
**City of Nibley
Planning Commission
Held at Nibley City Hall
455 West 3200 South
Nibley, UT 84321
Thursday December 21, 2023**

The following actions were made during the meeting:

Commissioner Swenson made a motion to recommend approval of Planning Commission Meeting Schedule for 2024. Commissioner Brown seconded the motion.

Voting on the motion to recommend approval of Planning Commission Meeting Schedule for 2024 was as follows:

Commissioner Mansell voted in favor.

Commissioner Swenson voted in favor.

Commissioner Brown voted in favor.

The motion passed unanimously 3-0.

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

Commission Chair Garrett Mansell called the meeting to order at 6:30 p.m.

Present: Commission Chair Garrett Mansell, Commission Vice-Chair Bret Swenson, Commissioner Karina Brown (via Zoom)

Absent: Commissioner Tyler Obray, Commissioner Matt Logan, Commissioner Karina Brown

Staff Present: City Planner Levi Roberts, Assistant Recorder Taelor Ogden

Guests Present: Mayor Larry Jacobsen, Nick Kenczka

There was general consent for the evening's agenda.

There was general consent for November 02, 2023 meeting minutes.

1. Workshop: Accessory Dwelling Unit Ordinance Review

Mr. Roberts utilized an electronic presentation entitled *ADU Ordinance Review* (a printed copy of the presentation is included in the printed, record copy of the meeting minutes).

His presentation included:

- Background
- Permits

Commissioner Swenson asked if the diagram has the garage area included in the square footage, and Mr. Roberts replied no, and that the ordinance specifies “living area”.

Commissioner Mansell asked about the height restrictions in relation to the primary dwelling unit. Mr. Roberts responded there are many applicants who want to build an ADU above a garage, yet they are unable to due to the height restrictions.

- Potential Ordinance Changes

Commissioner Swenson asked for confirmation that sewer is also required to be with the same utilities as the primary residence, which Mr. Roberts confirmed.

Commissioner Mansell verified with Mr. Roberts that the current code deems that the ADU must be shorter than the primary dwelling unit, and the latter added that the ordinance has a restriction of two stories. He then clarified his statement correcting that anything in the accessory building code applies in the accessory dwelling unit, including a height restriction of 25’ or 30’ based on lot size.

Commissioner Swenson and Mr. Roberts discussed what the setback requirement is for a two-story home. Mr. Roberts first said that the code mandates 10’ but later in the meeting corrected that it is 20’ for a two-story home.

Mr. Roberts discussed with the commission that the feedback for ADU ordinance requirements has primarily come from informal conversations with citizens calling over issues with specific requirements therein.

Commissioner Mansell asked about changes to the impact fees, Mr. Roberts responded that the planning commission previously had recommended having the impact fees waived. At the time of this recommendation, multi-family and single-family rates were at the same rates. Currently, there have been no requests for rebates of the impact fees. Commissioner Swenson asked if the fees vary based on what kind of structure the property is, which Mr. Roberts negated.

Commissioner Swenson refuted that it would make more sense for the impact fees to be higher for a 3-bedroom house rather than a 1-bedroom. Mr. Roberts noted that they could make this more nuanced, but there has not been much interest in doing so.

Commissioner Mansell discussed that impact fees are one of the greatest hurdles in this process. Mr. Roberts replied that the planning commission could make a recommendation to remove the impact fees, yet the city does need to report to the state about the progress of its goals which affects transportation improvement funding. In 2024, the city will be fined if they are not making progress, and previously they determined that Nibley was noncompliant regarding a goal for impact fees.

Commissioner Swenson commented that it comes down to how much the city values ADUs. If they value ADUs, it is worth making changes. Otherwise, it is not worth changing the ordinance. Mr. Roberts discussed how internal ADUs allow some people to afford their mortgage and there is a demand for them. He states that ADUs address a few needs- it makes getting into homes

feasible for owners who would be unable to without the ADUs and it provides a more affordable housing unit. Commissioner Swenson added that it helps owners to stay in the units for a longer time- particularly once they are retired.

