

The Meeting of the Nibley Planning Commission held at Nibley City Hall, 625 W. 3200 S. Nibley, Utah, on Wednesday, December 8, 2010.

The following actions were made during the meeting:

**Commissioner Bliesner motioned to approve the business license and conditional use permit for Jason Nelson and Blackrock Fencing & Deck at 860 W. 2465 S. with the conditions that there be no heavy equipment stored on the premises and that any company trailers or equipment not be stored in the public right of way and must be stored behind the front plane of the house. Commissioner Green seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Green, Commissioner Heidt, Commissioner Cook, and Commissioner Anderson all in favor.**

**Commissioner Heidt motioned to approve the application for the business license and conditional use permit for The Nail Spa and Celeste Harding at 2355 Clear Creek Road in Nibley. Commissioner Bliesner seconded the motion. The motion passed unanimously 5-0; with Commissioner Heidt, Commissioner Bliesner, Commissioner Green, Commissioner Cook, and Commissioner Anderson all in favor.**

**Commissioner Green motioned to approve the conditional use permit and business license for Vicky Tripp, Success Appeal, LLC at 3265 S. 600 W. Commissioner Bliesner seconded the motion. The motion passed unanimously 5-0; with Commissioner Green, Commissioner Bliesner, Commissioner Anderson, Commissioner Heidt, and Commissioner Cook all in favor.**

**Commissioner Bliesner motioned to approve the conditional use permit and business license for Jen Bastian, Accent Dance, with the condition she be limited to 8 clients at a time and 3 classes a week. Commissioner Green seconded the motion. The motion passed 5-0; with Commissioner Bliesner, Commissioner Green, Commissioner Anderson, Commissioner Cook, and Commissioner Heidt all in favor.**

**Commissioner Bliesner motioned to table the discussion and consideration to amend the provisions of The Cottages. Commissioner Anderson seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Anderson, Commissioner Green, Commissioner Heidt, and Commissioner Cook all in favor.**

**Commissioner Anderson motioned to approve the addition of dance hall to the land use chart. Commissioner Bliesner seconded the motion. The motion passed 4-1; with Commissioner Anderson, Commissioner Bliesner, Commissioner Heidt, and Commissioner Cook all in favor. Commissioner Green was opposed.**

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Commissioner Carrie Cook called the Wednesday, December 8, 2010 Nibley City Planning Commission meeting to order at 7:00 p.m. Those in attendance included Commissioner Carrie Cook, Commissioner Aaron Bliesner, Commissioner Marina Heidt, Commissioner Bill Green, and Commissioner Wayne Anderson. Shari Phippen, the City Planner, was also present.

**Approval of the 11-22-10 meeting minutes and agenda.**

There was general consent on the evening's agenda and the 11-22-10 meeting minutes.

**CONDITIONAL USE PERMIT/BUSINESS LICENSE**

**Blackrock Fencing & Deck—request a conditional use permit and business license for a home occupation (fencing/deck construction) located at 860 W. 2465 S.**

**(Applicant: Jason Nelson)**

The applicant, Jason Nelson, was present at the meeting. Commissioner Cook asked the applicant if he would have any equipment. Mr. Nelson said they had a post hole digger that was about the size of a motorcycle and a flat bed trailer.

Commissioner Anderson arrived at 7:01.

Commissioner Green noted that everything Mr. Nelson had on his property was past the front plane of the house. Mr. Nelson said everything is in the back and they don't have much equipment; they kept little on site.

Commissioner Bliesner made a motion to approve the business license and conditional use permit for Jason Nelson and Blackrock Fencing & Deck at 860 W. 2465 S. with the conditions that there be no heavy equipment stored on the premises and that any company trailers or equipment not be stored in the public right of way and must be stored behind the front plane of the house. Commissioner Green seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Green, Commissioner Heidt, Commissioner Cook, and Commissioner Anderson all in favor.

**The Nail Spa—request a conditional use permit and business license for a home occupation (nail salon) located at 2355 Clear Creek Rd. (Applicant: Celeste Harding)**

Mr. Jarred Harding was present at the meeting. Mrs. Harding was ill. Ms. Phippen said the applicant was limited to one client at a time. Commissioner Green asked if they had to get a license to do this. Mr. Harding said his wife went to cosmetology school and has her State license.

Commissioner Heidt made a motion to approve the application for the business license and conditional use permit for The Nail Spa and Celeste Harding at 2355 Clear Creek Road in Nibley. Commissioner Bliesner seconded the motion. The motion passed unanimously 5-0; with Commissioner Heidt, Commissioner Bliesner, Commissioner Green, Commissioner Cook, and Commissioner Anderson all in favor.

