

Mayor
Kenneth Romney

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

City Recorder
Remington Whiting

**City Council
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WEST BOUNTIFUL PLANNING COMMISSION

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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, OCTOBER 28TH, 2025, AT THE CITY OFFICES.**

Invocation/Thought – Commissioner Sweat
Pledge of Allegiance – Commissioner Payne

1. Confirm Agenda
2. Discussion on Business Use Classification Processes.
3. Approve Meeting Minutes from September 23rd, 2025.
4. Staff Reports.
5. 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 October 24th, 2025 by Remington Whiting, City Recorder.*

MEMORANDUM



TO: Planning Commission

DATE: October 28th, 2025

FROM: City Staff

RE: Discussion – Business Use Classifications Process

This memo reintroduces for discussion new state law requirements related to listed permitted and conditional uses.

Background

Senate Bill 179 from 2025 (attached) requires cities to adopt a formal process for addressing proposed businesses that are not currently listed as permitted businesses within the city. The intent is to provide a consistent method for addressing business activities that do not exactly match the code as new types of businesses and technologies are developed.

The new process must be adopted into the land use code and include:

- How an applicant must submit a classification request.
- A set of defined criteria on how the city will review the request.
- Allowing the proposed use to proceed if it “aligns with an existing use”.
- If the proposed use is determined to be “new”, define how the city council will review the request and provide a timeline.
- An appeal process if the applicant disagrees with the classification determined by the land use authority.

Research

On June 4, 2025, the Planning Commission briefly reviewed Senate Bill 179. At that time, staff was unable to locate any examples of an adopted process. Staff has since identified an example from Saratoga Springs (Exhibit B). Upon review, staff noted that the example does not include a timeframe as required by state code, but otherwise, staff believes the example provides a good model for West Bountiful City.

Proposed Language

Highlights of the example language and staff’s proposal include:

- Establishes a 60-day review timeline for submitted applications.
- Clarifies that approval of an application grants a one-time exception to the permitted uses outlined in Title 17.
- Designates the City Council as the land use authority responsible for reviewing applications.
- Creates a classification request process and a procedure for evaluating new or unlisted business uses.
- Defines a set of review criteria to guide how the City will evaluate each request.

Additional items that the planning commission may want to consider are:

- Now that a new process must be in place, staff recommends the city consider removing language found in various zones that allows conditional uses “which are similar to those listed in this section and Section 17.XXX, as determined by the planning commission.”

Options

Staff recommends that the commission select one of the following directions:

1. Move forward with the proposal and schedule a public hearing
2. Direct staff to bring back other specific proposals or a larger review of options.

Local Regulation of Business Entities Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Calvin R. Musselman

House Sponsor: Karen M. Peterson

LONG TITLE

General Description:

This bill enacts provisions related to local classification and approval of new and unlisted business uses.

Highlighted Provisions:

This bill:

- defines terms; and
- requires each municipality and county to enact a land use regulation establishing a process for reviewing a business use not listed as an approved use in existing ordinances.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

10-9a-507.5, Utah Code Annotated 1953

17-27a-506.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **10-9a-507.5** is enacted to read:

10-9a-507.5 . Classification of new and unlisted business uses.

(1) As used in this section:

- (a) "Classification request" means a request to determine whether a proposed business use aligns with an existing land use specified in a municipality's land use ordinances.
- (b) "New or unlisted business use" means a business activity that does not align with an existing land use specified in a municipality's land use ordinances.

