

A Meeting of the Nibley Planning Commission held at Nibley City Hall, 455 West 3200 South, Nibley, Utah on Thursday, May 21, 2020.

The following actions were made during the meeting:

Commissioner Mansell moved to recommend approval on Firefly Estates, Phase 1 Final Plat, located at approximately 1200 W and 2200 S with the conditions needed by city staff and City Engineer. Commissioner Brown seconded the motion. The motion passed 4-1: with Commissioner Swenson, Commissioner Obray, Commissioner Brown and Commissioner Mansell in favor and Commissioner Logan dissented.

Planning Commission Chair Tyler Obray called the Thursday, May 21, 2020 Planning Commission meeting to order at 6:34p.m. Those in attendance included Commissioner Bret Swenson, Commissioner Garrett Mansell, Commissioner Matt Logan, Commissioner Tyler Obray and Commissioner Karina Brown. Mr. Levi Roberts, Nibley City Planner, was also present.

Approval of 5-7-2020 meeting minutes and the evening's agenda

General consent was given for the previous meeting's minutes with the amendment made by Commissioner Logan.

General consent was given for the evening's agenda.

Discussion and Consideration of a recommendation on Firefly Estates, Phase 1 Final Plat, located at approximately 1200 W and 2200 S. (Applicant: Return Development LLC)

Ethan Poppleton and Christopher Huffman representing Returned Development, LLC were present at the meeting. Mr. Roberts gave background on Firefly Estates Final Plat using the visual for Phase 1. Staff reviewed the plan to ensure that most issues were resolved. He said there are some remaining that will also need approval from the City Engineer. Phase 1 contains a total of 63 lots, including 11 single family homes, 52 town homes and 0.84 acres of open space as part of the HOA and 2 acres of park that will be added. The plat has the same general lot layout, roadways, and open space as the approved preliminary plat by City Council on February 27, 2020. Staff's only comment is to update all TBC radius to 12ft. There are several items that need to be addressed with the construction drawings, proof needed of infiltration/percolation test, geotechnical pavement design, signed storm water pond agreement and assurance that building requirements for the townhomes meet Nibley City standards. Mr. Roberts stated that the developer will provide design detail to the city so that the lot sizes are correct, but this is one of the requirements that is technically not required in our ordinance. In general, staff recommended approval with the findings and conditions

outlined. Commissioner Mansell requested a laser point to show areas on the plat visual. Commissioner Obray asked if anything was different than what was approved by City Council. Mr. Roberts stated that there was nothing different at the high level, just engineering changes, water line and stormwater drainage.

Commissioner Logan asked about the Referendum. Commissioner Obray wanted to finish changes and modifications first.

Mr. Roberts stated that there are issues, mostly from the City Engineer, that need to be taken care of before City Council would approve it, but these issues would not change the design of the plat. Commissioner Swenson felt like it was a preliminary plat application because of all the unresolved findings with the city and the developer. His understanding was that in addition to City Council, the standard should be that it is finalized for Planning and Zoning as well. Mr. Roberts gave an explanation regarding the back and forth on the agenda. Most of the comments were from the City Engineer. After they were reviewed, he recommended approval based on the conditions presented. Mr. Roberts stated that the former City Planner, Stephen Nelson provided the initial recommendations which were resolved. Mr. Roberts stated that there are a lot of things that need to be taken care of, for example, the metering options. However, this does not affect the design so he, City Manager and City Engineer felt comfortable recommending approval. Commissioner Obray clarified that all the items had been added to the design drawings. He asked which items on the list were the responsibility of staff and which were the responsibility of Planning and Zoning. Mr. Roberts referred to more detail needed about the design of the playground to ensure compliance with NCC 19.32.050. He stated that Nibley's ordinance is very specific about items needed on a playground. Staff needed more detail on the design but is ok with the developer's choice if it meets the standards. What stood out to Commissioner Obray and made him nervous was the sewer lines that need to be flipped. He felt it could be a problem approving plans that they know have problems to infrastructure that get put in the ground. He deferred to The Commission regarding anything else on the list that fell under their jurisdiction that was not already city ordinance and cause for concern. Commissioner Mansell was concerned with setting a precedent by approving things with conditions that are not already met. He agreed with Commissioner Swenson that a standard should be set to have everything done for Planning and Zoning. Commissioner Obray added that he did not think it was reasonable to turn in documents for review 48 hours before a meeting. Mr. Roberts stated that he wanted to clear up expectations for the timing of planning review. He explained that the application was submitted in the middle of a staff change. Commissioner Obray wanted to clarification regarding the delay because of the staff change. Mr. Roberts confirmed. Mr. Huffman stated they were ok with things getting pushed back and understood the staff change. He thought there were only two or three items on the list that were valid discussions and most of them were clarifying questions and comments. He confirmed that they needed to clarify the playground and get updated designs for the floorplans. He stated the only concern that needed clarification from the City Engineer was the

