

NORTH OGDEN PLANNING COMMISSION

MEETING MINUTES

November 6, 2013

The North Ogden Planning Commission convened in a regular meeting on November 6, 2013 at 6:30pm 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 November 1, 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
Blake Knight	Commissioner
Steve Quinney	Commissioner
Dee Russell	Commissioner

STAFF:

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

VISITORS:

Zach Hartmann	Jerry Hartmann
Suzanne Hartmann	Bill Hartmann

REGULAR MEETING

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

CONSENT AGENDA

- 1. CONSIDERATION TO APPROVE THE OCTOBER 2, 2013 PLANNING COMMISSION MINUTES.**

Commissioner Brown made a motion to approve the October 2, 2013 Planning Commission minutes. Vice-Chairman Waite seconded the motion.

Voting on the motion:

Chairman Thomas	yes
Vice-Chairman Waite	yes
Commissioner Brown	yes
Commissioner Knight	yes
Commissioner Quinney	yes
Commissioner Russell	yes

The motion passed.

ACTIVE AGENDA

1. PUBLIC COMMENTS.

There were no public comments.

2. CONSIDERATION AND/OR RECOMMENDATION TO AMEND THE ZONING ORDINANCE TO ALLOW AN ACCESSORY DWELLING UNIT IN THE RESIDENTIAL RE-20 ZONE.

A staff memo from Community Development Director Craig Barker explained the staff has prepared a draft of an ordinance which provides rationale and standards for an Accessory Dwelling Unit to be built on an existing lot or parcel that presently has a principal dwelling unit on it.

The City's legal counsel has recommended that the Planning Commission should consider additional policy statements which provide information to the City Council members and the general public for their recommendation. The discussion is to consider if the zoning ordinance of the City be changed to allow accessory dwelling units within the city, where these types of dwellings may be located and other standards which meet the policies expressed by the Planning Commission.

This original draft is a point of departure for the Planning Commission to begin their deliberations for the proposed land use change this will bring to North Ogden City.

Mr. Barker reviewed his staff memo. City Attorney Jon Call added that he does not have many concerns about the proposed ordinance, but he is concerned that the ordinance has been drafted without much direction from the Planning Commission; staff wants to be sure to move forward in a fashion that the Planning Commission is comfortable with. He reviewed some restrictions and requirements included in similar ordinances used in other cities and asked the Planning Commission if they would like to include similar restrictions. The list of restrictions included things such as whether the main dwelling unit on the property must be owner occupied; whether

the owner will be required to provide a ‘hammer-head’ turnaround accessible by fire trucks; and whether separate utility connections for the two dwellings would be required.

Commissioner Brown stated she thought the Planning Commission did give staff direction that they wanted the main dwelling unit to be owner occupied and that there would be a potential additional requirement that the people living in the accessory dwelling be relatives of the people living in the main dwelling unit. She stated the Planning Commission does not want the properties to turn into traditional rental properties. Mr. Call stated he has not researched whether it would be legal to require the people living in the accessory dwelling unit to be relatives of the owners of the property.

Commissioner Knight stated the materials provided by staff specifically state this type of land use would only be allowed when a hardship exists in a family and the accessory dwelling must be occupied by a relative of the primary owner. Mr. Barker stated the proposed ordinance does say that and he read the actual language from the document as follows:

“This amendment is to allow lot or parcel owners in the Residential Estates RE-20 Zone to have a second home to be known as an “Accessory Dwelling Unit” on a single lot or parcel to provide social and personal support for family members where independent living is desirable.”

He stated the definition for family in the City Code is somewhat broad and he provided some examples of instances when the definition of ‘family’ has been the subject of litigation in other jurisdictions. Mr. Call agreed and stated that in Ogden City there can be up to five unrelated people living together in one home and they are considered to meet the definition of a family. He reiterated he would need to conduct additional research to determine if the City can restrict use of the accessory dwelling unit to family members only. Commissioner Brown suggested that the owner of the accessory dwelling unit be prevented from using it as a rental property and she noted that would address many of the concerns the Planning Commission has. Mr. Call stated there are many things to consider when determining appropriate restrictions and definitions and that is why staff needs to clearly understand what the Planning Commission wants.

