

48 Council Member Bailey aye
49 Council Member Fawson aye
50 Council Member Satterthwaite aye
51 Council Member Stoker aye
52 Council Member Urry aye

53
54 The motion passed unanimously.
55

56
57 **AGENDA**

58
59 **1. PUBLIC COMMENTS**

60
61 Phil Swanson, 1066 E. 3300 N., thanked the City for the installation of flashing stoplights at the
62 intersection of 3300 North and 1050 East. He stated he has one suggestion to shift the orientation of one
63 of the stop signs to ensure that it can be seen by motorists travelling around the curve.
64

65
66 **2. DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE AMENDING**
67 **ACCESSORY DWELLING UNIT IN RE-20 ZONE**

68
69 A memo from City Manager Chandler explained that during the last City Council meeting the Council
70 asked staff to answer questions and concerns that were raised during the meeting. Staff has reviewed
71 meeting minutes to identify each question and possible policy changes as well as compared these against
72 the sample ordinances provided to the City by the Hartmann family. Staff has attempted to evaluate each
73 policy; provide the pros and cons; and prepared language that can be added to the Planning Commission's
74 proposed ordinance. The memo noted the several questions that were raised and included staff's response
75 to the questions in italicized print. Mr. Chandler read through his staff memo for the record.
76

77 Question 1: Will the Hartmanns be required to have separate driveways? This was asked during a
78 discussion of the required surface for a driveway.

79 Answer: No

80 Reasoning: Item 7 of the proposed ordinance states; "The parking standards of North Ogden City for
81 a single family home will apply." The Hartmanns have two options that will meet the
82 parking standards written in Section 11-17 of the City Code. Option 1: The Hartmanns
83 can use the existing driveway as shown on the picture below if they extend the concrete
84 the length of a parking stall. Option 2: The Hartmanns can install concrete, pavers or
85 asphalt on the potential driveway as shown in the picture below.
86

87 The specific requirements Section 11-17 are as follows. My commentary is in italics.

- 88
- 89 • Location: Required off street parking shall be located on the same lot or parcel as the use it is
90 intended to serve. (*The proposed ordinance permits the primary dwelling unit and accessory
91 dwelling unit to be located on one lot.*)
 - 92 • Surfacing: All parking spaces, driveways and access-ways shall be surfaced with asphaltic
93 concrete, pavement bricks or cement concrete. (*For option 1, the existing driveway on the picture
94 below is made out of concrete. For option 2, the driveway must be constructed out of asphaltic
95 concrete, pavement bricks or cement concrete*)
 - 96 • The dwelling unit has the minimum number of required off street parking spaces as stipulated by
section 11-17-4 of this chapter. (*2 parking spaces are required for each dwelling unit. For option*

97 *1, the existing driveway would be extended the length of a parking stall. This would provide the*
98 *four parking stalls and the unencumbered access in the driveway to meet our requirement)*

- 99 • No vehicle shall be parked in the required side yard unless the parking area is improved with hard
100 surface material such as concrete or asphalt. *(The existing driveway, including the section on the*
101 *side of the house, is made out of concrete)*
- 102 • Location: Required off street parking shall be located within three hundred feet (300') of the
103 building or use it is intended to serve, the distance being measured along the street line from the
104 nearest point of the building or use to the nearest point of the parking lot. *(The distance from the*
105 *existing driveway to the proposed accessory dwelling unit is 130')*

106
107 Council Member Urry noted that a third parking option is also available to the Hartmann family; they
108 could paint parking spots on their property to allow vehicles to park at an angle along the driveway. Mr.
109 Chandler concurred that would be an option. He continued his review of his staff report.

110
111 Question 2: Will the City require building and impact fees for the accessory dwelling unit?

112 Answer: Yes

113 Reasoning: The City charges the building permit and impact fees for all new construction. The fees are as
114 follows.

- 115
116 • Permit Fee calculated using the 1997 version of the Uniform Building code section 107.2, table
117 1A plus 20%.
- 118 • Temporary Power Permit Fee 56.40
- 119 • 1% State Fee 1% of permit fee
- 120 • Plan Check Fee 50% of permit fee
- 121 • Water Connection Fee 307.00
- 122 • Sewer Connection Fee 56.00
- 123 • Storm Sewer Impact Fee 1,474.40
- 124 • Water Impact Fee 3,312.29
- 125 • Sewer Impact Fee 546.76
- 126 • Park Impact Fee 2,677.00
- 127 • Garbage 100.00
- 128 • Central Weber Sewer Impact Fee 2,333.00
- 129 • Construction Water Usage 54.08
- 130 • Fire Service Impact Fee 293.43
- 131 • Deposit, Offsite Improvements 500.00

132
133 Council Member Satterthwaite suggested that if those dwelling in the ADU are using utilities from the
134 primary dwelling unit, the impact fees could be deferred until such time that the ADU is converted to a
135 primary dwelling unit. Mr. Chandler stated he does not believe the City's ordinances provide that leeway
136 and he noted the construction of an ADU will result in the need for a new service, which is when impact
137 fees are typically charged. Council Member Bailey stated that when an accessory structure was originally
138 built on the Hartmann property it was classified as a garage and he asked if any impact fees would have
139 been charged at that time. Mr. Chandler stated there would be no impact fees for the construction of a
140 garage. Building Official Kerr noted that when the Hartmann's garage was constructed the City collected
141 a storm water impact fee, but that practice has since changed and a storm water fee would not be charged
142 for a garage built today.

143
144 There was a brief discussion regarding the fees listed above, with Council Member Urry asking if all fees
145 will be charged to the Hartmann family to construct an ADU. Mr. Kerr stated that many of the fees are
146 related to the construction of a new home. Council Member Urry stated he would like staff to determine

147 whether the Hartmann family should be charged the fees listed above; he stated that he does not want
148 them to be charged connection fees if they are not making a new connection or causing an additional
149 impact on the City. City Attorney Call then provided the Council with an explanation of the purpose of
150 impact fees as well as how the fee amounts are determined; the Hartmann family will have two residences
151 on their property and, according to law, they are subject to being charged impact fees for each of those
152 dwellings. The revenues generated by impact fees must be spent by the City within six years of
153 collection. Mayor Taylor agreed that an ADU is considered an independent dwelling regardless of the
154 utility connection situation; if the Council would like to address ADUs in a manner different from how
155 other residences are addressed, that will need to be done through an ordinance amendment. The current
156 ordinance does not give the City discretion to treat ADUs differently than other dwellings, including
157 apartments and townhome types of units.
158

159 Mr. Chandler continued his review of his staff memo.

160
161 Question 3: Can the Hartmann property be subdivided?

