

# **NORTH OGDEN PLANNING COMMISSION**

## **MEETING MINUTES**

July 2, 2014

The North Ogden Planning Commission convened in a regular meeting on July 2, 2014 at 6:33 pm in the North Ogden City Municipal Building, 505 E. 2600 N. North Ogden, Utah. Notice of time, place and agenda of the meeting was furnished to each member of the Planning Commission, posted on the bulletin board at the municipal office and posted to the Utah State Website on June 27, 2014. Notice of the annual meeting schedule was published in the Standard-Examiner on January 24, 2014.

### **COMMISSIONERS:**

Scott Barker	Commissioner
Joan Brown	Commissioner
Blake Knight	Commissioner
Steven Prisbrey	Commissioner
Dee Russell	Commissioner

### **STAFF:**

Gary Kerr	Building Official
Ron Chandler	City Manager
Stacie Cain	Community Dev. Coord./Deputy City Recorder

### **VISITORS:**

Dave Scott	
Dave Meents	TJ Wight

### **REGULAR MEETING**

**Commissioner Russell nominated Commissioner Knight to serve as Chairman Protemp for the meeting. Commissioner Brown seconded the motion.**

#### **Voting on the motion:**

<b>Chairman Protemp Knight</b>	<b>yes</b>
<b>Commissioner Barker</b>	<b>yes</b>
<b>Commissioner Brown</b>	<b>yes</b>
<b>Commissioner Prisbrey</b>	<b>yes</b>
<b>Commissioner Russell</b>	<b>yes</b>

Chairman Pro-temps Knight called the meeting to order at 6:33 pm. Commissioner Barker offered the invocation and led the audience in the Pledge of Allegiance.

## **CONSENT AGENDA**

### **1. CONSIDERATION TO APPROVE THE JUNE 4, 2014 PLANNING COMMISSION MEETING MINUTES.**

Commissioner Brown stated she voted no regarding item five to make changes to the City's zoning ordinances relative to short term lenders. After reviewing the minutes, staff found that the minutes did indicate that Commissioner Brown had voted no on the item.

**Commissioner Brown made a motion to approve the minutes of the June 4, 2014 Planning Commission Meeting. Commissioner Russell seconded the motion.**

#### **Voting on the motion:**

<b>Chairman Protemps Knight</b>	<b>yes</b>
<b>Commissioner Barker</b>	<b>yes</b>
<b>Commissioner Brown</b>	<b>yes</b>
<b>Commissioner Prisbrey</b>	<b>yes</b>
<b>Commissioner Russell</b>	<b>yes</b>

## **ACTIVE AGENDA**

### **1. PUBLIC COMMENTS.**

There were no public comments.

### **2. PUBLIC HEARING TO RECEIVE COMMENTS TO AMEND NORTH OGDEN CITY ZONING ORDINANCE TITLE 11, CHAPTER 22 OF NORTH OGDEN CITY ZONING REGULATIONS, SIGN REGULATIONS FOR ALL ZONES**

A staff memo from City Planner Scott stated when the Planning Commission is acting in as a recommending body to the City Council, it is acting in a legislative capacity and has wide discretion. Examples of legislative actions are general plan, zoning map, and land use text amendments. Legislative actions require that the Planning Commission give a recommendation to the City Council. Typically the criteria for making a decision, related to a legislative matter, requires compatibility with the general plan and existing codes. Quail Meadows Assisted Living, located at 786 East 2100 North is in the process of replacing their sign. The sign material is to be a rock / stone with laser cut lettering. When staff reviewed the sign permit it was discovered that rock / stone is not an allowed material. Quail Meadows Assisted Living has made application to amend this provision to allow rock / stone to be an allowed sign material. Staff supports the applicant's request. Staff is recommending that the words, rock / stone be added to the list of materials in 11-22-4 (P) Materials:

P. Materials: Permanent signs may only be constructed of one or more of the following materials: stucco, metal, at least one-fourth inch (1/4") thick plastic; rock / stone, or wood that is at least three eighths of an inch (3/8") thick. No paper or cloth sign shall be allowed.

