
**City of Nibley
Planning Commission
Held at Nibley City Hall
455 West 3200 South
Nibley, UT 84321
Thursday October 20, 2022**

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

Meeting called to order at 6:31 p.m.

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

Absent: Commissioner Matt Logan and Commissioner Karina Brown

Staff Present: City Manager Justin Maughan, City Planner Levi Roberts, City Engineer Tom Dickinson and Assistant Recorder Jamie Ann Gonzales

Guests Present: Mayor Larry Jacobsen, Councilmember Kay Sweeten and John Janson, People + Place, LLC via Zoom

Applicants: Ethan Teuscher and Todd Stimpson

There was general consent for the evening's agenda.

There was general consent for September 15, 2022, meeting minutes.

Commissioner Swenson informed the public that Public Hearing: Salmon Fly Minor Subdivision Final Plat, located at 4598 S Hollow Rd (Applicant: Steve Smith) was canceled.

Public Hearing: Ordinance 22-19: Transfer of Development Rights (TDR) Ordinance and zoning several parcels as a TDR Sending Overlay Zone or a TDR Receiving Overlay Zone

Mr. Roberts utilized an electronic presentation entitled *Transfer of Development Rights* (a printed copy of the presentation is included in the printed, record copy of the meeting minutes).

His presentation included:

- **Overview**
- **What is Transfer of Development Rights**
- **Why adopt a TDR Ordinance**

He recited the *Residential Development and Housing* vision statement:

While retaining the character and form of established neighborhoods, residential development in Nibley will emphasize the conservation of open space and, using that conservation process, will incorporate a variety of housing forms.

He also identified it as a strategy within the Open Space Master Plan.

- **TDR Systems**
- **Nibley's TDR Process**
 - Public engagement
 - Case studies
 - Market analysis – Zions Public Finance
 - Designation of sending and receiving zones
 - Draft ordinance catered to Nibley's unique development issues
 - TDR strategic implementation element
 - Staff implementation
- **Public & Stakeholder Engagement**
 - Community Survey
 - Heritage Days Outreach
 - Property Owner/Developer Outreach
- **Utah TDR Case Studies**
 - Mapleton
 - Ogden Valley (Weber County)
 - Spanish Fork
- **Market Study Findings**
- **Nibley TDR Ordinance Elements**
 - Definitions
 - TDR Sending overlay standards
 - TDR Receiving overlay standards
 - Standard forms
- **TDR Sending Overlay**
 - Permitted uses
 - Sending areas identification
 - Application guidelines
 - Severance of development rights
- **TDR Receiving Overlay**
 - Permitted uses
 - Receiving areas identification
 - Receiving area maximum density
 - Other modifications to zoning standards and chart
- **Sending Areas Selection**
 - Sensitive/significant lands
 - Productive agricultural lands
 - Scenic vistas
 - Unimproved parks/historic land
 - Overlapping areas

- **Receiving Areas Selection**
- **Zoning Map**
- **Staff Recommendation**

Recommend approval of Ordinance 22-19: Transfer of Development Rights (TDR)
Ordinance and zoning several parcels as a TDR Sending Overlay Zone or a TDR Receiving
Overlay Zone

Commissioner Swenson read the Rules of Order and opened the public hearing at 7:09 p.m.

Michael J. Arambel, Nibley Corner, LLC written comment read by Mr. Roberts

[00:38:41] I received a notice for a Public Hearing with regards to including a portion of our property in the newly proposed TDR Ordinance. This could impact the future development of our land and property of the following land parcels:

parcel: 03-028-0019

03-028-0008

03-028-0021

03-028-0005

I do Not want to be part of anything that would impact my ability to develop any vacant parcel that I am currently using for agricultural purposes. Therefore, I request that I am NOT included in your efforts to change anything as it pertains to my property. This email shall serve as written notification of objection. [00:39:27]

[00:39:39] Include in your minutes that I vehemently object to being included in this rezoning process. [00:39:42]

