

NORTH OGDEN CITY COUNCIL MEETING MINUTES

November 24, 2015

The North Ogden City Council convened in an open meeting on November 24, 2015 at 6:01 p.m. at the North Ogden City Office at 505 East 2600 North. Notice of time, place and agenda of the meeting was delivered to each member of the City Council, posted on the bulletin board at the municipal office and posted to the Utah State Website on November 24, 2015. Notice of the annual meeting schedule was published in the Standard-Examiner on December 21, 2014.

PRESENT:	Brent Taylor	Mayor	
	Kent Bailey	Council Member	
	Lynn Satterthwaite	Council Member	
	Cheryl Stoker	Council Member	
	James Urry	Council Member	
EXCUSED:	Phillip Swanson	Council Member	
STAFF PRESENT:	Bryan Steele	City Administrator/Finance Director	
	Annette Spendlove	City Recorder/HR Director	
	Jon Call	City Attorney	
	David Espinoza	Public Works Director	
	Matt Hartvigsen	City Engineer	
	Gary Kerr	Building Official	
VISITORS:	Carl Turner	Tom Murdock	G. Russell
	Ron Russell	Bob Kay	Jeff Newman
	S. Duane Bingham	Lorell Fawson	Rachael Miller
	Connie Bingham	Peter Farley	Thelma K. Farley
	Gregory Roman	Sarah Frands	Val Chase
	Ron Paakanen	Wayne R.	Mary Hadley
	Joslyn Postma	Dale B.	Janet Scothern
	Margaret Brutto	W. Hansen	

Mayor Taylor welcomed those in attendance. Council Member Satterthwaite then offered an invocation and led the audience in the Pledge of Allegiance.

ACTIVE AGENDA

1. PUBLIC COMMENTS

Earl Fawson, 1206 E. 2325 N., stated he spoke with City employees responsible for waste water management as he is interested in the City's plans for waste water that runs through his property in the Graystone Subdivision. He stated that storm water runs into the gully on the south side of Oaklawn Park and then onto his property; when his subdivision was

developed an eight inch pipe was installed to carry that water from his property, but at the present time it is plugged. City workers visited his property earlier in the summer and indicated that the line will likely need to be replaced. He wanted to bring the issue to the Mayor and Council's attention to determine whether it is possible to fully pipe the area and replace the pipe that runs across his property. Mayor Taylor stated he will be in touch with Mr. Fawson to schedule a meeting to discuss the issue further.

2. **PUBLIC HEARING TO RECEIVE COMMENTS ON AN ORDINANCE
AMENDING THE NORTH OGDEN CITY ZONING ORDINANCE TO CREATE
A NEW RESIDENTIAL ZONE, THE RESIDENTIAL ZONE R-2(A)**

A staff report from City Planner Scott explained when the City Council is acting as the land use authority, it is acting in a legislative capacity and has wide discretion. Examples of legislative actions are general plan, zoning map, and land use text amendments. Legislative actions require that the Planning Commission give a recommendation to the City Council. Typically the criteria for making a decision, related to a legislative matter, require compatibility with the general plan and existing codes.

This map amendment rezone is to request to allow the former Scottsdale Estates PRUD area to lessen its required minimum vegetative open space from fifty percent (50%) to twenty-five percent (25%).

The origin of this amendment is that the applicant submitted a request to add a RV pad. This request was denied because it did not meet the zoning ordinance site standard of having a minimum fifty percent (50%) of the lot left in vegetative open space. The proposed concrete RV pad would make the lot have approximately twenty five percent (25%) vegetative open space.

The applicant requested that they be allowed to have concrete pads just like a handful of his neighbors had put in. This subdivision was created originally as the Scottsdale Estates PRUD in October 1994. This subdivision has 24 lots; when the subdivision was recorded it was in an R-4 residential zone. It would have also been subject to the PRUD ordinance standards in 1994. This area was rezoned from the R-4 zone to the R-2 zone in October 1998.

500 East is a private road, where each lot line goes into the center of the road. The city maintains the public utilities.

Staff investigated the other lots within the Scottsdale Estates PRUD and discovered that there are four lots that have installed RV pads; these lots do not meet the fifty percent (50%) open space standard. There is no record of any permits having been issued. Enforcement letters have been sent to these property owners; enforcement is awaiting the City Council decision before pursuing further action.

The following existing ordinances are as follows:

11-2: DEFINITIONS

Minimum Vegetative Area: “The minimum area required to be vegetated to comply with the open space requirements of the City.”

Open Space: “Any parcel or area of land or water unimproved or improved only with landscaping, bowery, picnic tables, playground equipment, or other improvements typically associated with outdoor recreation and set aside, dedicated, designated or reserved for the public or private use and enjoyment of owners and occupants of land adjoining or neighboring such open space.”

11-7- F R-(4) / R-2 SITE DEVELOPMENT STANDARDS

E: MINIMUM VEGETATIVE OPEN SPACE LOT: FIFTY PERCENT (50%).

The Planning Commission discussed various options on how to accommodate Mr. Russell’s request at a meeting that was held September 2, 2015. The Planning Commission directed an ordinance be prepared creating the R-2(A) zone for the area known as the Scottsdale Estates PRUD. It would have the same standards, as its current zoning classifications except the site standard of 50% minimum vegetative open space would now be 25% minimum vegetative open space. This zone would be called R-2(A).

The applicable General Plan Vision statements are as follows:

North Ogden City will continue to be a community of beautiful homes and friendly people that capitalizes on the impressive setting beneath the slopes of Ben Lomond peak. North Ogden will strive to:

Assure that North Ogden remains a beautiful place to live, work, and recreate
Assure improved visual quality for all types of development
Preserve the essential characteristics of a family friendly community that assures an enduring legacy, small town feel, and high quality of life in North Ogden

The applicable General Plan goals are as follows:

Housing Goals

- Increase housing quality and variety
- Establish and adhere to high quality building and design standards for all housing types so that development enhances the community character.

Housing Strategies

- Proactively evaluate current ordinances and policies to determine whether there are obstacles that can be removed or modified to achieve the community’s housing goals.

The memo offered the following summary of potential City Council considerations:

- Is the Residential Zone R-2(A) zone amendment consistent with the General Plan?
- Is the proposed Residential Zone R-2(A) amendment zone appropriate?

The memo concluded the Planning Commission recommends denial of rezoning the Scottsdale PRUD to R-2(A) based upon the desires of subdivision residents. The Planning Commission pointed out to the Scottsdale neighbors that this application will solve the existing RV pad violations.

If the City Council decides not to apply the R-2(A) zone to this property then the R-2(A) zone should not be adopted.

Mr. Scott reviewed his staff memo.

Council Member Bailey referenced the staff report for item three on the agenda and stated it indicates the Planning Commission recommends a denial, but he asked exactly what they are recommending denial of. Mr. Scott stated they are recommending denial of the ordinance to create the R-2(A) zone and the rezone of property in the Scottsdale Subdivision to the R-2(A) Zone.

Mayor Taylor opened the public hearing at 6:12 p.m.

