

NIBLEY CITY CORPORATION
PLANNING & ZONING COMMISSION
Wednesday, November 14, 2007

The following actions were made during the meeting

Action Item 1: Commissioner Heidt made a motion to approve the application for the conditional use permit and business license for a home occupation for Lee Poorte at 968 West 2980 South in Nibley for See Spot Go Janitorial. Seconded by Commissioner Dustin. Motion passed unanimously.

Action Item 2: Commissioner Dustin made a motion to approve business license and conditional use permit for the home occupation for Richard Jex at 77 West 3650 South Nibley, Utah for a home office as a reprehensive of Orenco Systems, Inc. Seconded by Commissioner Heidt. Motion passed unanimously.

Action Item 3: Commissioner Dustin made a motion to approve building permit for Ben Call contingent on the conditions outlined on the application. Seconded by Commissioner Heidt. Motion passed unanimously.

MINUTES OF THE MEETING

Minutes were taken by Deputy City Recorder Jessica Lawes

The following members of the Nibley City Planning and Zoning Commission were in attendance: Commissioners Wayne Anderson, Shaun Dustin and Marina Heidt. Also in attendance were Shari Phippen and Larry Anhder. The meeting took place in the Nibley City Hall, 625 West 3200 South. Acting Chairman Anderson called the November 14, 2007 meeting to order at 7:07 p.m.

Item 1: Approval of minutes and agenda:

General consent was given to approve the previous meeting's minutes and agenda.

General consent was given to approve the meeting's minutes for October 10, 2007.

Item 2: Lee Poorte – Requests a conditional use permit/business license for See Spot Go, a commercial cleaning business located at 968 West 2980 South. Applicant Lee Poorte met before the council. Mr. Poorte said they will be cleaning commercial buildings and running the business from the home. There will be no signs, advertisement or storage of any cleaning products.

Commissioner Heidt made a motion to approve the application for the conditional use permit and business license for a home occupation for Lee Poorte at 968 West 2980 South in Nibley for See Spot Go Janitorial. Seconded by Commissioner Dustin. Motion passed unanimously.

Item 3: Richard Jex – Requests a conditional use permit/business license for Orenco Systems, Inc. located at 77 West 3650 South. Applicant Richard Jex met before the council. Mr. Jex said he is a regional sales engineer for Orenco Systems, which is based in Organ. The business would be a home office and will put him in the region that he supports. Commissioner Anderson asked if he planned to employ persons not living at this address. Mr. Jex said he is the only person that will be doing business out of this address. Mr. Jex said there could be an occasional visit from other employees of Orenco Systems but no others and would not have clients visiting his home.

Commissioner Dustin made a motion to approve business license and conditional use permit for the home occupation for Richard Jex at 77 West 3650 South Nibley, Utah for a home office as a representative of Orenco Systems, Inc. Seconded by Commissioner Heidt. Motion passed unanimously.

Item 4: Ben Call – Requests to construct an accessory building (32' x 60') at 524 West 2600 South, a continued item from the previous meeting. Applicant Ben Call met before the council. Commissioner Anderson said the commission had some questions from the last meeting, one of them being that per ordinance, a resident is only allowed so much of their backyard occupied and there are some other accessory buildings on the property and they need to know the square footage of those. Mr. Call said he has one shed and it will be removed, but as it stands, it is about 8' x 8'. Commissioner Heidt asked Mr. Call what the square footage of the accessory building was. Mr. Call said it was about 1,800 square feet. Commissioner Anderson asked if it was going to have any living quarters. Mrs. Call said it was going to be used for storage, maybe a game room and possibly a home office. Aaron Wiser said that when the subdivision was developed the city approved an additional sewer stub specifically for plumbing in an accessory building. Commissioner Anderson said there was nothing in the ordinance that states there could not be a bathroom, just living or sleeping quarters.

Commissioner Dustin asked Mr. Call why he moved the building onto the lot without a building permit. Mr. Call said he had been looking for a building and this one became available. It was not the way he would have liked to do things but he felt he did not have any other option.