The above described application conforms to the North Ogden City General Plan due to its being compliant with city ordinances and the following Plan goals:

#### Commercial Development

New commercial and other business development will enhance the community when meeting the objectives of the General Plan. An improved standard of function, quality, and appearance is expected by the citizens.

(1) Implementation Goal: Commercial development must be required to develop projects that are designed for functionality, appearance and include significant physical enhancement to the community.

#### Community Aesthetics

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

The memo offered the following summary of suggested Planning Commission considerations: is the proposed amendment consistent with the North Ogden City General Plan; does the proposed use meet the requirements of the applicable City Ordinances; is the proposed amendment to add rock / stone materials to permanent signs appropriate. Staff recommends that the materials rock / stone be added to 11-22-4 (P): Materials. P. Materials: Permanent signs may only be constructed of one or more of the following materials: stucco, metal, at least one-fourth inch (1/4") thick plastic; rock / stone, or wood that is at least three eighths of an inch (3/8") thick. No paper or cloth sign shall be allowed.

City Manager Chandler summarized the staff memo.

Applicant TJ Wight offered a description of the type of sign that will be used at the business; it will be two sided so it can be seen by traffic coming from either direction. The sign will also have lighting to illuminate it during the evening hours.

Commissioner Brown stated that it is always necessary to consider different signage types because the industry of sign fabrication is constantly changing. She stated she feels the sign proposed for use at Quail Meadows is beautiful. Chairman Protemp Knight agreed and added that most other cities allow monument signs of this type.

Chairman Protemp Knight opened the public hearing at 6:40 p.m. There were no persons appearing to be heard.

**Commissioner Russell made a motion to close the public hearing at 6:40 p.m.  
Commissioner Brown seconded the motion.**

**Voting on the motion:**

**Chairman Protemps Knight**            yes  
**Commissioner Barker**                yes  
**Commissioner Brown**                yes  
**Commissioner Prisbrey**              yes  
**Commissioner Russell**              yes

**The motion passed.**

**3. DISCUSSION AND/OR RECOMMENDATION TO AMEND NORTH OGDEN CITY ZONING ORDINANCE TITLE 11, CHAPTER 22 OF NORTH OGDEN CITY ZONING REGULATIONS, SIGN REGULATIONS FOR ALL ZONES**

**Commissioner Russell made a motion to forward a positive recommendation to the City Council to amend the North Ogden City Zoning Ordinance Title 11, Chapter 22 of the North Ogden City Zoning Regulations, sign regulations for all zones. Commissioner Barker seconded the motion.**

**Voting on the motion:**

**Chairman Protemps Knight**            yes  
**Commissioner Barker**                yes  
**Commissioner Brown**                yes  
**Commissioner Prisbrey**              yes  
**Commissioner Russell**              yes

**4. DISCUSSION AND/OR ACTION TO APPROVE A CONDITIONAL USE PERMIT FOR HOKULIA SHAVE ICE, LOCATED AT 1965 N WASHINGTON BLVD**

A staff memo from City Planner Scott explained when the Planning Commission is acting as a land use authority, it is acting in an administrative capacity and has much less discretion. Examples of administrative applications are conditional use permits, design reviews, and subdivisions. Administrative applications must be approved by the Planning Commission if the application demonstrates compliance with the approval criteria. The applicant is requesting the approval of a Conditional Use Permit to operate a temporary business for this summer, a shave ice trailer. This use requires a conditional use permit for the site plan. The memo reviewed the applications compliance with City ordinances as follows:

**4-1-9 TEMPORARY BUSINESSES**

The specific requirements for a temporary business are contained in this ordinance section.

