

**NORTH OGDEN PLANNING COMMISSION  
MEETING MINUTES**

**August 23, 2017**

The North Ogden Planning Commission convened in a regular meeting on August 23, 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 August 18, 2017. Notice of the annual meeting schedule was published in the Standard-Examiner on January 1, 2017.

**COMMISSIONERS:**

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

**STAFF:**

Rob Scott	City Planner
Jon Call	City Administrator/Attorney
Brandon Bell	Associate Planner
Monalisa Wald	Administrative Assistant

**VISITORS:**

Orluff Opheikens	Scott McKay	Chris Campbell	Steve Arner
Lisa Arner	Katie Arner	Aaron Cain	

**REGULAR MEETING**

Chairman Waite called the meeting to order at 6:33 p.m. Commissioner Mason offered the invocation and Commissioner Barker led the audience in the Pledge of Allegiance.

1. **ROLL CALL**

Chairman Waite conducted roll call and indicated that Commissioner Prisbrey has been excused.

2. **MINUTES APPROVAL**

**Commissioner Mason made a motion to approve the minutes of the August 9, 2017 meeting as presented. Commissioner Nancarrow seconded the motion.**

**Voting on the motion:**

<b>Chairman Waite</b>	<b>yes</b>
<b>Vice Chairman Thomas</b>	<b>yes</b>
<b>Commissioner Mason</b>	<b>yes</b>
<b>Commissioner Nancarrow</b>	<b>yes</b>
<b>Commissioner Cevering</b>	<b>yes</b>
<b>Commissioner Barker</b>	<b>yes</b>

**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 Waite asked if any member needs to declare a conflict of interest or disclose any ex parte communications in which they have engaged. All Commissioners present indicated they had nothing to disclose, however, during discussion of item 7a, ZTA 2017-06, Commissioner Mason disclosed ex parte communications with a neighbor (see the minutes for that item).

5. **PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA**

There were no public comments.

6. **ADMINISTRATIVE ITEMS:**

**A. SUB 2016-06 Consideration and action on an administrative application, final approval of the Northampton Estates Subdivision, Phase 7 (30 lots).**

A staff memo from City Planner Brandon Bell explained when the Planning Commission is acting as a land use authority, it is acting in an administrative capacity and has limited discretion. Examples of administrative applications are conditional use permits, design reviews, and subdivisions. Administrative applications must be approved by the Planning Commission if the application demonstrates compliance with the approval criteria.

The applicant is requesting final approval for Phase 7 of the Northampton Estates Subdivision (14 Lots). The property on which this proposed subdivision is located was recently annexed into North Ogden City and is currently vacant. The proposed subdivision is located at approximately 2650 North and 1350 East, is located in the R-1-10 zone, and is 8.21 acres. The R-1-10 zone requires a minimum lot size of 10,000 square feet on all interior lots with a frontage requirement of 90 feet. For corner lots in the R-1-10 zone the required square footage is 11,000 square feet.

A prior version of Phase 7 received preliminary approval in 2016, with some adjustments being made to the lots in the currently proposed Phase 7, including an increase in the size of several lots. A few lots have been combined into larger lots from the prior version. Additionally, a portion of the area that was in the prior version of Phase 7 will become Northampton Estates Subdivision Phase 8.

The Technical Review Committee met on March 24, 2016 regarding this proposed subdivision. The City Engineer has submitted a report dated July 25, 2017 that identifies the items to be addressed for final approval (See Exhibit C).

Since the boundaries of most lots have changed, the applicant has provided Staff with verification of the lot widths at the 30' front setback from the property line. The lot widths and lot areas meet the requirements for this zone.

There is a 15' public utility easement on the west side of the detention basin, which was required as a condition of preliminary approval, the purpose of which is to allow City vehicles access to the manhole at the rear of the detention basin. In order to allow this access, a 10' paved drive was also required as a condition of preliminary approval for this subdivision, which is to be constructed in the center of the 15' easement. Further, the applicant has informed Staff that he is working to obtain a trail easement on the lots which adjoin the detention basin at the rear of that lot, so that a trail may potentially continue through those lots, and thus all the way through from one street to the other. If this option is successful, the language on the plat will need to be modified for the public utility access easement on the detention basin to note that it is also to be used as a trail easement. If the existing easement shown on the plat, on the property proposed for the detention basin, is not 15' wide it needs to be corrected to be shown as 15' wide on the plat.

