

The Meeting of the Nibley Planning and Zoning Commission held at Nibley City Hall, 455 West 3200 South, Nibley, Utah on Thursday, November 29, 2018.

The following actions were made during the meeting:

Commissioner Albrect moved to recommend zoning of the area contained within Annexation Petition 18-01, which contains 113.1 acres located south of 3200 S and between 900 W and 1500 W as R-2. Commissioner Logan seconded the motion. The motion passed unanimously 5-0; with Commissioner Albrect, Commissioner Logan, Commissioner Swenson, Commissioner Mansell, and Commissioner Obray all in favor.

Commissioner Obray moved to recommend approval of the Wallentine Subdivision Preliminary Plat, located at 173 W 4000 S. subject to acceptance of a variance, and that the right-of-way dedication was proper. Commissioner Mansell seconded the motion. The motion passed unanimously 5-0; with Commissioner Obray, Commissioner Mansell, Commissioner Swenson, Commissioner Albrect, and Commissioner Logan all in favor.

Commissioner Obray moved to recommend approval of the Nibley City Transportation Master Plan with the following condition: that definitions outlining when certain speed limits are put in place, are included in the Plan. Commissioner Logan seconded the motion. The motion passed unanimously 5-0; with Commissioner Obray, Commissioner Logan, Commissioner Swenson, Commissioner Albrect, and Commissioner Mansell all in favor.

Planning and Zoning Commission Chair Bret Swenson called the Thursday, November 28, 2018 Planning and Zoning Commission meeting to order at 5:30 p.m. Those in attendance included Commissioner Bret Swenson, Commissioner Carol Albrect, Commissioner Garrett Mansell, and Commissioner Matt Logan. Mr. Stephen Nelson, Nibley City Planner, was also present.

Approval of 11-8-18 meeting minutes and the evening's agenda

General consent was given for the evening's agenda.

General consent was given for the previous meeting's minutes.

Annexation

A public hearing to receive comment considering a zoning recommendation for area contained within Annexation Petition 18-01, which contains 113.1 acres located south of 3200 S and between 900 W and 1500 W.

Mr. Nelson introduced this item. He said Pete Riggs was the sponsor for this petition and since Mr. Riggs had filed the City Council had accepted his annexation petition that meant they were willing to review it further.

Mr. Nelson described the summary of steps taken when an annexation petition is submitted in Nibley City' Annexation Policy Plan and as listed in State law. He also described the public notification that had occurred for the annexation proposal. Mr. Nelson said the Planning Commission's job was to recommend the future zoning of the property. If the City Council chose to accept the annexation and if there was not protest, they would accept the zoning for the parcel. Mr. Nelson reminded the Planning Commission of the new ordinance recently passed by the City Council that changed how zoning for annexation was recommended. Mr. Nelson read Nibley City code 19.02.070:

"At the time of the annexation of new territory to the city, the city council, with recommendation from the Planning Commission, shall classify such territory for zoning. The city shall consider the following when determining the zoning for annexed territory:

- 1. The General Plan including Future Land Use Map and Nibley City master plans.*
- 2. Surrounding land use.*
- 3. The request of the applicant and any applicable State law or regulation."*

Mr. Nelson showed the proposed annexation area, the Nibley City zoning map, and the Future Land Use map. Mr. Nelson said within the annexation area there was approximately 113 areas and three property owners; each owner had signed on with the annexation petition. Mr. Nelson reviewed and summarized that the Nibley City zoning map noting that the surrounding area was zoned R-2 with half-acre lots and 100-foot frontage. Mr. Nelson said the Nibley City general plan encouraged the use of conservation in residential zones. Mr. Nelson reported that the Rural Preservation Subdivision ordinance could be used in both R-2 and R-2a zones but there was less incentive to do a Rural Preservation Subdivision in the R-2a zone. Mr. Nelson showed Nibley City's Future Land Use Map and described that the area considered for annexation was anticipated to be Medium-Density Residential. Mr. Nelson showed a table, which showed what the applicant had requested in the annexation request. The applicant for every parcel had requested R-2A with one applicant requesting agricultural use. Mr. Nelson described allowed uses in an agricultural zone. Mr. Nelson said agricultural use was a permitted use in every residential zone. However, in an Agricultural zone more industrial uses were allowed. Mr. Nelson described the location of the parcel requesting agricultural use.

