

NORTH OGDEN PLANNING COMMISSION

MEETING MINUTES

April 19, 2017

The North Ogden Planning Commission convened in a regular meeting on April 19, 2017 at 6:30 p.m. 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 April 14th, 2017. Notice of the annual meeting schedule was published in the Standard-Examiner on January 1, 2017.

COMMISSIONERS:

Don Waite	(Excused)
Eric Thomas	Vice-Chairman – Arrived late
Brandon Mason	Temporary Chairman-elect
Steven Prisbrey	Commissioner
Nicole Nancarrow	(Excused)
Blake Cevering	Commissioner
Scott Barker	Commissioner

STAFF:

Rob Scott	City Planner
Brandon Bell	Planner I
Monalisa Wald	Planning Assistant
Jon Call	City Attorney/Administrator

VISITORS:

Walt Nielson	Shane Norris	Bonnie Hollis	Pam Campbell
Scott Campbell	Dennis Goodliffe	Jolene Petersen	Garr Petersen
Paul Michel	Kim Chatelain	John Hansen	Leslie Melbur
Edward Brewer	Jane Brewer	Ann Barker	Mary Barker
Karen Wilbur	John Wilbur	Bob Buswell	Jessica Hulse
David Law	Lee Nanney	Chase Freebairn	Brent Bailey
Brent Law	Tom Sawyer	Dee Hansen	Rachel Griffith

Chairman Waite and Vice-Chairman Thomas were absent at present and the Commission discussed the need to elect a Pro-Tem Chairman.

Commissioner Barker moved to elect Commissioner Mason as the Pro-Tem Chairman. Commissioner Prisbrey seconded the motion; all voted in favor.

REGULAR MEETING

Temporary Chairman-elect Mason called the meeting to order at 6:34 p.m. Commissioner Barker offered the invocation and Commissioner Cevering led the audience in the Pledge of Allegiance.

1. ROLL CALL

Chairman pro-tem Mason conducted roll call and indicated that Chairman Waite and Commissioner Nancarrow have been excused from the meeting and that Vice-Chairman Thomas would join the meeting at a later time.

2. MINUTES APPROVAL

Commissioner Prisbrey made a motion to approve the minutes of the April 5, 2017 meeting as presented. Commissioner Barker seconded the motion.

Voting on the motion:

Commissioner Cevering	yes
Commissioner Barker	yes
Commissioner Prisbrey	yes
Temporary Chairman-elect Mason	yes

The motion carried.

3. OPENING MEETING STATEMENT

City Planner Scott read the open meeting statement as approved by the Planning Commission prior to commencing discussion of administrative and legislative items.

4. EX PARTE COMMUNICATIONS OR CONFLICTS OF INTEREST TO DISCLOSE

Chairman Pro-Tem Mason asked if any member needs to declare a conflict of interest or disclose any ex parte communications in which they have engaged. Commissioner

Prisbrey disclosed a conflict with item 7c and indicated he will leave the room during the discussion and not vote on that item.

5. PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA

There were no public comments.

6. CONSENT AGENDA:

a. Consideration and Adoption of Revised Rules of Procedure

A staff memo from City Planner Scott explained the Planning Commission reviewed the Rules of Procedure on March 1, 2017. The Planning Commission requested that two amendments be made to the Rules of Procedure changing the order of the meeting agenda to have the minute approval prior to reading the opening meeting statement and allowing a voice vote for minute approval. Staff has prepared the amendments as follows:

D. PROCEDURE - ORDER OF BUSINESS

1. Order of Business

The order of business in the Commission shall be as follows:

- (a) Chair opens the meeting and welcomes those in attendance
- (b) Invocation
- (c) Pledge of Allegiance
- (d) Roll call. At all meetings before proceeding to business, the roll of the Commission members shall be taken and the names of those present and those absent shall be entered on the record.
- (e) Approval of minutes of prior meetings
- (f) City Planner reads opening meeting statement.....

I. PROCEDURE - VOTING

2. Minute Approval

The Chair shall ask the Commission if they have had the opportunity to read the minutes and if there are any additions or corrections. Upon hearing from the Commission the Chair shall call for a motion to approve the minutes either as presented or amended. If the Commission has not had an opportunity to review the minutes, approval shall be postponed to the next regular meeting. Voting shall be done by voice vote ~~roll call~~.

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

- Are the revised Rules of Procedure acceptable to the Planning Commission?

The memo concluded staff recommends adoption of the amendments to the Rule of Procedure.

Commissioner Barker moved to adopt the amendments to the Planning Commission Rules of Procedure. Commissioner Prisbrey seconded the motion.

Voting on the motion:

Commissioner Cevering	yes
Commissioner Barker	yes
Commissioner Prisbrey	yes
Temporary Chairman-elect Mason	yes

The motion carried.

7. ADMINISTRATIVE ITEMS:

- a. SPR 2017-03 Consideration and action on an administrative application, site plan approval of the All My Love Home Daycare, located at 1731 North 625 East.**

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 has submitted an application for a daycare to operate within her home. Attached is the application and site plan.

ZONING ORDINANCE COMPLIANCE

11-7B-2: PERMITTED USES

Home daycare center for up to nine (9) people. The operator must be a resident of the home. The home daycare area shall not be greater than three hundred (300) square feet or twenty five percent (25%) of the house, whichever is less. The daycare area of the home shall conform to the standards of IBC table 1003.2.2.2.

Staff Comment: The daycare will have 4-5 children attending. The hours of operation will be from 7 AM to 7 PM Monday through Friday. The daycare will operate within the home and is approximately 200 square feet.

11-10-27: SITE PLAN APPROVAL REQUIRED

1. A site plan shall be submitted to the planning commission which shows the location of main and accessory buildings on the site and in relation to one another, the traffic circulation features within the site, the height, bulk and character of building, the provision for off street parking space, the provision of driveways for ingress and egress, the provision for other open space on the site and the display of signs. Each of the foregoing features shall be in accordance with the site plan (or subsequent amendment thereof) of the proposed development approved by the planning commission prior to the issuance of a building permit.

Staff Comment: The applicant's application has an aerial photo showing the existing home along with landscaping, fencing, and driveway.

2. A site plan shall include landscaping, fences and walls designed to further the purpose of the regulations for commercial, manufacturing and multiple housing zones, and such features shall be provided and maintained as a condition of the establishment and the maintenance of any use to which they are appurtenant. The site plan shall include a comprehensive sign plan in accordance to section [11-22-5](#) of this title.

Staff Comment: The home is located on a cul-de-sac; parents will park in front of the home, drop off their children, and exit the site. No signs are desired.

3. In considering any site plan, the planning commission shall endeavor to assure safety and convenience of traffic movement, both within the area covered and in relation to access streets, harmonious and beneficial relation among the buildings and uses in the area covered, and satisfactory harmonious relation between such area and contiguous land and buildings and adjacent neighborhoods, and that the requirements of this title have been met.

Staff Comment: See number 2.

4. In approving site plans, the planning commission may act on a site plan submitted to it or may act on its own initiative in proposing and approving a site plan, including any conditions or requirements designated or specified therein or in connection therewith.

Staff Comment: The zoning ordinance allows daycare facilities as a permitted use when there are fewer than 9 people. The Planning Commission should hear any concerns from adjoining neighbors and address them as appropriate.

11-10-10 DAYCARE CENTER REGULATIONS

1. State Law Applicable: The regulations and licensing of daycare centers shall be in accordance with Utah Code Annotated title 26, chapter 39, as amended, or as hereafter amended.

Staff Comment: The applicant will need to comply with all state regulations and licensing. Documentation will be provided at the time of business license issuance.

2. Outdoor Play Areas; Fencing: All outdoor play areas shall be within a fenced area and shall be limited to use by the children in the daycare between the hours of eight o'clock (8:00) A.M. to eight o'clock (8:00) P.M. Fence height shall be in accordance with section [11-10-11](#) of this chapter.

Staff Comment: The yard is completely fenced and the applicant will abide by the outdoor hours of operation.