162 Answer: Yes

163 Reasoning: If the property is rezoned to an R-1-10 zone, there will be enough street frontage for the main
164 lot and the flag lot. In an R-1-1- the main lot is required to have 90' of street frontage and the flag lot is
165 required to have 30' of street frontage.
166

167 Mr. Chandler's memo then reviewed several different policy issues as listed below.

168

169 Policy 1: Bountiful only permits the accessory dwelling unit as a conditional use and it automatically
170 expires when ownership changes.
171

172

173 Discussion: Conditional uses are permitted uses with conditions. The conditions should be narrow,
174 specific and applicable to all applicants. They should not be used to prevent an individual or use that
175 otherwise meets City requirements. The proper use of conditions is to monitor requirements that can
176 change. For example, set back requirements and maximum building size are easily established and do not
177 need to be monitored from year-to-year or time-to-time. Conditions such as owner occupation and
178 restricting occupancy of the ADU to family members can be changed from time-to-time.

179

180 Policy: In Section 1 of the proposed ordinance – An accessory dwelling unit shall be conditionally
181 permitted. The permit shall be reviewed by the Community Development Director on an annual basis.
182

183

184 Add to Section 4 of the proposed ordinance:

185

186 1. An Accessory Dwelling Unit shall only be permitted when the property owner lives on the
187 property within either the principal dwelling or accessory dwelling unit. (This should be moved
188 from Standards in the proposed ordinance to conditions)

189 2. Those that reside in the accessory dwelling unit shall be members of the family as defined in
190 North Ogden's City Code. (This can be added if you want to restrict residents of the ADU to
191 family members. This will be discussed in policy 3.)

192

193 Pros: If the intended purpose of ADUs is to provide housing for family members, then a conditional use
194 permit which is reviewed will help the staff monitor these requirements.

195

196 Cons:

197 a) If the conditions are not specific and specified in the ordinance, the conditional use permit can be
198 misused.

199 b) An annual review requires greater administration by the staff.

198
199 Council Member Bailey asked if the definition of family is limited as to how it is currently defined in the
200 City Code. Mr. Chandler answered no and noted it would be possible to provide a definition for family in
201 the proposed ordinance or amend the current ordinance to apply to the entire City. He then continued
202 reviewing the policy issues included in his staff memo.
203

204 Policy 2: Draper requires a deed restriction that is recorded on the property and as the property passes to
205 subsequent owners so do the deed restrictions.
206

207 Discussion: A deed restriction can be used to inform subsequent owners that the ADU can only be
208 occupied under certain conditions.
209

210 Policy: Add to Section 3 of the proposed ordinance the following language:
211 Prior to the City issuing a Certificate of Occupancy, the owner shall record against the deed restriction
212 limiting the occupancy of either the primary dwelling or accessory dwelling unit and other standards and
213 conditions as stated in the North Ogden City Code.
214

215 Pros: A deed restriction provides subsequent owners with a “Buyer’s beware” before they purchase the
216 property and may prevent it as an investment property or with the idea that the ADU can be rented. (This
217 point assumes you want to restrict the ADU to family members only)
218

219 Cons:

- 220 a) Deed restrictions are one more step that staff would need to go through;
- 221 b) When someone is buying property, they should be aware of what’s allowed in the zoning
222 ordinance;
- 223 c) Deed restrictions won’t notify neighbors; and,
- 224 d) An annual review of a conditional use permit will identify if the property has changed hand. The
225 annual review though would not notify someone in advance of purchasing the property.
226

227 Policy 3: The accessory dwelling unit is restricted to family members.
228

229 Discussion: The owner occupied and family member restrictions seem to address the concern that
230 ADUs will deteriorate neighborhood properties because, without these restrictions, landlord speculators
231 will buy both units and rent both of them. The fear is that neither the landlord nor the tenant will maintain
232 the unit and this will have a detrimental effect on neighboring properties.
233

234 North Ogden defines a family as “An individual, or two (2) or more persons related by blood or marriage,
235 or a group of persons not related by blood or marriage, living together as a single housekeeping group in a
236 dwelling unit.” (North Ogden Code 11-2-1)
237

238 Policy: Add to section 3 of the proposed ordinance the following language:
239

240 Those that reside in accessory dwelling unit or principal dwelling unit shall be family members, as
241 defined in the North Ogden City Code Section 11-2-1, of the property owner.
242

243 Pros: This may prevent the deterioration of the property as stated above.
244

245 Cons: This may be overkill and act as a deterrent to building ADUs. The owner occupancy requirement
246 may be sufficient to prevent landlord speculators from buying the property and renting it. The following
247 are possible reasons for leaving this provision out of the proposed ordinance.
248

- 249 a) Family situations change. Parents pass away. Children move. The property owner living on the
250 property may be left with a dwelling unit that can't be occupied.
- 251 b) If the property owner finds themselves in the situation described above, the incentive will be to
252 subdivide the lot, create a flag lot and either sell or rent the property. If this is done, the standards
253 of the ADU ordinance will not apply to either property.
- 254 c) We don't apply this standard to any other single-family home owners in the City. If my parents
255 and I live next to one another and my parents pass away, I can rent their home without limitation.
- 256 d) If the City is concerned about landlord speculators, a more effective method to address this may
257 be to eliminate flag lots. Under our current zoning ordinance, a landlord speculator can buy
258 property with an ADU and subdivide it. He/she would then be free to rent both units – one in
259 front and one in back. Eliminating flag lots would still allow ADUs but would prevent them from
260 being subdivided and sold off separately.

261
262 Policy 4: Annual certification.

263
264 Discussion: This can be done through a conditional use permit that is reviewed annually as discussed in
265 policy 1. There was some discussion about using the recertification process or annual review to inspect
266 sanitary conditions and other utilities. We don't conduct these inspections on other housing types. As
267 mentioned in the policy 1 discussion, the annual review should be limited to conditions specified in the
268 ordinance.

