

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

**THE PLANNING COMMISSION WILL HOLD A REGULAR MEETING
AT 7:30 PM ON TUESDAY, SEPTEMBER 12, 2023, AT THE CITY OFFICES.**

6:30 pm Land Use Training – Office of Property Rights Ombudsman

7:30 pm Regular Meeting

1. Prayer/Thought – Commissioner Butterfield;
Pledge of Allegiance – Commissioner Vest.
2. Confirm Agenda.
3. Public Hearing – Home Occupation Business Regulations and Uses.
4. Consider Home Occupation Business Regulations and Uses.
5. Conditional Use Application – Home Occupation - Cinnamon & Sage Spa, LLC
(Jessica Edwards)
6. Conditional Use Application – Home Occupation - AK Daycare, LLC (Amanda
Kingston)
7. Conditional Use Application – SSCAPFOX Motors – 1110 W 500 South
8. Discuss Detached Accessory Dwelling Units.
9. Meeting Minutes from August 22, 2023.
10. Staff report
 - a. Engineering (Kris Nilsen)
 - b. Community Development (Cathy Brightwell)
11. Adjourn.

*This agenda was posted on the State Public Notice website (Utah.gov/pmn), the city website (WBCity.org),
and provided to the Davis Journal on September 8, 2023, by Cathy Brightwell, City Recorder.*

**West Bountiful City
Planning Commission Meeting**

September 12, 2023

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 8, 2023, per state statutory requirement.

Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday, September 12, 2023, at West Bountiful City Hall, Davis County, Utah.

Those in Attendance:

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

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

VISITORS: Jason Cullimore, Rob Terry, Chelsa Winegar, Andrew Winegar, Ben Savage, Aimee Hinojosa, Dan McConkie, Bud Ingles, Jen Nielsen, Cassie Salmon, Amanda Kingston.

6:30 pm.- Land Use Training – Office of Property Rights Ombudsman

Jason Cullimore and Rob Terry from the Office of Property Rights Ombudsman introduced themselves and explained that they are an independent neutral office housed in the Utah Department of Commerce that safeguards the property rights of Utah citizens. The office assists citizens and government agencies in understanding and complying with property rights laws, resolves disputes, and advocates fairness and balance when private rights conflict with public needs.

The Ombudsman's office provides training on land use issues for planning commissions. They discussed the role of the planning commission, considerations when making administrative and legislative decisions and how public clamor plays into the equation. There was also discussion on exactions which is a mandatory contribution required by a governmental entity as a condition of approval for a development application, and the need to apply the rough proportionality test to find the right balance.

A Land Use jeopardy chart of hot topics was used to select issues of interest to the commissioners for discussion, and there was discussion about the critical role the planning commission has in the community.

7:30 pm – Regular Meeting

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

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

2. Confirm Agenda

Chairman Malan reviewed the proposed agenda and proposed items may be rearranged to accommodate applicants. Laura Mitchell moved to approve the agenda as proposed. Dennis Vest seconded the motion. Voting was unanimous in favor among all members present.

3. Public Hearing Home Occupation Business Regulations and Uses.

Cathy Brightwell introduced the public hearing and gave a brief update on changes to the Home Occupation Business regulations and uses which have been discussed and reviewed by staff and commission for several meetings.

Action Taken:

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

Public Hearing Comments:

Dan McConkie- Noted that he has attended all the meetings regarding this issue and feels that the commission has worked hard to put this together in a fair manner and balanced way. He strongly endorses this document.

Bud Ingles- Stated that he was before the commission last year with the Spencer Hughes issue. He explained the impact that Mr. Hughes' equipment caused was so much vibration he felt like his ceiling was going to fall. He believes the ground where businesses are allowed should be part of the consideration to avoid damaging neighbor properties. Mr. Ingles stated that item 7 of the proposed list of conditional uses (contractors) should not be allowed because of the impact it has on homes and lands next to them. People need their homes protected from such businesses. The ground is not solid enough to handle the impact of large equipment. He suggested that the commission take this into consideration when approving this document and amend it accordingly. He pled with the commission stating the city needs to help save their home from further damage. He feels it is a serious problem.

Aimee Hinojosa- Thanked the commission and feels they have been fair and thorough regarding her family's situation. She appreciates the time and effort that has been put into reviewing and changing this document. She said it has clarified the language so that it can now be understood, with no gray areas. She is pleased that they consider the property owner when making decisions regarding laws and ordinances for our city.

Cassie Salmon- Stated that she has reviewed the document and feels that this is laid out nicely for homeowners with businesses and creates a peaceful means to do so. She appreciates all the work and efforts and hopes the City Council will not undermine the efforts of the commission.