3. Off Street Parking: Sufficient off street parking shall be provided to satisfy the requirements of section [11-17-4](#) of this title.

Staff Comment: The home meets the required two car parking standard.

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

- Does the proposed site plan meet the requirements of the applicable City Zoning Ordinances?

The proposed site meets the requirements of applicable North Ogden City ordinances and conforms to the North Ogden City General Plan. The General Plan map identifies this property as low density residential.

Recommended conditions of approval include:

- Meeting the conditions as stated in the Staff report.

The memo concluded staff recommends approval of the All My Love Daycare with the conditions identified in this Staff report.

Mr. Scott reviewed his staff memo.

Applicant, Jolene Petersen, 1731 N. 625 E., stated that she is seeking approval of the home daycare, but the four kids she will be taking care of are her grandchildren. Securing the license will give her access to federal funding for meals and other daycare costs.

Chairman Pro-Tem Mason invited public input.

Jessica Hulse, 1737 N. 625 E., stated that she is the neighboring property owner and she asked if Ms. Peterson will be required to address landscaping at the property. She stated that she has two dogs and she is concerned about the well-being of the children at the home due to contact with her dogs. Commissioner Barker asked if there is a solid fence between the two properties. Ms. Hulse stated there is a four-foot chain-link fence. The children could reasonably climb over the fence to retrieve a toy or other item and she is concerned about preventing any accidents associated with that activity. She stated she fears accusations of dog bites. She stated she would be willing to work with Ms. Peterson to increase the fence height or install slats. Chairman Pro-Tem Mason asked if allowing a daycare at the home would be any different than living next to someone with small children. Ms. Hulse stated that she has seen the children that Ms. Peterson referenced being taken care of at her home and she has concerns about activity she has seen there. She stated that when she lets her dogs into her backyard, she must constantly keep an eye on them because the children antagonize them. She stated that the children have not been supervised in the home.

Rachel Griffith, 615 E. 1750 N., stated that the idea of a daycare is fine, but she feels the request for a more secure fence between the two properties is reasonable to prevent children from reaching their hands through the fence. She reiterated the fence is four-feet tall and a more secure fence is needed.

Bob Buswell, 962 E. 3025 N., wondered if the applicant would be willing to install a six-foot fence rather than a four-foot fence.

Chairman Pro-Tem Mason then explained the duties of the Planning Commission when considering an administrative application; the Planning Commission does not have much discretion to place certain requirements upon an applicant if their application complies with the letter of the law.

Ms. Petersen stated that she agrees that a more secure fence may be needed to keep her grandchildren from climbing over or reaching through the fence and being bit by a dog. She stated she has been thinking about it for some time.

City Attorney Call indicated that the City Code indicates that day care centers must comply with fence height regulations for the zone in which their property is located; for the zone in which the subject property is located, there is no specific regulation relating to day care facilities and there is no provision that requires a taller fence or a fence with slats. Chairman Pro-Tem Mason stated that he does not believe the Planning Commission has the ability to enforce a taller fence height, but he encouraged the neighbors to work together to address concerns related to the fence.

Commissioner Prisbrey moved to approve administrative application SPR2017-03 for site plan approval of the All My Love Home Daycare, located at 1731 North 625 East, subject to the conditions listed in the staff report. Commissioner Cevering seconded the motion.

Commissioner Barker stated that he is pleased that the neighbors are willing to work together to improve the fence to provide safety for the children and the dogs.

Chairman Pro-Tem Mason stated that if the applicant is willing to comply with the City Code and conditions of approval recommended by staff, the application must be approved. Commissioner Prisbrey agreed and stated that both property owners have a responsibility to ensure their property is secured to keep people and animals safe.

Voting on the motion:

Commissioner Cevering	yes
Commissioner Barker	yes
Commissioner Prisbrey	yes
Temporary Chairman-elect Mason	yes

The motion carried.

b. SUB 2017-05 Consideration and action on an administrative application for preliminary and final approval of the Scott Campbell Home Subdivision (1 lot).

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 a limited degree of 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 preliminary and final approval of the Campbell Home subdivision, a 1 lot subdivision located at approximately 995 East 2750 North. The property is currently vacant and is surrounded by single family residences. The property is bisected by the Rice Creek drainage.

The property is located on .964 acres, is in the RE-20 zone, and is an interior parcel. The RE-20 zone requires a minimum lot size of 20,000 square feet and a 120 feet lot width for interior lots. The proposed lot meets these requirements.

The City Engineer has submitted a report dated April 4, 2017. A secondary water will serve letter dated February 16, 2017 has been submitted from Pineview. (Exhibit D) The applicant has provided a geotechnical report for this subdivision. (Exhibit F) The recommendations in the geotechnical report will be part of the building permit review. Rocky Mountain Power required the relocation of one of the power poles on 2750 North; this has been done.

The City Engineer has recommended some additional conditions of approval which the applicant has agreed too:

1. Area East of the "Rice Creek Line" is not allowed to be developed or built upon due to slopes and wild animal access.
2. No fencing allowed East of the "Rice Creek Line" to allow for unimpeded access for animals.
3. The owner may remove dead wood, garbage and diseased or dying trees which may constitute a fire danger or other hazard.

The adjoining properties have curb and gutter but no sidewalk. The applicant is requesting a deferral for sidewalk improvements. The City Council makes the decision on granting deferrals; however, the ordinance requires the Planning Commission to make a recommendation to the City Council.

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

- 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 low density residential.

Recommended conditions of approval include:

- Meeting the requirements of the North Ogden City Engineer's Report
- Meeting the requirements listed in this Staff Report

The memo concluded staff recommends preliminary and final approval of the Campbell Home subdivision subject to the requirements of the City Engineer's report and this Staff

Report. The Planning Commission should also make a recommendation to the City Council regarding the sidewalk deferral request.

Mr. Scott reviewed his staff memo.

Chairman Pro-Tem Mason asked if the application is for a single home subdivision, to which Mr. Scott answered yes. Chairman Pro-Tem Mason stated there has been some talk – with the Rice Creek Subdivision below the subject property – about connecting to the City’s trail network and he asked if this subdivision would impede that connection. Mr. Scott answered no and stated that in this instance the trail system will follow the sidewalk layout in the subdivisions. Mr. Call agreed and stated that the sidewalk will be widened to six-feet to serve as trailway in the area.

Commissioner Barker asked if there will ever be sidewalk on the southern side of the subject property. Mr. Scott stated there are a number of actions that would trigger installation of sidewalk in that area. One option is for the City to develop an improvement district to require installation of the sidewalk that would be paid for over time by the residents in the area.

Vice Chairman Thomas arrived at the meeting at 7:07 p.m. He declared that he had no conflicts of interest associated with any item included on the agenda.

Commissioner Prisbrey then discussed sidewalk deferral for the project; he asked if a deferral has requested for the south side of the property. Mr. Scott stated that deferrals are left to the City Council. Mr. Call stated that in recent history, the Council has only granted one of four sidewalk deferrals that have been requested. Chairman Pro-Tem Mason stated that he is of the opinion that the Planning Commission should make a recommendation to the City Council without trying to guess what type of action they will ultimately take. Staff and the Planning Commission examined an aerial photograph for the subject property to understand the location of curb and gutter that has already been installed in the area.

Applicant, Scott Campbell, 720 E. 2600 N., stated that he believes he has met all requirements of the City Code, but he would like to discuss sidewalk requirements with the Planning Commission. He stated that the existing neighborhood abutting his property has been in place for some time; there is no north/south street in the subdivision, but the north side of the street has curb and gutter and sidewalk while the same infrastructure on the south side of the street has only been installed sporadically as development has occurred. There is now curb and gutter continuously along the south side except for along his property and one other small 60 foot section that has not been developed. He stated that it is obvious that he would need to install curb and gutter along his property, but the sidewalk would be about 270 feet and would be the only section of sidewalk from 350 East to 1050 East. He stated it is his opinion that it would look out of place, but he is willing to do it if required.

