

NORTH OGDEN PLANNING COMMISSION

MEETING MINUTES

August 20, 2014

The North Ogden Planning Commission convened in a regular meeting on August 20, 2014 at 6:34 pm in the North Ogden City Municipal Building, 505 E. 2600 N. North Ogden, Utah. Notice of time, place and agenda of the meeting was furnished to each member of the Planning Commission, posted on the bulletin board at the municipal office and posted to the Utah State Website on August 15, 2014. Notice of the annual meeting schedule was published in the Standard-Examiner on January 24, 2014.

COMMISSIONERS:

Eric Thomas	Chairman
Don Waite	Vice-Chairman
Scott Barker	Commissioner
Joan Brown	Commissioner
Blake Knight	Commissioner
Steven Prisbrey	Commissioner
Dee Russell	Commissioner

STAFF:

Gary Kerr	Building Official
Stacie Cain	Community Dev. Coord./Deputy City Recorder
Robert O. Scott	City Planner

VISITORS:

Dale Swenson	Charles Crippen	Lynn Humphreys	Phillip Swanson
Tom Baguley	John Hansen	Chris Cave	Terry Cevering
Kelly Cevering	John Reeve		

REGULAR MEETING

Chairman Thomas called the meeting to order at 6:34 pm. Vice-Chairman Waite offered the invocation and led the audience in the Pledge of Allegiance.

CONSENT AGENDA

1. CONSIDERATION TO APPROVE THE AUGUST 6, 2014 PLANNING COMMISSION MEETING MINUTES

Commissioner Brown made a motion to approve the consent agenda. Commissioner Barker seconded the motion.

Voting on the motion:

Chairman Thomas	yes
Vice-Chairman Waite	yes
Commissioner Barker	yes
Commissioner Brown	yes
Commissioner Knight	yes
Commissioner Prisbrey	yes
Commissioner Russell	yes

The motion passed.

ACTIVE AGENDA

1. PUBLIC COMMENTS.

There were no public comments.

2. DISCUSSION AND/OR ACTION TO APPROVE THE VILLAGE AT PROMINENCE POINT SUBDIVISION FINAL PLAT, LOCATED AT APPROXIMATELY 1700 N WASHINGTON BLVD

Chairman Thomas recused himself from discussion of this agenda item due to the fact that he is a neighboring property owner. He asked Vice-Chairman Waite to conduct this portion of the meeting.

A staff memo from City Planner Scott explained when the Planning Commission is acting as a land use authority, it is acting in an administrative capacity and has much less discretion. Examples of administrative applications are conditional use permits, design reviews, and subdivisions. Administrative applications must be approved by the Planning Commission if the application demonstrates compliance with the approval criteria. The applicant is requesting final approval of The Village at Prominence Point subdivision, a one lot subdivision at approximately 1700 North and 200 East. The one lot subdivision is on 10.59 acres and is located in the Residential R-4 zone. The R-4 zone requires a minimum lot size of 8,000 square feet on interior lots and 9,000 square feet on corner lots with a frontage requirement of 80 feet. (Nursing home lots require an additional 500 square feet for each patient.) The property is currently vacant. This property was rezoned May 13, 2014 from Commercial C-2 to Residential R-4 with a provision requiring that this property be developed as an assisted living center. The R-4 zone allows assisted living centers (nursing homes) as a conditional use. A subsequent conditional use

application is to be reviewed in an upcoming planning meeting. A technical review committee met on June 23, 2014.

The overall layout of the subdivision provides appropriate access to the adjoining properties with a connection to Country Boy Estates on the west and Washington Boulevard on the east. The lot meets the minimum size and frontage requirements. The City Engineer has submitted a new staff review dated August 13, 2014. The letter addresses how the final conditions of approval have been addressed. Staff has highlighted several of the comments. Each of these comments will need to be addressed prior to the recording of the subdivision plat:

5. Annexation and UDOT Approval. An application has been received to annex a 5,284 square foot parcel (.121 acres) as part of the improvements to the intersection at 1700 North and Washington Boulevard. The City has requested Weber County sign an Interlocal agreement designating North Ogden City as the land use authority while this annexation application goes through the annexation process. The developer has also met with UDOT regarding the 1700 North and Washington Boulevard intersection. The developer has reported that a letter is forthcoming that will approve the access at 1700 North. They are also reviewing the final design for approval.

