

NORTH OGDEN PLANNING COMMISSION

MEETING MINUTES

October 15, 2014

The North Ogden Planning Commission convened in a regular meeting on October 15, 2014 at 6:30pm 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 October 10, 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 (Excused)
Scott Barker	Commissioner
Joan Brown	Commissioner
Blake Knight	Commissioner (Excused)
Steven Prsbrey	Commissioner
Dee Russell	Commissioner

STAFF:

Jon Call	City Attorney
Stacie Cain	Community Dev. Coord./Deputy City Recorder
Robert O. Scott	City Planner

VISITORS:

Lynn Humphreys	Liberty Chase	Phillip Swanson
Charles Crippen	Tom Baguley	Emma Pehrson
Natasha Brown	LoRen Baguley	

REGULAR MEETING

Chairman Thomas called the meeting to order at 6:33pm. Commissioner Russell offered the invocation and led the audience in the Pledge of Allegiance.

CONSENT AGENDA

- 1. CONSIDERATION TO APPROVE THE SEPTEMBER 17, 2014 PLANNING COMMISSION MEETING MINUTES**

2. CONSIDERATION TO APPROVE THE OCTOBER 1, 2014 PLANNING COMMISSION MEETING MINUTES

Commissioner Brown made a motion to adopt the consent agenda noting the changes made to the September 17, 2014 meeting minutes. Commissioner Prisbrey seconded the motion.

Voting on the motion:

Chairman Thomas	yes
Commissioner Barker	yes
Commissioner Brown	yes
Commissioner Prisbrey	yes
Commissioner Russell	yes

The motion passed.

ACTIVE AGENDA

1. PUBLIC COMMENTS.

There were no public comments.

2. PUBLIC HEARING TO RECEIVE COMMENTS 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 (NOPC) directed Staff to investigate the home occupation standards exception for the allowance of garages. On August 20, 2014 the North Ogden Planning Commission discussed various options for making amendments to the home occupation exceptions allowing garages. Overall the NOPC felt comfortable with the staff report options presented; however, commissioners requested Staff to investigate several additional alternatives. On September 3 the NOPC further discussed the options for amendments to allowing garages as part of home occupations. The NOPC narrowed the options. On September 17 the NOPC further narrowed the amendment options. On October 1, 2014 the Planning Commission finalized the draft ordinance and gave direction to Staff to advertise the ordinance for the October 15, 2014 Planning Commission meeting. Notices will be sent directly to the existing home occupations with garage exceptions. The amendment has the following components:

1. The ordinance allows garages with a sunset clause of two years; requires the operator to submit a new conditional use permit application for an additional extension of two years. There is no limit on new applications unless the operator violated the conditions of approval. This amendment is applied to both new and existing home occupations. The operator would be required to submit a report each year demonstrating compliance with the conditional use permit conditions.
2. The ordinance clarifies that the required garage parking stalls cannot be used for the home occupation if the home occupation infringes on the space for the required parking stalls.
3. A new section is added establishing a purpose statement for the Home Occupation chapter. The other sections are renumbered.

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 Planning Commission considerations:

- Are the draft changes appropriate to the home occupation provisions regarding exceptions to allow garages?
- Is the proposed purpose statement appropriate?
- Does the General Plan support these amendments?

The memo concluded by noting staff recommends that the Planning Commission conduct the public hearing, receive input, and make a recommendation to the City Council.

Mr. Scott reviewed his staff memo and discussed the history of the development of the proposed ordinance, referencing the changes that have been made due to discussions and concerns of the Planning Commission.

**Commissioner Brown made a motion to open the public hearing at 6:42 p.m.
Commissioner Russell seconded the motion.**

Voting on the motion:

Chairman Thomas **yes**

Commissioner Barker	yes
Commissioner Brown	yes
Commissioner Prisbrey	yes
Commissioner Russell	yes

The motion passed.

