
**City of Nibley
Planning Commission
Held at Nibley City Hall
455 West 3200 South
Nibley, UT 84321
Thursday April 14, 2022**

Call to Order – Roll Call – Approval of Agenda – Approval of Minutes

Meeting called to order at 6:32 p.m.

Present: Commission Chair Bret Swenson, Commission Vice Chair Tyler O Bray, Commissioner Garrett Mansell, Commissioner Matt Logan, Commissioner Karina Brown and Alternate Commissioner Erin Mann

Absent:

Staff Present: City Planner Levi Roberts, City Recorder Cheryl Bodily and Assistant Recorder Jamie Ann Gonzales

Guests Present: Mayor Larry Jacobsen

Applicants: Dustin Hansen, Capita Group LLC Skyler Jenks, Emily Woods, Wesley Nelson Farms Inc Al Bingham, President and Heritage Crossing LLC Matthew Payne

There was general consent for the evening's agenda and March 17, 2022, meeting minutes.

Swearing in of Erin Mann as Alternate Planning Commissioner

City Recorder Cheryl Bodily asked Erin Mann to raise her right hand and repeat the following:

“I, Erin Mann, having been appointed by the Nibley City Council on March 10, 2022, as an alternate to the Nibley City Planning Commission, do solemnly swear that I will support, obey and defend the Constitution of the United States and the Constitution of the State, and that I will discharge the duties of my office with fidelity.”

Public Hearing: Ordinance 22-07: Rezone of parcel 03-041-0003 and a portion of parcel 03-041-0001 from R-1 to R-1A (Applicant: Dustin Hansen)

Mr. Roberts utilized an electronic presentation entitled *Dustin Hansen Rezone: R-1 to R-1A* (a printed copy of the presentation is included in the printed, record copy of the meeting

minutes). His presentation included *Background, Map, Future Land Use Map, Concept Plan, Site Context and General Plan guidance* and *Staff Recommendation*.

Commissioner Swenson read the public hearing rules of order and opened the public hearing at 6:40 p.m.

Troy Rasmussen – 3412 South Main

Mr. Rasmussen had a question about the minimum requirement for how far away the road needed to be from his property line.

Commissioner Swenson closed the public hearing at 6:43 p.m.

Discussion and Consideration: Recommendation for Ordinance 22-07: Rezone of parcel 03-041-003 and a portion of parcel 03-041-001 from R-1 to R-1A (Applicant: Dustin Hansen)

Mr. Roberts responded to Mr. Rasmussen's question. He said there was no distance that the road needed to be and could go right up to the property line.

Alternate, Commissioner Mann wanted clarification on whether the $\frac{3}{4}$ acres was large enough to keep a rural designation. Mr. Roberts replied that the applicant indicated that he wanted an open space subdivision. He referred to the concept plan and explained that the lot sizes were dependent upon the open space percentage.

Mr. Roberts stated that the open space was shown as private, in response to Commissioner Obray's question. He added that City Council could require it to be public as a condition of approval.

Commissioner Obray disclosed that he was the adjacent property owner to the south. He questioned the additional lot that would be in the floodplain. Mr. Roberts said you could build in a floodplain if the elevation was raised. He confirmed that the road to the cul-de-sac was proposed as private.

Commissioner Mansell was concerned with splitting zones on a single parcel.

Commissioner Obray brought up the ordinance allowing for the higher density zoning if your parcel was split. Mr. Roberts informed him that the code changed, and it no longer had that provision.

Action:	Recommend approval for Ordinance 22-07: rezone of parcel 03-041-003 and a portion of parcel 03-041-001 from R-1 to R-1A (Applicant: Dustin Hansen)
Motion:	Commissioner Obray
Second:	Commissioner Logan
Vote:	Unanimous

Public Hearing: Ordinance 22-08: Rezone of a portion of parcel 03-019-0003 from Industrial (I) to Commercial (C) (Applicant: Capita Group LLC)

Mr. Roberts utilized an electronic presentation entitled *Capita Group Rezone: Industrial to Commercial* (a printed copy of the presentation is included in the printed, record copy of the meeting minutes). His presentation included *Background, Site Plan – Zoning Change Map, Zoning Context, Future Land Use Map, Concept Site Plan, Images, Industrial Concept Site Plan and Image, Site Context and General Plan Guidance* and *Staff Recommendation*.

