

# **NORTH OGDEN PLANNING COMMISSION**

## **MEETING MINUTES**

October 16, 2013

The North Ogden Planning Commission convened in a regular meeting on October 16, 2013 at 6:37pm in the North Ogden City Municipal Building, 505 E. 2600 N. North Ogden, Utah. Notice of time, place and agenda of the meeting was furnished to each member of the Planning Commission, posted on the bulletin board at the municipal office and posted to the Utah State Website on October 11, 2013. Notice of the annual meeting schedule was published in the Standard-Examiner on December 30, 2012.

### **COMMISSIONERS:**

Eric Thomas	Chairman
Don Waite	Vice-Chairman
Joan Brown	Commissioner
Dee Russell	Commissioner

### **STAFF:**

Craig Barker	Community Development Director
Gary Kerr	Building Official
Jon Call	City Attorney
Stacie Cain	Community Dev. Coord./Deputy City Recorder

### **EXCUSED:**

Blake Knight	Commissioner
Steve Quinney	Commissioner

### **VISITORS:**

Jon Vance	Suzanne Hartmann	Dean Leake
Bob Burnham	Bill Hartmann	Sharrie McClelland
Sue Burnham	Jim Urry	Kathleen Owen
Kevin Frazier	Don Gardner	Glenn Donnelson
Cindy Frazier	Steve Stuart	Carol Donnelson
Zach Hartmann	Leanne Stuart	Alesa Hofmeister
JulieAnn Hartmann	Chris Cave	Wendell H. Harrop
Jeff Grunow	Clayton Berrett	Lori Berrett
Brenda Nelson	Art Stowers	Dave Hulme
Mary Jones	Robert M. Jones	Jose Luis Prado
Kerry John Bushman		

## **REGULAR MEETING**

Chairman Thomas called the regular meeting to order at 6:30 pm. Vice-Chairman Waite offered the invocation and led the audience in the Pledge of Allegiance.

## **CONSENT AGENDA**

### **1. CONSIDERATION TO APPROVE THE SEPTEMBER 18, 2013 PLANNING COMMISSION MINUTES.**

**Commissioner Russell made a motion to approve the September 18, 2013 Planning Commission minutes. Commissioner Brown seconded the motion.**

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

<b>Chairman Thomas</b>	<b>yes</b>
<b>Vice-Chairman Waite</b>	<b>yes</b>
<b>Commissioner Brown</b>	<b>yes</b>
<b>Commissioner Russell</b>	<b>yes</b>

**The motion passed.**

## **ACTIVE AGENDA**

### **1. PUBLIC COMMENTS**

There were no public comments.

### **2. CONSIDERATION TO AMEND THE RE-20 ZONE TO ALLOW AN ACCESSORY DWELLING UNIT AND TO HEAR PUBLIC INPUT.**

A memo from Community Development Director Craig Barker explained this is a continuation of the last Planning Commission meeting introduction to an amendment to the Zoning Ordinance Residential RE-20 Zone. The Commissioners have a copy of the applicant's information with their last meeting packet. Essentially, the applicant desires to amend this chapter of the Zoning Ordinance to allow for a second single family detached dwelling to be on a parcel which already has an existing single family dwelling on it. The applicant's information provides some suggestions with regard to standards for such dwellings if the Planning Commission determines that this type of land use is to be permitted in North Ogden City. The staff has worked with the City Administration to inform City residents of the proposal since there was no resident response to the advertised Public Hearing notification for last meeting's hearing. A Press Release was sent to the Ogden Standard Examiner to attempt to give other public information and elicit any public comment about such a proposal. Staff also contacted a resident living in this zoned area and asked him to contact any neighbors.

The memo continued by explaining the first thing the Planning Commission should do, after receiving any additional public comment and having their own discussion, is to decide if this type of development is a good development policy for the City of North Ogden. If the answer is no, the Planning Commission may make a motion to recommend to the City Council that they not amend the Zoning Ordinance to allow this type of accessory dwelling unit in the RE-20 zone. If the Planning Commission decides to recommend this proposal to the City Council, their next step would be to determine the standards that should be followed for allowing such a dwelling unit. If the Planning Commission feels that this proposal should be discussed as part of a larger effort by the City to update the General Plan of the City, it could so recommend to the City Council. Whatever the Planning Commission decides, the proposal should be considered in light of what is best for the entire RE-20 zone. There have been several standards proposed for consideration by the applicant some others which have been brought out by the fire department and City Engineer. In addition requirements of utility providers may be an issue. One main issue is the recommendation by the City Administration is for separate City utility hookups for culinary water and sanitary sewer. The City Building Official informed me that the main dwelling on this property uses a private well for their culinary water. This could be a problem if this is true. The issues center on the well water rights, how much water is deliverable, City policy with regard to well water use and expansion of this policy. Staff is researching this issue with the Weber County Environmental Health Department.

Mr. Barker reviewed his memo and provided a brief history of the application. He reviewed the land use map and identified the areas of the City that are zoned RE-20; he also provided a brief description of the uses allowed in the RE-20 zone. He also reviewed a map to identify the location of the applicant's property.