7. Future North/South roadways. In future developments there will need to be a north/south roadway that connects to property on the north and south. As part of the subdivision development agreement a provision for a north/south street from 1700 North to the adjoining north and south properties will need to be included. A provision for making improvements at the future intersection of the north/south roadway and 1700 North will need to be addressed, specifically water valves and connections, sanitary sewer connection and manhole.

11. Geotechnical Report. The City Engineer has reviewed and approved the geotechnical report.

14. Mud Creek Drainage. A storm drain pipe shall be constructed from Mud Creek and Washington Boulevard south to 1700 North and west to the detention basin. The City will entertain paying for the upsizing of the required pipe through a payback agreement.

19. Northview Fire District. Staff is awaiting the review by North View Fire District approving the location of the required fire hydrants.

24. Street Light Locations. The building official will need to approve the locations of the street light fixtures.

25. Sidewalk Improvements. The plans do not show sidewalk being installed on the south side of 1700 North. There are two options to install the sidewalk. The first is with a payback agreement and the second is to have the developer construct it.

27. Pineview Secondary Water. A will serve letter has been received from Pineview Water District. The District has sufficient water to serve the project and has reserved the needed water shares. The property owner will need to request annexation into the District.

28. Trails. The plan shows a trail system being created along the Fourmile (Coldwater) channel that will tie into the Mystery Meadows trail and extend to 1700 North. The assisted living center project will install these improvements.

Bona Vista Water District. This property is within the Bona Vista Water District and is required to de-annex in order for North Ogden City to provide culinary water. The applicant has reported that the de-annexation is on the Bona Vista board meeting for August 25. Bona Vista has agreed

to serve several other properties that are being de-annexed until North Ogden City water is available.

The memo provided the following summary of Planning Commission consideration: does the proposed subdivision meet the requirements of the applicable City subdivision and zoning Ordinances?

The proposed subdivision meets the requirements of applicable North Ogden City ordinances and conforms to the North Ogden City General Plan. The General Plan map calls for this property to be developed as commercial.

The memo also suggested the following conditions of approval:

- Requirements of the North Ogden City Engineer (see summary above)
- Requirements of all referral agencies
- Obtain approval from UDOT for the access at 1700 North and Washington Boulevard and intersection design.
- Approval of the Interlocal agreement with Weber County designating North Ogden City as the land use authority for the annexation of property associated with the connection of 1700 North and Washington Boulevard. Complete the annexation of this property.
- De-annex this property from the Bona Vista Water District with the understanding that Bona Vista will agree to provide water to other properties that are being de-annexed until North Ogden City water is available.
- As part of the subdivision development agreement provide for a north / south street from 1700 North to the adjoining north and south properties and the sanitary sewer and culinary water connections.

Staff recommends final approval of this application for The Village at Prominence Point subdivision subject to the conditions from the North Ogden City Engineer, reviewing agencies, and the conditions of approval listed in this report.

Mr. Scott summarized his staff memo.

Vice-Chairman Waite stated he feels the list of items to be addressed by the applicant is very lengthy and he asked why staff forwarded a recommendation for final approval before some of the items are addressed by the applicant. Mr. Scott agreed the list is lengthy, but none of the issues will affect the design of the subdivision; if there were any indication that any of the items would affect the design, staff would not have recommended approval. He stated the Planning Commission has the discretion to dictate that more items be accomplished before granting final approval.

Commissioner Barker inquired as to the timeframe for completing all the items included on the list. Mr. Scott stated the final approval is good for one year from the date of approval, so all items must be completed to the point that the plat is ready to record.