Ron Bliesner 110 E 3700 S

[00:40:23] I'm Ron Bliesner 110 East 3700 South in Nibley. I just want to say that I applaud this effort in general. I think preserving open space is an important part of our community development in Nibley. And I thank the staff and the consultants for the work that they've done. I would ask that there be a consideration for allowing sending zones within receiving zones. And let me explain why. A given parcel doesn't necessarily have both rights, but we have within your receiving zones map now some relatively significant open spaces, including those for participating as a sending zone, we're saying that those have less value than open space in larger areas and living in one of these receiving zones and having seven acres of open land, I think it has value to keep it open. If it's only a receiving zone, there's no opportunity for those people to acquire the value of their property other than developing it. And I believe it has value to the community, to have open space surrounded by these higher density areas. And so I would ask you to consider the option of allowing receiving zones within sending zones.

[00:41:50]

Jim Johnson 510 W 3800 S

[00:42:09] I think I signed up for the wrong one but I'm going to speak to it anyway. I'm intrigued. My name's Jim Johnson. I live at 510 West, 3800 South in Nibley. Transfer and Development rights is something that I have been familiar with as I have developed property all over the country. And these can be great benefits to cities, but they're wonderful benefits to

developers like myself. So I'm all in favor of this. This is kinda the Eldorado, okay. For developers because trading and moving ground around and development rights and so forth and getting paid for it is a wonderful thing if you're a developer. So I, I applaud that. But I also speaking as a former member of the Planning Commission, okay, I'll put my planning hat on, you have to be very careful. Okay? As you do this and really define what limits are, for instance, as Ron was just speaking, it just brought to my mind and I start thinking about things like okay how might I take advantage of this? And I first go, I'm going to buy a great big piece of land and I'm going to get it rezoned. I'm going to keep getting it rezoned as far as I can. And then I'm going to sell it and I'm going to trade to somebody for you know, they're going to pay me a lot of money for that. And then I'm going to say, well, you're going to have to give me back some development rights and still allow me to develop. So there's all kinds of things that happen when you're bartering over development right transfers. And so I just I suggest that you're really, really specific in determining what your limits are, in determining we're going to talk about Flag lots, Pipestone lots, whether they can be involved. Okay in all of this, determining what's going to happen to all of the plans that have been developed, such as your transportation plans. You have roads that you have proposed all over the you know, all over the city and those roads are they going to be affected by these to where someone can sell their development rights and they basically go to a situation where their whole ground is in conservation. Does that mean now that the city can't cross that ground with the proposed roads that they're looking at? So I suggest that you really spend a lot of time thinking about this because there's lots of ramifications and there's lots of things that can come up and bite you, you know, somewhere down the road. So I think it's really important that you do that. I heard the concept of money here, but are there going to be limits on what people can do or how much a development right is going to be worth? I heard you know, I heard you talk a little bit, Levi, about numbers about 10,000 for this and something else for this. Is that going to be something that's really considered and limited as we go about looking at this plan? Water issues, are the people who are giving up these transfer development rights, are they going to be required, as developers are today, to give up water shares? You and I are familiar with these things and if you don't have the water shares, how that all works. So how are the water shows going to be dealt with? Mixed use. Mixed use is something that our city has not really been accustomed to. Okay. When I first was on the Planning Commission and I can remember Corlyss Drinkard, God bless her, I love her to death sitting in these seats here. And any time we get anywhere near condos or townhouses or anything like that, she's right out of her chair and scold us. Okay. So that's another issue that's really sensitive. And you got to look at that because that's a pretty big step for Nibley going to mixed use, which means apartment buildings over the top of commercial stuff. That's what you're looking at. I would kind of also focus on the receiver and the sender, because once the receiver sends out his development rights, what does that look like for him? What does that mean for him? Is he done ever developing or as someone said, I don't know if it was Ron or whoever it was? Can you buy back more development rights? Like suppose a family changes their mind and they want to go buy the development rights from somebody else and put it back on the property. Is that permissible? You don't know. So I applaud what you're doing. I just hope that you'll spend a lot of time thinking about this because this is a big game. This is a big Monopoly game when you start dealing with transfer development rights, it really is. And there's lots of stuff that's in and I

love the city and we love being here. And I really appreciated the time that I was on Planning Commission, but I know how difficult this could be. You're really up into something that New York City and now Washington, D.C. and other places like that deal with. Nibley 5000 people. All the land that we have. There's lots of questions to be answered. So I suggest that you really take your time and you do that. And I've tried to just add a couple of things that I would focus on. Which had to be with the zoning mixed use stuff, you know, ownership rights. Who keeps it? All those kind of things. And especially the plans that you put in place. You have lots of transportation planning and the water issues and all that that that I didn't hear any of that in this presentation. [00:48:08]