Commissioner Barker asked Mr. Campbell if he would prefer that the sidewalk be deferred. Mr. Campbell stated that he is willing to do whatever is required of him by the City. Vice Chairman Thomas stated he agrees it may be odd for Mr. Campbell to be required to install sidewalk at this time, but he noted that if a deferral is granted, Mr. Campbell would still be required to placing funding for the improvements in an escrow account to provide for future installation of the improvements. Mr. Call clarified that when a deferral is granted by the Council they record a restriction against the property requiring the future installation of the improvements; this requirement follows the property if it is ever sold to a different owner. The current owner would not be required to place money in escrow; rather, they acknowledge they would be required to pay for the improvements at a future date when deemed necessary by the City. Mr. Campbell stated that he is not sure what type of development would occur on the street that would be the driving factor behind installation of sidewalk; it seems at this point that it would make more sense to him for a sidewalk not to be installed. He reiterated he is willing to do the side walk now or at a future date when determined necessary by the City.

Ann Barker, 1018 E. 2700 N., stated that her property goes through to 2750 North and abuts Mr. Campbell's property in the back. She stated she is concerned about Rice Creek drainage; the previous owner started to work on the land and he installed two or three roads through the area that have blocked the drainage. This will eventually result in the hollow being filled with water that will back up to her home and cause flooding. Most of the time the channel is dry, except for after a big storm, but now that it is blocked there is standing water and it could be prime breeding grounds for mosquitos. She stated that her second concern relates to a parcel of ground between her neighbor's home and the Rice Creek drainage channel; it is not being used for anything and has been unkempt, but the previous owner indicated that was because he could not gain access to the property without crossing the drainage channel. She wondered how Mr. Campbell is planning to maintain that parcel of property. The previous owner dug out the area so that her property now has a six foot drop at the edge and she asked if that will be addressed and repaired. She then noted that she purchased her property from Ivory Homes when they were developing the subdivision and everyone that purchased was told that there was a protective covenant preventing them from destroying the hollow; they could keep the area clean and remove weeds, but they could not cut live trees. However, Mr. Chatelain did do that and she wonders if he has sold the property that he disturbed. She stated that many residents purchased their property because they were attracted to the hollow and the wildlife that lived there and the disturbance that has been made has impacted her and others' home values.

Tim Chatelain, 975 E. 2750 N., stated that he is the property owner referenced by Ms. Barker; he tried to grade his property and he was shut down by the City and was told he needed a grading permit from the City Engineer. He stated that he keeps hearing people talk about Rice Creek drainage, but many people don't know exactly where the drainage channel is. He reviewed an image of the area and stated that the area referred to others as the drainage channel was never drainage for at least 90 years that he is aware of. He stated that a wildlife corridor was originally used for his father's horses to get from the barn to the pasture.

Mr. Campbell was given time to respond to public comments. He addressed Ms. Barker and stated that he also feels that something needs to be done to address grading and drainage blockages in the area. He has no plans to improve the area, but he will do what he can to mitigate any problems and concerns of other residents.

Chairman Pro-Tem Mason indicated that the wildlife that many residents have talked about are the deer that live in the general area sometimes and residents have expressed concerns about trying to preserve the corridor used by the deer.

Commissioner Cevering moved to grant administrative application SUB 2017-05 for preliminary and final approval of the Scott Campbell Home Subdivision (1 lot) based on the findings and subject to the conditions listed in the staff report, which includes a recommendation from the City Engineer that sidewalk improvements be installed at this time. Commissioner Barker seconded the motion.

Planning Commission discussion centered on the potential to defer sidewalk improvements for the subdivision, with Mr. Call noting that the City Council will make the ultimate decision regarding that issue. Vice Chairman Thomas stated that the staff report references the City Engineer’s letter that calls for installation of the sidewalk at this time, rather than deferral.

Chairman Pro-Tem Mason noted that item one in the staff report also indicates that the area east of the Rice Creek line cannot be developed or built upon due to slopes and wild animal access, except for at the 2750 North right-of-way. Mr. Scott stated that he actually removed the reference to 2750 North, so the condition should simply state: “area east of the “Rice Creek Line” is not allowed to be developed or built upon due to slopes and wild animal access.”

Commissioner Cevering amended his motion to accept the amended condition as noted by Mr. Scott. Commissioner Barker indicated that his second of the motion stands.

Chairman Pro-Tem Mason stated that he feels that the application complies with City Code and he can see no reason to deny it. He called for a vote.

Voting on the motion:

Commissioner Cevering	yes	
Commissioner Barker	yes	
Commissioner Prisbrey	yes	
Temporary Chairman-elect Mason		yes
Vice Chairman Thomas	no	

The motion carried.

Discussion re-centered on the potential deferral of the sidewalk; Vice Chairman Thomas stated that as per the City’s subdivision requirements, the sidewalk should be installed. If the applicant would like to seek a deferral for the improvements, he must do so with the City Council. Chairman Pro-Tem Mason stated that may be correct, but the City Council has asked for a recommendation from the Planning Commission regarding the deferral.

Commissioner Prisbrey moved to recommend City Council approval of deferral of the sidewalk improvements. Commissioner Barker seconded the motion.

Commissioner Prisbrey stated that the issue will be considered and decided upon by the Council, but he agrees with Mr. Campbell’s claim that sidewalk would look out of place at this time and the applicant has agreed to install it at a future date when deemed necessary by the City. Chairman Pro-Tem Mason agreed that sidewalk would look out of place at this time, but may be appropriate in the future. Vice Chairman Thomas disagreed and stated that the installation of sidewalk must start somewhere and if no date certain is set for installation of the improvements, it may never get done. He referenced other developments in the City where sidewalk has been deferred and that has resulted in the City hearing concerns from residents who ultimately purchased homes in those developments about lack of sidewalk and safety issues with their kids walking to and from schools in the City.

Chairman Pro-Tem Mason called for a vote.

Voting on the motion:

Commissioner Cevering	yes
Commissioner Barker	yes
Commissioner Prisbrey	yes
Temporary Chairman-elect Mason	yes
Vice Chairman Thomas	no

The motion carried.

Chairman Pro-Tem Mason asked that the record reflect that those supporting the deferral did so on the basis that there is no other sidewalk in the area and installation of sidewalk along the frontage of the subject property would look out of place. The vote opposing the deferral was on the basis that sidewalk installation ‘must start somewhere’.

*****Commissioner Prisbrey left the room and did not participate in Item 7C – Paramount Estates**

- c. **SUB 2017-03 Consideration and action on an administrative application for preliminary approval of the Paramount Estates Subdivision (33 lots).**

A staff memo from City Planner Bell explained when the Planning Commission is acting as a land use authority, it is acting in an administrative capacity and has a limited degree of 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 preliminary approval of the Oakmont Estates subdivision, a 31 lot subdivision located at approximately 1125 East 2750 North. The property is currently vacant and is surrounded on three sides by property that is in use as single family residential. A single family residential subdivision, Oakmont Estates, has been proposed for the east side of the subdivision, and received preliminary approval by the Planning Commission on April 5, 2017. The property for this proposed subdivision is located on 14.347 acres and is in the R-1-10 zone. The R-1-10 zone requires a minimum lot size of 10,000 square feet for interior lots and 11,000 square feet for corner lots, with a lot width requirement of 90 feet.

A Technical Review Committee meeting was held for this proposed subdivision on February 14, 2017. The City Engineer has submitted a report dated March 29, 2017 that summarizes the Technical Review Committee meeting comments as well as the status of the fulfillment of the requirements listed in that report by the applicant (See Exhibits C and D). The applicant has provided a geotechnical report for this subdivision, and also needs to provide a will-serve letter for secondary irrigation, prior to final approval of the subdivision, as a condition of approval.

The proposed lots have been verified to meet the lot width and square footage requirements. Additionally, the applicant needs to provide the bearings (the angles) of all side lot boundaries, prior to consideration for final approval.