tie into the water main line. Everything else were just little things. He agreed that from The Planning Commission's perspective it did not seem like a full application but did not see any of these concerns as grounds for not moving forward. Commissioner Obray acknowledged the effect of the staff changes. Commissioner Logan stated that it was nobody's fault.

Commissioner Swenson asked Commissioner Mansell what his concern was with 1200 W. Commissioner Mansell wanted to know in what phase would it be finished. Mr. Poppleton had spoken with David Zook, City Manager, who asked the developers to put it in as late as possible (end of phase 2 or 3) so that there was not an influx of traffic before the city was ready. Mr. Poppleton also stated that they turned in designs and floor plans but did not see any of that in the packets that got sent out to The Planning Commission. Mr. Roberts stated that the main issue was where the design fits into the plat. Commissioner Obray summed up the discussion and asked if anyone wanted to make a motion. Commissioner Logan asked about the referendum again. Commissioner Obray stated that in his opinion it was not based on final approval of the plat. Commissioner Brown asked for clarification on the motion. Commissioner Mansell struggled with setting a precedent. Commissioner Obray thought a month delay was long enough. Mr. Roberts stated that staff wanted to set a precedent that applications would be 100% ready to go and to get there, they needed to be clearer to the applicant on expectations. He said it currently states on the application that after completion, it would be considered for the agenda within 14 days. Mr. Roberts thought it should be changed and it needed clarification. Commissioner Swenson agreed that they needed to define a completed application. Mr. Poppleton clarified that they turned in a completed application, but it did not match the ordinance requirements because it had not been updated. Mr. Roberts confirmed that it was worked out and all the items had been submitted but he did not have the information in time for the last meeting. Commissioner Swenson stated that in six years he had never seen one with so many unresolved issues.

Commissioner Swenson moved to recommend approval on Firefly Estates, Phase 1 Final Plat, located at approximately 1200 W and 2200 S with the conditions needed by city staff and City Engineer. Commissioner Brown seconded the motion. The motion passed 4-1: with Commissioner Swenson, Commissioner Obray, Commissioner Brown and Commissioner Mansell in favor and Commissioner Logan dissented.

Mr. Roberts asked Cheryl Bodily, Deputy Recorder to update The Planning Commission on the referendum. She said as of Thursday, May 14th, there were 281 valid signatures; 16 were bad addresses, 27 were not registered voters, one was a duplicate and 4 signatures did not match. There were still 15 books with 50 plus pages each of signatures that needed to be validated. There is a disagreement on how many signatures are needed. The City stated 1,114 and the County stated 889. At the end of the process, it may get turned over to someone else to make a different decision regarding which number was right. The signatures do not need to be validated by the County until June 15th. Commissioner Obray heard discussion that there was

