

MEMORANDUM

To: North Ogden City Council
From: Craig Barker, Community Development Director
Date: June 28, 2011
Subject: Amend Chapter 11- 22-4 A. Prohibited Signs

As part of the continuing process to amend and clarify the North Ogden City Zoning Ordinance as desired by the members of the Economic Development Committee of the City and with the recommendation of the City Planning Commission the section of the Prohibited Sign dealing with signs on trailers, or motor vehicles is proposed for change. The issue has generally been the question of when a vehicle becomes a sign with regard to the sign regulations of the City. The Planning Commission discussed the issues at two meetings and has submitted this draft ordinance change to the City for adoption.

NORTH OGDEN PLANNING COMMISSION

MEETING MINUTES

May 4, 2011

5. CONSIDERATION AND/OR ACTION TO APPROVE AN AMENDMENT TO VEHICULAR SIGNS IN THE “PROHIBITED SIGNS” SECTION 11-22-4 OF THE NORTH OGDEN CITY ZONING ORDINANCE.

Mr. Barker said they need to review the present ordinance on prohibited signs. He referred to section 11-22-4 of the North Ogden City Zoning Ordinance. He said the signs that are not specifically authorized herein are prohibited. He explained that off-premise commercial signs are prohibited he also explained that signs that are painted on attached or mounted to vehicles are also prohibited.

He said the Economic Development Committee felt the ordinance referring to vehicular signs was too vague. Mr. Barker said the problem doesn't solve their basic problems. He said the current proposal restricts business vehicles parked in a business parking lot if advertisement is on the vehicle. Mr. Barker explained that with today's advertisement methods there are many more vehicles with signs on them. He added that the proposals do not deal with off-premise signs. Mr. Barker said they will be dealing with those types of violations. The Planning Commission discussed the Own Utah vehicle that is parked on Washington Boulevard for the sole purpose of advertising. Mr. Barker explained that they will be dealing with that through administrative court.

Mr. Barker said the Economic Development Committee has proposed changes to the ordinance to deal with some of the vehicular signs. He explained that there are three requirements that must be met before the vehicle is in violation and if those three requirements are met and the applicant has the ability to rebut the decision if there is evidence the vehicle is use for regular business purposes. He said the purpose of the ordinance is not to restrict parking of vehicles that are regularly used in the business. Mr. Barker said if you want to prohibit the Bull Frog Spa trailer parked across three parking stalls in their parking lot then you would need additional language.

Mr. Barker discussed the Own Utah trailer and explained that when XXXX first began using his trailer as an off-premise sign he parked it in Smith's parking lot. He said he would unhitch the trailer and leave it all day. Mr. Barker said he informed XXXX that was illegal. He said he also informed Smiths that they had an off-premise sign on their property and they would get a ticket. He said XXXX started parking on Washington Boulevard and claimed he was parked there to take pictures for his business. He said he is working on getting this problem solved. He said he was hoping that with the administrative court they could get by with less documentation. He said they may require him to produce a witness. He said he is unsure of how they would enforce an ordinance. Commissioner Bingham suggested checking state regulations on how long you can leave an unattended vehicle parked alongside a road. Commissioner Hulme said he would think that it would be considered a hazard. Mr. Barker said the Police Department doesn't think it is a hazard. Commissioner Hulme said it is an off-premise sign and he thinks this section does not need to address it. He suggested the section that addresses off-premise signs include a statement that specifies these types of issues. Commissioner Bingham suggested including a statement that talks about parking on the side of a road. He said the burden of proof needs to be on the individual. He said they need to provide evidence. He said if XXXX is making false statements to a police officer or to the City then that is a serious offense.

Mr. Barker said there are other discrepancies they want to clear up. He said there is a provision that discusses a discrepancy with the intermittent or illuminated signs. He said A through E talk about the vehicular signs. Commissioner Brown asked how much signage one person can have on their property. She said at Bull Frog Spa it is not just the trailer, he keeps adding more things. She said you could go after him because there is not adequate parking. Mr. Barker replied that he thinks there is adequate parking. Commissioner Bingham suggested including a statement that prohibits a vehicle parked in that manner. Mr. Barker said when the trailer is parked parallel across four parking stalls it should be evidence that he is using the trailer as a sign. Commissioner Bingham said the vehicle needs to be parked in a parking stall. Commissioner Hulme said they are writing these ordinances as reasonable as possible, but Shawn Maynard just has a different perspective.

