

MEMORANDUM

To: Mayor and City Council Members
From: Craig Barker, Community Development Director
Date: April 4, 2011
Subject: Home Occupation Ordinance Revisions

The Planning Commission felt that garages could be used for Home Occupations under Conditional Use Permit if there was minimal environmental impact on the character of the neighborhood. Anything beyond minimal intrusion would require mitigation to be shown as part of the conditional use permit.

Below are the minutes from the Planning Commission meetings in which the use of garages for home occupations was discussed.

NORTH OGDEN PLANNING COMMISSION

MEETING MINUTES

November 17, 2010

6. DISCUSSION AND RECOMMENDATION OF LISTING NON-PERMITTED CONDITIONAL USES UNDER 11-16 "HOME OCCUPATION" IN THE CITY'S ZONING ORDINANCE.

Mr. Barker said that he has provided a short staff report. He said this was brought up because of the auto repair shop as a home occupation. After all the discussion and neighborhood conflict it was recommended by Mayor Harris that we look at the home occupation uses and determine what should not be allowed in a residential area. It was suggested that auto repair no longer be allowed as a home occupation. He said there may be other uses that should not be allowed as a home occupation. He said that the Commission should look at all the uses and determine which ones are of concern. The idea is to create a list of what is not appropriate as a home occupation in a residential zone.

Commissioner Bingham said he thinks that this is a good time to discuss this topic. He said that under the Conditional Use chapter there really isn't anything that is considered a home occupation and it is a good time to look at that. He added that the Commission may need to define what a home occupation is. He stated there are regulations under the conditional use with the use of garages for home occupations under the zoning. One regulation is that there must still be two side by side parking spaces.

Mr. Barker read the definition of home occupation (on file). He said the Commission can determine what uses would be compatible with a residential zone. He added that if you look at the zones in a conservative manner, there would be many uses that are not compatible in the residential zones. Mr. Barker told the Commission that there is no list of home occupations that are allowed or not allowed. Mr. Barker said they do not list anything as a home occupation in the ordinance. The ordinance does state if an applicant is going to use the garage for a home occupation then it will be allowed as a conditional use. He mentioned that there are some standards for home occupations.

Commissioner Bingham said they have had a number of applicants for home occupations and those are not listed as home occupations. Mr. Barker replied that he is correct they are not listed. Commissioner Bingham asked how staff determines which home occupations should be issued a license. Mr. Barker said the Commission doesn't see all of the applications. If they meet the standards listed in the ordinance their application gets approved. Commissioner Bingham said that if you create a list of allowed home occupations there will always be something new. The problem would be if the home occupation requires a conditional use permit. Mr. Barker said that usually only happens if the applicant wants to use the garage. Commissioner Bingham suggested eliminating the use of garages in home occupation. Mr. Barker said he has brought that to the Commission's attention before.

Commissioner Dalpiaz asked if the intention is to come up with a list of prohibited use. Mr. Barker said yes and perhaps they would want to prohibit auto repair shops as home occupations. He added that this request comes from City Administration. He asked the Commission if there are any other things they think should be prohibited. Mr. Barker asked the Commission if a wood working shop in a garage should be allowed. Commissioner Bingham asked if a person wants a wood working shop in their basement, then it would be fine. The Commission would have to put conditions to restrict it or the ordinance could just eliminate the use of garages all together. Commissioner Bingham asked what would happen if the applicant wanted to move that to an accessory building. Mr. Barker replied that they do not allow that.

Commissioner Brown stated that she thinks the conditional use permits are good because in the past, City Council puts enough stipulations to dictate and reduce problems. Mr. Barker said yes and there are probably other home occupations that are not compatible in a residential zone. Commissioner Bingham said they previously had a person that wanted to make cement counter tops in his garage. The Commission turned him down because he didn't have the required parking spaces if he were to use his garage.