Peter Farley, 2238 N. 500 E., stated the Planning Commission voted to maintain the requirement for 50% vegetation on lots in the Scottsdale Subdivision. He then stated that he is not speaking in representation of the Scottsdale Homeowners Association; rather, he is speaking as a resident of the subdivision. He stated that he is opposed to any change in the requirement for 50% vegetation on lots in the subdivision and the majority of the Scottsdale homeowners want to preserve the community aesthetics; they are concerned that a reduction of the green space requirement would negatively impact the aesthetics and property values in the community. They do not want their subdivision turned into a concrete ghetto. In March of 2015 the Planning Division of the City issued a notification of violation to four of the homeowners in the subdivision indicating their recreational vehicle (RV) parking facilities violated the 50% vegetation requirement; those RV facilities were installed at the time of original construction. On September 28 he questioned Mr. Scott regarding the vegetation requirement at the time of construction of the subdivision and Mr. Scott advised he could not find that information. He stated that he requested that he provide his answer in the form of a letter and he received that letter dated October 3 without the requested information. He also advised Mr. Scott that he should have investigated the requirements at the time of the original construction before issuing violation notices. He obtained the site development standard ordinances from 1994 through 1998 at a personal expense of \$99.10; upon investigation of the documents he found no requirement for vegetation as suggested by Mr. Scott. The original ordinance makes no mention whatsoever with regard to a vegetation requirement. He added Mr. Brian Smith, another City Planner, testified at the October 7 Planning Commission hearing that the 50% vegetation requirement was in place at the time of original construction and he suggested that the City Council look at page 12, lines 506 and 507 of the minutes of

that meeting; they include the false statement made by Mr. Smith and he is unsure whether that false statement was made on purpose or not. He indicated he feels the Planning Department demonstrated bias favoring the Russells with respect to the zoning change and he feels it is a sad state of affairs when City employees cannot tell the truth, which ultimately damages the City's integrity. He stated that since he had to do the investigation on his own with respect to the City's site development standards, he requests that the City reimburse him the \$99.10 that he was required to pay for the documents that Mr. Scott should have been aware of before issuing citations.

Dale Bowen, Dale H. Bowen Law Offices, P.C., stated he has been retained to represent the Russells. He stated that this entire discussion stems from an argument among the residents of the Scottsdale HOA. He stated that if that context and the animosity of the situation were removed, the issue for consideration is the fact that several lots within the HOA are out of compliance with City ordinances and the easiest way to bring them into compliance is to create the R-2(A) zone. There have been allegations thrown back and forth, one of them being that the "A" in the zoning designation represents agriculture and that such a zoning designation would bring goats and chickens into the residents' yards; many people were opposed to the zoning because of that idea. He noted that is not accurate and reiterated the easiest way to resolve the situation is to create the R-2(A) zone and assign it to the Scottsdale Subdivision; if that is not done, the four lots will remain out of compliance with City ordinances and the City will need to decide between requiring the owners to bring their properties into compliance by removing the parking areas or grandfather the properties under previous ordinances.

Mr. Farley reapproached and noted the HOA has a private contract with each of the homeowners in the subdivision and it has nothing to do with this situation; the HOA is an independent organization over which the City has no governing authority other than through City ordinances.

Duane Bingham, 2217 N. 500 E., stated that he takes exception to the assertion that his property is out of compliance with City ordinances because at the time his parking pad was installed it was inspected and deemed compliant. He referenced City Code Section 11-7F-4.e and stated that the requirement for 50% open space on each lot was adopted October 8, 2002. He noted the four properties in question were developed prior to that date and there was no 50 percent open space requirement at the time of their construction.

Margaret Brutle, 2201 N. 500 E., stated she has a petition signed by 75% of the residents in the Scottsdale Subdivision requesting that the City not change the zoning of property in question. She added she has lived in five HOA developments and been on the governing board of one of them and the situation that has occurred in this HOA is not typical; residents are expected to understand the conditions and regulations of the HOA in which they are purchasing property and upon that purchase they agree to comply with such conditions and regulations. She stated that anyone that moves into the Scottsdale Subdivision has agreed to comply and if they no longer agree and are not willing to comply they may not want to live there any longer. She stated it seems there is a misunderstanding of the intent and purpose of

a HOA in the Scottsdale Subdivision and this situation has gone on longer than it should have; the issue should have been settled by the HOA Board over a year ago.

Mr. Bowen reapproached and noted there has been a great deal of discussion about HOAs and what they should and should not do; at the end of the day, that is not the purpose of this meeting. The purpose of tonight's discussion is zoning regulations of the City and what has been occurring in the Subdivision. The HOA rules and how they are applied should not impact this issue. He reiterated this is an issue of four lots being noncompliant with current City ordinances and the easiest way to rectify that issue is to create the R-2(A) zoning and assign that zoning designation to the properties in question. He stated if that is not done, the City Council will be opening the City up to further hearings regarding issues associated with the parking pads. He added that if the zoning designation were approved many other property owners will have the opportunity to build similar parking pads, which they have expressed interest in doing.

Robert Kay, 2274 N. 500 E., stated that he hopes the City Council can see through the haze that has been created regarding this issue and create the R-2(A) zone. He stated that he personally does not want to install an RV pad, but there are others that want to and he feels they should be allowed to do so. He stated that he is willing to propose an amendment to the HOA bylaws and rules could be put in place to ensure that the development is not turned into a concrete ghetto. He asked the City Council to look past the haze and contention and approve the creation of the R-2(A) zone to bring certain properties into compliance without being forced to remove concrete pads. He stated that he does not believe that those that are out of compliance can afford to remove their RV parking areas and convert the space into green space.

Council Member Satterthwaite motioned to close the public hearing at 6:33 p.m. Council Member Stoker seconded the motion.

Voting on the motion:

Council Member Bailey	aye
Council Member Satterthwaite	aye
Council Member Stoker	aye
Council Member Urry	aye

The motion passed unanimously.

3. PUBLIC HEARING TO RECEIVE COMMENTS ON AN ORDINANCE AMENDING THE NORTH OGDEN CITY ZONING MAP FOR THE SCOTTSDALE SUBDIVISION, LOCATED AT APPROXIMATELY 500 EAST 2175 NORTH FROM RESIDENTIAL ZONE R-2 TO RESIDENTIAL R-2(A)

A staff report from City Planner Scott explained when the City Council is acting as the land use authority, it is acting in a legislative capacity and has wide discretion. Examples

of legislative actions are general plan, zoning map, and land use text amendments. Legislative actions require that the Planning Commission give a recommendation to the City Council. Typically the criteria for making a decision, related to a legislative matter, require compatibility with the general plan and existing codes.

The previous item considered the establishment of the R-2(A) Zone. The City Council should consider whether or not to apply this zone to the property.

The Planning Commission conducted a public hearing on this application on October 7, 2015. The details of the items discussed are contained in the R-2(A) zone staff report. There were many neighbors who attended the hearing with some supporting the request and others objecting to it.

The General Plan identified this area to be within the Southtown neighborhood. The General Plan map shows this area in the single family low density classification.

The applicable Zoning and Land Use Policies are as follows:

General Guidelines:

- Zoning should reflect the existing use of property to the greatest extent possible, unless the area is in transition or is in conflict with the General Plan.

Staff comment: This development is not under transition. The project has been in existence since 1994. The policy question before the City Council is should a standard be adopted to allow a new RV pad consistent with previous RV pads?

Residential Guidelines:

- Require excellence in design.

Staff comment: The policy question in this instance is whether or not allowing a reduction in open space will harm this neighborhood?

The memo offered the following summary of potential City Council considerations:

- Is the Residential Zone R-2(A) zone amendment consistent with the General Plan?
- Is the proposed Residential Zone R-2(A) amendment zone appropriate?

