

**Mayor**  
Kenneth Romney

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

**City Recorder/  
Community  
Development**  
Cathy Brightwell

# **WEST BOUNTIFUL PLANNING COMMISSION**

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West Bountiful, Utah 84087

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**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, JANUARY 10, 2023, AT THE CITY OFFICES.**

1. Prayer/Thought – Commissioner Vest;  
Pledge of Allegiance – Commissioner Mitchell.
2. Confirm Agenda.
3. Discuss New Model Home Ordinance, WBMC Chapter 17.74.
4. Discuss Updates to the Swimming Pool Ordinance, WBMC Chapter 17.76.
5. Discuss Clean-up Corrections and Updates to Miscellaneous Land Use Regulations in  
Titles 16 and 17.
6. Consider Meeting Minutes from October 25, 2022.
7. Staff report
  - a. Engineering (Kris Nilsen)
  - b. Community Development (Cathy Brightwell)
8. Adjourn.

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*This notice has been sent to the Davis Journal and was posted on the State Public Notice Website  
and the city website on January 6, 2023, by Cathy Brightwell, City Recorder.*

# MEMORANDUM



**TO:** Commissioners

**DATE:** January 6, 2023

**FROM:** Staff

**RE:** Model Homes/Sales Trailers

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This memo introduces a proposal by staff to allow model homes and sales trailers for large subdivision developments.

## Background

The city has occasionally been asked to allow model homes or sales trailers in new subdivisions. Neither of these uses are currently included in city code. In the past, these requests have been addressed as part of a development agreement for a PUD.

Ivory Homes has requested a sales trailer on their recently approved 6-lot subdivision, Belmont Farms, Phase 1, so they can begin selling future lots. This sales trailer is intended to be used only until a model home can be built.

## Recommendation for Discussion

Staff is proposing a new ordinance for sales trailers and model homes that provide regulations and standards required for this use. Because the standards will be provided in Code, staff recommends the use be listed as permitted in all residential zones and the Housing in Certain Commercial Areas Overlay.

The attached draft is provided for discussion with plans to set a public hearing on January 24.

## WEST BOUNTIFUL MUNICIPAL CODE – MODEL HOMES

### 17.16.030, 17.20.030, 17.24.030 – Permitted Uses (A-1, R-1-10, R-1-22)

*Add to each section:*

“Model homes, subject to Chapter 17.74.”

### 17.44.040 Housing in Certain Commercial Areas Overlay

*Add to this section:*

“Model homes shall be permitted in the HCCO, subject to Chapter 17.74.”

*New Chapter:*

## **17.74 Model Homes/Sales Trailers**

### 17.74.010 Purpose

The purpose of this chapter is to establish use and development standards for model homes to facilitate the sale of homes within an active development.

### 17.74.020 Definition

As used in this chapter, the following terms are defined as follows:

“Model home” means a dwelling used as a temporary on-site sales office for a residential development under construction.

“Sales trailer” means a trailer used as a temporary on-site sales office for a residential development until a model home can be constructed.

### 17.74.030 Use

A model home or sales trailer will be allowed for use as an on-site sales facility for subdivisions consisting of at least six (6) homes, subject to the following:

- A. Adequate off-street parking consisting of gravel, concrete, asphalt, or other approved surface will be provided for personnel working in the model home or sales trailer, as well as at least two (2) parking spaces for visitors.
- B. The hours of operation will be posted and limited to 7 am – 10 pm.
- C. The model home or sales trailer shall not be used as a general real estate office but will be limited to the sale of homes within the development.
- D. A maximum of two (2) model homes will be allowed in each subdivision plat.
- E. Duration.
  - a. Sales trailers may be operated once a building permit is issued for a model home and continue for no more than 270 days.

- b. Model homes may be operated until thirty (30) days after a final occupancy permit is issued for the last dwelling in the development.
- F. When the use of the model home as a sales office is discontinued, the home shall be converted to meet all city standards and land use regulations for the dwelling.

