

The Meeting of the Nibley City Planning Commission held at Nibley City Hall, 455 W. 3200 S. Nibley, Utah, on Wednesday, February 25, 2015.

The following actions were made during the meeting:

Commissioner Green motioned to approve the conditional use permit and business license for JB Express located at 3119 South 800 West; applicant, Brad Marble; with the proviso that the applicant followed the conditions that Miss Phippen had set. Commissioner Davenport seconded the motion.

Commissioner Bliesner made a motion to amend that the motion be to be stated such that they approve the conditional use permit and business license for JB Express located at 3119 South 800 West; with the condition that any equipment associated with the business not be parked or stored in the public right-of-way. Commissioner Davenport seconded the motion. The amendment passed 4-1; with Commissioner Bliesner, Commissioner Davenport, Commissioner Green, and Commissioner Bernhardt in favor. Commissioner Lawver abstained from the vote.

The amended motion passed 4-1; with Commissioner Green, Commissioner Davenport, Commissioner Bernhardt, and Commissioner Lawver in favor. Commissioner Lawver abstained from the vote.

Commissioner Bliesner motioned to approve the conditional use permit and business license for The Wiberg Corporation, located at 101 East 3700 South; applicant, Jacob Wiberg; with the condition that no equipment related to the business be parked in the public right-of-way. Commissioner Davenport seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Davenport, Commissioner Green, Commissioner Lawver and Commissioner Bernhardt all in favor.

Planning and Zoning Commission Chair Mark Lawver called the Wednesday, February 25, 2015 Nibley City Planning Commission meeting to order at 5:30 p.m. Those in attendance included Commissioner Mark Lawver, Commissioner Aaron Bliesner, Commissioner Bill Green, Commissioner Dave Davenport, and Commissioner Thomas Bernhardt. Shari Phippen, the Nibley City Planner, was also present.

Approval of 02-11-15 meeting minutes and the evening's agenda
General consent was given for the evening's agenda.

General consent was given for the 2-11-15 meeting minutes.

Conditional Use Permit/Business License

JB Express—discussion and consideration of a conditional use permit and business license for a home occupation (buying/selling tires) located at 3119 South 800 West (Applicant: Brad Marble)

Mr. Brad Marble was present at the meeting.

Miss Phippen said her only concern with the business license and conditional use permit was where the applicant's inventory would be stored and quoted from Nibley City's nuisance ordinance. She said the applicant had said he wouldn't have any employees and that the business wouldn't be operating out of an accessory building. Miss Phippen read from Nibley City's home occupation ordinance:

The use of a portion of a dwelling as an office, studio, or workroom for occupations which are conducted in the home and are incidental to the primary use as a home or residence; provided additionally that: 1) individuals who perform occupation related activities at the home occupation residence must also live at that residence; 2) individuals who do not live at the home occupation residence must not report to that residence for occupation related activities; and 3) the occupation shall not use any accessory building, yard, or any space outside the main building not normally associated with residential use. Applications meeting these criteria may (as determined by the appropriate land use authority) be classified a home occupation rather than being classified by the actual activity associated with the business, with the following exceptions. Child daycare/preschool for more than eight (8) children shall be classified as a commercial daycare rather than a home occupation. In addition, activities involving the sale, service, leasing and/or rental of motor vehicles shall not be classified as a home occupation.

If a business meets the definition above, then it may be licensed as a home occupation, without regard for the type of business actually being conducted, provided that the business is legal and not otherwise specifically prohibited by ordinance.

Miss Phippen said that because this business met the definition of home occupation, she recommend approving the business license with the following conditions: Any equipment and vehicles related to the business be stored behind the frontplane of the home, specifically, the trailer is to be parked out of the public ROW. No tires are to be stored outdoors, regardless of whether they are in the front or back yard.

Commissioner Lawver said he would be abstaining from voting on the application because he knew the applicant. Commissioner Green asked the applicant where the inventory would be stored. Mr. Marble said it would be store in a trailer at all times. Mr. Marble said he bought and sold commercial tires that were all delivered. Commissioner Bernhardt asked if the trailer was enclosed. Mr. Marble said it was not but had sides on it.

Commissioner Green made a motion to approve the conditional use permit and business license for JB Express located at 3119 South 800 West; applicant, Brad Marble; with the proviso that the applicant followed the conditions that Miss Phippen had set.

Commissioner Davenport seconded the motion.

Commissioner Bliesner felt the motion was vague in that it didn't specify the conditions of the conditional use permit.

Commissioner Bliesner made a motion to amend that the motion be to be stated such that they approve the conditional use permit and business license for JB Express located at 3119 South 800 West; with the condition that any equipment associated with the business not be parked or stored in the public right-of-way. Commissioner Davenport seconded the motion. The amendment passed 4-1; with Commissioner Bliesner, Commissioner Davenport, Commissioner Green, and Commissioner Bernhardt in favor. Commissioner Lawver abstained from the vote.

The amended motion passed 4-1; with Commissioner Green, Commissioner Davenport, Commissioner Bernhardt, and Commissioner Lawver in favor. Commissioner Lawver abstained from the vote.

The Wiberg Corporation—consideration of a request for a conditional use permit and business license for a home occupation (general contractor) located at 101 East 3700 South (Applicant: Jacob Wiberg)

The applicant was not present at the meeting.

Miss Phippen said Mr. Wiberg had stated that he would like to act as a general contractor. Miss Phippen said Mr. Wilberg met the definition of a home occupation and she recommended the Planning & Zoning Commission approve his business license and conditional use permit. Miss Phippen displayed Mr. Wiberg's property for the Planning & Zoning Commission and public present.

