

The Meeting of the Nibley Planning and Zoning Commission held at Nibley City Hall, 455 West 3200 South, Nibley, Utah on Wednesday, August 24, 2016.

The following actions were made during the meeting:

**Commissioner Bliesner motioned to approve the conditional use permit and business license for Move-To-It Dance & Tumbling, located at 4115 Johnson Rd; applicant Marianne Hulse. Commissioner Swenson seconded the motion.**

**Commissioner Bliesner made a motion to amend to include the condition that the students participating in one class be limited to 8 and that classes be staggered by a minimum of 15 minutes to allow traffic to move through the area unencumbered. Commissioner Albrect seconded the amendment. The amendment passed 5-0; with Commissioner Bliesner, Commissioner Albrect, Commissioner Davenport, Commissioner Swenson, and Commissioner Johnson all in favor.**

**Commissioner Bliesner made a motion to amend to include the condition that the parking on the street be limited to south of the speed limit sign in front of the applicant's house. Commissioner Johnson seconded the motion. The amendment passed unanimously 5-0; with Commissioner Bliesner, Commissioner Johnson, Commissioner Davenport, Commissioner Swenson, and Commissioner Albrect all in favor.**

**The amended motion passed unanimously 5-0; with Commissioner Bliesner, Councilmember Jacobsen, Commissioner Davenport, Commissioner Swenson, and Commissioner Albrect all in favor.**

**Commissioner Bliesner motioned to approve the conditional use permit and business license for Omar's Tires, LLC, located at 3835 S. Main; applicant, Omar Cortezano. Commissioner Johnson seconded the motion.**

**Commissioner Bliesner made a motion to amend to include the condition that all materials associated with the business must be stored inside the residence. Commissioner Johnson seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Johnson, Commissioner Davenport, Commissioner Swenson, and Commissioner Albrect all in favor.**

**The amended motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Johnson, Commissioner Davenport, Commissioner Swenson, and Commissioner Albrect all in favor.**

**Commissioner Bliesner motioned to approve the business license and conditional use permit for Hirschi Kiss Bows, located at 1145 W 2720 S;**

**applicant, Alisha Hirschi. Commissioner Johnson seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Johnson, Commissioner Davenport, Commissioner Swenson, and Commissioner Albrect all in favor.**

**Commissioner Bliesner motioned to approve the business license and conditional use permit for Jessica Nelson Makeup Artistry, at 1644 W 3200 S; applicant, Jessica Nelson. Commissioner Johnson seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Johnson, Commissioner Davenport, Commissioner Swenson, and Commissioner Albrect all in favor.**

**Commissioner Bliesner motioned to approve the conditional use permit and business license for Blythe & Barnett, located at 874 W 2465 S; applicant, Cara Barnett. Commissioner Johnson seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Johnson, Commissioner Davenport, Commissioner Swenson, and Commissioner Albrect all in favor.**

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Planning and Zoning Commission Co-Chair Dave Davenport called the August 24, 2016 Planning and Zoning Commission meeting to order at 5:31 p.m. Those in attendance included Commissioner Dave Davenport, Commissioner Bret Swenson, Commissioner Carol Albrect, Commissioner Jim Johnson and Alternate Planning and Zoning Commissioner Aaron Bliesner. Ms. Shari Phippen, Nibley City Planner, was also present.

Commissioner Davenport stated that since Commissioner Bill Green was not present at the meeting, alternate Commissioner Bliesner would be counted as a voting member unless or until Commissioner Green arrived at the meeting.

#### **Approval of 8-10-16 meeting minutes and the evening's agenda**

General consent was given for the evening's agenda.

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

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

**Consideration of a conditional use permit and business license application for Move-To-It Dance & Tumbling, a home occupation (dance company) located at 4115 Johnson Rd. (Applicant: Marianne Hulse)**

The applicant, Marianne Hulse, was present at the meeting.

