

Mayor
Kenneth Romney

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

City Recorder
Remington Whiting

**City Council
Representative**
Dell Butterfield

WEST BOUNTIFUL PLANNING COMMISSION

550 North 800 West
West Bountiful, Utah 84087

Phone (801) 292-4486
FAX (801) 292-6355
www.WBCityut.gov

Chairman
Alan Malan

Vice Chairman
Corey Sweat

Commissioners
Laura Mitchell
Dennis Vest
Robert Merrick
Tyler Payne

**THE PLANNING COMMISSION WILL HOLD A REGULAR MEETING
AT 7:30 PM ON TUESDAY, SEPTEMBER 9TH, 2025 AT THE CITY OFFICES.**

Invocation/Thought – Commissioner Merrick

Pledge of Allegiance – Commissioner Malan

1. Confirm Agenda
2. Code Change Application – Construction on Recorded Easements – Bergenheier.
3. Consider Proposed R-1-10 Rear Yard Setback Code Change Recommendation.
4. Approve Meeting Minutes from August 26th, 2025.
5. Staff Reports.
6. Adjourn.

*This agenda was posted on the State Public Notice website (Utah.gov/pmnl), the city website (WBCityut.gov),
and posted at City Hall on September 5th, 2025 by Remington Whiting, City Recorder.*

MEMORANDUM



TO: Planning Commission

DATE: September 5th, 2025

FROM: Staff

RE: Code Change Application – Proposed Amendment Regarding Construction on Recorded Easements - Bergenheier

This memo introduces a text change amendment application from Calvin Bergenheier related to the construction of structures on recorded easements. (See attached)

Background

Mr. Bergenheier desires to construct an accessory structure on an easement owned by Rocky Mountain Power (RMP) that runs through the Jessi's Meadow Subdivision. The easement contains power lines. Based on the height of the lines and the width of the easement, RMP appears open to allowing buildings with certain restrictions to be constructed in this easement.

However, WBMC 17.16.050(C) clearly prevents the city from granting a building permit for any structure within an easement area:

“No main structure or permanent accessory structure shall be built on or over any recorded easement”.

Some reasons for this restriction might include:

- Protect utilities and infrastructure;
- Safety concerns;
- Legal liability; and
- Preserving access.

In researching the issue, staff discovered that Draper City's code allowed for limited construction within easements (though it was much more common for cities' to have language similar to West Bountiful's) was the only nearby city.

Application

On September 4th, 2025, Calvin Bergenheier submitted a text change application to allow for structures to be built on a recorded easement as long as the owner produces evidence that the easement has been abandoned or executes a recordable document stating that the structure be relocated at the property owner's expense to accommodate the easement holder's interest. This request mirrors the language from the Draper City code.

Review and Analysis

In reviewing the application, the planning commission may consider:

- Would this change community interest in preserving access for utilities and other easement holders?
- How would this change affect established neighborhoods, new development, and the re-development of residential properties?
- If the city is interested in this change, should it apply to all easement situations?
- If the city is interested in this change, should it apply to all zones?
- What evidence or documentation would the city accept as “abandonment”?
- Should the city require a recorded document placing the liability on the property owner in every instance?

City Council Recommendation

The process for reviewing code change requests generally proceeds as follows:

1. Introduction of the application and planning commission discussion;
2. Public hearing;
3. Any needed additional discussion/deliberation;
4. A recommendation to the city council that they:
 - a. Approve the request;
 - b. Deny the request;
 - c. Make change that would be a modification to the request.



