

A Meeting of the Nibley Planning Commission held at Nibley City Hall, 455 West 3200 South, Nibley, Utah on Thursday, May 06, 2021.

The following actions were made during the meeting:

Commissioner Logan moved to recommend denial for Ordinance 21-08 to Rezone Parcel 03-018-0002 and 03-018-0005, located at approximately 1145 W 3200 S from R-2-Residential and A-Agricultural to C-Commercial (Applicant: Ebeco Properties, LLC). Commissioner Brown seconded the motion. The motion passed unanimously 5-0; with Commissioner Obray, Commissioner Brown, Commissioner Mansell, Commissioner Logan and Commissioner Swenson all in favor.

Commissioner Mansell moved to recommend approval for a Conditional Use Permit for Utility Substation at 75 W 3200 S (Applicant: Dominion Energy Utah). Commissioner Swenson seconded the motion. The motion passed unanimously 4-1; with Commissioner Obray, Commissioner Brown, Commissioner Mansell and Commissioner Swenson in favor. Commissioner Logan dissented.

Commissioner Obray moved to recommend approval for Nibley Farms Subdivision Phase 4 Final Plat located at approximately 1500 W and 3410 S (Applicant: 7 Point Royal, LLC). Commissioner Mansell seconded the motion. The motion passed unanimously 5-0; with Commissioner Obray, Commissioner Brown, Commissioner Mansell, Commissioner Logan and Commissioner Swenson all in favor.

Commissioner Obray moved to recommend approval for Nibley Farms Subdivision Phase 5 Final Plat located at approximately 1500 W and 3410 S (Applicant: 7 Point Royal, LLC). Commissioner Brown seconded the motion. The motion passed unanimously 5-0; with Commissioner Obray, Commissioner Brown, Commissioner Mansell, Commissioner Logan and Commissioner Swenson all in favor.

Commissioner Obray moved to recommend approval for Nibley Farms Subdivision Phase 6 Final Plat located at approximately 1500 W and 3410 S (Applicant: 7 Point Royal, LLC) with the condition to strike the requirement for the trail at the end of the cul-de-sac. Commissioner Mansell seconded the motion. The motion passed 3-2; with Commissioner Obray, Commissioner Mansell and Commissioner Logan in favor. Commissioner Brown and Commissioner Swenson dissented.

Planning Commission Chair, Tyler Obray called the Thursday, May 06, 2021 Planning Commission meeting to order at 6:33 p.m. Those in attendance included Commissioner Tyler Obray, Commissioner Karina Brown, Commissioner Matt Logan, Commissioner Bret Swenson and Alternate, Commissioner Ryan Werner. Commissioner Garrett Mansell arrived at 6:36 p.m.

Mr. Levi Roberts, Nibley City Planner was present. Mr. Darren Farar, City Engineer was also present. Jamie Ann Gonzales, Office Specialist was present to record the minutes.

Approval of the evening's agenda and 4-01-2021 meeting minutes

Commissioner Swenson moved to approve the evening's agenda and previous meeting minutes. Commissioner Logan seconded the motion. The motion passed unanimously 5-0; with Commissioner Obray, Commissioner Brown, Commissioner Mansell, Commissioner Logan and Commissioner Swenson all in favor.

Public Hearing: to receive comment on Ordinance 21-08: Recommendation to Rezone Parcel 03-018-0002 and 03-018-0005, located at approximately 1145 W 3200 S from R-2-Residential and A-Agricultural to C-Commercial (Applicant: Ebeco Properties, LLC)

Applicant Ezra Eames was present. Mr. Roberts utilized an electronic presentation entitled *Rezone-1145 W 3200 S* (a printed copy of this electronic presentation is included in the printed meeting minutes). His presentation included *Background, Map of proposed rezone area...*

Commissioner Mansell arrived at 6:36 p.m.

General Plan Guidance, Future Land Use Map, Considerations and Staff Recommendation.

Commissioner Obray opened the public hearing at 6:40 p.m. He recited the rules for public comment.

