

Mayor
Kenneth Romney

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

**City Recorder/
Community
Development**
Cathy Brightwell

WEST BOUNTIFUL PLANNING COMMISSION

550 North 800 West
West Bountiful, Utah 84087

Phone (801) 292-4486
FAX (801) 292-6355
www.WBCity.org

Chairman
Alan Malan

Commissioners
Mike Cottle
Laura Mitchell
Corey Sweat
Dennis Vest
Dell Butterfield, Alt.

THE PLANNING COMMISSION WILL HOLD A REGULAR MEETING AT 7:30 PM ON TUESDAY, OCTOBER 25, 2022, AT THE CITY OFFICES

AGENDA:

1. Prayer/Thought - Commissioner Sweat;
Pledge of Allegiance – Commissioner Cottle.
2. Confirm Agenda.
3. Conditional Use Application for SH Excavation at 1465 N 1100 West – Spencer Hughes.
4. Request to Rezone the Property at 1390 W 1200 North from A-1 to L-I or C-H – William Goldberg.
 - a. Public Hearing.
 - b. Consider Request.
5. Non-Residential Structure Agreement for Accessory Structures – City Staff.
 - a. Public Hearing
 - b. Consider Proposal.
6. Consider Meeting Minutes from October 11, 2022.
7. Staff report
 - a. November 8 meeting is canceled for General Election; November 22 meeting is canceled for Thanksgiving holiday; A meeting may be held on November 29, if necessary.
 - b. Engineering (Kris Nilsen)
 - c. Community Development (Cathy Brightwell)
8. Adjourn.

*This notice has been sent to the Davis Journal and was posted on the State Public Notice Website
and the city website on October 21, 2022, by Cathy Brightwell, City Recorder.*

MEMORANDUM



TO: Planning Commissioners

DATE: October 21, 2022

FROM: Staff

RE: Home Occupation Application for SH Excavation at 1465 N 1100 West (Hughes)

This memo describes the home occupation application for Spencer Hughes excavation business.

Background

SH Excavation, LLC was created and became a business at the end of February 2020. The address shown on state records is 1465 N 1100 West, West Bountiful. The applicant, Spencer Hughes, states that he created this business so he can be hired out as a contract laborer for a large variety of jobs which generally involve excavation. He is contracted out by other companies to either use his equipment or to operate their equipment at various locations. He has a home office in a corner of his entertainment room from which he runs his business.

SH Excavation owns one dump truck he uses as his business vehicle to get to and from jobs, and one excavator and an equipment haul trailer used occasionally. The applicant claims that the majority of the time the dump truck is empty when it leaves and returns to his property. Excavation work is seasonal, so it is used less in the winter. The dump truck is also used for personal work. Currently the applicant has two open building permits – one for a home addition and one for a retaining wall. He states that the truck is used for these projects including sometimes acting as a dumpster.

Objection

The neighbors to the north, Bud and Jeanette Ingles, have expressed concern for some time that the dump truck entering and exiting the property to the north of the Hughes' home has caused damage to the Ingles' home. They believe the vibrations from the truck driving along the property line closest to their home have resulted in cracks in their foundation and they are concerned about future damage to their property. The Ingles are also concerned about other vehicles being used, parked or stored on the property. They want the city to enforce its ordinances. Their written objection including many photographs of the property over the past 3 years is attached, as well as the Hughes' rebuttal.

History

As stated by the Ingles, the city was first made aware of their concerns in 2019 after Mr. Ingles filed a Records Request seeking copies of zoning ordinances, conditional use permits, and/or business licenses for Spencer Hughes. Staff contacted Mr. Hughes and he stated that the equipment coming and going on the property was being used for the construction of the home. Mr. Ingles then asked the city to require Mr. Hughes to move his driveway from the north side of his home to the south,

or to find off-site parking for his truck. The city determined it did not have the authority to require such a change. In 2021, Mr. Ingles sent a letter to the mayor, city council, and planning commission asking for help to solve the problem and encouraging the city to require Mr. Hughes to apply for a business license.

Review

WBMC 5.28.010 defines a home occupation as any occupation conducted within a dwelling and carried on only by persons residing in the dwelling, which is clearly incidental and secondary to the use of the dwelling and for which a Home Occupation Business License has been issued by the city. Section 5.28.040 lists restrictions for home occupations; those relevant to this case are listed below:

- G. The home occupation must be operated entirely within the approved dwelling, except that 25% of a garage or accessory building or structure on the same property may be used, so long as it does not change the residential character of the lot.
- L. The home occupation may not be a nuisance or cause undue disturbance to the neighborhood.
- M. The home occupation may not alter the residential character of the premises or unreasonably disturb the peace and quiet of the neighborhood by reasons of color, design, materials, construction, lighting odors, sounds, noise, or vibrations.

A decision on this request is an administrative action that must be decided based on existing regulations. Staff provides the following for consideration:

- 1. Applicant states that other than his home office he does not conduct business on his property. The dump truck is a company vehicle that he drives to and from job sites.
- 2. Applicant states that he has the right to drive his company vehicle onto his property when not at work. He acknowledges that in the recent past, it has been loaded with gravel for his home remodel and retaining wall construction projects.
- 3. Mr. Ingles argues the dump truck associated with his home occupation business has caused a nuisance and vibrations have damaged his home. No proof of the cause of damage has been provided.
- 4. The Hughes have been asked by Mr. Ingles to move their driveway from the north to the south side of their home. The Hughes do not believe that is a viable option.
- 5. The Home Occupation code prohibits businesses that cause a nuisance. The Ingles claim the business is a nuisance; no other neighbors have provided objections to the request.
- 6. WBMC 5.28.040.G requires that all equipment associated with the home occupation business be located in 25% of a garage or accessory structure.

Conditional Use Requirements

The Conditional Use ordinance, WBMC 17.60.040, directs the Commission to approve the conditional use if reasonable conditions can mitigate the reasonably anticipated detrimental effects of the proposed use. If the reasonably anticipated detrimental effects cannot be substantially mitigated by the imposition of reasonable conditions to achieve compliance with applicable standards (requirements of the Chapter and all other applicable requirements of the Municipal Code), the conditional use may be denied.

WBMC 17.60.040 also requires the Commission to consider the following findings prior to approving a conditional use.

1. 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;
2. The proposed use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity;
3. The proposed use and/or accompanying improvements will not inordinately impact schools, utilities, and streets;
4. The proposed use will provide for appropriate buffering of uses and buildings, proper parking and traffic circulation, the use of building materials and landscaping which are in harmony with the area, and compatibility with adjoining uses;
5. The proposed use will comply with the regulations and conditions specified in the land use ordinance for such use;
6. The proposed use will conform to the intent of the city's general plan; and
7. 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.

Possible Conditions

Staff recommends consideration of the following conditions to mitigate possible reasonably anticipated detrimental effects of the proposed use.

Detrimental Effect 1: Ensure Right of Way is not blocked with equipment

1. Dump truck must be parked off-street.

Detrimental Effect 2: Failing retaining wall along access driveway may damage adjacent property.

