

The Meeting of the Nibley City Planning Commission held at Nibley City Hall, 455 W. 3200 S. Nibley, Utah, on Wednesday, October 29, 2014.

The following actions were made during the meeting:

**Commissioner Bliesner motioned to approve the request for a 24' x 24' accessory building located at 605 West 3300 South; applicant, Jim Renshaw. Commissioner Davenport seconded the motion. The motion passed unanimously 4-0; with Commissioner Bliesner, Commissioner Davenport, Commissioner Green, and Commissioner Lawver all in favor.**

**Commissioner Bliesner motioned to recommend the City Council not amend the final plat for Phase 2 of the Stonebridge cluster subdivision. Commissioner Green seconded the motion. The motion passed 3-1; with Commissioner Green in favor, Commissioner Bliesner in favor, and Commissioner Lawver in favor. Commissioner Davenport abstained from voting.**

**Commissioner Bliesner motioned to recommend the final plat for Phase 1 of River Meadows subdivision, located at approximately 3700 South 250 East (Applicant: Tyler O Bray) to City Council with the condition that the plat have the maximum floodplain line on the west side of the river identified prior to going to City Council. Commissioner Green seconded the motion. The motion passed unanimously 4-0; with Commissioner Bliesner, Commissioner Green, Commissioner Davenport, and Commissioner Lawver all in favor.**

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Planning and Zoning Commission Chair Mark Lawver called the Wednesday, October 29, 2014 Nibley City Planning Commission meeting to order at 7:02 p.m. Those in attendance included Commissioner Mark Lawver, Commissioner Dave Davenport, Commissioner Aaron Bliesner, and Commissioner Bill Green. Justin Maughn, the Nibley City Public Works Director was present at the meeting. Shari Phippen, the City Planner, was excused from the meeting.

#### **Approval of 10-15-14 meeting minutes and the evening's agenda**

Commissioner Bliesner made a motion to approve the evening's agenda. The motion passed unanimously 4-0; with Commissioner Bliesner, Commissioner Green, Commissioner Davenport, and Commissioner Lawver all in favor.

General consent was given for the October 15, 2014 meeting minutes.

#### **Accessory Building Permit**

**Discussion and consideration of a request for a 24' x 24' accessory building located at 605 West 3300 South (Applicant: Jim Renshaw)**

Mr. Jim Renshaw was present at the meeting. Commissioner Lawver read the Nibley City Planner's recommendations, noting that the building was within the height and size limits

for the property. That she double checked the plat to make sure the setbacks were proper on the West side of the building where there was a shown 5' setback.

Commissioner Bliesner made a motion to approve the request for a 24' x 24' accessory building located at 605 West 3300 South; applicant, Jim Renshaw. Commissioner Davenport seconded the motion. The motion passed unanimously 4-0; with Commissioner Bliesner, Commissioner Davenport, Commissioner Green, and Commissioner Lawver all in favor.

### **Public Hearing**

#### **A public hearing to receive comment concerning a request to amend the final plat for Phase 2 of the Stonebridge Cluster subdivision.**

Commissioner Lawver explained that said there were four lots with some open space between them in the subdivision. Commissioner Lawver said the developers were asking to do away with the open space to be absorbed into the lots on either side bordering the open space.

Commissioner Lawver gave direction to the public present. Commissioner Lawver opened the public hearing at 7:06

Barbara Wilden of 3200 South read from Nibley City ordinance 10-15-4 sections A & B concerning open space and cluster subdivisions. She also discussed the history of each developer regarding the formation of an HOA. Mrs. Wilden said the divided open space would do away with weeds but would also increase the size of four lots and the developer would be able to recoup more money. Mrs. Wilden said the original developer agreed to a cluster subdivision which required open space. Mrs. Wilden said the developers should be held accountable. She said "a deal was a deal" and discussed a fictional scenario with Zion's Bank. Mrs. Wilden said she was here to support the Planning & Zoning Commission in holding developers responsible.

Corlyss Drinkard said Mrs. Wilden put things very well and said she was also present at the meeting to support the Planning & Zoning Commission. She said she was opposed to the proponent's proposal to revise the original agreement; the developer should be held to that bargain. Ms. Drinkard said she whole heartedly supported the City Planner's recommendation given in her letter to the Planning & Zoning Commission stating that something needed to be done about the home owner association situation in Nibley and said all HOA's in Nibley were a fraud.