John Reeve, engineer for the project, addressed the piping of Mud Creek and noted there are landowners along the creek that have water rights; he will work with the City Engineer to ensure those water rights are protected while meeting the City's requirements relative to piping. He

then stated some of the other items included on the list may take some time to complete, such as the process to receive approval for the intersection of 1700 North and Washington Boulevard. He then asked that the applicant not be required to install sidewalk on the north side of 1700 North at the onset of the project because maintaining those sidewalks through the winter and mowing the weeds in the parkstrip will be cumbersome before the development is complete.

Chairman Thomas stated that is his understanding that the City boundary ends at the curb on the south side of 1700 North. Mr. Reeve stated that is the case near the end of the property, but the full 66 foot right-of-way of 1700 North is located within North Ogden City.

Terry Cevering stated he represents Cevering Family Properties. He stated he is confused about the boundary of the property and where fencing will be located along the boundary line; he is worried about snow removal in the area as well as the impacts the development will have on his property. He then stated the issue of water shares on Mud Creek needs to be addressed by the City. He also referenced access to his property and stated he is concerned about how construction of the development or the extension of 1700 North will impact his ability to access his property. Building Official Kerr stated the City will work with the contractor to ensure that existing residents will have access to their property throughout the construction period.

Mr. Reeve stated that when the applicant began design of the project they determined they did not want to take any more of the Cevering property than was needed for 1700 North and for that reason the Ceverings will own the property to the back of the curb. He stated the applicant will work with the Ceverings to re-erect a fence along the property line and the location of the fence can be dictated by the Cevering family.

John Hansen stated the Ceverings will have full access to 1700 North; there are no holding strips against their property and when they decide to develop their property they will have the benefit of being located next to a complete road.

Chris Cave, Reeve and Associates Engineer, noted he has worked with North View Fire to address the comments in the Engineer's report relating to the location of fire hydrants. He added the Pineview Water application was signed and the associated fee paid today. He added the easement for the pathway has been added to the plat, and the application plat has been submitted to Bona Vista Water for the de-annexation. He concluded most of the items on the list have been or are being addressed and he noted the applicant has received approval of the access to Washington Boulevard from UDOT.

Chairman Thomas asked Mr. Cave to explain why the applicant must de-annex the property from the Bona Vista Water District. Mr. Cave noted the property cannot be de-annexed until it is possible for North Ogden to provide water to the property. There was a general discussion regarding Bona Vista connections for surrounding properties.

Mr. Hansen re-approached and stated he would like to commend City staff and the City Engineer for being very articulate and ensuring everything is in place for the development because this is a big decision for the City. He added, however, that he is the person that is trying to keep he project moving for the potential buyer, who has come to the conclusion that North Ogden City

does not want him as a resident or business owner. He stated he is hopeful that the Planning Commission grants final approval this evening so that he and other entities working on the project can continue to proceed and reassure the potential buyer.

Commissioner Russell made a motion to grant final approval for The Village at Prominence Point Subdivision Plat, located at approximately 1700 North Washington Boulevard. Commissioner Knight seconded the motion.

Commissioner Prisbrey announced that he will not vote on this issue because he works as a realtor with Mr. Hansen.

Voting on the motion:

Chairman Thomas	recused
Vice-Chairman Waite	yes
Commissioner Barker	yes
Commissioner Brown	yes
Commissioner Knight	yes
Commissioner Prisbrey	recused
Commissioner Russell	yes

The motion passed.

There was a brief general discussion regarding the road construction aspect of the project, after which Vice-Chairman Waite turned the meeting back over to Chairman Thomas.

