

Mayor
Kenneth Romney

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

**City Recorder/
Community
Development**
Cathy Brightwell

WEST BOUNTIFUL PLANNING COMMISSION

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Chairman
Alan Malan

Commissioners
Dell Butterfield
Laura Mitchell
Corey Sweat
Dennis Vest

THE PLANNING COMMISSION WILL HOLD A REGULAR MEETING AT 7:30 PM ON TUESDAY, MAY 9, 2023, AT THE CITY OFFICES.

1. Prayer/Thought – Commissioner Sweat;
Pledge of Allegiance – Commissioner Butterfield.
2. Confirm Agenda.
3. Conditional Use Application for Home Occupation for Auto Italia Repairs at
638 N 660 West.
4. Public Hearing – Eliminate the Blended Use and Legacy Overlay Districts and
Rezone to A-1 Zone.
5. Consider Elimination and Rezone of the Blended Use and Legacy Overlay
Districts.
6. Olsen Farms 8 - Request For Six-Month Extension to Provide Complete Final
Plat for City Council Approval.
7. Meeting Minutes from April 25, 2023.
8. Staff report
 - a. Engineering (Kris Nilsen)
 - b. Community Development (Cathy Brightwell)
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 May 5, 2023, by Cathy Brightwell, City Recorder.*

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 May 5, 2023, per state statutory requirement.

Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday, May 9, 2023, at West Bountiful City Hall, Davis County, Utah.

Those in Attendance:

MEMBERS ATTENDING: Chairman Alan Malan, Commissioners Corey Sweat, Dennis Vest, and Dell Butterfield.

MEMBERS EXCUSED: Commissioner Laura Mitchell and Council member Kelly Enquist.

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

VISITORS: Aimee & Adan Hinojosa, Amy Parker, Deby Marshall, William Goldberg, LoraLee White, Brooklyn White, Frank Schefield, Craig Hammond, Jeff Dunn

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

1. **Prayer by Commissioner Sweat**
Pledge of Allegiance- Commissioner Butterfield
2. **Confirm Agenda**

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

3. **Conditional Use Application for Home Occupation for Auto Italia Repairs at 638 North 660 West**

Commissioner packets included a memorandum dated May 5, 2023, from Staff regarding a review of the home occupation and conditional use applications for Auto Italia auto repair business with attached Conditional Use Permit application, Home Occupation Permit Application, site plans and marked exhibits.

Cathy Brightwell explained that Auto Italia was a commercial auto repair business previously licensed and located at 1116 W 500 South until December 31, 2022. Sometime late last year, the business began operating out of a detached shop/garage at a residential property located at 638 N 660 West. The business owners did not live on the property at the time, which is required for home occupation businesses.

Staff alerted both the owners of the business and the property of this violation and instructed them to cease operations. In mid-January, the owners of the business applied for a home occupation business license and an accompanying conditional use permit with the intent to become compliant with City code. The planning commission heard the issue on January 24, 2023, and tabled the applications until such time as the business owners live on the property.

Ms. Brightwell stated that when the business was illegally operating earlier this year, the city received complaints from multiple neighbors. Some complained they had been awakened at night by tow trucks delivering vehicles and some complained about a large number of auto parts deliveries and customer traffic. These complaints raised concerns about how this business might change the residential nature of the neighborhood.

The business is currently in suspension, but the city has continued to receive complaints. The nature of the complaints now centers on continued work being done in the shop by Mr. Hinojosa and the number of cars stored outside on the property. The number of complaints about deliveries has been reduced. When questioned by staff, the applicants stated that the work currently being done in the shop is only on personal and family vehicles.

The following updated information was filed with the city on May 3, 2023:

1. The applicants now reside at the property.
2. The only employees of the proposed business are the two owners.
3. Customers are by appointment only between 10 am and 5 pm, Monday through Friday.
4. Applicants intend to use 500 square feet of the 2,000 square feet detached shop for auto repair/business purposes, which they estimate is enough room to work on two vehicles. A 100 square foot bedroom in the home will be used as office space.
5. Used oil and anti-freeze will be kept in 2 barrels regularly picked up by a recycling service.
6. Customers will drop off and pick up vehicles at arranged times.
7. No on-street parking will be used by customers.
8. All vehicles and equipment will be stored inside the garage; only personal items will be in the yard.
9. Deliveries of parts are estimated to be 1-3 times a day.
10. There may be an occasional tow truck, but scheduling will be controlled.
11. Accompanying images show a proposed "privacy fence;" construction began today.
12. Photographs show an unpaved gravel driveway to the shop.
13. No customer or resident parking was designated on the site plan.

