

**NORTH OGDEN CITY COUNCIL
MEETING MINUTES**

December 18, 2018

The North Ogden City Council convened in an open meeting on December 18, 2018 at 6:01 p.m. at the North Ogden City Office at 505 East 2600 North. Notice of time, place, and agenda of the meeting was posted on the bulletin board at the municipal office and posted to the Utah State Website on December 17, 2018. Notice of the annual meeting schedule was published in the Standard-Examiner on October 12, 2018.

PRESENT:	M. Brent Chugg	Mayor	
	Ryan Barker	Council Member	
	Blake Cevering	Council Member	
	Cheryl Stoker	Council Member	
	Phillip Swanson	Council Member	
	Carl Turner	Council Member	
STAFF PRESENT:	Jon Call,	City Administrator/Attorney	
	Annette Spendlove	City Recorder/HR Director	
	Rob Scott	Planning Director	
	Evan Nelson	Finance Director	
VISITORS:	John Reynolds	Sylvia Reynolds	Erik Johnson
	Susannah Burt	Kirk Chugg	Brenda Ashdown
	Aaron Christensen	Kim Christensen	Stefanie Casey
	Kristy Pack	Christopher Heiner	Brent Call
	Randy Winn	Susan Clements	Sean Casey
	Kevin Burns	Dale Anderson	Julie Anderson
	Peggy Barker	Corbin Farrell	Kyle Anderson
	Michelle Call	Meg Sanders	

Mayor Chugg called the meeting to order. Council Member Swanson offered the invocation and Corbin Farrell, Troop 412, led the audience in the Pledge of Allegiance.

CONSENT AGENDA

1. DISCUSSION AND/OR ACTION TO CONSIDER NOVEMBER 13, 2018 CITY COUNCIL MEETING MINUTES

Council Member Turner motioned to approve November 13, 2018 City Council Meeting Minutes. Council Member Cevering seconded the motion.

Voting on the motion:

Council Member Barker	aye
Council Member Cevering	aye
Council Member Stoker	aye
Council Member Swanson	aye
Council Member Turner	aye

The motion passed unanimously.

AGENDA

2. PUBLIC COMMENTS

Susannah Burt, 1722 N. 150 E., commented on agenda items eight, nine, and ten; the developer of the Village at Prominence Point project has made a number of changes to the development plans initially approved for the Master Planned Community. She is concerned about the proposed reduction of setbacks. She is a backyard neighbor to the subject property and she is concerned about the impact the development will have on her property.

Kyle Anderson, 1257 E. 2250 N., stated that he has received phone calls from constituents since the vehicular accident at 1700 North and Washington Boulevard that resulted in the death of two children; those contacting him have expressed concern about the speed limit on Washington Boulevard. He stated he has done some research into traffic counts for other intersections, such as 2700 North and Highway 89, which has a 45 mile per hour speed limit. He has shared his findings with the Utah Department of Transportation (UDOT), noting that the traffic counts on north Washington Boulevard through North Ogden are 26,000 vehicles daily and this is similar to the traffic counts on Highway 89. Washington Boulevard has a comparable number of businesses as are located along Highway 89, but much more residential traffic accessing the road. Additionally, in the future there will be increased school traffic on the road due to potential adjustments to school boundaries. All of this information has led him to the recommendation that the speed limit on Washington Boulevard be lowered. He has received a response from UDOT indicating they will conduct a speed study as soon as possible and this will be followed by the issuance of a temporary traffic engineering order to lower the speed to 45 miles per hour. This lower speed limit will be monitored over the course of one year to determine driver compliance and whether a permanent change is warranted. If the 85th percentile speed remains over 50 miles per hour, the speed limit will revert to 50 miles per hour as required by law. He asked for the Council's support in moving forward with this recommendation with UDOT. Mayor Chugg stated that Mr. Anderson has the Council's support for what seems to be a reasonable approach.

Brent Call, 835 E. 2100 N., stated that he sent the Mayor and Council a letter requesting that they consider amendments to an ordinance governing accessory structures in the City. He stated that the current ordinance includes an arbitrary definition of what a large accessory building truly is. He stated that he has conducted research to determine regulations that are being used in other cities and found that North Ogden's regulations are much more restrictive than any neighboring city. He stated that he likes Layton City's approach to setbacks for accessory structures, which are based upon a building's height, not size. The setback was adjusted by three-foot increments for every foot of building height over a maximum height regulation. He asked that the Council consider his proposal to amend the ordinance and refer the matter to the Planning Commission. City Administrator/City Attorney Call asked if the Council would like to make that recommendation in order for the Planning Commission to provide them with a formal proposal on the matter. The Council stated they were willing to consider a recommendation on the topic from the Planning Commission.

Aaron Christensen, 2428 Barker Parkway, spoke regarding agenda item 13 on the agenda dealing with City committees; section one of the proposed resolution lists a number of committees to be decommissioned, but includes a catchall "any other committee" category, which means that all committees not specifically designated to be maintained will be decommissioned. Section two lists three committees that will remain in effect, but he recommended that the resolution be amended to list under section two the language "any committee not specified in section one". This will allow for any committee that is not specifically named for decommission to remain in effect given that their service is needed in the future. He then stated that according to resolution 8-2018, the amended City Council Rules of Procedure, includes the following statement: "When a committee is formed, its purpose and relevant time frame will be established. It has been the practice of the Council to publicly appoint members of these committees so citizens can know who is on the committee. Once the committee has given its final report, the committee is to be dissolved." He reiterated the resolution before the Council tonight calls for continuation of their committees, one of which is the Barker Park Committee; the problem with that is that in January of 2016, the minutes of the Barker Park Committee report the Mayor's request for a final meeting to be held followed by a report to the City Council. A final meeting was held on May 25, 2016 and the minutes of that meeting report that they were not adopted because it was the final meeting of the committee and no members of the committee have acknowledged they have ever met since that date. A final report was given to the Council on June 14, 2016 and the City's website states the Barker Park Committee is not an active committee. He stated there appears to be a need for the Barker Park Committee and if the Council plans to continue the committee, the committee should be reestablished by the Council with a statement of the purpose of the committee and its working timeframe. Additionally, members should be publicly appointed. Finally, the minutes from the March 14, 2017 City Council meeting state that the Barker Park Committee has been working on plans for the park and an informal amphitheater committee was formed. Nowhere in City Code can he find the allowance for an informal committee. Before the Council votes to disband the established

committees, it appears there was an active committee working on the development of the larger amphitheater now located at Barker Park; the committee met between June of 2016 and March of 2017, but the City has not properly notified the public of these meetings or properly recorded the minutes of the meetings. He asked that the minutes of those meetings be made public before all committees are decommissioned and the pertinent records are archived. He stated that his intent in asking for these things is in accordance with the rules that govern the City; it seems the City has gotten into the habit of picking and choosing which rules to follow. The current Council Members will eventually be replaced and if the current Council does not follow the rules, there will be no expectation for future Councils to follow the rules. He cited an example of an incorrect date being used on the rules of order resolution he cited earlier in the meeting to prove his claim of the lack of clarity and transparency in City documents; he asked that the Council pay attention to details and indicated he appreciates their service.

Chris Heiner, 972 E. 2650 N., addressed agenda item six, but noted he feels the decision on this issue has already been made. He stated he is amazed at the lack of due diligence on the part of the Council when it comes to matters such as road projects and appropriate speed limits for roads in the City. He stated that if the Council wants a clear understanding of the manner in which speed limits contribute to vehicular accidents, it is necessary to look further than one intersection near the City. For many years it was felt that speed limits on Interstate 15 should be left at 65 miles per hour to ensure safety, but that speed limit has been increased to 70 and again to 75 miles per hour, with areas outside of the Wasatch Front actually being increased to 80 miles per hour. He stated the idea that the speed limit on Washington Boulevard should be reduced to 40 miles per hour is contrary to this concept and he believes that lowering the speed limit will cause more congestion and more traffic on the only road that goes north and south throughout the entire length of the City. Motorists do not have other options and that is why a lower speed limit is not appropriate; other cities do have multiple options for getting in and out and that is why lower speed limits may be appropriate through their most congested areas. North Ogden does not have that luxury, but he acknowledged that some traffic control options could be installed at points along Washington Boulevard to address traffic issues resulting from increased commercial development. However, those issues are being ignored and lowering the speed limit will not address them. He stated he feels the solutions to the problems the City is facing include the extension of Monroe Boulevard further north to alleviate traffic on Washington Boulevard. Also, traffic signals could be installed at intersections with higher traffic levels. Lowering the speed limit on Washington Boulevard without an alternative route will only cause frustration and road rage as well as higher numbers of traffic jams. He stated that the Council appears to have made their decision without getting public input or performing a thorough study.