Joe Cottrell – 3023 S 1000 W

Mr. Cottrell had multiple concerns which included pollution from large trucks, increased pedestrian accidents, (the vast majority being young, Heritage Elementary School students) lack of adult supervision, noise, and setting a precedent for neighboring landowners. He reported facts taken from the Environmental Defense Services website outlining the effects of car pollution and human deaths in the United States (U.S.). He also discussed a 2019 report from The Washington Post on U.S. pedestrian accidents and from The Journal of Environmental Psychology regarding traffic noise impact on sleep and property values. He referred to the proposed parcel in relation to commercial land as designated in Nibley City's 2010 Future Land Use Map.

Ashley Cottrell – 3023 S 1000 W

Mrs. Cottrell was concerned with noise, air and light pollution, increased traffic, pedestrian accidents (the vast majority being young, Heritage Elementary School students), increased crime, decreased privacy, and property values. She reported on a study published by the University of Washington on crime in relation to the shift from residential to commercial use; and a study published by the University of Pennsylvania Law Review regarding lower crime in zones designated for residential use only. She shared that her concerns were also related to high density housing. Her wish was to see single family housing, a church or something that fit the neighborhood. If the property were rezoned commercial, she said it would take away her

piece of mind and create a neighborhood where she would no longer want to raise her young family.

Katrina Funk – 1140 W 2980 S

Most of Ms. Funk's concerns were addressed. One of the biggest was the location of Heritage Elementary School where her children attended. She was concerned with the increased traffic and crime that a commercial development would bring. After looking at many places, including Millville, Wellsville and Providence, Nibley was chosen as their home four and a half years ago because of the community, culture, and character. They never would have moved to Nibley if commercial would have been a possibility. She recited a long-term goal in Nibley's General Plan regarding the development of commercial services and pointed out Nibley's Vision Statement for commercial economic development.

Jenice Shipley – 1111 W 2980 S

Ms. Shipley had a deep concern over the land being development as commercial, with the first and foremost being the safety for the children at Heritage Elementary School. She was also concerned with increased traffic and the risk of safety for children that this would create. Her family chose Nibley twelve years ago for the ruralness and open space. She would rather see her personal taxes increase than a commercial property in her neighborhood.

Ruth Berntson – 3142 S 1200 W

Ms. Berntson agreed with those that spoke previously. Her family moved to Nibley almost forty-five years ago and loved living here because of the ruralness. She works at Nibley Elementary School and was concerned about the traffic and safety for the school children as well. She thought commercial property should be on the outskirts of the City. She said that a commercial property would add to the congestion and noise from traffic that already made it difficult to sleep. She thought that sidewalks were needed in a lot of places, particularly on 1200 and was concerned for kids walking.

Erick Christiansen – 3007 S 1000 W

Mr. Christiansen pointed out a specific goal in Nibley's Economic Development Plan, to discourage commercial development on 3200 S. He also pointed out that he was told through discussions with the previous City Engineer, that the future roundabout was designed to inhibit the passage of semi-trucks, which was a contradiction to zoning the property as commercial. He agreed with City staff on the general plan for commercial zoning.

Linda Barnes – 3099 S 1000 W

Ms. Barnes previously submitted a letter to the Planning Commission (a printed copy of this letter is included in the printed meeting minutes). She addressed the Commission and wanted to make them aware of the near misses of children that were almost hit in the walkway and the need to define the lines better. She suggested that a crossing guard would be needed into the commercial property. She also pointed out the risk for children walking home from school unsupervised, who could be drawn to the business. Ms. Barnes stated that she was not against commercial property but along the periphery as in the other major towns. She thanked the Commission and said Nibley was a place she was proud to live in.

Sydney Nuttall – 1110 W 2980 S

Ms. Nuttall said they moved here in January and ninety percent of the reason they chose their house was for the open field behind them (the proposed rezone). She said she liked the school around the corner so her children could walk, the feeling of safety and the quietness of 3200 S. She felt that if traffic increased, it would create more risk for kids and there was not great ambulance coverage. Her husband is an EMS volunteer and she said the service from Logan would be twenty to thirty minutes. She said she did not want commercial in her backyard taking away from the view. She suggested a little park or splash pad.