Ms. Brightwell reviewed the applicable city codes for the planning commission's information and the photos and exhibits provided in the meeting packet. She stated that the purpose of the R-1-10 District states that the city's regulations are intended to preserve and enhance residential character and lifestyle.

After reviewing the materials submitted, staff noted the following issues as related to Home Occupations - WBMC 5.28, specifically in Section 5.28.040:

- C & J. - Since the last planning commission review, the fire inspector has approved the structure for the business license. We are still waiting for confirmation from the fire department on whether additional site requirements are necessary for the proposed use.
- G. - Code clearly intends planning commission review for any storage of vehicles within the shop.

- H. – Off-street parking: The applicant states that there is no need for off-street parking. However, staff believes that it is unreasonable to think that customers picking up or dropping off a vehicle will never need a parking space.
- I. – Yard space may not be used – The applicant now states that no vehicles will be stored outdoors. Cathy Brightwell has a list of their personally owned vehicles.
- K. – Traffic related to deliveries of vehicles and parts is unclear and may conflict with the residential nature of the property and neighborhood.
- M. – There is some evidence that the operation of the business to this point has disturbed the peace and quiet of the neighborhood by way of noise from tow trucks, tracking mud from the property, and traffic from deliveries. These were complaints earlier and since have not been received since.

Cathy Brightwell explained that the Conditional Use section of WBMC 17.60.040 directs the Commission to approve the conditional use if reasonable conditions can mitigate the reasonably anticipated detrimental effects of the proposed use. If the anticipated detrimental effects cannot be substantially mitigated by the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

Ms. Brightwell stated that if the planning commission believes the updated application contains sufficient information to determine the proposed use justifies the findings listed in WBMC 17.60, staff recommends, at a minimum, consideration of the following conditions to mitigate reasonably anticipated detrimental effects of the proposed use.

Detrimental Effect 1: No off-street parking has been designated for customers or residents.

1. At least two spaces of off-street parking for residents must be designated on the property.
2. At least one space of off-street parking for customer drop off or pick up must be designated to the south or east side of the shop.
3. Customers seeking services may be parked in a designated off-street parking space for a maximum of one hour, all other customer vehicles awaiting services must be parked inside the shop.
4. All auto repairs must be performed in the allotted space (25%) inside the shop.
5. Owners to provide city staff a current list of personal vehicles showing they are registered or have title in owner's name. This list must be kept current as vehicles change.
6. No outdoor storage of inoperable vehicles is allowed on the property, regardless of ownership.

Detrimental Effect 2: Commercial traffic disturbs residential neighborhood.

1. Business deliveries of supplies and materials will be limited to 3 times per day.
2. Customer drop-off and pick-up is limited to a total of 3 times per day.
3. Tow truck deliveries will be limited to indoor parking availability and may only be between the hours of 8 am and 6 pm Monday-Friday.
 - a. Alternative: No customer vehicles may be delivered by tow truck.

Detrimental Effect 3: Environmental & Safety Issues.

1. All businesses must meet state and federal environmental quality requirements for auto repair businesses, including but not limited to the following:
 - a. Collect and contain vehicle fluids as required;
 - b. Use a licensed company to collect oil, anti-freeze, and other vehicle fluids;
 - c. All vehicles waiting for work and those with work in progress must be on concrete or asphalt surface that stop fluids from entering the ground.

2. Site activities must comply with federal and state EPA Storm Water regulations.
3. Owner must provide evidence of compliance with fire codes and any other applicable building codes, and the building/property must remain in compliance.

General Home Occupation Conditions:

1. Business equipment and vehicles in the detached shop will not exceed 25% of the total building space.
2. No additional business equipment will be added without notice to the city for verification of storage limits.
3. No signage for the business.
4. No employees that do not reside in the home.
5. Planning Commission review of neighborhood impact after the first six months of license.

Applicant, Aimee Hinojosa, took the stand to answer questions. She said the purpose of the fence and gate in front of the property is mostly for family protection and not business purposes. She noted that the gate will remain closed unless an appointment is scheduled for the business. Regarding tow trucks, she explained that they only use one tow truck driver so they can easily schedule deliveries and pick-ups to meet the city's proposed requirements. The tow truck driver only operates his business from Monday through Friday 9-5. She also noted that they do not use key drop boxes so cars will not be left on the property prior to scheduled appointment times.