269
270 Policy 5: The model ordinance and some of the documentation implies that there is no way to limit the
271 ability of a property owner from selling an accessory dwelling unit as a condominium.

272
273 Discussion: During the meeting Jon Call stated that "Under any State or Federal law zoning can regulate
274 land use, but would not allow us to regulate land ownership. If the purpose of this regulation is to prevent
275 landlord speculators from buying the property and renting both units, the owner-occupancy regulation
276 may suffice.

277
278 In 2005 the Utah Supreme Court ruled on *Anderson v Provo*. The City of Provo amended a zoning
279 ordinance governing residential neighborhoods near Brigham Young University to allow only those
280 homeowners who reside in their homes to rent out "accessory" apartments. A group of homeowners
281 brought suit challenging the amendment, and the district court granted summary judgment to Provo. In
282 the appeal of that decision, the homeowners argued that the amended ordinance (1) exceeds Provo's
283 legislative authority by regulating land ownership than land use, (2) violates the equal protection
284 guarantees of the United States and Utah Constitutions, (3) is an invalid restraint on the alienation of
285 property, and (4) unconstitutionally burdens the right to travel.

286
287 The Supreme Court affirmed the lower court's decision with the following conclusion.

288
289 In allowing property owners in some single-family residential zones near BYU to rent accessory
290 apartments on condition that the owner resides in the primary dwelling, Provo has struck a balance
291 between providing more housing alternatives and availability in these neighborhoods and preserving their
292 single-family residential character. The provision at issue here places no restriction on owners' right to
293 rent their primary residence but merely regulates a secondary use that could otherwise not be available at
294 all. We hold that the owner occupancy requirement for accessory apartment rental is within Provo's
295 zoning power, does not violate owner's constitutional rights to the uniform operation of laws, to equal
296 protection, or to travel, and is not an invalid restraint or alienation.

298 Policy: The owner-occupancy provision is already in the proposed ordinance. It states “An Accessory
299 Dwelling Unit shall only be permitted when the property owner lives on the property within either the
300 principal dwelling or accessory dwelling unit.
301

302 An owner occupant is defined in the proposed ordinance as “An individual as shown by registered deed
303 who has fifty percent (50%) or more ownership in a dwelling unit on subject property.”
304

305 As stated in policy 1, an annual review of the conditional use can be used to review the ownership
306 provision of this ordinance.
307

308 Pros/Cons See Policy 1.
309

310 Policy 6: Regulation of building architecture
311

312 Discussion: This type of regulation becomes a matter of degrees. An architectural regulation can be as
313 simple as regulating colors as we do in our commercial zones or as complicated as regulating the
314 materials used in construction. Some Cities use architectural review committees to review and regulate
315 building construction. These committees are normally used in historic preservation zones.
316

317 The proposed ordinance does not regulate architecture except height.
318

319 Policy: If the City wants to regulate color only, the following regulation from the City’s commercial zone
320 requirements can be added to Section 3.
321

322 External surfaces of the accessory dwelling unit shall be predominantly natural, muted earth tones (Non-
323 bright colors representing natural, earth colors and values, including browns, blacks, grays, greens, rusts,
324 etc. . . .). White may be used as an accent color only. The Community Development Director may allow
325 contrasting accent colors.
326

327 If the City wants to regulate the materials used in construction, the following regulation from the City’s
328 commercial zone requirements can be added to Section 3.
329

330 All applicants for an accessory dwelling unit shall include a color board or renderings indicating the
331 colors and materials to be used onsite. Proposed materials should typically harmonize with existing,
332 surrounding development.
333

334 Pros: In as much as the proposed ordinance requires the ADU to be located in the rear yard of the
335 principal dwelling, regulations dealing with construction and color can prevent overbearing buildings and
336 colors. The regulations above are minimal and give the property owner flexibility when constructing the
337 ADU. The color regulation in particular has created a pattern in North Ogden’s commercial district.
338

339 Cons: North Ogden City does not apply these regulations to other residential housing types. The term
340 “harmonize” is ambiguous and gives the Community Service Director wide latitude for enforcement.
341

342 Policy 7: The ADU size
343

344 Discussion: The proposed ordinance states that “the maximum floor area of the Accessory Dwelling
345 Unit shall not exceed the above ground living space of the primary dwelling.”
346

- 347 • The above ground living area of the Hartmann primary dwelling unit is 1,290 square feet.
- 348 • The total square footage of the Hartmann PDU, including the garage, is 2,580.

- 349
- The livable area of the ADU is 1,035 square feet or 81% of the PDU.
- 350
- The garage area in the ADU is 765 square feet.
- 351
- The total square footage of the ADU, 1800 square feet, is 70% of the total square footage of the
- 352
- PDU.
- 353

354 The ADU size restriction in the proposed ordinance was designed to meet the Hartmanns needs. If the
355 size restriction is less than 81%, the Hartmanns could not use their second building as an ADU.

356

357 By limiting the maximum floor area of the ADU to the square footage of the above ground living space,
358 the Hartmann's ADU is either 41% of the PDU's total square footage (this does not count the square
359 footage of the ADU garage), or 70% of the PDU's total square footage (this counts the square footage of
360 the ADU garage).

361

362 The language in the proposed ordinance is a little unclear as to what is counted in the square footage. The
363 following examples may clarify this.

364

365 Policy: Add the following to the definition section:

366

367 Definition of Maximum Floor Area

368

- Option 1: Maximum Floor Area: The total floor area inside the building envelope, including the external walls, garage and excluding the roof.
- 371
- Option 2: Maximum Floor Area: The total floor area inside the building envelope, including the external walls and excluding the garage and roof.
- 374

375 Definition of Ground Living Space

376

- Option 1: Above Ground Living Space: The total floor area inside the building envelope above ground, including the external walls, garage and excluding the roof. (Note of interpretation – This includes the square footage of the ground floor and upstairs.)
- 380
- Option 2: Above Ground Living Space: The total floor area inside the building envelope above ground, including the external walls, and excluding the garage and roof. (Note of interpretation – This includes the square footage of the ground floor and upstairs.)
- 384

385 Pros/Cons: Even though the maximum floor area standard in the proposed ordinance was designed to
386 accommodate the Hartmann's ADU, limiting the maximum floor area to the living area above ground has
387 the effect of reducing size of the ADU. The limitation of the other ordinances is a percentage of the total
388 square footage of the PDU. Excluding the garage when calculating maximum floor area and the ground
389 living space allows for the trend of larger, multi-vehicle garages for the ADU, (this may be a pro or a
390 con). Including the garage when calculating the maximum floor area and the ground living space prevents
391 the trend of larger, multi-vehicle garages for the ADU, (this may be a pro or a con). If the property is
392 subdivided into a flag lot, the standards of the proposed ordinance would not apply and the owner could
393 build or expand the ADU according to the RE-20 provisions. The RE-20 zone requires that the minimum
394 vegetative opens space per lot shall be fifty percent (50%). If flag lots are not permitted then the ADU
395 size will be restricted to the proposed ordinance.

