

Mayor
Kenneth Romney

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

**City Recorder/
Community
Development**
Cathy Brightwell

WEST BOUNTIFUL PLANNING COMMISSION

550 North 800 West
West Bountiful, Utah 84087

Phone (801) 292-4486
FAX (801) 292-6355
www.WBCity.org

Chairman
Alan Malan

Commissioners
Mike Cottle
Laura Mitchell
Corey Sweat
Dennis Vest

**THE PLANNING COMMISSION WILL HOLD A REGULAR MEETING
AT 7:30 PM ON TUESDAY, NOVEMBER 9, 2021, AT THE CITY OFFICES**

AGENDA:

1. Prayer/Thought by Commissioner Mitchell.
2. Accept Agenda.
3. Conditional Use Application for Home Occupation Business at 963 Meadowlark Lane – John & Jessica Nelson.
4. Staff report.
5. Consider Meeting Minutes from October 26, 2021.
6. Commissioner Training.
7. Adjourn.

*This notice has been sent to the Davis Journal and was posted on the State Public Notice Website
and the City's website on November 5, 2021, by Cathy Brightwell, City Recorder.*

MEMORANDUM



TO: Planning Commission

DATE: November 5, 2021

FROM: Staff

RE: Conditional Use Permit Request for a Home Occupation Business at 963 Meadowlark Lane (963 W 1850 N) for John & Jessica Nelson.

John and Jessica Nelson have applied for a Conditional Use Permit to authorize a Home Occupation business license to resell equipment such as power tools, gym equipment and weights. Their application explains that they buy wholesale goods and sell on local classified sites such as Facebook marketplace and KSL.com and buyers pick up items in person or they are delivered.

The planning commission discussed proposed conditions at its October 26th meeting and asked staff to work with legal counsel to clarify and fine-tune the conditions for further consideration. Mr. Doxey has also provided possible findings for the commission to consider as they deliberate this issue.

If the planning commission determines to grant the conditional use permit:

Possible Findings:

1. The proposed use, with appropriate conditions, 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. *Compliance with the Home Occupation ordinance (Chapter 5.28) and the conditions to be imposed will keep this use clearly incidental and secondary to the residential use of Applicant's dwelling and will preserve the residential character and lifestyle of the neighborhood in terms of traffic, parking, and activity.*
2. The proposed use, as conditioned, will not have an inordinate adverse impact on schools, utilities, or streets. *No additional schools or utilities are required, and additional traffic will be insignificant as conditioned.*
3. The proposed use, as conditioned, will provide appropriate buffering of uses, proper parking and traffic circulation, the use of building materials and landscaping in harmony with the area, and compatibility of adjoining uses. *The appearance of the dwelling and residential landscaping will not be altered. The conditions require parking to be off-street and limit the number and types of deliveries and pickups.*
4. The proposed use will comply with the regulations and conditions specified in the land use ordinance for such use. *The conditions require this.*
5. The proposed use, with appropriate conditions, will conform to the intent of the city's general plan. *The general plan does not prohibit home occupations as long as they preserve the residential character and lifestyle of residential zones.*

6. The conditions imposed in the conditional use permit will mitigate the reasonably anticipated detrimental effects of the proposed use and accomplish the purposes of the land use code in accordance with applicable standards.

Conditions:

1. The home occupation must comply with all applicable laws and, in particular, WBMC 5.28 – Home Occupations, including the requirements specified in these conditions, to protect the residential character and lifestyle of this residential zone.
2. The home occupation will be limited to a home office in the dwelling that does not exceed 15% of the main floor. Applicant may use up to 25% of a garage **or** accessory structure on the property for business purposes, as long as such use does not change the residential character of the lot and is not contrary to the purposes of WBMC 5.28
3. Inventory or supplies may not occupy more than 50% of the permitted area in the dwelling, garage, or accessory structure. Based on the building permits for the property, this means inventory and supply storage is limited for each building on the property (only the garage **or** accessory structure may be used for inventory and supplies, not both), as follows:
 - i. **Dwelling** - $1281 \text{ main floor sf} \times 15\% = 193 \text{ sf} \times 50\% = \underline{97 \text{ sf for inventory}}$
 - ii. **Garage** - $886 \text{ sf} \times 25\% = 222 \text{ sf} \times 50\% = \underline{111 \text{ sf for inventory}}$
 - iii. **Accessory Structure** - $2100 \text{ sf} \times 25\% = 525 \text{ sf} \times 50\% = \underline{263 \text{ sf for inventory}}$
4. Applicant must confirm in writing at the time the permit is issued which structure—the garage or accessory structure—will be used for the home occupation. If the applicant subsequently elects to use the other structure, the applicant must seek prior approval from the planning commission, which may or may not impose additional or different conditions in modifying the permit.
5. Applicant must provide a clear separation of space between inventory for resale and any personal equipment or products so that each may be clearly identified upon inspection. If aApplicant elects to use the garage for the home occupation, for example, any inventory and supplies must be stored in the garage, and any personal equipment or products must be stored elsewhere.
6. Consistent with WBMC § 17.60.050, the applicant will allow the City and its agents to inspect the property and the structures on the property at reasonable times without prior notice to verify compliance with applicable laws and the conditions of the permit.
7. Except as provided below, delivery of merchandise will be limited to standard delivery trucks used for regular online purchases. One delivery by a truck not to exceed 28 feet in length is allowed no more frequently than every 30 days. Deliveries will be limited to the hours between 8 am and 7 pm.
 - a. Delivered merchandise may at no time be placed or kept on the street right-of-way.
 - b. Customer pick-ups will be scheduled between 8 am and 7 pm with no more than one customer per hour so that neighborhood traffic is limited.
 - c. Sufficient off-street parking will be provided for customer vehicles when picking up merchandise.
8. Outdoor storage related to the home occupation will not be permitted (WBMC § 5.28.040.I).
9. Applicant will cease all sales from the property until a home occupation business license is issued.
10. Applicant will comply with city and state regulations for retail businesses, including obtaining a state registration and sales tax id, and will provide any requested information as part of its home occupation license review.

11. Applicant will obtain and maintain a home occupation business license.
12. The permit will be subject to a 90-day probation period. If any condition is violated during the probation period, the permit and home occupation business license will be revoked, and the final permit will not be issued absent additional evidence presented to the planning commission justifying the issuance of the final permit. Following issuance of the final permit, the permit may be modified, suspended, or revoked upon complaint after a hearing before the planning commission.
13. Applicant's obligations under these conditions will be binding upon any successor, heir, or assign of applicant with respect to the property.

If the planning commission decides to grant the conditional use permit it can do so now but the permit and business license will not be issued until the applicant has signed the permit agreeing to comply with the conditions and has met all requirements for the home occupation business license.

If the planning commission determines to deny the conditional use permit:

Possible Findings:

1. The proposed use at this particular location is not necessary or desirable to provide a service or facility that will contribute to the general well-being of the neighborhood and the community. *The proposed general retail sale of gym equipment and other products from a dwelling in a residential neighborhood will unnecessarily change the character of the neighborhood. Although retail sales can contribute to the well-being of the community, they are best conducted from property in a commercial zone that allows similar uses and is better equipped for higher traffic, parking, and other impacts from a commercial business.*
2. The proposed use will 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. *This use is not clearly incidental and secondary to the residential use of Applicant's dwelling and will adversely affect the residential character and lifestyle of the neighborhood in terms of traffic, parking, and activity.*
3. The proposed use will not comply with the regulations and conditions specified in the land use ordinance for such use. *The land use ordinance requires that home occupations, where allowed, preserve the residential character and lifestyle of the neighborhood. This retail business, with numerous deliveries and customer pickups per week, will alter the residential character of the neighborhood.*
4. The proposed use will not conform to the intent of the city's general plan. *The general plan separates most residential and commercial uses. This home occupation will not preserve the residential character and lifestyle of residential zones.*
5. No conditions can be imposed that will substantially mitigate the reasonably anticipated detrimental effects of the proposed use and accomplish the purposes of the land use code in accordance with applicable standards. *This is a retail business, whether conducted largely online or not. It involves deliveries of equipment and products and customer pickups that will alter the residential character of the neighborhood as a place for dwellings and incidental uses.*