Chairman Malan asked for comments from commissioners.

Commissioner Butterfield stated that he has concerns about using a residential property for this type of business. He questioned whether the business can be successful given the stringent restrictions that have been proposed. Ms. Hinojosa stated that the business is sustainable to their family needs. They are not interested in growing larger, only making a living to support the family. She added that she also works to support the family. Mr. Butterfield asked if they carry adequate insurance and property coverage and Ms. Hinojosa stated that it all is in place.

Commissioner Vest asked what type of auto repair is provided. Aimee Hinojosa responded that they specialize in foreign car repairs. She also noted that any fluids used are ordered as needed and not stored on the property. Used fluids are disposed of quickly and regularly using a licensed company.

Commissioner Sweat said he is comfortable that the proposed conditions will take care of any anticipated problems the business might cause.

Chairman Malan agreed that the conditions should mitigate any problems caused by the business. He commented that the business will not be able to expand as a home occupation. Ms. Hinojosa again stated that they have no need at this time for their business to be bigger. If the time comes that it does become necessary, they will relocate to a commercial location. Mr. Hinojosa added that it is important to him to balance family time with work, and it is not important for the business to be any bigger than what it is at this time. He has a steady clientele that sustains the needs of the family.

Action Taken:

Corey Sweat made a motion to approve the home occupation and conditional use permit for Auto Italia located at 638 N 660 West for Aimee & Adan Hinojosa with the finding that 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. The following Conditions will be imposed:

1. At least two spaces of off-street parking for residents must be designated on the property.
2. At least one space of off-street parking for customer drop off or pick up must be designated to the south or east side of the shop.
3. Customers seeking services may be parked in a designated off-street parking space for a maximum of one hour, all other customer vehicles awaiting services must be parked inside the shop.
4. All auto repairs must be performed in the allotted space inside the shop as shown on Exhibit B.
5. Owners to provide and maintain a current list of personal vehicles showing they are registered or have title in owner's name and maintain an updated list of personal vehicles every 3 months.
6. Tow truck deliveries, customer drop-off and pick up and business deliveries of supplies and materials will be limited to 3 times per day and may only be between the hours of 8 am and 6 pm Monday-Friday.
7. Customer drop-off and pick-up is limited to a total of 3 times per day.
8. All businesses must meet state and federal environmental quality requirements for auto repair businesses, including but not limited to the following:
 - a. Collect and contain vehicle fluids as required;
 - b. Use a licensed company to collect oil, anti-freeze, and other vehicle fluids;
 - c. All vehicles waiting for work and those with work in progress must be on concrete or asphalt surface that stop fluids from entering the ground.
9. Site activities must comply with federal and state EPA Storm Water regulations.
10. Owner must provide evidence of compliance with fire codes and any other applicable building codes, and the building/property must remain in compliance.
11. Business equipment and vehicles in the detached shop will not exceed 25% of the total building space.
12. No additional business equipment will be added without notice to the city for verification of storage limits.
12. No signage for the business.
13. No employees that do not reside in the home.
14. Planning Commission review of neighborhood impact after the first three months of license.

Alan Malan seconded the motion and further discussion took place. Mr. Butterfield expressed his concerns about having this business in a residential area. Dennis Vest described his personal experience living next to an auto repair business and the associated noise, traffic, and parking of inoperable vehicles. He does not believe it is a good type of business to have in a residential neighborhood. Corey Sweat explained that the law limits their ability to deny the conditional use as all detrimental effects and concerns will be mitigated by the proposed conditions. Chairman Malan called for a vote and voting was tied with Corey Sweat and Alan Malan voting Aye, and Dell Butterfield and Dennis Vest voting Nay. Without a majority vote, the applications are denied.

Action Taken:

Corey Sweat moved to table the agenda item until a full commission is in place to vote. Dell Butterfield seconded the motion and voting was 3 to 1 with Dennis Vest being the opposing vote.