Vice-Chairman Waite stated that his understanding of the direction the Planning Commission wanted to take was to prohibit rental units in accessory dwelling units, require that the owner of the property occupy one of the dwellings on the property, and that joint utilities would be allowed. He stated he was surprised to see the draft ordinance required separate utilities. Mr. Barker stated cities that allow joint utilities require that the primary and accessory dwelling units be connected. He stated that it is his opinion that if the two dwelling units are separate or could become separated, the utility connections should also be separate.

Commissioner Knight asked if property owners could be given options relative to utility connections and driveway widths. He stated that if they elect to combine utilities they must meet minimum engineering specifications, but in the future if they want to separate or subdivide the property and dwelling units they would not be allowed to do so unless the utility connections are also separated. Mr. Barker stated there are some cities that require owners of these types of properties to sign and record documents against the property relative to these types of issues.

Mr. Call stated he does not know of a case where those types of documents have been challenged past the district court level. Mr. Barker stated that he is not sure if such agreements would withstand legal action and the City could potentially be in a difficult position. He stated that he spoke with a planner from another city that has properties with two dwellings that have the same utility connections and that planner told him those properties have been very difficult to deal with because discord commonly erupts as a result of issues with common utilities.

Vice-Chairman Waite stated that if someone wants to subdivide their property into two separate properties, they would absolutely be required to provide independent utility connections. Commissioner Knight stated that property owners in the RE-20 zone may not be able to subdivide due to the minimum lot width requirement. Mr. Barker agreed and stated each dwelling in the RE-20 zone must be accompanied by the minimum lot size dictated by the City Code. He stated that if someone has a half-acre parcel and they are allowed to build a second home on that parcel, the case is suddenly a de-facto rezone and the property could essentially be classified as meeting the R-1-10 zoning regulations. He stated that many people buy property with the understanding of what is allowed in the zone in which they are purchasing and he provided examples of cases in the past when development has taken place that is contrary to what is spelled out in City Code.

Commissioner Knight stated that this issue was discussed during the last Planning Commission meeting and there were residents that made public comments in support of the change the Hartmann's are requesting. Mr. Barker agreed most of the comments received to date have been supportive in nature. Commissioner Knight stated Mr. Barker is raising an issue of duplexes that is not related to the issue at hand. Mr. Barker stated the example he used is directly related because in the past people have created building lots where none were ever expected by surrounding property owners. Commissioner Knight stated that would be a flag lot and he believes flag lots are a separate issue that can be handled in a different manner. Mr. Barker agreed, but stated the Planning Commission needs to be aware of the unintended consequences of their actions.

Commissioner Russell stated Mr. Barker referenced problems that have been brought to his attention regarding situations in other cities and he asked for additional information about that. Mr. Barker stated there have been sewer blockages and flooding caused by joint utilities and it was difficult to determine who was responsible to correct the problems. He stated families have had fallings out and they blocked joint driveways so those living in the accessory dwellings could not get to their home. Commissioner Knight stated that there should be no sewer blockages as long as the design of the sewer meets engineering requirements. He stated if someone performs utility work without City inspections or knowledge a blockage may occur. Mr. Barker stated a sewer blockage may occur even if the connections meet the engineering standards. He noted people put things in their sewer that can cause problems. Commissioner Knight stated that can happen to a property owner with one single family dwelling on his property. Mr. Barker agreed, but noted it is not difficult to determine who is responsible in that case because there is only one dwelling and owner.

