

The Meeting of the Nibley Planning and Zoning Commission held at Nibley City Hall, 455 West 3200 South, Nibley, Utah on Thursday, March 21, 2019.

The following actions were made during the meeting:

Commissioner Swenson moved to approve the conditional use permit and business license for Ellis Equipment Co., Inc, located at 2759 South Highway 89/91; applicant J. Clair Ellis. Commissioner Logan seconded the motion. The motion passed unanimously 5-0; with Commissioner Swenson, Commissioner Logan, Commissioner Albrect, Commissioner Mansell, and Commissioner Obray all in favor.

Commissioner Obray moved to continue the discussion of an Ordinance recommendation about the proposed Highway 89/91 Corridor Setbacks and Commercial Node Definition. Commissioner Albrect seconded the motion. The motion passed 3-2; with Commissioner Obray, Commissioner Albrect, and Commissioner Mansell in favor. Commissioner Swenson and Commissioner Logan were opposed.

Commissioner Mansell moved to continue discussion about Lot Sizes of R-2 and R-2A Zone to the next meeting. Commissioner Obray seconded the motion. The motion passed unanimously 5-0; with Commissioner Mansell, Commissioner Obray, Commissioner Swenson, Commissioner Albrect, and Commissioner Logan all in favor.

Planning and Zoning Commission Chair Garrett Mansell called the Thursday, March 21, 2019 Planning and Zoning Commission meeting to order at 6:01 p.m. Those in attendance included Commissioner Garrett Mansell, Commissioner Bret Swenson, Commissioner Carol Albrect, and Commissioner Matt Logan. Mr. Stephen Nelson, Nibley City Planner, was also present.

Approval of 3-7-19 meeting minutes and the evening's agenda

Commissioner Mansell asked to move agenda item 6. (**Workshop: Discussion about Lot Sizes of R-2 and R-2A Zone**) up on the evening's agenda to item number.

Commissioner Logan moved to approve the evening's agenda including Commissioner Mansell's proposed changes. Commissioner Swenson seconded the motion. The motion passed 4-0; with Commissioner Mansell, Commissioner Logan, Commissioner Swenson, and Commissioner Albrect all in favor.

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

Conditional Use Permit/ Business License

Discussion and Consideration of a Conditional Use Permit for Ellis Equipment Co., Inc, located at 2759 South Highway 89/91 (Applicant J. Clair Ellis)

Commissioner Obray arrived at 6:03 p.m.

Mr. Nelson said Mr. J. Clair Ellis was present at the meeting. Mr. Nelson said Ellis Equipment was currently located in Logan City at 701 South, Main. This business would be classified as an Ag Implement and Sales Service use under Nibley Code. This was a conditional use in Nibley's commercial zones. They sell, rent, and service agricultural equipment. Their current location is being bought out and redeveloped. They were proposing to move into the In Stock Flooring location and former Peterson Farm store location, which is a commercial building.

Mr. Nelson said staff had very little concern about the impact of the proposed use. Mr. Nelson said there was a home close to the location that was outside Nibley City boundaries. Mr. Ellis had gone through Nibley City's conditional use permit code and had provided responses. Mr. Nelson read the applicants responses. He discussed the anticipated traffic ingress and egress. He said the roads and access were capable of handling the proposed impact. Mr. Nelson described where the applicant intended to store the surplus equipment and said staff was alright with the proposed storage.

Mr. Nelson said staff recommended approval of the conditional use permit.

Commissioner Swenson moved to approve the conditional use permit and business license for Ellis Equipment Co., Inc, located at 2759 South Highway 89/91; applicant J. Clair Ellis. Commissioner Logan seconded the motion.

The applicant said the grass area out front of the business location had a few places for signage. He asked that they be able to use a piece of equipment for display or for use as signage. He noted there would be quite some distance between the items on the grass area.

The motion passed unanimously 5-0; with Commissioner Swenson, Commissioner Logan, Commissioner Albrect, Commissioner Mansell, and Commissioner Obray all in favor.

