

The Meeting of the Nibley City Planning Commission held at Nibley City Hall, 455 W. 3200 S. Nibley, Utah, on Wednesday, August 27, 2014.

The following actions were made during the meeting:

Commissioner Bliesner motioned to approve the conditional use permit and business license for Contact Design Studio located at 3310 S 1525 W; applicant: Josef Lagunos. Commissioner Green seconded the motion. The motion passed unanimously 4-0; with Commissioner Bliesner, Commissioner Green, Commissioner Lawver, and Commissioner Davenport all in favor.

Commissioner Bliesner motioned to approve the business license and conditional use permit for 5 Finger Longboards located at 3728 S 100 W; applicant: Andrew Giles. Commissioner Green seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Green, Commissioner Davenport, Commissioner Anderson, and Commissioner Lawver all in favor.

Commissioner Bliesner motioned to approve the business license and conditional use permit for Mobi-Lube, located at 2256 S 700 W; applicant: Joe Cullumber; with the following conditions; all materials associated with the business be stored inside the dwelling; that all truck and trailers not be parked in the public right-of-way; and that when parked for the evening all business traffic is to be parked behind the front plane of the house. Commissioner Davenport seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Davenport, Commissioner Anderson, Commissioner Green, and Commissioner Lawver all in favor.

Commissioner Green motioned to approve the conditional use permit and business license for Steve McBride Construction, located at 467 W 3750 S; applicant: Steve McBride. Commissioner Davenport seconded the motion.

Commissioner Bliesner made a motion to amend the motion to include the condition that equipment associated with the business not be parked in the public right-of-way. Commissioner Davenport seconded the motion to amend. The amendment passed unanimously 5-0; with Commissioner Bliesner, Commissioner Davenport, Commissioner Anderson, Commissioner Green, and Commissioner Lawver all in favor.

The amended motion passed 5-0; with Commissioner Green, Commissioner Davenport, Commissioner Anderson, Commissioner Bliesner, and Commissioner Lawver all in favor.

Commissioner Bliesner motioned to approve the building permit for Nate & Kim Phipps—a building permit for a 24'x28' shop located at 4895 S Hollow Rd. Commissioner Anderson seconded the motion. The motion passed unanimously 5-0;

with Commissioner Bliesner, Commissioner Anderson, Commissioner Green, Commissioner Davenport, and Commissioner Lawver all in favor. Commissioner Davenport motioned to recommend approval of the preliminary plat of River Meadows Subdivision—a 13-lot subdivision located at approximately 3700 South 250 East, to the City Council as proposed. Commissioner Anderson seconded the motion.

Commissioner Anderson made a motion to amend to include a dedicated right-of-way through the driveway access on the north-west of the bulb; immediately west of lot 4. Commissioner Davenport seconded the motion to amend. The amendment passed 4-1; with Commissioner Anderson, Commissioner Davenport, Commissioner Green, and Commissioner Lawver in favor. Commissioner Bliesner abstained from voting.

The amended motion passed 4-1; with Commissioner Davenport, Commissioner Anderson, Commissioner Green, and Commissioner Lawver in favor. Commissioner Bliesner abstained from voting on this item.

Planning and Zoning Commission Chair Mark Lawver called the Wednesday, August 27, 2014 Nibley City Planning Commission meeting to order at 7:00 p.m. Those in attendance included Commissioner Aaron Bliesner, Commissioner Mark Lawver, Commissioner Dave Davenport, and Commissioner Bill Green. Shari Phippen, the City Planner, was also present.

Approval of 07-09-14 meeting minutes and the evening's agenda

General consent was given for the evening's agenda. General consent was also given for the previous meeting's minutes.

Conditional Use Permit/Business License

Contact Design Studio—Discussion and consideration of a request for a home occupation (graphic design/photography) located at 3310 S 1525 W (Applicant: Josef Lagunos)

Mr. Josef Lagunos was not present at the meeting.

Commissioner Bliesner made a motion to approve the conditional use permit and business license for Contact Design Studio located at 3310 S 1525 W; applicant: Josef Lagunos. Commissioner Green seconded the motion. The motion passed unanimously 4-0; with Commissioner Bliesner, Commissioner Green, Commissioner Lawver, and Commissioner Davenport all in favor.

Commissioner Anderson arrived at 7:04.

5 Finger Longboards—Discussion and consideration of a request for a home occupation (custom longboard manufacturing) located at 3728 S 100 W (Applicant: Andrew Giles)

Mr. Andrew Giles was present at the meeting.

