

The Meeting of the Nibley Planning and Zoning Commission held at Nibley City Hall, 455 West 3200 South, Nibley, Utah on Thursday, May 2, 2019.

The following actions were made during the meeting:

Planning and Zoning Commission Vice-Chair Tyler Obray called the Thursday, May 2, 2019 Planning and Zoning Commission meeting to order at 6:08 p.m. Those in attendance included Commissioner Tyler Obray, Commissioner Bret Swenson, and Commissioner Matt Logan. Mr. Stephen Nelson, Nibley City Planner, was also present.

Approval of 4-18-19 meeting minutes and the evening's agenda

Mr. Nelson reported that item one on the agenda was not ready and recommended the Planning Commission continue the item. Mr. Nelson also reported that Commissioner Mansell was unable to complete the requested research on item 3 of the agenda and suggested that the item also be continued to another Planning Commission meeting.

Commissioner Swenson moved to approve the evening's agenda; continuing items 1 and 3 to the next Planning Commission meeting. Commissioner Logan seconded the motion. The motion passed unanimously 3-0; with Commissioner Swenson, Commissioner Logan, and Commissioner Obray all in favor.

General consent was given for the previous meeting minutes.

Discussion and Consideration of a recommendation of the proposed ordinance establishing a Town Center Overlay Zone (formally called the Town Center Planned Unit Development Subdivision)

Per the motion made regarding the evening's agenda, this item was continued to the May 16, 2019 Planning Commission meeting.

Review and Discussion about City Council changes to the proposed Ordinance 19-03: Residential Planned Unit Development

Mr. Nelson said the Planning Commission had reviewed the item and made a recommendation to the City Council. The City Council had been workshopping the item for several months and had made 4-5 big changes to the ordinance. The City Council had requested the Planning Commission review the changes they had made, and give feedback. Mr. Nelson said Nibley's attorney had reviewed the ordinance and had only a few minor comments, which he wouldn't review.

Mr. Nelson said section 19.32.030 A.-B. designated 20 acre lot minimum with half-mile spacing between developments. The City Council had wanted to label these areas on a map. Mr. Nelson showed the Planning Commission the map and described the areas the City Council had designated would be appropriate for R-PUD. There were six areas in

total. Mr. Nelson asked if the Planning Commission had comments or concerns with the areas designated on the map? Mr. Nelson said the City Council had eliminated the 20 acre parcel requirement was spawned by two different parcels that were just over 19 acres. To compensate for this the City Council put in a minimum amount of units and a minimum amount of open space. Mr. Nelson said he had talked to HOA management companies who had indicated that these were general recommendation for sizes of developments that could be managed.

Mr. Nelson thought the City Council's changes provided a little more flexibility but still accomplished the initial intent of what they were looking for. Commissioner Obray asked why there were a minimum number of units required? Mr. Nelson felt the City Council's biggest fear was making sure there was a viable HOA to maintain amenities. Mr. Nelson and Commissioner Obray discussed the need for sewer lift stations in the proposed R-PUD areas. Mr. Nelson and the Planning Commission discussed additional traffic on highway 89/91 and SR 165. Commissioner Obray said he would rather have higher density put along highway 165 that in the heart of the City. Commissioner Swenson said he thought the changes the City Council had made were fine but that anything the dumped traffic on to SR 165 would be a problem; he would rather see traffic dumping on to highway 89/91.

Mr. Nelson described that the City Council had made changes to density; up to 10 units per acres, from 12 units per acre, and 80% not 70% could be townhomes. These changes were made after discussions with developers.

Mr. Nelson described the updated changes to the table in the R-PUD ordinance, describing that the City Council had not set a maximum number of units. The table went up to 500 units and anything past this number said the units must be supply adequate and proportionate amenities based on the table. Mr. Nelson believed the Planning Commission had capped the table at 300.

Commissioner Obray noted items that had been struck from the ordinance and clarified that the Planning Commission had been concerned with previous PUDs that had failed and didn't complete amenities. He asked if the City Council wasn't concerned with this? Mr. Nelson discussed that section 19-32-050 B. described how the City Council wanted the developer to be more involved in the property HOA and required the developer be a part of the HOA until the entire development was complete. He said the City Council also wanted to require an on-site management office. Commissioner Obray said HOA managers didn't want to be on-site and that functionality of corporate America would decide if they needed on-site management or not. The Planning Commission discussed the specifics of on-site management. Commissioner Obray said he would specify that the on-site management could be one of the property owners.

Commissioner Obray asked where the "teeth" were in the ordinance. Mr. Nelson said this was also one of his concerns. He felt the idea was that the HOA started off on a

good foot but didn't want the City to govern the management of the HOA. Commissioner Swenson asked if the City Council had to approve the HOA structure? Mr. Nelson said they did; CCNRs would be part of the application that was reviewed to ensure the HOA requirement was met. Commissioner Swenson asked if the City would require the HOA never be dissolved? Commissioner Obray said if there was open space and part of the development agreement was maintenance of the open space by the HOA that was accorded in advance of trustees and stayed forever. Mr. Nelson said townhomes also needed an HOA to manage common wall insurance and roofs, etc. This was required by Utah code.

