

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, APRIL 26, 2022,
AT THE CITY OFFICES, 550 N 800 WEST**

AGENDA:

1. Prayer/Thought - Commissioner Mitchell.
Pledge of Allegiance – Commissioner Sweat.
2. Confirm Agenda.
3. Public Hearings:
 - a. Proposed Text Change Clarifying Definition for “Public and Quasi-Public Uses” and “Public and Quasi-Public Institutions” in Residential Zones.
 - b. Proposed Changes to WBMC 12.28, Landscape Regulations Replacing Existing Regulations with Updated Water Efficient Standards.
 - c. Proposed Changes to WBMC 17.14 and 17.16, Yard Regulations for Non-commercial Structures in Agricultural Districts.
4. Text Change Clarifying Definitions for “Public and Quasi-Public Uses” and “Public and Quasi-Public Institutions” in Residential Zones.
5. Proposed Changes to WBMC 12.28, Landscape Regulations Replacing Existing Regulations with Updated Water Efficient Standards.
6. Proposed Changes to WBMC 17.14 and 17.16, Yard Regulations for Non-Commercial Structures in Agricultural Zones.
7. Consider Meeting Minutes from April 12, 2022.
8. Staff report.
9. Adjourn.

*This notice has been sent to the Davis Journal and was posted on the State Public Notice Website
and the City website on April 22, 2022, by Cathy Brightwell, City Recorder.*

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Kenneth Romney

**City Engineer/
Zoning Administrator**
Kris Nilsen

**City Recorder/
Community
Development**
Cathy Brightwell

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West Bountiful, Utah 84087

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NOTICE OF PUBLIC HEARINGS

The Planning Commission will hold three public hearings at City Hall on Tuesday, April 26, 2022, beginning at 7:30 p.m. as part of their regular meeting.

The purpose of the hearings is to receive public comment on the following issues:

1. Proposed Text Change: Add "places of worship and primary schools (public, private, homeschool pods)" wherever "public and quasi-public uses" or "public and quasi-public institutions" exists in permitted or conditional uses in West Bountiful Municipal Code. Alternatively, "quasi-public uses" should be defined as "A use operated by a private non-profit, educational, religious, recreational, charitable or philanthropic institution; generally, such uses have the purpose of primarily service the public, such as churches, private schools and universities and similar uses." Paul Tanner.
2. Proposed changes to WBMC 12.28, Landscape Regulations: Replaces existing regulations with updated water efficient standards.
3. Proposed changes to WBMC 17.14 and 17.16., Yard Regulations for Non-commercial structures in Agricultural Districts.

More information can be found on the city website at www.WBCity.org in the Calendar or Public Notices section. All interested parties are invited to participate in the hearing. Written comments may be submitted prior to the meeting to Recorder@WBCity.org.

Cathy Brightwell
City Recorder

MEMORANDUM



TO: Planning Commission

DATE: April 22, 2022

FROM: Kris Nilsen, Cathy Brightwell

RE: Request for Text Change – Private School (Tanner)

Background

In February, the Tanners applied for a Conditional Use Permit to operate a small private school in the R-1-10 zone. They did this with the assumption that a private school falls under the “public or quasi-public use” listed as conditional in that zone. The term is not defined in city or state code. Before the application was presented to the planning commission, staff determined that a private school does not fall under the public or quasi-public use. The Tanner’s appealed staff’s decision to the Land Use Appeal Authority (city council). After a hearing, their appeal was denied by city council. The Tanners were not able to extend the purchase agreement on the original property and are currently looking at another property in the A-1 zone.

Applicant Proposal

At the same time they filed their appeal in February, they also filed an Application to Rezone/Change Text as described below.