Valerie Steadman 3831 S 260 W

[00:48:20] For the record, Valerie Steadman, 3831 South 260 West in Nibley. You'll have to forgive my allergy voice. So I have one question. In this proposal, Levi, right? You were suggesting the numbers are like ten or twelve slides ago. Can you go back? A couple of more slides. Yes. So you were saying that currently it's like ten units per developable, No it's not. It's like 15. Right. Let's say the R-M eligible areas. How many is it currently based on density? Ten or fifteen? [00:49:08]

[00:49:19] Okay. So if this is approved, then it would be lowered to ten? [00:49:22]

[00:49:36] Yeah that's helpful, that's helpful to know just in the sense of not knowing for sure, what it's going to be moving forward. It's hard to say, like whether or not you vote on something, right? Because something has a lot of moving parts. So if you vote for something at currently fifteen or twenty, what if it goes through at fifteen or twenty? So make sure you're thinking about the higher density numbers as they are, in case that's what happens to go through. And then also just beware, past city planners maybe have taken liberties where they maybe should not have, have had friends in their pockets. So beware, giving too much power to one individual who can determine how our city looks. That's. That's my suggestions. Thank you. [00:50:27]

Ryan Zollinger 96 E 700 North Millville

[00:50:45] For the record, Ryan Zollinger, currently I live in Millville 96 East 700 North Millville. We have property that you guys have identified within your sending zone. Where I commend you on your efforts to address open space where we recognize that it is valuable to communities, to quality of life. I do not personally believe that Nibley City is ready to take on an ordinance of this type. I agree wholeheartedly with the comments of the gentleman that talked about development and the octopus and the thing that you will open up when it comes to giving people the ability to barter. We own land that is in your annexation declaration. We would appreciate not participating in this zone at this time. Thank you. [00:51:30]

Commissioner Swenson closed the public hearing at 7:22 p.m.

**Discussion and Consideration: Ordinance 22-19: Transfer of Development Rights (TDR)
Ordinance and zoning several parcels as a TDR Sending Overlay Zone or a TDR Receiving
Overlay Zone**

Mr. Roberts addressed the following public comment questions:

- **Transportation Plans**

He did not think “it was necessarily adequately addressed in the ordinance.” Mr. Janson added that public right of ways was part of the permitted uses and seconded the idea to secure a dedication for any master roads before a Conservation Easement was finalized.

- **Water Shares**

There was a provision in the code that they needed to stay with the property.

- **Buy Back of Development Rights**

There was no provision for that because if a development right was transferred, it would be a perpetual easement on the property and the property rights were severed.

- **Flag Lots**

They were not contemplated but the Flag Lot Ordinance was limited to subdivisions of three lots or less.

Mr. Janson brought up the comment on transferring property rights within the same parcel. He thought it might make sense in a development agreement. Mr. Roberts included that if this was adopted, it was not “set in stone” and someone could petition the city for a rezone.

Commissioner Mann received clarification on the TDR program in Farmington to protect a park.

Commissioner Mansell did not think the city was ready for the program. He was concerned with “picking winners and losers.”

Commissioner Obray agreed with Commissioner Mansell that they were not ready to do it. He said as Mr. Johnson pointed out, there were a lot of provisions that they did not have experience with. He was not comfortable or ready to move forward and vote and suggested more discussion. He thought there should be more study and research. And thought they asked the citizens the wrong questions and received non-informed responses. He added that it needed to be a “more of a surgical application, not a horse swap type thing”.

