



Nibley City
Planning Commission
Wednesday, February 24, 2016
455 W. 3200 S.
Nibley, UT

5:30 p.m. Call to Order
 Approval of Agenda
 Approval of Minutes

BUSINESS LICENSE/CONDITIONAL USE PERMIT

MST Flooring- discussion and consideration of an application for a home occupation (flooring installation) located at 110 W 3200 S (Applicant: Scott Jones)

Discussion and consideration of an ordinance regulating home occupations in Nibley City.

Discussion and consideration of an ordinance amending the Nibley City Planning Commission.

Annual training on Utah's Open & Public Meetings Act

Staff Report

*Planning Commission agenda items may be tabled if: 1) Additional information is needed in order to take action on the item; OR 2) The Planning Commission feels there are unresolved issues that may need further attention before the Commission is ready to make a motion. **No agenda item will begin after 10:00 p.m. without a unanimous vote of the Commission.** The Commission may carry over agenda items, scheduled late in the evening and not heard, to the next regularly scheduled meeting.*

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, REASONABLE ACCOMMODATIONS FOR INDIVIDUALS WITH DISABILITIES WILL BE PROVIDED UPON REQUEST. FOR ASSISTANCE, PLEASE CALL 752-0431 A MINIMUM OF 24 HOURS BEFORE THE MEETING.



2/8/16

Hi all! Thanks for your patience in waiting for this until today. There was some info I was waiting on before I went out of town and it didn't come until I was already gone. But, we have a good agenda for this week's meeting. These are my review comments.

BUSINESS LICENSE/CONDITIONAL USE PERMIT

MST Flooring- discussion and consideration of an application for a home occupation (flooring installation) located at 110 W 3200 S (Applicant: Scott Jones)

- This application is for a home occupation flooring installation business.
- Our home occupation definition is:
 - 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.
- Mr. Falslev's application states that he will not have any outside employees, all work will be done off-site and he will have no business related vehicles or signage.
- This business meets the requirements to be classified and approved as a home occupation.
 - The property is zoned Residential R-2. The Nibley City Land Use Chart allows for home occupations, as a conditional use, in the R-2 zone.
- Because this business meets the definition of home occupation, I recommend approving the conditional use permit and have no suggested conditions.

Discussion and consideration of an ordinance regulating home occupations in Nibley City.

- After the last meeting, when the Commission recommended this to the Planning Commission, David Z. and I had a discussion about motor vehicle sales and service as home occupations. I understand that the intent is to not allow mechanic shops out of people's homes, but as David and I discussed it, it left us both wondering if it would be prudent or possible to differentiate between the types of motor vehicle service business and to make allowances for non-mechanic or body repair businesses.

For example: we received an application for a license to install safety equipment in police and fire vehicles as a part-time business. The business is proposed to be conducted in an accessory building on a large lot (2+ acres) and is well off the road. There is no equipment on-site (all safety equipment would be brought in with the vehicle), only one car could be worked on at a time, and there is no toxic waste, odors or fumes being created as part of the business.

I would like to have a discussion with the Commission about the possibility of clarifying our prohibition on auto repair as it relates to home occupations, with the idea of permitting certain motor vehicle services (those related to installation of equipment) as home occupations, provided that certain conditions are met. I would like to have this discussion prior to the ordinance going to the City Council for their review.

Discussion and consideration of an ordinance amending the Nibley City Planning Commission.

- We have informally discussed the changes proposed to the structure of the Planning Commission, specifically, the addition of alternate members. The Council deliberated an ordinance which would add those alternates and which outlines the roles of the alternates. In their discussion, they requested to have formal, on-the-record discussion from you all about the proposed changes.

Annual training on Utah's Open & Public Meetings Act

- We are required to annually train you on the rules and regulations of the Utah Open & Public Meetings Act. I will have a presentation that goes through the basic principles of the Act and there will be time for questions when we are done.

Have a great weekend!