The memo concluded the Planning Commission recommends denial of rezoning the Scottsdale PRUD to R-2(A) based upon the desires of subdivision residents. The Planning Commission pointed out to the Scottsdale neighbors that this application will solve the existing RV pad violations.

If the City Council decides not to apply the R-2(A) zone to this property then the R-2(A) zone should not be adopted.

Mr. Scott summarized his staff memo.

Mayor Taylor opened the public hearing at 6:35 p.m.

Connie Bingham, 2217 N. 500 E., stated she is still confused by the comments that certain properties are not in compliance, though there is proof that the ordinance the properties are in violation of was not in place at the time the properties were constructed. She is baffled about why her property is no longer in compliance, though it was deemed compliant 15 years ago when it was built.

Don Russell, 2273 N. 500 E., asked the Council if they received a copy of the letter that he provided to the City nearly a month ago. Mayor Taylor answered yes. Mr. Russell stated he would like to read a section of the letter written by Margaret Brutle:

“Do you understand the implications of changing the zoning of the property to R-2(A); my neighbor’s daughter has been fighting this for a year. The A stands for agriculture. Go from there. I can fill my half of the space in our front yard with rocks, chickens, etc. because 25 percent of my space will be green in my backyard and I will be compliant with the R-2(A). The new zoning change could open the door for all kinds of unpleasant stuff from new people that move in, with no legal recourse.”

Mr. Russell stated Ms. Brutle is the person that circulated the petition in the neighborhood and she has indicated she has signatures of 75% of the residents, but she did not present it to all homeowners and most of those that did sign it will ‘go with whatever the wind does’. He stated he does not know what Ms. Brutle said to the individuals and the City will never know either, but if he were to go with someone with a petition and tell them that the A stands for agriculture, which will allow chickens, pigs, ducks, etc. in the neighborhood, many would sign that petition. He stated he is not sure much credence could be put in the petition. He added he knows the City Council will not be making a decision tonight, but he asked that they at least read the comments he made in his letter to the City. He stated he will accept whatever decision the City makes; he is not vindictive in nature and simply wants to move on.

Margaret Brutle, 2201 N. 500 E., stated the petition was a neighborhood group effort and she personally only asked three people to sign it as there were four other people helping to gather signatures. She stated the front of the petition includes a statement regarding the issue and that is what the signatures were based upon.

Robert Kay, 2274 N. 500 E., again asked that the City Council consider all issues at hand and seriously think about creating the R-2(A) zone and apply it to the Subdivision to make all properties compliant with a 25% open space requirement. He stated he personally does not want residents to be concerned that their property may not be compliant with City ordinances and the easiest way to do that would be to apply the R-2(A) zone.

Duane Bingham, 2217 N. 500 E., stated the City Council continues to hear that there are four properties that are noncompliant, but he stressed that every home in the development was constructed prior to 2000, well before the ordinance requiring 50

percent open space was adopted by the City on October 8, 2002. He stated that the homes were in compliance prior to the adoption of City Code Section 11-7F-4.e.

Geri Russell, 2273 N. 500 E., stated that she simply wants everyone to be treated fairly; she feels that in the future others will move into the neighborhood and may want to build a RV pad on their property and if the R-2(A) zone is not created they will not be allowed to do so. She stated she feels the zoning of the property should be changed and that all should be treated equally. She stated some lots are larger than others in the Subdivision and they can accommodate an RV pad, while others cannot. She stated if she is not allowed to keep her RV pad, she will be forced to park her RV at a storage unit where she is required to pay monthly fees. She reiterated she feels she should be treated fairly and she thanked the City Council for their consideration.

Dale Bowen, reiterated he is the attorney for the Russell family, and stated there are high emotions on both sides of this issue and he feels the City Council must consider what is in the best interest of the City and the overall land use guidelines of the City. He stated that from an efficiency point of view, creating the R-2(A) zone would solve a lot of issues and it would no longer be necessary to determine which properties in the Scottsdale Subdivision are compliant or noncompliant with current City ordinances.

Council Member Bailey motioned to close the public hearing. Council Member Satterthwaite seconded the motion.

Voting on the motion:

Council Member Bailey	aye
Council Member Satterthwaite	aye
Council Member Stoker	aye
Council Member Urry	aye

The motion passed unanimously.

Mayor Taylor thanked those that have spoken this evening and stated he appreciates that everyone was respectful; he understands there are high emotions on both sides of the issue and no matter the decision the City Council makes it will not be possible to please everyone.

Council Member Bailey referenced the assertion that the requirement for 50% vegetative open space was not in place until 2002; he addressed Mr. Scott and asked if there were previous versions of the City Code that included that requirement. Mr. Scott answered yes; he noted that his research has indicated that the requirement for 50% open space was in effect before 2002, though it may have been listed in another subsection of the City Code. The reference to 2002 in the City Code simply indicates that the section as amended, not that it was newly adopted at that time. Council Member Bailey asked if the City has documentation to prove that the provision was in place prior to 2002. City

Attorney Call noted that the entire Land Use Code was rewritten and adopted in 2002. Mr. Scott noted that staff's research indicated that all residential zones of the City have always included a 50% vegetative open space requirement. Council Member Bailey then asked if the City requires a building permit for concrete parking pads. Mr. Scott answered no, but residents are asked to confer with the City's Building Official regarding projects such as RV pads or fences; that allows for the establishment of a record regarding those types of things. Council Member Bailey asked if there is a reason that is requested and not required of residents. Mr. Scott noted that is a City Council policy decision. Council Member Bailey stated he witnessed a large concrete RV pad being poured in his neighborhood recently and he is sure that person did not obtain a building permit and their property is now likely noncompliant with this ordinance. Mr. Scott stated not requiring a building permit for RV pads is a weakness in the City Code. Council Member Bailey noted that storm sewer assessments should be based upon the percentage of a property that is impervious and he asked how assessment can be accurate if the City is not requiring residents to obtain a permit to increase the amount of hard surface on their property. He then asked Mr. Scott to research whether building permits were required for RV pads at the time that the Scottsdale Subdivision was developed. Mr. Scott stated the City only has building permits for the actual buildings built; when someone makes an application they provide a plot plan that typically include things like sidewalks and wider driveways; in this case the plot plan does not include any of those features. Council Member Bailey then stated the assertion was made that the R-2(A) zone was recommended as a simple solution to the problem in the Scottsdale Subdivision, but he wondered if it would be in the best interest of all residents in the neighborhood; he asked if there are other avenues the City could pursue to address the properties that have been determined to be noncompliant with the City Code so it is not necessary to create a new zone. He noted he is aware of the opportunity to declare a property legal-nonconforming and he inquired as to how a property would be assigned that status. Mr. Scott stated that in order to be assigned that status a property must initially be legal; the property would be legal nonconforming if it does not comply with an ordinance that was adopted after it was constructed. In this case, staff's research shows that the properties were not initially legal and they do not meet the criteria to declare a property legal-nonconforming.

Council Member Stoker stated she would like staff to further research the City Code to determine the exact requirements that were in place when the Scottsdale Subdivision was constructed. Council Member Bailey agreed and noted he does not feel it is a good legislative direction for the City to move in to simply change zoning whenever it is deemed that one or more properties is no longer compliant with City ordinances.