Commissioner Mansell asked how the commission feels about the removal of the owner occupation requirement. Commissioner Swenson said with that requirement removal, he would consider getting an ADU. Commissioner Mansell asked the commission what the drawbacks are. They discussed that having an owner on site should help to keep up maintenance on the property, but Commissioner Swenson pointed out if they just have one additional property at another site it would be close to the same amount of maintenance. Commissioner Brown (via Zoom) responded that she is okay with eliminating the owner occupation and the minimum parking requirement.

Commissioner Mansell recalled that the average household has two vehicles or more, so a one vehicle parking space requirement with the ADUs would not be sufficient, leading to more on-street parking. This especially is an issue in the winter. Commissioner Swenson agreed with preferring the two vehicle parking space requirements.

The commission discussed the height requirements for an ADU. Commissioner Swenson believes that it is not necessary for the height requirement to be relative to the height of the ADU. Oftentimes the height needs to be greater to make the ADU financially worth it to the owners. Commissioner Mansell discussed how the appearance of the property would look strange if the garage with an ADU on the top towered over the primary dwelling. Commissioner Swenson suggested making the height requirement 30'. Mr. Roberts agreed that this would be simple to administer, as opposed to the current requirement where different elevations of a single property exist, making it difficult to determine where the starting height is. He discussed that a 30' requirement would cover a regular garage with an ADU on top, but possibly not an RV garage with an ADU. Commissioner Swenson and Commissioner Mansell agreed they would be in favor of a 30' requirement.

The commission discussed loosening the regulations for property setbacks. Commissioner Swenson asked what the current setbacks are, and Mr. Roberts believes they are 10' on each side. Commissioner Mansell voiced wanting to avoid on-street parking which Commissioner Swenson agreed with. The former also stated he doesn't want to decrease the minimum lot size for an ADU. An internal ADU over a garage could still exist, but there is not enough space for an external ADU in a smaller lot. Mr. Roberts pointed out that the frontage requirements would avoid that issue.

Mr. Roberts pulled up Code 19.24.250 to see what the setback restriction currently is. He corrected an earlier statement and stated that the rear-yard setbacks for a two-story home are 20' and the side setbacks are 10'. Commissioner Mansell suggested making the setbacks 10' on all sides, including for two-story homes. Commissioner Swenson argued that this would be a concern for neighbors of the property. Mr. Roberts let the commission know that he has heard more interest in two-story homes where an ADU would be over the garage to make it financially worth it.

Commissioner Mansell suggested increasing the total square footage of an ADU from 25% to 40% of the rear yard. Mr. Roberts noted that this requirement doesn't come in to play often due to

setback requirements, but it could. He added that the square footage is already limited to 1200 square feet so most ADUs will not be more than 25%.

Commissioner Swenson confirmed with Mr. Roberts that short-term rental in an ADU is allowed. He then advocated for the 30' height restriction, removing the requirement for owner-occupation, leaving the impact fees as is or changing the impact fees to be 50% of multifamily, and to leave the parking restriction the way that it is.

Mr. Roberts responded that when the impact fees for multi-family vs single-family were first brought to city council they proposed they be about 2/3 based on square footage limitation and average square footage of a house in Nibley. Commissioner Mansell argued that if they are on a separate meter, it is redundant to charge impact fees. He thinks the fees should be waived to some extent. Commissioner Swenson thinks they could be at 50% so that the city still makes money for needing to have an inspector out and impacts still exist. Mr. Roberts agreed with 50% because not all ADUs are 1200 square feet- most are about 900.

Commissioner Mansell asked for Commissioner Brown's suggestions on ADU requirements to which she asked whether the pre-made tiny homes would be allowed on the property. Mr. Roberts responded that the 300 square foot minimum for an ADU could be a barrier, and they could get rid of the minimum lot size requirement.

Commissioner Mansell discussed not wanting trailers in backyards which could occur with a change in lot size requirements, thus the property such as a tiny home would need to be permanently attached. Mr. Roberts discussed that this issue is related to the strong demand from many residents to have someone live on an RV or tiny home on their property and connect to their utilities. The code currently states that you cannot connect to the city utilities for more than 30 days. Commissioner Brown discussed cases where someone has a relative living on their property for some time while the relative's property is being built. Mr. Roberts said that this is likely already happening, but the city usually only sees it if there is a complaint lodged.