- (2)(a) Each municipality shall incorporate into the municipality's land use ordinances a process for reviewing and approving a new or unlisted business use and designating an appropriate zone or zones for an approved use.
- (b) The process described in Subsection (2)(a) shall:
- (i) detail how an applicant may submit a classification request;
 - (ii) establish a procedure for the municipality to review a classification request, including:
 - (A) providing a land use authority with criteria to determine whether a proposed use aligns with an existing use; and
 - (B) allowing an applicant to proceed under the regulations of an existing use if a land use authority determines a proposed use aligns with that existing use;
 - (iii) provide that if a use is determined to be a new or unlisted business use:
 - (A) the applicant shall submit an application for approval of the new or unlisted business use to the legislative body for review;
 - (B) the legislative body shall consider and determine whether to approve or deny the new or unlisted business use; and
 - (C) the legislative body shall approve or deny the new or unlisted business use, within a time frame the legislative body establishes by ordinance, if the applicant responds to requests for additional information within a time frame established by the municipality and appears at required hearings;
 - (iv) provide that if the legislative body approves a proposed new or unlisted business use, the legislative body shall designate an appropriate zone or zones for the approved use; and
 - (v) provide that if the legislative body denies a proposed new or unlisted business use, or if an applicant disagrees with the land use authority's classification of the proposed use, the legislative body shall:
 - (A) notify the applicant in writing of each reason for the classification or denial; and
 - (B) offer the applicant an opportunity to challenge the classification or denial through an administrative appeal process established by the municipality.
- (3) Each municipality shall amend each land use ordinance that contains a list of approved or prohibited business uses to include a reference to the process for petitioning to approve a new or unlisted business use, as described in Subsection (2).

Section 2. Section **17-27a-506.5** is enacted to read:

17-27a-506.5 . Classification of new and unlisted business uses.

(1) As used in this section:

(a) "Classification request" means a request to determine whether a proposed business use aligns with an existing land use specified in a county's land use ordinances.

(b) "New or unlisted business use" means a business activity that does not align with an existing land use specified in a county's land use ordinances.

(2)(a) Each county shall incorporate into the county's land use ordinances a process for reviewing and approving a new or unlisted business use and designating an appropriate zone or zones for an approved use.

(b) The process described in Subsection (2)(a) shall:

(i) detail how an applicant may submit a classification request;

(ii) establish a procedure for the county to review a classification request, including:

(A) providing a land use authority with criteria to determine whether a proposed use aligns with an existing use; and

(B) allowing an applicant to proceed under the regulations of an existing use if a land use authority determines a proposed use aligns with that existing use;

(iii) provide that if a use is determined to be a new or unlisted business use:

(A) the applicant shall submit an application for approval of the new or unlisted business use to the legislative body for review;

(B) the legislative body shall consider and determine whether to approve or deny the new or unlisted business use; and

(C) the legislative body shall approve or deny the new or unlisted business use, within a time frame the legislative body establishes by ordinance, if the applicant responds to requests for additional information within a time frame established by the county and appears at required hearings;

(iv) provide that if the legislative body approves a proposed new or unlisted business use, the legislative body shall designate an appropriate zone or zones for the approved use; and

(v) provide that if the legislative body denies a proposed new or unlisted business use, or if an applicant disagrees with a land use authority's classification of the proposed use, the legislative body shall:

(A) notify the applicant in writing of each reason for the classification or denial;
and

(B) offer the applicant an opportunity to challenge the classification or denial

97 through an administrative appeal process established by the county.
98 (3) Each county shall amend each land use ordinance that contains a list of approved or
99 prohibited business uses to include a reference to the process for petitioning to approve a
100 new or unlisted business use, as described in Subsection (2).

101 Section 3. **Effective Date.**

102 This bill takes effect on May 7, 2025.

New or Unlisted Business Use Process

- A. General. This section outlines the process to add a New or Unlisted Business Use as a onetime permitted use allowed by Title 17. An applicant may submit a Classification Request or New or Unlisted Business Use Application as outlined below.
- B. Classification Request. An applicant under this section may submit a New or Unlisted Business Use application with the request to classify a proposed business use under the definition of an existing business use as a one-time classification. The city shall approve or deny the classification request within sixty (60) days of receiving a complete application. The applicant shall follow the approved City application format and submit the following information as part of a classification request:
 - 1. A complete application and paid application fee.
 - 2. A description of the proposed business use, including the type of work that will be performed, the number of employees that will be employed by the business, comparisons to other similar businesses, and any other information that may be relevant to the classification request.
- C. The City Council shall be the Land Use Authority for any Classification Request and shall use the information provided by the applicant, in conjunction with the land use definitions outlined in Title 17 of City Code, to determine whether the proposed business use may be classified on a one-time basis as an existing land use.
 - 1. Should the City Council determine that the Classification Request use aligns with an existing land use, the proposed business use shall follow the current process as outlined in the City Code.
 - 2. Should the City Council determine that the Classification Request does not align with an existing land use, the proposed business use shall follow the application process outlined in subsection D below.
- D. New or Unlisted Business Use Application Requirements. Applications for New or Unlisted Business Uses shall follow the approved City application format and include the following information in order to be considered complete:
 - 1. A complete application and paid application fee;
 - 2. A description of the proposed business use, including the type of work that will be performed, the number of employees that will be employed by the business, hours of operation, comparisons to other similar businesses, and any other information that may be relevant to the New or Unlisted Business Use;