Council member Satterthwaite asked if it would be too onerous to require residents to obtain a building permit for RV pads. He stated not requiring a building permit means the City is assuming that all residents are aware of the minimum vegetative space requirements in the City Code and that they will act responsibly. Council Member Bailey agreed and stated that it is his belief that the City Code previously required residents to obtain a building permit for any type of concrete or asphalt work on their property; he would like to know when that requirement was changed and the reasoning behind that change. Council Member Satterthwaite stated that as much as he hates for government to

further impose on residents' lives, he feels that is the direction the City is being forced in. Mr. Scott noted that rather than requiring a building permit for things like RV pads, Weber County employs a land use permit system whereby residents are required to confer with the County and create a record of the work they are performing on their property. Council Member Bailey asked if the County has recourse in the case that a resident completes work without obtaining a land use permit. Mr. Scott noted they have an enforcement mechanism. He discussed the types of property improvements for which the County is required to obtain a land use permit. Council Member Bailey stated that he built a home 40 years ago and when he added to his driveway he was required to obtain a building permit and he was assessed an additional storm sewer fee due to the fact that he was increasing the amount of hard surface on his property. He added he built an accessory building two years later and was required to get a building permit and pay an additional storm sewer fee. He stated that if the City is no longer requiring that, the opportunity for collecting storm sewer impact fees is being lost. Mayor Taylor stated that the City gets a lot of complaints about City regulations over various property improvements, but as Council Member Satterthwaite stated, it may be necessary to impose on citizens in order to prevent situations like this from occurring in the future. He stated he feels a larger discussion regarding permitting and land use regulation is needed and he will add that issue to a future work session agenda for further discussion.

Council Member Urry stated he has lived in North Ogden for over 40 years. He believes that if 10 North Ogden residents were polled, eight of them would believe that they are not required to obtain a building permit to build a shed in their back yard because it is their property and they should be able to do what they want with it. He stated if the City enacts a regulation to require a building permit for concrete pads he is not sure how that will be enforced. Council Member Bailey asked if residents are required to get a building permit for a shed in their backyard. Mr. Scott noted building permits are required for structures over 200 square feet in size. Council Member Bailey stated that is a recent change as well because the City previously required permits for smaller buildings. Council Member Urry stated that there are many City regulations that residents are not aware of and if the Council or staff were to visit each property in the City they would find many that are noncompliant with one ordinance or another. He feels the City is walking a fine line between being 'big brother' and allowing residents to do something with their property. Council Member Satterthwaite stated the City is being forced to intervene because of situations like this one. Mayor Taylor agreed and noted that it may be viewed as unfair to allow one person's property to be noncompliant with City Code while requiring their neighbor to follow ordinances. He stated it is necessary to strike a balance, but it will take time and effort to do that.

Council Member Bailey noted another thing that complicates this issue is the presence of a HOA; the regulations of the HOA go beyond City ordinances because residents are actually in a contractual relationship to abide by rules and standards of the development. He stated that if the HOA were recommending the City make the change to the zoning of the property he would be more likely to consider it, but that is not the case. He stated he feels the residents need to work within their HOA to determine what is acceptable under their rules. Council Member Satterthwaite stated he is interested in understanding where

HOA rules and City ordinances collide. Council Member Bailey noted the HOA cannot allow a land use that is prohibited in City Code. He stated he is assuming that the covenants, conditions, and restrictions (CCRs) for the HOA require the 50% vegetative open space, but it may be the case that the CCRs rely upon the City's zoning regulations.

Council Member Urry stated he would like to see documentation that City ordinance required 50% vegetative open space at the time the properties were developed. Council Member Bailey stated staff has been asked to research that issue.

Council Member Satterthwaite addressed the residents in attendance and noted that the Council will not take this issue lightly and they would love to have additional input regarding the subject in future open meetings. Council Member Bailey agreed.

Council Member Stoker stated that she feels the purpose of an HOA is to protect all residents living within a development and she agreed with Council Member Bailey that the feelings of the HOA and their bylaws must be considered and respected by the City. Council Member Bailey emphasized that the City cannot dictate CCRs for a HOA. Council Member Stoker agreed.

The Council then engaged in a discussion regarding the timeline for continuing the discussion regarding this issue, with Council Member Bailey noting that he feels it will be possible to proceed with an action on this issue upon the outcome of staff's research regarding the ordinances that were in place at the time the Scottsdale Subdivision was developed. Mr. Call indicated that larger changes to the land use code of the City would take more time as the Planning Commission is required to consider such changes and make a recommendation to the City Council.

Mayor Taylor again thanked all residents for their input and stated that the outcome of staff's research into the issue may allow the Council to easily resolve it. He stated that whatever happens, he hopes the Scottsdale neighborhood can find peace and that this issue is not permanently divisive. He reiterated these are decisions the Council does not take lightly and there will be more discussion at the December meeting.

4. **PUBLIC HEARING TO RECEIVE COMMENTS ON AN ORDINANCE AMENDING THE NORTH OGDEN CITY ZONING ORDINANCE TITLE 11, CHAPTER 10 IN SECTION 7: ANIMALS AND FOWL, TO ALLOW CHICKENS IN THE RESIDENTIAL CITY CENTER (RCC) ZONE WITHIN SINGLE FAMILY RESIDENCES**

When the City Council is acting as the land use authority, it is acting in a legislative capacity and has wide discretion. Examples of legislative actions are general plan, zoning map, and land use text amendments. Legislative actions require that the Planning Commission give a recommendation to the City Council. Typically the criteria for making a decision, related to a legislative matter, require compatibility with the general plan and existing codes.

North Ogden City allows backyard chickens in certain residential zoned areas. The City has had requests to change the ordinance to allow chickens in the Residential City Center Zone (RCC). The Planning Commission held a public hearing on this amendment on October 7, 2015. One resident spoke in favor of the amendment.

The proposed amendment would allow 10 hens on less than .49 acres and 15 hens on properties up to an acre. This allowance is similar to other residential zones.

In surveying other cities the common setback for a coop was about 25 feet. Adding a twenty-five foot setback from adjoining residences will maintain the safety, and health of surrounding property owners. North Ogden City code already allows for the removal of chickens if any smell, or odor can be detected from the property line. Since rear yards are required to have a minimum setback of 20 feet most coops would have a 5 yard setback. The current ordinance has a setback requirement for lots over an acre. This amendment would make this a consistent standard for all residential zones.

CITY ORDINANCE: 11-10-7: ANIMALS AND FOWL E.

Keeping of Backyard Chickens In Residential Zones:

Zone	Less than 0.49 Acre (No Rooster)	0.5 Acre to 0.99 Acre (No Rooster)	1 Acre to 4.99 Acres	Over 5 Acres
RCC	10 hens	15 hens	15 chickens per acre	

Keeping of Backyard Chickens in Residential Zones:

1. Additional requirements:

1. Coops will be treated the same as accessory buildings however coops must be maintained not closer than twenty-five feet (25') from any dwelling on any adjacent lot. But with the exception that on lots over one acre it must be twenty feet (20') from any neighboring dwelling (see site development standards and subsection 11-10-6C of this chapter regulations applicable to all zones.)

The following sections from the General Plan should be considered as part of this decision process:

Vision:

Assure that North Ogden remains a beautiful place to live, work, and recreate. Preserve the essential characteristics of a family friendly community that assures an enduring legacy, small town feel, and high quality of life in North Ogden.

Goals:

Preserve the rural character of the neighborhoods.

The memo offered the following summary of potential City Council considerations:

- Are the changes to the ordinance appropriate?

