

**Mayor**  
Kenneth Romney

# WEST BOUNTIFUL CITY

**City Administrator**  
Duane Huffman

**City Council**  
James Ahlstrom  
James Bruhn  
Kelly Enquist  
Mark Preece  
Rodney Wood

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**  
Vacant

**Public Works Director**  
Steve Maughan

**THE WEST BOUNTIFUL CITY COUNCIL WILL HOLD A  
REGULAR MEETING AT 7:30 PM ON TUESDAY, JULY 7, 2020  
AT WEST BOUNTIFUL CITY HALL**

**Meeting will be held both in-person and electronically via Zoom (see info below)**

**AGENDA:**

*7:30 pm Invocation/Thought – James Bruhn; Pledge of Allegiance – Kelly Enquist*

1. Approve the Agenda.
2. Public Comment - two minutes per person, or five minutes if speaking on behalf of a group.
3. Public Hearing – Vacate South Easement at 937 Meadowlark Lane - Hardman.
4. Resolution 473-20, A Resolution Vacating South Easement to Accommodate a Garage at 937 Meadowlark Lane.
5. Public Hearing – Vacate Easements at 1141 W 400 North - Desert Harbor.
6. Resolution 474-20, A Resolution Vacating East and South Easements to Accommodate a Non-commercial Structure at 1141 W 400 N.
7. Request for Deferral of Public Improvement Requirement at 982 W Porter Lane by John James.
8. Request for Deferral of Public Improvement Requirement at 1388 W 1200 North by Bill Goldberg.
9. Ordinance 428-20, An Ordinance Re-Approving the Annexation of Property at 1388 W 1200 North.
10. Ordinance 429-20, An Ordinance (1) Addressing A Petition Filed Under UCA §10-9a-528, (2) Amending WBMC Title 17 Regarding Medical Cannabis Regulations, and (3) Amending the WBMC Zoning Map.
11. Ashby Acres Subdivision Final Plat.
12. Public Hearing – Vacate North Easement at 786 W 1300 N - Maughan.
13. Resolution 475-20, A Resolution Vacating a Portion of the North Easement to Accommodate a Garage Extension at 786 W 1300 North.
14. CARES Funding.
15. Award of 2020 Seal Coat Project.
16. Minutes from June 16, 2020 City Council Meeting.
17. Public Works Report.
18. Administrative Report.
19. Mayor/Council Reports.
20. Closed Session for the Purpose of Discussing Items Allowed Pursuant to UCA § 52-4-205.
21. Adjourn.

*This agenda was posted on the State Public Notice website, the City website, emailed to the Mayor and City Council, and sent to the Clipper Publishing Company on July 2, 2020*

Those needing special accommodations can contact Cathy Brightwell at 801-292-4486 twenty-four hours prior to the meeting.

**Join Zoom Meeting:**

<https://us02web.zoom.us/j/82171076079>

**Meeting ID: 821 7107 6079**

One tap mobile

+13462487799,,82171076079# US (Houston)

+14086380968,,82171076079# US (San Jose)

Dial by your location

+1 346 248 7799 US (Houston)

+1 408 638 0968 US (San Jose)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 301 715 8592 US (Germantown)

+1 312 626 6799 US (Chicago)

+1 646 876 9923 US (New York)

Meeting ID: 821 7107 6079

Find your local number: <https://us02web.zoom.us/j/82171076079>

# MEMORANDUM



**TO:** Mayor and City Council

**DATE:** July 2, 2020

**FROM:** Cathy Brightwell

**RE:** Request to Vacate the South Public Utility Easement at 937 Meadowlark Lane

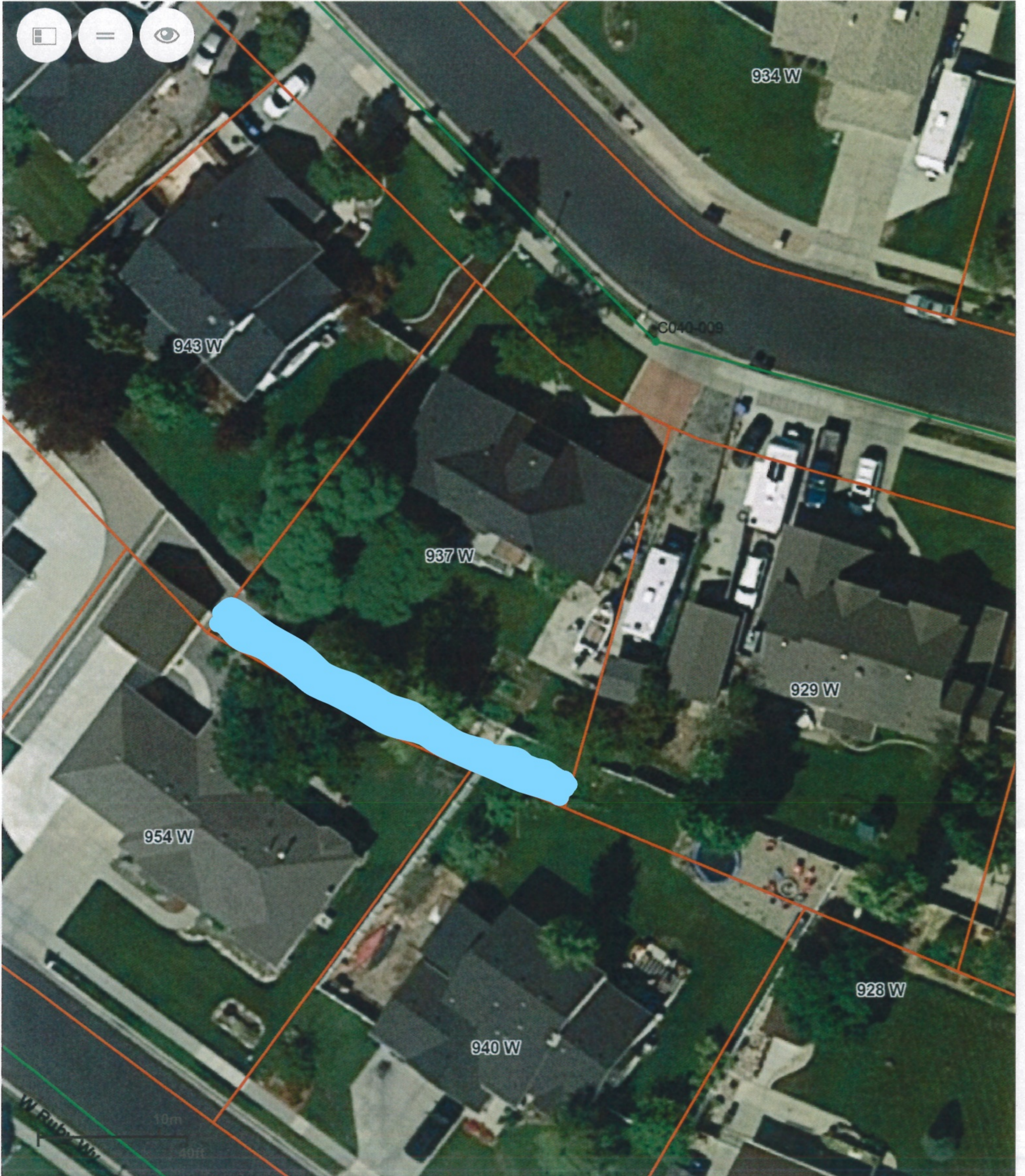
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The Hardman's wish to build a garage in the southeast corner of their property at 937 Meadowlark Lane but there is a conflict with the public utility easement along the rear property line.

The process outlined in state code to vacate easements requires the city council to hold a public hearing which includes providing notice prior to the hearing in a local newspaper, to neighboring properties and affected entities, posting on city and state websites, and posting a notice on the property.

Public notice has been completed, a hearing scheduled for July 7, 2020, and the property owner has provided copies of written confirmation from all major utility companies that they have no buried utilities in the easement and do not object to its release.

Staff does not foresee any negative impacts to the city by vacating the requested easement and recommends that Resolution 473-20 be approved.



**WEST BOUNTIFUL CITY**

RESOLUTION #473-20

**A RESOLUTION AUTHORIZING THE CITY MAYOR TO EXECUTE THE VACATION OF THE SOUTH PUBLIC UTILITY EASEMENT LOCATED AT 937 MEADOWLARK LANE**

**WHEREAS**, West Bountiful City has been petitioned by the owner of the above-mentioned property to vacate the south public utility easement on their property; and

**WHEREAS**, a public notice was published in the June 26, 2020 Davis Clipper Newspaper, posted on state and city websites and on the property, and letters sent to neighboring property owners and affected entities; and

**WHEREAS**, releases have been received from all major public utility agencies; and

**WHEREAS**, a public hearing was held on July 7, 2020 to receive public comment concerning the vacation of the easement.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of West Bountiful City as follows:

The West Bountiful City Council, having heard all arguments for and against the release of the utility easement approves the release as requested and hereby authorizes the City Mayor to execute the RELEASE OF EASEMENT for the property located at 937 Meadowlark Lane.

**EFFECTIVE DATE.** This resolution shall take effect immediately.

Passed and approved by the City Council of West Bountiful City this 7<sup>th</sup> day of July 2020.

\_\_\_\_\_  
Kenneth Romney, Mayor

<u>Voting by the City Council:</u>	<u>Aye</u>	<u>Nay</u>
Council member Ahlstrom	_____	_____
Council member Bruhn	_____	_____
Council member Enquist	_____	_____
Council member Preece	_____	_____
Council member Wood	_____	_____

ATTEST:

\_\_\_\_\_  
Cathy Brightwell, Recorder

# MEMORANDUM



**TO: Mayor and City Council**

**DATE: July 2, 2020**

**FROM: Cathy Brightwell**

**RE: Request to Vacate the Rear Portions of the South and East Utility Easements  
at 1141 W 400 North**

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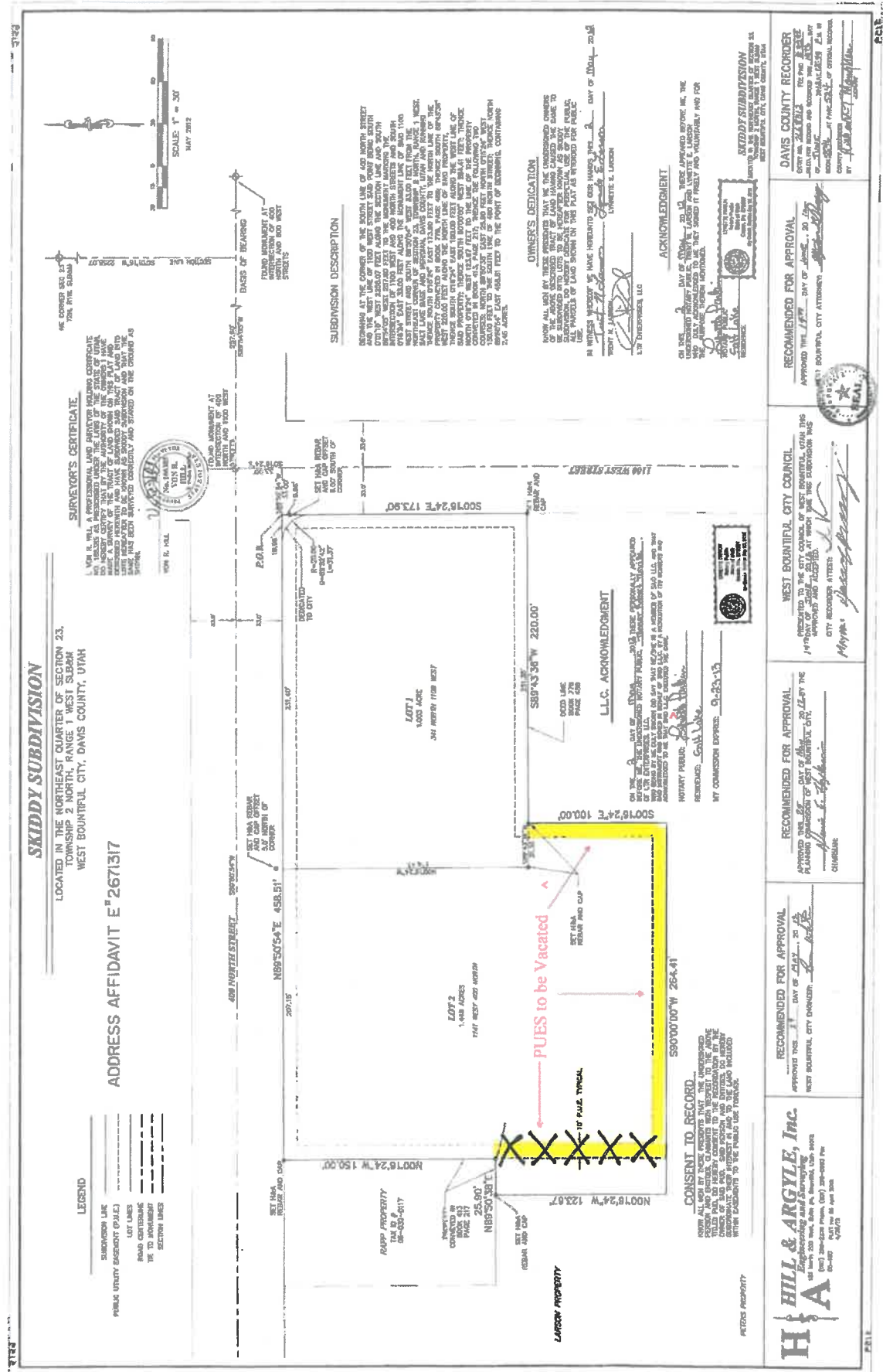
Desert Harbor owns the vacant property at 1141 W 400 North. They wish to build a large family gathering building in the southeast corner of the property but there is a conflict with the public utility easements on the south and east property lines. They have requested to vacate the west easement as well, but staff recommends holding that easement as future development may occur to the south and an easement could be useful to reach that property.

The process outlined in state code to vacate easements requires the city council to hold a public hearing which includes providing notice prior to the hearing in a local newspaper, to neighboring properties and affected entities, posting on city and state websites, and posting a notice on the property.

Public notice has been completed, a hearing scheduled for July 7, 2020, and the property owner has provided copies of written confirmation from all major utility companies that they have no buried utilities in the easement and do not object to its release.

Staff does not foresee any negative impacts to the city by vacating the above-described easements and recommends that Resolution 474-20 be approved.

# Desert Harbor



**SKIDDY SUBDIVISION**  
 LOCATED IN THE NORTHEAST QUARTER OF SECTION 23,  
 TOWNSHIP 2 NORTH, RANGE 1 WEST SUGAR  
 WEST BOUNTIFUL CITY, DAVIS COUNTY, UTAH  
**ADDRESS AFFIDAVIT E 2671317**

**SURVEYOR'S CERTIFICATE**  
 I, VIN B. HILL, A PROFESSIONAL LAND SURVEYOR HOLDING CERTIFICATE NO. 15087, HEREBY CERTIFY THAT BY THE AUTHORITY OF THE COMMISSION I HAVE REPRODUCED HEREON AND HAVE SUBSCRIBED SAID TRACT OF LAND AND SAID LOTS ACCORDING TO THE FIELD NOTES AND INSTRUMENTS AND THAT THE SAID LOTS HAVE BEEN CORRECTLY AND ACCURATELY SITUATED ON THE ORIGINAL PLAT.



**OWNER'S DEDICATION**  
 KNOW ALL MEN BY THESE PRESENTS THAT WE, THE UNDERSIGNED OWNERS OF THE HEREIN DESCRIBED PROPERTY, HAVE HEREBY VOLUNTARILY AND IRREVOCABLY DEDICATED TO THE PUBLIC THE HEREIN DESCRIBED PROPERTY AS SHOWN ON THE PLAT AS FOLLOWS FOR PUBLIC USE.

**ACKNOWLEDGMENT**  
 ON THIS 21<sup>ST</sup> DAY OF MAY, 2013, WE, THE UNDERSIGNED OWNERS OF THE HEREIN DESCRIBED PROPERTY, HAVE PERSONALLY APPEARED BEFORE ME, THE COUNTY CLERK OF DAVIS COUNTY, UTAH, AND HAVE DECLARED THAT WE ARE THE OWNERS OF SAID PROPERTY AND THAT WE HAVE VOLUNTARILY AND IRREVOCABLY DEDICATED TO THE PUBLIC THE HEREIN DESCRIBED PROPERTY AS SHOWN ON THE PLAT AS FOLLOWS FOR PUBLIC USE.

**RECOMMENDED FOR APPROVAL**  
 APPROVED THIS 21<sup>ST</sup> DAY OF MAY, 2013  
 WEST BOUNTIFUL CITY COUNCIL  
 CITY RECORDER ATTEST  
 Myra J. [Signature]

**RECOMMENDED FOR APPROVAL**  
 APPROVED THIS 21<sup>ST</sup> DAY OF MAY, 2013  
 WEST BOUNTIFUL CITY COUNCIL  
 CITY RECORDER ATTEST  
 Myra J. [Signature]

**RECOMMENDED FOR APPROVAL**  
 APPROVED THIS 21<sup>ST</sup> DAY OF MAY, 2013  
 WEST BOUNTIFUL CITY COUNCIL  
 CITY RECORDER ATTEST  
 Myra J. [Signature]

**RECOMMENDED FOR APPROVAL**  
 APPROVED THIS 21<sup>ST</sup> DAY OF MAY, 2013  
 WEST BOUNTIFUL CITY COUNCIL  
 CITY RECORDER ATTEST  
 Myra J. [Signature]

**RECOMMENDED FOR APPROVAL**  
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 WEST BOUNTIFUL CITY COUNCIL  
 CITY RECORDER ATTEST  
 Myra J. [Signature]

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 WEST BOUNTIFUL CITY COUNCIL  
 CITY RECORDER ATTEST  
 Myra J. [Signature]

**RECOMMENDED FOR APPROVAL**  
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 WEST BOUNTIFUL CITY COUNCIL  
 CITY RECORDER ATTEST  
 Myra J. [Signature]

**RECOMMENDED FOR APPROVAL**  
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 WEST BOUNTIFUL CITY COUNCIL  
 CITY RECORDER ATTEST  
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 CITY RECORDER ATTEST  
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 WEST BOUNTIFUL CITY COUNCIL  
 CITY RECORDER ATTEST  
 Myra J. [Signature]

**RECOMMENDED FOR APPROVAL**  
 APPROVED THIS 21<sup>ST</sup> DAY OF MAY, 2013  
 WEST BOUNTIFUL CITY COUNCIL  
 CITY RECORDER ATTEST  
 Myra J. [Signature]

5159

**WEST BOUNTIFUL CITY**

RESOLUTION #474-20

**A RESOLUTION AUTHORIZING THE CITY MAYOR TO EXECUTE THE VACATION OF THE REAR PORTIONS OF THE EAST AND SOUTH PUBLIC UTILITY EASEMENTS LOCATED AT 1141 W 400 NORTH**

**WHEREAS**, West Bountiful City has been petitioned by the owner of the above-mentioned property to vacate the rear portions of the east and south public utility easements on their property; and

**WHEREAS**, a public notice was published in the June 26, 2020 Davis Clipper Newspaper, letters sent to neighboring property owners and affected entities, posted on state and city websites and on the property; and

**WHEREAS**, releases have been received from all major public utility agencies; and

**WHEREAS**, a public hearing was held on July 7, 2020 to receive public comment concerning the vacation of the easement.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of West Bountiful City as follows:

The West Bountiful City Council, having heard all arguments for and against the release of the utility easements, approves the release and hereby authorizes the City Mayor to execute the RELEASE OF EASEMENT for the property located at 1141 W 400 North.

**EFFECTIVE DATE.** This resolution shall take effect immediately.

Passed and approved by the City Council of West Bountiful City this 7<sup>th</sup> day of July 2020.

\_\_\_\_\_  
Kenneth Romney, Mayor

<u>Voting by the City Council:</u>	<u>Aye</u>	<u>Nay</u>
Council member Ahlstrom	_____	_____
Council member Bruhn	_____	_____
Council member Enquist	_____	_____
Council member Preece	_____	_____
Council member Wood	_____	_____

ATTEST:

\_\_\_\_\_  
Cathy Brightwell, Recorder



# MEMORANDUM



**TO:** Mayor & Council

**DATE:** July 2, 2020

**FROM:** Staff

**RE:** Public Improvement Deferral Agreement  
982 W Porter Lane – John James

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John James recently purchased the Ryver property on Porter Lane. He has applied for a building permit to build a family home. The installation of public improvements such as curb, gutter, and sidewalks may be required on any existing or proposed street adjoining a lot on which a building is to be constructed or remodeled. Such improvements may be required as a condition of building permit approval. (WBMC 15.08.050)

Mr. James has requested deferral of the required improvements because there are currently no similar improvements adjacent to his property on the north side of the road. His property is at the far west end of the street and the nearest improvements are over 800 ft. to the east. Mr. James states in his request that installing these improvements is cost prohibited at this time, but he is willing to consider proposals for future development. He also argues that the prior home did not have these improvements and he is merely replacing the home that was destroyed by fire. He adds that there is sufficient drainage currently without curb, gutter, or sidewalk because the lot slopes southwest.

Deferral agreements have been granted in the past when city council determines it is in the best interest of the city and property owner after considering the following ~~three~~ points:

1. The most appropriate time to install the street improvements is at the time of the original construction. Asking future homeowners to construct improvements in the future would be viewed as a greater financial hardship.
2. The cost of improvements is likely to increase over time.
3. Having incomplete portions of curb and sidewalk is often unsightly and difficult to maintain. It would be better to have all the improvements constructed at the same time.
4. Future changes to the layout of the street, including items such as an equestrian trail in our more rural and less developed areas could be affected if improvements are constructed prematurely.

Possible motions could include:

1. Motion to adopt a Deferral of Public Improvements Agreement which will defer the required public improvements required by WBMC 15.08.050 until a future date.
2. Motion to require improvements be constructed now as a condition of a building permit.
3. Motion to not require the improvements now or in the future.

July 2, 2020

Hi Cathy,

Re: James Residence 982 Porter Lane, West Bountiful, Utah, 84057

I'm requesting a deferral on the improvements of curb, gutter and sidewalk at 982 Porter Lane in West Bountiful, Utah, 84087.

Currently it is cost prohibited and I would be willing to review a proposal in the future if the city is willing to do curb, gutter and sidewalk with the other 5-6 adjacent lots to the east which currently do not have curb, gutter or sidewalk. Additional reasons to support the request would be that the property had a home constructed prior but was demolished due to a fire and never had curb, gutter or sidewalk or was requested to install. It also may pose a safety issue in front of my residence due to the irregular alignment with the adjacent lot to the east with no curb, gutter or sidewalk. There is sufficient drainage currently without curb, gutter or sidewalk because the lot slopes southwest.

Thank you for your consideration, please contact me if you need any additional information.

Sincerely,

John James

(801) 598-0038

[john.josephmitchellllc@gmail.com](mailto:john.josephmitchellllc@gmail.com)

# MEMORANDUM



**TO:** Mayor & Council

**DATE:** July 2, 2020

**FROM:** Staff

**RE:** Public Improvement Deferral Agreement  
1388 W 1200 North (Goldberg Subdivision)

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William Goldberg has applied for a two-lot subdivision at the above address. The approval of all subdivisions, regardless of size, require the installation of public improvements including curb, gutter, sidewalk, and secondary water to meet the City's design standards. The city council may waive, modify, or delay the construction of all or part of the required improvements upon making specific findings supporting its decision. (WBMC 16.20.020)

Mr. Goldberg has requested deferral of the required improvements because there are currently no similar improvements anywhere on 1200 North. As design of the improvements is a costly part of preparing a subdivision plat, he would like a decision from the city council before proceeding with his subdivision so that he does not incur an unnecessary expense.

Deferral agreements have been granted in the past when city council determines it is in the best interest of the city and property owner after considering the following three points:

1. The most appropriate time to install the street improvements is at the time of the original construction. Asking future homeowners to construct improvements in the future would be viewed as a greater financial hardship.
2. The cost of improvements is likely to increase over time.
3. Having incomplete portions of curb and sidewalk is often unsightly and difficult to maintain. It would be better to have all the improvements constructed at the same time.
4. Future changes to the layout of the street, including items such as an equestrian trail in our more rural and less developed areas could be affected if improvements are constructed prematurely.

Possible motions could include:

1. Motion to adopt a Deferral of Public Improvements Agreement which will defer the required public improvements required by WBMC 16.20.020 until a future date.
2. Motion to require improvements be constructed now as part of the new subdivision.
3. Motion to not require the improvements now or in the future.

**From:** WILLIAM <[abelgian@msn.com](mailto:abelgian@msn.com)>  
**Sent:** Monday, June 22, 2020 2:20 PM  
**To:** Cathy Brightwell <[CBrightwell@wbcity.org](mailto:CBrightwell@wbcity.org)>  
**Subject:** Re: Gold Subdivision Public Improvements

City Council,

I , William Goldberg, would like to request a deferral of the requirement for sidewalk, curb and gutter for the Gold subdivision. There is no existing curb on the entire 1200 North street including the adjacent city owned property and also the city owned golf course.

Sincerely,

William Goldberg  
855 West 400 North  
West Bountiful

# MEMORANDUM



**TO:** Mayor and City Council

**DATE:** July 1, 2020

**FROM:** Staff

**RE:** Annexation Petition – Goldberg – approximately 1390 W 1200 North

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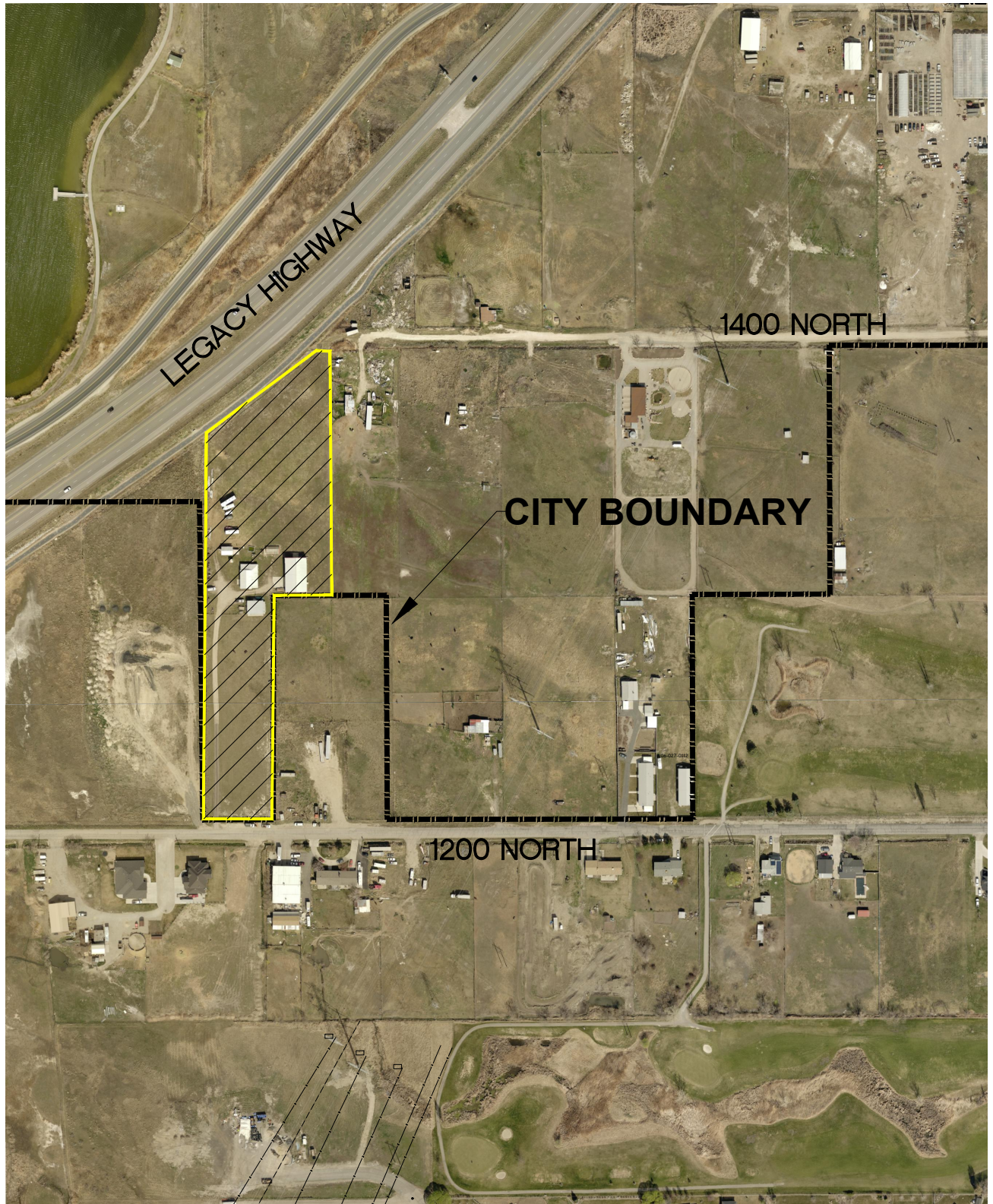
The city council approved William Goldberg’s Petition to Annex his property at 1390 W 1200 North earlier this year which included adopting Ordinance 421-20.