Zach Hartmann stated he petitioned for an amendment to the RE-20 zone to allow for him and his parents to live on the same parcel of land on 2100 North. He stated he provided a packet of new information supporting his application; he found six different cities that allow the type of land use he is seeking, though each of the six cities has its own unique ordinance. He added he also provided the Planning Commission with information from AARP to display that accessory dwellings not only benefit the owner of the property, but they also benefit the community by using less space for dwellings. He stated when he last met with the Planning Commission he was told that not enough residents had been notified of his petition to change the RE-20 zone and his understanding is that the Planning Commission wants the public to be informed of the change he is requesting. He explained he is seeking a change that his property, and other properties in the RE-20 zone, is large enough for a second residence; there are some concerns about plumbing and other utilities, but in his case the utilities are already present. He identified the location of his property on a map and explained there is already an accessory building on his property, which could serve as a dwelling because it includes a bathroom, a bedroom, living space, and a two car garage. He explained it was built under a garage permit and was built to code with the intent of converting it to a residence at a future date. He stated he is not able to covert the structure to a residence according to City law and that is why he has filed a petition; he also believes other property owners will want to do this same thing in the future and this change would accommodate their desires. In conclusion he summarized a few of the ordinances used in other cities that allow the type of land use he is seeking.

Chairman Thomas asked Mr. Barker if staff has read the material provided by Mr. Hartmann, which includes ordinances used in other cities. Mr. Barker answered yes and stated he and his staff have studied the various ordinances in detail. He noted the suggestion being made by Mr. Hartmann through his petition is not the only solution to his problem, yet is the solution that he chose. He explained other viable solutions include rezoning the property or the creation of a flag lot. He stated the Planning Commission will ultimately need to decide whether the land use Mr. Hartmann is requesting is appropriate for the City; if not, there is no reason to analyze the information that has been presented by Mr. Hartmann. He noted this is an important decision and if the Planning Commission decides the requested land use is appropriate, it will be necessary to determine any standards or requirements to be imposed and a subsequent recommendation will be forwarded to the City Council.

Chairman Thomas reviewed the zoning map for the entire City and noted every area of the City highlighted in blue would be impacted by any change to the RE-20 zone. He summarized that the main question is whether a property owner should be allowed to use an accessory building as a dwelling on the same property as the main dwelling unit. He then welcomed public input on the matter.

Don Gardner, 2164 N Fruitland Drive, stated he is in favor of the petition. He referenced the zoning map and noted that he created the Gardner Subdivision out of the old Earl and Naomi Randall property. He explained that in 1995 he lived on one and 1/3 acres of property and he kept horses and cattle on his property; he ultimately subdivided his property so he now lives on a half-acre parcel. He stated he is 70 years old and his wife is 68 and they are in the process of selling their properties; he would have been very interested in what is being proposed by Mr. Hartmann if it were feasible for one of his children to live close to him on the same property, but he no longer has that option because he chose to subdivide his property and he now has two half-acre lots. He stated he would ask the Planning Commission to consider very seriously the plight of people like he and his wife and the Hartmanns; this change will not only impact the Hartmanns, as there are many other people moving into the same stage of life as himself. He stated he has lived in North Ogden for 19 years and would love to be able to stay, but that will likely not be possible because the option the Hartmanns are requesting is not available to him. He reiterated his support of the petition.

Glenn Donnelson, 874 E 2100 N, stated he lives directly west of the Hartmann property and when they built the accessory building he did not have a problem with it. He stated both his and the Hartmann properties are 1.25 acres in size. He stated he supports the petition, not because he wants to have his children living behind him, but because he simply does not have a problem with the requested land use.

Sue Burnham, 2091 N 850 E, stated her husband is 80 and she is 74 and they are in a similar situation. She stated looking around the room tonight she sees many people getting to be her age and it is likely that all of them would like to have their children close by. She stated that she has lived in North Ogden for 30 years, but at her current address for 11 years and when she and her husband built their home they made it wheelchair accessible because her sister is in a wheelchair. She stated she feels the City has a moral obligation to consider this type of petition that would help people that are aging that have lived in the City for a long time; if people are blessed to have

their kids close-by and willing to take care of them the desired land use should be allowed. She stated this is not just a zoning problem, but a moral issue and she is very supportive of the petition.

Steve Stuart, 916 E 2100 N, stated that there are two lots between his property and the Hartmann property and he thinks this is a great idea. He stated he knows the RE-20 zone calls for half-acre lots, but if a property is an acre and the other half can be used for a dwelling like they are seeking, it would be very worthwhile. He stated that if there were to be any requirements set, he believes the Hartmanns have the ideal situation wherein the accessory dwelling would be in the back portion of the property. He stated he sees no reason why the zone should not be amended to allow those types of dwellings.

John Bushman, 898 E 2100 N, stated that he lives to the east of the Hartmann property and his home is very close to the accessory building. He stated he bought his property from the Hartmanns 20 years ago and he built a multi-level house that was wonderful at the time, but now he only has one leg and that multi-level house is no longer so great. He stated his quandary is whether to build an apartment on his property that is only one level. He added that all the lots in the area are over one acre in size and he agrees with everyone that has spoken in support of allowing this type of land use on lots of that size; it will be a service to the community and will help out some great people in the community.

