

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
Dell Butterfield
Laura Mitchell
Corey Sweat
Dennis Vest

UPDATED 6/12/2023

**THE PLANNING COMMISSION WILL HOLD A REGULAR MEETING
AT 7:30 PM ON TUESDAY, JUNE 13, 2023, AT THE CITY OFFICES.**

1. Prayer/Thought – Commissioner Vest;
Pledge of Allegiance – Commissioner Mitchell.
2. Confirm Agenda.
3. Public Hearing–Consider Changes to the City’s Parking Regulations as Part of
the 2023 Moderate Income Housing Strategy 2 (WBMC 17.44 and 17.52).
4. Consider Changes to Parking Regulations in WBMC 17.44 and 17.52.
5. Discuss Request to Change Text Regarding Accessory Structure Heights by
Jeremy Broderick, 1451 N 950 West.
6. Discuss Home Occupation Business License Uses.
7. Meeting Minutes from May 23, 2023.
8. Staff report
 - a. Engineering (Kris Nilsen)
 - b. Community Development (Cathy Brightwell)
9. Adjourn.

This agenda was posted on the State Public Notice website (Utah.gov/pmn), the city website (WBCity.org), emailed to planning commissioners, and provided to the Davis Journal on June 12, 2023, by Cathy Brightwell, City Recorder.

Mayor
Kenneth Romney

**City Engineer/
Zoning 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

Chairman
Alan Malan

Commissioners
Dell Butterfield
Laura Mitchell
Corey Sweat
Dennis Vest

NOTICE OF PUBLIC HEARINGS

The Planning Commission will hold a public hearing at City Hall on Tuesday, June 13, 2023, beginning at 7:30 p.m, or as soon as agenda permits.

The planning commission is considering updates to WBMC 17.52 – Off-Street Parking and WBMC 17.44 Housing in Certain Commercial Areas Overlay (HCCO) that deal with reduced parking regulations for certain residential properties.

More information, including links to the proposed changes can be found on the city website at www.WBCity.org in the Public Notices section, or on the Utah Public Notice website at www.utah.gov/pmn .

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: Commissioners

DATE: June 12, 2023

FROM: Staff & Consultants

RE: **2023 Moderate-Income Housing Strategy Update**

This memo describes the city's efforts to address its Moderate Income Housing Strategies for 2023.

Background

In 2022, the Utah legislature required the city to select and plan for the implementation of a minimum of three moderate income housing strategies. Updates were adopted to the housing section of the city's General Plan to help achieve goals toward increasing moderate income housing. Recent legislation requires the city to submit updates by August 1, 2023, regarding its success in accomplishing the Strategies.

The three Strategies selected by the city are listed below:

- Strategy 1 – Develop and Adopt a Station Area Plan in Accordance with Section 10-9a-403.1.
- Strategy 2 – Amend Land Use Regulations to Eliminate or Reduce Parking Requirements for Residential Development Where a Resident is Less Likely to Rely on the Resident's Own Vehicle, such as residential development near major transit investment corridors or Senior Living facilities.
- Strategy 3 – Reduce, Waive, or Eliminate Impact Fees related to Moderate Income Housing.

Proposal

The attached draft provides modifications to WBMC 17.44 – Housing in Certain Commercial Areas Overlay, and WBMC 17.52 – Off-Street Parking to eliminate or reduce parking requirements where a resident is less likely to rely on their own vehicle, such as near a transit station.

Staff has incorporated the commission's comments from the April 25th planning commission meeting. A public hearing is scheduled prior to the commission's final review of the proposal and recommendation to city council.

17.52 Off Street Parking

17.52.010 Off-Street Parking Purpose

17.52.020 Size

17.52.030 Access To Individual Parking Space

17.52.040 Number Of Parking Spaces Required

17.52.050 Access Requirements

17.52.060 Maintenance Of Parking Lots

17.52.070 Location Of Off-Street Parking

17.52.080 Landscaping In Parking Lots

17.52.010 Off-Street Parking Purpose

The purpose of this chapter is to set a minimum standard for off-street parking to ensure that ample parking for the generated demand of each land use will be available.

Sufficient parking should be provided to assure maximum utilization of the facilities on site will not unduly impose on neighbors in the vicinity or create an unsafe environment.

Off-street parking is required for residential, commercial, industrial, and retail buildings and structures based on current use, size, and capacity in accordance with the requirements of this chapter.

17.52.020 Size

The dimensions of each off-street parking space, exclusive of access drives or aisles, shall be at least nine (9) feet by twenty (20) feet for diagonal and ninety (90) degree spaces, and ten (10) feet by twenty-four (24) feet for parallel spaces. Drive aisle widths shall be a minimum of twenty-two (22) feet for ninety (90) degree and parallel parking and sixteen (16) feet for angled parking.

17.52.030 Access to Individual Parking Space

Except for residential dwellings, direct access to each parking space shall be from a private driveway and not from a public street. All parking spaces shall have independent access not blocked by another parking space or other obstacle.

17.52.040 Number of Parking Spaces Required

An adequate number of off-street parking spaces shall be provided for all uses as follows. In no case, however, shall parking provided be less than one space for each employee projected for the highest employment shift plus additional parking for vehicles used in conducting the business and customer parking. **Any parking calculations that result in less than a whole number shall be rounded up. (NOTE: the order below has been changed to be alphabetical.)**

- A. Auto Dealer: one parking space for each two hundred (200) square feet of sales office area plus one space for every ten (10) vehicles displayed, or five spaces, whichever is greater. Separate storage space for vehicles for sale or under repair shall be provided.

- B. Business or professional offices: one parking space for each two hundred (200) square feet of floor area.
- C. Churches with fixed seating: one parking space for each four fixed seats, or one parking space for each seven feet of linear pew, whichever is greater.
- D. Churches without fixed seats, sports arenas, auditoriums, theaters, assembly halls, reception centers, meeting halls: one parking space for each four seats of seating capacity.
- E. Fast food dining: one parking space for each seventy five (75) square feet of floor area (excluding kitchen and storage), with a minimum of five (5) spaces, plus three (3) stacking spaces per drive-through lane.
- F. Furniture and appliance stores: one parking space for each six hundred (600) square feet of retail floor area.
- G. Grocery store: one parking space for each three hundred (300) square feet of retail floor space.
- H. Hospitals: one parking space for each two beds.
- I. Hotels and motels: one space for each living or sleeping unit, plus parking space for vehicles used in conducting the business.
- J. Medical/Dental office: one parking space for each two hundred (200) square feet of floor area or three parking spaces for each doctor/dentist, whichever is greater.
- K. **Residential and Mixed-Use Buildings-dwellings:**
 - 1. **In residential districts: two parking spaces for each dwelling unit located in a including garage and/or driveway.**
 - 2. **In commercial districts, Multi-Family and Mixed-use buildings: (moved from HCCO)**
 - a. **Studio apartment – 1 space per unit;**
 - b. **One bedroom units – 1.5 spaces per unit;**
 - c. **Two or more bedroom units – 2 spaces per unit;**
 - d. **All multi-family residential and mixed use projects shall provide additional guest parking spaces equal to one guest parking space for every four units.**
- L. Residential Health Care facilities: one parking space for each five beds.
- M. Restaurants, taverns, private clubs, and all other similar dining or drinking establishments (except for fast food dining establishments): one parking space for each four seats or one parking space for each one hundred (100) square feet of floor area (excluding kitchen and storage), whichever is greater.
- N. Retail stores (except as provided in subsection F and G of this section): one parking space for each one hundred (100) square feet of retail floor space.
- P. Shopping center or other groups of uses not listed above: one parking space for each two hundred (200) square feet of total floor space.
- Q. **Transit adjacent multi-family residential and/or mixed use, if located within ¼ mile of enhanced transit services such as a station, BRT, or enhanced bus, may request up to a 10% reduction in parking spaces at the discretion of the applicant.**
- R. Wholesale establishments, warehouses, manufacturing establishments and all industrial uses: as determined by the zoning administrator.
- S. All other uses not listed above: as determined by the zoning administrator. All required determinations of the zoning administrator under this section shall be based on the nearest comparable use standards **and information provided by the applicant.**

17.52.080 Landscaping in Parking Lots

The following landscape requirements apply to parking lots.