Commissioner Swenson appreciated everyone being present and the comments that were made. He wanted the Commission to consider a buffer zone for the overlays to existing subdivisions, especially the receiving zones. He also thought they needed to “fine tune” the overlay map. He had a question about a parcel that was not included in the proposed overlay zones and wanted to be, if they could petition to be added. Mr. Roberts responded that they would need to go through the current rezone process.

Commissioner Obray thought being able to elect what overlay zone you wanted to be, with exception to very specific areas should be part of the ordinance. Commissioner Mann reiterated Commissioner Mansell’s point of choosing “winners and losers”. Mr. Roberts thought there should be an opportunity to change the map over time as they learned, and values changed.

Commissioner Obray wanted to add something to be able to buy back property rights. Mr. Janson commented that those rights were severed in a recorded document with someone holding the conservation easement which he thought would be legally difficult to “wade” through. He thought it was contrary to the theory of the ordinance which was to guarantee open space in “perpetuity”.

Commissioner Mansell thought they needed to be more specific on the map because you “cannot predict the future”. Mr. Janson specified that the holder of the conservation easement had the management responsibility to ensure that farming continued which he thought was a challenge.

Commissioner Mann proposed leaving the undeveloped, sending properties blank and letting people petition to rezone and voluntarily participate. Mr. Roberts thought that was an approach the city could take but the only drawback was it added an additional discretionary step to the process.

Mr. Janson reminded the Commission that this was a voluntary process and would be saving the property owner a step. He said that one could argue that it really did not influence the properties unless they wanted to engage in the TDR process.

Action: To continue Ordinance 22-19: Transfer of Development Rights (TDR) Ordinance and zoning several parcels as a TDR Sending Overlay Zone or a TDR Receiving Overlay Zone

Motion: Commissioner Mansell

Second: Commissioner Obray

Vote: Unanimous; 4-0

Commissioner Obray thought they should have a joint workshop with City Council on the zoning map.

Public Hearing: Teuscher Flag Lot Subdivision Preliminary Plat, located at 3812 South 450 West (Applicant: Ethan Teuscher)

Mr. Maughan left the meeting at 7:48 p.m.

Mr. Roberts utilized an electronic presentation entitled *Preliminary Plat: Teuscher Flag Lot* (a printed copy of the presentation is included in the printed, record copy of the meeting minutes).

His presentation included:

- **Background**
- **Preliminary Plat Map**
- **Flag Lot Requirements**

Mr. Roberts specified that Nibley City’s Flag Lot code was 19.46. At the request of Commissioner Obray to pull up the Master Plan, he utilized the Nibley City GIS Viewer.

- **Utilities & Easements**
- **Transportation**
- **Street Trees**
- **Staff Recommendation**

Approval of the Teuscher Flag Lot Subdivision Preliminary Plat with the following condition:

Street trees should be included along 450 West at a minimum of every 50', as required by NCC 21.12.170

Mr. Roberts noted that Planning Commission was the approval authority. He stated that it required a preliminary plat because of the road dedication and could not be considered a minor subdivision.

Commissioner Swenson reminded the public of the Rules of Order and opened the public hearing at 8:01 p.m.

Darrin Wray 470 W 3800 S

[01:30:58] I'm Darren Wray. I live at 470 West 3800 South. So we're the property just west of this parcel. We just had a question on the roadway. Obviously want to know whether there's going to be the full road or just half. And then right now there's a fence and then we have some trees in the easement there. And we were just wondering what would happen to the fence and the trees and easement, if anything. Thank you. [01:31:26]

Jim Johnson 510 W 3800 S

[01:31:47] Denise gave me her time. [01:31:48]

[01:31:55] I miss doing battle with you. It was fun. My name's Jim Johnson. As I said before, we live at 510 West 3800 South. Do you mind bringing up that that road transportation map if you would please? The rest of it didn't come in, did it? [01:32:15]

[01:32:22] Yeah if you would, that would be great. [01:32:23]

[01:32:54] And think that's enough. Can I approach? Okay. It doesn't have my property on it, but this road right here is the one you referenced earlier, the extension of Meadow View.

