

The Meeting of the Nibley City Planning Commission held at Nibley City Hall, 455 W. 3200 S. Nibley, Utah, on Wednesday, March 11, 2015.

The following actions were made during the meeting:

**Commissioner Davenport motioned to approve the conditional use permit and business license for Jesus House Cleaning located at 110 West 2600 South #19; applicant, Dulce Maria Garcia with the conditions that no chemicals related to the business are to be stored at the home, beyond ordinary household cleansers; the business can have employees who don't live at the property, but no employees can report to the home as part of the business. Commissioner Green seconded the motion. The motion passed unanimously 4-0; with Commissioner Davenport, Commissioner Green, Commissioner Bliesner, and Commissioner Bernhardt all in favor.**

**Commissioner Davenport motioned to approve the business license and conditional use permit for Daron McCombs Handyman located at 924 West 2450 South; applicant, Daron McCombs with the condition that no equipment larger than what can be stored in a car can be stored in the public right of way or in the front setback of the house. Commissioner Bernhardt seconded the motion. The motion passed unanimously 4-0; with Commissioner Davenport, Commissioner Bernhardt, Commissioner Green, and Commissioner Bliesner all in favor.**

**Commissioner Green motioned to approve a kennel license for Shannon Leach located at 4030 South Main. Commissioner Davenport seconded the motion. The motion passed unanimously 4-0; with Commissioner Green, Commissioner Davenport, Commissioner Bliesner, and Commissioner Bernhardt all in favor.**

**Commissioner Davenport motioned to approve the building permit for Lance Leishman located at 3640 South Main with the following conditions; the home must be set back at least 10' from the south property line; the home must hook up to the Nibley City sanitary sewer system and the City culinary water; all costs associated with connection are to be borne by the homeowner; the first 50' of the access, running east from Highway 165, is to be paved, with a minimum 20' asphalt, 3' on one side for stormwater runoff, and a minimum 6" gravel base under the asphalt. Commissioner Bernhardt seconded the motion. The motion passed unanimously 4-0; with Commissioner Davenport, Commissioner Bernhardt, Commissioner Bliesner, and Commissioner Green all in favor.**

**Commissioner Green motioned to recommend approval of the lot split located at 251 West 2600 South with the condition that they have an 80' ROW, the sign be changed to be easily readable from the road; and that if there are no objections to the proposal in the next 8 days that the proposal go ahead to City Council; if there are objections then the proposal needed to come back before the Planning & Zoning Commission. Commissioner Bernhardt seconded the motion. The motion passed 3-**

**1; with Commissioner Green, Commissioner Bernhardt, and Commissioner Bliesner in favor. Commissioner Davenport abstained from voting.**

**Commissioner Davenport motioned to adopt the amended 2015 Planning & Zoning Commission meeting schedule. Commissioner Bernhardt seconded the motion. The motion passed unanimously 4-0; with Commissioner Davenport, Commissioner Bernhardt, Commissioner Bliesner, and Commissioner Green all in favor.**

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Acting Planning and Zoning Commission Chair, Aaron Bliesner, called the Wednesday, March 11, 2015 Nibley City Planning Commission meeting to order at 5:46 p.m. Those in attendance included Commissioner Dave Davenport, Commissioner Thomas Bernhardt, Commissioner Bill Green, and Commissioner Aaron Bliesner. Shari Phippen, the City Planner, was also present. Commissioner Mark Lawver was excused from the meeting.

**Approval of 2-25-15 meeting minutes and the evening's agenda**

Commissioner Davenport stated that he had concerns with scheduled public hearing on the agenda. He said the public hearing announcement hadn't appeared on the Utah Public Notice website as required by State law and Nibley City ordinance; and that the other issue was the signage.

Miss Phippen said all notifications were done within the required posting timeframe and she was not sure what had happened to the posting on the PMN website and there was no way she could verify that it had happened. Miss Phippen that she had consulted the city attorney about the legality of holding the public hearing and that he had stated he would feel comfortable with proceeding with the public hearing. Commissioner Davenport said that a sign had been posted on the property but was not readable and quoted that it needed to be readable by "passers by".

