

The Meeting of the Nibley Planning Commission held at Nibley City Hall, 625 W. 3200 S. Nibley, Utah, on Wednesday, September 28, 2011.

The following actions were made during the meeting:

**Commissioner Heidt motioned to approve Jenny Petrovich for Scentimental Floral Design for a conditional use permit and business license at 3385 S. 1460 W. Nibley with the following conditions; that she be limited to 20 client visits per week and if she exceeds that her conditional use permit and business license may be reviewed. Commissioner Cook seconded the motion. The motion passed unanimously 4-0; with Commissioner Heidt, Commissioner Cook, Commissioner Green, and Commissioner Bliesner all in favor.**

**Commissioner Cook motioned to approve the conditional use permit for Hunter Auto Care, applicant Colby Hunter, to allow auto sales at 25 W. 3200 S. with the conditions of 20 total parking spaces; one handicap, three customer, 14 sales, and two employee spaces at a maximum. The handicap space should be the space closest to the door at the forty-five or the space parallel to the shop. Commissioner Green seconded the motion. The motion passed unanimously 4-0; with Commissioner Cook, Commissioner Green, Commissioner Heidt, and Commissioner Bliesner all in favor.**

**Commissioner Heidt motioned that Ben Garner operating as Tasmanian Tree Service come into compliance with his current conditional use permit and business license or bring back a revised conditional use permit application within 30 days and if Mr. Garner fails to come into compliance or bring in a revised application it would automatically go to City Council as a recommendation to revoke the conditional use permit. Commissioner Green seconded the motion. The motion passed unanimously 4-0; with Commissioner Heidt, Commissioner Green, Commissioner Cook, and Commissioner Bliesner all in favor.**

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Commissioner Aaron Bliesner called the Wednesday, September 28, 2011 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, and Commissioner Bill Green. Commissioner Wayne Anderson was excused from the meeting.

#### **Approval of 8-10-11 and 8-24-11 meeting minutes and agenda**

There was general consent for the meeting minutes of August 10, 2011 and August 24, 2011. There was also general consent for the evening's agenda.

#### **Conditional Use Permit/Business License**

**Scentimental Floral Design—request a conditional use permit and business license for a home occupation (floral design) located at 3385 S. 1460 W. (Applicant: Jenny Petrovich)**

Mrs. Jenny Petrovich was present at the meeting. Ms. Phippen said Mrs. Petrovich wanted to do floral design for dances, weddings, and funerals. She would have no employees and all work would be done at her home. There should be no client visits with the exception of people coming to pick up a boutonniere or corsage for a dance; all funeral or wedding arrangements would be delivered. Ms. Phippen said she knew they did not typically allow customers to come to a home based business so if Mrs. Petrovich was amenable to the condition that she would have to deliver it all then she would be alright with the application. Ms. Phippen said under the definition of a home occupation it said “individuals who do not live at the home must not report to the residence for home occupation related activities” and did not know if that included clients visiting the home. Commissioner Cook said she did not know how they could differentiate between a business dropping off kids for a dance class or daycare.

Commissioner Green noted the applicant’s street was not very large and he would require the clients pull into the driveway to pick up their order. Commissioner Bliesner said he would add a proviso to the conditional use permit/business license be limited to 5 client visits per week. Commissioner Bliesner asked what she anticipated her client visits to be. Mrs. Petrovich said she estimated 30-40 client visits on the day of a dance. Commissioner Bliesner said that was a stretch for a one day period and wanted to scale what was appropriate for a home based business. He said once she was doing 30-40 she should be looking at up scaling to a business space. The Planning & Zoning Commission discussed how many client visits they could allow.

Commissioner Heidt made a motion to approve Jenny Petrovich for Scentimental Floral Design for a conditional use permit and business license at 3385 S. 1460 W. Nibley with the following conditions; that she be limited to 20 client visits per week and if she exceeds that her conditional use permit and business license may be reviewed. Commissioner Cook seconded the motion. The motion passed unanimously 4-0; with Commissioner Heidt, Commissioner Cook, Commissioner Green, and Commissioner Bliesner all in favor.