Commissioner Brown said the flashing sing on Pop's Malt Shop was tacky and she is glad to see this ordinance eliminating that. Commissioner Hulme said currently it is written to disallow. He said the red line would take it out. Commissioner Brown said she would eliminate that. Commissioner Quinney said they need to be cautious of the wording because it might eliminate the use of Christmas lights.

Commissioner Brown asked if the strip mall can have a more effective sign. Mr. Barker said they can use the multi-tenant sign, which allows 16 square feet per business. Commissioner Bingham proposes that Mr. Barker take the recommendation they discussed with the additions they

discussed and tighten up some specific details and bring it back after he has talked to Mr. Carlson on the details. Commissioner Hulme clarified that they are referring to section 2 of the ordinance. He asked for a summary of the recommendations. Mr. Barker said he noted the XXX style activities. Commissioner Hulme said that is not section 2. Commissioner Bingham said the staff report mentioned additional language be applied to address the XXXX approach. Mr. Barker said he also noted the trailer parking such as that at Bull Frog Spas. Commissioner Brown said she would like that to be worked on. Mr. Barker said he would like to restrict the parking of a trailer with a sign within 50 to 100 feet of a major arterial; other than in a storage parking lot. Commissioner Hulme asked what about his trailer does not meet a, b, and c. Mr. Barker replied that his argument may be to rebut the presumption mentioned by providing evidence of the vehicles use in the business. Commissioner Hulme pointed out that it states he would have to justify the need to park that vehicle in that location. Commissioner Hulme said he would have to show that he regularly uses it for business purposes and a reason why he would need to park it in that location. Mr. Barker said he does have adequate parking in the rear. Commissioner Hulme restated that he would have to provide a reason as to why it needs to be parked in that location. He added that if he can't provide that the vehicle cannot be parked there. He said that is the reason why they wrote it that way.

Commissioner Brown asked if they could add a requirement of how often the vehicle is used. Mr. Barker said it does state the requirement of being used regularly. Mr. Barker said the word "regularly" is vague. Commissioner Bingham said that is where they may want input from Mr. Carlson. Mr. Barker said they can talk to him at the next meeting. Commissioner Brown said he needs to use it regularly enough to justify the location, not just that he uses it two or three times a year.

Commissioner Hulme said the issue with XXXX should be taken care of because they do not allow off-premise signs. He said in his opinion what XXXX is doing is clearly illegal, but they may need to add additional language.

The Commission discussed how nice Bach Self Storage's landscaping looks.

**Commissioner Quinney made a motion to table the item until the next meeting.
Commissioner Dalpias seconded.**

Voting on the motion:

Steve Quinney	yes
Joan Brown	yes
Dave Hulme	yes
Allan Dalpias	yes
Jon Bingham	yes

Motion passed.

NORTH OGDEN PLANNING COMMISSION

MEETING MINUTES

May 18, 2011

5. CONSIDERATION AND/OR ACTION TO APPROVE AN AMENDMENT TO VEHICULAR SIGNS IN THE “PROHIBITED SIGNS” SECTION 11-22-4 OF THE NORTH OGDEN CITY ZONING ORDINANCE.

Mr. Barker referred the Planning Commission to the staff report. He said the proposed amendment to section 11-22-4 has been brought up because of the Economic Development Committee. He referred the Planning Commission to the current Prohibited Signs section in the ordinance and explained the problem that occurs is determining how to ensure the vehicle hasn't moved for 24 hours. He explained that there are many people who believe trailer signs should be allowed and there are some individuals test how far they can go.

Mr. Barker explained that part of the Economic Development Committee has pressed the City to revise the signs standards. He explained that it is under the general provisions of prohibited signs. The intent of this ordinance is to prohibit vehicles that have no business purpose other than advertising. Where the following exist there is the presumption that the vehicular sign violates the paragraph: parking within 50 feet of a major arterial, sign size that exceeds the maximum allowable area, the vehicle remains stationary in the same approximate area for more than four consecutive days. He said those are the criteria that have to be met. He said once that finding is made a ticket can be issued. A business owner may rebut the presumption by providing evidence of the vehicle's regular non-advertising use in the business and the needs to park the vehicle in that particular location.

Mr. Barker explained that the second part of the ordinance is not intended to restrict legitimate business use of the vehicle. Mr. Barker talked about the different types of vehicle signs.