**Success Appeal, LLC—request a conditional use permit and business license for a home occupation (day care) located at 3265 S. 600 W. (Applicant: Vicky Tripp)**

Vicky Tripp was present at the meeting. Ms. Phippen said she had a question about the frequency of the classes. Mrs. Tripp said they would be Monday through Friday, regular business hours. Ms. Phippen asked how she would handle pick up and drop off. Mrs. Tripp said she thought it would be unlikely that everyone would come and go at the same time and if there were multiple people there could be two people in her driveway and one in the front of her property. Commissioner Bliesner said he was not familiar with the property. Commissioner Green noted the applicant did not have a yard. Mrs. Trip said the state did have a rule that they had to have a fenced area and the state had granted her a conditional license until the end spring so they could get the fence in. Commissioner Anderson said they had been requiring fences ever since he had been on the Commission. Mrs. Trip said there were State criteria that required a fence; if they were within a certain distance from a street, livestock, or still water.

Commissioner Green made a motion to approve the conditional use permit and business license for Vicky Tripp, Success Appeal, LLC at 3265 S. 600 W. Commissioner Bliesner seconded the motion. The motion passed unanimously 5-0; with Commissioner Green, Commissioner Bliesner, Commissioner Anderson, Commissioner Heidt, and Commissioner Cook all in favor.

**Accent Dance—request a conditional use permit and business license for a home occupation (dance classes) located at 893 W. 2880 S. (Applicant: Jen Bastian)**

The applicant, Jen Bastian, was present at the meeting. Ms. Phippen asked how frequently she would be having the class. Mrs. Bastian said right now she anticipated having one class a week but may eventually be three a week. She said half of her basement was a dance studio. Ms. Phippen said she did not have a problem with it as long as there was not pick up/drop off problems. Mrs. Bastian said she was not planning on advertising to the whole valley; it would probably be mostly from her neighborhood. Commissioner Bliesner said he questioned the maximum occupancy; this was the first time he saw an application with potentially 20 clients. He was not sure how they would address that. Commissioner Anderson asked what she thought her class size would be. Mrs. Bastian thought ten at the most but most likely 6 and she anticipated teaching 3 classes a week. They would be 40-60 minute classes.

Commissioner Bliesner made a motion to approve the conditional use permit and business license for Jen Bastian, Accent Dance, with the condition she be limited to 8 clients at a time and 3 classes a week. Commissioner Green seconded the motion. The motion passed 5-0; with Commissioner Bliesner, Commissioner Green, Commissioner Anderson, Commissioner Cook, and Commissioner Heidt all in favor.

**REQUEST TO AMEND A PUD**

**Discussion and consideration of a request to amend the provisions of The Cottages, a PUD located at 3515 S. 250 W. (Applicants: Jay Harrison/Dan Farnsworth)**

Jay Harrison and Claine Liechty were present at the meeting. Dan Farnsworth was unable to be to the meeting. Mr. Harrison said they had only sold eight lots in the development

and they had found the senior housing market had changed and they wanted to change the development so that anyone could live there. Commissioner Anderson asked Ms. Phippen for background on the development. Ms. Phippen said when it was presented to the city in the spring of 2004 it was presented under the premise that it would be a 55 and older adult living community. Final approval was given by the Council in May of 2005; it was 22 lots on 6.5 acres so the density was about 3.5 units per acre. Ms. Phippen said this was still in a half acre zone. Part of the development agreement that was signed was that the City Council had to approve of their CCNRs; essentially these developers wanted to amend their CCNR's and take the 55 and older restriction off. There was concern and opposition from the neighbors on the density when it was presented to the city. Originally there was a clubhouse included and they had since come back and gotten approval to take the clubhouse off the plat. Commissioner Bliesner asked what happened to the lot that taken off. Mr. Harrison said it was open space. Mr. Harrison said the residents in there have agreed that they can take this off if they need to. He said there were two vacant foreclosed houses in the development and one rental property from a gentleman that passed away. He said the economy is different now; interested parties cannot sell their houses for what they are worth on the market so they are waiting. Mr. Harrison said they would leave everything the same; the same design standards would still exist. Mr. Liechty said their covenants would limit quite a bit; there are no boats, trailers, outdoor sheds, etc. allowed and the covenants would stay intact and the community should stay nice.

Commissioner Green said they got the little small lots with a planned unit development in a half acre zone and if they change this for them then what is to stop every developer from coming and doing the same thing. He said he was against this. Mr. Liechty asked his opinion of planned unit developments and if they should only be out west or should they be mingled throughout the city. Commissioner Bliesner asked what the minimum lot size in the city under R-2A. Ms. Phippen said 12,000 sq. ft. Commissioner Anderson said in R-2A they had to average 14,000 sq. ft. Mr. Harrison said it would be no different if either older or younger people live there. Commissioner Anderson said he believed one of the caveats of the City Council granting the planned unit development was that it was a 55 and older community.

Commissioner Bliesner made a motion to suspend the agenda. Commissioner Anderson seconded the motion. The motion passed 5-0; with Commissioner Bliesner, Commissioner Anderson, Commissioner Heidt, Commissioner Green, and Commissioner Cook all in favor.