- Does the General Plan support these amendments?

The memo concluded the Planning Commission voted unanimously to recommend the City Council adopt the attached ordinance.

Mr. Scott reviewed his staff memo. The Council engaged Mr. Scott in a brief discussion regarding the Planning Commission’s recommendation with a focus on the recommended setbacks for chicken coops. Mayor Taylor asked how residents who currently do not meet the recommended setback will be impacted. Mr. Scott noted those properties will be considered legal-nonconforming and will be allowed to continue to operate as they have become accustomed to.

Council Member Urry asked how it is possible to ensure chickens stay in their yard. Mr. Scott noted this ordinance only deals with the location of the chicken coop. Council Member Urry stated he understands that, but noted he has a neighbor with 18 chickens who are constantly out of their yard; he does not care, but others might and he wondered how that issue could be addressed. Mayor Taylor noted those types of issues are addressed by Code Enforcement once a complaint is lodged with the City. Council Member Urry stated his neighbors are wonderful, but they have beehives and they aren’t registered beekeepers, they have not registered their chickens, and they rent the basement of their home. He stated they are the type of people that fall into the category of not understanding all that is required of them by City government. Mayor Taylor stated that is part of a larger discussion regarding the difference between “before the fact enforcement” and “after the fact enforcement”. Council Member Urry agreed, but noted the more ordinances the City has, the more lawbreakers there will be.

Mayor Taylor opened the public hearing at 7:30 p.m.

Jocelyn Postma, 2788 N. 550 E., stated she is the person that brought this issue to the City and she wanted to thank the Planning Commission and City Council for their work and consideration. She stated her children are very excited about the possibility that they may be able to keep chickens on their property soon. Mayor Taylor thanked Ms. Postma for following the appropriate process to enact laws that will allow for legal land uses on her property.

Council Member Satterthwaite motioned to close the public hearing. Council Member Bailey seconded the motion.

Voting on the motion:

Council Member Bailey	aye
Council Member Satterthwaite	aye
Council Member Stoker	aye
Council Member Urry	aye

The motion passed unanimously.

5. **DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE AMENDING THE NORTH OGDEN CITY ZONING ORDINANCE TITLE 11, CHAPTER 10 IN SECTION 7: ANIMALS AND FOWL, TO ALLOW CHICKENS IN THE RESIDENTIAL CITY CENTER (RCC) ZONE WITHIN SINGLE FAMILY RESIDENCES**

Council Member Bailey motioned to approve ordinance 2015-24 amending the North Ogden City Zoning Ordinance Title 11, Chapter 10 in Section 7: Animals and Fowl, to allow chickens in the Residential City Center (RCC) Zone within Single Family Residences. Council Member Satterthwaite seconded the motion.

Voting on the motion:

Council Member Bailey	aye
Council Member Satterthwaite	aye
Council Member Stoker	aye
Council Member Urry	aye

The motion passed unanimously.

6. **PUBLIC HEARING TO RECEIVE COMMENTS ON AN ORDINANCE AMENDING THE NORTH OGDEN CITY ZONING ORDINANCE TITLE 11 CHAPTER 10 IN REGULATIONS APPLICABLE TO MORE THAN ONE ZONE, ADDING NEW SECTION 30, STORAGE FOR COMMERCIAL VEHICLES**

A staff memo from City Planner Scott explained when the City Council is acting as the land use authority, it is acting in a legislative capacity and has wide discretion. Examples of legislative actions are general plan, zoning map, and land use text amendments. Legislative actions require that the Planning Commission give a recommendation to the City Council. Typically the criteria for making a decision, related to a legislative matter, require compatibility with the general plan and existing codes.

The City Council requested the Planning Commission identify appropriate standards for restricting parking of commercial vehicles in residential zones.

The Planning Commission discussed a draft ordinance on August 5, 2015 and requested Staff to make some revisions. On August 19, 2015 the Planning Commission requested that a public hearing be set to consider this amendment. The Planning Commission held a public hearing on September 16, 2015.

The following is a summary of the ordinance:

Vehicle Size

1. Clarified that a vehicle greater than 12,000 pounds shall be stored or parked in any residential zone.
2. The use of recreational vehicles, school buses, and tractors have been clarified.
3. On-site agricultural operations are allowed to have heavier equipment if they are parked more than 50 feet from any public right-of-way and at least 15 feet from a property line. They are also exempted from the hard surfacing requirements.
4. The Planning Commission requested some additional language regarding agriculture. A standard for what acreage constitutes an on-site agricultural operation needs to be identified, e.g., one to five acres? In order to have animals the property must be in the RE-20 or R-1-8 (AG) zones which requires a minimum of one acre. The other residential zones allow agriculture as a permitted use. This question still needs to be clarified.
5. Home occupation parking standards are referenced.

Contracting and/or Earth Moving Equipment

6. This equipment in addition must be stored in an enclosed structure and not be used for any off-site commercial use.
7. Equipment may be parked outside of a structure if there is a current building permit issued for that property and is being used as part of the work being performed.

Violation / Penalty

1. Any vehicle found in violation is declared a public nuisance.

The following sections from the General Plan should be considered as part of this decision process:

Vision:

- Assure that North Ogden remains a beautiful place to live, work, and recreate.
- Preserve the essential characteristics of a family friendly community that assures and enduring legacy, small town feel, and high quality of life in North Ogden.

Goals:

- Establish and adhere to high quality building and design standards for all housing types so that development enhances the community character.

Strategies:

- Proactively evaluate current ordinances and policies to determine whether there are obstacles that can be removed or modified to achieve the community's housing goals.

The memo offered the following summary of potential City Council considerations:

- Is the proposal consistent with the General Plan?

- Are the on-site agricultural standards appropriate? What acreage standard should be included in the ordinance?
- Is the commercial vehicle storage ordinance appropriate?

The memo concluded the Planning Commission voted unanimously to recommend the City Council to not adopt the attached ordinance. The Planning Commission found that the issues presented do not justify a new ordinance and could adversely affect homeowners who drive vehicles weighing over 12,000 pounds.

Mr. Scott reviewed his staff memo.

Council Member Bailey asked if the ordinance addressed parking of commercial vehicles on public property. Mr. Scott answered no and stated that he assumes the City has another regulation governing that type of situation. Council Member Bailey stated he is aware of a tractor that is parked regularly in a City Park parking lot. City Attorney Call noted that the proposed ordinance could be amended to address that issue as it currently only discusses parking of commercial vehicles in the public right-of-way.

Council Member Urry stated he appreciates the work the Planning Commission has done on this subject, but until the City is able to enforce ordinances currently in effect he struggles to adopt additional ordinances.

Discussion then centered on the fact that the City does not have a legitimate agricultural zone, though there are many residents with legitimate agricultural options; Mr. Scott indicated that the Council must make a policy decision regarding the storage of commercial or agricultural vehicles on agricultural properties. Mr. Call added that commercial vehicles stored on a property must be related to the business type; a person cannot have an office type of business and be allowed to keep a large commercial vehicle related to that business.

Several Council Members indicated they do not have complete information from staff regarding this issue. Mayor Taylor stated it may be more appropriate for the City Council to simply discuss this issue and not take action if they do not have sufficient information.

Mr. Scott concluded his review of his staff report, noting that the Planning Commission has recommended that the City Council not enact a new ordinance as they feel the existing ordinance is sufficient to address the issue at hand.