no information packet with opposition sent out to the residents and wanted to know the City's stance. Ms. Bodily confirmed that the Mayor's message in the newsletter was that he would not accept the referendum as it was completed. Commissioner Obray asked if there was a legal standing for that. Ms. Bodily said that the article was reviewed by the city attorney. In the newsletter, the Mayor referred to a judge decision, but it was the understanding of Ms. Bodily that the people putting the referendum in place would have to decide to take it to a judge. It was Mr. Robert's understanding that the City has a legal opinion. Mr. Poppleton asked Ms. Bodily to clarify the Mayor's comments that were going to be published in the City newsletter. She recapped the Mayor's belief that the referendum procedure was not done legally. The proponents had a deadline to submit their argument and they did not meet that deadline. They sent a postcard citywide that contained some information, but the City believed it was not legal because the City never saw it. Mr. Huffman wanted clarification regarding the affect of the referendum on the Firefly Estates project. Ms. Bodily clarified that you could continue to act until the referendum was verified. Commissioner Brown was curious about when the developers would start to build and break ground. Mr. Huffman thought it would be as soon as they received approval and the plat was recorded. They expected to be further along and were anxious to get started.

Workshop: Accessory Dwelling Units

Mr. Roberts went over his prepared presentation on Nibley City Ordinances in Review (a printed version of this presentation is included in the printed meeting minutes). He discussed background and purpose. The ordinance was originally introduced in 2019. He reviewed that moderate-income housing plans have been required since 1996. The City had an outdated one. The State required an update. He also discussed the provisions in the current draft. The City needed to check with the City Attorney to see if prohibiting short term rentals was legal. It was better to restrict an ADU within wetlands or flood plains due to the complexity of acquiring floodplain insurance. Mr. Roberts discussed the provisions and language regarding the appearance of single-family residences specific to attached units. Commissioner Swenson questioned having a design review. Mr. Roberts thought that requiring design standards was something to consider but was a bigger discussion.

Commissioner Obray wanted clarification regarding the wetland and flood plain ordinance. The Planning Commission discussed the standards and requirements. Commissioner Swenson stated that he liked restricting from the flood plain. Commissioner Obray thought that if someone could prove through engineering that they were not in a flood plain, then they should be allowed. They discussed the interpretation of the ordinance. Mr. Roberts asked Commissioner Obray's opinion based on his experience. Mr. Roberts suggested that it might be helpful to do an analysis to determine how many residents would be impacted. This could help determine the language needed in the ordinance. The Planning Commission discussed. Commissioner Logan's thoughts mirrored Commissioner Swenson's. Commissioner Obray asked the purpose for not building in a flood plain. Commissioner Logan said that if there was a flood

in that area, you could have a mini lake between your road and ADU. It was Commissioner Obray's opinion that if one person could do it, then they all should be able to.

Commissioner Obray asked for clarification on the setbacks of accessory buildings. The Planning Commission discussed the provision in the current draft. Commissioner Mansell thought it needed to match the setbacks of the accessory structures. Mr. Roberts thought it made sense to include for new construction which does need to conform to fire, building and health codes.

Commissioner Obray questioned the decision regarding size based on sq. ft. The Planning Commission discussed this. Mr. Roberts clarified that the size: 300 sq. ft. – 1,200 sq. ft. was for detached ADUs. There was not necessarily a limit for attached. The Planning Commission continued the discussion of square footage. Mr. Roberts thought the accessory structure ordinance would apply because it cannot fill up more than 25% of the back yard. Commissioner Obray agreed that he would like to keep something like that. Commissioner Logan asked what happened to the 25 sq. ft. in the back. Mr. Roberts clarified that he was wrong on that. It was for primary structures. The Planning Commission discussed accessory structure setbacks. Commissioner Obray wanted to include that in addition to the 10 ft. for the side and rear yards, the total size being built did not exceed more than 25% of your total rear yard. Mr. Roberts questioned if this regulation was enough in addition to the accessory building setbacks or should the 10 ft. for side and rear also be added. The Planning Commission discussed and there was general consent that it should also be added. Commissioner Swenson asked if backyard needed to be defined in relation to the 25%. Mr. Roberts confirmed that it was defined in the code. Commissioner Swenson tried to picture all the problems and gave an example because he had "seen some stuff". Commissioner Logan reiterated the 25% AND 10 by 10. Commissioner Mansell asked for clarification that it all the accessory structures were considered and not just the ADU. There was general consent that with the 10 ft. setbacks, 25% max and 1,200 sq. ft., most everything would be covered.