Mr. Kerr stated in the ordinance home occupations can only take up 300 square feet of living space, but what about the garage. Normally the garage is a much larger area. Mr. Barker added that right now they allow them to use the garage but it doesn't regulate the space used in the garage. Mr. Barker said if someone has a two car garage that is over 400, they must still maintain two side by side parking spaces. A person can pour a pad of concrete outside of the garage to maintain the required parking spaces. Commissioner Bingham said that is another conflict with the intent of the home occupation ordinance that they have to consider.

Commissioner Quinney stated that if the home occupation is in the home that is one thing, but once it is in the garage everything changes in regards to the 300 square feet. Commissioner Quinney said that the garage is not living space. He added that it doesn't mean they can't change

that. He said the Commission is trying to make the ordinance compatible with those who are trying to make a living. Commissioner Bingham said everyone is trying to make a living and whether they do it legally is the issue. Commissioner Bingham said that you can't make an exception for just one person. Most people could provide hardships, so how could you deny them. Mr. Barker said it is a difficult decision and he thinks the City is looking for guidance from the Commission to come up with a list of non-permitted home occupation uses. Commissioner Dalpias asked how they could establish that.

Charles Crippen, 3576 N. 575 E., introduced himself and said he is a neighbor of Tom Baguley, who has an auto repair shop in his garage. He said that he feels the Commission needs to look at businesses that create excessive noise, waste, emissions, and/or safety hazards. He said that auto repair shops should be deemed undesirable. He said they are not permitted that create excessive noise, nuisance, waste, or hazards. He added that the federal government and OSHA have very strict requirements. Once a person begins putting in those types of businesses, the residential characteristics of the property and the neighborhood change. He said in separate meetings, references were made about the noise that comes from all residents. Everyone makes noise in the conduct of residential living. He stated that the Commission should look at the noises that are above and beyond the noises made by regular law abiding citizens. He said that it would be hard to stop someone from doing woodwork as a hobby in their basement, but once the person start selling it then it changes the character of the structure. Sheet metal fabrication would be another thing to consider because there would be cutting, welding, and grinding. He said that when he lived up the street from Commissioner Hulme there was a family across the street that bred birds in their garage, so the Commission may want to consider some types of animal breeding as a prohibited use. He added that the Commission should be mindful of events hosting as a prohibited use. He said that right now he could host a self help group for child sex offenders and the Commission could do nothing to stop it. He told the Commission that the decision that they have before them is very serious. Mr. Crippen said that his other comments are for the next agenda item and thanked the Commission for listening to him.

Kent Greenwood, 3651 N. 600 E., introduced himself to the Commission and stated that he lives right around the corner of Tom Baguley. He said that Mr. Baguley does a lot more in his garage than just change oil. Mr. Greenwood explained that the neighborhood is fairly upscale and he has invested everything he has made his whole life into his home because he thought it was a wonderful neighborhood. He said that is has been a wonderful neighborhood, and then the City has approved an auto repair shop just around the corner. He added that he guarantees there would not be an auto repair shop next to Jon Lindquist's house in Ogden City. Mr. Greenwood said that he is not more important than Mr. Crippen or any of the other neighbors. They are entitled to quiet enjoyment of their property also.

Mr. Greenwood stated that several people are out of work but that should not compromise the zoning and standards of the City. He said the City's ordinance says that when a conditional use permit is issue it has to add to, or compliment the City. He said he didn't think it would be hurtful if a person babysits in their home or provides piano lessons. Things like that do not create a problem like an auto repair shop does. He said the homes close to the auto repair shop are very close together. He said that the neighborhood suffers from the western flowing wind and Mr. Baguley's vent blows the fumes down through the neighborhood. The vent protects Mr. Baguley from the fumes but the neighbor whose bedroom is twenty feet away is not safe. The carbon monoxide goes into his window. He told the Commission that Ogden City has performed a study