[01:33:09]

[01:33:11] Sorry. This one was the extension of Meadow View. Correct? Is that the one? And then this was another proposed change to the Transportation Plan. Right. That would go down through this parcel, which is the Schiess parcel all the way to 4000. Okay. That's. And I'm not sure when that happened, but can that could you go to my parcel where you showed the old one Right. [01:33:41]

[01:33:54] I understand that. But generally and I also understand that if I choose to develop this property and as I develop the property, correct me if I'm wrong, as they develop that property, I would have to include that road in that subdivision based on this is on the master plan. Is that correct? LEVI is nodding his head. Okay. That road here, this proposed extension that comes across it comes across here like this. And if I were to develop this property, our property, that I would be required to put that in. Okay. Based on what I've discussed with Levi, is that correct? That's correct. And then if this piece right here, the road comes down here, I don't know if you

all are familiar with the battle that went on years ago over that very idea. And I think, Larry, it was part of it. Okay. And I think he was the savior in that, but there was nobody who was in favor of that thing. Okay. That was a huge battle that went on. And it was on the Master Plan. And then it got took off the Master Plan. Correct. Okay. So there's a lot of history as to why about these two proposed roads. And I'll just say about that is that I don't know if you look at the one the extension of Meadow View Lane, but I'm suggesting that you might because where Meadow View Lane is finished and to where it would start on my property, the elevation difference is fifteen feet. Now, that's taller than the ceiling is. Okay. And right next to it, there's a canal. And the canal crossing the canal. You can only imagine what that involves in the city. But if I ever decided to choose to subdivide this property, that road, and I was required to put that road in, I would have to build a road into the plan. And there are plenty of engineers up in this place would understand that you would need a lot more right away to put in that kind of a road that had the banks on it, that supported everything on both sides to enable that to happen. Okay. So that that would be that would be a huge, huge impact to us as property owners. And that road probably would never go in because of the cost of that thing, simply the cost of doing that. And the city planners before okay and the mayor before and I'm not sure what mayor is now at all suggested that that never happened, that that road never be put in there and a cul de sac we put in. Okay, because of those issues, the city doesn't want to maintain a huge culvert underneath that road and all the liability that goes with that thing that your requirement to buy more right of way from me. Okay. If that road is ever put in and all the issues that go with that. So what I'm saying is that that decision was made. And I guess the frustrating part about that decision being made is that I was never contacted, ever about that being on plan, ever. Okay. There was never a notice that was sent to me or Mr. Schiess or any of our heirs or our neighbors or anything that this was being considered and being brought up. Now, I understand that there probably was a little line someplace in some random newspaper that said, by the way, this is what we are doing. Okay. But it was never it was never brought to our attention. Now, gratefully, that this subdivision is proposed tonight. There was a notice sent out. There was I don't even think a sign was posted when this thing came up to be the road. Okay. But but at least now there are signs that are put up and there's, you know, notes that are sent out to all property owners. Okay. So I've submitted request, Levi, to have that reconsidered. Okay. By this group, that's another subject. But Levi brought it up about the road being extended, I thought it was important to bring up. To the issue at hand. I'm a developer. Okay. And I look for places where I can find and I as a reference before the Holy Grail or the what do you call it, the Eldorado, where I as a developer can get extra lots without doing anything that benefits the city. And all it does is benefit me. Money comes into me as a result of getting these flat lots. And I can't tell you how many subdivisions I've proposed across the country that do that very thing. And you know how many of my have ever received? Zero. Never. Okay. The cities have always shut me down because, you know, they give me and I'm a Capitalist. Okay? So I would love to have that free money coming in. But the city says it's just bad land planning. Okay. The city has said that the cities themselves to be able to provide fire protection like they're providing for all the other you know, all the other houses in there it's hard for them to do that even though they have a thirty-foot road and even though they can put their what they call these hammer head driveways to come into it. It's not providing the same level of services that the next owners or the ones after that have a right to receive. Okay.