On the lots to the rear of the detention basin, there is a 10' public utility easement required. If a trail continues through the lots at the rear of the detention basin, a 10' public utility and trail easement needs to be noted on the plat, and a 6' wide asphalt trail will be installed, consistent with the required specifications for trails listed in the Public

Works standards. This issue of whether a trail is provided with the necessary easement will need to be resolved, consistent with the above requirements, prior to recording.

The applicant has provided a geotechnical report. A note needs to be placed on the plat referencing the company, report number, and date. Also, the applicant is providing a land drain for this area.

Finally, provision 12-6-12 of our City subdivision ordinance states the following:

- A. No open irrigation ditches shall be permitted within the boundary of a subdivision. All necessary irrigation ditches, whether used for the purpose of transporting irrigation or waste flow water that must be maintained within a subdivision shall be replaced with a pipe culvert. This pipe culvert shall be at least fifteen inch (15") diameter concrete pipe and be satisfactory to the irrigation company. The developer of a subdivision must provide for maintaining the existing rights of all irrigation users, both upstream and downstream of the proposed development.
- B. A solid board, chain link or other non-climbable fence not less than six feet (6') in height shall be installed along the right of way containing a piped or existing open canal or irrigation ditch adjacent to the subdivision which carries five feet (5') or more of water. Like fencing shall be constructed where the subdivision borders upon open reservoirs, drainage channels, nonaccess streets and adjoining schools, churches and park sites, except where the city council determines that the areas shall remain open and unfenced. All such fences shall be maintained and kept in good repair by the owner of property contiguous to or upon which the fence is erected.

Staff recommends that a six foot (6') tall fence therefore, needs to be required, per City ordinance, along the boundary between the subdivision and the canal as a condition of approval. There is an existing fence along the canal, as it passes adjacent to the east side of Phase 7. However, the existing fence is only a barbed-wire fence, and is approximately four feet (4') tall. A six foot (6') fence needs to be installed in Phase 7, along the border of all property in Phase 7 that is adjacent to the open canal. Any fence installed needs to be a solid board, chain link, or other non-climbable fence as required in the North Ogden City Ordinance noted above, as a condition of approval. Additionally, a note needs to be placed on the plat stating that the fence needs to be maintained and kept in good repair by the owner of property adjacent to or upon which the fence is erected.

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?
- Does the proposed subdivision meet the goals of the General Plan?

The proposed subdivision meets the requirements of applicable North Ogden City ordinances and conforms to the North Ogden City General Plan, with the above noted

exceptions and requirements. 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 Technical Review Committee Letter
- Requirements of this Staff Report

The memo concluded staff recommends final approval of the Northampton Estates subdivision, Phase 7 subject to the conditions from this Staff Report, the Engineer's Report, and the Technical Review Committee Letter.

Mr. Bell reviewed his staff memo and he used the aid of an aerial photograph and the plat to identify the location of easements, storm detention basin, and trail connectivity in the subdivision.

Chairman Waite invited public comments.

Applicant, Orluff Opheikens, 1025 E. 2100 N., asked Mr. Bell if there is a requirement for a trail along the south property line. Mr. Bell answered no. Mr. Opheikens asked that the Planning Commission table consideration of the application because he would like to perform additional study about the requirement to place the detention basin in the middle of the neighborhood. He stated he would like to work with his engineer and the City Engineer to that end.

Scott McKay, 1298 E. 2625 N., stated his property would directly abut the detention basin. He identified his property on the aerial photograph and explained how the requirement for the trail connection would impact his property. The school bus stop for Green Acres Elementary School was moved, which has reduced the demand for a pathway near his property. He was initially comfortable with a narrow four-foot trail, but he and other neighbors are not comfortable with the requirement for the 10-foot trail. Mr. Call stated there is a pipe at the back of the detention basin and it is his understanding that the requested easement width would accommodate the replacement of that pipe when it fails. The trail easement could be limited or reduced, but the utility easement is needed as requested. Mr. McKay then asked who is responsible for any damages caused to personal property by water from the detention basin. Mr. Call stated that the City is typically not responsible for those types of issues and it would be between the developer and the homeowner to resolve any issues associated with storm water. He stated that if Mr. Opheikens is able to relocate the basin to another area, that would reduce the potential for damages to personal property associated with storm water.

There were no additional public comments.