APPLICATION TO REZONE/CHANGE TEXT

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

PROPERTY ADDRESS: 767 Jessi's Meadow DR. DATE OF APPLICATION: 4 SEP 25
PARCEL NUMBER: 061920610 CURRENT ZONE: A-1 or R-1-22 PROPOSED ZONE: A-1/R-1-22
LEGAL DESCRIPTION ATTACHED: (YES) NO * All of Lot 10, Jessi's Meadow
PaD. Cont. 0.77 acres.
Applicant Name(s): Calvin Bergenheier
Applicant Address (if different than above): 767 Jessi's Meadow DR, West Bountiful, UT
Primary phone: [REDACTED]

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

Per discussion & meeting with Councilman Dell Butterfield, Building/Zoning Rep Remington and City Administrator Duane on Sep 3 @ 1:00pm, I am requesting a Codification to the WB City Ordinance 17,16,050. I believe this will add clarification to building on easements that are either abandoned or already authorized by the Owner of the easement (such as Rocky Mountain Power) by allowing future growth and tax base for the citizens of WB. I believe using the Draper City Ordinance as provided by the City Administrator, and attached to this document, will provide the necessary language to accomplish this.

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: 9-4-2025 Applicant Signature: [Signature]
FOR OFFICIAL USE ONLY

Application & \$150 Fee Received Date: _____ Public Hearing Date: _____
Letters sent to affected neighbors: _____ Public Notice Sign Placed _____
Planning Commission Approval: _____ City Council Approval: _____

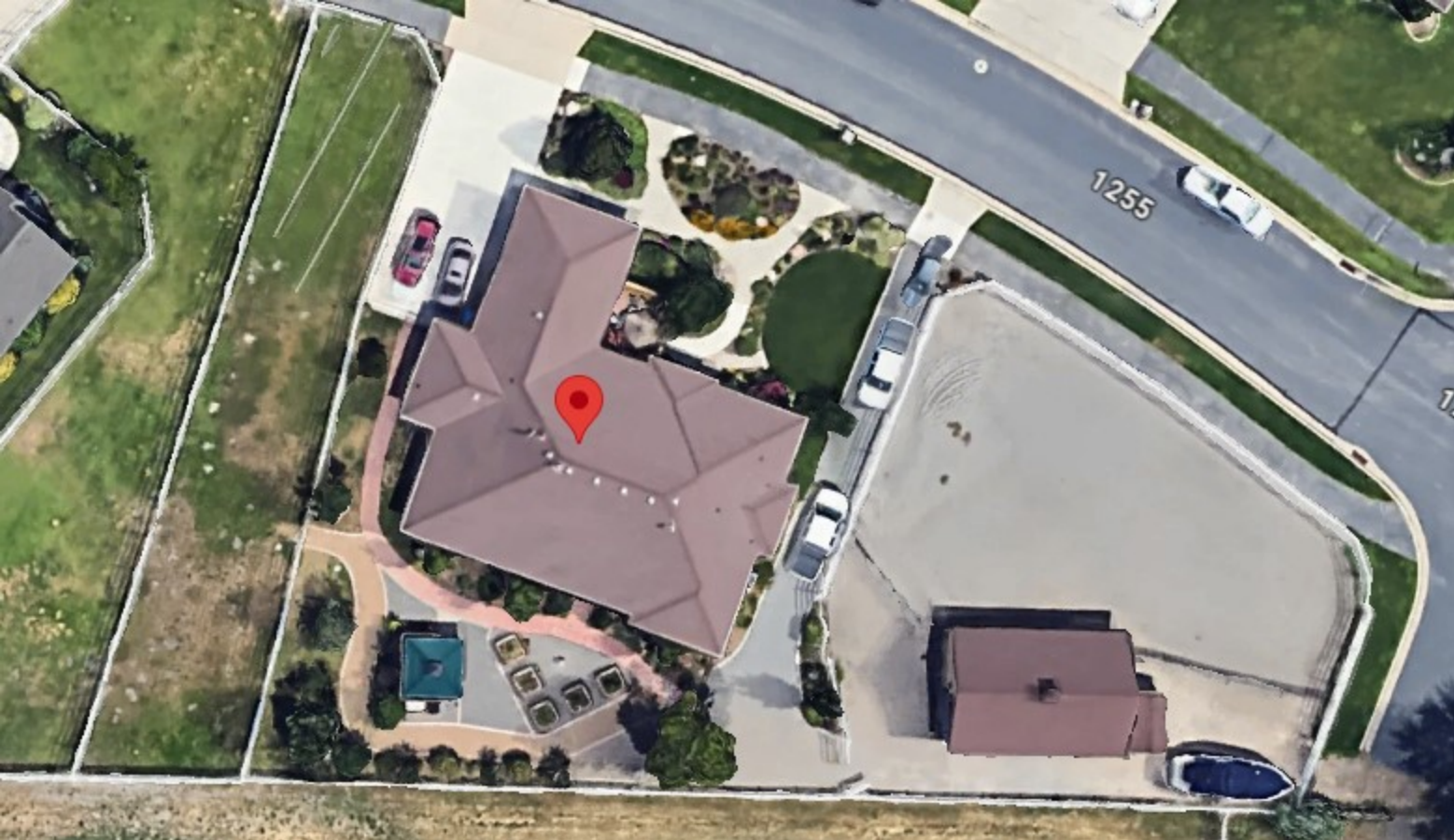
9-27-070: EASEMENTS:

Draper Example

No dwelling, main building, or permanent accessory building shall be located within a recorded easement area unless the property owner either produces evidence satisfactory to the zoning administrator that the easement has been abandoned, or executes a recordable document, in a form approved by the city attorney, indicating that notwithstanding apparent abandonment of the easement, the structure may be subject to the superior interest of the easement holder and may be required to be relocated at the property owner's expense to accommodate such interest.

- A. Location: Any structure in an easement area shall be located pursuant to the setback and other applicable requirements of this title.
- B. No Expansion Of Legal Rights: Nothing in this section is intended to expand or restrict the rights or obligations of any party to any recorded easement. (Ord. 394, 8-7-2001)





MEMORANDUM



TO: Planning Commission

DATE: September 5th, 2025

FROM: Staff

RE: Code Change Application - Rear Yard Setback Regulations in R-1-10 Zone - Roberts

This memo introduces a text change amendment application from Weston and Sarah Roberts related to rear yard setback requirements for main structures in the R-1-10 zone (attached).

Background

West Bountiful City has a 30' setback requirement in the rear yard for main structures in all residential zones. On July 21st, 2025, Weston and Sarah Roberts submitted a Text Change Application to change the current minimum rear yard setback for main structures from 30' down to 20'. The proposal stems from the applicant's desire to build an addition that would extend into their current rear yard setback. The planning commission has reviewed the application on August 11th and August 26th.

There are many reasons as to why setbacks in residential zones exist. Some of these reasons include:

- Usable backyards;
- Privacy;
- Noise mitigation;
- Safety and access in case of fires or other disasters;
- Aesthetic and predictable development patterns.

On the other hand, setbacks limit the property rights of homeowners by constricting buildable space, and as land in the area has become limited and more valuable, property owners are increasingly looking for ways to maximize the use of their property. Staff expects this pressure and requests from homeowners regarding setbacks to increase.

While the rear setback from primary structures in residential zones is 30', many other structures may currently encroach in this area. Examples include:

- The setback for a fire-rated accessory structure is 3'.
- The setback for a small animal shelter is 6'.
- The setback for a deck or patio is 25', though only 200 sq. ft. of the deck (or patio roof) may encroach beyond the standard 30' requirement.
- No accessory structure or group of structures can cover more than 35% of the rear yard.
- There is no footprint size limitation on an accessory structure (other than 35% of rear yard), but the height of these structures is governed based on the rear yard setback.

- If all or a portion of a lot's front lot line is contiguous with the curve of a cul-de-sac, the main structure may encroach up to ten (10) feet into the rear yard setback as long as it meets each of the following requirements:
 - The encroachment does not exceed a total of 300 square feet of the rear yard setback area; and,
 - The encroachment maintains compliance with all setback requirements for side yards and street side yards; and,
 - The combination of the encroachment and any accessory structure(s) does not cover more than thirty-five percent (35%) of the rear yard, or on a corner lot, the combined rear yard and street side yard behind the main structure (see WBMC 17.24.050 (f)).