Jim Urry, 1615 N Mountain Road, stated Mr. Hartmann referred to overlay zones used in other cities and he asked if that would mean that certain land uses would be allowed in defined areas of the RE-20 zone. Mr. Barker stated an overlay zone is a technique used in Ogden City and it requires a general plan amendment to identify properties that are suitable for overlay zoning. He provided an example of when an overlay zone would be appropriate and explained a study would be required to determinate that appropriateness. He noted an overlay zone would give the Planning Commission and City Council the opportunity to single out properties on which certain land uses would be suitable.

Dave Hulme, 513 E 1700 N, stated he lives in an area zoned RE-20 and his lot is similar to the Hartmanns, though his property is narrower. He stated there are a couple of properties closer to him that have been in a similar situation whereby a father lived in the main dwelling unit and his son lived in an accessory dwelling unit on the back of the property. He stated that when the father passed away the main dwelling unit was rented and eventually attempts were made to sell the property and there has been some difficulty with that in large part due to the fact that the only access an owner would have to the back of their home is through a single lane driving strip and it would be necessary to grant an easement of right-of-way to the person living in the back of the property forever. He stated the property is also next to a field and at one point there were plans for a subdivision and it would have provided additional access to the front property. He stated that as he has reviewed the Hartmann property and their petition he started to worry about what will happen in the future. He stated that seems nice to allow the requested land use at this point in time, but it is also necessary to consider what will happen in the future. He stated that at some point the living conditions on the property will be changed again due to the fact that someone will pass away or be relocated and he wondered what will happen to the property at that point. He stated there will be a situation where there is an extra home on the property and he suspects

the tendency would be to rent the accessory building. He stated he would strongly suggest that if the Planning Commission makes a positive recommendation and forwards the petition to the City Council that there be some sort of stipulation that the property not be rented. He stated when two homes are connected by common utilities, renting one of the properties becomes very difficult, as does mail delivery and parking. He stated parcels of property that are similar in size to the Hartmanns do not lend themselves to that type of use. He added he has thought of another solution, and that is guest properties, but that also does not seem to fit the situation because the use is intended to be more permanent. He stated he also thought about the concept of a building parcel designation and that if the Planning Commission approves the petition, it should do so with the understanding that the property can never be subdivided and that the two homes are inexorably tied and cannot be divided. He added there is an agricultural property bordering the back of the property and perhaps there could be accommodations through an easement or future right-of-way to allow another available access to the back of the property in the event the owner wanted to subdivide it in the future.

Kevin Frasier, 899 E 2100 N, stated that he is supportive of the Hartmann's petition. He stated he has lived in the area for 33 years and he has seen a lot of changes happening and farmland has been taken over by housing developments and other uses. He stated he thinks the land use is good for the Hartmanns and all other residents that own property in the RE-20 zone are also here this evening. He stated he thinks that he does not think there will be a desire or need to transfer ownership of these types of properties to anyone besides the family.

JulieAnne Hartmann, 884 E 2100 N, stated that this process has been very educational for her and over the past two weeks she has talked to many different cities and a lot of cities that allow accessory dwelling units actually stipulate that both units must be owned by one property owner and the owner must live in one of the units; neither of the units can be sold to a separate owner. She added that a lot of the cities also said they do not allow separate utilities for the two dwellings and the owner must allow for at least one parking space for the accessory unit. She added she met with the Fire Chief last week regarding the petition due to safety concerns and he was comforted by the fact that there is a separate driveway for the accessory unit and he mentioned constructing a hammer-head at the end of the driveway. She added that he also mentioned a second address should be created and posted so emergency responders know that there is an accessory dwelling on the property. She stated that the cities she spoke to told her that they have received no negative feedback regarding the law; Salt Lake City passed an ordinance in 2012 after three years of research and they have only had two or three applicants seeking the land use. She stated their restrictions are fairly strict and they are actually talking about loosening them. She stated that Ogden, Syracuse, and St. George are also considering the proposed land use, as are several other jurisdictions throughout the United States. She reiterated that most cities require just one owner for both units and if rental of one of the units is allowed, it is suggested that the unit only be rented to family or close friends. She added that records would be created to give the City the opportunity to keep track of who is living on the property.

Wendell Harrop, 2074 N 850 E, stated he does not live in the RE-20 zone, but he can see the absolute minimum amount of changes needed because of the few people that will want to implement this land use. He stated he realizes the Planning Commission must research the proposed land use and govern it, but he believes there will be a very small number of people

wanting to do what the Hartmanns are asking for. He stated he is supportive of the change and he is sure the Planning Commission and City Council can govern it in a way to control it so that it will not get out of hand or cause any problems whatsoever.

City Attorney Jon Call stated several cities have allowed the requested land use and have seen some success. He noted the legal approach the Planning Commission is taking at this point in time is the right one and he does not have an opinion regarding the petition.