- A. Each parking lot adjacent to a public street shall provide along the entire frontage of the property (except for any drive approach) a minimum depth of ten (10) feet of permanently maintained landscaping.
- B. Each parking lot consisting of more than twenty (20) spaces, or 4,000 square feet shall include landscaped parking islands as follows:
 - 1. Office and commercial: 7 percent of total parking lot area.
 - 2. Industrial and warehouse: 5 percent of total parking lot area.
- C. Parking island areas are intended to define major drives and access ways, and to delineate ends of parking rows and aisle intersections. For every six required parking spaces, or portion thereof, a minimum of one tree shall be provided within each parking island. Additionally, each parking island shall contain:
 - 1. A minimum of 140 square feet;
 - 2. A minimum average width of 8 feet; and
 - 3. A minimum of one tree from the city's approved tree list.
- D. In all other respects, the landscaping of parking lots shall comply with Chapter 12.28 – **Water Efficient Landscape Standards** and Chapter 17.50 – **Clear View Area and Fence Requirements**.

WBMC 17.44.060 – Housing in Certain Commercial Areas Overlay – Site Design

G. Parking Requirements.

1. Location of Parking and Parking Garages. Parking for a multi-family residential or mixed-use building should be located underneath, within (as in podium-style parking), to the side, or to the rear of the building. An above or partially above grade parking garage within the interior of a building having more than 20 residential units, if located within 50 feet of a public right-of-way, should include commercial uses that wrap the street-facing façade. No visible podium parking is recommended fronting on 500 West, 400 North, 500 South or 1100 West unless such parking is wrapped with commercial uses on the street-facing façade. If an above grade or a partially above grade parking garage is incorporated into a building that is located more than 50 feet from a public street, any portions above ground should be designed to complement the building in a manner that the parking garage is not readily discernable as such or is surrounded with a five foot-wide intensive landscape treatment that includes trees and shrubs covering at least 75 percent of each parking garage façade.
2. All projects of any building type shall provide the following minimum number of parking spaces, as per section 17.52.040. ~~Studio apartments — 1 space per unit; One bedroom units — 1.5 spaces per unit; Two or more bedroom units — 2 spaces per unit.~~
~~All projects should provide additional guest parking spaces equal to one guest parking space for every four units. Any parking calculations that result in less than a whole number shall be rounded up.~~
3. To further evaluate the above parking space requirements for a particular project, the city may require an independent parking study where parking demand calculations exceed 50 spaces, shared parking is being considered, or the proposed use may impact previously calculated parking demands for adjacent uses. Any such study will be managed by the city but paid for by the developer. The city may adjust the above parking recommendations consistent with the parking study's conclusions to reflect such factors as shared parking and compatible uses. The Planning Commission shall make findings reflecting the study or discounting the study and may suggest modifications of the parking guidelines or simply leave the standards as-is. Parking stalls 9-feet by 20-feet are recommended but a parking study could also address compact car spaces in terms of size and as a percentage of the overall parking.
4. Shared parking is encouraged based on a parking study but recommended only for up to 30 percent of the parking demand. The development agreement shall include the terms of shared parking for both the existing uses and proposed new HCCO development. The shared parking requirement is for a minimum of ten years and shall be renewed thereafter.
5. Bike parking is encouraged for residential projects. Bike parking should be well lighted and secure, with a combination of indoor bike storage and exterior bike parking. Where a mixed-use building is proposed, a conveniently located permanently attached bike rack accommodating a minimum of four bikes per building is recommended for commercial patrons.
6. Residential portions of parking garages and structures, including carports, are strongly encouraged to include 220-volt outlets and associated infrastructure/conduit for personal vehicle charging. The suggested standard is one outlet for every ten residential units; however, the number shall be determined as part of the development agreement.

MEMORANDUM



TO: Planning Commission

DATE: June 9, 2023

FROM: Kris Nilsen, Cathy Brightwell

RE: Request to Change Text Regarding Accessory Structure Heights

Background

Jeremy Broderick, at 1451 N 950 West (Ranches at Lakeside), is located in the R-1-22 zone and has petitioned the Commission to consider modifying the current accessory structure height regulations. The purpose of his request is to modify the setback chart (attached) to allow for increased height with smaller setbacks, while not changing the overall height allowed in each zone. A description of the request is summarized below.

Mr. Broderick wants to build a garage that will store his RV, which requires a 14 ft garage door. Given the space he has available on his lot and the current setback requirements, he is unable to build a structure that meets his needs. He notes that because he is on a corner lot, his rear yard faces his neighbor's side yard. The neighbor's home (or any home) can be up to 35 feet high 10 feet from the property line, yet his accessory structure is limited to a height of 24 feet at the same 10 foot setback.

Until a couple years ago, accessory structure heights were approved by the planning commission on a case by case basis as part of a conditional use permit application. As a result, several of his neighbors have accessory structures similar to what he is asking for that do not meet current code.

Summary of Request

Mr. Broderick is seeking a text change to the accessory building height/setback regulations as proposed below:

- The side/rear setback can be reduced if the structure has a Hip style roof. (*see attached diagram*)
 - a. The side/rear setback to the peak of the roof (not wall) will be measured from the property line.
 - b. The side/rear setback to the wall will be measured from the property line and can be shorter than the setback measurement to the peak.
 - c. The minimum side/rear setback to the exterior wall is 6 ft.