Commissioner Swenson opened the public hearing at 6:59 p.m.

Audra Anderson – 2835 South 800 W

A written copy of Ms. Anderson's comments is included in the printed, record copy of the meeting minutes.

Troy Danielsen – 2800 S 800 W

He and his wife love the area and have thoroughly enjoyed their historic house. He echoed problems with traffic and called 800 W a third highway. The speed limit sign says 25MPH, but he stated that very few people followed it and was concerned for pedestrian safety. His concerns were noise and other commercial opportunities in the area. He would prefer that the parcel remained zoned for industrial or do something to increase and protect the farm property.

Dennis and Dianna Smith – 2876 S 800 W

Mr. Smith stated that their property was rezoned from residential to industrial, and his question was how this would affect their property and rezoning again. Mrs. Smith stated that they were residential with the county, but industrial through the city. Mr. Smith affirmed that there was no due process.

Danielle Gilsdorf – 2875 S 800 W

Ms. Gilsdorf was concerned with the traffic. She tearfully expressed how terrible it was to have a two (2) year old and five (5) year old on the road and was worried about their safety. She stated that people were driving fifty (50) miles per hour down the road all the time. She declared that they loved Nibley, but announced that if the traffic increased again, they were looking at moving. She also expressed concern about utilities and power.

Commissioner Swenson closed the public hearing at 7:12 p.m.

Discussion and Consideration: Recommendation for Ordinance 22-08: Rezone of a portion of parcel 03-019-0003 from Industrial (I) to Commercial (C) (Applicant: Capita Group LLC)

Mr. Roberts addressed Mr. Smith's question. He said there was nothing in front of the Commission that would change anything on their property, but they could submit a rezone application to consider rezoning the property as residential. Commissioner Mansell confirmed that CORE showed the parcel as residential. Mr. Roberts stated that the map showed it as industrial and said it might need to be investigated.

Commissioner Swenson encouraged Mr. Smith to meet with city staff to resolve his particular concern. He asked Mr. Roberts to address the traffic concerns. Mr. Roberts said that in general, with any kind of development, there would be increased traffic. However, one thing to consider was that industrial was more permissive than commercial and more could happen.

Mr. Jenks affirmed that they were looking at the highest and best use personally, but also for the community. He felt that the traffic that went along with industrial was not the best fit for the neighborhood. He said the city was presented with three (3) options and the assisted living facility and active adult community was chosen as the best fit. He expressed that they were concerned and conscientious about the residents nearby.

Commissioner Brown received a response that the rezone was about 9.7 acres.

Alternate, Commissioner Mann wanted to know if the parcel was owned by Nibley City or Capita. Mr. Jenks stated that the property was currently owned by Logan Coach and it was under contract with Capita.

Commissioner Logan asked about current traffic studies and maximum capacity of the road. Mr. Roberts replied that it was designated as a collector street and depending on the impact, they may be required to do a traffic study. He indicated that 800 W was not what would typically be considered at capacity. He also responded that the city had not gotten to the level of discussion about power and water, but it seemed there was adequate utilities to service that type of development.

Commissioner Mansell said traffic was one of his concerns, but the two (2) biggest concerns were:

1. The precedent that would be set by splitting the zoning on a single parcel. He wondered if it could be split prior, so an entire parcel could be rezoned.
2. There was no guarantee that if the rezone was approved, the proposed development would be built.

Commissioner Obray pointed out that commercial zoning was far more restrictive, and a conditional purpose had to be approved. Mr. Roberts clarified that in general, if there were impacts that could not be reasonably mitigated, then the conditional use permit could be revoked. Commissioner Obray also specified that R-M (Mixed Residential Zone) was not allowed. Mr. Jenks reiterated that if the rezone was not approved, they had plans for development in the industrial zone. Commissioner Obray liked the concept of an assisted living and retirement community more than a gas station, hotel, or industrial building, which he thought would have a far greater impact on traffic.

Commissioner Swenson asked Mr. Roberts if the city had any recommended conditions. He said that the Commission could recommend a conditional approval of a rezone, but future enforcement gets messy.

Mr. Roberts summarized uses in Commercial and Industrial Zones using *19.20 Land Use Chart* as requested by Commissioner Obray. Mr. Roberts observed that a commercial zone in general, was less intrusive than industrial on residential areas.