Mr. Barker stated the Planning Commission should be aware that some of the pioneer and historic properties located in the center of the City had two homes located upon them and some of them still do; he has seen approximately five of those property owners seeking to separate the two homes and none of them have been able to meet the requirements in order for that to take place. He stated the other cities that he contacted regarding this issue told him that they have experienced the same problems. He added that many cities do not allow detached single-family dwellings and many of them just allow two dwellings in the same structure whether those are stacked upon one another or built side by side and attached in some manner.

Chairman Thomas inquired as to the Planning Commission's feelings about the petition.

Commissioner Brown stated she is interested in pursuing the petition; if the Planning Commission can find a way to meet the desires of the Hartmann family, they should proceed. She stated she respects Mr. Hulme's comments, but she heard other comments and suggestions that could address his concerns and she would like to pursue it.

Vice-Chairman Waite stated that his biggest concern relative to private property is the safety of the community and there is nothing happening at the property that he believes would compromise safety. He added secondary is safety of the services being provided at the property and safety of the occupants. He stated that he agrees with some of Mr. Hulme's comments regarding potential problems associated with subdividing the property, but that has already been addressed with this property because there is not enough frontage to allow a flag lot and subdividing is not an option in this case. Mr. Barker stated that is not accurate; the Hartmann's could rezone their property and meet the lower frontage standards included in the R-1-10 zone.

Mr. Hartmann stated that Mr. Barker's idea in the past was to ask Mr. Donnelson to give up 10 feet of his property so that a flag lot would be approved. He then stated that this petition is not just about him and his family and, instead, he is seeking a resolution that will help many throughout the City. He stated that if he had initially known that he would not have been able to get the accessory dwelling approved, he would have moved it closer to the main dwelling and connected the two with a breezeway.

Vice-Chairman Waite stated it is important to very carefully consider the restrictions to be imposed and how the proposed ordinance will be worded to create requirements for single ownership of both properties. He stated that with proper restrictions the petition could easily be considered.

Commissioner Russell stated the City staff has the obligation to consider all options for any given situation and it was up to the Hartmanns to recommend the solution they desired. He stated it is now the Planning Commission's obligation to consider the actual residents of the City and what they want and need. He stated he feels there have been enough positive comments to indicate the Planning Commission should look for a way to make this happen rather than look for reasons to prevent it from happening.

Chairman Thomas stated that as he has looked at different scenarios he feels it is a good idea to pursue and determine what options are available. He stated he feels strongly about safety concerns and other requirements that could be placed on RE-20 properties. He stated it is important to remember that most of the properties in the RE-20 are not large enough to subdivide and it would be nice to offer other options that do not require something like a two-lot subdivision. He stated it is necessary to include sufficient criteria to cover various circumstances so it is not necessary to make exceptions to the rules after buildings are built. He concluded that it is his sense that the Planning Commission wants to pursue the petition and he inquired as to the next step in the process. Mr. Barker provided the Planning Commission with a packet of materials including various requirements of other cities that allow detached accessory dwelling units. He stated it is not an exhaustive list and he briefly reviewed the main issues and requirements that each entity emphasized; the biggest requirement being that one property owner must own both units and live in one of the units. He stated his main concern is that when the need for the accessory unit no longer exists, the owner may want to sell it and that could potentially create a big problem. He stated he will provide a recommendation from the City Administration that indicates that the new unit must be eligible for future development in some fashion that meets the City's zoning requirements if a request to separate or subdivide the property is made. He added that, for that purpose, the utilities for the two units must be separate. He stated he would suggest that the Planning Commission take the issue under advisement and review the packet of materials in preparation for the next Planning Commission meeting.

Commissioner Brown asked when the accessory unit was built on the Hartmann property. Building Official Gary Kerr stated it was constructed approximately five years ago. Commissioner Brown asked if the structure could revert to its current use in the event that it is no longer needed as a dwelling unit. Mr. Barker answered yes.

Chairman Thomas asked if it will be possible for the staff to provide a proposed ordinance to be considered at the next Planning Commission meeting. Mr. Barker stated he may be able to recommend different options for the Planning Commission to consider and ultimately vote upon.

A short discussion about the process that should be undertaken in order to develop an ordinance ensued, with the conclusion being that staff can work from ordinances used in various other cities and tailor an ordinance to best suit North Ogden City. The timeline for the process was reviewed as follows: a first draft of the ordinance would be reviewed during the first meeting in November and if an additional special meeting is necessary to vote upon the proposed ordinance, one will be scheduled.

Mr. Hulme stated that it may be possible that there are some lots that would be a good fit for the proposed land use that are not zoned RE-20 and he would suggest that those not be ruled out, if

possible. Mr. Barker agreed and stated that if the Planning Commission wants to take that under consideration it may be necessary to create a flowing zone.

### **3. DISCUSSION TO ALLOW OFF PREMISE SIGNS FOR DIRECTIONAL SIGNS FOR REAL ESTATE INTERESTS.**

A memo from Community Development Director Craig Barker explained this issue has been discussed by other real estate professionals and previous Planning Commissions. The issue is that the Sign Chapter of the North Ogden City Zoning Ordinance Chapter 11-22-8D does not allow off premise temporary signs of any kind. The Planning Commission has consistently determined not to allow this type of signage. With the type of communication available today and with directional mapping electronically available to all, it seems that this kind of sign is becoming less and less important.