Discussion

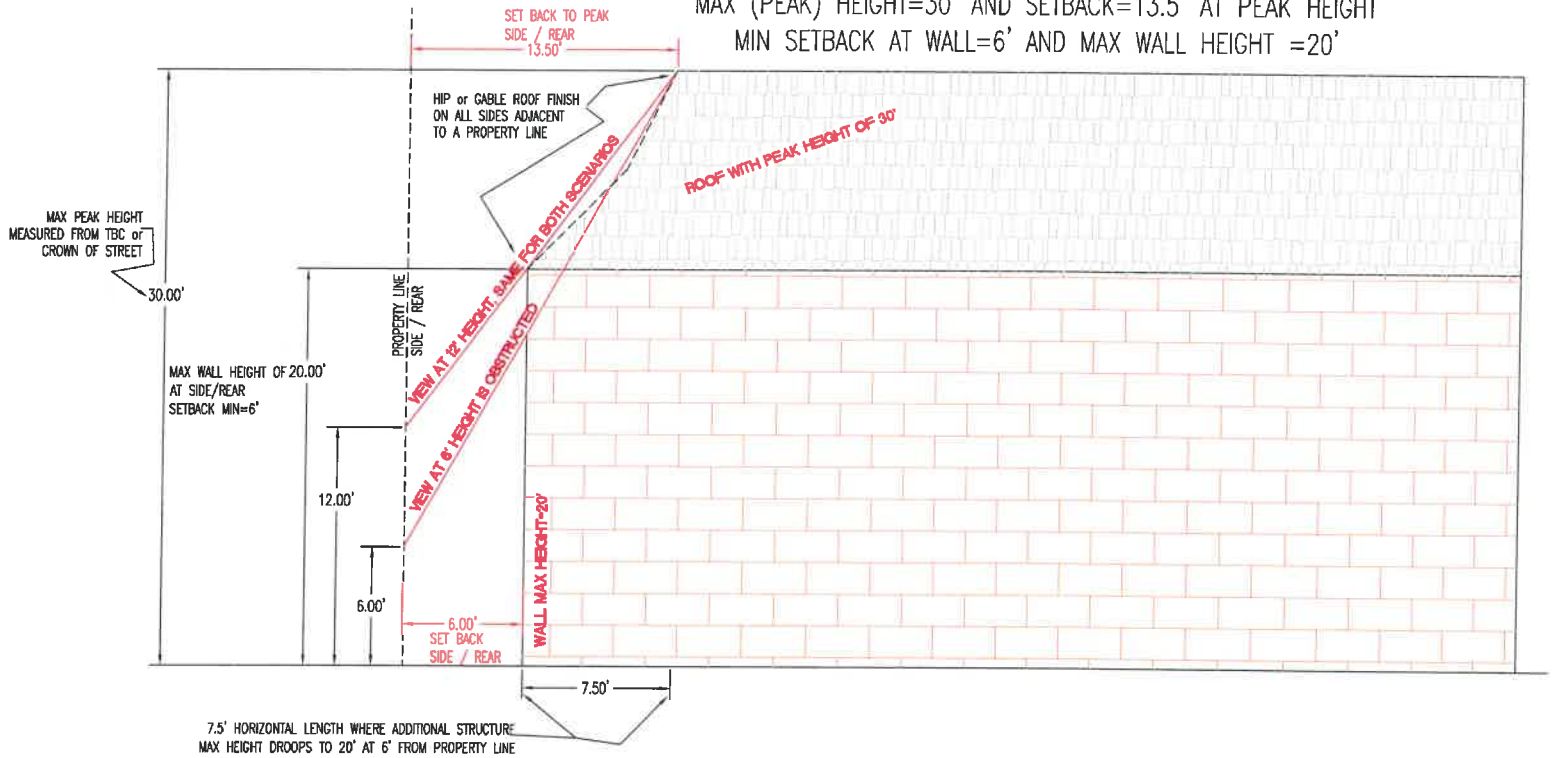
- The current regulations are intended to reduce the impact of tall buildings to neighbors.
- The distance from the property line to the peak is the same under both scenarios. The difference is the distance of the wall from the property line.
- The line of site (view) at a 12 ft height is the same for both scenarios.
- The line of site (view) at a 6 ft height is slightly more obstructed.

Staff Recommendation

If the Commission believes there is merit in considering the request, or a variation of the request, staff recommends a public hearing be scheduled for the next meeting.

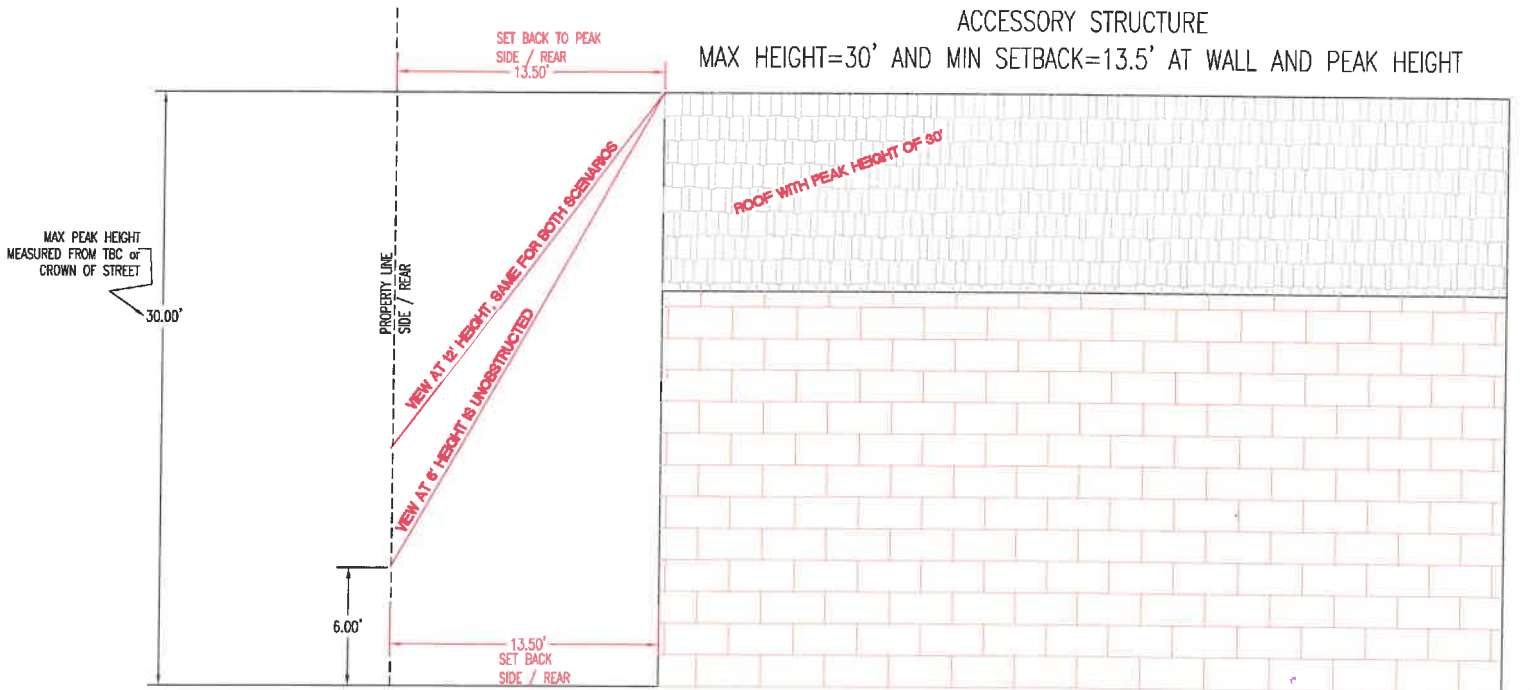
EXAMPLE
PROPOSED R-1-22
ACCESSORY STRUCTURE

MAX (PEAK) HEIGHT=30' AND SETBACK=13.5' AT PEAK HEIGHT
MIN SETBACK AT WALL=6' AND MAX WALL HEIGHT =20'



EXAMPLE
EXISTING R-1-22
ACCESSORY STRUCTURE

MAX HEIGHT=30' AND MIN SETBACK=13.5' AT WALL AND PEAK HEIGHT



HEIGHT/SETBACKS IN RESIDENTIAL DISTRICTS

R-1-10

Accessory Structure maximum height = to 25 ft. with the following setbacks:

Accessory Structure Height		Side/ Rear Setback ¹
	≤ 20 ft	6 ft ²
› 20 ft	≤ 21 ft	7 ft
› 21 ft	≤ 22 ft	8 ft
› 22 ft	≤ 23 ft	9 ft
› 23 ft	≤ 24 ft	10 ft
› 24 ft	≤ 25 ft	11 ft

¹ Does not apply to street side yards, which have separate setback restrictions.