Action: Recommend approval for Ordinance 22-08: rezone of a portion of parcel 03-019-0003 from Industrial (I) to Commercial (C) (Applicant: Capita Group LLC) with the condition that it is a separate parcel I.D.

Motion: Commissioner Obray

Action: Amended motion: Recommend approval for Ordinance 22-08: rezone of a portion of parcel 03-019-0003 from Industrial (I) to Commercial (C) (Applicant: Capita Group LLC).

Motion: Commissioner Obray

Second: None

Vote: Motion Failed

There was further discussion from Commissioner Mansell. He felt like it was a “lose, lose” and wished the TDR (Transfer of Development Rights) was approved to do something with Morgan Farms. He thought industrial was more detrimental and commercial would be better, being more restrictive. He wanted the parcel split first before approval of a rezone.

Alternate, Commissioner Mann received an explanation on the process to split the parcel.

Commissioner Obray received clarification that a minor subdivision was allowed in an industrial zone.

Action: Recommend approval for Ordinance 22-08: rezone of a portion of parcel 03-019-0003 from Industrial (I) to Commercial (C) (Applicant: Capita Group LLC) with the condition that it be given its own parcel I.D. prior to the zoning.

Motion: Commissioner Mansell

Second: Commissioner Obray

Vote: Unanimous

Public Hearing: Ordinance 22-09: Allowing ‘pet services’ as an allowed use in commercial and other zones (Applicant: Emily Woods)

Mr. Roberts utilized an electronic presentation entitled *Pet Services in Commercial Zones* (a printed copy of the presentation is included in the printed, record copy of the meeting minutes). His presentation included *Background* and *Staff Recommendation*.

Commissioner Swenson opened the public hearing at 7:42 p.m.

Seeing no public comment, Commissioner Swenson closed the public hearing at 7:42 p.m.

Discussion and Consideration: Ordinance 22-09: Allowing ‘pet services’ as an allowed use in commercial and other zones (Applicant: Emily Woods)

Commissioner Logan confirmed that pet services did not include pet boarding.

Commissioner Obray was confused with the applicant needing a license to operate as a dog groomer out of Heritage Animal Hospital because there were already existing groomers in that location. Mr. Roberts clarified that it was not for the vet service, but a separate business license for a pet groomer which was not listed on the chart.

Commissioner Mansell wanted to know if there were setback requirements in relation to the noise ordinance to prevent residential nuisances. Mr. Roberts responded that if it was adopted as a conditional use permit, there could be conditions to limit the noise per the ordinance.

Commissioner Brown added that pet grooming was in very high demand and a needed service.

To avoid any misunderstanding, Commissioner Obray wanted it specifically stated that it was allowed in commercial (C), industrial (I), neighborhood commercial (C-N) versus other zones.

Action: Recommend approval of Ordinance 22-09: Allowing ‘pet services’ as an allowed use in commercial and other zones which are restricted to commercial, industrial and neighborhood commercial (Applicant: Emily Woods)
Motion: Commissioner Obray
Second: Commissioner Mansell
Vote: Unanimous

Public Hearing: Ordinance 22-10: Amending NCC 19.32- Residential Planned Unit Development Standards regarding minimum project acreage (Applicant: Wesley Nelson Farms Inc)

Mr. Roberts utilized an electronic presentation entitled *R-PUD minimum project acreage* (a printed copy of the presentation is included in the printed, record copy of the meeting minutes). His presentation included *Background, Concept Plan, General Plan and Ordinance Intent* and *Staff Recommendation*.

Commissioner Swenson opened the public hearing at 7:56 p.m.

Seeing no public comment, Commissioner Swenson closed the public hearing at 7:56 p.m.

Mr. Bingham addressed the Commission. He discussed the annexation from Logan, moratorium, property zoning and acreage challenge and the private road at 2600 S. He said the plan was a grocery store in the commercial area west of Heritage Dr. that goes north and south and was being finalized in the next sixty (60) to ninety (90) days. He offered to come back to the Commission to make the announcement. He reiterated that the biggest thing was to do it the right way, for the community and not haphazardly. He informed the Commission that it came

down to a grocery store or townhomes. He said they did not want to have townhomes next to single-family homes which was previously a challenge and discussed the concept plan.