Mr. Barker explained the other issue to the section is the intermittent or flashing illumination and efforts in trying to eliminate that. He pointed out the ordinance would prohibit strobe lights or emergency flashing lights. He explained line six was struck because it discusses electronic reader boards and conflicts with other sections in the ordinance and their intent is to allow those types of signs. He suggested the Planning Commission make a recommendation to City Council and he will report back to the Economic Development Committee.

Commissioner Kiser asked about item E and whether that would include box vans. Mr. Barker said this section intends to include the pizza guy or those who uses their vehicle for legitimate business purposes. Commissioner Kiser asked if it negates or dilutes some of the verbiage. Mr. Barker said they are trying to eliminate blatant advertising. He said in Ogden there is a medical supply company that uses their box van for a sign. Commissioner Kiser said that would apply here according to E. Mr. Barker said they will probably issue citations under this regulation and let the court sort it out. He said they will have to justify the issue. He said there is some flexibility for the owner.

Mr. Carlson said the concern was that there are people who will use an old box truck with no business purpose other than to advertise. It is important to have a tool to regulate that. This regulates vehicles whose purpose is to try getting around the sign ordinance. These criteria will

be used to determine whether it is really being used or only parked for a sign. If these things occur there is a presumption and the business owner has the opportunity to rebut.

Commissioner Hulme said item “D” would take care of the medical supply vehicle on Washington Boulevard. He added that they talked about Bull Frog Spas and why that trailer has to be parked across four parking stalls. Commissioner Brown asked what is defined as the normal course of a business and if they only use the vehicle a certain number months out of the year.

Mr. Carlson said they could use Shawn Maynard for an example; he has a box truck with signage and uses it for deliveries. Mr. Barker said what Commissioner Brown is referring to is Mr. Maynard using his trailer as an office. Commissioner Hulme said he has other places to park it and will have a hard time proving that he has to park it in that particular spot.

Commissioner Bingham stated when they talk about parking on the business premise they need to say parking area or parking lot. He thinks it should be a parking stall. He said otherwise they may think they can park it on a berm.

Mr. Barker said the used car lot was parking on the berm and they had to get after them.

Commissioner Brown said they need to limit the amount of signs Shawn Maynard can have. Mr. Barker asked if they want to talk about total signage displayed. He said Mr. Maynard can have a free-standing sign. He can have up to 200 square feet of signage attached to his building and he can have a banner. Commissioner Brown asked if because of his location can he advertise on both streets. Mr. Barker said probably. Commissioner Hulme said vehicular signs become a slippery slope. He asked how many vehicles Pizza Man can have. Mr. Barker said usually they use private vehicles. Commissioner Hulme said he doesn't want to tell them how to run their business.

Mr. Carlson said he believes the ordinance addresses the travel trailer. He said the ordinance specifically addresses vehicles that have no essential business purpose other than advertising. The owner would have to justify the location of where the vehicle is parked. The ordinance specifies that they may rebut with evidence. He would have to show that it is regularly used for business and the travel trailer wouldn't fly. He said if it was only used once a year then it wouldn't be used regularly for the business. Mr. Barker said Mr. Maynard may use it five or six times during the summer.

Commissioner Bingham said the statement “four consecutive days” limits them. Mr. Carlson said that is what they negotiated with the Economic Development Committee. Commissioner Bingham pointed out that if they have a vehicle that is only moved occasionally then it would be considered a sign. Commissioner Hulme suggested asking the business owner at that point. He added that if they make a false statement to a City Official then it is serious.

Commissioner Brown asked where the Jeep fits in. Commissioner Hulme said that the Jeep is fine because it has a legitimate business purpose. Mr. Carlson asked what the regulation is for parking in the berm. Mr. Baker replied that the first 20 feet must be landscaped and cannot be used for anything. Commissioner Hulme said the opening paragraph covers parking in the berm. He said there is no reason Mr. Maynard cannot move his trailer to a normal stall. Mr. Carlson

said anything parked has to be parked on a hard surface. He said if it is parked in a stall then it is legitimate. Commissioner Brown said he has a Jeep and the trailer. She asked how much parking he can use. Commissioner Hulme said that is a whole other issue and a different ordinance. Commissioner Bingham said most business owners will self-regulate to a degree and he doesn't know if the City needs to regulate that. Commissioner Hulme said they would get involved if the parking is overflowing and becomes unsafe. Mr. Barker explained that multi-tenant buildings have a specific number of required parking stalls based on the building square footage. He said staff tries to keep track of it.