Staff also recommends, as a condition of approval, (similar to the staff recommendation for the Oakmont Estates subdivision which was recently granted preliminary approval, and which is adjacent to this subdivision), that the applicant needs to provide an asphalt walkway which connects through to Oakmont Estates through one of the cul-de-sacs, for the sake of shortening the block length and increasing connectivity through the property, based on the following ordinance provisions:

12-6-3 (B) (1)

“In order to accommodate prospective traffic, streets should be of suitable location, width and improvement to afford satisfactory access to police, firefighting, snow removal, sanitation and street maintenance equipment, and to coordinate streets so as to compose a convenient system and avoid undue hardships to adjoining properties. Design standards for streets shall be as outlined in the city public works standards for rights of way, travelled width, grade minimum, radius of curves and design speed.”

12-6-3 (A) (4) (c)

“In long blocks, the planning commission may require the reservation of an easement through the block to accommodate utilities, drainage facilities or pedestrian traffic.”

Pedestrian ways or crosswalks, not less than six feet (6') wide, may be required by the planning commission through the center of blocks more than eight hundred feet (800') long where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation or other community facilities. Blocks designed for industrial uses shall be of such length and width as may be determined suitable by the planning commission for prospective use.”

The Public Works Standards require that a walkway must be constructed to be a minimum of 6 foot wide and allows asphalt as the paving material (See Sheet 21 of the North Ogden City Public Works Standards). The Parks and Recreation Department Director has requested that the easement, or dedicated right-of-way, for the walkway be at least 10 feet in width. After review of the issue, staff is of the opinion that an easement, as opposed to a dedicated right-of-way, would be most likely to better meet the interests of both the City and the applicant for a number of reasons. Among these reasons, is the fact that an easement would not limit the buildable area of the lots, by allowing the property in the easement to be counted as part of the required setback, given that the property where the sidewalk is located would still belong to the property owner. An easement was also required as part of the Oakmont Estates subdivision.

The applicant has requested further details regarding issues related to the easement for the recommended walkway. The following are the details proposed by staff for the walkway:

- The easement be located at the edge of the side property lines of 2 lots in the cul-de-sac. Staff recommends that 5’ of the easement and 3’ of the walkway be located on each of the lots that the easement passes through, so that it is equally shared between the properties.
- The City is willing to put in writing their acceptance of liability regarding the walkway, similar to having done so with Smith’s Marketplace.
- The property owner of the lots through which the easement passes would be responsible for maintenance of the landscape within the easement, as well as the walkway itself.
- No fence would be required by the City. The property owners may install a fence along the edge of the easement, if desired, however they would not be required to do so.

If the applicant is not interested in providing a walkway through the neighborhood, an additional option is for the applicant for this subdivision to work with the applicant for Oakmont Estates to provide an additional road through the neighborhood to shorten the block length, which option staff originally recommended for both Oakmont Estates and this subdivision in the respective TRC meetings for this subdivision.

Staff also recommends, as a condition of approval, a 6-foot sidewalk along the lots on 2750 North as called for in the General Plan. It is the understanding of staff, that the property line location is several feet behind its typical location (which is usually 1 foot behind the sidewalk), in this area, hence, no trail easement is necessary to accommodate the additional sidewalk width.

The applicant has agreed to provide either an easement or a dedicated right of way along some of the lots on the west side, in the area where an existing storm drain is present, so that the City can access that existing storm drain. Staff recommends that an easement or dedicated right-of-way be provided, as a condition of approval for the subdivision, around the area where the storm drain is present on the applicant's property, sufficient to provide access to the storm drain in the area.

With regards to parks, the Parks and Recreation Department Director has specified that she is not interested in requiring a park in this location due to the proximity of other parks, she has noted that the City is interested in having an aesthetically pleasing detention basin which includes a playground, aesthetically pleasing landscaping, or another usable feature, which is attractive to the neighborhood and easy to maintain. Staff has provided some examples of detention basin designs, for reference for the developer (See Exhibit E). Staff requests that the developer include a detention basin modeled to some degree after the designs in the exhibit with regards to the included elements and landscaping, and which includes a usable feature such as an amphitheater formed by the grading of the soil and landscaping elements, or another usable feature; a playground being another example. The developer may refer to the exhibit for more detail.

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

- Does the proposed subdivision meet the requirements of the applicable City subdivision and zoning ordinances?

The proposed subdivision meets the requirements of the 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 low density residential.

Recommended conditions of approval include meeting the:

- Requirements of the North Ogden City Engineer's Report
- Requirements of the TRC Meeting Notes
- Requirements listed in this Staff Report

The memo concluded staff recommends preliminary approval of the Oakmont Estates subdivision subject to the requirements of the City Engineer's report, Technical Review Committee meeting, and this Staff Report.

Mr. Bell reviewed his staff report.

Chairman Pro-Tem Mason asked Mr. Bell to expound upon the request to beautify the detention pond and the requests relating to two walkways in the development. Mr. Bell stated that one walkway would be six-foot wide and would be located along 2750 North; an additional walkway would run between two lots from one street to another. Chairman Pro-Tem Mason asked if the discussion about the six-foot walkway is whether it should be that width or if a four-foot width is acceptable. Mr. Bell stated that the walkway is

included in the City's Trail Master Plan and that Plan typically requires six-foot widths. Mr. Call stated that the third condition relates to a storm drainage easement of 7.5 feet on the east side of the storm drainage line.

Applicant, Brent Bailey, 4215 Alder Creek Drive, Pleasant View, stated that he has no issue with the request to install a six-foot sidewalk on 2750 North, though he does not feel that is the appropriate place for the trail. He added that he has no objection to landscaping the detention pond, but he does not believe it is his responsibility to install park playground structures in that area.

Chairman Pro-Tem Mason asked Mr. Bailey if he reviewed the document including optional playground structures from the City's Parks Department. Mr. Bailey answered no, but reiterated he feels that landscaping is appropriate and installation of other structures is not. He then stated that relative to the conditions relating to the 800 foot long block, he feels that the City's Code is not being used properly in this case; the Code states that pedestrian or cross walks not less than six-feet wide may be required by the Planning Commission through the center of blocks more than 800 feet long where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation, or other community facilities. He stated he does not feel that the walkway is deemed necessary because none of the features referenced in the Code are present at or surrounding the subject property. He referenced a development near Weber High School where this type of walkway was used and he feels it detracts from the neighborhood because pedestrians using it are essentially in residents' back yards and they litter, smoke, and carry out other nefarious activities. He added that the walkway only shortens the walking distance for four homes. He stated that the same would be true for the walkway in the subject development. He added the subdivision has five points of ingress/egress and has plenty of access.

Chairman Pro-Tem Mason invited additional public comments.

Chase Freebairn, Ivory Development, 978 E. Woodoak Lane, Salt Lake City, stated that Ivory Development is the applicant for the property to the east, the Oakmont Estates development and they feel strongly that the pedestrian walkway between the lots would not really benefit anyone. He reiterated Mr. Bailey's comments and interpretation of the City's code and feels that the mid-block walkway is not required and could actually result in a nuisance for property owners. He is not opposed to trails or walkways, but he is opposed to those that do not make sense. He stated that when he first heard of the trail requirements for the Oakmont Estates development he only had about an hour to contemplate it prior to discussion with the Planning Commission, but as he has thought about the issue further, he believes it should not be required.

Bob Buswell, 962 E. 3025 N., stated that he is not sure of the exact address of the subject property. Chairman Pro-Tem Mason stated it is at 1200 East 2750 North.

Lee Nanney, 461 E. 3325 N., stated that he has not connection to the application, but as he has listened to the conversation he has wondered who will be responsible to take care

of the walkways, especially related to snow removal and weed/vegetation control. He stated that he sees nothing but problems associated with the walkways.

Dee Hansen, 5445 South Highland Drive, asked who is in favor of the walkway between the two lots. If the City is the party in favor, he wondered if the City will pay to secure the easement. He stated that the City could condemn the property for public benefit, but the burden of proof for such condemnation is quite high. He stated he is adamantly opposed to the walkway.

