
**City of Nibley
Planning Commission
Held at Nibley City Hall
455 West 3200 South
Nibley, UT 84321
Thursday August 3, 2023**

Call to Order – Roll Call – Approval of Agenda – Approval of Minutes

Commission Chair Garrett Mansell called the meeting to order at 6:32 p.m.

Present: Commission Chair Garrett Mansell, Commission Vice Chair Bret Swenson, Commissioner Tyler Obray and Alternate Commissioner Clair Schenk
Commissioner Logan arrived at 6:34 p.m.

Absent: Commissioner Karina Brown

Staff Present: City Engineer Tom Dickinson and Assistant Recorder Jamie Ann Gonzales

Guests Present: Mayor Larry Jacobsen

Applicants: Travis Taylor, 7 Point Royal, LLC and Ben Steele, Visionary Homes

There was general consent for the evening's agenda.

There was general consent for July 20, 2023, meeting minutes.

Discussion and Consideration: Nibley Meadows Subdivision Phase 1-3 & 10 Final Plat, located at approximately 1000 W 3200 S (Applicant: 7 Point Royal, LLC)

Mr. Dickinson utilized an electronic presentation entitled *Nibley Meadows- Phase 1-3, 10 Final Plat* (a printed copy of the presentation is included in the printed, record copy of the meeting minutes). His presentation included:

- **Background**

Commissioner Logan arrived at 6:34 p.m.

- **Preliminary Plat**
- **Phase 1 Final Plat**
- **Phase 2 Final Plat**
- **Phase 3 Final Plat**
- **Phase 10 Final Plat**

- **Background**

- **Staff Recommendation**

Recommend approval of Nibley Meadows Subdivision Phase 1-3 & 10 Final Plat with the following conditions:

1. The City Engineer provide final approval of the Construction Drawings and all supportive materials.
2. A private water utility agreement must be recorded with the property.
3. Final approval must be obtained from Nibley-Blacksmith Fork Irrigation Company.

Commissioner Schenk received clarification on the trail in Phase 10.

Action: Recommend approval of Nibley Meadows Subdivision Phase 1-3 & 10 Final Plat with staff recommendation

Motion: Commissioner Obray

Second: Commissioner Logan

Vote: Unanimous; 5-0

Discussion and Consideration: Ridgeline Park Subdivision Phase 5, 6 & E-L Final Plat, located at approximately 250 W 3200 S (Applicant: Visionary Homes)

Mr. Dickinson utilized an electronic presentation entitled *Ridgeline Park- Phase 5-6 & E-L* (a printed copy of the presentation is included in the printed, record copy of the meeting minutes). His presentation included:

- **Background**

- **Preliminary Plat**

- **Phase 5 Final Plat**

- **Phase E-L Final Plat**

- **Phase 6 Final Plat**

- **Background**

- **Staff Recommendation**

Recommend approval of Ridgeline Park Phase 5,6 & E-L Final Plat with the following conditions:

1. The City Engineer provide final approval of the Construction Drawings and all supportive materials.
2. Addresses on Plat need to be updated per City Planner comments.
3. A private water utility agreement must be recorded with the property.
4. Final approval must be obtained from Nibley-Blacksmith Fork Irrigation Company.

Mr. Dickinson reported that the proponent had taken issue with the private water line agreement which placed responsibility on the landowner (HOA) and a letter from their attorney was submitted (a copy of the letter is included in the printed, record copy of the meeting minutes). He discussed the agreement and stated that it serviced that development only and served no other purpose to the city. He informed the Commission regarding ways to proceed and reported that the City Attorney did not have an issue with the agreement.

Commissioner Obray wanted clarification on the disagreement.

Mr. Steele addressed the Commission regarding Visionary's position. He reported that the water lines running through the private drives were designed with the intent that they would be maintained by the city and not the HOA. He said that this issue should have been negotiated earlier with the preliminary plat and was late to bring to the table. He questioned if private water utilities were codified in city ordinance and if not, would be a "*hard ask*" and at this stage. He also mentioned that there was a little issue with the meaning of final approval from the canal company. He expressed pleasure in working with the City Engineer, City Planner, and rest of the staff and was grateful for the relationship. He requested conditional approval from the Planning Commission to work out condition 3. before the next City Council meeting.

Commissioner Schenk received clarification on how many units would be connected to the private water line.

Mr. Steele said that after speaking with Mr. Dickinson, he thought the intent for pushing these private water utility agreements was to get the developer to move away from private drives. He said that private drives were encouraged by the Residential Planned Unit Development (R-PUD).