Mr. Nelson said staff's recommendation was to go through the items as recommended in Nibley City code. Mr. Nelson said zoning was a legislative decision that meant the City had broad decision making authority, meaning the city could assign any zone they felt appropriate according to the General Plan. Mr. Nelson said State laws gave Cities broad authority for selecting zoning for parcels.

Commissioner Swenson gave direction and rules of order to the public present and opened the public hearing at 5:44 p.m.

Clark Anderson of 1531 North Highway 413, Highland, WY, said he owned 5 acres that was immediately north of the south boundary and immediately east of 1200 street. He had no objection but questioned future annexation if he wanted to develop part of his five acres. He asked if the city had a limit of how far away they had say on the development? Did they have control over whatever the County would approve for the 5 acres? He asked if the annexation would affect his green belt authority? He asked if it would change the tax exemption authority.

Brian Anderson of 780 West 3200 South asked general annexation questions. He asked if zoning was a half-acre? He said safety was a big concern and traffic on 3200 South was a huge concern. He asked if the ditch and water companies would be affected by any of the annexation? He wasn't sure residents who had a ditch on their property knew they had responsibility for those ditches. He said accesses and entrances were a concern and how it affected traffic flow. He asked who made the final decision on safety and asked if this would change the City's road plan and if the roads were adequate? Mr. Anderson asked about air quality and smells in the area and felt the residents should be made aware of smells that might exist.

Jake Miller of 1446 West 3390 South asked if there was a point that they would have a chance to see the plans in the development phase and voice their opinions of the plans before dirt was dug?

Mr. Nelson read comments from Tyler and Gwendolyn via E-mail.

"Hello.

I would support this if the property is and will remain zoned for farming. This area has a real nice country feel to it. Which is what makes Nibley so great.

If it is too be developed into housing. 20% should remain open space. Many animals call this land home including pheasants, raccoons, and even Deer. This would protect some of this. Also lots should be keep to a one acre minimum to allow the area to remain a country area and not suburban city area. And no HOA's.

Keep Nibley great.

We love our view. Try not to over house it! ☺

Warm regards,

Tyler and Gwendolyn Sadler"

Pete Riggs from 3200 and 10 West said they had put this land up for sale so their family could move to bigger agricultural area and keep their family in agricultural. He believed there should be more conservation efforts to keep open land; more open ground and smaller lots. Larger lots didn't promote agriculture. Mr. Riggs said for most of the ground the tenants wouldn't be using ditches water and there were no carrying ditches going through the property. He felt all the ditches servicing the land would be filled in; all of the ditches ended on his land.

Commissioner Swenson closed the public hearing at 5:56 p.m.

Mr. Nelson addressed the questions posed during the public hearing:

Commissioner Obray arrived at 5:59 p.m.

Mr. Nelson discussed Nibley City's Annexation Policy Plan and summarized that annexations were supposed to pay for themselves. Mr. Nelson said the City didn't control what was in greenbelt. The County regulated greenbelt and he believed greenbelt was limited to a minimum of 5 acres. He felt he landowner would be able to remain in green belt as long as they had consistent use of the property.

Mr. Nelson discussed Nibley's roads and traffic. He said 3200 South was at a level service A road and could accommodate a lot more traffic. If the city made connections as proposed within the Transportation Master plan map then all roads should remain with low traffic loads.

Mr. Nelson addressed the process for development after annexation. He said there would be a public hearing at the Planning Commission level and at the City Council level when a new subdivision were proposed. He said notifications would be sent out to any resident within 300 ft. of the proposed development.

Mr. Nelson described that a lot of the canals that went through the proposed annexation property were not the primary canals for the canal companies and Nibley City code said there would be property dedicated on each side of the canal for access to the canals by the canal company and by the City. Mr. Nelson said the canals also conveyed stormwater and the city needed to maintain access. Mr. Nelson described there was encouragement to keep those wetlands open; they counted towards open space in the Rural Preservation Subdivision ordinance.

Discussion and recommendation consideration of zoning area contained within Annexation Petition 18-01, which contains 113.1 acres located south of 3200 S and between 900 W and 1500 W.

Commissioner Albrect asked if R-2 was the zoning needed for the Rural Preservation ordinance? Mr. Nelson said if the Planning Commission wanted to encourage rural preservation development then R-2 would be more successful for encouraging under

Rural Preservation than R-2A would be. Commissioner Albrect asked if the Planning Commission would have any say on the five acres that was requested to be agriculture? Mr. Nelson described that most of the agricultural uses were given in Title 19 Zoning Regulations of Nibley City code and in the Nibley City Land Use chart. Mr. Riggs reported that he wasn't sure that the parcel owner had the clarification he needed and that he wouldn't be opposed to R-2 zoning if he had the clarification he needed.