Include **“places of worship or primary schools (private, parochial, and homeschool pods)”** in each section of the code that references “public or quasi-public use.” Alternatively, they ask that “quasi-public uses” be defined as **“A use operated by a private non-profit, educational, religious, recreational, charitable, or philanthropic institution; generally, such uses have the purpose of primarily serving the public, such as churches, private schools, universities, and similar uses.”** Sections of the municipal code impacted by this text change are listed below:

Zone	Permitted, Conditional Use, Not Allowed	WBMC
A-S	Conditional	17.14.030
A-1	Conditional	17.16.030
R-1-22	Conditional	17.20.030
R-1-10	Conditional	17.24.030
C-N	Permitted (Note: the word “institutions” is used instead of “uses”	17.28.030
C-G	Permitted (Note: “commercial schools” are in Conditional Uses, the word “institutions” is used instead of “uses” in Permitted Uses)	17.32.030
L-I	Permitted (Note: the word “institutions” is used instead of “uses”)	17.36.020
I-G	Permitted (Note: the word “institutions” is used instead of “uses”)	17.40.020
B-U	Add “public or quasi-public use” as this is a good location for places of worship or primary schools.	17.26

A public hearing is scheduled for April 26, 2022.

February 21, 2022

Re: West Bountiful City Code Text Change Request

To Whom It May Concern:

For context, CHOICE Education, L3C applied for a conditional use permit (WBMC 17.24.030) for a property (841 W. 400 N.) in zone R-1-10 with the assumption that primary education is a "public or quasi-public use" of the property. Our application was reviewed and rejected by the land use administrator (see letter from February 17, 2022) because the definition of quasi-public is ambiguous and subject to review by the administrator. City code 17.08.070 gives the administrator the determining power. We contest that our school is a quasi-public use and would like to address that in another letter, but for this purpose, we seek a text change to WBMC to include "places of worship or primary schools (private, parochial, and homeschool pods)" in each section of the code that references "public or quasi-public use". The municipal code impacted by this text change is:

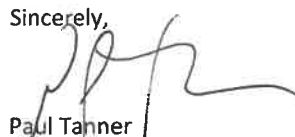
Zone	Permitted, Conditional Use, Not allowed	WBMC
A-S	Conditional	17.14.030
A-1	Conditional	17.16.030
R-1-22	Conditional	17.20.030
R-1-10	Conditional	17.24.030
C-N	Permitted (Note: the word "institutions" is used instead of "uses")	17.28.030
C-G	Permitted (Note: "commercial schools" are in Conditional Uses, the word "institutions" is used instead of "uses" in Permitted Uses)	17.32.030
L-I	Permitted (Note: the word "institutions" is used instead of "uses")	17.36.020
I-G	Permitted (Note: the word "institutions" is used instead of "uses")	17.40.020

The B-U Blended Use District 17.26 does not reference public or quasi-public uses. However, I think this would likely be a good area for places of worship or primary schools.

It is important to note that WBMC 17.34.020.F. Permitted Uses states "Public and quasi-public facilities not prohibited in Section 17.34.040 Prohibited Uses", which states in 17.34.040.G that "Schools and churches" are not allowed. It is relevant to note that schools (not defined as public or private) and churches are considered "public or quasi-public". Why are not schools and churches allowed in this zone? I believe it is because this zone has a high traffic impact and is not appropriate for schools and churches for the safety of children and families. Ironically, Zone C-G has more traffic (20,000 AADT) than C-H (14,000 AADT) [Traffic Statistics | UDOT \(utah.gov\)](#). Zones C-H and C-G are candidly terrible locations for primary schools. Primary schools (private, parochial, and homeschool pods) should be in safer low traffic areas in A-S, A-1, R-1-22, R1-10, and C-N where there is land and children can safely play like they do in publicly funded primary schools.

We feel this text change is appropriate and will lead to more objective use of "public or quasi-public use".

Sincerely,


Paul Tanner
CHOICE Education, L3C



APPLICATION TO REZONE/CHANGE TEXT

West Bountiful City
PLANNING AND ZONING
550 N 800 W
West Bountiful, UT 84087
(801) 292-4486
www.WBCity.org

PROPERTY ADDRESS: _____

DATE OF APPLICATION: 2/22/22

PARCEL NUMBER: _____

CURRENT ZONE: _____

PROPOSED ZONE: _____

LEGAL DESCRIPTION ATTACHED: YES ☐ NO ☒

Applicant Name(s): Paul Tanner

Applicant Address (if different than above): 3474 South 100 East, Bountiful Utah 84010

Primary phone: (801) 440-5456

E-mail address: pbtanner@gmail.com

Describe in detail the request being made and the reasons why the change will benefit the people of West Bountiful. A separate sheet with additional information may be submitted if necessary.