3. DISCUSSION TO AMEND ORDINANCE 11-16, HOME OCCUPATION, TO CLARIFY THE STANDARDS FOR THE ALLOWANCE OF ACCESSORY BUILDINGS/GARAGES

A staff memo from City Planner Scott explained when the Planning Commission is acting as a recommending body to the City Council, it is acting in a legislative capacity and has wide discretion. Examples of legislative actions are general plan, zoning map, and land use text amendments. Legislative actions require that the Planning Commission give a recommendation to the City Council. Typically the criteria for making a decision, related to a legislative matter, requires compatibility with the general plan and existing codes. On June 4, 2014 the North Ogden Planning Commission directed Staff to investigate the home occupation standards exception for the allowance of garages. There are currently five home occupations that have a conditional use permit allowing a garage. Home occupations are allowed in all residential zones. 11-16 (Home Occupations) identifies the requirements for home occupations. Staff has identified the provisions applicable to this request and provided an analysis of each:

A. Residents of Premises: Only persons who are bona fide residents of the premises shall be engaged in the occupation.

Staff comment: This requirement limits those operating home occupations to existing residents. No outside employees are allowed.

B. Residential Character Retained: The home occupation will not physically change the dwelling to the extent that it would alter the residential character of the dwelling or the residential atmosphere of the neighborhood in which it is located. Furthermore, it shall not disturb the peace and quiet, including radio and television reception, of the neighborhood by reason of color, design, materials, construction, lighting, sounds, noises or vibrations.

Staff comment: In essence, this is the purpose statement for home occupations in North Ogden. Any home occupation that changes the residential character of the dwelling or neighborhood is not allowed. This provision goes to the heart of why there are residential and commercial zones and the threshold for allowing a limited number, type, location, and size of home occupations. A list describing potential impacts gives guidance to this standard.

When considering whether to change the home occupation ordinance, allowing an exception for garages and/or accessory buildings, is a key consideration.

C. Maximum Area of Use: If a home occupation is conducted within the living quarters of a unit, the home occupation shall not occupy more than twenty five percent (25%) of the main floor area, up to a maximum of three hundred (300) square feet.

Staff comment: This requirement limits the amount of space that can be devoted to the home occupation. It is typical of similar home occupation ordinances and supports the notion that home occupations should be limited in scope and location on the residential lot. There is no size limitation for garages using the exception that allows home occupations in a garage.

D. Conducted Within Living Quarters, Exception: Home occupations may be permitted in the garage of a house by conditional use permit only. Any conditional uses approved for a garage shall have minimal environmental impact on the character of the neighborhood. Anything beyond minimal intrusion in the neighborhood will require mitigation to be shown as part of the conditional use permit. The land use authority, at their discretion, can increase the level of mitigation beyond that recommended by the applicant.

Staff comment: This standard attempted to balance the limitation of size and location of the home occupation by allowing an exception to locate home occupations in garages.

The memo indicated the City has approved 5 home occupations of this nature. The following summary provides information on each location, e.g., location, when approved, zone, lot size, type of lot, and garage description.

Auto Shop - 3088 N 100 E (approved 1/2008) / R-1-10 zone / .25 acres (10,890 square feet) / interior lot / detached 550 square foot double car garage for the auto shop / has separate attached parking for the house

De-humidifier for gun safes - 3551 N 700 E (approved 7/2011) / R-1-10 zone / .35 acres (15,246 square feet) / corner lot / attached 3 car garage 1,010 square feet / parking is combined for home occupation and house / additional pad next to garage

Small repair and tool shop - 2288 N Fruitland Drive (approved 3/2011) / RE-20 zone / .67 acres (29,185 square feet) / corner lot with side frontage on private road / 2 car carport with attached accessory building

Guitar manufacturing - 3481 N 900 E (approved 3/2007) / R-I -I 0 zone / .26 acres (11,325 square feet) / interior lot / attached garage 529 square feet / parking combined for home occupation and house / an additional pad next to garage
Auto Shop - 3590 N 575 E (approved 2010) / R-I-I0 zone /.25 acres (10,890 square feet) / interior lot / 3 car attached garage 1,150 square feet / parking combined for home occupation and house

The Planning Commission will need to decide whether or not allowing home occupations in garages preserves the character of dwellings and neighborhoods. If the decision is to continue to allow garages as an exception; are there any other standards that should be applied?