Randy Winn, 2412 Barker Parkway, stated that he feels the most important item on tonight's agenda is item 11 dealing with the proposed adoption of a Form Based Code (FBC). This document will have the greatest impact on the community and its residents. He expressed a few weeks ago his concerns about the proposed document that will

govern the business section of the City; he has four main concerns: first is the speed with which this proposal has moved with too little discussion among the City Council and the residents. The City has experienced problems in the past when projects have been moved too quickly and too quietly. Second is the fact that the FBC is too restrictive for businesses; North Ogden needs businesses that will serve its citizens to prevent them from driving to other cities to have their needs met. The regulations of the FBC will discourage many businesses from locating in North Ogden and those businesses will find sites outside North Ogden in neighboring cities, which will ultimately hurt the commercial area of the City. Third is the difficulty in finding occupants for commercial spaces; businesses will go elsewhere where many strict regulations are not in place. He stated that after attending the City Council meeting two weeks ago, he attended the following Planning Commission meeting where this subject was discussed and during that meeting the body considered an application for an auto parts store. The application communicated his experience in building an auto parts store in Park City; that city would not allow the project because their codes are too restrictive, and he imagines that developers will experience the same thing in North Ogden upon adoption of the FBC. Fourth relates to traffic issues created by the FBC; Washington Boulevard is one of the two main thoroughfares that motorists use to travel to and from work on a daily basis. Concentrating businesses up to the sidewalks along these thoroughfares and restricting parking behind the buildings will cause traffic problems and unnecessarily slow traffic flows. He stated he spoke to his brother who lives in Mesa, Arizona; he reported that Gilbert, Arizona and many other cities in Arizona are governed by FBC with success, but other cities, such as Mesa, have tried to enact an FBC and they have encountered difficulty in getting businesses to locate there. He stated he would encourage the Council to consider his cautions. He noted that he supports the Downtown Market Area portion of the plan as he feels it will create a quaint village that the City desires without committing the entire City to follow the same rules and regulations. He also supports the complete streets and streetscape policies as he feels they will facilitate beautification of the Washington Boulevard corridor. He asked that the Council delay adoption of the FBC tonight and, instead, seek public input and perform research to see what other communities have encountered when trying to implement an FBC. He asked the Council to consider the practical impacts that businesses and citizens will encounter.

3. PRESENTATION BY KIRK LARSEN

Kirk Larsen stated he is a local artist and following the death of former Mayor Brent Taylor, he was inspired to create a painting, which he calls "Ben and Betsy"; the painting captures the Big Betsy Flag flying with Mt. Ben Lomond as its backdrop. He presented the painting to North Ogden City to be hung at City Hall. He also presented a signed print to Mr. Taylor's widow, Jennie Taylor.

4. PRESENTATION OF AMERICAN SPIRIT AWARD

John Reynolds, founder of the American Spirit Project, stated that the role of the Project is to encourage a great understanding and appreciation of the nation's form of government. He stated that Mayor/Major Brent Taylor certainly epitomized the qualities found in service to one's nation and community. He honored that service by presenting to Mr. Taylor's widow, Jennie Taylor, a plaque and monetary award from the American Spirit Project.

Ms. Taylor thanked Mr. Larsen for his generosity and his gift of the painting of the American Flag in front of Mt. Ben Lomond. She also thanked Mr. Reynolds for the American Spirit Project's recognition of her husband. She thanked the Mayor and Council for their service and their willingness to hold a public office and noted the first few minutes of tonight's meeting have proven that is not an easy task. She stated that despite what some citizens may think, her husband put in countless hours, immeasurable energy, and true consideration to each decision he made. No decision was ever made by flipping a coin. She stated it is an honor to be recognized in Brent's memory and his legacy of service to this great country. She stated she has spoken much with her children over the past several weeks as she has spoken with media, celebrities, local officials, representatives of higher government, and many whose path she may have never crossed otherwise. It has come to the point that none of her children want anything to do with the public discussion because it is a reminder of what they have lost. So, yesterday she took time to explain to her children why she is so public with what they have experienced in losing her husband and their father. She said she is sure Brent would want the residents of North Ogden and the citizens of the United States to know that the price of freedom is immeasurably high, and it has not yet been paid in full. There are thousands who have come before and hundreds more to come who will die for their country and it is a holy honor to stand among those ranks. She stated that though she did not ask for this, she has committed to herself, to the City, to her family, to her country, and to God that none of the charity given to my family will be given in vain. In the six or seven decades that might stand between she and seeing Brent again, she and her family will raise their voices high in the spirit of America. She knows that this is a blessed land and freedom comes straight from God. She has been blessed with the experiences she has had, and she feels a responsibility to share those blessings. She stated that Brent was not required to go to Afghanistan to fight for the freedom of those people; he also was not required to stay for a second tour of duty in Iraq a dozen years ago, but something in him compelled him to serve and he's not alone in that compulsion. She thanked the Mayor, Council, and City staff who carry a heavy weight as they continue in their service to the citizens. She encouraged the residents of the City to get involved in a civil and respectful way; if they are unhappy with the things they believe are being done, they should let their voice be heard in a respectful way and refrain from jumping to conclusions or making accusations that people are making decisions without careful consideration. The spirit of America is a spirit of action, freedom, and responsibility. It is her calling for the time she has remaining on this earth to honor not just her husband, but the American flag and God, under whose direction the flag freely flies.

Mayor Chugg thanked Ms. Taylor for her comments and stated it is always an honor to have her present.

5. **DISCUSSION AND/OR ACTION TO CONSIDER QUARTERLY FINANCIAL REPORT**

A staff memo from Finance Director Nelson referenced the Quarterly Financial Report for the quarter ending September 30, 2018. The detail report provides revenue, expenditure, and balance sheet information for all City funds. A summary sheet is included to provide a visual representation of sales tax trends, and a revenue and expenditure comparison to budget.

Sales Tax: Two sales tax reports have been provided. First is the final sales tax report for Fiscal Year 2018. Revenues were strong throughout the year, with final numbers coming in \$75,919 ahead of budget and \$175,770 ahead of prior year revenues. This represents an increase of 6.87% over the prior year. FY2018 has continued the steady upward trend we have been seeing since FY2012. The second sales tax report, included in the Quarterly Financial Report, is for revenues received in September through November 2018. Total collections exceed projections by \$15,592 or 2.21%. This represents a 7.35% increase over last fiscal year at this time. North Ogden City Sales Tax revenues are fueled by the strength of the local and statewide economy. The national economy has been in a period of growth for many years now. Economists are beginning to predict a slowing of the economy in the coming years.

Summary Graphs: The summary graph shows the status of revenues and expenditures compared to budget. With 25% of the fiscal year elapsed, some funds are expended beyond the 25% mark. This is to be expected during the first quarter of the fiscal year as many annual purchases are made at the beginning of the fiscal year. Please note that budget amendments approved in November are not reflected in the September report.

The memo concluded the City's financial position remains healthy and continues to grow in an expanding economy. Staff looks forward to beginning the budget process in the new year. We will continue to monitor revenues, expenditures, and budgets as we continue through the current year, and will work with departments to accomplish the budget priorities established by the City Council.

Mr. Nelson reviewed his staff memo as well as the additional documents referenced in his memo. He noted that Council Member Swanson reached out to him in advance of the meeting with some questions about the information contained in the report regarding expenditures at the Barker Park Amphitheater; he provided a spreadsheet detailing the revenues and expenses for the facility for FY2018 and FY2019 to date.