## HISTORY

- A Notice of Intent to Annex was submitted on September 20, 2019, and an Annexation Petition on October 22<sup>nd</sup> by the Goldberg’s and Kilpack’s for 5.14 acres of land they own that is not currently in West Bountiful City boundaries. The property is located at approximately 1390 W 1200 North.
- Notice of the Certified Petition was mailed to all affected entities on November 22, 2019, and posted in the Davis Clipper on November 27, December 5, and December 12, 2019, setting a protest date of December 27, 2019, and a public hearing date of January 7, 2020. No protests have been received.
- On December 10<sup>th</sup>, the Planning Commission recommended that the Goldberg property be given an A-1 zoning designation when it is annexed into the city.
- The city council held a public hearing on January 7, 2020 and adopted Ordinance 421-20 on March 17, 2020.

The process to complete the annexation required a local entity plat of the property signed by the county surveyor to be provided to the lieutenant governor’s office within 60 days of adoption of the municipal ordinance. Due to various circumstances, the local entity plat was not received from Mr. Goldberg until early June and then approved by the county mid-June which was beyond the deadline.

To complete the annexation of this property a new ordinance must be signed so the date falls within the 60-day window. Ordinance 428-20 is recommended for adoption.



**GOLDBERG ANNEXATION**

# WEST BOUNTIFUL CITY

## ORDINANCE #421-20

### AN ORDINANCE AMENDING THE MUNICIPAL ZONING MAP, ANNEXING CERTAIN REAL PROPERTY AND EXTENDING THE CORPORATE LIMITS OF WEST BOUNTIFUL CITY, UTAH

**WHEREAS**, an Annexation Petition was received on October 22, 2019 for property known as Parcel #06-027-0108, located at approximately 1388 W 1200 North, West Bountiful (the "*Real Property*"); and

**WHEREAS**, the Real Property consists of approximately 5.05 acres and is contiguous to the corporate boundaries of West Bountiful City; and

**WHEREAS**, the Petition for Annexation and a Map of the Proposal was mailed on November 21, 2019 to affected entities; and

**WHEREAS**, the City Council unanimously accepted the Annexation Petition on November 19, 2019; and

**WHEREAS**, the City Council received notice of Certification of the Petition from the City Recorder on November 20, 2019; and

**WHEREAS**, Public Notice was published once a week for three consecutive weeks in the Davis County Clipper beginning November 27, 2019; and

**WHEREAS**, neither Davis County nor the City has received any written protest to the annexation; and

**WHEREAS**, on January 7, 2020, the City Council held a public hearing after proper notice and determined that it was in the best interest of the community to annex the described parcel.

**NOW, THEREFORE BE IT ORDAINED BY THE WEST BOUNTIFUL CITY COUNCIL THAT PURSUANT TO UTAH CODE § 10-2-416,**

1. The Real Property, which is more particularly described in Paragraph 2, below, is hereby annexed to West Bountiful, Utah and the corporate limits of West Bountiful, Utah are hereby extended accordingly.
2. The Real Property is described as follows:

**COMPOSITE DESCRIPTION**

***BEGINNING AT A POINT SOUTH 00°32'04" EAST 2185.96 FEET ALONG THE SECTION LINE TO AN EXTENSION OF THE NORTH LINE OF 1200 NORTH STREET AND SOUTH 89°36'30" WEST 2470.21 FEET ALONG SAID NORTH LINE AND ITS***

*EXTENSION TO AN EXISTING FENCE LINE DESCRIBED IN A BOUNDARY LINE AGREEMENT RECORDED AS ENTRY #3151357, DAVIS COUNTY RECORDER'S OFFICE, FROM THE EAST QUARTER CORNER OF SECTION 14, TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, DAVIS COUNTY UTAH, SAID POINT OF BEGINNING ALSO BEING NORTH 89°36'54" EAST 2497.98 FEET ALONG THE CENTER LINE OF 1200 NORTH STREET TO A MONUMENT AND NORTH 89°36'30" EAST 303.45 FEET ALONG SAID STREET CENTER LINE AND NORTH 00°23'30" WEST 30.00 FEET FROM THE CENTER LINE MONUMENT IN 1200 NORTH STREET THAT IS WEST OF THE LEGACY PARKWAY, AND RUNNING THENCE SOUTH 89°36'30" WEST 162.62 FEET ALONG SAID NORTH LINE TO THE QUARTER SECTION LINE; THENCE NORTH 0°37'03" WEST 862.83 FEET ALONG SAID QUARTER SECTION LINE TO THE SOUTHEASTERLY LINE OF THE LEGACY PARKWAY; THENCE NORTH 54°40'27" EAST 32.44 FEET ALONG SAID HIGHWAY LINE TO A RIGHT-OF-WAY MONUMENT; THENCE NORTHEASTERLY 297.43 FEET ALONG A TANGENT, 2274.61-FOOT-RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 07°29'31", CHORD BEARS NORTH 50°55'41" EAST 297.22 FEET TO THE SOUTH LINE OF 1400 NORTH STREET; THENCE NORTH 89°43'11" EAST 41.95 FEET ALONG SAID SOUTH LINE TO THE EXTENSION OF A FENCE LINE; THENCE ALONG THE EXISTING FENCE LINES AND THEIR EXTENSIONS THE FOLLOWING FOUR (4) COURSES: 1) SOUTH 00°09'52" EAST 561.15 FEET TO A CORNER, BEING THE SOUTHWEST CORNER OF THE PROPERTY CONVEYED TO ORLINA JOHNSON AND THE NORTH LINE DESCRIBED IN SAID BOUNDARY LINE AGREEMENT, 2) NORTH 88°09'12" WEST 0.30 FEET ALONG SAID BOUNDARY LINE AGREEMENT TO A BEND IN SAID FENCE, 3) SOUTH 89°05'20" WEST 128.25 FEET ALONG SAID BOUNDARY LINE AGREEMENT TO A CORNER, 4) SOUTH 00°02'13" WEST 504.78 FEET ALONG SAID BOUNDARY LINE AGREEMENT TO THE NORTH LINE OF 1200 NORTH STREET AND TO THE POINT OF BEGINNING. PARCEL CONTAINS 5.140 ACRES.*

3. The zoning map of West Bountiful City shall be amended to include the Real Property as shown on Exhibit A.
4. The Real Property shall be classified as being in the Agricultural ("A-1") District in accordance with the provisions of Title 17 of the West Bountiful Municipal Code.
5. All uses existing within the annexation area that are considered to be legally conforming to Davis County's current zoning and regulations but do not conform to West Bountiful City's A-1 restrictions and regulations are considered to be legally non-conforming.
6. All uses existing within the annexation area that are considered to be illegally non-conforming to Davis County current zoning restrictions and regulations are considered to be illegally non-conforming to West Bountiful City's A-1 restrictions and regulations and continued enforcement of the non-conforming action will be pursued.
7. A certified copy of this Ordinance and an original plat setting forth the property so annexed shall be filed with the County Recorder of Davis County, Utah by the City Recorder.



This ordinance will become effective upon signing and posting.

Adopted this 17<sup>th</sup> day of March 2020.

By:



Mark Preece, Mayor Pro Tem

<u>Voting by the City Council:</u>	<u>Aye</u>	<u>Nay</u>
Councilmember Ahlstrom	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilmember Bruhn	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilmember Enquist	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilmember Preece	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilmember Wood	<input checked="" type="checkbox"/>	<input type="checkbox"/>



Attest:



Cathy Brightwell, City Recorder

**EXHIBIT A*****Legal Description of the Property*****COMPOSITE DESCRIPTION**

*BEGINNING AT A POINT SOUTH 00°32'04" EAST 2185.96 FEET ALONG THE SECTION LINE TO AN EXTENSION OF THE NORTH LINE OF 1200 NORTH STREET AND SOUTH 89°36'30" WEST 2470.21 FEET ALONG SAID NORTH LINE AND ITS EXTENSION TO AN EXISTING FENCE LINE DESCRIBED IN A BOUNDARY LINE AGREEMENT RECORDED AS ENTRY #3151357, DAVIS COUNTY RECORDER'S OFFICE, FROM THE EAST QUARTER CORNER OF SECTION 14, TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, DAVIS COUNTY UTAH, SAID POINT OF BEGINNING ALSO BEING NORTH 89°36'54" EAST 2497.98 FEET ALONG THE CENTER LINE OF 1200 NORTH STREET TO A MONUMENT AND NORTH 89°36'30" EAST 303.45 FEET ALONG SAID STREET CENTER LINE AND NORTH 00°23'30" WEST 30.00 FEET FROM THE CENTER LINE MONUMENT IN 1200 NORTH STREET THAT IS WEST OF THE LEGACY PARKWAY, AND RUNNING THENCE SOUTH 89°36'30" WEST 162.62 FEET ALONG SAID NORTH LINE TO THE QUARTER SECTION LINE; THENCE NORTH 0°37'03" WEST 862.83 FEET ALONG SAID QUARTER SECTION LINE TO THE SOUTHEASTERLY LINE OF THE LEGACY PARKWAY; THENCE NORTH 54°40'27" EAST 32.44 FEET ALONG SAID HIGHWAY LINE TO A RIGHT-OF-WAY MONUMENT; THENCE NORTHEASTERLY 297.43 FEET ALONG A TANGENT, 2274.61-FOOT-RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 07°29'31", CHORD BEARS NORTH 50°55'41" EAST 297.22 FEET TO THE SOUTH LINE OF 1400 NORTH STREET; THENCE NORTH 89°43'11" EAST 41.95 FEET ALONG SAID SOUTH LINE TO THE EXTENSION OF A FENCE LINE; THENCE ALONG THE EXISTING FENCE LINES AND THEIR EXTENSIONS THE FOLLOWING FOUR (4) COURSES: 1) SOUTH 00°09'52" EAST 561.15 FEET TO A CORNER, BEING THE SOUTHWEST CORNER OF THE PROPERTY CONVEYED TO ORLINA JOHNSON AND THE NORTH LINE DESCRIBED IN SAID BOUNDARY LINE AGREEMENT, 2) NORTH 88°09'12" WEST 0.30 FEET ALONG SAID BOUNDARY LINE AGREEMENT TO A BEND IN SAID FENCE, 3) SOUTH 89°05'20" WEST 128.25 FEET ALONG SAID BOUNDARY LINE AGREEMENT TO A CORNER, 4) SOUTH 00°02'13" WEST 504.78 FEET ALONG SAID BOUNDARY LINE AGREEMENT TO THE NORTH LINE OF 1200 NORTH STREET AND TO THE POINT OF BEGINNING. PARCEL CONTAINS 5.140 ACRES.*

**CERTIFICATE OF PASSAGE  
AND POSTING ORDINANCE**

*I, the duly appointed and acting recorder for the City of West Bountiful,  
do hereby certify that the foregoing Ordinance No. 421-20 was duly  
passed and published, or posted at three public places within the municipality  
on March 19, 2020 which public places are:*

- 1) West Bountiful City Hall,*
- 2) West Bountiful City Park Bowery, and*
- 3) Lakeside Golf Course.*

*Cathy Brightwell*  
*Cathy Brightwell, City Recorder*

DATE: 3/19/20

# WEST BOUNTIFUL CITY

## ORDINANCE #428-20

### AN ORDINANCE AMENDING THE MUNICIPAL ZONING MAP, ANNEXING CERTAIN REAL PROPERTY AND EXTENDING THE CORPORATE LIMITS OF WEST BOUNTIFUL CITY, UTAH

**WHEREAS**, an Annexation Petition was received on October 22, 2019 for property known as Parcel #06-027-0108, located at approximately 1388 W 1200 North, West Bountiful (the "*Real Property*"); and

**WHEREAS**, the Real Property consists of approximately 5.05 acres and is contiguous to the corporate boundaries of West Bountiful City; and

**WHEREAS**, the Petition for Annexation and a Map of the Proposal was mailed on November 21, 2019 to affected entities; and

**WHEREAS**, the City Council unanimously accepted the Annexation Petition on November 19, 2019; and

**WHEREAS**, the City Council received notice of Certification of the Petition from the City Recorder on November 20, 2019; and

**WHEREAS**, Public Notice was published once a week for three consecutive weeks in the Davis County Clipper beginning November 27, 2019; and

**WHEREAS**, neither Davis County nor the City has received any written protest to the annexation; and

**WHEREAS**, on January 7, 2020, the City Council held a public hearing after proper notice and determined that it was in the best interest of the community to annex the described parcel.

**NOW, THEREFORE BE IT ORDAINED BY THE WEST BOUNTIFUL CITY COUNCIL THAT PURSUANT TO UTAH CODE § 10-2-416,**

1. The Real Property, which is more particularly described in Paragraph 2, below, is hereby annexed to West Bountiful, Utah and the corporate limits of West Bountiful, Utah are hereby extended accordingly.
2. The Real Property is described as follows:

**COMPOSITE DESCRIPTION**

***BEGINNING AT A POINT SOUTH 00°32'04" EAST 2185.96 FEET ALONG THE SECTION LINE TO AN EXTENSION OF THE NORTH LINE OF 1200 NORTH STREET AND SOUTH 89°36'30" WEST 2470.21 FEET ALONG SAID NORTH LINE AND ITS***

*EXTENSION TO AN EXISTING FENCE LINE DESCRIBED IN A BOUNDARY LINE AGREEMENT RECORDED AS ENTRY #3151357, DAVIS COUNTY RECORDER'S OFFICE, FROM THE EAST QUARTER CORNER OF SECTION 14, TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, DAVIS COUNTY UTAH, SAID POINT OF BEGINNING ALSO BEING NORTH 89°36'54" EAST 2497.98 FEET ALONG THE CENTER LINE OF 1200 NORTH STREET TO A MONUMENT AND NORTH 89°36'30" EAST 303.45 FEET ALONG SAID STREET CENTER LINE AND NORTH 00°23'30" WEST 30.00 FEET FROM THE CENTER LINE MONUMENT IN 1200 NORTH STREET THAT IS WEST OF THE LEGACY PARKWAY, AND RUNNING THENCE SOUTH 89°36'30" WEST 162.62 FEET ALONG SAID NORTH LINE TO THE QUARTER SECTION LINE; THENCE NORTH 0°37'03" WEST 862.83 FEET ALONG SAID QUARTER SECTION LINE TO THE SOUTHEASTERLY LINE OF THE LEGACY PARKWAY; THENCE NORTH 54°40'27" EAST 32.44 FEET ALONG SAID HIGHWAY LINE TO A RIGHT-OF-WAY MONUMENT; THENCE NORTHEASTERLY 297.43 FEET ALONG A TANGENT, 2274.61-FOOT-RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 07°29'31", CHORD BEARS NORTH 50°55'41" EAST 297.22 FEET TO THE SOUTH LINE OF 1400 NORTH STREET; THENCE NORTH 89°43'11" EAST 41.95 FEET ALONG SAID SOUTH LINE TO THE EXTENSION OF A FENCE LINE; THENCE ALONG THE EXISTING FENCE LINES AND THEIR EXTENSIONS THE FOLLOWING FOUR (4) COURSES: 1) SOUTH 00°09'52" EAST 561.15 FEET TO A CORNER, BEING THE SOUTHWEST CORNER OF THE PROPERTY CONVEYED TO ORLINA JOHNSON AND THE NORTH LINE DESCRIBED IN SAID BOUNDARY LINE AGREEMENT, 2) NORTH 88°09'12" WEST 0.30 FEET ALONG SAID BOUNDARY LINE AGREEMENT TO A BEND IN SAID FENCE, 3) SOUTH 89°05'20" WEST 128.25 FEET ALONG SAID BOUNDARY LINE AGREEMENT TO A CORNER, 4) SOUTH 00°02'13" WEST 504.78 FEET ALONG SAID BOUNDARY LINE AGREEMENT TO THE NORTH LINE OF 1200 NORTH STREET AND TO THE POINT OF BEGINNING. PARCEL CONTAINS 5.140 ACRES.*

3. The zoning map of West Bountiful City shall be amended to include the Real Property as shown on Exhibit A.
4. The Real Property shall be classified as being in the Agricultural ("A-1") District in accordance with the provisions of Title 17 of the West Bountiful Municipal Code.
5. All uses existing within the annexation area that are considered to be legally conforming to Davis County's current zoning and regulations but do not conform to West Bountiful City's A-1 restrictions and regulations are considered to be legally non-conforming.
6. All uses existing within the annexation area that are considered to be illegally non-conforming to Davis County current zoning restrictions and regulations are considered to be illegally non-conforming to West Bountiful City's A-1 restrictions and regulations and continued enforcement of the non-conforming action will be pursued.
7. A Notice of Impending Action and copy of final Local Entity Plat approved by the county surveyor will be filed with the Lieutenant Governor's office within sixty days of adoption of this Ordinance.

8. Upon Lieutenant Governor's issuance of a Certificate of Annexation, a certified copy of this Ordinance and an original plat setting forth the property so annexed shall be filed with the County Recorder of Davis County, Utah by the City Recorder.

Adopted this 7<sup>th</sup> day of July 2020.

By:

\_\_\_\_\_  
Kenneth Romney, Mayor

<u>Voting by the City Council:</u>	<u>Aye</u>	<u>Nay</u>
Councilmember Ahlstrom	_____	_____
Councilmember Bruhn	_____	_____
Councilmember Enquist	_____	_____
Councilmember Preece	_____	_____
Councilmember Wood	_____	_____

*Attest:*

\_\_\_\_\_  
Cathy Brightwell, City Recorder

## EXHIBIT A

### *Legal Description of the Property*

#### COMPOSITE DESCRIPTION

BEGINNING AT A POINT SOUTH 00°32'04" EAST 2185.96 FEET ALONG THE SECTION LINE TO AN EXTENSION OF THE NORTH LINE OF 1200 NORTH STREET AND SOUTH 89°36'30" WEST 2470.21 FEET ALONG SAID NORTH LINE AND ITS EXTENSION TO AN EXISTING FENCE LINE DESCRIBED IN A BOUNDARY LINE AGREEMENT RECORDED AS ENTRY #3151357, DAVIS COUNTY RECORDER'S OFFICE, FROM THE EAST QUARTER CORNER OF SECTION 14, TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, DAVIS COUNTY UTAH, SAID POINT OF BEGINNING ALSO BEING NORTH 89°36'54" EAST 2497.98 FEET ALONG THE CENTER LINE OF 1200 NORTH STREET TO A MONUMENT AND NORTH 89°36'30" EAST 303.45 FEET ALONG SAID STREET CENTER LINE AND NORTH 00°23'30" WEST 30.00 FEET FROM THE CENTER LINE MONUMENT IN 1200 NORTH STREET THAT IS WEST OF THE LEGACY PARKWAY, AND RUNNING THENCE SOUTH 89°36'30" WEST 162.62 FEET ALONG SAID NORTH LINE TO THE QUARTER SECTION LINE; THENCE NORTH 0°37'03" WEST 862.83 FEET ALONG SAID QUARTER SECTION LINE TO THE SOUTHEASTERLY LINE OF THE LEGACY PARKWAY; THENCE NORTH 54°40'27" EAST 32.44 FEET ALONG SAID HIGHWAY LINE TO A RIGHT-OF-WAY MONUMENT; THENCE NORTHEASTERLY 297.43 FEET ALONG A TANGENT, 2274.61-FOOT-RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 07°29'31", CHORD BEARS NORTH 50°55'41" EAST 297.22 FEET TO THE SOUTH LINE OF 1400 NORTH STREET; THENCE NORTH 89°43'11" EAST 41.95 FEET ALONG SAID SOUTH LINE TO THE EXTENSION OF A FENCE LINE; THENCE ALONG THE EXISTING FENCE LINES AND THEIR EXTENSIONS THE FOLLOWING FOUR (4) COURSES: 1) SOUTH 00°09'52" EAST 561.15 FEET TO A CORNER, BEING THE SOUTHWEST CORNER OF THE PROPERTY CONVEYED TO ORLINA JOHNSON AND THE NORTH LINE DESCRIBED IN SAID BOUNDARY LINE AGREEMENT, 2) NORTH 88°09'12" WEST 0.30 FEET ALONG SAID BOUNDARY LINE AGREEMENT TO A BEND IN SAID FENCE, 3) SOUTH 89°05'20" WEST 128.25 FEET ALONG SAID BOUNDARY LINE AGREEMENT TO A CORNER, 4) SOUTH 00°02'13" WEST 504.78 FEET ALONG SAID BOUNDARY LINE AGREEMENT TO THE NORTH LINE OF 1200 NORTH STREET AND TO THE POINT OF BEGINNING. PARCEL CONTAINS 5.140 ACRES.



# MEMORANDUM

**TO:** City Council

**DATE:** May 8, 2020

**FROM:** Duane Huffman

**RE:** **Medical Cannabis Ordinance and Petition for Land Use Decision For Cannabis Production Establishments**

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This memo reviews:

- 1) The background on the petition filed by *Wholesome Therapy (Cannabis Cultivation) & Canyon 100 N Bountiful, L.C.* for a change to the city's land use code;
- 2) The applicable state code on local control of medical cannabis businesses;
- 3) The negative recommendation made by the planning commission on the outstanding items from the Wholesome Therapy petition; and,
- 4) The proposed ordinance from the planning commission.

## **Petition Filed by Wholesome Therapy**

An application to change the city's land use code text was submitted by Wholesome Therapy on May 1, 2020. As part of the application, Wholesome Therapy invoked the timeline requirements related to petitions involving cannabis production establishments as found in UCA § 10-9a-528(3)(b). The full request is attached with this memo.

Subsequently, Wholesome Therapy withdrew in part their petition, leaving only the request for language related to medical cannabis pharmacies. The city council acted on this request, adopting Ordinance 425-20 on June 2<sup>nd</sup>.

Wholesome Therapy re-submitted the full petition on June 3, 2020.

The proposed text change would:

- a. Add "Cannabis Production Establishment [as defined by Utah Code]" as a permitted use to the A-1 and L-I zones.
- b. Add "Cannabis Production Establishment [as defined by Utah Code]" as a conditional use to the C-G zone.
- c. Add "Medical Cannabis Pharmacy [as defined by Utah Code]" as part of the already included permitted use of "Drug Store" in the C-G zone. **This item has already been acted upon by the city council.**



Included in the justification for the text change, the applicant states that the change is intended to make possible a cannabis production establishment at 580 W 100 N (known as the Carr Building), along with a medical cannabis pharmacy at the same location. The applicant would cultivate, process, and retail the product all on site, which would require three separate licenses from the state.

The application includes explanations as to why Wholesome Therapy believes that the referenced location and existing building are suitable for the requested uses. The applicants also provided a response to questions submitted by the city, and has provided the following video:

<https://www.youtube.com/watch?v=UMVpo5805Ik>

### **Utah Regulations – Cannabis**

Statewide requirements related to cannabis are found in the Utah Code. The following is a summary of applicable regulations on this matter:

- A. UCA § 10-9a-528(3)(b) requires that the city act within 45 days after a petition is made to “prepare and adopt a land use regulation, development agreement, or land use decision” that conforms with state code.
  - i. This means that West Bountiful City has until July 18, 2020 to either enact an ordinance that regulates cannabis production establishments or make a land use decision on the application consistent with current state code.
- B. UCA § 4-41a-102 defines Cannabis Production Establishments as meaning “a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.” This definition is a combination of three separately defined and separately state licensed types of entities.
  - i. Under the current request, all three uses would be permitted uses within the A-1 and L-I zones, and a conditional use within the C-G zone.
- C. UCA § 4-41a-406 reviews local control over all three types of cannabis production establishments. Because it is so applicable to the current request, the code is attached in whole to this memo.
  - i. Unless West Bountiful otherwise designates by ordinance before July 18, 2020, all three types of cannabis production establishments will be permitted uses within each industrial zone (L-I and I-G). The city may designate just one of these zones if it so chooses.
  - ii. Unless West Bountiful otherwise designates by ordinance by July 18, 2020, all three types of cannabis production establishments will be permitted uses within any agricultural zone in the city (currently, only the A-1 zone). To avoid this result, the city would need to create a new agricultural zone, clarify that the current A-1 zone is not an agricultural zone, or both.
  - iii. It is important to note that state code does not require that a city allow cannabis production establishments within a commercial zone.
- D. UCA § 26-61a-507 reviews local control over a medical cannabis pharmacy. It is also attached to this memo.
  - i. Such pharmacies are a permitted use “in any zone, overlay, or district within the municipality except for a primarily residential zone.”
  - ii. Unless West Bountiful otherwise designates by ordinance by **July 18, 2020**, a medical cannabis pharmacy will be a permitted use in the A-1 zone. To avoid this result, the city would need to create a new agricultural zone, clarify that the current A-1 zone is not an agricultural zone, or both.

- iii. A municipality may enact an ordinance that governs the time, place, or manner of medical cannabis pharmacy operations in the municipality (as long as it doesn't conflict with the state code).
- iv. Under this language, a medical cannabis pharmacy is likely already a permitted use in all zones except the R-1-10 and R-22-zones. It will be allowed at the Carr Building. The proposed text change would essentially clarify that West Bountiful is not enacting any additional "time, place, or manner" regulations.

### **Planning Commission Recommendation**

Following several months of discussion and two public hearings, the planning commission made the following recommendations:

1. Deny the request for land use text changes for the remaining items in the petition filed by Wholesome Therapy.
2. Change the zone for parcel 06-039-0128 (Carr Building) from the Commercial-General District (C-G) to the Commercial-Highway District (C-H).
3. Adopt a comprehensive ordinance addressing medical cannabis land uses throughout the city (explained in the next section of this memo).

These recommendations would not allow a business to have a cannabis production establishment in the Carr Building as requested. Discussion from the planning commission noted that these types of industrial uses (cultivation and processing of cannabis) would not be compatible with the surrounding commercial uses. The owners of the surrounding commercial buildings submitted an e-mail (attached) addressing their concerns of the harmful effects to their tenants.