Shari



Feb 24, 2016

APPLICATION FOR CONDITIONAL USE
PERMIT/BUSINESS LICENSE

Office Use Only

Date Received 2/5/2016

Fee Paid 75.00

Rec'd By [Signature]

Name Scott Jones
Address 110 West 3200 South Nibley
Phone 435-554-5271 Cell (Same) Fax N/A
Email N/A

Please Note: The owner/operator of the business on this application must live at the address stated above. Nibley City cannot issue conditional use permit/business licenses to persons who do not live at the address where the business will be located.

Please describe the reason you are requesting a conditional use permit/business license:

☒ Home Office ☐ Sales ☐ Manufacturing ☐ Day Care
☐ Other (please describe): _____

Proposed business name: MST Flooring

Description of business: Flooring installation's

Describe how the proposed business activity will or will not affect the residential neighborhood surrounding the business location: nothing is done at home, besides except paper work

Do you plan to employ persons not living at this address as part of the business? Y ☒

Will those employees be working in your home or at another location? Please describe: _____

Do you plan to conduct any of the business in an accessory building at this address? Y ☒

How many clients will visit this location weekly? -0-

Describe how you will provide parking for client visits (if applicable): _____

Will you have business vehicles which will require parking accommodations? Y ☒

If so, please describe the vehicles and parking plans: _____

How many business shipments do you anticipate sending and receiving from this location each month and how will these deliveries be shipped? -0-

Will you be able to provide adequate indoor storage for these deliveries? Y ☒ = will have none

If applicable, describe any signs at this address which will advertise the business: _____

Nibley City Planning & Zoning

An Ordinance Regulating Home Occupation Businesses Within Nibley City

A. Definition

1. A home occupation is defined as “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:
 - a. individuals who perform occupation related activities at the home occupation residence must also live at that residence
 - b. individuals who do not live at the home occupation residence must not report to that residence for occupation-related activities
2. Accessory buildings may be used to conduct all or a portion of the home occupation, so long as the use is contained within the accessory building.
3. Applications meeting these criteria may (as determined by the appropriate land use authority) be classified as a home occupation rather than being classified by the actual activity associated with the business, exceptions as outlined in this ordinance.

B. Home Occupation License Required.

1. No person may conduct a business within a residence, the lot upon which it sits or within any of its accessory structures except as a home occupation in compliance with this Chapter. Except as specifically provided by Nibley City Ordinance, it shall be unlawful for any person to engage in or conduct a Home Occupation without having first procured a Home Occupation license from Nibley City, sometimes hereinafter to be called a "license". The license shall be renewed each year.
2. Persons who fail to renew their license for each calendar year and pay any associated fees, shall be deemed to no longer have a valid home occupation license and shall make a new application to the Nibley City Planning Commission for review and approval of a home occupation license, and shall be subject to all federal, state and local laws in effect at the time the new application is made.

C. Planning Commission Approval Required

1. Subject to the provisions of this ordinance, the Nibley City Planning Commission shall review and approve, deny, or approve with conditions, all applications for a home occupation, except for those uses which meet the definition of “Home Office”, as defined in Title 10 of the Nibley City Code. Uses meeting that definition may be reviewed and approved by City staff.
2. City staff may refer to the Planning Commission applications which meet the definition of “Home Office” if, in the determination of staff, there are circumstances which require the Planning Commission’s review and approval.