1. Complete construction of new retaining wall (building permit #1535) no later than June 1, 2023.

Possible Detrimental Effect 3: Loaded truck causes more vibration.

1. Truck must be empty upon entering and exiting property when used for business purposes.

General Home Occupation Standards:

1. Business equipment must be stored in a garage or accessory structure not to exceed 25% of the total building space.
2. No additional business equipment to be added without notice to city for verification of storage limits.
3. No signage for the business.
4. No employees that do not reside in the home.
5. Time of day restrictions?
6. Limit number of trips?



**CONDITIONAL USE
PERMIT
APPLICATION**

West Bountiful City

PLANNING AND ZONING

550 N 800 W, West Bountiful, UT 84087

Phone: (801) 292-4486

Fax: (801) 292-6355

www.wbcity.org

PROPERTY ADDRESS: 1465 N 1100 W
NAME OF BUSINESS/USE: SH Excavation
PARCEL NUMBER: _____ ZONE: _____ DATE OF APPLICATION: OCT - 6, 2022
Applicant Name: Spencer Hughes
Applicant Address: 1465 N 1100 W.
Primary phone: _____
E-mail address: Fast crash 5 @ Yahoo - com

Describe in detail the conditional use for which this application is being submitted. Attach a site plan which clearly illustrates the proposal and separate sheet with additional information if necessary.

Home Occupation

The Applicant(s) hereby acknowledges that they have read and are familiar with the applicable requirements of Title 17.60 of the West Bountiful City Code, pertaining to the issuance of Conditional Use Permits. If the applicant is a corporation, partnership or other entity other than an individual, this application must be in the name of said entity, and the person signing on behalf of the Applicant hereby represents that they are duly authorized to execute this Application on behalf of said entity.

Fee must accompany this application - \$20 for Residential Zone, \$50 for Business Zone

I hereby apply for a Conditional Use Permit from West Bountiful City in accordance with the provisions of Title 17, West Bountiful Municipal Code. I certify that the above information is true and correct to the best of my knowledge. I understand the information on this application may be made available to the public upon request.

Date: OCT 6/20 20 Applicant Signature: [Signature]

FOR OFFICIAL USE ONLY	
Application Received Date: <u>10/6/22</u>	Permit Number: <u>22-07</u>
Application Fee Received Date: <u>10/6/22</u>	Fire Inspection Date: _____
Permit Approval: _____	Fire Inspection Approval Date: _____



HOME OCCUPATION BUSINESS LICENSE APPLICATION

West Bountiful City
BUSINESS LICENSING DEPARTMENT
550 N 800 West
West Bountiful, UT 84087
Phone: (801) 292-4486
www.wbcity.org

Please allow 5-7 business days for processing

Applicant Information:

License # (Assigned by City):

1488

Resident/Business Owner's Name: Spencer Hughes

Physical Address: 1465 N 1100 W. West Bountiful UT West Bountiful, UT 84087

Mailing Address, if different than above: _____

Email address: Fast Crash 50@yahoo.com

Primary Phone: 801-867-3481 Emergency Phone: same

Property Owner Name & Contact Info, if different than applicant: _____

Business Information:

1. Name of business: SH Excavation LLC

State ID #: _____

State Sales Tax #: _____

Federal Tax ID #: 84-4827192

Other Required Licenses #: _____

(Depending on type of Business)

2. Describe the proposed business activity: ~~excavation~~ Home - office
To have a computer & printer to send invoices

3. Hours of Operation: 4 to 6 hr a week

4. Name and relationship of person(s) participating in business (must reside at the home):

Wendy Hughes

5. Describe which room(s) or areas of the property will be used, and how they will be used, in conducting this business from your home. List the approximate square footage of such rooms as well as the total square footage of the main floor of your home; if a garage or other accessory structure will be used, list the approximate square footage to be used and the total square footage of the garage or structure:

Entertainment Room, desk, 2x4' with chair

6. Describe how, where, and in what amounts the materials, supplies and/or equipment related to your proposed home occupation will be displayed or stored:

none

7. Are any chemicals or hazardous materials used in connection with your home occupation? If yes, state the amount and type of chemicals or materials stored or used.

no

8. Will individuals come to your home to obtain any product or merchandise, to utilize any service, or for any other purpose in connection with your proposed home occupation? If yes, please explain, including frequency.

no

9. If any vehicles or other equipment will be used as part of your home occupation, where will they be parked or stored? yes, ^{Dump} ~~pickup~~ Truck, and a Trailer.

10. Do any vehicles or other equipment come to your property in connection with your home occupation? If yes, please explain, including frequency: ~~no~~ occasionally an excavator.

11. Will the home occupation involve the use of commercial vehicles for delivery of material to or from the premises? If yes, please explain, including frequency: no

12. If your home occupation is a day care center, nursery, or preschool, please state how many children _____ and caregivers no will be involved in a typical workday. Please attach evidence of all licenses, permits, or approvals from federal, state, or local agencies authorizing the day care center, nursery, or preschool.

13. Does the proposed home occupation conform with covenants, conditions, and restrictions (CCR's) pertaining to your property? no If no, please explain: _____

Applicant Certification:

I hereby apply for a home occupation business license from West Bountiful City in accordance with the provisions of Title 5, West Bountiful Municipal Code. I understand that under certain conditions prescribed in the Municipal Code I may be required to apply for a conditional use permit as well.

I acknowledge that before this application may be approved, I must provide notice to the owners of property within a 300 foot radius of the exterior boundaries of the property on which the home occupation is to be conducted.

I certify that the above information is true and correct to the best of my knowledge, and that I agree with the attached specific requirements and all other applicable provisions of the Municipal Code.

I understand the information on this application may be made available to the public pursuant to the Government Records Access and Management Act (UCA 63G-2-101 et seq), unless applicant specifically requests in writing that their personal information remain private.

Date: Sept 13, 2022

Sign Here: 
Applicant

Rec'd 9/13/22

FOR OFFICIAL USE ONLY

Application Fee (\$15) Received: _____

Approval Date: _____

Fire Inspection, if needed: NA

Conditional Use Permit Required: Yes - Pd fee

Health Dept. Inspection, if needed: —

Conditional Use Permit Approved: _____

Neighbor's Notification Complete: See attached

Protests Received: _____

NOTICE TO NEIGHBORS

Date of Notice: July - September

<u>Address</u>	<u>Name</u>	<u>Type of Notification</u>
1515 N 1100 West	Steven & Kelly Whittaker	Talk to in person
1485 N 1100 West	Bud & Jeanette Ingles	Sent a Letter
~~1051~~ P.O. 87357 ^{wood cross}	Dwayne Hughes	Sent a Letter
1313 N 1100 West ~~Lane Beattie~~	Lane Beattie	Talk to in person
1394 N 1100 W	Ross Paskett	Talk to in person
231 N Flag Rock	^{on Farmington} J.R. Call	Text and in person
1484 N 1100 West	Mark Slagowski	Talk to in person
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

I HEREBY CERTIFY THAT I PROVIDED NOTICE TO THE OWNERS OF PROPERTY WITHIN A 300-FT RADIUS OF MY PROPERTY AS LISTED ABOVE AND LET SAID NEIGHBORS KNOW THEY MAY FILE A WRITTEN PROTEST AT THE CITY OFFICES NO LATER THAN FIVE (5) BUSINESS DAYS AFTER THE DATE NOTICE WAS RECEIVED.