The planning commission does believe that the current permitted and conditional uses of the Carr Building could be expanded without harming neighboring commercial properties, and thus they are recommending the zone change from C-G to C-H.

### **Comprehensive Medical Cannabis Ordinance**

In response to the petition by Wholesome Therapy and to address potential future requests, staff and the planning commission drafted and recommend the attached comprehensive ordinance. Here is a summary of what it would add to the city land use code:

- A. Provides definitions and basic regulations for medical cannabis pharmacies and cannabis production establishments.
- B. Adds medical cannabis pharmacy as a permitted use in all of the city's commercial and industrial zones, and in the newly created Agricultural Specialty zone.
- C. Prohibits cannabis production establishments in commercial zones.
- D. Adds cannabis production establishments as a permitted use in the Industrial General (I-G) zone and the newly created Agricultural Specialty zone, and as a conditional use in the Light Industrial (L-I) zone.
- E. Creates a new zone, Agricultural Specialty (A-S), and clarifies that the remaining Agricultural zone (A-1) is primarily a residential zone. No cannabis uses are allowed in the A-1 zone. This new zone is on the west side of the Legacy Parkway.



APPLICATION

West Bountiful City  
PLANNING AND ZONING

TO

West Bountiful, UT550 N 800 W 84087

REZONE/CHANGE TEXT

(801) 292-4486

www.WBCity.org

PROPERTY ADDRESS: 580 W. 100 N., West Bountiful, UT. 84010 DATE OF APPLICATION: 6/3/20

PARCEL NUMBER: 06-039-0128 CURRENT ZONE: C-G PROPOSED ZONE: C-G Conditional Use

LEGAL DESCRIPTION ATTACHED: YES NO

Applicant Name(s): Wholesome Therapy (Cannabis Cultivation) & Canyon 100 N Bountiful L.C.

Applicant Address (if different than above): 476 Heritage Park Blvd, Layton, UT. 84031

Primary phone: (404) 556-1111 E-mail address: smaxski@mac.com

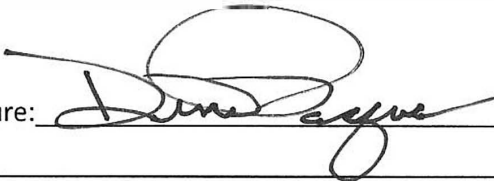
Primary phone: (801) 776-8111 E-mail address: dino@durbanogroup.com

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 ATTACHED)  
\_\_\_\_\_

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: 6/3/20

Applicant Signature: 

FOR OFFICIAL USE ONLY

Application & \$150 Fee Received Date: 5/1/2020 Public Hearing Date: \_\_\_\_\_

Letters sent to affected neighbors: \_\_\_\_\_

Planning Commission Approval: \_\_\_\_\_ City Council Approval: \_\_\_\_\_

## PROPOSED TEXT CHANGE/AMENDMENT

The "Applicant," Wholesome Therapy, would like to propose the following text change/amendment to the West Bountiful Municipal Code 517.16.020 (Agricultural District, A-I, Permitted Uses); 517.32.020, 030 (Commercial General District, C-G, Permitted and Conditional Uses); and 517.36.020 (Light Industrial District, L-I, Permitted Uses):

517.16.020 — Agricultural District, A-I, Permitted Uses:

"F. Cannabis Production Establishment as defined by Utah Code Ann. 54-41a-102 and permitted under Title 4, Utah Agricultural Code, Chapter 41a, Cannabis Production Establishments.

517.32.020 — Commercial General District, C-G, Permitted Uses:

"B. Drug Store, including Medical Cannabis Pharmacy as defined by Utah Code Ann. 54-41a-102;

517.32.030 — Commercial General District, C-G, Conditional Uses:

"N. Cannabis Production Establishment as defined by Utah Code Ann. 54-41a-102 and permitted under Title 4, Utah Agricultural Code, Chapter 41a, Cannabis Production Establishments.

517.36.020 — Light Industrial District, L-I, Permitted Uses:

"J. Cannabis Production Establishment as defined by Utah Code Ann. 54-41a-102 and permitted under Title 4, Utah Agricultural Code, Chapter 41a, Cannabis Production Establishments.

NOTICE: This application for a text change shall also constitute a "petition" as described in Utah Code Ann. ("UCA") 5 10-9a-528(b)(i), which states:

"(3)(a) Within the time period described in Subsection (3)(b), a municipality shall prepare and adopt a land use regulation, development agreement, or land use decision in accordance with this title and:

- (i) regarding a cannabis production establishment, Section 4-41a-406; or
- (ii) regarding a medical cannabis pharmacy, Section 26-61a-507.

(b) A municipality shall take the action described in Subsection (3)(a): (i) before January 1, 2021, within 45 days after the day on which the municipality receives a petition for the action; and (ii) after January 1, 2021, in accordance with Subsection 10-9a-509.5(2)."

Id. (emphasis added); see also UT St 517-27a-525.

## REASONS THE PROPOSED TEXT CHANGE/AMENDMENT IS APPROPRIATE AND NECESSARY

Utah recently adopted the Hemp and Cannabinoid Act ("HCA"; UCA 54-41, et seq., effective 5/14/2019) as well as Cannabis Production Establishments ("CPE"; CICA 54-41a, et seq., effective 12/3/18) providing for the cultivation, processing and sale of medical cannabis statewide.

Pursuant to HCA 510-9a-528(b)(i), as cited above, West Bountiful City has yet to adopt/amend its zoning regulations to comply with CPE 54-41a-406. Consequently, this application will also serve as a "petition" to West Bountiful City to amend/adopt the appropriate zoning regulations to comply with the HCA and CPE, as proposed above. It also serves the dual purpose of qualifying the Applicant, Wholesome Therapy, for the necessary permitted and conditional use permit under West Bountiful City Code 517.32.030 as proposed above—permitted use for the Medical Cannabis Pharmacy and conditional use for the Cannabis Production Establishment under the proposed C-G amendments above.

Wholesome Therapy has been approved by the State's Department of Agriculture to open and operate a Medical Cannabis Pharmacy as defined by the HCA and CPE. In order to operate its pharmacy efficiently and economically, the Applicant needs approximately 18,400sqft to also operate as a Cannabis Production Establishment, as defined by Utah Code Ann. 54-41a-102. Cannabis Production Establishments are defined by the CPE to permit "cultivation" and "processing" of cannabis for medicinal purposes. See Utah Code Ann. 54-41a-102(7).

The location of this cannabis production is being proposed in the back of the same building as the Medical Cannabis Pharmacy which shall be located at 580 W 100 N, West Bountiful City (The "Carr Printing Building" or "Carr Building"). This would allow them to occupy 18,400sqft of currently unusable space in the back of this building for cannabis cultivation and processing for the very limited purpose of supporting their Medical Cannabis Pharmacy. Both the pharmacy and production establishment would be heavily regulated by the State. The Applicant would follow all state mandated protocols, which are very robust. The location would be highly secure and the public would not even know it was there. There are no windows and only two doors that would access this area at the back of the building.

The Carr Building is currently in the C-G zone, however. Consequently, the proposed text amendment to that zone's conditional uses is necessary to allow the Applicant's production establishment to operate in the back of the building.

By way of background, Carr Printing, LC, has operated out of the Carr Building for decades—long before the current zoning map was enacted. The Carr Building was originally zoned as Light Industrial (L-I). The permitted uses of which would have allowed for Cannabis Production Establishments under the HCA and CPE today had it remained L-I. Point being that allowing the Applicant's Cannabis Production Establishment to operate in the back of the Carr Building is not far afield from the Carr Building's original zoned purpose and current uses. Carr Printing's printing business is technically Light Industrial but was grandfathered in after the building was rezoned to C-G. Carr Printing still operates there today under a non-conforming use permit. Being that the Carr Building always has been and is currently used by Carr Printing for L-I services, there doesn't appear much, if any, additional harm, risk or danger in allowing Applicant's Cannabis Production Establishments—another L-I permitted use according to the CPE—as a conditional use under C-G.

Another reason to adopt the proposed language and grant the requested conditional use is that the 60,000sqft Carr Building cannot support parking for 60,000sqft of retail business. By rezoning it to C-G, the City unintentionally made it impossible to comply with the City's parking space requirements for retail (517.52.040). Retail space requires anywhere from 1:100 to 1:200 stalls/sqft, which would require between 300 to 600 stalls. The Carr Building, which was built decades ago in an L-I zone, only has 100 stalls. In other words, current C-G parking requirements could only ever allow for 10,000 to 20,000sqft of retail space, or up to a third of the building. In order to satisfy C-G parking requirements, the building would have to be torn down and rebuilt to either reduce its square footage or to provide enough parking.

That is simply not an option. There is another solution, however. Adopting the proposed text changes and granting the Applicant a conditional use permit to use 18,400sqft of space as a Cannabis Production Establishment as a supplement/support space for its permitted retail space would largely eradicate this issue since the Applicant's Cannabis Production Establishment would not require much, if any, additional parking stalls while occupying nearly a third of the building. Applicant will already have enough parking for its employees and customers as a part of its Medical Cannabis Pharmacy.

Not only are the proposed text changes necessary to comply with the HCA and CPE but granting the Applicants petition will also provide an efficient, simple solution to the parking issue created when the City rezoned the Carr Building, all without increasing the burdens or risks to the community at large.

Furthermore, granting the Applicant's petition allows the City to keep the building in the C-G zone and bring more retail to the area, increasing revenue for the City. It also allows the building owner to make great use of an unusable portion of the building.

Granting this petition/text change is a win-win for the City, its residents and for the Applicant, Wholesome Therapy as an excellent solution to the unique issues surrounding the Carr Building. We hope you will adopt the proposed text change language above and also issue the C-G Conditional Use Permit Application submitted on April 15<sup>th</sup> by Wholesome Therapy.

NOTE: Cannabis cultivation, processing and medical cannabis pharmacies are highly regulated by requiring secure facilities—no windows—with preferred out of sight and fully enclosed premises. The Carr Building is a near perfect fit and a rarity in what otherwise is an accommodating retail property.

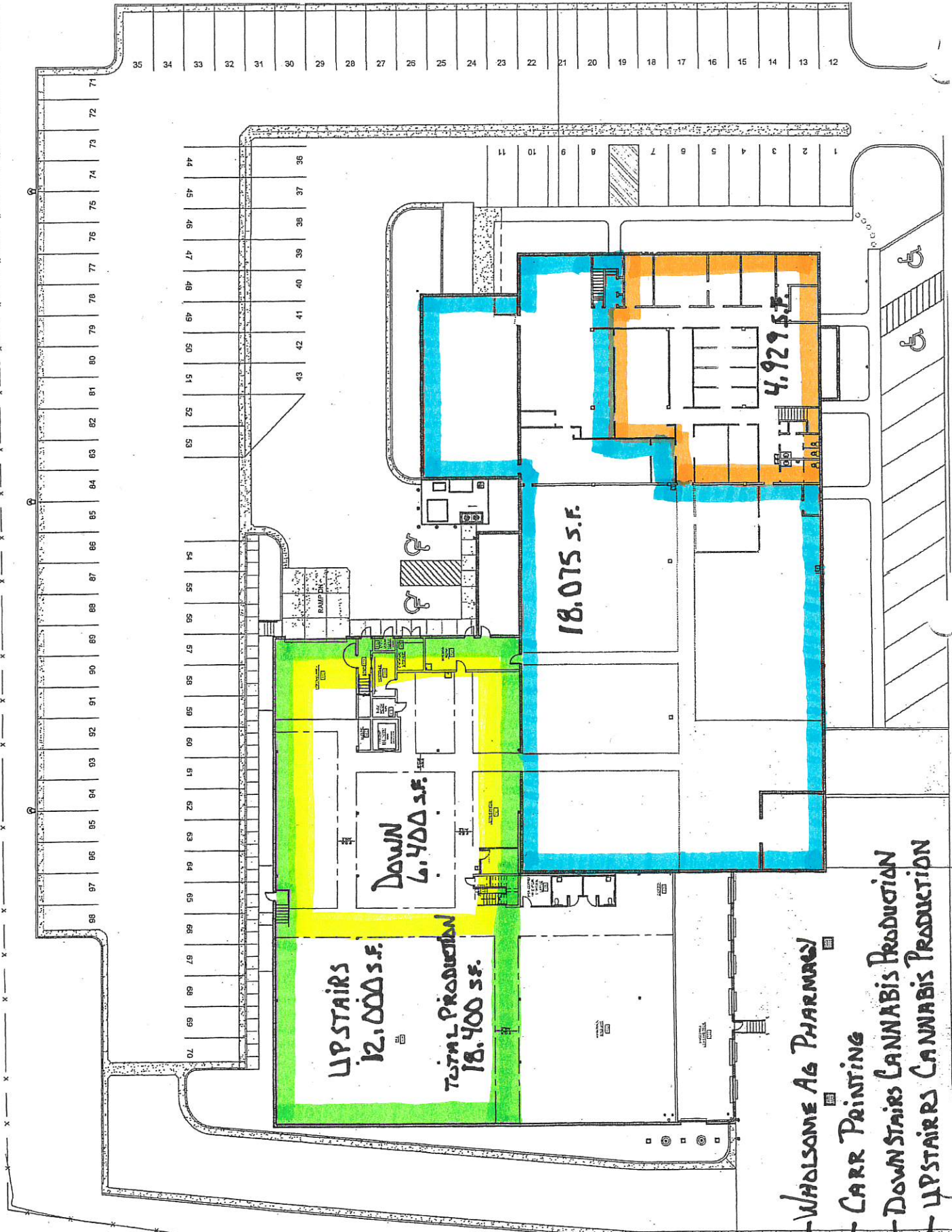
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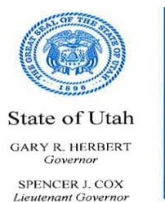


- WHOLSOME AG PHARMACY
- CARR PRINTING
- DOWN STAIRS CANNABIS PRODUCTION
- UP STAIRS CANNABIS PRODUCTION

**West Bountiful City Council & Planning Commission,**

At WholesomeCo, we believe in the complete, plant-to-patient approach to **medical cannabis** as a natural remedy to health & wellness. By owning and operating the entire medical cannabis supply chain, we are better able to match patients' needs (based on qualified conditions) with the right products, at a fair price, and on time. This has been our true north since inception, and is why we were successful in securing both a pharmacy license and cultivation license, making us 1 of only 3 vertically integrated operators in the State.

Our aspirations to co-locate the cultivation and future processing operation at 580 W 100 N. in Bountiful (in addition to our pharmacy), is driven by doing what's best for Utah's medical patient population and the city we operate in. By co-locating operations, not only do we cut down on costs that will be reflected in the final price to patients, we also decrease the risk of lost/stolen product that can come with operating disparate cannabis operations, scattered across the State, with diversion more prevalent near consumer-facing retail operations. This fact is the basis the Department of Agriculture used in forming their opinion in support of co-locating WholesomeCo operations at the Carr Building:



Department of Agriculture and Food

R. LOGAN WILDE  
*Commissioner*

KELLY PEHRSON  
*Deputy Commissioner*

*Industrial Hemp & Medical Cannabis Program*

June 2, 2020

West Bountiful City  
550 North 800 West  
West Bountiful, UT 84087

Dear West Bountiful City Officials and To Whom It May Concern:

As the regulatory authority over medical cannabis cultivators, processors, and independent laboratories; The Utah Department of Agriculture and Food (UDAF) would like to express our support for Wholesome Ag to move their cultivation and processing establishments to the same location as their medical cannabis pharmacy located in West Bountiful.

Moving a fully integrated medical cannabis business to the pharmacy location is not only legal per the law but also ideal; specifically because of increased security and fewer opportunities for diversion/loss of product.

Medical Cannabis Production Facilities must comply with a regulatory environment that includes tracking inventory and monitoring employees. Facilities must demonstrate operations that best ensure the safety and security of patrons and the community. The facilities must meet compliance with Utah statutes and rules. Licensees are expected to reduce the cost to patients of cannabis in a medicinal dosage form or cannabis products in a medicinal dosage form while maintaining best practice standards and regulations for the safety of human consumption.

Wholesome Ag is fully integrated and all three licenses attached to the same address will lessen the concern of diversion as transportation needs are diminished. Security and employee monitoring can be done without employees leaving the facility with product. This new operating model will result in decreased expenses which should give Wholesome Ag the ability to supply patients with safe and affordable products; which is what the program strives for.

Best Regards,

A handwritten signature in blue ink, appearing to read "R. Logan Wilde", with a long horizontal flourish extending to the right.

R. Logan Wilde  
Commissioner

350 North Redwood Road, PO Box 146500, Salt Lake City, UT 84114-6500  
Telephone 801-538-7100 • Facsimile 801-538-7126 • <http://ag.utah.gov>

Below you will find detailed answers to your questions and concerns with respect to co-locating these operations with the already permitted pharmacy. In addition, we've provided further information in the accompanying Appendix to support the condensed responses.

<https://www.dropbox.com/sh/wcf3tntkgmopolu/AABPXC9Y0VykJmDa?dl=0>

While we hope this provides the necessary set of facts and information to get the city's support, we're happy to provide any further information as we continue our dialogue.

**Thank you - The WholesomeCo Team**



## **Licensing**

**Q: Please provide information on whether the State will license cultivation and/or processing at the same site as a medical cannabis pharmacy.**

As outlined by the Department of Agriculture, **there are no regulations that prohibit cannabis production facilities from being co-located at the same property as a medical cannabis pharmacy. In fact, co-locating WholesomeCo's operations is preferred by the State.**

The Department of Health has also provided a letter of approval, outlining that each operation would be under a separate suite number, which is consistent with our plans and understanding at Carr:



State of Utah

GARY R. HERBERT  
Governor

SPENCER J. COX  
Lieutenant Governor

### Utah Department of Health

Joseph K. Miner, M.D., M.S.P.H, F.A.C.P.M.  
*Executive Director*

Marc E. Babitz, MD  
*Deputy Director*

Richard J. Oborn, MPA  
*Director, Center for Medical Cannabis*

May 29, 2020

WEST BOUNTIFUL CITY  
550 NORTH 800 WEST  
WEST BOUNTIFUL, UT 84087

**Subject: Notice of Authorization to Locate Medical Cannabis Pharmacy and Medical Cannabis Processing Facility in Same Building**

Dear West Bountiful City:

This letter is to represent the Utah Department of Health's authorization for a medical cannabis pharmacy and a medical cannabis processing facility to be located in the same building.

While a medical cannabis pharmacy and a medical cannabis cultivation facility may be located in the same building, they must be two separate locations with individual addresses (i.e., separate unit or suite numbers). These businesses must be registered individually with the appropriate Department and obtain separate business licenses from the city.

The Utah Medical Cannabis Act has no vicinity limitations for medical cannabis pharmacies and medical cannabis production facilities, including cultivation and processing facilities.

Please refer to Utah Code 26-61a, the Utah Medical Cannabis Act, and 4-41a, Cannabis Product Establishments.

If your office has any questions, please reach out to the Center for Medical Cannabis at 801-538-6504 or via email at [medicalcannabis@utah.gov](mailto:medicalcannabis@utah.gov).

Sincerely,

Richard Oborn, MPA  
Director, Center for Medical Cannabis  
Center for Medical Cannabis  
p. 801-538-6504  
e. [medicalcannabis@utah.gov](mailto:medicalcannabis@utah.gov)

Q: Use of the building: Please provide a preliminary layout of how the building would be used for cultivation and eventually processing.

The cultivation area is planned for the North West end of the building, the furthest point from neighboring businesses. The grow spaces will be fully contained rooms equipped with environmental controls such as cooling, dehumidification, light fixtures, irrigation, drains, air filters and other odor eliminating components outlined below.

*See Appendix B and C showing the planned placement of the grow containers in the building.*

Q: Please describe security features planned for the building. Please provide an estimate of the anticipated number of employees for cultivation and, eventually, processing, and the number of parking stalls required for such employees in addition to those required for current uses of the building.

Security is a major component of the licensing process, and our go-forward operating plans, including hundreds of thousands of dollars invested in state-of-the-art equipment.

State law requires us to have an alarm on every door and window, and continuously monitored motion detectors. If the alarm is tripped, automatic alerts are sent to management via email and phone notification. And if the keyword or phrase is not accurately provided by the intruder, local PD is immediately called/dispatched.

In addition to the alarm systems, a camera monitoring system with continuous, 24/7 recording, records every entrance/exit and room in the production space (as well as all other spaces throughout the facility where cannabis is present). This coverage specifically includes anywhere cannabis may be grown, transported or disposed of.

While the State does not require any additional security measures, we do have plans to contract with a private security company if cultivation and processing are both permitted. Additionally, the State regularly audits facilities prior to and during cannabis production, processing, and sale. On average we are visited by both the Department of Ag and Department of Health twice a month, each. Prior to opening, the State must sign off on security protocols to ensure we meet all the requirements.

Employee count will start at 15-20 for the initial year in operation and scale to 60-70, depending on size and scope of the cultivation and processing to meet future patient demand. Approximately 25% of the employees will be full-time, predominantly working M-F during normal business hours. The remaining 75% will be part-time (or hourly), working anywhere between 10-25 hrs per week, across the various operations. Cultivation will employ the most employees, but their hours will be distributed throughout the day and evening hours.

In compliance with State law, every employee must pass a State and Federal background check (administered by State regulators). If approved by the State, all employees will be trained initially and ongoing about all the laws and regulations, including all security protocols. All visitors are ID'd and require sign-in to a visitor log that is maintained for at least 1 year. Patients in good standing are only allowed in the pharmacy.

There are 115 available parking stalls surrounding the Carr Building, with employee parking on the North side of the building. With cultivation, processing and pharmacy operations co-located at Carr, we anticipate peak vehicle parking to consume 30-40 stalls, including company owned transportation vehicles. It's estimated that Carr Printing employees require 5-10 parking spaces, at peak.

*See Appendix D for the full security requirements as well as our internal operating procedures, in compliance with the State, as described in our application for a previous grow location*

See Appendix E for parking plan.

### **Cultivation**

Q: Please explain how cultivation will work. For example, will planting and harvesting follow seasonal schedules?

Wholesome's cultivation methodology will be industry standard indoor controlled environment agriculture. All aspects of the plant life cycle will be controlled by the facility 24/7/365 to allow for perpetual planting and harvesting, and not be seasonal. Plants will be grown hydroponically in negative pressure sealed rooms that reduce the need to actively work the plant on a regular basis, as well as prevent pest/pathogens from entering. These negative pressure sealed grow rooms are also designed to eliminate odors from exiting.

The plant cycle is about 120 days from clone to harvest date. Roughly half of that time is spent in flowering conditions where the plant produces usable flowers or buds that can be harvested and then trimmed, dried and cured, readying the product for sale or further processing. We will be staggering the room cycles, which allows us to run a more efficient operation and harvest every month to keep up with patient demand.

See Appendix F for a more detailed explanation of cultivation techniques.

Q: Will interior odors be essentially constant, or will they peak at different intervals?

Odors will be constant and predictable as a result of the perpetual cycles. This will allow for us to effectively manage odors in a consistent and measured way.

Through the use of carbon scrubbers, building design and other odor suppression techniques we plan to have our odor load at or below 5D/T (dilution-to-threshold) as measured by a scentometer at the property line of the site..

This level would prevent smells of cannabis from being present at our neighboring businesses, and would likely be lower than existing activities at neighboring businesses (e.g. refueling station, commercial kitchen, lumber yard, nursery, etc.)

More information related to this measurement and odors from agriculture can be found in the Appendix M.

Q: What "scrubbers" will be used to prevent exterior odors? What is the useful life of the scrubbers? What maintenance is required?

Our odor mitigation and 'scrubbing' plans include the following 3 steps and components:

**Charcoal carbon filters** will be used throughout the facility to scrub any air outside of the cultivation rooms. The pre-filter units of these carbon filters will be cleaned monthly to allow for optimal airflow through the filtration system. With a lifespan of 12-18 months, we will proactively replace each carbon filter every 12 months.

To mitigate smell inside each cultivation room, **UV light** and **ozone** will be utilized within HVAC systems to remove odors from rooms to lessen the overall odor load. Maintenance of the HVAC units requires inspecting and cleaning the unit quarterly to ensure it is free of contaminants and operating efficiently. We plan on inspecting these units once every 60 days. HVAC units with UV lighting and ozone emission have a lifespan of 24-36 months.

All three of these odor remediation systems work by passing odorous air over, through and/or around a deodorizing agent to scrub the air of the volatile organic compounds that are responsible for the smell associated with cannabis. The UV and ozone are installed within a HVAC air handling unit and have air passed around/over the units. And the activated charcoal filters are stand alone units that have a fan attached to pull air through the filter. Both of these units will be used throughout the facility in all areas and are increased in areas that have higher odor pressure, such as flowering rooms.

*See Appendix G for studies on using carbon filters to remove odors surrounding commercial buildings.*

*See Appendix M for additional information about carbon scrubbers, odor eliminators and HVAC units specified in the response.*

Q: *What types of regular shipments are needed for cultivation (soil, fertilizer, etc.)?*

Shipments will occur at the same regularity of a small manufacturing facility in order to maintain production. The types of items needed on a regular basis would be common horticultural products such as soil, fertilizers, pots and sanitation/cleaning supplies. Products will be in condensed and concentrated forms reducing size and frequency of deliveries, with an anticipated cadence of deliveries for these products of 2x per month.

Q: *What types of waste products are created as part of cultivation? How are they handled and disposed of?*

Waste products are divided into two categories: plant material and non-plant material. Plant material is composed of stems, leaves and roots, which are not product categories that can be sold or used by law. Plant material is weighed and recorded in the State's tracking system and then shredded and mixed with 50% non plant material by volume, before being disposed of in a locked dumpster under video surveillance.

Non-plant material is disposed of routinely, alongside the plant material in a secured dumpster. No hazardous waste is created during the production process.

*See Appendix H for additional information on State required waste disposal standards.*

Q: *What are the annual water needs? Do you plan to use culinary or secondary water? Is the use of water constant or seasonal? Will anything with the current water connection to the building need to be changed (e.g. meter)?*

Initially our operation will require an average of 250 gallons of water daily. To maintain the highest cultivation standards for medical consumption, we filter culinary water using a reverse osmosis water purification system prior to application. **No changes are needed to the current water supply system.**

At peak usage, we anticipate needing 800 to 1,000 gallons of water per day. Operating indoors requires extremely strict adherence and awareness to water conservation, as leaks and spills significantly increase costs to the operation, both in time and money.

For comparison, a small to medium sized plant nursery that you would find at Lowe's or Home Depot will use more than 100,000 gallons of water per month. At peak, our cultivation water needs will be 5-10x less than this.

Q: As processing on site is not in the immediate plans, how often will shipments of harvested materials be leaving the site? Will shipments be limited to business hours? What types of trucks are used for this purpose?

The number shipments (inbound and outbound) of harvested bulk product will be significantly reduced (and perhaps eliminated) by co-locating our full operation (cultivation + processing + pharmacy) in the Carr Building. Our primary objective with cultivation is to supply our own pharmacy needs, with the majority of the product produced not leaving our premises as bulk material, but as finished products purchased by patients. If cultivation is off-premise, we would estimate 30-40 truckloads per month to our pharmacy. And due to the sheer quantity of raw material in each truck, we would be significantly increasing the security risk to our staff and surrounding businesses and their patrons if cultivation is off-premise.