#### 17.74.040 Development Standards

The following development standards apply to all model homes and sales trailers:

- A. After a subdivision plat has been recorded, building permits for model homes and sales trailers may be issued before completion of approved improvements, subject to the following requirements:
  - 1. The applicant must provide proof of ownership of the property where the model home or sales trailer is proposed to be located.
  - 2. The applicant must sign a statement acknowledging that the applicant takes full responsibility for the risks being taken by constructing a model home or maintaining a sales trailer on-site before the approved improvements are completed.
  - 3. Hard surfaced roads consisting of asphalt, concrete, or other approved surface capable of supporting traffic loads must be completed such that they provide reasonable access to the model home or sales trailer.
  - 4. All fire protection requirements must be met as set and approved, in writing, by the South Davis Metro Fire District.
  - 5. All utility improvements for the full plat must be completed.
  - 6. A Class B Certificate of Occupancy may be issued prior to completion of all approved improvements, subject to approval by the city engineer and building official based on recognized safety standards.
- B. Model homes must comply with all standards and conditions of approval for the development, including building materials, setbacks, and landscaping.
- C. Model homes must comply with all applicable residential dwelling construction standards before and after the discontinued use as a sales office.

# MEMORANDUM



**TO: Commissioners**

**DATE: January 6, 2023**

**FROM: Staff**

**RE: Swimming Pool Updates – WBMC 17.76**

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This memo introduces a proposal to update the city's Swimming Pool regulations to match current standards.

## Background

1. Setbacks for pools are not consistent with setbacks for other rear yard structures or subdivision public utility easements (PUE).
2. The city currently requires a 6 foot fence with self-closing/self-latching gates to enclose a private swimming pool. This safety measure is intended to keep small children and other non-invited guests from accessing a private backyard pool and risk drowning.

Updates have been made to the ASTM Standards (American Society for Testing & Materials) which are adopted as part of the International Residential Building Code (IRC) that provide an exception to the fencing requirement. The exception allows pools with powered safety covers that comply with ASTM F 1346-91 not to meet the fencing standards.

Covers that meet the standard:

- a. Hold a weight of at least 485 lbs (the estimated average weight of 2 adults and 1 child) to permit rescue operation.
- b. Must demonstrate that any opening is sufficiently small and strong enough to prevent the test object begin passed through.
- c. Include safeguards for surface water drainage from collecting on the cover's surface.
- d. Include labels with basic consumer information such as the warranty information, the appropriate warnings as described in the standard, and acknowledge the product as a safety cover.

## Recommendation for Discussion

1. Staff is proposing pool setbacks for side yards be changed from 10 feet to 7 feet to be more consistent with other rear yard structures and the typical side yard PUE. The 10 foot rear yard setback should remain so that pools do not encroach into the typical 10 ft. rear yard subdivision PUE.
2. Add an exception to 17.76.020.B eliminating the requirement for safety fencing if the pool has a powered safety cover that complies with current standards. This designation is routinely listed on the pool cover, on the company's website, literature, and brochures.

The attached draft is provided for discussion with plans to set a public hearing on January 24.

## **17.76 Swimming Pools**

### **17.76.010 Definitions**

#### **17.76.020 Private Pools And Use**

#### **17.76.030 Semi-Private Pools And Use**

### **17.76.010 Definitions**

As used in this chapter:

**"Private swimming pool"** means any constructed pool that is used, or intended to be used, as a swimming pool in connection with a single family residence and available only to the family of the household and private guests.

**"Semi-private swimming pool"** means any constructed pool which is used, or intended to be used, as a swimming pool in connection with a neighborhood recreational facility.

**"Swimming pool"** means any constructed pool used for bathing or swimming which is over twenty-four (24) inches in depth, or with a surface area exceeding two hundred fifty (250) square feet.

### **17.76.020 Private Pools And Use**

**A.** Swimming pools not completely enclosed within a building having solid walls shall be set back at least ten (10) feet from all rear property lines and seven (7) feet from all side and rear property lines.

**B.** Swimming pools shall be completely surrounded by a fence or wall having a height of at least six feet. There shall be no openings larger than thirty-six (36) square inches, except for gates which shall be equipped with self-closing and self-latching devices. Such gates shall be securely locked when the swimming pool is not in use by persons invited by the owner.

Exception. Swimming pools with a powered safety cover that complies with current standards, including ASTM F1346.