	FY18	FY19 TO DATE	TOTAL
Amphitheater Program Revenue	\$9,878.82	\$18,604.72	\$28,483.54
Amphitheater Program Expense	\$4,169.88	\$19,222.09	\$23,391.97
Amphitheater Program Budget	\$21,000	\$21,000	

	FY18	FY19 TO DATE	TOTAL
Amphitheater Construction Revenue	\$687,972.00	\$0	\$687,972.00
Amphitheater Construction Expense	\$2,005,975.70	\$101,320.60	\$2,107,296.30
Amphitheater Construction Budget	\$2,062,390.00	\$756,414.00	

Mr. Nelson indicated that all expenditures are in line with budget amounts, however, the \$101,320.60 construction expense is not a number that was discussed as part of budget amendments for the current FY; that number is made up of three invoices from Wadman Construction for work on the current phase of the project. That issue will need to be revisited as part of a future budget adjustment once the City receives a response from Weber County in regard to the Recreation, Arts, Museum, Parks (RAMP) grant application for the project. He noted there should be no additional invoices from Wadman Construction until work on the next phase of the project commences. City Administrator/City Attorney Call confirmed that is correct and noted the most recent invoice from Wadman was submitted in August of 2018. He added that he will research expenses for the project dating back to 2017 since that is when the design work commenced. This will make it possible for the Council and the public to have a full understanding of all expenses associated with the project.

Council Member Cevering referenced program revenues for FY19 to date and asked for more information about how that revenue was generated. Mr. Nelson stated that is revenue that has been generated in the current FY, which started July 1, 2018, so all revenues would be associated with the Once On This Island production. Additionally, most of the revenue generated in FY18 is associated with that production and the previous year's theatrical production. He added that the City did receive a fair number of donations and contributions and those would have been deposited into the revenue fund.

Council Member Barker asked if the \$21,000 annual budget is solely for programming at the amphitheater or if it is intended to cover other special events or programming. Mr. Nelson stated the budget is solely for amphitheater programming, which has been one annual theatrical production to date.

Mr. Nelson concluded his report by noting that City Administration looks forward to beginning the budget preparation process for the next FY and he invited the Council to submit any of their budget priorities to him in advance of the budget kickoff meeting, which will be scheduled for a City Council meeting in the near future.

Council Member Cevering stated that it is a priority to him to facilitate the improvements needed at Lomond View Park.

Council Member Turner motioned to accept the Quarterly Financial Report as presented. Council Member Covering seconded the motion.

Voting on the motion:

Council Member Barker	aye
Council Member Covering	aye
Council Member Stoker	aye
Council Member Swanson	aye
Council Member Turner	aye

The motion passed unanimously.

6. DISCUSSION AND/OR ACTION TO CONSIDER A REDUCED SPEED LIMIT ON WASHINGTON BLVD.

In response to Mr. Heiner's public comments, Council Member Stoker reported that no formal decision was made regarding this issue; rather, a Representative of the City, Kyle Anderson, reached out to the Council to see if they would like his help in seeking a reduced speed limit on Washington Boulevard. Representative Anderson was invited to come to the City Council meeting to present his findings regarding State policies relating to speed limits given that Washington Boulevard is a State road, not a North Ogden City road. No decision can be made by the City Council without approval from the State of Utah.

Council Member Barker clarified that the study and research that Mr. Heiner asked for will be done by UDOT before any final adjustments to the speed limit are implemented.

7. DISCUSSION AND/OR ACTION TO CONSIDER A PROCLAMATION FOR NORTH OGDEN CITY SCHOOL CHOICE WEEK FOR JANUARY 20-26, 2019

Mayor Chugg reported that he received a letter requesting that North Ogden City join many other cities and county leaders across the country in officially recognizing January 20 through 26 as School Choice Week. National School Choice Week is entirely non-political and non-partisan and the National School Choice Week organization does not lobby for or against any legislation; rather, the goal of the organization is to raise awareness among parents of the public and non-public kindergarten through 12th grade education options available to their children. Last year, more than 720 local leaders, as well as the Senate and President of the United States issued proclamations recognizing National School Choice Week.

Council Member Cevering stated that he researched this issue in response to a claim from a citizen that this is a vitriolic subject on the national level, but he could not find any evidence to support that claim. He stated he could not find a reason not to support a parent's right to choose the method of education for their children.

Council Member Swanson stated he would like to know more about this issue before supporting the Proclamation; he would like to know more about the National School Choice Week organization and its leadership and gain a clear understanding that this is truly an a-political organization.

Council Member Stoker stated she would also like to know more about the organization.

Council Member Barker stated that residents know that they have multiple educational opportunities in the community and he is unsure that adoption of the proclamation would have any impact.

Mayor Chugg concluded he will investigate the matter more and report back to the Council in advance of the January 20 date.

8. **DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE TO ESTABLISH A SETBACK STANDARD FOR LOTS HAVING A SLOPE GREATER THAN 10%**

A staff memo from Planning Director Scott explained when the City is considering a legislative matter, the Planning Commission is acting as a recommending body to the City Council. The City has wide discretion in taking legislative action. 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.

The North Ogden City Planning Commission on October 15, 2014 discussed an amendment to allow a front setback reduction from 30 feet to 20 feet on lots having an average slope above 10 percent.

The Planning Commission reviewed the draft amendment on November 14, 2018 and requested that a public hearing be set.

The Planning Commission conducted a public hearing on December 5, 2018. Two residents spoke at the hearing; one spoke in favor of the amendment.

Since 2014, 6 variance requests for reduced front setbacks have been granted by the hearing officer. The hearing officer is recommending that North Ogden consider an

amendment to allow these setback reductions with an appropriate standard. The basis for granting these variances is that a reduced setback creates a safer buildable area, eliminates excessive retaining walls, reduces excessive cut and fill, and increases the usable area for the lots.

Steep slopes are generally more difficult and expensive to build upon. Additionally, this amendment will make lots safer to build upon, improves erosion control on the building lot and abutting neighbors' lots, lessens the amount of erosion, and provides for more stability.

North Ogden City's ordinances require a 30-foot front setback. This is measured from the front property line which is usually one foot back of the sidewalk. The front setback also needs to provide for utility easements and driveways to access parking.

The following provision regarding slope standards is found below:

11-25: DEVELOPMENT CONSTRAINTS

F. Development on natural slopes steeper than 20% shall be prohibited without a request for and approval of a variance submitted to the City including engineering recommendations from a certified and licensed engineer and subject to approval of the City Engineer. Any such approved variance, including any additional engineering to accommodate slope development, shall become an enforceable requirement for any development, construction, excavation or other activity on any such slope.

1. Natural slope is considered to be existing undisturbed terrain.
2. These sloped areas shall remain undisturbed even though they may be part of a subdivision lot except as authorized by any approved variance permitting development or other construction activities on any natural slope in excess of 20%.
3. Any area of a lot in excess of 20% natural slope shall not be included when the minimum lot area is calculated for the zone in which the subdivision is to be developed if no variance to this slope restriction has been granted.
4. Conditional Use Permit shall be required to cross these areas with street improvements.

Lots that are over 20% slope are non-buildable unless a variance is obtained. It seems reasonable that lots with a slope over 10% could be eligible for a 10-foot front setback reduction. This leaves 20 feet of driveway for visitor parking.

CONFORMANCE WITH THE GENERAL PLAN

The Vision for North Ogden

- Preserve the essential characteristic of a family friendly community that assures an enduring legacy, small town feel, and high quality of life in North Ogden.

- Recognize that the proximity to the mountains also results in many environmental issues that need to be proactively addressed through community policies, incentive, and ordinances.

Top Priorities

Housing

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

Environment

- Continue to use the land use approach found in the Hillside Protection zones to incentivize developers to avoid sensitive lands.
- Reduce and avoid impacts on sensitive lands. Sensitive lands include: wetlands, riparian corridors, steep slopes, and slide runway areas, avalanche paths, and others.
- Work with developers to dedicate open space, natural areas, especially those that are sensitive and not developable such as riparian areas, drainages, outcroppings, steep slopes, avalanche prone areas, mudslide prone areas, wetlands, etc.