### **Conditional Use Permit**

#### **Hunter Auto Care—request a conditional use permit to allow automobile sales at the existing business located at 25 W. 3200 S. (Applicant: Colby Hunter)**

Mr. Colby Hunter was present at the meeting. Commissioner Bliesner said he did have a question about customer parking. Mr. Hunter said it could be labeled any way they wanted. Commissioner Bliesner said he would actually like parking designated to customer parking to there wouldn’t be any sales cars put in those space. Mr. Hunter noted spaces he would designate as customer parking. Commissioner Bliesner said that gave three customer parking spaces; one would need to be designated handicapped. He and Mr. Hunter discussed a handicap parking space. Commissioner Green asked if Mr. Hunter intended to take out the overhang on the property. Mr. Hunter said he did not intend to do that now. Commissioner Green asked how many cars Mr. Hunter intended to Commissioner Cook said there were 19 total spaces; 14 sales, 2 employees, and 3 customer parking. Ms. Phippen advised Mr. Hunter that if he wanted to have more sales spaces he would need to pave the gravel. Commissioner Bliesner said he thought the

motion ought to mention a specific limit of cars and designate the 3 stalls for customer parking and not used for sales and in an effort to consider the spirit of the law regarding Americans With Disabilities Act that one of those stalls should be handicap accessible; he liked the spot in front of the repair shop which would give him a total of 20 stalls; 4 for customer parking, 1 of those stalls being handicap accessible; at maximum capacity he could have 20 vehicles parked there total. Commissioner Bliesner said he liked the paperwork Mr. Hunter provided and said it was very helpful.

Commissioner Cook made a motion to approve the conditional use permit for Hunter Auto Care, applicant Colby Hunter, to allow auto sales at 25 W. 3200 S. with the conditions of 20 total parking spaces; one handicap, three customer, 14 sales, and two employee spaces at a maximum. The handicap space should be the space closest to the door at the forty-five or the space parallel to the shop. Commissioner Green seconded the motion. The motion passed unanimously 4-0; with Commissioner Cook, Commissioner Green, Commissioner Heidt, and Commissioner Bliesner all in favor.

### **Discussion with Ben Garner regarding operation of a home occupation at 205 Quarter Circle Drive**

Mr. Ben Garner was present at the meeting. Ms. Phippen read a statement she had prepared to the Planning & Zoning Commission.

Commissioner Bliesner asked if the City Council actually revoked the license then why they needed to have the discussion. Ms. Phippen said City Council would revoke the license based on their recommendation.

Mr. Garner said he did not mean to offend or overdue his license; he was new to the city ordinances. He said the equipment was his partners and they had taken all the equipment off his property and had been removing logs. He knew Nibley had more tree businesses in the area and knew they had their equipment in the backyard. He said he never had the intent of being unruly; they were working on cleaning up the property but did not know that he couldn't do what he wanted on his own property. Commissioner Bliesner said he wanted to review where Mr. Garner actually wanted to go with his business; he did have against him that his was an industrial use. Mr. Garner said they had two log splitters outside and they ran them a lot less than a lawn mower and the horse power was less than a lawn mower; he said they also ran a chain saw to cut wood. He said he asked Ms. Phippen if he could reapply for his conditional use permit to modify and was told that was out of the question. Ms. Phippen said she had not said that. Commissioner Bliesner said it was not out of the question but may not be worth Mr. Garner's time; it sounded to him like he was running a small scale mill and asked if it was accurate. Mr. Garner they were not running a mill. Commissioner Cook said they were processing wood and Mr. Garner agreed they were. Mr. Garner said they had moved the boom truck chippers off the property; the stump grinder was in the backyard. He said when he talked to the neighbor that called the city that they said they just did not like seeing wood in their yard. Mr. Garner said the average home owner used 5-6 cord of wood per year and he would still like to be able to cut twice that which they could do in three weekends. Commissioner Cook asked how many trees they were cutting down now. Mr. Garner said

