administrator must find, after investigation, that:
1. The permit holder has violated the conditions of the permit, or has violated the provisions of the Municipal Code or other laws applicable to the conditional use, and
 2. ~~The violation has caused, or is likely to cause, immediate or irreparable harm to the health, safety, or welfare of persons in the community.~~

The temporary suspension will be effective immediately upon notification to the permit holder, which may be effected in any reasonable manner, including by posting on the property and, at the same time, following up with certified mail.

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

17.60.090 Farm Animals

Conditional uses involving farm animals are subject to the provisions of this chapter, with the following exceptions:

- A. Any conditional use permit allowing increased density of farm animals on a property shall expire upon sale of the property.
- B. The provisions of the ordinance allowing farm animals on the property shall govern any inconsistent provision of this chapter.
- C. In approving a conditional use, the Planning Commission may impose conditions with regard to setbacks; control of animal waste, debris, noise, odor, and drainage; and prevention of damage to adjacent properties, as well as any other reasonable condition allowed under this chapter, in order to mitigate the reasonably anticipated detrimental effects of the proposed use.

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

Commented [JJ12]: State Law - Appeal Authority would be more appropriate

Commented [JJ13]: Policy - is this described somewhere?

Commented [CB14R13]: No. The intent is to be able to force a stop until the normal 30-day process can be implemented. Only used for health & safety issues as generally listed in C2. There's probably a better way to do it.

Commented [JJ15]: State Law - somewhat vague may want to be more specific

Commented [JJ16]: State Law - vague - does this mean of all activity or the site?

Commented [JJ17]: Policy - this may be better in a different chapter

PERMITTED AND CONDITIONAL USES FOR RESIDENTIAL ZONES

17.24.020 Permitted Uses (R-1-10)

The following uses are permitted in the R-1-10 residential district:

1. Agricultural;
2. Single Family Dwellings;
3. Farm animals; and
4. Home occupations.

17.24.030 Conditional Uses

The following uses are conditional in the R-1-10 residential district:

1. Public, quasi-public uses;
2. Accessory Dwelling Units (ADU);
3. Restricted lots, (see Definitions (Section 17.04.030));
4. Flag lots; and
5. Child day care or nursery (pursuant to Chapter 5.28 Home Occupations).

17.20.020 Permitted Uses (R-1-22)

The following uses are permitted in the R-1-22 residential district:

1. Agricultural;
2. Single-family dwellings;
3. Home Occupations; and
4. Farm animals.

17.20.030 Conditional Uses

The following uses are conditional in the R-1-22 residential district:

1. Child day care or nursery (pursuant to Chapter 5.28 Home Occupations);
2. Flag lot;
3. Public, quasi-public uses;
4. Accessory Dwelling Units (ADU); and
5. Restricted lots (see Definitions - Section 17.04.030).

17.16.020 Permitted Uses (A-1)

The following uses are permitted in the A-1 agricultural district:

1. Agricultural;
2. Single family dwelling;
3. Farm Animals;
4. Home Occupations; and
5. Non-commercial structure.

17.16.030 Conditional Uses

The following uses are conditional in the A-1 agricultural district:

1. Equestrian facilities, commercial stables;
2. Public or quasi-public uses;
3. Child day care or nursery (pursuant to Chapter 5.28 Home Occupations);
4. Flag lots;
5. Kennels, (pursuant to Chapter 5.28 Home Occupations);
6. Restricted Lots (see definitions, Section 17.04.030); and
7. Accessory Dwelling Units (ADU).



MEMORANDUM

TO: Planning Commissioners
DATE: January 22, 2021
FROM: Staff
RE: Review of Non-Commercial Structure Regulations

BACKGROUND

Last year, a new permitted use, Non-Commercial Structure (NCS), was added in the A-1 District. The primary reason for considering the change was to deal with multiple requests from property owners who had a need for storage structures when there was no home on the property. Zoning code at the time referred only to accessory structures, but the concept of accessory structures is to be “on the same lot *with*, and of a nature customarily *incidental and subordinate to*, the *principal use or building*.”