Miss Phippen said based off of Mr. Giles application that at some point the applicant would want to hire outside employees should the business pick up enough. Miss Phippen said Nibley City ordinance prohibited outside employees coming to any home based businesses. Miss Phippen said she was also concerned that the applicant had expressed that he would like an accessory building in the future. She noted that current Nibley City ordinance prohibited running a home based business from an accessory building.

Commissioner Bliesner made a motion to approve the business license and conditional use permit for 5 Finger Longboards located at 3728 S 100 W; applicant: Andrew Giles. Commissioner Green seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Green, Commissioner Davenport, Commissioner Anderson, and Commissioner Lawver all in favor.

Commissioner Bliesner said he hadn't included conditions in the ordinance because those conditions were already stated in Nibley City's ordinances.

Mobi-Lube—Discussion and consideration of a request for a home occupation (mobile oil change service) located at 2256 S 700 W (Applicant: Joe Cullumber)

Mr. Cullumber was present at the meeting.

Miss Phippen said this was a business where all of the work would be done off-site.

Commissioner Bliesner made a motion to approve the business license and conditional use permit for Mobi-Lube, located at 2256 S 700 W; applicant: Joe Cullumber; with the following conditions; all materials associated with the business be stored inside the dwelling; that all truck and trailers not be parked in the public right-of-way; and that when parked for the evening all business traffic is to be parked behind the front plane of the house. Commissioner Davenport seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Davenport, Commissioner Anderson, Commissioner Green, and Commissioner Lawver all in favor.

Steve McBride Construction—Discussion and consideration of a request for a home occupation (general contractor) located at 467 W 3750 S (Applicant: Steve McBride)

Mr. Steve McBride was present at the meeting.

Miss Phippen summarized the business as summarized on Mr. McBride's application and said that she would recommend approving the business license and conditional use permit.

Commissioner Green made a motion to approve the conditional use permit and business license for Steve McBride Construction, located at 467 W 3750 S; applicant: Steve McBride. Commissioner Davenport seconded the motion.

Commissioner Bliesner asked if there were trailers or backhoes associated with the business. Mr. McBride said there was only a trailer which he had enclosed on a pad space.

Commissioner Bliesner made a motion to amend the motion to include the conditions that equipment associated with the business not be parked in the public right-of-way. Commissioner Davenport seconded the motion to amend. The amendment passed unanimously 5-0; with Commissioner Bliesner, Commissioner Davenport, Commissioner Anderson, Commissioner Green, and Commissioner Lawver all in favor.

The amended motion passed 5-0; with Commissioner Green, Commissioner Davenport, Commissioner Anderson, Commissioner Bliesner, and Commissioner Lawver all in favor.

Accessory Building Permit

Nate & Kim Phipps—Discussion and consideration of a building permit for a 24'x28' shop located at 4895 S Hollow Rd.

Nate and Kim Phipps were not present at the meeting.

Miss Phippen said the proposed shop met all height and setback requirements and that and there was no reason that the accessory building permit should not be approved. Commissioner Green asked about the location of the shop and discussed access to the building from highway 165. Miss Phippen said there wouldn't be another access cut off from the highway.

Commissioner Bliesner made a motion to approve the building permit for Nate & Kim Phipps—a building permit for a 24'x28' shop located at 4895 S Hollow Rd. Commissioner Anderson seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Anderson, Commissioner Green, Commissioner Davenport, and Commissioner Lawver all in favor.

Preliminary Plat

River Meadows Subdivision—Discussion and consideration of a preliminary plat for the River Meadows Subdivision, a 13-lot subdivision located at approximately 3700 South 250 East. (Applicant: Tyler Obray)

Mr. Tyler Obray was present at the meeting.

Miss Phippen reviewed what the Planning & Zoning Commission had discussed regarding this application at the 7-9-14 Planning & Zoning Commission meeting. Miss Phippen said the the lots were required to have 150 ft. of frontage but the applicant was unable to give the required amount of frontage on two lots 3 & 4 because of the increased road width; she said lots 3 & 4 would need to compensate with their setback. Miss Phippen said all the lots in the subdivision met the zoning requirements of ¾ acre. Miss Phippen said she was comfortable with allowing the developer to escrow funds to the city in lieu of infrastructure improvements. Mr. Obray discussed the terms of the escrow and Miss Phippen agreed that they were looking at a ten year window. Miss Phippen said if

there was no need for the improvements after 10 years then the city would be required to return the escrowed money or put in the pavement.

Miss Phippen discussed the width of the right-of-way from 250 and going north. She said it had not been expanded to a 60 ft. right-of-way. Miss Phippen explained the differences of a 50 versus 60 foot right-of-way to the public present. Miss Phippen recommended that the Planning & Zoning Commission require a tapered transition to the 50 foot right-of-way once the adjoining property was developed.