Date: Sept. 13, 2022

Sign Here: _____

Applicant

Cathy Brightwell, City Recorder,
West Bountiful City
550 N. 800 W.,
West bountiful, Utah 84087

September 21, 2022

We are responding to Spencer Hughes' Home Occupation Business License Application. Since we do not know what his application may lead to, we have some objections:

Spencer has known since the 1980s that his father's property next door to his residence and his neighborhood is in the A-1 (17.16 Agricultural District) zone. He knew that it does not provide for construction or excavation businesses. With this knowledge, Spencer has been running a residential building construction & excavation business since early 2019, about one year before Covid and before the earthquake. He continued year-after-year in violation of City ordinances.

Attached is a copy of Cathy Brightwell's July 15, 2019 letter documenting that the City had no record of a conditional use permit and that the City had no record of a business license for Spencer. Spencer followed his motto "I can do whatever I want with my property" and did so as if City ordinances did not exist.

We asked the City to enforce ordinances. Some construction equipment harmed our property. We object because of our concern about the future impact of his equipment on us. A win-win would be to work out another way into his yard.

Spencer's business name on his West Bountiful City application is "SH Excavation LLC". He formed SH Excavation LLC in the Utah State Division of Corporations and Commercial Code, and it became "Active" and registered by the Division on 02/25/2020 as a "Residential Building Construction" company located at 1465 North 1100 West.

SH Excavation is the name painted on the doors of Spencer's dump truck. If Spencer's current application is a step that would enable him to operate an excavation company, a "Residential Building Construction" company, out of his 1465 N. 1100 W. address, with trucks, trailers, various excavation equipment, etc., we object. (Attached is a copy of the information provided by the Utah State Division of Corporations and Commercial Code. Attached are pictures of some of his equipment).

Another objection concerns question # 9. It relates to vehicles or other equipment being used, parked, or stored. Spencer has conducted an

excavation business with a pickup truck pulling a trailer hauling excavation equipment in and out of his yard. He has driven his dump truck, sometimes fully loaded, pulling trailers hauling excavation equipment in and out of his property. He has driven other excavation equipment in and out. We object to Spencer's excavation business when it travels over his north driveway. (Attached are some pictures of some of Spencer's equipment).

Road access should be examined. He has one way in and out on 1100 West. Trucks, pulling trailers, pull out and return by backing in. They face more traffic on 1100 West. This includes his dump truck pulling a 20-foot flatbed trailer and sometimes another trailer loaded with equipment. Sometimes his trucks pull trailers as many as 4 and 5 times in one day. Across the street from the Hughes property some visiting the Call home park vehicles in front thereby adding difficulty to his trailer traffic.

Not all trucks pulling trailers out of the driveway have enough room. Since he concreted his driveway to his garage, with elevation differences, his road is not wide enough; trailers have repeatedly hit safety cones in our park-strip, the purpose of cones is to protect others. The landmark railroad tie was hit and pushed forward. The Davis County Surveyor had me attached signs of notice to not touch the railroad tie.

We conclude by asking West Bountiful City to deny Spencer's Home Occupation Business License Application at this time, giving interested persons time to try to work out a solution.

Bud and Jeanette Ingles

SH EXCAVATION LLC

Entity Number: 11674342-0160

Company Type: LLC - Domestic

Address: 1465 N 1100 W Woods Cross, UT 84087

State of Origin:

Registered Agent: SPENCER HUGHES

Registered Agent Address:

1465 N 1100 W

Woods Cross, UT 84087

Status: Active

Status: Active as of 02/25/2020

Renew By: 02/28/2021

Status Description: Current

The "Current" status represents that a renewal has been filed, within the most recent renewal period, with the Division of Corporations and Commercial Code.

Employment Verification: Not Registered with Verify Utah

History

Registration Date: 02/25/2020

Last Renewed: N/A

Additional Information

NAICS Code: 2332 NAICS Title: 2332-Residential Building Construction

<< Back to Search Results

Business Name:

Mayor
Kenneth Romney

WEST BOUNTIFUL CITY

City Administrator
Duane Huffman

City Council
James Ahlstrom
James Bruhn
Kelly Enquist
Mark Preece
Andrew Williams

550 North 800 West
West Bountiful, Utah 84087

Phone (801) 292-4486
Fax (801) 292-6355
www.WBCity.org

City Recorder
Cathy Brightwell

City Engineer
Ben White

Public Works Director
Steve Maughan

July 15, 2019

Mr. Joseph (Bud) Ingles
1485 N 1100 West
West Bountiful, UT 84087

Mr. Ingles,

We are in receipt of your Government Records Access & Management (GRAMA) Request dated July 12, 2019 asking for zoning information and records regarding the property at 1465 N 1100 West. My response follows.