3. A definition of the proposed use;
 4. A parking study performed by a Traffic Engineer that includes a proposed parking ratio for the proposed business use and justification for the parking ratio;
 - a. Unless otherwise determined by the Land Use Authority using the criteria outlined in Chapter 17.52.
 5. A table outlining the zoning districts where the proposed business use will be permitted.
- E. The City Council shall be the Land Use Authority for any New or Unlisted Business Use Application. The New or Unlisted Business Use application shall be reviewed by the City Council following the application being deemed complete and will approve or deny the application within sixty (60) days of receiving a complete application. The City Council may only grant the New or Unlisted Business Use as a one-time exception to permitted uses in Title 17. The City Council shall use the information provided by the applicant, in conjunction with the following criteria to determine whether the proposed parking ratio and zoning districts are appropriate for the proposed business use:
1. The clarity of the definition provided for the proposed use;
 2. The definition does not conflict with existing land use definitions;
 3. The intensity and compatibility of the proposed use in relation to other permitted uses within the proposed zoning districts;
 4. Projected times of operation and use;
 5. Trip generation;
 6. Peak demands;
 7. Projected number of customers and patrons; and
 8. Projected number of employees.
- F. Appeal Process. If the City Council denies an application for a proposed new or unlisted business use, or if an applicant disagrees with the City Council's classification of the proposed use, the Legislative Body shall notify the applicant in writing of each reason for the classification or denial, and offer the applicant an opportunity to challenge the classification or denial through the appeal process as outlined in Chapter 17.08.120 of City Code.

PENDING – NOT APPROVED

Posting of Agenda - The agenda for this meeting was posted on the State of Utah Public Notice website, on the West Bountiful City website, and at city hall on September 19, 2025, per state statutory requirement.

Minutes of the Planning Commission of West Bountiful City held on Tuesday, September 23, 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), and Council member Dell Butterfield.

MEMBERS/STAFF EXCUSED:

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

PUBLIC ATTENDING:

Thought by Commissioner Malan

Pledge of Allegiance- Commissioner Sweat

1. Confirm Agenda

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

2. Public Hearing- Proposed Construction on Recorded Easements- Code Change

Remington Whiting introduced a text change amendment application from Calvin Bergenheier related to the construction of structures on recorded easements.

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.

Mr. Whiting explained that 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 protecting utilities and infrastructure; safety concerns; legal liability; and preserving access.

Action Taken:

Corey Sweat moved to open the public hearing for public comment on Proposed Construction on Recorded Easements- Code Change at 7:35 p.m. Laura Mitchell seconded the motion and voting was unanimous in favor.

Public Comment: No public comment

Action Taken:

Corey Sweat moved to close the public hearing for public comment on Proposed Construction on Recorded Easements- Code Change at 7:36 p.m. Dennis Vest seconded the motion and voting was unanimous in favor.

3. Consider Proposed Construction on Recorded Easements Code Change Recommendation

Discussion took place after the public hearing this evening.

Staff researched surrounding cities regarding this issue and only found Draper City's code allowed for limited construction within easements. While considering Calvin Bergenheier submitted a text change application, the planning commission may consider the following:

- 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?

The application has been reviewed by the planning commission and staff has drafted code language similar to Draper City's ordinance, with the additional requirement of obtaining written permission from the easement holder. A copy was submitted and reviewed by the commission. Legal counsel has reviewed the draft and staff has included a recommendation to remove the option of proving abandonment. The reason for this recommendation is staff's concerned with having to make a judgement call on what constitutes "abandonment".

