

A Meeting of the Nibley Planning Commission held at Nibley City Hall, 455 West 3200 South, Nibley, Utah on Thursday, September 02, 2021.

The following actions were made during the meeting:

Planning Commission Chair, Tyler Obray called the Thursday, September 02, 2021 Planning Commission meeting to order at 6:31 p.m. Those in attendance included Commissioner Tyler Obray, Commissioner Karina Brown, Commissioner Matt Logan via Zoom and Alternate, Commissioner Ryan Werner via Zoom. Commissioner Garrett Mansell and Commissioner Bret Swenson arrived at 6:39 p.m. Mr. Levi Roberts, Nibley City Planner was present. Jamie Ann Gonzales, Office Specialist was present to record the minutes.

Approval of the evening's agenda and 8-5-2021 meeting minutes

Commissioner Brown moved to approve the evening's agenda. Commissioner Logan seconded the motion. The motion passed unanimously 4-0; with Commissioner Obray, Commissioner Brown, Commissioner Logan and Alternate, Commissioner Werner all in favor.

Commissioner Brown moved to approve the previous meeting minutes. Alternate, Commissioner Werner seconded the motion. The motion passed unanimously 4-0; with Commissioner Obray, Commissioner Brown, Commissioner Logan and Alternate, Commissioner Werner all in favor.

Workshop: Minor Subdivisions Standards

Mr. Roberts utilized an electronic presentation entitled *Minor Subdivision Standards* (a printed copy of this electronic presentation is included in the printed meeting minutes). Mr. Roberts gave *Background and bullet points of consideration for exceptions to nonconforming lots*. Commissioner Obray interjected that his resolution would not change the underlying purpose of the zone. Mr. Roberts said that it was something the City would have to monitor in the future. Commissioner Obray stated that it could be recorded against the title as a non-buildable lot. Mr. Roberts cleared up confusion and informed the Commission that nonconforming lots could be built upon by meeting setbacks and other standards.

Commissioner Mansell and Commissioner Swenson arrived at 6:39 p.m.

Mr. Roberts continued his discussion with staff's recommendation to deny Commissioner Obray's request to amend the ordinance.

Commissioner Obray disclosed that he requested the discussion regarding a lot that he owned. He said that he applied for a zoning variance which was not granted. He said he spoke with several City Council members and the Mayor and was given a general consent of approval as long as the change to the ordinance did not create a way to circumvent the zoning. He stated that what happened on the property could be regulated but added that the city and

government should not be able to dictate how an individual wanted to take ownership of property. He asked Mr. Roberts if during his research, he came across any other cities with this specific issue. Mr. Roberts answered that he was not sure that he got to that level of detail, but he did ask the question about instances for allowing nonconforming lots even if they were non-buildable. Across the board, other than for support of infrastructure etc., the answer he heard was no. He continued further and said that it was not allowed in the city and it was not best practice because one of the main purpose of the zone was to regulate the lot size. Commissioner Obray gave rebuttal on creating a mechanism to allow for a minor subdivision to create a lot with a separate tax identification number but still be able to regulate density.

Commissioner Logan asked for Mr. Robert's suggestion and said that *"this was a really weird problem that needed a really weird solution"*. Mr. Roberts said the City should not write an ordinance for just one specific situation if it had far reaching effects. Commissioner Obray gave an example of another situation in his neighborhood that would benefit from its own tax identification number. He said that in his line of work and experience, there were a lot of reasons why this would be a better mechanism.

In response to Commissioner Obray's suggestion, Mr. Roberts clarified for the record, that his denial was not because it was a new situation. He stated that he also consulted with the City attorney who recommended against it. Commissioner Obray stated that he was going to disregard everything the attorney said because without being present to witness how the questions were asked, he could not confirm that the responses were accurate. Mr. Roberts disagreed with the validity of Commissioner Obray's statement of not being present during discussion with the attorney and they debated.