Ben Savage- Mr. Savage expressed appreciation to the commission in solving the conflicts that have come up within our city. He feels they serve the citizens and city in a fair manner.

Action Taken:

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

4. Consider Home Occupation Business Regulations and Uses.

Commissioner packet included a memorandum dated September 8, 2023, from Kris Nilsen and Cathy Brightwell regarding Home Occupation Business Regulations and Uses with attached Exhibit A containing WBMC 17 Zoning, WBMC 5.04 Business Licenses in General, and WBMC 5.28 which incorporates comments in preparation for the public hearing.

Cathy Brightwell briefly reviewed the final document explaining the flow of the document and small changes that were made. The commission has thoroughly considered the language in this final document, and it has been reviewed by our legal councilor, Mr. Doxey.

Commissioners made their final comments/suggested changes, and it was decided the document was ready to forward to city council for their review and approval. Ms. Brightwell stated that legal will make a final review before submitting it to city council.

Action Taken:

Corey Sweat moved to forward Exhibit A as a recommendation to the city council for updates to the West Bountiful Municipal Code Business License and Home Occupation regulations with a positive recommendation. Laura Mitchell seconded the motion and voting was 4 in favor and 1 in opposition. Dennis Vest opposed due to the content in Section 5.28.040(2).

5. Conditional Use Application – Home Occupation-Cinnamon & Sage Spa, LLC (Jessica Edwards)

Commissioner packet included a memorandum dated September 8, 2023, from Cathy Brightwell regarding a Conditional Use Permit for Home Occupation-Cinnamon & Sage Spa, LLC with attached sight plan, applications for Conditional Use Permit and Home Occupation Permit, and Business License application. A Notice to Neighbors was included as well.

Ms. Brightwell explained that Jessica Edwards has filed an application for a Conditional Use Permit to open a salon and spa as a home occupation business at her home at 1272 West Millbridge Lane. The notice to neighbors was obtained with no complaints received. Ms. Edwards is not present this evening.

Ms. Edwards' business consists of cosmetology and esthetics including facial treatments, hair cuts and color, and waxing. Appointments will be scheduled Monday through Saturday from 10:00 am to 8:00 pm. This proposal is similar to other previously authorized home salons and meets the requirements of Chapter 5. 28.040- Home Occupation Ordinance and Chapter 17.60- Conditional Uses.

The business will be conducted in a 204 sq. ft. space in her garage and occupy only 12% of the total garage space. An inspection is required by our building official to make sure that the relocation of plumbing meets building code.

Corey Sweat inquired if there was another home occupation business that would be sharing this same space? Cathy Brightwell said she was not aware of another business but will check it out. It was also noted that a fire and plumbing inspection are needed. After discussion, the commission decided to table approval of the application until the noted items above were completed.

Action Taken:

Corey Sweat moved to table consideration of the application until information regarding existing home occupational permits and inspections of plumbing/fire are completed. Dennis Vest seconded the motion and voting was unanimous in favor.

6. Conditional Use Application – Home Occupation-AK Daycare, LLC (Amanda Kingston)

Commissioner packet included a memorandum dated September 8, 2023, from Cathy Brightwell regarding a Conditional Use Permit for Home Occupation-AK Daycare, LLC at 715 West 400 North for Amanda Kingston with attached site plan, applications for Conditional Use Permit and Home Occupation Permit, and Business License application. A Notice to Neighbors was included as well.

Cathy Brightwell introduced the application submitted by Amanda Kingston for a conditional use permit to open and operate a daycare in her home at 715 West 400 North. She noted that state law requires a Utah State Certification for a childcare provider when continuous care and supervision of 5 or more unrelated children is provided in place of care that is ordinarily provided by a parent in the parent's home, for less than 24 hours a day, and for direct or indirect compensation. Mrs. Kingston has completed the application process with the state, but a Certification cannot be issued until the childcare provider obtains a local business license.

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

- Ms. Kingston intends to care for no more than 6-8 children, as allowed by state law, this number includes one of her children. This number cannot increase unless she has an additional employee, who must live in the home.
- Mrs. Kingston has notified surrounding neighbors and the city has received no objections.
- Mrs. Kingston has obtained a License for Family Child Care from the Utah Department of Health & Human Services, which included a criminal history background check.
- Mrs. Kingston has received a clearance from the South Davis Metro Fire Department.
- The Davis County Health Department has inspected the home and approved it for meal preparation.
- The rear yard is fenced.
- There is sufficient driveway area for off street drop-off and pick-up.

Amanda Kingston took the stand and Dennis Vest asked about what kind of fence surrounds the backyard. Ms. Kingston described the fence and stated that it was approved by the health department.