Charles Crippen, 3576 N. 575 E., stated that the purpose statement of the ordinance addresses “certain kinds of small businesses” and he asked if such language is used elsewhere in the City’s ordinances. Chairman Thomas stated he feels that language is meant to address occasions where someone may be requesting approval for a home based business that does not work within a home. Mr. Crippen then referenced Section 11-6-2(D)(1) and stated he would suggest a change to the language that currently reads “garage home occupations may submit a new application at the end of the two year period to have an additional two years” so that it reads “garage home occupations may submit a new application at the end of a two year period for the issuance of a new conditional use permit for an additional two years.” He stated he feels that offers better clarification for those reading the ordinance. He then referenced Section 11-6-2(H) and wondered if there is a need to address inoperable vehicles in that section. Chairman Thomas answered no and indicated the Section only addressed the required parking spaces on a given property.

Tom Baguley, 3590 N. 575 E., stated he does own an auto repair business and lives next to Mr. Crippen and across the street from a Mr. Swenson; both of those residents have been opposed to his business for an extended period of time. He stated nearly two weeks ago he met with Mr. Swensen regarding the dispute and offered an apology for anything he had done to offend him or his family. He stated he also called Mr. Crippen and left a message on his phone with the same information about working to reconcile with his neighbors. He stated that he did not hear back from Mr. Crippen. He stated that he feels this issue needs to be worked out between the residents of the City, even though the City intends to get involved in the situation. He stated the decisions made by the Planning Commission may or may not help he or his neighbors and he is hoping everyone can work together to reconcile their differences and agree to disagree. He stated he feels he and Mr. Swensen are working towards reconciliation and he hopes that the Planning Commission will take that into consideration; he feels the proposed ordinance is directed at him and his business. He stated that there is another home based auto repair business owner present this evening and he is aware that he only works on one car per week. He stated that kind of volume should not force the business owner to move from his home to a commercial space, though he is aware an incubation period is part of the proposed ordinance. He added that he works on three to four vehicles each week and that volume is still not high enough to force him from his home. He stated all his work is done through word of mouth and based upon his reputation and he is doing what he can to make a living and support his family. He thanked the Planning Commission for their time and consideration this evening.

Commissioner Russell asked Mr. Baguley if there is any specific section of the ordinance that he objects to. Mr. Baguley stated he objects to the incubation period because it would be difficult for him to be forced from his home to a commercial area in two years. He stated he cannot afford to do that. Chairman Thomas stated the incubation period has been eliminated from the

ordinance and the two-year timeframe referenced in the ordinance is indefinitely renewable; the ordinance requires a conditional use permit holder to apply for renewal of the permit every two years. He noted all garage businesses will be required to follow the same renewal process, no matter the nature of the business so essentially the ordinance brings fairness to the process. Mr. Baguley stated he is comfortable with a review process because he has never violated the conditions of his conditional use permit. He then noted that others have complained about his business, but none of those complaints have ever been founded or verified.

Mr. Crippen re-approached and asked a question about the re-application process; will the applicant be required to provide engineering drawings for their home at the time of renewal. He stated he feels that would be excessive since the application should have been required to provide such drawings at the time of the initial business license application. Chairman Thomas stated drawings would be required if there had been a change at the home or relative to the nature of the business.

**Commissioner Brown made a motion to close the public hearing at 6:56 p.m.
Commissioner Prisbrey seconded the motion.**

Voting on the motion:

Chairman Thomas	yes
Commissioner Barker	yes
Commissioner Brown	yes
Commissioner Prisbrey	yes
Commissioner Russell	yes

The motion passed.

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

Mr. Scott asked City Attorney Call to comment on the suggested revisions to the ordinance language made by Mr. Crippen. Mr. Call stated that Planning staff will be responsible to interpret the language in the ordinance and if they understand the meaning of the ordinance, the current language is sufficient. Mr. Scott stated it is important to clarify that the application required every two years is a renewal application for a conditional use permit.

Commissioner Brown complimented Mr. Baguley on trying to work with his neighbors to resolve the issues in his neighborhood. She agreed the intent of the proposed ordinance is to be fair to all garage based businesses in the City and she believes everyone should have the right to own and operate a business. She stated she is comfortable with the way the ordinance is written.

Chairman Thomas addressed Mr. Baguley and noted the reason for the yearly reporting requirement is to give the conditional use permit holder the opportunity to self-police and

determine whether they are meeting the conditions of their permit. He stated the intent of the ordinance is to eliminate the need for neighbors to police one another and ask the City to get involved when a dispute arises.