D. Purpose. The purposes of this section are to:

1. Provide an opportunity for home occupations as an accessory use when they are compatible with the neighborhoods in which they are located. A home occupation shall not be construed to mean an employee working in his home in the service of an employer whose principal place of business is licensed at another location.
 2. Provide an opportunity for a home occupation to engage in the business of child care and other group child activities and encourage this type of home occupation to draw clients/customers from their immediate neighborhood.
 3. Guide business activities which are not compatible with neighborhoods to appropriate commercial zones.
 4. Safeguard peace, quiet, and domestic tranquility within all residential neighborhoods. Protect residents from the adverse effects of business uses being conducted in residential areas including, but not limited to, noise, nuisance, traffic, fire hazards and other possible business uses that create significant impacts on a residential neighborhood.
- E. **Neighborhood Disturbance.** The home occupation shall not interfere with or disrupt the peace and quiet of the neighborhood, and is subject to Nibley City ordinances regarding nuisances and noise disturbances. The home occupation shall not create or be associated with or produce odor, smoke, dust, heat, fumes, light, glare, noises or vibrations, excessive traffic, or any other adverse effects within the neighborhood, and shall not compromise the residential character of the neighborhood where such business is permitted to exist.
- F. **Renter/Owner Responsibility.** If the applicant for a home occupation license rents or leases the property wherein the home occupation is intended to be conducted, the applicant must provide a letter of acknowledgment and consent from the property owner at the time the application is submitted to the Business License Office.
- G. **Interior Alterations/Remodeling.** Alterations of the principal dwelling for the purpose of accommodating the home occupation are prohibited if such alteration eliminates the kitchen, and/or all of the dining areas, bathrooms, living areas, or all of the bedrooms. A building permit shall be obtained for remodeling, and the primary use of the dwelling as a home or residence shall, at all times, be preserved.
- H. **Use of Accessory Buildings.** Any accessory building, regardless of use, which houses all or a portion of a home occupation, shall be subject to any adopted international, federal, state or local building and fire codes, and shall be subject to inspection by Nibley City prior to issuance of a home occupation license.
- I. **Restrictions.** The following restrictions shall apply to any home occupation:
1. All home occupations are required to obtain and maintain a current city business license and meet all requirements of this code.
 2. All home occupations shall comply with federal, state and local laws and ordinances.
 3. Home occupations shall not involve the unauthorized use of hazardous or annoying substances or processes nor shall they create any hazardous or offensive odors, noises,

fumes, gases, dust, radiation, glare, electrical interference, vibrations, heat, wastes, pathogens or any other harmful substances or effects.

4. Except as provided herein, home occupations shall not store goods, materials, equipment, or conduct any activity on any portion of the lot on which the home occupation is conducted. Accessory buildings may be used to conduct all or a portion of the home occupation, so long as the use is contained within the accessory building. Training activities such as swimming, tennis and horseback riding lessons, or daycare or preschool activities may be conducted outdoors, provided that no nuisance is created.
5. All vehicles and other equipment requiring parking accommodations, or which may not be reasonably stored in a business related vehicle, shall be parked out of the right-of-way and out of the setback areas on the property where the home occupation is conducted, with the exception of a car or light-duty truck which is used as part of the business.
6. Home occupations shall not cause excessive demands on city services.
7. Employees of home occupations shall consist only of members of the family residing in the dwelling or other individuals whose activities are conducted away from the residence and the real property on which it is located.
8. The exteriors of dwellings may not be altered from a residential character as a result of or to enhance a home occupation.
9. Home occupations involving pedestrian or vehicle traffic shall be conducted only between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M.
10. More than one home occupation may be conducted in a dwelling; provided, that these regulations are followed as though there were only one occupation in the dwelling.
11. The City may place additional restrictions on a home occupation relating to hours of operation, parking, traffic or other matters as it deems necessary to mitigate impacts on the neighborhood and the city in general. The additional restrictions may be imposed both before and after the issuance of a home occupation license to address anticipated impacts and those impacts found necessary to address once the business has begun operation.

J. Preschool/Daycare

1. Preschools for a maximum of eight (8) students may be conducted as home occupations with approval of a conditional use permit/concept plan with the following and other conditions as determined by the Planning Commission:
 - a. Maximum two (2) sessions per day and maximum four (4) sessions per week. Sessions shall be a maximum three (3) hours in length.
 - b. Days and hours of operation shall be provided for review.
 - c. All safety and building codes shall be met and a building permit, if necessary, shall be obtained for remodeling.
 - d. All state licensing requirements will be met.
 - e. All other requirements of this chapter and other local, state and federal laws shall be met.
2. Child daycare/preschool for more than eight (8) children shall be classified as daycare, commercial rather than a home occupation.