With respect to processing (for extracted product, which is estimated to represent ~40% of the demand), it's our intention to obtain a processing license this year and house our own processing operation at the Carr Building. If we're approved for processing at Carr, we will immediately move to apply for and secure this license. However, if we're unable to process at Carr, and have our cultivation operation at Carr, we estimate 3-4 truckloads of outbound raw material each month leaving for processing, with another 3-4 truckloads of inbound finished products returning each month for sale.

Any remaining shipments, deliveries or transfers of bulk product (raw flower or extracted products) will be transported in unmarked, secure panel trucks during regular business hours and accompanied by a transfer manifest created within the State tracking system, available to local law enforcement.

Q: How often will shipments/deliveries of processed materials arrive at the site to be sold? What types of trucks are used for this purpose? Will deliveries be limited to business hours?

With our pharmacy already permitted and slated to open in July, we've outlined 4 scenarios to answer your first question related to wholesale shipments:

Scenarios	Inbound Shipments	Outbound Shipments	Total Shipments
No cultivation & no processing ( <b>current state</b> )	4-6 per week	.5-1 per week	5-7 per week
No cultivation & Tier 2 processing	3-5 per week	.5-1 per week	4-6 per week
Cultivation & Tier 2 processing	1-2 per week	1-2 per week	2-4 per week
Cultivation & Tier 1 processing	0-.5 per week	1-2 per week	1-2.5 per week

It is our goal to be self-sufficient, under one roof, cultivating and processing most of what we sell. This will significantly reduce deliveries and overall traffic to and from our pharmacy, as most of the product sold will be cultivated and processed under the same roof.

If we do need to ship from another location to our Pharmacy, deliveries would happen during normal business hours via unmarked and secured panel trucks, all of which would be

accompanied by a transfer manifest created within the State tracking system and available to local law enforcement. All transports are scheduled and reviewed in the State tracking system prior to order and delivery.

### **Processing**

*Q: Please provide information on the processing techniques that are eventually planned to occur onsite.*

Processing cannabis includes a wide variety of techniques, some of which have been used for thousands of years. In layman's terms, processing cannabis involves taking the necessary steps to separate useful elements of the plant and infusing them into another form factor (e.g. a cuboid, cream, tincture, etc).

Processing can also be referred to as the step in the supply chain where cannabis buds are prepared and packaged for sale at retail. As identified by State lawmakers, the permitted medical cannabis delivery forms for extracted cannabis products include:

- Tablet
- Capsules
- Tinctures
- Gelatinous cube (square gummies - not candy or enticing to children)
- Teas
- Lotions and creams
- Liquid suspensions
- Concentrates such as oils, waxes or resins

The State has divided processing licenses into two tiers. Tier 2 allows for only the processing and packaging of dried flower. This method involves trimming leaves and stems off the harvested buds. Production would require 1,000 - 1,500 square feet, most of which would be taken up by a vault for storage.

A tier 1 processing license would allow for the extraction of cannabinoids and terpenes from the harvest plant and formulating it into a cannabis product then packaging it to be sold to patients.

Packaging any cannabis product is highly regulated according to the Utah Medical Cannabis Act and enforced by regulators, we will comply with section 4-41a-602 of the State code that states:

- (1) For any cannabis product that a cannabis processing facility processes or produces and for any raw cannabis that the facility packages, the facility shall:
  - (a) label the cannabis or cannabis product with a label that:
    - (i) clearly and unambiguously states that the cannabis product or package contains cannabis;
    - (ii) clearly displays the amount of total composite tetrahydrocannabinol and cannabidiol in the labeled container;
    - (iii) has a unique identification number that:
      - (A) is connected to the inventory control system; and
      - (B) identifies the unique cannabis product manufacturing process the cannabis processing facility used to manufacture the cannabis product;
    - (iv) identifies the cannabinoid extraction process that the cannabis processing facility used to create the cannabis product;
    - (v) does not display an image, word, or phrase that the facility knows or should know appeals to children; and
    - (vi) discloses each active or potentially active ingredient, in order of prominence, and possible allergen; and
  - (b) package the raw cannabis or cannabis product in a medicinal dosage form in a container that:

- (i) is tamper evident and tamper resistant;
- (ii) does not appeal to children;
- (iii) does not mimic a candy container;
- (iv) is opaque;
- (v) complies with child-resistant effectiveness standards that the United States Consumer Product Safety Commission establishes; and
- (vi) includes a warning label that states: "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a qualified medical provider."

In order to execute against our demand projections with extracted products (and limit the need to buy/ship from wholesalers), we would require approximately 3,000 - 4,000 square feet at the Carr Building for extraction and processing. We are prepared to apply (and likely secure) a Tier 2 processing license, with approval by the city to co-locate this operation alongside our cultivation and pharmacy operations.

See Appendix J for description of extraction techniques and machinery details.

*Q: Would processing ever be done at this site for products sold at different locations?*

Patient projections are estimated to reach 50k within the next 48 months. Currently, patient ramp is scaling faster than expected, and we believe patient count could reach 100k patients, Statewide. At either of those patient count figures, a 3-4k sq foot processing operation would only be able to support a single pharmacy. Our intention with being co-located is to build the necessary operations up the supply chain to support the pharmacy operation and its demand, all under one roof.

If or when production outpaces internal sales we may choose to sell Wholesome products at other Medical Cannabis Pharmacies in Utah. However, with 5 cultivators and 11 pharmacies not being vertically integrated, it's our belief that the wholesale market will be sufficiently operated by these non-vertically integrated license holders.

*Q: What type of equipment is needed?*

Tier 2 processing requires very little equipment. The process includes a dry/cure room to prepare the cannabis, trimming machines, scissors, vacuum sealers and storage containers housed in a secured vault.

Tier 1 processing, which allows for extraction and formulations, requires some lightweight machinery, a basic chemistry lab and a State certified kitchen for formulation and product packaging. Methods for extraction vary in size, complexity and costs, and largely depend on the available sq footage. However, if permitted to process as a Tier 2 processor, we would move forward with one of the following extraction methodologies:

1. Hydrocarbon based extraction systems (cannabinoids and terpenes are organic hydrocarbons)
2. Liquid CO2 extraction systems
3. Ethanol based extraction

All three methods would be closed loop systems and have been proven to be safe and effective methods to create medical grade cannabis products for patient consumption.

See Appendix K for details about the variable extraction processes.

Q: What type of combustible materials will be on-site?

No combustible materials are required for a Tier 2 license to process and package dried flower.

A Tier 1 license would allow for the use of ethanol, butane or CO2 extraction machines to separate the cannabinoids and terpenes. These materials would be stored in a licensed C1D1 container in accordance to State code. Ethanol and other common cleaning supplies are used to sanitize and prevent any contamination, these items are stored in vented flammable cabinets with anti static grounding.

It's important to note that any licensed operators are obligated to follow the State's safety protocols. Processors are regulated by the Department of Agriculture and Food, and similar to cultivation and pharmacy operators, processors are inspected prior to being awarded a license and visited regularly thereafter. We expect routine visits from State regulators at least twice a month.

*For additional information on State laws and regulations for processors please see Appendix L. For additional information on the extraction solvents refer to Appendix J.*

Q: What types of waste products are created as part of processing? How are they handled and disposed of?

Waste created through processing is similar to cannabis production waste. It is weighed and recorded in the State tracking system then disposed of in a locked dumpster under continuous surveillance footage that is accessible for at least 45 days. Waste that contains stems and leaves is shredded and mixed with non plant material until it is rendered useless.

Q: What are the water needs for processing? Do you plan to use culinary or secondary water? Is the use of water constant or seasonal? Will anything with the current water connection to the building need to be changed (e.g. meter)?

There are minimal water needs for processing, primary use will be for cleaning and sanitation.

### **Development Agreement**

Q: What terms do you recommend for a development agreement?

This would need to be worked out with the city attorney. However, at minimum, we would expect language defining what constitutes a violation, the number of violations permitted, how to remedy any violations, and a dispute resolution provision.



Dear Planning Commission Members:

Denis Hopkinson – Chair  
Laura Charchenko  
Mike Cottle  
Alan Malan  
Corey Sweat  
Dennis Vest - alternate

We feel it is necessary as owners of the commercial shopping center adjoining the subject property referenced above to comment on the proposed change in zoning now before the Planning Commission.

A large production/farming facility of this type in close proximity to the existing shopping center has the potential to be very injurious. Reports from other locations, primarily in Colorado, have described a decline in the numbers and types of retail operations that will locate in the area of a cannabis-based enterprise of this nature. Certain of our tenants may be decidedly opposed and it may be a factor in decisions to continue their tenancy beyond current terms.

Commons at West Bountiful has been developed and operated as a first-class shopping center which has proved beneficial for the many businesses located there, the owners, West Bountiful City and the entire community. Any change in use that would negatively affect the success of the property, especially at this time of great duress related to the global pandemic, deserves serious attention and caution. We ask that this change be rejected based on the potential repercussion from businesses unwilling to remain at or locate near such a facility.

Thank you for your consideration,

*Cynthia Cobbley*

**The Thackeray Company**

1165 E Wilmington Avenue, Ste 275

Salt Lake City, UT 84106

Direct Line 801-303-0741

Main Office 801-487-6670

[cindyc@jtcompany.com](mailto:cindyc@jtcompany.com)

**NEW:**

**17.62 Medical Cannabis Pharmacies and Cannabis Production Establishments**

**17.62.010 Purpose**

This chapter is intended to implement, within the city, the land use, and other regulations provided in the Utah Medical Cannabis Act, *Utah Code Ann. § 26-61a-101, et seq.*; Cannabis Production Establishments, *Utah Code Ann. § 4-41a-101, et seq.*; and any other applicable state law relative to medical cannabis pharmacies and cannabis production establishments. State law will govern to the extent of any conflict between this chapter and state law.

**17.62.020 Definitions**

Unless the context requires otherwise or another definition is provided in state law, the following definitions shall be used in the interpretation and construction of this title. Words used in this title but not defined herein shall have the meanings defined in any other provision of the West Bountiful Municipal Code.

“**Cannabis**,” also known as marijuana, means all species of the genus cannabis and all parts of the genus, whether growing or not, including seeds; resin extracted from any part of the plant, including the resin extracted from mature stalks; every compound, manufacture, salt, derivative, mixture, or preparation of the plant, seeds, or resin; and any synthetic equivalents of the substances contained in the plant cannabis sativa or any other species of the genus cannabis which are chemically indistinguishable and pharmacologically active. Cannabis does not include the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted from them), fiber, oil or cake; or the sterilized seed of the plant which is incapable of germination.

“**Cannabis cultivation facility**” means a person that:

1. Possesses cannabis;
2. Grows or intends to grow cannabis; and
3. Sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis processing facility, or a medical cannabis research licensee.

“**Cannabis processing facility**” means a person that:

1. Acquires or intends to acquire cannabis from a cannabis production establishment or a holder of an industrial hemp processor license under the Hemp and Cannabinoid Act, *Utah Code Ann. § 4-41-101, et seq.*;
2. Possesses cannabis with the intent to manufacture a cannabis product;
3. Manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and
4. Sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.

“**Cannabis product**” means a product that is intended for human use; and contains cannabis or tetrahydrocannabinol.

“**Cannabis production establishment**” means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.

“**Community Location**” means a public or private school, a licensed child-care facility or preschool, a church, a public library, a public playground, or a public park.

“**Independent cannabis testing laboratory**” means a person that conducts a chemical or other analysis of cannabis or a cannabis product; or acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

“**Medical cannabis**” means cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

“**Medical cannabis pharmacy**” means a person that:

1. a. acquires or intends to acquire:
  - i. cannabis in a medicinal dosage form or cannabis product in a medicinal dosage form from a cannabis processing facility; or
  - ii. a medical cannabis device; or
- b. possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device; and
2. sells or intends to sell cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device to a medical cannabis cardholder.

“**Medical cannabis research licensee**” means a research university that the Utah Department of Agriculture and Food licenses to obtain and possess medical cannabis for academic research, in accordance with *Utah Code Ann. § 4-41a-901*.

“**Primarily Residential**” zone, for purposes of this chapter and any applicable state law in determining the location of any medical cannabis pharmacy or medical cannabis production establishment, means residential zoning districts A-1, R-1-10, and R-1-22, and all other residential zoning districts, including overlay zones, where the majority of the buildings in the zone are used, in whole or in part, for dwelling units.

### **17.62.030 Medical Cannabis Pharmacies**

The following standards apply to all medical cannabis pharmacies:

1. Generally.
  - a. Medical cannabis pharmacies shall comply with all state law requirements, including those related to security, access, licensing, advertising, and operations.
  - b. A medical cannabis pharmacy shall comply with the land use regulations for the zoning district in which it is located.
  - c. Medical cannabis pharmacies shall not be located in or within 600 feet of a district that is zoned primarily residential or within 200 feet of a community location measured from the nearest entrance to the cannabis production establishment following the shortest ordinary route of pedestrian travel to the boundary of the community location or residential zone.
  - d. An applicant for a land use permit to operate a medical cannabis pharmacy shall comply with the land use requirements and application processes described in the Municipal Land Use, Development, and Management Act, *Utah Code Ann. § 10-9a-101, et seq.*; and the West Bountiful Municipal Code.
  - e. Each medical cannabis pharmacy shall obtain a city business license before conducting business within the city and shall be subject to all business license requirements, including any requirements that are specific to medical cannabis pharmacies.

2. Hours of Operation. Unless state law specifies other maximum hours of operation, hours of operation for medical cannabis pharmacies shall commence no earlier than 7:00 am and end by 10:00 pm.
3. Advertising. A medical cannabis pharmacy may not advertise in any medium, except as provided in this section.
  - a. A medical cannabis pharmacy may use signage on the outside of the medical cannabis pharmacy that:
    - i. includes only the medical cannabis pharmacy's name and hours of operation, and a green cross.
    - ii. does not exceed four feet by five feet in size; and
    - iii. complies with city signage regulations.
  - b. A medical cannabis pharmacy may maintain a website that includes information about:
    - i. the location and hours of operation of the medical cannabis pharmacy;
    - ii. a product or service available at the medical cannabis pharmacy;
    - iii. personnel affiliated with the medical cannabis pharmacy;
    - iv. best practices that the medical cannabis pharmacy upholds; and
    - v. educational material related to the medical use of cannabis.
4. Appearance.
  - a. The exterior façade of a medical cannabis pharmacy shall maintain the natural color and appearance of the building in a manner that avoids drawing special attention to the building.
  - b. No cannabis products shall be promoted or visible from outside a medical cannabis pharmacy.

#### **17.62.040 Cannabis Production Establishments**

The following standards apply to all cannabis production establishments:

1. Generally.
  - a. Cannabis production establishments shall comply with all state law requirements, including those related to security, access, licensing, advertising, and operations.
  - b. A cannabis production establishment shall comply with the land use regulations for the zoning district in which it is located.
  - c. Cannabis production establishments shall not be located in or within 600 feet of a district that is zoned as primarily residential or within 1,000 feet of a community location measured from the nearest entrance to the cannabis production establishment following the shortest ordinary route of pedestrian travel to the boundary of the community location or residential zone.
  - d. Cannabis production establishments shall be designed to filter inside air exchanges to the outside through air filter systems to prevent the emission of dust, fumes, vapors, odors or waste into the environment.
  - e. An applicant for a land use permit to operate a medical cannabis pharmacy shall comply with the land use requirements and application processes described in the Municipal Land Use, Development, and Management Act, *Utah Code Ann.* § 10-9a-101, *et seq.*; and the West Bountiful Municipal Code.
  - f. Each cannabis production establishment shall obtain a city business license before conducting business within the city and shall be subject to all business license requirements, including any requirements that are specific to cannabis production establishments.
2. Advertising. A cannabis production establishment may not advertise to the general public in any medium, except as provided in this section.
  - a. A cannabis production establishment may advertise an employment opportunity at the cannabis production establishment.

- b. A cannabis production establishment may maintain a website that:
    - i. contains information about the establishment and employees; and
    - ii. does not advertise any medical cannabis, cannabis products, or medical cannabis devices.
  - c. A cannabis production establishment may use signage on the outside of the medical cannabis pharmacy that:
    - i. includes only the cannabis production establishment's name and hours of operation, and a green cross.
    - ii. does not exceed four feet by five feet in size; and
    - iii. complies with city signage regulations.
3. Appearance.
- a. If a cannabis production establishment is located in an enclosed building, the exterior façade of the cannabis production establishment shall maintain the natural color and appearance of the building in a manner that avoids drawing special attention to the building.
  - b. No cannabis products shall be promoted or visible from outside a cannabis production establishment.

-----

**Chapter 17.28 Commercial Neighborhood District, C-N**

**17.28.020 Permitted Uses**

\* \* \*

- M. Ceramic business; ~~and~~
- N. Carpet cleaning-; ~~and~~
- O. Medical cannabis pharmacy, as defined in Chapter 17.62.

**17.28.035 Prohibited Uses**

The following uses are prohibited in the C-N commercial neighborhood districts:

\* \* \*

- B. Retail e-cigarette specialty businesses; ~~and~~
- C. Sexually oriented businesses-; ~~and~~
- D. Cannabis production establishment, as defined in Chapter 17.62.

**Chapter 17.32 Commercial General District, C-G**

**17.32.20 ~~17.32.020~~ Permitted Uses**

The following uses are permitted in the C-G commercial general districts:

\* \* \*

- K. Medical ~~C~~cannabis ~~P~~pharmacy, as defined ~~by Utah Code~~in Chapter 17.62.

**17.32.035 Prohibited Uses**

The following uses are prohibited in the C-G commercial general district:

\* \* \*

- B. Retail e-cigarette specialty businesses; ~~and~~
- C. Sexually oriented businesses-; ~~and~~
- D. Cannabis production establishment, as defined in Chapter 17.62.

### ~~17.32.100 Medical Cannabis Pharmacies~~

~~A medical cannabis pharmacy may only operate between the hours of 7 a.m. and 10 p.m.~~

## **Chapter 17.34 Commercial Highway District, C-H**

### **17.34.020 Permitted Uses**

The following uses are permitted in the C-H commercial highway district:

\* \* \*

H. Contractor offices, including but not limited to general, electrical, mechanical, heat, ventilation and air conditioning, plumbing, and landscaping; ~~and~~

I. Indoor storage units; ~~and~~

J. **Medical cannabis pharmacy, as defined in Chapter 17.62.**

### **17.34.040 Prohibited Uses**

\* \* \*

K. Retail tobacco specialty businesses; ~~and~~

L. Single retail unit space over seventy-five thousand (75,000) square feet; ~~and~~

M. **Cannabis production establishment, as defined in Chapter 17.62.**

## **Chapter 17.36 Light Industrial District, L-I**

### **17.36.020 Permitted Uses**

The following uses are permitted in **the L-I light industrial districts:**

\* \* \*

H. Retail commercial uses; ~~and~~

I. Sexually oriented businesses; ~~and~~

J. **Medical cannabis pharmacy, as defined in Chapter 17.62.**

### **17.36.030 Conditional Uses**

The following uses are conditional in **the L-I light industrial districts:**

\* \* \*

B. **Cannabis production establishment, as defined in Chapter 17.62.**

C. Other uses and businesses which are ~~considered~~ similar to those listed in this section and Section 17.36.020, as determined by the planning commission.

## **Chapter 17.40 Industrial General District, I-G**

### **17.40.020 Permitted Uses**

The following uses are permitted in the **I-G industrial general districts:**

\* \* \*

G. Public and quasi-public institutions;

H. **Medical cannabis pharmacy, as defined in Chapter 17.62; and**

I. **Cannabis production establishment, as defined in Chapter 17.62.**

### 17.40.030 Conditional Uses

The following uses are conditional in the I-G industrial general districts:

\* \* \*

- D. Other uses and businesses which are ~~considered~~ similar to those listed in this section and Section 17.40.020, as determined by the planning commission.

## Chapter 17.16 Agricultural District, A-1

### 17.16.010 Purpose

The purpose of ~~providing~~ the A-1 agricultural district is primarily residential, ~~to~~ while also promoting and preserving in appropriate areas conditions favorable to agriculture and ~~to~~ maintaining greenbelt open spaces. This district is intended to include activities normally and necessarily related to the ~~conduct of residential and agricultural use~~, and to protect the district from the intrusion of uses harmful to the continuance of residential and agricultural activity. It is ~~also~~ intended to allow and promote conditions favorable to large-lot family life, the keeping of limited numbers of animals and fowl, and reduced requirements for public utilities.

NEW:

## Chapter 17.14 Agricultural Specialty District, A-S

### 17.14.010 Purpose

The purpose of the A-S agricultural specialty district is to promote and preserve in appropriate areas conditions favorable to agriculture and ~~to~~ maintaining greenbelt open spaces. This district is intended to include activities normally and necessarily related to agricultural use, and to protect the district from the intrusion of uses harmful to the continuance of agricultural activity. It is also intended to allow associated residential uses, the keeping of limited numbers of animals and fowl, and reduced requirements for public utilities.

### 17.14.020 Permitted Uses

The following uses are permitted in the A-S agricultural specialty district:

- A. Agricultural;
- B. Single family dwelling;
- C. Farm Animals;
- D. Home Occupations;
- E. Residential facility for persons with a disability;
- F. Medical cannabis pharmacy, as defined in Chapter 17.62; and
- G. Cannabis production establishment, as defined in Chapter 17.62.

The remainder of Chapter 17.14 mirrors Chapter 17.16 Agricultural District A-1.

### 17.14.030 Conditional Uses

The following uses are conditional in the A-S agricultural specialty district:

- A. Equestrian facilities, commercial stables;
- B. Public or quasi-public uses;
- C. Child day care or nursery (pursuant to Chapter 5.28 Home Occupations);
- D. Flag lots;
- E. Kennels, (pursuant to Chapter 5.28 Home Occupations);
- F. Residential facility for elderly persons;
- G. Accessory Dwelling Units (ADU); and
- H. Restricted Lots (see definitions, Section 17.04.030); and

#### **17.14.040 Area And Frontage Regulations**

The following area and frontage regulations apply in the A-S agricultural specialty district:

- A. The minimum residential lot size shall be one acre; this shall not apply to PUDs which shall be regulated by provisions of Chapter 17.68;
- B. The minimum lot width shall be eighty-five (85) feet;
- C. Any legally created lot at the time of adoption of this zoning code, which is below the requirements for lot area or lot width for the district in which it is located and on which a dwelling would be permitted if the lot met the area requirements of the zoning code, may be used for a single family dwelling if such a lot is located in the (A-S, A-1, R-1-10, R-1-22) zoning district. The width of each of the side yards for such a dwelling may be reduced to a width which is not less than the same percentage of the lot width as the required side yard would be of the required lot width; provided that in no case shall the smaller of the two side yards be less than five (5) feet nor shall the total width of the two side yards be less than thirteen (13) feet.

#### **17.14.045 Every Dwelling To Be On A Lot; Exceptions**

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

#### **17.14.050 Yard Regulations**

The following regulations apply in the A-S agricultural specialty district:

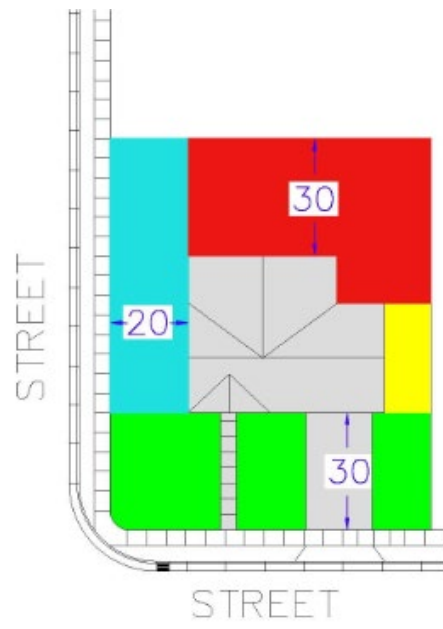
- A. Minimum Setbacks. (See diagram below)
  - 1. Front yard. The minimum front yard setback for all structures is thirty (30) feet, except as otherwise allowed in this Code.
  - 2. Side yard. The minimum side yard setback for all structures is ten (10) feet for any one side. Main structures shall have a combined total side setback of twenty-four (24) feet for both sides.
  - 3. Street side yard.
    - 1. On a corner lot, the minimum street side yard setback is twenty (20) feet.
    - 2. Notwithstanding the foregoing, a structure may be constructed within the street side yard of a corner lot if the structure:
      - 1. Is situated behind the rear line of the main structure and no closer than three (3) feet from the street side lot line;



2. Is two hundred (200) square feet or less;
3. Has a maximum height of nine (9) feet measured from the lowest finished ground level to the highest part of the roof; and
4. Complies with other requirements of this Code.

4. Rear yard.

1. The minimum rear yard setback for all main structures is thirty (30) feet.
2. The minimum rear yard setback for accessory and non-commercial structures, measured from the rear lot line or side lot line, is six (6) feet, or three (3) feet if the structure is built to fire code standards.
3. For purposes of subsections A.4.d and A.4.e. of this section:
  1. "Patio" means a pad or structure no more than twenty-four (24) inches above the lowest adjacent finished ground level that provides outdoor floor space and does not require a railing under applicable building codes.
  2. "Deck" means a structure higher than twenty-four inches above the lowest adjacent finished ground level that provides outdoor floor space and requires a railing under applicable building codes.
4. A deck may encroach into the rear yard setback as long as it meets the following requirements:
  1. No portion of the deck is less than twenty-five (25) feet from the rear property line;
  2. The deck is no closer to a side lot line than the minimum required side yard or street side yard setback for the main structure;
  3. The deck does not encroach more than 200 square feet into the setback area;
  4. The floor of the deck is no higher than the highest finished floor of the main structure;
  5. The portion of the deck that extends into the rear yard setback is not covered; and
  6. The railing is no more than forty-eight (48) inches high and is less than twenty-five percent (25%) transparent.
5. A patio roof may encroach into the rear yard setback as long as it meets the following requirements:
  1. The patio floor surface is no higher than the lowest finished floor elevation;
  2. No portion of the roof is less than twenty-five (25) feet from the rear property line;
  3. The roof is no closer to a side lot line than the minimum required side yard or street side yard setback for the main structure;
  4. The roof does not encroach more than two-hundred (200) square feet into the setback area;
  5. The highest point of the roof is no higher than the adjacent roof the the dwelling or eighteen (18) feet above the patio, whichever is lower;
  6. No wall, fence, or railing is required or constructed along any part of the patio; and
  7. The patio and roof meet all building code requirements.



- B. Distance between main structures and accessory buildings. The minimum distance between all main structures and accessory structures shall be eight (8) feet.
- C. No building on recorded easements. No main structure, non-commercial structure, or permanent accessory structure shall be built on or over any recorded easement such as a public utility easement.
- D. Lot standards and street frontage. Except as otherwise provided in this title, every lot hereafter created or modified shall have such area, width and depth as is required by this title for the district in which such lot is located and shall have frontage upon a public street before a building permit may be issued.
- E. Yard space for one building only. No yard or open space on a property shall be considered as providing a yard or open space for a building on an adjacent property.
- F. Area of structure and accessory building. No accessory structure, non-commercial structure, or group of structures shall cover more than thirty-five percent (35%) of the rear yard or, on a corner lot, the combined rear yard and street side yard behind the main structure.
- G. Sales or lease of space. No space needed to meet the width, yard, area, coverage, parking or other requirements of this title for a lot or building may be sold or leased away from such lot or building.
- H. Other building and structure restrictions. No structure, including any structure exempt from a building permit, shall be allowed in any part of a required front, side, or street side yard setback, except that landscape enhancements, such as trellises and arbors, shall be allowed subject to other applicable regulations. Any such landscape enhancement in the front, side, or street side yard shall be limited to a gross area of ten (10) square feet or less, a width no greater than sixty (60) inches, and a height no greater than ninety-six (96) inches and shall be subject to applicable site triangle area restrictions.