Courtney Metzler – 3131 S 1000 W

Ms. Metzler pointed out the location of her home on the map from Mr. Robert's presentation. She said she was told that the natural spring in her backyard was protected. Her main point was the safety of the children. She said she moved to Nibley because it qualified for a rural housing grant. She wondered about the congestion near Strata Apartments in Logan and questioned the connection of the road to 1000 W and 3200 S. She suggested a baseball field and wanted her kids to feel safe and be able to play outside. She said she wanted to keep it rural with a small town, family, feeling.

Mr. Roberts answered Ms. Metzler's question regarding the road connection. He said the road would connect at 1200 W.

Ezra Eames – Applicant 1145 W 3200 S

Mr. Eames addressed the spring that Ms. Metzler spoke about. He referred to Mr. Robert's presentation slide entitled *General Plan Guidance Land Use Goal 1*. He said that it would be impossible to stop the rapid growth of Nibley and must try to control it the best way possible. He spoke of the increase in housing subdivisions and said he would like to do what was good for Nibley, for example small shops. Commissioner Obray clarified that the applicant wanted to get the property zoned for commercial and leave it open for whatever would be permitted use.

Commissioner Obray closed the public hearing at 7:15 p.m.

Discussion and Consideration: to receive comment on Ordinance 21-08: Recommendation to Rezone Parcel 03-018-0002 and 03-018-0005, located at approximately 1145 W 3200 S from R-2-Residential and A-Agricultural to C-Commercial (Applicant: Ebeco Properties, LLC)

Alternate, Commissioner Werner asked for clarification on the definition of medium density residential. Mr. Roberts said it was not well defined, but in general it was quarter acre, half acre lots. Commissioner Mansell thought that putting commercial would be difficult because of the required setbacks. Commissioner Obray thought it was too much of an open slate without knowing what the proposed commercial was. Commissioner Logan said he did not care. He said it was zoned what it was, and he did not want it to change. Mr. Roberts said that because of the large scale of the development, it was staff's recommendation to deny the petition.

Commissioner Logan asked Mr. Roberts for a visual of the map to show the connection of 1000 W to 1200 W. Mr. Roberts said it would carry more traffic but would not be a highway.

Commissioner Obray addressed the citizens regarding expectations and Nibley's Future Land Use Map. He told them that future land use and zoning would absolutely change and had to as cities progress. He informed them that Nibley City no longer qualified as rural housing.

In answer to a question regarding another meeting for the property rezone, Commissioner Logan informed the citizens that the Planning Commission was a recommendation body. He told them that City Council made the final decision. The residents were informed that another public hearing would be next week at City Council.

Commissioner Logan moved to recommend denial for Ordinance 21-08 to Rezone Parcel 03-018-0002 and 03-018-0005, located at approximately 1145 W 3200 S from R-2-Residential and A-Agricultural to C-Commercial (Applicant: Ebeco Properties, LLC). Commissioner Brown seconded the motion. The motion passed unanimously 5-0; with Commissioner Obray, Commissioner Brown, Commissioner Mansell, Commissioner Logan and Commissioner Swenson all in favor.

Discussion and Consideration: Conditional Use Permit for Utility Substation at 75 W 3200 S (Applicant: Dominion Energy Utah)

Applicant Rick Helstrom was present. Mr. Roberts utilized an electronic presentation entitled *Dominion Energy CUP* (a printed copy of this electronic presentation is included in the printed meeting minutes). His presentation included *Background, Updates and Staff Recommendation*. Mr. Roberts reported that the City Attorney was consulted and he confirmed staff's opinion and recommendation for approval.

Commissioner Swenson asked about shrub maintenance. Mr. Roberts confirmed that it was the applicant's responsibility. Mr. Roberts answered Commissioner Brown's question regarding the material for the precast wall.