² Setback may be reduced to 3 ft. if adjacent wall is built to fire code standards.

R-1-22

Accessory Structure maximum height = to 30 ft. with the following setbacks:

Accessory Structure Height		Side/ Rear Setback ¹
	≤ 20 ft	6 ft ²
› 20 ft	≤ 21 ft	7 ft
› 21 ft	≤ 22 ft	8 ft
› 22 ft	≤ 23 ft	9 ft
› 23 ft	≤ 24 ft	10 ft
› 24 ft	≤ 25 ft	11 ft
› 25 ft	≤ 26 ft	11.5 ft
› 26 ft	≤ 27 ft	12 ft
› 27 ft	≤ 28 ft	12.5 ft
› 28 ft	≤ 29 ft	13 ft
› 29 ft	≤ 30 ft	13.5 ft

Requires 2 measurements
a. peak measurement
b. wall measurement

¹ Does not apply to street side yards, which have separate setback restrictions.

² Setback may be reduced to 3 ft. if adjacent wall is built to fire code standards.

A-1 & A-S

Maximum Structure Height (Main, Accessory, Non-Commercial) =

40 ft. with the following setbacks:

Accessory, Non-Commercial

Height		Side/Rear Setback ¹
	≤ 20 ft	6 ft ²
› 21 ft	≤ 35 ft	10 ft
› 35 ft	≤ 36 ft	11 ft
› 36 ft	≤ 37 ft	12 ft
› 37 ft	≤ 38 ft	13 ft
› 38 ft	≤ 39 ft	14 ft
› 39 ft	≤ 40 ft	15 ft

Main Structure

Minimum Side Setback	Combined Side Setback
10 ft	24 ft
10 ft	24 ft
11 ft	26 ft
12 ft	28 ft
13 ft	30 ft
14 ft	32 ft
15 ft	34 ft

¹ Does not apply to street side yards, which have separate restrictions.

² Setback may be reduced to 3 ft. if adjacent wall is built to fire code standards.

6/9/23



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: 1451 North 950 West DATE OF APPLICATION: June 3 2023

PARCEL NUMBER: _____ CURRENT ZONE: R1-22 PROPOSED ZONE: _____

LEGAL DESCRIPTION ATTACHED: YES _____ NO _____

Applicant Name(s): Jeremy Broderick

Applicant Address (if different than above): _____

Primary phone: 801-660-8885 E-mail address: BroderickbuildersLLC@gmail.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.

On separate sheets -

Text change to adj. accessory building height setback/height regulations

Maximum height of structure at distance from property line with total height no more than 30'

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: Jun 3, 2023

Applicant Signature: [Signature]

FOR OFFICIAL USE ONLY

Application & \$150 Fee Received Date: 6/5/23

Public Hearing Date: _____

Letters sent to affected neighbors: _____

Planning Commission Approval: _____

City Council Approval: _____

Reasons for Ordinance Change

- **Change ordinance from:**

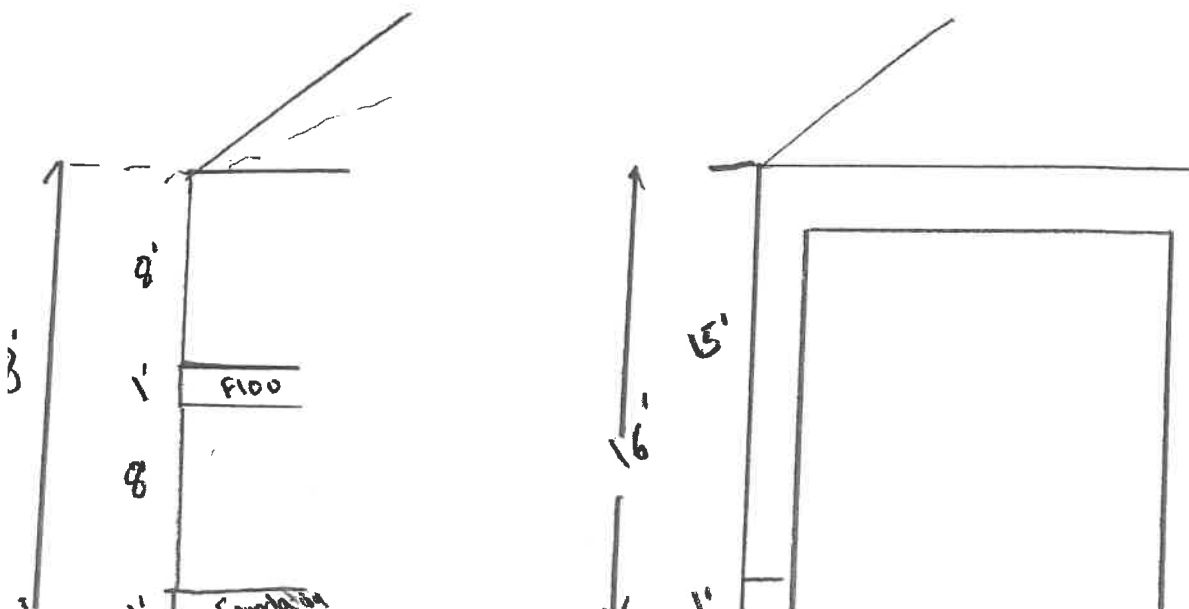
Maximum height is twenty (20) feet, except as otherwise provided in this section.

- **Change ordinance to:**

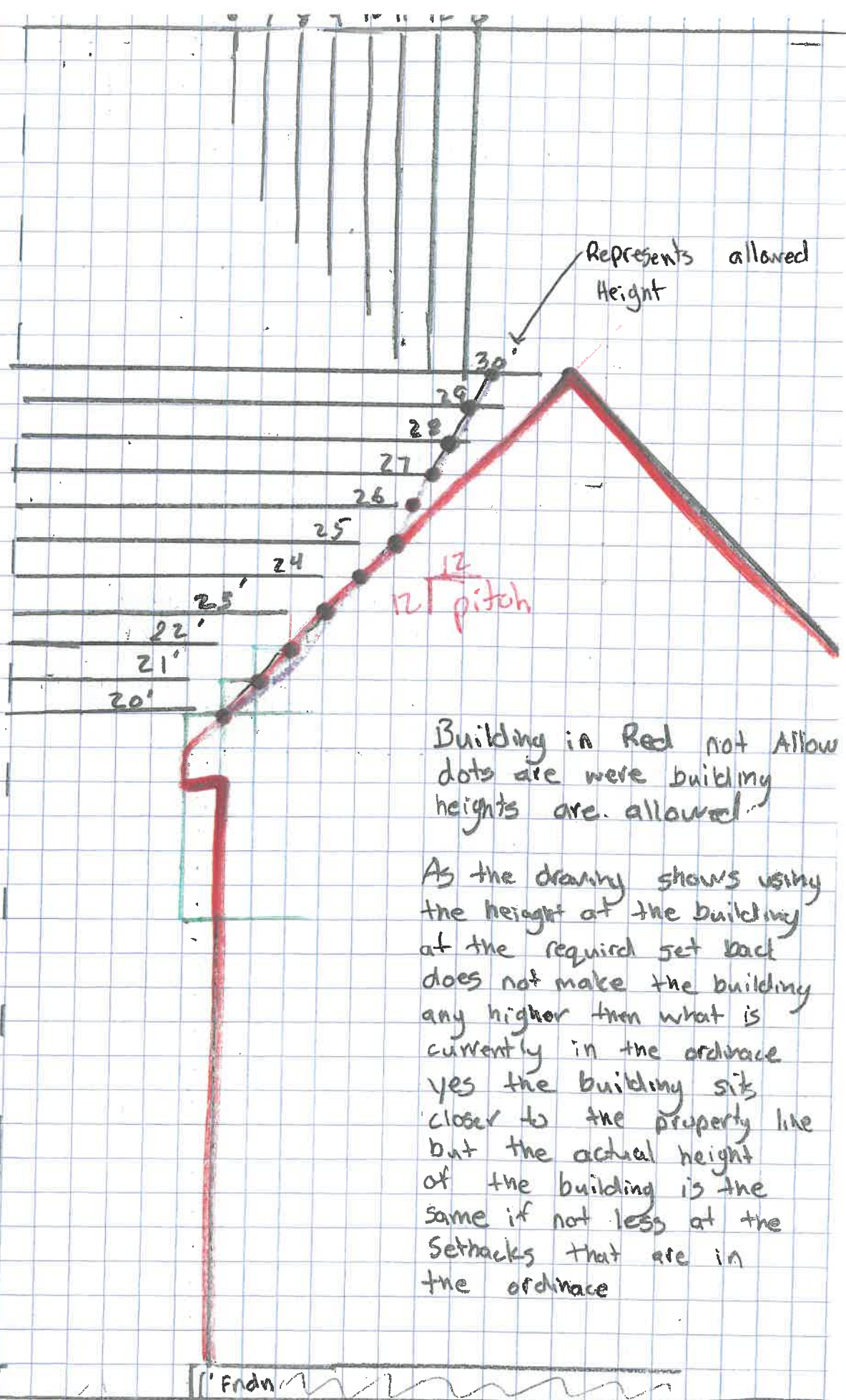
Maximum height of accessory structure is thirty (30) feet from ground to peak. Height of structure at specific setback is dictated by setback/height of structure table, in this section.