#### **17.14.060 Height Regulations**

- A. Maximum height of structures. No structure shall be erected to a height greater than thirty-five (35) feet as measured from the lowest finished ground level to the highest part of the roof,

except as otherwise provided in this section.

1. The height of a main structure in this district may be increased to a maximum of forty (40) feet if, for every foot of height in excess of thirty-five (35) feet, the structure is set back an additional one (1) foot beyond the minimums required by the chapter in the rear yard, side yards, and as applicable, street side yard.
  2. The height of an accessory or non-commercial structure in this district may be increased to a maximum of forty (40) feet subject to the same requirements listed in subsection A.1. of this section.
- B. Additional height allowed. Public buildings and quasi-public buildings may be erected to a height greater than thirty-five (35) feet when approved as a conditional use by the planning commission.
- C. Exceptions to height limitations. Penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building; and fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys, smokestacks, water tanks, wireless or television masts, theater lofts, silos or similar structures may be erected above the height limits herein prescribed, but no space above the height limit shall be allowed for the purpose of providing additional floor space, and such increased height is subject to all other ordinances and regulations of the city.
- D. Minimum height of dwellings. No dwelling shall be erected to a height less than one story above grade.

#### **17.14.070 Density**

The maximum net density allowed shall be one unit per acre.

#### **17.14.080 Farm Animal Regulations**

A. Farm animals may be kept on properties according to the following requirements:

1. For each acre, a parcel, or adjacent properties, whether owned or leased, shall be eligible to contain or house farm animals rating one hundred (100) points or prorated for any part thereof.
  1. Large animals such as horses, ponies, donkeys, mules, llamas and cows require a minimum area of .40 acres: Forty (40) points each.
  2. Medium animals such as sheep and goats, and other animals of similar size: Twenty (20) points each.
  3. Small animals such as ducks, chickens, geese, rabbits and turkeys: Four (4) points each.
  4. Pigs, provided that pens are located at least two hundred (200) feet from neighboring dwellings: Forty (40) points each.
  5. Miniature or pygmy farm animals will have one-half the points of the normal sized species.
2. The points listed in Subsection A.1 above may be decreased for large, medium and small animals subject to approval of a conditional use permit by the planning commission pursuant to Chapter 17.60 of the West Bountiful Municipal Code and the provisions below.

1. The minimum points allowed shall be twenty-five (25) for each large animal, ten (10) for each medium animal, and two (2) for each small animal.
  2. Neighbors adjoining the applicant's property for which the conditional use permit is requested will be notified by city staff at least five (5) days prior to the public meeting. Such notification will include the name and address of the applicant, the specific reason for the application, and the date, time and location of the planning commission meeting at which the application will be discussed.
  3. Dependent offspring, up to nine (9) months of age, shall not be counted in determining the total number of animals on the parcel(s).
  4. Adopted dependent offspring, up to nine (9) months of age, shall not be counted in determining the total number of animals on the parcel(s), subject to approval of a conditional use permit as outlined in Subsection A.2. above. Such conditional use permit shall be valid for no longer than nine months, as determined by the planning commission.
  5. Honeybees, pursuant to the requirements of Title 4, Chapter 11 of the Utah Code.
- B. For multiple properties to be eligible for combined point calculation under Subsection A, the following criteria must be met:
1. The properties shall be owned or leased by the same person or entity.
  2. All properties used for the combined point calculation must be contiguous.
  3. If one or more properties are leased:
    1. The lease must be in writing and signed by both parties.
    2. The leased property, in its totality, must be used in some meaningful way by lessee in the keeping of farm animals.
- C. All animals, except bees, must be kept in an area enclosed by a fence or structure sufficient to prevent escape.
- D. Setbacks for all structures shall meet applicable zoning requirements for each parcel, as well as the following requirements, as applicable.
1. No animal shelter, including pens, coops and beehives, may be located less than six (6) feet from any property line or dwelling.
  2. Barns, stables, corrals, or similar structures used to house medium and large animals may not be located less than seventy-five (75) feet from any neighboring dwelling.
  3. An apiary, housing colonies of bees, must be at least six (6) inches above the ground and, if located less than fifteen (15) feet from a property line, a solid six (6) foot vertical barrier running along or near the property line and extending at least four (4) feet beyond the apiary in each direction is required.
- E. To protect the health, safety and welfare of the animals and the public, animal waste, debris, noise, odor, and drainage shall be kept in accordance with usual and customary health standards associated with that type of animal.
- F. Failure to comply with any portion of this section shall invalidate any use specified in this section and shall subject the owner to penalties and/or fines as specified elsewhere in this title.

### 17.14.100 Fence Requirements

- A. Fences and walls may not exceed six feet in height within any required rear yard or interior side yard. Notwithstanding the foregoing, the planning commission may approve the erection of a fence to a height greater than six feet within any required rear yard or interior side yard upon a showing that the increased height is reasonably necessary to protect the property from an adjacent incompatible land use.
- B. Notwithstanding any other provision of this Title, no fence, wall, or hedge may exceed four (4) feet in height within any front yard setback. Within any front yard setback, no fence, wall or hedge may exceed two (2) feet in height within three (3) feet of any street right of way or sidewalk (whichever is closer to the primary building on the lot).
- C. When a fence, wall or hedge is located along a property line separating two lots and there is a difference in the grade of the properties on the two sides of the property line, the fence, wall or hedge may be erected or allowed to the maximum height permitted as measured from the higher grade.
- D. Clear view of intersecting streets. In all districts which require a front yard no obstruction to view in excess of two feet in height shall be placed on any corner lot within a triangular area formed by the street property lines and a line connecting them at points (40) feet from the intersection of the street lines, except pedestal type identification signs and pumps at a gasoline service station, and a reasonable number of trees pruned so as to permit unobstructed vision to traffic.

# MEMORANDUM



**TO:** City Council

**DATE:** July 2, 2020

**FROM:** Staff

**RE:** Ashby Acres Subdivision – Final Plat

---

James and Shelly Bruhn have applied for an 8-lot subdivision on the northeast corner of 1100 West and Pages Lane. The property is within the R-1-22 zone and consists of 4.62 acres. The eight lots meet the required R-1-22 zoning requirements for size and frontage. Will-serve letters have been received from the major utility companies.

The purpose of the final plat is to require formal approval before a subdivision plat is recorded with the county recorder. The final plat and construction plans must conform in all respects to those regulations and requirements specified during the preliminary plat procedure and final plat review. The planning commission recommended approval of the final plat subject to several miscellaneous clarifications being added to the plat and a drainage plan to be accepted by the city engineer.

Ben White has some concerns with the proposed drainage plan. The initial plan included a storm drainpipe on lots 7 & 8 but cannot be used as there is a shallow underground gas easement that restricts placement of the drainpipe. Mr. Bruhn has suggested an alternative proposal to add a swell along the rear of the properties to match the drainage plan for the adjacent Olsen Farms subdivision. He does not believe there will be a drainage problem since he has lived on the property for many years and drainage has never been an issue.

Mr. White will be available at the city council meeting to discuss these issues.

**Possible Motion:**

- Approve final plat for Ashby Acres subdivision subject to Engineer approval of drainage plan;
- Make requested clarifying changes to final plat and construction designs.
- Obtain final design approval from Weber Basin and South Davis Sewer (request has been sent)
- Payment of storm drain impact fees (for 6 lots), and reimbursable costs from Pages Lane project.

**ASHBY ACRES SUBDIVISION**  
 LOCATED IN THE SOUTH WEST QUARTER OF SECTION 13,  
 TOWNSHIP 2 NORTH, RANGE 1 WEST, S.L.B.&M.  
 WEST BOUNTIFUL CITY, DAVIS COUNTY, UTAH  
 FINAL PLAT, JULY 2020

**SURVEYOR'S CERTIFICATE**

I, JEREMIAH R. CUNNINGHAM, A PROFESSIONAL LAND SURVEYOR HOLDING CERTIFICATE NO. 9182497 AS PRESCRIBED UNDER THE LAWS OF THE STATE OF UTAH, DO HEREBY CERTIFY THAT BY THE AUTHORITY OF THE OWNERS I HAVE MADE A SURVEY OF THE TRACT OF LAND SHOWN ON THIS PLAT AND DESCRIBED HERewith AND HAVE SUBDIVIDED SAID TRACT OF LAND INTO LOTS AND STREETS HEREAFTER TO BE KNOWN AS ASHBY ACRES SUBDIVISION AND THAT SAME HAS BEEN CORRECTLY SURVEYED AND STAKED ON THE GROUND AS SHOWN.

**NOT APPROVED**

JEREMIAH R. CUNNINGHAM, P.L.S. UT #9182497

**BOUNDARY DESCRIPTION**

BEGINNING AT THE WEST QUARTER CORNER OF SECTION 13, TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, DAVIS COUNTY, UTAH AND RUNNING THENCE NORTH 89°59'21" EAST 528.14 FEET ALONG THE WESTERLY QUARTER SECTION LINE SAID SECTION 13; THENCE SOUTH 00°59'06" EAST 283.07 FEET TO THE NORTH RIGHT OF WAY LINE OF PAGES LANE; THENCE SOUTH 89°55'40" WEST 742.67 FEET ALONG SAID NORTH RIGHT OF WAY LINE TO A POINT OF CURVATURE WITH A 11.88 FOOT RADIUS CURVE TO THE RIGHT; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 18.56 FEET (CENTRAL ANGLE = 089°32'10" CHORD BEARING AND DISTANCE = NORTH 45°18'15" WEST 16.73 FEET) TO THE EAST RIGHT OF WAY LINE OF 1100 WEST STREET; THENCE NORTH 00°32'10" WEST 135.89 FEET ALONG SAID EAST RIGHT OF WAY TO A POINT OF CURVATURE WITH A 137.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 64.97 FEET (CENTRAL ANGLE = 022°59'15" CHORD BEARING AND DISTANCE = NORTH 10°52'49" EAST 54.60 FEET); THENCE NORTH 22°17'47" 88.54 FEET ALONG SAID EAST RIGHT OF WAY LINE TO THE EAST QUARTER CORNER OF SAID SECTION 14; THENCE NORTH 89°47'11" EAST 178.93 FEET ALONG SAID QUARTER SECTION LINE TO THE POINT OF BEGINNING. CONTAINING 4.618 ACRES

**OWNER'S DEDICATION**

KNOWN ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED OWNERS OF THE ABOVE DESCRIBED TRACT OF LAND, HAVING CAUSED SAME TO BE SUBDIVIDED INTO PRIVATE LOTS, HEREAFTER TO BE KNOWN AS ASHBY ACRES SUBDIVISION, DO HEREBY DEDICATE FOR PERPETUAL USE OF THE PUBLIC ALL PARCELS OF LAND AND PUBLIC UTILITY EASEMENTS SHOWN ON THIS PLAT AS INTENDED FOR PUBLIC USE AND DO WARRANT, DEFEND, AND SAVE THE CITY HARMLESS AGAINST ANY EASEMENTS OR OTHER ENCUMBRANCES ON THE DEDICATED STREET, PARCELS, AND PUBLIC UTILITY EASEMENTS WHICH WILL INTERFERE WITH DEDICATED PUBLIC USE.

SIGNED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

JAMES DELL BRUHN, TRUSTEE  
 THE JAMES DELL BRUHN AND SHELLEY OLSEN  
 BRUHN LIVING TRUST, DATED JUNE 27, 1994

SHELLEY OLSEN BRUHN, TRUSTEE  
 THE JAMES DELL BRUHN AND SHELLEY OLSEN  
 BRUHN LIVING TRUST, DATED JUNE 27, 1994

**TRUST ACKNOWLEDGMENT**

ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_ THERE PERSONALLY APPEARED BEFORE ME, JAMES DELL BRUHN and SHELLEY OLSEN BRUHN, TRUSTEES OF THE JAMES DELL BRUHN AND SHELLEY OLSEN BRUHN LIVING TRUST, DATED JUNE 27, 1994, WHO BEING DULY SWORN, DID SAY THAT THEY ARE TRUSTEES OF SAID TRUST AND THAT THE FOREGOING INSTRUMENT WAS SIGNED ON BEHALF OF SAID TRUST AND THAT IT IS WITHIN THE TRUSTEES' AUTHORITY TO EXECUTE THE SAME.

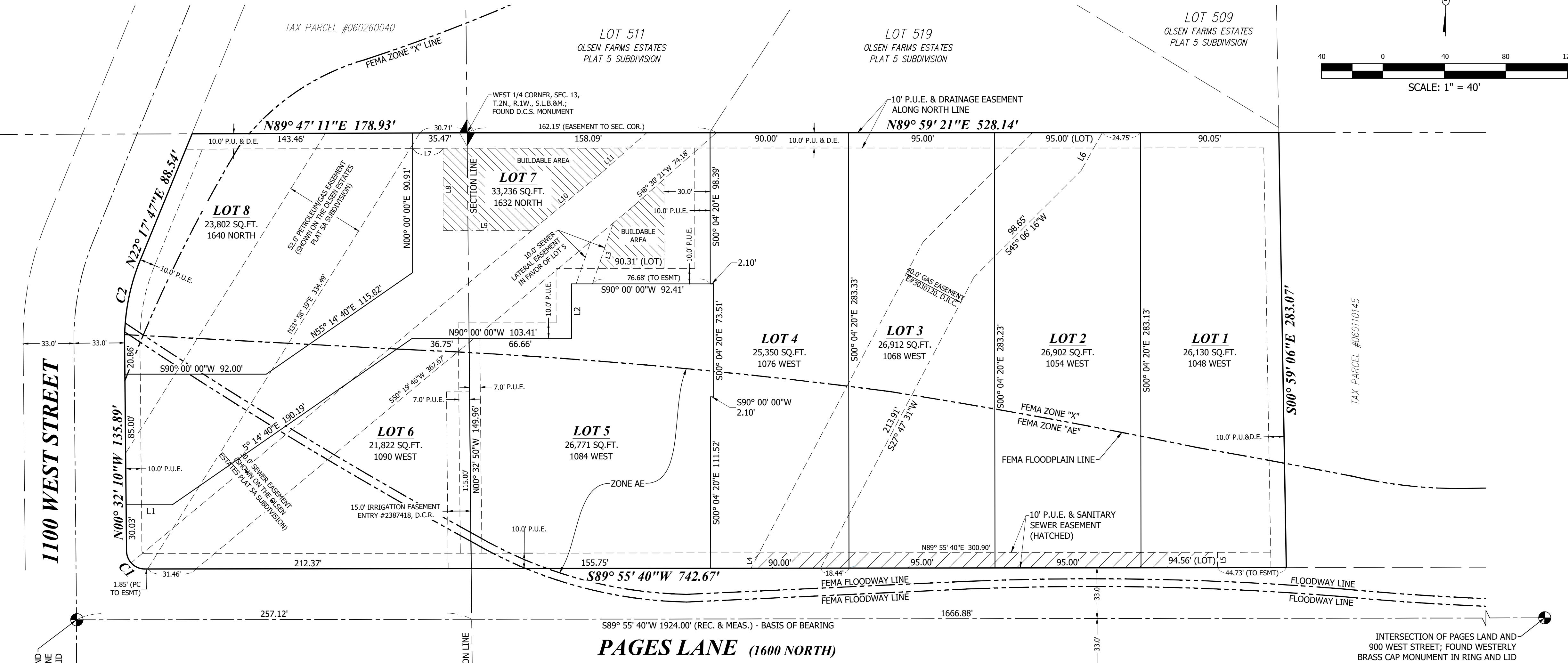
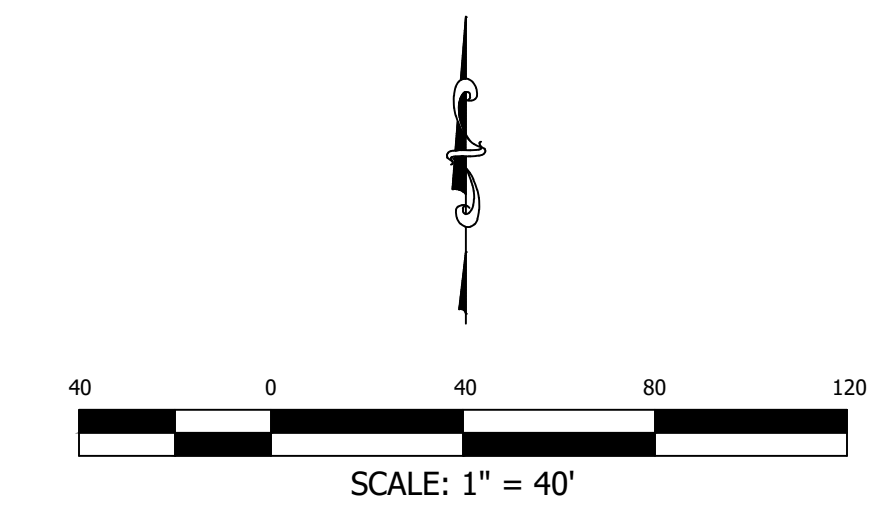
NOTARY PUBLIC: \_\_\_\_\_

RESIDENCE: \_\_\_\_\_

MY COMMISSION EXPIRES: \_\_\_\_\_

**DAVIS COUNTY RECORDER**

ENTRY NO. \_\_\_\_\_ FEE PAID \_\_\_\_\_  
 FILED FOR RECORD AND RECORDED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_,  
 AT \_\_\_\_\_ IN BOOK \_\_\_\_\_ OF \_\_\_\_\_  
 COUNTY RECORDER: \_\_\_\_\_  
 BY: \_\_\_\_\_ DEPUTY



CURVE TABLE					
CURVE	LENGTH	RADIUS	Δ	CH BEARING	CH LENGTH
C1	18.56'	11.88'	089°32'10"	N 45°18'15" W	16.73'
C2	54.97'	137.00'	022°59'15"	N 10°52'49" E	54.60'
C3	43.98'	28.00'	090°00'00"	N 45°00'00" W	39.60'
C4	43.98'	28.00'	090°00'00"	S 45°00'00" E	39.60'
C5	29.12'	48.00'	034°45'20"	S 72°37'20" W	28.67'
C6	16.98'	28.00'	034°45'20"	N 72°37'20" E	16.73'

LINE TABLE		
LINE	BEARING	LENGTH
L1	N 90°00'00" W	30.10'
L2	S 00°03'16" E	35.28'
L3	N 18°55'17" E	41.99'
L4	N 00°04'20" W	10.00'
L5	S 00°04'20" E	10.00'
L6	N 29°12'35" E	28.10'
L7	N 89°47'11" E	20.00'
L8	S 00°00'00" E	53.58'
L9	N 90°00'00" E	57.61'
L10	N 50°19'46" E	58.45'
L11	N 48°30'21" E	19.89'

- NOTES**
- PUBLIC UTILITY EASEMENTS (P.U.E.) ARE 10.0 FEET AT THE FRONT AND REAR OF LOTS AND 10.0 FEET ON THE SIDES OF LOTS, AS SHOWN.
  - A 10.0-FOOT PUBLIC UTILITY AND DRAINAGE EASEMENT (P.U. & D.E.) ALONG THE NORTH SIDE AND EAST LINE OF THIS SUBDIVISION SHALL BE USED TO GATHER RUNOFF AND TO STORE IT OR DIRECT IT TO A PUBLIC RIGHT OF WAY OR STORM DRAIN SYSTEM. DRAINAGE IMPROVEMENTS SHALL RESTRICT DRAIN WATER FROM FLOWING ONTO NEIGHBORING PROPERTIES.
  - DUE TO HIGH GROUNDWATER IN THE AREA, THE LOWEST FLOOR ELEVATIONS OF NEW STRUCTURES MUST BE SET AT LEAST 12 INCHES HIGHER THAN THE HIGHEST CURB LINE ELEVATION ALONG THE FRONTAGE OF EACH LOT.
  - THE FRONTAGE OF LOT 7 IS ALONG 1100 WEST STREET AND REAR LOT LINE IS THE EAST LINE OF LOT 7 THAT IS COMMON TO LOT 4.
  - THE DRIVEWAY TO LOT 7 MUST BE BUILT TO PROVIDE AN APPROVED FIRE ACCESS ROAD TO THE REAR OF SAID LOT AND CONFORM TO THE APPLICABLE FIRE CODE, INCLUDING AN APPROVED FIRE ACCESS ROAD TURNAROUND, AND THE SOILS REPORT ON FILE WITH CITY.
  - PARKING ALONG THE DRIVEWAY OF LOT 7 MUST COMPLY WITH FIRE CODE.
  - DRIVEWAY DESIGN FOR LOT 7 MUST DEMONSTRATE COMPLIANCE WITH THE FIRE CODE. THIS MAY REQUIRE CERTIFICATION BY A GEOTECHNICAL ENGINEER.
  - FEMA FLOODPLAIN INFORMATION SHOWN HEREON WAS TAKEN FROM FEMA FIRM MAP NUMBER 49011C0391E, EFFECTIVE JUNE 18, 2007.

LEGEND	
SUBDIVISION LINE	_____
LOT LINE	_____
ADJACENT PROPERTY	_____
PUBLIC UTILITY EASEMENT	_____
ROAD CENTERLINE	_____
SECTION LINE	_____
TIE TO MONUMENT	_____
SET 5/8" X 24" REBAR WITH H&A ENTELLUS CAP, LS #166385, AT CORNER (UNLESS OTHERWISE NOTED)	●
FOUND LOT CORNER MARKER (AS NOTED)	○

1470 South 600 West  
 Woods Cross, UT 84010  
 Phone 801.298.2236  
 www.Entellus.com

PROJECT #1696003  
 04/20/2020 JH  
 05/23/2020 JRC

**CITY ENGINEER**

RECOMMENDED FOR APPROVAL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

WEST BOUNTIFUL CITY ENGINEER \_\_\_\_\_

**PLANNING COMMISSION**

RECOMMENDED FOR APPROVAL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, BY THE PLANNING COMMISSION OF WEST BOUNTIFUL CITY.

CHAIRMAN \_\_\_\_\_

**CITY ATTORNEY**

RECOMMENDED FOR APPROVAL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

WEST BOUNTIFUL CITY ATTORNEY \_\_\_\_\_

**WEST BOUNTIFUL CITY COUNCIL**

PRESENTED TO THE CITY COUNCIL OF WEST BOUNTIFUL CITY, UTAH, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, AT WHICH TIME THIS PROJECT WAS APPROVED AND ACCEPTED.

CITY RECORDER ATTEST: \_\_\_\_\_

MAYOR: \_\_\_\_\_

**DAVIS COUNTY RECORDER**

ENTRY NO. \_\_\_\_\_ FEE PAID \_\_\_\_\_

FILED FOR RECORD AND RECORDED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_,  
 AT \_\_\_\_\_ IN BOOK \_\_\_\_\_ OF \_\_\_\_\_

COUNTY RECORDER: \_\_\_\_\_

BY: \_\_\_\_\_ DEPUTY

# MEMORANDUM



**TO: Mayor and City Council**

**DATE: July 2, 2020**

**FROM: Cathy Brightwell**

**RE: Request to Vacate a Portion of the North Utility Easement at 786 W 1300 North**

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The Maughan's wish to extend an existing garage in the northeast corner of their property at 786 W 1300 North but there is a conflict with the public utility/drainage easement along the rear property line. They are requesting to vacate seven feet of the ten-foot easement.

The process outlined in state code to vacate easements requires the city council to hold a public hearing which includes providing notice prior to the hearing in a local newspaper, to neighboring properties and affected entities, posting on city and state websites, and posting a notice on the property.

Public notice has been completed, a hearing scheduled for July 7, 2020, and the property owner has provided copies of written confirmation from all major utility companies that they have no buried utilities in the easement and do not object to its release.

Staff does not foresee any negative impacts to the city by vacating the requested portion of this easement and recommends that Resolution 475-20 be approved.



10' Easement  
Vacate 7'



N 800 W

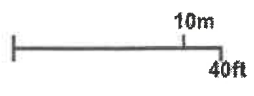
786 W

Maughan

W 1320 N

A025-007

W 1300 N



**WEST BOUNTIFUL CITY**

RESOLUTION #475-20

**A RESOLUTION AUTHORIZING THE CITY MAYOR TO EXECUTE THE VACATION OF A PORTION OF THE REAR (NORTH) PUBLIC UTILITY EASEMENT LOCATED AT 786 W 1300 NORTH**

*WHEREAS*, West Bountiful City has been petitioned by the owner of the above-mentioned property to vacate seven feet of the rear ten-foot public utility and drainage easement on their property; and

*WHEREAS*, a public notice was published in the June 26, 2020 Davis Clipper Newspaper, posted on state and city websites and on the property, and letters sent to neighboring property owners and affected entities; and

*WHEREAS*, releases have been received from all major public utility agencies; and

*WHEREAS*, a public hearing was held on July 7, 2020 to receive public comment concerning the vacation of the easement.

***NOW THEREFORE, BE IT RESOLVED*** by the City Council of West Bountiful City as follows:

The West Bountiful City Council, having heard all arguments for and against the release of the utility easement, approves the release as requested and hereby authorizes the City Mayor to execute the RELEASE OF EASEMENT for the property located at 786 W 1300 North.

**EFFECTIVE DATE.** This resolution shall take effect immediately.

Passed and approved by the City Council of West Bountiful City this 7<sup>th</sup> day of July 2020.

\_\_\_\_\_  
Kenneth Romney, Mayor

<u>Voting by the City Council:</u>	<u>Aye</u>	<u>Nay</u>
Council member Ahlstrom	_____	_____
Council member Bruhn	_____	_____
Council member Enquist	_____	_____
Council member Preece	_____	_____
Council member Wood	_____	_____

ATTEST:

\_\_\_\_\_  
Cathy Brightwell, Recorder



# MEMORANDUM

**TO:** Mayor and City Council

**DATE:** July 2, 2020

**FROM:** Duane Huffman

**RE:** **CARES Act Funding**

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This memo summarizes available funding to offset unplanned expenses related to the COVID-19 pandemic through the federal CARES Act.

## **Background**

The federal Coronavirus Aid, Relief, and Economic Security (CARES) Act provided \$562 million to the State of Utah for local governments. Ultimately, cities are set to receive \$107,296,608, divided out by population, roughly \$87 per capita. Counties will also receive \$87 per capita. School districts are a part of a separate funding source, but special districts are dependent on cities/counties for any share of the funding. The state plans to distribute the funding in three separate allocations. The first allocation is available now, and we don't know when the others will become available.

For West Bountiful City, this means a total of \$508,994 may be available, with \$169,665 available now. Davis County will have a total of around \$31,185,400.

The money may only be used for eligible expenses as defined by the US Treasury Department, and must be carefully tracked. Attached to this memo is the guidance provided by the Treasury Dept.

## **West Bountiful City Expenses**

West Bountiful City has created a special account number to track all eligible expenses. So far, the city has spent \$9,870. This has been for personal protective equipment, cleaning supplies, equipment needed for telecommuting, a glass barrier for the front desk, and equipment for internet meetings.

Staff has estimated that through 2020 up to an additional \$160,000 may be needed for city expenses. This number is based on estimates for personal protective equipment, cleaning supplies, cleaning contracts for vehicles and buildings, equipment for remote work stations, touchless faucets/toilets in restrooms, touchless entrance doors at city facilities, and signage.

Additionally, staff is exploring what it would take to provide free WiFi to the public at city areas such as the park. This is an eligible expense as it is considered a lifeline broadband project, providing internet for school/work for residents that may not have access in their homes.