K. Prohibited Home Occupations.

1. The following uses, by nature of the occupation, substantially impair the use and value of residentially zoned areas for residential purposes and are, therefore, prohibited:
 - a. Mortuary, crematorium, columbarium, mausoleum
 - b. Animal hospitals or veterinary services.
 - c. Clinic, dental office, medical office, chiropractic office, or hospital.
 - d. Junk yard, auto wrecking yard, or salvage yard.
 - e. Stables, kennels, pet stores, or any other commercial animal breeding business, or similar activities are prohibited.
 - f. Storage, service, repair, sales or rental of ambulance, tow truck, recreational vehicle, water craft, automobiles, ATV, or other motorized vehicles.
 - g. Fitness or health spa facility.
 - h. Boutiques, sample sale, or craft shows.
 - i. Auto body repair, motor vehicle repair.
 - j. Use of chemicals, pesticides and flammable/combustible materials, and including any other process or business where current, adopted federal, state or local building and fire codes would require an Operational Permit.
 - k. Client visits in excess of ten (10) per day.

L. Application. The following items shall be submitted to the city business licensing office in applying for a home occupation business license:

1. Application forms as provided by the City and the associated fee as approved by the City Council.
2. Description of the nature of the home occupation and information as requested in the application.
3. Hours of operation and the number of customer visits to be made each day.
4. Other government approvals required for conducting the home occupation.
5. Signed affidavit by the applicant that all requirements and conditions of the city will be followed.

M. Application Appeal Procedure. If the Planning Commission finds that certain conditions cannot be met, that the proposed home occupation is not appropriate or is inconsistent with the definition and purpose of this chapter or if reasonable and legitimate objections are filed, the application shall be denied. Applicants wishing to appeal the denial of a home occupation license may appeal the decision of the Planning Commission by following the appeal provisions outlined in Title 10-3 of the Nibley City Code.

N. Suspension/Revocation

1. A home occupation may be commenced only upon completion of all plan improvements as stipulated in the accompanying approval. The home occupation will be conducted in conformance with approved plans and conditions.

2. Application to amend a home occupation license may be requested by following the application procedures in this chapter. A home occupation license may be suspended or revoked by the Planning Commission, after a public hearing, if it is shown that one or more of the following conditions exist:
 - a. The use is conducted prior to completion of all required improvements and conditions.
 - b. The use is established or conducted contrary to any of the approved plans or conditions.
 - c. The use is conducted contrary to local, state, or federal laws.
 - d. The use is creating a nuisance or hazard, whether it be through the condition of the property, the conduct of the business or the behavior of the occupants of the residence where the home occupation is conducted or for any other reasonable and legitimate basis as determined by the Planning Commission.
 - e. The applicant supplied false or misleading information when applying for a home occupation license; or withheld relevant information on the application or allowed such to happen.
3. Prior to holding a public hearing to consider the suspension or revocation of a home occupation license, the City shall give at least fourteen (14) days prior written notice, mailed or otherwise delivered to the address listed on the application as the address where the Home Occupation is being conducted, of the alleged violation or the manner in which the property no longer complies with the requirements for the Home Occupation, with the opportunity to correct the problem during said time. Any substantiated, unresolved complaint, regarding the violation of standards, qualifications or application requirements or any of the above violations, which is received and verified by the City, against any Home Occupation licensed under this section, will require that any licenses be revoked and the business cease to operate. As part of the public hearing or after it is completed, the holder of the home occupation license shall be given an opportunity to present evidence and/or witnesses in support of the license-holder retaining the license.
4. Any person/persons whose license has been suspended or revoked by the Nibley City Planning Commission, and who wishes to appeal said revocation may appeal the decision of the Planning Commission by following the appeal provisions outlined in Title 10-3 of the Nibley City Code.
5. Any action related to the business license of the home occupation license holder shall be taken in accordance with the provisions of Title 3, Chapter 1 of this Code.