City Manager Ron Chandler stated Mr. Barker asked him to review the proposed ordinance and consider the administration of the ordinance if it were adopted. He stated that when zones are

created there are zoning standards included in the ordinance so that people buying and selling property in the zone can have an expectation of what will be allowed in the area in which they pay to live or run a business. He stated zoning requirements can be changed, and changes can sometimes be a good thing, but there is a public process the City must undertake when considering such a change; this entails the Planning Commission and City Council determining what requirements and restrictions will be applied to the area. He stated when the Hartmann family originally approached the City, he told them one option they had was to rezone their property to R-1-10 and subdivide it into two lots, but the public process required for such a change should not be subverted by allowing staff to make decisions regarding the land use. He stated that the proposed ordinance includes language dictating that the property must be a minimum of one acre and that dwelling units be on properties at least 20,000 square feet in size. He stated that will maintain the integrity of the RE-20 zone and it does not put staff in the position of basically rezoning a property to something that was not intended in the RE-20 zone. He stated he is supportive of those provisions. He added that in section two of the ordinance, the last sentence reads “the occupancy of this type of unit is intended for family members in need of social or personal support to maintain independent living”. He stated his recommendation would be to use a word other than “intended” because it is not enforceable. He then stated that in section three, items three, nine, and ten are the sections that maintain the integrity of the zone and he is very supportive of those provisions. He stated that item seven states the accessory dwelling unit shall only be occupied by two adults and their children and he stated that will be very difficult to enforce. He noted the City’s definition of family is very broad and reasonable and he would prefer not to vary from it. He stated item 11, which references utility connections, is good. He stated that his advice to the Planning Commission in reviewing the ordinance would be to try to look into the future 15 to 40 years when circumstances will be changing and people will be selling their properties and try to consider whatever circumstance could happen. He stated that if a property can be subdivided, there is almost a guarantee that it will be subdivided. He stated he supports the idea of requiring separate utility connections because the City will end up dealing with problems created by joint utilities. He then referenced the comments regarding prohibiting rental properties and stated that would be very difficult to administer. He stated the City deals with these types of issues on a complaint basis and does not go out looking for illegal rental units. He stated that if someone wants to rent their property, they will do it with or without permission from the City and it would be difficult to enforce the prohibition of rentals of these types of properties. He added that he does not see a problem with allowing the rental of these types of properties because the integrity of the zone can still be maintained. He stated he believes allowing joint utilities is a bigger problem.

Commissioner Russell stated the two problems relate to one another. He stated that Mr. Chandler said it may be fine to allow rental properties, but it is not fine to allow separate utilities; or if the two dwellings do not have separate utilities, it is not ok to rent the accessory dwelling unit. He stated he does not think Mr. Chandler’s recommendations are in moving towards what the Planning Commission wants to do in order to help the people that have requested this change. He stated he thinks, instead, that it is ‘throwing up flags’ rather than trying to help. He stated the City will need to enforce things in 40 years throughout the City and if every decision were made based on what will be happening in 40 years, the citizens are not going to be represented in those decisions. Mr. Chandler stated if people want to rent their properties they will do so and in many cases the City will not know about it until after the fact. He stated he supports the idea of

allowing rentals and that does not differ from what is allowed in other zones; but, a rental unit should have a separate utility connection and that is one of the reasons he supports separate utilities.

Vice-Chairman Waite stated some of the ordinances used in other cities require a conditional use permit be issued before someone is allowed to live in an accessory dwelling unit and he asked if that would be a way to control or enforce the ordinances in these situations. Mr. Chandler stated that would be a possibility, but there are some difficulties with conditional use permits as well because they are very subjective and as they have been legally challenged it has been found they are not actually an effective planning tool.

Chairman Thomas stated conditional use permits sound good initially, but he likes the idea of planning for things that could happen in the future so that when someone actually makes an application it is not necessary for various bodies to consider the application before it is approved. He stated he would like to establish provisions and guidelines so that staff can address applications as they are received. Mr. Chandler agreed and stated that in his opinion the most important provisions of the proposed ordinance are those that maintain the integrity of the zone, which calls for a 20,000 square foot parcel on which a home can be built. He stated that will allow the process of determining the land use to remain with the Planning Commission rather than landing on the shoulders of staff.