Ms. Phippen said Ms. Hulse's application was for a dance company run out of her home. Ms. Phippen summarized Ms. Hulse's class schedule and anticipated attendance. Ms. Phippen said that Ms. Hulse had stated on her application that she

would have an outside employee. The primary issue with Mrs. Hulse's application is the request to have another teacher. Ms. Phippen said Nibley ordinance stated that in order to be classified as a home occupation, that *"...individuals who do not live at the home occupation residence must not report to the residence for occupation related activities."* Ms. Hulse responded that she would instruct the other teacher to continue teaching from another location. Ms. Phippen gave the definition of a home occupation from Nibley City 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."*

Ms. Phippen said Ms. Hulse's property was zoned residential R-2 and that home occupations of this nature were allowed in this zone. Ms. Phippen described that the applicant had sufficient parking at her residence but felt there was a safety concern with the location of the applicant's home in proximity to State Road 165. Ms. Phippen said that Ms. Hulse had satisfied her concern about an outside employee. Ms. Phippen said she would recommend approval of the conditional use permit and business license with the condition that all business-related parking must happen South of the speed limit sign in front of the home, or in the driveway of the home.

Commissioner Bliesner made a motion to approve the conditional use permit and business license for Move-To-It Dance & Tumbling, located at 4115 Johnson Rd; applicant Marianne Hulse. Commissioner Swenson seconded the motion.

Commissioner Bliesner asked the applicant about her class schedule and anticipated attendance. Commissioner Bliesner said this number of students exceeded the number that was allowed at her house at one time. Ms. Hulse said she intended to stagger the class times by five minutes. Commissioner Bliesner felt that five minutes wasn't enough time to clear traffic out and that 16 cars at one time would be too many. Councilmember Jacobsen asked the applicant if she intended to have a sign. Ms. Hulse described the signage she intended to utilize.

Commissioner Bliesner made a motion to amend to include the condition that the students participating in one class be limited to 8 and that classes be staggered by a

minimum of 15 minutes to allow traffic to move through the area unencumbered. Commissioner Albrect seconded the amendment. The amendment passed 5-0; with Commissioner Bliesner, Commissioner Albrect, Commissioner Davenport, Commissioner Swenson, and Commissioner Johnson all in favor.

Commissioner Bliesner made a motion to amend to include the condition that the parking on the street be limited to south of the speed limit sign in front of the applicant's house.

Commissioner Bliesner said he was concerned with tying this amendment to a sign that could be moved by the city at any time. Ms. Hulse described the location of the speed limit sign in front of her home and Ms. Phippen said that the continued location of the stop sign could be tied to the conditional use permit.

Commissioner Johnson seconded the motion. The amendment passed unanimously 5-0; with Commissioner Bliesner, Commissioner Johnson, Commissioner Davenport, Commissioner Swenson, and Commissioner Albrect all in favor.

The amended motion passed unanimously 5-0; with Commissioner Bliesner, Councilmember Jacobsen, Commissioner Davenport, Commissioner Swenson, and Commissioner Albrect all in favor.

**Consideration of a conditional use permit and business license application for Omar's Tires, LLC, a home occupation (tire sales) located at 3835 S. Main (Applicant: Omar Cortezano)**

The applicant, Omar Cortezano, was present at the meeting.

Ms. Phippen said Mr. Cortezano currently had a tire store in Logan City and would like to sell tires outside of his regular business hours. Ms. Phippen said Mr. Cortezano had a business license with Nibley City but it had expired. Ms. Phippen said Mr. Cortezano residence was zoned Residential R-1. The Nibley City Land Use Chart allowed for home occupations as a conditional use in this zone. However, because this business involved the service of motor vehicles, as it was selling motor vehicle parts, it couldn't be licensed as a home occupation. Ms. Phippen said because the business didn't meet the requirements of Nibley's ordinance because it involved the servicing of motor vehicles her recommendation was that the conditional use permit and business license be denied.

Commissioner Bliesner made a motion to approve the conditional use permit and business license for Omar's Tires, LLC, located at 3835 S. Main; applicant, Omar Cortezano. Commissioner Johnson seconded the motion.

Commissioner Swenson questioned if someone made custom steering wheels and wanted to sell them online if the City would prohibit them. Ms. Phippen said it would depend on if the product were being produced and installed at the residence or only being sold out of the residence.

Commissioner Davenport noted that the Planning and Zoning Commission saw an application on February 4 of 2015 for the buying and selling of used tires that had been approved. Ms. Phippen described the differences with the past application and the current application. Ms. Phippen said that if conditions were put in place that none of the tires could be stored outside of the garage and that there would be no installation of tires at the residence then she felt they approve the conditional use permit. Commissioner Bliesner asked if Nibley's ordinance had changed since the applicant's expired business license had been approved. Ms. Phippen said it had.