396

397 Policy 8:

398

399 In the model ordinance there are limits on how many adults and how many children are allowed in
400 relation to the size of the facility.

401
402 Discussion: A family is defined in NOC's zoning ordinance as "an individual or two or more persons
403 related by blood or marriage or a group of persons not related by blood or marriage living together as a
404 single household group in a dwelling unit." This definition is typical for zoning ordinances and seems to
405 accommodate the different types of households.

406
407 Council Member Fawson stated his biggest concern deals with the fact that this proposal circumvents the
408 City's current zoning and subdivision ordinances. He stated the City has not heard from a large number
409 of citizens requesting ADU's and, in his opinion, this proposal is being made only to accommodate
410 something that does not fit into the City's current zoning and subdivision laws. He stated he is willing to
411 consider the proposal, but he must also consider the other 600 properties that the proposed change would
412 impact.

413
414 Council Member Urry stated he understands Council Member Fawson's concerns, but he also believes
415 this is an issue that will not go away, but, instead, will only grow. Many other cities are allowing ADUs
416 on various types of lots and he is happy that the Hartmanns have brought the issue to the City's attention.

417
418 Council Member Satterthwaite stated Ogden City recently passed an ordinance allowing ADUs in a seven
419 block area of that city. He stated this type of development is already happening around North Ogden. He
420 stated the use could potentially increase density, but that increase will not be noticeable in the RE-20
421 zone. He concluded he thinks the Council should consider the ordinance.

422
423 Council Member Bailey stated he agrees with Council Member Fawson that the Hartmann family could
424 come up with a solution that would be allowed under the City's current zoning and subdivision
425 ordinances. He stated he would prefer to work with the regulations that are already in place rather than
426 going to the work of modifying the City Code to allow for ADUs. Council Member Urry stated this issue
427 may have been raised by the Hartmann family, but it is not something that will only affect the Hartmanns.
428 Council Member Bailey stated that he reviewed the material provided to the Council regarding ADUs and
429 there are many reasons other communities have considered permitting the land use, including mitigating
430 high property values by providing affordable housing opportunities through ADUs. He stated that
431 situation is not present in North Ogden. He noted there are only three reasons to consider allowing ADUs
432 in North Ogden, but the only one that really applies is the one that is at the center of this request and that
433 is to provide an opportunity for property owners to allow a family member to live on their property for a
434 variety of reasons. He stated he would be very cautious about permitting ADUs in other zones of the
435 City.

436
437 Mr. Chandler then stated that he would like the Council to consider and vote upon each policy included in
438 his staff memo separately. He summarized policy 1, which would dictate that ADUs be a conditional use
439 and the conditional use permit (CUP) for the use would be reviewed on an annual basis.

440
441 Council Member Bailey stated CUPs in the past have been somewhat problematic. City Attorney Call
442 agreed; he noted CUPs are a valuable tool, but the City needs to be very specific about what is permitted
443 by a CUP. He stated CUPs are not a great way to eliminate a use. He noted the City would have the
444 option to impose conditions on the use of an ADU in order to mitigate any negative impacts associated
445 with the use. Mr. Chandler stated one condition could be that the primary dwelling be owner occupied
446 and that could be reviewed annually if the policy to require a CUP for an ADU is approved by the
447 Council. There was a brief discussion regarding whether the Council is certain they want to require the
448 primary and ADU to be occupied by the property owner and a family member; this led to a discussion
449 regarding the interpretation of the definition of family as provided in the staff memo.

450
451 Council Member Satterthwaite stated it is clear the City must charge impact fees for the development of
452 an ADU on any given property and he asked if it would be less expensive for a property owner to pay
453 those impact fees or to subdivide their property and create a flag lot as a secondary parcel. Mayor Taylor
454 stated there are costs associated with the subdivision process and those costs would be avoided by not
455 subdividing and opting for an ADU instead. Mr. Kerr reviewed the costs associated with creating a flag
456 lot and noted they are less expensive than the costs for a large subdivision.

457
458 **Council Member Fawson moved to suspend the rules and allow the Hartmann family to**
459 **provide input as to why they would prefer the ADU land use over a flag lot subdivision.**
460 **Council Member Satterthwaite seconded the motion.**

461
462 **Voting on the motion:**

463
464 **Council Member Bailey** **aye**
465 **Council Member Fawson** **aye**
466 **Council Member Satterthwaite** **aye**
467 **Council Member Stoker** **aye**
468 **Council Member Urry** **aye**

469
470 **The motion passed unanimously.**

471
472 Zachary Hartmann stated that when the garage was originally built on the property he was not informed
473 of the option of a flag lot. He then noted that he does not want to subdivide and he wants to use the
474 property he has accomplished his goal of providing a place for his parents to live. Council Member
475 Fawson stated the cost of pursuing an ADU may be higher than the cost to subdivide and create a flag lot.
476 Mayor Taylor stated that is incorrect; it would be quite a bit more expensive to subdivide the property.
477 Mr. Hartmann agreed and stated that he has not received a lot of information from the City until he heard
478 about flag lots from Mr. Chandler. He stated he is trying to work out the best situation for himself, his
479 family, and the City. Mayor Taylor stated the cost of running independent utility lines to the dwelling on
480 a flag lot would be very expensive. Bill Hartmann agreed and stated the estimate he got from a contractor
481 to run utilities to a home on a flag lot on that property would be \$15,000.