Commissioner Bliesner said that this was the street he grew up on and discussed the history of the street and that it wasn't built to city standard. He said this was one of the reasons why he expressly work to prohibit parking the public right-of-way for business equipment.

Commissioner Bliesner made a motion to approve the conditional use permit and business license for The Wiberg Corporation, located at 101 East 3700 South; applicant, Jacob Wiberg; with the condition that no equipment related to the business be parked in the public right-of-way. Commissioner Davenport seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Davenport, Commissioner Green, Commissioner Lawver and Commissioner Bernhardt all in favor.

Workshop

Discussion of an ordinance regarding dangerous/vicious animals in Nibley City.

Miss Phippen said Mayor Dustin had come to her several months ago with a concern about dogs that a tendency to attack more than other breeds of dog. He wanted to see the city enact breed specific legislation but in her research she had found that the State legislature had passed a bill (House Bill 97) which eliminated the ability of municipalities to enact breed specific legislation. Miss Phippen said the city couldn't enact legislation that specifically restricted breeds of dogs, but could have blanket legislation that is

behavior based and carried consequences with it with stricter requirements on animals that had been found to be dangerous.

Miss Phippen said the most significant changes were that there would be a procedure to have an animal declared dangerous with inclusion of a section on “dangerous animals.” The section would allow the Court to determine that an animal is dangerous and then, based on that determination, additional requirements would be placed on the animal’s owner, as outlined in the proposed ordinance.

Miss Phippen and the Planning & Zoning Commission discussed trespassing and trespassing laws. Miss Phippen said once the Planning & Zoning Commission had worked over that draft and moved the document toward a final format, she planned to go over the draft with the County Attorney and the Cache County Sheriff’s Office to get their input on the provisions of the ordinance before the Planning & Zoning Commission passed on a recommendation to City Council.

Miss Phippen stated that Nibley hadn’t had a dog bite incident come through the court for several years. She said they’d had incidents of animals attacking other animals.

Miss Phippen noted that the proposed ordinance also banned some specific wild animals and listed them. She said the other primary change dealt with licensing. She said the current ordinance stated that all licensing and animal impound fees went through the animal control officer and that the new ordinance turned licensing over to Nibley City or its designee. Miss Phippen said the proposed that the term of the license would change. She said Nibley City staff would like to tie licensing to the animal’s rabies vaccination. Commissioner Bernhardt asked if the fees charged by the city would be enough to cover the administration and licensing of animals. Miss Phippen said if the term changed then the fee structure would likely change but stated that she didn’t feel this would make the process anymore burdensome to residents.

Miss Phippen discussed section 5-1-6 “Cruelty to Animals.” She said that she felt they needed to adopt to provisions from the State and provisions that dealt with animal fighting, keeping animals in a car in extreme heat or cold, or stopping if an animal is struck by a vehicle. Commissioner Bernhardt expressed his concern with the time it might take for the police department to respond to an animal being hit especially in terms of the priority that might be given to the instance by the police. Miss Phippen said it was required to be called in as a crash. Miss Phippen and the Planning & Zoning Commission debated the conditions in which a person may kill a dog. Miss Phippen and Commissioner Bliesner agreed that there needed to be very specific circumstances in which a person could shoot a dog. Commissioner Davenport asked if Miss Phippen knew of any instances of a resident killing a dog. Miss Phippen said she knew of no instances that could be proved.

Commissioner Green discussed section 5-1-5 “Licensing Requirements.”

Commissioner Green discussed section “Cruelty to Animals.”

Commissioner Green discussed section 5-1-8 “Dangerous Animals.” Miss Phippen said with the exception of animals that are commonly accepted as wild animals, you couldn’t arbitrarily ban specific types of animals and that it was required to notify animal control and the city if such an animal were to get loose.

Commissioner Bliesner said he didn’t understand the definition of a stray animal and asked if it was assumed that the responsible person wasn’t immediately available. Miss Phippen said the animal was stray if there was no identifiable owner. She discussed the terms “at large” versus “stray”. Commissioner Bliesner thought the wording of “Stray” could be clarified and suggested the wording “Any animal for which there is no identifiable person responsible.” Commissioner Bliesner asked about electric or invisible fencing and questioned if there were a restraint. He stated that it didn’t seem like a restraint to him. The Planning & Zoning Commissioners discussed how specific was too specific. Commissioner Bliesner said he wanted to address whether they needed to include an invisible fence in the definition of restraints.

After the Planning & Zoning Commissioners returned to discussing trespassing, Miss Phippen read the definition of “Criminal Trespass” from Utah State code.

Miss Phippen and the Planning & Zoning Commission reviewed the proposed ordinance page by page. Commissioner Bernhardt expressed his concern with part E. on page 4. Miss Phippen clarified the law enforcement exceptions and provisions. Commissioner Bernhardt, Commissioner Davenport, and Commissioner Bliesner were in favor of striking section 5-1-6 D. and D-1. of page 7. The Commissioners discussed who would inspect any structure that may be required for containing an animal. Miss Phippen said she would get an opinion from the county attorney regarding the issue and bring it back to the Planning & Zoning Commission. Miss Phippen and the Planning & Zoning Commissioners discussed liability insurance under page 11.-J. Miss Phippen and Commissioner Davenport edited the wording of “Notification” on page 11-I. Miss Phippen and the Planning & Zoning Commission determined there needed to be additional wording under section E. “Harbor Stray Dogs.”

Staff Reports

Miss Phippen and the Planning & Zoning Commission discussed the April Planning & Zoning Commission meeting schedule

Commissioner Lawver adjourned the meeting at 7:13.