Commissioner Brown asked who will enforce this regulation. Mr. Barker said code enforcement is under the building department and they are the ones who enforce it. Commissioner Brown said it was proposed that the City have a 4-day work week. That would mean there would only be enforcement four days out of the week. Mr. Barker pointed out that they already have issues over the weekends with signs. He said he usually stops and picks them up. Commissioner Brown said Mr. Barker has the authority to do so. Mr. Kerr said occasionally they have had the Code Enforcement Officer work the weekend also.

Commissioner Quinney said code enforcement operates mainly on a complaint basis. He said what they are looking at is to make minor changes to make it enforceable. He added that they will not solve all the problems. Commissioner Hulme said the ordinance makes the City's intentions clear to the businesses. Commissioner Kiser added that they have an Appeal Authority for those who don't agree.

Commissioner Quinney stated Mr. Maynard previously used a spa as a display and asked if that is considered a sign. Mr. Barker said they passed a regulation referring to outdoor displays and they have withheld notifying the applicants because they need to put a packet together. He said the businesses will have to come in and show how they will display things and where. Commissioner Quinney said if he puts a sign on it then it falls under the previous problem. Mr. Barker said Smith's and Lee's will fall under those same issues. He talked about the location of the displays and how it forces people to walk in the street.

Commissioner Brown said that was not their intention to allow those things to be stored outside. Mr. Barker said they will get that under control. He said Smith's gas station displays bark chips, soil and firewood. They will have to tell them they cannot do that. He said once that is enforced any new applicants will get the regulations up front. He asked if there is anything they want to change. Commissioner Hulme said they had it before and are seeing again with no changes. He proposed they take action tonight. Commissioner Kiser said it gives them opportunity to do what they want to do and is a step forward. Commissioner Quinney asked if the ordinance clarifies taking up more than one space. Commissioner Hulme said item number four does. He added that they would need to state why they need to be parked across the stalls. Mr. Carlson said they can add another bullet saying it has to be parked in a stall. Commissioner Quinney said that would be helpful from an enforcement point of view. Commissioner Kiser said some vehicles cannot be parked in one stall. Commissioner Brown said that would take care of it and that is one of the responsibilities of a business owner. She said she owned Pretzelmaker and had to put her carts in storage when they are not seasonable.

Commissioner Bingham said he would like to see a bullet that talks about parking and parking stalls.

Commissioner Quinney said that would put the burden on the business owner. Commissioner Bingham said they would have to come in and justify parking in a certain location.

Mr. Carlson said they may want to say no parking is permitted in the landscaping rather than saying you must park in a public parking stall.

Commissioner Brown said Mr. Maynard has three units that are mobile and parked on the trailer for outside events. Commissioner Hulme said some of those are covered by this ordinance and others are covered by the outdoor display ordinance. Mr. Carlson said they don't want to prevent him from parking his vehicles in his parking lot.

Commissioner Brown said Curves sits way back off the road and you can't see it but it is very busy. She said the issue isn't the advertising on the road.

Commissioner Bingham said he would be in favor with moving this forward with an additional bullet that addresses parking in the landscaping.

Commissioner Hulme suggested adding that after C so it has the same phraseology and would be another criterion for determining whether it violates the paragraph. "D" – The vehicle is parked somewhere other than a parking stall or loading area. An example would be over two parking stalls or in a landscaping area.

Commissioner Bingham said that makes sense also. Commissioner Quinney asked what the reaction of the EDC will be. Commissioner Hulme said they have had the conversation before and that is why the top paragraph and "D" is written the way it is. This only clarifies it further. He said this ordinance represents his intension from the beginning. Commissioner Quinney said he is satisfied. Commissioner Hulme asked if they want to see it again. The Commission agreed that they don't need to see it again.

Mr. Carlson suggested using this as additional evidence being used as advertising. The vehicle is parked in a landscaped area or occupies multiple parking stalls.

Commissioner Bingham made a motion to approve the amendment to vehicular sign in the prohibited sign section in 11-22-4 with the addition of the language recommended by Mr. Carlson as the new d and changing d and e to e and f. Commissioner Quinney seconded.

Voting on the motion:

Allan Dalpias	yes
Joan Brown	yes
Ken Kiser	yes
Steve Quinney	yes
Dave Hulme	yes
Jon Bingham	yes

Motion passed.