The city could also develop programs designed to help residents or businesses affected by the pandemic (see the Treasury FAQ for examples).

### **Special Districts**

Special districts are dependent on cities or counties for any share of CARES funding. Davis County has made no mention of any intent to share funding with special districts, but the five cities in southern Davis County reached out to the Sewer, Fire, and Recreation districts to inquire of their expenses and needs. Based on information received so far, staff recommends setting aside \$20,000 from the West Bountiful portion to help offset special district costs that could otherwise be passed on to city residents.

### **Davis County Business Grant Program**

The county has begun a business grant program for a portion of CARES Funding. Attached to this memo is information on the county's program. The county has also asked that all cities in the county commit 50% of their first allocation for this program. This would be \$84,832.50 for West Bountiful City.

City staff supports the county's grant program, and believes it best to administer business grants county-basis rather than having the cities do it. However, 50% of the first allocation is probably too much to share at this point. Staff recommends monitoring the county program to determine its actual needs.

### **Items for Council Consideration**

1. Are their specific city expenses you are interested in seeing prioritized?
2. Is there interest in developing a grant program for affected residents?
3. Is there an amount you believe the city should share with the county's business grant program?
4. Do you have any concerns sharing the funding with special districts?

**Coronavirus Relief Fund**  
**Guidance for State, Territorial, Local, and Tribal Governments**  
**Updated June 30, 2020<sup>1</sup>**

The purpose of this document is to provide guidance to recipients of the funding available under section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”). The CARES Act established the Coronavirus Relief Fund (the “Fund”) and appropriated \$150 billion to the Fund. Under the CARES Act, the Fund is to be used to make payments for specified uses to States and certain local governments; the District of Columbia and U.S. Territories (consisting of the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands); and Tribal governments.

The CARES Act provides that payments from the Fund may only be used to cover costs that—

1. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
2. were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and
3. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.<sup>2</sup>

The guidance that follows sets forth the Department of the Treasury’s interpretation of these limitations on the permissible use of Fund payments.

***Necessary expenditures incurred due to the public health emergency***

The requirement that expenditures be incurred “due to” the public health emergency means that expenditures must be used for actions taken to respond to the public health emergency. These may include expenditures incurred to allow the State, territorial, local, or Tribal government to respond directly to the emergency, such as by addressing medical or public health needs, as well as expenditures incurred to respond to second-order effects of the emergency, such as by providing economic support to those suffering from employment or business interruptions due to COVID-19-related business closures.

Funds may not be used to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify under the statute. Although a broad range of uses is allowed, revenue replacement is not a permissible use of Fund payments.

The statute also specifies that expenditures using Fund payments must be “necessary.” The Department of the Treasury understands this term broadly to mean that the expenditure is reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending Fund payments.

***Costs not accounted for in the budget most recently approved as of March 27, 2020***

The CARES Act also requires that payments be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. A cost meets this requirement if either (a) the

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<sup>1</sup> This version updates the guidance provided under “Costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020”.

<sup>2</sup> See Section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act.

cost cannot lawfully be funded using a line item, allotment, or allocation within that budget *or* (b) the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation.

The “most recently approved” budget refers to the enacted budget for the relevant fiscal period for the particular government, without taking into account subsequent supplemental appropriations enacted or other budgetary adjustments made by that government in response to the COVID-19 public health emergency. A cost is not considered to have been accounted for in a budget merely because it could be met using a budgetary stabilization fund, rainy day fund, or similar reserve account.

***Costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020***

Finally, the CARES Act provides that payments from the Fund may only be used to cover costs that were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020 (the “covered period”). Putting this requirement together with the other provisions discussed above, section 601(d) may be summarized as providing that a State, local, or tribal government may use payments from the Fund only to cover previously unbudgeted costs of necessary expenditures incurred due to the COVID-19 public health emergency during the covered period.

Initial guidance released on April 22, 2020, provided that the cost of an expenditure is incurred when the recipient has expended funds to cover the cost. Upon further consideration and informed by an understanding of State, local, and tribal government practices, Treasury is clarifying that for a cost to be considered to have been incurred, performance or delivery must occur during the covered period but payment of funds need not be made during that time (though it is generally expected that this will take place within 90 days of a cost being incurred). For instance, in the case of a lease of equipment or other property, irrespective of when payment occurs, the cost of a lease payment shall be considered to have been incurred for the period of the lease that is within the covered period, but not otherwise. Furthermore, in all cases it must be necessary that performance or delivery take place during the covered period. Thus the cost of a good or service received during the covered period will not be considered eligible under section 601(d) if there is no need for receipt until after the covered period has expired.

Goods delivered in the covered period need not be used during the covered period in all cases. For example, the cost of a good that must be delivered in December in order to be available for use in January could be covered using payments from the Fund. Additionally, the cost of goods purchased in bulk and delivered during the covered period may be covered using payments from the Fund if a portion of the goods is ordered for use in the covered period, the bulk purchase is consistent with the recipient’s usual procurement policies and practices, and it is impractical to track and record when the items were used. A recipient may use payments from the Fund to purchase a durable good that is to be used during the current period and in subsequent periods if the acquisition in the covered period was necessary due to the public health emergency.

Given that it is not always possible to estimate with precision when a good or service will be needed, the touchstone in assessing the determination of need for a good or service during the covered period will be reasonableness at the time delivery or performance was sought, *e.g.*, the time of entry into a procurement contract specifying a time for delivery. Similarly, in recognition of the likelihood of supply chain disruptions and increased demand for certain goods and services during the COVID-19 public health emergency, if a recipient enters into a contract requiring the delivery of goods or performance of services by December 30, 2020, the failure of a vendor to complete delivery or services by December 30, 2020, will not affect the ability of the recipient to use payments from the Fund to cover the cost of such goods or services if the delay is due to circumstances beyond the recipient’s control.

This guidance applies in a like manner to costs of subrecipients. Thus, a grant or loan, for example, provided by a recipient using payments from the Fund must be used by the subrecipient only to purchase (or reimburse a purchase of) goods or services for which receipt both is needed within the covered period and occurs within the covered period. The direct recipient of payments from the Fund is ultimately responsible for compliance with this limitation on use of payments from the Fund.

### *Nonexclusive examples of eligible expenditures*

Eligible expenditures include, but are not limited to, payment for:

1. Medical expenses such as:
  - COVID-19-related expenses of public hospitals, clinics, and similar facilities.
  - Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs.
  - Costs of providing COVID-19 testing, including serological testing.
  - Emergency medical response expenses, including emergency medical transportation, related to COVID-19.
  - Expenses for establishing and operating public telemedicine capabilities for COVID-19-related treatment.
2. Public health expenses such as:
  - Expenses for communication and enforcement by State, territorial, local, and Tribal governments of public health orders related to COVID-19.
  - Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment, for medical personnel, police officers, social workers, child protection services, and child welfare officers, direct service providers for older adults and individuals with disabilities in community settings, and other public health or safety workers in connection with the COVID-19 public health emergency.
  - Expenses for disinfection of public areas and other facilities, *e.g.*, nursing homes, in response to the COVID-19 public health emergency.
  - Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety.
  - Expenses for public safety measures undertaken in response to COVID-19.
  - Expenses for quarantining individuals.
3. Payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.
4. Expenses of actions to facilitate compliance with COVID-19-related public health measures, such as:
  - Expenses for food delivery to residents, including, for example, senior citizens and other vulnerable populations, to enable compliance with COVID-19 public health precautions.
  - Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID-19 precautions.
  - Expenses to improve telework capabilities for public employees to enable compliance with COVID-19 public health precautions.

- Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions.
  - COVID-19-related expenses of maintaining state prisons and county jails, including as relates to sanitation and improvement of social distancing measures, to enable compliance with COVID-19 public health precautions.
  - Expenses for care for homeless populations provided to mitigate COVID-19 effects and enable compliance with COVID-19 public health precautions.
5. Expenses associated with the provision of economic support in connection with the COVID-19 public health emergency, such as:
    - Expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures.
    - Expenditures related to a State, territorial, local, or Tribal government payroll support program.
    - Unemployment insurance costs related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.
  6. Any other COVID-19-related expenses reasonably necessary to the function of government that satisfy the Fund’s eligibility criteria.

***Nonexclusive examples of ineligible expenditures***<sup>3</sup>

The following is a list of examples of costs that would *not* be eligible expenditures of payments from the Fund.

1. Expenses for the State share of Medicaid.<sup>4</sup>
2. Damages covered by insurance.
3. Payroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency.
4. Expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds.
5. Reimbursement to donors for donated items or services.
6. Workforce bonuses other than hazard pay or overtime.
7. Severance pay.
8. Legal settlements.

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<sup>3</sup> In addition, pursuant to section 5001(b) of the CARES Act, payments from the Fund may not be expended for an elective abortion or on research in which a human embryo is destroyed, discarded, or knowingly subjected to risk of injury or death. The prohibition on payment for abortions does not apply to an abortion if the pregnancy is the result of an act of rape or incest; or in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed. Furthermore, no government which receives payments from the Fund may discriminate against a health care entity on the basis that the entity does not provide, pay for, provide coverage of, or refer for abortions.

<sup>4</sup> See 42 C.F.R. § 433.51 and 45 C.F.R. § 75.306.



**Coronavirus Relief Fund  
Frequently Asked Questions  
Updated as of June 24, 2020**

The following answers to frequently asked questions supplement Treasury’s Coronavirus Relief Fund (“Fund”) Guidance for State, Territorial, Local, and Tribal Governments, dated April 22, 2020, (“Guidance”).<sup>1</sup> Amounts paid from the Fund are subject to the restrictions outlined in the Guidance and set forth in section 601(d) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”).

**Eligible Expenditures**

***Are governments required to submit proposed expenditures to Treasury for approval?***

No. Governments are responsible for making determinations as to what expenditures are necessary due to the public health emergency with respect to COVID-19 and do not need to submit any proposed expenditures to Treasury.

***The Guidance says that funding can be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. How does a government determine whether payroll expenses for a given employee satisfy the “substantially dedicated” condition?***

The Fund is designed to provide ready funding to address unforeseen financial needs and risks created by the COVID-19 public health emergency. For this reason, and as a matter of administrative convenience in light of the emergency nature of this program, a State, territorial, local, or Tribal government may presume that payroll costs for public health and public safety employees are payments for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise.

***The Guidance says that a cost was not accounted for in the most recently approved budget if the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation. What would qualify as a “substantially different use” for purposes of the Fund eligibility?***

Costs incurred for a “substantially different use” include, but are not necessarily limited to, costs of personnel and services that were budgeted for in the most recently approved budget but which, due entirely to the COVID-19 public health emergency, have been diverted to substantially different functions. This would include, for example, the costs of redeploying corrections facility staff to enable compliance with COVID-19 public health precautions through work such as enhanced sanitation or enforcing social distancing measures; the costs of redeploying police to support management and enforcement of stay-at-home orders; or the costs of diverting educational support staff or faculty to develop online learning capabilities, such as through providing information technology support that is not part of the staff or faculty’s ordinary responsibilities.

Note that a public function does not become a “substantially different use” merely because it is provided from a different location or through a different manner. For example, although developing online instruction capabilities may be a substantially different use of funds, online instruction itself is not a substantially different use of public funds than classroom instruction.

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<sup>1</sup> The Guidance is available at <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>.

***May a State receiving a payment transfer funds to a local government?***

Yes, provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act. Such funds would be subject to recoupment by the Treasury Department if they have not been used in a manner consistent with section 601(d) of the Social Security Act.

***May a unit of local government receiving a Fund payment transfer funds to another unit of government?***

Yes. For example, a county may transfer funds to a city, town, or school district within the county and a county or city may transfer funds to its State, provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act outlined in the Guidance. For example, a transfer from a county to a constituent city would not be permissible if the funds were intended to be used simply to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify as an eligible expenditure.

***Is a Fund payment recipient required to transfer funds to a smaller, constituent unit of government within its borders?***

No. For example, a county recipient is not required to transfer funds to smaller cities within the county's borders.

***Are recipients required to use other federal funds or seek reimbursement under other federal programs before using Fund payments to satisfy eligible expenses?***

No. Recipients may use Fund payments for any expenses eligible under section 601(d) of the Social Security Act outlined in the Guidance. Fund payments are not required to be used as the source of funding of last resort. However, as noted below, recipients may not use payments from the Fund to cover expenditures for which they will receive reimbursement.

***Are there prohibitions on combining a transaction supported with Fund payments with other CARES Act funding or COVID-19 relief Federal funding?***

Recipients will need to consider the applicable restrictions and limitations of such other sources of funding. In addition, expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds, are not eligible uses of Fund payments.

***Are States permitted to use Fund payments to support state unemployment insurance funds generally?***

To the extent that the costs incurred by a state unemployment insurance fund are incurred due to the COVID-19 public health emergency, a State may use Fund payments to make payments to its respective state unemployment insurance fund, separate and apart from such State's obligation to the unemployment insurance fund as an employer. This will permit States to use Fund payments to prevent expenses related to the public health emergency from causing their state unemployment insurance funds to become insolvent.

***Are recipients permitted to use Fund payments to pay for unemployment insurance costs incurred by the recipient as an employer?***

Yes, Fund payments may be used for unemployment insurance costs incurred by the recipient as an employer (for example, as a reimbursing employer) related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.

***The Guidance states that the Fund may support a “broad range of uses” including payroll expenses for several classes of employees whose services are “substantially dedicated to mitigating or responding to the COVID-19 public health emergency.” What are some examples of types of covered employees?***

The Guidance provides examples of broad classes of employees whose payroll expenses would be eligible expenses under the Fund. These classes of employees include public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. Payroll and benefit costs associated with public employees who could have been furloughed or otherwise laid off but who were instead repurposed to perform previously unbudgeted functions substantially dedicated to mitigating or responding to the COVID-19 public health emergency are also covered. Other eligible expenditures include payroll and benefit costs of educational support staff or faculty responsible for developing online learning capabilities necessary to continue educational instruction in response to COVID-19-related school closures. Please see the Guidance for a discussion of what is meant by an expense that was not accounted for in the budget most recently approved as of March 27, 2020.

***In some cases, first responders and critical health care workers that contract COVID-19 are eligible for workers’ compensation coverage. Is the cost of this expanded workers compensation coverage eligible?***

Increased workers compensation cost to the government due to the COVID-19 public health emergency incurred during the period beginning March 1, 2020, and ending December 30, 2020, is an eligible expense.

***If a recipient would have decommissioned equipment or not renewed a lease on particular office space or equipment but decides to continue to use the equipment or to renew the lease in order to respond to the public health emergency, are the costs associated with continuing to operate the equipment or the ongoing lease payments eligible expenses?***

Yes. To the extent the expenses were previously unbudgeted and are otherwise consistent with section 601(d) of the Social Security Act outlined in the Guidance, such expenses would be eligible.

***May recipients provide stipends to employees for eligible expenses (for example, a stipend to employees to improve telework capabilities) rather than require employees to incur the eligible cost and submit for reimbursement?***

Expenditures paid for with payments from the Fund must be limited to those that are necessary due to the public health emergency. As such, unless the government were to determine that providing assistance in the form of a stipend is an administrative necessity, the government should provide such assistance on a reimbursement basis to ensure as much as possible that funds are used to cover only eligible expenses.

***May Fund payments be used for COVID-19 public health emergency recovery planning?***

Yes. Expenses associated with conducting a recovery planning project or operating a recovery coordination office would be eligible, if the expenses otherwise meet the criteria set forth in section 601(d) of the Social Security Act outlined in the Guidance.

***Are expenses associated with contact tracing eligible?***

Yes, expenses associated with contract tracing are eligible.

***To what extent may a government use Fund payments to support the operations of private hospitals?***

Governments may use Fund payments to support public or private hospitals to the extent that the costs are necessary expenditures incurred due to the COVID-19 public health emergency, but the form such assistance would take may differ. In particular, financial assistance to private hospitals could take the form of a grant or a short-term loan.

***May payments from the Fund be used to assist individuals with enrolling in a government benefit program for those who have been laid off due to COVID-19 and thereby lost health insurance?***

Yes. To the extent that the relevant government official determines that these expenses are necessary and they meet the other requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance, these expenses are eligible.

***May recipients use Fund payments to facilitate livestock depopulation incurred by producers due to supply chain disruptions?***

Yes, to the extent these efforts are deemed necessary for public health reasons or as a form of economic support as a result of the COVID-19 health emergency.

***Would providing a consumer grant program to prevent eviction and assist in preventing homelessness be considered an eligible expense?***

Yes, assuming that the recipient considers the grants to be a necessary expense incurred due to the COVID-19 public health emergency and the grants meet the other requirements for the use of Fund payments under section 601(d) of the Social Security Act outlined in the Guidance. As a general matter, providing assistance to recipients to enable them to meet property tax requirements would not be an eligible use of funds, but exceptions may be made in the case of assistance designed to prevent foreclosures.

***May recipients create a “payroll support program” for public employees?***

Use of payments from the Fund to cover payroll or benefits expenses of public employees are limited to those employees whose work duties are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

***May recipients use Fund payments to cover employment and training programs for employees that have been furloughed due to the public health emergency?***

Yes, this would be an eligible expense if the government determined that the costs of such employment and training programs would be necessary due to the public health emergency.

***May recipients use Fund payments to provide emergency financial assistance to individuals and families directly impacted by a loss of income due to the COVID-19 public health emergency?***

Yes, if a government determines such assistance to be a necessary expenditure. Such assistance could include, for example, a program to assist individuals with payment of overdue rent or mortgage payments to avoid eviction or foreclosure or unforeseen financial costs for funerals and other emergency individual needs. Such assistance should be structured in a manner to ensure as much as possible, within the realm of what is administratively feasible, that such assistance is necessary.

***The Guidance provides that eligible expenditures may include expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures. What is meant by a “small business,” and is the Guidance intended to refer only to expenditures to cover administrative expenses of such a grant program?***

Governments have discretion to determine what payments are necessary. A program that is aimed at assisting small businesses with the costs of business interruption caused by required closures should be tailored to assist those businesses in need of such assistance. The amount of a grant to a small business to reimburse the costs of business interruption caused by required closures would also be an eligible expenditure under section 601(d) of the Social Security Act, as outlined in the Guidance.

***The Guidance provides that expenses associated with the provision of economic support in connection with the public health emergency, such as expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures, would constitute eligible expenditures of Fund payments. Would such expenditures be eligible in the absence of a stay-at-home order?***

Fund payments may be used for economic support in the absence of a stay-at-home order if such expenditures are determined by the government to be necessary. This may include, for example, a grant program to benefit small businesses that close voluntarily to promote social distancing measures or that are affected by decreased customer demand as a result of the COVID-19 public health emergency.

***May Fund payments be used to assist impacted property owners with the payment of their property taxes?***

Fund payments may not be used for government revenue replacement, including the provision of assistance to meet tax obligations.

***May Fund payments be used to replace foregone utility fees? If not, can Fund payments be used as a direct subsidy payment to all utility account holders?***

Fund payments may not be used for government revenue replacement, including the replacement of unpaid utility fees. Fund payments may be used for subsidy payments to electricity account holders to the extent that the subsidy payments are deemed by the recipient to be necessary expenditures incurred due to the COVID-19 public health emergency and meet the other criteria of section 601(d) of the Social Security Act outlined in the Guidance. For example, if determined to be a necessary expenditure, a government could provide grants to individuals facing economic hardship to allow them to pay their utility fees and thereby continue to receive essential services.

***Could Fund payments be used for capital improvement projects that broadly provide potential economic development in a community?***

In general, no. If capital improvement projects are not necessary expenditures incurred due to the COVID-19 public health emergency, then Fund payments may not be used for such projects.

However, Fund payments may be used for the expenses of, for example, establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity or improve mitigation measures, including related construction costs.

***The Guidance includes workforce bonuses as an example of ineligible expenses but provides that hazard pay would be eligible if otherwise determined to be a necessary expense. Is there a specific definition of “hazard pay”?***

Hazard pay means additional pay for performing hazardous duty or work involving physical hardship, in each case that is related to COVID-19.

***The Guidance provides that ineligible expenditures include “[p]ayroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency.” Is this intended to relate only to public employees?***

Yes. This particular nonexclusive example of an ineligible expenditure relates to public employees. A recipient would not be permitted to pay for payroll or benefit expenses of private employees and any financial assistance (such as grants or short-term loans) to private employers are not subject to the restriction that the private employers’ employees must be substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

***May counties pre-pay with CARES Act funds for expenses such as a one or two-year facility lease, such as to house staff hired in response to COVID-19?***

A government should not make prepayments on contracts using payments from the Fund to the extent that doing so would not be consistent with its ordinary course policies and procedures.

***Must a stay-at-home order or other public health mandate be in effect in order for a government to provide assistance to small businesses using payments from the Fund?***

No. The Guidance provides, as an example of an eligible use of payments from the Fund, expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures. Such assistance may be provided using amounts received from the Fund in the absence of a requirement to close businesses if the relevant government determines that such expenditures are necessary in response to the public health emergency.

***Should States receiving a payment transfer funds to local governments that did not receive payments directly from Treasury?***

Yes, provided that the transferred funds are used by the local government for eligible expenditures under the statute. To facilitate prompt distribution of Title V funds, the CARES Act authorized Treasury to make direct payments to local governments with populations in excess of 500,000, in amounts equal to 45% of the local government's per capita share of the statewide allocation. This statutory structure was based on a recognition that it is more administratively feasible to rely on States, rather than the federal government, to manage the transfer of funds to smaller local governments. Consistent with the needs of all local governments for funding to address the public health emergency, States should transfer funds to local governments with populations of 500,000 or less, using as a benchmark the per capita allocation formula that governs payments to larger local governments. This approach will ensure equitable treatment among local governments of all sizes.

For example, a State received the minimum \$1.25 billion allocation and had one county with a population over 500,000 that received \$250 million directly. The State should distribute 45 percent of the \$1 billion it received, or \$450 million, to local governments within the State with a population of 500,000 or less.

***May a State impose restrictions on transfers of funds to local governments?***

Yes, to the extent that the restrictions facilitate the State's compliance with the requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance and other applicable requirements such as the Single Audit Act, discussed below. Other restrictions are not permissible.

***If a recipient must issue tax anticipation notes (TANs) to make up for tax due date deferrals or revenue shortfalls, are the expenses associated with the issuance eligible uses of Fund payments?***

If a government determines that the issuance of TANs is necessary due to the COVID-19 public health emergency, the government may expend payments from the Fund on the interest expense payable on TANs by the borrower and unbudgeted administrative and transactional costs, such as necessary payments to advisors and underwriters, associated with the issuance of the TANs.

***May recipients use Fund payments to expand rural broadband capacity to assist with distance learning and telework?***

Such expenditures would only be permissible if they are necessary for the public health emergency. The cost of projects that would not be expected to increase capacity to a significant extent until the need for distance learning and telework have passed due to this public health emergency would not be necessary due to the public health emergency and thus would not be eligible uses of Fund payments.

***Are costs associated with increased solid waste capacity an eligible use of payments from the Fund?***

Yes, costs to address increase in solid waste as a result of the public health emergency, such as relates to the disposal of used personal protective equipment, would be an eligible expenditure.

***May payments from the Fund be used to cover across-the-board hazard pay for employees working during a state of emergency?***

No. The Guidance says that funding may be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. Hazard pay is a form of payroll expense and is subject to this limitation, so Fund payments may only be used to cover hazard pay for such individuals.

***May Fund payments be used for expenditures related to the administration of Fund payments by a State, territorial, local, or Tribal government?***

Yes, if the administrative expenses represent an increase over previously budgeted amounts and are limited to what is necessary. For example, a State may expend Fund payments on necessary administrative expenses incurred with respect to a new grant program established to disburse amounts received from the Fund.

***May recipients use Fund payments to provide loans?***

Yes, if the loans otherwise qualify as eligible expenditures under section 601(d) of the Social Security Act as implemented by the Guidance. Any amounts repaid by the borrower before December 30, 2020, must be either returned to Treasury upon receipt by the unit of government providing the loan or used for another expense that qualifies as an eligible expenditure under section 601(d) of the Social Security Act. Any amounts not repaid by the borrower until after December 30, 2020, must be returned to Treasury upon receipt by the unit of government lending the funds.

***May Fund payments be used for expenditures necessary to prepare for a future COVID-19 outbreak?***

Fund payments may be used only for expenditures necessary to address the current COVID-19 public health emergency. For example, a State may spend Fund payments to create a reserve of personal protective equipment or develop increased intensive care unit capacity to support regions in its jurisdiction not yet affected, but likely to be impacted by the current COVID-19 pandemic.

***May funds be used to satisfy non-federal matching requirements under the Stafford Act?***

Yes, payments from the Fund may be used to meet the non-federal matching requirements for Stafford Act assistance to the extent such matching requirements entail COVID-19-related costs that otherwise satisfy the Fund's eligibility criteria and the Stafford Act. Regardless of the use of Fund payments for such purposes, FEMA funding is still dependent on FEMA's determination of eligibility under the Stafford Act.

***Must a State, local, or tribal government require applications to be submitted by businesses or individuals before providing assistance using payments from the Fund?***

Governments have discretion to determine how to tailor assistance programs they establish in response to the COVID-19 public health emergency. However, such a program should be structured in such a manner as will ensure that such assistance is determined to be necessary in response to the COVID-19 public health emergency and otherwise satisfies the requirements of the CARES Act and other applicable law. For example, a per capita payment to residents of a particular jurisdiction without an assessment of individual need would not be an appropriate use of payments from the Fund.

***May Fund payments be provided to non-profits for distribution to individuals in need of financial assistance, such as rent relief?***

Yes, non-profits may be used to distribute assistance. Regardless of how the assistance is structured, the financial assistance provided would have to be related to COVID-19.

***May recipients use Fund payments to remarket the recipient's convention facilities and tourism industry?***

Yes, if the costs of such remarketing satisfy the requirements of the CARES Act. Expenses incurred to publicize the resumption of activities and steps taken to ensure a safe experience may be needed due to



the public health emergency. Expenses related to developing a long-term plan to reposition a recipient's convention and tourism industry and infrastructure would not be incurred due to the public health emergency and therefore may not be covered using payments from the Fund.

***May a State provide assistance to farmers and meat processors to expand capacity, such to cover overtime for USDA meat inspectors?***

If a State determines that expanding meat processing capacity, including by paying overtime to USDA meat inspectors, is a necessary expense incurred due to the public health emergency, such as if increased capacity is necessary to allow farmers and processors to donate meat to food banks, then such expenses are eligible expenses, provided that the expenses satisfy the other requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance.

***The guidance provides that funding may be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. May Fund payments be used to cover such an employee's entire payroll cost or just the portion of time spent on mitigating or responding to the COVID-19 public health emergency?***

As a matter of administrative convenience, the entire payroll cost of an employee whose time is substantially dedicated to mitigating or responding to the COVID-19 public health emergency is eligible, provided that such payroll costs are incurred by December 30, 2020. An employer may also track time spent by employees related to COVID-19 and apply Fund payments on that basis but would need to do so consistently within the relevant agency or department.

## **Questions Related to Administration of Fund Payments**

***Do governments have to return unspent funds to Treasury?***

Yes. Section 601(f)(2) of the Social Security Act, as added by section 5001(a) of the CARES Act, provides for recoupment by the Department of the Treasury of amounts received from the Fund that have not been used in a manner consistent with section 601(d) of the Social Security Act. If a government has not used funds it has received to cover costs that were incurred by December 30, 2020, as required by the statute, those funds must be returned to the Department of the Treasury.

