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WEST BOUNTIFUL PLANNING COMMISSION

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Laura Mitchell
Corey Sweat
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**THE PLANNING COMMISSION WILL HOLD A REGULAR MEETING
AT 7:30 PM ON TUESDAY, DECEMBER 12, 2023, AT THE CITY OFFICES.**

1. Prayer/Thought – Commissioner Sweat
Pledge of Allegiance – Commissioner Butterfield
2. Confirm Agenda
3. Public Hearing - Subdivision Code Updates
4. Consider Recommendations to the City Council on Subdivision Code Updates
5. Consider Recommendations to the City Council on Home Occupations Ordinance
6. Discuss Process for Researching and Developing Proposal on Detached ADUs
7. Approve Meeting Minutes from November 28, 2023
8. Staff Reports (Engineering, Community Development)
9. 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 November 9, 2023, by Cathy Brightwell, City Recorder.*



MEMORANDUM

TO: Planning Commission

DATE: December 8, 2023

FROM: Duane Huffman, City Administrator

RE: **Land Use Code Text Amendment to the Subdivision Code (Title 16)**

This memo introduces for purposes of a public hearing and recommendation to the city council proposed text changes to the West Bountiful Municipal Code Title 16 – Subdivisions.

Background

Utah State Senate Bill 174 (2023) requires municipalities update their subdivision ordinances by February 1, 2023 to comply with a new review and approval process. Subdivision application review must meet the following requirements:

- A. Subdivision provisions apply only to one (1) and two (2) family dwellings and townhomes /townhouses.
- B. City Council may not approve subdivision plat applications, for the above subdivision types.
- C. Planning Commission may only approve preliminary subdivision applications, for the above subdivision types.

Additionally, State Code requires the following:

Preliminary Subdivision Application Review

1. The administrative land use authority (Staff or Commission) must review the subdivision application within fifteen (15) business days of receiving a complete application.
2. The administrative land use authority may receive public comment and conduct one (1) public hearing.
3. If the application complies with applicable local regulations, it shall be approved and proceed to the next step (Final Subdivision Plat Review).

Final Subdivision Plat Application Review

1. Municipalities shall complete review(s) at this stage (up to four (4) total review cycles are allowed, each review cycle limited to 20 days or fewer).
2. A review cycle is not complete until the applicant has adequately addressed all the identified redlines made by the municipality.
3. Municipalities may only add new corrections (redlines) after the first review cycle in response to changes made by the applicant or if a correction is necessary to protect public health or safety, or to enforce state or federal law.

Staff have and continues to work with consultants contracted by the State of Utah to review the existing West Bountiful Municipal Code for Subdivisions for compliance with the above requirements.

There are necessary changes which need to be made to the Land Use Code to meet both the State requirements. Attached with this memo is a draft amendment for this purpose.

Recommendation to the City Council

As compliance with the new approval process is required by February 1, it is imperative that the planning commission make a recommendation to the city council as quickly as possible so that the legislative body can adopt the final changes in time.

As most of the required elements are dictated by the state law, it would be most helpful for the planning commission's recommendations to focus on the elements that could be considered "options." Therefore, staff requests that the planning commission clarify the following:

1. Land Use Authority for Preliminary Subdivisions. What body or individual should be the land use authority for the preliminary subdivision application? Options include (a) the planning commission, (b) the city engineer), (c) something else. Please keep in mind that the city only has 15 days to review and make a determination on a preliminary subdivision application.
2. Public Hearing. Should a public hearing be held for preliminary subdivision applications? The new law allows for one public hearing. Generally, the city does not hold public hearings for administrative actions (it can give the public the false sense that it can be approved or rejected based on the community's feelings), but hearings may at times be helpful for gathering information/concerns. The city's current subdivision process does not include a public hearing. A public hearing would need to be held within the 15 day window if the planning commission is the designated land use authority.
3. Small subdivisions. Should the preliminary and final plat applications and process be condensed into one for small subdivisions? The new state law allows this for subdivisions of 10 or fewer lots. If they are condensed, the planning commission cannot be the land use authority in this situation.
4. Non-residential subdivisions. Should the new process be applied to all subdivisions in the city, or should it only be applied as required by the new law?

The attached draft code changes reflects the concept of the planning commission being the land use authority for preliminary subdivisions, a public hearing being held, and the process only applying to residential single/double family developments.

Staff will present this draft and discuss these options at the planning commission meeting scheduled for December 12, 2023, and requests that the planning commission make a recommendation to the city council at that meeting.

16.18 Subdivision Applications For 1–2 Family Residential

16.18.010 Purpose

The purpose of this chapter is to comply with Utah Code §10-9a-604–604.9 and increase administrative efficiency in reviewing subdivision applications.

16.18.020 Scope Of Applicability

This chapter applies to all subdivision-related applications or petitions where the intended use is one- or two-family residential dwellings, including townhomes and duplexes. This chapter does not apply to applications or petitions for other uses.

16.18.030 Interpretation And Conflict Of Laws

Where any provision in this subdivision chapter conflicts with state law, state law shall prevail. Where any provision in this subdivision chapter conflicts with other ordinances enacted by the city, the provisions in this subdivision chapter shall prevail unless the city intended such conflicting ordinances not in this chapter to amend this chapter.