Options

On August 26th, 2025, the planning commission instructed staff to bring back other specific options for consideration related to rear setbacks. Staff have developed the following options:

- A. **New 20' Standard.** The rear yard setback in the R-1-10 zone be reduced from 30' to 20', which follows the original application from the Roberts. Example: The minimum rear yard setback for all main structures is ~~thirty (30)~~ **twenty (20)** feet, except as otherwise allowed in this section.
 - a. Pros
 - i. Increased usable lot area.
 - ii. Encourages development and affordability.
 - iii. Flexibility for property owners.
 - iv. May be applied consistently across the city.
 - b. Cons
 - i. Reduced privacy and open space.
 - ii. Change in long-standing development patterns.

- B. **Limited Encroachment.** A recent code change to rear yard setbacks that applies to lots that are affected by a curve of a cul-de-sac, be amended to include all lots within the R-1-10 zone. Example:
 - b. ~~If all or a portion of a lot's front lot line is contiguous with the curve of a cul-de-sac,~~ The main structure may encroach up to ten (10) feet into the rear yard setback as long as it meets each of the following requirements:
 - 1) The encroachment does not exceed a total of 300 square feet of the rear yard setback area; and,
 - 2) The encroachment maintains compliance with all setback requirements for side yards and street side yards; and,
 - 3) The combination of the encroachment and any accessory structure(s) does not cover more than thirty-five percent (35%) of the rear yard, or on a corner lot, the combined rear yard and street side yard behind the main structure (see WBMC 17.24.050 (f)).
 - a. Pros
 - i. Flexibility for property owners.
 - ii. Controlled expansion.
 - iii. Consistency in code.

b. Cons

- i. Reduced privacy and open space.
- ii. Change in long-standing development patterns.

C. Adjacent to Undevelopable Land. Allow for the 30' setback to be reduced to 20' if the rear property line is adjacent to land that is considered "undevelopable". Example:

Where the rear property line is adjacent to land that has been determined by the city to be undevelopable, the rear yard setback may be reduced from thirty (30) feet to twenty (20) feet.

a. Pros

- i. Flexibility for some property owners.
- ii. Minimal impact on neighbors.

b. Cons

- i. Reduces usable backyard space where applied.
- ii. Defining "undevelopable" – the code currently does not contemplate this concept.
- iii. Future land changes – as land increases in value, virtually any land open land may be developed.

D. Exceptions for Gore Lots. Allow for 30' setbacks to be reduced to 20' if the property is considered a gore lot, or an irregular shaped lot. Example:

If a property is determined to be a gore lot, or an irregular shaped lot, the rear yard setback may be reduced from thirty (30) feet to twenty (20) feet.

a. Pros

- i. Flexibility for property owners

b. Cons

- i. Defining "gore lot" – property owners will try very hard to have the city define their land as "irregular".
 - 1. Currently the WBMC states this regarding gore lots and rear lot lines: In the case of a triangular or gore-shaped lot, a line ten (10) feet in length within the parcel parallel to and at a maximum distance from the front lot line. In cases where this definition is ambiguous, the zoning administrator shall designate the rear lot line.
- ii. Reduced privacy and open space.

City Council Recommendation

The planning commission may now consider the following options for recommendation to the city council:

- I. Make a positive recommendation on the request;
- II. Make a negative recommendation on the request;
- III. Propose a modification to the request.



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: 842 W 2400 N West Bountiful DATE OF APPLICATION: 7/21/2025

PARCEL NUMBER: 062450317 CURRENT ZONE: R-1-10 PROPOSED ZONE: R-1-10

LEGAL DESCRIPTION ATTACHED: YES ☐ NO ☒

Applicant Name(s): Weston and Sarah Roberts

Applicant Address (if different than above): _____

Primary phone: _____

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

See attached document.