The request for a conditional use must meet the following criteria:

**11-14-1: PURPOSE AND INTENT:**

The purpose and intent of conditional uses permits is to allow in certain areas compatible integration of uses which are related to the permitted uses of the zone, but which may be suitable and desirable only in certain locations in that zone due to conditions and circumstances peculiar to that location and/or upon certain conditions which make the uses suitable and/or only if such

uses are designed, laid out and constructed on the proposed site in a particular manner. (Ord. 2002-07, 5-28-2002)

A conditional use shall be approved if reasonable conditions are proposed, or can be proposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards. If the reasonable anticipated effects of a proposed conditional use cannot be mitigated by the proposal of the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied. (Ord. 2006-08, 9-5-2006)

#### 11-14-5: BASIS FOR ISSUANCE OF CONDITIONAL USE PERMIT:

The planning commission shall not authorize a conditional use permit unless evidence is presented to establish:

A. The proposed use of the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the community.

B. Such use will not, under the circumstances of the particular case and the condition imposed, be detrimental to the health, safety and general welfare of persons nor injurious to property and improvements in the community, but will be compatible with and complementary to the existing surrounding uses, buildings and structures.

C. The proposed use will comply with the regulations and conditions specified in this title for such use.

D. The proposed use conforms to the goals, policies and governing principles of the master plan for the city. (Ord. 2002-07, 5-28-2002)

The request is to operate from July 2 to September 15, 2014. The applicant has indicated that the hours of operation will be Monday - Saturday from noon to 10:00 p.m. There is adequate parking and an appropriate separation from internal traffic. The application conforms to the North Ogden City General Plan due to its being compliant with city ordinances and the following Plan goal: All existing and new development should be required to fairly and uniformly provide improvements according to city standards.

The memo offered the following suggested Planning Commission considerations: does the proposed use meet the requirements of the applicable City Ordinances; are there any potentially detrimental effects that need to be mitigated by imposing conditions of approval; and if so, what are the appropriate conditions. The memo stated the recommended condition of approval is that the business be compliant with North Ogden City ordinances. Staff recommends approval of this application. The above described application has been reviewed and been found to be in compliance with all applicable North Ogden City Zoning Regulations.

City Manager Chandler reviewed the staff memo.

Applicant Bob Strong approached the Planning Commission and reviewed marketing materials for the Hokulia franchise, which started in 2009. He suggested that the members of the body visit the company's website to see videos reviewing the history of the business. He stated the potential snow shack in North Ogden will be run well and safely and has already received approval from Weber County and the Weber Morgan Health Department. He would like to receive approval in order to be open by July 4, 2014.

Commissioner Prisbrey wondered if the trailer is located too close to the road and could create a potential safety issue for children waiting for snow cones. Mr. Wight stated there was a similar concern about the Hokulia location in Riverdale and to address the concern he created a fenced area for the tables and chairs to keep people from accessing the street from the shack. He stated he would be willing to do the same at this location. There was a brief discussion regarding the layout of the seating area and the area where the line will form. There will be four tables at the site, but it will be possible to add more if needed. Chairman Protemp Knight stated that he thinks the layout of the business is great and he feels parents that frequent the shack should be responsible for the safety of their children; he stated he is not sure if he feels fencing at the site is necessary. He added that the shack and seating area is located quite a distance from Washington Boulevard. Mr. Wight added that if the shack were required to be moved back any further he would not be able to connect to needed power sources on the property.

Dave Meents, 322 E. 3350 N., stated he is the owner of the subject property and he is the president of the shopping plaza. He stated that he is excited about the business and indicated he feels the business is located far enough back from the road to alleviate safety concerns. He stated there has never been an incident at the site where a child has been hurt in traffic.