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.
- Work with homeowners, landlords, and renters to maintain and improve existing properties.

The memo offered the following summary of potential Land Use Authority considerations:

- Should the setback standards for lots be reduced from 30 feet to 20 feet on lots having an overall slope greater than 10%?
- Is the proposal consistent with the General Plan?

The memo summarized the proposed ordinance amendment language:

11-10-36 SETBACKS ON LOTS WITH AN OVERALL PERCENTAGE GREATER THAN 10 PERCENT

Residential lots with an overall slope percentage greater than 10 percent may have the front setback reduced from 30 feet to 20 feet. Slopes shall be measured from a point on the front lot line to a point on the rear lot line.

The memo concluded the Planning Commission on a 5-0 vote recommends adoption of the amendment. The Planning Commission found that the amendment is consistent with the General Plan.

Mr. Scott reviewed his staff memo and facilitated a discussion among the Council regarding the implications of the proposed amendment.

Mayor Chugg invited public input. There were no persons appearing to be heard.

Council Member Swanson motioned to approve Ordinance 2018-32 to establish a setback standard for lots having a slope greater than 10%. Council Member Cevering seconded the motion.

Voting on the motion:

Council Member Barker	aye
Council Member Cevering	aye
Council Member Stoker	aye
Council Member Swanson	aye
Council Member Turner	aye

The motion passed unanimously.

9. **DISCUSSION AND/OR ACTION TO CONSIDER AMENDMENTS TO THE VILLAGE AT PROMINENCE POINT, PHASE 1 AND 2, AGE RESTRICTED COTTAGES TO REDUCE THE REAR SETBACK FROM 20 FEET TO 10 FEET AND THE FRONT SETBACK FROM 20 FEET TO 10 FEET AND CLARIFY THE SETBACKS ON THE LOTS ABUTTING THE RESERVE AREA OF 300 EAST**

A staff memo from Planning Director Scott explained Visionary Homes is the developer of the Age Restricted Cottages in the Village at Prominence Point, Phases 1 and 2. The applicant is requesting two amendments to the Village at Prominence Point development agreement.

Amendment 1 would reduce the rear setback for the age restricted cottages from 20 feet to 10 feet. Amendment 2, Staff is recommending an amendment to reduce the front setback from 15 feet to 10 feet. Amendment 3 clarifies the setback adjoining the reserve area for 300 East be measured from the back of curb.

Amendment 1 Rear Setback Reduction

The Planning Commission considered the above amendment requests on December 5, 2018. The Planning Commission granted final approval for the Village at Prominence Point subdivision, Phase 1 and 2 on August 8, 2018.

Agreement # A29-2017 specifies in Exhibit L that the rear setbacks for Phase 1 and 2 are required to be a minimum of 20 feet. The cottage lots are lots 23-35; 82-93. The building height maximum is 25 feet for all cottages.

Lots 23-35 range in area from 4,314 to 7,207; and have buildable areas ranging from 2,130 square feet to 3,852 square feet. Lots 82-93 range in area from 4,262 to 18,636 square feet; and have buildable areas ranging from 1,747 square feet to 3,250 square feet. (See Exhibits E and F) The lot depths range from 78.5 feet to 93 feet in lots 23-35 and 77 feet to 183 feet in lots 82-93.

There are seven cottage floor plans that range in size from 1,215 square feet to 2,089 square feet. (See Exhibits D and G) The floor plans show a building depth range of 43.5 feet to 57 feet. The front setback is recommended to be set at 10 feet to provide additional flexibility. The driveway inserts shown on the site plan are for the required driveway depth of 20 feet to ensure that parked cars will not overhang the sidewalk.

Rear Setback Analysis

The applicant is requesting the flexibility of adding additional floor plans which will require a setback reduction.

The shortest lot depth in the project is 77 feet; lots 85 and 86. The applicant has shown a house plan that with the 10-foot front setback and 43.5 feet of building depth retains a 23.5-foot rear setback. The applicant's request is that another house plan with a 52-foot depth be allowed. Allowing this additional house plan would require a 15-foot rear setback.

The house plans that have a 50+ foot depth require a lot depth of 80 to 85 feet to meet the 20-foot rear setback.

By adjusting the house plans to the lot depths none of the lots will require a rear lot setback reduction.

The relationship to adjoining uses should be considered in this decision. The Roylance Farms subdivision, Phases 3 and 4, are to the north and west. These lots contain single family homes with varying setbacks with a minimum rear setback of 20 feet. The Canyon View Senior Living Center is to the south. That site plan shows similar cottage units with a 21-foot rear setback.

Recently, the R-1-5 zone was adopted and applied to the Legacy North subdivision. This subdivision is similar to the Village at Prominence Point subdivision, Phase 1 and 2. The R-1-5 zone requires an area range of 4,000 to 5,000 square foot lots. The front setback is 20 feet, sides 7 feet, and rear 20 feet. There is an exception for the rear yard setback may be reduced 10% provided that the combined distance between the neighboring structures

remains 40 feet or greater. This was applied to the west side of Legacy North subdivision where it borders the Smith's store; a two-foot reduction was granted to an 18-foot rear yard setback.

Amendment 2 Front Setback

Staff has consistently recommended that the front setback for the cottages be 10 feet. In the site plan review process, it was discovered that the ordinance requires a 15-foot minimum. Staff recommends that the front setback for the cottages be 10 feet.

Amendment 3 300 East Setback

There is a future 60-foot-wide road extension reservation shown in Phase 1. This makes lot 22 and 23 corner lots with a required 20-foot setback on the side of the lot facing the street. If this road is ever built, the final design will take into account the required setback distance. It seems reasonable to allow some flexibility with this setback. This road has only been conceptually designed because the Council and neighbors have not recommended that it actually be connected. For the foreseeable future this will remain a small park like area.

Lot 22 is on the east side of the 300 East reservation; it shows a 10-foot setback. With 300 East being curved at this point a back of curb allowance will meet the 20-foot setback.

Lot 23 is on the west of the 300 East reservation. The measurement from the back of curb for 300 East will provide a 13.82 feet side yard at the nearest point and transitions to approximately 18 feet on the north end. The City Council will need to determine if this is sufficient.

The memo noted this is a policy decision for the Planning Commission and City Council.

Amendment 1: The Planning Commission recommends that the rear setback be reduced from 20 feet to 15 feet. The Planning Commission found that the relocation of the cottage units to abut the single-family homes provides a better housing type transition and this is an acceptable alternative. The vote was 3 in favor, one opposed, and one abstention.

The City Council has 3 options for Amendment 1:

Option 1: Approve the Planning Commission recommendation to reduce the rear setback from 20 feet to 15 feet.

Option 2: Approve the applicant's request to reduce the rear setback from 20 feet to 10 feet.

Option 3: Deny the amendment.

Amendment 2: The Planning Commission vote was 4 in favor with 1 abstention to recommend approval of this development agreement amendment that the front setback be reduced to 10 feet from 15 feet.

Amendment 3: The Planning Commission vote was 4 in favor with 1 abstention to recommend approval of this development agreement amendment to approve the setback measurement on lots 22 and 23 as shown on Exhibit H. The Planning Commission found this to be a reasonable request given the uncertainty of the 300 East being extended.

A revised development agreement will be prepared and brought back for formal approval reflecting the City Council decision.

Mr. Scott reviewed his staff memo and provided conceptual plans for the Village at Prominence Point project to illustrate the implications of the proposal to adjust setback regulations. He also reviewed the seven optional cottage floor plans provided by the developer that will be harmonious with the proposed setback adjustments.

