

The Meeting of the Nibley Planning Commission held at Nibley City Hall, 625 W. 3200 S. Nibley, Utah, on Wednesday, January 26, 2011.

The following actions were made during the meeting:

Commissioner Heidt motioned to approve the conditional use permit for Nibley City and the new city hall located at 455 West 3200 South with no conditions.

Commissioner Green seconded the motion. The motion passed 3-0; with Commissioner Heidt, Commissioner Green, and Commissioner Cook all in favor. Commissioner Anderson abstained from the vote.

Commissioner Anderson motioned to approve Phase 1 (26 lots) of the Maple View Estates Conservation Subdivision located at 1200 W. 2600 S. with the contingency that the engineering review come back and that staff can check it off. Commissioner Green seconded the motion. The motion passed unanimously 4-0; with Commissioner Anderson, Commissioner Green, Commissioner Heidt, and Commissioner Cook all in favor.

Commissioner Anderson motioned to recommend the proposal to amend the CCNR's for the Cottages of Nibley as listed, with the contingency they get the signed agreement presented to city staff before it goes to City Council. Commissioner Heidt seconded the motion. The motion passed 3-1; with Commissioner Anderson, Commissioner Cook and Commissioner Heidt in favor. Commissioner Green was opposed.

Commissioner Carrie Cook called the Wednesday, January 26, 2011 Nibley City Planning Commission meeting to order at 7:00 p.m. Those in attendance included Commissioner Carrie Cook, Commissioner Marina Heidt, Commissioner Bill Green, and Commissioner Wayne Anderson. Larry Anhder, the City Manager, was also present. Commissioner Aaron Bliesner was excused from the meeting.

Approval of 1-12-11 meeting minutes and agenda.

Commissioner Heidt made a motion to approve the evening's agenda. Commissioner Anderson seconded the motion. The motion passed unanimously 4-0; with Commissioner Heidt, Commissioner Anderson, Commissioner Green, and Commissioner Cook all in favor.

Commissioner Anderson made a motion to approve the last meeting's minutes. Commissioner Heidt seconded the motion. The motion passed unanimously 4-0; with Commissioner Anderson, Commissioner Heidt, Commissioner Green, and Commissioner Cook all in favor.

CONDITIONAL USE PERMIT

Discussion and consideration of a conditional use permit for the new Nibley City Hall, located at 455 West 3200 South

Mr. Anhder said they needed to apply conditions to this because the City Council had decided to zone this neighborhood commercial instead of commercial. They thought neighborhood commercial would be a better buffer between the residential area to the North and West. He said it did meet their commercial and institutional design standards. Mr. Anhder said staff could not think of any conditions that should be applied to the permit.

Commissioner Cook asked if anyone had any suggestions. Commissioner Green said he liked that it would be a buffer and thought it would be compatible. Mr. Anhder suggested they could include conditions on the lighting. Commissioner Green observed that they had that covered already in ordinances. Commissioner Cook also suggested that with the inclusion of the patio that they put provisions on the lateness that a meeting can run. Commissioner Heidt asked if alcohol would be permitted on the premises. Mr. Anhder said they had not thought about that yet. Mr. Anhder noted that quinceaneras had become a real problem in some cities; it was a wonderful family oriented event but many times became unruly because of the beverages served there. He expressed concern that those problems could happen in the new city building; many cities had outlawed quinceaneras because of that. Commissioner Anderson said he personally thought they should give the city the conditional use permit without conditions.

Commissioner Heidt made a motion to approve the conditional use permit for Nibley City and the new city hall located at 455 West 3200 South with no conditions. Commissioner Green seconded the motion. The motion passed 3-0; with Commissioner Heidt, Commissioner Green, and Commissioner Cook all in favor. Commissioner Anderson abstained from the vote.

FINAL PLAT

Maple View Estates—request final plat approval for Phase 1 (26 lots) of the Maple View Estates Conservation Subdivision located at 1200 W. 2600 S. (Applicant: Neighborhood Non-Profit Housing Corporation (NNHC)/Danny McFarlane)
Kim Datwyler and Danny McFarlane were present at the meeting representing Neighborhood Non-Profit Housing Corporation.