16.18.040 Land Use Authority

- A. The land use authority for preliminary subdivision applications under this chapter is the Planning Commission. For purposes of preliminary subdivision applications, the Planning Commission shall be responsible for the following:
 1. Holding a public hearing for preliminary applications as required by this chapter.
 2. Rendering land use decisions related to preliminary subdivision applications and petitions under this chapter.
- B. The land use authority for final subdivision plat applications under this chapter is the City Engineer. For purposes of final subdivision plat applications, the City Engineer shall be responsible for the following:
 1. Rendering land use decisions related to final subdivision plat applications and petitions under this chapter.
 2. Reviewing all final subdivision plat applications under this chapter in an impartial manner and according to the standards and deadlines described in state law.
 3. Providing feedback to applicants in the manner required by state law.
 4. Keeping subdivision application forms (preliminary and final) and related informational material up to date and publicly accessible and distributing such forms and materials to potential applicants.
 5. Providing notice to entities and parties as required by state law.
 6. Signing final application and petition approvals as required by state law.
 7. Ensuring that documents are properly recorded with the county as required by state law.

16.18.050 Appeal Authority

The appeal authority for city decisions relating to this chapter is the City Council as outlined in section 16.24.010 of this title.

16.18.060 Application Process And Requirements

- A. The city shall not approve, nor shall a party record, any plat or other creating instrument for a new subdivision under this chapter unless the party has properly applied under this chapter and state law and received both a preliminary approval and a final approval from the respective land use authorities.
- B. To be approved, a *preliminary* subdivision application must include those elements listed in 16.16.020. Additionally, the preliminary application must be submitted as an electronic PDF including all plans and supporting documents.
- C. To be approved, a *final* subdivision plat, the application must include those elements listed in 16.16.030.
- D. The municipality may require, and the applicant shall provide, additional information beyond the published list of requirements relating to an applicant's plans to ensure compliance with municipal ordinances and approved standards and specifications for construction of public improvements.

16.18.070 Pre-application Meeting

- A. A party intending to submit a subdivision application under this chapter may (but is not required to) request a pre-application meeting with the city before submitting an application. The purpose of this meeting is to review elements of the party's proposed subdivision application. The proposed application need not be complete for purposes of this meeting and may—if the party desires—be limited to a concept plan.
 - a. If a party requests a pre-application meeting, the city shall schedule and hold this meeting in accordance with state law.

16.18.080 Review And Approval

- A. The respective land use authorities shall review and approve or deny all preliminary and final subdivision applications under this chapter in accordance with the requirements of state law and city ordinances.
- B. Before approving a preliminary application, the land use authority shall conduct a public hearing for the purpose of asking questions of the applicant and receiving commentary on the technical aspects of the application from affected entities, interested parties, and the public.
- C. The land use authority shall issue all approvals in writing and shall certify the approved preliminary or final plat, either by signing the plat directly or by attaching a signed certification to the plat.

16.18.090 Post-approval Actions

- A. The applicant shall record the approved subdivision plat with the County Recorder's Office within 30 days after the municipality approves the subdivision application.
- B. The city shall notify the Utah Geospatial Resource Center after approving a final plat as required by state law.



MEMORANDUM

TO: Planning Commission

DATE: December 8, 2023

FROM: Duane Huffman, City Administrator

RE: **Home Occupations – Land Use Updates**

The purpose of this memo is to outline sections within the proposed updates to home occupation regulations that the city council and staff suggest that the planning commission re-evaluate.

Background

Earlier this year the planning commission began the necessary work of considering updates to the city's home occupation regulations. The current regulations are split between sections of the code governing Business Licenses and Regulations (Title 5) and Zoning (Title 17).

Over a series of meetings and a public hearing, the planning commission developed and recommended a set of proposed updates, which are attached to this memo. The city council reviewed the proposal and held a joint meeting with the planning commission to further understand the planning commission's recommendation.

Since that joint meeting, I have worked with individual members of the city council and staff members to identify general and specific areas within the proposal for potential re-evaluation by the planning commission. These requests for re-evaluation do not represent the unanimous opinions of council and staff, but enough of a consensus to merit an additional thought.

It is at the discretion of the planning commission whether to make changes or confirm their original proposal.

Re-Evaluations

1. 5.28.040 – Specific Businesses to be Conditional
 - a. I received significant feedback related to the list of proposed conditional uses for home occupations. Reviewers understand the idea of allowing property owners to have a home occupation that won't affect the neighborhood; however, there is a lot of concern about whether most of the listed conditional uses (#2-7) can reasonably be done in residential areas and whether it is wise for the city to try to come up with conditions in these situations. There was also

concern with #10; it is so broad and vague that it might be functionally unenforceable, or open the city up to endless debate about each proposed occupation.

- i. The general consensus was to strictly limit conditional uses for home occupations.

2. 5.28.05 – Specific Businesses Prohibited.

- a. The general thought here is that rather than try to list what is prohibited, we should be very clear about what is allowed (in defining home occupations). This is similar to how the city approaches permitted uses.