A Public Hearing to receive comment about the proposed Highway 89/91 Corridor Setbacks and Commercial Node Definition

Mr. Nelson described that there were a couple reasons for the highway 89/91-corridor setback proposal. In the future the highway would expand and setbacks could ensure any future development was put outside a highway's expansion area and would still provide for some landscaping. The next reason was to provide for some beautification of the commercial area and the last reason was part of the boundary line adjustment with Logan City. Logan and Nibley City had been discussing doing a boundary line adjustment along highway 89/91. Nibley City would like to do the boundary line adjustment. Everything on the south/east side would go into Nibley and everything on the north/west side would go into Logan. Mr. Nelson said Nibley would like to have some control over what happened on the property that was currently directly adjacent to

Nibley City but was in Logan. The property would impact the City when it was developed and Nibley City would like some control of the impact. Mr. Nelson said Logan City was concerned about the gateway to their city. Their current code had a 100 ft. setback along the highway. The current proposal was that there be 100 ft. setback along the highway and at arterial roadways (3200 South, Nibley Parkway, Heritage Drive, 2600 South) would have commercial nodes the setback would come down to a 30 ft. setback. He said Logan City was currently debating a new gateway overlay zone for 89/91; instead of 100 ft. setback it would be 150 ft. setback and their commercial nodes would have a 75 ft. setback. He said Logan City was recommending the Nibley City adopt as well, in order to facilitate the boundary line adjustment. Mr. Nelson said he had a couple proposed changes to the proposal.

Mr. Nelson said requiring a 150-foot setback and a 75-foot setback would eat up a lot of property. Mr. Nelson said he didn't like that Logan City was asking for higher setbacks in the area that would be Nibley City. Mr. Nelson said Logan's Planner was sympathetic to wanting to work with and negotiate with Nibley. However, he felt the Logan City Council and Mayor were set on their recommendation. Mr. Nelson said the Planning Commission could make a recommendation on the setbacks as proposed. Commissioner Albrect asked what would happen to the landscaping when the highway was expanded? Mr. Nelson said the highway would "eat up" the landscaping.

Mr. Nelson said Nibley City could consider and debate a draft overlay that matched Logan's. This ordinance couldn't be recommended during the current meeting but the Planning Commission could hold a public hearing and debate the alternate ordinance at the next Planning Commission meeting.

Commissioner Mansell gave direction to the public present.

Commissioner Mansell opened the public hearing at 6:28 p.m.

Discussion and Consideration of an Ordinance recommendation about the proposed Highway 89/91 Corridor Setbacks and Commercial Node Definition

David Poulsen with Poulsen Trailer and resident on 800 West asked who won in this scenario other than supplying utilities to Logan. He didn't understand the whole process and why this would be considered; giving up valuable property for setback. He wanted to know what the win was for Nibley and what the win was for the property owners.

Kenneth Hansen an owner of 18 acres along highway 89/91, discussed the history of the land he owned. He described the reasons he hadn't been able to do anything with his land. He said if the proposal went through they would be taking away his land; over 12% or two acres. Mr. Hansen was very concerned with what the Planning Commission was considering. He had measured from the highway from the homes and business to the highway and said it was about 20+ feet with the largest setback being 68 feet back. Right next to his property was only 19 feet from the highway. The other side of the road

there was a store that was back 46 feet and 50 feet. Mr. Reese. Hansen said the change was aimed primarily at him. He had the property that hadn't been developed. Mr. Hansen discussed the commercial property directly adjacent to him on the north and south. Mr. Hansen said there was not question in his mind that at some point the highway would need to be expanded. Mr. Hansen asked what public purpose/good justified the size of setback in the new proposed ordinance? He again said he would be the only one that that would be affected. He pleaded with the Planning Commission to keep the zoning as it was for the time being. He said this would devastate his asset.

Mr. Poulsen said it wouldn't just be impact to Mr. Hansen. Every landowner of each side of their road would feel an impact. He asked what he would be left with. There was a bigger issue than dancing with Logan City. Mr. Poulsen described that had had been hit by a car when leaving his business and felt that safety was a bigger issue that needed to be addressed. He said the city should leave the people to the lives they had built and the property they owned. He didn't see a win for the public or the City and thought safety should be the issue. Mr. Poulsen said there would be a financial impact to every property owner.