482
483 Council Member Urry inquired as to the distance between the primary dwelling and the garage, to which
484 Mr. Kerr answered 130 feet. Council Member Urry stated it is his understanding that the Hartmanns
485 could construct a breezeway to connect the accessory unit to the primary unit and they could avoid paying
486 impact fees altogether. Mr. Kerr stated that the opinion of the former Community Development Director
487 was that type of action would not meet the intent of the City's ordinance; however, there are differing
488 opinions. Mayor Taylor stated regardless of how the units are connected, they are two separate units with
489 two separate families living in each unit. He then refocused the discussion on policy 3, which would
490 require that the ADU be occupied by family members of the owner of the primary dwelling unit, and
491 asked if anyone is ready to make a motion regarding the policy. Discussion centered on the enforceability
492 of the definition of a family as used in Bountiful City's ordinance, which was offered by Mr. Chandler as
493 an example of the type of language that could be used in North Ogden's ordinance.

494
495 **Council Member Bailey moved to accept the recommendation listed under Policy Three,**
496 **which restricts occupancy of an ADU to family members of the property owner living in**
497 **the primary residence, and that Bountiful City's definition of a family replace North**

498 **Ogden’s definition of family when relating to ADUs. Council Member Stoker seconded the**
499 **motion.**

500
501 **Voting on the motion:**

502
503 **Council Member Bailey** aye
504 **Council Member Fawson** aye
505 **Council Member Satterthwaite** aye
506 **Council Member Stoker** aye
507 **Council Member Urry** aye

508
509 **The motion passed unanimously.**

510
511 Mayor Taylor then led a discussion regarding Policy 1 included in Mr. Chandler’s staff report. Mr.
512 Chandler stated he would recommend that the language regarding CUPs be included in section four of the
513 proposed ordinance.

514
515 **Council Member Bailey moved to approve Policy 1 requiring that an ADU be a CUP and**
516 **that the owner of the property must occupy the primary or accessory dwelling on the**
517 **property. Council Member Satterthwaite seconded the motion.**

518
519 **Council Member Fawson moved to suspend further discussion and hear item four on the**
520 **agenda. Council Member Stoker seconded the motion.**

521
522 **Voting on the motion:**

523
524 **Council Member Bailey** aye
525 **Council Member Fawson** aye
526 **Council Member Satterthwaite** aye
527 **Council Member Stoker** aye
528 **Council Member Urry** aye

529
530 **The motion passed unanimously.**

531
532
533 **4. DISCUSSION AND/OR ACTION TO APPOINT A PLANNING COMMISSION MEMBER**

534
535 Mayor Taylor stated he would like to recommend that the City Council appoint Scott Barker to the North
536 Ogden City Planning Commission. He noted he has interviewed Mr. Barker and he feels he would be an
537 excellent addition to the Planning Commission. He briefly reviewed Mr. Barker’s background, with a
538 focus on his education and current employment; Mr. Barker has been a resident of North Ogden for 56
539 years.

540
541 **Council Member Urry moved to appoint Scott Barker to the North Ogden Planning**
542 **Commission. Council Member Fawson seconded the motion.**

543
544 **Voting on the motion:**

545

546 Council Member Bailey aye
547 Council Member Fawson aye
548 Council Member Satterthwaite aye
549 Council Member Stoker aye
550 Council Member Urry aye

551
552 **The motion passed unanimously.**

553
554 ****The Council then resumed discussion of item two on the agenda.**

555
556 Mr. Chandler provided the Council with a brief overview of the language to be added to the proposed
557 ordinance upon approval of the motion to approve policy 1 as outlined in the staff memo. Council
558 Member Bailey stated that Bountiful City dictates that CUPs will expire upon an ownership change and
559 he would like to include that as a condition of a CUP for an ADU.

560
561 **Council Member Bailey moved to amend the motion by adding a condition that any CUP**
562 **for an ADU will expire upon a change of property ownership. Council Member**
563 **Satterthwaite seconded the motion.**

564
565 **Voting on the motion:**

566
567 Council Member Bailey aye
568 Council Member Fawson aye
569 Council Member Satterthwaite aye
570 Council Member Stoker aye
571 Council Member Urry aye

572
573 **The motion passed unanimously.**

574
575 Mayor Taylor then called for a vote on the original motion to approve policy 1.

576
577 **Voting on the motion:**

578
579 Council Member Bailey aye
580 Council Member Fawson aye
581 Council Member Satterthwaite aye
582 Council Member Stoker aye
583 Council Member Urry aye

584
585 **The motion passed unanimously.**

586
587 **Council Member Bailey moved to approve policy 2 requiring a deed restriction that is**
588 **recorded on the property and as the property passes to subsequent owners so do the deed**
589 **restrictions. Council Member Fawson seconded the motion.**

590
591 Mayor Taylor inquired as to the cost of such a deed. Mr. Call stated he believes the cost is \$20, which is
592 not a significant burden.

593

594 **Voting on the motion:**

595

596 **Council Member Bailey** aye

597 **Council Member Fawson** aye

598 **Council Member Satterthwaite** aye

599 **Council Member Stoker** aye

600 **Council Member Urry** aye

601

602 **The motion passed unanimously.**

603

604 Mayor Taylor then led a discussion regarding policy 4 and declared it is not necessary to approve this
605 policy given that the Council adopted policy 1, which required a CUP that is reviewed annually by the
606 City.

607

608 **Council Member Satterthwaite moved to remove language associated with policy 4 from**
609 **the proposed ordinance. Council Member Stoker seconded the motion.**

610 **Voting on the motion:**

611

612 **Council Member Bailey** aye

613 **Council Member Fawson** aye

614 **Council Member Satterthwaite** aye

615 **Council Member Stoker** aye

616 **Council Member Urry** aye

617

618 **The motion passed unanimously.**

619

620 Mayor Taylor stated policy 5 has already addressed and language associated with that motion does not
621 need to be included in the proposed ordinance.