**SUB 2016-06 Consideration and action on an administrative application, final approval of the Northampton Estates Subdivision, Phase 7 (30 lots).**

Vice-Chairman Thomas made a motion to table item SUB 2016-06, consideration and action on an administrative application, final approval of the Northampton Estates Subdivision, Phase 7 (30 lots), as requested by the applicant. Commissioner Mason seconded the motion.

**Voting on the motion:**

<b>Chairman Waite</b>	<b>yes</b>
<b>Vice Chairman Thomas</b>	<b>yes</b>
<b>Commissioner Mason</b>	<b>yes</b>
<b>Commissioner Nancarrow</b>	<b>yes</b>
<b>Commissioner Cevering</b>	<b>yes</b>
<b>Commissioner Barker</b>	<b>yes</b>

**The motion carried.**

**B. SUB 2014-01 Consideration and action on an administrative application, final approval of the Woodfield Farms, Phase 2 (25 lots).**

A staff memo from City Planner Rob 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 final approval of Woodfield Farms subdivision, Phase 2 a 25 lot subdivision located at approximately 550 East 1500 North. Phase 2 is on 6.83 acres and is located in the R-1-8 zone. The R-1-8 zone requires a minimum lot size of 8,000 square feet on interior lots and 9,000 square feet on corner lots with a frontage requirement of 80 feet. The property is currently vacant.

Applicant needs to provide verification of lot widths at front setback line, by means of a dimension line with exact lot widths, using a straight line at the front setback line, tangent to the curve on the lot, or a line parallel to the front of the lot.

Lot 219 has a paved access to an irrigation box; it is recommended that the paved access be moved to the east lot line.

The City Engineer has submitted a staff review dated July 23, 2014. (See Exhibit B) The report contains a list of requirements from preliminary approval and the status of how they have been accomplished.

The North View Fire District has written a letter addressing the need for a second access. The development of Phase 3 will satisfy this requirement. (See Exhibit D)

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 memo discussed conformance with the General Plan; 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
- Requirements listed in this Staff Report
- Requirements of the North View Fire District
- Demonstrate that all lots meet the frontage and area requirements.

The memo concluded staff recommends preliminary and final approval of the Woodfield Farms, Phase 2 subdivision subject to the requirements of the City Engineer's report, Staff Report, and Fire Marshall.

Mr. Scott reviewed his staff memo.

Chairman Waite stated that the staff report recommends the use of low impact drainage systems, but most low impact drainage or storm water management systems are in violation of City Code. He asked how this conflict can be resolved. Mr. Scott stated that the State of Utah has imposed a requirement that low impact water design be considered, however, the State has since 'backed off' on that requirement and if an applicant decides they do not want to proceed with low impact water design that decision is acceptable. The City completes an annual water audit from a State agency and so long as the City recommends the low impact measures, the State determines compliance. The State has indicated that in the next few years, the low impact systems will be a requirement that cities and developers must adhere to. City Attorney Call added the requirements will be imposed in 2019.

Commissioner Thomas sought information regarding the location of an irrigation easement that needs to be addressed and vacated. Mr. Scott stated that is a note from the City Engineer and he does not have additional information regarding that recommended condition. Mr. Call stated it is his understanding that it is his understanding that the ditch has already been relocated.

Chairman Waite invited public comments. There were no persons appearing to be heard.

**Commissioner Nancarrow made a motion to approve SUB 2014-01, consideration and action on an administrative application, final approval of the Woodfield Farms**

Phase 2 (25 lots) based on conditions listed in the staff report. Commissioner Barker seconded the motion.

**Voting on the motion:**

Chairman Waite	yes
Vice Chairman Thomas	yes
Commissioner Mason	yes
Commissioner Nancarrow	yes
Commissioner Cevering	yes
Commissioner Barker	yes

**The motion carried.**

**C. SPR 2017-05 Consideration and action on an administrative application regarding approval of an onsite freestanding sign with a comprehensive sign plan at 312 E 2000.**

A staff memo from City Planner Brandon 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 the Planning Commission if the application demonstrates compliance with the approval criteria.

The applicant is requesting approval to install a monument sign on a commercial property, in the Commercial (C-2) zone. The applicant has submitted a comprehensive sign plan, the materials for which are included in Exhibit A.

The following sections from the North Ogden City ordinances apply:

11-22-7 (C) (1)(b) (6) SIGN PLAN REQUIRED

Sign Plan Required: A comprehensive sign plan shall be submitted to the planning commission for approval in accordance to section 11-22-5 of this chapter.