Addition of "places of worship and primary schools (public, private, homeschool pods)" wherever "public and quasi-public uses" or "public and quasi-public institutions" exists in permitted or conditional uses in WBMC.

Alternatively, "quasi-public uses" should be defined as "A use operated by a private non-profit, educational, religious, recreational, charitable or philanthropic institution; generally, such uses have the of purpose primarily serving the public, such as churches, private schools and universities and similar uses."

I hereby apply to change text in the West Bountiful Municipal Code, or rezone the property identified above in accordance with the provisions of Utah State Code 10-9a-503. I certify that the above information is true and correct to the best of my knowledge.

Date: 2/22/22

Applicant Signature: [Signature]

FOR OFFICIAL USE ONLY

Application & \$150 Fee Received Date: 4/11/22

Public Hearing Date: _____

Letters sent to affected neighbors: _____

Public Notice Sign Placed _____

Planning Commission Approval: _____

City Council Approval: _____

MEMORANDUM



TO: Planning Commission

DATE: April 22, 2022

FROM: Cathy Brightwell, Kris Nilsen

RE: Water-efficient Landscape Regulations

The planning commission has been reviewing proposed changes to the city's landscape ordinances for the past several meetings in an attempt to focus on using water wisely and as efficiently as possible and to support conservation efforts to protect water supply inventories for both present and future water needs.

Background

With increasing awareness of regional drought conditions and projections of significant population growth along the Wasatch Front over the next 40 years, conservation has become a key initiative of water districts across the state. The monetary cost of water conservation is considered much less than finding new water sources and building new infrastructure.

With 60% of residential water used outdoors, Weber Basin Conservancy District (Weber Basin) has asked cities to update landscape ordinances to encourage water efficient landscape regulations. They implemented watering restrictions in 2021 and are expected to limit water usage again in 2022. To help with these efforts, Weber Basin has begun offering a "flip your strip" rebate program. The program becomes eligible for residents that live in a city that has adopted a landscaping ordinance that meets certain conservation standards as outlined by Weber Basin. To date, Layton, Washington Terrace, Riverdale, Clearfield and Farmington have adopted water-efficient landscaping ordinances and qualify for Weber Basin's rebate program.

Proposal

Staff has provided the attached draft for your review that incorporates suggestions from earlier discussions and updates from the city attorney. It also includes language from current landscape code for discussion.

A public hearing is scheduled for April 26, 2022.

WBC Water Efficient Landscape Ordinance (NEW)

12.28 Water Efficient Landscape Standards and Requirements

12.28.010 Purpose

12.28.020 Applicability

12.28.030 Definitions

12.28.040 General Standards

12.28.050 Landscape Design Standards

12.28.060 Irrigation Design Standards

12.28.070 Landscape and Irrigation Plans Required

12.28.080 Completion of Improvements

12.28.090 Homeowners Association Restrictions

12.28.100 Prohibited Watering Practices

12.28.110 Enforcement And Penalties

12.28.010 Purpose

The purpose of this chapter is to protect and enhance the city's environmental, economic, recreational, and aesthetic resources by promoting efficient use of water in landscapes within the city; reduce water waste; and establish a structure for designing, installing, and maintaining water efficient landscapes throughout the city.

12.28.020 Applicability

Except as provided in this chapter, this chapter applies to all new and rehabilitated landscaping for public facility projects, commercial and industrial development projects, and residential projects with developer or contractor-installed landscaping. It also applies to new or rehabilitated landscaping in front yards of single family dwellings, provided by the homeowner.

Notwithstanding the foregoing, this chapter does not apply to public parks or other public recreation areas within the city, although compliance with this chapter, to the extent reasonably practicable, is strongly encouraged for such areas.

Landscaping requirements in this chapter also apply to any commercial, industrial, or multi-family residential site where a proposed addition increases the footprint of buildings within the development by 30% or more, and property modifications where 30% or more of the development site, less any buildings, is undergoing change such as parking lot addition or alteration.