Mr. Cortezano said he ran his business part-time from his shop in Logan. He also coached two soccer teams that required him to leave his Logan business but he was often contacted about purchasing tires. He said he would take tires to the client's home or have them picked up. Mr. Cortezano said he had a car port in his backyard where he approximated he stored 16-20 small tires. Commissioner Johnson asked if the tires were in view of Mr. Cortezano's neighbors. Mr. Cortezano said only when the tires were picked up.

Commissioner Bliesner said he knew the applicant's residence and had never noticed a problem at his residence. He said the applicant wasn't doing any labor at his home and was essentially doing materials sales. The Planning and Zoning Commission discussed amending on the motion.

Commissioner Bliesner made a motion to amend to include the condition that all materials associated with the business must be stored inside the residence. Commissioner Johnson seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Johnson, Commissioner Davenport, Commissioner Swenson, and Commissioner Albrect all in favor.

The amended motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Johnson, Commissioner Davenport, Commissioner Swenson, and Commissioner Albrect all in favor.

**Consideration of a conditional use permit and business license application for Hirschi Kiss Bows, a home occupation (personal accessory sales) located at 1145 W 2720 S (Applicant: Alisha Hirschi)**

The applicant, Alisha Hirschi, was present at the meeting.

Ms. Phippen said Ms. Hirschi's application was for a home occupation where she would make and sell children's head bows and neckties. Ms. Hirschi's would have no outside employees, had sufficient parking in her driveway for any customers to pick up an order, and no part of her business would be run out of an accessory building. Ms. Phippen said Ms. Hirschi's residence was located in the R-2A zone that allowed for home occupations as a conditional use. Ms. Phippen said this business met the requirements to be classified as a home occupation. Ms. Phippen said he had no suggested conditions.

Commissioner Bliesner made a motion to approve the business license and conditional use permit for Hirschi Kiss Bows, located at 1145 W 2720 S; applicant, Alisha Hirschi. Commissioner Johnson seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Johnson, Commissioner Davenport, Commissioner Swenson, and Commissioner Albrect all in favor.

**Consideration of a conditional use permit and business license application for Jessica Nelson Makeup Artistry, a home occupation (makeup services) located at 1644 W 3200 S (Applicant: Jessica Nelson)**

The applicant, Jessica Nelson, was present at the meeting.

Ms. Phippen said Ms. Nelson's application was for a home business where she would provide professional makeup services for weddings and other special events. Ms. Phippen said Ms. Nelson's residence was in the R-2A zone, which allowed for home occupations as a conditional use. Ms. Nelson would have no outside employees, had sufficient parking in her driveway for customer visits, and would not be using an accessory building for any part of her business. Ms. Phippen said the application met the conditions to be classified a home occupation and recommended the application be approved with no conditions.

Commissioner Bliesner made a motion to approve the business license and conditional use permit for Jessica Nelson Makeup Artistry, at 1644 W 3200 S; applicant, Jessica Nelson. Commissioner Johnson seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Johnson, Commissioner Davenport, Commissioner Swenson, and Commissioner Albrect all in favor.

**Consideration of a conditional use permit and business license application for Blythe & Barnett, a home occupation (interior design) located at 874 W 2465 S (Applicant: Cara Barnett)**

The applicant, Cara Barnett, was not present at the meeting.

Ms. Phippen said the applicant was providing interior design services. The applicant would have no outside employees and would have no client visits. Ms. Phippen said the applicant wouldn't be using an accessory building to run her business. Ms. Phippen said the business was located in the R-2A zone, which allowed for a home occupation as a conditional use, and had no suggested conditions.

Commissioner Bliesner made a motion to approve the conditional use permit and business license for Blythe & Barnett, located at 874 W 2465 S; applicant, Cara Barnett. Commissioner Johnson seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Johnson, Commissioner Davenport, Commissioner Swenson, and Commissioner Albrect all in favor.

Commissioner Davenport asked for general consent to recess the meeting so Ms. Phippen could resolve a computer issue. The meeting was recessed at 6:11 p.m. The meeting resumed at 6:21 p.m.

### **Concept Plan**

#### **Presentation and discussion of a concept plan for The Cottonwoods at Hollow Rd (Applicant: Jim Johnson)**

A copy of *The Cottonwoods at Hollow Road: Where Conservation and Design Offer Country Living at It's Best*, a document with preliminary plan, landscape plan, maintenance plan, traffic study, economic impact, declarations of CCR's, and an NAHB study was distributed to the Planning and Zoning Commission prior to the discussion.

