

**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](http://www.WBCity.org)

**Chairman**  
Alan Malan

**Commissioners**  
Mike Cottle  
Laura Mitchell  
Corey Sweat  
Dennis Vest  
Dell Butterfield, Alt.

**THE PLANNING COMMISSION WILL HOLD A REGULAR MEETING  
AT 7:30 PM ON TUESDAY, OCTOBER 11, 2022, AT THE CITY OFFICES**

**AGENDA:**

1. Prayer/Thought - Commissioner Mitchell  
Pledge of Allegiance – Commissioner Malan.
2. Confirm Agenda.
3. Request for Rezone and Text Change - Bill Goldberg.
4. Non-Residential Accessory Structure Agreement Discussion.
5. Consider Meeting Minutes from September 13, 2022.
6. Staff report.
7. Adjourn.

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*This notice has been sent to the Davis Journal and was posted on the State Public Notice Website  
and the city website on October 7, 2022, by Cathy Brightwell, City Recorder.*

# MEMORANDUM



**TO: Commissioners**

**DATE: October 7, 2022**

**FROM: Staff**

**RE: Rezone/Text Change for Bill Goldberg – 1390 W 1200 North**

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This memo introduces a request from Bill Goldberg to rezone his property at 1390 W 1200 North.

## Background

Mr. Goldberg would like to provide vehicle storage services on his property (indoor and outdoor) and provide some vehicle repair services. His request seeks a rezone of his property from A-1 to Light Industrial (L-I) with a text change, if necessary, for Outdoor Vehicle Storage Overlay (OVSO). He provided an Exhibit to support the request that lists how he believes this will benefit the city, citizens, and property owner.

- This property was annexed into West Bountiful by the current property owner in a process initiated in 2019.
- At time of annexation, this property was zoned by the city as A-1.
- The property is a flag lot.
- The requested annexation was due in part to the property owner's desire to build a new structure. This also involved the city creating the new Non-Commercial Structure use.
- The new requested uses are not permitted in the A-1 zone.
- The OVSO is currently permitted only in the B-U zone but is limited to uses allowed in the underlying zone (A-1).
- In discussions with Mr. Goldberg, it appears he does not care which zone to apply to his property as long as the proposed uses are allowed. He has asked to bring this issue to the Commission so the request and any suggested options can be discussed.

## Staff Review

In reviewing this request, staff recommends that the commission consider the following:

1. It may be appropriate to request more details from the applicant regarding the intended use of the property, e.g., potential site plans, access, details on the scope of business, traffic, etc.
  - a. WBMC 17.92.010 states explicitly that:

Outdoor storage facilities for "automobile graveyards," "tow yards," "salvage yards," "junk," "junk dealers," "scrap metal processors" and "junkyards" are prohibited.
  - b. In reviewing city code, vehicle storage is limited to vehicles currently for sale and the newly created Outdoor Vehicle Storage Overlay (OVSO). However, general car repair is a use within the L-I or potentially C-H zones. Therefore, it does not appear that combination of vehicle repair and

storage is compatible in any existing zone. Mr. Goldberg's solution to this is to amend the new OVSO code to make it eligible in the L-I zone.

2. In reviewing potential zone changes in this area, the commission should:

- a. Review the request in light of the city's General Plan.
  - i. This property is in the area that the city has designated to preserve agricultural uses.
  - ii. The Plan also states that "Commercial development will be concentrated along major transportation corridors."
- b. Consider all other permitted and conditional uses in the proposed zone to ensure that they are compatible and desired in the area. This would include considering the impact of adding the OVSO to the L-I zone and how that could impact areas along 500 South.
- c. Consider the impact on neighboring existing properties.
  - i. The city's new public works facility is directly to the west of the property. A public facility is a conditional use in all zones and should not be the sole determinate for the zoning of adjacent properties.
  - ii. Residential property exists in front of the property under consideration (it is a flag lot) and directly across the street to the south on 1200 N, which appears to be the only access to Mr. Goldberg's property.
    1. There was previously a legal non-conforming auto repair business on the southside of 1200 N (Tracy's); however, this business has not operated for many years and has lost its legal status.
  - iii. The properties to the east and north are currently in unincorporated Davis County. They are within the city's annexation plan, and their zoning within the city will be determined at time of annexation. The General Plan currently envisions these properties as being zoned A-1.