622

623 **Council Member Bailey moved to remove language associated with policy 5 from the**
624 **proposed ordinance. Council Member Satterthwaite seconded the motion.**

625 **Voting on the motion:**

626

627 **Council Member Bailey** aye

628 **Council Member Fawson** aye

629 **Council Member Satterthwaite** aye

630 **Council Member Stoker** aye

631 **Council Member Urry** aye

632

633 **The motion passed unanimously.**

634

635 **Council Member Bailey moved to remove language associated with policy 6 from the**
636 **proposed ordinance. Council Member Stoker seconded the motion.**

637 **Voting on the motion:**

638

639 **Council Member Bailey** aye

640 Council Member Fawson aye
641 Council Member Satterthwaite aye
642 Council Member Stoker aye
643 Council Member Urry aye

644
645 **The motion passed unanimously.**
646

647 Mayor Taylor led a discussion regarding policy 7, which deals with limitations on the size of any ADU.
648 Council Member Bailey stated he feels it is important to limit the size of an ADU so that such a structure
649 will not dwarf a primary dwelling on a property.
650

651 Mr. Chandler stated the proposed ordinance states that the maximum floor area of the ADU shall not
652 exceed the above ground living space of the primary dwelling unit. He stated he feels it is necessary to
653 define “maximum floor area” and “above ground living space” in order for users to easily interpret the
654 ordinance; the biggest question is whether “maximum floor area” includes garage space. Mr. Kerr
655 provided the Council with an explanation of how home square footage is currently measured in the City
656 and noted the measurement excludes the garage; the measurement is taken of living space and often also
657 excludes a basement because it is below ground. Mr. Chandler stated the livable area of the Hartmann’s
658 primary dwelling is 1,290 and that excludes the garage; the livable area of the ADU is 1,035 square feet,
659 or 81 percent of the primary dwelling unit. The Council had a philosophical discussion regarding the
660 appropriate ratio of the size of the primary dwelling unit and the ADU.
661

662 **Council Member Bailey moved to approve policy 7 dictating the maximum floor area of the**
663 **accessory dwelling unit shall not exceed 100 percent of the above ground living space of the**
664 **primary dwelling.**
665

666 There was a brief discussion regarding the need to create definitions for above ground living space and
667 whether finished basements should be included in that calculation. Mr. Kerr stated basements are not
668 typically considered to be a story of a home unless 50 percent of the basement is exposed.
669

670 **Council Member Bailey continued his motion by requiring that the following definitions be**
671 **included in the proposed ordinance:**
672

- 673 • **Maximum Floor Area: The total floor area inside the building envelope, including**
674 **the external walls and excluding the garage and roof.**
675
- 676 • **Above Ground Living Space: The total floor area inside the building envelope above**
677 **ground, including the external walls, and excluding the garage and roof. (Note of**
678 **interpretation – This includes the square footage of the ground floor and upstairs.)**
679

680 **Council Member Urry seconded the motion.**
681

682 **Voting on the motion:**
683

684 Council Member Bailey aye
685 Council Member Fawson aye
686 Council Member Satterthwaite aye
687 Council Member Stoker aye

688 Council Member Urry aye

689

690 The motion passed unanimously.

691

692 Council Member Bailey moved to remove language associated with policy 8 from the
693 proposed ordinance. Council Member Satterthwaite seconded the motion.

694

695 Voting on the motion:

696

697 Council Member Bailey aye

698 Council Member Fawson aye

699 Council Member Satterthwaite aye

700 Council Member Stoker aye

701 Council Member Urry aye

702

703 The motion passed unanimously.

704

705 Council Member Bailey then moved to adopt ordinance 2014-03. Council Member Stoker
706 seconded the motion.

707

708 Voting on the motion:

709

710 Council Member Bailey aye

711 Council Member Fawson aye

712 Council Member Satterthwaite aye

713 Council Member Stoker aye

714 Council Member Urry aye

715

716 The motion passed unanimously.

717

718 Council Member Bailey thanked the City Council and the Hartmann family for their patience as the City
719 worked through the issues associated with this application. Council Members Satterthwaite and Urry
720 echoed Council Member Bailey's comments, with Council Member Urry also recognizing staff time and
721 effort that went into developing the proposed ordinance. Mayor Taylor agreed and noted the Council can
722 review impact fees at a future date, perhaps during the upcoming budget retreat meeting.

723

724

725 Council Member Satterthwaite moved to consider item five on the agenda at this time.

726 Council Member Bailey seconded the motion.

727

728 Voting on the motion:

729

730 Council Member Bailey aye

731 Council Member Fawson aye

732 Council Member Satterthwaite aye

733 Council Member Stoker aye

734 Council Member Urry aye

735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784

The motion passed unanimously.

5. DISCUSSION AND/OR ACTION TO CONSIDER A CONTRACTOR FOR THE PUBLIC WORKS COMPLEX

A staff memo from Mayor Taylor provided a brief history of the process to select a contractor for the Public Works complex. It explained that on behalf of the Public Works Contractor Selection Committee, he recommends that the City contract with Lundahl Building Systems, Inc. of Logan to construct our new Public Works Facility. While there was a diversity of opinion on the Selection Committee and thorough debate, all members have ultimately expressed their support for this recommendation. The purpose of this Memo is to outline the selection process with as much transparency as possible and to also highlight some of the key reasons we are recommending Lundahl for this project. In September 2012 Mayor Harris and the City Council appointed a new Public Works Committee to reassess the project from ground zero, after the previous project and associated bond was overturned by North Ogden voters. This Committee was comprised of 9 citizen volunteers and all five members of the City Council. Brent Chugg was appointed as Chairman and has aptly led the Committee. The following served as members of the new Public Works Committee:

- Brent Chugg, Committee Chair
- Kent Bailey, City Council Member
- Wade Bigler, City Council Member
- Justin Fawson, City Council Member
- Cheryl Stoker, City Council Member
- Brent Taylor, City Council Member
- Lisa Christensen
- Aaron Farr
- Gayle Hollingsworth
- Lynn Millard
- Dan Nixon
- Lynn Satterthwaite
- Phil Swanson
- Eileen Truscott

Former Mayor Richard Harris, City Manager Ron Chandler, former Public Works Director Mel Blanchard, current Public Works Director Craig Giles, and Shelly Robinson, Public Works Administrative Assistant, all made extremely valuable contributions in support of the Committee.