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

21-07

PROPERTY ADDRESS: 963 Meadowlark Lane

NAME OF BUSINESS/USE: General Classified Sales

PARCEL NUMBER: 061310019 **ZONE:** **DATE OF APPLICATION:** 10/18/21

Applicant Name: John and Jessica Nelson

Applicant Address: 963 Meadowlark Lane

Primary phone: 801-750-5021

E-mail address: nelsonfab4@gmail.com

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

General Home Occupation Business Application.

General local classifieds sales with in person pickup.

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. I understand the information on this application may be made available to the public upon request.

Date: 10/18/21

Applicant Signature: 

FOR OFFICIAL USE ONLY

Application Received Date: 10/18/21
Application Fee Received Date: 10/19/21
Permit Approval:

Permit Number: 21-07
Fire Inspection Date:
Fire Inspection Approval Date:



HOME OCCUPATION BUSINESS LICENSE APPLICATION

West Bountiful City
BUSINESS LICENSING DEPARTMENT
550 N 800 West
West Bountiful, UT 84087
Phone: (801) 292-4486
www.wbcity.org

Please allow 5-7 business days for processing

Applicant Information:

License # (Assigned by City):

Resident/Business Owner's Name: John and Jessica Nelson

Physical Address: 963 Meadowlark Lane West Bountiful, UT 84087

Mailing Address, if different than above:

Email address: Nelsonfab4@gmail.com

Primary Phone: 801-750-5021

Emergency Phone: 801-557-1811

Property Owner Name & Contact Info, if different than applicant:

Business Information:

1. Name of business: We have no name or Licenses at this time

State ID #:

State Sales Tax #:

Federal Tax ID #:

2. Describe the proposed business activity:

We buy wholesale goods such as power tools, household items, gym equipment and weights and resell them on local classified sites such as Facebook marketplace and KSL.com. Buyers pickup items in person or we deliver to them.

3. Hours of Operation: Pick up by appointment 8am- 7pm

4. Name and relationship of person(s) participating in business (must reside at the home):

John and Jessica Nelson

5. Describe which room(s) or areas of the property will be used, and how they will be used, in conducting this business from your home. List the approximate square footage of such rooms as well as the total square footage of the main floor of your home; if a garage or other accessory structure will be used, list the approximate square footage to be used and the total square footage of the garage or structure:

3000sqft of garage space available on the premises. Never more than 600sqft used for product storage.

6. Describe how, where, and in what amounts the materials, supplies and/or equipment related to your proposed home occupation will be displayed or stored:
General wholesale items to be stored neatly in an organized manner in the garage space.
7. Are any chemicals or hazardous materials used in connection with your home occupation? If yes, state the amount and type of chemicals or materials stored or used.
NO
8. Will individuals come to your home to obtain any product or merchandise, to utilize any service, or for any other purpose in connection with your proposed home occupation? If yes, please explain, including frequency.
0-8 buyers per day arrive periodically throughout day to pick up items.
Average visit time under 10 min.
9. If any vehicles or other equipment will be used as part of your home occupation, where will they be parked or stored? Only our regular personal vehicles will be used as normally parked in driveway.
10. Do any vehicles or other equipment come to your property in connection with your home occupation? If yes, please explain, including frequency: NO
11. Will the home occupation involve the use of commercial vehicles for delivery of material to or from the premises? If yes, please explain, including frequency: Yes. Occasional LTL Freight delivery no more than once a month. No traffic impairment whatsoever.
12. If your home occupation is a day care center, nursery, or preschool, please state how many children _____ and caregivers _____ will be involved in a typical workday. Please attach evidence of all licenses, permits, or approvals from federal, state, or local agencies authorizing the day care center, nursery, or preschool.
13. Does the proposed home occupation conform with covenants, conditions, and restrictions (CCR's) pertaining to your property? YES } if no, please explain: _____