# 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: 1390 West 1200 North DATE OF APPLICATION: 29 SEPT 2022

PARCEL NUMBER: 064290001 CURRENT ZONE: A-1 PROPOSED ZONE: L-I

LEGAL DESCRIPTION ATTACHED: YES NO B-1 With text change to add OSVO

Applicant Name(s): William Goldberg

Applicant Address (if different than above): 855 West 400 North

Primary phone: 801-209-2881 E-mail address: ABELGIAN@MSN.com

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

See exhibits A-B-C

Rezone A-1 to L-I with text change  
to add overlay for outdoor storage and  
auto repair

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: 29 SEPT 2022 Applicant Signature: [Signature]

## FOR OFFICIAL USE ONLY

Application & \$150 Fee Received Date: 9/29/22 Public Hearing Date: \_\_\_\_\_

Letters sent to affected neighbors: \_\_\_\_\_

Planning Commission Approval: \_\_\_\_\_ City Council Approval: \_\_\_\_\_

## EXHIBIT A

### I Benefit to City/Citizens

1. Upgrade in taxes/general finance
2. Upgrade in visual/environment (on site)
3. Upgrade constant upkeep and cleanliness
4. Provide a transition area from city maintenance to residential

### II General

1. No change in noise/odor/light/general environment
2. No change in traffic
3. In keeping with nearby and adjacent buildings and land (exhibit B, C)
4. No change in general use over the previous 50 years
5. Text change to add OVSU to L - I

### III Benefit for Owner

1. Finally some income for heretofore "dead land"
2. Land has never had any agricultural or residential potential
3. Residential potential has now dropped precipitously with City Shops next door (exhibit B,C)

### IV Intended Uses

1. Outdoor parking (RV, trailer, light use equipment)
2. Auto restoration, repair
3. Misc light fix-it

Exhibit B



EXHIBIT B

Exhibit C



Exhibit C

# MEMORANDUM



**TO:** Commissioners

**DATE:** October 7, 2022

**FROM:** Staff

**RE:** Non-Residential Accessory Structure Agreement Discussion

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This memo introduces a proposal by staff to require a Non-Residential Accessory Structure agreement when issuing a building permit for accessory structures.

## Background

The city's accessory dwelling unit (ADU) regulations require ADUs to be internal to the primary structure or attached to the primary structure. Property owners that apply for an ADU must sign an agreement acknowledging that they understand the regulations and agree to comply. This agreement is recorded on the property to ensure that future owners are aware of the restrictions.

The city has encountered situations where building permits for accessory structures include elements such as bathroom and/or cooking facilities or appear designed for overnight accommodations. These elements themselves are not prohibited in accessory structures, but their inclusion makes the possibility of an illegal ADU much higher. Additionally, in many situations involving illegal detached ADUs, the owner claims they did not know detached ADUs were prohibited.

## Recommendation for Discussion

In an attempt to address this problem, staff is proposing a Non-Residential Accessory Structure Agreement be required when a building permit is issued for accessory structures. This agreement will be recorded on the property to confirm that current owners understand the rules and future owners are aware of the restrictions.

Mr. Doxey has prepared the attached modifications to the ADU regulations (WBMC 17.82) that include two options. **Option 1** requires the Agreement for accessory structures that contain bathroom and/or cooking facilities or appear designed for overnight accommodations. **Option 2** requires the Agreement for ALL Accessory Structures.