Action Taken:

Laura Mitchell moved to approve the Conditional Use Permit for Amanda Kingston/AK Daycare, LLC at 715 W 400 North with the following affirmative findings: 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 community; it will comply with the regulations and conditions specified in the land use ordinance for such use; and 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 are imposed: no external signage will be used for the preschool; a person who is not a resident of the dwelling shall not be employed to work on the premises; all drop-off and pick-up of children will be off-street; and a copy of the state day care certificate license will be provided to the city once the processing completed. Corey Sweat seconded the motion and voting was unanimous in favor.

7. Conditional Use Application - SSCAPFOX Motors, 1110 West 500 South

Commissioner packet included a memorandum dated September 8, 2023, from Cathy Brightwell regarding a Conditional Use Permit for SSCAPFox Motors at 1110 West 500 South #438, from Sergio Capdevila with attached site plan, applications for Conditional Use Permit and Home Occupation Permit, and Business License application.

Ms. Brightwell introduced the application from Sergio Capdevila for a conditional use permit for his auto dealer business, SSCAPFOX Motors, located at 1110 West 500 South. Mr. Capdevila will sell used automobiles primarily online. There will be 2-3 vehicles on-site but most of his business will be done by appointment and involve vehicles he stores at an off-site storage location. The business will not include auto repairs or service. Mr. Capdevila has access to customer parking stalls by his door on the east side of the building, as shown in the attached diagram, and stalls will be displayed with his business name.

WBMC Section 17.34.030 lists motor vehicle sales and service and outdoor storage of retail vehicles inventory as a conditional use and therefore needs approval from the planning commission.

Action Taken:

Corey Sweat moved to approve the conditional use permit for Sergio Capdevila at 1110 W 500 South for an auto dealer business, SSCapFox Motors, with the following affirmative findings: 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; the conditions to be imposed will mitigate the reasonably anticipated detrimental effects of the proposed use and accomplish the purposes of the subsection. The following conditions are imposed: a copy of the dealer's license and proof of insurance must be provided to the city; fire inspection approval; signage will comply with city code; vehicles on display will be operable and in sellable condition; upon issuance of this permit and prior to beginning business, a West Bountiful commercial business license will be issued to SSCAPFOX Motors. Dennis Vest seconded the motion and voting was unanimously in favor.

8. Discuss Detached Accessory Dwelling Units

Commissioner packet included a memorandum dated September 8, 2023, from Kris Nilsen and Cathy Brightwell regarding Detached Accessory Dwelling Units (D-ADU) with attached copy of the current ADU ordinance and a list of surrounding cities and their ADU and D-ADU ordinances.

At the commission's request, staff gathered information for a general discussion of D-ADUs including information on how other cities handle D-ADUs. Staff is looking for direction from the commission prior to drafting language that can be incorporated in the current ADU code.

A redline and highlighted draft of WBMC 17.82 Accessory Dwelling Units was presented to begin discussion. The document was reviewed by commissioners with suggestions of possible language changes and various scenarios that should be considered. A summary of several other cities' regulations was reviewed by the commission. It showed that several neighboring communities already allow D-ADUs.

Commissioners discussed the reality of accepting D-ADU's and what this means for the city. Corey Sweat pointed out that it effectively changes zoning without changing zones by allowing more than one

residence on a property. He stated that 17.20.045-*Every Dwelling To Be On A Lot; Exceptions* needs to be changed. He does not like the reference to farm or ranch dwellings, group dwelling, condominiums, etc. and would like to see that part of the section deleted. Cathy pointed out that this section exists in all residential zones. Staff will do some research to see what the intent is and how the paragraph might apply.

Much discussion took place regarding how to define different types of accessory dwellings. Consideration was also given as to what restrictions should be allowed on private property and several different scenarios were discussed. Included in the discussion was a desire that D-ADUs should not be allowed in Planned Unit Developments (PUDs).

Cathy noted that she was able to confirm with the Sewer Board that they did approve a separate line charge for ADUs.

9. Meeting Minutes from August 22, 2023

Action Taken:

Corey Sweat moved to approve the minutes from August 22, 2023. Dell Butterfield seconded the motion and voting was unanimous in favor.

10. Staff Report

a. Engineering (Kris Nilsen)

- 600 West water project is all connected and up and running.
- A major priority for him is to finish designing the 660 West project.

b. Community Development (Cathy Brightwell)

- The city has advertised for Community Development Specialist but there have not been many experienced applicants apply.
- An appeal has been filed by applicants for denial of a building permit to attach an ADU/garage.

11. Adjourn.

Action Taken:

Laura Mitchell moved to adjourn the regular session of the Planning Commission meeting at 9:50 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 September 26, 2023, by unanimous vote of all members present.


Cathy Brightwell, City Recorder

