
**City of Nibley
Planning Commission
Held at Nibley City Hall
455 West 3200 South
Nibley, UT 84321
Thursday February 16, 2023**

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

Meeting called to order at 6:30 p.m.

Present: Commission Chair Garrett Mansell, Commission Vice Chair Bret Swenson, Commissioner Tyler O Bray, Commissioner Karina Brown and Commission Appointee Clair Schenk

Absent: Commissioner Matt Logan

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

Guests Present: Mayor Larry Jacobsen

Applicants: 7 Point Royal Travis Taylor

There was general consent for the evening's agenda.

There was general consent for February 02, 2023, meeting minutes.

Swearing in of Clair Schenk as an Alternate Planning Commissioner

Mrs. Bodily asked Mr. Schenk to repeat the following words:

*I, Clair Schenk, having been appointed by the Nibley City Council on January 26, 2023 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 this State, and
That I will discharge the duties of my office with fidelity.*

Mayor Larry Jacobsen and City Engineer Tom Dickinson arrived at 6:32 p.m.

Public Hearing: Ordinance 23-08: Amendment To Nibley City R-PUD Development Agreement Between Nibley City And 7 Point Royal, LLC for Nibley Meadows Subdivision

Mr. Roberts utilized an electronic presentation entitled *Nibley Meadows DA Amendment* (a printed copy of the presentation is included in the printed, record copy of the meeting minutes).

His presentation included:

- **Background**

Mrs. Bodily left the meeting at 6:33 p.m.

- **Summary of Terms**
- **Updated Development Plan Images**

Mr. Roberts mentioned that the agreement was drafted in consultation with the City Attorney and City Engineer and was seen by staff as “a viable path forward for the development.”

- **Staff Recommendation**
Recommend approval of Ordinance 23-08: Amendment To Nibley City R-PUD Development Agreement Between Nibley City And 7 Point Royal, LLC for Nibley Meadows Subdivision

Commissioner Mansell read aloud the rules for public comment.

Commissioner Mansell opened the public hearing at 6:40 p.m.

Seeing no public comment, Commissioner Mansell closed the public hearing at 6:40 p.m.

Discussion and Consideration: Recommendation for Ordinance 23-08: Amendment To Nibley City R-PUD Development Agreement Between Nibley City And 7 Point Royal, LLC for Nibley Meadows Subdivision

Commissioner Schenk said it looked like a pretty good plan. He wondered if the dirt road was going to be eliminated that he thought was owned by the *Riggs*. Mr. Roberts clarified that it was a public right of way meant to be a trail and was previously approved to be installed by the developer.

Commissioner Brown said it looked good.

Commissioner Obray received clarification on moving the lots to other areas.

Mr. Roberts responded to Commissioner Swenson that the remainder parcels would not be used in the open space calculation. Commissioner Swenson questioned agreeing to a smaller park. Mr. Roberts said it was a minor change to work with the landscaping.

Commissioner Mansell brought up the amenities in Phase 3 that were in the wetlands. Mr. Taylor said they would build there what they could and relocate the other improvements that they could not build there. Mr. Roberts added that in the event the developer was unable to relocate the amenities, the city would require a bond for financial assurance.

Commissioner Mansell received clarification that the Park Agreement would be discussed as the next item on the agenda.

Action: Recommend Approval of Ordinance 23-08: Amendment to Nibley City R-PUD Development Agreement Between Nibley City And 7 Point Royal, LLC for Nibley Meadows Subdivision
Motion: Commissioner Schenk
Second: Commissioner Brown
Vote: Unanimous; 5-0

Public Hearing: Ordinance 23-09: Park Development Agreement Between Nibley City And 7 Point Royal, LLC for Nibley Meadows Subdivision

Mr. Roberts utilized an electronic presentation entitled *Nibley Meadows Park DA* (a printed copy of the presentation is included in the printed, record copy of the meeting minutes).

His presentation included:

- **Background**
- **Summary of Terms**
- **Staff Recommendation**

Recommend approval of Ordinance 23-09: Park Development Agreement Between Nibley City And 7 Point Royal, LLC for Nibley Meadows Subdivision

Commissioner Mansell opened the public hearing at 6:51 p.m.

Seeing no public comment, Commissioner Mansell closed the public hearing at 6:51 p.m.

Discussion and Consideration: Recommendation of Ordinance 23-09: Park Development Agreement Between Nibley City And 7 Point Royal, LLC for Nibley Meadows Subdivision

Commissioner Swenson asked about the cost of the bathrooms indexed to inflation. Mr. Roberts responded that City Council previously approved tying the splash pad to inflation but not the restrooms. Commissioner Swenson also received clarification on the \$80,000 for the design of the park.

In response to Commissioner Obray, Mr. Roberts reported that the storm water basins, as requested by the city, would be owned, and maintained by the developer. Commissioner Obray received clarification that it was not codified for the city to always maintain them. Mr. Dickinson said it was his understanding that if it was city owned property, the city would maintain it. Mr. Roberts added that the developer proposed the option to the city, but City Council decided to only own and maintain the park.