Mayor Taylor asked if the current ordinance addresses the parking of heavy or industrial commercial vehicles on residential property within a large garage. Mr. Call noted that if the vehicles are parked inside a garage on a paved surface the ordinance does not prohibit it. Mayor Taylor stated the scenario that concerns him is the construction or more and more large shop buildings in the City's residential areas; people who own businesses are not running the business from that shop, but they want to park their vehicles there overnight and he feels that detracts from the residential feel of neighborhoods. He stated he does not feel the ordinance addresses that concern and that is why he was supportive

of asking the Planning Commission to consider this issue. Mr. Call stated there is a potential gap in the ordinance that would allow the type of land use that Mayor Taylor is referencing.

Council Member Bailey asked if the ordinance would address the parking of semi-tractor trailers on residential streets. Mr. Call answered yes. Council Member Urry stated that it was his understanding that the City currently has an ordinance to address that issue. Mr. Scott noted that depends upon whether the semi-tractor trailer is associated with a home occupation. Council Member Urry stated that he has complained about a semi-tractor trailer parked on 1700 North for an extended period of time and it has not been addressed; he feels current ordinances are not being enforced and new ones should not be adopted to further compound enforcement problems. Mr. Call noted that the current ordinance prohibits vehicles of a certain weight being parked on the public right-of-way, which includes road shoulders.

The Council and staff engaged in a discussion regarding the Planning Commission's work on this ordinance, with Mr. Call noting the Planning Commission worked diligently to consider the stated he would like to hold a joint meeting with the Planning Commission to discuss the issue because there may be issues the Council is aware of that the Planning Commission did not consider. The Council indicated they would support that idea.

Mayor Taylor opened the public hearing at 7:59 p.m.

Carl Turner, 2683 N. 950 E., stated that the ordinance indicates that no contracting or earth working equipment shall be stored or parked on any lot or parcel in a residential zone, with exceptions. He stated this is concerning to him as for his profession he sometimes drives heavy equipment long distances and it is not uncommon for him to drive a vehicle home from the company yard in Clearfield in order to drive to Logan the next morning. He stated the vehicle he is driving would be parked on the side of the road near his property for no more than 12 hours, but he would be in violation of the ordinance. He stated he believes the City has an ordinance that allows residents to park travel trailers in front of their homes for up to 48 hours and he wondered if a similar provision could be considered for contracting or earth working equipment.

Council Member Bailey stated that is an issue that could be discussed at length between the Council and Planning Commission once Council Member-elect Turner has officially been sworn in as a Council Member.

Council Member Urry motioned to close the public hearing. Council Member Satterthwaite seconded the motion.

Voting on the motion:

Council Member Bailey aye
Council Member Satterthwaite aye
Council Member Stoker aye
Council Member Urry aye

The motion passed unanimously.

7. **DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE AMENDING THE NORTH OGDEN CITY ZONING ORDINANCE TITLE 11, CHAPTER 10 IN REGULATIONS APPLICABLE TO MORE THAN ONE ZONE, ADDING NEW SECTION 30, STORAGE FOR COMMERCIAL VEHICLES**

Council Member Bailey motioned to table consideration of the proposed ordinance until a time that it can be discussed jointly among the City Council and Planning Commission. Council Member Satterthwaite seconded the motion.

Voting on the motion:

Council Member Bailey aye
Council Member Satterthwaite aye
Council Member Stoker aye
Council Member Urry aye

The motion passed unanimously.

8. **PUBLIC HEARING TO RECEIVE COMMENTS ON AN ORDINANCE AMENDING THE NORTH OGDEN CITY ZONING AND SUBDIVISION ORDINANCE TO REVISE FLAG LOT STANDARDS**

When the City Council is acting as the land use authority, it is acting in a legislative capacity and has wide discretion. Examples of legislative actions are general plan, zoning map, and land use text amendments. Legislative actions require that the Planning Commission give a recommendation to the City Council. Typically the criteria for making a decision, related to a legislative matter, require compatibility with the general plan and existing codes.

The City Council on July 28, 2015 passed a temporary regulation putting a hold on further approvals of flag lots until amended flag lot standards are written and approved. A joint work session with the Planning Commission and City Council was held on August 4, 2015 in order to identify the parameters for amending the flag lot provisions.

On September 2, 2015 the Planning Commission requested some additional information regarding the potential for new flag lots based upon the current ordinance standards. Staff

has researched this request and produced a map showing this information. (See Exhibit B) There are approximately 17 lots that would qualify for flag lot consideration.

On October 21, 2015 the Planning Commission considered various options for flag lot standards. The Planning Commission concluded that there is not a sufficient justification to continue to have flag lots in North Ogden and directed Staff to prepare an ordinance eliminating them.

The Planning Commission held a public hearing on this amendment on November 4, 2015. One member of the public appeared at the hearing and requested that attention be paid to the flag lot definition. The Planning Commission added a phrase as shown below clarifying that flag lots are lots that do not have sufficient street frontage.

There are two definitions of flag lots; one in the zoning ordinance and one in the subdivision ordinance. It is recommended that the definition in the zoning ordinance be amended and the definition in the subdivision ordinance along with other references to flag lots be deleted.

~~11-2-1 LOT, FLAG: A flag or L-shaped lot consisting of a staff portion contiguous with the flag portion, the staff portion having frontage less than required on a dedicated street.~~

~~12-2-2 FLAG LOT: A flag or L-shaped lot comprised of a staff having a minimum width of thirty feet (30') and a maximum length of two hundred twenty feet (220'), and a flag portion consisting of the minimum dimensions required for a regular lot in the applicable zone. The square footage of the staff shall not be considered in determining whether the lot size (the flag portion) requirements are met.~~

~~12-6-2(B) Flag Lots: All flag lots shall be approved as a special provision to the zoning ordinance by the planning commission in accordance with the provisions the definition of "lot, flag" set forth in section 11-2-1 of this code.~~

~~11-7J-2 (D) TWO FAMILY DWELLINGS. Two family dwelling shall not be allowed on flag lots.~~

The following language eliminating flag lots is proposed:

11-10-30 Flag Lots.

Flag lots shall not be allowed in any residential, commercial, or manufacturing zone.

The vision section of the General Plan has the following applicable statements: North Ogden City will continue to be a community of beautiful homes and friendly people that capitalizes on the impressive setting beneath the slopes of Ben Lomond peak. North Ogden will strive to:

- Assure that North Ogden remains a beautiful place to live, work, and recreate.
- Assure improved visual quality for all types of development.
- Preserve the essential characteristics of a family friendly community that assures an enduring legacy, small town feel, and high quality of life in North Ogden.

The memo offered the following summary of potential City Council consideration(s):

- Should there be a prohibition flag lots?

The memo concluded the Planning Commission found that the ordinance amendment is appropriate with the described amendments and recommends adoption by the City Council.

Mr. Scott reviewed his staff memo. Mr. Call noted that upon further review of the ordinance he does not feel that Section 11-7J 2(D) should be eliminated from the ordinance because doing so would allow the construction of a duplex on existing flag lots. Mr. Scott agreed; he then provided a synopsis of the Planning Commission discussion regarding this issue that ultimately led to their recommendation to adopt the proposed ordinance.

Council Member Bailey stated the City's position on flag lots has changed several times over the course of the last 40 years; at some points in time the City has permitted flag lots and at other points they have prohibited them. He stated he would expect that there will be times in the future when the City Council will likely reconsider this ordinance and, again, allow flag lots. Council Member Satterthwaite stated that should not deter the Council from taking this action tonight and he is in favor of approving the ordinance.