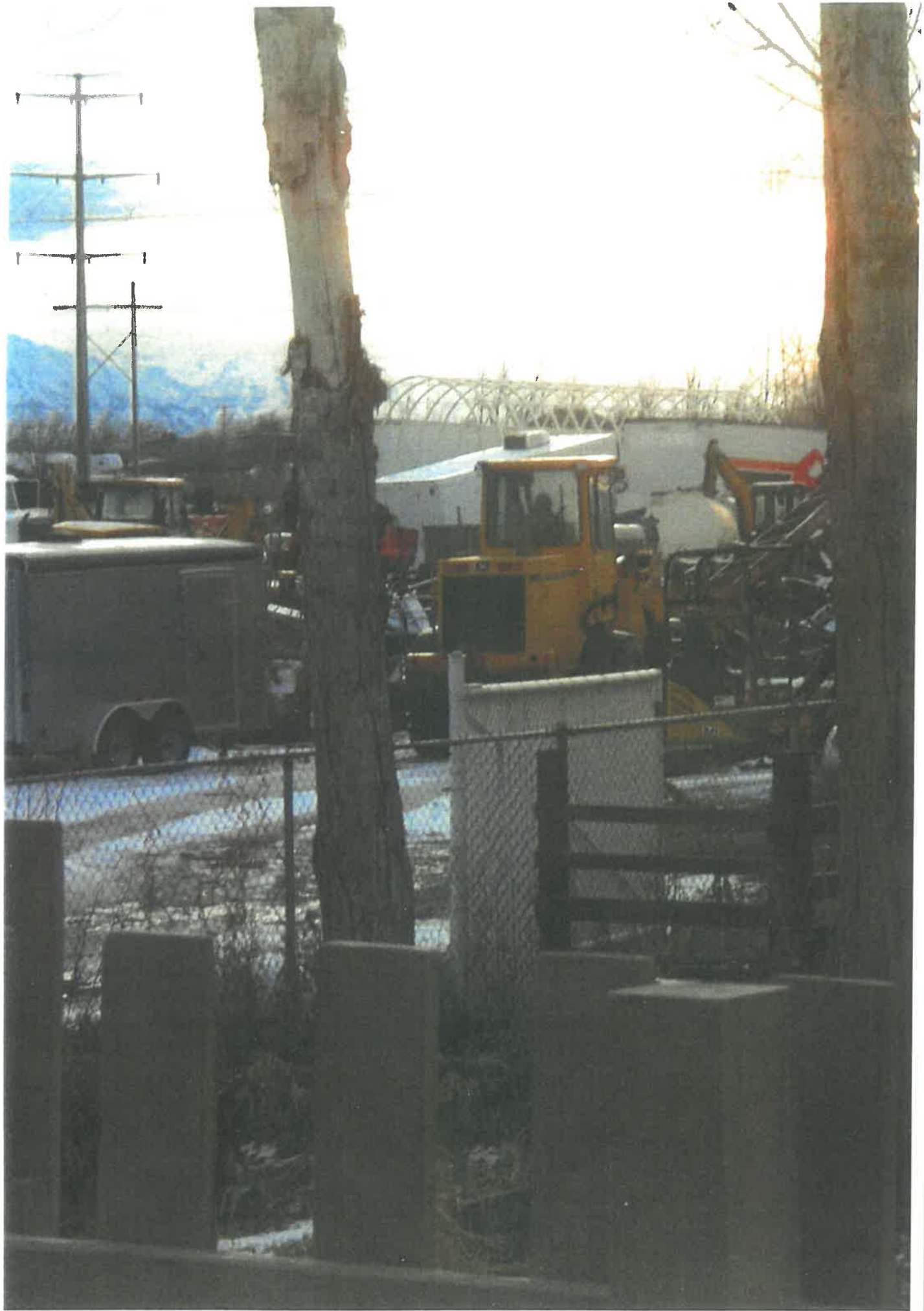
- 1) Zoning ordinance for 1465 N 1100 West - *see attached A-1 Zoning ordinance.*
- 2) Conditional Use permit for Spencer Hughes – *the city has no record of a conditional use permit being issued for Spencer Hughes.*
- 3) Business license for Spencer Hughes – *the city has no record of a business license being issued for Spencer Hughes.*

Please feel free to call me with any questions.



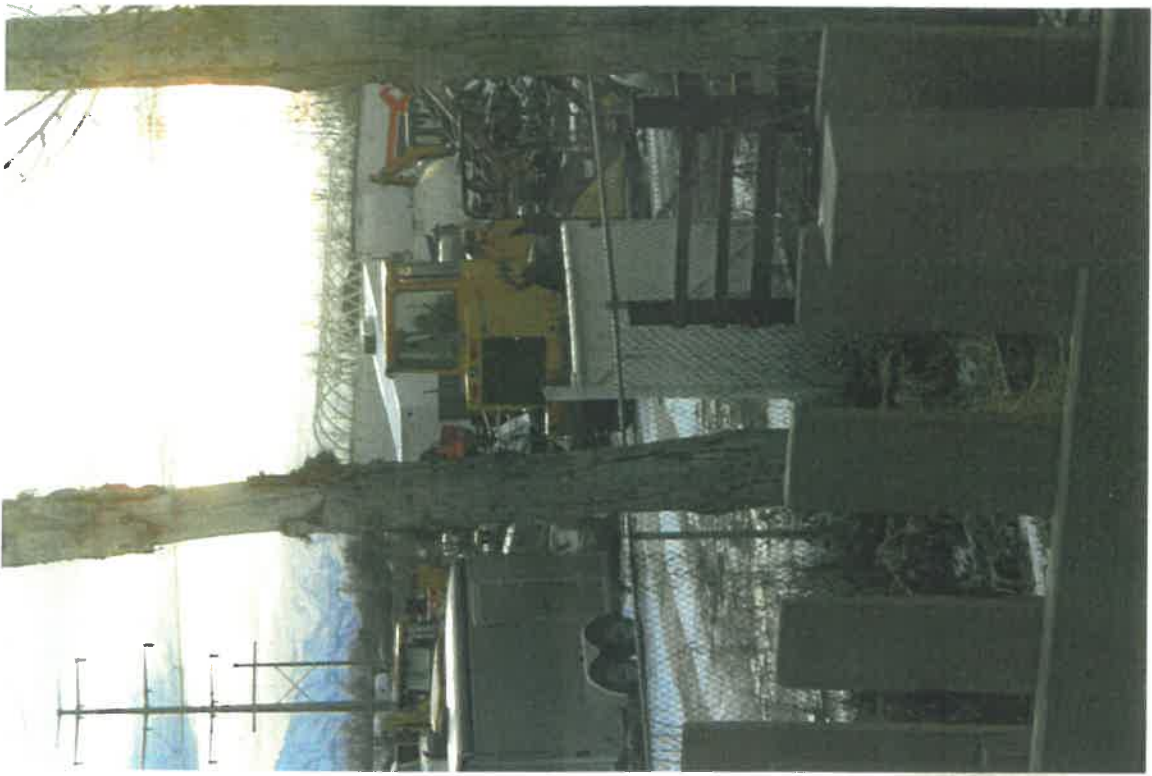
Cathy Brightwell
West Bountiful City Recorder
801-292-4486
CBrightwell@wbcity.org





















UPPER LEFT CORNER:
Spencer's dump truck with trailer attached

RIGHT SIDE::
Parked car across the street from
Spencer's driveway.

UPPER LEFT:
Pile of gravel used in his business.

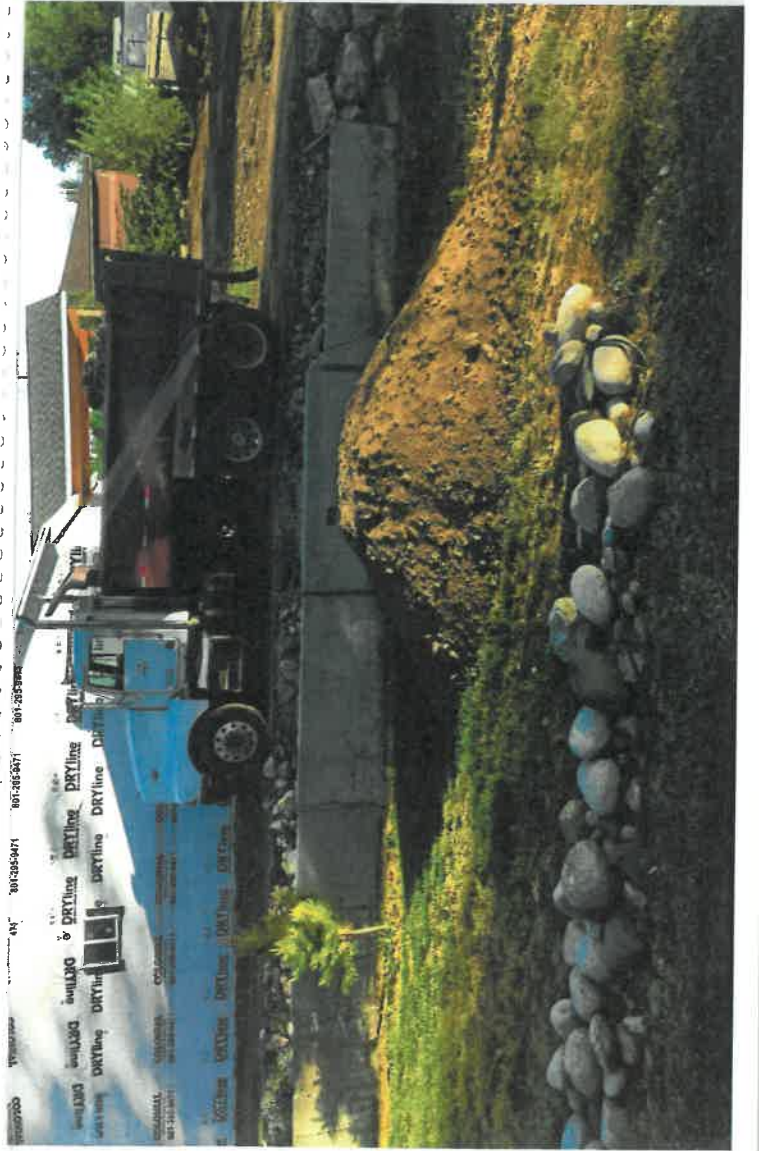
BOTTOM LEFT;
Spencer is loading dirt from a pile
for a job.