ORDINANCE 16-01
An Ordinance Amending the Nibley City Planning Commission

2-1-1 Established

- A. Membership: There is hereby created a planning commission of five (5) members, and up to two (2) alternates. The Mayor, with advice and consent of the City Council, shall appoint all members and alternates to the Planning Commission. Alternates shall be appointed as First Alternate and Second Alternate. Members of the city council may not be appointed to the planning commission.
- B. Compensation: Members of the planning commission shall be compensated as determined by resolution of the city council.

2-1-2 Terms Of Office

The terms of the planning commission shall be staggered. Each member of the planning commission shall serve for a term of five (5) years and until his successor is appointed; provided, that the term of the first members shall be such that the terms of one member shall expire each year. Terms of members of the planning commission shall begin on or before the first Monday in February of each year. The city council may remove any member of the planning commission for cause and after a public hearing, if one is required. Vacancies shall be promptly filled in the same manner as the original appointment for the remainder of the unexpired term. Terms of alternates shall be the same as terms for regular members of the Planning Commission, which may result in the replacement of both a regular member and an alternate in certain years.

2-1-3 Organization

- A. Chairperson; Adoption Of Rules: The members of the planning commission shall select from their own members a chairperson and such other officers as deemed necessary and shall adopt rules and regulations for their organization and for the transaction of business and the conduct of their proceedings.
- B. Reports To City Council: Reports of official acts and recommendations of the planning commission shall be public and made by the chairperson in writing to the city council and shall indicate how each member of the planning commission voted with respect to such act or recommendation. Any member of the planning commission may also make a concurring or dissenting report or recommendation to the city council. The Planning Commission chair may designate staff to make such reports, written or oral, to the Nibley City Council.
- C. Meetings: The planning commission shall meet at least once each month and at such other times as the planning commission may determine.
- D. Quorum: Three (3) members of the planning commission shall constitute a quorum. Alternate members shall count towards the number for a quorum.
- ~~D-E.~~ Alternate: Alternate members of the Planning Commission shall attend, at a minimum, those meetings where needed to constitute a quorum, but may attend other meetings as the Commission deems necessary. Alternate members may participate in the discussion of all meetings for which they are present, but shall only vote in the

absence of a regular Commissioner. In the event that both Alternate members are present and only one regular commissioner is absent, voting priority shall be given to the First Alternate.

2-1-4 Powers And Duties

In accordance with provisions of the Utah land use development and management act, Utah code section 10-9a-302, the following are the powers and duties of the Nibley City planning commission:

- A. The planning commission shall be the land use authority that:
 1. Recommends a general plan and amendments to to the city council;
 2. Recommends to the city council, zoning ordinances and maps, and amendments to zoning ordinances and maps;
 3. Administers provisions of the zoning ordinance;
 4. Recommends subdivision regulations and amendments thereto to the city council;
 5. Recommends approval or denial of subdivision applications to the city council;
 6. Assists with the creation of an appeal authority for the city of Nibley;
 7. Conducts such public hearings as are required by law or as deemed necessary;
 8. Hears and decides any matters that the city council designates, including the approval or denial of conditional use permits and review of nonconforming uses and structures; and
 9. Advises on matters as the city council directs and hears, or decides any matters as authorized by state law.
- B. The planning commission may designate by resolution, that Nibley City staff be the land use authority on the following land use applications:
 1. Conditional use permits for home occupations;
 2. Accessory building permits; and
 3. All other routine land use requests.

Should staff or any other land use authority so designated determine that an issue needs review and approval of the planning commission, they may refer the matter back to the commission for further investigation prior to approval or denial.

- C. The planning commission shall also protect the right of each:
 1. Applicant and third party to require formal consideration of any application by a land use authority;
 2. Applicant, adversely affected party, or municipal officer or employee to appeal a land use authority's decision to a separate appeal authority; and
 3. Participant to be heard in each public hearing on a contested application.