***What records must be kept by governments receiving payment?***

A government should keep records sufficient to demonstrate that the amount of Fund payments to the government has been used in accordance with section 601(d) of the Social Security Act.

***May recipients deposit Fund payments into interest bearing accounts?***

Yes, provided that if recipients separately invest amounts received from the Fund, they must use the interest earned or other proceeds of these investments only to cover expenditures incurred in accordance with section 601(d) of the Social Security Act and the Guidance on eligible expenses. If a government deposits Fund payments in a government's general account, it may use those funds to meet immediate cash management needs provided that the full amount of the payment is used to cover necessary expenditures. Fund payments are not subject to the Cash Management Improvement Act of 1990, as amended.

***May governments retain assets purchased with payments from the Fund?***

Yes, if the purchase of the asset was consistent with the limitations on the eligible use of funds provided by section 601(d) of the Social Security Act.

***What rules apply to the proceeds of disposition or sale of assets acquired using payments from the Fund?***

If such assets are disposed of prior to December 30, 2020, the proceeds would be subject to the restrictions on the eligible use of payments from the Fund provided by section 601(d) of the Social Security Act.

***Are Fund payments to State, territorial, local, and tribal governments considered grants?***

No. Fund payments made by Treasury to State, territorial, local, and Tribal governments are not considered to be grants but are “other financial assistance” under 2 C.F.R. § 200.40.

***Are Fund payments considered federal financial assistance for purposes of the Single Audit Act?***

Yes, Fund payments are considered to be federal financial assistance subject to the Single Audit Act (31 U.S.C. §§ 7501-7507) and the related provisions of the Uniform Guidance, 2 C.F.R. § 200.303 regarding internal controls, §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements.

***Are Fund payments subject to other requirements of the Uniform Guidance?***

Fund payments are subject to the following requirements in the Uniform Guidance (2 C.F.R. Part 200): 2 C.F.R. § 200.303 regarding internal controls, 2 C.F.R. §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements.

***Is there a Catalog of Federal Domestic Assistance (CFDA) number assigned to the Fund?***

Yes. The CFDA number assigned to the Fund is 21.019.

***If a State transfers Fund payments to its political subdivisions, would the transferred funds count toward the subrecipients’ total funding received from the federal government for purposes of the Single Audit Act?***

Yes. The Fund payments to subrecipients would count toward the threshold of the Single Audit Act and 2 C.F.R. part 200, subpart F re: audit requirements. Subrecipients are subject to a single audit or program-specific audit pursuant to 2 C.F.R. § 200.501(a) when the subrecipients spend \$750,000 or more in federal awards during their fiscal year.

***Are recipients permitted to use payments from the Fund to cover the expenses of an audit conducted under the Single Audit Act?***

Yes, such expenses would be eligible expenditures, subject to the limitations set forth in 2 C.F.R. § 200.425.

***If a government has transferred funds to another entity, from which entity would the Treasury Department seek to recoup the funds if they have not been used in a manner consistent with section 601(d) of the Social Security Act?***

The Treasury Department would seek to recoup the funds from the government that received the payment directly from the Treasury Department. State, territorial, local, and Tribal governments receiving funds from Treasury should ensure that funds transferred to other entities, whether pursuant to a grant program

or otherwise, are used in accordance with section 601(d) of the Social Security Act as implemented in the Guidance.



**Davis**  
COUNTY

# *Community and Economic Development*

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## Davis CARES Business Grant Program – Frequently Asked Questions (FAQ)

Updated: July 2, 2020

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### **What is the Davis CARES Business Grant Program?**

The Davis CARES Business Grant Program (the “Program”) is a unified relief program between Davis County and its partnering cities. It is designed to offer support to Davis County small businesses and non-profits that have a total of 49 employees or fewer, by providing up to a \$30,000 grant to support continuity of business operations. The program serves small businesses that have been significantly impacted by COVID-19. For more information on the Program, visit the County’s Community and Economic Development website [here](https://bit.ly/3fTLt4m) (<https://bit.ly/3fTLt4m>)

### **How is the Davis CARES Grant amount determined?**

Grant amounts are determined by the number of W-2 employees and are awarded on a prioritization basis based upon eligibility.

- \$5,000 for self-employed/sole proprietor
- \$15,000 for businesses with 1-9 employees
- \$30,000 for businesses with 10-49 employees
- Over 49 employees does not qualify

### **What are the eligibility requirements of the Program?**

The County and participating cities want to ensure that as many businesses as possible that have been significantly impacted by the COVID-19 pandemic are qualified to apply for the Program. To accomplish this, the County has established the following eligibility requirements:

1. For-profit or non-profit businesses with less than 50 employees, as of March 1, 2020.
2. Business must be located within the boundaries of Davis County.
3. Business experienced a significant impact from the COVID-19 Pandemic.
4. Business must be open, or plan to reopen as of the date of application submission.
5. Business must be current on property taxes and have no legal actions against or from the County.



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6. Owner must be 18 years or older and have a valid employee identification number (EIN) or if sole proprietor, social security number.
7. Only one grant award per EIN or Social Security Number will be considered
8. Businesses must have made \$10,000 in 2019 revenue/income.
9. Must have ability to document and report on funds, if received.
10. Business has completed the Stay Safe to Stay Open Pledge [here](https://bit.ly/2D5nOjl) (https://bit.ly/2D5nOjl). As developed by the Salt Lake Chamber of Commerce, on behalf of the State of Utah.

## **I'm applying for the Davis Cares Business Grant. If I have also applied for and received other CARES funding (PPP, EIDL, and other Federal and State stimulus programs) am I still eligible for this grant?**

Yes, you are eligible to apply for this grant if you have received other CARES funding (e.g. Paycheck Protection Program – PPP, Economic Injury Disaster Loan – EIDL, Utah COVID-19 Commercial Rental Assistance Program, etc.). However, priority will be given to businesses that applied for, but did not receive other CARES Act funding. If a business did receive other CARES funding, the business must attest any uses paid for by other CARES programs **cannot** be paid for with the Davis CARES Grant. If a duplication of benefits determination is made, the amount of funds that were determined to be duplicative must be repaid to the County.

## **What documents are required for applicants?**

Our intent is to minimize the application and processing time. Your ability to provide complete and accurate information will help expedite your application. With that in mind, we have developed a brief application and minimum required documents.

- Business Federal Tax Returns:
  - 2019 Business Federal Tax Returns or for self-employed/sole proprietor 2019 1040 with Schedule C **OR** if 2019 tax return is not yet filed, 2018 Business Federal Tax Returns or for self-employed/sole proprietor 2018 1040 with Schedule C.
- Pre-COVID employee count with detailed payrolls for one pay period cycle that falls within the time frame of February 1, 2020 through March 15, 2020. Please remove any information that would identify individual employees (SSN#, name, etc.);
- Gross Business Revenues for the following time periods:
  - March 1, 2019 – May 31, 2019
  - March 1, 2020 – May 31, 2020
- Stay Safe to Stay Open Pledge Certificate
- W-9 or W-8 Form; and
- Copy of Driver's Licenses of all owners.



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## Where do I apply?

Apply online via the County's ZoomGrants portal [here](https://bit.ly/3eCFrF2). (<https://bit.ly/3eCFrF2>)

\*\*the application will not be available to fill out until July 6\*\*

## Is there a telephone number to call for assistance or an email address?

Yes, a number is available to assist with questions regarding the Program. Someone will be available to answer questions 8 a.m. to 5 p.m., Monday through Friday. The telephone number is **(801) 451-3256**. If there is no answer, please leave a name and number and we will get back with you.

If you would like to email your questions please use the email address [daviscares@daviscountyutah.gov](mailto:daviscares@daviscountyutah.gov)

The County will also be hosting webinars before and during the application submission period to help answer questions and offer needed guidance.

## What is the timeline to apply?

The first round of the Program will be open for applications July 6-July 10, 2020. However, businesses may submit applications after July 10, 2020, in the event the County receives additional funding. Funds will be disbursed until the funds are exhausted.

## What is the definition of "employee" for the Program?

An employee is defined as an individual who receives a paid wage or salary which employment taxes (e.g. FICA, FUTA-Federal Unemployment Tax Act) and income taxes are withdrawn and remitted to the IRS, as evidenced by business tax returns filed. For purposes of eligibility, independent contractors (also known as 1099 employees) may not be counted as employees for eligibility. A company that solely employs independent contractors qualifies as a self-employed/sole proprietor applicant for this program.

## How do I show how many employees are in my business?

Each applicant is required to submit a pre-COVID employee count with detailed payrolls for one pay period cycle that falls within the time frame of February 1, 2020 through March 15, 2020.

## How soon will I receive the Davis CARES Program Grant check?

On average it takes approximately 30 to 45 days to receive the grant check by mail if the application is submitted with all required documents. However, it could take longer due to the volume of applications.



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The application is typically reviewed within 10 to 15 days. Once approved, it will be submitted for payment and disbursement. If the application is incomplete, the applicant will be contacted for additional information. Usually, checks will be received within 20 to 30 days after approval. A completed application with all of the required documents is the best way to ensure the timeliest turnaround.

## **Do I need to pay the money back?**

No. This is a grant program not a loan, therefore the funds do not need to be paid back. However, businesses may not receive federally-subsidized disaster assistance that duplicates any part of their disaster loss covered by insurance or another source, such as the Small Business Administration (SBA) or the Federal Emergency Management Agency (FEMA). Applicants for the Davis CARES Grant must disclose any funds applied for or received from these sources or other federal and state assistance programs. It is the County's sole discretion to determine if funds received from any of these sources constitutes a duplication of benefits. If a duplication of benefits determination is made after the County funds have been disbursed, the amount of funds that were determined to be duplicative must be repaid to the County.

## **Is there a list of what expenses are allowed under the business grant funds?**

Grant money may be used to pay for expenses related to COVID-19 or reimburse businesses for COVID-19 expenses. As outlined above, any uses paid for by other federal assistance CARES programs **cannot** be paid for with these Grant Funds. If a duplication of benefits determination is made, the amount of funds that were determined to be duplicative must be repaid to the County.

## **Is the online application available in other languages?**

Translation is available through Google Translate by copying the application link into Google Translate.

## **Will there be a paper application or will paper submittals be allowed?**

No, we are currently only accepting applications online for this grant.

## **I am a sole proprietor business and the only person working in my business. Do I qualify for this grant?**

Yes. Sole proprietor businesses with a valid social security number that meets the eligibility requirements are allowed to apply for a \$5,000 grant.



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## **My small business operates a franchise, do I qualify for the grant program?**

A small business operating as a franchise qualifies as long as all other criteria are met.

## **I own several small businesses, are all my businesses eligible for the grant program?**

Only one grant award per EIN or social security number (sole proprietor) will be considered.

## **How do I indicate that my business was negatively impacted by the COVID-19 emergency?**

You are required to provide a brief narrative of the adverse economic impact of COVID-19 on the operations of your business. Additionally, there are questions that list various impacts of COVID-19, businesses can check all of the impacts that apply to their business.

## **I currently have a pending legal matter with Davis County. Do I qualify for the program?**

Businesses with legal actions against or from the County are not eligible for the grant program.

## **What type of payroll information is required for companies that have a total of 1 to 49 employees?**

Each applicant with 1 to 49 employees is required to submit a pre-COVID employee count with detailed payrolls for one pay period cycle that falls within the time frame February 1, 2020 through March 15, 2020.

## **What is the website for the IRS Form W-9?**

You may download a blank IRS form W-9 from this website [here](https://bit.ly/2BGZHa0) (https://bit.ly/2BGZHa0).

Make sure to sign and complete before uploading or sending the completed form.

## **What information do I have to fill out on the IRS Form W-9?**

All businesses are required to fill out items 1, 3, 4, 5, and 6. Item 2 is required only when applicable and item 7 is not required.





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## **I'm a foreign national owner of a business in Davis County. Am I eligible?**

Yes, as long as the business is located in Davis County, Utah and the other eligibility criteria are met. As a foreign national with a business in Davis County, you will need to file a W-8 instead of a W-9. Click [here](https://bit.ly/3eFx9fl) (<https://bit.ly/3eFx9fl>) for the form to complete and sign.

## **What happens when all the Program funding is awarded?**

The County designed the program to give temporary relief to small businesses significantly impacted by Covid-19. If additional funding becomes available, the County Commission has the option to allocate additional funds to the Program.

## **What other resources are available to my business?**

Economic Development Organizations throughout the county are working with state and federal partners to monitor the changing legislation and business resources. The Davis County Economic Development team has compiled a list of different resources that are available [here](https://bit.ly/31nkfyW) (<https://bit.ly/31nkfyW>).

## **What else is Davis County and its resource partners doing to support small businesses during the pandemic?**

To continue supporting local businesses in Davis County during the COVID-19 emergency, the local chambers of commerce and other business resource partners have established initiatives to encourage residents to support local businesses while practicing social distancing to minimize the spread of Coronavirus. Additionally, businesses that apply for this grant program are eligible to receive technical assistance for business planning, finance, marketing, and emergency planning through the Small Business Development Centers (SBDC).

**PENDING - NOT YET APPROVED**

Minutes of the West Bountiful City Council meeting held on **Tuesday, June 16, 2020** at West Bountiful City Hall, 550 N 800 West, Davis County, Utah.

Those in attendance:

**MEMBERS:** Mayor Kenneth Romney, Council members James Bruhn, Kelly Enquist and Rod Wood, in-person. Council members James Ahlstrom and Mark Preece via Zoom.

**STAFF:** Duane Huffman (City Administrator) in-person, Steve Doxey (City Attorney), Dallas Green (Golf Director), Josh Virostko (Superintendent), Asst Chief Brandon Erekson, Cathy Brightwell (City Recorder) and Terri Hensley (Secretary) via Zoom.

**VISITORS:** Gary Jacketta, Dennis Vest, Michelle & Kody Nelson, Bruce Howsley in-person. Alan Malan, Bill Goldberg, and Denis Hopkinson via Zoom.

Mayor Romney called the meeting to order at 7:35 pm. James Ahlstrom gave an Invocation and the Pledge of Allegiance was led by James Bruhn.

**1. Approve Agenda**

Regarding agenda item #5, the Smith family and the city have mutually agreed to extend to July 22, the time required to make a decision on the Disconnection request allowing this item to be removed from tonight's agenda.

**MOTION:** *James Bruhn made a motion to approve the amended agenda removing item #5. Rod Wood seconded the Motion which PASSED by unanimous vote of all members present.*

**2. Public Comment**

Brent Howsley, resident, spoke about the spotlight currently on police work and recent protests. He acknowledged this is a challenging topic but a good time for open discussions within families about police work. He said the police are an integral part of our community and does not agree with the movement to abolish or defund the police department, but there is always room for improvement. He would like to see if there are things the police department can do to make police work better in our city.

Mayor Romney thanked him for his comments and stated that he supports these discussions and encourages citizens to come in and talk about their concerns. The police department is always open to meet with residents. He noted that our department is small, but we are very open to listening to concerns, suggestions, and recommendations for improvement. One idea is to have an open round table style discussion with the Chief and elected officials to exchange ideas. We have an excellent police department and each of them strive to be good public servants. For more transparency, the department is working on policies that can be made available for public review.

47 Duane Huffman noted that Chief Hixson is usually here but had a family matter so Assistant  
48 Chief Erekson will take the information back to the police department and is on the line and  
49 available to answer questions.

50 Council member Ahlstrom thanked Mr. Howsley for his comments. He said he has  
51 significant concerns about the nationwide push to defund the police and has been confused by some  
52 of the arguments. He gave several examples where our officers have de-escalated a situation rather  
53 than using force. There is a great need for having someone to keep the peace and we are lucky to  
54 have very good officers with good judgment and wisdom, but we can always look for ways to  
55 improve.

56  
57 **3. Public Hearing – Vacate Rear and Side Easements for the Nelson’s at 787 W 1400 N.**

58  
59 **MOTION:** *James Bruhn made a motion to open the public hearing. Mark Preece*  
60 *seconded the Motion which PASSED by unanimous vote of all members*  
61 *present.*

62  
63 The Nelson’s wish to construct a garage in the southeast corner of their property at 787 W  
64 1400 North but there is a conflict with easements along both property lines. Required public notice  
65 has been completed and the property owner has provided copies of written confirmation from all  
66 major utility companies that they have no buried utilities in either of these easements and do not  
67 object to their release. Staff does not foresee negative impacts to the city by vacating these  
68 easements.

69  
70 **MOTION:** *James Bruhn made a motion to close the public hearing. Kelly Enquist*  
71 *seconded the Motion which PASSED by unanimous vote of all members*  
72 *present.*

73  
74 **4. Resolution 471-20, A Resolution Authorizing the Mayor to Execute the Vacation of the**  
75 **South and East Public Utility Easements Located at 787 W 1400 North.**

76  
77 **MOTION:** *Kelly Enquist made a Motion to adopt Resolution 471-20 releasing the ten-*  
78 *foot rear and seven-foot east side easements. Rod Wood seconded the*  
79 *Motion which PASSED.*

80  
81 The vote was recorded as follows:

82 James Ahlstrom – Aye James Bruhn – Aye  
83 Kelly Enquist – Aye Mark Preece – Aye  
84 Rod Wood - Aye

85  
86 **5. Petition for Disconnection – Parcel 06-030-0047, 1818 W 400 South.**

87  
88 *Removed from agenda.*

89  
90 **6. Resolution 472-20, A Resolution Adopting the West Bountiful City Budget and**  
91 **Property Tax Rate for the Fiscal Year 2020-2021.**

92

93 Duane Huffman reviewed the changes made from the tentative budget to this final budget,  
94 including the 2020-2021 certified tax rate provided by the county. Costs associated with the 800  
95 West road construction project are spanning fiscal years, so a portion of funding is being shifted to  
96 FY 21.

97 There was discussion about projected sales tax revenues. Mr. Huffman noted that the budget  
98 includes a decrease of 25% in anticipation of reduced sales tax revenues from the pandemic. April  
99 and May results have not yet been received so there are few actuals on which to base this projection.

100 There was a suggestion by council member Ahlstrom to come up with \$5k to upgrade the air  
101 conditioning in the back room of the golf course café. Cold food is stored in this room and the  
102 cooling system does not keep it cool - it needs a separate cooling unit to be efficient.

103 Mr. Huffman provided history of the situation. When a new HVAC system was installed in  
104 the pro shop several years ago, the project went to the lowest bidder. There have been problems  
105 since it was installed, and we have paid to have it repaired and upgraded several times. A standalone  
106 unit similar to what we use to keep the computer server room cool might be a good option for this  
107 space. Duane said it is unlikely anything can be accomplished before year end; he will get with  
108 Dallas Green to see if there is a way to come up with the funds to fix the problem.

109 There was also discussion about engineering the public works west yard and whether there  
110 might be grant funding available. Mr. Huffman suggested we wait to see where tax revenues come in  
111 and then can consider amending the budget once we know where we stand. He added that due to the  
112 current economic uncertainty he anticipates more amendments than normal this coming year.

113 **MOTION:** *Rod Wood made a Motion to adopt Resolution 472-20 Adopting the West*  
114 *Bountiful Fiscal Year 2020-2021 Budget and Property Tax Rate. Mark*  
115 *Preece seconded the Motion which PASSED.*  
116

117 The vote was recorded as follows:

118 James Ahlstrom – Aye James Bruhn – Aye  
119 Kelly Enquist – Aye Mark Preece – Aye  
120 Rod Wood - Aye  
121

## 122 7. **Fraud Risk Assessment.**

123 The Office of State Auditor issued an alert in February requiring every local government to  
124 complete an assessment that they designed with very little input from local governments. The  
125 standards apply uniformly to every size of entity, from the largest city to the smallest special district,  
126 and there is no explanation for how the point system and the final “risk level” were created.

127 Duane Huffman stated that fraud and the potential of fraud is an issue that West Bountiful  
128 City takes very seriously. City staff has worked with external auditors to review practices and  
129 procedures, ultimately taking necessary steps to limit the opportunity of fraud. Even though the  
130 results of the assessment show West Bountiful is in a high-risk category operational practices are  
131 good, but they need to be put in written form as policies.

132 He provided a list of items to focus on in the coming year. This list includes developing  
133 written policies on reporting fraud, travel, credit cards, computer security, and cash receipting. The  
134 city also plans to create a fraud hotline and audit committee.

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**8. Open Meeting Review.**

Duane Huffman provided a review of the Open Meeting Act as required annually by UCA §52-4-104. The temporary exceptions for electronic meetings in effect during the COVID-19 pandemic pursuant to Governor Herbert’s Executive Order were also explained.

Mayor Romney noted that a big take away is that three council members cannot get together to talk about business. Everything must be done in a public setting.

**9. Approval of Minutes from the June 2, 2020 City Council Meeting.**

**MOTION:** *James Ahlstrom made a motion to approve the minutes from the June 2, 2020 meeting as presented. Mark Preece seconded the Motion which PASSED by unanimous vote of all members present.*

**10. Police Report – Asst. Chief Erikson**

- Chief Hixson is working with the Legislative Coronavirus committee and providing testimony on search warrants for nasal swabbing and other police matters during the COVID-19 pandemic.

**11. Public Works Report – Steve Maughan**

- 800 West construction – there is a major push to prepare for paving on the north end of the project which is scheduled for June 24 and 25th. They are placing concrete as fast as they can this week making sure the road is ready. This schedule will provide ample time for the concrete to cure before paving is placed. There will still be some landscaping and other miscellaneous items to be done after that. On the south end, water lines are in and water testing is beginning. Storm drain is also being installed.
- The other areas of public works are running smoothly.

**12. Administrative/Finance Report – Duane Huffman**

- Local development is a big issue right now. Olive Garden and Cubby’s construction is resuming. Met today with Chasebrook regarding the Gateway Crossing development. They are trying to figure out what to do with the development over next 5 years. Small retail spaces are currently difficult to fill.
- Planning Commission is reviewing a draft of a new cannabis ordinance. There is a hearing scheduled for next week and the issues will move to city council on July 7.
- Funding is becoming available from the CARES Act. It is expected to be about \$87/resident distributed in three installments and will cover costs related to the pandemic. We plan to work with the county regarding economic development grants for local businesses and provide some funding for local service districts.
- Atwater Estates – dealing with drainage and slope issues around the existing home on the property. The homeowner and developer are unintended partners in the project and we are attempting to help with negotiations. There has also been discussion about maintenance and controlling weeds.

- 179           • School – currently working on a written agreement before school contractors start tearing  
180           up roads, etc.

181  
182 **13. Mayor/Council Reports**

183  
184 Mayor Romney –

- 185           • Working on making fireworks available on July 3. They will be shot off from the golf  
186           course, but we will not allow any citizens on the property. HollyFrontier is sponsoring the  
187           event and will have bigger and higher fireworks than normal so they will be clearly  
188           visible from yards, trails, and roadsides. It will be on the front page of the newsletter, we  
189           will advertise on social media, and Debbie McKean will hand-deliver to properties near  
190           the golf course so residents with animals know it is coming.
- 191           • Davis County Air Parade is a county wide event scheduled for the morning of July 4th.  
192           Cathy Brightwell shared details of the event that is still being planned. It will include a  
193           total of about 25 planes (military and air show) flying over every city in the county and  
194           end with a sky diver carrying a flag and having smoke come out of their feet dropping  
195           into each city. There are some liability concerns that are still being working out. Council  
196           member Ahlstrom commented that he appreciates the city’s efforts to provide some type  
197           of patriotic event for our citizens especially after being forced to cancel the annual  
198           parade, park activities, etc.
- 199           • The fire department budget passed last night with our assessment holding steady.  
200           Discussed how property tax plays into a three-year rolling average.
- 201           • Meeting every week with the County Health Dept for updates. Cases in the county and  
202           West Bountiful are growing. He said it is unlikely that the risk status will change unless  
203           things get really bad. Hospital capacity in Davis County seems to be good for now.  
204           Current data shows that the two primary places to catch the virus are at home and at  
205           work. Need to be vigilant where we go, wear masks, and social distance. It is more likely  
206           to catch it now than it was 6-7 weeks ago. Studies by University of Utah and the Red  
207           Cross show that antibody testing of those who believe they have had the virus is showing  
208           only about 2% had the disease.

209  
210 James Ahlstrom

- 211           • Asked when the trail connection from McKean subdivision will be paved and will it be  
212           concrete or asphalt? Steve Maughan responded that we want concrete and it will be paid  
213           for from Park Impact fees.
- 214           • He shared his experience with the lack of pickleball courts in south Davis County; there  
215           are always long waiting lists to play. He suggested we may want to consider adding more  
216           courts somewhere on the west side and include tables and trees using RAP money –  
217           maybe the public works west yard or trailheads. Mr. Huffman said he believes it is better  
218           to put park amenities in parks so that players and their families can use other facilities  
219           and have access to parking but will need to look at main city park to see if there is room.  
220           These are good points for future discussion.

221  
222 Mark Preece –

- 223           • The State is coming down pretty hard on the sewer district for being out of compliance  
224           with nutrients. Working to find a solution; it may be a water issue. The algae project has  
225           been put on hold and there are 10-12 producers really anxious to use it.

- 226           • Still trying to fix the odor issue on the south plant in response to the citation from North  
227           Salt Lake. Have hired out of state companies to try to solve both problems. North plant is  
228           working fine.

229

230           James Bruhn –

- 231           • Wasatch Integrated is transferring waste to the new transfer station and the new recycle  
232           facility is coming along.  
233           • Have received complaints about a tugboat and other vehicles parked on a 1100 W  
234           property. There are concerns about fire safety with vehicles often parked two-deep.  
235           Mayor Romney asked the fire department to do an inspection on the private drive owned  
236           by the Christensen’s.

237

238           Rod Wood – no report

239

240           Kelly Enquist

- 241           • On behalf of family and himself, conveyed appreciation for calls, emails, and cards  
242           received after the passing of his wife. Kind thoughts and prayers helped a lot. He was  
243           thankful for the flowers and was able to share with others; they went a long way to  
244           support many people.

245

246   **15. Executive Session, For the Purpose of Discussing Items Allowed Pursuant Utah Code**  
247   **52-4-205.**

248           Executive session was not held.

249

250   **16. Adjourn**

251

252           **MOTION:**    *James Bruhn made a motion to adjourn this meeting of the West Bountiful*  
253                    *City Council at 9:05 pm. Kelly Enquist seconded the Motion which*  
254                    *PASSED by unanimous vote of all members present.*

255

256

257

258           *The foregoing was approved by the West Bountiful City Council by unanimous vote of all members*  
259           *present on Tuesday, July 7, 2020.*

260

261

262

263           \_\_\_\_\_  
Cathy Brightwell, City Recorder

1 **West Bountiful City**  
2 **Planning Commission Meeting**

June 23, 2020

3 **PENDING – NOT APPROVED**

4 **Posting of Agenda** - The agenda for this meeting was posted on the State of Utah Public Notice  
5 website, on the West Bountiful City website, and at city hall on June 22, 2020 per state statutory  
6 requirement.

7 *Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday, June 23,*  
8 *2020 at West Bountiful City Hall, Davis County, Utah.*

9 **Those in Attendance:**

10 **Due to the Coronavirus outbreak this meeting was held by teleconference measures using**  
11 **Zoom.**

12 **MEMBERS ATTENDING:** Vice Chairman Alan Malan, Dee Vest, and council member Kelly Enquist  
13 on-site. Corey Sweat, Mike Cottle, Laura Charchenko via Zoom.