on carbon monoxide at intersections, because they are worried about the amount of carbon monoxide at a stop light. He said “now there is a guy with an auto repair shop and if he is working on a tune-up or diagnosing an engine he is pumping the carbon out and the westerly flow is taking it right up to the other guy’s window”. He added that he has heard that neighbor has a heart problem. Carbon monoxide is an accumulative compound and builds up over time, which can cause health problems and possibly death. He told the Commission that he worries about his neighbors, because one has COP and one has heart problems. Carbon monoxide flowing into their houses cannot be good. He told the Commission that during the City Council meeting, a woman testified that her husband who is an environmental doctor said there is nothing coming out of Mr. Baguley’s garage that will harm anyone. Mr. Greenwood said that is not true, carbon monoxide kills many people. He added that they use it to euthanize animals. He stated that he feels strongly that auto repair or any other industrial type business should not be allowed as a home occupation. Light mechanics that include tune ups also pump out fuel. He stated that they could list every job allowed in a garage and that would make the Commission’s job very difficult. He told the Commission that when a neighbor told him he didn’t like where his 5th wheel was parked, he moved it. He added that he obeys the law.

Mr. Greenwood said that there are plenty of mechanic positions available and a 36 year master mechanic doesn’t have to look too hard for a job. In the last month there have been six openings for mechanics. There are jobs if he wants to apply. He told the Commission that what Mr. Baguley is doing is unfair to other businesses. He mentioned that President Obama is creating funds for small business owners. He said that he feels compelled to speak his mind. He stated that it’s unfair and unhealthy. He said this has split the neighborhood and destroyed it. He stated that he is a peaceful man; we are here to keep the peace and this decision has split the neighborhood in half. He said he can’t go to church without worrying.

Mr. Greenwood said that it is impossible to make a list, but they can make the standards more restrictive. He told the Commission a story about when he was a police officer and saw a home blow up because of a small pan of gas. He said the home owner was repairing motor cycles in his garage. The home owner didn’t realize the fridge ran on an electric motor. When the fridge kicked on it blew everything up. He added that one small mistake can create a huge hazard. He told the Commission that the houses near Mr. Baguley’s are very close together. If he makes a mistake he could end up blowing up his house and neighbor’s houses. He told the Commission that they do need to come up with something and Council needs to consider it. He thanked the Commission for listening to him and sat down.

Mr. Barker said there is no rush and the Commission may want to think about their decision on what to do carefully. Commissioner Bingham said they have a couple of approaches, but he doesn’t think they should list the undesirable uses. He said he does think the ordinance should have some stronger language. He added that they need to decide whether a home occupation should be in a garage. Most undesirable ones are in the garage. You may want to talk about the types of machines that they can use instead of listing specific uses.

Dave Carlson, City Attorney, said that the difference between an occupation and a hobby is the duration and the frequency of the work. Commissioner Bingham said that he agrees with Mr. Crippen and they should identify emissions, noise, and waste when determining desirable home occupations. Mr. Carlson stated that other cities have determined that using a decibel meter is not feasible. Staff would not be able observe everything that happens. Mr. Barker said they need to

consider activities to ensure neighbors' health will not be jeopardized. The home occupation should not jeopardize the quiet atmosphere of a residential area also.

Commissioner Dalpiaz asked how many home occupations are in the garage. Mr. Barker replied that he has only seen two and both are auto repair shops. Commissioner Quinney said they shouldn't scrutinize the applicant with conditions. Mr. Barker reminded Commissioner Quinney that if an applicant meets the home occupation regulations then the Commission will not see the application. Commissioner Quinney said they have the task to amend the home occupation ordinance so they shouldn't be combining the conditional use regulations with the home occupation ordinance. He said that they are throwing conditions on home occupations without knowing all the details. Mr. Barker said daycares and various other home occupations are permitted. Home occupations that are located in the garage require conditional use permits. Mr. Barker said they need to consider the conditional aspects of using the garage for a home occupation. Commissioner Dalpiaz asked what other communities allow in regards to using garages for home occupations. Mr. Barker replied that more ordinances only allow the use of dwellings for home occupations. He said North Ogden's ordinance allows home occupations in the garage with a conditional use permit. He said that he believes South Ogden or Riverdale may also allow garages to be used. Commissioner Quinney commented that he doesn't think other cities enforce that regulation because people probably do it. Mr. Barker said most cities only react to complaints. If neighbors complain then they will investigate.

