

The Meeting of the Nibley Planning Commission held at Nibley City Hall, 625 W. 3200 S. Nibley, Utah, on Wednesday, July 13, 2011.

The following actions were made during the meeting:

Commissioner Cook motioned to approve the conditional use permit for Sheryl Nelson and business license for Moonlight Hollow Creations at 4070 Hollow Road for the production of their scented wax as long as it stayed within the confines of the building and followed all the rules to go with the conditional use permit. Commissioner Heidt seconded the motion. The motion passed unanimously 4-0; with Commissioner Cook, Commissioner Heidt, Commissioner Green, and Commissioner Bliesner all in favor.

Commissioner Cook motioned to table the conditional use permit for Hunter Auto Care. Commissioner Heidt seconded the motion. The motion passed 4-0; with Commissioner Cook, Commissioner Heidt, Commissioner Green, and Commissioner Bliesner all in favor.

Commissioner Cook motioned to deny the application for a conditional use permit and business license for Revolution Radio and Jonathan Keen at 3665 S. Main and have him come back and discuss the application. Commissioner Green seconded the motion. The motion failed 1-3; with Commissioner Cook in favor. Commissioner Heidt, Commissioner Green, and Commissioner Bliesner were against the motion.

Commissioner Heidt motioned to table the application for a conditional use permit and business license for Jonathan Keen and Revolution Radio. Commissioner Green seconded the motion. The motion passed 4-0; with Commissioner Heidt, Commissioner Green, Commissioner Cook, and Commissioner Bliesner all in favor.

Commissioner Aaron Bliesner called the Wednesday, July 13, 2011 Nibley City Planning Commission meeting to order at 7:00 p.m. Those in attendance included Commissioner Carrie Cook, Commissioner Marina Heidt, Commissioner Aaron Bliesner, and Commissioner Bill Green. Commissioner Wayne Anderson was excused from the meeting.

Approval of 6-22-11 meeting minutes and agenda

There was general consent on the evening's agenda and the 6-22-11 meeting minutes.

CONDITIONAL USE PERMIT/BUSINESS LICENSE

Moonlight Hollow Creations—request a conditional use permit and business license for a candle making business located at 4070 Hollow Rd. (Applicants: Sheryl & Rachel Nelson/Andrea Black)

Andrea Black and Rachel Nelson were present at the meeting. Sheryl Nelson was not at the meeting. Commissioner Bliesner clarified this was for a conditional use permit and business license at 4070 Hollow Road. Ms. Black said they were just making

candles/scents for the home. Ms. Phippen said at first she was worried about it because they were going to do it out of an accessory building on the property but what they were proposing to do fit under the land use chart under the definition of an artisan shop and was a conditional use for the zone; there were not the limitations on it as far as having outside employees or being able to do it out of accessory building. The only difference is they would have to pay a commercial business fee and in and residential zone and that license fee is \$100/year. Ms. Phippen said it was her interpretation that this could be license as a commercial business in a residential zone because it met the definition of an artisan shop. She would recommend, based on that opinion, that it be approved as a commercial business in a residential zone/ artisan shop.

Commissioner Cook asked how they distributed their product. Ms. Black said just friends and family for now. Ms. Nelson they were trying to decide about direct selling; they would have consultants working for them and they would sell directly to friends and family.

Ms. Phippen said there were some cottage industry businesses that their land use code defined as an artisan shop. Commissioner Bliesner asked for clarification that it was specific to RE and not available in all zones. Ms. Phippen said an artisan shop is a conditional use in Ag, RE, R1, Commercial, and Neighborhood Commercial zones and not permitted in all other residential zones. Commissioner Cook asked what equipment they had in their shop to do this. Ms. Black said they had hot plates and a double boiler. Commissioner Bliesner said he was not comfortable offering a conditional use permit to anyone who was not named on the property. He recommended that in the motion they extend approval to Sheryl Nelson; he said was not crazy about being in the habit of offering conditional use permits people not living on properties. Ms. Phippen said they had Mrs. Nelson's signature on the application. Commissioner Bliesner also suggested they include wording in the motion that any of the activities related to manufacturing of the items listed on the application be confined to the space of the shop. Commissioner Bliesner said he wanted to make sure they didn't have oil drums or wax pallets sitting outside the shop.