Commissioner Brown wanted to clarify that Mr. Roberts would check to see what the State's position was regarding short term rentals. Mr. Roberts confirmed that he wanted to double check with Nibley's attorney to see if there was anything in the State code. The Planning Commission discussed short term rentals.

Commissioner Obray recapped their agreement on the provisions in the draft.

Commissioner Logan wanted to add and specify that the two additional parking places cannot be on the driveway. Mr. Roberts suggested saying two additional spaces in addition to the parking required for the primary residence. The Planning Commission discussed additional parking spaces. Commissioner Logan stated that he would rather see tons of variances granted than have neighbor's rights infringed on by having extra parking. Commissioner Obray asked Commissioner Logan to define and clarify driveway. Commissioner Obray agreed with his

definition. The Planning Commission discussed the location of the two additional parking spaces. Commissioner Obray wanted to avoid the shuffling of cars so that residents did not they end up on the street and become a safety issue. Mr. Roberts understood but thought there were a lot of people that have more garage space than they need. Commissioner Obray stated that he did not think The Commission cared. He clarified Commissioner Logan's thought to call two cars in the garage and two cars outside the garage, the primary residence parking. The two spots needed were in excess to that. There was general consent for this clarification. Commissioner Obray questioned how to word this clarification and suggested a diagram. Commissioner Mansell agreed. Commissioner Logan wanted to take a harder approach and say that if you are building an ADU, you cannot use anything that was existing. He did not care if he was being a jerk. Mr. Roberts pushed back a little bit. He reminded The Commission that this was for Moderate-Income Housing and all these additional things add to the cost which will get passed on to the renter. These were meant to be a low-cost solution. Commissioner Swenson heard what Mr. Roberts was saying, but to him, it was secondary to the impact on the neighborhood. Commissioner Logan thought that if the ordinance were too loose, more would slip through. He would rather be stricter and give a variance. Commissioner Obray wanted to add gravel or hard surface. He wanted to clarify what Commissioner Logan's thoughts were on the parking spaces. Commissioner Logan did not want to create an ordinance gambling on how many cars somebody is going to have. He did not care if they had a couple of junkers or whatever they were working on in the garage. He cared about the neighbor who would get screwed by having tons of cars parked on the street. Commissioner Obray asked if they could prohibit ADUs from having overnight parking on the street. Mr. Roberts thought enforcement would be an issue. Mr. Roberts stated that the City has a blanket ordinance stating no parking for more than two days on the street. Commissioner Logan thought they were overthinking the hell out of it. "Two spaces, done!" Mr. Roberts disagreed and stated that parking was a big issue. It was a huge cost, had big implications and if required to provide too much parking, the wasted costs were passed onto the homeowner and down to the renter. Commissioner Obray suggested that no garage parking should qualify for ADU parking. He thought most of it would be self-regulated because the homeowner would have to deal with it as well. Commissioner Logan was unsure. Commissioner Swenson did not want to create a situation where neighbors were upset because the City did not require adequate parking. Mr. Roberts suggested sticking to the standard that in addition to the single-family residence parking, two spaces are required for the ADU. Commissioner Obray confirmed Mr. Robert's statement that The Commission wanted to treat ADUs differently and require more spaces than a lot of other instances. He wanted to exclude garage spaces from being in the count.

Commissioner Brown left the meeting at 7:50 p.m.

After further discussion, Commissioner Obray reiterated to Mr. Roberts that it would be easily defined with pictures and a couple of diagrams of what was acceptable and not. The Commission could then say yes or no to the pictures. Commissioner Mansell agreed. Mr.

Roberts felt it was important to be flexible. Commissioner Swenson wanted to protect the neighborhood more than wanting to give them an ADU. He liked Mr. Robert's concise presentation.