Commissioner Mansell moved to recommend approval for a Conditional Use Permit for Utility Substation at 75 W 3200 S (Applicant: Dominion Energy Utah). Commissioner Swenson seconded the motion. The motion passed unanimously 4-1; with Commissioner Obray, Commissioner Brown, Commissioner Mansell and Commissioner Swenson in favor. Commissioner Logan dissented.

Discussion and Consideration: Recommendation for Nibley Farms Subdivision Phase 4 Final Plat located at approximately 1500 W and 3410 S. (Applicant: 7 Point Royal, LLC)

Discussion and Consideration: Recommendation for Nibley Farms Subdivision Phase 5 Final Plat located at approximately 1500 W and 3410 S. (Applicant: 7 Point Royal, LLC)

Discussion and Consideration: Recommendation for Nibley Farms Subdivision Phase 6 Final Plat located at approximately 1500 W and 3410 S. (Applicant: 7 Point Royal, LLC)

Applicant Travis Taylor was present. Mr. Roberts utilized an electronic presentation entitled *Nibley Farms Phase 4, 5 and 6 Final Plat* (a printed copy of this electronic presentation is included in the printed meeting minutes). His presentation included *Preliminary Plat, Final Plat, Background and Staff Recommendation*.

Commissioner Swenson asked if the City considered any emergency turnarounds during the phases. Mr. Roberts said that Phase 4 would connect to 1300 W. Mr. Taylor said that J Thomas Homes was the builder in answer to Commissioner Brown's question.

Commissioner Obray explained why he did not like the trail requirement in Phase 6 and wanted it removed. Mr. Roberts informed the Commission of the connectivity standard requirement. He discussed another way to possibly meet the standard without the trail. The Commission discussed it. Mr. Taylor said he designed the phase without the trail because the cul-de-sac was so short but per the ordinance and as instructed by staff, he had to have it included. However, he said it would be an easy change to make. Commissioner Swenson was okay with keeping the trail. Commissioner Logan said to keep it connected. Mr. Taylor said that if he had a choice, he would either remove it or leave the trail as it was. Alternate, Ryan Werner thought the trail was ridiculous. In his opinion, trails did not serve their intended purpose. Mr. Roberts recited the code.

Commissioner Obray moved to recommend approval for Nibley Farms Subdivision Phase 4 Final Plat located at approximately 1500 W and 3410 S (Applicant: 7 Point Royal, LLC). Commissioner Mansell seconded the motion. The motion passed unanimously 5-0; with Commissioner Obray, Commissioner Brown, Commissioner Mansell, Commissioner Logan and Commissioner Swenson all in favor.

Commissioner Obray moved to recommend approval for Nibley Farms Subdivision Phase 5 Final Plat located at approximately 1500 W and 3410 S (Applicant: 7 Point Royal, LLC). Commissioner Brown seconded the motion. The motion passed unanimously 5-0; with Commissioner Obray, Commissioner Brown, Commissioner Mansell, Commissioner Logan and Commissioner Swenson all in favor.

Commissioner Obray moved to recommend approval for Nibley Farms Subdivision Phase 6 Final Plat located at approximately 1500 W and 3410 S (Applicant: 7 Point Royal, LLC) with the condition to strike the requirement for the trail at the end of the cul-de-sac. Commissioner Mansell seconded the motion.

The Commission discussed it. Commissioner Swenson said he was going to vote against the motion because he did not want to go against the code. He recommended to review the code and set a distance. Commissioner Obray liked that recommendation. Mr. Roberts thought it was worth reviewing the connectivity standards in general. Commissioner Swenson asked if a variance could be filed. Mr. Roberts did not think it would qualify.

The motion passed 3-2; with Commissioner Obray, Commissioner Mansell and Commissioner Logan in favor. Commissioner Brown and Commissioner Swenson dissented.

Workshop: Setback Requirements for Accessory Buildings

Mr. Roberts informed the Commission that this was a recommendation from the Mayor to increase the setbacks like commercial butting, residential zones. Mr. Roberts utilized an electronic presentation entitled *Accessory Building Setbacks* (a printed copy of this electronic presentation is included in the printed meeting minutes). His presentation included *Background and Considerations*.