## CHANGES TO WBMC CHAPTER 17.82

1. **17.82.040 Development Standards** The development standards set forth in this section shall apply to any ADU ~~allowed as a conditional use~~. (*Clean-up. This should have been deleted when ADUs were changed from Conditional Use to Permitted Use in 2021.*)
2. Add a new **Section 17.82.050 Non-residential Accessory Structures**, as follows:
  - A. Definition. As used in this section, “non-residential accessory structure” means any detached accessory structure that is not designed or used as a dwelling, dwelling unit, or ADU, or otherwise for overnight accommodations. Examples of non-residential accessory structures include detached garages, shops, barns, and pool houses.
  - B. Permitted Facilities. A non-residential accessory structure may contain bathroom and/or cooking facilities, but it may not contain sleeping facilities or be used for overnight accommodations.

### OPTION 1

- C. Non-residential Accessory Structure Agreement. As a condition of receiving a building permit for an accessory structure that contains bathroom and/or cooking facilities or, as determined by the city, otherwise appears designed for overnight accommodations, the applicant will be required to enter into a non-residential accessory structure agreement in a form provided by the city. Such agreement will be recordable and will contain acknowledgments and agreements not to use the accessory structure as a dwelling, dwelling unit, or ADU, or otherwise for overnight accommodations.

### OPTION 2

- D. Non-residential Accessory Structure Agreement. As a condition of receiving a building permit for an accessory structure, the applicant will be required to enter into a non-residential accessory structure agreement in a form provided by the city. Such agreement will be recordable and will contain acknowledgments and agreements not to use the accessory structure as a dwelling, dwelling unit, or ADU, or otherwise for overnight accommodations.

### **Related definitions:**

“**Dwelling**” means any building or portion thereof designed or used for residential purposes, but not including a hotel, motel, hospital, or nursing home.

“**Dwelling unit**” means one or more rooms within a dwelling, physically arranged with separate bathroom, cooking, and sleeping facilities used as an independent housekeeping unit.

“**Accessory dwelling unit**,” or “**ADU**,” means a separate dwelling unit, created within, or attached to a single family dwelling, that complies with the provisions of this chapter.

West Bountiful City

September 13, 2022

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 September 9, 2022, per state statutory requirement.

Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday, September 13, 2022, at West Bountiful City Hall, Davis County, Utah.

**Those in Attendance:**

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

**MEMBERS EXCUSED:** Mike Cottle

**STAFF ATTENDING:** Kris Nilsen (City Engineer), Cathy Brightwell (Recorder), Duane Huffman (City Administrator), Debbie McKean (Secretary), and Jake Young (Contract Planner).

**VISITORS:** Laura & Jennifer Torres, Deby & Rex Marshal, Gary Jacketta, Jim Neuschwander

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. **Confirm Agenda**

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

3. **Conditional Use Application- Jenny's Daycare, 450 N 1100 West (Applicant- Laura Torres)**

Commissioner packets included a memorandum dated September 9, 2022, from Cathy Brightwell regarding Jenny's Daycare at 450 N 1100 West with an attached business license application, signature sheet from neighbors, and site plan.

Cathy Brightwell introduced the applicant, Laura Torres, who submitted a conditional use application on September 1, 2022, to open and operate a daycare at her home at 450 N 1100 West. State law requires a certificate for a childcare provider when continuous care and supervision of 5 or more unrelated children is provided in place of care ordinarily provided by a parent in the parent's home, for less than 24 hours a day, and for direct or indirect compensation. Ms. Torres has completed the application process with the state, but a certificate cannot be issued until the childcare provider obtains a local business license.

The following requirements for issuing a home occupation day care license have been addressed:

- Ms. Torres intends to care for up to 8 children, as allowed by state law, and may increase the number if her daughter is available to help. Some of these children are her grandchildren.

- Ms. Torres has notified surrounding neighbors in person and the city has received no objections.
- Ms. Torres has completed a criminal history background check as part of her state license application.
- The Davis County Health Department has inspected the home and approved it for meal preparation.
- The rear yard is fenced.
- The property has 2 driveways, one on each side of the home and a large shoulder in front of the home for parents to use when dropping off and picking up their children.