**Staff Comment:** The applicant has submitted a comprehensive sign plan.

11-22-7(C) (1) (b) (7) Permitted Signs:

A. Monument Sign:

- a. Monument sign is a freestanding sign whose sign face extends to the ground or to a base.
- b. Monument signs shall have a maximum height of ten feet (10').
- c. A monument base shall be no less than one-half ( $\frac{1}{2}$ ) the width of the widest portion of the sign. The monument base shall not be greater than one and one-half ( $1\frac{1}{2}$ ) times the width of the portion of the sign containing verbiage.



**Staff Comment:** Monument signs in this zoning district are listed as a permitted sign, but also require a comprehensive sign plan according to the ordinance. Staff interprets this ordinance to mean that the sign is a permitted sign that may be approved by the Planning Commission with the submission of a comprehensive sign plan to the Planning Commission, but that it does not require a conditional use permit, given that it is listed as a permitted sign in this zone.

#### 11-22-5 (B). Comprehensive Sign Plan

**Content Of Plan:** A comprehensive sign plan shall include the location, size, height, type of illumination, landscaping, time of placement and/or illumination, and orientation, of all proposed signs for the development, either permanent or temporary.

**Staff Comment:** The applicant has provided a comprehensive sign plan with the required information and elements. See Exhibit A.

11-22-7 (C) (1) (b) (2) Freestanding Commercial Signs, Maximum Unchangeable Area  
**Maximum Unchangeable Area:** Such signs shall have a maximum unchangeable area of seventy five (75) square feet.

**Staff Comment:** 21 square feet is the total area for the freestanding sign, which is well within the allowed 75 square feet.

#### 11-22-7 (C) (b) (4) Freestanding Commercial Signs, Minimum Setback

**Minimum Setback:** The minimum setback shall be ten feet (10') from behind the curb, but not in the street right of way.

**Staff Comment:** The sign is shown as being 10' behind the front of the gutter in one document. Annotation on the plan needs to specify that the front edge of the sign will actually be 10' behind the back of the curb, and, additionally, on the owner's property. These requirements may require the sign to be where there is currently asphalt on the applicant's property. The elevation view (looking straight at the sign) and the plan view (bird's eye view) are inconsistent in their depiction of the sign's location. The comprehensive sign plan needs to clearly show how the above requirements are met in both documents, by showing the distance behind the curb, the location of the property line, and the sign's position relative to the property line.

#### 11-22-7 (C) (9) (D) Landscaping

Landscaping shall be provided at the base of the sign at a ratio of four (4) square feet for every one foot (1') of sign with fifty percent of the landscaped area containing live decorative plant material. Where a hardship can be demonstrated, the planning commission may modify or waive this requirement.

**Staff Comment:** Staff recommends that the Planning Commission consider their options specified in the above provision of North Ogden City Code. The square footage of the sign is 21 square feet. The applicant will need to have 84 square feet of landscaping at the base of the sign, if this requirement is held to. Staff would like to note that the Planning Commission may waive this requirement, if deemed appropriate, due to a hardship.

#### 11-22-7 (C) (1) (b)(9) (E) Theme and Plan

Theme And Plan: Where feasible, signs shall be incorporated into a landscape theme and be part of an overall design plan for the property. Aesthetic appeal is a high priority.  
**Staff Comment:** The submitted materials demonstrate an overall theme and plan.

Finally, the engineering for the sign will still need reviewed by the Building Department, once all zoning requirements have been addressed, in order to issue a building permit for the sign.

The memo discussed the application's conformance with the General Plan. The application conforms to the North Ogden City General Plan due to its being compliant with city ordinances and the following General Plan goal: All existing and new development should be required to be fairly and uniformly provide improvements according to city standards.

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

- Does the proposed use meet the requirements of the applicable City Ordinances?

Recommended conditions of approval include:

- Compliance with North Ogden City Zoning Ordinance
- Conditions Listed in this Staff Report

The memo concluded staff recommends approval of this application subject to the conditions specified in this staff report, including ensuring the front edge of the sign is both behind the property line, and at least 10' behind the back of the curb. Staff also recommends that the Planning Commission consider amending the zoning ordinance to eliminate the requirement for a Planning Commission approval for this type of sign which is common throughout the City, and allow for staff approval of this type of sign.

Mr. Bell reviewed his staff memo and used the aid of an aerial photograph to identify the location of the subject property and the location of the proposed sign.