**C.** Private swimming pools must not directly connect to the city's culinary water system or to the public sewer system.

# MEMORANDUM



**TO: Commissioners**

**DATE: January 6, 2023**

**FROM: Staff**

**RE: Miscellaneous Land Use Code Corrections and Updates**

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This memo provides updates and corrections to West Bountiful Land Use code in Titles 16 and 17.

## Background

Over time Mr. Doxey and staff have run across areas of the city's land use code that need corrections or updates to be consistent with the state Land Use, Development, and Management Act (LUDMA) UCA 10-9a.

## Recommendation for Discussion

The attached redline draft is provided for discussion with plans to set a public hearing on January 24.

## MISCELLANEOUS CLEAN-UP – LAND USE REGULATIONS

### 16.04.020 & 17.04.030 Definitions

“**Exaction**” means a condition, often in the form of impact fees, restrictive covenants, or land dedication, imposed at the time of obtaining a building or other development permit used to aid the city in providing public services. Conditional requirements should comply with the standards established in Chapter 17.60 Section 17.44.230 of this code.

“**Lot**” means a ~~parcel or portion~~ tract of land, regardless of any label, that is created by and shown established for purposes of sale, lease, finance, division of interest or separate use, or separated from other lands by description on a subdivision plat that has been recorded in the office of the county recorder map and/or parcel map, and having frontage upon a street.

“**Lot line adjustment**” means ~~the~~ relocation of ~~the property~~ a lot line boundary ~~line in a subdivision~~ between ~~two~~ adjoining lots or between a lot and adjoining parcels in accordance with UCA Section 10-9a-608 whether or not the lots are located in the same subdivision, and with the consent of the owners of record. “Lot line adjustment” does not mean a new boundary line that creates an additional lot or constitutes a subdivision.

“**Parcel**” means any real property that is not a lot.”

“**Subdivision**” means any land that is divided, re-subdivided, or proposed to be divided into two or more lots, ~~parcels, sites, units, plots,~~ or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

1. “Subdivision” includes:

- a. the division or development of land whether by deed, metes and bounds description, devise and testacy, ~~lease,~~ map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and
- b. except as provided in subsection 2., divisions of land for ~~all~~ residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

2. “Subdivision” does not include:

- a. a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of un-subdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable zoning ordinance;
- b. a boundary line agreement recorded with the county recorder’s office between owners of adjoining parcels adjusting the mutual boundary in accordance with UCA Section 10-9a-524 if no new parcel is created;
- c. a recorded document, executed by the owner of record revising the legal descriptions of multiple parcels more than one contiguous parcel of property into one legal description encompassing all such parcels ~~of property;~~ or joining a lot to a parcel; ~~subdivided parcel or property to another parcel or property that has not been subdivided, if the joinder does not violate applicable land use ordinances; or~~



- d. a ~~boundary line~~~~recorded~~ agreement between owners of adjoining subdivided properties adjusting their mutual boundary in accordance with UCA Sections 10-9a-524 and 10-9a-608 if no new dwelling lot or housing unit will result from the adjustment; and the adjustment will not violate any applicable land use ordinance;
- e. a bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division is in anticipation of future land use approvals on the parcel or parcels; does not confer any land use approvals; and has not been approved by the land use authority;
- f. a parcel boundary adjustment;
- g. a lot line adjustment;
- h. a road, street, or highway dedication plat;
- i. a deed or easement for a road, street, or highway purpose; or
- ~~4-~~j. any other division of land authorized by law.

- ~~3. The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this definition as to the un-subdivided parcel of property or subject the un-subdivided parcel to the municipality's subdivision ordinance.~~
- ~~2. For the purpose of this chapter, a subdivision of land shall also specifically include:~~
  - ~~1. The dedication of a street through or adjacent to a tract of land, regardless of area, which may create a division of lots or parcels constituting a subdivision;~~
  - ~~2. Re-subdivision of land previously divided or platted into lots, sites or parcels; and~~
  - ~~3. Condominium projects.~~

"Zoning administrator" means the ~~building inspector or other~~ person designated by the city council, typically the city engineer, to enforce the regulations of this title.