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: 7/21/2025 Applicant Signature: Sarah Roberts

FOR OFFICIAL USE ONLY

Application & \$150 Fee Received Date: _____ Public Hearing Date: _____

Letters sent to affected neighbors: _____ Public Notice Sign Placed _____

Planning Commission Approval: _____ City Council Approval: _____

Describe in detail the request being made and the reasons why the change will benefit the people of West Bountiful.

We respectfully propose a change to the rear yard set back regulations in R-1-10 Zones. Our proposed change is to reduce the minimum rear set back of 30 feet to 20 feet for main structures in R-1-10 zones.

We believe this change will benefit the people of West Bountiful for the following reasons:

- It will give opportunities for owners to better utilize their properties.
Current housing market strains and increased land values are causing people to stay where they are. In West Bountiful specifically, listings are sparse. This 10 feet can help people to maximize their property's potential and benefit from the land they own and live on.

- A change to the rear setback only, allows people to utilize their properties while still maintaining West Bountiful's unique rural feel.

West Bountiful's current zoning regulations maintain conservative front and side setbacks, allowing a great distance between homes and protecting the community's open spacious feel. Adjusting the rear set back only, while maintaining the current front and side set backs will provide the right balance between utilizing personal property without compromising the visual openness that residents cherish.

- This change will allow for owners to build off main living structures instead of resorting to detached accessory structures close to the home or property line.

Current zoning regulations permit large accessory structures to be built within feet of property lines. Some of these accessory structures are larger than main structure additions. A modest 10 foot reduction would allow for equitable use of property and people to build from main structures instead of resorting to a detached structure that encroaches far into the rear set back. These large accessory structures create a denser overcrowded look than home additions do.

- A general adjustment of 30 to 20 feet will allow for opportunities of people with unique property situations to make equitable changes.

Angled property lines, cul-de-sacs, curves from the streets, mixed with conservative set back rules are limiting certain properties from making changes they desire to their homes while neighboring properties have more freedom. This modest adjustment would allow for properties in these unique situations to better utilize their land without the need to make specific ordinance and zone request changes.

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 August 22, 2025, per state statutory requirement.

Minutes of the Planning Commission of West Bountiful City held on Tuesday, August 26, 2025, at West Bountiful City Hall, Davis County, Utah.

MEMBERS ATTENDING: Chairman Alan Malan, Commissioners Corey Sweat, Dennis Vest, Laura Mitchell, Robert Merrick, Tyler Payne (Alternate).

MEMBERS/STAFF EXCUSED: Council member Dell Butterfield.

STAFF ATTENDING: Kris Nilsen (City Engineer), Remington Whiting (Community Development), and Debbie McKean (Secretary).

PUBLIC ATTENDING: Julie Thompson, Weston Roberts, Sarah Roberts, Jen Nielsen.

Thought/Invocation by Commissioner Vest
Pledge of Allegiance- Commissioner Merrick

1. 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.

2. Public Hearing- Proposed R-1-10 Rear Yard Setback Code Change Recommendation

Commissioner packets included a memorandum from Staff dated August 22, 2025 regarding a request for code change in the R-1-10 zone for Rear Yard Setback with application from Weston and Sarah Roberts for a setback change for a main structure from 30' to 20' and a list of reasons why it is necessary to consider the setback change for their property.

Remington Whiting explained that West Bountiful City has a 30' setback requirement in the rear yard for main structures in all residential zones. During another recent discussion regarding rear yard setbacks, staff determined that this requirement has existed since at least 1965 and possibly even longer.

He noted that the application was previously reviewed by the planning commission during a meeting on August 11th, 2025. Applicants want to build an addition that would extend into the current rear yard setback.

Action Taken:

Corey Sweat moved to open the public hearing for comment at 7:35 pm for a proposed R-1-10 Rear Yard Setback Code Change. Dennis Vest seconded the motion and voting was unanimous in favor.