Commissioner Obray asked if any other private water lines in the city were maintained by the owner. Mr. Dickinson responded that the ones he was aware of in a similar situation were maintained by the city but was trying to shift away from that. He further addressed comments made by Mr. Steele on legislation, *Logan City* HOAs and canal issues. He clarified that the city was discouraging *utilities* in private drives and not just private drives.

Mr. Steele confirmed that the state amended the statute, giving municipalities until February 2024 to make the necessary changes, however made the distinction that it was not in Nibley City's code to begin with, and the city would therefore not have the authority to ask for the agreement. Commissioner Obray's response was "*except the entire R-PUD is a legislative action at complete discretion of City Council, approval could be modified or changed at any time.*" He went on to explain the ordinance and his understanding that water lines in private drives were maintained by the HOA and thought the city was compliant with standards.

Mr. Steele's rebuttal was that the R-PUD was legislative, but that legislative power ended once the preliminary plat was approved and thought that was the point of the letter from their attorney.

Commissioner Mansell had a question about the modification for access on 2900. Mr. Dickinson responded that the applicant was committed to improving the road in accordance with the agreement. Mr. Steele interjected that 2900 was to be installed with Phase 7, 8 or 9, whichever came first. He said they had the preliminary design and were working with the city on the right of way.

Commissioner Obray received clarification from Mr. Steele that they believed the waterlines under the private drives were always going to be maintained by the city and not something that was ever discussed or negotiated. Mr. Steele stated that it was "*a substantial burden and better suited to be on the shoulders of the city.*" He added that from the very beginning, during the

preliminary plat when the HOA budgets were set, the water lines were never part of it and would be a *“substantial additional burden to the residences there.”* In response to Commissioner Swenson, it was his opinion that the city taxpayers should maintain those water lines under the private drives. Commissioner Swenson was concerned with damage and repair of those lines. Mr. Steele did not think it was any different than the sewer lines under the private drives and to bring it up now at the final plat was *“an overreach and a violation of our rights.”*

Commissioner Swenson asked for the City Attorney’s opinion on the agreement. Mr. Dickinson reiterated that he made some *“edits and tweaks and said yeah, go ahead and use it.”* He said he planned to follow up with him next week and send him the letter from the applicant.

Commissioner Obray expressed his thoughts on the *“tricky”* situation. He thought that Mr. Steele brought up a good point that residents were paying fees and taxes for the water to the city and maybe those lines should also be maintained by the city.

Mr. Dickinson informed the Commission that he was also working on a sewer agreement, but it was not yet complete.

Commissioner Swenson asked Commissioner Obray what his opinion would be if they were considering the preliminary plat. Commissioner Obray explained that because the residents would be paying the fees like everyone else, he would be in favor of the city maintaining the water lines under private drives. Commissioner Obray discussed thoughts on policy going forward and meters.

Commissioner Mansell felt it was a matter of code and their hands were tied because it was not codified, and the preliminary plat was already approved. He said that going forward, it was something that should be addressed for future R-PUDs.

The Commission received clarification on the staff’s recommendation.

Commissioner Schenk thought it was a public water line and it was Nibley’s responsibility and agreed with Commissioner Obray that the water line should be maintained by the city along with the meters.

Mr. Dickinson gave his take on the possibility of construction without private water lines.

Mr. Steele said they would have designed the plat differently if it had been a requirement and known to Visionary.

Commissioner Mansell agreed that Nibley should maintain the water lines but did not like the idea of the city tearing up private drives. Commissioner Obray received clarification that there were special laws in place for public utility easements. Mr. Dickinson explained state law under a public utility easement, where the municipality that owned the utility would have to restore all the service improvements.

Commissioner Swenson did not like maintaining water lines in a private drive but thought the city should have been in front of it and in the future.

Action: Recommend approval of Ridgeline Park Phase 5,6 & E-L Final Plat with conditions 1. 2. and 4.

Motion: Commissioner Obray

Second: Commissioner Schenk

Vote: 4-1; Commissioner Logan dissented

Staff Report and Action Items

Mr. Dickinson reported on the following:

- APA Utah Conference
- Legislative Update
- Storm Water Master Plan

Mr. Dickinson mentioned his appreciation for the dialogue on the water agreement and said it was with the intent to limit the liability of the city.

Commissioner Obray discussed thoughts on future preliminary plat finalization. He wanted feedback on the following questions:

- A. Adjustments on preliminary plat approval prior to February
- B. Training on obligations for preliminary plat

Regarding his previous employer, Mr. Dickinson said they basically already operated under the new legislation. He reported that he was working with the City Planner on having a "*record of decision*" that required signatures from applicants.

Commissioner Mansell adjourned the meeting at 7:34 p.m.

ATTEST:

Jamie Ann Gonzales, Assistant Recorder