Commissioner Cook made a motion to approve the conditional use permit for Sheryl Nelson and business license for Moonlight Hollow Creations at 4070 Hollow Road for the production of their scented wax as long as it stayed within the confines of the building and followed all the rules to go with the conditional use permit. Commissioner Heidt seconded the motion. The motion passed unanimously 4-0; with Commissioner Cook, Commissioner Heidt, Commissioner Green, and Commissioner Bliesner all in favor.

Revolution Radio—request a conditional use permit and business license for a home occupation (online radio station) located at 3665 S. Main (Applicant: Jonathan Keen)

Jonathan Keen was not present at 7:15.

Commissioner Cook made a motion to suspend the agenda. Commissioner Heidt seconded the motion which passed unanimously 4-0; with Commissioner Cook, Commissioner Heidt, Commissioner Green, and Commissioner Bliesner all in favor.

CONDITIONAL USE PERMIT

Hunter Auto Care—request a conditional use permit to sell motor vehicles from the existing business located at 25 W. 3200 S. (Applicant: Colby Hunter)

Mr. Colby Hunter and Mrs. Hunter were present at the meeting. Commissioner Bliesner asked what they had done with the convenience store area and Commissioner Cook asked what they had planned for that area. Mr. Colby said there had been interest shown in a bicycle shop; they had a girl interested in a consignment type store; they had someone interested in a fresh produce shop; and they would like eventually have a hamburger and fries shop; he thought that would do well in Nibley.

Ms. Phippen said Mr. Hunter wants to be able to sell a car here and there out of the shop; motor vehicle sales were a conditional use. She brought him in to talk to the Commissioners to see what they would like to see before they decided what conditions to put on his conditional use permit. Mr. Hunter discussed the property he owned and what he intended to own and his plans for that property. Commissioner Bliesner said this was a non-conforming commercial lot and to the extent that this could be achieved they would need to address his customer parking and how he was going to stage the for sale automobiles. Commissioner Heidt thought that could be regulated by the conditional use permit by quantity. Commissioner Bliesner said they would need to see a site plan that would probably need to be a recommendation from city staff as a recommendation to the Planning & Zoning Commission; he would need to present how they would stage the vehicles and before they were done there would be a number on how many cars he could have but Commissioner Bliesner did not know what that number was right now. Commissioner Bliesner recommended they keep the repair cars in the back and the sale cars in the front. He did not think they could allow any extended future use of the property that didn't comply with current ordinance. Commissioner Bliesner said off the top of his head; they could not allow any new parking area that is not paved and he imagined would have to comply with storm water requirements for drainage. Commissioner Bliesner said they did not govern the engineering decisions but he would not be willing to grant approval unless he complied with the people that did govern them. He was talking about anything that was new and an extended use that did not previously exist that had a significant relevance; if he could figure those out it was a "slam dunk" with him. He said he could have an engineer layout their parking and make sure the site plan was to scale. Ms. Phippen said when they went to expand the pavement then he would need to get some engineering done to get approval. Mr. Hunter asked what if he was to buy camp trailers if he could park them on the same lot and sell them from there or if he would need a different conditional use permit. Ms. Phippen said that was how they interpreted the ordinance and she tended to not interpret it that strictly. Ms. Phippen said if it had to be licensed with the department of motor vehicles then to her it met the requirement of being a motor vehicle. Mr. Hunter asked if he would be able to park those types of vehicles on the gravel because they did not have a motor. Commissioner

Bliesner said if they were parking anything on the property it would need to be paved according to the ordinance.

Commissioner Bliesner described to Mr. and Mrs. Hunter why the property was a non-conforming legal lot. Mrs. Hunter asked if someone did a restaurant there and wanted to have a drive-up if that would be possible. Ms. Phippen said if it involved structural alterations to the building then it would have to come into compliance. Commissioner Bliesner said there would be engineering details but he had no issue with a hamburger establishment. Commissioner Bliesner noted that if this was advertised on the agenda as a conditional use permit then they needed to take some action on the issue.

Commissioner Cook made a motion to table the conditional use permit for Hunter Auto Care. Commissioner Heidt seconded the motion. The motion passed 4-0; with Commissioner Cook, Commissioner Heidt, Commissioner Green, and Commissioner Bliesner all in favor.

Ms. Phippen said she did not feel they could deal with the application for the online radio station because he was asking for an employee.