UPPER LEFT:
Equipment that was earlier in Spencer's
backyard and was moved.

RIGHT SIDE:
He cut our storm drain pipe in our park s



10/6/22

Cathy Brightwell
West Bountiful City Recorder
550 N 800 W
West Bountiful, UT 84087

Dear Cathy –

SH Excavation LLC was created and became a business at the end of February, 2020. This business enables Spencer Hughes (sole employee) to be hired as a contract laborer for a large variety of jobs which generally involve excavation. Spencer is contracted by other companies to either use his equipment, or is hired to operate their equipment at various locations all across Utah. SH Excavation owns one dump truck with the business logo. Excavation business is seasonal. The dump truck does not leave the property during winter. When the dump truck is needed, approximately 90% of the time the dump truck is empty and returns empty at the end of the day. The dump truck is also used for personal current home addition needs such as bringing home gravel for a retaining wall on the North side of the Hughes property and gravel for the driveway. In fact, the dump truck is also used as a dumpster.

We received the information provided by the Ingles and even though much of it is not relevant to our application, we wish to clarify certain things. It appears the main complaint of the Ingles for us to obtain a home occupation business license is that they feel the equipment is damaging their home. Many of the items in the letter are not tied to this request.

There are numerous occasions when the Hughes thought that progress had been made towards neighborly behavior, only to realize the next time there was a discussion, we were three steps further away from one another. The issue with broken cones that had been placed on the WB city right of way by the Ingles was thought to be resolved when in the presence of WB law enforcement an agreement was made to replace the cones with a grate. The grate would provide a safer option for anyone crossing the right of way. Spencer placed the grate and we were shocked to receive an email on 5/29/22 from the Ingles stating that they had removed the grate. We can provide further details if more information is needed. Spencer also tried to appease the Ingles when he offered to install a concrete box with a grate that is often used in roads to catch the water and sediment at Spencer's own time and expense. Mr. Ingles refused this offer.

A building permit was obtained in 2018 to begin an addition to the Hughes residence. This permit allows equipment to reside and be used on the Hughes property until completion of the project. The permit is still open and the project is still in progress.

Many of the photos submitted of "some of his equipment" are in fact multiple pictures of the same equipment that is not owned by Spencer Hughes or SH Excavation LLC. The majority of the equipment pictured, in fact belongs to Dwayne Hughes. Dwayne's equipment was used on the Spencer Hughes property at the beginning of the home addition. The equipment shown has not been on the Spencer Hughes property for several years. The only relevant photos submitted by the Ingles to our application for home business occupation license is the dump truck pictured on pages 10 and 11.

The pile of gravel pictured on page 15 is the gravel that is currently being stored for a newly engineered wall that is to be installed on the North side of the Hughes residence. Spencer Hughes has a new open building permit to install this retaining wall required by WB city.

As to the claim that some construction equipment harmed the Ingles property we provide the following information for your consideration.

- a. Attached as photo 1 is a picture of the Hughes concrete garage floor. The dump truck has driven past the Hughes garage (concrete) only inches away on multiple occasions. There has been no damage. However, the Ingles claimed that the dump truck has damaged the concrete in their basement. The Ingles home is approximately 50 feet away. Why would there be damage 50 feet away and not right next to where the dump truck passed by. The Hughes looked at the Ingles concrete basement, at the Ingles request, and mentioned that they were old cracks in the concrete. Spencer offered to help the Ingles replace their cracked concrete and was told by Mr. Ingles to, "Get the #\$% out of his house." WB city and an insurance carrier all looked and noted that the concrete is old and is bound to have cracks. The Ingles home is approximately 45 years old.
- b. Between approximately 2007 to 2009, the Ingles had close to 80 truckloads of dirt, which many were overloaded, hauled to their back-yard property. Each loaded truck drove right next to the Ingles home. It is interesting that the Ingles only brought up the cracks in the basement after the Hughes started their home addition.
- c. On March 18th, 2020 there was an earthquake felt all through SLC and Davis county. The Ingles claim that the cracks in their basement concrete were not caused by the earthquake, but only caused by the Hughes dump truck.
- d. The groundwater in West Bountiful has been receding and the hydrostatic pressure will therefore change. This change has been known to cause concrete cracks.
- e. The ground on the Ingles property is flat. The lack of slope is allowing water to flow directly into the Ingles basement when there is rain.

In summary, all the other neighbors in the specified area are okay with SH Excavation LLC being granted the home business occupation license. We appreciate your consideration in this matter and are happy to answer any questions or concerns. We feel the Ingles are blaming us for their aging house problems. The Ingles are causing extra work for WB city and law enforcement. SH Excavation is a new business that hopes to be able to prosper and be able to provide for the Hughes family. Any implication that SH Excavation or Spencer Hughes delayed obedience to the laws and ordinances of WB city were due to ongoing legal matters that the Hughes thought would have been resolved by now. SH Excavation looks forward to continuing to lend a helping hand when necessary to WB city and its residents.

Sincerely,

Spencer and Wendy Hughes
SH Excavation LLC
1465 North 1100 West
West Bountiful, UT 84087

Photo 1 of Hughes concrete garage floor without cracks taken 10/5/22.



Photo 2: Ingles flat driveway to the back of their property taken 10/5/22.



Mayor
Kenneth Romney

**City Engineer/
Zoning Administrator**
Kris Nilsen

**City Recorder/
Community
Development**
Cathy Brightwell

WEST BOUNTIFUL PLANNING COMMISSION

550 North 800 West
West Bountiful, Utah 84087

Phone (801) 292-4486
FAX (801) 292-6355

Chairman
Alan Malan

Commissioners
Mike Cottle
Laura Mitchell
Corey Sweat
Dee Vest
Dell Butterfield-Alt

NOTICE OF PUBLIC HEARING

The Planning Commission will hold two public hearings at City Hall on Tuesday, October 25, 2022, beginning at 7:30 p.m. or as soon as agenda permits, as part of their regular meeting.