Council Member Swanson asked if all seven floor plans can accommodate the current 20-foot setback requirement. Mr. Scott stated that depends upon which lot they are located; there is one plan that can accommodate the 20-foot setback on all lots in the development. Council Member Swanson asked if the purpose of the request is to allow for the construction of any of the seven floor plans on any lot in the subdivision. Mr. Scott referred to the lot matrix for the project and stated it includes the floor plans that would be suitable for each lot; he would recommend approving the lot matrix as part of the site plan to give buyers information about the floor plans available to them in order to meet the setback regulations. The applicant, Jeff Jackson, clarified that the lot matrix is based upon a 10-foot setback regulation, not the current 20-foot setback regulation.

Mr. Scott then reviewed the second item that is part of this application, which relates to setbacks for lots abutting 300 East. For the time being, there are no plans to extend 300 East through the Village at Prominence Point project to provide vehicular access; however, there will be some sort of access through the easement and it is necessary to consider setbacks for what will be 'corner lots' abutting the access.

Mayor Chugg invited public input.

Michelle Call, 835 E. 2100 N., stated she is speaking on behalf of her son and his wife; her son is currently deployed. She was at their home last week when someone visited with her daughter-in-law about this issue and she was unable to offer support for the adjustment without first talking to her husband. Ms. Call then stated that she is very upset by this issue; she does not understand why adjustments to the plans that have been approved are appropriate. The developer is asking for approval to add floor plans that do not comply with the approvals that were originally granted. Council Member Turner noted that the developer of this portion of the project is different than the developer who

originally worked with the City to get the entire Master Planned Community (MPC) project approved; it is not unusual for the second developer to seek some changes or the addition of building plans. Ms. Call stated she understands that, but her frustration is that the developer is not willing to consider plans that fit into the project that has been approved; rather, he is seeking adjustments to the approved plan to accommodate his plans. She added that her son was very concerned about this project before his deployment and she wants to try to represent him and his interests in this development.

Mr. Scott referenced the site plan for the project and indicated that the initial plan actually included townhomes that would abut the existing residential developments to the north and west; that plan has been adjusted to relocate the single-family cottage units to the edge of the development with the townhomes located on the interior. One reason staff and the Planning Commission were comfortable adjusting the rear yard setbacks was that the units to be constructed in this phase of the project are compatible with the existing single-family uses.

Mr. Jackson re-approached and reviewed the history of Visionary Homes' involvement in this project; he has been working for the last year and a half to develop a residential project that fits within the plans that have been approved, but many challenges have arisen and the challenge he is currently dealing with is the original design of the building lots and the fact that they are too shallow. This was creating a challenge in providing an attractive development that can be marketed to the target demographic. He understands the concerns of the residents to the north, but he does not feel the neighbors to the west will be impacted as greatly due to the natural buffer of the canal and walking trail. He stated he has spoken with the nine homeowners to the north to discuss the current proposal regarding the setback reductions; five of the nine were supportive of the requested amendment, one home is vacant, one said they would follow the majority of their neighbors, one was undecided, and there was one opposed to the amendment. He stated he is concluding that seven of the nine homeowners are supportive of the amendment. He stated that the main reason he feels this adjustment is favorable for the adjacent residents is that the townhomes have been moved to the interior of the project, meaning that the existing residences will be abutted by similar single-family uses and there will be a six-foot vinyl fence between the new development and existing development. He stated that one reason for the misunderstanding of the setback requirements was that the plat that was created for the project included an 18-foot driveway that was measured from the street and not the back of the sidewalk; this was misleading when considering dimensions and setback requirements and resulted in the loss of seven feet of space per lot. He then distributed a handout to the Council that included the seven home design plans for the project and provided an overview of the details of each of the plans; he also identified the manner in which each of the plans would be situated on a building lot in the project. The smallest home plan would barely fit on the average lot in the development; the request to reduce the setbacks is appropriate given that the intent of a 55-and-older community is to provide buyers access to a smaller home with a smaller lot to maintain, but he cannot make the homes smaller than

approximately 1,500 and expect the project to be marketable. To make the lots buildable, he is seeking a 10-foot front and rear setback.

High level discussion among the Council, staff, and applicant centered on the lot sizes in the development and Mr. Jackson emphasized that one reason this issue arose is that the original developer measured setbacks and driveway lengths from the road rather than behind the sidewalk; that is a method that some developers use to make a project more attractive to approving entities, but when it comes time to develop, the development can not occur as designed. Council Member Barker asked Mr. Jackson if he has spoken with the initial developer, Jack Barrett, about that issue. Mr. Jackson answered yes and indicated that Mr. Barrett, as well as his engineer, Chris Cave, both believed that the setbacks that were approved for the project were 10 feet rather than 20 feet, but they cannot provide evidence of that approval. He noted that if he is unable to secure approval of the reduced setback, he may seek recourse from Mr. Barrett. Council Member Barker stated he is concerned about reducing the setback and noted that this type of accommodation has not been granted to any other Planned Residential Unit Development (PRUD) in the City. Mr. Jackson stated he understands that, but he also understands the intent of the MPC zone was to provide a 'give and take' relationship between the developer and the City whereby the developer would negotiate various amenities within the project in exchange for adjustments to typical development standards.

Council Member Stoker stated that her greatest concern is that this project was supposed to set the standard for this type of development in the City, but if these types of adjustments continue to be made, that standard is essentially being lowered. Mr. Jackson stated that he understands that sentiment, but noted the City should not have approved a building lot that is less than 85 or 90 feet deep and this project has lots that are 77 feet deep; it is impossible to accommodate the 20-foot setback requirements with such shallow lots.

Council Member Turner stated he is aware of high-quality developments that have narrow setbacks such as Mr. Jackson is seeking, but he is not sure this project is the right project for that type of development.

Council Member Cevering inquired as to the purchase price for the average home in this project. Mr. Jackson stated that the average price will be \$250,000 to \$260,000, which will include the lot.

Mr. Scott stated that one of the difficulties the City encounters in these types of projects is basing approvals upon concept plans; staff was given a concept plan rather than exact dimensions for the project and in the future, he will ensure that applicants are required to provide final site plans rather than concept plans and he agreed with Mr. Jackson that the lack of those clear dimensions has put him in a quandary.

Council Member Turner asked if it may be possible that the reason for narrower roads in the Legacy development was to accommodate the 20-foot setback requirement. Mr. Scott stated that may be the case, but he was not involved in that project as it was completed before his employment with the City.

Council Member Swanson stated that he also talked to the residents to the north of this project and they expressed that they want single family development located adjacent to their property rather than the townhome portion of the project and for that accommodation they were willing to live with a reduced setback. He asked if it is possible to measure the setback from the street rather than behind the sidewalk for this particular project. Mr. Scott stated that may result in the development of streets that are too narrow to accommodate any on-street parking and safety vehicular travel. He stated he would rather reduce the setback than measure from the street. This led to philosophical discussion and debate regarding the appropriateness of the proposal to reduce the setbacks; Council Member Swanson stated that he is comfortable reducing the front setback, but not the rear setback.

Mr. Jackson summarized the impact of any setback over 10-feet on each of the building plans that he has selected for this development; he stated he understands that is his issue to resolve, but he does not want to be left with a useless plan. If the concern is for the neighbors to the north, he wondered if the Council would be willing to consider a different setback for the south and west homes than for the north homes. A 10-foot setback will not negatively impact the south and west areas as there is a natural buffer to the west and to the south the project will abut townhomes. He stated this would enable him to locate the larger homes on those lots with a reduced setback and locate the smaller homes adjacent to the existing development to the north. The Council reviewed the site plan to gain an understanding of how the plan would look with the reduced setbacks on the west and south lots. Council Member Swanson stated that he would not be opposed to the reduced setback on the southern portion of the project or the lots 33 through 35 that abut the detention pond in the project.

Council Member Turner stated he keeps going back to the Planning Commission's recommendation to reduce the setback to 15 feet in the rear and 10 feet in the back. He stated he would be willing to accept that recommendation as well as reduce the setbacks on the southern portion of the property and on the lots that abut the detention pond.

Council Member Cevering referenced a letter submitted to the Council by Mr. Call (the resident who is deployed) and noted it included the statement that 'while he is not necessarily in favor of reducing the setbacks, he understands the reasoning behind the request and is willing to compromise'. Council Member Cevering stated that he wants to help Mr. Jackson while also protecting the residents living in the existing residential developments, specifically the development to the north that does not enjoy the benefit of a natural buffer of the trail and canal.