Mr. Barker reviewed his memo and provided a brief history of this issue.

Mike Ostermiller, Northern Wasatch Association of Realtors (NWAR), stated his group had about 1,600 members in the area and he wants to talk about off premise signs for real estate interests, though the issue has been discussed in the past. He stated that he wants to address one specific type of sign; to his knowledge North Ogden is the only City that has an outright prohibition of offsite signage. He stated he is not asking for signs to be allowed in a public right-of-way or in a mow strip and the City's ordinance follows the ordinances that have been adopted throughout the state. He stated he is looking for the opportunity for realtors to use directional signs that are used all the time throughout the regular course of business; they are very effective for limited purposes. He provided samples of the three most common off premise directional signs and explained how they are used, noting the one he is most interested in is an open-house directional sign. He explained that if someone trying to sell their home is located inside of a neighborhood or in an area that is difficult to find, these signs are the most effective tool realtors use to guide potential buyers to the property. He stated he has spoken with hundreds of realtors on this subject and they have communicated that the success they achieve with an open house is monumentally higher when they are allowed to place a few directional signs for the property. He stated most municipalities allow use of an off premise directional sign as long as it is located on private property and the realtor has permission from the property owner to place the sign; the sign can only be in place for a limited, finite amount of time. He briefly reviewed two ordinances used in surrounding cities; one, from Layton City, was very liberal and the other, from Ogden City, was much more restrictive. He stated there are a range of different ordinances used in various other cities. He stated there are ways to allow these types of signs that will protect the City's residents while allowing homeowners trying to market their homes to do that in the most effective way possible. He stated the realtors have a stake in this issue, but it really comes down to allowing the residents of North Ogden to market their properties and the current ordinance is stifling and limits their ability to do it. He stated the limitations can be easily removed and fixed in a way that would not create an undue amount of problems or burdens for the City.

Chairman Thomas stated enforcement of the ordinance is the biggest issue. Mr. Ostermiller stated he understands that is the case and noted that what he has found in most municipalities is

that Code Enforcement Officers may not catch every violation, but they will catch chronic abusers of the ordinance. He added his experience has been that problems do not occur very frequently because the open house signs are expensive and realtors are protective of them.

Commissioner Brown stated this recommendation has been presented on many different occasions; she is not concerned about the clutter created by the signs, but she is concerned about signs that are left for days after an event is over. She stated the City has the obligation to clean up and remove those signs. She stated she feels the same about the issue now as she did in the past. She stated that the NWAR is responsible for policing the use of the signs and the NWAR gave themselves a 'black eye' a couple of years ago and that is what is causing problems for them now. Mr. Ostermiller stated that he appreciates those remarks and stated that his observation of what happened in North Ogden is that there were a few realtors that abused the system and gave the rest of them a 'black eye'; the vast majority of the members of the NWAR are very conscientious and professional, while there are a few that are not. He stated the majority are suffering because of the actions of a few. He stated that North Ogden had one of the most liberal sign ordinances that he has ever seen in his practice and it allowed almost any sign to be erected at any time for anything; it was so non-restrictive that it actually created problems for the City. He stated the Planning Commission realized there was a serious problem and tried to address it and the result was that the ordinance went from being too liberal to too restrictive. He stated some changes have been made to loosen restrictions for certain types of signs, but not for the type of sign he is interested in. He stated he is not asking for permission to erect signs with no limitations, but he would like to see North Ogden implement regulations that are working in other cities that allow off premise real estate signs. He stated he spoke with Ogden City code enforcement officers recently who reported to him that they sometimes have problems with real estate signs, but, by and large, the ordinance they have in place is working very well. He stated the same is true for many surrounding cities.

Commissioner Brown asked how many people are actually driving around and see a sign for an open house and decide to follow the signs to the event. She stated many people are taken to a home by a real estate agent or directed there by an advertisement on the internet or in the newspaper. She asked how effective the directional signs actually are. Mr. Ostermiller stated he has asked that same question and realtors have told him that they have studied the numbers of people that show up at open house events and when they have directional signs placed to guide drive-by traffic to the house, their numbers are typically two to three times higher than numbers for visitors of an open house when no directional signage is used. He stated a lot of people actually see an open house sign and decide to go and look at the house.

Commissioner Brown stated just last weekend there was an open house across the street from her and there were strips of signs on the property and it looked like a circus. Mr. Ostermiller stated the City's ordinance already limits on-premise signage for those types of events. He reiterated he is not asking for permission to erect an unlimited number of signs for an open house event, but he is asking permission to place one directional sign on someone's private property with their permission. Commissioner Brown stated one sign is one thing, but excessive signage on a single property is an entirely different thing. She stated realtors have abused City ordinances in the past and that has hurt the NWAR. Mr. Ostermiller agreed and stated he does not want the City to

allow signage without limitations and he referenced ordinances used in other cities that permit one or two signs on any piece of property.

Brenda Nelson, no address given, stated she is a principal broker for the NWAR and she explained these types of signs help clients sell their homes. She stated she understands concerns about an excessive amount of signs, but the signs are needed and North Ogden is one of the only cities that prohibit them. She stated brokers are educating agents regarding how the signs should be used.