14  
15 **MEMBERS EXCUSED:** Chairman Denis Hopkinson

16 **STAFF ATTENDING:** Duane Huffman (City Administrator) on-site. Cathy Brightwell (Recorder),  
17 Debbie McKean (Secretary) and Steve Doxey (Legal) via Zoom.

18 **VISITORS:** On-site: Gary Jacketta, Larry Stanger, Jed and Cindy Christensen, Dino Pasqua, Bruce  
19 Baird, DJ Schanz, James Bruhn, Pam & Michael Vogel, Lloyd Carr.  
20 Via Zoom: Becky Ginos, Rob Wall, Terri Wall, Tyson Davis

21 *The Planning Commission meeting was called to order at 7:30 pm by Vice Chairman Alan Malan.*  
22 *Dee Vest offered a prayer.*

23 **1. Accept Agenda**

24 Vice Chairman Malan reviewed and discussed the agenda. Mike Cottle moved to approve the  
25 agenda as presented. Dee Vest seconded the motion. Voting was unanimous in favor among all  
26 members present.

27 **2. Public Hearing to Consider a Land Use Decision on Cannabis Production**  
28 **Establishment Petition at 580 West 100 North, and Medical Cannabis Ordinance**  
29 **Including Text Amendments to Existing Code, Potentially Affecting the Commercial-**  
30 **Highway, Light Industrial, Industrial General, Agricultural (A-1), and Potential New**  
31 **Agricultural Zone.**

32 Duane Huffman introduced the public hearing on a petition for cannabis production and a  
33 medical cannabis ordinance including text changes to the existing code and a new ordinance. He  
34 stated that they have received comments from surrounding businesses that are not supportive of  
35 this new type of industry locating next to them. If it impacts current tenants' decisions to  
36 relocate, this could be detrimental to the city's revenue stream.



37 **Action Taken:**

38 ***Corey Sweat moved to open the public hearing at 7:38 pm. Mike Cottle seconded the motion***  
39 ***and voting was unanimous in favor.***

40 **Public Comment:**

- 41 • Bruce Baird (representing Wholesome Therapy) stated that this business is for medical  
42 purposes only and is strictly regulated. It is nothing like Colorado which it has been compared  
43 to. He reminded the commission that the pharmacy portion of the business has already been  
44 approved by the state and emphasized that the cannabis production business will be virtually  
45 invisible to the public. They have made every effort to contact the property manager, John  
46 Thackeray as promised. They were able to talk to Mr. Thackeray's son and business partner  
47 but could not get a formal response from the company. He expressed his frustration that  
48 they were not able to have a conversation and provide information that would help describe  
49 the business and its invisibility to the public. He offered to share a You-tube video that  
50 described the process of cannabis production and again addressed the issue of odor control.  
51 They believe they have met and satisfied all concerns and ask for a favorable vote this  
52 evening. He suggested they may want to consider each application separately.
- 53
- 54 • Councilmember James Bruhn stated he has spoken with several citizens and they are all  
55 opposed to this petition.
- 56
- 57 • No other members of the public came forward.
- 58

59 Commissioners shared their concerns about holding a public hearing that is so important during  
60 the Covid 19 pandemic. They took extra efforts to reach out to some citizens to get their feelings.  
61 Most discovered there is not a lot of support for this type of industry in this location. However,  
62 Laura Charchenko commented that she talked to individuals who would rather have this type of  
63 business in a secured facility such as the Carr building, than in an open field in our agricultural  
64 zone as it would be more secure.

65

66 **Action Taken:**

67 ***Corey Sweat moved to close the public hearing at 7:47 pm. Mike Cottle seconded the motion***  
68 ***and voting was unanimous in favor.***

69

70 **3. Land Use Decision on Cannabis Production Establishment Petition at 580 West 100**  
71 **North, and Medical Cannabis Ordinance Including Text Amendments to Existing**  
72 **Code, Potentially Affecting the Commercial-Highway, Light Industrial, Industrial**  
73 **General, Agricultural (A-1), and Potential New Agricultural Zone.**

74

75 Commissioner packets included a memorandum from Duane Huffman dated June 19, 2020  
76 regarding Petition for Land Use Code Text Change for Cannabis Production Establishment and

77 Medical Cannabis Ordinance – 17.62 with attached letters, supporting documents, proposed  
78 changes to text and a new ordinance.

79 Discussions on Wholesome Therapy’s request for a text change for cannabis production  
80 establishment and a new cannabis ordinance have been ongoing for a couple months. Mr.  
81 Huffman informed the Commission that Mr. Thackeray contacted Mayor Romney stating that  
82 his tenants in the adjacent shopping center are opposed to having a production facility in the  
83 Carr building. He reminded the Commission that the city has 45 days to make a decision on the  
84 Petition so a recommendation should go to city council for their July 7<sup>th</sup> meeting. He noted  
85 that there is an invitation that still stands for attending a tour in a nearby production facility as  
86 well as the video Mr. Baird has offered to share.

87 Mr. Huffman reviewed the draft petition in its entirety. He reviewed all zones and their legal  
88 uses. He noted the creation of a new Agricultural Specialty zone is proposed for west of Legacy  
89 Parkway that would allow for a pharmacy as well as a production facility. He discussed an  
90 option to rezone the Carr building to C-H (commercial highway) that could allow as a  
91 conditional use, processing but not production. To make this work, the definition of cannabis  
92 production would need to be modified to exclude processing.

93 **Corey Sweat** prefers not to entertain a conditional use option. Duane Huffman explained that  
94 the proposed changes capture the necessities to be included in conditional uses if the  
95 commission decides to go that way.

96 **Vice Chairman Malan** responded to a request by Larry Stanger to take the stand for a  
97 comment. Mr. Stanger asked how many City Council members want this type of production in  
98 our City and stated they just need to say no.

99 **Mike Cottle** asked the applicant to explain the benefits to the city if this business is allowed.  
100 Mr. Baird responded that it a good use for the building which has gone unused for a long time;  
101 the pharmacy is approved by the state of Utah and co-locating the pharmacy and the  
102 production creates a more secure and efficient facility; adds jobs to the community; and does  
103 no harm as it will be invisible to the public. He does not see any harm to the city at all. Mike  
104 Cottle stated he is frustrated that the state makes such decisions that may not be best for our  
105 city especially when there is no tax benefit. He has not found any citizen support causing him  
106 to cast a positive vote.

107 **Laura Charchenko** has talked to people that support the production facility being located in a  
108 secured location rather than in the open fields closer to their homes.

109 **Vice Chairman Malan** is concerned that it is an industrial process in a retail zone and believes  
110 that it has the potential to grow bigger. He does not want production wholesaled to others  
111 outside this location. He added that he still has questions about odors. He gave the example of  
112 Holly Refinery who also has scrubbers to eliminate odors, but some still slip through.

113 Mr. Baird noted that conditional uses are nice because conditions and standards on the  
114 business can be set in such a way as to mitigate any detrimental effects. He gave examples for  
115 a butcher in a grocery store, paint mixing in a home improvement store, etc. where certain  
116 activities are not the preferred use but are ok in their setting. He feels that all concerns can be  
117 dealt with under conditional uses.

118 **Mike Cottle** asked how we should handle tenant concerns and the potential financial impact to  
119 the city. Mr. Baird stated that education of businesses and citizens are important to show that  
120 the proposed business may not be what they expect it to be.

121 Councilmember Enquist asked how many licenses have been issued by the state. Mr. Baird  
122 responded that there are 14 pharmacies and 8 growing facilities. Mr. Enquist asked how much  
123 would be leaving the building to be distributed outside of West Bountiful. Mr. Schanz said they  
124 are one of few vertically integrated companies who have both pharmacy and production  
125 licenses which they consider to be a more efficient way to operate. They may consider some  
126 wholesaling given the number of distributors versus the number of growers, but it will be  
127 based on their level of production which they expect to be about 300 pounds per month. He  
128 described how they harvest the product for medical use which is only the flower bud and not  
129 the whole plant. Industrial hemp used for recreational purposes is a cousin of marijuana that  
130 grows outdoors and produces odors.

131 Since the production element of the business is the most troublesome, they discussed whether  
132 the processing portion of Cannabis Production Establishment could be separated out, re-  
133 defined and allowed in the C-H zone. There was discussion about possible options to move the  
134 issues forward based on the discussion this evening

135 Option 1 – recommend adoption of the proposed land use ordinance; add cannabis production  
136 establishment as a conditional use in the C-H zone; rezone the Carr Building to C-H.

137 Option 2 - recommend adoption of the proposed land use ordinance; prohibit cannabis  
138 production establishment in the C-H zone; rezone the Carr building to C-H.

139 Option 3 - recommend adoption of the proposed land use ordinance; prohibit cannabis  
140 production establishment in the C-H zone. Do not rezone the Carr building to C-H.

141 **Action Taken:**

142 ***Corey Sweat moved forward to City Council the following: Deny the Petition for Land Use***  
143 ***Text Change for Cannabis Production Establishment at 580 W 100 North (Carr Building).***  
144 ***Approve staff's proposed land use ordinance (WBMC Chapter 17.62) which includes adding***  
145 ***Medical Cannabis Pharmacy as a Permitted Use in all Commercial and Industrial zones; Prohibit***  
146 ***Cannabis Production Establishment in Commercial zones; add Cannabis Production***  
147 ***Establishment as a Conditional Use in the L-I Zone; add Cannabis Production Establishment as a***  
148 ***Permitted Use in the I-G zone; create an Agricultural Specialty (A-S) Zone that allows Medical***  
149 ***Cannabis Pharmacy and Cannabis Production Establishment as a Permitted Use; modify the***

150 **existing A-1 zone to clarify it is a primarily residential zone; and rezone the Carr building to the**  
151 **C-H Zone. Dee Vest seconded the motion which passed with a 4-1 vote with Alan Malan, Corey**  
152 **Sweat, Dee Vest and Mike Cottle voting Aye, and Laura Charchenko Nay.**  
153

154 **4. Conditional Use Application for Michael and Pam Vogel for a Home Occupation**  
155 **business.**

156 Commissioner packets included a memorandum dated 19,2020 from Staff regarding Conditional  
157 Use Permit Request from Vogel Crane Service-2122 N 1000 W with an attached application and  
158 site plan from the applicant, and signatures from residence in the area supporting his request.

159 Cathy Brightwell explained Michael and Pam Vogel applied for a Home Occupation business  
160 license to have a home office in their house. They live on a half-acre lot in Kinross Estates that  
161 backs up to an empty field. They own a Crane service company that builds homes.  
162

163 As discussed at the June 9, 2020 planning commission meeting, the Vogel's own two crane  
164 trucks that they park at their home when not in use. When needed, the trucks are driven to  
165 and from a work site and oftentimes are left on the site. When not in use, the cranes are  
166 parked within the fenced back yard until such time as a planned garage is built to store the  
167 cranes. Their son, an employee of the company, lives with them and drives one of the trucks.  
168

169 Ms. Brightwell noted that the planning commission tabled this matter so more information  
170 could be collected. Since the last meeting, the Vogel's have completed fencing along the rear of  
171 the property and have talked with neighbors to see if there are concerns about having the  
172 cranes on the property. They focused on neighbors that live on 2100 N as their homes face the  
173 Vogel's rear yard and they drive by the yard daily. They were unable to find any neighbors who  
174 object to the cranes and provided a copy of signatures they received supporting them. Mr.  
175 Vogel also shared with staff that each crane is 33 ft long and 8 ft wide or 264 sq. ft. His planned  
176 garage is 48 ft. by 56 ft for a total of 2688 sq. ft. The city's Home Occupation ordinance allows  
177 the use of up to 25% of a garage with a home occupation license. Based on the above  
178 information, the cranes will take up approximately 20% of space in the garage. There is a  
179 picture included in the packet that shows the size of the crane in the location. She noted that  
180 Mr. Doxey supplied two possible motions that could be used.

181 **Commissioner Comments:**

182 **Corey Sweat** stated that this looks much better from last meeting and the conditions are  
183 reasonable.  
184

185 **Mike Cottle and Dee Vest** do not object; they appreciated the picture and all the work that has  
186 been done.  
187

188 **Laura Charchenko** is ok with the request.  
189

190 **Alan Malan** said he talked with Ben White about potential damage the heavy equipment may  
191 cause to the road. He stated that it should not be a problem unless on a very hot day. Applicant

192 is responsible for any damage that may occur with ongoing use. Duane Huffman further  
193 explained that the road is designed to handle this traffic under normal circumstances. The main  
194 impact will be entering and exiting the property as turns are made during the hot months of  
195 the year. He recommends the additional condition of #7 be included in the motion as well that  
196 would state the responsibility of the resident to fix any road damages done going forward.

197 **Action Taken:**

198 ***Mike Cottle moved to approve the Conditional Use Application for Michael and Pam Vogel for a***  
199 ***Home Occupation business at 2122 N 1000 West with the following findings: The proposed use***  
200 ***at this particular location is necessary or desirable to provide a service or facility that will***  
201 ***contribute to the general well-being of the neighborhood and the community; will not be***  
202 ***detrimental to the health, safety, or general welfare of persons residing or working in the***  
203 ***vicinity, or injurious to property or improvements in the vicinity; the use and/or accompanying***  
204 ***improvements will not inordinately impact schools, utilities, and streets; will provide for***  
205 ***appropriate buffering of uses and buildings, proper parking and traffic circulation, the use of***  
206 ***building materials and landscaping which are in harmony with the area, and compatibility with***  
207 ***adjoining uses; will comply with the regulations and conditions specified in the land use***  
208 ***ordinance for such use; will conform to the intent of the city's general plan; and the conditions***  
209 ***to be imposed will mitigate the reasonably anticipated detrimental effects of the proposed use***  
210 ***and accomplish the purposes of WBMC § 17.60.040.***

211 ***Conditions: The home occupation must meet the requirements of WBMC § 5.28.040***  
212 ***regarding home occupations, including any requirements specified in these conditions. The***  
213 ***home occupation will be limited to a home office in the dwelling. Use of any portion of a***  
214 ***garage or accessory structure on the property for business purposes that exceeds 25% is***  
215 ***prohibited (WBMC § 5.28.040.G) and with the following conditions: Sufficient off-street***  
216 ***parking will be provided for all vehicles used in the business and for the residence, and the***  
217 ***number of business vehicles on the property will not exceed the number of employees residing***  
218 ***in the home, outdoor storage related to the home occupation will not be permitted (WBMC***  
219 ***§ 5.28.040.I), Any business vehicles or equipment over eight feet in height must be parked***  
220 ***indoors; provided, that for a period of one year after issuance of this conditional use permit***  
221 ***such vehicles or equipment may be parked outdoors as long as the following conditions are***  
222 ***met: a. such vehicles or equipment are parked behind an opaque fence six feet in height and***  
223 ***approved by city staff; and b. applicant provides and maintains landscaping to obscure such***  
224 ***vehicles and maintain the residential character of the property in conformity with a landscape***  
225 ***plan approved by city staff; any damages to concrete, sidewalk, curb, etc. be repaired in a***  
226 ***timely manner by the resident; and applicant applies for, receives, and maintains a current***  
227 ***Home Occupation and Business License. Laura Charchenko seconded the motion and voting***  
228 ***was unanimous in favor.***

229

230 **5. Request from Jed Christensen for Hay Barn at 1347 North 800 West**

231 Commissioner packets included a memorandum dated June 19, 2020 from Staff regarding a  
232 Request from Jed Christensen for Hay Barn and a letter from Mr. Christensen regarding the  
233 purpose for this dwelling.

234 Duane Huffman explained that Jed Christensen is seeking to erect a barn on his property at 1347  
235 N 800 West. Agricultural uses, barns, and accessory structures are permitted in the R-1-10 zone  
236 as is the storage of personal property in the structure. His proposal to store and sell hay raises  
237 some questions about whether a business is being conducted. Mr. Huffman noted that if he  
238 were growing the hay on the property to sell, it would be different, but he is purchasing the hay  
239 off-site and selling it which looks more like a business.

240  
241 Mr. Christensen stressed that there would be no semi-trucks bringing hay, only his personal truck  
242 and trailer. It was discussed that conditional uses could be put in place. Cindy Christensen noted  
243 that ninety percent of the hay that will be stored is delivered off-site so there isn't much traffic.  
244 This is just a way he can continue to do business as he has done for many years.

245  
246 Duane Huffman noted that the current preferred access is through a residential street and could  
247 make it difficult working with neighbors around him. He suggested the Commission may want to  
248 look at options by considering modifications to the R-1-10 zone to consider language with a  
249 specification of size of property and type of business allowed or try to find a zone that would  
250 allow this and do a spot zone of this property.

251

252 **Commissioner's Comments:**

253

254 **Mike Cottle** is concerned we may open a can of worms if we grant this by changing the  
255 ordinance.

256

257 **Corey Sweat** referred to a similar request received last year and is not sure if we want to change  
258 the zoning ordinance but maybe it could be included in the home occupation ordinance.

259

260 **Laura Charchenko** supports what the Christensen's want to do and supports figuring out how to  
261 make it work.

262

263 **Dee Vest** favors tabling the item and let staff present something to us and see what some  
264 options are.

265

266 **Vice Chairman Malan** asked staff to look at the home occupation ordinance to see what options  
267 there could be to work things out for Mr. Christensen.

268

269 **Action Taken:**

270 ***Dee Vest move to table the item and direct staff to draft an amendment to our current Home***  
271 ***Occupation permitted uses and present it for consideration to the Commission. Laura***  
272 ***Charchenko seconded the motion and voting was unanimous in favor among those present.***

273

274 **6. Conditional Use Application for Tyson Davis for an Accessory Dwelling Unit.**

275 Commissioner packets included a memorandum dated June 19, 2020 from Cathy Brightwell  
276 regarding an Accessory Dwelling Unit at 941 West 1950 North with attached application and site  
277 plan from applicant.

278  
279 Ms. Brightwell explained that Mr. Davis has been issued a building permit to construct a new  
280 house in the Mountain View Estates subdivision. The house is designed to include an accessory  
281 dwelling unit (ADU) in the basement. A conditional use permit is required prior to using the  
282 potential apartment as an ADU. Staff recommended that Mr. Davis obtain the Conditional Use  
283 Permit for the ADU now for the simple reason that municipal and building codes change from  
284 time to time. It would be unfortunate if future changes to code prohibit the ADU or require  
285 structural changes for its approval. She explained that pursuant to our code, it is not visible from  
286 the street and there is adequate parking.

287  
288 Before any conditional use permit may be issued for an ADU, the Planning Commission shall  
289 make an affirmative finding that the ADU will not create any injurious impacts to surrounding  
290 neighbors and/or the neighborhood where the ADU is to be located, and that the ADU otherwise  
291 meets the requirements of Chapter 17.60 of this title.

292

293 **Action Taken:**

294 ***Dee Vest move to approve the building permit for an ADU at 941 W 1950 North for Tyson Davis***  
295 ***based on the following findings: The proposed use at the particular location is necessary or***  
296 ***desirable to provide a service or facility that will contribute to the general well-being of the***  
297 ***neighborhood and the community; will not be detrimental to the health, safety, or general***  
298 ***welfare of persons residing or working in the vicinity, or injurious to property or improvements***  
299 ***in the vicinity; and/or accompanying improvements will not inordinately impact schools,***  
300 ***utilities, and streets; and the conditions to be imposed in the conditional use permit will***  
301 ***mitigate the reasonably anticipated detrimental effects of the proposed use and accomplish***  
302 ***the purposes of this subsection.***

303 ***Conditions: the applicant will construct the addition in such a manner that WBMC***  
304 ***17.82.050 and the International Residential Building Code requirements for a second dwelling***  
305 ***unit are satisfied; language will be included in any rental or lease agreement for the ADU that***  
306 ***the lease will terminate upon sale of the property; this Permit is not transferable – if at any***  
307 ***time the home is not occupied by the applicant or his immediate family or the applicant sells***  
308 ***the property, the Permit shall be revoked pursuant to WBMC 17.60.080; and the applicant will***  
309 ***execute the Conditional Use permit and ADU agreement which will be recorded in the County***  
310 ***Recorder’s office. Mike Cottle seconded the motion and voting was unanimous in favor among***  
311 ***those present.***

312 **7. Conditional Use Application for Ben Savage for an Accessory Dwelling Unit**

313 Commissioner packets included a memorandum dated June 19, 2020 from Cathy Brightwell  
314 regarding Accessory Dwelling Unit at 730 North 800 West with an application and site plan  
315 attached.

316 Cathy Brightwell informed the Commission that Mr. Savage has been issued a building permit for  
317 a garage remodel attached to his existing home that is intended to be used as separate living  
318 quarters for family members. A conditional use permit is required prior to using the potential  
319 apartment as an ADU. Ms. Brightwell explained that the unit is approximately 500 square feet  
320 with a door on the side to conform with city codes.

321  
322 Before any conditional use permit may be issued for an ADU, the Planning Commission shall  
323 make an affirmative finding that the ADU will not create any injurious impacts to surrounding  
324 neighbors and/or the neighborhood where the ADU is to be located, and that the ADU otherwise  
325 meets the requirements of Chapter 17.60 of this title.

326 Cathy Brightwell noted that there is adequate parking on the property and on an RV pad.  
327 Councilman Enquist suggested putting a safety barrier in front of the unit for protection from  
328 vehicle driving into the building.

329 **Action Taken:**

330 ***Mike Cottle move to approve the building permit for an ADU at 730 N 800 West for Savage's***  
331 ***based on the following findings: The proposed use at the particular location is necessary or***  
332 ***desirable to provide a service or facility that will contribute to the general well-being of the***  
333 ***neighborhood and the community; will not be detrimental to the health, safety, or general***  
334 ***welfare of persons residing or working in the vicinity, or injurious to property or improvements***  
335 ***in the vicinity; and/or accompanying improvements will not inordinately impact schools,***  
336 ***utilities, and streets; and the conditions to be imposed will mitigate the reasonably anticipated***  
337 ***detrimental effects of the proposed use and accomplish the purposes of this subsection.***

338 ***Conditions: the applicant will construct the addition in such a manner that WBMC***  
339 ***17.82.050 and the International Residential Building Code requirements for a second dwelling***  
340 ***unit are satisfied; language will be included in any rental or lease agreement for the ADU that***  
341 ***the lease will terminate upon sale of the property; this Permit is not transferable – if at any***  
342 ***time the home is not occupied by the applicant or his immediate family or the applicant sells***  
343 ***the property, the Permit shall be revoked pursuant to WBMC 17.60.080; and the applicant will***  
344 ***execute the Conditional Use permit and ADU agreement which will be recorded in the County***  
345 ***Recorder's office. It is recommended that a barrier be placed in front of the unit for safety***  
346 ***reasons. Dee Vest seconded the motion and voting was unanimous in favor among those***  
347 ***present.***

348 **8. Consider Final Plat Approval for Ashby Acres at the corner of 1100 West and Pages**  
349 **Lane**

350 Commissioner packets included a memorandum dated June 19, 2020 from Staff regarding Ashby  
351 Acres Subdivision-final plat with attached copy of the final plat.

352 Cathy Brightwell explained that James and Shelly Bruhn have applied for an 8-lot subdivision on  
353 the northeast corner of 1100 West and Pages Lane. The property is within the R-1-22 zone and  
354 consists of 4.62 acres. The eight lots meet the required R-1-22 zoning requirements for size and  
355 frontage. Will-serve letters have been received from the major utility companies.



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The city engineer has reviewed the final plat submittal. He recommends addressing the items listed below as conditions for approval. Otherwise, the only updates to the plat and construction documents are several minor clarifications that have been provided to Mr. Bruhn for incorporation. Staff recommends approval of the final plat by planning commission.

**Engineer's Comments:**

- In addition to several minor changes to the plat and grading plan, the following are highlighted:
- The proposed on-site storm drains and catch basins are adequate for the subdivision since the final development of the lots is only speculative. Additional catch basins will most likely be necessary when homes are constructed. If that turns out to be the case, then the storm drain in the rear of lot 4 can be extended by the property owners farther east.
  - Move sewer service to be a common/single pavement cut with the irrigation service.
  - Add PUE/D for storm drain pipe on lots 7 & 8.
  - Add note for lot 7 that it complies with the fire code and Geotech study on file.

James Bruhn noted that his engineer has not done such a great job. He confirmed that there will be only one road cut by lot 7. The drainage between lots 7 and 8 has petroleum lines underground so they will be restricted in placing drain pipes so he wants to match the drainage line with Olsen Farms for the entire back of the property. Duane noted that that would have to be reviewed and accepted for final plat.

Corey Sweat noted that #1 would not be applicable as James has made his recommended changes.

**Action Taken:**

***Corey Sweat moved to approve the Ashby Acres final plat for James and Shelley Bruhn and forward it to the city council for their approval with the following conditions: add public utility easement and drainage for storm drain pipe of lots 7 and 8; a driveway design for lot 7 that demonstrates compliance to the Fire Code and Geotech study that is on file at West Bountiful City; move sewer service at station 3+80 to be a common/single pavement cut with the irrigation service; obtain final design approval from Weber Basin and South Davis Sewer and obtain payment for storm drain impact fees for 6 lots and reimbursable costs from Pages Lane project. Drainage is subject to final review and approval from city engineer. Laura Charchenko seconded the motion and voting was unanimous in favor.***

**9. Staff Report**

**Cathy Brightwell:**

- 800 West will be paved from 10<sup>th</sup> North and Pages Lane on Wednesday and Thursday and completely closed. Cars need to get out early morning but will not get back in for the evening and will have to park on other streets nearby.
- Haven Wood meeting tomorrow morning for some proposals for an upcoming meeting.

397 • City has been receiving lots of calls about the Hughes Property that is for sale on 1100  
398 West. Homeowners have 90 days to clear property upon sale. There are concerns that  
399 some of that property could move to the property to the north. It was noted that  
400 homeowner has property in North Salt Lake where items can be relocated.

401 **Duane Huffman:**

- 402 • There have been many applicants for city engineer five of whom have been chosen for  
403 interviews. The 1<sup>st</sup> round of interviews will begin this week. Staff and Mayor will only  
404 recommend those that can do the job.
- 405 • Reported how Davis County is doing in relation to Covid -19. Shared data of confirmed  
406 cases by week and noted they are beginning to double on a weekly basis. Showed  
407 testing that has been steady since April. Hospitalizations have been steadily increasing  
408 and could be near capacity if numbers do not decline in the next week or so. Virus is  
409 being spread by healthy people to those with compromised immune systems.  
410 Encouraging West Bountiful residents to practice social distancing, mask protection  
411 and hand washing/sanitizing. North Salt Lake currently has the highest number of  
412 cases in Davis County.
- 413 • A meeting is scheduled with the Smith family to discuss with Mayor and staff the  
414 future of the Smith property. They have requested to de-annex some parcels of  
415 property from West Bountiful.

416 **10. Consider Meeting Minutes from June 9, 2020.**

417 **Action Taken:**

418 **Corey Sweat moved to approve of the minutes of the June 9, 2020 meeting as presented.**  
419 **Laura Charchenko seconded the motion and voting was unanimous in favor.**

420

421 **11. Adjourn**

422 **Action Taken:**

423 **Laura Charchenko moved to adjourn the regular session of the Planning Commission meeting**  
424 **at 9:47 pm. Dee Vest seconded the motion. Voting was unanimous in favor.**

425 .....

426 *The foregoing was approved by the West Bountiful City Planning Commission on June 22, 2020,*  
427 *by unanimous vote of all members present.*

428 \_\_\_\_\_

429 *Cathy Brightwell – City Recorder*

430