#### **16.08.010.B Scope of Compliance Required**

B. ~~Land-A Lot~~ shall not be transferred, sold, or offered for sale, nor shall a building permit be issued for a structure until a final plat of a subdivision shall have been recorded in accordance with this title and any applicable provisions of state law, and until the improvements required in connection with the subdivision have been guaranteed as provided herein. Building permits shall not be issued without written approval of all public agencies involved. No building depending on public water, sewer, energy facilities, or fire protection shall be permitted to be occupied until such facilities are fully provided and operational.

*(previous language implies a parcel outside a subdivision cannot be sold or a building permit issued for the parcel without a final plat.)*

#### **16.16.030 Final Plat**

K. Security for Public Improvements.

- 1. Prior to a final plat's approval by the city council and its recordation with the county recorder, the subdivider shall enter into a bond agreement acceptable to the city as security to insure completion of all improvements required in the subdivision. The bond agreement shall be in a form approved by the city council and may contain specific provisions approved by the city attorney. The agreement shall include but not be limited to the following requirements:

- a. The subdivider agrees to complete all improvements within a period of time not to exceed eighteen (18) months from the date the agreement is executed.
  - b. The improvements will be completed to the satisfaction of the city and in accordance with the city's subdivision standards and specifications (as established by the city engineer and adopted by the city council).
  - c. The bonds, consisting of an Improvement Bond, will be equal to one hundred ~~twenty~~ twenty (~~12~~100) percent of the city engineer's estimated cost of the improvements, including landscaping costs, and a Warranty Bond equal to ten (10) percent of the Improvement Bond.
  - d. The city shall have immediate access to the bond proceeds.
  - e. The bond proceeds may be reduced at intervals determined by the city upon the request of the subdivider as improvements are installed. The amount of all such reductions shall be determined by the city. Such requests may be made only once every thirty (30) days and no reduction shall be authorized until such time as the city has inspected the improvements and found them to be in compliance with the city's standards and specifications. All reductions shall be by written authorization of the city engineer and no bond shall be reduced below ten (10) percent of its face value plus the estimated cost of slurry seal either before or after city's final acceptance. After the ~~two~~ two-year warranty period, the remaining proceeds plus interest shall be refunded to the subdivider. The amount of this interest will be calculated at a rate equal to that received on the city's other investments in the State Treasurer's Fund and shall be paid on the declining balance of the bond.
  - f. If the bond proceeds are inadequate to pay the cost of completing the improvements according to the city's standards and specifications for whatever reason, including previous reductions, the subdivider shall be responsible for the deficiency and no further building permits shall be issued in the subdivision until the improvements are completed; or, with city council approval, a new satisfactory bond has been executed and delivered to the city; or other satisfactory arrangements have been made to insure completion of the remaining improvements.
  - g. The city's costs of administration and cost of obtaining the bond proceeds, including attorney's fees and court costs, shall be deducted from any bond proceeds.
  - h. Upon receipt of the bond proceeds, after expiration of the time period for completion of the improvements, the cost of completion shall include reimbursement to the city for the costs of administration to complete the improvements.
  - i. The subdivider agrees to hold the city harmless from any and all liability which may arise as a result of the improvements which are installed until such time as the city certifies the improvements are complete and accepts the improvements at the end of the ~~two~~ two-year warranty period.
2. The bond agreements shall be one of the following forms as prescribed by the City:
    1. A cash bond agreement accompanied by a cashier's check payable only to the City; or
    2. An escrow bond agreement and account with a federally insured bank ~~for one hundred ten percent (110%) of the city engineer's estimated cost of the improvements, together with a ten (10) percent cash bond agreement~~ held only by the City.

N. Warranty Period. The warranty period referred to above shall commence upon the date that all improvements required by the city to be installed within the subdivision have been completed to the satisfaction of the city and a final on-site review thereof has been made approving the same. The warranty period shall commence at that date and shall continue for a period of ~~two~~ two-~~one~~ one years

thereafter. If any deficiencies are found by the city during the warranty period in materials or workmanship, the subdivider shall promptly resolve such defects or deficiencies and request the city engineer to review once more the improvements. At the end of the two-year warranty period the subdivider shall request the city engineer to make a final warranty period on-site review of all improvements. If the city engineer verifies that the improvements are acceptable, the city engineer shall notify the city administrator who shall refer the matter to the city council. The city council shall then review the matter and upon approval of the same shall release the balance of the security posted by the subdivider under the bond agreement.