Commissioner Davenport noted that Commissioner Johnson had transitioned from Planning and Zoning Commissioner to developer and was at the presentation podium.

Commissioner Bliesner suggested there be an official statement from the applicant on his intentions when voting. Commissioner Davenport noted that the subdivision wasn't before the Planning and Zoning Commission for any sort of action.

Commissioner Johnson said he was not entirely sure that, at this point, it would be required but stated that he would recuse himself from voting on the matter.

Ms. Phippen said this was a concept discussion. Ms. Phippen said Mr. Johnson was proposing to develop a 17-lot conservation subdivision on the west end of Hollow Road which was in the R-1/R-1A zone. Ms. Phippen read section 10-18-4C. from the conservation subdivision ordinance:

*"Applicants in existing R-1 zones may also choose to apply for a subdivision approval using the conservation residential subdivision. By so doing, the density from which all calculations shall be made shall be equal to 0.75 acre lots or the same density as the R-1A zone."*

Ms. Phippen said that following the Nibley City ordinance the entire zone would be treated as if it were R-1A. Ms. Phippen said the concept before the Planning and Zoning Commission had 17 lots proposed. Ms. Phippen described what the developer was entitled to under the conservation subdivision ordinance. She displayed a plat map and landscape plan for the subdivision. Ms. Phippen noted that the developer had commissioned a traffic study.

Mr. Johnson said he appreciated the opportunity to present to the Planning and Zoning Commission. Mr. Johnson introduced Hal and Delores Peterson who were present at the meeting. He said he had partnered with the Petersons in developing the land which the Petersons had owned since 1972. Mr. Johnson said they had followed the recent Nibley City General Plan and the conservation subdivision

ordinance contained in the Nibley City municipal code in preparing *The Cottonwoods* document. Mr. Johnson read from the Nibley City General Plan:

***“Residential Development and Housing*** *While retaining the character and form of established neighborhoods, residential development in Nibley will emphasis the conservation of open space and, using that conservation process, will incorporate a variety of housing forms.”*

Mr. Johnson summarized the document he had distributed to the Planning and Zoning Commission staring with the “Preliminary Plan” tab. Mr. Johnson described the proposed subdivision’s secondary water system, conservation easements, dedicated walking trails, and home owners association. Mr. Johnson summarized the maintenance plan for the proposed conservancy lots, and the traffic study. He read from page 11 of the traffic study, which read.

*“The analysis has shown that traffic generated by the proposed The Cottonwoods at Hollow Road development will have negligible impact to the traffic operations at the two study intersections. The traffic added by the development adds one second or less average delay to the worst movement at SR-165/Hollow Rd. Both SR-165 and Hollow Road have the capacity to absorb additional traffic without deteriorating the traffic flow”*

Mr. Johnson described the economic impact of home building in a typical local area as it applied to income, jobs, and taxes generated. Mr. Johnson pointed out the possibility of lot 3 of the subdivision being an attached housing unit. Mr. Johnson described the amenities that wouldn’t be included if the subdivision developed as a traditional R-1A subdivision. Mr. Johnson passed a traditional subdivision concept map to the Planning and Zoning Commission and public present for reference. He said he felt it would be the better option to work toward the conservation subdivision plan. He said the conservation subdivision was pleasing to everyone.

Commissioner Davenport expressed the he was not in favor of splitting lot 3 into attached housing.

Commissioner Swenson said he had submitted questions to Mr. Johnson, Ms. Phippen, and Commissioner Davenport prior to the meeting and wanted his questioned addressed in the meeting. He asked what the open space did for the public? Mr. Johnson said he felt this kept with the spirit of creating walkways and trail and created buffers with the neighbors. He said the spirit of trying to put a community park on Hollow Road didn’t work. Commissioner Swenson asked about the number of bonus lots for the subdivision? He believed it was 4. Ms. Phippen said depending on the configuration it was 3-4. Commissioner Swenson asked if the acreage being considered was using the access road as part of the conservancy acreage? Mr. Johnson said it was not part of the conservancy lots but was part of the overall acreage. Commissioner Swenson asked if the subdivision could be required to provide a second access to accommodate traffic? Ms. Phippen said based on the