12.28.030 Definitions

The following definitions shall apply to this chapter.

"Hardscape" means durable landscape materials such as brick or concrete pavers, water features, benches, artificial turf, walls, decorative rocks, mulch, curbing, planters, concrete, asphalt, or other like materials that are not of a vegetative nature. Hardscape does not include building or structure footprints, driveways, and sidewalks.

“Landscaped area” means improved areas of the property that make up the landscape and may include hardscape. The landscaped area does not include non-irrigated natural areas that are intentionally left undeveloped.

“Landscape” means a combination of living vegetation and hardscape.

“Mulch” means any material such as rock, bark, or wood chips that is left loose and applied to the soil.

“Park strip” means a typically narrow landscaped area located between the back-of-curb and sidewalk.

“Rehabilitated landscaping” means altering, repairing, or adding to a landscaped area to make possible a compatible use, adopt water-wise standards, increase curb appeal, or decrease maintenance.

“Smart automatic irrigation controller” means an automatic timing device used to remotely control valves in the operation of an irrigation system using the internet to connect to a real time weather source or soil moisture sensor. Smart automatic irrigation controllers schedule irrigation events using either evapotranspiration or soil moisture data to control when and how long sprinklers or drip systems operate and will vary based on time of year and weather or soil moisture conditions.

“Turf” means a surface layer of earth containing grass species with full root structures that are maintained as mowed grass, also called lawn.

“Xeriscape” is a style of landscape design requiring little or no irrigation or other maintenance using plants that can survive on low or minimal water usage.

12.28.040 General Standards

- A. Every property within the city- to which this chapter applies shall maintain landscape in a well-cared for manner that enhances the appearance of the property.
- B. Landscaping shall consist of a balance of living landscape and hardscape that does not violate any other federal, state, or municipal statute, ordinance, or law. Living landscape shall comprise a minimum of 25% of the landscape area.
- C. Landscape and hardscape shall comply with the clear view, fencing, and setback requirements of the Municipal Code.

17.28.050 Landscape Design Standards

The following landscape design standards are required for all applicable properties, and strongly encouraged for all landscape projects to conserve the public’s water resources and promote water efficient landscaping. Landscaping may include a combination of turf, plant cover, hardscape, and xeriscape as described below.

- A. Plant Selection. Plants shall be selected for various landscape situations and conditions and be well-suited to the microclimate and soil conditions at the project site. Both native and locally-adapted plants are acceptable. Plants with similar water needs shall be grouped together as much

as possible. (*Visit weberbasin.com for a list of recommended water-conserving plants.*)

- B. Turf/Lawns. Except for designated recreational areas that allow access to the public,
 - 1. Turf area shall not exceed thirty-five percent (35%) of the total landscaped area on residential properties.
 - 2. Turf area shall not exceed fifteen percent (15%) of the total landscaped area on non-residential or mixed-use properties, or ten percent (10%) if secondary water is not available.
 - 3. No turf will be planted in park strips, areas less than 8-feet wide, parking lot landscaping, or on slopes greater than 25%. Water-conserving plants not requiring overhead spray irrigation may be planted in park strips subject to clear view regulations.
 - 4. Park strip areas may be designed as bioswales, especially recommended in commercial, industrial and HOA common areas.
- C. Mulch. After completion of all planting, all irrigated non-turf areas shall be covered with a minimum three (3) inch layer of mulch to retain water, inhibit weed growth, and moderate soil temperature. Non-porous material shall not be placed under the mulch.
- D. Tree Selection. Tree species shall be selected based on growth characteristics and site conditions, including available space, overhead clearance, soil conditions, exposure, and desired color and appearance. (*See city website for a list of general recommendations and trees prohibited in park strips.*)
- E. Landscape Distribution. **(THE FOLLOWING IS CURRENTLY IN CODE 12.28)**
 - 1. The minimum landscape width for any parcel fronting onto 500 West Street or 500 South Street shall be eight feet and shall extend across the entire frontage excluding drive approaches;
 - 2. A corridor of trees shall be placed along all properties abutting Interstate Highway 15 (I-15). The spacing of the trees shall be determined by the type selected. Clustering of trees shall be allowed, provided the net number of trees equals or exceeds the spacing requirement;
 - 3. A corridor of trees shall be placed in drainage swales.