Mr. Anhder said the engineering review was almost complete and staff would recommend approval pending final city engineer review. Mr. Anhder complimented them on being their first conservation subdivision and the maintenance agreement they had drawn up for the open space lands. Mr. Anhder said basically the open space lands were parallel with 1200 West, the three conservancy lots, along the canal, and the pocket park on 11th West. Mr. Anhder said there was also open space that was adjacent to the city's open space along the canal; it will be one of the more open areas in the community. There is an extra open buffer along 1200 West as well. Mr. Anhder said they had learned a lot from NNHC; they had moved it back off the road ten feet and put a landscape buffer. Mr. McFarlane noted a change and that the City Council had requested the ability to include an agricultural accessory building on the conservancy lots. Mrs. Datwyler said the big

conservancy lots would not be self help and would be sold on the open market. Mr. Anhder said the deed on those lots would have restrictions that will not allow them to subdivide; they had to be maintained as open space.

Commissioner Anderson made a motion to approve Phase 1 (26 lots) of the Maple View Estates Conservation Subdivision located at 1200 W. 2600 S. with the contingency that the engineering review come back and that staff can check it off. Commissioner Green seconded the motion. The motion passed unanimously 4-0; with Commissioner Anderson, Commissioner Green, Commissioner Heidt, and Commissioner Cook all in favor.

CONCEPT DISCUSSION

Discussion on possible changes to The Cottages PUD in Nibley. (Applicants: Dan Farnsworth/Jay Harrison/Clayne Leichty).

Mr. Dan Fransworth, Mr. Jay Harrison, and Mr. Clayne Leichty were present at the meeting.

Mr. Harrison said they had worked on another plan on how they could work toward getting the 55 and older requirement for the subdivision removed. They had submitted a formal plan which was given to the Planning & Zoning Commission.

Mr. Anhder said Ms. Phippen's concept was that she was not sure the benefit suggested was enough to offset the changed in the development requirement although she had not given the recommendation of what she thought it should be. Mr. Anhder explained that the whole concept was the same thing as the transfer of development rights and it is a fairly common concept. The petitioners came to the city requesting a planned unit development for 55 and older. As part of the consideration they received considerable higher density than the zone allowed. He said it was roughly eight acres with 22 lots which was approximately a 50% increase. They have come back to ask for a regular planned unit development in exchange for some additional open space. Mr. Anhder said it was an opportune moment because the City Council was interested in 50-60 acres of land for new parks and the developer would be able to do what they wanted to do.

Commissioner Cook asked for a plat map. Mr. Harrison said in the proposal they would not change any of the architectural requirements, CCNR's, or the homeowners association. The homeowners had decided against a clubhouse and that had not been replaced and was left as additional open space. The city had agreed that they would tie on to the trail in the back and they would finish that trail leaving it open to anyone who wanted to use it. He said nothing else had changed except that not everyone would have to be 55 and older to live there. Since their last meeting they had met with an attorney and had drawn up a written and verbal agreement from everybody living in the Cottages but had not had the opportunity to meet with everyone. Commissioner Cook asked if the trail system they had was planned to be private and would now be public. Mr. Leichty explained the trail agreement. Mr. Farnsworth said with no other changes to the CCNR's it would not cheapen or devalue the aesthetic appeal; it would just change the age of the people driving in and out. Commissioner Heidt said she did not mind the agreement and

she likes that they were willing to work with the city in that way. Mr. Farnsworth said the last couple of years had been a testimonial to what would be like in there and how it would be well maintained and that would continue. Commissioner Anderson said he liked it because they did what he suggested plus added one more; he was all for it and said it was a good win for the neighborhood and was not a detriment to it.

Commissioner Anderson made a motion to recommend the proposal to amend the CCNR's for the Cottages as listed with the contingency they get the signed agreement presented to city staff. Commissioner Heidt seconded the motion. The motion tied 2-2; with Commissioner Anderson and Commissioner Heidt in favor. Commissioner Green and Commissioner Cook were opposed.