3. 5.28.060 – Requirements

- a. I also received significant feedback related to wanting very clear regulations that will ensure home occupations do not change the nature of residential areas. Issues to address include:
 - i. Accessory Structures – Are we sure that the use of accessory structures does not increase the “non-residential” activity? Some reviewers suggested that it might be preferable to permit offices in accessory structures, but not permit more intensive uses.
 - ii. 5.28.060(C) – Generally, reviewers are uncomfortable with exceptions to the regulations by way of conditional use permits.
 - iii. 5.28.060(F) – Generally, reviewers are uncomfortable with exceptions to the regulations by way of conditional use permits. Also, the storage of chemicals, equipment, and vehicles appear inconsistent with the intent of home occupations.
- b. Other regulations the planning commission may consider:
 - i. Prohibiting the storage and exchange of commodities on site.
 - ii. Further clarifying that home occupations cannot create noise, dust, odors, noxious fumes, glare, or other nuisances discernable beyond the premises.
 - iii. Prohibiting the use or storage of flammable material, explosives, or other dangerous materials, including gun powder.
 - iv. Prohibiting the use of mechanical or electrical apparatus, equipment, or tools not commonly associated with a residential use or as are customary to home crafts.
 - v. Prohibiting the use or parking of equipment or motor vehicles having a gross weight of twelve thousand (12,000) pounds or more.

4. 5.28.020 – Purpose

- a. Reviewers generally favored retaining former language stating that the purpose of these regulations is to protect the residential character and lifestyle of residential zones within the city.

5. Once final policy issues are decided (with changes or no changes), legal council will do a final review for consistency.

WBMC 17 ZONING

17.04.030 Definitions

~~"Home occupation" means an occupation of a person which is carried on by that person and/or others within the same family entirely within the dwelling unit in which the person or persons reside and which occupation is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character, of the dwelling or of the neighborhood. The home occupation shall not involve the use of any accessory building, either attached or detached, or yard space or activity outside the main building or use of more floor area than the equivalent of fifteen (15) percent of the main floor area of the dwelling unit, nor shall it involve the installation in the dwelling of special equipment and/or fixtures, and plumbing or electrical wiring or such special fixtures or equipment which are not ordinarily or customarily used in a dwelling; provided, however, that outside private swimming pools may be used for swimming instruction if the instruction is given only by members of the family related by blood, marriage or adoption who are residing within the dwelling. Neither shall a home occupation involve the use of any part of a dwelling for which, by reason of any state, federal or local law or ordinance, special or extra entrances or exits, or special rooms are required as a prerequisite condition to the operation of such use or for which such laws or ordinance require a license or permit. The planning commission may impose additional conditions pursuant to a conditional use permit.~~

WBMC 5.04 BUSINESS LICENSES IN GENERAL

5.04.010 Definitions

"Business" means all activities engaged in within the corporate limits of West Bountiful carried on for the purpose of gain or economic profit, except that employees rendering service to employers shall not be considered to be engaging in business unless otherwise specifically prescribed.

"Engaging in business" means the sale of tangible personal property or the rendering of personal services for others for a consideration by persons engaged in any trade, craft, business, occupation, profession or other calling, except the rendering of personal services by an employee to his or her employer under any contract of personal employment, but includes the operation of storage buildings or storage warehouses for the storing of motor vehicles, trailers, boats, and other household equipment or personal property.

"Home occupation" means a business operated in a dwelling, accessory structure, or both, on a residential property by the resident of the property.

5.04.040 License Fee Levied

The license fee payable by persons engaging in or carrying on any business within the city shall be periodically fixed by resolution of the city council **and listed in the city's Consolidated Fee Schedule.**

WBMC 5.28 HOME OCCUPATIONS

5.28.010 Definitions **Scope**

5.28.020 License Required **Purpose**

5.28.030 Application For License

5.28.040 Requirements **Specific Businesses to be Conditional**

5.28.050 Exemptions to License **Specific Businesses Prohibited**

5.28.060 Requirements

5.28.070 Exemptions To License

5.28.080 Noncompliance; Revocation And Suspension Of Permit

5.28.090 Home Occupation Business License Renewal And Delinquency

5.28.100 License Not Transferrable

5.28.010 Definition **Scope (new)**

~~"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.~~

The requirements of this Chapter shall apply to any home occupation conducted within the city. Home occupations may be conducted only in residential or agricultural zones, or within homes qualifying as a legal nonconforming use. The provisions of the Chapter shall not be construed to limit or prohibit any other requirements of this Title, the West Bountiful Municipal Code, or other applicable laws.

5.28.020 License Required **Purpose (new)**

~~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.~~

The purpose of this chapter is to ensure that home occupations remain incidental and accessory to the residential use of the property on which the dwelling is located and that any adverse effects of the home occupation are confined to the property.

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 **submitted to the city recorder and** accompanied ~~with~~ **by** payment of the business license **application** ~~fees provided in 5.04.040.~~
- B. 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.
- C. The applicant shall give written notice of the nature and description of the home occupation to ~~all~~ **property** owners **of property** within ~~300~~ **100** 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~~ **the city** as part of the Home Occupation Business License Application. **If the home occupation requires a conditional use permit, the applicant shall give such written notice to properties within 300 feet of the exterior boundaries of the property on which the home occupation is to be conducted.**
- D. Except as provided in subsection **E**, the City Recorder may issue the Home Occupation Business License when:

1. The requirements of ~~5.28.040~~ **this Chapter** 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.
- E. Notwithstanding subsection **D**, 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 specific business use is listed in Section 5.28.040.**
 2. The home occupation will generate ~~additional~~ traffic or parking in excess of those **generated by** usual and customary residential use. (*Moved from 5.28.060.N*)
 3. The City Recorder **otherwise** determines that approval of the application may conflict with the intent of this chapter without imposing additional conditions.
 4. ~~The applicant or City receives a notice of protest to the application; or~~
 5. ~~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 to be Conditional (NEW)

Notwithstanding any provision of this chapter to the contrary, the following uses are conditional, and require a conditional use permit approved by the planning commission prior to issuance of a business license, except when on-site operations are limited to office-related functions.