Commissioner Brown was curious on the difficulty to obtain water rights and shares. Mr. Roberts said it was not easy but there was a path forward of paying a fee in lieu if the developer did not have enough.

Commissioner Schenk commented that 1200 W was a busy road and the park needed to be carefully designed to ensure the safety of small children.

Action: Recommend Approval of Ordinance 23-09: Park Development Agreement Between Nibley City And 7 Point Royal, LLC for Nibley Meadows Subdivision
Motion: Commissioner Obray
Second: Commissioner Schenk
Vote: Unanimous; 5-0

Discussion and Consideration: Conditional Use Permit for Pet Wants to operate a Pet Services Business that includes pet grooming at 2280 Heritage Dr (Applicant: Patrick Banning)

Mr. Dickinson exited the meeting at 7:00 p.m.

Mr. Roberts utilized an electronic presentation entitled *Pet Wants- Dog Grooming CUP* (a printed copy of the presentation is included in the printed, record copy of the meeting minutes).

His presentation included:

- **Background**
- **Anticipated impacts and applicable standards**

Mayor Jacobsen exited the meeting at 7:05 p.m.

- **Staff Recommendation**

Approval of Conditional Use Permit for Pet Wants to operate a Pet Services Business that includes pet grooming at 2280 Heritage Dr (Applicant: Patrick Banning) with the following conditions:

1. All dog grooming operations shall be within the existing building.
2. Operating hours shall not occur outside of 7:00 am –10:00 pm.
3. A building inspection must be conducted to ensure the building meets intended use and occupancy for the building.

Commissioner Brown said it looked “really good” and as a dog owner, there was a need for it. Commissioner Schenk agreed.

Commissioner Mansell was concerned about the noise from all the businesses in the building which also included batting cages and cheer camp. Mr. Roberts gave more background on the building inspection issues for the other businesses. He said it was likely that improvements would have to be made to the building pertaining to the fire code to pass inspection. He informed the Commission that the city has not issued a business license for the other two businesses.

Commissioner Obray received clarification on the building inspection and inspector. Mr. Roberts explained that it needed to be inspected for the use and the occupancy of the intended use. He said it was already inspected by the fire marshal and the building inspector who was contracted by the city for commercial buildings, was working with the applicant.

Commissioner Schenk asked about separation between retail and grooming. Mr. Roberts believed the grooming was in the back but said that the applicant did not provide a layout of the uses. He informed the Commission that it was not necessarily required but could be an added condition.

Commissioner Obray did not think the city had a purpose or right to tell a privately owned business how to occupy the building except for meeting the code requirements.

Action: Approval of Conditional Use Permit for Pet Wants to operate a Pet Services Business that includes pet grooming at 2280 Heritage Dr (Applicant: Patrick Banning)
Motion: Commissioner Brown
Second: Commissioner Obray
Vote: Unanimous; 5-0

Public Hearing: Ordinance 23-10: Amending 21.12.060: Blocks, Connectivity And Trail Standards

Mr. Roberts utilized an electronic presentation entitled *Blocks, Connectivity, and Trail Standards* (a printed copy of the presentation is included in the printed, record copy of the meeting minutes). His presentation included:

- **Background**

Mr. Roberts gave an example of an issue with a trail that dead ended at the church located at 1584 W 3200 S.

Mayor Jacobsen returned to the meeting at 7:12 p.m.

He also mentioned that the ordinance was reviewed and updated by the City Attorney who said that the requirement was legal and suggested clarifying that the trail needed to go to the site and through the site as well.

- **Staff Recommendation**

Recommend approval of Ordinance 23-10: Amending 21.12.060: Blocks, Connectivity And Trail Standards

Commissioner Mansell opened the public hearing at 7:13 p.m.

Seeing no public comment, Commissioner Mansell closed the public hearing at 7:13 p.m.

Discussion and Consideration: Ordinance 23-10: Amending 21.12.060: Blocks, Connectivity And Trail Standards

Commissioner Obray did not think it was as simple as providing connectivity during business hours. He thought it needed to be researched more because of prescriptive easement and access becoming public right of way. Commissioner Mansell brought up churches blocking off their parking lots one day a year, preventing them from becoming public. Mr. Roberts justified that this ordinance was to provide access rather than just closing it off.

Commissioner Obray asked for a case in point that has impacted the city. Mr. Roberts pulled up the church at 1584 W 3200 S on the Parcel and Zoning Viewer. Commissioner Mansell explained the issue with blocking off access and the church's policy.

Mr. Dickinson returned to the meeting at 7:17 p.m.

He said he called Councilmember Laursen who said he wanted it codified. Commissioner Mansell thought gates were reasonable but did not know when they would be opened.

Commissioner Brown exited the meeting at 7:18 p.m.

Commissioner Obray brought up discussion on the Master Plan Trail going through the church. Mr. Roberts said there was a provision in the code that whether the trail was in the master plan or not, if there was a connection and an opportunity, it had to be connected through.

Commissioner Swenson asked about the trail requirement in a cul de sac. Mr. Roberts explained that every cul de sac required a sidewalk connection to undeveloped property.

