

A Meeting of the Nibley Planning Commission held at Nibley City Hall, 455 West 3200 South, Nibley, Utah on Thursday, October 21, 2021.

The following actions were made during the meeting:

Commissioner Logan moved to recommend approval for Ordinance 21-20: Short-term Rental Regulations with the condition of not requiring insurance. Commissioner Brown seconded the motion. The motion passed unanimously 3-0; with Commissioner Obray, Commissioner Brown and Commissioner Logan all in favor.

Planning Commission Chair, Tyler Obray called the Thursday, October 21, 2021, Planning Commission meeting to order at 6:36 p.m. Those in attendance included Commissioner Tyler Obray, Commissioner Karina Brown, and Commissioner Matt Logan. Mr. Levi Roberts, Nibley City Planner was present. Mr. Darren Farar, Nibley City Engineer was present. Mrs. Jamie Ann Gonzales, Office Specialist was present via Zoom to record the minutes.

Approval of the evening's agenda and 9-16-2021 meeting minutes

Commissioner Brown moved to approve the evening's agenda. Commissioner Logan seconded the motion. The motion passed unanimously 3-0; with Commissioner Obray, Commissioner Brown and Commissioner Logan all in favor.

Commissioner Logan moved to approve the previous meeting minutes. Commissioner Brown seconded the motion. The motion passed unanimously 3-0; with Commissioner Obray, Commissioner Brown and Commissioner Logan all in favor.

Public Hearing: to receive public comments for Ordinance 21-20: Short-term Rental Regulations

Commissioner Obray opened the public hearing at 6:37 p.m.

Commissioner Obray closed the public hearing at 6:37 p.m.

Discussion and Consideration: Ordinance 21-20: Short-term Rental Regulations

Mr. Roberts utilized an electronic presentation entitled *Short-term Rentals* (a printed copy of this electronic presentation and draft of short-term rental ordinance is included in the printed meeting minutes). He gave an overview which included *Background, Recommended provisions*, recommendations from the City Attorney and *Staff Recommendation*. In response to the attorney's recommendation to require proof of insurance, Commissioner Obray did not want to get involved and risk liability. The Commission discussed it. Commissioner Logan thought it would do more harm than good. There was general consent for the ordinance language.

Commissioner Obray brought up discussion regarding accessory structures. Mr. Roberts recommended adding *or accessory dwelling unit* for clarification after *C. Short-term rentals are only allowed within a permanent, residential structure*. Commissioner Brown noted that the

State of Utah wanted accessory dwelling units to be used for more housing and not really for profit. Commissioner Obray discussed different perspectives and thought it was an economic benefit. Mr. Roberts said it gave more flexibility. The Planning Commission gave general consent. For clarification, Commissioner Obray added *or long-term rental* to *E. Only one Short-term rental shall be allowed for each property*. Commissioner Obray recited the state code definition of a short-term rental. There was general consent to not require insurance.

Commissioner Logan moved to recommend approval for Ordinance 21-20: Short-term Rental Regulations with the condition of not requiring insurance. Commissioner Brown seconded the motion. The motion passed unanimously 3-0; with Commissioner Obray, Commissioner Brown and Commissioner Logan all in favor.

Workshop: Revisions to Financial Assurance and Warranty of Subdivision Improvements

Mr. Farar utilized an electronic presentation entitled *Subdivision Ordinance 21.14.060 Guarantee of Improvements* (a printed copy of this electronic presentation is included in the printed meeting minutes). His presentation included *Code Objectives, Identified Concerns, Warranty Period – Sidewalks, Warranty Period – Landscaping, Financial Assurance – Term, Developer Comments, Special Case Example, and Landscaping Example*. Commissioner Obray questioned the reason for the requested changes. Mr. Farar gave Ridgeline as an example of not wanting to start the sidewalks because fifty (50) percent of it would be thrown away in the end. Commissioner Obray disclosed that he did development loans for the bank. He questioned the letter of credit on the sidewalks and discussed the process. He was concerned about sidewalk delays of more than a year and suggested a different warranty calculation for a separate sidewalk durability. His suggestion was 2x or 3x, held on deposit with the City and not a letter of credit. Mr. Farar asked Commissioner Obray how a letter of credit worked. Commissioner Obray explained and said the development agreement needed to be reviewed. He offered to bring in a sample of the boilerplate format for a letter of credit. Mr. Farar thought it would be a good idea to get legal input.

As a durability for the landscaping warranty period, Commissioner Obray suggested holding one hundred twenty (120) percent of the costs and twenty-five (25) percent of project costs. Mr. Farar thought about doing (120) percent or a \$5,000 minimum. Commissioner Obray thought that was a great idea.