Mr. Ostermiller reiterated he would like to assist in carefully drafting limitations relative to off-premise real estate signs.

Vice-Chairman Waite stated that as he has reviewed the sign ordinance he sees far more provisions for real estate signs than for any other type of sign allowed by the ordinance. He stated he does not know all of the reasons behind the changes to the ordinance. Mr. Ostermiller stated that is true for on-premise signs, but not for off premise signs and he reiterated there are no provisions for off premise signs. He stated that is what makes the City's ordinance so completely different from ordinances in the other cities that the NWAR works with.

Chairman Thomas stated the Planning Commission spent months addressing issues with temporary signs and his feeling is there is some need for off premise directional signs. He noted problems arose in the past when an excessive number of these types of signs were being used by certain individuals.

Mr. Barker stated the people that use these types of signs understand the City staff does not work on the weekends and will not enforce ordinances prohibiting certain signs during that time; as a result there is proliferation of these types of signs on Saturday and Sunday. He noted that if the Planning Commission decides to address off premise real estate signs it will also be necessary to address all other types of temporary signs. He stated he understands the motivation of the NWAR and it may be appropriate for the Planning Commission to have continued discussions regarding the request so that all aspects of sign enforcement can be taken into consideration.

Commissioner Russell disagreed that it would be necessary to consider all other types of temporary signs, but it is important to consider that there are numerous real estate agents living in North Ogden City as well as numerous residents that are interested in selling their homes. He stated the Planning Commission should not be a body that is interesting in limiting property owners; they are planners that should be interested in planning for certain things. He stated there will be problems no matter what decision is made, but if the Planning Commission decides to prohibit everything just to avoid any problems they are not doing their job.

Jim Urry, 1615 N Mountain Road, stated years ago he served on the Planning Commission and City Council and there were discussions regarding a proposed landscape ordinance that included a restriction that no person's lawn could be taller than four inches in height. He stated he voted against that because it was unenforceable. He stated he has lived in North Ogden for 42 years and he drives around the City all the time and he has not seen a problem with temporary signs in that time. He agreed with Commissioner Russell and stated sometimes governing bodies are

“ordinance happy” and he thinks less limits are better. He stated that if these types of signs can help real estate agents in the City he is in favor of them.

Glenn Donnelson, 874 E 2100 N, stated he is not a realtor and he does not want to sell his house, but he remembers many years ago he was looking for an open house with an obscure address and he was not able to locate it. He stated these types of signs would help people to find open houses that may be difficult to locate. He stated that he was a member of the Utah House of Representatives and he agrees that signs can be a problem unless they are controlled by the people that erect the signs.

Commissioner Brown stated that in this day people have access to devices that have mapping and GPS tools that can assist them in finding a home that may be difficult to locate. Mr. Donnelson stated he does not have a smart phone. Commissioner Brown stated she also does not have a smart phone, but the majority of people do.

Commissioner Russell stated that he lives on a street in the City that most people would not be able to locate without the assistance of a directional sign.

Mr. Urry stated he and his wife were invited to dinner sometime ago and there were problems with the address of the home he was trying to find. He stated a smart phone would not address those types of issues.

Chairman Thomas stated he would like to consider the issue further, especially relative to temporary directional signs. Mr. Ostermiller stated that some cities have chosen to treat off premise real estate signs like all other temporary signs, but, in his opinion, a better way to address the issue is to provide a definition for directional signs, which restricts the scope the Planning Commission will need to work within.

Chairman Thomas asked for the issue to be added to a future agenda. A brief discussion with how to proceed with the discussion ensued with Chairman Thomas asking that an ordinance be drafted including provisions for off premise directional signs.

**4. CONSIDERATION TO APPROVE COUNTRY BOY SUBDIVISION PHASE IV FINAL PLAT, LOCATED AT APPROXIMATELY 200 W COUNTRY BOY DRIVE.**

A memo from Community Development Director Craig Barker explained this subdivision is a development which was part of the Country Boy development of 57 lots proposed a few years ago (2008 approximately). These four lots were left off the Final Plats of previous Country Boy Phases because of wetland and floodplain issues. The original floodplain maps composed by the Federal Emergency Management Agency (FEMA) were originally adopted in the early 1980's. It was found that the maps for this area were determined to be in error because of changes to the original stream on the property. When the owners of this area, the Hancock family, began development, they determined that they needed to work with the federal agencies to correct the FEMA Flood Maps and the wetlands determination by the Army Corps of Engineers. This has

been completed for the wetlands and for the 100 year floodplain. The effect on the property is that the two hazards no longer affect all of the terrain within these four lots. There is enough area in each lot that a home can be built on each proposed lot. The most northern lot is close to ½ acre in area with approximately half of the lot (the southeast area) outside of the hazard areas. The northern portion will have remained undisturbed and fenced according to the Army Corps of Engineers standards. The other three lots will need to respect the issues by not encroaching within the floodplain with structures unless they meet FEMA's standards.

Mr. Barker reviewed his memo and provided a brief history of the proposed subdivision, with a focus on the recent action of the City Council relative to waiving the requirement to fence alongside and around the waterway in the subdivision.