4. **Public Hearing – Eliminate the Blended Use (B-U) and Legacy Overlay (L-O) Districts and Rezone to A-1 Zone**

Cathy Brightwell summarized the issue for the public hearing. She explained that the B-U zone was adopted in 2009 and the L-O zone was adopted in 2010 to address expected future development around the Legacy Parkway. There was a desire to encourage vibrant, active centers through a variety of uses in a pedestrian, equestrian, and bicycle friendly environment and to promote architectural quality in building designs. Development was to provide a blend of residential, commercial, office, recreation, entertainment, technology-based enterprises, open space, and other types of uses that create a quality design.

She further explained that the B-U district consists of two sections divided by the Davis County A-1 Canal. All development south of the canal is required to meet the development and design requirements listed for the zone and a long list of permitted and prohibited uses. All development north of the A-1 canal is restricted to single family detached residential dwellings, equestrian centers and associated facilities, parks and park amenities, trails and related trail amenities, and other facilities that enhance the rural character of this area. The land use regulations for the underlying A-1 zone apply.

The L-O district provides overlay standards for development of areas in proximity to the Legacy Parkway interchange and connecting transportation corridors along 500 South and Redwood Rd. In conjunction with the B-U zone, the intent is to establish an iconic place where the urbanized environment interfaces with the natural shoreland environment surrounding Legacy Parkway and the Great Salt Lake.

The development of this area along Legacy Parkway has not materialized as expected, and there is no indication that it will. Most of the regulations in the B-U zone do not apply to the northern area, which is currently owned primarily by Ivory Land Corporation and West Bountiful City.

The southern area intended for blended use development remains undeveloped except for a portion owned and used for automobile storage.

It was noted that at the April 11, 2023, meeting, the planning commission discussed the problems, including confusion and misunderstanding by developers, caused by having the B-U and L-O zones. They directed staff to schedule a public hearing on May 9, 2023, to receive comments on a proposal to eliminate both zones and rezone to A-1 (agricultural/residential, minimum one-acre lots).

Staff added that city's General Plan states that the B-U Zone was intended as a way "... to help with agricultural preservation by including commercial with rural density residential." Staff believe that re-zoning the area to A-1 keeps with the intent of agriculture preservation. Staff also believes that the potential re-zone is in line with the General Plan's goals related to housing and economic development.

Ms. Brightwell explained that there is one parcel of land that may be questionable for a re-zone to A-1. The Highgate Estates recorded subdivision includes a 0.62-acre parcel on the southwest corner of its property designated as "Lot A." Due to the location of the lot, which is separated from the remaining subdivision, the lot could not be made a required 1-acre buildable lot when the subdivision was approved. It was declared to be commercial as allowed by the B-U zone.

Staff noted the following items to be considered:

- As Lot A is not a residential space now, it cannot be a legal, non-conforming residential lot if the zone is changed to A-1. It can be used for other uses in the A-1 zone, such as agriculture, greenspace, or some form of subdivision amenity.

- As the city has in the past stated that the lot should have a commercial use, it could be rezoned to an existing commercial zone such as Commercial Neighborhood (see attached list of permitted and conditional uses for the C-N zone). The intent of the C-N zone is to provide areas in appropriate locations where convenience buying outlets may be established to serve surrounding residential areas. The regulations are designed to promote a combination of retail and service facilities to meet day-to-day needs of area residents in a manner which will minimize any hazard or nuisance to adjacent residential areas.
- Lot A could be re-zoned to an existing residential zone such as R-1-22. This residential zone requires lot sizes to be a minimum half acre which would provide a residential use that fits the lot size by allowing one home to be built.
- The owner of Lot A could apply for a variance to waive the one-acre minimum for a residential use due to the unique circumstances of this property.

Staff believes these changes meet the intent of the General Plan, and suggests re-zoning the current B-U and L-O zones to A-1, except Lot A in Highgate Estates which will be designated either: Commercial Neighborhood (WBMC 17.28), or Residential District R-1-22 (WBMC 17.20)

Action Taken:

Corey Sweat moved to open the public hearing at 7:40 pm. Dell Butterfield seconded the motion and voting was unanimous in favor.

Public Comment:

Bill Goldberg took the stand and stated that the whole west side should be B-U and not A-1. It is their job as a commission to plan and zone to make life better for the whole of the community. He has been kept from using his property as he sees fit because of limitations with the A-1 zone. He stated that they should not homogenize the whole west side and that each property should be evaluated on its own merit.