Applicant Certification:

I hereby apply for a home occupation business license from West Bountiful City in accordance with the provisions of Title 5, West Bountiful Municipal Code. I understand that under certain conditions prescribed in the Municipal Code I may be required to apply for a conditional use permit as well.

I acknowledge that before this application may be approved, I must provide the attached notice to the owners of property within a 300 foot radius of the exterior boundaries of the property on which the home occupation is to be conducted.

I certify that the above information is true and correct to the best of my knowledge, and that I agree with the attached specific requirements and all other applicable provisions of the Municipal Code.

I understand the information on this application may be made available to the public pursuant to the Government Records Access and Management Act (UCA 63G-2-101 et seq), unless applicant specifically requests in writing that their personal information remain private.

Date: 10/18/21

Sign Here: _____

Applicant

FOR OFFICIAL USE ONLY

Application Received Date: 10/18/21
Fire Inspection: _____
Health Dept. Inspection: —
Neighbor's Signatures Received: 10/18/21

Approval Date: _____
Conditional Use Permit Required: Yes
Conditional Use Permit Approved: _____
Protests Received: Yes

NOTICE TO NEIGHBORS

Dear Neighbor:

Date of Notice: 10/10/21

This notice is to advise you that Nelsons located at 963 Meadowlark
(name of applicant) (address)

has applied for a home occupation business license with West Bountiful City to conduct a business at his or her residence. The nature and description of the proposed business is:

General Online Sales with in Person Pickup.
(classified)

Please sign below confirming that you have been notified of the intent to operate this business from the above address.

YOUR SIGNATURE BELOW INDICATES ONLY THAT YOU HAVE RECEIVED THIS NOTICE, NOT THAT YOU APPROVE OF THIS APPLICATION. IF YOU OBJECT TO THIS APPLICATION, YOU MUST FILE A WRITTEN PROTEST AT THE CITY OFFICES NO LATER THAN FIVE (5) BUSINESS DAYS AFTER THE DATE YOU RECEIVE THIS NOTICE.

Signatures of property owners within a 300 foot radius of the exterior boundaries of the intended business location:

Name	Address	Signature
<u>Jacen Wray</u>	<u>984 W. 1850 N</u>	<u>[Signature]</u>
<u>MONTE WOODSON</u>	<u>949 MEADOWLARK</u>	<u>[Signature]</u>
<u>Julie Myrman</u>	<u>946 W. Olsen Farm Dr</u>	<u>[Signature]</u>
<u>Phil Stoddard</u>	<u>996 W. Ruby Way</u>	<u>[Signature]</u>
<u>Notified Verbally</u> <u>10/2/21 Refused to Sign</u>	<u>968 W Olsen farm Dr</u>	<u>Refused to Sign</u>
<u>[Signature]</u>	<u>931 W. 1850 NO</u>	<u>[Signature]</u>
<u>Kendall Smith</u>	<u>952 W. 1850 N.</u>	<u>[Signature]</u>

I hereby certify that the foregoing signatures are genuine. They constitute the signatures of the owners of property within a 300-foot radius of the exterior boundaries of my property, or I have otherwise provided the City satisfactory evidence that this notice has been delivered to all such property owners (i.e., certified letter).

Date: 10-10-21

Sign Here:

[Signature]
Applicant

West Bountiful City

October 26, 2021

Planning Commission Meeting

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 22, 2021, per state statutory requirement.

Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday, October 26, 2021, at West Bountiful City Hall, Davis County, Utah.

Those in Attendance:

MEMBERS ATTENDING: Chairman Alan Malan, Commissioners Mike Cottle, Dee Vest, Corey Sweat, Laura Mitchell, Council member Kelly Enquist.

STAFF ATTENDING: Duane Huffman (City Administrator), Kris Nilsen (City Engineer), Cathy Brightwell (Recorder), and Debbie McKean (Secretary), Chief Erikson.

VISITORS: Council member James Bruhn, Jake Young, Lisa Young, Dale Edwards, Scott & Bonnie Jones, John and Jess Nelson, Lynne & Monte Widdison

The Planning Commission meeting was called to order at 7:30 pm by Chairman Malan.

1. Prayer by Commissioner Vest.

2. Accept Agenda

Dee Vest moved to approve the agenda as presented. Mike Cottle seconded the motion. Voting was unanimous in favor among all members present.

3. Conditional Use Application for Home Occupation Business at 963 Meadowlark Lane-John & Jessica Nelson.

Commissioner packets included information from staff regarding a Conditional Use Permit Request for a Home Occupation Business at 963 Meadowlark Lane (963 W 1850 N) for John & Jessica Nelson.

Duane Huffman reminded the commission that state law says a conditional use must be approved if reasonable conditions can be imposed to mitigate the reasonably anticipated detrimental effects of the proposed use. A conditional use may be denied if the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the imposition of reasonable conditions to achieve compliance with applicable standards, which is very rare.

Cathy Brightwell explained the request. The Nelson's have applied for a Home Occupation business license and associated Conditional Use permit to resell equipment such as power tools, gym equipment and weights. Their application explains that they buy wholesale goods to sell on local classified sites such as Facebook marketplace and KSL.com and buyers pick up items in person or they are delivered.

Staff explained the license requirements outlined in WBMC 5.04.010 and 5.28.010. The Nelson's were required to notify neighbors within 300 feet of their property that they have made application to operate a business from their home. They provided signatures from most of their neighbors but not all within the 300 foot radius. They are also required to register their business with the state and obtain a Utah sales tax ID which they have not yet done.

Cathy Brightwell provided a summary of the issues that have been raised by neighbors regarding this business. The city began receiving complaints from neighbors in late 2020 claiming that the Nelson's were operating a business. Several large semi-truck deliveries were documented showing large boxes unloaded onto the street. They claim the deliveries and increased customer traffic has changed the residential character of the neighborhood. Pictures were provided.

The city contacted Mr. Nelson and told him he could not run a business out of his home without an approved license. He was provided a business license application and copy of home occupation regulations to review. He responded that they had "moved a bunch of stuff to their storage unit and would be mostly selling from there." He added that they were going to pursue finding their own retail space outside of the city.

Similar complaints continued into spring and through the summer. Mr. Nelson was again told that he needed to stop his operation or submit a business license application, which he agreed to do.

Mr. Nelson has explained to staff that no part of the business is conducted in the dwelling, only storage of merchandise in the attached garage. City staff inspected the property and found that no equipment appeared to be stored in the large accessory building; rather, inventory storage is limited to a portion of the attached garage.

Due to the neighbor protests and questions about the impact this business has on the neighborhood, staff determined that a conditional use application is appropriate so the planning commission can consider the issues.

Applicant comments:

Mr. Nelson was invited to take the stand. He noted that the picture displayed of merchandise in his garage is very old and he no longer has that much inventory on his property, nor does he expect to have that size of inventory in the future. He said he is willing to agree to random inspections by the city. While there was a period during COVID that their business was exceptionally busy with many customers coming to his home to pick up merchandise, he said that is no longer the case. He does not have more than 1 customer per hour during an eight-hour workday and they are usually only there for 10 minutes for a pick-up. He stated that his business is not detrimental to the neighborhood in any way. He believes he has been transparent through the whole process and was quite distraught about his family being filmed by neighbors.