Discussion and Consideration: Recommendation for Ordinance 22-10: Amending NCC 19.32-Residential Planned Unit Development Standards regarding minimum project acreage (Applicant: Wesley Nelson Farms Inc)

Commissioner Obray had no interest in changing the minimum project acreage from forty (40) to eighteen (18).

Alternate Commissioner Mann received clarification on development in an R-PUD overlay zone and rezoning of the parcel.

In response to Commissioner Brown's question, Mr. Roberts explained that the applicant was arguing that if their specific piece of property needed to be forty (40) acres, then a grocery store would not fit. Commissioner Brown brought up the recommendation from Planning Commission to keep the minimum project acreage at twenty (20). Mr. Roberts said that City Council decided on forty (40) and after more research, it was staff's recommendation.

Commissioner Mansell was in favor of higher density along the highway. He was in favor of the forty (40) acres but wondered if there could be a caveat if the development was within a certain distance from the highway or arterial road. Mr. Roberts said there could be.

Commissioner Obray commented that he wanted to see the overall site plan regarding the grocery store which he thought was in the best interest, as well as commercial. However, he said he was not prepared to change from forty (40) to eighteen (18) for all the R-PUD areas.

Commissioner Logan stated he had no interest in doing anything below forty (40).

Commissioner Brown agreed with Commissioner Mansell that it was right off the highway and fit the area. She also pointed out the severe housing shortage in the valley.

Alternate, Commissioner Mann asked about a mixed used zone to allow for townhomes and the grocery store. Mr. Roberts explained that the R-PUD ordinance allowed up to thirty (30) percent neighborhood commercial. He said this scale of commercial was not really within the R-PUD ordinance and the applicant was proposing the residential development.

Commissioner Obray wondered if a legal description could be created to only allow for the eighteen (18) acre R-PUD. Mr. Roberts said the language could be crafted for what they thought was appropriate.

Commissioner Swenson was not in favor of lowering the forty (40) acres and wondered if the goal could be accomplished with an open space subdivision for the remainder of the commercial property.

Mr. Roberts responded to Commissioner Brown. He said if the language was well defined specific to that area, they could vote. Commissioner Swenson thought they needed several meetings to discuss the issue. Commissioner Mansell did not think it could be done in just one.

Action: Move to continue the discussion for Ordinance 22-10: Amending NCC 19.32- Residential Planned Unit Development Standards regarding minimum project acreage (Applicant: Wesley Nelson Farms Inc)
Motion: Commissioner Brown
Second: None
Vote: Motion Failed

Action: Recommend denial for Ordinance 22-10: Amending NCC 19.32- Residential Planned Unit Development Standards regarding minimum project acreage (Applicant: Wesley Nelson Farms Inc)
Motion: Obray
Second: Logan
Vote: 4:1 Commissioner Brown dissented

Discussion and Consideration: Heritage Crossing Subdivision Final Plat, containing 17 single-family residential lots, located at approximately 3100 S 1200 W. (Applicant: Heritage Crossing, LLC)

Mr. Roberts utilized an electronic presentation entitled *Final Plat: Heritage Crossing* (a printed copy of the presentation is included in the printed, record copy of the meeting minutes). His presentation included *Background* and *Staff Recommendation*.

Commissioner Swenson received clarification on the swale recommendation from the City Engineer.

Commissioner Brown was informed that the lots were for custom built homes on 7.7 acres.

Commissioner Obray wanted the plat amended when it was recorded, to include dash lines and titled a *non-buildable drainage easement*.

Action: Approval of Heritage Crossing Subdivision Final Plat, containing 17 single-family residential lots, located at approximately 3100 S 1200 W. (Applicant: Heritage Crossing, LLC) with the conditions recommended by staff and a condition that all drainage and easement areas be delineated on the plat with a dash line to differentiate from the lots.
Motion: Commissioner Mansell
Second: Commissioner Brown
Vote: Unanimous

Commissioner Swenson called for a five-minute break at 8:34 p.m.

The meeting resumed at 8:40 p.m.