They don't necessarily. I don't know what it does for the city, really, other than what it does for me to where I'll have more money and I can spend more money in the city. Okay. That's my first issue. The second issue is that I am fortunately or unfortunately sat on this Planning Commission when this was approved. This ordinance was approved. And I understand that having learned that flag lots serve their purpose, but the purpose is very, very minimal in any place I've ever developed property, there's always been so many reasons not to do it. Specifically, the neighbors don't really like it, and that's just my opinion. [01:40:22] [01:40:29] This is about this particular thing. This is where I'm going to go. Okay. When we wrote this ordinance and if you bring the language up Levi. If you bring the language up. Being on that committee, we were very specific okay in writing this because I think the flavor of the committee at the time was there's a place for flag lots, but we don't really want it okay and let's see. Where is that? (D) do we have (D)? Do we have (4)(D)? Okay. It says here, specifically, flag lot creation shall only be allowed only be allowed in the subdivision where the parcel that is being subdivided is limited for future development. Okay. By specifically its overall size, its frontage, its severe topography. And the important word in all of this is. *And* it does not say *Or* it says *And*. Land use in adjacent parcels. Okay. So if whoever the applicant is, I mean, no offense to you, whoever you are, if you want to offer me the right amount of money, you can buy all that property next to me and you can develop galore. Right. So there's no prohibition on that. Okay. The rest of it has to be met. The word says, *And* that's an inclusive word. It's not *Or*, it's *And*. And when we developed this. Okay? It was my take on it that I was being more of a learned my lessons over the 40 years I've been developing that flag lots aren't a good idea so and was put in there to make it very difficult that only in those specific situations where all those things were met that they would approve. Okay. And it says *And* it doesn't say *Or*. So I think I think what happens in my opinion is that if I'm not, I'm not it. I mean, I'd love to go develop a bunch of flag lots. I'd like to develop my whole property and flag lots and then title that Eldorado if I could, but I don't think I should. I just don't think that I should because words matter and these words say this, okay? And if Nibley City decides not to go by the words, in my opinion, what you're doing is you're opening up the window or the door for developers, just like me to say, I have this property over here. And Nibley just walked away or turned their back on what the word said, and let's go do it and go point our fingers at this and say, You did it for him. Why don't you do it for us? So there are there are ways that this can happen, but it's required to happen through the process of changing the words and having that approved by the citizens who have to live by these properties and thereby they can develop. But that's it's all my opinion. It's all my experience. And I'm just saying you to focus on the *And* word. [01:43:57]

Commissioner Swenson closed the public hearing at 8:15 p.m.

Discussion and Consideration: Teuscher Flag Lot Subdivision Preliminary Plat, located at 3812 South 450 West (Applicant: Ethan Teuscher)

Mr. Roberts addressed the following public comment questions:

- **Full or Half Road**
A half road was being proposed.
- **Fences and Trees**
The fences and trees would not be impacted if they were within the city right of way.

Commissioner Mansell brought up Mr. Johnson's reference to the word *And* in the ordinance. His biggest concern was on the north side running in with Sheridan Cove Dr. Mr. Roberts said to keep in mind that it was a driveway and not a street. He explained Commissioner Mansell's question on why the city did not want to put in a half road on the south end as there would be in a normal subdivision. Commissioner Mansell did not think this met the criteria for a flag lot because there was development capability to the south.

City Attorney Rob Patterson joined the meeting via Zoom at 8:22 p.m.

Mr. Roberts felt that the flag lot met the standards of Nibley City Code 19.46(4)(D) but understood that it was open to interpretation. Mr. Patterson responded in general terms. He said the Planning Commission had some discretion in interpretation and determining whether the lot was developable or not without the flag lot process.

Commissioner Obray was opposed because he did not think it met the standard of 19.46(4)(D) and it did not qualify for a flag lot. He was against it.

Action: To deny Teuscher Flag Lot Subdivision Preliminary Plat, located at 3812 South 450 West (Applicant: Ethan Teuscher) because it does not meet the criteria of NCC 19.46 (4)(D)
Motion: Commissioner Obray
Second: Commissioner Mansell

Mr. Roberts brought up another ordinance that allowed up to three lots on a private lane and wondered how this was any different. Commissioner Obray stated that was not up for discussion this evening and could present a different proposal. But as proposed, it did not satisfy the requirements.