Commissioner Anderson said that one of the problems with this permit is that the yard has never been put in. Mr. Call said he has been there two years and has always planned on putting the accessory building there, that is why he put the house so far to the side of the lot and never put a full yard in. Commissioner Anderson asked what would the time line be for getting the building in and the yard done. Mr. Call said he is prepared to put the building in immediately. He said building will match the house as far as coloring and hopefully will have it all done before the snow flies and then in the spring he will get the yard in. Commissioner Dustin said that he was in his right to put in an accessory building that size and location, it is the way it was done that has caused the problems. Given the past history of the property how can he, as a commissioner, be sure that it does not become an eyesore and a nuisance sitting off to the side and not finished. Mr. Call said they commission will have to tell him what they think he should do, he has given his opinion and word on the situation and if it is not good enough then propose what is expected. Commissioner Anderson said that in following the ordinance, there is nothing that says the building can not be put there and have to grant the permit. He would like to have by-gones be by-gones and not worry about it being moved onto the lot beforehand. Commissioner Dustin said he thinks it is worth it to not establish a precedent. Commissioner Heidt said that stronger ordinances need to be made.

Sandy Maurer asked if Nibley had an ordinance that said that a property owner had so many months to have their yard landscaped after they moved into the home. She said she has lived in Nibley for 21 years and they had to have their yard landscaped within 12 months of owning or completing the home. She said she has not seen any effort from Mr. Call to put in a yard. She said it is fine that people have out buildings but she does think the law should be followed as far as applying for a building permit. The permit should have been applied for before the building was moved in. Ms. Maurer said that when she built her out building she was told by Bill Saunders that if they started building before the permit was approved the fee would have been double. Mr. Anhder said the city's ordinance does not now or has ever given a minimum time for landscaping. The only thing that can be done is prosecute nuisances, weeds that become fire hazards, and as far as the building permit, uniform building code does not recognized what is there now as a building.

Commissioner Heidt asked Mr. Call if he was part of a Home Owners Association. Mr. Call said he was not and as far as landscaping, he has never heard a word from anybody about their concerns for his landscaping except for during the summer when the weeds got high. He said he travels constantly and is sometimes gone for months at a time and will look into getting someone to look after his yard. He apologized if he had offended anybody by this and did not do it intentionally.

Reesa Smith said she lives next door to Mr. Call and said he did come to them in the spring and apologized for the way his yard looked and that he would be putting his yard in and when this building showed up and she concerned it would become another eyesore. She said she does not have anything against Mr. Call having the building but would like it to look nice.

Commissioner Dustin made a motion to approve building permit for Ben Call contingent on the conditions outlined on the application. Seconded by Commissioner Heidt. Motion passed unanimously.

Item 5: Discussion of appeal authority ordinance – Shari Phippen said the city currently does not have an appeals authority body and this is the language on governing how long people have to appeal and who they appeal to. She said somebody came in last week that needed a slight variance on a height requirement of an accessory building. Mr. Anhder said the current process is a board of adjustment and

the new LUDMA Act of two years did away with Boards of Adjustments and we haven't had a need for one in five years. This ordinance anticipates the hiring of an officer and to his knowledge only North Logan and Cache County are using it. North Logan has contracted with Brian Cannell, an attorney with land use experience, to be their administrating hearing officer and he anticipates somebody like that to sit with on the few occasions that these come up. The other avenue of an appeal would be the appeal of a decision made or the interpretation of an ordinance, the appeal of a conditional use permit, the appeal of a subdivision decision and things of that nature. He anticipates that those appeals would stay with the current bodies already in place, the City Council or the Planning Commission. The advantage of this would be that the City Council could stay involved in making that decision, the problems would be that the Board of Adjustments are poorly trained or seldom meet that they act viscerally rather than objectively.

Commissioner Anderson said his experience with variances in different communities are that variances are only granted if the proponent can show that there is undo burden placed on the property requiring it. It is very hard to prove undo and is curious as to what kind of language under the variances for the appeal authority to follow. Mr. Anhder said that most of the language in this ordinance deals with the variances and a paragraph needs to be added to talk about the other types of appeals that would go from Planning Commission to City Council to District Court. Mr. Anhder said the other alternative could be a board of citizens. Commissioner Anderson said he liked the idea of a hearing officer because it will quicken the process. Commissioner Dustin said there would be more consistency. Mr. Anhder said before this ordinance will be before the Planning Commission for action another paragraph will be added to delineate the other appeals and conditional uses will be handled and will be available by the next meeting.

Item 6: Discussion of sexually oriented business policy – All commission members present are in agreeance with this ordinance.

Item 7: Adjournment –

Commissioner Heidt made a motion to adjourn at 8:37 p.m. Seconded by Commissioner Dustin. Motion passed unanimously.

Signed _____
Planning & Zoning Chairman

Attest _____
Assistant Deputy Recorder