Commissioner Quinney stated that the reference to 20,000 square feet does not make any sense to him. He asked if there would be property boundaries and whether they would be recorded. Mr. Chandler answered no and stated Mr. Barker gave consideration to potential future desires to subdivide the property and he wanted to require setback distances that would allow for the subdivision of a property in the RE-20 zone to be subdivided into two properties. He stated that it is possible that current owners in the RE-20 zone will want to sell their property in the future and potential buyers may want to subdivide the property; by providing sufficient acreage, it is possible to create subdivisions that would maintain the integrity of the zone. Commissioner Quinney stated the problem he sees is setting up side-yards and other features of the property if a specific area is not defined. Mr. Chandler used the Hartmann property as an example and stated the subdivision of it would be very similar to any other flag lot in the City. Commissioner Brown stated that the Planning Commission does not yet know how they are going to address flag lots because they have not discussed that issue. She stated that what Mr. Chandler is suggesting would make the property vulnerable to be a flag lot. Mr. Chandler stated the City does allow flag lots and there are some throughout the City. He stated a flag lot was one of the options originally presented to Mr. Hartmann when he approached the City.

Chairman Thomas addressed Commissioner Quinney's question and stated that in the RE-20 zone a property owner must have 20,000 square feet for a residence and if they want an accessory dwelling unit their lot must be at least 40,000 square feet in size. He stated that those building accessory dwellings will also need to meet all setback requirements. Commissioner Quinney asked if a person wishing to subdivide their property would need to also request a rezone. Mr. Chandler answered no because the RE-20 zone allows for 20,000 square foot lots. He then drew a picture of a potential property and indicated that each house must sit on a 20,000 square foot portion of the property so that in the future a property owner could subdivide and

create a flag lot while still maintaining the 20,000 foot lot size minimum and avoiding a rezone of the property.

Zach Hartmann stated the use that he was requesting did not meet any land use designation in the City. He explained what he was trying to do with his property in order to provide a place for his parents to live and drafting the proposed ordinance makes sense because the community is aging and what he is requesting will accommodate many people. He stated the City does not need more duplexes or temporary living spaces; instead the City needs dwellings that will be in place for a very long time. He stated he is hoping that in the future his kids will want to do the same thing for him that he is doing for his parents. He stated he is sure many people will want to do the same and plan in advance due to the status of the economy and other factors. He stated this is a good selling point for people that are considering moving to North Ogden. He added the flag lot is another idea, but the Planning Commission is still working on it. He then stated that the primary dwelling unit is not very large and all utilities have been installed according to engineering standards, so it should not be too hard to connect the accessory dwelling unit to the same utilities. He stated that he feels this ordinance will serve the City well into the future, not just for him but for other families moving to the community.

There was then a brief discussion about lot frontage, with Mr. Barker stating the proposed ordinance does not address frontage whatsoever; it only addresses the area and the yard spaces for the accessory dwelling. He stated there are requirements for side yards and other setbacks in the RE-20 zone.

Vice-Chairman Waite stated item 11 in the proposed ordinance states City provided utilities shall directly connect to the City's main for each service. He asked if that means separate connections are required. Mr. Barker answered yes and stated there shall be direct connections from each dwelling to the City's main utility line.

Mr. Chandler stated if the Hartmanns desire to sell their property in the future and the buyer of the property wants to subdivide it, the public process will come into play because there is the possibility of rezoning the property to R-1-10. He added that regardless of what the Planning Commission decides regarding utility connections, the proposed ordinance requires the payment of all impact fees upon building an accessory dwelling and he feels it is important to keep that provision in the ordinance. He stated that even though family members may be living in the accessory dwelling unit, it will create an impact on the City's water and storm drain systems and it is only fair to charge the fee since anyone else that builds in the City is required to do the same.

Building Official Gary Kerr then reviewed the impact fees assessed for single family dwellings, which total approximately \$11,000, and noted they are due at the time a building permit is issued. A discussion regarding whether the Hartmanns have already paid impact fees ensued.

Jerry Hartman stated that he has built new homes in the City and is familiar with the building permitting process and he asked for a breakdown of the \$11,000 permit fee. He stated he has built large homes in the past and his total permit fee was approximately \$7,000. Chairman Thomas stated the fees have been increased. Mr. Kerr agreed and stated the average building permit falls in the range of \$14,000 to \$16,000 depending on the size of the home.