G. Traffic: The home occupation shall not generate more than five (5) vehicular roundtrips a day, except as specifically allowed by conditional use permit.

Staff comment: This requirement limits home occupations to not generate more than five vehicular roundtrips per day.

H. Parking: The addition of off street parking facilities on the premises of the home occupation beyond that normally required for residential uses is prohibited. Parking of automobiles generated by the home occupation will be confined to existing residential parking.

Staff comment: Parking for those coming to a home occupation can use existing driveways leading to permanent parking. Additional parking spaces for the home occupation are not allowed. If a garage is used then the applicant must show they are retaining the required parking for the home in addition to any other space used for the home occupation.

M. Use Outside Main Building: The home occupation shall not use any accessory buildings, yard or space outside of the main dwelling not normally associated with the residential uses permitted within the zone wherein the dwelling is located.

Staff comment: Accessory buildings are not allowed to be used as part of a home occupation, however section D provides for exceptions that would allow detached garages.

The memo examined conformance to the General Plan, noting the following sections from the General Plan should be considered as part of this decision process:

Community Aesthetics

(3) Implementation Goal: Attractiveness, orderliness, and cleanliness are qualities that establish North Ogden as a place where people care about visual appearances. These qualities should be preserved and required throughout the city.

Zoning and Land Use Policy

(1) A definite edge should be established between types of uses to protect the integrity of each use.

(2) Zoning should reflect the existing use of property to the largest extent possible, unless the area is in transition .

Residential Guidelines:

(2) Avoid isolating neighborhoods.

The memo offered the following summary of potential Planning Commission considerations:

- Should the home occupation provisions regarding exceptions to allow garages be changed?
- Is the current exception language to allow garages consistent with the residential character provision of the ordinance?
- Does the General Plan support these amendments?
- Should the existing home occupations with a garage exception be allowed to continue either indefinitely or should an amortization provision be imposed?
- If an amortization provision is established what should the timeline be?
- Are there other standards that could be established that would allow for some exceptions for a garage, e.g., a larger lot, restricted hours of operation, a size limitation within the garage, etc.?

This consideration is a legislative decision and consequently a policy decision. The memo offered the following options for Planning Commission consideration:

1. Retain the existing ordinance as written.
2. Amend the ordinance to eliminate the exception allowing garages as part of home occupations with the following sub-options.
 - a. Apply this amendment to future home occupation applications.
 - b. Apply this amendment to both existing and future home occupations. Consider allowing an amortization period for existing home occupations with garages, e.g., allow a reasonable period of time to transition the use before it is eliminated .
3. Consider differing standards for residential zones or lot sizes, e.g., only allow garages as part of a RE-20 zone or allow them in any residential zone with a minimum lot size of an acre.
4. Consider adding a standard limiting the size of the home occupation allowed within a garage, e.g., limiting the area to a percentage (25%) of the garage area or 300 square feet whichever is less.
5. Consider adding hourly operating standards, e.g., 8 am to 5 pm.

Staff recommends that the Planning Commission discuss these issues and give direction on how to proceed. Staff will bring back an ordinance to be discussed in a public hearing.

Mr. Scott reviewed his staff memo.

Vice-Chairman Waite stated that home occupations in some other cities have some time limitations placed upon them; for example, a resident may be permitted to operate a business from his garage for up to two years before being told he must relocate or close his business. He asked if that has been considered by staff. Mr. Scott stated that he has not heard of such a provision, but he can conduct some research into the option. Commissioner Russell noted there are some business factors that could potentially show growth of the business and dictate that the business is no longer appropriate for a neighborhood. He stated he did not feel a time limit would be appropriate. There was a general discussion regarding several of the provisions pertaining to home businesses, with a focus on the impact a home-based business could potentially have on a neighborhood.