Chairman Waite wondered if xeriscaping around the sign may be an ordinance to prevent the need to run water lines to the location of the sign to irrigate any landscaping to be installed. Mr. Bell stated that the Planning Commission can discuss that matter and consider whether the amount of asphalt that the applicant would be required to trench through in order to install a waterline to irrigate landscaping creates a hardship.

Commissioner Cevering asked if the Planning Commission could direct that required landscaping be installed in other areas of the site rather than around the sign. Mr. Bell stated that is an option or the Planning Commission could decide to waive the landscaping requirement altogether. The City ordinance states that if the Planning Commission determines there is a hardship, the requirement can be modified or waived.

Commissioner Mason stated he would prefer to hear from the applicant before discussing whether there is a hardship present on the property.

Commissioner Nancarrow asked if the only way the Planning Commission can waive or modify a requirement is to determine there is a hardship. Mr. Bell answered yes.

Commissioner Mason asked if determination of a hardship in order to waive a requirement requires Council action, to which Mr. Bell answered no.

Chairman Waite invited public input.

Applicant, Chris Campbell, 2546 N. 1600 E., submitted documentation that will aid in establishing the exact location of the property line. He stated that he does not have secondary water in the area where he would like to locate the sign and he is unsure whether a secondary water connection is even available nearby; it would be problematic to run pipes to the area where the sign would be located. He discussed the history of the development of the area with a focus on drainage infrastructure on and near his property and indicated that it would be very difficult to install landscaping and keep it alive in the areas recommended by City staff. Commissioner Mason asked Mr. Campbell what he feels would be a reasonable solution. Mr. Campbell stated that he would be willing to install xeriscaping as mentioned by Chairman Waite; this would make the area more attractive.

Mr. Scott noted there was a similar situation at the old Country Boy Dairy site when the commercial building there was occupied; the requirement for landscaping was modified to allow for xeriscaping with the condition that secondary water be connected to the area when available and traditional landscaping be installed. He stated that a similar solution may be an option for Mr. Campbell's property, but he would recommend that Mr. Campbell be directed to determine whether secondary water connections are available nearby. High level discussion centered on a potential xeriscaping design for the subject property.

Commissioner Nancarrow asked Mr. Campbell how much parking area he would lose if he were to be required to tear up the asphalt to install secondary water lines to serve the landscaping. Mr. Campbell stated he would not lose parking area; he would cut through and repair the asphalt to preserve his parking area.

Commissioner Mason referenced the industrial nature of the area around the subject property and asked that the Commission keep that in mind as they determine whether traditional landscaping as one would find in a residential neighborhood is necessary.

Mr. Call stated that it would also be appropriate for staff to determine that the proposed location of the sign meets all setback requirements. Mr. Bell suggested language be included in a motion to approve directing staff to perform all measurements to determine compliance with such setback requirements.

Martin Yesco, 2158 N. 225 E., stated it is his understanding that in order for the sign to be in compliance with City ordinance, it must be located on the property and 10-feet back from the back-of-curb.

There were no additional persons appearing to be heard.

**Commissioner Nancarrow made a motion to approve SPR2017-05, consideration and action of an administrative application regarding approval of an onsite freestanding sign with a comprehensive sign plan at 312 E. 2000 N., subject to the conditions listed in the staff report, including ensuring the front edge of the sign is behind the property line and at least 10 feet behind back-of-curb, directing staff to verify proper location of the sign, and waiving the requirement for 84 square feet of landscaping due to hardship. Commissioner Barker seconded the motion.**

Commissioner Thomas stated that if the applicant were to xeriscape the gravel areas on the site, that would be a larger landscape amount than the 84 square foot area referenced in the staff memo. He stated he is appreciative of the applicant's willingness to enhance the site by using xeriscaping, though such is not required according to Commissioner Nancarrow's motion. Commissioner Mason agreed and asked that the minutes reflect that the Planning Commission does encourage Mr. Campbell to make the xeriscaping improvements discussed. He added he believes the sign will enhance the area; the road the subject property is located on is industrial in nature, yet Mr. Campbell has indicated that he cares about the appearance of his property and his building.