John Stucky of 465 West and 3800 South said he previously lived in a subdivision that had an HOA that didn't work or function. He said if this subdivision wanted to put a title basin or land that was supposed to be an open space behind an existing lot, that didn't work either and described lots where this had occurred that were nothing but weeds. He said it was disservices to a subdivision to have this occur. He also stated that "a deal was a deal" and expressed that they needed to hold developers to their agreements and not let them walk all over the residents.

Anne Coleman at 4041 Hollow Road in Nibley said there were not many buildings in Nibley when they first moved eight years ago. She asked the Planning & Zoning Commission to please keep some open space and keep more of America green and beautiful.

Ed Chalfant of 858 West 2770 South said he had been here before many of these developments had happened but noted that most of the open spaces were becoming retention ponds that housed run off and were very rarely used with the city ending up maintaining over time. He said there was the misconception that these open spaces were parks but they were not. Mr. Chalfant said he was involved with this subdivision and noted the Stonebridge residents that had a lot of comments that concerned phase 1. He said people in Nibley wanted something that would better the price of the properties around them and that would increase their own property values. Mr. Chalfant stated that the proposal provided that someone else maintain the properties and was more important that the properties not being maintained whatsoever.

Hal Ward a resident of Stonebridge subdivision said he had watched the new development go in and said the open space was a weed patch. He said the original developer hadn't kept his agreement and that the HOA fees they had paid were going straight into the developers pockets. He described the areas that he himself was maintaining. He said the day of open space was here and gone and he saw no reason to have another weed patch on his street. He stated he didn't agree with HOA's or open space.

Mrs. Wilden stated that the Planning & Zoning Commission was bound by the ordinance which said there would be open space.

Ron Helstern of Hollow Road said he didn't feel it made any difference how long a resident had been in Nibley; that their opinion held the same value. He said the problem with open space was that once it had been prioritized that was the end of it. He felt if the place was being mismanaged then he felt there were other avenues that could be addressed and that it needed to be maintained. He said he couldn't overestimate the value of open space.

Ms. Drinkard described her idea of posting signs that said "Natural Habitat" on open lots or open space. Ms. Drinkard said uses could be set to this open space and stated that developers shouldn't be able to set the percentages before an HOA "kicked" in because they would sell out before that time occurred.

Mrs. Coleman asked why the developer couldn't be required to do what they have said they would do. Commissioner Lawver said they would most likely discuss this in their discussion phase.

Allen Cook of 1500 West described Nibley's history of keeping open space maintained but said it had gotten better under the new public works director. Mr. Cook said they

needed to hold the developer accountable so that other developers wouldn't think they could be let off too.

Angelica Gardner described growing up in Germany and said it would be nice if the city could work on the open space and said it was hard to grow up where there was not open space. She said she was for open space that was maintained.

Commissioner Lawver closed the public hearing at 7:33.

**Discussion and consideration of a request to amend the final plat for Phase 2 of the Stonebridge cluster subdivision.**

The part owner/developer, Jan Nilson, was present at the meeting. Commissioner Davenport disclosed that he was a resident of Stonebridge subdivision and said he was intimately aware of what was going on. He stated that he would not participate in the vote on the final plat but would participate in the discussion.

Commissioner Bliesner said he was under the impression that this subdivision was already platted and filed. Commissioner Lawver said this was his understanding also but said the developer was asking to amend the plat. Commissioner Lawver asked Mrs. Nilson if the plat had been filed. Mrs. Nilson said it had been filed with the County.

Mrs. Nilson said the other part-owner, her brother, couldn't be present at the meeting. Mrs. Nilson described that they were asking for the plat to be amended so that the open space would be absorbed into the adjacent lots and would be maintained by those lot owners. She said there would be no structures on the open space. Mrs. Nilson said they intended to sell those lots for the same amount as the other lots. She said she felt they were discussing the beautification of Nibley City. Mrs. Nilson discussed an email that had got out to the residents of Nibley City and she felt developer #2 had been slandered because of the mistakes of developer #1. Mr. Chalfant, the real estate broker for this development, said he felt there should be clarification that there were two separate CCNR's, two different companies, and two separate developers. Commissioner Davenport asked Mr. Chalfant if there was a recorded HOA for the second phase of Stonebridge subdivision. Mr. Chalfant said there was not. Commissioner Davenport stated that this was one subdivision. Commissioner Davenport said he had checked with the County and said there had been no CCNR's recorded with the county. He corrected Mrs. Wilden and said there was an HOA in phase 1. He discussed his experiences with HOA's that were well maintained. Commissioner Davenport said that Neal Andersen was the president of the HOA in phase 1 and that the homeowners in that HOA had no control over the HOA. Commissioner Davenport discussed how the HOA for phase 1 was being run under Mr. Andersen. Commissioner Lawver summarized the agreement between the HOA and Nibley City regarding the maintenance of the green space. He said he was more concerned with the green space being gone and the subdivision being noncompliant.