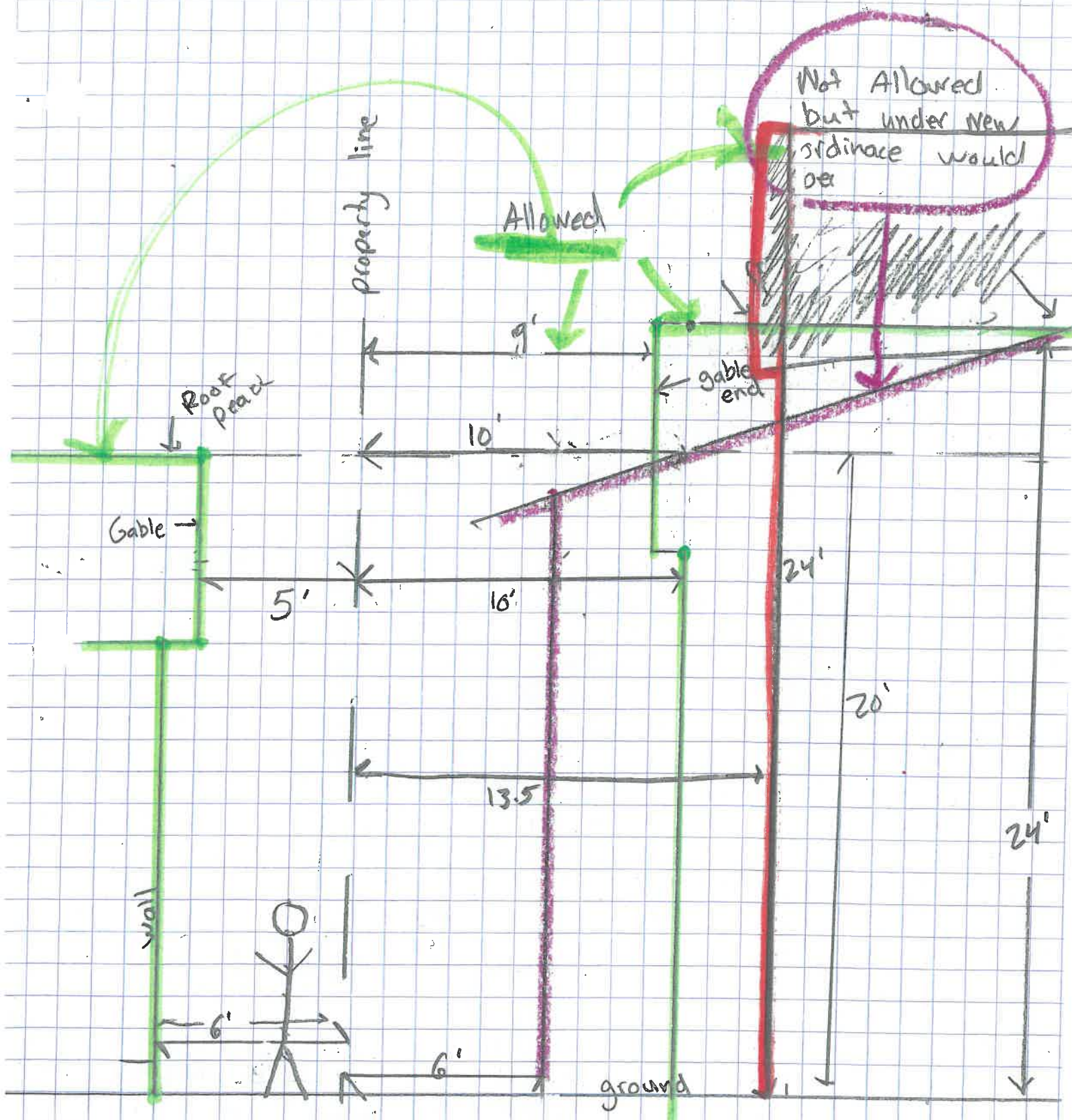
Reasoning for ordinance change

- Currently, in my backyard, sits a house that is 10 feet off the rear property line. To the peak of this house (from the ground) is twenty-eight (28) feet high. Through current ordinances, this structure could be 35 feet high and 10 feet off the property line, because this is the main structure. If this was an accessory structure with the current ordinance, it would have to sit twenty-four (24) feet high, being 10 feet off the property line. I understand that we are on a corner lot, but at the same time, there are many corner lots and typical lots with main structures that are sitting 10 feet off property lines that go 35 feet in height. I also understand that neighbors do not want buildings blocking views, or having structures that are overwhelming to the side of their yards, but this is something that we are already living with as there are main structures and previously built accessory buildings that are taller than the current ordinance allows scattered all over West Bountiful.
- West Bountiful has a very high water table, meaning that most structures are not built with basements, or are built without underground living/storage areas. Accessory structures are a great way to recoup storage and working space. To optimize square footage of accessory structures, second stories are the only option because below grade stories are not an option. When building an accessory structure with a second story, you would have to come out of the ground one foot with foundation, have 8 feet of wall, one foot of room for second story floor, and another 8 feet for the height of the second story walls. Looking at the measurements, this structure would already be 18 feet tall, not considering additional height for roof. To build a garage for an RV, you typically need 1 foot of foundation out of ground and 15 feet of wall (to allow for a 14-foot garage door), making this structure 16 feet tall, again, without consideration of additional roof height. Of course, roofs would add additional height to the structures, and the height of the roof is dictated by the width of the structure and the steepness/pitch of the roof.