Brenda Ashdown, 193 E. Pleasant View Drive, stated that if the front setback is reduced to a point that there is only five feet between the garage and the back of the sidewalk, homeowners will not have room to park on their driveway outside of their garage. Mr. Jackson stated that the garage would be setback an additional five feet to provide a long enough driveway. There was brief high-level discussion regarding the manner in which the plat would be altered based upon adjustments to the rear and front setbacks, with Ms. Ashdown concluding that it may be appropriate to compromise by reducing the rear setback to 15 feet, but she would be opposed to narrower roads that would not accommodate on-street parking, which will be in demand in this development.

Brent Call, 835 E. 2100 N., asked if the utilities have been installed for this project, to which Mr. Scott answered yes. Mr. Call stated that it was going to be his suggestion to reduce the total number of lots and adjust lot sizes to accommodate the setback requirements, but that is not possible if the infrastructure has been installed. He then spoke on behalf of his son, Johnathan Call, who communicated that he feels the builder is trying hard to address the concerns of existing residents and that he is not too concerned about the reduction of the setbacks so long as 300 East is never extended.

Susan Clements, 668 E. 3121 N., asked if it is necessary to have sidewalks on both sides of the streets in this development; she stated that Legacy only has sidewalks on one side of the road. She does not use sidewalks very often because they are not always cleared, and many have low hanging branches above them that can hinder pedestrian travel. She stated she understands that sidewalks are needed in areas close to schools, but in this project, it may not be necessary.

Mr. Jackson asked if there is something he could do to provide a landscape buffer or screen to mitigate the impact of a reduced rear yard setback for residents to the north. He stated he would be willing to dedicate a defined amount of money for that purpose. Council Member Turner stated he is not opposed to a 10-foot setback for the lots on the south end of the development or for the lots that abut the detention basin. His concerns related to lots 23 to 32, but he has seen high quality developments of this type with a narrower rear yard setback.

Meg Sanders, 2915 N. 875 E., referenced Mr. Jackson's comments about speaking with the residents in the development to the north; she noted the Council is considering a compromise based upon the fact that five of those homeowners indicated they were comfortable with the reduced setbacks based on the fact that the single family residential development will abut their properties rather than the townhome use, but she emphasized that there were some homeowners that were comfortable with the adjustment and she asked why the Council would consider a compromise given there is still opposition. Many homeowners in this area purchased their home with an understanding of the types of development that could occur on the raw ground adjacent to them, but now the City is changing those plans in order to meet the needs of a builder. She then stated that it was not too long ago that another developer approached the City to change plans that had

been approved for a project they were developing and the Planning Commission denied that request; however, that same body is now recommending that the City Council consider this compromise. She asked how the City decides which developers and builders deserve compromise or an adjustment to plans that have been set for a project; the City should be more focused on protecting residents and their property interests.

Kevin Burns, 795 E. 1925 N., stated that Council Member Stoker made the best comment that has been made tonight and that is that the City is trying to 'get it right' to ensure that future master planned community developments are high quality. He stated he thinks it is important that the Council take their time to make sure they can get it right; he knows the builder is seeking quick action from the Council, but there are many other future issues that are dependent upon the decision the Council is being asked to make. He encouraged the Council to take the time needed to consider this issue adequately.

Council Member Turner stated that he feels it would be appropriate to take additional time to consider this issue. Council Member Swanson agreed and stated he is not ready to make a decision tonight. Council Member Turner stated that he gets the impression that the developer wants to do the right thing, but when he bought the property he thought he was getting something different than what has been approved by the City. He feels that Mr. Jackson is trying to work within City regulations and that the adjustments that he is recommending may actually improve the project and reduce the impact that existing residents may experience. However, it is true that the City Council has considered the plan for the entire development many times and he needs to take additional time to think about the request before voting to amend those plans. There was brief concluding discussion among the Council and Mr. Jackson regarding any options for meeting current setback requirements within the plan that has been approved, with Mr. Jackson ultimately noting that timing of this decision is crucial to him; he has owned the property for an entire year and he has been accruing interest in his financial obligations for that time with no ability to proceed with the project. He stated that if everyone is comfortable, he would be willing to accept the amendment recommended by Council Members Swanson and Turner earlier in the meeting to reduce the front and rear setbacks to 10-feet for the lots on the south and west portions of the project; he would maintain a 15-foot setback for the homes on the north side of the development that abut the nine homes he referenced previously. He stated if that amendment is approved, he can develop new home designs that will fit on those lots. Council Member Turner stated he would be comfortable with that compromise.

Mr. Call stated that if the Council is going to proceed with an amendment to the plans for this project, it will be necessary for staff and the applicant to work together to develop a new Exhibit L to the development agreement that will identify the setback adjustments. He stated that the Council can make a motion giving direction to the developer and staff regarding the desired adjustments to that exhibit, but an additional action will be necessary to formally consider an adjustment to the development agreement.

Council Member Turner motioned to approve amendments to the village at prominence point, phase 1 and 2, age restricted cottages as follows:

- **For lots 33 through 35, and 82 through 93, front and rear setbacks reduced from 20-feet to 10-feet.**
- **For lots 23 through 32, front setbacks reduced to 10-feet and rear setbacks reduced to 15-feet.**
- **The 10-foot front setback is measured from the front property line to the front of the structure.**

Council Member Cevering seconded the motion.

Council Member Swanson stated that he is not comfortable with the reduction of the rear setback to 15-feet for lots 23 through 32. The City made an agreement with the developer of this project and he is worried about reducing the rear yard setbacks for the lots on the north side of the development as it is contrary to the commitment that the City has made to those residents repeatedly. He stated he would either offer a substitute motion or vote in opposition to Council Member Turner's motion.

Council Member Swanson offered a substitute motion to approve amendments to the village at prominence point, phase 1 and 2, age restricted cottages as follows:

- **For lots 33 through 35, and 82 through 93, front and rear setbacks reduced from 20-feet to 10-feet. Front setbacks for these lots to be measured from property line, rather than from back of sidewalk.**
- **For lots 23 through 32, front setbacks reduced to 10-feet and rear setbacks maintained at 20-feet. Front setbacks for these lots to be measured from property line, rather than from back of sidewalk.**

Council Member Stoker seconded the motion.

Mr. Call advised that the Council would first vote on the substitute motion; if that motion carries, it will replace the original motion and the Council would then vote on whether to approve or deny the substitute motion.

Voting on the substitute motion to replace the original motion:

Council Member Barker	aye
Council Member Cevering	nay
Council Member Stoker	aye
Council Member Swanson	aye
Council Member Turner	nay

The motion passed on a three to two vote.

Voting on approval of the substitute motion:

Council Member Barker	aye
Council Member Cevering	nay
Council Member Stoker	aye
Council Member Swanson	aye
Council Member Turner	aye

The motion passed on a four to one vote.

Council Member Swanson stated he would also be willing to consider the recommendation from Ms. Clements to only require sidewalks on one side of the street; that may aid the developer in fitting his building plans on the lots with the 15-foot front yard setback and 20-foot rear yard setback. Council Member Turner stated that he personally favors sidewalks on both sides of the street and before considering allowing sidewalks on just one side of the street, he would want to be confident there is adequate connectivity throughout the development.

Council Member Barker moved to approve amendment #3 to the Village at Prominence Point development agreement, phase 1 and 2, age restricted cottages; setback measurement on lots 22 and 23 as shown on exhibit H. Council Member Turner seconded the motion.

Voting on the motion:

Council Member Barker	aye
Council Member Cevering	aye
Council Member Stoker	aye
Council Member Swanson	aye
Council Member Turner	aye

The motion passed unanimously.