This Committee has met nearly two dozen times to assess, analyze, debate, and recommend how to move forward with this project, starting first with identifying the appropriate size and scope of the project. Next, led by Committee member Dan Nixon, the Committee conducted a comprehensive analysis of potential sites and ultimately determined the best location to be 220 East Pleasant View Drive (running north to Lomond View Drive). The Committee unanimously recommended this site on May 8, 2013 and on May 14, 2013 the City Council unanimously voted to purchase 6.51 acres of property at the site for a total cost of \$531,000. After a site was selected and purchased, the Committee conducted a long and careful process of analysis to develop a Request for Proposals (RFP) that included the desired building specifications and parameters. The Committee unanimously chose to use the Design Build construction delivery method and an RFP was issued in November 2012 inviting contractors to propose designs that would meet the Committee's specifications as well as to bid on the cost of construction. The Committee's intent was to leverage competitive forces between construction companies in order to get the

785 best possible design and construction price for North Ogden taxpayers. The RFP asked firms to bid for
786 the base project, which included the maintenance shops, welding bays, wash bays, work areas, and office
787 areas, and for firms to also bid prices for additional “add-on” items, such as a salt shed and a vehicle
788 storage shed that would be considered for construction if the budget accommodated. Three construction
789 firms submitted design proposals, which were due in January 2014. A Selection Committee was
790 assembled to review the bids, to conduct interviews, and to make a recommendation for who should be
791 selected. The Selection Committee was composed of:

- 792 • Brent Taylor, Mayor
- 793 • Kent Bailey, City Councilman
- 794 • Lynn Satterthwaite, City Councilman
- 795 • Craig Giles, Public Works Director
- 796 • Matt Hartvigsen, City Engineer*
- 797 • Ron Chandler, City Manager
- 798 • Brent Chugg, Public Works Committee Chairman
- 799 • Eileen Truscott, Public Works Committee Member
- 800 • Gary Kerr, North Ogden Building Official*
- 801 • *= Non-voting member

802 The Selection Committee met on five occasions during the last two months to carefully develop a
803 recommendation for the City Council; on January 27 the Committee developed scoring criteria and
804 questions for the contractor interview. On January 31 the Selection Committee interviewed all three
805 contractors who submitted bids and held initial discussions about each contractor. On February 4 the
806 Committee met to objectively rank the construction companies based on our scoring criteria and to
807 develop a list of follow-up questions for each contractor. Lundahl was ranked significantly higher, and
808 was tentatively selected as the “primary” contractor. On March 4 the Committee met to review additional
809 information from Lundahl and decided that we wanted to interview Lundahl a second time to get
810 additional clarification on certain items. On March 7 the Committee met to conduct a second interview
811 with the primary selected contractor to answer additional follow---up questions and to confirm the
812 Selection Committee’s recommendation. After the second interview, all Selection Committee members
813 felt comfortable recommending Lundahl as the contractor for the Public Works project.

814
815 The memo then provided the reasons the Selection Committee recommends Lundahl for the project. The
816 City received three excellent proposals for the project, and selecting Lundahl was no easy task. All three
817 contractors were highly experienced and extremely reputable, and any one of them could have done a
818 great job. Several items really helped Lundahl stand out (see Lundahl site plan for more details); they
819 provided the only design that offered a separate administrative building from the shop area; this masonry
820 building will be located nearest to the road and will provide a more attractive contribution to the
821 residential neighborhood where the facility will be located. Lundahl also offers a functional and practical
822 steel shop building larger than the other proposals (bonus space). The shop building bays are walled and
823 separate from one another, which allows for mezzanine-level bonus storage in most bays. The bid
824 includes a higher number of unit heaters allowing for more efficient heating of areas in use. Lundahl was
825 the only contractor who included road access to both Pleasant View and Lomond View Drive, enabling
826 more site efficiency. Lundahl's proposal also includes the best ventilation system design for the shop
827 area, with drop-down hoses for vehicle exhaust and a separate air conditioning system for IT servers.
828 Lundahl has proposed oil and air distribution lines from a central dispensary; and, finally, it offers the
829 best design to accommodate future shop expansion. The Selection Committee called several other cities
830 that have used Lundahl recently for municipal building projects, and received very positive reports about
831 their ability to deliver projects on time and within budget. If approved by the City Council, City
832 Administration will begin the design process with Lundahl. We will take the proposed design and the
833 fixed construction bid price we received as a starting point, and will look at several other potential options
834 for orienting the site and buildings. Our intent will be to reduce the construction price by tweaking their

835 proposal, and we believe that this is possible based on our most recent discussions. Based on these
836 negotiations, we will develop and bring a construction contract back to the City Council for approval in
837 the near future. Because we have received a firm price, in no case will the total cost of construction
838 increase, unless we request changes that lead to a price increase. In general Lundahl offered significantly
839 lower bids on the various add-on elements (Vehicle Storage Shed, Salt & Sand Shed, etc.), and this offers
840 a unique opportunity to complete more of the entire project at this time while construction rates are still
841 low. The Selection Committee did not make any formal recommendations on which add-ons to pursue or
842 not pursue. The Mayor's memo concluded it is his personal recommendation that the City should
843 construct the following add-on items:

- 844 • Salt & Sand Shed, \$117,876
- 845 • Equipment Storage, \$117,876
- 846 • Fuel Station, \$28,561

847 By constructing these three items, we do a single construction project at once and end with a stand- alone
848 and functional facility. We also enable ourselves to rehabilitate the old Public Works Site and to be able
849 to prepare it for commercial sale.

850
851 Mayor Taylor summarized his memo and stated he is seeking a vote of support from the Council to allow
852 the Administration to proceed with negotiations with Lundahl.

853
854 Mr. Chandler reviewed the site plan presented by Lundahl and identified the different phases of the
855 project, with a focus on site layout. He also reiterated Mayor Taylor's recommendation to approve three
856 add-on items that were also included in the proposal from Lundahl.

857
858 Mayor Taylor stated each Council Member has received a copy of Lundahl's bid and he invited Dallan
859 Young, Lundahl representative, to answer any questions the Council may have regarding the proposal.
860 Mr. Young stated he appreciates the opportunity to work with North Ogden and he is excited about his
861 company's opportunity to complete a successful project in the City. He stated his company is nearing
862 completion of a public works facility in Logan and many of the buildings being proposed in North
863 Ogden's project are very similar to the buildings constructed in that project.