The hearings are intended to receive public comment on the following items:

1. Request to Rezone the property at 1390 W 1200 North from A-1 to Light Industrial.
2. Non-residential Accessory Structure Agreement. This proposal adds a requirement for a Non-residential Accessory Structure Agreement when building permits are requested for accessory structures in residential zones.

More information can be found on the city website at www.WBCity.org in the Calendar or Public Notices section. All interested parties are invited to participate in the hearing. Written comments may be submitted prior to the meeting to Recorder@WBCity.org.

This notice was posted at the city offices, on the State Public Notice website, and the City Website on October 14, 2022, by Cathy Brightwell, City Recorder.

MEMORANDUM



TO: Commissioners

DATE: October 21, 2022

FROM: Staff

RE: Rezone/Text Change for Bill Goldberg – 1390 W 1200 North

As discussed at the October 11 planning commission meeting, this memo discusses a request from Bill Goldberg to rezone his property at 1390 W 1200 North.

Background

Mr. Goldberg would like to provide vehicle storage services on his property (indoor and outdoor) and provide some vehicle repair services. His request seeks a rezone of his property from A-1 to Commercial Highway (C-H) or Light Industrial (L-I) with a text change, if necessary, for Outdoor Vehicle Storage Overlay (OVSO). He provided an Exhibit to support the request that lists how he believes this will benefit the city, citizens, and property owner.

- This property was annexed into West Bountiful by Mr. Goldberg 2019.
- At time of annexation, this property was zoned by the city as A-1.
- The property is a flag lot.
- The requested annexation was due in part to the property owner's desire to build a new structure. This also involved the city creating the new Non-Commercial Structure use.
- The new requested uses are not permitted in the A-1 zone.
- The OVSO is permitted only in the B-U zone and limited to uses allowed in the underlying zone (A-1).

Review

Staff recommends that the commission consider the following in making its decision:

1. Mr. Goldberg has provided a site plan showing more details regarding the intended use of the property. Indoor and outdoor storage is labeled; auto repair services will be provided in all three of the building with customer service primarily provided in building #2. Access will continue to be provided from 1200 North.
 - a. WBMC 17.92.010 states explicitly that:

Outdoor storage facilities for "automobile graveyards," "tow yards," "salvage yards," "junk," "junk dealers," "scrap metal processors" and "junkyards" are prohibited.
 - b. In reviewing city code, vehicle storage is limited to vehicles currently for sale in the newly created Outdoor Vehicle Storage Overlay (OVSO). General car repair is a conditional use within the C-H zone. Therefore, it does not appear that combination of vehicle repair and storage is compatible in any existing zone. Mr. Goldberg's solution to this is to amend the new OVSO code to make it eligible in the C-H zone.

2. In reviewing potential zone changes in this area, the commission should:
 - a. Review the request in light of the city's General Plan.
 - i. This property is in the area that the city has designated to preserve agricultural uses.
 - ii. The Plan also states that "Commercial development will be concentrated along major transportation corridors."
 - b. Consider all other permitted and conditional uses in the proposed zone to ensure that they are compatible and desired in the area. This would include considering the impact of adding the OVSO to the C-H zone and how that could impact areas along 500 South.
 - c. Consider the impact on neighboring existing properties.
 - i. The city's new public works facility is directly to the west of the property. A public facility is a conditional use in all zones and should not be the sole determinate for the zoning of adjacent properties.
 - ii. Residential property exists in front of the property under consideration (it is a flag lot) and directly across the street to the south on 1200 N, which appears to be the only access to Mr. Goldberg's property.
 1. There was previously a legal non-conforming auto repair business on the southside of 1200 N (Tracy's); however, this business has not operated for many years and has lost its legal status.
 - iii. The properties to the east and north are currently in unincorporated Davis County. They are within the city's annexation plan, and their zoning within the city will be determined at time of annexation. The General Plan currently envisions these properties as being zoned A-1.
3. In discussions with Mr. Goldberg, it appears he does not care which zone to apply to his property as long as the proposed uses are allowed. He has asked to bring this issue to the Commission so the request and any suggested options can be discussed.
4. Mr. Goldberg claims that the city's maintenance shop has devalued his property making it less desirable for residential use.



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: 1390 West 1200 North DATE OF APPLICATION: 29 SEPT 2022

PARCEL NUMBER: 064290001 CURRENT ZONE: A-1 PROPOSED ZONE: L-I

LEGAL DESCRIPTION ATTACHED: YES NO B-U With text change to add OSVO

Applicant Name(s): William Goldberg

Applicant Address (if different than above): 855 West 400 North

Primary phone: 801-209-2881 E-mail address: ABELGIAN@MSN.com

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

See exhibits A-B-C

Rezone A-1 to L-I with text change
to add overlay for outdoor storage and
auto repair

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: 29 SEPT 2022

Applicant Signature: [Signature]

FOR OFFICIAL USE ONLY

Application & \$150 Fee Received Date: 9/29/22

Public Hearing Date: 10/25/22

Letters sent to affected neighbors: 10/14/22

Planning Commission Approval: _____

City Council Approval: _____

EXIBIT A

I Benefit to City/Citizens

1. Upgrade in taxes/general finance
2. Upgrade in visual/environment (on site)
3. Upgrade constant upkeep and cleanliness
4. Provide a transition area from city maintenance to residential

II General

1. No change in noise/odor/light/general environment
2. No change in traffic
3. In keeping with nearby and adjacent buildings and land (exhibit B, C)
4. No change in general use over the previous 50 years
5. Text change to add OVSU to L - I

III Benefit for Owner

1. Finally some income for heretofore "dead land"
2. Land has never had any agricultural or residential potential
3. Residential potential has now dropped precipitously with City Shops next door (exhibit B,C)