Commissioner Logan asked about Medium to High-density requirements that were coming from the State? He said they should mix it up with some medium density, some high density, and some farmland.

Commissioner Obray thought if the land came in at all it should be at the same zoning. Then the developer could weigh the economics of the development to decide if he wanted larger or smaller lots. He thought market forces should determine the incentives for the developer. Commissioner Swenson said he believed the City should encourage the Rural Preservation Subdivision ordinance and that all 113 acres should come in as the same zone. The zone should be R-2.

Commissioner Albrect moved to recommend zoning of the area contained within Annexation Petition 18-01, which contains 113.1 acres located south of 3200 S and between 900 W and 1500 W as R-2. Commissioner Logan seconded the motion. The motion passed unanimously 5-0; with Commissioner Albrect, Commissioner Logan, Commissioner Swenson, Commissioner Mansell, and Commissioner Obray all in favor.

Subdivision

A public hearing to receive comment considering Valentine Subdivision Preliminary Plat, located at 173 W 4000 S. Application John and Janice Wallentine

Mr. Nelson introduced the agenda item. Mr. Nelson said the Wallentine subdivision was just off 400 south and the proposal split to parcel in to three different lots. The Hyrum Blacksmith Fork canal ran through the property and Nibley City code required a trail and public space be dedicated to the City on both sides of the canal; mostly for canal maintenance. Mr. Nelson described the specifications of each lot. He said Nibley City zoning code required 150-feet frontage but one lot had 93.85 feet of frontage. Everything else on the proposal met or matched Nibley City code. The lot that didn't have the proper frontage was lot 1 because the frontage of the whole parcel was enough if they didn't have to dedicate property for the canal they would be able to accomplish the frontage for each lot. Because they had the canal dedication the front of the lot was cut smaller than it normally would. Mr. Nelson said the applicants had filed for a variance request, which was a way for a property owner to request an exception from the law. Mr. Nelson summarized why variances were granted.

Mr. Nelson felt that based on the circumstances the Planning Commission could wait to grant preliminary approval or he would be comfortable with the Planning Commission

making a recommendation for approval with the condition that the variance be granted before the plat was considered for final preliminary approval with the City Council.

Commissioner Mansell noted the applicant owned a flag looking parcel to the west and based on the numbers, they could take a piece of that property and add it to the other property and they would then be in compliance.

Mr. Nelson described that the applicant had included everything that was listed and required on Nibley City's requirements for a subdivision plat. Mr. Nelson said there was some question of how much road was being dedicated (they were required to have 66 ft. for the roadway in front of the home) including curb and gutter. The applicant had the roadway dedication listed but Mr. Nelson was not confident they had full dedication as required. Mr. Nelson said the applicant didn't have full drawings and cross-section that were required under final plat but believed that these issues would be worked out before final plat. Mr. Nelson said the subdivision would have very little impact and was very simple. The applicant would need to provide construction drawings for stormwater detention. The City allowed stormwater detention on private property but there needed to be an agreement that would allow the City on to the property to maintain the stormwater detention.

Commissioner Swenson gave direction and opened the public hearing at 6:32 p.m.

Camille Jacobson of 260 West Hillside Drive said they had concerns about what the purpose of the property was and if there were right-of-ways on the property for the properties going behind it. She said last time the Wallentines made adjustments to their property they had ended up with a road on the backside of their property leaving them with roads on three sides of their property. She wanted to know the purpose of the subdivision and if there was any alternative things that would allow them to subdivide their other properties.

Bob Thomas of 3936 Hillside Drive was concerned about comments that were made about the canal. He said the canal ran through his property and wondered if there was an opportunity for the City to put a trail through his backyard.

Bob Eckstrom of 3951 South 280 West said he felt the subdivision was the best use for the neighborhood because of the size of the lots; they were all larger lots.

Commissioner Swenson closed the public hearing at 6:35 p.m.

Mr. Nelson address the questions posed during the public hearing. Mr. Nelson address right-of-way and what he felt was the intended use of the property. He said the property was zoned R-1A with a home on lot 2. He said lots 1 and 3 had no homes on them and could be used for residential use and use would be restricted to what the

property was zoned for and to the code based on the zone. Any use developed would have to be in compliance with Nibley City code.