Commissioner Obray continued to touch upon the bullet points in Mr. Robert's presentation regarding exceptions for nonconforming lots. He reiterated that the mechanism they were discussing was about creating a restricted use on a remainder parcel for whatever purpose. He said that regardless of the attorney's opinion, the Commission could satisfy all the bullet points. He pointed out that ordinances were usually created when the rabbit hole was found to fix what was not seen before. Mr. Roberts said that he worried about unintended consequences of creating a bunch of nonconforming lots, non-buildable lots throughout the City. Commissioner Swenson said that sometimes you do not know what the unintended circumstances were until they happened. Commissioner Obray asked why it mattered having non-buildable lots throughout the City with different tax identification numbers as long as they were being restricted. Alternate, Commissioner Werner said that for future property owners, he could foresee lots of problems in creating separate tax identification numbers. The Commission discussed the issues involving driveways and easements. Commissioner Mansell said that the county assessor did not like separate parcel numbers because of the problem it created with assessments. He said it was cleaner for the title to have an easement with a maintenance agreement. Commissioner Obray defined cleaner as easier and debated why he thought it was cleaner with a separate tax identification number. Commissioner Brown thought it seemed complicated and asked how a mortgage on the deed would work. Commissioner Mansell said that would create a problem. Commissioner Obray explained how the bank could handle it.

Commissioner Obray asked the Commission if they would want to entertain discussion if it was restricted. Commissioner Brown said she was in favor of supporting it. Commissioner Mansell said that part of the dilemma was that the solutions that were already available did not give Commissioner Obray the solution he wanted, which was a separate parcel identification number. Commissioner Logan said he did not like being afraid of things just because something might happen. He said there was a problem that needed to be fixed. Alternate, Commissioner Werner asked if it could be handled with a legal agreement. Commissioner Obray said you could record anything you wanted on a trust deed, but it was a little strange. Alternate, Commissioner Werner asked for clarification on the objective for this case. Commissioner Mansell explained his understanding and asked for clarification. Commissioner Obray explained.

Commissioner Obray said the intent was to allow the type of ownership to be up to the owner while keeping the underlying purpose of the zone and restrict it. Mr. Roberts brought up discussion regarding all subdivisions. Commissioner Obray cited examples of how nonconforming lots were already done in normal subdivisions. He asked Commissioner Swenson about applications pertinent to Hollow Road. Commissioner Swenson did not know the answer. He wanted to know the reasoning of the appeal judge. Mr. Roberts explained. Commissioner Swenson said it was not his specialty. He viewed it as a very complicated, problematic issue because of the unintended consequences and deferred and respected the views of City staff, attorney and others consulted. Commissioner Obray said it did not sound like a problematic issue, it just had not been done before. Commissioner Swenson suggested that maybe a better approach would be to workshop bad things that could happen and what other situations could exist that would benefit. He said the City had a responsibility to be clear and consistently zone the property throughout the City. He added that spot zoning areas was a problem. Commissioner Obray agreed completely but felt if the underlying purpose of the zone was met, it did not make a difference.

Commissioner Swenson brought up discussion regarding the ability to build structures on nonconforming lots. Mr. Roberts said it would just become an additional thing that the City had to monitor and regulate over time. Commissioner Obray said that was "*stupid*". He said the City was there to serve their residents. Commissioner Logan said, "*that's literally why we're here*" and asked Levi for another option or solution. Mr. Roberts said the solution was a lot line adjustment. He said the proposed restricted use on a nonconforming lot could be changed with a plat amendment, which he said concerned the attorney. He explained further. The Commission discussed it.

Commissioner Swenson brought into discussion the question of a separate tax identification number for a remainder parcel in The Cottonwoods. He said that because he was not an expert, he trusted staff and the attorney. And staff would have to be willing to do the work before he was onboard. Commissioner Obray appreciated the example in The Cottonwoods because he said that was really what he was trying to accomplish. Commissioner Swenson asked Mr. Roberts if it changed his view. Mr. Roberts said not at that point but understood it. He requested that Commissioner Obray put together some language to send to staff for review and recommendation. He elaborated further that for any future ordinance change requests, he

would like the applicant to suggest the language. Commissioner Obray agreed with the request that he put some language together and suggested another workshop.