1. Day care, nursery, or preschool, which must ~~follow~~ **comply** with the Utah Department of Health, **Bureau of Child Care Development** regulations. ~~including, but not limited to, a background check.~~
2. Repair of automobiles or trucks under 14,000 gross vehicle weight.
3. Boat, motorcycle, snowmobile, off road vehicle, and similar small engine or equipment repair.
4. Towing and trucking.
5. Furniture or cabinet making.
6. Welding or machine shop.
7. Contractors, landscapers, and tree services.
8. Personal services such as hairstylist, barber, esthetician, and massage therapy.
9. Group instructional services such as music, art, dance, yoga, swimming, and sports.
10. Other occupations that are demonstrated to be substantially similar to the above.

5.28.050 Specific Businesses Prohibited (NEW)

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

1. Motor vehicle sales, rentals, and outdoor storage of vehicle inventory.
2. Repair of automobiles or trucks with a gross vehicle weight of 14,000 lbs. or more.
3. Body work, painting, detailing, or fiberglass repair of motor vehicles, including boats.
4. Funeral chapels and mortuaries.
5. Gift shops.
6. Restaurants.
7. Private schools.
8. Indoor storage facilities.
9. Kennels (except as permitted in A-1 and A-S zones), veterinary services, or animal daycare.
10. Mobile toilet businesses.
11. Sexually-oriented businesses.
12. Retail tobacco specialty businesses.
13. Retail e-cigarette specialty businesses.

- 14. Medical Cannabis pharmacy (except as permitted in the A-S zone).
- 15. Cannabis production establishment (except as permitted in the A-S zone).
- 16. Any business that is prohibited in the City's commercial or industrial zones.

5.28.060 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 **accessory** structure in which it is located and may not change ~~it's~~ **the** purpose or character **of the dwelling or accessory structure, or the residential character of the property on which the home occupation is located.**
- 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 **as a conditional use.**
- D. More than one Home Occupation Business License may be issued ~~if the additional businesses will function as one business operation and~~ **for a property**, if after review, ~~it is~~ **the City Recorder** specifically determines that the total of all businesses **on the property** will not have an impact on the community greater than one business.
- E. The home occupation ~~shall not involve the use of~~ **must be conducted entirely within no** more than ~~the equivalent of~~ fifteen percent (15%) of the ~~main~~ **total 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. Inventory or supplies may not occupy more than fifty (50) percent of the permitted area. The home occupation must be operated entirely within the approved dwelling, except that twenty-five percent (25%) of a garage or accessory building or structure on the same property as the dwelling, or both, may be used, so long as it the home occupation does not change the residential character of the lot property or would otherwise be contrary to the purpose of this chapter.~~
- F. 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.
- G. ~~If a home occupation is authorized for a garage, off street parking arrangements in compliance with this title must exist for any personal vehicles owned and/or operated by the applicant.~~ **Adequate off-street parking must be provided for both personal vehicles and business customers, except for drop-offs or pick-ups associated with group instructional services.**
- H. Yard space may not be used for home occupation activities, except:
 - a. Outside private swimming pools may be used for swimming instruction if the swimming instruction is given by a ~~bona fide~~ resident of the dwelling.

- b. Yard space may be used for day care provided the yard is entirely fenced.
 - c. 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.
 - d. ~~In no event shall outdoor storage be permitted in relationship to the Home Occupation Business License.~~
- I. In no event shall outdoor storage be permitted ~~in relationship to the~~ for a home occupation-business license.
 - J. Business operation shall be limited to the hours between 7:00 am and 10:00 pm, unless shorter hours are set by the planning commission as part of a conditional use permit.
 - K. The home occupation must comply with all fire, building, plumbing, electrical and health codes and all federal, state and local laws.
 - L. 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. (Move to .030)~~
 - M. The home occupation may not be a nuisance or cause undue disturbance to the neighborhood.
 - N. 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.
 - O. 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.
 - P. 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.
 - Q. 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.
 - R. Home occupations requiring State or Federal licensing must ~~comply be in compliance~~ with all State and Federal regulations before a Home Occupation Business License ~~will be~~ is issued.

5.28.070 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.

5.28.080 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 City Recorder, 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.~~

5.28.090 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.

5.28.100 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~~ **conduct** the business specified in the license.

MEMORANDUM



TO: Planning Commission

DATE: December 8, 2023

FROM: Addison Jenkins

RE: Process for Researching and Developing Proposal on Detached ADUs

This memo continues the planning commission's discussion on Detached ADUs.

Background

The planning commission has held several discussions about detached ADUs this year. Following its August 22, 2023 meeting, staff was asked to provide additional information on how other cities handle D-ADUs and to begin drafting language that can be incorporated in the current ADU code. Those documents are included in this meeting's packet.

For Consideration

To assist staff in drafting a possible code update for detached ADUs, it would be helpful for the planning commission to consider and discuss the following:

1. What are the primary motivations of the city in either allowing or continuing to not allow detached ADUs?
2. What primary concerns does the city have in allowing or continuing to not allow detached ADUs?