864
865 Public Works Director Giles stated that he contacted many municipal entities that have worked with
866 Lundahl in the past and the feedback provided by those entities was very positive.

867
868 Public Works Committee Chairman Chugg thanked his Committee members for their work on the project.
869 He stated Lundahl is a very good company that is very dependable and honest and they can be trusted by
870 North Ogden.

871
872 Mayor Taylor stated the fixed bid presented by Lundahl is very close to the City's \$2 million budget; he
873 would like permission to negotiate the cost of the project with Lundahl to try to get the cost closer to the
874 budget amount, though it will likely remain somewhat higher. He reviewed some of the options for
875 changing the orientation of buildings on the site in order to reduce some costs and after negotiating those
876 issues he will provide a final contract to the City Council for approval.

877
878 Council Member Bailey stated the process followed by the Committees was very laborious and they did a
879 great job of analyzing the bids to ensure the City would get the best product. He added he is delighted by
880 the selection of Lundahl. Council Member Satterthwaite agreed and stated that there are a number of
881 reasons Lundahl is the right contractor for the job. He stated he is anxious to see the project move
882 forward. Mayor Taylor agreed the entire process has been very thorough. Council Member Fawson
883 appreciated everyone that participated throughout the entire process and noted he has not heard anything
884 but positive feedback from residents about the work the City has done to reduce the costs of the project.
885 He then noted the two biggest questions he received from residents was whether the facility would be

886 aesthetically pleasing and he feels the answer to that question is yes; the second question related to
887 whether the facility would be sufficient to meet the City's needs at building. He asked how long the
888 buildings are expected to last. Mr. Young stated much of that depends on the City's plan to maintain the
889 facility, but there are options to expand the buildings as the City grows and they will last for many years
890 into the future.

891
892 **Council Member Fawson moved to suspend the rules and allow Mr. Buswell to speak. Council**
893 **Member Satterthwaite seconded the motion.**

894
895 **Voting on the motion:**

896
897 **Council Member Bailey** aye
898 **Council Member Fawson** aye
899 **Council Member Satterthwaite** aye
900 **Council Member Stoker** aye
901 **Council Member Urry** aye

902
903 **The motion passed unanimously.**

904
905 Mr. Buswell inquired as to who the other two contractors were that responded to the City's RFP. Mayor
906 Taylor stated that he has no plans to announce that information this evening.

907
908 Council Member Satterthwaite then addressed Council Member Fawson's question regarding the
909 longevity of the buildings, noting he is confident that it will be possible to choose construction options
910 that will serve the City well into the future. Mayor Taylor agreed and stated that is one of the reasons that
911 he is seeking approval from the City Council to continue negotiations with Lundahl. He also referenced
912 the concept drawings and highlighted the layout of the buildings to point out that there is a significant
913 amount of future expansion space throughout the entire project.

914
915 **Council Member Stoker moved to authorize City Administration to proceed with contract**
916 **negotiations with Lundahl in anticipation of providing a final draft agreement to the City**
917 **Council next month. Council Member Satterthwaite seconded the motion.**

918
919 **Voting on the motion:**

920
921 **Council Member Bailey** aye
922 **Council Member Fawson** aye
923 **Council Member Satterthwaite** aye
924 **Council Member Stoker** aye
925 **Council Member Urry** aye

926
927 **The motion passed unanimously.**

928
929 Mayor Taylor then briefly summarized the project schedule.

930
931
932

933 **3. DISCUSSION AND/OR ACTION TO CONSIDER A RESOLUTION APPROVING ENTRY**
934 **INTO AN EASEMENT AGREEMENT BETWEEN SMITH'S FOOD & DRUG CENTERS, INC.**
935 **AND NORTH OGDEN CITY CORPORATION FOR A NORTH OGDEN TRAIL**
936

937 Mr. Chandler reviewed the site plan for the Smith's Marketplace project and identified the location of the
938 proposed trail that is the subject of the proposed easement agreement. The agreement calls for a 12-foot
939 wide easement for the trail; it will eventually connect to a five foot sidewalk that will connect the trail to
940 2600 North. The canal easement is actually 30-feet, but the trail easement is only 12-feet inside of the 30-
941 feet; Smith's Marketplace has agreed to maintain landscaping on either side of the 12-foot easement. He
942 noted the trail will be a public trail and non-motorized and foot traffic will be permitted; Smith's will
943 construct the trail of road base and the City will maintain it. The easement is perpetual.
944

945 **Council Member Fawson moved to approve Resolution 07-2014 approving an agreement**
946 **between Smith's Food and Drug Centers, Inc. and North Ogden City Corporation for a**
947 **North Ogden Trail. Council Member Stoker seconded the motion.**
948

949 There was a brief discussion regarding the makeup of the road base that will be used to construct the trail
950 with Council Member Bailey noting it would be nice to pave the trail in the future, but the City is only
951 able to construct a road base trail at this time due to budget constraints. Mayor Taylor agreed and noted
952 the trail will serve the City for some time into the future.
953

954 **Voting on the motion:**
955

956 **Council Member Bailey** aye
957 **Council Member Fawson** aye
958 **Council Member Satterthwaite** aye
959 **Council Member Stoker** aye
960 **Council Member Urry** aye
961

962 **The motion passed unanimously.**
963
964

965 **6. PUBLIC COMMENTS**
966

967 There were no public comments.
968
969

970 **7. CITY COUNCIL, MAYOR, AND STAFF COMMENTS**
971

972 Mr. Chandler encouraged the City Council and residents to sign up to participate in the upcoming NO
973 Limits Half-Marathon scheduled for May 3.
974

975 Council Member Bailey asked if there will be an action item on the next agenda to allow the Council to
976 cancel the April 8 meeting to allow Council Members to attend the Utah League of Cities and Towns
977 Conference. Mr. Chandler stated that will be added to the agenda.
978

979 Mayor Taylor stated the next budget meeting will be scheduled for the third week in April. He then
980 reported there will be an open house on March 20 at the North View Senior Center to celebrate their 10th
981 Anniversary.

982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

8. ADJOURNMENT

Council Member Urry moved to adjourn the meeting. Council Member Fawson seconded the motion.

The meeting adjourned at 9:30 p.m.

Brent Taylor, Mayor

S. Annette Spendlove, MMC
City Recorder

Date Approved

NOT APPROVED