Staff suggests that the requirement would be limited to obtaining written approval from the easement holder and executing a recordable document. Staff's draft also removes main structures from the exception.

Action Taken:

Corey Sweat moved to make a positive recommendation on the request from Calvin Bergenheier regarding a change in Robert Merrick seconded the motion and voting was 4-1 with Dennis Vest being the opposing vote.

1. Make a positive recommendation on the request

Remington Whiting presented the draft that was reviewed by legal

Planning Commission Draft (Based on Draper Code 9-27-070) C. No building on recorded easements. No main structure, non-commercial structure, or permanent accessory structure shall be built on or over any recorded easement such as a public utility easement unless the property owner either produces evidence satisfactory to the zoning administrator that the easement has been abandoned, or receives written permission from the easement holder and executes a recordable document, in a form approved by the city attorney, indicating that notwithstanding the written permission or 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. 1. Location: Any structure in an easement area shall be located pursuant to the setbacks and other applicable requirements of this title. 2. 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. Staff Recommendation Draft C. Building on recorded easements. 1. No main structure shall be built on or over any recorded easement such as a public utility easement. 2. No non-commercial structure, or permanent accessory structure shall be built on or over any recorded easement such as a public utility easement unless the property owner receives written permission from the easement holder, and the property owner executes a recordable document, in a form approved by the city attorney, indicating that notwithstanding any permissions granted, 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. i. Location: Any structure in an easement area shall be located pursuant to the setbacks and other applicable requirements of this title. ii. 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.

4. Discuss Detached Accessory Dwelling Unit Updates.

Commissioner packet included a memorandum from Duane Huffman on September 19, 2025 regarding Detached Accessory Dwelling Units Updates.

Remington Whiting presented the information in the memo updated the planning commission on state-level discussions related to detached accessory dwelling units (DADUs) and recommends that the commission pause its work on this topic until we receive further information.

According to Mr. Huffman's memorandum, Mr. Whiting noted that one of the City's adopted goals in its Moderate Income Housing Plan is to develop opportunities for DADUs. These units can provide additional housing options, but they also raise important questions regarding neighborhood character, density, and infrastructure. The planning commission has begun this work by researching what other communities have adopted and starting to outline the areas of regulation that would need to be decided. ULCT is actively discussing and negotiating state legislation on DADUs.

Mr. Huffman stated in his memorandum that staff believe it would be prudent to defer drafting DADU options until after the next legislative session, or at least until we receive clearer direction from the ULCT. He pointed out that acting now risks creating local regulations that will soon need to be amended or repealed.

By waiting, the city can:

- Ensure alignment with state law;
- Avoid duplicative work; and
- Provide clearer directions to residents and applicants. In the meantime, staff will monitor legislative developments, track best practices, and prepare materials so the Commission is ready to act promptly once state requirements are established.

After some discussion and comments, it was agreed by the planning commission to move forward with staff's recommendations.

5. Approve Meeting Minutes from August 26th, 2025.

Action Taken:

Corey Sweat moved to approve the minutes from the September 9th, 2025, Planning Commission Meeting as presented. Robert Merrick seconded the motion, and voting was unanimous in favor.

6. Staff Reports

a. Engineering (Kris Nilsen)

- 500 South is moving slowly because of an oil line that belongs to Holly that they were not aware of. They are working through the design process now. It was undisclosed by Holly. Tabs are being kept on them.
- 660 West has been paved.
- Moving forward with some construction on 1000 North.

b. Community Development (Remington Whiting)

- Lots of permit requests. One is for the relocation of a billboard. Legislation allows a sign that has been vacated to be moved within one mile of the previous location. Working with the Fire Department on how we are submitting fire inspections.
- Wednesday, October 1st – Meet Your Candidate Night 6:30 – 8:15 pm.
- Working on home occupations that are not licensed.
- Making some informative information for the website about city codes.
- Interviews are taking place for the Police department openings.

7. Adjourn.

Action Taken:

Laura Mitchell moved to adjourn the regular session of the Planning Commission meeting at 8:00 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, by unanimous vote of all members present.