Timeline and Next Steps

As there will be some turnover in the city council and planning commission at the beginning of the year, it would be beneficial for the planning commission to consider the following:

1. The planning commission should be aware that the state legislature may be considering changes to the state code with respect to municipal regulations of ADUs during the 2024 legislative session.
2. The city is partnering with researchers at USU to do a survey of residents in spring of 2024 that could provide more insight into residents' opinions on ADUs.
3. Aside from the compiled information about other cities' detached ADU regulations, is there other information the planning commission would like to assist in its decision-making process?
4. As the city moves forward in this process, what timeline and process does the commission envision for considering changes and making a recommendation to the city council?

MEMORANDUM



TO: Planning Commission

DATE: August 18, 2023

FROM: Cathy Brightwell, Kris Nilsen

RE: Detached Accessory Dwelling Units

The planning commission has suggested consideration of detached ADUs for some time. This memo begins the discussion on whether they are a good fit for West Bountiful and if so, what protections and regulations should be considered.

Background

- ADUs, within or attached to a single-family dwelling, have been allowed for many years in West Bountiful.
- The Utah Legislature has promoted ADUs as an alternative housing option.
- Surrounding cities have adopted regulations to allow detached ADUs (Bountiful, North Salt Lake, Farmington, Layton)
- The General Plan encourages consideration of a variety of housing types to be able to meet the needs of a variety of residents. Goals include meeting the demands of all stages of the life cycle, including starter and senior housing, where appropriate, including ADUs. Listed benefits include providing affordable rental housing and allowing first-time homeowners to gain access to homes that would otherwise be out of reach by renting out an additional unit.

Why Should Detached ADUs be Considered?

- Allow opportunities for property owners to provide social support for family members where independent living is desirable.
- Provide for affordable housing opportunities.
- Make housing units available to moderate income people who might otherwise have difficulty finding homes within the city.
- Provide opportunities for additional income to offset rising housing costs.

Staff is looking for guidance from the planning commission on what direction to take as it begins to research the issue. For example,

1. Allow D-ADUs in all residential areas or limit them to certain areas of the city?
2. If allowed, should size be limited? For example, maximum 1200 sf?
3. If allowed, should there be a limit as to how many on a property?
4. Similar to existing ADUs, should owner be required to live on property?
5. What kind of parking requirements should there be?
6. Should there be architectural design requirements?

OTHER CITIES DETACHED ADU REGULATIONS

Bountiful

- Permitted ADUs: internal (staff approval) and detached (conditional use)
- Owner-occupied
- Long term rental of 30 consecutive days or longer.
- Limited to 1 per single family home (“SFD”) - not allowed for duplexes/multi-family homes
- Deed restriction limiting property use to SFD recorded at the County
- No separate utility meters permitted
- One off-street parking space for ADU
- Building permit required to construct or modify existing structure.
- Designed so the property maintains the appearance of a SFD.
- Detached (additional reqs):
 - 350sf – 1250 sf;
 - minimum 8000 sf lot size;
 - exterior doors, stairs, windows, etc., are located as far away from adjoining properties as reasonably possible to provide privacy to those properties;
 - meet all setbacks and height requirements for accessory structures;
 - be located behind the front line of the building line of the primary unit.

North Salt Lake (NSLMC 10-1-44)

- Permitted ADUs: internal, attached, detached, tiny homes
- Application and building permit required for new ADUs
- ADUs built prior to November 2018 must obtain a land use permit and certify that safety requirements have been met including bedroom smoke detectors, GFCI outlets in kitchen and bathrooms, bedroom windows meet minimum egress requirements, etc.
- Additional off street parking

Farmington (FMC 11-28-200)

- Permitted ADUs: IADU (staff approval), DADU (conditional use)
- Maximum of 1 ADU per SFD
- Owner-occupied
- DADU shall be subordinate in height and area to the primary dwelling.
- At least 1 off street parking stall shall be provided for the ADU
- ADU shall be clearly incidental to the SFD and not adversely affect the residential character of the surrounding neighborhood and shall be designed so that passersby would not, under normal circumstances, be aware of its existence.
- Minimum 6000 sf lot size
- Occupants – ADU shall be occupied exclusively by 1 family
- Notice of ADU recorded at County affirming use will comply with city regulations.

Layton (19.02.020)

- Permitted ADUs: internal, attached, detached
- D-ADU are limited to lots of 6000 sf or larger, and can only be within the side yard or rear yard of primary dwelling.
- Allowed in all residential zones.
- Must be owner-occupied.
- Only one ADU per lot or parcel.
- Internal and Attached must meet minimum setback and height regulations and must retain the appearance of a single family home. Entrances shall be subordinate to the primary dwelling's entrance.
- Parking spaces cannot be located within the primary dwelling's front or side yard setbacks adjacent to a street unless on an approved driveway.
- D-ADUs shall be complementary to the primary dwelling's architectural character by using similar building materials, window types, door and window frames, roofing materials, and roof pitch and permanent foundation.
- All ADUS shall connect to the same utility lines as the primary dwelling.
- Minimum rental period is 30 consecutive days
- Mobile homes and shipping containers shall not be considered for ADU
 - Occupancy: 3 non-related individuals, or an individual, or single family related by blood, marriage, guardianship, fostership, or adoption.