Public comments:

Dale Edwards, 946 W Meadowlark Lane lives directly across the street to the east of the Nelsons. He spoke of the negative impact he feels the business has on the neighborhood. In the 20 years he has lived there, there are about 10 home businesses in the neighborhood, but none have impacted the neighborhood like the Nelson's has. He admitted to taking videos and pictures of the impact of the neighborhood to show to the city. He said that he and other neighbors have attempted to talk with Mr. Nelson about their concerns, but they have been ignored. He stated that Mr. Nelson has been very

confrontational when approached about his business. He shared a time when he tried to speak with Mr. Nelson and was pushed by him. Mr. Edwards feels this business is not appropriate in a residential neighborhood especially with semi-trucks of inventory being delivered onto the street. He also raised a concern about sales tax. The on-line ads claim sales tax is included in the price of merchandise, but he does have a sales tax id number or state registration number. He stated the city is their last hope to stop this business from continuing to negatively impact the neighborhood.

Lisa Young, 968 W 1850 N, lives directly across the street to the north of the Nelsons. She has not been happy since the city allowed the Nelsons to build the large building that he said would be used for personal gymnastics for his family. The lights on the building are a nuisance and intrusive and now he is running a full-time business that makes the neighborhood feel like a warehouse district. She reported that there have been non-stop cars in and out of his property even on Saturdays.

Scott and Bonnie Jones, 990 W Ruby Way, live behind the Nelsons. They said they have not been notified to sign the application. They do not have any emotional issues with the Nelsons but are very concerned with the size of the business and that it does not meet the city regulations for a home business. They feel the city has been turning a blind eye to the issue. Mr. Nelson is running a business without a business license or collecting state sales tax. The traffic from people coming to the home is very disruptive to the neighborhood. This type of business does not belong in a residential neighborhood.

Mr. Nelson responded that he was not aware he had to go to all homes within a radius of 300 feet of the property line. He apologized for his misunderstanding and will notify those neighbors that have not been notified.

Commissioner Comments:

There was discussion about whether the application should be tabled until proper neighbor notice is provided, and the applicant obtains a sales tax id. It was decided that discussion of proposed conditions should continue as no license will be granted until the conditional use application is fully considered, and the conditions adopted are met.

Commissioner Mitchell asked Mr. Nelson about the frequency and amount of customer traffic. He responded that people call and make an appointment to pick up merchandise. There are no open house type sales or yard sales. He admitted to some issues last year during COVID due to high demand but traffic has significantly decreased since then. They have secured two storage units, one in the city and one outside the city to hold excess inventory. Their goal is to work toward building their business into a full-time commercial business that will be operated in a retail commercial location. He said he has no problem with any of the proposed conditions and will comply with whatever the city sets up. When asked about truck deliveries, he said when he orders merchandise, he is not made aware of the size of trucks delivering product. He added that he collects rare exercise equipment for his personal use which is also delivered. He does not anticipate any future large freight loads like he had before.

There was discussion about the following conditions proposed by staff and the need for legal review and advice before they can be adopted.

1. The home occupation must meet the requirements of WBM 5.28 – Home Occupations, including the requirements specified in these conditions to protect the residential character and lifestyle of residential zones.

2. The home occupation will be limited to a home office in the dwelling. Use of any portion of a garage or accessory structure on the property for business purposes that exceeds 25% is prohibited.
3. Delivery of merchandise will be limited to "x" size truck, "x" times per week/month, between the hours of 8 am and 7 pm.
4. Delivered merchandise may at no time be placed on the street right-of-way.
5. Customer pick-ups will be scheduled between 8 am and 7 pm with no more than one customer per hour so that neighborhood traffic is limited.
6. Sufficient off-street parking will be provided for customer vehicles when picking up merchandise.
7. Outdoor storage related to the home occupation will not be permitted (WBMC § 5.28.040.I).
8. Applicant will comply with city and state regulations by applying for and maintaining a current Home Occupation Business License, Utah State Business Registration, and obtaining a Utah Sales Tax ID number.