Mayor Taylor opened the public hearing at 8:12 p.m.

Wayne Greaves stated he is representing JF Capital in Bountiful; they are the developer of the Rice Creek subdivision, which is in the rezone phase of the development review process. He stated he does not set out to design flag lots because he does not feel they are ideal, but he has developed in many different cities that have provisions in their land use code that would allow for an exception or variance to permit a flat lot when, in certain situations, there is no other way to develop a piece of land. He stated that the Rice Creek development would potentially include on flag lot in order to maximize the use of the property based upon density restrictions and he did not notice the opportunity for a variance in the proposed ordinance. He stated his firm purchased the property based on misinformation about the number of lots they would be able to create and the proforma for the project is based on including one flag lot. He stated this will not be the only property where this is an issue; there are several potential infill projects in the City where flag lots may be necessary to create the highest and best use of the property. He stated he feels an action to completely eliminate the option for a flag lot is too harsh an action and

he is hopeful something can be included in the ordinance to permit flag lots on a case-by-case basis and as long as a property can meet certain variance criteria.

Joslyn Postma, 2788 N. 550 E., stated that she cannot speak for whether flag lots would be good or bad for the entire City, but in those sections where she is aware of flag lots or where they could potentially be developed in the City Center, the use of a flag lot seems awkward. She personally would hate to see larger lots in the City Center used for this type of development.

Council Member Satterthwaite motioned to close the public hearing at 8:17 p.m. Council Member Stoker seconded the motion.

Voting on the motion:

Council Member Bailey	aye
Council Member Satterthwaite	aye
Council Member Stoker	aye
Council Member Urry	aye

The motion passed unanimously.

9. DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE AMENDING THE NORTH OGDEN CITY ZONING AND SUBDIVISION ORDINANCE TO REVISE FLAG LOT STANDARDS

Council Member Urry stated that he feels there should be the opportunity for a property owner to apply for a variance to develop a flag lot as he feels there are situations in the future where a flag lot may be appropriate. Mr. Call stated that he would rather use language allowing a special exception rather than a variance to the ordinance. He added, however, that if standards are specified for a special exception, it may simply make sense to list those as standards that could be met in order for a flag lot to be approved without a special exception. Council Member Bailey stated that he would be comfortable taking the time to carefully craft standards that property owners would need to meet in order to receive approval of a flag lot. Mr. Scott summarized the type of standards the Planning Commission discussed when considering this item and noted that they were very thorough in their analysis. He stated he would be willing to continue to work with them on developing appropriate standards.

Council Member Bailey stated he is aware of one flag lot that was created after a previous City Council took action to allow flag lots without stringent enough standards and there are major issues with that flag lot, specifically relating to emergency access to the home that is built on the lot.

The Council and staff then engaged in a discussion about the option of moving forward with developing standards or guidelines that should be met in order for a property owner

to receive approval for a flag lot, after which Council Member Bailey inquired as to how long the moratorium on flag lots will be in place. Mr. Call noted the current moratorium is in place until January 28 and something new must be put in place before that time in order to prevent applicants from becoming vested under the old ordinance that allowed flag lots. Council Member Bailey noted the City Council could adopt the ordinance before them tonight in order to prevent applicants from becoming vested under the old ordinance and then work to craft a new ordinance that would include appropriate standards for flag lots to receive approval. Mr. Call noted that is one option before the Council.

Council Member Bailey motioned to adopt Ordinance 2015-25 amending the North Ogden City Zoning and Subdivision Ordinance to review flag lot standards, with the following change:

11-7J-2(D) shall be restored in the ordinance.

He also included in the motion direction for staff to research optional standards that could be applicable to flag lots in order to facilitate continued discussion with the City Council regarding a future potential ordinance. Council Member Stoker seconded the motion.

Mr. Call clarified that the Planning Commission will need to consider the potential future ordinance before the City Council takes action. He added that now that the Council has held a public hearing regarding this item they have the option of passing it at a future date; they could defer passage until January with the intent of trying to craft a new ordinance including flag lot standards in the meantime. Council Member Bailey stated he is comfortable with that option as long as action can be taken before the moratorium on flag lot lapses. He stated he would withdraw his motion if that is the way the rest of the Council would like to proceed. Council Member Satterthwaite asked that the record reflect that staff be directed to make a reasonable effort to research appropriate flag lot standards that could be considered before the moratorium lapses. Mr. Call suggested that the Council vote on the motion that is on the table rather than withdrawing the motion. He stated the ordinance could simply be defeated and brought back again at a future meeting for consideration.

Voting on the motion:

Council Member Bailey	nay
Council Member Satterthwaite	nay
Council Member Stoker	nay
Council Member Urry	nay

The motion was not passed.

10. DISCUSSION AND/OR ACTION TO CONSIDER AN APPLICATION REQUEST TO DEFER INSTALLATION OF SIDEWALK FOR PROPERTY LOCATED AT 669 E. 2600 N.

A staff memo from City Planner Scott explained when the City Council is acting as a land use authority in an administrative capacity it has less discretion. Examples of administrative applications are conditional use permits, design reviews, and subdivisions. Administrative applications must be approved by the Planning Commission if the application demonstrates compliance with the approval criteria.

The Planning Commission granted final approval of the Rhees Connor flag lot subdivision on August 5, 2015. This application was received prior to the City Council's action to hold future flag lot applications until the flag lot standards could be examined. The Technical Review Committee met on May 7, 2014 and the City Engineer's report dated May 9, 2014 required that sidewalk be installed.

The applicant is requesting that the City Council grant a deferral from installing sidewalk improvements for the Rhees Connor subdivision. (See Exhibit C) 2600 North has curb and gutter but no sidewalk. The applicant is willing to install the sidewalk but it will likely be removed when 2600 North is widened.

The following is an extract from the approved Planning Commission minutes. "Applicant Brent Rhees, BR Builders, approached and stated he does not have much to add to Mr. Scott's presentation. He noted that he has worked with an engineer to prepare the lot line adjustment and he will present it to the neighbor and the City Engineer for his review and acceptance. He stated he feels he has met all City development criteria. He added he spoke with the City Engineer about the requirement for sidewalk in front of the property line and they discussed possibly recommending deferral of the sidewalk as any new sidewalk would likely be ripped out at the time of the 2600 North widening; however, he is willing to install sidewalk at this time if he is required to do so."

The General Plan identified this area to be within the Old Town neighborhood. The General Plan map shows this area in the single family low density classification.

The memo offered the following summary of potential City Council considerations:

- Is there sufficient justification to grant a sidewalk deferral for the Rhees Connor subdivision?
- Does the proposed subdivision meet the requirements of the applicable City subdivision and zoning Ordinances?
- Does the City Council want to require an escrow for the sidewalk installation?

The memo concluded the Planning Commission did not make a recommendation. This is a policy decision for the City Council to either require that sidewalk be installed or grant a deferral.

Mr. Scott reviewed his staff memo and used the aid of a map to identify the location of the subject property and the location upon which sidewalk would be deferred.

Mayor Taylor stated he is always concerned about these kinds of request because he has never seen a homeowner willing to install sidewalk that was deferred when the project was initially developed. He asked if there is any way to collect money from a developer now to hold for the use of future installation of the sidewalk. Mr. Call stated that it may be unlawful to require an exaction for installation of infrastructure that will be deferred for an indefinite amount of time; however, the property owner could be required to include a note on the plat for the property to inform all future property owners that it will eventually be their responsibility to install the sidewalk.