South Jordan (17.130.030)

- Permitted ADUs: internal and guesthouse (detached from primary dwelling) in an Accessory Dwelling Unit Floating Zone.
- Must be approved by planning department.
- Owner must live on the property.
- Limit to 1 per lot (larger than 6000 sf) and cannot be with mobile home or attached housing units.
- Minimum of 1 off-street parking space in addition to those already required for the primary home.
- ADUs shall not be rented for less than 30 consecutive days.
- Appearance – ADU shall be designed so that the appearance of the lot, building structure, and landscaping retain the character of a single-family neighborhood. ADUs will be compatible with the exterior of the primary dwelling (exterior materials, colors, and roof pitch)
- Guesthouse (D-ADU) will be subordinate and incidental to the primary dwelling. No more than 3 bedrooms, maximum 1500 sf (or 35% of the primary dwelling living area, unless the planning commission determines a greater amount of floor area is warranted).
- An existing accessory dwelling unit may be approved if the ADU complies with current regulations. If a certificate of occupancy was not issued at the time of construction or remodeling, the applicant shall apply for a building permit and the chief building official, or his designee, shall inspect the ADU for Code compliance. All documented violations shall be corrected prior to approval of the ADU. Any uses or dwellings which previously conformed to prior ordinances, including having obtained all necessary and applicable permits, but do not now conform due to adoption of this section 17.130.030, shall be permitted to continue as a legal nonconforming use.
- Affidavit required and recorded stating the owner will comply with all regulations of ADU and authorize annual inspections by staff.

DETACHED ACCESSORY DWELLING UNITS

17.20.045 Every Dwelling To Be On A Lot; Exceptions

Every dwelling structure shall be located and maintained on a separate lot having no less than the minimum area, width, depth and frontage required by this title for the district in which the dwelling structure is located, **except that** farm or ranch dwellings, **accessory dwelling units**, group dwellings, condominiums and other multi structure dwellings, **and** complexes under single ownership and management, **which are permitted by this title and have approval by the planning commission**, may occupy a single lot.

17.82 Accessory Dwelling Units

17.82.010 Purpose

17.82.020 Definitions

17.82.030 Scope

17.82.040 Development Standards

17.82.050 Non-Residential Accessory Structures

17.82.010 Purpose

The purpose of this chapter is to establish use and development regulations for accessory dwelling units (ADUs). These regulations are adopted for the following purposes:

1. To accommodate such housing in single family residential neighborhoods in accordance with state law.
2. To provide an alternative housing option.
3. To provide uniform standards for ADUs.

17.82.020 Definitions

As used in this chapter, the following terms have the following definitions:

“**Internal/attached** Accessory dwelling unit,” or “**I-ADU**,” means a separate dwelling unit, created within, or attached to a single family dwelling, that complies with the provisions of this chapter.

“**Detached Accessory dwelling unit**,” or “**D-ADU**,” means a separate dwelling unit that is not within, or attached to a single family dwelling, that complies with the provisions of this chapter.

“**Primary dwelling**” means the main dwelling within the single family dwelling of which an ADU is a part or to which it is attached. The primary dwelling, independent of any ADU, shall meet all applicable requirements for a single family dwelling under this title, the current building codes adopted by the City, and state law.

17.82.030 Scope

The requirements of this chapter shall apply to any ADU within the City. Such requirements shall not be construed to prohibit or limit other applicable provisions of this title, the West Bountiful Municipal Code, and other laws.

17.82.040 Development Standards

The development standards set forth in this section shall apply to any ADU.

1. Application. An application for an ADU in a form provided by the city will be required for all ADUs. The application will be processed as a permitted use.
2. ~~Location. An ADU shall be allowed only within or attached to an owner-occupied single family dwelling. The owner of the property shall have permanent residence in the primary dwelling or the ADU, subject to allowed absences under Section 17.82.040.I.~~
3. Number of Accessory Dwelling Units. ~~A maximum of one (1) ADU shall be allowed within or attached to each single family dwelling.~~ No lot or parcel shall contain more than one ADU.
4. Parking. Adequate off-street parking shall be made available to accommodate the residential use of an ADU, subject to the residential use parking requirements of Chapter 17.52 of the West Bountiful Municipal Code and state law. A minimum of one (1) additional off-street parking space shall be provided and designated for each ADU, regardless of whether the primary dwelling is existing or new construction when the ADU is created. Parking spaces may include garage and driveway space. If the ADU is created within a garage or carport, sufficient off-street parking must be provided to replace the parking contained within the garage or carport. Parking stalls shall be paved with concrete, masonry, asphalt, or concrete pavers; gravel parking stalls or driveways are also allowed.
5. Utility Metering. No separate utility metering for the ADU shall be allowed, and the utility service shall be in the property owner's name. (So. Davis Sewer charges separate for each dwelling.)
6. Size. ~~No minimum or maximum size is established for~~ An ADU will be a maximum of 1500 – 2000 square feet and ~~by this ordinance except that the unit~~ shall contain at least a living area, kitchen area, sleeping area, and bathroom facilities that comply with applicable provisions of this title, the current building codes adopted by the City, and state law.
7. Construction Codes. An ADU shall comply with the construction housing codes in effect at the time the ADU is constructed, designated as an ADU, or remodeled. This shall include the obtaining of a building permit or other permits as the codes may require.
8. Architecture. An ADU that is added onto or created within an existing single family dwelling or a new single family dwelling that is designed to accommodate an ADU shall not resemble a multi-family structure in terms of the number or location of garage doors, carports, outside entries, or porches. The architectural design and materials of an addition for an ADU shall match the existing single family dwelling so that the addition appears to be part of the original building. Only I-ADU?
9. Owner Occupied. The owner of the property on which the ADU is located, as listed in the County Recorder's Office, must reside on the property as the owner's principal residence, except for business, medical, military service, or religious reasons for a continuous time period not exceeding three years. If an absence is warranted due to the above reasons, an on-site manager shall be designated for the period of the absence. At no time shall both the ADU and the primary dwelling be rented as separate units.
10. A D-ADU will only be occupied by a relative of the owner. Not rentable??
11. ADU Agreement. Each ADU shall be subject to an ADU agreement on a form provided by the City and recorded with the County Recorder. The ADU agreement shall run with the land and bind any subsequent owner of the property. If the owner of record of a property changes, the new owner shall be required to submit a new ADU application and occupy the property as the owner's primary residence; otherwise, the ADU shall be immediately vacated and shall no longer be used as an ADU. The recorded ADU agreement shall acknowledge that the owner must reside in the primary dwelling or ADU, subject to allowed absences under Section 17.82.040.I.
12. Separate Address. The ADU shall be identified with a separate address using the letter "B" to provide clarity for emergency purposes. A second mailbox is recommended but not required.
13. Lease Agreement. If the ADU is leased, language that the lease will terminate upon sale of the property will be included in any lease documents.