- In order to make these structures and the height of the building work with current ordinance, it requires you to pull the building away from the property line. These areas between building and property line become weed and junk collectors. These areas become "out of sight, and out of mind" to the owner, but are typically sitting right at the neighbors' side or back property line. The bigger the setback, the bigger the mess. Also, since these setbacks are against property lines, you cannot build roofs or other buildings to protect the items that may be stored in those areas.
- The size of an accessory structure is very much dictated by the size of the property. Ordinances dictate the size of the structure compared to unused space on the property, how close the accessory building can be to the main structure, etc. If you have a small lot, it's hard to make a garage fit, and be able to build a second story when you must come so far off the property line to do so. With larger lots, you have room to build larger accessory buildings, but larger buildings mean higher roofs. With the current ordinance, higher roofs dictate a larger setback, leading to more "dead" or unusable space on the sides of these structures.
- West Bountiful is a farming community, filled with old and newer buildings that the current ordinance would not allow. Currently, in my own neighborhood, there are 4 accessory structures built within the last 2-3 years that this current ordinance would not allow. Along historic Onion Street, there are carriage houses and barns (old and new) that the current ordinance would not allow. As mentioned before, I understand the need for height restrictions, but feel that the current ordinance is unreasonable and does not quite accomplish what the city is trying to do. Moving the setback one foot for every foot added to the total height of the structure is extreme and only creates more "dead" space on the property, leading to unsightly mess that is inevitable due to the space not truly being usable. I feel that we can use the same height/setback restrictions but create less dead space, and build structures that have standard 6 foot setbacks and are not abruptly high and intrusive to neighboring properties. I feel that if we measure the height of the building from the distance from the property line, we can use the architecture of the building to make it more pleasing for neighbors while also making structures easier to fit on properties and keeping less dead space along property lines. I have drawings that I have included that show how buildings can be built using architectural features such as roofs to keep height down as building height grows, moving away from property line. These drawings show that you can build accessory structures that sit six feet off property line, but roof height increases as it moves away from property line, while sitting lower than buildings that could be built to current ordinance restrictions (with gabled roofs.) This change in ordinance allows the property owner architectural flexibility to build the structure they want and need, but still fit height parameters that work as well, if not better, than the current ordinance is requiring. In doing this, it is a win for the property owners in allowing some flexibility, and a win for the neighbors by keeping accessory building heights under ordinance control and less room for junk accumulation and weeds along property lines.





MEMORANDUM



TO: Planning Commission

DATE: June 9, 2023

FROM: Cathy Brightwell, Kris Nilsen

RE: Home Occupation Business License Uses

Background

The city council recently discussed the need to clarify what types of business qualify as home occupations. The city's commercial zones list uses that are permitted, conditional, and prohibited. Residential zones do not currently exclude any businesses from consideration for home occupations. If it is determined that a home occupation business may conflict with the intent of the Home Occupation regulations without imposing additional conditions, a conditional use permit review by the planning commission is required. In some cases, this process satisfactorily addresses situations where businesses can be successful and not negatively impact the neighborhood, but there are some businesses that should not qualify as home occupations based on traffic, parking, noise, safety, health, and visual effects, etc.

Discussion

A home occupation is defined in code as "any occupation conducted within a dwelling and carried on only by persons residing in the dwelling, which is **clearly incidental and secondary to the use of the dwelling** and for which a Home Occupation Business License has been issued by West Bountiful City."

Staff reviewed ordinances from surrounding cities and found that many include a list of prohibited uses. After our review, we have identified several types of businesses that the city may want to prohibit from becoming home occupations, as shown on the attached exhibit.

These uses, by nature of the investment or operation, have a pronounced tendency once started to increase beyond the limits permitted for home occupations and thereby impair the use and value of a residentially zoned area for residential purposes.

Staff Recommendation

The attached proposal is intended for further review and discussion.

WBMC 5.28 HOME OCCUPATIONS

5.28 Home Occupations

5.28.010 Definitions

5.28.020 Purpose; License Required

5.28.030 Application For License

5.28.030 Specific Businesses Prohibited

5.28.040 Requirements

5.28.050 Exemptions To License

5.28.060 Noncompliance; Revocation And Suspension Of Permit

5.28.070 Home Occupation Business License Renewal And Delinquency

5.28.080 License Not Transferrable

5.28.010 Definitions

"Home occupation" means any occupation conducted within a dwelling and carried on only by persons residing in the dwelling, which is clearly incidental and secondary to the use of the dwelling and for which a Home Occupation Business License has been issued by West Bountiful City.

5.28.020 Purpose; License Required

The purpose of this chapter is to protect the residential character and lifestyle of residential zones within West Bountiful City. To ensure compliance with this chapter, a Home Occupation Business License must be obtained from West Bountiful City before a person may use any part of a dwelling in a residential zone for a home occupation. Under certain circumstances provided in Section 5.28.030, a conditional use permit must also be obtained.

Home occupations shall not be licensed, approved, or conducted without the written consent of the property owner.

5.28.030 Application For License

- A. A Home Occupation Business License Application may be obtained from the city offices or from the city website. Each application shall be accompanied ~~with~~by payment of the business license fee as provided in 5.04.040. It is unlawful for any person to provide false information to the city in relation to the application for, issuance of, or continuation of, a business license, or to knowingly cause or permit the same to be done.
- B. The applicant shall give written notice of the nature and description of the home occupation to all property owners within three hundred (300) feet of the exterior boundaries of the property upon which the home occupation is to be conducted. Evidence of the required notice must be supplied to West Bountiful City as part of the Home Occupation Business License Application.
- C. Except as provided in subsection D, the City Recorder may issue the Home Occupation Business License when:
 1. The requirements of ~~5.28.040~~ this section have been satisfied; or
 2. If a conditional use permit is required from the Planning Commission, the permit has been issued, the conditions of that permit have been satisfied, and the applicant has agreed to the conditions in writing.

D. Notwithstanding subsection C, the applicant must also apply for a conditional use permit and pay the application fee for review and approval by the Planning Commission under Chapter 17.60 if any of the following apply:

1. The home occupation requested conflicts with the minimum requirements provided in Section 5.28.050;
2. The City Recorder determines that approval of the application may conflict with the intent of this chapter without imposing additional conditions;
3. The applicant or City receives a notice of protest to the application; or
4. The Home Occupation Business License Application is for a day care, nursery, or preschool, which must follow Utah Department of Health regulations for child day care including, but not limited to, a background check.

5.28.040 Specific Businesses Prohibited

Notwithstanding any provision of this chapter to the contrary, the following uses cannot qualify as home occupations:

- A. Motor vehicle sales, rentals, and outdoor storage of vehicle inventory;
- B. Repair, bodywork, painting, glass replacement, or detailing for automobiles, trucks, boats, motorcycles, snowmobiles, recreation vehicles, and similar motor or engine-operated equipment;
- C. Major appliance repair (washers, dryers, refrigerators, etc.);
- D. Towing and trucking, except where on-site operations are limited to office-related functions;
- E. Welding or machine shop;
- F. Funeral Chapels and Mortuaries;
- G. Gifts Shops;
- H. Restaurants;
- I. Kennels (except as permitted in the A-1 zone), in-home veterinary services, or animal day-care;
- J. Sexually-oriented businesses;
- K. Retail tobacco specialty businesses;
- L. Retail e-cigarette specialty businesses;
- M. Medical Cannabis pharmacy;
- N. Any business that is demonstrated to be substantially similar to the prohibited uses described above; and
- O. Any business that is prohibited in the City's commercial and industrial zones.