12.28.060 Irrigation Design Standards

The following irrigation design standards are required for all applicable properties, and strongly encouraged for all landscape projects.

- A. Irrigation Controller. Landscaped areas shall be provided with a WaterSense-labeled smart automatic irrigation controller, equipped with rain delay or rain shut-off capabilities.
- B. Irrigation valves shall irrigate landscapes with similar site, slope, soil conditions and plant materials with similar water needs.
 - 1. Drip irrigation shall be used for all non-turf areas and be equipped with pressure regulator and filter.
 - 2. Turf and non-turf areas shall be irrigated on separate valves.
 - 3. Drip emitters and sprinklers shall be placed on separate valves.

12.28.070 Landscape and Irrigation Plans Required

For new construction, these requirements shall take effect when building permits are required. An acceptable landscape and irrigation plan shall be provided to the city for approval as part of the building permit application package.

For rehabilitated landscaping, an acceptable landscape and irrigation plan shall be provided to the city for approval prior to work beginning when the rehabilitated landscape area exceeds 35% in commercial, industrial, developer, and multi-family properties, or exceeds 60% in single-family residential properties.

A landscape plan shall include graphic and written descriptions and specifications that clearly and accurately identify and locate new and existing trees, shrubs, ground covers, turf areas, driveways, sidewalks, hardscape features, and fences to comply with this chapter.

An irrigation plan will show the components of the irrigation system with water meter size, backflow prevention (when outdoor irrigation is supplied with culinary water), precipitation rates, flow rate and operating pressure for each irrigation circuit or zone, and identification of all equipment.

For commercial, industrial, developer, and institutional projects, the required landscape and irrigation plans shall be prepared by a registered landscape architect.

The city reserves the right to perform site inspections at any time during the irrigation and landscape installation and to require corrective measures if the requirements of this chapter are not satisfied.

12.28.080 Completion of Improvements

All landscaping improvements required for new construction in accordance with the approved landscape and irrigation plans shall be installed prior to issuance of a Certificate of Occupancy for commercial, developer, industrial, and public facility projects. For individual residential projects, improvements shall be completed within one year, but no later than October 31 of the year following completion of construction.

If the installation of any of landscaping improvements cannot be completed due to weather, including drought conditions or other circumstances beyond the control of the owner or developer, an extension of up to six (6) months may be granted by the land use administrator or designee for good cause shown.

A performance bond or cash deposit, in an amount estimated by staff as equivalent to the cost of the required landscaping, may be required to assure installation of required landscaping within six months of approval date.

12.28.090 Homeowners Association Restrictions

No Homeowners Association documents that govern the operation of a common interest development, shall:

- A. Require the use of any uniform plant material requiring overhead spray irrigation in landscaped areas less than 8 feet wide or in other areas that exceed 35% of the landscaped area;

- B. Prohibit, or include conditions that have the effect of prohibiting, the use of water-conserving plants as a group; or
- C. Have the effect of prohibiting or restricting compliance with this chapter or other water conservation measures.

12.28.100 Prohibited Watering Practices

Notwithstanding any provision of this chapter to the contrary, water shall be properly used. Waste of water, including but not limited to the following, is prohibited on any property within the city, regardless of whether the standards in this chapter otherwise apply to the property.

- A. Using culinary water for irrigation where restrictions are in place for the use of available existing secondary water.
- B. Washing sidewalks, driveways, parking areas, tennis courts, patios, or other hard surface areas except to alleviate immediate health or safety hazards.
- C. Irrigating any landscape between the hours of 10:00 am and 6:00 pm.

12.28.110 Enforcement and Penalties

The land use administrator and public works director, or their designee, shall be authorized to enforce all provisions of this chapter in accordance with the Municipal Code.