Commissioner Brown stated she felt the topic was well covered at the recent Council meeting and Mr. Barker's presentation regarding the issue was excellent.

Vice-Chairman Waite stated it looks like there has been a lot of effort put into the project, but he cannot figure out why anyone would want to buy any of the four lots when considering all of the restrictions placed upon them.

Chris Cave, Reeve and Associates Engineering, 920 Chambers Street in Ogden, stated he spent 86 minutes on the phone recently with the wetlands specialist that has been working on this project and every issue raised by the City has been addressed. He noted the plat has been updated accordingly. Mr. Barker asked Mr. Cave to discuss the timing for the improvements to be made to the lots. Mr. Cave stated he is unsure of the timing, but it will occur in conjunction with the development of the Mystery Meadows project. He stated the property will be inspected by the Army Corps of Engineers (ACE) and then monitored for five years following completion of construction. He stated the City has agreed to perform the monitoring of the area where the flood channel will be built because they will own the property upon which the wetlands are located.

Mr. Barker noted the plat states that the property owners of the four lots will be responsible for upkeep and maintenance of the stream channel located on their property, but the City feels they must have some sort of access to the channel in the event that it is necessary to clear a blockage of the channel or address some other type of problem. He added that the City has accepted ownership of the adjacent property on which the wetlands are located.

Jeff Grunow, 1588 N 225 W in Harrisville, stated he appreciates the Planning Commission's review of this issue and noted that he and the other four residents living on the Harrisville side of the creek are supportive of this action. He stated the owners of those properties were at the recent City Council meeting and he highlighted the location of his property in relation to the waterway; each of them have already fenced their backyards and performed creek maintenance over the past several years. He stated they agree with the FEMA floodplain maps and the changes that have been made. He stated it may be a challenge to build a home on the property, but the lots are very nice and appealing. He stated he agrees with the ACE that the waterway should not be piped, because doing so would be detrimental to the 100 year old willow trees that

are fed by the waterway. He concluded that the stream is not very big and the water is not very deep.

Dean Leak, 209 W 1700 N, stated he lives in the area of this subdivision and he identified the location of his property in relation to the waterway. He stated he recently purchased the property not to build a house on it, but to protect the trees there. He stated he plans to work with Mr. Barker to determine what kind of fencing of the property would be appropriate and he plans to plant an orchard on the flat area of the property. He stated he would like to see the amended subdivision plat that has been referenced by Mr. Barker and Mr. Cave.

Brenda Nelson, 1578 N 225 W in Harrisville, stated that she does not agree with the action as much as Mr. Grunow does. She highlighted the location of her home in relation to the subject property and stated she does not want a huge house built behind her that will block her view. She stated she would like to know what the covenants are regarding construction on those properties. Mr. Barker stated he does not believe there are covenants in place for the subdivision and construction will need to comply with the North Ogden City Code. Chairman Thomas stated City ordinance allows a building height of 35 feet, which is likely no taller than the trees located in the area.

Alesa Hofmeister, 1652 N 225 W in Harrisville, stated she is one of the residents referenced by Mr. Grunow. She asked if any work done next to the stream will impact the flow of water. Mr. Barker answered no. Ms. Hofmeister stated that comments have been made that work done in the area of the subject property will not impact current residents, but her feeling is that any work done in the area does affect people that already live there; they all built there for a reason and any work done upstream does affect her. Mr. Barker stated the work done will lessen the amount of water flowing in the stream during flooding. Ms. Hofmeister clarified that the water will not be diverted. Mr. Barker stated that is correct. Ms. Hofmeister then stated there are requirements to replace wetlands in other areas when a wetland is eliminated and she asked if the developer is doing that. Mr. Barker answered that is not always the case and explained the developer has a local permit to fill up to .49 acres of wetlands in conjunction with the completion of the wetland management plan. He stated small portions of wetlands on lots 56 and 57 will be filled. Mr. Cave added that the developer will replace the wetlands on the back of the commercial property east of the subdivision.

Mr. Leak re-approached and asked if the 'stair stepping' work done to the stream will take place east of the lots in the subdivision. Mr. Cave stated the work will happen east of 150 West.

**Vice-Chairman Waite made a motion to approve the Country Boy Subdivision Phase IV final plat, located at approximately 200 W. Country Boy Drive, subject to the stipulations expressed by the City Engineer. Commissioner Russell seconded the motion.**

**Voting on the motion:**

<b>Chairman Thomas</b>	<b>yes</b>
<b>Vice-Chairman Waite</b>	<b>yes</b>
<b>Commissioner Brown</b>	<b>yes</b>
<b>Commissioner Russell</b>	<b>yes</b>

## **5. DISCUSSION OF SUBDIVISION PROPOSAL.**

A memo from Community Development Director Craig Barker explained Mr. Vance is interested in potentially buying property consisting of 1.64 acres and re-subdividing it into two parcels, one of which would be a Flag Lot. At present, Flag Lots are allowed as long as there is a 30 foot wide flag stem which has a lot area meeting the zone lot standards for the zone in which the property is located. The only reason this is before the Planning Commission at this time is that there is another item on your agenda which has been placed there by a member of the Planning Commission for discussion of the desirability of permitting Flag Lots within the City with only these two standards. Other cities have taken the position that once an issue is before the Planning Commission for study that they will act on proposals submitted after the date of initial review until the issue is decided.