John Hansen, 1165 W. 4000 N., Pleasant View, complimented staff and the City Attorney as they have tried to work through this application. He noted that this issue was raised 'after the fact'; all drawings were submitted to the City without any walkways. The Technical Review Committee meeting was held and Parks and Recreation Director Staheli indicated she did not see a need for trails or walkways and she actually left the meeting early due to that fact. He stated that the walkway does not even line up with other lots and, being a grandfather, he would not want his grandchildren to play in a backyard that has a public walkway running through it. He stated that homeowners seek privacy and the walkway would defeat that purpose. He added he feels the walkway would be dangerous and would make it difficult to sell the lots to potential owners. He added that the example of Lakeview Heights that was used is not a good example, because that nature and connectivity of lots in that development are much different than what has been proposed tonight. He stated that the example used by Mr. Bailey regarding the walkway connecting a development to Weber High School is a better example and it is negative in nature. He stated that if lots are sold, the residents will be responsible to maintain the trails and that will be difficult to enforce. He added that if the walkway were removed, pedestrians would only be forced to walk an additional 100 feet to get to the area that would have been accessible by the walkway; he recommended the Commission not jeopardize the safety and value of those lots over 100 feet.

John Wilbur, 1091 E. 2925 N., referenced 1100 East, which dead-ends on the north end of the subject property. It looks as if the road will run very close to the Oak Forest Estates development and there is sidewalk in that area that also dead-ends. He asked what will happen along the property lines in that area and if additional sidewalk will be installed. Currently, the elevation between 1100 East and lot eight in the proposed subdivision is approximately five or six feet; he asked if there will be a gradual slope between the two developments and if retaining walls will be used. Or, will lot eight have a steep driveway in their front yard.

Mr. Call responded to Mr. Wilbur and stated the street cross-section will include curb, gutter, and sidewalk along 1100 East; relative to elevation, the actual plat map shows that elevation change, but it is somewhat more gradual heading to the west side of lot eight. The engineers for the project are aware of these elevation changes and have considered options for addressing this issue; they will make sure that all roads and sidewalks connect in an appropriate manner while addressing elevation changes. Mr. Scott added that the issue will be addressed by staff at the time of final review.

Commissioner Barker moved to grant approval of application SUB 2017-03 for preliminary approval of Paramount Estates Subdivision (33 lots) located at approximately 1125 East 2750 North, based on the findings and subject to the conditions listed in the staff report. The motion died for lack of a second.

Vice Chairman Thomas made a substitute motion to grant approval of application SUB 2017-03 for preliminary approval of Paramount Estates Subdivision (33 lots) located at approximately 1125 East 2750 North, based on the findings and subject to the conditions listed in the staff report and excluding the requirement for walkways between the subdivisions and asking for consideration of the fact that the sidewalk on 2750 North would change the size of the street. Commissioner Barker seconded the motion.

Chairman Pro-Tem Mason stated that the staff report included a request for improvements to the detention basin, but since that is a request and not a condition, it will not be required according to Vice Chairman Thomas's motion. He then discussed the request for the walkway between lots in the subdivision and noted he initially thought it was a 'silly' request; however, when the Lakeview Heights example was presented to the Planning Commission he began to see the value in the walkway because it does provide connectivity to the neighborhood and enhances the neighborhood. Vice Chairman Thomas stated that Lakeview Heights is much different than the proposed development; Lakeview Heights includes common space between cul-de-sacs in the development and the walkway is intended to provide connectivity and access to that common space per the City's ordinance. Additionally, there are 15 or 16 houses from one end of the block to the other in Lakeview Heights, but in the Paramount Estates Subdivision there are only eight. Chairman Pro-Tem Mason stated he still believes that connectivity in Lakeview Heights enhances the subdivision.

Chairman Pro-Tem Mason then asked for discussion about the requested improvements to the detention basin. Commissioner Barker stated that the applicant indicated his willingness to landscape the basin, but he does not want to install playground equipment. Chairman Pro-Tem Mason stated one thought he had was possibly recommending development of an amphitheater because of the slope of the area. He stated that is a nice feature that would add value to the neighborhood. Vice Chairman Thomas stated that he hates the requirement for small detention ponds throughout the City; in this instance, there are two subdivisions being developed next to one another and there is a requirement for each to have a small detention pond 250-feet away from each other. These are two separate parcels that the City will be required to maintain and that creates added expense. He would prefer regionalized ponds or possibly combining the two ponds on one parcel to make a large pond that is easier to maintain. Mr. Bailey stated that he explored this issue as well, but there are issues with the layout of the water lines in the area; there is a large collector line on 2750 North and routing the water from that line to the ponds would be difficult if the location were changed. Vice Chairman Thomas asked how deep the pond will be; he asked if there is a requirement to fence the pond if it is more than four feet deep. Mr. Bailey stated that he does not believe the depth will be four-feet. Vice Chairman Thomas stated he would like for staff and the applicant to work on that issue

between now and application for final approval of the development. Vice Chairman Thomas asked if it is necessary for his motion to include a requirement for a 7.5 foot easement for storm drain in the development. Mr. Call stated that level of detail will be included in the final plan.

Chairman Pro-Tem Mason called for a vote.

Voting on the motion:

Commissioner Cevering	yes
Commissioner Barker	yes
Temporary Chairman-elect Mason	yes
Vice Chairman Thomas	yes

The motion carried.

Chairman Pro-Tem Mason stated that thought he voted yes, he would have liked to see the additional walkways in the development.

*****Commissioner Prisbrey returned to the room after voting on Item 7C – Paramount Estates**

d. SUB 2016-03 Consideration and action on an administrative application for final approval of the Stone Crest Subdivision, Phase 2 (5 lots).

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 the Planning Commission if the application demonstrates compliance with the approval criteria.

The applicant is requesting final approval of the Stone Crest Subdivision, Phase 2 (5 lots). The subdivision is located at approximately 3825 North and 550 East. The 5 lot subdivision is on 2.086 acres and is located in the HP-1 zone. The HP-1 zone requires a minimum lot size of 10,000 square feet on all lots with a frontage requirement of 90 feet. The property is currently vacant.

The north side of 3825 North is bordered by a parcel that is not included with this subdivision. A special exception request to either eliminate or defer the sidewalk from the north side of 3825 North was denied by the City Council on November 15, 2016. (Exhibit C) A grading permit for the north side of 3825 North was issued on February 14, 2017. In order to meet the grading and slope standard for the HP-1 zone the sidewalk was moved to the back of curb as approved by the City Engineer.

The Planning Commission granted preliminary approval to Stone Crest on March 16, 2016. There were two conditions that impact Phase 2. A temporary turnaround agreement needs to be approved by the City Council. The applicant is also requesting that a protection strip be approved along the north boundary of Phase 2. This also needs approval by the City Council.

The following is quoted from the notice of decision dated March 17, 2016:

“The second is the right of way that traverses lot 14 must also be resolved. Preliminary approval is conditioned upon the applicant providing for adequate and uninterrupted access across the property or nearby property that can be used by abutting landowners to reach their property. Since it appears that the abutting landowners have enjoyed such access right prior to the development of the applicant’s property. Applicant must also demonstrate that Lot 14 can be legally built upon by obtaining release from anyone with legal easement and / or access rights across Lot 14 or otherwise demonstrate that any easement or access rights do not unreasonably restrict the use of Lot 14 as a building lot in the future.”

A similar situation occurred as part of the Cactus Ridge subdivision located adjacent and to the south of the Stone Crest subdivision. The following condition was imposed, “The road needs to be relocated off of lots 16 and 17 before building permits will be issued.

The Technical Review Committee met on February 23, 2016. The City Engineer has submitted a report dated April 6, 2017 that identifies the items to be addressed for final approval.

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

- 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 low density residential.