Commissioner Hulme said it is good North Ogden allows garage use. The solution should not be more government enforcement. He stated that they have talked about the unfairness of some guy having an auto repair shop in their garage and how others who rent a property have to pay fees. He added that the unfairness is not that North Ogden is allowing freedom, but that the government has gotten so big that it has become nearly impossible to run a business anywhere. The ordinance allows us to state reasonable conditions that can be enforced. The fact that both bodies (Planning Commission and City Council) voted unanimously approving the auto repair shop, means the system is working. He said he prefers to see the conditional use permits applied, rather than reacting to complaints from neighbors. Commissioner Hulme said the neighborhood was already divided. He said "our decision did not do that".

Commissioner Bingham replied that they need to look at the bigger picture and eliminate that particular instance from their thinking. He added that the Commission needs to look at home occupations and see what needs to be changed. He said they can look at conditional uses and determine if garages should be included or make changes on how much space can be used in the garage. He said "right now there are not parameters on whether or not a home occupation should occupy a garage; it is all up to conditional use". He added that right now, decisions are being made with regards to how the Commission and the neighbors feel. He added that they should tighten up the ordinance beforehand so people will know what the conditions are. He said they need to look at the home occupation criteria and discuss the parameters of what should be allowed in a garage. Commissioner Quinney said they would need to lay conditions out first because you will not know what people will ask for. Mr. Barker said he understands Mr. Greenwood's point regarding someone wanting to have a home occupation in their garage, but the neighbors are affected. Not only does the ordinance provide the right for a person to have a home occupation. It also talks about a person's right to live in a neighborhood that unaffected by noise, vibration or odors that might be created by a home occupation. He asked about the rights of the other neighbors and asked when one person's rights stop and another's begin.

Mr. Carlson said in nuisance laws there are restrictions. If the neighbors can hear noise on their property then it is usually considered unreasonable. Commissioner Bingham asked if quiet enjoyment of life is a defined well enough to be a determining factor. Mr. Barker replied that he is not quite sure.

Mr. Carlson said “measuring noise is nothing but a tangled web”. He said that most government agencies have given up on measuring decibels. The criminal standard is what is heard on the neighbor’s property line and if it is offensive noise and that is the common sense approach to quiet enjoyment of a person’s residential property. He added that neighbors shouldn’t make noise on a continuous basis that affects other’s property. Commissioner Hulme said that law should apply everywhere in the City then. He added that they would have conflict because some homes are worth more money and they should have more enjoyment. Commissioner Hulme said that at every meeting that Mr. Baguley’s auto repair shop has been mentioned, there has been a reference to the cost of the home in the neighborhood. Mr. Greenwood said that if noise and vibration affect three people then it is considered a nuisance by law. Commissioner Quinney said there is always noise. Commissioner Bingham said common sense determines what is acceptable.

Commissioner Quinney said the auto repair shop has been going on a long time and no one knew about it. Mr. Barker replied that most neighbors did know about Mr. Baguley’s business. Commissioner Bingham said the decision shouldn’t be based on a personal issue and they need to look at the home occupation standards. Commissioner Hulme said that he feels the due process worked for Mr. Baguley’s case and is not in favor in changing it. Commissioner Bingham said the system may be revised because not everyone is happy. Commissioner Hulme said no one will be happy. Commissioner Bingham said everyone agrees not everyone will be happy but changes may be needed. Commissioner Bingham stated that this item is a discussion item and the Commission will not be voting.

Mr. Barker said they may want to think about it and put it on the next meeting. Commissioner Kiser said they need to have something on the table. Commissioner Kiser asked if they could have a subcommittee work on it. Commissioner Bingham replied that staff could make recommendations on the home occupation changes. Commissioner Hulme said staff has already made changes to the home occupation ordinance and he is surprised that this is back on the agenda. Commissioner Bingham said City Council has made some suggestions and they want the Planning Commission to consider uses that may be undesirable. Commissioner Kiser replied that they are not accomplishing anything right now. Commissioner Bingham said they need to direct staff to change or tighten up the home occupation and the conditional use portion of home occupations to make some recommendations on changing it, so that there is not this type of issue again. Commissioner Hulme said he agrees with having staff make those changes. He stated that he wasn’t sure why they needed to tighten up the ordinance because they cannot make everyone happy.

