

Mayor
Kenneth Romney

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

**City Recorder/
Community
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Cathy Brightwell

WEST BOUNTIFUL PLANNING COMMISSION

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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.*

**West Bountiful City
Planning Commission Meeting**

November 9, 2021

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 November 5, 2021, per state statutory requirement.

Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday, November 9, 2021, at West Bountiful City Hall, Davis County, Utah.

Those in Attendance:

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

MEMBERS EXCUSED: Commissioner Mike Cottle

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

VISITORS: Councilmember James Bruhn, LeAnne and Dale Edwards, Brandy Hansen, Kathy Allen, Scott and Bonnie Jones, Jason Baker, Lisa Young, Richard and Michele Hardman.

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

1. **Prayer by Commissioner Mitchell.**
2. **Accept Agenda**

Corey Sweat moved to approve the agenda as presented. Laura Mitchell seconded the motion. Voting was unanimous in favor among all members present.

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

Commissioner packets included information from staff dated November 5, 2021, regarding a Conditional Use Permit Request for a Home Occupation Business at 963 Meadowlark Lane (963 W 1850 N) for John & Jessica Nelson, information from Duane Huffman, and comments from Mr. Nelson.

Duane Huffman stated that 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. He noted that 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.

Although it is not a public hearing this evening, Chairman Malan allowed comments from neighbors.

Citizen Comments:

Brandy Hanson, 929 Meadowbrook Lane, explained that this business directly impacts her as the amount of traffic has increased drastically in the neighborhood since the Nelson's have been selling their inventory. There has been an increase in speeding, large trucks, and increased theft. She noted that he has boxes and a warehouse full of inventory. She feels it is too large a business for a residential area. She would like the city to take all this into consideration before granting the permit. She has nothing against the Nelson's personally but does not approve of this type of business in a residential area.

Dale Edwards, 946 W Meadowlark Ln, stated that he has been impacted negatively from the retribution of his neighbor, Mr. Nelson. Mr. Nelson called the police on him for throwing a ball to his dog on his own property. He noted that the Nelson business comes up first when googled and has received over 10,000 views on KSL. The business has a negative impact on our neighborhood, and as neighbors they are afraid of the retribution from Mr. Nelson. He warned the city that they are going to have problems with this situation if they do not get Mr. Nelson's business under control. Mr. Edwards also noted the significant increase of crime and shared that his truck was stolen last year. He pointed out that this business brings in too much traffic and many unknown individuals who can scope out the neighborhood. He pled with the city to enforce the laws and ordinances, so they do not have to sue to protect their neighborhood.

Leanne Edwards, 946 W Meadowlark Ln, stated that they love their neighborhood, and all their neighbors love each other. Her husband is caring and serves others and has done his best to work with the Nelsons. The commercial building Mr. Nelson built has received many complaints from neighbors including the increase in truck traffic. Mr. Nelson finds fault with all his neighbors and has gotten verbally and physically upset with them. Her husband videoed a session when he was being bullied by Mr. Nelson. She said their goal is to keep their neighborhood safe and free of businesses of this type in a residential area.

Jason Baker, 921 W Meadowlark Ln, stated that he just received the notice about this issue a few days ago and is not clear on all the details. His visits with John Nelson have been friendly. He said his concern is mostly the eye sore that it creates in the neighborhood. Mr. Nelson's lot is overrun with personal belongings in addition to the business inventory side of things. His trailer hitch overhangs the sidewalk and creates a safety hazard for people walking by. He likes John and does not mean any harm to him but wants his neighborhood to be safe and look good. He simply does not have the proper location or access to have a business this large.

Lisa Young, 968 W 1850 N, stated that she sees the business running all the time because she lives directly across from the property. She referred to Mr. Nelson's ad and pictures on the internet and noted that he has over \$24,000 dollars' worth of equipment. She commented how the yard was so beautiful before the Nelson's bought it. The property is overtaken by stuff and business inventory.

Commissioner Comments:

Chairman Malan commented that he has frequented the area several times the past few weeks and observed no problems. It appears as though the Nelson's have stopped their business activities as requested. He pointed out that he has observed other neighbors in this same area encroaching into the

sidewalk area with their vehicles/personal items. Mr. Huffman noted that this occurs throughout the city, but a business must provide adequate off-street parking for both personal and business use.

Corey Sweat spoke to Mr. Nelson's written comments. He does not feel there are any changes the city can make to grant his requests for modifications to the proposals from the last meeting. Mr. Sweat explained that granting the conditional use permit is the best thing that can happen for this neighborhood because if the conditions are not adhered to the permit will be revoked. The conditions included in the permit mitigate the problems the neighborhood has raised and ensure compliance with city ordinances and state requirements. If the Nelsons do not comply, they will not be able to do business legally. He added that he feels that the off-street parking and impeding sidewalk problem needs to be addressed.