Commissioner Butterfield cautioned Ms. Torres to make sure she has the appropriate insurance and that she is aware of possible sex offenders in the area by reviewing the current Davis County Sex Offenders List.

Commissioner Vest inquired if there was secured fencing in the backyard. Jennifer Torres confirmed that the backyard is fully fenced.

**Action Taken:**

***Corey Sweat moved to approve the Conditional Use Application for Jenny's Daycare at 450 N 1100 West with the following findings: 1) The proposed use at the particular location is necessary or desirable to provide a service or facility that will contribute to the general well-being of the neighborhood and the community; and 2) The conditions to be imposed in the conditional use permit will mitigate the reasonably anticipated detrimental effects of the proposed use and accomplish the purposes of this subsection and with the following conditions***

***The following conditions are required: 1) No external signage will be used for the preschool, 2) a person who is not a resident of the dwelling shall not be employed to work on the premises, 3) a fire inspection will be provided, and 3) a copy of applicant's state daycare certificate will be provided to the city once processing is complete.***

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

**4. Public Hearing- Proposed Amendments to the Housing Chapter of West Bountiful General Plan and Strategies for Housing Affordability.**

Jake Young provided a short introduction explaining that West Bountiful is required to submit an annual housing report to the State's Community Development Division and adopt goals toward increasing moderate income housing by October 1, 2022. These goals are required to be included in the Housing section of the city's general plan. In addition to providing a plan, recent changes in state law now require specific strategies to implement the plan.

**Action Taken:**

***Laura Mitchell moved to open the public hearing for Proposed Amendments to the Housing Chapter of the West Bountiful General Plan and Strategies for Housing Affordability at 7:40 pm. Corey Sweat seconded the motion and voting was unanimous in favor.***

**Public Comment:**

Gary Jacketta commented that he believes commissioners should review properties that are on the agenda prior to discussion. He feels it is important to do so before making decisions. He also believes that the 2 minute deadline for comments is too short in some cases and should be extended so people are heard and not cut-off.

Jim Neuschwander asked if Ivory was applying for affordable housing and commented that the quality of life has gone down drastically due to the traffic caused by development construction. He does not want to see changes to the zone with land use less than 1 acre in the Ivory development.

**Action Taken:**

***Corey Sweat moved to close the public hearing at 7:55 pm. Dennis Vest seconded the motion and voting was unanimous in favor.***

**5. Consider Proposed Amendments to Housing Chapter of the city's General Plan Including Strategies for Housing Affordability.**

Commissioner packets included a memorandum dated September 9, 2022, from staff and consultants regarding the Annual Moderate Income Housing Report with attached redline and clean copies of the suggested amendments to the General Plan's Housing section. Cathy Brightwell reviewed the updates that have been included in the document.

Jake Young noted that at its meeting on August 23<sup>rd</sup>, the planning commission reviewed the 24 goal options outlined in state law and selected the following 3 strategies for inclusion in the city's general plan:

**H-** Amend land use regulations to eliminate or reduce parking requirements for residential development where a resident is less likely to rely on their own vehicle, such as residential development near major transit investment corridors or senior living facilities.

**L-** Reduce, waive, or eliminate impact fees related to moderate income housing.

**V –** Develop and adopt a station area plan in accordance with UCA 10-9a-403.1 (REQUIRED)

The proposed general plan update provides implementation timelines for each strategy. Due to the October 1 due date, a recommendation will need to be submitted to city council to consider at its September 20th meeting.

Jake commented that less data was provided by the state for this year's filing. He cautioned the commissioners that there may be some minor changes made in data figures as more research is completed prior to city council action. Cathy Brightwell also noted that there may be some updates from Mr. Doxey.

There was discussion about the proposed draft. Questions posed by Chairman Malan and Commissioners were addressed by Mr. Young.