10. DISCUSSION AND/OR ACTION TO CONSIDER AMENDING THE VILLAGE AT PROMINENCE POINT DEVELOPMENT AGREEMENT TO ADD AUTOMATIC CAR WASH AS AN ALLOWED USE

A staff memo from Planning Director Scott explained when the City is considering a legislative matter, the Planning Commission is acting as a recommending body to the City Council. The City has wide discretion in taking legislative action. 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 October 9, 2018 the City Council approved an amendment to the Village at Prominence Point Development Agreement to add automatic car wash as an allowed use. The development agreement document was not formally approved by the City Council. The attached development agreement amendment is before the City Council to formalize that decision.

The memo concluded the recommendation before the City Council is to consider adoption of the development agreement to allow automatic car wash as an allowed use.

Mr. Scott reviewed the staff memo.

Council Member Turner motioned to approve the 4th Amendment A22-2018 to the Village at Prominence Point to list automatic car washes as an allowed use in the development. Council Member Cevering seconded the motion.

Voting on the motion:

Council Member Barker	aye
Council Member Cevering	aye
Council Member Stoker	aye
Council Member Swanson	aye
Council Member Turner	aye

The motion passed unanimously.

11. DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE ALLOWING TEMPORARY LAND USE REGULATION ALONG WASHINGTON BOULEVARD AND 2700 NORTH, UNTIL CITY COUNCIL IMPLEMENTS FORM BASED CODE

A staff memo from City Administrator/City Attorney Call explained City Administration has drafted an ordinance that would essentially allow the Council to adopt the draft version of the form based code along Washington Boulevard and 2700 North so that an individual wishing to develop their property can move towards the direction the City is heading in and possibly get approvals while the Council works out the final details on the form based code.

The Council will still need to adopt or reject a final version of the code or it will revert back to the current zoning for all the properties affected by this ordinance. If final action is not taken within six months of this action, the draft version of the form based code will lapse and land use regulations will revert to the current ordinance.

Mr. Call reviewed the staff memo and noted that if the Council is more comfortable restricting the temporary land use regulation to the City's downtown area, as recommended by Mr. Winn during public comments, that is an option. He stated he is not aware of any pending applications for development of property on Washington Boulevard outside of the downtown area, so he is comfortable focusing the temporary land use regulation to the downtown area strictly. He noted the form based code regulations would apply to properties in the Downtown Market Place subdistrict. Property is zoned C-2 and CP-2 and the regulations would apply to properties within 200 feet of Washington Boulevard and 2000 North and properties within 300 feet of 2700 North and 2550 North.

Council Member Swanson asked what would happen if the Council chooses to abandon the form based code before the temporary land use regulation expires. Mr. Call stated that the temporary land use regulation would be abandoned and land use governance would revert to the current City Code.

Mayor Chugg invited public input.

Julie Anderson, 940 E., 2600 N., stated that the Planning Commission recently considered an application for development of an O'Reilly's auto parts store; this development will not be required to follow the form based code regulations since the application was made in advance of any adoption of the form based code. However, the development will impact the rest of the Marketplace subdistrict and future businesses will be required to adhere to stricter standards. She stated he is not sure what the City is trying to accomplish with a form based code so she is concerned about a temporary land use restriction. The developer of the O'Reilly's business was very willing to consider regulations that are contemplated in the form based code, but that will not be entirely possible because that business uses very specific colors and design components that are not allowed in the form based code. The developer has indicated that he is in talks with at least two restaurant entities that are interested in locating in North Ogden and those businesses would be required to conform with the form based code and that seems somewhat unfair.

Council Member Swanson stated that he drove by three different O'Reilly's auto parts locations today and their architecture and design was beautiful and not something that he would be opposed to seeing in North Ogden. He stated he feels they would conform with the form based code and will not 'stick out' as much as some might think.

Kevin Burns, 795 E. 1925 N., stated there has been a lot of talk about form based code over the past couple months and he has tried to imagine the type of development that will occur in the community under a form based code. Imagining that type of development has been impossible for him and it feels as if the City is trying to 'pound a square peg into a round hole' with the form based code. He stated it does not seem to fit for this

community and he believes that the outcome will be similar to what has occurred in the Village at Prominence Point and that is multiple amendments and concessions after the initial adoption of a plan. He encouraged the Council to get it right.

Council Member Stoker stated it is her understanding that the form based code is based upon public input relative to the type of development that residents desire for North Ogden's commercial area; the code will allow the City to dictate design standards rather than being forced to accept any design submitted by a developer. Council Member Swanson agreed; he also agrees that the form based code may not be a success in all communities. Because the Council has not yet made a formal decision regarding whether to pursue permanent adoption of a form based code or abandon the concept altogether, he is in favor of adopting a temporary land use regulation that gives the City control of commercial development in the next six months until a final decision can be made.

Council Member Barker stated that he has concerns about implementing a form based code given that the existing commercial development in the City will not be in compliance with the design standards of the document; a form based code would be a great option for a city 'starting from scratch' with no commercial development.

Council Member Cevering stated that the purpose of the action before the Council tonight is to simply give the body six months to determine whether a form based code is a viable option for the City in the long term; he feels there are great things about the draft version of the form based code, but he agrees that some businesses could view it as restrictive and that could possibly prevent them from locating in the City. He believes that standards that simplify the development process in the City are needed, but he is unsure whether North Ogden is the type of City for which a form based code is suitable. He stated that he likes that the action before the Council will give them an additional six months to determine whether the document should be enacted on a permanent basis.

Council Member Swanson motioned to approve Ordinance 2018-33 allowing temporary land use regulation as discussed along Washington Boulevard until City Council implements form based code. Council Member Turner seconded the motion.

Voting on the motion:

Council Member Barker	nay
Council Member Cevering	aye
Council Member Stoker	aye
Council Member Swanson	aye
Council Member Turner	aye

The motion passed 4-1.

Council Member Cevering asked if the idea of considering a form based code for North Ogden originated with staff or if it was a directive from the Council. Council Member Turner stated there was discussion among the City, staff, and even the Planning Commission regarding the need to consider formal standards for development in the City. Council Member Swanson added that he recalls the idea was raised as the City was initially considering the Village at Prominence Point project; there was a collective sentiment that the City did not want to go through the lengthy process of developing a development agreement for each project like the Village at Prominence Point development.

12. DISCUSSION AND/OR ACTION TO CONSIDER AMENDING THE DEVELOPMENT AGREEMENT FOR CHERRY SPRINGS VILLAS PROJECT LOCATED AT APPROXIMATELY 100 E 2700 N TO ALLOW A 20-FOOT-WIDE GARAGE WIDTH

A staff memo from Planning Director Scott explained when the City Council is acting as the land use authority, 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.

The City Council approved a zone change and development agreement for the Cherry Springs Villas project on June 13, 2017.

The Cherry Springs Villas is an owner occupied, senior living, zero lot line project. There are 21 buildings with 4 attached homes for a total of 84 units. The amenities consist of a club house, pool, and open space.

The subdivision was approved on May 2, 2018. The project is under construction and the applicant is undergoing building permit review. It was discovered as part of this review that the proposed garage size does not meet the width requirement. City ordinance requires a 22-foot-wide garage; the applicant's design shows a 20-foot width.

The MPC zone allows standards to be set by the City Council. The applicant is requesting that the development agreement section 5 be modified to allow a 20-foot-wide garage. (See Exhibit A) The nature of this project is that of senior living. The residents for these units have fewer cars than a standard residential development.

The memo offered the following summary of City Council considerations:

- Is the modification request to the development agreement appropriate?

The memo concluded this request seems reasonable given the track record for previous developments. The other provisions of the development agreement remain in place.

Mr. Scott reviewed the staff memo.

The applicant, Dave Erickson, approached and stated that he is anxious to begin this project; he has built upwards of 1,800 units with this same design and with the same target market. His communities average 1.7 people per home and 1.3 cars per homes.

Council Member Cevering motioned to approve amending the development agreement A23-2018 for Cherry Springs villas project located at approximately 100 E 2700 N to allow a 20-foot garage width. Council Member Turner seconded the motion.

Voting on the motion:

Council Member Barker	aye
Council Member Cevering	aye
Council Member Stoker	aye
Council Member Swanson	aye
Council Member Turner	aye

The motion passed unanimously.