Commissioner Mansell discussed properties that have a shallow but wide lot, and he asked if the ADU's need to be behind the property or if they can be located on the side. Mr. Roberts stated they need to be located behind the front plane so they could either be in the back or side yard, but still need to meet the setback requirements. He added that there have been questions from residents who have a large front yard before the primary dwelling unit and want the ADU built in front of the house. He asked the commission if it really needs to be behind the front plane or just behind the front setbacks. In response to a question from Commissioner Swenson, Mr. Roberts clarified that residents are asking this for both ADUs and barns or other accessory units.

Commissioner Mansell asked how many lots have enough front yard space that this could apply to, to which Mayor Jacobsen discussed Hollow Road having many lots like this, and some have barns or other units in front of the property that were allowed prior to the restriction. Commissioner Swenson believes this is a separate issue if it is not an ADU. Mr. Roberts restated that this is a barrier for some properties and he and Commissioner Swenson agreed this is something that needs to be addressed.

Commissioner Mansell asked if the code discusses if the ADU needs to be similar in style to the primary residence. Mr. Roberts responded that there are no design standards for residential

housing, it was something discussed in previous drafts but was not adopted. It is something that could be added to the code if needed. Commissioner Swenson stated he doesn't think this would be necessary.

Commissioner Mansell recommended that deep lots with a large front yard area be discussed. Mr. Roberts said he could draft something that would say the ADU needs to be behind the front plane or setback 50'. Commissioner Mansell thinks the regular setback requirements would be sufficient. In response to Commissioner Mansell's questions, Mr. Roberts clarified that the front setbacks for an arterial road are 35' and 30' for non-arterial roads.

Commissioner Swenson asked if these changes would need a public hearing, to which Mr. Roberts responded yes, and a public meeting could be held next meeting. Commissioner Swenson asked if more of the commission will be present for the next meeting to which Mayor Jacobsen responded yes.

2. Workshop: Zoning Incentives for Moderate Income Housing

Mr. Roberts utilized an electronic presentation entitled *Zoning Incentives for Moderate-income housing* (a printed copy of the presentation is included in the printed, record copy of the meeting minutes).

His presentation included:

- Background

Commissioner Mansell voiced his favor of Heber County's zoning incentives. Mr. Roberts responded that they have strong zoning incentives.

- Examples

Mr. Roberts defined moderate income housing as 80% area median income and below. He clarified that the example for Uintah County is in urbanized areas.

Commissioner Swenson asked if there are any cities in Cache County that are doing this. Mr. Roberts responded no, and Commissioner Swenson discussed that several citizens are concerned about the high-density coming in. Mr. Roberts explained that the examples in the presentation were only those who responded to him, and they are on a different scale than Nibley. Commissioner Swenson ultimately asked if this is right for Nibley, particularly when no one else in the valley is doing it. Mr. Roberts responded that the advantage is that you know there are a certain percentage of units that are affordable to the workforce. Commissioner Mansell added that maybe this could be possible through a deed restriction for affordability with a waive of fee. Mr. Roberts stated this could be possible and the incentive doesn't have to be bonus density. Commissioner Mansell stated he would rather have a waive of fee than the bonus density.

Mr. Roberts restated that there are other ways within Nibley's code to incentivize, but the most common is a bonus density. Commissioner Mansell stated that the process has already been streamlined for subdivisions. Mr. Roberts responded that the counties used as examples have a long design review process for building new residential units, which Nibley does not have. Commissioner Mansell restated he would be in favor of waiving fees, but he doesn't know what the impact would be and would need a cost analysis. He recommended discussing this as a workshop with Planning and Zoning combined with City Council. Mr. Roberts discussed how he had asked a few developers that

Nibley has worked with what it would take for them to consider providing affordable housing, but he did not get any response. Commissioner Mansell asked Commissioner Brown if she had any thoughts on the incentives to which she responded no. Mr. Roberts stated he hadn't heard much consensus from the council other than waiving fees. Commissioner Swenson responded that we are already doing a lot of development and he doesn't want Nibley to be the city carrying everything on its back. Mr. Roberts responded that this could be a timing issue that we need to readdress in a few months, but he thinks the state will put more and more pressure on Nibley. Commissioner Mansell stated we are not very large- only a class 4. Mr. Roberts responded that the state is treating all cities that have over 5,000 the same, which Nibley falls under.