Workshop: Residential Planned Unit Development Code Update

Commissioner Obray wanted to table the item until City Council gave direction. He felt it was a question of wanting townhomes or not. It was not about density, parks, or open space. Commissioner Logan confirmed that it was also about wanting a lot of them. He stated that he felt he got sold a fake bill of sale. He had no idea that when The Commission recommended approval, it would "blow up like a mushroom cloud." He felt "bamboozled" and thought that along with the citizens and Nibley, they did not want this many so fast. He thought that maybe a graduated time frame was missing. He had no idea that all the approved areas were waiting to be pounced on. Mr. Roberts stated that it showed there was a pent-up demand for that type of development. Commissioner Logan agreed because it would mean more money but felt it was not good for the City and the timetable was too fast. Commissioner Swenson stated that the City was trying to address Moderate-Income Housing. Mr. Roberts confirmed and stated that after speaking with David, The City Manager and doing a fair amount of research, the lower density that you develop, the less fiscally sound the City will be in general. It becomes more difficult to service residents if there is not a variety of density. Commissioner Logan was against the onslaught, not the density.

Commissioner Mansell reiterated that the purpose of a PUD was to create a "life cycle" with mixed use. They facilitate multiple facets of the community. The Ridgeline development was the only one that came close to what he envisioned. He suggested a meeting with City Council. Commissioner Obray wanted to talk real numbers from our City Engineers and staff. He felt that having five subdivisions at the same time created an excess of availability and competition to build that product. He did not think the discussion with City Council should be emotional. He wanted to know what the benefit was. "Give us the numbers, give us the data." He believed that competition amongst the builders was a way to get a better product. Mr. Roberts wondered if a fiscal analysis should be required for an RPUD. The Planning Commission discussed. There was general consent to meet with The City Council and get numbers. Commissioner Logan asked what percentage the state required for Moderate-Income Housing. If it had already been met, then what mattered more now was what the City can do for its citizens. Commissioner Obray agreed. Mr. Roberts stated that going forward there probably needed to be a variety of housing types to meet a variety of incomes. And usually, projections were based on the makeup of current community needs. Commissioner Logan thought that if more Moderate-Income Housing was built and it proved to lower taxes, the citizens might approve. Commissioner Obray felt that once the fiscal impact was known, there would be more awareness of how many to have because right now it was just guessing. Commissioner Logan asked how to get the numbers. Mr. Roberts suggested using the three current developments as an example. Commissioner Logan wanted to know if it would show the impact on taxes. Mr.

Roberts confirmed. The Planning Commission discussed the impact on future developments. Commissioner Logan thought that Logan's development needed to be considered. Commissioner Obray stated that the fiscal impact was two things: financial benefit to the City with impact fees and what will it do to our infrastructure which will also regulate the building of townhomes. Commissioner Logan agreed. Mr. Roberts confirmed that he would speak with The City Manager and Engineer regarding the impacts that may affect the City ordinance and would be meeting individually with City Council.