Chairman Thomas then stated staff is asking the Planning Commission for suggestions relative to how to proceed with development of the ordinance. He stated he agrees with Mr. Chandler regarding allowing rental units because prohibiting rental units would burden the City with enforcement challenges. Mr. Barker reminded the Planning Commission that owners of rental properties are required to register their rental units with the City. Commissioner Russell stated there are enforcement issues with every ordinance in the City and decisions regarding land use should not be based on enforcement. He stated he was in law enforcement his entire career and looking at enforcement as a reason why not to do something is wrong; the City is looking for reasons why not to allow something rather than looking for reasons to allow them. He stated he does not understand the reasoning for 'putting up flags' for why the requested land use should not be allowed.

Jerry Hartmann re-approached and stated that he has made notes throughout the discussion tonight and he explained that the Fire Department has visited his family's property and indicated that with the proper hammerhead turnaround the driveway should be 20 feet in width. He stated there has been discussion tonight regarding the potential development of a flag lot in the future, which would require a 30 foot easement and his feelings about that are that if the Fire Department only requires a 20 foot wide driveway that is all that should be required at this time. He asked why the City continues to create stumbling blocks and negativity in this process that could be very simple. Commissioner Knight stated that is why he discussed giving property owners their choice; the minimum requirement is a 20 feet wide driveway and if the property owner chooses 20 feet they are essentially limiting themselves relative to future subdivision of the property. Mr. Hartmann then stated that there have been comments that the accessory dwelling could create issues for those living near them, but he reminded the Planning Commission that in the last Planning Commission meeting the neighboring property owners that attended were supportive of the proposed land use and did not feel there would be negative impacts. He stated the City can continue to find and look for negativity, but the greater question should be why the Hartmanns are asking for this land use. He stated he has plans to move back to North Ogden, but he wants to live here with the understanding that children can move back to North Ogden to take care of their parents with the greater good in mind. He stated they do not want to create problems with their neighbors or each other over clogged utilities. He stated if the City would look at the greater purpose, it would be easy to find good rather than negativity.

Chairman Thomas stated he believes the Hartmanns will find that the Planning Commission is making good headway; when this idea was originally proposed there was a lot of negativity surrounding it, but at the last meeting the Planning Commission reached a consensus to find a way to help the Hartmanns reach their goal. He stated this ordinance will address the entire City and not just the Hartmann residence and that is why some things may apply to the Hartmann property while others may not. Commissioner Knight agreed and stated the City is not picking on the Hartmann family.

Mr. Barker addressed Jerry Hartmann's comments regarding the driveway and noted that the driveway servicing the accessory dwelling will be required to meet the City's driveway standards; it must be constructed of asphalt, asphaltic concrete, or another hard surface material, which does not include road base. Commissioner Knight asked if the City accepts AC millings;

it is old, ground up asphalt. Mr. Kerr stated the City would need to consider it and it is a possibility that it would be acceptable.

Chairman Thomas asked that the Planning Commission provide their suggestions to staff.

Vice-Chairman Waite stated that he understands the staff concerns regarding the issue of requiring the accessory dwelling be occupied by family members or prohibiting the owner from renting the dwelling. He agreed that either provision would be difficult to enforce. He added the biggest issue seems to be related to the utility connections. Commissioner Knight stated he does not see a problem with combining utilities as long as the connection meets engineering standards. He reiterated he would prefer to give the property a choice between combined or separate utilities as well as a choice between a 20 foot or 30 foot wide driveway. Commissioner Brown agreed and stated that Mr. Kerr indicated that the utility connections at the Hartmann property were adequate to handle the accessory dwelling. Commissioner Russell stated that he appreciates the fact that Mr. Chandler, Mr. Kerr, and Mr. Barker have raised several issues to assist the Planning Commission in making a decision, but he feels the Planning Commission represents the residents, and while taking direction from the City they should do everything in their power to make things work for the Hartmanns. Chairman Thomas agreed and stated that he would recommend that the property owner abide by the Fire Department's requirements that the driveway be at least 20 feet wide. He then referenced utility connections and stated he has mixed feelings; he wondered if the ordinance could include a provision prohibiting a joint connection if the dwelling is to be used as a rental unit. A short discussion regarding utilities for rental units ensued, with Commissioner Knight reiterating that he would prefer to give property owners their own choice. He stated that if he were the owner of a primary dwelling unit he would think very long and hard about renting an accessory dwelling to someone other than family if the utilities were combined. Chairman Thomas stated that requiring separate utility connections would resolve many issues that could arise between the City, the landlord, and the tenant. Commissioner Knight stated that is where personal responsibility should come into play; it is not the City's responsibility to resolve issues between a landlord and tenant.