Clair Ellis said he lived in Providence but was leasing in Nibley. He echoed comments that had been made. He said the proposal was a lot of land. He was a Cache County Commissioner for eight years. He said 100 feet was a lot of land that would be taken by the public for public use. The building they were going into had 60 feet from the highway and he felt it looked good and was far enough off the road. He questioned the encumbrance on existing buildings and asked if they made future changes how they would be affected. He interpreted that the ordinance read that the setback would still be the same if the highway were to expand.

Seeing no further comment, Commissioner Mansell closed the public hearing at 6:48 p.m.

Mr. Nelson said the broad benefit to the city was that the public would have a better drive down the corridor of highway 89/91 and the city being able to control the remaining undeveloped property with a boundary line adjustment. Mr. Nelson said the existing buildings would be grandfathered in and if it were a part of a proper subdivision then typically the approval stood with how the subdivision was laid out. If the building use were expanded then the building would fall out of the grandfather clause. Most existing businesses would be able to continue to function as they were. Mr. Nelson agreed that there were a lot of safety issues along highway 89/91 and reported that there were plans in the works to fix the intersection at 3200 South. The City Council's plan was to have an alignment picked by the end of April.

Commissioner Albrect clarified that the proposal would affect Mr. Hansen but shouldn't affect the existing businesses, which would be grandfathered in. When the road was expanded in the next twenty years then the setback land would be taken up anyway.

Commissioner Albrect asked if Logan was concerned with the land they were giving to Nibley and wanted the setbacks in those areas; they weren't concerned about the current businesses. Commissioner Obray and Commissioner Albrect debated how the setback would affect property values. Mr. Nelson a setback was narrowing the availability of land for development. Mr. Nelson said Mr. Hansen's setbacks would come into effect when he changed the use of his land. Commissioner Albrect asked why Nibley City hadn't been able to exert any more leverage on Logan City about accessibility along 3200 South; she said it was a huge safety issue.

Commissioner Obray asked Mr. Ellis what it was like doing business in Logan. Mr. Ellis said his partners had told him that Logan was the most difficult and expensive place in the valley to do business. Commissioner Obray noted that Mr. Ellis would potentially end back in Logan. Mr. Ellis said they had looked in Logan and hadn't found comparable property. Commissioner Obray asked where utility lines were that fell in the 55 acres that would be coming into Nibley from Logan? Commissioner Obray explained that they would end up servicing Logan with Nibley's services and if they were going to have the cost and expense of doing this then they should make the highway the diving line. He said it was a good idea for Nibley City to control what happened on their side of the highway if not, Logan City could do whatever they wanted and Nibley couldn't stop them. Mr. Nelson showed the location of the utility lines. Mr. Nelson and the Planning Commission discussed placing parking in setback areas. Commissioner Obray questioned if it was possible to create a survey line and the survey line would be the setback so if the survey line were encroached it would reduce the setback? Mr. Nelson wondered if this could be incorporated in the current code as the right-of-way line as of the current date.

Mr. Nelson reported that if they approved the ordinance word-for-word, as it was, it still didn't guarantee that Logan City would come in. The property owners could choose to deannex from Logan and come into Nibley because Logan City can't provide the services for the property. Commissioner Albrect estimated that Nibley City and Logan City didn't play well together and felt that the intersection at 3200 was an example of this. Mr. Nelson and Commissioner Albrect discussed cities "looking out for themselves." Commissioner Logan said it was possible that if this were accepted then Nibley City could go back and repeal the code. Mr. Nelson said they could repeal the code but felt this would be a little dastardly and disingenuous. Mr. Nelson said another city could not obligate them to stick to a certain code; State law gave cities the ability to govern their own code under the provision of State law and the United States Constitution.

Commissioner Obray asked for more information on the actual economic impact of the setback.

Commissioner Obray moved to continue the discussion of an Ordinance recommendation about the proposed Highway 89/91 Corridor Setbacks and Commercial Node Definition. Commissioner Albrect seconded the motion.