MEMORANDUM



TO: Commissioners

DATE: April 22, 2022

FROM: Staff

RE: Clarification of Yard Regulations for Non-commercial Structures

Background

In June 2020, the planning commission recommended, and the city council adopted Ordinance 427-20 amending uses in the A-1 Agricultural District. As part of this change, non-commercial structures (NCS) were added as a permitted use. 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. The definition goes on to say that if a principal building or use is established on the same lot as an NCS, the NCS will be deemed an accessory structure subject to all regulations governing accessory uses, building, or structures. An NCS requires a recorded agreement between the city and the property owner.

In 2021, the city council asked the planning commission to review regulations for non-commercial structures. The planning commission determined that there was a need for this use in the agricultural districts and recommended increasing rear and side yard setbacks based on height of the structure. This recommendation was adopted as part of Ordinance 441-21.

City Council Direction

The city council directed planning commission to review NCS regulations and consider clarifying that when an NCS is proposed, sufficient space remains on the property for a principal building. Vacant land is expected to become extremely scarce in the future with a high demand for in-fill. It is important to plan ahead for these needs by ensuring that future dwellings may be constructed on lots that currently only consist of an NCS.

Consistent with city council direction, staff recommended that any plans submitted for an NCS include a site plan with clearly delineated buildable area for a principal building considering all applicable yard regulations, such as setbacks and coverage ratios. This requirement would be in addition to any other yard regulation applicable to the NCS. To avoid submittals for very small dwellings, the following options could be considered.

1. The footprint of the NCS cannot exceed the maximum buildable area or building envelope of the main structure. This would ensure that when a main structure is built, its footprint could be at least as large as the NCS's footprint, OR
2. The buildable area of a future dwelling must have a minimum footprint of 1000 sq. ft. not including garage. This would allow an average 2000 sq. ft. home with two levels.

Planning Commission Direction

After discussing the proposals at its last meeting, planning commission is not convinced that any changes are necessary. A public hearing on staff's proposed changes is scheduled for April 26, 2022, after which a recommendation will be submitted to city council.

**West Bountiful City
Planning Commission Meeting**

April 12, 2022

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 April 8, 2022, per state statutory requirement and the amended agenda was posted on April 11, 2022.

Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday, April 12, 2022, at West Bountiful City Hall, Davis County, Utah.

Those in Attendance:

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

STAFF ATTENDING: Kris Nilsen (City Engineer), Cathy Brightwell (Recorder), and Debbie McKean (Secretary).

VISITORS: Justin Smart, Larry Reasch, Deby Marshall, Paul Tanner

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

1. **Prayer by Commissioner Vest.
Pledge of Allegiance- Commissioner Mitchell.**
2. **Accept Amended Agenda**

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

3. **Presentation by Justin Smart & Larry Reasch (UDOT)- I-15 Environmental Impact Statement Study; Farmington to Salt Lake City.**

A short video was shown summarizing the I-15 Environment Impact Statement (EIS) Study: Farmington to Salt Lake City. Mr. Reasch, representing the Environment Impact Study, asked for any questions or comments from the Commission. He referred to the website that is available to make comments and ask questions and encouraged them to do so to make sure the city's needs can be met. The public comment period will be from April 11-May 13th, 2022. Work on the project is expected to begin in 2026.

Cathy Brightwell asked if interchanges are being considered. Mr. Smart explained that they are currently in stage 2 of 7 stages, and they will look at all the interchanges in one of those stages. Mr. Nilsen would like to see the overpass type interchange to keep traffic above the railroads. Mr. Smart informed them that they are also looking at creating added lanes up to 6 to accommodate increased traffic.

It was explained that the plan is just a master plan and no dedicated truck lanes have been discussed. Trucks are generally not allowed in the left two lanes of traffic, but this is not being enforced in Utah. In some areas, signage has been removed that once instructed trucks to keep in the right two lanes.

The presentation ended with Mr. Smart reiterating the need for the city to take time express their needs and concerns during this comment period.

4. Discuss Application for Text Change – Paul Tanner

Commission packets included a memorandum from Cathy Brightwell and Kris Nilsen dated April 11, 2022 regarding this request for a text change for a Private School with various correspondence from Paul Tanner.

Cathy Brightwell explained that this item is being added as a new item to the agenda so the commission can discuss how they want to proceed.