Commissioner Obray question section 19.32.050 C.6? Mr. Nelson said the escrow requirement was for each phase as was required under section above. Mr. Nelson and the Planning Commission debated how escrow, line of credit, or bond monies would be collected and held. Commissioner Obray said the money should be put in the hands of the HOA (in a savings account) to decide how the money would be spent, depending on the development agreement that was approved. Mr. Nelson described that generally most developers want to include amenities and improvement to attract buyers. However, in Stonebridge the amenities were held to the last phase and the developer went bankrupt before the amenities were put in. Mr. Nelson said he would take the idea to Nibley City's attorney.

Mr. Nelson said the City's Engineer had a few standards changes but that most of the rest of the proposed ordinance was the same. Commissioner Logan asked if the City Council gave a reason for making a map? Mr. Nelson said the City Council didn't want this to be an arbitrary decision; they wanted to pick areas in town where they could control which areas could actually propose a R-PUD application; it was kind of like a zoning map but was instead an application map. Commissioner Logan felt the map seemed useless.

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

Per the motion made regarding the evening's agenda, this item was continued to the May 16, 2019 Planning Commission meeting.

Workshop: Conditional Use Permit and Land Use Table

Mr. Nelson led this discussion. Mr. Nelson showed and discussed Nibley's current land use code in Nibley City code 19.28.010 and Nibley City's Land Use Chart in section 19.20.010. Mr. Nelson said there was currently a public hearing option for conditional uses in current code. Generally speaking the Ombudsman's office and the Utah League of Cities and Towns recommended there not be a public hearing option because conditional uses were administrative application and not legislative; if the option were kept in code, Mr. Nelson would like the notification to be changed to ten (10) days instead of fourteen (14) days. Mr. Nelson said his biggest concern was in section 19.28.050.A.-B. He said a conditional use in state law is treated the same as a permitted

use with conditions added as permitted by code. Nibley's code treats conditional uses as a special exception. Mr. Nelson read Nibley City code 19.28.050.A.-B.

"The planning commission shall not authorize a conditional use permit unless evidence is presented to establish:

- A. That the proposed use of the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the community; and*
- B. That such use will not, under the circumstances of the particular case and the conditions imposed, be detrimental to the health, safety and general welfare of persons nor injurious to property and improvements in the community, but will be compatible with and complimentary to the existing surrounding uses, buildings and structures when considering the following:"*

Mr. Nelson said Nibley code was a more loose interpretation of what a conditional use as opposed to what State law required and he proposed the section be realigned with State law. Mr. Nelson also thought the standards in the conditional uses were not great and had no standards and were difficult to tie to anything. Mr. Nelson said there were some standards in definitions and described the definition of a home occupation conditional use. He felt some definitions should be changed. He particularly felt they should look at the home occupation definition and perhaps include exceptions to relatives as employees. Mr. Nelson said they should add a definition of Short-term rentals because they had a short-term rental that had become an issue and he felt there would be more short-term rental instances.

Commissioner Obray asked Mr. Nelson to look into the "Good Landlord Program." This program required landlords to attend classes and know State law, and tenant rights and regulations before their next discussion.

Mr. Nelson recommended the Planning Commission go through the land-use definitions and land-use chart.

Commissioner Obray said short-term rentals don't charge RAPZ tax; if a person stays in a hotel they have to pay RAPZ tax and he wanted to make some money off of short-term rentals. Mr. Nelson described the complaints that had been received about short-term rentals in Nibley City. Mr. Nelson said the City Council wanted to ensure safety by providing fire inspections and parking plans, etc. Commissioner Swenson asked if they had considered not allowing short-term rentals. Mr. Nelson said they could but it would be difficult to enforce.

Mr. Nelson displayed a land-use table from Northland, CO. He suggested this table would be a user-friendlier version. Commissioner Swenson thought the Nibley City land-use table should be organized similarly.

Commission and Staff Report and Action Items

Mr. Nelson reported on items that should be on the Planning Commission meeting agenda: Stronguard Storage, Riggs Minor subdivision, Malouf's site-plan application and an item about their building height, and the annexation of Firefly Park into Nibley City,

Mr. Nelson updated the Planning Commission on a Moderate Housing Plan. He said there was a due date to have this completed by December 1. He reported that he and Commissioner Albrect were working with BRAG.

Mr. Nelson directed the Planning Commission to flyers placed on the dais regarding training on moderate housing and referendum law. He asked the Planning Commission to let them know if they would be available to come. Mr. Nelson said there would be a broadcast training by the ULGT and LUAU at the distance learning center the following Saturday on May 18.

Mr. Nelson reported that the open candidacy period for three City Council seats would open June 3 and run through June 7.

Commissioner Obray asked if there had been any limitations on the number of units that could be owned by one person. Someone could come in and buy all 100 units and there would be an apartment complex in Nibley City. He asked if this should be included in the R-PUD overlay zone. Commissioner Obray said he would like this included anywhere there would be high density. Commissioner Obray suggested that the same owner could own no more than 40% of the development units.

There was general consent to adjourn the meeting at 7:39 p.m.

Attest: _____
Deputy City Recorder