A Non-Commercial Structure is defined as **a structure that: (1) is not designed or used for commercial purposes, (2) is not designed or used as a dwelling, (3) is not accessory to a principal building or use on the same lot, and (4) is not a landscape enhancement such as an arbor or trellis. Such conditions will be stipulated in a recorded agreement between the city and property owner. If a principal building or use is established on the same lot as a non-commercial structure, the non-commercial structure will be deemed an accessory structure subject to all regulations governing accessory uses, buildings, or structures.**

Building permits for two non-commercial structures have been approved. One is a standard storage building and the other a family gathering and storage building. Agreements have been recorded on the properties of each NCS that clearly states the structure cannot be used for commercial or residential purposes.

DISCUSSION

As a result of numerous complaints about one of these buildings, the city council has asked the planning commission to review the issue to determine if changes to the ordinance are warranted.

1. Should a NCS be a conditional use where conditions can be imposed to mitigate reasonably anticipated detrimental effects based on the specific proposed building?
2. Should the structure be limited to a maximum size? For example, compared to main structures, neighboring structures, or other measurement?
3. Should different setbacks be established? Currently the smaller setbacks for accessory structures are applied – not main structure setbacks.

MEMORANDUM



TO: Planning Commission
DATE: January 22, 2021
FROM: Staff
RE: Review of Height Regulations in Residential Zones

BACKGROUND

In 2019, yard regulations, including accessory building height requirements in the R-1-10, R-1-22, and A-1 residential zones were adopted. Prior to these changes, requests for additional height were presented to the planning commission as part of a conditional use application. To move away from the conditional use, a sliding scale was implemented that allowed additional height by increasing setbacks. See detail below:

- In the R-1-10 zone, height can be increased from 20 ft to a maximum of 25 ft. if the accessory structure is set back an additional 2 feet beyond the minimum setbacks for every additional foot requested.
- In the R-1-22 zone, height can be increased from 20 ft. to a maximum of 25 ft. if the accessory structure is set back an additional 1 foot beyond the minimum setbacks for every additional foot requested.
- In the A-1 zone, height can be increased to a maximum of 40 feet if the main, accessory, or non-commercial structure is set back an additional 1 foot beyond the minimums required.

DISCUSSION

Now that the new regulations have been in place for a while, clarification is needed in several areas.

1. Where should the height measurement be made? Current language says it is measured from the *lowest finished ground level* which is not clear. What is the intent?
 - a. Front door landing?
 - b. Top back of curb?
 - c. Lowest visible foundation, e.g., walkout basement?
 - d. Lowest point of graded yard?
2. What does “minimum setbacks” mean? Currently, setbacks can be reduced from 6 ft to 3 ft if the building meets fire code standards. Does the reduced setback for fire-rating count as part of the minimum setback calculation for height? For example, if the standard setback is 6 ft. and 2 feet is added to account for additional height the total setback = 8 ft. If the reduced setback is 3 ft. and 2 feet is added to account for additional height the total setback = 5 ft.
3. In the R-1-10 and R-1-22 districts, the height for accessory structures cannot be taller than the main structure. Should something similar be considered in the A-1 zone?
4. In the R-1-10 and R-1-22 districts, lighting and window regulations for accessory structures were put in place to minimize potential impacts to neighboring properties while allowing a property owner to construct a taller building. Should something similar be considered in the A-1 zone?

HEIGHT IN RESIDENTIAL DISTRICTS

R-1-10

A. Maximum Height of Structures.

1. Main Structures. No main structure shall be erected to a height greater than thirty-five (35) feet as measured from the lowest finished ground level to the highest part of the roof.
2. Accessory Structures. Any accessory structure must comply with the following requirements in addition to any other applicable requirements of this Code.
 - a) The accessory structure may not be taller than the main structure.
 - b) The maximum height is twenty (20) feet, except as otherwise provided in this section.
 - c) **The height may be increased to a maximum of twenty-five (25) feet if, for every foot in height in excess of twenty (20) feet, the accessory structure is set back an additional two (2) feet beyond the minimum setbacks required by this chapter in the rear yard, side yards and, as applicable, street side yard.**
 - d) Windows within twenty (20) feet of a property line with headers above ten (10) feet must be non-opening and have translucent glass that does not permit objects on the outside to be seen clearly from within the accessory structure.
 - e) All exterior lighting mounted above ten (10) feet must include cut-off devices that confine the light to the property on which the accessory structure is situated.