Mr. Nelson noted that he sells the same things that he uses personally. His accessory building is used as his family's personal gym and some of equipment may be sold if he is replacing it with a newer piece of equipment. His retail merchandise is stored in a portion of the attached garage, and he asked about how best to determine what is personal and what is business if there is overflow out of the 25% space limit.

Mr. Huffman asked that he find a solution to separating what is business and what is personal use. Mr. Nelson responded that KSL ads accurately list all the things he is selling and can be tracked accordingly. Mr. Huffman informed him that if he cannot differentiate his personal items from his business then that could be grounds for denying the conditional use permit. He also informed Mr. Nelson that all things for sale need to fit within one structure.

Mr. Nelson responded that he had been told by staff that he could use a combination of his garage and accessory building to determine the 25% total. Some discussion took place regarding the interpretation of the ordinance and the amount of space the business can occupy. Staff has determined that the code only allows a percentage of either the garage or the accessory building – not both, so Mr. Nelson will need to decide which building he intends to use for his business. Mr. Nelson stated that the accessory structure is not used for business at all; he only uses a portion of the attached garage space. He would like to be able to use up to 600 square feet of the third stall of his garage to store inventory.

Some discussion took place regarding consideration of giving more square footage for his business in the garage. Duane Huffman stated that the municipal code does not allow for flexibility and Mr. Nelson needs to pick which structure he will use for business and then comply with the regulations of the code. It was also noted that WBMC 5.28.040 of the home occupation code states that only 50% of the permitted area may be used for inventory which further limits the square footage available.

Staff will take the proposed conditions discussed this evening to legal counsel for assistance with fine-tuning appropriate conditions for the permit. A new condition will be added limiting the size of delivery trucks to 28 ft in length every 30 days; anything smaller is unlimited. The permit will also require the Nelsons to claim which structure will be used and will list the allowed usable space for that structure. Random inspections will also be added to ensure compliance with the conditions due to the prior history of non-compliance. Mr. Nelson was instructed to provide notification to all residents within a 300 square foot radius of the boundaries of his property and produce that information to the city. He was also directed by Mr. Huffman to cease all sales from his residence until the Home Occupation and

Conditional Use permits are in place. It was suggested by Councilmember Enquist that a probation period be put into place given the prior history of the property.

Action Taken

Corey Sweat moved to table this agenda item until staff and the city attorney can prepare a comprehensive list of conditions for consideration by the commission. Laura Mitchell seconded the motion and voting was unanimous in favor.

Corey Sweat moved to have a 5-minute recess. Laura Mitchell seconded the motion and voting was unanimous in favor.

4. Review Additional Options to the Housing in Certain Commercial Areas Overlay Draft Ordinance, WBMC 17.42

Commissioner packets included a memorandum dated October 22, 2021, from Staff regarding suggestions from city council to add additional flexibility to the proposed Housing in Certain Commercial Areas Overlay draft ordinance, WBMC 17.42. The memorandum included the following information:

The city council has reviewed the new Housing in Certain Commercial Areas overlay (“HCCO”) as recommended by planning commission. They discussed the advantages of adding more flexibility by shifting the original draft’s requirements to recommendations on site and building design. As these changes impact the recommendation made by planning commission, staff was directed to present the alternate proposal for further planning commission consideration and comments.

Duane Huffman explained that he values the opinions from the planners and the commission even though he may not agree with the structure they came up with. The city council was interested in adding more flexibility to the proposed draft that would give developers the ability to come forward with their own proposals that could be addressed as part of development agreement negotiations. The draft he is proposing changes all requirements to recommendations. Also provided was a draft from John Janson and Jake Young that added back in several requirements they believe to be important to the success of the overlay.