**Voting on the motion:**

<b>Chairman Waite</b>	<b>yes</b>
<b>Vice Chairman Thomas</b>	<b>yes</b>
<b>Commissioner Mason</b>	<b>yes</b>
<b>Commissioner Nancarrow</b>	<b>yes</b>
<b>Commissioner Cevering</b>	<b>yes</b>
<b>Commissioner Barker</b>	<b>yes</b>

**The motion carried.**

**7. LEGISLATIVE ITEMS:**

**A. ZTA 2017-06 Discussion on a legislative application to add standards for sports courts and amend tennis court standards.**

A staff memo from City Planner Rob Scott 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, require compatibility with the general plan and existing codes.

On August 9, 2017, the Planning Commission conducted a discussion and field trip to five existing courts regarding a proposed amendment to establish standards for sports courts. Several neighbors to the Arner's were in attendance and identified issues they would like addressed. Some of the items included blocking views, how topography heightens impacts, lighting, and drainage issues.

Steve and Lisa Arner, North Ogden City residents, approached the city about adding regulations for fencing sports courts. They would like to have a 10 fence height or combination of a 6 foot high fence with a temporary netting that can be removed when not using the sports court. The City Council has asked the Planning Commission to make a recommendation regarding this issue.

In addition, the North Ogden City ordinance has standards for tennis courts. It seems appropriate to have a consistent standard for both tennis courts and sports courts. The code language for tennis courts is below:

#### 11-10-12 TENNIS COURTS

A tennis court shall be constructed in the rear or side yard only. Fencing and walls around the tennis court may be up to twelve feet (12') in height. Tennis courts shall only be located on lots that are one acre or greater in size.

Staff has researched and identified two other city ordinances and Weber County as examples.

#### Bountiful City

D. A fence enclosing a recreational facility (whether private or public), such as a tennis court, swimming pool, ball diamond, etc., may be allowed up to ten (10) feet in height, as long as it is "open style" and not site obscuring, is located at least five (5) feet away from the property line, and is not within the minimum front yard setback area. A fence greater than ten (10) feet in height and/or closer than five (5) feet to a property line may be permitted with a conditional use permit or through the site plan review process if the fence is part of a new project. A fence abutting the Interstate freeway system may be erected to a height not exceeding eight (8) feet on the property line adjacent to the freeway right-of-way.

#### Highland City

**3-4112: Athletic Court** (Adopted 4/7/09). An athletic court is a solid playing surface constructed for recreational purposes. Athletic courts having any type of structure exceeding six feet (6') in height including fencing and lighting shall require a building permit and shall be subject to the following requirements:

- (1) Any structural portion of an athletic court shall not be permitted within an easement (*see exception in 3-4112(3)(f) below*).
- (2) Athletic courts that are enclosed or covered within a permanent structure and are detached from the main dwelling unit shall be considered an accessory structure and shall be subject to Sections 3-4104 and 3-4109 of this Code.
- (3) **Setbacks.** An athletic court may cover the total lot area within a rear yard not located within an easement. Minimum setback requirements from property lines are as follows:
  - (a) Front Yard: 30' Minimum

- (b) Rear Yard: 10' Minimum (*see exception in 3-4112(3)(f) below*)
- (c) Side Yard: 10' Minimum (*see exception in 3-4112(3)(f) below*)
- (d) Side Yard Adjacent to Street: 10' Minimum (*see exception in 3-4112(3)(f) below*)
- (e) Trail or Landscape Easement: 10' Minimum (*measured from the nearest easement line*)
- (f) **Exception.** It is not recommended that any resident/property owner construct an athletic court within a recorded easement however, if a resident provides the information listed below with their building permit for an athletic court with a fence less than six feet (6') in height, the rear and side yard setbacks defined above would not apply and the property owner may install their athletic court within any portion of their property behind the minimum front yard setback and within a public utility easement. The required documentation for this exception is as follows:

- (i) Acknowledgement letters from all of the utility companies who have interest in that easement (*it is important to understand the utility companies will typically not vacate or waive their right to use a recorded public utility easement*); and
- (ii) Blue stake tickets indicating any utilities within that easement; and
- (iii) A signed and notarized "hold harmless" letter indemnifying Highland from any potential future loss and acknowledgement of potential financial loss for the property owner, due to the possible use of that easement.