Commissioner Bingham said they can determine if auto repair shops are a legitimate use as a home occupation. He added that in Mr. Baguley’s situation they did make that determination, but he doesn’t think they want to make that determination in the future on a case by case basis. Commissioner Hulme suggested making a list of everything they can think of and decide which ones should be allowed. Everything else will be taken on a case by case basis. Commissioner

Dalpias proposed that they discuss eliminating the use of garages from home occupations at the next meeting. He added that most hazardous occupations are done in the garage. He suggested eliminating home occupations in the garage. He said if they list all the undesirable uses; the list would be too long. Commissioner Bingham said that it is a hard decision, but they do need to consider it. Commissioner Dalpias suggested voting on eliminating the use of garages. Commissioner Hulme asked about unfinished basements. He said someone can take their unfinished basement and convert it into a workshop and have the same set of issues. He added that eliminating the use of the garage will not change the issue. Commissioner Bingham replied that people are not trying to put an auto repair shop in their basement. Commissioner Hulme said it sounds to him like they are only talking about one thing, auto repair. Commissioner Dalpias stated that he thinks they are talking about auto repair, major metal fabrication, or painting. Commissioner Quinney said that there are things done in the garage that are ok.

Commissioner Bingham said home occupations should not be turned into major manufacturing operations. Home occupations need to be desirable and beneficial with no impact on their neighbors' enjoyment of life. Commissioner Hulme said there are plenty of (Mr. Baguley's) neighbors that claim there is no impact on their enjoyment of life and is a benefit to them. Commissioner Bingham said that is why the Planning Commission voted and he didn't hear much negative. He stated that since then his eyes have been opened to how obnoxious it is. He said he doesn't know if he would want that in his own neighborhood.

Commissioner Hulme said that someone may state that the real problem is that they allow home occupations. Commissioner Bingham said they need to look at the home occupations that have an impact on the neighbors and that there are a lot that have no impact on the neighbors. Commissioner Hulme stated that they will end up in subjective territory either way. Commissioner Bingham replied that there are many home occupations that have no impact on the neighbors; however, if there is an impact then they should look at it. Commissioner Hulme said the Council came up with reasonable steps for the owner to complete as part of the conditional use permit. Commissioner Bingham said there was a lot of testimony from people who were in favor of it. Commissioner Dalpias added that there was four out of 23 who were opposed to Mr. Baguley's auto repair shop.

Commissioner Hulme asked if the shop is even operational. He said that he needs to meet all of the conditions first and they need to just let it run its course. He said the current system may be working it is still too early to know. Some of the neighbors are still unhappy, but they haven't seen the conditions that were imposed. He stated that he was amending what he said earlier about the system working. It is too early to know if the system is working, because this case has not run its course yet.

Commissioner Bingham said the Commission needs to look at home occupations in garages because they are probably obnoxious. They may decide it is not a justified home occupation. Commissioner Hulme said most occupations would be in the garage because there is no room in the house. Commissioner Bingham said if it is in the garage then there is nothing that states they cannot use more than 300 square feet. Commissioner Hulme said you ban all the garage ones because some are obnoxious, but not all of them are. It just goes back and forth.

Mr. Barker said staff can approach the issue and bring something back to the Commission. Commissioner Kiser agreed with that. Commissioner Bingham agreed that would be good. Mr.

Barker said they can do a vote on the use of garages at the next meeting. Commissioner Bingham said that might be a good starting point. The Commission agreed to think about this item further and discuss it at the next meeting after staff has worked on it. The Commission moved to number seven on the agenda.

NORTH OGDEN PLANNING COMMISSION

MEETING MINUTES

December 1, 2010

5. ADDITIONAL DISCUSSION ON NON-PERMITTED CONDITIONAL USES UNDER 11-16 "HOME OCCUPATION" IN THE CITY'S ZONING ORDINANCE.

Mr. Barker said he wasn't sure if the Commission had arrived at any solid decision. He said he was not sure if they wanted to eliminate garages. Commissioner Bingham agreed that it was not put to bed. He said that with Mayor Harris's suggestions the Commission should consider eliminating garages as a use for auto repair. Mr. Barker said they should not pick on one use and maybe they could include other uses in a list of non-permitted uses as home occupations. The Commission agreed with him.