Background

In February, the Tanners requested a Conditional Use Permit to operate a small private school in the R-1-10 zone. They did this with the assumption that a private school falls under the “public or quasi-public use” listed as conditional in that zone. The term is not defined in city or state code. Before the application was presented to the planning commission, staff determined that a private school does not fall under the public or quasi-public use.

The Tanner’s appealed staff’s decision to the Land Use Appeal Authority which is the city council. After a hearing, their appeal was denied by city council. At the same time, they filed their appeal in February, they also filed an Application to Rezone/Change Text. The request asks that “places of worship and primary schools (public, private, homeschool pods)” be added wherever “public and quasi-public uses” are listed in code. Alternatively, they ask that “quasi-public uses” be defined as “A use operated by a private non-profit, educational, religious, recreational, charitable, or philanthropic institution; generally, such uses have the purpose of primarily serving the public, such as churches, private schools, universities, and similar uses.”

The Tanners were not able to extend the purchase agreement on the original property and are currently looking at another property in the A-1 zone.

Discussion

Mr. Tanner talked about his family’s desire to open a school in the city on a property that can accommodate the type of school they desire to have which includes outdoor space for learning about animals. The school will operate Monday-Thursday from 8 am – 3 pm with current enrollment of 46 students and hope to grow to 90 in the future and they need a minimum of 1.5 acres.

The Tanner’s proposed text change adds “places of worship or primary schools (private, parochial, and homeschool pods)” in each section of code that references public or quasi-public use. In response to questions, he explained that a “homeschool pod” is a group of individuals/families that come together for home-schooling.

Commissioners commented that there are areas within our city that this type of request can be accommodated. They do not believe private schools should be in a residential area; they were supportive of the school but not in a residential area.

Mr. Tanner noted that currently the only places a private school is clearly allowed is in the commercial general, commercial neighborhood, and industrial zones which he does not believe is a safe location for a school. He believes they should be allowed to be in the same locations as public schools and that's why he's asking for the text change. With appropriate conditions in place, the concerns raised by neighbors could be eliminated.

Corey Sweat noted that this matter was determined by the city council to not fit within the language of current code and was not favored by residents in its earlier proposed location. He didn't feel like we need to entertain the matter further.

Mr. Tanner said that the code changes would clarify the definitions used for schools and churches. He noted that it is inconsistent and not a clear decision. He felt like the Blended Use zone may be a good place but there is nothing in our code currently to allow schools.

There was discussion about other areas in the city that might work better including properties on the west side, including the former Smith property.

A public hearing will be set for the next meeting. This matter will then be forwarded to the City Council for their consideration.

5. WBMC 12.28- Water Efficient Landscaping.

Commissioner packets included a memorandum dated April 8, 2022 from Cathy Brightwell and Kris Nilsen with an attached copy of the new WBMC 12.28 Water Efficient Landscaping proposal.

Staff provided a draft landscape ordinance, replacing existing WBMC 12.28, at the planning commission's last meeting. The draft was primarily based on documents provided by Weber Basin Conservancy District to encourage water efficient landscapes. This effort is important as we begin another season in extreme drought conditions. Also, Weber Basin will provide a rebate to residents who "flip their strip" by removing turf from park strips once a city approves an ordinance adopting their water-wise standards.

Cathy Brightwell noted that the current draft includes changes requested by the commissioners at the last meeting. There was discussion about enforcement and how difficult it may be as we have various means that citizen's use for water. Weber Basin will be monitoring secondary water use and fining individuals that are not in compliance. The city is considering how we can manage culinary water usage.

Commissioner Comments:

Corey Sweat noted that the legislature was less restrictive than Weber Basin and included a five-year goal. He feels like we should tread lightly with culinary water. He suggested putting exception language in regarding golf course, schools, parks, etc.

Laura Mitchell was supportive the proposed document.

Dennis Vest noted that there are many water meters being put in place to monitor the water usage He was supportive of the proposed document as presented.

Alan Malan asked about allowing artificial turf in parkways. Staff responded that if it doesn't require irrigation it is allowed.