Commissioner Swenson asked for Mr. Robert's opinion. Mr. Roberts thought it met the (4)(D) requirement.

Commissioner Mann thought it seemed to fit the requirements and from her understanding, did not see any reason for denial. She said it seemed like there was "no real ground to stand on".

Commissioner Swenson trusted staff and attorney's opinion that it did meet those requirements but believed that it was written poorly and ought to be looked at.

Mr. Patterson wanted to understand what the concern was with it being limited or not so he could address his recommendation. Commissioner Obray's interpretation of being limited was because of its own size, not because of adjacent parcels. Mr. Patterson thought that was a valid interpretation of the ordinance. He interpreted it by not looking at adjacent parcels because in development, cities typically are not allowed to

look at other parcels and how they impact the one being developed. He informed the Commission that per state law, the city is only allowed to look at who owns property and what they are doing with it. Commissioner Obray responded that if adjacent parcels could not be considered, then the ordinance itself was in violation of state code and could not approve it. He replied to Commissioner Swenson that if the word was *Or* it would change his opinion.

Mr. Patterson affirmed that the code had to always be interpreted to kind of meet government standards. He explained the general rule of exaction as it applied.

Vote: Motion Failed; 2-2
Commissioner Mansell and Commissioner Obray in favor
Commissioner Mann and Swenson dissented

Action: To continue Teuscher Flag Lot Subdivision Preliminary Plat, located at 3812 South 450 West (Applicant: Ethan Teuscher)

Motion: Commissioner Mansell

Second: Commissioner Obray

Vote: Unanimous; 4-0

Mr. Roberts asked the Commission for feedback to bring back for discussion. Commissioner Obray suggested a proposal for a private lane.

Public Hearing: Johnson Meadows Subdivision Preliminary Plat, located at 3400 South 450 West (Applicant: Todd Stimpson)

Mr. Roberts utilized an electronic presentation entitled *Preliminary Plat: Johnson Meadows* (a printed copy of the presentation is included in the printed, record copy of the meeting minutes).

His presentation included:

- **Background**
- **Preliminary Plat**
- **Phasing**
- **Utilities and Easements**
- **Canals**
- **Transportation**
- **Trails**

Mr. Roberts utilized *Stimpson Trail exhibit* (a printed copy of this exhibit is included in the printed, record copy of the meeting minutes).

- **Floodplain**
- **Staff Recommendation**
 - **Staff Recommendation**
Approval of the Johnson Meadows Subdivision Preliminary Plat with the following conditions:

1. The phasing of the subdivision needs to be modified so that the value of improvements is commensurate with the number of units in each phase. This may be accomplished by moving the phase line to include all improvements on 3400 South or by splitting the phases more evenly with 5 lots in one phase and 6 in another phase.
2. The alignment of the trail needs to more closely match the master-planned alignment and include required improvements of a 10' wide trail design.
3. Need to include a note at final plat that stormwater is to be managed by individual lots.
4. Need to add existing floodplain to preliminary plat and remove note that no floodplains are on the property.

**If Planning Commission recommends anything contrary to Nibley City Code, the preliminary plat needs to be approved by City Council with a Planning Commission recommendation. The modifications can be formalized by development agreement.*

Commissioner Swenson called for a 5-minute recess at 8:54 p.m.

The meeting resumed at 8:59 p.m.

Commissioner Swenson opened the public hearing at 8:59 p.m.