**Commissioner Russell made a motion to approve a Conditional Use Permit for Hokulia Shave Ice, located at 1965 N. Washington Boulevard. Commissioner Barker seconded the motion.**

**Voting on the motion:**

<b>Chairman Protemp Knight</b>	<b>yes</b>
<b>Commissioner Barker</b>	<b>yes</b>
<b>Commissioner Brown</b>	<b>yes</b>
<b>Commissioner Prisbrey</b>	<b>yes</b>
<b>Commissioner Russell</b>	<b>yes</b>

**The motion passed.**

**5. DISCUSSION AND/OR ACTION TO APPROVE A BOUNDARY LINE ADJUSTMENT FOR NORTH POINTE SUBDIVISION, LOCATED AT APPROXIMATELY 2560 N 400 E**

A staff memo from City Planner Scott explained when the Planning Commission is acting as a land use authority, it is acting in an administrative capacity and has much less discretion. Examples of administrative applications are conditional use permits, design reviews, and subdivisions. Administrative applications must be approved by the Planning Commission if the application demonstrates compliance with the approval criteria. The applicant is requesting preliminary and final approval of a 2 parcel boundary line adjustment at approximately 2550 North and 475 East. As part of the North Pointe Center subdivision (Smith's Market Place Development) there are two small parcels that are to be transferred to North Ogden City

ownership and be included with the adjoining parcel containing wetlands. Parcel A is 2,687 Square Feet (.062 Acres) and Parcel B 3,254 Square Feet (.074 Acres). The parcels are located in the CP-2 zone. The R-1-10 zone requires a minimum lot size of 10,000 square feet on interior lots a frontage requirement of 90 feet. This boundary line adjustment is part of the development agreement with Smith's. It will be recorded concurrently with the North Pointe Center 2<sup>nd</sup> Amendment Extended subdivision.

The memo offered the following suggested Planning Commission consideration: does the proposed subdivision meet the requirements of the applicable City subdivision and zoning Ordinances? The proposed subdivision meets the requirements of applicable North Ogden city ordinances and conforms to the North Ogden City General Plan. The General Plan map calls for this property to be developed as single family residential. The recommended conditions of approval are that the applicant process the final plat and record same. Staff recommends the Planning Commission grant preliminary and final approval of this application for the boundary line adjustment of the North Pointe Center Subdivision shifting parcels A and B to North Ogden City parcel 180460009.

City Manager Chandler reviewed the staff memo.

Commissioner Barker asked if the wetlands at the site must be maintained. Mr. Chandler stated the wetlands must remain undisturbed unless the City receives permission to mitigate and relocate the wetlands; for the time being the property will contain wetlands. There was a discussion regarding potential future development plans for the property and surrounding properties and Mr. Chandler stated there are no firm proposals to date. Commissioner Russell inquired as to the type of development that is permitted in wetlands. Mr. Chandler stated parks, trails, and bridges are some of the amenities that are permitted upon wetlands.

**Commissioner Barker made a motion to approve a boundary line adjustment for North Pointe Subdivision, located at approximately 2560 N. 400 E. Commissioner Russell seconded the motion.**

**Voting on the motion:**

<b>Chairman Protemps Knight</b>	<b>yes</b>
<b>Commissioner Barker</b>	<b>yes</b>
<b>Commissioner Brown</b>	<b>yes</b>
<b>Commissioner Prisbrey</b>	<b>yes</b>
<b>Commissioner Russell</b>	<b>yes</b>

**The motion passed.**

**6. DISCUSSION TO AMEND THE NORTH OGDEN CITY ZONING ORDINANCE REGARDING TEMPORARY BUSINESSES**

A staff memo from City Planner Scott stated when the Planning Commission is acting as a recommending body to the City Council, it is acting in a legislative capacity and has wide discretion. Examples of legislative actions are general plan, zoning map, and land use text