Commissioner Bingham asked Commissioner Hulme if there were any uses as a home occupation in a garage that he considered so obnoxious that they would need to eliminate it. Commissioner Hulme replied that anything can be mitigated if the owners are willing to spend the money. He said if an applicant came to the Commission for a home occupation conditional use permit and they met the conditions then that should satisfy what the Commission wants to do.

Mr. Barker asked if there are degrees to those conditions. Commissioner Hulme replied that everyone has to live with some level of noises such as a swamp cooler. Mr. Barker said that some of the noises are everyday living noises such as the snow blower or other typical residential uses. Commissioner Bingham said those are typical residential noises, but auto repair shop noises are not typical noises. Commissioner Hulme stated that it would be if they can mitigate it to where it is. He said they need to state that the noise levels should not exceed that expected in a residential area such as the operation of swamp coolers or air conditioners. Commissioner Bingham said he didn't know if they could do that because noise levels from an auto repair shop are constant. Commissioner Hulme explained that is why he compared the swamp cooler or air conditioner because those are fairly continuous.

Commissioner Bingham said there is a bigger issue. He said that right now they have some good guidelines and standards for home occupations, but if the applicant wants it in the garage then they have to get a conditional use permit. He said if you have to put it in the garage then it is no longer a home occupation.

Commissioner Catanzaro said he disagrees. He said his neighbor's wife makes crafts in the garage. He said they use the table saw and all the machines in the garage. He said it is a home occupation and it is in the garage and they are making noise with those machines. Commissioner

Bingham asked when a home occupation becomes a legitimate business. He said if it is a legitimate business then it needs to compete with other legitimate businesses under the same requirements. He said an auto repair shop is a legitimate business. He said it shouldn't be approved under home occupation.

Commissioner Quinney said he think Commissioner Bingham is being pressure by some of the City officials. Commissioner Bingham replied no and that he hasn't talked to any of them. He said that they should not let Mayor Harris's opinion waive them. He said that they approved it because he met all the conditions.

Gary Kerr, Building Official, said that one thing that came up after they approved the conditional use permit was insurance. He said if something happens is the home owners insurance going to cover it. Mr. Kerr asked the City Attorney if the City would be responsible in making sure he has insurance. Mr. Kerr said that he was told the City is not responsible. He said the only thing he can do is bring up the issue with the applicant.

Commissioner Hulme said that with any home occupation the owner is required to notify the insurance company. Mr. Kerr said it would be different for a home office rather than an auto repair. He said that a normal contractor is required to have insurance if he is operating in the City rather than in a home. He said the home occupation person is not required to have insurance by anyone. Mr. Kerr said most cities do not allow home occupations in the garages.

Commissioner Bingham said that most cities probably don't allow garages because if it is a home occupation that has to be moved to the garage because it is too obnoxious, then it probably isn't a home occupation. Commissioner Quinney said that unless they put something else on the books it's allowed. Commissioner Bingham replied no, home occupations are not allowed in the garage without a conditional use. He reinstated his opinion that they should not allow home occupations in the garage. Commissioner Quinney restated his opinion.

Commissioner Hulme said many people put the occupation in the garage because they need the space. He said that he doesn't think they should categorize everything that goes into the garage as not fitting a home occupation. Commissioner Hulme said the easiest thing to do is to get rid of garages. He said that he doesn't want to do something because it's easy if it is not the right thing to do. He said he feels good about the decision they made with Mr. Baguley. He discussed the conditions of Mr. Baguley's conditional use permit and how he wants to make sure they are taking the right course.

Commissioner Catanzaro said he doesn't think they should eliminate what people can do in their garage. Commissioner Quinney said the times and conditionals we are living in; economically people are suffering. He said Mr. Baguley is trying to make a living. He doesn't want to tell people no.