Jamie Bradford 399 W 3400 S

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[00:00:24] Okay. So Jamie Bradford my address is 399 West 3400 South. So I just have a couple of questions that weren't addressed in here. Like, first of all, like we're I think as a neighborhood we're all for this and we like the lot sizes and I think that's important to us. Last time this land was going to be developed, it was third acres. So this is a lot more appealing to us. But some of the things that weren't addressed that we have concerns about is single family. That's never been addressed. We would like to make sure that it's just single-family dwellings on these properties. And the second one is how it is in here. You've got power poles in the middle of the road. So last time it was going to be developed, it was legitimately in the millions of dollars to get this plot ready. It was also on the back side, so there was more to it. But by the time the canal got property fixed and the power poles were removed, it was literally in the millions of dollars to fix this land up and where we're being told the \$88,000. That's a real concern to us. So I don't know if you guys are aware, but the canal has flooded in the past. Our house was one of the ones affected by it. We've just got to make sure that that canal is properly taken care of so that flooding doesn't happen and we are not on the floodplain. So so that's kind of it. It was the Canal Company's fault that it flooded. And so, you know, they say it's been fixed, but that's something that really needs to be addressed. And we need to make sure that the money is being put in there and the corners aren't being cut out. And the other thing is the swells I worry about with the canal, you know, we've seen Apple Creek swells and how it affected that they've been. I worry if something were to happen to the canals, the swells wouldn't be enough to support that. And like I said, if the canal broke like it has before. So I think that all of our concern is I mean, especially the power poles and moving those and what's going to take place with that. I know that last time Rocky Mountain Power would not help move

those poles that that was strictly the construction company that would be in charge of that. And so, again, that's a concern. So that's all I got, thank you. [00:02:57]

Commissioner Swenson closed the public hearing at 9:02 p.m.

Lori Hopkin written comment read by Mr. Roberts

[00:03:19] This is from Lori Hopkin and she said, I spoke with you this afternoon about the land that is being proposed for development on 3400. I live across the street from it and would have loved the opportunity to have bought it myself and kept it for agricultural purposes. I know that many things would have factor into that but it's nice and refreshing to see agriculture out my window. There are many studies today showing that nature helps our mental state and lowers stress levels. Once there are houses built there, there is no way to return to nature or agriculture. I would love to see a community garden there, or nature trail weaving its way around that area. Or a combination of the two. I do not believe, with all the other places that are being developed into more houses, that this small piece of land is better used for more house. It would do more for all of the area to keep it open and green and some place for all to enjoy. Thank you for listening. [00:04:11]

Discussion and Consideration: Johnson Meadows Subdivision Preliminary Plat, located at 3400 South 450 West (Applicant: Todd Stimpson)

Mr. Roberts addressed the following public comment questions:

- **Power Poles**
Applicant intends to move them as required by Rocky Mountain Power
- **Single-Family**
A Permitted Use; two family dwellings allowed everywhere in Nibley City with owner occupant
- **Canal Flooding and Swales**
Commissioner Swenson responded to Ms. Bradford's concern that required testing of the swales was part of the approval process. Mr. Roberts added that storm water would be looked at in more detail at final plat.

Commissioner Mansell's only concern was the uniformity of the swales on 3400 S.

Commissioner Mann received clarification on the unfinished road on 450 W.

Mr. Roberts utilized the *Nibley City Parks, Trails, Recreation, & Open Space Master Plan September 2017 Trails Map page 42* at Commissioner Obray's request. Commissioner Obray agreed with the applicant's proposal for the alignment of the trail easement. Mr. Roberts recommended that the Planning Commission be clear in their recommendation that it was required.

Commissioner Swenson said he would be okay with the modification if it was reviewed by City Council.

Action: Approval of Johnson Meadows Subdivision Preliminary Plat, located at 3400 South 450 West (Applicant: Todd Stimpson) with staff recommendation but with exception of item 2. to allow the applicant's proposed trail exhibit and improvement of trail as part of the subdivision.

Motion: Commissioner Obray

Second: Commissioner Mann

Vote: Unanimous; 4-0

Staff Report

Mr. Roberts reported on the following:

- Introduction of New City Engineer Tom Dickinson
- Salmon Fly Subdivision
- R-M Zone Changes
- ULCT Conference Attendance
- Cache Summit on November 9th

Action Items

- Flag Lot Ordinance
- Annexation Plan

Commissioner Swenson adjourned the meeting at 9:21 p.m.

ATTEST:

Jamie Ann Gonzales, Assistant Recorder