IV Intended Uses

1. Outdoor parking (RV, trailer, light use equipment)
2. Auto restoration, repair
3. Misc light fix-it

Exhibit B



EXHIBIT B

Exhibit C

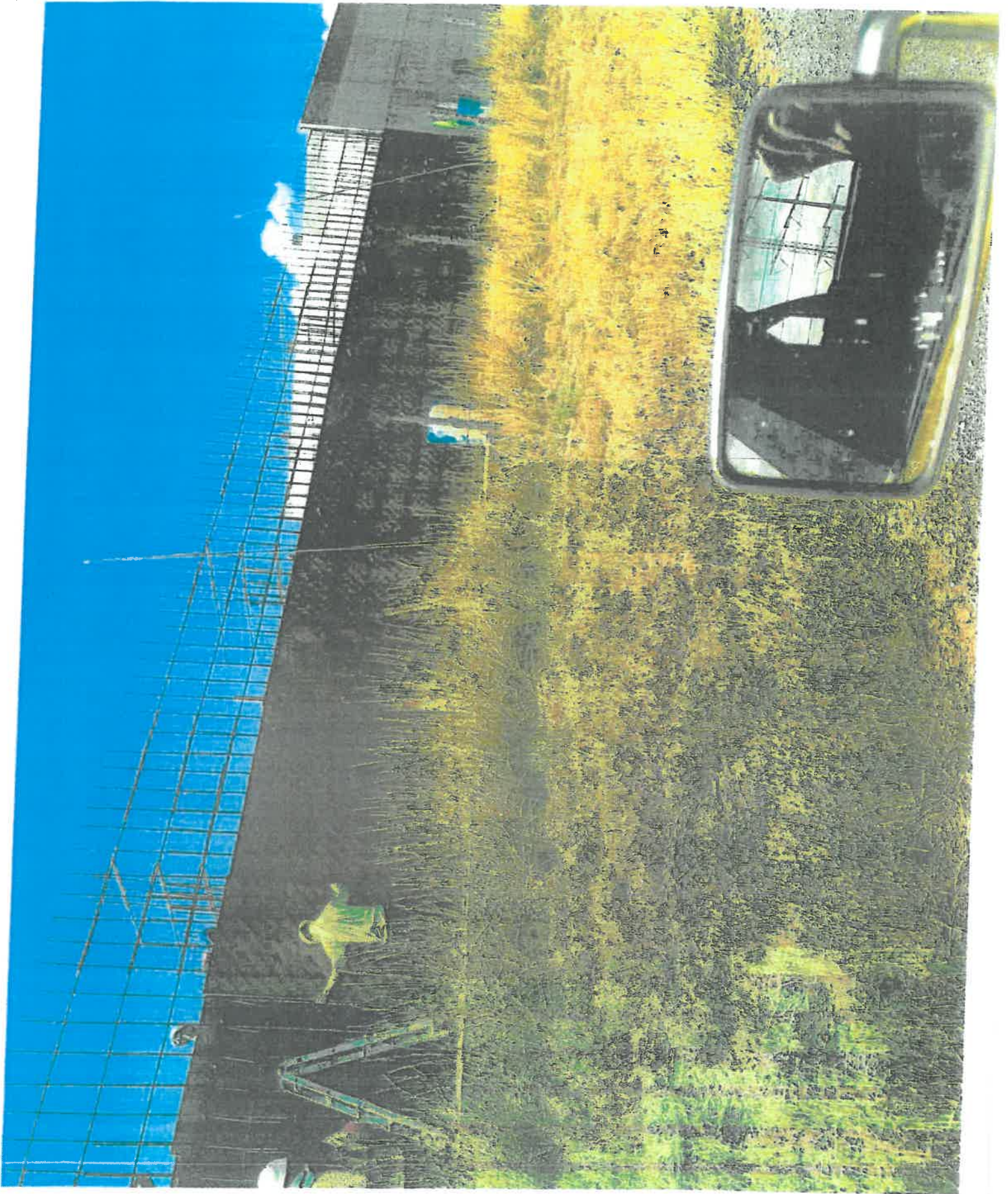


Exhibit C

1400 NORTH

32 FT

LEGACY HWY

1000 FT

GOLDBERG LOT

C WRIGHT

RV / TRAILER STORE

HAY

G.H.

BLDG
1

INSIDE
STORE

BLDG
2

BLDG.
3

SELLERS

KILPACK

CITY SHOP

50 FT

1200 NORTH

MEMORANDUM



TO: Commissioners

DATE: October 21, 2022

FROM: Staff

RE: Non-Residential Accessory Structure Agreement Discussion

Background

The city's accessory dwelling unit (ADU) regulations require ADUs to be internal to the primary structure or attached to the primary structure. Property owners that apply for an ADU must sign an agreement acknowledging that they understand the regulations and agree to comply. This agreement is recorded on the property to ensure that future owners are aware of the restrictions.

The city has encountered situations where building permits for accessory structures include elements such as bathroom and/or cooking facilities or appear designed for overnight accommodations. These elements themselves are not prohibited in accessory structures, but their inclusion makes the possibility of an illegal ADU much higher. Additionally, in many situations involving illegal detached ADUs, the owner claims they did not know detached ADUs were prohibited.

Recommendation

As discussed at the last planning commission meeting, staff is proposing a Non-Residential Accessory Structure Agreement to be required when a building permit is issued for accessory structures. This agreement will be recorded on the property to confirm that current owners understand the rules and future owners are aware of the restrictions. This recordation is not a lien but a way to share information about the property. No fees or charges will be assessed for the Agreement.

Modifications to the ADU regulations (WBMC 17.82) prepared by Mr. Doxey are attached for consideration at the public hearing scheduled for October 25, 2022.

CHANGES TO WBMC CHAPTER 17.82

1. **17.82.040 Development Standards** The development standards set forth in this section shall apply to any ADU ~~allowed as a conditional use~~. (*Clean-up. This should have been deleted when ADUs were changed from Conditional Use to Permitted Use in 2021.*)
2. **Add a new Section 17.82.050 Non-residential Accessory Structures**, as follows:
 - A. **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.
 - B. **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.
 - C. **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.

Related definitions:

“**Dwelling**” means any building or portion thereof designed or used for residential purposes, but not including a hotel, motel, hospital, or nursing home.

“**Dwelling unit**” means one or more rooms within a dwelling, physically arranged with separate bathroom, cooking, and sleeping facilities used as an independent housekeeping unit.

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

West Bountiful City

October 11, 2022

Planning Commission Meeting

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 October 7, 2022, per state statutory requirement.*

Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday, October 11, 2022, at West Bountiful City Hall, Davis County, Utah.

Those in Attendance:

MEMBERS ATTENDING: Chairman Alan Malan, Commissioners Laura Mitchell, Mike Cottle, Dell Butterfield, and Council member Kelly Enquist.

MEMBERS EXCUSED: Corey Sweat, Dennis Vest.

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

VISITORS: Richmond Thornley

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

**1. Prayer by Commissioner Mitchell
Pledge of Allegiance- Commissioner Malan**

2. Confirm Agenda

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

3. Request for Rezone and Text Change- Bill Goldberg

Commissioner packets included a memorandum dated October 9, 2022, from Staff regarding a Request for Rezone and Text Change from Bill Goldberg at 1390 West 1200 North including an application and an exhibit that lists how he believes this request will benefit the city, citizens, and property owner.

Cathy Brightwell introduced the application submitted by Mr. Goldberg. She stated that he would like to provide vehicle storage services on his property (indoor and outdoor) and provide some vehicle repair services. His request seeks a rezone of his property from A-1 to Light Industrial (L-I) with a text change, if necessary, for Outdoor Vehicle Storage Overlay (OVSO). Ms. Brightwell offered additional history.

- This property was annexed into West Bountiful by the current property owner in 2019.
- At time of annexation, this property was zoned by the city as A-1.
- The property is a flag lot.
- The requested annexation was due in part to the property owner's desire to build a new structure. This also involved the city creating the new Non-Commercial Structure use.
- The new requested uses are not permitted in the A-1 zone.