### **17.52.070 Location Of Off-Street Parking**

Off-street parking in non-residential districts is allowed in the front setback, as long as the parking area is set back and the frontage of the property is permanently landscaped in accordance with Section 17.52.060.~~3C~~.

### **17.92.020 Storage/Merchandising/Zoning Permitted and Conditional Use Matrix**

Restrictions:

1. Provide for visual screening and security as determined by the city (the zoning administrator for permitted uses and the planning commission for conditional uses).
- ~~1-2.~~ Merchandise to be stored indoors after business hours.
- ~~2-3.~~ Storage not to exceed seven days, with a minimum of thirty (30) days between storage events.
- ~~3-4.~~ Storage to be accomplished within a three-sided, roofed building or structure.
- ~~4-5.~~ Merchandise shall be displayed in an orderly fashion and shall make up the majority of the business revenue or activity. All merchandise shall be of such a nature as to allow for immediate sale and use.
- ~~5-6.~~ Storage shall meet appropriate state and/or federal requirements for environmental protections.
- ~~6-7.~~ Seasonal merchandise.
- ~~7-8.~~ Materials or equipment used in manufacturing.
- ~~8-9.~~ Equipment exceeding 20 feet in height that will be visible from outside the perimeter of the property must be stored indoors; all materials that will be visible from outside the perimeter of the property must be stored indoors or within a three-sided, roofed building or structure.

1 West Bountiful City  
 2 Planning Commission Meeting

November 15, 2022

3 **PENDING – NOT APPROVED**

4 **Posting of Agenda** - The agenda for this meeting was posted on the Utah Public Notice website, on the  
 5 West Bountiful City website, and at city hall on November 10, 2022, per state statutory requirement.

6 Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday, November 15,  
 7 2022, at West Bountiful City Hall, Davis County, Utah. This meeting is being held in place of the Tuesday,  
 8 November 22<sup>nd</sup>, 2022, meeting which was canceled. The next regular meeting is scheduled to be held on  
 9 Tuesday, December 13, 2022.

10 **Those in Attendance:**

11 **MEMBERS ATTENDING:** Chairman Alan Malan, Corey Sweat, Dennis Vest, Laura Mitchell, Mike Cottle,  
 12 Dell Butterfield (Alternate), and Council member Kelly Enquist.

13 **MEMBERS EXCUSED:**

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

16 **VISITORS:** Bud Ingles, Jeanette Ingles, Wendy Hughes, Spencer Hughes

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

- 18 **1. Prayer by Commissioner Cottle**  
 19 **Pledge of Allegiance- Commissioner Butterfield**  
 20  
 21 **2. Confirm Agenda**

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

- 25  
 26 **3. Conditional Use Application for SH Excavation at 1465 North 1100 West- Spencer Hughes**  
 27

28 Commissioner packets included a memorandum dated November 10, 2022, from Staff regarding a home  
 29 occupation application for SH Excavation at 1465 N 1100 West for Spencer Hughes with attached  
 30 conditional use application, letter and photos from Bud Ingles, letter of explanation from Spencer and  
 31 Wendy Hughes, and additional information from Bud Ingles regarding neighboring properties.

32  
 33 Cathy Brightwell provided the following summary:  
 34

35 **Background**

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

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

48

49 Surrounding neighbors were notified of the home occupation business license application. The  
50 neighbors to the north, Bud and Jeanette Ingles, objected to the business so the city required Mr.  
51 Hughes to submit a conditional use application.

52

53 Mr. and Mrs. Ingles have expressed concern for some time that the dump truck entering and exiting the  
54 property to the north of the Hughes' home has caused damage to their home. They believe the  
55 vibrations from the truck driving along the property line closest to their home have resulted in cracks in  
56 their foundation and they are concerned about future damage to their property. The Ingles' are also  
57 concerned about other vehicles being used, parked, or stored on the property. Their written objection  
58 including many photographs of the property over the past 3 years was provided to the commission  
59 along with a rebuttal statement to comments provided the by Hughes.