Mr. Nelson addressed the dedication of trails along canals. He said Nibley City code required dedication of property on each side of a primary canal that can be used for the City and canal company's access. The City can also use the property for public space and trail as long as it didn't prohibit access to the canal by the City or the canal company. He said the code was enacted mainly to allow access to the canals so they could be maintained because canals were being choked out. Mr. Nelson described that the State didn't allow condemnation of property for trail space. The City may reach out to a property owner to negotiate and buy space for a trail, easement, or right-of-way but the property owner was never required accept. The only time the city can require the improvement was when there was a request for subdivision. If the property owner never subdivided then they wouldn't have to dedicate the land along the canal.

Discussion and recommendation consideration of Wallentine Subdivision Preliminary Plat, located at 173 W 4000 S. Application John and Janice Wallentine

The applicants, John and Janice Wallentine were present at the meeting.

Mrs. Wallentine of 3968 South 280 West said the variance they were applying for was to make the frontage over and span the canal and the City Engineer and Planner said it would benefit the City to have the canal as the property line. She said they had submitted the paperwork for the variance and listed their reasons for applying for the variance.

Commissioner Albrect asked if the Wallentines had plans for lots 1 and 3. Mrs. Wallentine said they didn't have plans. Commissioner Obray said when he looked at the properties the Wallentines owned he saw multiple ways they could solve the problem either using a variance or not seeking a variance. Ms. Wallentine said they would like to apply for the variance after consulting with the City. Mr. Nelson and the Planning Commission discussed various options for making the proposal comply with zoning code with a variance and without seeking a variance.

Commissioner Swenson reviewed the Planning Commission options for moving the application forward. Commissioner Obray said he was nervous to make approvals based on variances. He said the subdivision was in conflict with the ordinance on the books and felt the applicant would be granted the variance but wouldn't feel comfortable approving something that was against ordinance right now. He said if the variance was granted then the intent was satisfied. Commissioner Swenson said he felt they could recommend approve of preliminary plat with the variance approval. Mr. Nelson and the Planning Commission discussed that this was a weighted option.

Commissioner Obray moved to recommend approval of the Wallentine Subdivision Preliminary Plat, located at 173 W 4000 S. subject to acceptance of a variance, and that

the right-of-way dedication was proper. Commissioner Mansell seconded the motion. The motion passed unanimously 5-0; with Commissioner Obray, Commissioner Mansell, Commissioner Swenson, Commissioner Albrect, and Commissioner Logan all in favor.

Discussion and Recommendation Consideration of the proposed Transportation Master Plan Update

Mr. Nelson said he had reviewed the proposed Transportation Master plan to ensure the comments and changes made by the Planning Commission were included. He said he hadn't seen a change recommended by Commissioner Logan that speed limit criteria be listed. Mr. Nelson said he had discussed this with the consultants and had made a note that the change hadn't been included. The consultants had recommended that speed limits would be based of the 85th percentile (similar to UDOT), traffic conditions, and schools. Commissioner Obray noted that page 4, Figure 1 had been changed with 250 East being changed from a dashed line to a solid line. Mr. Nelson said that road had always been a solid line on the map; the map showed what cross-sections should be and didn't reflect conceptual road connections.

Mr. Nelson reviewed other changes that had been included in the proposed Transportation Master Plan

Commissioner Obray moved to recommend approval of the Nibley City Transportation Master Plan with the following condition: that definitions outlining when certain speed limits are put in place, are included in the Plan. Commissioner Logan seconded the motion. The motion passed unanimously 5-0; with Commissioner Obray, Commissioner Logan, Commissioner Swenson, Commissioner Albrect, and Commissioner Mansell all in favor.

Commission and Staff Report and Action Items

- ***December Meeting Schedule***—Mr. Nelson said the Planning Commission only had one meeting scheduled for December, on December 13. This was also the date of the Nibley City end-of-year party. He suggested they could cancel the meeting and hold it a different date, hold the meeting at USU, or hold the meeting as scheduled and arrive late at the end of year party. Mr. Nelson suggested a few date alternatives. The Planning Commission decided to hold the December Planning Commission meeting on December 20 immediately before the Nibley City Council meeting.
- Mr. Nelson and the Planning Commission discussed the upcoming variance hearing.
- Mr. Nelson reminded the Planning Commission of the end-of-year party on Thursday, December 13 at 6:00 p.m. at the Utah State University Skyroom.
- Commissioner Swenson asked Mr. Nelson to remind Mayor Dustin that the Planning Commission would need a new Chair.

There was general consent to adjourn at 7:27 p.m.

Attest: _____
Deputy City Recorder