Workshop: Review of the Concept Plan Options for the City Park at Ridgeline Park

Mr. Roberts utilized an electronic presentation entitled *City Park@ Ridgeline Park* (a printed copy of the presentation is included in the printed, record copy of the meeting minutes). He presented two (2) concept designs and costs of Ridgeline Park on behalf of the project manager, Darren Farar. He stated that there would be about two million dollars in impact fees from the Ridgeline Park development. He informed the Commission that the designs were reviewed by City Council, the Parks and Recreation Committee, as well as a steering committee.

Commissioner Obray wondered when it changed from the developer putting in the park to the city. Mr. Roberts said it changed when the park development agreement was finalized and approved by City Council. Commissioner Obray pointed out the last concept as the only affordable option.

Mr. Roberts mentioned that the city was also looking at potential grant opportunities. He responded to Commissioner Mansell's question regarding impact fees, which he said was approved and would be earmarked toward park improvements. Commissioner Swenson asked if that was in today's dollars. Mr. Roberts replied that it was based on the four thousand five hundred dollars per unit.

Commissioner Logan loved the concept plans from "blu" but was disgusted with the amount of money they were quoting for the cost.

Commissioner Obray expressed that it was ridiculous that the burden was now on the city and did not want to proceed with the presentation until there were real estimates. Mr. Roberts said that it would be a multi-phase project and the focus right now were the priorities to get the park started. He explained that it was brought to the Commission for feedback on the design and prioritizing elements. He described the features that could be included with the two million dollars allocation.

Commissioner Obray brought up discussion about the road and parking. Mr. Roberts said it was approved on the final plat, but it was not wide enough for on-street parking. He added that a ten (10) foot trail was required along the roadway. Commissioner Obray questioned the approval of the final plat with on-street parking and wanted to refer to previous minutes.

Commissioner Logan thought the open waterway was "the way to go" and would be enjoyed more than the splash pad. The idea was seconded by Alternate, Commissioner Mann. Mr. Roberts added that the splash pad was not affordable without more funding.

Commissioner Brown thought the idea of the pavilion with the roller-skating rink was "awesome." She mentioned space for an indoor recreation center. Mr. Roberts said there was a budget for a feasibility study.

Commissioner Swenson liked it all, but it came down to affordability. Mr. Roberts added that City Council expressed trails and basic amenities for functionality first.

Commissioner Obray wanted someone with experience in development to acquire bids and not city staff. He deferred to the Mayor. Mayor Jacobsen clarified that it was important to remember where they were in the process and the money was not being spent at the meeting. He thought that looking at a phasing plan that made sense was more important than worrying about the money.

As a mother of small children, Alternate Commissioner Mann recommended lots of benches.

Commissioner Obray liked the bike element for older kids. Alternate Commissioner Mann added the idea of a skate park as well. Commissioner Logan said the purpose of his involvement was because older kids needed something to do. He liked the bouldering and skate park. Commissioner Brown informed the Commission that Hyrum was building one of the nations biggest skate parks.

Staff Report and Action Items

The Mayor addressed the Commission. He thanked them and appreciated how “professional, courteous, thoughtful and analytic” they were. He wanted the Commission to understand that his presence was not to influence them but gain knowledge for himself. He encouraged them to speak privately regarding any concerns. Commissioner Brown told the Mayor she appreciated his presence. She said it showed good leadership.

She suggested a flashing sign on 800 W to help with the speeding. Mrs Gonzales added that when she walked her dogs, it was difficult to cross the street to get to the park. She added that cars did not stop at the crossing intersections because there were no stop signs. Commissioner Logan mentioned a flashing pedestrian sign and thought that sometimes people do not look. Commissioner Obray added that the visibility, because of the low hanging trees by the park, made it dangerous. The Mayor answered Commissioner Brown’s question regarding the speed on 800 W. He informed the Commission that the city could direct law enforcement to focus on specific areas and explained the process for measuring speeds. He added that deputies could also help motorists understand that pedestrians had priority.

Mr. Roberts reported that the 3200 S roundabout was on track for completion by early summer. The Mayor said by May 10th. He discussed a COG (Council of Governments) right of way acquisition for a trail on 800 W.

Mr. Roberts reported on the following:

- Attendance at the APA (American Planning Association) Utah chapter conference and legislative updates
- Subdivisions under staff review

Meeting adjourned at 9:18 p.m.

ATTEST:

Jamie Ann Gonzales, Assistant Recorder