Workshop: Short-term Rental Regulations

Mr. Roberts utilized an electronic presentation entitled *Short-term Rentals* (a printed copy of this electronic presentation is included in the printed meeting minutes).

Mr. Roberts gave *Background and Potential provisions*. He mentioned that that they were not yet common and widespread, and the ordinance would be more for foreseeable problems.

Commissioner Brown shared that she was in favor of an Airbnb. She said she had recently used one and thought they were more family friendly and affordable. She discussed the requirements for Cedar City. She thought the suggested provisions were fair. Alternate, Commissioner Werner said he stayed in and owned and operated many short-term rentals and thought there was a shortage in the Valley, especially Nibley. He thought the City should remain lenient and encourage people to have them. He felt most of the provisions were overkill and unnecessary. Commissioner Mansell thought short-term rentals were just a different kind of hotel room. He explained that there are management companies that manage all the provisions suggested and did not think that the City wanted to be the management company. He wanted to see rules that allowed the City to enforce problems to neighboring properties and impose fines. He was in favor of a business license. Commissioner Obray asked if there could be a different business license fee for resident vs. non-resident. He wanted to see the money stay in the community. He was in favor of a business license with restrictions and creating a mechanism where a citation was a consequence if not followed. Office Specialist, Jamie Ann Gonzales added that the City needed to consider code enforcement when creating ordinances. Commissioner Brown said that bad behavior reflected negatively on the renter which affected future rentals.

Mr. Roberts said the question was how the City wanted to regulate short-term rentals. He informed the Commission that there were limits set by the state on how they could be regulated and discussed it. Commissioner Obray asked if they should consider it when there was a problem. The Commission discussed a business license requirement. Commissioner Swenson said that the parking issue was a concern and brought up language requirements like Accessory Dwelling Units (ADU). Mr. Roberts suggested basing the parking on occupancy.

Commissioner Obray suggested a business license requirement with no charge but requiring the owners to sign a document that they could be notified in the future with additional restrictions. Commissioner Brown thought there should be a charge for a business license. Mr. Roberts gave his suggestions. Commissioner Obray was against creating an ordinance that could not be enforced. The Planning Commission discussed it. Mrs. Gonzales thought it was important to think of the impact on neighbors but not be too restrictive to homeowners if it could not be enforced. Commissioner Mansell suggested making the owners aware of the ordinances and consequences of violation. The Commission discussed it. Alternate, Commissioner Werner would rather have short-term rentals than long-term and thought the ordinance provisions were already good enough except for a business license requirement.

Mr. Roberts discussed a provision in the ADU ordinance that needed to be revisited. There was general consent to revise the ADU ordinance pertaining to short-term rentals.

Mr. Roberts discussed with the Commission whether to add specific conditions to the ordinance. They discussed providing a list of rules to the owners to provide to their renters. Commissioner O Bray was in favor of a business license but wanted to wait on specifics until there were problems to address. He thought the existing code was fine but wanted it to apply to ADUs. Alternate, Ryan Werner thought the industry was self-regulating and discussed his past experiences. The Commission discussed the annual Fire Marshal inspection requirement, parking, and occupancy restrictions.

Mr. Roberts said he would create a new section for the ordinance and change it from a conditional use to a permitted use. He informed the Commission that Airbnb and Vrbo listings could not be utilized for code enforcement. He thought it would be good to have one more workshop.

Staff Report and Action Items

Mr. Roberts reported the following:

- Staff review of Wesley Nelson Farms concept plan
- Staff review of an open space subdivision off Highway 165 and 3400 S
- Waiting on Nibley Meadows updated preliminary plat
- Revisions to the ADU ordinance
- State code amendments
- Two family dwellings vs. ADU
- Commissioner Trainings

Commissioner O Bray adjourned the meeting at 8:14 p.m.

Attest: _____
Office Specialist