- The OVSO is currently permitted only in the B-U zone and is limited to uses allowed in the underlying zone (A-1).
- In discussions with Mr. Goldberg, it appears he does not care which zone to apply to his property as long as the proposed uses are allowed. He has asked to bring this issue to the Commission so the request and any suggested options can be discussed.

Staff Review and Recommendations:

In reviewing this request, staff recommended that the commission consider the following:

1. It may be appropriate to request more details from the applicant regarding the intended use of the property, e.g., potential site plans, access, details on the scope of business, traffic, etc.
 - a. WBMC 17.92.010 states explicitly that: Outdoor storage facilities for "automobile graveyards," "tow yards," "salvage yards," "junk," "junk dealers," "scrap metal processors" and "junkyards" are prohibited.
 - b. Vehicle storage is limited to vehicles currently for sale and the newly created Outdoor Vehicle Storage Overlay (OVSO). However, general car repair is a use within the L-I or potentially C-H zones. Therefore, it does not appear that the combination of vehicle repair and storage is compatible in any existing zone. Mr. Goldberg's solution to this is to amend the new OVSO code to make it eligible in the L-I zone.
2. In reviewing potential zone changes in this area, the commission should:
 - a. Review the request in light of the city's General Plan.
 - i. This property is in the area that the city has designated to preserve agricultural uses.
 - ii. The Plan also states that "Commercial development will be concentrated along major transportation corridors."
 - b. Consider all other permitted and conditional uses in the proposed zone to ensure that they are compatible and desired in the area. This would include considering the impact of adding the OVSO to the L-I zone and how that could impact areas along 500 South.
 - c. Consider the impact on neighboring existing properties.
 - i. The city's new public works facility is directly to the west of the property. A public facility is a conditional use in all zones and should not be the sole determinate for the zoning of adjacent properties.
 - ii. Residential property exists in front of the property under consideration (it is a flag lot) and directly across the street to the south on 1200 N, which appears to be the only access to Mr. Goldberg's property. There was previously a legal non-conforming auto repair business on the southside of 1200 N (Tracy's); however, this business has not operated for many years and has lost its legal status.
 - iii. The properties to the east and north are in unincorporated Davis County. They are within the city's annexation plan, and their zoning will be determined at time of annexation. The General Plan currently envisions these properties as being zoned A-1.

Commissioner Discussion:

Mr. Goldberg was not present this evening for this agenda item discussion. Commissioners had questions they would have liked to ask him in addition to the information proposed this evening.

With the limited information provided, Commission Mitchell was not in support of changing the zone or making an overlay zone amid the A-1 zone that presently exists. She also opposed any text changes suggested.

Commissioner Sweat was unable to attend the meeting but had emailed comments stating he was not supportive of the change. Commissioners Cottle and Butterfield agreed.

Chairman Malan asked staff to contact Mr. Goldberg and request more information including a site plan showing where vehicles will be stored, indoor and outdoor, and where auto repairs are proposed.

A public hearing will be scheduled for the next meeting, October 25, 2022.

4. Non-Residential Accessory Structure Agreement Discussion.

Commissioner packets included a memorandum dated October 7, 2022, from Staff recommending a Non-Residential Accessory Structure agreement when issuing a building permit for accessory structures with a redlined copy of proposed changes to WBMC Chapter 17.82.

Background

Cathy Brightwell introduced this item for discussion regarding the city's accessory dwelling unit (ADU) regulations requirements as ADUs to be internal to or attached to the primary structure. She stated that property owners who apply for an ADU must sign an agreement acknowledging that they understand the regulations and agree to comply. This agreement is recorded on the property to ensure that future owners are aware of the restrictions.

Ms. Brightwell explained that the city has encountered situations where building permits for accessory structures that did not include any plans for living quarters have resulted in the construction of an illegal detached ADU. Elements such as bathroom and/or cooking facilities, and designs for overnight accommodations are not prohibited in accessory structures, but their inclusion makes the possibility of an illegal ADU much higher. Additionally, in many situations involving illegal detached ADUs, the owner claims they did not know detached ADUs were prohibited.

Recommendation for Discussion

In an attempt to address this problem, staff is proposing a Non-Residential Accessory Structure Agreement be required when a building permit is issued for accessory structures in residential areas. This agreement will be recorded on the property to confirm that current owners understand the rules and future owners are aware of the restrictions.

Mr. Doxey has prepared modifications to the ADU regulations (WBMC 17.82) that include two options. Option 1 requires the Agreement only for accessory structures that contain bathroom and/or cooking facilities or appear designed for overnight accommodations. Option 2 requires the Agreement for ALL Accessory Structures, which is staff's preference.

Commissioners' discussion: Chairman Malan opposes the proposal and believes the only thing that it will do is increase the cost of the building permit and will not stop illegal ADU's. Cathy Brightwell responded that no additional costs or fees will be incurred by the property owner. The agreement will be a simple

document that will make code enforcement easier especially when a property owner denies knowledge of the regulations, and more importantly make future buyers aware of the restrictions.

Commissioner Cottle was asked if having the restriction on a title report would be an effective way for future buyers to know about the regulations. He responded that in his experience as a realtor, items on a title report are a very good way to ensure information is seen by a buyer as this document is reviewed prior to completing a sale. The intent is to provide protection to buyers. Commissioner Butterfield agreed that conditions listed on title reports are important from his experience with his HOA.

Council member Enquist stated that the issue of detached ADUs has been discussed at the legislature and he would not be surprised if they direct cities to allow them at some point in the near future.

Commissioners Mitchell, Cottle and Butterfield supported the staff's Option 2 proposal.

A public hearing will be scheduled for the October 25, 2022, meeting.

5. Consider Meeting Minutes from September 13, 2022

Action Taken:

Laura Mitchell moved to approve the minutes from September 13, 2022, as presented. Mike Cottle seconded the motion and voting was unanimous in favor.

6. Staff Report

Cathy Brightwell:

- Loveland Gardens, on Pages Lane, has requested annexation to our city. Cathy explained the process and what will happen.

Kris Nilsen:

- The Denise Montgomery property on 400 North was listed for sale. Kris explained how she wants to divide the property and options to provide access to public roadways to avoid landlocking the area. This item is scheduled to be on the next agenda.
- Ivory Homes is still working on conditions for their final plat which was approved by city council.
- The Public Works building construction is moving along quickly.
- 400 North well is completed with fluoride and chlorine. The city is not pumping from it. They are first using the remaining Weber Basin allotment.

Commissioner Comments:

- Laura Mitchell reported that she has received comments suggesting the city not hold a 3 day clean up on Fall Break weekend, especially now that the clean-up schedule only includes one Saturday.
- Alan Malan proposed getting rid of the green patch in the turn around at the end of 1200 North Legacy Trailhead stating that it creates too tight of a turn and is not necessary.

7. Adjourn.

Action Taken:

Mike Cottle moved to adjourn the regular session of the Planning Commission meeting at 8:45 pm.

Laura Mitchell seconded the motion. Voting was unanimous in favor.

.....

The foregoing was approved by the West Bountiful City Planning Commission on October 25, 2022, by unanimous vote of all members present.

Cathy Brightwell – City Recorder