Commissioner Brown stated home based businesses, particularly garage based or auto mechanic businesses, has been a very hot topic for several years. She stated she feels the City should not take the right away from residents to use their garage for a home based business, but it is necessary to clearly define those things that should be prohibited so as not to damage or negatively impact a neighborhood. She stated she wanted to be sure that the Planning Commission and City Council act in a fair manner while addressing this issue. Mr. Scott stated that the Planning Commission and City Council are charged with making the decisions that are best for the entire community.

Commissioner Russell asked if any Planning Commissioner feels additional parameters should be added to the home occupation ordinance. Chairman Thomas stated he feels the City should give residents the opportunity to use their homes to make a living if they need to, but he also feels a standard should be established that is uniform and fair to the rest of the community. He stated he likes the idea of an incubation time frame relative to the use of a garage for a home based business. Commissioner Knight agreed and relayed a personal experience whereby he operated a home based business. There was a general discussion regarding the suggestion to add a limitation on the length of time a garage can be used for a home based business, with Commissioner Russell arguing that if a home based business is meeting the parameters of the home occupation ordinance there should be no limitation on the length of time a resident can use their garage for their business. The Commission concluded to direct staff to investigate whether other cities limit the length of time that a resident can use their garage for a home based business. The Commission then shifted focus to the number of permitted home based businesses in the City compared to the number of unpermitted home based businesses.

Commissioner Knight concluded that the home based business parameters need to be addressed, specifically the parameters relating to the use of garages in a home based business. He stated he would like for the City to be consistent relative to review periods or renewals for home based businesses. Chairman Thomas agreed. Mr. Scott reviewed the City's process for reviewing a home occupation conditional use permit. Vice-Chairman Waite asked what would happen in the event that it became necessary to impose additional conditions upon a home based business after approval had been granted. He asked if it is possible to adjust the conditional approval. Mr. Scott stated that would be dependent upon the issues that arise that may dictate additional conditions. Chairman Thomas stated that when an annual review is conducted for a home occupation conditional use permit, it is not possible for the Planning Commission to add additional conditions to the permit and that is concerning. He noted the only way to address that issue would be to change the ordinance calling for annual renewal rather than review of conditional use permits.

Mr. Scott stated he will take the suggestions of the Planning Commission under consideration and return to the Planning Commission for additional discussion and a potential recommendation.

4. PUBLIC COMMENTS

Dale Swenson, 3593 N. 575 E., stated he has lived in the City for 54 years and he now lives directly across the street from Tom Baguley's auto repair shop in his garage and the business is not innocuous. He stated he can sit in his home with the windows open or on his front porch and he can hear Mr. Baguley's compressor and other air tools very clearly and they are very disruptive to him and his wife. He stated he and his wife are elderly and they may be forced to move to an assisted living facility soon and he is not sure he will be able to sell his home for a reasonable market value if a potential buyer knows an automobile repair shop is located across the street. He requested that the Planning Commission take a hard look at the automobile shop that is being operated across the street from his home. He invited all members to come to his home and listen to the noise that he is referencing.

5. PLANNING COMMISSION/STAFF COMMENTS

Mr. Scott provided the Planning Commission with an update on the process to select a consultant that will facilitate the rewrite or update of the City's General Plan.

Mr. Kerr provided an update regarding the Smith's Marketplace project. There was a brief discussion regarding the reuse of the existing Smith's building, with a focus on potential tenants for the space.

6. ADJOURNMENT

Commissioner Brown made a motion to adjourn the meeting. Commissioner Russell seconded the motion.

Voting on the motion:

Chairman Thomas	yes
Vice-Chairman Waite	yes
Commissioner Barker	yes
Commissioner Brown	yes
Commissioner Knight	yes
Commissioner Prisbrey	yes
Commissioner Russell	yes

The motion passed.

The meeting adjourned at 7:57 pm.

Planning Commission Chair

Stacie Cain,
Community Dev. Coord./Deputy City Recorder

Date approved