60

#### 61 **History**

62 As stated by the Ingles, the city was first made aware of their concerns in 2019 after Mr. Ingles filed a  
63 Records Request seeking copies of zoning ordinances, conditional use permits, and/or business licenses  
64 for Spencer Hughes. Staff contacted Mr. Hughes and he stated that the equipment coming and going on  
65 the property was being used for the construction of the home. Mr. Ingles then asked the city to require  
66 Mr. Hughes to move his driveway from the north side of his home to the south, or to find off-site  
67 parking for his truck. The city determined it did not have the authority to require such a change. In 2021,  
68 Mr. Ingles sent a letter to the mayor, city council, and planning commission asking for help to solve the  
69 problem and encouraging the city to require Mr. Hughes to apply for a business license.

70

71 Cathy Brightwell reviewed the following regarding home occupation permits.

72

#### 73 **Review**

74 WBMC 5.28.010 defines a home occupation as any occupation conducted within a dwelling and carried  
75 on only by persons residing in the dwelling, which is clearly incidental and secondary to the use of the  
76 dwelling and for which a Home Occupation Business License has been issued by the city.

77

78 Section 5.28.040 lists restrictions for home occupations; those relevant to this case are listed below:

79 G. The home occupation must be operated entirely within the approved dwelling, except that 25% of  
80 a garage or accessory building or structure on the same property may be used, so long as it does  
81 not change the residential character of the lot.

82 L. The home occupation may not be a nuisance or cause undue disturbance to the neighborhood.

83 M. The home occupation may not alter the residential character of the premises or unreasonably  
84 disturb the peace and quiet of the neighborhood by reasons of color, design, materials,  
85 construction, lighting odors, sounds, noise, or vibrations.

86

87 The Ingles' consider this business to be a nuisance.

88

89 Cathy Brightwell stated that a decision on this request is an administrative action that must be decided  
90 based on existing regulations.

91

92 **Staff provided the following for consideration:**

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

106

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

113

114 Chairman Alan Malan called Spencer & Wendy Hughes to the stand for questions from the  
115 Commissioners.

116

117 Dell Butterfield stated that damage to the Ingles home is a concern but feels that some damage may be  
118 a result of the heavy traffic on 1100 West. He is in favor of replacing the retaining wall but wondered  
119 why it was necessary. Spencer replied that it is not built to code so the city is requiring it to be rebuilt,  
120 and he is trying to make their property look nicer.

121

122 Mike Cottle inquired what the equipment is used for. Spencer replied that during home construction  
123 and re-building the retaining wall, equipment is used for both personal and business activities.

124

125 Dennis Vest asked for clarification about what equipment can be stored within the 25% restriction. Staff  
126 responded that the 25% storage restriction applies to equipment used for his business. The dump truck  
127 is his primary business vehicle that he uses to get to and from job sites, similar to a truck driver who  
128 parks his semi at home. Because he also uses personal equipment on the property it is sometimes hard  
129 to determine what is the business and what is not at some points, but business equipment must be able  
130 to fit into 25% of the accessory building or garage.

131

132 Chairman Malan asked how he plans to rebuild the retaining wall while not disturbing Mr. Ingles  
133 property. Mr. Hughes stated that it may be difficult, but he believes he can build the wall while  
134 remaining on his side.

135

136 Kris Nilsen noted that he spoke to the surveyor and reported that the Hughes and Ingles have come to  
137 an agreement on the location of the property line. He also noted that a pipe Mr. Ingles placed in the  
138 street right of way and going along the property line is not needed for drainage. The building permit has  
139 been approved and has a drainage design included.

140  
141 Mr. Ingles said that water from the Dwayne Hughes and Spencer Hughes properties come to his  
142 property, and he placed the pipe to divert it away from his home.

143  
144 Corey Sweat asked if a fence between the properties is a possibility stating that fences sometimes make  
145 good neighbors. Mr. Hughes noted that it is in their plans down the road but is too costly for them at  
146 this time with their other home projects.