Recommended conditions of approval include:

- Meeting the requirements of the North Ogden City Engineer
- Meeting the requirements of the Technical Review
- Obtaining approval for a temporary turnaround agreement with North Ogden City
- Obtaining approval of a protection strip with North Ogden City
- Resolving the right of way that crosses lot 14 as stated above.

The memo concluded staff recommends final approval of the Stone Crest Subdivision subject to the conditions from this Staff report.

Mr. Scott reviewed his staff report.

Mr. Call then stated that he and Mr. Scott along with City Engineer Hartvigsen met with the property owner to the north of the subject property this morning and there are two other conditions of approval he would like to recommend. He has discussed these conditions with the applicant; one relates to sewer improvements agreed upon by the developer and the Hollis's to provide connectivity to the City's sewer system. The second relates to grading on the Hollis property; they have a loop road that provides them access to their barns and around their property and staff would like a clear indication that prior to recordation of a plat, the Hollis's and the developer will document an agreement to preserve the easement for this road. The City wants to be clear that the Planning Commission is not giving the developer permission to proceed with something that would allow encroachment on another person's private property. He concluded this has been somewhat a contentious development and the City wants to be sure to try to resolve any outstanding issues, especially those that City staff may have contributed to. He used the aid of an aerial picture of the subject property to identify the areas where grading work has taken place that has impacted the Hollis property.

Applicant, Walt Nielsen, 498 E. 3425 N., stated he believes that all issues between himself and other property owners have been addressed and resolved; first relates to the roadway, second relates to the temporary turn-around, and third relates to the protection strip. He stated that the protection strip agreement is being drafted by his legal counsel and he will present completed documentation of that agreement to the City when it is available. Relative to the temporary turn-around, it is included in documentation for the development and he needs to get a signature from the adjacent property owner giving her consent for the temporary turn-around. Third is the road that provides access to the Hollis property; the road is currently located outside of the appropriate easement and actually travels through the middle of lot 14 in his development. He stated he understands it is his responsibility to provide the Hollis's with uninterrupted access to their property while a formal roadway is being completed. A roadway will be completed and dedicated to North Ogden City and will provide permanent access to the Hollis property and other properties in the area. It is his anticipation that when that permanent access is provided, other access easements will be vacated as has been requested in legal documentation for the project. He used the map of the area to illustrate how those arrangement will impact existing access roads in the area.

Chairman Pro-Tem Mason asked if the City has received a copy of the legal documentation referenced by Mr. Nielsen. Mr. Call stated that he has been told about the legal documentation, but he will not render a legal opinion for an applicant as that would conflict with his role for the City. Chairman Pro-Tem Mason stated he understands that, but if the City is asking Mr. Nielsen to move the Hollis's access road rather than abandon it, but Mr. Nielsen is indicating that his legal document would result in abandonment of the access road once the City street is completed. Mr. Call stated that he would be comfortable with an agreement that states that the road will be moved or abandoned. Mr. Nielsen stated there is no need for the road once the permanent road has been completed. He stated that many solutions to the issue of the access road have been considered and discussed and he feels he is recommending the most sensible option for all parties

involved. He reiterated he is willing to comply with all other staff and City Engineer conditions of approval.

Vice Chairman Thomas asked if issues relating to secondary water have been resolved and the condition in the staff report regarding the same has been met. Mr. Nielsen answered yes and stated that secondary water will be provided by Randy Marriott; he identified the location at which it will be connected to the property and the manner in which it will benefit other landowners in the area.

Chairman Pro-Tem Mason invited public comments.

Bonnie Hollis, 3792 N. 475 E., stated that relative to the right-of-way, it is not specific to Mr. Nielsen and his subdivision; rather, it runs all the way to the reservoir and all northern land owners have access to it. She then stated that she came to the Planning Commission last year when this subdivision was first proposed; tonight there was no mention about the illegal grading performed in front of her home, which continues to be a problem. She has several things she would like to address in hopes that it will be possible to reach a resolution. The Hollis property has two access points: one on the east and one on the west side; Mr. Nielsen's drawing shows the approach on the east side cutting into his land deeply because of the drastic cut that he made when he first started the development without a permit from the City. Mr. Nielsen cut into her property and created a 10-foot drop off that still remains today. She stated that the Hollis property has existing sidewalk and landscaping that would need to be removed on the east side of the subdivision where the Hollis property adjoins phase one of the development. This morning she met with the City along with her attorney to discuss how to address these issues. She reviewed photographs illustrating the steep drop off created by Mr. Nielsen's illegal grading and stated that she is requesting that Mr. Nielsen change his blue prints and allow for a recorded easement to be created to relocate the approach from the corner of lot seven of phase one of the Stone Crest Development. According to the City Engineer, this could be done differently than the original plan. Because of the steepness resulting from the illegal cut, she would require engineering, retaining walls, or a rock wall as agreed upon by both parties. She then addressed the western access to the property and stated there is no detailed plan for the approach where the two properties adjoin. In her view that is insufficient and it is not possible to understand how the properties will relate to one another. Mr. Nielsen's current plan does not provide the Hollis property with access to North Ogden streets; rather, it shows the Hollis property to the north, then Mr. Nielsen's property, and then the street. This would landlock the Hollis property unless proper easements and other documentation are in place. This needs to be corrected and recorded in order to preserve the easement. She then discussed the septic system on her property; when Mr. Nielsen performed illegal grading on her property, he cut into the leach field that has been in place since prior to the time that she purchased the property. Mr. Nielsen was told he was required to correct that problem, but he has not done that and the septic system is not set up correctly. She added that she is requesting that the developer provide and pay for culinary and secondary hook-ups from the Hollis access point to the City's culinary water system; she requested that the developer pay for impact fees, connection costs, and provide hook-ups to completion. At one point last

summer, Mr. Nielsen committed to her husband that he would do that, but later he said that he would not honor that agreement and now he wants to create a protection strip so that the Hollis property does not have appropriate access to the City's streets or City utilities. She stated she feels that what Mr. Nielsen has done to block her access is wrong. She addressed land that is sliding in the area; the cut that the developer illegally made into the south side of her property has caused the earth to slide. A comparison of photos taken the day the cut was made and photos taken more recently prove that the property is sliding. She invited the Planning Commission to take a trip to the property to see the earth sliding for themselves. She has been told the developer hired a geotechnical company to perform a soil study. She was told by City officials that the study gave Mr. Nielsen a green light to proceed with his development against the City ordinances to create a near-vertical slope. This means that the drop-off created has caused her property to slide and now it is obvious that the reason Mr. Nielsen is seeking this approval is for monetary gain; he refuses to do the right thing and install a rock wall to keep the property from sliding or shift the road. Mr. Nielsen told North Ogden City when he started the development that he has received permission from her family to grade her property to make the development work. The City has given their approval under false pretenses. She asked how the City can approve a soil study that was done after Mr. Nielsen cut into the property; the damage had already been done as he cut into the land back in September and the study was not done until October after the 10-foot drop off was already in place. She asked if the geotechnical company took samples of the surrounding properties and if they have come back and observed the property that is now sliding.

Chairman Pro-Tem Mason asked Ms. Hollis to conclude her comments. Ms. Hollis stated there are two areas above her home where the mountainside has slid down; the soil recommendation seems to be the route the City has chosen to support. The Hollis's were not included in this decision, only to find out from City officials that a recommendation has been approved. This approval was the exact action that Mr. Nielsen was denied by the City Council during their November 16 meeting. Mr. Nielsen tried to gain approval of a vertical slope knowing it would slide and there would be nothing there to hold it up. Her understanding was that the City has recommended that a retaining wall or rock wall be used to hold the earth in place, but now Mr. Nielsen is seeking approval of the use of plastic and grass seed on the slope. She asked if the study that the City is willing to accept and support will guarantee the Hollis family that their foundation will not become weak and cause problems to the structure of their home. She asked if the City can guarantee that their land will now stop sliding because grass seed will be used on an area with a 10-foot drop off. She asked if the City is willing to guarantee that her grandchildren will not fall off the cliff from the area in her yard that they ride their bikes. She asked if the City can honestly feel good about abandoning its own ordinances and assume that her nightmare would go away. She asked what the Planning Commission would do if this were their home; with the proposal, unless there are recorded easements, this landlock will occur. She does not approve Mr. Nielsen's plan and she requested that the City deny the application until all issues can be resolved. She asked that the City require him to install a retaining wall to meet the 3:1 grade to guarantee her family that there will be no future damage to their home and foundation. If such damage does occur she is hopeful Mr. Nielsen would be responsible to repair it.