(4) **Fencing.** All athletic courts enclosed with fencing shall be required to obtain a fence permit prior to construction. An athletic court is the only use that allows fencing enclosures above six feet (6') in height. Fencing above six feet (6') in height shall not exceed the fencing enclosure maximum height of twelve feet (12'). Fencing enclosures shall not be considered as part of standard property line fencing. Fencing materials for athletic courts shall consist of open mesh fabric or vinyl coated chain link without slats. Fencing for athletic courts that are less than six feet (6') in height may be placed along a rear property line or side property line within the rear yard. In all cases, Athletic courts with fences between six feet (6') and twelve feet (12') in height shall be subject to 3-4112(3) in this ordinance (*above*).

(5) **Lighting.** All athletic court lighting must be directed downward and shall not spill on to an adjacent property. The applicant shall provide evidence indicating that their light product and lighting plan will not cause light or light pollution from the athletic court light(s) to extend beyond their property line. Design and location shall be specified with the plans submitted for a building permit. Lights and light poles including the light base and any supporting structures in regards to athletic courts shall not be in excess of twenty feet (20') in height. Light operating hours shall be restricted to 7:00 am - 10:00 pm.

(6) **Grading.** All athletic court areas shall be designed, graded, and constructed to allow for drainage which meets Appendix J Section J109 of the International Building Code. In no case shall any court be designed to permit water from any source to drain onto an adjacent property or upon the public right-of-way.

#### Weber County

Sec. 108-7-3. - Fencing requirements.

(d) Fences for uses such as tennis or sport courts may be a maximum of 12 feet high, provided the fence meets all of the required setbacks for an accessory building in the zone in which it is located and a land use and building permit are obtained.

The following questions were posed to the Planning Commission for consideration:

What constitutes an athletic court?  
Should athletic courts be allowed in front setbacks, sideyard setbacks, or only in rear setbacks?  
What are the appropriate setbacks for athletic courts?  
Should athletic courts be allowed to cover easements?  
What should the fencing standards be?  
What should the lighting standards be?  
What grading and drainage standards are appropriate?  
Should the review process be a permitted use?  
Should the same standards apply to tennis courts and sports courts (athletic courts)?

The following list is a summary of the discussion points:

What are the needed standards? The discussion focused on setbacks, height standards, grading, and lighting.  
What are the appropriate materials for fencing?  
Do the standards for lot coverage, vegetative cover, and accessory uses negate the need for some of the standards? It was pointed out that the Hillside Protection zones do not have lot coverage and vegetative cover standards.  
The field trip identified how the size of the court, mature landscaping, setbacks, and topography mitigated the court impacts.  
What are the appropriate standards when there is an elevation difference between properties?

The memo discussed conformance with the General Plan.

### **Housing Goals**

#### **Goal #1 – Increase Housing Quality and Variety**

- Establish and adhere to high quality building and design standards for all housing types so that development enhances the community character.

#### **Strategies**

- Proactively evaluate current ordinances and policies to determine whether there are obstacles that can be removed or modified to achieve the community's housing goals.
- Create design standards to improve the overall quality of North Ogden's housing.
- Work with homeowners, landlords, and renters to maintain and improve existing properties.

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

- What standards should be applied to athletic courts?
- Is the amendment consistent with the General Plan?

The memo concluded staff recommends the Planning Commission discuss the above ordinance standards and give direction as to what standards are appropriate.

Mr. Scott reviewed his staff memo and facilitated a discussion among the Commission regarding the questions and discussion points listed in the memo.

Commissioner Mason disclosed that he was approached by his neighbor about this matter; the neighbor indicated that she had visited the Arner property to look at their sport court, which has been the main topic of discussion as the Planning Commission has reviewed this issue, and she

felt that it was not offensive or problematic for the neighborhood. He concluded she also indicated she did not feel it was necessary to legislate this matter. He then noted the City has or desires to create hillside protection areas that would limit the amount of concrete that could be placed on a property in a hillside area, but it would be difficult for him to support any legislation that would govern that matter if there is no fencing. He wondered the point of imposing setbacks on a sport court unless there are fences or lights that would possibly create a nuisance for adjacent neighbors. He stated that a simple pad with a basketball post should not be required to meet setback requirements.

Discussion among the Commission then centered on concerns that they have heard from residents in the neighborhood regarding the issues associated with water runoff from a sport court. Mr. Call stated the City ordinance includes a provision requiring a hard surface to be angled in a manner that all run off water is kept on a property rather than run onto a neighboring property. That provision could be referenced in any sport court ordinance considered by the Commission.