Council Member Bailey inquired as to how the subject property is accessed. Mr. Call deferred to the property owner to answer that question.

Brent Rhees, Honeyville, used the aid of the map to identify the stem portion of the flag lot that will be used to access the property; the sidewalk that he is asking be deferred would be located on 2600 North and it is the only portion of 2600 North that would have sidewalk if he were required to install it. The Council further reviewed a map of the area to understand the exact location of the subject property, where the home will be built, and where the sidewalk will eventually be located.

Council Member Bailey inquired as to the length of sidewalk that would be required if the deferral were not granted. Mr. Rhees stated he estimates the length to be between 80 and 100 feet. He stated he has talked with City staff about placing money in escrow to cover the future cost of the sidewalk and he is willing to do whatever the City requires of him. Mr. Call reiterated that holding escrow money indefinitely is not the best practice and one theory is that if the property owner is being required to pay for the improvements now, he should be required to construct them now. The Council engaged in a philosophical discussion regarding whether the sidewalk should be installed now or deferred to a future date. Mr. Call suggested the Council could require Mr. Rhees to enter into a deferral agreement similar to agreements that have been executed in similar past situations. He reiterated Mr. Rhees could be required to include a note on the plat to inform future owners that they may be responsible to install the sidewalk at some point in the future; any title company handling a property transaction would be legally obligated to inform future property owners of the note.

Council Member Bailey motioned to approve an application request to defer installation of sidewalk for property located at 669 E. 2600 N., subject to the execution of a deferral agreement and recordation of a notation on the plat informing future property owners that they will eventually be responsible to install sidewalk. Council Member Satterthwaite seconded the motion.

Council Member Stoker noted the City has adopted an ordinance requiring sidewalks and she feels it should be adhered to. Council Member Urry agreed and noted there was much more discussion regarding this issue for a project on Fruitland Drive and the Council chose to require the developer in that situation to provide a walking path. Mayor Taylor stated that if the subject property were in an established neighborhood with existing sidewalk, he would say that the deferral should not be approved; however, there is no

other sidewalk on 2600 North and there is a chance that it will be widened in the future and that the sidewalk will be removed. Mr. Call noted that if the sidewalk is installed now and the road is widened at a future date and the sidewalk is lost, it will need to be replaced at the City's expense; however, if the Council grants the deferral and later widens the road, the property owner may be required to participate in the installation of the sidewalk.

Mayor Taylor called for a vote on the motion.

Voting on the motion:

Council Member Bailey	aye
Council Member Satterthwaite	aye
Council Member Stoker	nay
Council Member Urry	aye

The motion passed unanimously.

Mr. Call noted the deferral agreement will be brought before the Council for consideration.

11. PUBLIC HEARING TO RECEIVE COMMENTS ON AN ORDINANCE AMENDING THE 2015-2016 FISCAL YEAR BUDGET

A memo from Finance Director Steele explained each year amendments to the current fiscal year budget are necessary to cover expenditures not accounted for in the original budget. There are two amendments being presented, both of which have been discussed in prior meetings:

- \$2,000 for Holiday Decorations (15' deer and sleigh made from plywood, painted and decorated)
- \$10,200 for the heaters for the Vehicle Storage Building

Mr. Steele reviewed the staff memo.

Mayor Taylor opened the public hearing at 8:59 p.m. There were no persons appearing to be heard.

Council Member Satterthwaite motioned to close the public hearing at 8:59 p.m. Council Member Stoker seconded the motion.

Voting on the motion:

Council Member Bailey aye
Council Member Satterthwaite aye
Council Member Stoker aye
Council Member Urry aye

The motion passed unanimously.

12. **DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE AMENDING THE 2015-2016 FISCAL YEAR BUDGET**

Council Member Bailey motioned to approve an ordinance amending the 2015-2016 Year Budget. Council Member Satterthwaite seconded the motion.

Voting on the motion:

Council Member Bailey aye
Council Member Satterthwaite aye
Council Member Stoker aye
Council Member Urry aye

The motion passed unanimously.

Mayor Taylor reported the additions to the City’s holiday decorations will be great and the tree lighting ceremony will take place December 5.

13. **PUBLIC COMMENTS**

There were no public comments.

14. **COUNCIL/MAYOR/STAFF COMMENTS**

Mr. Call stated he is hopeful that the Council does not feel that he was trying to guide the Council in the direction of making a certain decision on any item that was listed on the agenda. The Council indicated they appreciated Mr. Call’s input.

Council Member Satterthwaite stated he appreciates the discussions that took place tonight and he feels they led the Council in the direction of making the right decision on several issues. Council Member Stoker agreed and stated she appreciates the process.

Mayor Taylor briefly reviewed calendar items for the City Council to be aware of. He then updated the Council on the progress of the pending transactions for the old Smith’s building; a contract has negotiated and a new developer is seeking to close on the purchase of the building by the end of the year. He added he is proposing that \$200,000

of the Community Development Area (CDA) budget be used to incentivize the developer to redevelop the building; the funding will be contingent upon the developer improving and updating the façade of the building. One-third of the old building will be demolished to make way for additional needed parking for the Smith's Marketplace and two new buildings will be built along the Washington Boulevard frontage. He stated he will be bringing a proposal to the Council at the next meeting to approve the CDA incentive. Council Member Urry stated he is concerned about how Smith's has played 'hardball' with developers that have been interested in purchasing the building. He stated they should be encouraged to contribute to the success of the redevelopment of their old building. Mayor Taylor stated that has been done and Smith's reduced the price of their building to make this transaction happen. Council Member Bailey stated the City is limited in what they can do to interject in property transactions such as this one. Council Member Urry stated he understands that, but Smith's could be encouraged more to contribute to the success of the redevelopment project. Mayor Taylor asked that the Council be thinking about the proposed CDA transaction in preparation for making a decision next month.

Council Member Urry stated that the Barrett property looks much better than it did previously. Mayor Taylor agreed and noted staff has been working closely with Mr. Barrett to develop an appropriate development agreement that will require a high quality project be constructed on the property.

15. DISCUSSION AND/OR ACTION TO CONSIDER A CLOSED MEETING REGARDING STRATEGY SESSIONS TO DISCUSS THE PURCHASE, EXCHANGE, OR LEASE OF REAL PROPERTY UNDER STATE CODE 52-4-205 (1) (D)

Council Member Bailey motioned to recess the regular meeting and convene in a closed meeting regarding strategy sessions to discuss the purchase, exchange, or lease of Real Property under State Code 52-4-205 (1) (D). Council Member Stoker seconded the motion.

Voting on the motion:

Council Member Bailey	aye
Council Member Satterthwaite	aye
Council Member Stoker	aye
Council Member Urry	aye

The motion passed unanimously.

Recesses at 9:15 p.m.

Reconvened at 9:50 p.m.

16. ADJOURNMENT

Council Member Satterthwaite motioned to adjourn. Council Member Bailey seconded the motion.

Voting on the motion:

Council Member Bailey	aye
Council Member Satterthwaite	aye
Council Member Stoker	aye
Council Member Urry	aye

The motion passed unanimously.

The meeting adjourned at 9:51.

Brent Taylor, Mayor

S. Annette Spendlove, MMC
City Recorder

Date Approved