Commissioner Swenson asked for clarification regarding the setback from the structure foundation or the drip line. Mr. Roberts recited the definition of setback in the code which stated it was from the foundation. Commissioner Swenson recommended a five-foot minimum to accommodate for the drip line. Commissioner Obray suggested that no portion of the structure could encroach upon adjacent property. Commissioner Logan suggested two-feet foundation and one-foot drip line. The Commission discussed setbacks. Commissioner Swenson did not care what the code said as long it was cleared up because the drip line was an issue between neighbors.

Mr. Roberts discussed additional setback requirements regarding lot size, square footage and building height. He noted that there could be sizable structures close to the property line. He felt that setbacks like commercial might be too restrictive. Commissioner Obray stated that he did not like any of it. He said to keep it off the easements and it was about fire code and not catching other structures on fire. He was alright with building an accessory structure 3-feet from the property line and did not like the idea of off-setting it 10-feet.

Commissioner Swenson asked about the Mayor's concern. Mr. Robert's replied that the Mayor did not go into detail but stated that there were big sheds being built and they were out of character with the neighborhood, and he thought there should be some additional setback requirements like commercial. Commissioner Obray asked if there were any complaints. Mr. Roberts said the only complaint was about the accessory building that was granted a variance.

The Commission debated on the difference between a lean-to and a pergola. They continued the discussion regarding the need for an additional setback standard. Commissioner Swenson thought there could probably be a bigger setback for a 30-foot structure on .75 acres or larger. He suggested instead of 3-feet, maybe 10-feet. The Commission discussed it. There was general consent to increase the setback to 10-feet for anything over 20-feet in height. Commissioner Obray thought to restrict the height to 24-feet and not 30-feet on .75-1.0 acres.

Alternate, Commissioner Werner received clarification on square footage.

The Commission discussed existing Accessory Dwelling Units (ADUs). Commissioner Brown asked if the Commission wanted to change anything on the Accessory Building Setbacks table. Mr. Roberts suggested choosing between maximum building height based on lot size and

maximum building height based on the zone. His thought was to base it on the size of the lot and not the zone. Commissioner Obray thought that for future discussions, it would be helpful to have photos of examples. Mr. Farar commented on the fire codes that would need to be considered. Mr. Roberts confirmed that the building inspector checked for other structures.

Commissioner Logan brought up the discussion regarding temporary and permanent structures. Commissioner Swenson continued the discussion on lot size vs. zone. He reiterated the general consent for a 10-foot minimum setback on anything over 20-feet in height. Commissioner Obray thought it should be a 5-foot minimum setback for anything 20-feet to 25-feet in height and a 10-foot minimum setback for anything over 25-feet.

Workshop: Amendment to Prohibition on Subdivision requirement

Mr. Roberts utilized an electronic presentation entitled *Prohibition on Subdivision* (a printed copy of this electronic presentation is included in the printed meeting minutes). His presentation included *Background*. He explained that Mayor Dustin owned a lot in Apple Creek and wanted to subdivide it in half but was told he could not because of NCC 21.02.130. He said that the Mayor petitioned the City to consider an exception to the ordinance and gave specific language for the change, which gave an exception for your personal residence. Mr. Roberts said that the City Attorney questioned the constitutionality of the ordinance in general. He informed the Commission that staff did not have a recommendation because it was a policy question and not necessarily a land use question.

Commissioner Swenson stated that it was a bad idea anytime an elected official had authority over staff. Commissioner Mansell stated that it created a conflict of interest. Commissioner Obray agreed. Commissioner Brown asked about the application process. Commissioner Swenson asked if it extended to family members. Alternate, Commissioner Werner felt that expectations upon purchase of property were potentially being violated and he was relieved to hear that the ordinance existed. Commissioner Swenson pointed out that the Mayor could legally subdivide his property the day after his term was up. Mr. Roberts confirmed that the ordinance included spouses. Commissioner Obray thought it would be bad to lose an experienced official that helped the City because of the ordinance. Commissioner Swenson helped explain the implications asked by Alternate, Commissioner Werner. The Planning Commission discussed the issue.