amendments. Legislative actions require that the Planning Commission give a recommendation to the City Council. Typically the criteria for making a decision, related to a legislative matter, requires compatibility with the general plan and existing codes. Recently, two conditional use permit applications have applied for a temporary business. Staff has processed these applications based on both the business license provisions and the zoning requirements. The business license sections identify the zones where they are to be located, i.e., C-1, CP-1, C-2, CP-2, and MP-1 zones. It also identifies the requirements for the appropriate site plan submittal. The zoning ordinance has a provision in Chapter 10 (Provisions Applicable in More Than One Zone) that require temporary businesses to be processed as a conditional use. The reason this is being brought forward is there is conflicting language for the amount of time allowed for temporary businesses in the two ordinances, e.g., the business license ordinance allows a 90-day time period and the zoning ordinance allows for 4 seven day periods. Staff is recommending that this conflict be rectified. In reviewing the zoning ordinance standard it appears that the ordinance is combining short term temporary activities, i.e., carnivals, circuses, revivals, rodeos, and swap meets with more traditional temporary businesses, i.e., shave ice stands. Staff feels these two types of temporary activities and businesses should have provisions unique to themselves. Temporary carnivals, circuses, revivals, rodeos, and swap meets typically do not last longer than a week at a time. The timeframe standard is appropriate for these activities. More traditional temporary businesses such as outdoor sales and trailers last anywhere from 90 to 120 days. Where should temporary businesses be located? Christmas tree sales, fruit and vegetable stands, and fireworks stands are only allowed in commercial zones; not manufacturing zones. Does the Planning Commission want to allow these uses in manufacturing zones or should the ordinance eliminate temporary businesses from manufacturing zones. Currently there are only a few parcels zoned manufacturing. Traditionally temporary businesses are permitted uses. They are already located in the most intensive zones within cities. It can be a burden for an applicant who has a limited time window to operate a temporary business and have to wait to be put on a planning commission agenda. Second, the standards for review are straight forward. The only potential issue here may be the hours of operation. A standard could establish hours of operation and require special review if the business wanted to operate outside of those hours, e.g., 7:00 a.m. to 11:00 p.m.

This amendment should take into account its conformity to the following North Ogden City General Plan goals:

#### Commercial Development

New commercial and other business development will enhance the community when meeting the objectives of the General Plan. An improved standard of function, quality, and appearance is expected by the citizens.

(1) Implementation Goal: Commercial development must be required to develop projects that are designed for functionality, appearance and include significant physical enhancement to the community.

#### Community Aesthetics

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

The memo offered the following suggested Planning Commission considerations:

- Should the business license provisions and zoning provisions be made consistent?
- What should the timeframe be for operating a temporary business?
- Should the standards address the difference in temporary businesses and activities?
- What zones should temporary businesses be located?
- Should temporary businesses be permitted uses?
- Should there be an hourly operating time standards, e.g., 7:00 a.m. to 11:00 p.m.?

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

City Manager Chandler reviewed the staff memo.

Chairman Protemp Knight referenced the issue relative to the business license time frame and indicated such time frame could be determined by the staff and the applicant if the business meets the requirements of the City's temporary business ordinance. Mr. Chandler stated that is an option and it would also be an option to implement a maximum length of time for which a temporary business can be in existence. There was a general Planning Commission discussion regarding the nature of a temporary business. Chairman Protemp Knight stated he would like to define temporary as being less than six months out of a year, but the applicant and staff could work to more clearly define the period of time that a business can operate. He also stated he would prefer to craft the ordinance in a way that temporary businesses are not a conditional use because he feels that would simplify the process. Commissioner Russell stated a conditional use permit allows the Planning Commission to have input regarding a business license application if such input is appropriate. Mr. Chandler provided a history of the evolution of conditional use permits, noting a business that receives such a permit is essentially a permitted use with conditions attached. He added staff feels the City has too many conditional uses at just over 200; staff will be reviewing the conditional uses currently listed in City Code in order to make a recommendation to the Planning Commission regarding simplification of the City Code. He also offered a summary of the types of cases where the City can get into legal trouble when using conditional use permits; it is very important to offer consistency to businesses of the same type and use. He stated it is important for the Planning Commission to be able to offer a valid answer to the question as to why the City wants to place conditions upon certain uses; if it is difficult to answer that question it may be more appropriate for the use to be permitted rather than conditional. Commissioner Brown stated it is not always possible to foresee the types of issues that will arise and, for that reason, it may not be easy to answer the question regarding why a use should be conditional. Mr. Chandler agreed, but noted it is best to provide clear information regarding permitted and non-permitted uses in the City in order for potential businesses to understand the types of rules and restrictions they are working within. Their general discussion regarding the intent of conditional uses continued, after which Commissioner Brown referenced the time limitations upon businesses. Mr. Chandler stated that regulation on early morning hours and late evening hours have been put in place to follow the City's noise ordinance.