Commissioner Quinney asked if the City will allow a combined utility connection for two separate dwelling units. Mr. Kerr stated the City's current policy is that separate units must have separate utilities. He added, however, that according to the building code, two separate units under the same ownership can have combined utilities. He reiterated the City's policy is that for rental units, whether they are attached or detached, there must be separate sewer and water connections.

Commissioner Knight stated it is important for the Planning Commission to remember that they are simply making a recommendation to the City Council and there will be additional opportunities for public input before the City Council makes a final decision. Mr. Kerr stated that if a property owner wishes to subdivide and create two separate parcels of property, it would not be very difficult to separate the combined utilities and make two sewer and water connections. Commissioner Knight stated that a property owner would be required to do that if they wished to subdivide and the subdivision would need to follow the public process. Mr. Kerr agreed.

Commissioner Quinney stated that his question is about the Hartmann property in particular. He stated that if the Planning Commission recommends approval of an ordinance to allow an accessory dwelling on the Hartmann property he wondered if the City will allow one utility connection for the two dwellings. Commissioner Russell stated that if the Planning Commission makes that recommendation and the City Council accepts it, the Hartmanns will be allowed joint utility connections. Commissioner Brown added that at the last meeting Mr. Kerr indicated the utility lines on the Hartmann property are adequate to handle two dwellings. Mr. Kerr stated that is correct to his knowledge. He stated there are many factors that must be considered when determining if a pipe is adequate to handle two dwellings and he noted he doubts there will be problems at the Hartmann property. Commissioner Quinney reiterated his original question and asked if the City will allow a joint utility connection. Mr. Chandler stated the City staff will follow the adopted ordinance; if the ordinance says property owners with two dwellings on their property can have a joint utility connection, the staff will allow it.

Commissioner Quinney then stated in a previous meeting he asked the Hartmanns to research what it would cost to separate the utilities for the two dwellings and report back to the Planning Commission regarding whether they would be able to afford that cost. He stated it appears that may not be an issue because the Planning Commission can recommend that joint utility connections be allowed, but he wondered if there are any other financial issues that would prohibit the Hartmanns from proceeding if the proposed ordinance were adopted. Zach Hartmann answered no and stated he has met with the Fire Marshall regarding the hammerhead turnaround on the property. He stated, however, that the Fire Marshall indicated that he did not see a need for the Hartmanns to pave the driveway back to the accessory dwelling unit and that it should be acceptable for them to use road-base as long as the driveway is kept clear. Commissioner Quinney stated that he simply wants to understand if the Hartmanns will be able to proceed, otherwise it does not make sense for the Planning Commission to spend additional time to develop an ordinance to address the Hartmanns request.

A short discussion regarding provisions of ordinances used in other cities ensued with Vice-Chairman Waite asking what additional direction the staff needs regarding the proposed ordinance. Mr. Call asked the Planning Commission's opinion regarding setbacks. Commissioner Knight stated he would recommend using standard setbacks in the ordinance. A discussion regarding utility connections ensued with Commissioner Knight reiterating he feels the property owner should be given the choice between joint and separate utilities as long as their connection complies with the building code. Vice-Chairman Waite agreed. Chairman Thomas stated he feels staff has enough direction to amend the proposed ordinance in order for the Planning Commission to consider it again before making a recommendation to the City Council. Mr. Barker agreed and stated he feels he has enough clear direction. Chairman Thomas explained to the Hartmanns the process the Planning Commission and City Council must follow regarding consideration of the proposed ordinance.