Commissioner Cook said she was not in favor of this; she said the only reason they were doing this was so they could sell lots and other developers were in the same situations. Mr. Harrison said they were the only ones in this situation that had the age restrictions and that the market had dried up; the individuals that could live there were unable to sell their current homes and so could not move into these homes. Commissioner Green said if the other Planning & Zoning Commission member were here it would pass. He said Commissioner Bliesner was all for it. Mr. Harrison said they did compute it to see if it could be a conservation subdivision but the land did not compute for that so they decided to contribute to the trails system. After further discussion Commissioner Cook said she was willing to compromise but was not happy about it. She said it was not their problem to make sure they make money but they did not want to see it fall apart and be more cumbersome to the city; that would be the only reason she would change her vote. She said she may not like it but would not like the alternative either. Mr. Farnsworth said it would be much more likely to get built out with quality homes in the nearer future with the change than if they were to hold on to 55 and older. Commissioner Anderson said he foresaw a higher age group being interested in those. Commissioner Green asked what Mr. Anhder would recommend. Mr. Anhder said they could table the discussion until there was a full Commission, sent it to City Council with a tied vote, or revote.

Commissioner Anderson made a motion to recommend the proposal to amend the CCNR's for the Cottages of Nibley as listed with the contingency they get the signed agreement presented to city staff before it goes to City Council. Commissioner Heidt seconded the motion. The motion passed 3-1; with Commissioner Anderson, Commissioner Heidt and Commissioner Cook in favor. Commissioner Green was opposed.

WORKSHOP ITEMS

Discussion of an ordinance regulating field drains in Nibley City.

Commissioner Cook said more or less she would like to know what was out there and she was interested in documenting and maintaining or at least improving field drains when a development came through. She had sent emails to Craig Call and Land Authority but had no new information to bring tonight. She noted that Commissioner Bliesner had told her she had her project for the year.

Mr. Anhder said about 3-4 years ago Nibley City participated with the Utah Association of Conservation Districts and had mapped to the best of their ability the field drains in and about Nibley City. He was sure they missed some. Their current policy is that they are aware of the field drains and the map is checked any time a new subdivision comes in and when field drains are found, that they are not aware of, the developer is responsible for maintaining their integrity. Mr. Anhder said nothing was mapped or preserved when field drains were put in during the 50's; fifty years later a developer comes along and finds them because they do not know they are there. He asked who would maintain the drains because they belong to no one. He wondered if they needed to worry about them because they wouldn't need the irrigation or a need to drain the land. The problem was maintaining them; if the city did not maintain them nobody would. Commissioner Cook asked if a field drain would also be useful with ground water. She said they were still serving a purpose because they were still dealing with the same water issues that farmers did fifty years ago and she thought they need to come to a concrete agreement so that when they develop the rest of the west side they do not end up with a big swamp. She needed to find out where they went from here and asked for suggestions. Commissioner Heidt said as a developer she needed to take care of the drains in her development. Commissioner Green said Commissioner Anderson said he thought Nibley had two distinct problems; people built their houses too low and field drains. He said Commissioner Cook was the only one he had heard of being an issue.

Steve ??? said he was on the board of the College Ward Irrigation Company and on some these field drains they had filed on for water usage; when you get to the end of a drain it is usually captured in one of their ditches. When Nibley put their water system in they did a terrible job of reconfigured the water system in Nibley. Commissioner Anderson asked if the irrigation company had filed on that water then that drain would be become part of the irrigation system and thought they had something that said if they had a line running through their property they were required to maintain it; it was the responsibility of the landowner to maintain the drain. Steve ??? said the developer finished their project and then turned the streets and sidewalks over to the city along with the drains; it boils down to that it will come back to the city at some point in time. Commissioner Anderson said they turn themselves over to the liability; there is a huge amount of liability with this because they do not know what is there and there is a huge amount of money involved in reclaiming these field drains. They would have to actually replace and reroute field drains. Steve ??? said as a city if they approve a plan they assume that responsibility. Commissioner Anderson said the field drains are not a city utility. Commissioner Anderson said there were a lot of legal aspect he needed addressed before he could decide what action to take.

There was general consent to adjourn at 8:15 p.m.