**Action Taken:**

***Laura Mitchell moved to recommend approval to city council of the proposed amendments to the Housing Chapter of the city's General Plan including Strategies for Housing Affordability with the following changes: remove the first two sentences under Accessory Dwelling Units, and any minor updates as discussed. Corey Sweat seconded the motion and voting was unanimous in favor.***

**6. Future Development Discussion.**

Duane Huffman addressed the Commission upon request from Commissioner Sweat regarding discussion on future development and strategies, and the legislature. Mr. Huffman talked about some legislative bills that we may see in the next session and possible recommendations that will be made. Duane noted that most of the legislators in office have not had experience in city government and therefore have a difficult time understanding city's needs.

Duane encouraged the commissioners to contact state representatives Ray Ward and Todd Weiler to share their feelings regarding land use. He also encouraged them to take opportunities to plan for future development before the legislature passes laws that take away local authority. He suggested the commission consider current zoning including overlay zones and whether changes are desired. He noted that they may want to review the B-U Zone and see if changes need to be made.

Corey Sweat suggested elimination of the B-U Zone and blending it into the A-1 zone. He stated that the city needs to be proactive in what we do on the west side as new development moves forward.

Duane Huffman informed the commissioners that overlay zones can be created in a proactive measure that would allow more flexibility. He suggested they consider what "rural feel" means. Is it more open space or only 1 acre lots? He commented that clustering may provide opportunities to create smaller building lots with a large amount of open space. Mr. Huffman reaffirmed that it is important to know what you want and get it put into place sooner than later.

Corey Sweat would like to move forward with a proactive plan on land use so that our hands are not forced by the legislature. The commission was in agreement to do some proactive planning in the near future.

Mr. Huffman asked if the commission would like the staff to move forward in putting something together to eliminate the B-U Zone. The commission was in favor of staff doing so.

Duane Huffman gave an update to the Smith property which is now owned by Scratch Development. He has met with them and expressed that some of the ideas they presented for the property would likely not bode well with the commission.

**7. Consider Meeting Minutes from August 23, 2022.**

**Action Taken:**

***Laura Mitchell moved to approve the minutes from August 23, 2022, as presented. Dennis Vest seconded the motion and voting was unanimous in favor.***

**8. Staff Report**

**Kris Nilsen:**

- Ivory Homes has provided an updated plan and Davis County has given approval for the drainage issue. Final subdivision approval will be presented to city council next week.
- Public Works facility is in the process of obtaining the metal skin, onsite utilities, sewer, and storm drain and the salt storage structure has been erected. The end of 1200 North will be closed for a bit while utilities, sewer and storm drain is being put in.

- FEMA floodplain has been reduced in West Bountiful. Residents will be notified if they are no longer a part of the floodplain. There are approximately 4 or 5 lots in the Mountain View Estates subdivision that will no longer be a part of the floodplain.
- The 400 North well is not running at this time so we can use up our Weber water allotments. Fluoride is up and running and ready to be used when needed.
- Secondary water will be shut off September 26<sup>th</sup>.
- 600 West is now paved, and minor landscape and concrete repairs are being completed.
- Striping of the roadways will begin Thursday, weather permitting.
- Staff is working on permits for Google fiber to come in to provide their services. They divided the city into quarters to work within. They will begin in the southwest part of the city and will be able to add service down 1200 North as well.
- Ivory Homes largest home will be 4000 square feet and their plan is to begin to build a model home before December. Most properties in that development will value well over 1 million dollars.

**Cathy Brightwell:**

- Asked commissioners to email their training hours that have accumulated so far this year. A total of 8 hours is needed with one of those hours received as credit for attending meetings.
- In November the general election will be on November 8<sup>th</sup> so no commission meeting will be held. The second meeting falls on the Tuesday before the Thanksgiving. Rather than no meeting in November, they would like to meeting on Tuesday, November 29<sup>th</sup>. There will be only one meeting in December.

**9. Adjourn.**

**Action Taken:**

***Laura Mitchell moved to adjourn the regular session of the Planning Commission meeting at 9:01 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 October 11, 2022 by unanimous vote of all members present.*

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*Cathy Brightwell – City Recorder*