

The Meeting of the Nibley Planning and Zoning Commission held at Nibley City Hall, 455 West 3200 South, Nibley, Utah on Wednesday, March 23, 2016.

The following actions were made during the meeting:

Commissioner Green motioned to approve the kennel license for three (3) dogs located at 4815 Hollow Rd., applicant Mike Player, with the following conditions; 1. that Mr. Player gets a letter from the home owner giving permission to have the kennel license and, 2. that the conditional use permit is revoked when Mr. Player leaves the property. Commissioner Albrect seconded the motion. The motion passed unanimously 4-0; with Commissioner Green, Commissioner Albrect, Commissioner Davenport, and Commissioner Johnson all in favor.

Commissioner Green motioned to table the discussion and consideration of a conditional use permit for a cell tower to be located on industrial-zoned property located at 2990 South 800 West; applicant, Verizon Wireless. Commissioner Swenson seconded the motion. The motion passed unanimously 5-0; with Commissioner Green, Commissioner Swenson, Commissioner Davenport, Commissioner Albrect, and Commissioner Johnson all in favor.

Planning and Zoning Commission Co-Chair Dave Davenport called the March 23, 2016 Planning and Zoning Commission meeting to order at 5:35. Those in attendance included Commissioner Dave Davenport, Commissioner Carol Albrect, and Commissioner Jim Johnson. Ms. Shari Phippen, Nibley City Planner, was also present.

Approval of January 27, 2016, February 10, 2016, and March 9, 2016 meeting minutes and the evening's agenda

General consent was given for the evening's agenda.

Commissioner Bill Green arrived at 5:35 p.m.

The Planning and Zoning Commission gave general consent to suspend the agenda in order to delay the approval of the previous meeting minutes.

Conditional Use Permit

Kennel License—Discussion and consideration of an application for a kennel license for three (3) dogs located at 4815 Hollow Rd. (Applicant: Mike Player)

Ms. Phippen said Mr. Player had submitted an application for a kennel license at 4815 Hollow Road. She said this was allowed on residentially zoned properties of .75 acres or more. Mr. Player has sufficient acreage to be granted a kennel license. Commissioner Swenson made it known in an email that Mr. Player wasn't the property owner. He was living in his parents home. Ms. Phippen suggested the

Planning and Zoning Commission approve the kennel license with the condition that Mr. Player present staff with a letter from the homeowner giving the homeowner's consent for the kennel license. Commissioner Davenport questioned if they could have the conditional use permit run with applicant and not with the land. Ms. Phippen said there were circumstances when the conditional use permit

Commissioner Green made a motion to approve the kennel license for three (3) dogs located at 4815 Hollow Rd., applicant Mike Player, with the following conditions; 1. that Mr. Player gets a letter from the homeowner giving permission to have the kennel license and, 2. that the conditional use permit is revoked when Mr. Player leaves the property. Commissioner Albrect seconded the motion. The motion passed unanimously 4-0; with Commissioner Green, Commissioner Albrect, Commissioner Davenport, and Councilmember Jacobsen all in favor.

Commissioner Davenport reported that Commissioner Swenson was letting him know via text that he would arrive within 15 minutes. He asked for the remaining Planning and Zoning Commission's consent to move on from the next item so that Commissioner Swenson could be present for the cell tower discussion.

Discussion with Councilmember Larry Jacobsen regarding the Home Occupation ordinance

Former Planning and Zoning Commissioner, Aaron Bliesner was present and participated in this discussion. Councilmember Jacobsen said he liked the way the Planning and Zoning Commission was headed with the changes to the Home Occupation ordinance because he was a strong supporter of the cottage industry in Nibley. He questioned if the Planning and Zoning Commission was using the artisan shop land use when considering land uses that specifically involved use the accessory building on the property.

Commissioner Davenport recalled that in his brief tenure on the Planning and Zoning Commission that only one application they had considered fit the artisan shop. He said the majority of things that came before them were day care, child care, home office, construction offices, and snow removal and landscaping businesses. Commissioner Davenport said when read the home occupation definition that they had interpreted the home occupation had to be contained within the dwelling or garage. They wanted to allow greater use of the accessory building and that it didn't make sense to not allow something out of an accessory building if it was allowed in a garage.