Commissioner Bliesner proposed that the worst case of action at this point was if they held the public hearing that they would have to re-hold the public hearing and he felt if the applicant was aware of this then they could proceed. Commissioner Davenport said he would prefer to hold a public hearing and then hold a second public hearing that was properly noticed later. Commissioner Davenport said the process was not completed according to city ordinance and he objected to the public hearing. He said they needed to adhere to the laws and ordinances.

Commissioner Davenport made a motion to amend the agenda and postpone the public hearing and the subsequent discussion on the proposed subdivision until the next Planning & Zoning Commission meeting when the meeting could be properly noticed. Commissioner Green seconded the motion. The motion failed 2-2; with Commissioner Davenport and Commissioner Green in favor. Commissioner Bliesner and Commissioner Bernhardt were opposed.

General consent was given for the previous meeting's minutes.

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

#### **Jesus House Cleaning—discussion and consideration of a request for a home occupation cleaning business located at 110 West 2600 South #19 (Applicant: Dulce Maria Garcia)**

Mrs. Dulce Maria Garcia was present at the meeting. Miss Phippen said this was a request for a home occupation. Miss Phippen read the definition of a home occupation taken from Nibley City ordinance.

Miss Phippen said this business met the definition of home occupation. She recommend approving the business license with the following conditions; no chemicals related to the business are to be stored at the house, beyond ordinary household cleansers; she can have employees who don't live at the property, but no employees can report to the home as part of the business.

Commissioner Green asked the applicant if she was just cleaning houses. Ms. Garcia said this was true. Commissioner Green asked the applicant if she understood the provision of storing chemicals. Ms. Garcia said she did. Commissioner Bernhardt asked Miss Phippen to explain the condition that no employees could report to the applicant's resident.

Commissioner Davenport made a motion to approve the conditional use permit and business license for Jesus House Cleaning located at 110 West 2600 South #19; applicant, Dulce Maria Garcia with the conditions that no chemicals related to the business are to be stored at the home, beyond ordinary household cleansers; the business can have employees who don't live at the property, but no employees can report to the home as part of the business. Commissioner Green seconded the motion. The motion passed unanimously 4-0; with Commissioner Davenport, Commissioner Green, Commissioner Bliesner, and Commissioner Bernhardt all in favor.

#### **Daron McCombs Handyman—discussion and consideration of a request for a home occupation handyman business located at 924 West 2450 South (Applicant: Daron McCombs)**

The applicant, Daron McCombs was present at the meeting.

Miss Phippen said this was a handyman business and it appeared to be a variety of work in relations to construction and rehab. Miss Phippen said that Mr. McCombs wouldn't have any outside employees and that staff's recommendation was that the Planning & Zoning Commission approve the conditional use permit and business license with the condition that no equipment larger than what can be stored in a car can be stored in the public right of way or in the front setback of the house.

Commissioner Davenport made a motion to approve the business license and conditional use permit for Daron McCombs Handyman located at 924 West 2450 South; applicant, Daron McCombs with the condition that no equipment larger than what can be stored in a car can be stored in the public right of way or in the front setback of the house. Commissioner Bernhardt seconded the motion. The motion passed unanimously 4-0; with

Commissioner Davenport, Commissioner Bernhardt, Commissioner Green, and Commissioner Bliesner all in favor.

### **Kennel License**

#### **Discussion and consideration of a conditional use permit for a kennel license (3 dogs) located 4030 South Main (Applicant: Shannon Leach)**

The applicant was not present at the meeting.

Miss Phippen said this application was really strait forward but as of right now the Planning & Zoning Commission hadn't approved anything that designated any tasks for staff to review and approve. She asked how the Planning & Zoning Commission felt about staff preparing a resolution for the Planning & Zoning Commission to approve designating staff as the land use authority for kennel license or other minor conditional uses. She asked the Planning & Zoning Commission to think about this for a future discussion.

Miss Phippen discussed Nibley's land use ordinance and said in cases where the property was at least .75 of an acre a conditional use permit and kennel license can be issue for a third dog. Miss Phippen described the property requesting the kennel license. She said the lot was 2.68 acres, so it met the size requirements to have a third dog. Miss Phippen said there were no setback requirements for a kennel so long as it was a temporary structure. Miss Phippen said that staff recommends approving this request for a kennel license.