Commissioner Bliesner asked if there was an organized home owners association at work here. Mr. Harrison said yes, there was. Commissioner Bliesner asked if they were a voting body. Mr. Harrison said they were. Commissioner Bliesner said Mr. Harrison needed to provide an official vote from the home owners association that they were alright with this. He said he opened himself up to a potential lawsuit if he came in and changed their covenants without their express approval. They would need an official action from those concerned then they are more able to be open to the possibility of finding a solution. There is little likelihood that he would vote to rezone this to R-2A;

they have continually denied anyone who has requested that. There has been a lot of public outcry against that. Mr. Harrison said everything would still be the same; they would take out two provisions; one in the CCNR's and another document that reiterates the same thing of 55 and older. Commissioner Bliesner said if they were to allow the change, because the planned unit development was senior living it was recorded on the deed, to take away that requirement would essentially act to rezone to R-2A. He offered them the option of converting this to a conservation subdivision. Commissioner Cook said he is not the only developer looking at an economy that is "going south"; she did not see that they had to solve his problem. She believed they would be setting a precedence. Commissioner Anderson said he recalled the dedication to Nibley City of the pond, the open space, clubhouse, the +55, and the trail down the canal seemed to be the main points on the application when they were granted approval. He said they had some common space that they could perhaps dedicate to the public but it would have to be open to the public. Commissioner Bliesner said the request to simply change the covenants was not going to work for him. Commissioner Anderson said he had to think that in that area there wasn't really any park space and opening that up to the public could be an asset; he said he would be willing to swap the +55 for public access to the open space. Or they could push up the development of that trail as a swap for the +55. Commissioner Bliesner suggested they review the conservation subdivision ordinance and he said they should meet with their home owners association and come back with an official decision from them and have them make the application for change.

Commissioner Bliesner made a motion to table the discussion and consideration to amend the provisions of The Cottages. Commissioner Anderson seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Anderson, Commissioner Green, Commissioner Heidt, and Commissioner Cook all in favor.

**7:30—Public Hearing—A public hearing to receive comments on a request to amend the Nibley City Land Use Chart to include a public dance hall.**

Ms. Phippen said there had not been much going on in the way of selling the other buildings by the Peterson Farm store. The development was approached about doing a public dance hall/billiards hall. They were looking at adding a public dance hall to the land use chart with the associated definition; a place open to the public upon payment of an admittance fee where music is provided and people are allowed to dance. Ms. Phippen said she did not have a problem with it but did not think it should be strait out permitted but conditional in industrial and commercial and not permitted anywhere else. She said they had received a preliminary layout for what it would be like and what would go on in there.

Commissioner Cook opened the public hearing at 7:52.

Allen Cornea said he was the person that wanted to put this in. It would be a dance area with a raised platform and a billiards hall. There would be live bands, electronic, or DJ music. It was an overall small portion of the business. He wanted a real nice billiard room and real dance area. He proposed doing dance instruction in the classical, American ballroom, and country dance styles. He said the area was approximately 4400 sq. ft. and

the dance floor would be 6-700 sq. ft. Commissioner Cook asked if he anticipated expanding into food sales. Mr. Cornea said if it were to happen then it would only be small finger type food. Commissioner Heidt asked if he would consider a liquor license. Mr. Cornea said he would; he said there were no liquor or wine licenses available in Utah right now.

Tiffany Burton said she represented the development and they really wanted Mr. Cornea there.

Max Stall, a student at USU with the Hard News Cafe said he was breaking in to the swing dance/country dance scene and he thought it would be nice to use the space out there and there would be a reason to get to Nibley.

Seeing no other public comment, Commissioner Cook closed the public hearing at 7:57.

**Consideration of a request to amend the Nibley City Land Use Chart to include a public dance hall.**

Commissioner Green said he was against this and did not think they should allow dance halls near a school. Commissioner Bliesner wondered if dance hall was defined too narrowly. He wondered if there were any other items that would be lumped into this that might not paint them into a corner. He proposed they have a night club/tavern definition so that they would be defined differently. He thought it was an interesting use for that space; Nibley City had no residential over there at all. Commissioner Heidt said she would like to see it come in. Commissioner Cook said she thought they could take the opportunity to add other provisions that would fit under the same categories or genre but not under the dance hall provision. Commissioner Anderson asked why if it fit under the same zone with the same conditional use why they wouldn't have it as one; he said he would be good with dance hall/tavern being under one usage. Commissioner Cook said she did not have a problem with that either. Commissioner Heidt thought this was a great idea and that a lot of it was dependent on the business license and the conditions that were applied; she thought that would take care of a lot of the problems.

Commissioner Anderson made a motion to approve the addition of dance hall to the land use chart. Commissioner Bliesner seconded the motion. The motion passed 4-1; with Commissioner Anderson, Commissioner Bliesner, Commissioner Heidt, and Commissioner Cook all in favor. Commissioner Green was opposed.

**Workshop**

There was general consent to adjourn at 8:11 p.m.