Councilmember Jacobsen said one of the most interesting changes to the home occupation ordinance was the increased use of accessory buildings. Both Councilmember Jacobsen and Commissioner Davenport expressed that they were most interested in keeping Nibley's residential neighborhoods residential. He asked why they weren't using the small artisan shop more often. Commissioner Davenport expressed that he felt small machine repair didn't fall under an artisan shop.

Councilmember Jacobsen said if he couldn't tell his neighbor was running a business out of his home then he didn't care. Aaron Bliesner said the prohibition of home occupations in accessory buildings was an "Easter egg" requirement, which was trying to regulate what might happen in an accessory building rather than addressing the specific use. He said if it was a land use issue then he felt it was an issue with the land use chart and that it was overtly restrictive on the land use chart. Mr. Bliesner said if a business could be contained in the building and fit the nuisance ordinance and was still a problem then there was a problem with the land use chart. He didn't feel the provision in the draft ordinance overrides the land use chart. Ms. Phippen read part 3 of the draft definition of a home occupation:

"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."

Councilmember Jacobsen said they had made no attempt to say which was an acceptable land use in a residential zone. Ms. Phippen said they don't currently regulate what's acceptable as a home occupation and what's not. Councilmember Jacobsen said if they opened businesses up to accessory buildings, which were a bigger impact to the neighborhood, he suggested they needed to talk about which land uses are acceptable in a residential zone. Councilmember Jacobsen said they needed to determine which were acceptable land uses in a residential zone and felt that if they made businesses out of an accessory building allowable everywhere then they needed to get rid of the artisan shop in its entirety. Councilmember Jacobsen said he would first start expanding the uses they felt were acceptable out of an accessory building.

Commissioner Davenport suggested they run Councilmember Jacobsen's concerns by the city attorney. He also felt they could include more prohibitions. Councilmember Jacobsen said he hated to prove a negative. Councilmember

Jacobsen felt 1) they take the home occupation changes that had been proposed by the Planning and Zoning Commission and get rid of the artisan shop, or 2) they leave the home occupation alone and start expanding the conditions that were allowed in the artisan shop. Ms. Phippen added that they could expand the artisan shop land use into additional zones.

Commissioner Swenson arrived at 6:11 p.m.

Commissioner Johnson described his perceived differences between businesses that that could be run out of a house, garage, or accessory building. He said it clearly became a different definition of what might be and would change the characteristics of Nibley's neighborhoods. If it was a home based business then it should be home based; if it were something else then they needed to find the appropriate zoning. Councilmember Jacobsen said the home occupation ordinance didn't take into account the land uses.

Ms. Phippen, Councilmember Jacobsen, and Commissioner Davenport planned to have a meeting to further discuss this discrepancy.

Approval of January 27, 2016, February 10, 2016, and March 9, 2016 meeting minutes and the evening's agenda

General consent was given by Commissioner Albrect, Commissioner Davenport, and Commissioner Green for the January 27, 2016 meeting minutes.

General consent was given by Commissioner Albrect, Commissioner Davenport, and Commissioner Swenson for the February 10, 2016 meeting minutes.

General consent was given by Commissioner Swenson, Commissioner Davenport, Commissioner Green, and Commissioner Johnson for the March 9, 2016 meeting minutes.

Discussion and consideration of a conditional use permit for a cell tower to be located on industrial-zoned property located at 2990 South 800 West (Applicant: Verizon Wireless)

Commissioner Green made a motion to table the discussion and consideration of a conditional use permit for a cell tower to be located at 2990 South 800 West; applicant, Verizon Wireless. Commissioner Swenson seconded the motion. The motion passed unanimously 5-0; with Commissioner Green, Commissioner Swenson, Commissioner Davenport, Commissioner Albrect, and Commissioner Johnson all in favor.

Staff Report

Ms. Phippen said she had no staff report.

There was general consent to adjourn the meeting at 6:27 p.m.

Attest: _____
Deputy City Recorder