147  
148 Chairman Malan called the Ingles to the stand. Mr. Ingles thanked the commission for their public  
149 service and the work they do. He stated that he has been asking the city for years to honor their  
150 ordinances. He pointed out many things from his memorandum included in the meeting packet. He  
151 stated that there were no cracks before the Hughes began driving equipment off and on their property.  
152 They are concerned about their home and ask for denial of the home occupation permit.

153  
154 Mrs. Ingles noted that it is not just the dump truck but there are three pieces of equipment plus trailers  
155 running in and out all day long. Mr. Ingles showed photos of the damage he believes has been caused by  
156 the equipment but acknowledged he does not have proof of the cause. He explained that his home sits  
157 60 feet from the road and they receive no vibration from truck on the street, the only vibration they feel  
158 is from the traffic going in and out of the Hughes property. He stated it sometimes feels like an  
159 earthquake.

160  
161 Mr. Ingles had suggested that the driveway be moved to the south side of the Hughes property, but the  
162 city didn't feel like they could require that. He said they have tried to help Spencer so he can run his  
163 business without causing harm to their home by finding other properties to park his equipment on  
164 including a neighbor across the street.

165  
166 Mr. Ingles stated he does not believe Mr. Hughes' business complies the city's land use regulations. He  
167 pointed out the conditions of the various neighbors in the area and noted that this business negatively  
168 impacts the value of their homes. He feels like the city needs to consider what is happening in the  
169 neighborhood. He stressed that if Spencer is given a conditional use permit, future owners of  
170 neighboring properties may want to do the same thing.

171  
172 Jeanette Ingles took the stand and said she feels like she has been harassed by the Hughes and does not  
173 feel safe. She stated that their property was dug up while they were gone, and someone threw cones in  
174 their yard. Other things have been happening to their property to make them feel like they are being  
175 harassed. She said all this needs to stop. She is overwhelmed by what is going on and they cannot move  
176 from their home.

177  
178 Commissioners had no questions or comments for the Ingles.

179  
180 There was discussion about whether all the property owners within 300 feet were not notified as they  
181 did not appear on the list. Mr. Hughes responded that he spoke with the Solt property's son and with  
182 Jardine's. He did not talk to the owner of the vacant lot across the street, (Lackey) or the Loveland

183 Nursery. Chairman Malan noted that Loveland property is exempt as they are not located within the city  
184 boundaries. Spencer noted that he thought he covered the 300 foot boundaries.  
185 Cathy Brightwell explained that the neighbor notifications are required to let neighbors know what is  
186 going on in surrounding properties in case there is an impact to them. Signatures, for or against, do not  
187 change the outcome of an application, it only provides information to neighbors and an opportunity to  
188 raise concerns. She noted that she may not have reviewed the list in as much detail as necessary to  
189 determine if all required properties were included.

190

191 In considering an application, staff must take the property owners word as to how they use their  
192 property and equipment. Oftentimes, neighbors are more aware of what's going on and can provide  
193 good information.

194

195 Chairman Malan explained that the request is for a business license and because of the objection by the  
196 Ingles' it went to the conditional use permit level. State law requires approval of a conditional use  
197 permit if reasonable conditions can be imposed to mitigate the reasonably anticipated detrimental  
198 effects of the proposed use.

199

200 Corey Sweat stated that there appears to be some confusion as to what the conditional use permit will  
201 allow. If approved, it does not give permission for the Hughes to do to whatever they want on their  
202 property. It is tied specifically to the home occupation request and will give the city grounds to enforce  
203 the conditions placed on the applicant. The commission tries to put reasonable conditions in place to  
204 protect surrounding neighbors. He noted that he does not see a way to deny this application as it is  
205 presented.

206

207 Chairman Malan called Spencer Hughes to the stand to clearly explain what business is going to take  
208 place on his property. Mr. Hughes stated that it is mostly office work. His equipment is used to transport  
209 product to properties and if it is on his property, it is for personal projects. The SkidSteer and Mini X are  
210 his business equipment and are generally stored off his property but will fit within 25% of his accessory  
211 building if necessary. Trailers are used to transport equipment.