Commissioner Bliesner reminded the Planning & Zoning Commissioners that he would abstain from voting on this item. Commissioner Lawver said he was concerned about waiting to do the transition from 50 ft. to 60 ft. roadway when the next property developed. Mr. Obray said it did affect their property setback but he was more concerned with the esthetics; he said it was an aesthetic issue. Commissioner Davenport noted an engineering note that said there were lots in the flood place. Mr. Obray said all four lots had been removed from the flood plain. Miss Phippen agreed that the developer had done the work to meet the requirements to have those lots removed from the flood plain. Commissioner Davenport reiterated that there were no issues that would affect the buildable area.

Commissioner Davenport made a motion to recommend approval of the preliminary plat of River Meadows Subdivision—a 13-lot subdivision located at approximately 3700 South 250 East, to the City Council as proposed. Commissioner Anderson seconded the motion.

Commissioner Lawver returned to discussion of a right-of-way and its eventual dedication to Nibley City. Commissioner Anderson said he felt the land needed to be dedicated now; it secured the right-of-way now and avoided condemnation proceedings.

Commissioner Anderson made a motion to amend to include a dedicated right-of-way through the driveway access on the north-west of the bulb; immediately west of lot 4. Commissioner Davenport seconded the motion. The amendment passed 4-1; with Commissioner Anderson, Commissioner Davenport, Commissioner Green, and Commissioner Lawver in favor. Commissioner Bliesner abstained from voting.

Commissioner Anderson said he was not entirely sure they could allow the 50 foot right-of-way when they didn't have a 50 foot right-of-way on the books. He was concerned with waiting to transition the road to meet with the 50 foot right-of-way. Miss Phippen said she would have to consult Nibley's attorney.

The amended motion passed 4-1; with Commissioner Davenport, Commissioner Anderson, Commissioner Green, and Commissioner Lawver in favor. Commissioner Bliesner abstained from voting on this item.

The Planning & Zoning Commission moved from the dais and joined Councilmember Jacobsen, Councilmember Beus, Councilmember Hansen, and Mayor Dustin for the joint Planning & Zoning Commission/City Council workshop discussion.

The due to difficulties in moving the recording device, the recording stopped briefly at 7:46 and resumed at 7:47.

Joint City Council/Planning & Zoning Commission Workshop

Discussion with the Nibley City Council regarding updates to the Nibley City Subdivision Ordinance & Discussion with the Nibley City Council regarding various interpretations of Utah Code 10-9a-406 "...no street ... or other public way may be constructed or authorized until and unless it conforms to the current general plan.". Mayor Dustin stated that he wanted it made clear that this was a Planning & Zoning Commission meeting and that that City Council was here by requested invitation and that Commissioner Lawver would be chairing the meeting.

Miss Phippen referenced 10-9a-406 of State code that essentially read that no street, park, or other public way or place way may be constructed or authorized until and unless it conforms to the current general plan. She said there had been disagreement in the interpretation of this code and how it applied to how Nibley had been approving subdivisions and other projects. She said they needed to discuss what the statement meant for the purpose of planning roads and other public facilities in Nibley City going forward. Mayor Dustin said he would like to discuss this code from the view of planning in general and not focusing on a specific project. Councilmember Jacobsen thought there was a better opportunity to discuss this code in the draft subdivision ordinance they were planning to discuss. He said the Utah code had and would be specifically addressed in a paragraph of Nibley's current and draft subdivision ordinance. Councilmember Jacobsen asked if the Planning & Zoning Commission wanted to discuss the subdivision ordinance; an ordinance they had already recommended to City Council, with the attorney's notes and staff recommendations included. Commissioner Lawver felt that they had sent the ordinance on and didn't feel they needed to discuss the ordinance. Commissioner Bliesner discussed access to the City attorney. He felt the city attorney needed to look at things before they came to the City Council and that the attorney needed to be present at meetings for the big items. He also felt they could have an attorney review their entire ordinance. Mayor Dustin agreed with Commissioner Bliesner statements and felt the Planning & Zoning Commissioners should be granted the same access to legal advice that the City Council had. Commissioner Lawver discussed the process that Planning & Zoning Commission had been using to draft and discuss ordinance. He and Miss Phippen discussed when it would be appropriate to send draft ordinances to the city attorney. Mayor Dustin said, for the record, that the Planning & Zoning Commission has access to the city attorney. Miss Phippen discussed that they shouldn't have unlimited access but that all questions should be filtered through city staff. Councilmember Jacobsen

The workshop discussion then moved to the draft subdivision ordinance.