Commissioner Knight was then excused from the meeting.

3. DISCUSSION OF FLAG LOTS AS A SPECIAL PROVISION.

A staff memo from Community Development Director Craig Barker explained the Subdivision Ordinance of the City in Section 12-6-2 Lot Improvements states, “ Flag Lots: All flag lots shall be approved as a special provision to the zoning ordinance by the Planning Commission in accordance with the provisions the definition of “lot, flag” set forth in Section 11-2-1 of this code. This section is in the Zoning Ordinance which merely states that “Lot, Flag: a flag or L-shaped lot consisting of a staff portion contiguous with the flag portion, the staff portion having frontage on a dedicated street.”

My discussion with the City’s legal counsel indicates that the state law or City ordinance does not have any indication what is meant by “special provision”. The City Attorney indicated that if the City (Planning Commission) received a proposal for a Flag Lot which met the definition of 11-2-1 of the Zoning Ordinance they would have to approve it. If this is so, this means that every parcel in every zone which has enough property and lot width, the Planning Commission is obligated to approve the proposal. For example, the lot area required in an R-1-10 Zone is 10,000 square feet with a lot width of 90 feet. If a parcel has 20,000 square feet, plus the area needed for the flag stem, and 120 feet of frontage, the Planning Commission would be obligated to approve a flag lot. This would mean that the City could experience a number of flag lot proposals.

Mr. Barker reviewed his staff memo.

Commissioner Brown referenced a lot in the City where construction of a home is currently underway and she asked if it qualifies as a flag lot. Mr. Barker stated he is not familiar with the property Commissioner Brown is referencing.

Mr. Barker then stated that he needs direction from the Planning Commission regarding whether they are comfortable allowing a flag lot in any area of the City. He stated this item was added to the agenda as a result of a request from Commissioner Brown. Commissioner Brown stated that she was concerned about the lot she referenced earlier on 600 East. Mr. Kerr stated the property in question was an existing parcel that is not included in a subdivision; when the property owner pulled his building permit his parcel met the required width so a permit was issued.

Commissioner Brown then stated she asked that this item be added to the agenda because of a past experience in a subdivision that she lived in. She stated that flag lots seem to be popping up throughout the City and some could potentially have a negative impact on a neighborhood. She stated she simply wanted the Planning Commission to discuss it and understand what could potentially happen. Mr. Barker stated that if someone desires to create a flag lot, they must come to the Planning Commission for approval, so the Planning Commission will see all flag lot applications. Vice-Chairman Waite stated that if someone meets the regulations in the City Code relative to flag lots the Planning Commission is obligated to approve their application. Mr. Barker stated that is correct. Mr. Chandler added that flag lots are approved via conditional use permit and conditions assigned to a flag lot can be very problematic to enforce.

Commissioner Quinney stated that he has mixed emotions about the issue based on his belief that the Planning Commission has an obligation to protect property rights. He stated flag lots are

unusual and typically impede on someone else's property, so when thinking about property rights he has concerns about flag lots. He stated he knows that flag lots are legal, but they may not be desirable.

Discussion regarding existing flag lots in the City ensued, with a focus regarding whether the Planning Commission desires to continue to allow flag lots in the City. Mr. Kerr recommended imposing a setback whereby a house would need to be constructed at least 30 feet from the area where the flag lot widens. Discussion of the recommendation ensued with a focus on setbacks and how the setbacks would be measured. Mr. Barker concluded that he would work with Mr. Call to prepare a proposed ordinance amending the flag lot regulations according to the Planning Commission's discussion of setbacks.