Public Comment:

Sarah Roberts took the stand as the applicant and explained the need for the request to encroach in the setback. They need to remodel their home to fit the needs of their family, and this is the least expensive way to satisfy the needs of their family on their property. They are asking for 10 more feet to the left for an addition that would meet these needs. Their lot is challenging as it is abutted against a designated wetland area and is undevelopable.

Wesley Roberts noted the concerns the planning commission had and believes this change will have more pros than cons.

Jen Nielsen stated that their request makes sense for this lot but does not want the change for the entire city. She asked if there is a way to satisfy their needs and not do it for the whole city.

Action Taken:

Laura Mitchel moved to close the public hearing for comment at 7:45 pm for a proposed R-1-10 Rear Yard Setback Code Change Dennis Vest seconded the motion and voting was unanimous in favor.

3. Consider Proposed R-1-10 Rear Yard Setback Code Change Recommendation

Action Taken:

Corey Sweat moved to table the discussion and direct staff to pursue other avenues and bring back other specific proposals with 2 or 3 options for properties that have challenges like non-conforming uses, wetlands, adjoining land that is not habitable or land locked related to rear yard setbacks. Dennis Vest seconded the motion, and voting was unanimous in favor.

4. Consider Conditional Use Permit – Hug Hes Commissary

Commissioner packet included a memorandum dated August 22, 2025 from staff regarding a Conditional Use Permit application from Hug Hes Commissary with an attached application.

Remington Whiting explained that a conditional use permit was submitted for an internal commissary for Hug-Hes on August 14th, 2025, to operate at 2290 North 640 West. The property is located within the C-N zone. The commissary will be used for internal production for

Hug-Hes and will have no retail or sale to outside customers. It will serve as a kitchen to make food for catering and restaurant needs. No third-party activity will take place.

Action Taken:

Corey Vest moved to approve the conditional use permit for Hug Hes Commissary located at 2290 North 640 West for applicant Jordan Hawkins 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 in the conditional use permit will mitigate the reasonably anticipated detrimental effects of the proposed use and accomplish the purposes of this subsection, and with the following conditions; fire inspection approval; health inspection approval; upon issuance of this permit, Hug Hes will acquire a West Bountiful City Business License; all food, storage and cleaning will be conducted indoors; signage will comply with city regulations; and the conditional use permit will only be valid for the current business occupant and shall not transfer automatically to the new tenants. Laura Mitchell seconded the motion and voting was unanimous in favor with Dennis Vest abstaining due to conflict of interest.

5. Approve Meeting Minutes from August 11, 2025.

Action Taken:

Laura Mitchell moved to approve the minutes from August 11, 2025, Planning Commission Meeting as presented. Dennis Vest seconded the motion, and voting was unanimous in favor.

6. Staff Reports

a. Engineering (Kris Nilsen)

- Ivory Homes is pushing staff for approval with preliminary plat condition with Phase 2 A. Staff is not sure they will be ready by the next meeting agenda. There are various issues with the county.
- Waiting on Hugoe and Thacker for applications.
- UDOT met with City Council to introduce the properties that will be affected in the design development at 400 North and 500 West. Discussion took place regarding how it affects our revenue from losing two gas stations and motel.
- 660 West will be paved on September 9th and 10th weather permitting. South end was open for school traffic and things seemed to go well. No signs were displayed for the cult-e-sac area. Laura reported that driveways are being blocked and inquired why signs have not been displayed as promised by the city.

b. Community Development (Remington Whiting)

- Lifetime has submitted a building permit
- Permits have slowed down but are working through some bigger issues to find solution to.
- Newsletter is coming out in the next few weeks. There will be a 5 K for the Founders Day Celebration.
- Working still with code enforcement and working on unlicensed businesses.

- Dennis Vest handed out a list of considerations for unattached dwelling units and make it a point of discussion at the next meeting. Remington noted that there is talk that their will be proposed legislation for allowing detached ADU's.

7. Adjourn.

Action Taken:

Corey Sweat moved to adjourn the regular session of the Planning Commission meeting at 8:17 pm. Laura Mitchell seconded the motion. Voting was unanimous in favor.

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