Continued discussion centered on the questions and discussion points included in Mr. Scott's staff memo and Mr. Scott concluded he will consider the feedback provided by the Commission to develop a draft ordinance for the body to consider and provide a recommendation to the City Council. They indicated they would like to review the ordinance via email before a public hearing is scheduled on the matter.

Chairman Waite invited public input.

Steve and Lisa Arner, 3673 N. 800 E., approached. Mr. Arner stated that he was not present during the last meeting when this issue was discussed, but his wife informed him of the comments made by other residents in their neighborhood about their sport court. He stated he is trying to be a good neighbor and never intended to do something that would create a negative impact for his neighbors. He stated that it would be cheaper for him to put in a sport court without fencing, but he chose to fence it to keep the balls from leaving his yard and going into his neighbor's yards. He stated that he thinks it is a good idea for the City to address appropriate fencing materials, but he asked that they keep in mind the cost associated with certain materials. For a true sports court, netting is not adequate to keep heavier balls within the court. He stated that his property is located on a hillside and he understands the concerns about water run-off from property to property, but it will be difficult to address that on a hillside. The concrete on his property will be angled in a manner to mitigate storm water runoff where possible, but there will still be some run off due to the fact that his neighborhood is on a hillside. Ms. Arner added there is a gap between the hard surface and her property line and some of the water will seep into the ground located in that gap. She stated that one of her neighbors expressed concerns that water runoff may flood their basement, but she does not believe that would happen. Mr. Arner then noted that the city already has an ordinance governing backyard lighting and the lights that he has purchased for his sport court comply with that ordinance; as long as no direct lighting impacts another person's property, it is in compliance with the code. He added that regulating noise associated with a sport court can be difficult as well.

Commissioner Cevering asked if the Arner's have reviewed the covenants, conditions, and restrictions (CCRs) for their neighborhood. Mr. Arner answered yes; the CCRs do not allow chain link fencing for perimeter fencing, but they have been given permission to use chain link for their sport court fence. Commissioner Cevering asked if the light poles comply with the CCRs, to which Mr. Arner answered yes. Commissioner Cevering stated he feels the Arner's



should be commended for their willingness to discuss the matter with their neighbors and comply with City ordinance. Ms. Arner stated that everyone she has talked to thinks that their sport court is an improvement to their property rather than something negative that would reduce neighboring property values. Mr. Arner agreed and reiterated that they would like to be good neighbors and they are only fencing the sport court to keep the balls in his own yard and out of neighbor's yards.

Commissioner Covering stated he is the newest member of the Planning Commission and he has learned so many things since assuming this role; one of the things he has learned is that when considering ordinances such as the one that has been discussed tonight, the ordinance applies to the entire City rather than just individual properties. Mr. Arner stated he understands that, but he also feels it is appropriate for a City to be less restrictive and only consider ordinances that are absolutely necessary. He stated that property owners should have some freedom to use their property as they desire.

There were no additional public comments.

Mr. Scott reiterated he will use the feedback provided by the Planning Commission to formulate an ordinance document that can be considered by the body at a future meeting.

8. **PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA**

There were no public comments.

9. **REMARKS FROM PLANNING COMMISSIONERS**

Commissioner Mason cited the popularity of the pickleball courts in Pleasant View City.

10. **REPORT OF CITY PLANNER**

City Planner Scott provided the Planning Commission with information regarding upcoming land use training opportunities.

11. **REMARKS FROM CITY ATTORNEY**

Mr. Call indicated he had nothing additional to report.

12. **ADJOURNMENT**

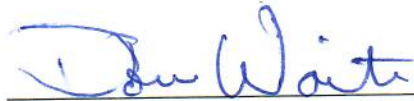
**Commissioner Thomas made a motion to approve with conditions. Commissioner Barker seconded the motion.**

**Voting on the motion:**

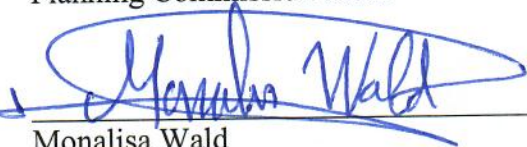
Chairman Waite	yes
Vice Chairman Thomas	yes
Commissioner Mason	yes
Commissioner Nancarrow	yes
Commissioner Cevering	yes
Commissioner Barker	yes

The motion carried.

The meeting adjourned at 8:44 p.m.



\_\_\_\_\_  
Planning Commission Chair



\_\_\_\_\_  
Monalisa Wald  
Administrative Assistant



\_\_\_\_\_  
Date approved