they bring in trees once a week. Commissioner Cook said they were growing enough that he had a partner now. Mr. Garner said it was a loose partnership. Commissioner Cook asked if it was fair to say their volume of business had changed. Mr. Garner said it was. Commissioner Cook asked how many cords of wood he had in his backyard. Mr. Garner said he had about 8 cords now. Ms. Phippen said one thing that concerned her was that their ordinance said they could not use any part of the yard or an accessory building to operate a business. Commissioner Bliesner said the original application appealed to him because it was presented as a home office for work that would be preformed offsite and that he would be parking his truck. Commissioner Bliesner said Mr. Garner could scale it back to what they had approved and be done; the commercial sales and processing out in the yard was an issue and he did not see how they could make that compatible with the neighborhood. Mr. Garner could base his business there but the processing would have to be done elsewhere. He said he was amiable to a revision of the conditional use permit to allow an extra piece of equipment if there was an appropriate place to store it. Commissioner Bliesner said he did not see any sense to having that amount of wood there if he was not processing it. Ms. Phippen said if she left him with the impression that he could not revise the conditional use permit that was not her intention; she said she recalled the conversation they had and said she meant that he could not have a business approved at that scale in the neighborhood.

Scott Kidman said he lived at 145 Quarter Circle Drive and that Mr. Garner chain saws were hardly ever heard and his backyard was surrounded by trees. The amount of time he had been there none of Mr. Garner's equipment had ever annoyed him. There had never been signs out front.

Charity Kidman asked if there was a way they could say they were allowed X cords of wood and he could rotate as long as he never when above X amount of cut wood in his back yard. That would allow him to have his personal and X amount of wood to bring in and process and sell.

Mr. Garner said he knew there had been a complaint about the equipment; the boom truck was gone and the stump grinder was gone. In the front yard he had his truck and trailer; in the backyard they had a stump grinder and a tractor. Mr. Garner suggested they could put slats in his fence so the neighbor could not see their backyard. Commissioner Heidt said this was Mr. Garner's living and he had outgrown his permit so he might want to consider taking it off site.

Mr. Norm Edler said he could come in and be able to cut during the day and remove it to another location. It would take awhile for him to get it all cut up and transferred somewhere else. He gets the most business when they had windstorms and if he was able to process the wood and then remove it then there would not be a problem. Ms. Phippen said the processing was the problem; they were not allowed to run a business out of an accessory building or from their yard. Commissioner Bliesner said he actually did not agree with that ordinance but he did not get to not apply it just because he did not like it. Mr. Garner asked what he needed to do and Mr. Kidman asked how they went about changing the ordinance. Mr. Garner asked what the limit was that defined what was

industrial. Commissioner Bliesner said they had a land use chart that segregated business types by general characteristics and he could see this type of business being in an ag zone also. Ann Jacobson said this essentially was a saw mill in a residential area.

Susan Hepworth said her concern was that the truck blocked a lot of area on the street and she was worried that someone would come out from the side of the truck and be hit. Commissioner Bliesner said Mr. Garner would need to comply with that and was part of the original application approval. Mrs. Hepworth said she was new to the area and could not judge a cord of wood but had noticed a lot of wood and was trying to get information and lend a little insight. She wouldn't mind having the opportunity to buy a little wood but she was concerned with the scale on this property.

Ann Jacobson said there were things that effect other people's property value and she would not purchase a home next to a house that had their entire backyard full of wood; it effects property value.

Mrs. Kidman asked if they would even consider letting him have so much. Mr. Garner said what they had now was what a home owner would have; he had enough to heat a 4200 square foot home for a year. Commissioner Bliesner said they were still hung up on the processing that is happening on the property. They were out of ordinance if the processing continued on the property. Commissioner Cook said she would like to have some discussion time and time to think about this. Commissioner Bliesner said he did not think they would find something that would work for everyone; he looked at this as a success story for Mr. Garner but he did not see a win in this process for him having this at his house.

Commissioner Bliesner asked if they could take action on this tonight. Ms. Phippen said if he stopped processing what he was going to sell to other people then she had no problem; he can process his own wood on his property. Ms. Phippen suggested he submit a revised application to bring before the Planning & Zoning Commission. Commissioner Bliesner said the proposal would have to take into account the processing on the property. Commissioner Cook said it was great the business was doing great but the processing was what she had the problem with. Commissioner Bliesner said if he was moving the processing off-site then logistically he could move the equipment off site and essentially he would be in compliance with what was on the original conditional use permit application. Commissioner Heidt said this could be resolved if he came in with his revised conditional use permit application and they worked around it and put their specific conditions; his business had grown and his needs had changed and he had outgrown his application so he needed a different permit or license. Commissioner Green said he concurred. Commissioner Bliesner asked Mr. Garner if he felt he had some direction. Mr. Garner said he did and that they had been moving that way for a month. Mr. Garner said he never meant to offend any of his neighbors and was working on thing to make it not offensive. He said he believed that land should be used and not just looked at and he would like to be able to use his land.