Debby Marshall took the stand and stated that she is thrilled with the work that the Planning Commission is doing to keep things under control as the area has exploded. She supports rezoning proposal to A-1 and the elimination of the B-U and L-O districts.

Action Taken:

Corey Sweat moved to close the public hearing at 8:50 pm. Dennis Vest seconded the motion and voting was unanimous in favor.

5. Consider Elimination and Rezone of the Blended Use and Legacy Overlay Districts.

Commissioner packets included a memorandum dated May 9, 2023 from Cathy Brightwell and Kris. This memo provides information on the planning commission's proposal to eliminate and rezone the Blended Use (B-U) and Legacy Overlay (L-O) zones, as described in the public hearing above.

Action Taken:

Corey Sweat moved to send a recommendation to the City Council to Eliminating the Blended Use and Legacy Overlay Districts and Rezone to A-1 Zone with the exception of the small lot noted as Lot A and spot zone that area to R-1 22. Dennis Vest seconded the motion and voting was unanimous in favor.

6. Olsen Farm 8- Request for Six-Month Extension to Provide Complete Final Plat for City Council Approval.

Commissioner packets included a memorandum from Kris Nilsen dated May 5, 2023, regarding Olsen Farm 8-Request for Six-Month Extension to Provide Complete Final Plat for City Council Approval.

Kris Nilsen explained that resolution of ownership was needed and caused a big delay for this project. He explained that Chree Martin applied for a 4-lot subdivision at 1655 N Olsen Way in February 2022. This project received final plat approval, with conditions, from the planning commission on May 24, 2022. WBMC 16.16.030 requires a complete application to be filed with the city council within one year of planning commission approval. If the filing is not made within one year, the applicant can file a request with the planning commission for a 6-month extension.

Mr. Nilsen stated that a request with good cause shown, has been filed by the applicant to provide a six month extension in case the final plat cannot be filed by May 24, 2023. He noted that except for a few conditions from Weber Basin and some storm drain issues, staff has no outstanding problems with the project.

Action Taken:

Dell Butterfield moved to approve the extension for Olsen Farm #8 for 6 months. Dennis Vest seconded the motion and voting was unanimous in favor.

7. Consider Meeting Minutes from April 25, 2023

Action Taken:

Corey Sweat moved to approve the minutes from April 11, 2023, as presented. Dell Butterfield seconded the motion and voting was unanimous in favor.

8. Staff Report

a. Engineering (Kris Nilsen)

- Public Works building will be ready for the Spring Clean Up on Thursday. Concrete for the wash bay has been poured and there is one more pour for salt storage. There are still a few things on the inside that need to be done.
- Google Fiber is still completing landscape and repair. A complete inspection of entire project will be done soon and a punch list made. Dell Butterfield reported that in some areas dead sod is being put in. Staff is taking notes and reporting issues to the company to be addressed. Their bond will be held for 1 year. Service is up in some parts of the city and people are already signing up.
- Construction of this year's waterline projects will begin soon.
- No flooding has occurred to date. All snowmelt is being handled by the canals so far although there has been some backup of water on 1200 North next to Legacy Parkway.

b. Community Development (Cathy Brightwell)

- Good weather seems to be creating an increase in building permits and staff is seeing a lot of residential landscaping taking place after last year's restrictions. Staff is challenged is to inform residents of the need to submit a landscaping plan for review to make sure they meet the new water efficient rules.
- Governor Cox announced this week a new state rebate program for landscaping. The new program is being managed by Utah Water Savers and is not limited to parkstrips but includes the entire yard. This new program will match Weber Basin's park strip rebate of \$1.25 making the total rebate amount \$2.50 per square foot. Property owners must sign up for the program to qualify.
- Ivory Homes is working on concept plans and may be ready to submit an application in the next few weeks. Staff has received a draft but not an application. The Phase 1 plat still has not been recorded but we understand they are getting close.
- Deby Marshall shared an Ivory postcard advertising for ADUs. Cathy said the restriction on detached ADU's has been explained to them and they know they have to sign a Non ADU agreement that the space will not be used as a dwelling.

9. Adjourn.

Action Taken:

Corey Sweat moved to adjourn the regular session of the Planning Commission meeting at 9:17 pm. Dell Butterfield seconded the motion. Voting was unanimous in favor.

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The foregoing was approved by the West Bountiful City Planning Commission on May 23, 2023, by unanimous vote of all members present.



Cathy Brightwell - City Recorder