Commissioner Obray said the bank would not be able to do a 5-year term in response to Mr. Farar's proposed change. He said it would come down to phasing and something to be considered. He informed Mr. Farar that the standard on a letter of credit in lending was one year and one year renewable. He gave a suggestion for code language. They discussed the outcome of requiring payment on the letter of credit. Commissioner Obray said a 5-year term would make it very difficult, but a 2-year term was reasonable.

Commissioner Logan asked Commissioner Obray about the difference between deposit versus letter of credit. Commissioner Obray explained, and they discussed it. Commissioner Obray thought the issue in completing the development, was the durability period and not the access

to the money. He reiterated reviewing the development agreement to make sure there was specific language in the default clause that allowed the City to call upon it.

Commissioner Brown asked if four (4) years for the developer to complete the work was too long. Commissioner Obray said it depended on the market. Mr. Farar answered that in this market it was way too long but in 2008 it was not enough.

Mr. Farar wanted to discuss further, within a subcommittee and consult the attorney, to be fair to the development community but to also protect the City's interest.

Commissioner Logan said he hated seeing sidewalks put in during active construction because they were always broken before completed. He was alright with waiving the need to complete all the sidewalks at once if they were all completed. Commissioner Obray added as long as the City reserved enough money if the developer disappeared. Commissioner Logan liked the suggestion of (120) and (25). Commissioner Obray was nervous leaving that up to staff, setting a precedent and creating a rule. Mr. Farar said it would put a lot of pressure on staff. Mr. Roberts said it should be well defined. The Commission discussed flexibility with waiving the need to complete a project to start the one (1) year warranty period.

The Planning Commission discussed having landscaping and trees in front of residential lots on a separate track of assurance and pushing back the June 15th deadline for improvements. In response to Commissioner Obray's question, Mr. Roberts said the City required street trees from the developer in every subdivision. He added that landscaping requirements needed to be reviewed in more detail. Commissioner Obray thought that the tree requirements for individual lots should be part of the homeowner, landscaping ordinance. He thought it was an unreasonable burden on the developer to put trees on vacant lots before knowing when the house would be built. Mr. Farar liked the idea of having them on a separate track. The Commission discussed market conditions. Mr. Farar informed the Commission that staff needed some more time to come up with reasonable solutions. Commissioner Obray suggested collecting the cost of each tree from the developer. Then, after the homeowner received their Certificate of Occupancy, they would receive a gift certificate to a nursery.

Workshop: Accessory Dwelling Units and Two-Family Housing

Mr. Roberts utilized an electronic presentation entitled *ADUs & Two-Family Housing* (a printed copy of this electronic presentation is included in the printed meeting minutes). His presentation included *Background, Issues, Potential Approaches, and Conflicts between Nibley ADU ordinance and State Code*. He discussed ADU restrictions in Nibley City Code that are not allowed under the updated State Code (these restrictions are included in the *Agenda Item #4: ADUs and Two-Family Dwellings* report included in the printed meeting minutes). He mentioned that the City had not received any applications for ADUs over the course of the year. And added that he had not received a lot of feedback on restrictions. Commissioner Logan thought that residents might not know that they could build an ADU on their lot. Mr. Roberts said that staff did some resident outreach but heard there were financing issues and asked Commissioner Obray to comment. Commissioner Obray stated that ADUs could not be financed

through a traditional mortgage, but through a home equity line of credit or something like that. The Planning Commission discussed their thoughts on ADU shortages. Commissioner Logan thought the issue was elevation and access. Mr. Roberts asked if ADUs and Two-Family Housing should be regulated differently and discussed ways to differentiate under Utah State Code. He informed the Commission that it was a problem from staff's perspective and needed to be cleaned up. He clarified that the City's ordinance could not be more restrictive than the State and there were conflicting measures that needed to be amended.

Commissioner Brown said she was okay with two-family housing in all residential zones. The Planning Commission discussed splitting Internal Accessory Dwelling Units (IADUs) and Duplexes and regulating differently.

Commissioner Obray suggested changing the code to require that the owner on record must occupy a minimum of one resident in any two-family housing or ADU. Mr. Roberts suggested taking out *attached* in the ADU ordinance. He said he would create a draft with changes to discuss in another workshop.

Staff Report and Action Items

Mr. Roberts reported on the following:

- Review of Ridgeline Park preliminary plat phases four (4) through ten (10)
- Second review of Nibley Meadows preliminary plat
- Review of concept plans for several smaller subdivisions
- Landscaping Ordinance on future agenda
- Commissioner Obray wanted to discuss setbacks and requirements for future utility sites

Commissioner Obray adjourned the meeting at 8:35 p.m.

Attest: _____
Office Specialist