Cathy Brightwell pointed out that Steve Doxey will review the document giving his legal input and a public hearing will be set for the next meeting. Commissioners want to move this document forward as quickly as possible so that citizens can take advantage of the "Flip Your Strip" program provided by Weber Basin.

6. Proposed Clarifications for Non-Commercial Structures in Agricultural Zones

Commissioner packets included a memorandum dated April 8, 2022, from Staff regarding Clarifications for Non-Commercial Structures in Agricultural Zones and an attached copy of the recommended ordinance change.

Cathy Brightwell explained the following:

Background

In June 2020, the planning commission recommended, and the city council adopted Ordinance 427-20 amending uses in the A-1 Agricultural District. As part of this change, non-commercial structures (NCS) were added as a permitted use.

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.

The definition goes on to say that if a principal building or use is established on the same lot as an NCS, the NCS will be deemed an accessory structure subject to all regulations governing accessory uses, building, or structures. An NCS requires a recorded agreement between the city and the property owner. In 2021, the city council asked the planning commission to review regulations for non-commercial structures. The planning commission determined that there was a need for this use in the agricultural districts and recommended increasing rear and side yard setbacks based on height of the structure. This recommendation was adopted as part of Ordinance 441-21.

Current Direction

The city council has directed planning commission to again review NCS regulations and clarify that when an NCS is proposed, sufficient space remains on the property for a principal building. Vacant land is expected to become extremely scarce in the future with a high demand for in-fill. It is important to plan for these needs by ensuring that future dwellings may be constructed on lots that currently only consist of an NCS.

Recommendations for Discussion

Staff recommends that any plans submitted for an NCS include clearly delineated buildable area for a principal building. Staff also recommends that the footprint after all applicable yard regulations, such as setbacks and coverage ratios, are considered. This regulation would be in addition to any other yard regulation applicable to the NCS. To avoid submittals for very small dwellings, the following options could be considered.

1. The footprint of the NCS cannot exceed the maximum buildable area or building envelope of the main structure. This would ensure that when a main structure is built, its footprint could be at least as large as the NCS's footprint. OR
2. The buildable area of a future dwelling must have a minimum footprint of 1000 sq. ft. not including garage. This would allow an average 2000 sq. ft. home with two levels

Council member Enquist shared city council's comments and concerns. Commissioners discussed the need to have an option for this type of building and property rights of individuals in the agricultural area. If a property owner does not want to leave sufficient space on the property for further development, they should have that right. The commission does not want to make the change.

Staff suggested the proposal, as is, be considered at a public hearing at the next meeting, then the commission can make a recommendation to city council. Corey Sweat will represent the commission when the item is scheduled on the City Council agenda.

Action Taken:

Corey Sweat moved to schedule a public hearing based on the unchanged document. Dennis Vest seconded the motion and voting was unanimous in favor.

7. Consider Meeting Minutes from March 22, 2022.

Action Taken:

Laura Mitchell moved to approve the minutes from the March 22, 2022, meeting as presented. Mike Cottle seconded the motion and voting was unanimous in favor.

8. Staff Reports

Kris Nilsen

- 600 West road construction will begin April 26th. Notices will be sent out updating residents in the area.
- 400 North well having a fluoride kick off tomorrow getting it up and running in order to finish their operating permit.
- Public Works footings are being put into place for the new facility.
- Working on budgets and grants.
- Water conservation plans are due July 6th.

Cathy Brightwell

- Doug Coons may be ready to take his subdivision on 1000 North to city council for final approval soon.
- Olsen-8 subdivision is still pending from over a month ago.
- Highgate Phase 2 received a Bureau of Reclamation approval, but still needs another permit for an additional storm drain.
- Ivory Homes is considering submitting a 9-lot subdivision for the east side of the property on 400 North with lots ranging from 1 to 2 acres. They still have some water/drainage issues to work on.
- The Manheim temporary expansion with Highgate is being discussed with attorneys.

9. Adjourn.

Action Taken:

Laura Mitchell moved to adjourn the regular session of the Planning Commission meeting at 9:08 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 April 26, 2022, by unanimous vote of all members present.

Cathy Brightwell – City Recorder