Chairman Pro-Tem Mason stated that he does not understand Ms. Hollis's claim that the proposed development would land lock her property. He asked Ms. Hollis to use the photos of the area to illustrate how that would occur, which Ms. Hollis did. This led to discussion among the Planning Commission and Ms. Hollis regarding discussions that have taken place between Ms. Hollis and Mr. Nielsen regarding the preservation of access to her property. Mr. Call noted this is one of the issues that the staff report references and a condition of approval is that the issue be addressed before recordation of the final plat for the project.

Dennis Goodliffe, 3963 N. 525 E., stated that he has also appeared before the Planning Commission in the past and he truly does not understand what is happening with Mr. Nielsen's project. He stated that he has had his property surveyed and his survey does not match the survey that Mr. Nielsen is relying upon; the stakes used to mark property lines are 12 feet apart and that is quite a discrepancy when considering a roadway. The roadway was put in years ago because other land in the area was too steep for the roadway. He stated that he agrees with Ms. Hollis's comments. He added that there is a reservoir above his home that provides him and other residents in the area with water and he will keep that access. He has 12 shares of water with the private water company in the area; he would love to have North Ogden water, but he cannot connect to it. He stated his access to the reservoir and availability of water has been in place for 43 years and he is going to keep it even if it means ending up in court; he does not want to threaten litigation, but no one will listen to him. Mr. Nielsen has forgotten to mention the presence of trees and other features in the area that require the road to run the direction that it does. If the plan is approved as currently drawn, Mr. Goodliffe will close the road because it is on his property; once he closes the road, no one will have access to the reservoir. He stated he would appreciate more careful consideration of this application. He has tried to talk to the City many times about the water in the area and no one would listen to him.

Chairman Pro-Tem Mason provided Mr. Nielsen an opportunity for rebuttal. Mr. Nielsen stated that he has discussed this issue over and over with the City, the City's engineer, geotechnical issues, and others to try to 'dot his i's and cross his t's'. The situation is being exaggerated and some half-truths have been told. He stated that his property does not border Mr. Goodliffe's property and his water infrastructure is not in the easement that is being discussed. He stated Mr. Goodliffe's problems are a non-issue. He has explained that the access on the east and west sides of the Hollis properties will be preserved by access to City roads and it will be provided in a way that will be in conformance with City standards. He then stated that the grade discussed by Ms. Hollis is not vertical and there is no point at which there is a 10-foot drop. The ground has special features and the geotechnical engineer feels that upon proper compaction and seeding it will hold its grade. He stated this winter was one of the worst in recent history and in looking at the soil there is not any degradation of the hillside except for at the point where the illegal roadway exits the east side of the Hollis property. He stated that he allowed them that access as a courtesy and all work has been done on his side of the property line.

Vice Chairman Thomas asked about the comments about the sewer leach field. Mr. Nielsen stated that when he was cutting a roadway in he discovered that a leach field had been put in place and that part of it was on his property. He was in the process of installing sewer infrastructure and had given indication that the Hollis's would be allowed to connect to that infrastructure. The leach field was illegally placed and he had to remove it. He will provide a sewer lateral to the Hollis property. He noted that the development is very expensive due to the difficulty with running utilities on a hillside; the protection easement has been recommended for a purpose and it will not deny the Hollis's access. The Planning Commission and Mr. Nielsen reviewed the plat for the property to gain an understanding of the location of the protection easement as it relates to the access points historically used for the Hollis property. He stated that the Hollis's use his property to access their property and he has allowed that for years in the vein of being a good neighbor. He reiterated that connections are available to the Hollis's at any time that they want to connect to the City's utility systems, but they are not free and he does not believe he should be responsible to cover the expenses for those connections.

Vice-Chairman Thomas asked Mr. Call if there are too many issues to be resolved that would keep the Planning Commission from granting final approval. Mr. Call stated that though there may be a long list of issues for the developer to address, the list is clear and the developer understands that approval will be conditioned upon addressing those issues. High level discussion of the Planning Commission centered on the City's ability to enforce conditions after final approval has been granted, with Chairman Pro-Tem Mason noting the role of the Planning Commission is to determine whether an application meets City ordinances before making a determination. He understands that approval granted for Stone Crest this evening would be conditioned upon several things and it would be up to the developer and staff to ensure those conditions are met.

Vice-Chairman Thomas asked Mr. Scott about the City Council's action to defer sidewalk and recommendation of the sidewalk in an alternate location against a retaining wall. The plans now show the sidewalk against the curb and gutter with a 1:1 slope. He asked if staff is comfortable with this plan. Mr. Scott stated that as proven by the fact that the City issued the grading permit, staff – including the City Engineer – feel the plan complies with City ordinances relative to the stabilization of the north hillside. Vice-Chairman Thomas stated that he is specifically focusing on the location of the sidewalk against the curb and gutter; typically when this is done, a wider sidewalk is required and he asked if that has happened for this plan. Mr. Scott stated that a special exception that was requested included two parts: the City Council determined they wanted sidewalk on the north side and the did not grant the deferral. Once a study was done relative to a grading plan for the development, it was determined that the most appropriate thing to do would be to move the sidewalk to the back of the curb to provide greater safety relative to the grade. Staff has reviewed and approved the location of the sidewalk. Mr. Call stated that there are other areas in the City where the width of the right-of-way has been reduced, which has resulted in widening of the sidewalk. Vice-Chairman Thomas stated that is the area he is referring to and wanted to ensure that was not done because of an ordinance requirement.

Vice-Chairman Thomas moved to grant approval of administrative application SUB 2016-03, final approval of the Stone Crest Subdivision, Phase 2 (5 lots), based on the findings and subject to the conditions listed in the staff report and the City Engineer's letter, specifically noting as discussed that the landowner will provide a 20-foot access on the east side of the Hollis property and vacate his protection strip in that access, as well as provide access on the west side of the Hollis property for them and others with rights to the existing road in the area, vacating his protection strip in that area as well. Applicant is also required to install a sewer lateral to the Hollis property for correction of the disturbance of the leach field. Motion should reflect a reference to the City Attorney's letter requiring agreements to be executed before the applicant can record a temporary turn-around on the neighboring property to the west. Development cannot proceed until applicant receives approval from the Hollis's relative to grading and placement of an easement as well as recordation of sewer improvements.

Mr. Call stated there is an existing agreement for the sewer improvements; additional agreements needed relate to the temporary turn-around and access to the Hollis property. Those agreements will need to be made in writing and provided to the City before the plat is recorded.

Vice-Chairman Thomas referred to Mr. Call's language above and asked that it be incorporated in his motion.

Vice-Chairman Thomas asked about Mr. Goodliffe's comments regarding preservation of his access to the private water reservoir above his home. He asked if it would be appropriate to include language in his motion allowing for that water line to be included in the easement to be provided by Mr. Nielsen. Mr. Call stated the City typically does not include private utilities in public easements, but that does not mean there is no already an existing easement for the transmission of those utilities to the Goodliffe property and other properties. Vice-Chairman Thomas stated he wants to ensure that no easements are abandoned that would result in Mr. Goodliffe no longer being able to protect his water lines.

Mr. Call then noted that the condition included in the staff report regarding an easement across lot 14 should be amended to indicate that the easement is not needed across lot 14, but along the edge of lot 14. He stated that any abandonment of the easement would require signature by stakeholders in the easement to release their right. He added that if the parties were able to meet and engage in discussion to resolve the issues, there may be opportunities to provide connectivity and utility access across several properties. He stated it would not be appropriate to try to facilitate those negotiations during a public meeting. Chairman Pro-Tem Mason agreed.