14. Penalties. Penalties may be imposed to assure compliance with this chapter as per Section 17.08.050.

17.82.050 Non-Residential Accessory Structures

The following applies to non-residential accessory structures:

1. Definition. As used in this section, "non-residential accessory structure" means any detached accessory structure that is not designed or used as a dwelling, dwelling unit, or ADU, or otherwise for overnight accommodations. Examples of non-residential accessory structures include detached garages, shops, barns, and pool houses.
2. Permitted Facilities. A non-residential accessory structure may contain bathroom and/or cooking facilities, but it may not contain sleeping facilities or be used for overnight accommodations.
3. Non-residential Accessory Structure Agreement. As a condition of receiving a building permit for an accessory structure, the applicant will be required to enter into a non-residential accessory structure agreement in a form provided by the city. Such agreement will be recordable and will contain acknowledgments and agreements not to use the accessory structure as a dwelling, dwelling unit, or ADU, or otherwise for overnight accommodations.

3 ***PENDING – NOT APPROVED***

4 ***Posting of Agenda*** - The agenda for this meeting was posted on the State of Utah Public Notice website,
5 on the West Bountiful City website, and at city hall on November 24, 2023, per state statutory
6 requirement.

7 Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday, November 28,
8 2023, at West Bountiful City Hall, Davis County, Utah.

9 ***Those in Attendance:***

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

12 **MEMBERS EXCUSED:**

13 **STAFF ATTENDING:** Kris Nilsen (City Engineer), Addison Jenkins (Community Development), Remington
14 Whiting (Recorder), and Debbie McKean (Secretary).

15 **PUBLIC:** Tristina Bown, Marty Vowles, April Vowles, and Betty Vowles

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

17 **1. Prayer & Thought by Commissioner Malan**
18 **Pledge of Allegiance- Commissioner Sweat**

19
20 **2. Confirm Agenda**

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

24
25 **3. Conditional Use Permit Application- Flag Lot at 647 North 800 West**

26
27 Commissioner packets included a memorandum from City Staff dated November 21, 2023 regarding a
28 conditional use permit application and site plan for a Flag Lot at 647 North 800 West for Troy Salmon.

29
30
31 Addison Jenkins explained that Troy Salmon is under contract to purchase the nearly 1-acre parcel
32 located at 647 N 800 West. His intent is to subdivide the parcel into two lots and build a new home on
33 the second lot. Prior to completing the purchase and with the consent of the current owner, he is
34 requesting approval for a flag lot.

35
36 Mr. Jenkins further explained that there is currently one home on the parcel, and the parcel does not
37 have sufficient frontage for an additional lot without the approval of a flag lot.

38
39 Addison Jenkins and Kris Nilsen reviewed the following with the Commission, noting whether or not the
40 proposed flag lot would be in compliance:

41

42 **WBMC 16.12.060** – states that Flag lots will only be allowed where traditional lot development is not
43 feasible. Such lots shall meet the following criteria:

- 44
- 45 1. The staff of the lot shall not be less than twenty feet (20') wide and shall not exceed the design length
46 requirements for a cul-de-sac. **In Compliance** (it is proposed to be 20 ft wide and 140 ft long).
 - 47 2. The staff of the lot shall serve one lot only and shall have direct access to a dedicated and improved
48 public street. **In Compliance.**
 - 49 3. The staff of the lot shall be owned, fee simple, as part of the lot. **In Compliance.**
 - 50 4. The staff of the lot shall approach the public street at an angle of not less than 80 degrees. **Mr. Nilsen**
51 **noted that the submitted plan showed the angle at 71 degrees but that it would be corrected during**
52 **the subdivision approval process.**
 - 53 5. The staff of the Flag lot cannot extend from intersections, street corners, or cul-de-sacs. **In**
54 **Compliance.**
 - 55 6. The body of the lot shall meet the lot size and dimensional requirements of the applicable zone. The
56 staff area shall not be used in computing lot size. Proposed buildings shall comply with the minimum
57 setbacks required for the zone. Determinations as to which are the front, side, and rear setbacks shall be
58 made at the time of the subdivision application and shall be designated on the plat. **In Compliance.**
 - 59 7. Flag lot must comply with fire code requirements including access width, driving surface, parking, and
60 fire hydrant placement. **In Compliance (to be partially addressed as part of a Subdivision Review).**
 - 61 8. Flag lots cannot be used where traditional methods of development could occur. **In Compliance.**
 - 62 9. Subdivisions which contain more than four (4) lots cannot contain a flag lot. **In Compliance.**
 - 63 10. The lot shall be graded so storm water runoff does not negatively impact neighboring properties. **In**
64 **Compliance, (to be partially addressed as part of a Subdivision Review).**
 - 65 11. All flag lots shall have the street address displayed on private property in a prominent location
66 where the staff abuts the public street. **In Compliance, (it will be assigned address 619 North 800**
67 **West).**
 - 68 12. A flag lot may not be created which would negatively impact the future continuation of existing stub
69 streets. **In Compliance.**
 - 70 13. Other requirements imposed by the Conditional Use Permit to mitigate the potential negative
71 impacts caused by the proposed use; the Conditional Use Permit and plat review cannot waive
72 requirements 1 through 12 of this Section.

73

74 Commissioner Mitchell inquired how the permit is issued. Mr. Jenkins responded that the permit is
75 attached to the property, not the owner or petition filer.

76

77 Mr. Jenkins noted some unique aspects of this proposed flag lot and listed possible mitigating measures
78 to deal with the potential negative impacts. He pointed out some conditions must be met at the time
79 the subdivision is approved rather than when the conditional use is approved.

80

81 Staff explained that the staff of this flag lot will run immediately parallel and adjacent to the non-public
82 road labeled "600 North" which is the staff of the lot at 850 W 600 North (Anderson), but which is also
83 used as the access to the lot at 830 W 600 North (Bangerter) via an easement. This private 600 N road is
84 paved with black asphalt. Due to this, the Planning Commission may want to apply conditions so that
85 visitors, delivery vehicles, or emergency vehicles can easily identify which house they are going to.

86

87 The following was noted and discussed by staff and the commission:

88

- 89 • Consider requiring lighting and street numbers at the flag lot staff entrance to help guide
90 emergency vehicles and other persons to the correct address; **(Required)**
- 91 • Consider lighting along the staff driveway. **(Not Required)**
- 92 • Consider requiring fencing, landscaping, curbing, or other physical separation between the two
93 lot staffs / driveways. **(Not Required)**
- 94 • Commissioners emphasized that the flag lot must meet requirement #4 which states that the
95 driveway approach be 80 degrees or greater, and per Kris Nilsen’s comments must be 20 feet
96 from the south property line to avoid interfering with existing utilities, poles, and mailbox, and
97 to create clear separation from the non-public road 600 North. **(Required)**

98
99 **Action Taken:**
100
101 ***Corey Sweat moved to approve the flag lot application at 647 North 800 West noting all of the staff***
102 ***notes and given that it meets all of the requirements listed in WBMC 16.12.060 1-12, in particular***
103 ***number 4, that the road comes in at not less than 80 degrees, and at least 20 feet away from the***
104 ***south property line, and with the following condition: that there is an address monument that has a***
105 ***type of lighting or reflective lettering that shows the address for the proposed flag lot. Laura Mitchell***
106 ***seconded the motion and voting was unanimous in favor.***
107
108

109 **4. Meeting Minutes from November 14, 2023**
110

111 **Action Taken:**
112 ***Dell Butterfield moved to approve the minutes from November 14, 2023 with no changes. Corey Sweat***
113 ***seconded the motion and voting was unanimous in favor.***
114
115

116 **5. Staff Report**
117

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

- 119 • The City Administrator, Duane Huffman, is gathering comments and information to
120 bring to the commission regarding the Home Occupation Ordinance.
- 121 • A rough draft of the new Subdivision Ordinance will be included in the packet of the
122 December 12th meeting. Addison noted that he listened to a webinar regarding the
123 subdivision ordinance and various cities’ frustrations. It is probable that the state
124 legislature will adopt a new bill to address these issues and concerns.
- 125 • Staff is still working on the design for 660 West regarding curb, gutter, and sidewalk.

126
127 **b. Community Development (Addison Jenkins)**

- 128 • The city, in coordination with the South Davis Sewer District, will wait to approve their
129 conditional use permit until the annexation of the rest of their property is completed.
130 Staff will be meeting with North Salt Lake to discuss items related to their experience
131 with the sewer plant expansion in their city a few years ago.

132
133 Commissioner Vest requested that the detached ADU ordinance be put on the agenda again.

134
135 **6. Adjourn.**

136

137 **Action Taken:**

138 ***Laura Mitchell moved to adjourn the regular session of the Planning Commission meeting at 8:15 pm.***

139 ***Corey Sweat seconded the motion. Voting was unanimous in favor.***

140

141

142 *The foregoing was approved by the West Bountiful City Planning Commission on November 14, 2023, by*

143 *unanimous vote of all members present.*

144

145 _____

146