Mr. Barker reviewed his staff memo.

Mr. Vance stated that he wants to be sure that he will be allowed to pursue a flag lot before he proceeds with the development or spending additional money on the project. He stated that his plans are to live in the home on the rear of the property while constructing a home on the front of the property; when construction is complete he will move to the front residence and try to sell the home on the flag lot. He stated he believes his project will meet building standards relative to public safety and utilities.

Mr. Barker inquired as to the age of the existing home. Mr. Vance stated it was constructed in 1987.

Commissioner Russell inquired as to the total frontage of the subject property. Mr. Vance stated the width at the narrowest point of the newer property is just slightly over 100 feet.

Building Official Kerr inquired as to the distance from the existing home to the road. Mr. Vance stated the distance is approximately 256 feet. Mr. Kerr stated if the distance is more than 150 feet it will be necessary to provide a hammerhead driveway to accommodate a turnaround for a fire truck in the event of an emergency. Mr. Vance reviewed the aerial photograph of the property and noted there is a shed on the property that will be removed and there will be ample room for a hammerhead turnaround in that location.

City Attorney Call stated that a person is not vested in something until they make application, but if there is a pending ordinance that could impact a potential development, it would no longer be possible to become vested. He provided an example stating if the Planning Commission were to make plans to modify the flag lot ordinance prior to any applications being filed, new applications would not be vested in the old law. He noted there are some issues with the flag lot ordinance and he is not sure that any necessary changes would preclude Mr. Vance's development.

Chairman Thomas stated Mr. Vance should be aware that there have been plans to discuss the flag lot ordinance of the City. He stated that his understanding is that if Mr. Vance were to make application for a flag lot tomorrow, that application would be considered under the guise of the

old law since the Planning Commission has not had specific discussions regarding the flag lot ordinance. Mr. Call stated that it does not matter if the Planning Commission has discussions about the ordinance; the only thing that would prevent Mr. Vance's application from being vested under the current law is if the Planning Commission decided to consider a pending ordinance that would revise the flag lot rules. Chairman Thomas stated that has not occurred yet and he encouraged Mr. Vance to make application to the City as soon as possible.

Mr. Call inquired as to the width of the driveway. Mr. Vance stated the narrowest pitch is 20 feet. Mr. Call stated the driveway must be 30 feet wide for its entire distance and there must be 20 feet of travel surface that meets requirements of the fire department in order to carry the weight of a fire truck. He noted the driveway is currently a dirt lane. A brief discussion regarding basic flag lot requirements ensued with Mr. Barker noting if an application is filed staff would explore what changes would need to be made to the property in order for the application for a flag lot to be approved. Mr. Call stated he would be happy to review Mr. Vance's application prior to it being filed to determine whether his property and the proposed development will comply with current City ordinances.

**6. DISCUSSION OF FLAG LOTS AS A SPECIAL PROVISION.**

This item was tabled until the next meeting.

**7. DISCUSSION ON 11-10-2, ADDITIONAL USE REGULATIONS, AND 11-10-3, ADDITIONAL PRINCIPAL BUILDING REGULATIONS, OF THE ZONING ORDINANCE.**

This item was tabled until the next meeting.

**8. PUBLIC COMMENTS.**

There were no public comments.

**9. PLANNING COMMISSION/STAFF COMMENTS.**

Commissioner Brown stated she was approached by someone that lives in the area where an enlargement of an accessory building was approved for Gary Rands. She stated this person is very unhappy and they feel the property is not being improved. She stated she drove by the property and she feels they are right; things are often promised by applicants and they are not always carried out. She stated that she has asked Mr. Barker to look into the issue. Chairman Thomas stated he has driven by the property as well and it appears that the property owner to the south has added another trailer or two to his property. Commissioner Brown stated she was informed that the property owner to the south is an elderly person that allows Mr. Rands to use his property for outside storage on occasion. She stated that Mr. Rands' trucks are parked on the property and there are some large trailers stored on the property as well. She stated she simply

wants the Planning Commission to remember these types of situations. She then stated that she also saw a sign advertising the sale of e-cigarettes at the building next to the movie theater and she has asked staff if someone has a smoke shop inside the building. Mr. Call stated a tobacco shop is a permitted use in the City's commercial zone. Commissioner Brown stated that she understands that, but felt the location of the business is odd.

Chairman Thomas reminded the Council of their training scheduled for November 20 at 6:30 p.m. He then asked the status of filling the vacant Planning Commission seat. Mr. Barker stated he would need to ask the Mayor about his progress to fill the position.

**10. ADJOURNMENT.**

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

**Voting on the motion:**

<b>Chairman Thomas</b>	<b>yes</b>
<b>Vice-Chairman Waite</b>	<b>yes</b>
<b>Commissioner Brown</b>	<b>yes</b>
<b>Commissioner Russell</b>	<b>yes</b>

The meeting adjourned at 9:01pm.

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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