Commissioner Green made a motion to approve a kennel license for Shannon Leach located at 4030 South Main. Commissioner Davenport seconded the motion.

Commissioner Bernhardt expressed his concern with the potential breeding of animals. Miss Phippen directed Commissioner Bernhardt to Nibley City ordinance which limited the applicant to three dogs.

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

### **Building Permit**

#### **Discussion and consideration of a request for a building permit located at 3640 South Main (Applicant: Lance Leishman)**

The applicant Lance Leishman was present at the meeting.

Miss Phippen displayed the property for the Planning & Zoning Commission and public present on the county Parcel and Zoning Viewer. She said there was already a UDOT approved access for this property. Miss Phippen reviewed the specifics of the ordinance requirement that the property hook on to the city sewer system.

Miss Phippen said she recommend giving approving for the building permit for Mr. Leishman with the following conditions; the home must be set back at least 10' from the south property line; the home must hook up to the Nibley City sanitary sewer system and

the City culinary water; all costs associated with connection are to be borne by the homeowner; the first 50' of the access, running east from Highway 165, is to be paved, with a minimum 20' asphalt, 3' on one side for stormwater runoff, and a minimum 6" gravel base under the asphalt. Miss Phippen said the pavement was to handle dust control and the gravel was what would be required for a private driveway access.

Commissioner Davenport made a motion to approve the building permit for Lance Leishman located at 3640 South Main with the following conditions; the home must be set back at least 10' from the south property line; the home must hook up to the Nibley City sanitary sewer system and the City culinary water; all costs associated with connection are to be borne by the homeowner; the first 50' of the access, running east from Highway 165, is to be paved, with a minimum 20' asphalt, 3' on one side for stormwater runoff, and a minimum 6" gravel base under the asphalt. Commissioner Bernhardt seconded the motion.

Commissioner Davenport asked Miss Phippen if the International fire code turn around applied to this property. Miss Phippen said she felt the design of the property was sufficient to accomplish this. Mr. Leishman said there would be plenty of room; that the driveway would be on the south side. Commissioner Davenport asked Mr. Leishman to mark his property well in the event that emergency services would need to find the home. Mr. Leishman asked for an exemption for the asphalt requirement. Commissioner Bliesner said it was standard procedure for them to do this on all similar situations because of the issues they were having. Miss Phippen said Mr. Leishman would have to ask for a variance hearing.

Commissioner Bliesner asked if the property owner was aware of how this affected the future develop ability of this property. Miss Phippen said she had multiple discussions with the property owner. Mr. Leishman asked if there was any exemption for the sewer connectivity requirement and if he could have a septic system. Commissioner Bliesner said there was no exemption and that the sewer connectivity requirement was clear cut in code.

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

### **Public Hearing**

#### **A public hearing to receive comment concerning the Payne Landing Subdivision, a proposed lot split located at 251 West 2600 South**

Mr. Matthew Payne was present at the meeting. Miss Phippen displayed the proposed plat for the Planning & Zoning Commissioners and public present. She said the only item of concern was a road dedication. She said the plat proposed to dedicate 16.5' of road along 2600 South to the City. This would be the correct amount of road dedication if the long term plat for 2600 South was a 66' right-of-way (ROW). However 2600 South was intended to be a minor arterial which required a ROW of 80' or 99'. She said additional ROW dedication was needed. She recommended the Planning & Zoning Commission recommend to the City Council that a 80' right-of-way be called out for 2600 South and

that the dedication of this proposal be matched according to the decision of City Council. Miss Phippen summarized the proposed lot sizes, lot frontages, setback lines, proposals for stormwater, flood plain requirements, and utility requirements.

Miss Phippen recommended the Planning & Zoning Commission forward this lot split to the City Council with a recommendation for approval with the condition that the issue of ROW dedication was to be worked out with staff prior the City Council reviewing the plat.

Commissioner Bliesner gave direction to the public present. Commissioner Bliesner opened the public hearing at 6:30.