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

A staff memo from Community Development Director Craig Barker provided the following sections of the City Code:

11-10-2: ADDITIONAL USE REGULATIONS:

The requirements of this title as to minimum site development standards shall not be construed to prevent a use as permitted in a respective zone of any parcel of land in the event such parcel was held in separate ownership prior to December 31, 2000. Each such parcel to be developed must have not less than twenty feet (20') of frontage on a street, and the density of development may not exceed that permitted by area requirements in the respective zone. (Ord. 2002-05, 4-9-2002)

11-10-3: ADDITIONAL PRINCIPAL BUILDING REGULATIONS:

As defined in chapter 2 of this title, every principal building shall be located and maintained on a lot and every lot shall have required frontage on a street, except where a parcel of land was in separate ownership prior to December 31, 2000, and except as otherwise permitted in this title. (Ord. 2002-05, 4-9-2002)

Mr. Barker reviewed his staff memo and stated that typically when a city adopts its first land use or zoning ordinance, the parcels in existence that cannot meet the new ordinance are 'grandfathered' and considered legal, non-conforming. He added, however, that the City of North Ogden has had zoning regulations since the 1950's, yet the sections of City Code included in his staff memo reference December 31, 2000.

Chairman Thomas stated he thought the date was added to address legal, non-conforming uses; those in place before December 31, 2000 would be permitted by the City, but anything done after December 31, 2000 would be required to follow the City's ordinance. He stated he thought it was done in response to non-conforming accessory buildings on properties throughout the City. Mr. Barker stated he thought it was in response to people that had built carports in their side

yards that violated the setback provisions of the City Code. He stated the minutes of the meeting during which the ordinance was adopted do not provide an explanation for the change. He stated he simply wanted the Planning Commission to be aware of the ordinance because, though it has not been a problem to date, it could become a problem in the future. He then provided examples where the ordinance language could create a problem, with input from Mr. Call.

5. PUBLIC COMMENTS.

There were no public comments.

6. PLANNING COMMISSION/STAFF COMMENTS.

Commissioner Quinney stated that he believes that if the City Council adopts the ordinance relative to allowing accessory dwellings in the RE-20 zone there will be a 'bundle' of situations similar to the situation of the Hartmanns and the City will have a difficult time 'wading' through all of them. Commissioners Russell and Brown disagreed. Vice-Chairman Waite stated he thinks there will be some similar situations, but he feels the issues will arise not when the accessory dwelling is built, but when the original property either desires to subdivide or sell his property to someone that wants to subdivide. Mr. Barker stated there are existing properties in the City where there have been two dwellings and he has dealt with them when the property owners have desired to sell or subdivide and there have been problems and application for variances as a result.

Vice-Chairman Waite then asked if any Planning Commissioners plans to attend the training sessions scheduled for tomorrow. Mr. Barker stated the 2040 Tool Box training is a very good training and he provided a brief overview of the tools shared at the session. A brief discussion about future similar training opportunities ensued.

Commissioner Brown inquired about the construction schedule for the Smith's Market Place. Mr. Chandler stated they will be working to enclose the canal during December and they plan to break ground in January; their anticipated opening date is at the first of the year 2015.

Chairman Thomas asked if there is any way to regulate election signs so that they cannot be in place for a four month period. Mr. Chandler stated the City's ordinance does not provide time restrictions, though ordinances used in other cities do. He stated the only time restriction included in the City's ordinance is that they must be taken down within five days after an election. Chairman Thomas stated he felt the signs were in place much too long and he worries about how the City looks littered by the signs. Mr. Chandler stated there is nothing to prohibit the Planning Commission from recommending a time limit on political signs. He then provided an explanation regarding how staff dealt with political signs, namely those that were placed illegally. He stated enforcement was complaint driven and it is typically not a candidate that places their sign illegally, instead it is the property owner that places a political sign illegally. He added he did not want staff to be inserted into the election. Discussion about various

concerns regarding political signs ensued, with Commissioner Brown stating she would like to consider the issue in the future, especially relative to safety.

7. ADJOURNMENT.

Commissioner Quinney made a motion to adjourn the meeting. Vice-Chairman Waite seconded the motion.

Voting on the motion:

Chairman Thomas	yes
Vice-Chairman Waite	yes
Commissioner Brown	yes
Commissioner Knight	yes
Commissioner Quinney	yes
Commissioner Russell	yes

The motion passed.

The meeting adjourned at 8:31pm.

Planning Commission Chair

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

Date approved