conclusions of the traffic study, they couldn't require a second access because there was sufficient room for emergency access. Ms. Phippen said she didn't believe they had the legal standing to require a second access. Mr. Johnson described, using his experience, where he felt traffic would access the development. Commissioner Swenson said he felt the abrupt transition from 2-acre lots to third acre lots was giving a lot of "heart burn". He asked Mr. Johnson to described the proposed conservancy lots, how they would be maintained, and that they increased some of the lots in the subdivision to nearly a half-acre. Commissioner Swenson asked about the anticipated lighting for the subdivision. Mr. Johnson said he intended to followed city ordinance; that the City and City Engineer would guide them. He said their concern was safety. Ms. Phippen described the lighting that would be required and they encouraged lighting that was specifically designed to prohibit light pollution to the extent possible allowed by ordinance. Commissioner Swenson asked for who would have liability on the proposed path? Mr. Johnson said the City would hold liability. Commissioner Swenson asked what fencing would be allowed in the conservation areas? Ms. Phippen described the fencing standards that she would require. Mr. Johnson said this would be included in the CCNR's if it weren't included in City ordinance. Ms. Phippen reminded the Planning and Zoning Commission that she reviewed and approved all fences. Mr. Johnson discussed animal rights and fencing for animal rights. Commissioner Swenson said Nibley City had an issue with maintenance and enforcement and asked about making the open space the responsibility of the HOA instead of the City? Mr. Johnson said there were CCNR's and he felt this would be the type of development that the owners would take pride in and want to maintain.

Commissioner Albrect asked what was currently on the open space? Mr. Peterson said it was pasture with a limited amount of trees. Commissioner Albrect asked if the houses would be the same value in a traditional subdivision versus a conservation subdivision? Mr. Johnson said this would depend on the person who bought the property and what they wanted on the property. Commissioner Albrect asked about the sale of property and if the covenants would follow with the sale of the lots. Mr. Johnson said the same covenants would apply if/when the properties changed ownership.

Commissioner Bliesner noted that the proposed right-of-way was 34 ft. with 29 ft. of asphalt and asked if this was compliant with City ordinance. Ms. Phippen described that it was compliant and was being designed using a low impact development technique. Mr. Johnson said he had discussed the road with the City Engineer and he had expressed that it was in compliance. Commissioner Bliesner said it wasn't clear if Mr. Johnson would install the trail or was only providing an easement. Mr. Johnson said he would do what the City required; the city needed to indicate their preference. Commissioner Bliesner stated that if the trail was an easement then the issue of liability wasn't as clear. Commissioner Bliesner questioned the two zones that were splitting the property. He said they wouldn't know what to do with certain properties in the future and how they were regulated if it weren't a contiguous zone for each property. He felt this would need to be taken care of beforehand and would

like to see resolution on the issue before it was moved forward. He asked if the whole zone should be rezoned R-1A. Ms. Phippen said she didn't feel this was necessary based on the language of the ordinance because the lots were vested with the entitlements and requirements of the R-1A zone. Ms. Phippen said she would get the City Attorney's opinion on the matter before the application was presented for preliminary approval. Commissioner Bliesner asked about the shape of a few parcels and questioned animal rights on lots that would be sold as two parcels that may exclude the owner from desired animal rights. Ms. Phippen said they would allow a horse on the lot(s) being questioned by following the spirit of the law versus the letter of the law. Ms. Phippen was directed to do more research on this issue before the subdivision came for preliminary approval.

Commissioner Davenport was also concerned with the split on the zoning. Commissioner Davenport said if Mr. Johnson chose to develop as a traditional subdivision then he would have an issue with the split zoning and described the things he wouldn't have with a traditional subdivision. He wanted Mr. Johnson to know there would be a zoning issue with a traditional subdivision.

The Planning and Zoning Commission discussed fencing in the proposed subdivision.

Commissioner Davenport reviewed the items the Planning and Zoning Commission had asked Ms. Phippen to research before the subdivision came before the Planning and Zoning Commission for preliminary approval:

- The two zoning delineations in the subdivision
- What Nibley City would require for trail development
- Who would maintain the trails both within and outside the subdivision

### **Staff Report**

Ms. Phippen reported on and invited the Planning and Zoning Commission to the Nibley City Summer Picnic on Friday, August 26 at 6:00 p.m.

Ms. Phippen updated the Planning and Zoning Commission on progress made in planning a Planning and Zoning Commission trip to Heber.

General consent was given to adjourn the meeting at 8:03 p.m.

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