Commissioner Mansell suggested if there is a deed restriction for formal units then some fees need to be waived or reduced, this way the development doesn't change in many ways, but he would need to look at the numbers to see what makes sense.

Commissioner Mansell suggested doing another workshop when there is a full commission and Mr. Roberts stated they could hold a workshop specifically for waiving fees. Commissioner Swenson suggested seeing what other smaller cities like Nibley or cities in the valley are doing. Mr. Roberts responded that there are few other cities like Nibley doing this, only those such as Farmington.

Commissioner Swenson asked about any updates with TDR and Mr. Roberts responded there has been one developer interested but new developments are not being proposed.

Nick Kenczka asked if Mr. Roberts had gone to the county to get more of a broad perspective, to which he responded they could talk with the county, but each city makes their own individual rules.

Commissioner Mansell called for a break at 7:46 p.m.

Commissioner Mansell resumed the meeting at 7:52 p.m.

3. Discussion and Consideration: Adoption of Planning Commission Meeting Schedule for 2024

Mr. Roberts presented the proposed Planning Commissioner Meeting Schedule (which is included in the agenda packet) to the commission.

Commissioner Mansell asked Mayor Jacobsen how long City Council discussed the change of schedule to which the latter responded that the idea was presented about a month ago but was discussed during the meeting for 15 minutes. Commissioner Mansell discussed how Justin Maughan, City Manager, brought up the fact that between the meetings there must be additional postings and the timeline is more difficult when you are strictly set on the 1st and 3rd week of each month. Thus, this new schedule will give two weeks in between meetings to prepare. Mr. Roberts agreed that it allows staff one additional week to prepare, as well as allowing for more flexibility. Commissioner Mansell pointed out that this change would likely make attendance scarcer without a consistent day for the meeting. As such, more notice will need to be given and he suggested something the Monday before the meeting. Mayor Jacobsen suggested sending out meeting invites as soon as the schedule is adopted, which Mr. Roberts agreed with. Commissioner Mansell wanted to ensure there will be enough commissioners to have good input and to make better

informed decisions. Mr. Roberts discussed having the commission look at the dates now and if there are any meetings they would be unable to attend then the schedule could be adjusted. Commissioner Swenson asked how difficult it would be to move a meeting and expressed a concern that meetings will now be longer and if that will affect the quality of the meeting. Mr. Roberts responded that public notice would need to be given for a date change and that with the change in the subdivision code, there will not be as many subdivision applications to review. Commissioner Swenson expressed his support of it, and noted the schedule can be adjusted if it doesn't work well. Mr. Roberts agreed with his sentiment.

Action: Approve the adoption of the Planning Commission Meeting Schedule for 2024.

Motion: Commissioner Swenson

Second: Commissioner Brown

Mayor Jacobsen added that if there are any issues let the council know and they can adjust accordingly. The only requirement from the state is that the city council meets once a month.

Vote: Unanimous; 3-0

Commissioner Mansell voted in favor.

Commissioner Swenson voted in favor.

Commissioner Brown voted in favor.

4. Staff Report and Action Items

Mr. Roberts reported on the following:

- Subdivision Code approval
- Code for current applications
 - Ridgeline Park
- Animal Land Use Ordinance approved in City Council with amendments.

Commissioner Swenson asked about roosters and pigs, to which Mr. Roberts responded that there were no changes presented. Nick Kenczka asked about quail, to which Mr. Roberts responded it stayed as presented. In response to Commissioner Mansell's question, Mr. Roberts and Mayor Jacobsen mentioned chicken points did not change.

- Hawk Hollow
 - Potential Land Swap

Commissioner Swenson asked why the new owners had an issue with the open space subdivision. Mr. Roberts responded that developers have different profit margins based on developing homes versus selling the lots. The developers are planning on doing the latter which doesn't have much benefit in an open space subdivision. Commissioner Swenson asked what is in it for the city and he believes that it should only be an open space subdivision. Mr. Roberts argued that the open space subdivision has worked in many cases but appreciated the feedback from the developers.

Commissioner Mansell adjourned the meeting at 8:09 p.m.

ATTEST:

Taelor NaRae Ogden, Assistant Recorder