Mrs. Gardner asked if there was a reasonable amount of time that a truck could be in the front of the house. Commissioner Cook said it was not a matter of time; it was a matter of safety. Commissioner Bliesner said it was not illegal to park equipment on the street but because this was a home occupation the conditions were issued on the conditional use permit to mitigate those problems with the business being at home. One of the conditions he agreed to with his application was to not park on the street and to park behind the front plane of the house. Commissioner Bliesner said this was a problem throughout the city. The Planning & Zoning Commission and Mrs. Gardner discussed parking equipment on the street.

Commissioner Bliesner said he would like a motion made giving Mr. Gardner direction and he suggested they needed to include a time frame. Ms. Phippen said if Mr. Gardner could figure out a way to remove all the processing and what he was going to sell off site then she did not feel his application needed to be revised. Ms. Phippen said he either had to come into compliance or come in with a revised application for a conditional use permit. Ms. Phippen recommended the motion be worded that within 30 days he needed to be in compliance with his original permit or bring back a revised application for a conditional use permit. Commissioner Bliesner wanted wording included that said if those things were not done then it would automatically be considered a recommendations to City Council for denial of his conditional use permit. Commissioner Cook asked if the 30 day time limit was amendable to Mr. Garner.

Commissioner Heidt made a motion that Ben Garner operating as Tasmanian Tree Service come into compliance with his current conditional use permit and business license or bring back a revised conditional use permit application within 30 days and if Mr. Garner fails to come into compliance or bring in a revised application it would automatically go to City Council as a recommendation to revoke the conditional use permit. Commissioner Green seconded the motion.

Commissioner Heidt said she knew the Gardner's personally and they were good people. Commissioner Bliesner asked if it was clear that he needed to come into compliance. Mr. Gardner said it was very clear.

The motion passed unanimously 4-0; with Commissioner Heidt, Commissioner Green, Commissioner Cook, and Commissioner Bliesner all in favor.

**8:00—Discussion with Virginia Harris regarding possible minor division of land located at approximately 3135 South Main**

Mrs. Virginia Harris and Mr. Harris were present at the meeting. Commissioner Bliesner asked what they were zoned. Ms. Phippen said it was zoned R2 and when she talked to Mrs. Harris and her daughter they said they were looking at a half acre which was fine as far as size. Commissioner Bliesner asked if there was a frontage issue. Ms. Phippen said there was already existing grandfathered in private lane that goes back and so the question was if it would be in violation to carve off a half acre to put an additional house on and if it could go on a already exiting private lane or if that road would have to be brought up to standard. Commissioner Cook clarified that the question today was the

development of the road. Ms. Phippen said she could go either way on it; the lane had been there for 157 years; and there was enough frontage on the lane for another lot. Commissioner Cook said she thought it was outlined quite clear in their development as to how many houses were required to bring a lane to a paved road; 3, and this was the third. Commissioner Cook asked how many times this land had been divided; she was under the understanding that after a certain amount of times they were considered a sub divider. Commissioner Bliesner said they could split a lot off of this that had to be a minimum of a half acre. There were some possibilities of some lane requirements and he suggested the Harris' work with staff to figure out what those details and requirements were by ordinance. Ms. Phippen said that was why they were here. Ms. Phippen said she was conflicted about whether this lane would need to be upgraded or could come in as a grandfathered private lane that they could have an additional house on; she said there were strong cases to be made for either one. Commissioner Bliesner said he thought their hands were tied if the ordinance said what it was supposed to be. Ms. Phippen said it would be able to be a private road; they would not need curb, gutter, and sidewalk. Ms. Phippen said they would need 20 ft. of asphalt, 2 feet of shoulder on each side, and 4-6 feet each side for storm water swell. The Planning & Zoning Commission and Ms. Phippen discussed what the requirements would be for the lane if a third house was built. Ms. Phippen said she could do some more research on the issue. Commissioner Bliesner said to the Harris' that the answer was not "no"; they needed to see what standards they would be held to in doing so.

There was general consent to adjourn at 9:46.