13. DISCUSSION AND/OR ACTION TO CONSIDER A RESOLUTION TO DECOMMISSION SOME OF THE CITY'S COMMITTEES

A staff memo from City Administrator/City Attorney Call explained the City has several committees which have completed their assigned task and no longer need to be considered active committees. To that end we have prepared a resolution to officially decommission those committees as well as clearly establish the committees which are remaining.

All the information related to those committees will be kept in the official City Records until they are transferred to the state archives. We just wanted to make it clear that this resolution will not erase these committees, but officially put them on an inactive status.

Mr. Call reviewed the staff memo. He noted that decommissioning the committees will not result in elimination of any records associated with those committees; rather, the records will be maintained by the City as required or turned over to the State archives for

retention. All minutes are permanent records and will not be destroyed. He then reviewed the scope of work for the three committees that are included in the resolution for retention.

Council Member Turner stated it is his recollection that the intent was to rename the Barker Park Committee to something more general that encompasses arts and recreation. Mayor Chugg stated that was actually going to be a new committee independent of the Barker Park Committee. Council Member Turner then asked if the City will require people to apply to be appointed to the committees rather than simply appointing individuals without requiring them to apply. He asked if it is necessary to specify that in the resolution document. Mr. Call stated that the City will follow State Code, which indicates the Mayor appoints committee members with the advice and consent of the City Council; if the Council wishes to direct the Mayor to require an application process, it would not be inappropriate to include that information in the resolution.

Council Member Swanson stated he would like to make an adjustment to the name of the Barker Park Committee in order to differentiate to the work that was done previously by the initial Committee; that committee worked on the design of the Park, which is now complete, and he recommended that the new committee's name indicate that they are charged with completion of the Park.

Council Member Turner referenced the Parks and Trails Committee, which is an independent body with 501(c)(3) status; he asked if that committee will be decommissioned. City Recorder Spendlove answered no; all independent committees will be retained.

Council Member Swanson motioned to approve Resolution 12-2018 to Decommission some of the City's Committees, with the following changes:

- **Include Barker Park Committee in the list of committees to be decommissioned under Section 1.**
- **Include Barker Park Completion Committee in the list of committees to be created under Section 2.**

Council Member Stoker seconded the motion.

Voting on the motion:

Council Member Barker	aye
Council Member Covering	aye
Council Member Stoker	aye
Council Member Swanson	aye
Council Member Turner	aye

The motion passed unanimously.

14. **DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE FOR THE 2019 MEETING SCHEDULE FOR CITY COUNCIL & PLANNING COMMISSION**

City Recorder Spendlove reported State Code Section 52-4-202 of the Utah Code requires the Council and Planning Commission to set a meeting schedule for their regular meetings in each calendar year and for that schedule to be publicly noticed. She stated that the public notice that has been developed includes the schedule set by the Council and she recommended adoption of the proposed ordinance.

Council Member Barker asked if there is an option to publish the notice in other locations besides the newspaper given that readership of newspapers is so low. Ms. Spendlove stated the Council could petition State Legislators to seek that kind of change, but as of now, the City is required to post in the newspaper.

Council Member Swanson motioned to approve Ordinance 2018-34 for the 2019 meeting schedule for City Council & Planning Commission. Council Member Turner seconded the motion.

Voting on the motion:

Council Member Barker	aye
Council Member Cevering	aye
Council Member Stoker	aye
Council Member Swanson	aye
Council Member Turner	aye

The motion passed unanimously.

15. **PUBLIC COMMENTS**

Stephanie Casey, 2444 Barker Parkway, stated that she has questions about the action to dissolve committees in the City. A City policy indicates that all committees shall provide notice of their meetings in conformance with the Utah Open and Public Meetings Act. The Act states that meetings are open to the public and written minutes and recordings of all open meetings shall be kept. She stated she is having trouble finding any minutes of the Amphitheater Design Committee meetings, though the meeting is referenced in a PowerPoint presentation from October 17, 2017 relative to the amphitheater project. The presentation indicates that the design committee has been hard at work and the committee members' names were referenced. The minutes of that Council meeting also indicate that a design committee was meeting weekly and they had developed a rough site plan for the project. She stated she would like to request the minutes of those meetings.

Ms. Spendlove stated that it has always been her advice that if the Council wants to create a formal committee, the City will be required to publicly notice meetings of those committees and keep minutes and recordings of their meetings. She stated there are several informal committees throughout the City that have not been created by the Council and those informal committees are not required to comply with the Open and Public Meetings Act. Ms. Casey referenced the State Code and stated she could not find information about informal committees. Ms. Spendlove indicated she will provide the code citation to Ms. Casey.

Council Member Turner asked what constitutes a formal committee. Ms. Spendlove stated it would be a committee recommended for creation by the Mayor and the Mayor would also recommend individuals to be appointed to the committee. The Council would have an opportunity to vote on those appointments.

Ms. Casey stated she is unsure she agrees with Ms. Spendlove's interpretation of the State law and she noted the citations she provided Ms. Spendlove with a document including the code citations upon which she was relying to form her opinion.

Brenda Ashdown, 193 E. Pleasant View Drive, stated that her concerns about the form based code agenda item are based on the fact that it will create increased difficulty in attracting businesses to the community; there are already some small commercial areas that are struggling and it may be harder for the owners of those properties to fill the spaces if they must conform with the form based code. She then stated that she is also concerned about the Village at Prominence Point and Cherry Creek design amendments; these actions set a precedence in the City and any time a developer is interested in doing a project in the City they will know that they can make great commitments in order to get initial approval of their plan and then come back later asking for concessions or adjustments. She stated that issue needs to be considered further in order for the City to avoid future problems because of bad precedents being set.

Julie Anderson, 940 E. 2600 N., stated that the meeting schedule does not say what day of the week the Planning Commission meets. The Council drew Ms. Anderson's attention to page two of the schedule, which includes the Planning Commission's meeting dates and times.

Kevin Burns, 795 E. 1925 N., stated this has been a wonderful last meeting of the year and he wished everyone a Merry Christmas and Happy New Year. He stated there are many big things ahead of the City in 2019 and he thanked the Mayor and Council for their work.

Sean Casey, 2444 Barker Parkway, relayed a story about a time that he was with his grandfather on an outing and the horse he was riding died; his grandfather began to beat the horse and it came back to life and that has caused him to disagree with the common saying about not beating a dead horse. He stated that if Chris Heiner who spoke during

the public comments section of the meeting tonight had used that phrase rather than the one that he chose, it would have been received differently. He stated that Mr. Heiner was not trying to be offensive and he was prepared with a lot of good information about speed limits and roads. He stated that tolerance goes both ways and it is important for everyone to develop thicker skin. Open dialogue is good and different ideas are helpful. The only way the right path can be identified is through disagreement. He stated that if the City dissolves the Arts and Amphitheater Committee, the City will likely not receive a Recreation, Arts, Museum, and Parks (RAMP) grant from Weber County as it is a requirement to have this type of committee in order to be eligible for grant funding. He encouraged the Council to recreate the committee.

16. COUNCIL/MAYOR/STAFF COMMENTS

Council Members wished all in attendance a happy holiday season. Council Member Barker reiterated that the speed limit on Washington Boulevard is going to be studied and no formal decision has been made.

Council Member Swanson stated that striping at 2550 North and Washington Boulevard was completed today.

Council Member Stoker stated that she is interested to see how many accidents will result from the new stop sign placed on 2600 North.

Mayor Chugg wished all in North Ogden City a Merry Christmas and he thanked all residents for their participation.

17. ADJOURNMENT

Council Member Turner motioned to adjourn the meeting. Council Member Stoker seconded the motion.


Voting on the motion:


Council Member Barker	aye
Council Member Cevering	aye
Council Member Stoker	aye
Council Member Swanson	aye
Council Member Turner	aye

The motion passed unanimously.

The meeting adjourned at 9:42 p.m.


M. Brent Chugg, Mayor


S. Annette Spendlove, MMC
City Recorder


Date Approved