Commissioner Obray asked if there was anything that was not cut and dry on the property. Mr. Roberts said there was conservation land and regardless of the outcome, the Mayor was likely to submit a plat amendment which would be allowed.

Commissioner Obray suggested changing the ordinance to say that approval was needed by City Council and not staff. He asked Commissioner Swenson's opinion. Commissioner Swenson said that the ordinance was created to protect the situation and he felt that a principal residence was irrelevant. He said intentions changed and the property could be sold. He thought it was a good ordinance and would not support changing it.

Commissioner Mansell thought it did not look good and any appearance of favoritism should be avoided. Alternate, Commissioner Werner added that there should be control over the motives for seeking out an elected position. Commissioner Brown commented that was part of why people were cynical about government. Commissioner Swenson said it was hard to tell when the developer hat was on or the elected official hat was on and it could change depending on the circumstances.

Mr. Farar asked about the difference between subdividing a 2-acre property vs. a 20, 40-acre property. Mr. Roberts said it was considered a subdivision anytime land was divided but was a minor subdivision if it was 5-acres or less.

Commissioner Obray stated that if it became an issue for him, he would resign his seat to be able to build a home for his child on his property. He thought it was good to have prohibitions on a massive scale but did not see a conflict for a minor subdivision that followed the ordinances. Commissioner Swenson and Commissioner Obray debated.

Commissioner Logan said he liked the ordinance the way it was written. Commissioner Mansell said he was not sure where the line would be drawn.

There was general consent to not move forward with the petition and keep the ordinance as written.

Workshop: Open Space Plan Review

Mr. Roberts utilized an electronic presentation entitled *Open Space Plan Review* (a printed copy of this electronic presentation is included in the printed meeting minutes). He informed the Commission about the state grant that was received and the goal to develop a Transfer of Development Rights (TDR) ordinance and gave background. He pointed out the open space areas that were delineated on the Future Land Use map.

Commissioner Brown asked about the motivation for a property owner to transfer development rights. Commissioner Obray explained. Commissioner Mansell was interested in the possibility for City facilities instead of one-acre parks. Commissioner Obray said there were several examples in southern Utah. The Commission discussed them. They also discussed deed restrictions. Mr. Roberts said that the City was hiring a consultant to assess the market in Nibley and help craft the ordinance. He proposed the question of preserved and high-density areas. Commissioner Obray discussed adding something for the demolition of property and to strike out scenic vistas. Mr. Roberts clarified that recreational areas would have priority over preservation of just open spaces. Commissioner Obray spoke about wetlands and floodplains and Commissioner Swenson added that development was restricted in those areas.

Commissioner Obray was concerned with how to mitigate the large estate lot from stripping off the homes that they would never build and giving them a financial benefit. He said it was a slippery slope. Commissioner Mansell was motivated to see bigger City parks rather than a bunch of one-acre public parks.

The discussion was tabled for next meeting with direction from Commissioner Obray to talk with neighbors and think about what areas should be preserved.

Staff Report and Action Items

Mr. Roberts reported that the Boundary Commission approved the annexation petition to Logan. He informed the Commission regarding some of the Legislature changes that would impact Nibley's code including ADUs, newspaper noticing, conditional uses, zoning on subdivided property and plat amendments. He also reported the new requirement that the Commission needed to complete four hours of land use training yearly.

As an action item, Commissioner Obray wanted to add the distance adjustment to cul-de-sacs.

Mr. Farar, the new City Engineer was introduced, and he gave personal background.

Commissioner Swenson added that it would be a good idea to set aside some space in the middle of town to consider for neighborhood commercial. Commissioner Obray added for an action item, conditions on approvals for rezoning neighborhood commercial.

Commissioner Obray adjourned the meeting at 8:54 p.m.

Attest: _____
Office Specialist