Commissioner Davenport discussed and referenced the minutes he had research regarding the green space and maintenance of that space in the Stonebridge subdivision. Commissioner Davenport read from Nibley City ordinance "Cluster Subdivision Special

Regulations 10-15-2 General Regulations” which stated that cluster subdivisions were a conditional use, therefore the Planning & Zoning Commission could put special conditions on their use which they did on September 13, “Consideration for a request for a conditional use permit for a cluster subdivision located west of 1200 West and approximately between 2700 South and 3000 South. Councilmember Jacobsen made a motion to approve the request for a cluster subdivision with the following conditions with conditions” Commissioner Davenport said there were six conditions listed there but said condition the second condition was what had caught his eye, it being “that an HOA be established to maintain community open space”. Commissioner Davenport said these conditions were put on the entire subdivision and ran with the land and not just phase 1. Commissioner Davenport said then entire subdivision needed to be covered by an HOA and if there was no HOA then developer 2 was in violation of the conditional use permit. Commissioner Davenport read from the CCNR’s of the Stonebridge subdivision regarding expansion of the subdivision: Article 5, page 23 “The property is all of the land upon which the subdivision will be developed. Multiple phases of the subdivision are contemplated. However, all additional phases will be developed in conformity with this declaration and will be governed by this declaration. ” He said the CCNR’s had been recorded with the County Recorder. Commissioner Davenport discussed meeting minutes from the Planning & Zoning Commission of July 17, 2013 and read from meeting minutes from the July 18, 2013 City Council meeting regarding phase 2 of Stonebridge subdivision and the formation of an HOA. Commissioner Davenport read from the development agreement of November 22, 2013 that had been signed by Gary and Jan Nilson. He read from their stated plan and intent to develop and maintain the green spaces and in which they stated their intent that the Stonebridge subdivision HOA would take over responsibility and maintenance of the green space after one year.

Commissioner Green said he had done the same research and concurred with Commissioner Davenport. He said they had to start following through with what was agreed to with developers. Commissioner Green said that this was set and they needed to follow the ordinances. Commissioner Lawver said he felt the biggest issue was that if they changed the plat then the subdivision was out of compliance with Nibley City ordinance. Mrs. Nilson and Commissioner Davenport discussed the HOA and Neil Anderson.

Commissioner Bliesner made a motion to recommend the City Council not amend the final plat for Phase 2 of the Stonebridge cluster subdivision. Commissioner Green seconded the motion. The motion passed 3-1; with Commissioner Green in favor, Commissioner Bliesner in favor, and Commissioner Lawver in favor. Commissioner Davenport abstained from voting.

### **Final Plat**

**Discussion and consideration of a final plat for Phase 1 of River Meadows subdivision, located at approximately 3700 South 250 East (Applicant: Tyler Obray)**  
The Planning & Zoning Commissioners read documentation showing that lots 1-4 of the proposed subdivision had been removed from the FEMA floodplain.

Mike Conger was present at the meeting speaking for Tyler Obray. He said he was told that the floodplain was not on this property but was in Millville.

Commissioner Bliesner read notes from city staff which said the developer “is responsible for costs associated with connecting/completing the current 250 East to his development. 250 East currently ends with a temporary turnaround short of the property line. Because the completion/extension of the road is coming for no other reason than this development, then it is his responsibility for making those improvements. I have already checked with our attorney and he assured me that this exaction is appropriate, even though it is outside of the developer’s land.”

Commissioner Bliesner made a motion to recommend the final plat for Phase 1 of River Meadows subdivision, located at approximately 3700 South 250 East (Applicant: Tyler Obray) to City Council with the condition that the plat have the maximum floodplain line on the west side of the river identified prior to going to City Council. Commissioner Green seconded the motion. The motion passed unanimously 4-0; with Commissioner Bliesner, Commissioner Green, Commissioner Davenport, and Commissioner Lawver all in favor.

Commissioner Bliesner thanked Miss Phippen for her diligence in preparing the meeting notes.

There was general consent to adjourn at 8:18.

Attest: \_\_\_\_\_  
Deputy City Recorder