5.28.050 Requirements

- A. A person who is not a resident of the dwelling shall not be employed to work on the premises.
- B. The home occupation must be clearly incidental and secondary to the use of the dwelling or structure in which it is located and may not change its purpose or character.
- C. The home occupation shall not involve the use of any part of a dwelling or structure for which by reason of state, federal or local law or ordinances, special or extra entrances or exits or special rooms are required as a prerequisite condition to the operation of such use or for which said laws or ordinances require a license or permit, except as approved by the Planning Commission.
- D. More than one Home Occupation Business License may be issued ~~if the additional businesses will function as one business operation and~~ if after review, it is specifically determined that the total of all businesses will not have an impact on the community greater than one business.
- E. The home occupation shall not involve the use of more than the equivalent of fifteen (15) percent of the ~~main-used~~ floor area of the dwelling, nor involve the installation of special equipment and/or fixtures, plumbing or electrical wiring for such special fixtures or equipment which are not

ordinarily or customarily used in a dwelling, unless otherwise approved by the Planning Commission.

- F. The home occupation must be operated entirely within the approved dwelling, except that 25% of a garage or accessory ~~building or~~ structure on the same property as the dwelling may be used, so long as it does not change the residential character of the lot or would otherwise be contrary to the purpose of this chapter.
- G. Inventory or supplies may not occupy more than fifty (50) percent of the permitted area. ~~No storage of merchandise, equipment, or materials shall occur outside the home or outside an approved garage or accessory structure.~~
- H. Additional conditions may be imposed by the Planning Commission if the garage ~~or accessory~~ structure is to be used for:
 - 1. Storage of chemicals or tanks; or
 - 2. Storage of equipment or vehicles.
- ~~I. If a home occupation is authorized for a garage or accessory structure, off-street parking arrangements in compliance with this title must exist for any personal vehicles owned and/or operated by the applicant.~~
- ~~J. If a garage is used for a home occupation, minimum space shall be maintained for at least one person automobile (for a 1-car garage) or for 2 personal automobiles (for a garage designed to accommodate 2 or more automobiles).~~
- ~~K. A home occupation shall not involve the use or parking of equipment or motor vehicles having a gross weight of twelve thousand (12,000) pounds or more at the residence.~~
- ~~L. With the exception of drop-offs or pick-ups associated with an instructional occupation, on-street parking at any location other than directly adjacent to the approved site is prohibited.~~
- M. Yard space may not be used for home occupation activities, except:
 - 1. Outside private swimming pools may be used for swimming instruction if the swimming instruction is given by a ~~bona fide~~ resident of the dwelling.
 - 2. Yard space may be used for day care provided the yard is entirely fenced.
 - 3. Yard space may be used for other similar activities that will not alter the residential nature of the neighborhood in which the home occupation will be conducted. In no event shall outdoor storage be permitted in relationship to the Home Occupation Business License.
- ~~N. Hours of operation shall be limited to the hours of 7:00 am and 9:00 pm, unless shorter hours are set by the planning commission.~~
- O. The home occupation must comply with all fire, building, plumbing, electrical and health codes and all federal, state and local laws.
- P. The home occupation may not cause or create a demand from municipal or utility services or community services, including traffic, in excess of those usually and customarily provided for in residential uses. Home occupations which will generate additional traffic or parking in excess of those usual and customary residential uses require Planning Commission approval.
- Q. The home occupation may not be a nuisance or cause undue disturbance to the neighborhood.
- R. The home occupation may not alter the residential character of the premises or unreasonably disturb the peace and quiet, including radio and television reception, of the neighborhood by reasons of color, design, materials, construction, lighting, odors, sounds, noise or vibrations.
- S. Merchandise, goods, or customer services may not be advertised or otherwise visible from the exterior of the building in which the home occupation is operated.

- T. Signs, advertising or displays of any kind ~~may~~shall not be visible from the public streets or from the exterior boundaries of the property on which the home occupation is conducted.
- U. The home occupation shall be operated in a manner that complies with any special conditions established by the Planning Commission and made part of the record in connection with the application for a conditional use permit, as the Planning Commission deems necessary to carry out the provisions and intent of this chapter and Chapter 17.60.
- V. Home occupations requiring State or Federal licensing must be in compliance with all State and Federal regulations before a Home Occupation Business License ~~will be~~ issued.

5.28.050 Exemptions To License

The following uses are exempt from the provisions of this chapter:

1. Sale of goods or services by City residents age 14 and under which sale of goods or services does not conflict with other sections of this Code;
2. Temporary home occupations such as garage sales, yard sales, or craft boutiques that occur not more than four (4) times a year with each event lasting not more than seventy-two (72) hours;
3. Promotional meetings for the purpose of taking orders for merchandise, by invitation only, which occur not more than once per month;
4. Community/neighborhood fund raisers which are sponsored and/or approved by City staff;
5. Any person engaged in business for solely religious, charitable or other type of strictly nonprofit purpose who is tax-exempt in such activities under the laws of the United States and the State of Utah;
6. Any person engaged in a business specifically exempted from municipal taxation and fees by the laws of the United States or the State of Utah;
7. Any person selling, offering for sale, or taking orders for or soliciting the sale of any farm products, but not including dairy products, actually produced, raised or grown by the person so selling, offering for sale or taking orders for, or soliciting the sale of any such farm products; and
8. Other exemptions as specifically approved in writing by the City Council.

5.28.060 Noncompliance; Revocation And Suspension Of Permit

The City Recorder may revoke or suspend, or decline to renew, a Home Occupation Business License for a violation of any of the requirements of this chapter, or for failure of the licensee to comply with the conditions of the license. The Planning Commission may revoke, suspend or modify the conditional use permit associated with a Home Occupation Business License for violation of any of the requirements of this chapter or Chapter 17.60, or the conditions of the permit; or for failure of the permit holder to maintain the Home Occupation Business License. The Planning Commission may suspend the permit temporarily to give the permit holder a specified reasonable period of time to cure deficiencies. If such deficiencies are not cured by the specified period of time, the Planning Commission shall revoke the conditional use permit associated with the Home Occupation Business License. During the period of suspension, the Planning Commission may impose any restrictions or conditions upon the permit holder, including cessation of all activities.

5.28.070 Home Occupation Business License Renewal And Delinquency

A Home Occupation Business License is subject to annual renewal, with the license year being the calendar year.

A Home Occupation Business License shall be renewed annually provided there have been no confirmed violations or detrimental effects which may, in the opinion of the zoning administrator, require termination, or planning commission review if the home occupation was approved as a conditional use.

~~All license fees provided herein shall be due and payable on or before January 15th of any calendar year, or before commencing a new business. In the event any fee is not paid on or before such date, a penalty of fifty (50) percent of the amount due shall be imposed and shall become a part of the license fee imposed by this chapter. The date of delinquency and the amount of the penalty may be amended periodically by resolution of the City Council provided that the amended date and penalty shall be prospective only, effective the next calendar year.~~

5.28.080 License Not Transferrable

No license granted or issued under the provisions of this chapter shall in any manner be assignable or transferable or authorize any person other than the licensee named therein to do the business specified in the license.

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 May 19, 2023, per state statutory requirement.

Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday, May 23, 2023, at West Bountiful City Hall, Davis County, Utah.