212

213 Some discussion took place as to when the current building permits expire. Staff informed the  
214 commission that a permit can expire after 180 days of no activity but as long as work continues on the  
215 project the permit is active. In some circumstances, an extension can be granted by the inspector if  
216 needed.

217

218 **Action Taken:**

219

220 ***Laura Mitchell moved to approve the Home Occupation permit for SH Excavation at 1465 North 1100***  
221 ***West for Spencer Hughes in accordance with WBMC 5.28.010 with the following findings and***  
222 ***conditions: the proposed use and/or accompanying improvement will not inordinately impact schools,***  
223 ***utilities, and streets, and will conform to the intent of the city's general plan.***

224

225 ***The following conditions are intended to mitigate the reasonably anticipated detrimental effects of***  
226 ***the proposed use and accomplish the purposes of this subsection.***

227

1. ***The dump truck must be parked off-street***

228

2. ***Construction of the new retaining wall (building permit #1535 shall be completed no later than***  
229 ***July 1, 2023.***



- 230 **3. The dump truck must be empty upon entering and exiting the property when used for business**  
 231 **purposes.**  
 232 **4. Truck loads must meet all application state and city regulations, including truck load weight**  
 233 **(65,000 pounds) and loads above the top of truck bed to be covered.**  
 234 **5. Business equipment to be stored in a garage/accessory structure will not exceed 25% of the total**  
 235 **space.**  
 236 **6. No additional business equipment will be added without notice to the city for verification of**  
 237 **storage limits.**  
 238 **7. No external signage for the business.**  
 239 **8. A person who is not a resident of the dwelling shall not be employed to work on the premises.**  
 240 **9. Time of day restrictions and limiting the number of trips will not apply if the truck is empty.**  
 241  
 242

243 **4. Consider Meeting Minutes from October 25, 2022.**  
 244

245 **Action Taken:**

246 ***Dennis Vest moved to approve the minutes from October 25, 2022, as presented. Corey Sweat***  
 247 ***seconded the motion and voting was unanimous in favor.***  
 248  
 249

250 **5. Staff Report**  
 251

252 **Engineering (Kris Nilsen)**

- 253 • Belmont Farms is busy ramping up for their development and staff has been proactive in keeping  
 254 things under wraps. They are trying to pave by December.  
 255 • Progress is being made on the Public Works building. The floor is complete. Shooting for 90%  
 256 completion by December.  
 257 • Fluoride system is still creating issues, so the 400 North well is not running at present.  
 258 • Google Fiber is responsible for all the marked lines along the roadway. They have two permits open  
 259 to install conduit throughout the city. They intend to move very quickly.  
 260 • Staff is working on updating fees schedules, the general plan, and miscellaneous code changes.  
 261 • A grant application was submitted for funding a project to widen 1100 West from 400 North to 200  
 262 North and to connect sidewalk and bike lane. It looks like the funding will be approved in 2023.  
 263

264 **Community Development (Cathy Brightwell)**

- 265 • Working on the Ivory building permit for a model home. The detached ADU issue has been  
 266 addressed and the second lot to the North will be the location for their model home. They need to  
 267 complete their plat in order to begin.  
 268 • Approval was granted by the City Council for the Non-ADU updates as recommended by the  
 269 commission and they know that the commission will be addressing the issue of detached ADUs in  
 270 the future. Cathy noted that matching older homes to new ADU structures is difficult at times. A  
 271 request will be made by a property owner to change that requirement in our code.  
 272 • Getting ready for the Christmas on Onion Street which will be on December 10<sup>th</sup> at the WB Park  
 273 during the day from 2:00- 4:00 pm and the parade at night will begin at 5 pm.  
 274 • Commission Training- Wasatch Transportation Counts. Cathy will forward the link for training with a  
 275 list of how much time is needed for each commissioner to be in compliance. Please report you hours  
 276 to Cathy.

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**6. Adjourn.**

**Action Taken:**

***Mike Cottle moved to adjourn the regular session of the Planning Commission meeting at 9:10 pm.  
Corey Sweat seconded the motion. Voting was unanimous in favor.***

.....

*The foregoing was approved by the West Bountiful City Planning Commission on January 10, 2023 by  
unanimous vote of all members present.*

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*Cathy Brightwell – City Recorder*