Mr. Barker said that they need to consider the neighbors' property rights also. He said they need to find the line. Commissioner Bingham said from the feedback it seems the Commission wants to leave the ordinance as is. Mr. Barker said City Council wants the feedback because they tabled the home occupation agenda item in the November 30, 2010 meeting. Commissioner Hulme said with the unemployment rate maybe other cities should not have been so restrictive. If they hadn't then maybe our country wouldn't be in this situation. Commissioner Catanzaro said they

put a lot of effort into the Mr. Baguley's situation and they shouldn't amend it because City Council is taking some heat on it. Commissioner Hulme said his recommendation for feedback is that he hasn't seen any compelling reason to change the ordinance. Commissioner Bingham asked if they could make a statement that the only uses in the garage allowed are those that have minimal or no impact on the nature of the neighborhood.

Commissioner Hulme said he will be happy with adding the statement that anything beyond the minimal impact on the neighborhood needs to be mitigated. He said that they have it as a conditional use so the applicants can bring it before the Planning Commission to determine the required conditions to mitigate. Commissioner Bingham said that they should include a statement that says, "Any conditional uses approved for a garage need to have minimal environmental impact on the character of the neighborhood." Commissioner Hulme suggested changing the conditional use application to "needs to have the applicant list what they will do to mitigate the impact on the neighborhood." He said they can tighten that up. He added that they need to have the applicants start thinking about that from day one. He said that it might not have been such a big deal if the applicant would have come up with a plan to make the occupation safe and quiet from the beginning. He said that if the applicant is planning on doing anything that has an impact on the neighborhood they need to let the Commission know what they are planning on doing to prevent it. Commissioner Brown said that is a good place to start. The Commission agreed that the applicant needs to mitigate any unreasonable impact.

Mr. Barker asked what they would do if a neighbor claims the home occupation has a negative health effect on them and they can provide a letter from their physician. Commissioner Catanzaro replied that the applicant would need to mitigate. Mr. Barker stated that they would vent the fumes outside and that doesn't help the neighbor. Commissioner Hulme stated that they would have to have filters that clean the air. Mr. Barker said that he will advise applicants to bring in a letter from their physician. The Commission discussed the emissions that come from an auto repair shop and how it could affect a person's health. They discussed the process of Mr. Baguley's application and what happened at the City Council meeting.

Commissioner Hulme said there are people who just want it to be a residential neighborhood and even with mitigation they still will not be happy with the home occupation being there. He said that some people just don't want to know that there is a garage in their neighborhood.

Commissioner Brown said they learn each time they do something. She talked about the Design Committee and how Jiffy Lube repainted after they set standards on what colors were allowed. She said that is what is happening now. She said they hear about the car and they heard about what it caused and they reacted to it. She said they need to keep it in mind and move forward and protect themselves as they go with the knowledge they have obtained.

Commissioner Hulme said that there needs to be a happy medium between 100 percent residential and having a nightclub in the neighborhood. Mr. Barker said that they will have those people who don't agree with that and think it should be all residential. Commissioner Hulme replied that there will also be those people who may be angry because they can't put in a night club in a residential neighborhood. Commissioner Brown said that it is not obtrusive to the person living next door if they don't know what is going on. Commissioner Bingham said that is a good point. If the neighbor doesn't know anything about the business, then it isn't an issue.

Commissioner Hulme brought up the point that there were about 30 people who had no idea Mr. Baguley had an auto repair shop.

Commissioner Bingham asked what their recommendation is. Commissioner Catanzaro said he would like to recommend that anything beyond minimal intrusion in the neighborhood will require mitigation to be shown as part of their conditional use permit. Commissioner Bingham asked if they could recommend it be included into the actual ordinance. Commissioner Catanzaro replied yes. Commissioner Hulme said they could say that the Planning Commission and the City Council, at their discretion, can increase the level of mitigation beyond that recommended by the applicant. The Commission agreed with that recommendation. Mr. Barker said staff will provide that response to City Council. With nothing further the Commission moved to the next item 6.