LoRen Baguley thanked the Planning Commission for their consideration of this issue and noted that over the past five years she and her husband have made their best effort to reduce the impact their business has on the neighborhood and the community at large. She stated her husband could do much more with his auto repair business, but he chooses not to in order to keep his business small. She then stated she would like to know how the City expects her and her husband to respond to unfounded or unwarranted complaints; she asked if the City will follow-up on the complaints to determine if they are valid.

Chairman Thomas stated the City will focus on the conditions of the conditional use permit, which may not always be understood by neighbors or those making the complaint. He stated that there are other land use ordinances that are imposed on all property owners, specifically an ordinance regarding parking and the fact that all homeowners are required to provide two off-street parking spaces.

Commissioner Barker made a motion to forward a positive recommendation to the City Council to amend ordinance 11-16, Home Occupation, to clarify the standards for the allowance of accessory buildings/garages. Commissioner Prisbrey seconded the motion.

Voting on the motion:

Chairman Thomas	yes
Commissioner Barker	yes
Commissioner Brown	yes
Commissioner Prisbrey	yes
Commissioner Russell	yes

The motion passed.

4. DISCUSSION AND/OR ACTION TO APPROVE STOREY FARM SUBDIVISION, FINAL PLAT, LOCATED AT APPROXIMATELY 2850 N 750 E

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 the final approval for the Storey Farm subdivision. The North Ogden Planning Commission granted preliminary approval on December 18, 2013. The City Council considered a request on April 22, 2014 to grant a deferral request from installing sidewalk improvements for lots one and two of the Storey Farm subdivision. The City Council denied this request and the subdivision is required to install the sidewalk improvements. The City Engineer has provided a cost estimate

for the escrow for this project. Mr. Storey has an agreement with Pineview Water District to provide secondary water. There are two power poles that are located in front of lot number 2. The sidewalk will need to meander around them. The memo offered 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 single family residential. The memo concluded by offering a staff recommendation; this is a policy issue for the City Council. There are two issues before the City Council, first should a sidewalk improvement deferral be granted and second should an escrow be required for the improvements. The Planning Commission has referred Mr. Storey to the City Council for a determination.

Mr. Scott reviewed his staff memo.

Commissioner Russell made a motion to approve the Storey Farm Subdivision Final Plat, located at approximately 2850 N. 750 E., subject to the conditions listed in the staff report. Commissioner Brown seconded the motion.

Voting on the motion:

Chairman Thomas	yes
Commissioner Barker	yes
Commissioner Brown	yes
Commissioner Prisbrey	yes
Commissioner Russell	yes

The motion passed.

5. DISCUSSION AND/OR RECOMMENDATION TO AMEND ORDINANCE 11-10, REGULATIONS APPLICABLE TO MORE THAN ONE ZONE TO CLARIFY SETBACK STANDARDS FOR LOTS THAT HAVE A SLOPE GREATER THAN 10%

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. The North Ogden City General Plan contains chapter V Sensitive Lands Analysis. This analysis has information on geologic hazards and a slope analysis. The slope analysis gives direction on slopes as they relate to development. Several years ago the Zoning Ordinance was amended to provide for a hillside protection zone. 11-9-5 Hillside Protections Zones are two chapters that deal with grading and drainage standards and development constraints. These standards only apply to the areas zoned

for hillside protection. There are other areas within the city that have slopes that should also be considered to have these standards applied, e.g., those areas that have slopes over 10%. Examples of where there have been challenges dealing with these slopes are the Mason Cove and Hall Tree subdivisions. These subdivisions would have benefited from having the grading and drainage and development constraints sections applied as part of their review. The following sections from the General Plan should be considered as part of this decision process:

Slope

When developing houses and other facilities, it is important to consider the gradient or steepness of the land (i.e., the slope). Most people recognize that building on a flat area is easier and less costly than building on steeper areas. This information is particularly important to community leaders since infrastructure such as roads and sewers become more difficult to construct and maintain in areas steeper than 10 percent. In addition, steeper slopes are more prone to hazards such as landslides, rock falls, and debris flows. The Slope Inventory Map indicates differences in the slope of the land within North Ogden. For this project, slope has been grouped into four categories: 0 to 10 percent, 11 to 20 percent, 21 to 30 percent, and over 31 (31+) percent. A 10 percent slope means that for every 100 feet traveled horizontally, the elevation rises 10 feet. The Slope Constraints Map depicts the slope-related constraints to development. Areas within the 0 to 10 percent slope category are considered to pose "slight constraints" on development while areas within the 11 to 20 percent slope category are considered to pose "moderate constraints" on development. Areas within the 21 to 30 percent and 31+ percent slope categories are considered to be "non-developable lands" since development may be unsafe, unsightly, or substantially more expensive to implement. In fact, existing City ordinances prohibit development on slopes steeper than 20 percent.