Duane Huffman explained that a condition of this permit has a 90-day probation period; if Mr. Nelson violates any conditions his permit will be revoked. He informed the citizen's that they can document violations with pictures, videos, and other such activity and provide to the city.

Laura Mitchell inquired about several of the conditions. Mr. Huffman stated that many of the conditions are already in place as part of the ordinance and the 90-day probation will provide an opportunity for the city to monitor activities more closely. He noted that the probation period is not a common condition but because of the history of this case, it is totally acceptable to make it a condition. Mr. Huffman added that Mr. Nelson has the right to appeal any decisions made.

Dee Vest has concerns with granting this permit. He said it's pretty clear that the business has negatively impacted the residential character and lifestyle of the neighborhood. He also pointed out that Mr. Nelson still does not have a sales tax id or business license and therefore would not be eligible for the permit from the city.

Mr. Huffman stated that the city has been in contact with the State Tax Commission, and they are very concerned about what is going on.

Corey Sweat emphasized that the city's intent is to address the concerns of the neighborhood as well as upholding city and state laws, ordinances, and the rights of all citizens. Clearly listing all the mitigating conditions in the conditional use permit provides a tool the city can use to ensure the business is run properly or the license will be revoked. He stated that the commissioners take their responsibility very seriously and work hard to balance these types of situations.

Action Taken

Corey Sweat moved to approve the Conditional Use Permit for John and Jessica Nelson at 963 Meadowlark Lane to sell gym equipment, household items, and power tools on local online sites based on the following Findings and Conditions.

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.**
- 2. The proposed use, as conditioned, will not have an inordinate adverse impact on schools, utilities, or streets.**

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.*
4. *The proposed use will comply with the regulations and conditions specified in the land use ordinance for such use.*
5. *The proposed use, with appropriate conditions, will conform to the intent of the city's general plan.*
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:*
 - a. *Dwelling - 1281 main floor sf x 15% = 193 sf x 50% = 97 sf for inventory*
 - b. *Garage - 886 sf x 25% = 222 sf x 50% = 111 sf for inventory*
 - c. *Accessory Structure - 2100 sf x 25 % = 525 sf x 50% = 263 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 applicant 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.*

- a. *Deliveries will be limited to the hours between 8 am and 7 pm.*
 - b. *Delivered merchandise may at no time be placed or kept on the street right-of-way.*
 - c. *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.*
 - d. *Sufficient off-street parking will be provided for customer vehicles when picking up merchandise.*
8. *No vehicles, including those owned by or used for the home occupation, will obstruct any sidewalk.*
 9. *Outdoor storage related to the home occupation will not be permitted (WBMC § 5.28.040.1).*
 10. *Applicant will cease all sales from the property until a home occupation business license is issued.*
 11. *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.*
 12. *Applicant will obtain and maintain a home occupation business license.*
 13. *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.*
 14. *Applicant's obligations under these conditions will be binding upon any successor, heir, or assign of applicant with respect to the property.*

Laura Mitchell seconded the motion and voting was unanimous in favor.

Mr. Huffman said the conditional use 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.

He explained that the inspection for the 90-day probation period could include a search on his KSL web page followed by a visit to the property asking Mr. Nelson to show where various items listed for sale were being stored to ensure they were located in the defined legal marked off space for his business. He told neighbors that they are welcome to call him at any time.

4. Staff Report

Cathy Brightwell:

- There are 3 property owners along 1450 West that have asked to be annexed into the city. The formal process will begin once the County completes its notice requirements.
- November 23rd is the next scheduled meeting date which is the week of Thanksgiving. There are no pressing agenda items at this time. Members discussed and decided to cancel the meeting unless something comes up that needs their attention. The next meeting will be held on December 14th.

Kris Nilsen

- The block walls are nearly finished on the 400 North well house. They will then begin working on the interior with the project expected to be completed in January.
- The 600 West road construction project scheduled for next year will go out to bid in January.
- He is completing his final review of the Highgate Phase 2 subdivision which will likely go to city council for final approval in December.
- Planning and design work is moving along on the new public works building.

5. Consider Meeting Minutes from October 26, 2021.

Action Taken:

Laura Mitchell moved to approve of the minutes of the October 26, 2021, meeting as presented. Dee Vest seconded the motion and voting was unanimous in favor.

6. Commissioner Training.

Due to time constraints, in-person training was canceled.

7. Adjourn.

Action Taken:

Laura Mitchell moved to adjourn the regular session of the Planning Commission meeting at 9:42 pm. Dee Vest 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 25, 2022, by unanimous vote of all members present.


Cathy Brightwell – City Recorder