Mr. Payne said this was a simple two lot subdivision; the first lot was his home said the second lot would be a lot his son, Matthew, would build a home on.

Seeing no further comment, Commissioner Bliesner closed the public hearing at 6:31.

Miss Phippen addressed the notification issue that accompanied this application. She clarified that there would also be a public hearing on this issue at the next City Council meeting and that she had rectified the issue with the Utah Public Meeting Notice website.

**Discussion and consideration of the Payne Landing Subdivision, a lot split located at 251 West 2600 South**

Commissioner Green made a motion to recommend approval of the lot split located at 251 West 2600 South with the condition that there are no objections to the proposal at the time that the City Council met for public hearing. If there is an objection, the proposal would need to come back to the Planning & Zoning Commission for public hearing. This motion was not seconded.

Commissioner Green made a motion to recommend approval of the lot split located at 251 West 2600 South with the condition that they have an 80' ROW, the sign be changed to be easily readable from the road; and that if there are no objections to the proposal in the next 8 days that the proposal go ahead to City Council; if there are objections then the proposal needed to come back before the Planning & Zoning Commission. Commissioner Bernhardt seconded the motion.

The Planning & Zoning Commissioners discussed the wording of the motion. Mr. Payne said he was of the opinion that an error had been made. He read from Nibley City ordinance regarding the signage to be posted on the property. He said passers-by could read the sign but not people in a car going 25 mph. Mr. Payne said they had met the letter of the ordinance and that the sign had been approved by Nibley City. The Planning & Zoning Commission discussed what constituted a readable sign by passers-by. Commissioner Davenport felt that the applicants sign should be moved closer to the road.

The motion passed 3-1; with Commissioner Green, Commissioner Bernhardt, and Commissioner Bliesner in favor. Commissioner Davenport abstained from voting.

**Discussion and consideration of an updated meeting schedule for 2015**

Miss Phippen described the changes made to the previously adopted 2015 Planning & Zoning Commission meeting schedule.

Commissioner Davenport made a motion to adopt the amended 2015 Planning & Zoning Commission meeting schedule. Commissioner Bernhardt seconded the motion. The motion passed unanimously 4-0; with Commissioner Davenport, Commissioner Bernhardt, Commissioner Bliesner, and Commissioner Green all in favor.

**Land use training workshop with Elliot Lawrence of the Utah Property Rights Ombudsman's Office**

Mr. Elliot Lawrence was present at the meeting.

The following individuals were present at the meeting:

Jay Apedaile, Mendon City  
Jeff Nielson, Hyrum City  
Brian Carver, Bear River AOG  
Terry Mann, Hyrum City  
Wayne Olson, Hyrum City  
Julie Bergeson, Lewiston City  
Char Izatt, Smithfield City  
Ken Jensen, Newton  
Jackie Hancock, Smithfield City  
Melinda Lee, Hyde Park Planning  
Mark Lynne, Hyde Park Planning  
Larry Jacobsen, Nibley City Council  
Aaron Bliesner, Nibley City Planning & Zoning Commission  
Chris Harold, Cache County  
Laurie Jones, Cache County  
Steve Edwards, Smithfield Planning  
Curtis Wall, Smithfield Planning  
Ryan Zollinger, Millville City Council  
Stephen Teascher, Smithfield Planning  
Natalie Smith, Millville Planning  
Douglas Archibald, Smithfield Planning  
Thomas Bernhardt, Nibley City Planning & Zoning Commission  
Dave Davenport, Nibley City Planning & Zoning Commission  
Bill Green, Nibley City Planning & Zoning Commission  
Marle Hurd, Hyde Park Planning & Zoning Commission

Mr. Lawrence began his presentation at 6:54.

Mr. Lawrence's presentation was entitled "Land Use 101". His presentation included the following topics: Land use authorities, general plan and zoning ordinance, public notice and public meetings, notice requirements, development approvals and conditions,

subdivisions, vested rights, exactions and impact fees, conditional uses, nonconforming uses and structures, and variances.

Mr. Lawrence's presentation concluded at 8:35

There was general consent to adjourn at 8:37.

Attest: \_\_\_\_\_  
Deputy City Recorder