Councilmember Jacobsen led the discussion on his biggest concerns regarding the draft subdivision ordinance:

1. 11-1-8 Phasing. Councilmember Jacobsen said he wished they could address this better and specifically referenced the phasing in the StoneBridge subdivision where their lack of knowledge from the phasing plan from the developer had caused Nibley City a lot of grief. Councilmember Jacobsen said the City Council needed to privy to a phasing plan. He discussed that he would like to see approval on an entire subdivision with a phasing plan before phase 1 was begun but would compromise with seeing a phasing plan at approval of a preliminary subdivision so that city staff can make sure everything is built in phase one. Councilmember Jacobsen said they needed to plan to fail. He said they needed to operate under the assumption that the most current phase could be the last phase. There was discussion on requiring planning for the entire subdivision with a phasing plan included. Discussion was held on only allowing small subdivisions instead of phases and the effect it could have on city staff workload. After further discussion, the consensus was to have developers submit construction drawings for final approval on an entire project with a phasing plan but that could be built in phases or with a phasing plan.
2. 11-3-5 Public hearing. Councilmember Jacobsen said they had two conflicting opinions. He wanted to know the legal requirements for public hearings. Miss Phippen said the last she was trained there was a requirement of at least one public hearing. She felt public hearings were less effective in the Planning & Zoning Commission because they were not there to adhere to public clamor. Councilmember Jacobsen said he felt they should find out what the state code said and he felt the public hearing should be held at City Council. He also agreed that Planning & Zoning Commission should not be required by ordinance to have a public hearing on subdivision approval and that they shouldn't be subject to public clamor. He said the subdivision process should be administrative for the Planning & Zoning Commission. Commissioner Bliesner expressed that the Planning & Zoning Commission should be attempting to pick the planning related issues out of the public clamor. He said they may be subjected to public clamor but should not be influenced by it. He had no objections to the public hearings and felt it was an important part of the process. Commissioner Lawver did not think the Planning & Zoning Commission should have public hearings.
3. 11-1-4F—describing the process of approval by the Planning & Zoning Commission. Councilmember Jacobsen described two sections that were not consistent with that section (11-1-9 & 11-3-8). He suggested they rectify those inconsistencies.
4. Councilmember Jacobsen said he believed the current and draft ordinance section 11-5-5B. was not consistent with State code and was more lenient than State code. Most of the discussion that followed was interpretation of this code, the definition of conforming, and State Code 10-9a-406. Commissioner Anderson expressed that he felt there was a substantial difference between a collectors and arterial streets versus local roads and that was why residential streets had been left out of the draft ordinance. The city had to have latitude when planning local roads to be

able to do subdivisions. Councilmember Jacobsen, Commissioner Anderson, and Commissioner Bliesner all agreed that State code 10-9a-406 was not clear and that the intent of the code was not clear. Councilmember Jacobsen said he wanted what wiggle room or didn't have when sticking to the general plan clearly stated. He wanted the city attorney to make sure what they had decided was in compliance with state code. Commissioner Lawver and Commissioner Anderson disagreed and felt it should be left just as it was. Commissioner Bliesner said he wanted direction from the elected officials on how they wanted the state code interpreted and he felt they did this through what was codified. Mayor Dustin said they had a definition from the state that was fundamentally unworkable from a planning perspective.

Mayor Dustin left the meeting at 8:59.

5. Councilmember Jacobsen noted that they had lost road cross sections graphics. Miss Phippen said they hadn't printed clearly but were included in the map.
6. Gravel Private Roads, just before 11-5-6. Councilmember Jacobsen said this seemed hard to enforce because they would need to have an ongoing history of how the ordinances had changed over time if Nibley was going to retroactively enforce ordinance. Councilmember Jacobsen suggested Nibley City draft a gravel road ordinance that dealt with infill in more than the rural estate zone which would be the ordinance by which proposals would be judged.

Councilmember Beus left the meeting. 9:05.

Commissioner Lawver asked the remaining Planning & Zoning Commissioners if they felt they needed to see the proposed subdivision ordinance back. Commissioner Bliesner said he didn't see anything he felt they needed to see back. Commissioner Bliesner then noted page 12 item 4, which referenced a member of Planning & Zoning Commission meeting with the City Council to discuss the intent of the Planning & Zoning Commission and putting those items in writing. Commissioner Bliesner felt this was an undue burden on the Planning & Zoning Commission. Councilmember Jacobsen said the City Planner could fill this obligation as their representative. Commissioner Bliesner felt there should be a member of City Council appointed to attend Planning & Zoning Commission meetings. The debate then returned to seeking the counsel of the city attorney. Commissioner Bliesner wanted an opinion on the building of accessory buildings in a utility easement. The consensus of the Planning & Zoning Commission was that they didn't need to see the draft subdivision ordinance back.

There was general consent to adjourn at 9:32.