Commissioner Prisbrey seconded Vice-Chairman Thomas's motion.

From the audience, Ms. Hollis inquired as to language included in the motion relative to the grading and slope on her property. Vice-Chairman Thomas stated that issue is

addressed in the plans for the development. As required by the City, the problems will be corrected at the time of construction. Ms. Hollis asked who is responsible to cure any damages resulting from continued sliding of the earth in that area. Vice-Chairman Thomas stated that is not for the City to become involved in. Chairman Pro-Tem Mason advised the Planning Commission to discontinue dialogue with members of the audience.

Mr. Call then stated that upon a decision being made by the Planning Commission, City staff drafts and sends a formal letter to each applicant identifying everything included in a motion for approval or denial. That is a public document that would be made to anyone interested in the project or the decision made. Chairman Pro-Tem Mason added that the presentation made by staff was clear and concise and he does not see reason to deny the application because he feels it does or can comply with City ordinances. He then called for a vote.

Voting on the motion:

Commissioner Barker	yes
Vice Chairman Thomas	yes
Commissioner Prisbrey	yes
Commissioner Covering	yes
Temporary Chairman-elect Mason	yes

The motion carried.

8. LEGISLATIVE ITEMS:

a. Discussion: Large Accessory Building Standards.

City Planner Scott stated that during the last Planning Commission meeting the body was addressed by Mr. Shane Norris regarding concerns about the City's ordinance regulating accessory structures and how that ordinance impacts his ability to build a large accessory building on his property. He stated staff did not have sufficient time to draft a formal memo regarding the issue, but he briefly summarized the history of the property and past discussions among the Planning Commission regarding large accessory structures. He drew illustrations on a white board and provided an explanation of how setbacks and lot coverage standards are applied to properties throughout the City according to zoning of said properties. There are lot coverage standards for accessory buildings as well relating to the rear area of a lot; such buildings can cover 25 percent of a rear of a property. For large accessory buildings 600 square feet or greater, there are different standards and a 15 foot side and rear setback must be provided. The Planning Commission discussed this number at length and did not make changes to that number before providing a recommendation to the City Council for their recent changes to the accessory building ordinance. Mr. Norris has a very deep lot that is just under a half-acre in size; it is rectangular in nature and it is double-fronting, backing commercial property. He stated that the Planning Commission may want to consider whether it is appropriate to offer

special consideration to this lot given that it is double-fronting. He stated it is his opinion that imposition of the setback requirements may be a policy issue. There are not many double-fronting lots in the City so setting a precedent relative to this issue may not be too problematic. Vice-Chairman Thomas added that Mr. Norris's lot is not only unique as a result of double-frontage; it is also unique because it abuts commercial property. Mr. Call added that Mr. Norris cannot access one of the streets that borders his property, so that may also be a reason to determine that a special exception is appropriate. Mr. Scott noted that the ordinance also requires that setbacks be increased to 20 feet if a large accessory building is over a certain height.

Mr. Scott then facilitated discussion among the Planning Commission regarding options for approaching amendments to the ordinance regulating large accessory buildings. Mr. Norris explained that the reason he is pursuing an amendment is that, while he could build the building he would like to in his backyard, due to setback requirements he would be required to build it in the middle of his backyard, which essentially renders his backyard otherwise unusable. He noted that he has reviewed the minutes of the meetings where he previously discussed his concerns and, while the discussion was not recorded word for word, the record did indicate that he could build his building within three feet of the back property line against the street because there is also a six-foot rock wall with a six-foot vinyl fence on top of it, creating a 12-foot barrier or shield. He stated that he raised the issue that North Ogden City Shop structures are over 15 feet tall, but they are exactly 10 feet from the side property lines. Those buildings are also much larger than 600 square feet.

Chairman Pro-Tem Mason stated that he has thought of Mr. Norris's property each time he goes to the Kent's Market development; he drives by Mr. Norris's property and, frankly, he agrees that he should be allowed to do what he is asking. He stated that on a double fronted lot he would feel comfortable with the accessory building being constructed much closer to the property line, especially on properties where there is no rear easement. He stated that he is not sure the same can be allowed for side setbacks, but he is comfortable reducing the rear setback for double-fronted lots. The Planning Commission and staff engaged in philosophical discussion and debate regarding Chairman Pro-Tem Mason's recommendation. Vice-Chairman Thomas stated that if a resident is allowed to construct a home 10-feet from the side property line, they should be allowed to do the same with an accessory building. Mr. Scott stated there are some properties throughout the City that have very large accessory buildings very close to the property lines and those projects have been problematic for neighbors.

Mr. Norris used the white board to draw a rendering of his property and illustrated where he would like to position the building and how it would be oriented; the side setback is not as big an issue as the rear setback, but he would like to be closer than 20 feet from the side property line. After continued discussion among staff, the Planning Commission, and Mr. Norris, the conclusion was reached to direct staff to proceed with drafting an ordinance for the Planning Commission to consider that would allow for a reduced side and rear setback for accessory buildings on double-fronting lots. Mr. Scott asked the

Planning Commission to keep in mind that any ordinance would not only impact Mr. Norris's property, but all other double-fronting lots in the City.

Discussion then centered on any opportunity for Mr. Norris to apply for and receive a variance from the ordinance. Chairman Pro-Tem Mason stated there are very specific criteria defined in law that must be met in order for a variance to be granted; an application is required to meet five conditions in order to receive a criteria and it is his opinion that a variance would not be granted. Mr. Call agreed.

Mr. Bell then noted that given the heavy workload of staff and the fact that it may take some time for staff to respond to the request for a draft ordinance that would reduce the setbacks for accessory buildings on double-fronting lots, it may be a better option for Mr. Norris to submit an application for a zoning text amendment. This would require payment of a fee, but it will set a formal process in motion that the Planning Commission will eventually be involved in.

Chairman Pro-Tem Mason stated he feels it necessary to indicate that though he has voiced support for what Mr. Norris is requesting, that support may change if he is shown examples of other double-fronting lots in the City where reduced setbacks may create a negative outcome. He added that the Planning Commission makes a recommendation to the City Council and they will make the final decision on any ordinance change. Mr. Norris stated he understands that process, but thought that the last time this issue was discussed there was a resolution that there would be an opportunity for him to secure a special exception for his property in order to proceed with construction of his large accessory structure. Commissioner Cevering thanked Mr. Norris for his patience with the City.

9. PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA

There were no public comments.

10. REMARKS FROM PLANNING COMMISSIONERS

Chairman Pro-Tem Mason highlighted the popularity of Pickleball courts in Pleasant View City. He added that he will be absent for the May 3 Planning Commission meeting.

11. REPORT OF THE CITY PLANNER

Mr. Scott stated that at a past joint work session between the City Council and Planning Commission a list of conditions was created for the Village at Prominence Point project; during the City Council's meeting last night, they added to that list of conditions. He stated he will send that list to the Planning Commission via email for their review.

12. REMARKS FROM CITY ATTORNEY

Mr. Call stated that while the Stone Crest application was a difficult issue for the Planning Commission to work through, the action that was taken will be good in the long run because there will be a list of conditions for the applicant and his neighbors to work through in order for the project to proceed. He stated those negotiations should take place outside of a public venue.

13. ADJOURNMENT

Vice-Chairman Thomas moved to adjourn the meeting. Commissioner Prisbrey seconded the motion. All voted in favor.

Voting on the motion:

Commissioner Barker	yes
Vice Chairman Thomas	yes
Commissioner Prisbrey	yes
Commissioner Cevering	yes
Temporary Chairman-elect Mason	yes

The motion carried.

The meeting adjourned at 10:15 p.m.

Planning Commission Chair

Monalisa Wald
Planning Assistant

Date approved

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Planning Commission Chair



Monalisa Wald
Planning Assistant

5/3/17

Date approved