Chairman Protemp Knight stated he places a high priority on offering freedom to businesses and land owners and he would prefer that the body remain open minded with the ability to make changes as the City moves forward rather than impose too many restrictions that could be problematic. Mr. Chandler stated the easiest question to answer about temporary businesses is that they are currently restricted to commercial zones in the City; he added that a use not listed as

a permitted use it is not permitted. Chairman Protemp Knight suggested that some uses may be permitted or regulated by other agencies, such as the County, and it may not be necessary for the City to regulate them. Mr. Chandler concluded he feels he has sufficient direction to proceed in working with Mr. Scott to draft an ordinance relative to the issue of temporary businesses.

## **7. PUBLIC COMMENTS**

There were no public comments.

## **8. PLANNING COMMISSION/STAFF COMMENTS**

Chairman Protemp Knight welcomed Commissioner Prisbrey to the body and asked him to take a moment to introduce himself and provide some information regarding his background. Commissioner Prisbrey stated he is a lifelong resident of North Ogden and loves the City; he provided information about his family and profession and concluded he is appreciative of the ability to be able to serve in this capacity.

Commissioner Brown then stated that at a recent City Council meeting groups of students from Venture Academy provided the body with presentations regarding proposed developments or land use on vacant parcels of property throughout the City. She stated it would be beneficial for the Planning Commission to receive that same presentation. Mr. Chandler stated he will work to get the presentation scheduled for the Planning Commission. Commissioner Brown then apologized to the Planning Commission for seeming disconnected at the last meeting; she stated she received word that her sister passed away that evening and it was a difficult time for her. The entire Planning Commission expressed their condolences over the loss of Commissioner Brown's sister.

Commissioner Russell then stated that Chairman Thomas raised an idea at the last meeting regarding a possible realignment of Pleasant View Drive in conjunction with the creation of a community gathering place near the waterway and grassy area at Lee's Marketplace. He stated he has visited the site since the meeting and agrees that would be a great solution to the traffic problems in the area. Chairman Protemp Knight stated that closing Pleasant View Drive at Washington Boulevard would divert additional traffic onto 2600 North and create additional traffic problems there. There was a general discussion regarding the idea, with a focus on the existing gathering places in the City.

Mr. Chandler then provided the Planning Commission with a report regarding recent discussions of the City Council pertaining to the creation of a dog park in the City. Commissioner Brown stated that many residents have volunteered to help improve the property that has been selected for the park. Mr. Chandler agreed and stated more residents would support the creation of the park based on the understanding that dog owners will essentially finance the project.

Building Official Kerr provided the Planning Commission with an update regarding the Café Rio project; the business should open within the next two or three weeks.

**9. ADJOURNMENT**

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

**Voting on the motion:**

<b>Chairman Protemp Knight</b>	<b>yes</b>
<b>Commissioner Barker</b>	<b>yes</b>
<b>Commissioner Brown</b>	<b>yes</b>
<b>Commissioner Prsbrey</b>	<b>yes</b>
<b>Commissioner Russell</b>	<b>yes</b>

**The motion passed.**

The meeting adjourned at 7:54pm.

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Planning Commission Chair

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

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Date approved