Zoning Ordinance

Suggested improvements for the City of North Ogden Zoning Ordinance include the following. (2) Modify the Zoning Ordinance to require all development to design projects around sensitive lands and hazards.

The memo offered the following summary of Planning Commission considerations:

- Should subdivision having slopes over 10% be required to address the provisions in 11-9-5 Grading and Drainage Standards and 11-9-6 Development Constraints?
- Does the General Plan support this amendment?

The memo also offered the following suggested ordinance language amendment relative to 11-20-30, Grading and Drainage Standards and Development Constraints for Subdivision Having a Slope Greater than 10 Percent:

Subdivisions having slopes greater than 10 percent are subject to 11-9-5 Grading and Drainage Standards and 11-9-6 Development Constraints.

The memo concluded staff requests the Planning Commission set a public hearing to consider an ordinance amendment requiring that subdivisions having slopes greater than 10% are subject to sections 11-9-5 Grading and Drainage Standards and 11-9-6 Development Constraints.

Mr. Scott reviewed his staff memo and reviewed photographs of properties that spurred the discussion regarding the proposed amendments to ordinance 11-10. He reviewed the draft language used in the proposed ordinance and stated staff will entertain a discussion regarding the issue in anticipation of the setting of a public hearing regarding the matter.

The Planning Commission had a general discussion regarding appropriate setbacks for building lots with fairly steep slopes, with Commissioner Russell asking if it would be appropriate to consider lots or subdivisions on a case-by-case basis when the developer applies for approval of their subdivision. Mr. Scott stated that is an option the City may have. Chairman Thomas stated he feels it would be most appropriate to address the setback issue for each subdivision application and assign setbacks to each subdivision rather than assigning setbacks to each zone in the City. Mr. Scott stated it may be somewhat challenging to monitor conditions set for individual conditions. Chairman Thomas stated a note could be made on each subdivision plat pertaining to the allowed setbacks. Discussion and debate of Chairman Thomas's recommendation continued, which was followed by a discussion regarding the current process a developer or property must follow to receive a variance regarding setbacks. The Planning Commission concluded to direct staff to schedule a public hearing regarding the issue, after which the body can consider providing a recommendation to the City Council.

Commissioner Brown made a motion to set a public hearing regarding ordinance 11-10, regulation applicable to more than one zone to clarify setback standards for lots that have a slope greater than 10 percent. Commissioner Prisbrey seconded the motion.

Voting on the motion:

Chairman Thomas	yes
Commissioner Barker	yes
Commissioner Brown	yes
Commissioner Prisbrey	yes
Commissioner Russell	yes

The motion passed.

6. PUBLIC COMMENTS

There were no public comments.

7. PLANNING COMMISSION/STAFF COMMENTS

Commissioner Brown asked for an update regarding any new businesses looking to locate in North Ogden. Mr. Scott stated the City Council recently awarded a contract for an architectural firm to study economic redevelopment opportunities at the old King's Plaza, which could ultimately attract new businesses to the City. There was a brief discussion regarding the scope of

the contract, after which Mr. Scott reported the old Smith's building has been sold and could be redeveloped in the near future.

Chairman Thomas offered the Planning Commission with an update regarding the upcoming process that will be followed to update the City's General Plan, with a focus on the public involvement aspect of the project.

The Planning Commission then discussed the plans for the grand opening of the new Smith's Marketplace store.

8. ADJOURNMENT

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

Voting on the motion:

Chairman Thomas	yes
Commissioner Barker	yes
Commissioner Brown	yes
Commissioner Prisbrey	yes
Commissioner Russell	yes

The motion passed.

The meeting adjourned at 7:47 p.m.

Planning Commission Chair

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

Date approved