Jake Young explained that ordinances should be specific to ensure the intended outcome. They need to be clear so that good developments can be created and to keep a bad development out. Many of the requirements are based on industry standards that are simple and practical in terms of minimums for landscaping, heights, setbacks, etc. The intent is to keep from wasting city’s time and resources sorting through a lot of ideas that may not be advantageous to the city.

Corey Sweat stated he has always supported recommendations versus requirements so that the development agreement could be flexible. He added that giving leniency creates a better product opposed to keeping things within a box. Because the whole process will need to be reviewed with the developer a better more creative product can be developed with recommendations rather than requirements. He suggested that the setbacks and dump station be kept in place as requirements.

Following review of the proposal, the following changes were made to the “Recommended” draft.

17.42.050 A.1 - setbacks will be required, height will be recommended.

17.42.A.2 – Front yard setbacks will be required to be landscaped and be a minimum of 20 feet from public right of way.

17.42.A.3 – Rear and side yard setbacks will be required.

17.42.D – Lighting shall be directed downward. The list of locations to be lighted will be required.

17.42.E – Setbacks adjacent to a residential zone shall be landscaped.

17.42.060.C.1. – Common guest parking shall not include any driveway that accesses a garage.

17.42.060.E. – Balconies will be a minimum of 60 square feet.

17.42.060.G.2 – Minimum number of parking stalls shall be required.

17.42.070 – Signs shall be governed by Chapter 17.48 except all illuminated signs shall have downward directed and shielded lighting.

Action Taken

Corey Sweat moved to resubmit the recommended changes to WBMC 17.42, listed above, to the City Council for their consideration. Mike Cottle seconded the motion and voting was unanimous in favor.

5. Update on West Bountiful Public Works Building at 1410 West 1200 North.

Duane Huffman stated that since the city will need a conditional use permit for the new public works maintenance building, he wanted to briefly update them on the site plans for the building.

Mr. Huffman showed a preliminary rough draft of the site plan. He noted the building will be 40 feet from property line, 27 feet high 80 feet wide. The city wants to create an attractive building but use cost efficient materials (metal will be used for the main structure). He further explained that:

- The outside storage areas will be 3 sided bays with roofs. They will meet all setback requirements.
- Egress and Ingress will be better than what we have currently with two entrances off 1200 N.
- Decorative gates will be installed at the front entrances with chain link surrounding the rest of the property.
- They will likely ask for a deferment of curb, gutter, and sidewalk since there is currently none on 1200 North. In the future, a possible asphalt trail may be designed in the place of sidewalk.
- A retention basin will be used for drainage.
- The area East of the building will be in concrete, and the west area will be asphalt.
- A floor plan was shown including office areas, kitchen, conference room, storage, pull through bays and work areas.
- There will be a large storage mezzanine over the office area.
- A carport-like roof will be off the back of the building to house garbage cans.
- The building is expected to be fox gray and polar white with window placement that will soften up the metal building.
- Lighting is still being planned and will be fairly limited and not intrusive.

6. Staff Report

Cathy Brightwell:

- Training will be postponed for tonight. Please report completed training completed on your own. Another hour of training is still required before the end of the year.

Kris Nilsen

- 400 North well house construction is in progress.
- Working on planning next year's major construction project which is 600 West from Porter Lane to Pages Lane.

7. Consider Meeting Minutes from September 28, 2021.

Action Taken:

Laura Mitchell moved to approve of the minutes of the September 28, 2021, meeting as presented. Corey Sweat seconded the motion and voting was unanimous in favor.

8. Training- Postponed due to length of this meeting.

9. Adjourn.

Action Taken:

Mike Cottle moved to adjourn the regular session of the Planning Commission meeting at 10:17 pm. Corey Sweat seconded the motion. Voting was unanimous in favor.

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The foregoing was approved by the West Bountiful City Planning Commission on November 9, 2021, by unanimous vote of all members present.

Cathy Brightwell – City Recorder