Workshop: Rural Preservation Subdivision

Mr. Roberts said he had gone over the name with the City Manager who had stated that Open Space Subdivision seemed a little misleading. He had suggested calling it Open Space Preservation Subdivision. The Planning Commission discussed the name of the ordinance. Commissioner Logan thought putting Subdivision after Open Space was a conflict but did not really care. Commissioner Mansell liked the name. Mr. Roberts went over the presentation and the two reasons for the ordinance change. This included improving the continuity with surrounding areas and creating more meaningful and beneficial open space. He was researching how to draft this into an ordinance. He discussed the provisions in the presentation which included lots adjacent to existing subdivisions are 80% of the zoning minimum of the adjacent zone and reducing "islands" of open space by encouraging open space to be located adjacent to existing undeveloped land. Commissioner Mansell wanted transition from the existing neighborhoods so that there were no stark contrasts and no public islands. The Planning Commission discussed public islands. Mr. Roberts suggested setting a threshold for size. Commissioner Swenson suggested adding the language *where possible*. The Planning Commission discussed different developments. Commissioner Mansell thought that public open space needed the ability to adapt to future growth to create open spaces that will benefit the whole community. Commissioner Swenson did not like the provision regarding 80%. If that was the code, then Meadow Creek and Cottonwoods would not exist. He asked The Commission if they were offended by the way Cottonwood looked. Commissioner Obray thought it was a little out of place. Commissioner Swenson lives next to it and was not a fan, but it was part of the community now. Mr. Roberts suggested a threshold on the minimum. The Planning Commission discussed zoning and size. Commissioner Swenson thought there were buffers designed in the code. His goal was to have every subdivision be this way and to create uniqueness, it was important to be less restrictive. Without the code, the worst case would be going from 1 acre to a ¼ acre transition in zoning. Mr. Roberts stated that if this was the zoning the City wanted, then it should be blanket across all subdivisions. Commissioner Obray suggested 80% but not more than 50% reduction. Commissioner Swenson pointed out that there would only be one area that would be affected and with Commissioner Mansell's suggestion, would disqualify them. He thought that it came down to design and having a buffer. He thought having a big lot next to a smaller lot added variety and contrast. Commissioner Mansell cared about having a transition on every subdivision. The Planning Commission discussed variety and change. Mr. Roberts suggested considering the streets that divided the zones and basing the code on the

zoning or adjacent blocks in the subdivision. If the lots are smaller than 80%, there should be a buffer. Commissioner Obray thought 80% was too high and suggested 50%. Commissioner Swenson did not think it was that big of a difference to make it an issue. Commissioner Mansell wanted the bare minimum to work for the City. He did not like the huge contrast. The Planning Commission discussed the remaining areas on the zoning map that would be affected. Mr. Roberts stated that in general there would be issues with transition in an area that was growing. The zoning was one thing but not everything in Nibley would be built out to what the zoning was. The Planning Commission discussed how it would work on all sides. Commissioner Obray liked the idea of either/or. It cannot be less than 80% but it cannot affect the lot size by more than X%. Commissioner Mansell thought that was reasonable.

Commissioner Obray asked The Commission if they solved the fencing problem and recited the current ordinance which stated that the fence must be appropriate to its land use. He thought T bar and barbed wire was not wanted on the rear lot and it should have separate fencing on the side. He thought the one redeeming factor in a lot of the Rural Preservation Subdivisions was the nice-looking fences. He felt a separate fence was needed in addition to the appropriate one for land use. He stated that it was a safety issue as well as aesthetics. The Planning Commission discussed the definition of appropriate use and Municipal Code 21.10.H. They discussed types of fencing for open space including a three-rail fence. Commissioner Swenson stated that he had seen some nice barbed-wire fences which fitted rural. Commissioner Obray stated that Nibley was not rural anymore. Commissioner Obray wanted to change section L to cover up the barbed wire. Commissioner Mansell wanted to make the rule acceptable with what would be considered the minimum. Commissioner Logan agreed. The Planning Commission discussed it further. Commissioner Mansell stated that different fencing in a community looked “ticky-tack”. He thought the way to mandate was by CCRs. The Commission discussed the type of fencing allowed around a park. Resident Jamie Gonzales stated that she did not like neighbors putting up fencing that did not match. She thought it did not look uniform and a neighborhood needed to look cohesive. Commissioner Mansell agreed and stated that in most subdivisions where he had lived there were provisions regarding fencing. Commissioner Swenson stated that it was hard to enforce.

Mr. Roberts thought The Planning Commission was ready for a public hearing on Accessory Dwelling Units. Commissioner Obray and Commissioner Logan agreed that they did come to a consensus. Commissioner Mansell thought it was alright to hold a public hearing at the next meeting in June.

Commissioner Swenson asked if they addressed the frontage going into a Rural Preservation Subdivision. There was general consent that it was discussed. Commissioner Mansell thought it was a 30 ft., open buffer landscape. There was confusion regarding 30 ft. and 100 ft.

Commissioner Obray adjourned the meeting at 9:03 p.m.

Attest: _____
Office Specialist