Commissioner Swenson clarified that Logan City was looking for 150 ft. and 75 ft. setbacks and that Nibley City was proposing 100 ft. and 30 ft. setbacks from highway 89/91. Mr. Nelson discussed how he understood the Planning Commission's direction were to . Commissioner Swenson said the most important question was what was best for the city and it was in the best interest of the City Council to get control of the property. Commissioner Swenson said the ordinance was reasonable to him and reminded the Planning Commission they were making a recommendation to the City Council.

The motion passed 3-2; with Commissioner Obray, Commissioner Albrect, and Commissioner Mansell in favor. Commissioner Swenson and Commissioner Logan were opposed.

Workshop: Discussion about Lot Sizes of R-2 and R-2A Zone

Commissioner Mansell noted that he and Commissioner Swenson had another obligation that evening.

Commissioner Mansell moved to continue Discussion about Lot Sizes of R-2 and R-2A Zone to the next meeting. Commissioner Obray seconded the motion. The motion passed unanimously 5-0; with Commissioner Mansell, Commissioner Obray, Commissioner Swenson, Commissioner Albrect, and Commissioner Logan all in favor.

Commissioner Mansell excused Commissioner Swenson and himself for the remainder of the meeting and turned the meeting over to Commission Co-Chair Obray.

There was general consent for a recess at 7:30 p.m.

The meeting resumed at 7:45 p.m.

Commissioner Obray asked if the City could make the 100-foot setback subject to the annexation. He didn't want to deal with angry residents and not get the land.

Workshop: Nibley City Town Center Planned Unit Development

Mr. Nelson said he and Commissioner Obray had a conversation and had him thinking about what they wanted to do with the town center overlay. The ordinance was about 12 pages long and had some standard in it. Commissioner Obray though they should leave some of the standards as negotiations with the developer and simplify the ordinance. Commissioner Obray said the ordinance would only be used once and would never be used again so why craft an elaborate, complicated the ordinance. Mr. Nelson displayed the proposed ordinance and summarized the general guidelines and broad categories of the ordinance. Mr. Nelson said the application of the ordinance wouldn't be a by-right development. Essentially the developer would be applying for a different

zoning on the property; a city has broad discretion over legislative matters and zoning was a legislative matter.

Mr. Nelson reminded the Planning Commission that their next meeting was in a month and suggested he come back to the Planning Commission with the simplified ordinance. He said they could hold a public hearing at the next Planning Commission meeting and hold discussion and consideration of recommending the ordinance to City Council.

Commissioner Obray said he would like to see economic viability of large commercial tracts of land within the space. He said any commercial zoned land should be landscaped with grass until it was approved for development. Mr. Nelson said if the Planning Commission would be fine if it were used for agricultural purposes. Commissioner Obray said he was all right with open grass and trees. He didn't want to see it agriculture. He didn't want cows and pigs rummaging 15 ft. from a splash pad. He wanted to see grass. Commissioner Logan disagreed and said, "Dude, that's Nibley." He passed by cows and horses on their way to church.

Mr. Nelson asked if the Planning Commission wanted to move forward with a public hearing at the next meeting. Commissioner Obray said yes. Commissioner Logan and Commissioner Albrect agreed. Mr. Nelson encouraged the Planning Commission to send him their notes and thoughts through the next month.

Workshop: Subdivision Ordinance Update

Mr. Nelson reported that he had gone through the ordinance and had addressed After Approval issues, had made minor changes to making a preconstruction meeting mandatory in stead of voluntary, and had cleaned up some language. He felt the subdivision ordinance was also ready for a public hearing and for discussion and possible recommendation to the City Council. Commissioner Logan thought they had discussed the ordinance enough. Commissioner Albrect and Commissioner Obray agreed.

Commission and Staff Report and Action Items

Mr. Nelson reminded the Planning Commission there was no meeting on the 4th and that the next Planning Commission meeting would be on the 18th. Mr. Nelson reported that he wouldn't be at the meeting on the 18th but the city Manager intended to cover the meeting.

Mr. Nelson reported that the Riggs annexation had been approved.

There was general consent to adjourn at 8:03 p.m.

Attest: _____
Deputy City Recorder