Commissioner Cook made a motion to deny the application for a conditional use permit and business license for Revolution Radio and Jonathan Keen at 3665 S. Main and have him come back and discuss the application. Commissioner Green seconded the motion.

Commissioner Heidt said she was not comfortable with denying the application. The purpose of the Planning & Zoning Commission and conditional use permits was to make it so they could let people do what they wanted to do within certain parameters; in denying this she wanted Mr. Keen to understand that he could get this he just needed to work within the guidelines with the sign and he could not have an employee.

Commissioner Bliesner said he would not vote for denying the application because he thought it could be dealt with by tabling it or by issuing it with conditions that dealt with the issue they were concerned about; if they denied it then he had to reapply and pay another application fee. Commissioner Green said they needed to have him come back and talk to the Commission.

The motion failed 1-3; with Commissioner Cook in favor. Commissioner Heidt, Commissioner Green, and Commissioner Bliesner were against the motion.

Commissioner Heidt made a motion to table the application for a conditional use permit and business license for Jonathan Keen and Revolution Radio. Commissioner Green seconded the motion. The motion passed 4-0; with Commissioner Heidt, Commissioner Green, Commissioner Cook, and Commissioner Bliesner all in favor.

WORKSHOP/DISCUSSION

Discussion with Jay Baker, Cache County Planner, regarding conditional uses

Jay Baker, the County Wide Planner, was present at the meeting. Ms. Phippen said a couple of weeks ago they had a discussion about revising and expanding their conditional

use permit and they talked about some criteria for possibly reviewing their conditional use permits. She thought bringing in Mr. Baker would give them a refresher course on what they can do with their conditional use permits.

Mr. Baker said he had a few presentations that he had been giving to a few locations in the valley. Mr. Baker discussed the differences between a permitted use and a conditional use; how they regulated permitted uses; how they regulated conditional uses; how conditional uses are approved and what reasonable conditions were; reasonable standards; denying applications that are not in compliance; if they cannot mitigate impacts; and reviewing conditional use permits at random or with complaints to ensure compliance and revoking conditional use permits.

Ms. Phippen did research on revoking a conditional use permit and thought it could be easily applied to their city ordinance.

Mr. Baker said they should always attach conditions to their conditional use permits; they should have standard conditions that are always attached to every permit.

Commissioner Bliesner asked what the obligation of the Planning & Zoning Commission was when they have knowledge that a violation had occurred on conditions issued by the Planning & Zoning Commission. Mr. Baker said his personal opinion was if the violation was on the ordinance then it needed to be enforced. Mr. Baker discussed how they enforced ordinance violations. Commissioner Bliesner asked if they could be held liable for not enforcing ordinances. Mr. Baker said he did not see liability being an issue; an ordinance could be enforced or not enforced at any time and noted an example from Logan.

Commissioner Bliesner and Mr. Baker discussed the pro and cons of planned unit development ordinances.

Commissioner Bliesner asked if a complaint was enough to move and follow through on compliance with a conditional use permit. Mr. Baker said as long as it was a valid complaint and in the County they did check on that. Mr. Baker said with conditional use permits they needed to get it right the first time.

Commissioner Cook left at 8:36.

Commissioner Bliesner said he was looking for a way to untie the conditional use permits when they were attached to the property. Mr. Baker said a conditional use permit can expire if the conditional use permit is not being used or is discontinued; it could be monitored through the business licenses. Commissioner Bliesner said he was also concerned that they had a conditional use permit for accessory buildings and once the building was installed they couldn't revoke the conditional use permit. Ms. Phippen clarified that accessory buildings were not a conditional use, they were a building permit; they were permitted uses that had a higher level of approval than just city staff. The

Planning & Zoning Commission requested Mr. Baker come back for training on different types of decisions and ways to streamline processes.

Ms. Phippen said the City Council did elect to repeal the planned unit development ordinance. The Mayor thought they needed a planned unit development ordinance but he wanted to repeal it until they had one they were comfortable with. Commissioner Bliesner said he wanted to see, with the planned unit development ordinance, an overlay zone that described where a planned unit development could be.

Ms. Phippen said they had a developer that was threatening to annex into Logan City because he was denied an electronic message display. Mr. Baker noted that there would be a meeting with the people from Yesco to talk about EMDs and the pros and con; he said it would be next Tuesday at 2:00 in the County Administration building; any cities were invited to attend.

There was general consent to adjourn at 8:55.