Those in Attendance:

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

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

VISITORS: Aimee & Adan Hinojosa, Deby Marshall, Dannie McConkie, Judy Rapp, Amy Parker, Brooklyn White, F.C., Dave Ryan, Jen Nielsen

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

**1. Prayer by Commissioner Butterfield
Pledge of Allegiance- Commissioner Vest**

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 for Home Occupation for Auto Italia Repairs at 638 N 660 W

Commissioner packets included a memorandum dated May 19, 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. These applications were initially presented to the planning commission on January 24, 2023, but tabled when it was determined the applicants did not reside on the property. The applications were again presented on May 9, 2023, after applicants took possession of the home. As there was a tie vote by the four members present at the planning commission meeting on May 9, 2023, the conditional use application was tabled until a full commission was available.

Cathy Brightwell briefly reviewed the details of the updated application.

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. They 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 street parking will be used by customers.
8. All vehicles and equipment tied to the business 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. All fire inspections have been completed and passed.
12. Applicants are in the process of installing a privacy fence with gate that will limit access to scheduled customers only.

Ms. Brightwell reviewed the potential detrimental effects that were discussed at the previous meeting and the list of conditions intended to mitigate these effects as shown below.

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 the 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.

Additional 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.

Staff added they would like to do periodic inspections, after reasonable notice and with the owner present, as they see a need.

Steve Doxey noted that if the planning commission feels the proposed conditions will mitigate the anticipated detrimental effects of the home occupation business, they are required to approve it. If reasonable conditions cannot mitigate the detrimental effects, the request can be denied.

There was discussion on several of the anticipated detrimental effects and proposed conditions. Commissioner Mitchell stated that similar to regular home deliveries there is no control over time or type of deliveries by Amazon and other such carriers. Applicant stated that auto parts deliveries, like O'Reilly, can be scheduled and controlled when orders are placed.

Laura also commented that staff inspections would be a good way to monitor the success of the conditions, but she does not want staff inundated with neighborhood complaints forcing them to conduct more inspections than needed. She is also concerned that numerous complaints made by the same people on a regular basis could be a problem.

Steve Doxey informed the commission that the city is the one to determine when an inspection is needed. Staff can continue to monitor neighbor complaints, but they will not always trigger inspections. As far as adding a condition that staff conduct random inspections, Mr. Doxey noted that staff already has that authority, so it is not needed as a separate condition.

Corey Sweat suggested combining delivery conditions to make them more clear. Some discussion took place, and it was agreed that regular carriers like UPS, Amazon, and Fed Ex delivering personal items to the home are not included in the condition.

Commissioner Butterfield stated that he struggles with this issue in many ways. He is concerned about the impact to the neighborhood of an auto repair business operating in a residential area, but after studying the law and similar cases, he learned that documented findings have to be found in order to deny the permit. As long as conditions can be placed on the applicant to mitigate the impact, the request needs to be approved. He looked at the emails he has received complaining about the business and noted that no documented facts were presented that provide a reason for denial. All the detrimental effects were addressed and with the proposed conditions they should be solved.

Dennis Vest said he has thought hard about his negative vote at the last meeting and comments that we should not be denying someone's ability to make a living, but he is concerned that the 25% allotted space (500 square feet) is not sufficient or realistic. He visited several commercial auto repair businesses to determine the minimum space required to work on two vehicles. The owner of the first shop he visited stated that 660 square feet would be the minimum they would want to have. The second shop said that 900 square feet would be his minimum. The third shop owner reported that his minimum would be 1600 square feet for safety reasons. Mr. Vest asked the shop owner what the biggest problem he has in his business. He responded that parking is always an issue because of delays in receiving parts,

customer's paydays, vacations, etc. He added that he didn't think it was reasonable to believe delivery of products could be controlled.

Commissioner Vest further stated that some of the conditions cannot be reasonably enforced. He does not think it is a good location to run this type of business in a residential neighborhood. He stated that the city does not have the resources to monitor such a business and the conditions placed on it as part of issuing this permit. He wants to see the applicants succeed but he does not believe they can in this location and with the conditions being placed on the business.

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 will mitigate the reasonably anticipated detrimental effects of the proposed use and accomplish the purposes of the Conditional Use section in West Bountiful Code (WBMC 17.60). 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, with the exception of any personal common carrier deliveries.
7. 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.
8. Site activities must comply with federal and state EPA Storm Water regulations.
9. Owner must provide evidence of compliance with fire codes and any other applicable building codes, and the building/property must remain in compliance.
10. Business equipment and vehicles in the detached shop will not exceed 25% of the total building space (2000 sf x 25% = 500 sf).
11. No additional business equipment will be added without notice to the city for verification of storage limits.
12. No signage can be used 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.
15. Upon reasonable notice, the city can inspect the premises periodically with the owner present.

Laura Mitchell seconded the motion. Chairman Malan called for a roll call vote. The Motion passed with a vote of 4 to 1, as shown below:

<i>Dell Butterfield- Aye</i>	<i>Corey Sweat- Aye</i>	<i>Laura Mitchell- Aye</i>
<i>Dennis Vest- Nay</i>	<i>Alan Malan- Aye</i>	

183
184 **4. Consider Meeting Minutes from May 9, 2023.**
185

186 **Action Taken:**

187 *Corey Sweat moved to approve the minutes from May 9, 2023, as presented. Dell Butterfield seconded*
188 *the motion and voting was unanimous in favor.*
189

190 **5. Staff Report**
191

192 **a. Engineering (Kris Nilsen)**

- 193 • Public Works building is being carpeted and the inside completed so move in can begin next
194 month. Asphalt should go down in two weeks.
- 195 • The Spring clean-up went well, and people seemed to like the new location.
- 196 • No flooding issues. Some water was backing up on the east side of Legacy Parkway at 1200
197 North because it couldn't get through, but it has improved.
- 198 • Google Fiber is still working on clean-up. City will do inspections and hold their feet to the
199 fire to make sure everything is completed and done well.
- 200 • Pre-construction meeting on the upcoming water line project was held and they expect to
201 begin in a few weeks. They will make sure park access and the parade are not affected for
202 the 4th of July events.
203

204 **b. Community Development (Cathy Brightwell)**

- 205 • Moderate Income Housing Strategy report is due in August. Strategy # 1 (Station Area Plan)
206 is being handled by Duane. Moderate Income housing is required in locations within a
207 certain proximity to a transit station, like the Woods Cross FrontRunner station. The
208 affected area in West Bountiful includes the Holly Frontier Refinery which is not ideal for
209 housing. A study has to be done in order to be exempt from that requirement and the city
210 just found out it is getting a \$30,000 grant to do the study. Strategy #2 (Parking) has been
211 reviewed by the planning commission and a hearing will be held on June 13. Strategy #3
212 (Impact Fees)- does not have to have a public hearing and will be handled by the city
213 council. Once the report is submitted in August, additional strategies can be discussed for
214 next year's report.
- 215 • New legislation requires we adopt an Airport Overlay Zone since there is a tiny piece of city
216 property within the regulated distance of the airport.
- 217 • She also noted that the city council has asked planning commission to look at uses that may
218 be appropriate to exclude as home occupations. This will be a good time to finish the project
219 started last year to clean up types of uses in each of the zones.
220

221 **Commission comments:**

222 Laura Mitchell stated that there have been a lot of large dump trucks going down 1200 North. It was
223 explained that they were aware of this issue and have shut the offenders down from dumping dirt on
224 the property to the east of the public works building. It was not the city doing this.
225

226 Dennis Vest noted that pickleball players have asked to have a trash can by the courts. Chairman Malan
227 noted that this request has come up before and he was told by the city that most city parks have a policy
228 top pack it in and pack it out. He reported that they are practicing that policy at the baseball fields and it
229 seems to be working fine.
230