B. Additional height allowed. Public buildings and quasi-public buildings may be erected to a height greater than thirty-five (35) feet when approved as a conditional use by the planning commission.

C. Exceptions to height limitations. Penthouse or roof structures for the housing of elevators, stairways, tanks ventilating fans or similar equipment required to operate and maintain the building; and fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys, smokestacks, water tanks, wireless or television masts, theater lofts, silos or similar structures may be erected above the height limits herein prescribed, but no space above the height limit shall be allowed for the purposes of providing additional floor space and such increased height is subject to all other ordinances and regulations of the city.

D. Minimum height of dwellings. No dwelling shall be erected to a height less than one story above grade.

R-1-22

A. Maximum Height of Structures.

1. Main Structures. No main structure shall be erected to a height greater than thirty-five (35) feet as measured from the lowest finished ground level to the highest part of the roof.
2. Accessory Structures. Any accessory structure must comply with the following requirements in addition to any other applicable requirements of this Code.
 - a) The accessory structure may not be taller than the main structure.
 - b) The maximum height is twenty (20) feet, except as otherwise provided in this section.
 - c) **The height may be increased to a maximum height of twenty-five (25) feet if, for every foot in height in excess of twenty (20) feet, the accessory structure is set back an**

additional one (1) foot beyond the minimum setbacks required by this chapter in the rear yard, side yards and, as applicable, street side yard.

- d) Windows within fifteen (15) feet of a property line with headers above ten (10) feet must be non-opening and have translucent glass that does not permit objects on the outside to be seen clearly from within the accessory structure.
 - e) All exterior lighting mounted above ten (10) feet must include cut-off devices that confine the light to the property on which the accessory structure is situated.
- B. Additional height allowed. Public buildings and quasi-public buildings may be erected to a height greater than thirty-five (35) feet when approved as a conditional use by the planning commission.
- C. Exceptions to height limitations. Penthouse or roof structures for the housing of elevators, stairways, tanks ventilating fans or similar equipment required to operate and maintain the building; and fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys, smokestacks, water tanks, wireless or television masts, theater lofts, silos or similar structures may be erected above the height limits herein prescribed, but no space above the height limit shall be allowed for the purposes of providing additional floor space and such increased height is subject to all other ordinances and regulations of the city.
- D. Minimum height of dwellings. No dwelling shall be erected to a height less than one story above grade.

A-1

- A. Maximum height of structures. No structure shall be erected to a height greater than thirty-five (35) feet as measured from the lowest finished ground level to the highest part of the roof, except as otherwise provided in this section.
- 1. **The height of a main structure in this district may be increased to a maximum of forty (40) feet if, for every foot of height in excess of thirty-five (35) feet, the structure is set back an additional one (1) foot beyond the minimums required by the chapter in the rear yard, side yards, and as applicable, street side yard.**
 - 2. **The height of an accessory or non-commercial structure in this district may be increased to a maximum of forty (40) feet subject to the same requirements listed in subsection A.1. of this section.**
- B. Additional height allowed. Public buildings and quasi-public buildings may be erected to a height greater than thirty-five (35) feet when approved as a conditional use by the planning commission.
- C. Exceptions to height limitations. Penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building; and fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys, smokestacks, water tanks, wireless or television masts, theater lofts, silos or similar structures may be erected above the height limits herein prescribed, but no space above the height limit shall be allowed for the purpose of providing additional floor space, and such increased height is subject to all other ordinances and regulations of the city.
- D. Minimum height of dwellings. No dwelling shall be erected to a height less than one story above grade.

**West Bountiful City
Planning Commission Meeting**

January 12, 2021

PENDING – NOT YET APPROVED

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 22nd 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 – City Recorder