Commissioner Obray's point was that if the Trails Master Plan required a trail on the property, the church should have bent one around it. If there was no Master Plan Trail...

Commissioner Brown returned to the meeting at 7:20 p.m.

and the city stubbed it off, he thought it was an overreach to allow public access to private property. He agreed that if there was a Master Plan Trail on the property and there was a zoning change to commercial/industrial, then it should connect. However, if it was already commercial, the property owner should be able to decide on access. He did not like the ordinance at all and stated that the private property owner should not be impacted by someone else's decision.

Commissioner Schenk cited a personal example and was "leery" of giving right of way on private property, especially industrial, and brought up the trail on *Logan Coach*. Commissioner Obray stated that if it was on the Master Plan, everyone needed to abide by it. However, he said someone's decision to build a cul de sac, should not dictate the adjacent property. He did not think the burden of opening and closing gates should be put on the private industry. Commissioner Schenk thought it was "a huge liability risk."

Mr. Roberts thought it should be considered that trails were required even if they were not on the Master Plan. Commissioner Obray responded that trails should not be put to a commercial parcel and should be bent through the residential neighborhoods with the burden on the developer to modify. He responded to Mr. Roberts that he thought there were some cases where a trail would be necessary, but it was too hard to mitigate. The Commission discussed it. Commissioner Obray did not disagree with the ordinance but thought they needed to change the way it was worded.

Commissioner Swenson was in favor of saying that churches should be included in what Commissioner Obray was asking for, but not commercial businesses.

Mr. Roberts reiterated that the only thing Councilmember Laursen requested was to add churches and it was through staff's review to add other language. He and Commissioner Obray debated on

other uses. Commissioner Obray explained for clarification. Mr. Roberts added that a sidewalk should not be required to go through to a commercial zoned property. Commissioner Obray agreed that the burden of a trail should be upon the residential developer, not the future commercial development.

The Commission discussed the outcome of the church situation. Commissioner Mansell wanted to make sure that if it was on the master plan, it would get put in one way or the other. In response to Commissioner Schenk, Mr. Roberts pulled up the code for reference. He recited the change requested by Councilmember Laursen in 21.12.060(F)(1) (a printed copy of the changes is included in the printed, record copy of the meeting minutes). He informed the Commission that it was not very enforceable on its own and referred to the recommendation in (3)(a). Commissioner Obray thought they needed to strike commercial and industrial and leave *institutional*.

Commissioner Swenson was interested in how a trail could go through an industrial or commercial business. He said it “was the cost of doing business in Nibley”. Commissioner Obray and Commissioner Swenson debated.

Commissioner Mansell agreed with Commissioner Obray that the residential developer should be required to put in the trail, not the commercial property owner, unless it was in the Master Plan. Mrs. Gonzales received clarification. Mr. Roberts saw “utility” in those trail connections. He saw potential opportunity for someone to walk conveniently, rather than driving around if they lived on the cul de sac. Commissioner Obray did not think it was the city’s decision to make.

Commissioner Obray reiterated that they needed to take out *industrial* and *commercial* and include language if there was a residential zoning change for the trail to still go through. Commissioner Schenk commented on leaving in *churches and other gathering areas*. Commissioner Obray thought *institutional should* be capitalized and a defining term for churches.

Commissioner Mansell received clarification that the red language was the additional verbiage from the attorney and the purple was from Mr. Roberts. Commissioner Mansell suggested language to add for enforcement of the Trails Master Plan. Mr. Roberts explained the two sections affected in the code. Commissioner Obray suggested a change to the verbiage in (3)(a). Mr. Roberts suggested that Commissioner Obray could take a “stab” at changing the language based on what he said if the Commission continued the discussion. He also suggested that someone else could come back with specific language.

Commissioner Swenson thought it would help to find examples of other cities dealing with the issue of walking trails going into commercial property.

Action: Continue Discussion and Consideration: Ordinance 23-10: Amending 21.12.060: Blocks, Connectivity And Trail Standards
Motion: Commissioner Schenk

The Commission clarified Commissioner Obray’s thoughts and Mr. Roberts agreed to try to

reword the ordinance.

Second: Commissioner Swenson

Commissioner Schenk received clarification on the suggested changes. Commissioner O Bray agreed to wordsmith the changes discussed. Commissioner Swenson agreed to look in other city codes. Mr. Roberts gave St. George as a potential example.

Vote: Unanimous; 5-0

Workshop: 2023 Planning Commission Goals

Mr. Roberts utilized an electronic presentation entitled *Planning Commission Goals for 2023* (a printed copy of the presentation is included in the printed, record copy of the meeting minutes). He presented staff's recommendation on the list of goals.

Staff Report and Action Items

Mr. Roberts reported on the following:

- Parks and Recreation Master Plan RFP (Request for Proposal)
- Walkability Virtual Academy Award
- Utah Land Use Institute Training on February 22nd

Commissioner Mansell adjourned the meeting at 8:14 p.m.

ATTEST:

Jamie Ann Gonzales, Assistant Recorder