

The Meeting of the Nibley Planning and Zoning Commission held at Nibley City Hall, 455 West 3200 South, Nibley, Utah on Wednesday, July 27, 2016.

The following actions were made during the meeting:

**Commissioner Bliesner motioned to approve the conditional use permit and business license for Bart Norton located at 1342 West 3390 South; applicant, Bart Norton, as recommended by Nibley Staff. Commissioner Johnson seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Johnson, Commissioner Davenport, Commissioner Swenson, and Commissioner Albrect all in favor.**

**Commissioner Bliesner motioned to approve the business license and conditional use permit for Sir Fix-A-Lot located at 4800 Hollow Rd; applicant, John Barrett. Commissioner Johnson seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Johnson, Commissioner Davenport, Commissioner Swenson, and Commissioner Albrect all in favor.**

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Planning and Zoning Commission Co-Chair Dave Davenport called the July 27, 2016 Planning and Zoning Commission meeting to order at 5:30. Those in attendance included Commissioner Dave Davenport, Commissioner Bret Swenson, Commissioner Carol Albrect, Commissioner Jim Johnson, and Alternate Planning Commissioner Aaron Bliesner. Ms. Shari Phippen, Nibley City Planner, was also present.

Commissioner Davenport stated since Commissioner Bill Green was not present at the meeting, that alternate Commissioner Bliesner would be counted as a voting member unless and until Commissioner Green arrived at the meeting.

**Approval of 6-22-17 & 7-13-16 meeting minutes and the evening's agenda**  
General consent was given for the evening's agenda.

The June 22, 2016 minutes couldn't be approved because of the absence of Commissioner Green.

Commissioner Bliesner asked for clarification on the July 13, 2016 meeting minutes that he felt didn't make sense. Commissioner Bliesner asked for the line to be stricken from the minutes because he felt the line didn't have a huge impact on the conversation.

Commissioner Bliesner made a motion to revise the July 13, 2016 meeting minutes. Commissioner Swenson seconded the motion. The motion passed 3-1; with Commissioner Bliesner, Commissioner Swenson, Commissioner Davenport, and

Commissioner Johnson in favor. Commissioner Albrect abstained from voting on the motion, as she was not present for the 7-13-16 meeting.

General consent was given for the July 13, 2016 meeting minutes. Commissioner Davenport stated that the July 13, 2016 meeting minutes had been approved as revised.

**Conditional Use Permit/ Business License**

**Bart Norton—discussion and consideration of a conditional use permit and business license for a home occupation (financial services) located at 1342 W 3390 S (Applicant: Bart Norton)**

Mr. Bart Norton was not present at the meeting.

Ms. Phippen said the application was for a financial services business and that Mr. Norton's application stated that he would have no outside employees, no client visits because all work would be done at the client's home, and no business vehicles that would require parking accommodations. Ms. Phippen noted that Mr. Norton's property was zoned Residential R-2A and that the Nibley City Land Use Chart allowed for home occupations as a conditional use in that zone. Ms. Phippen said that Mr. Norton's business met the definition and requirements to be classified and approved as a home occupation and recommend that it be approved as such with no suggested conditions.

Commissioner Bliesner made a motion to approve the conditional use permit and business license for Bart Norton located at 1342 West 3390 South; applicant, Bart Norton, as recommended by Nibley Staff. Commissioner Johnson seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Johnson, Commissioner Davenport, Commissioner Swenson, and Commissioner Albrect all in favor.

**Sir Fix-A-Lot—discussion and consideration of a conditional use permit and business license for a home occupation (handyman) located at 4800 Hollow Rd (Applicant: John Barrett)**

Mr. John Barrett was present at the meeting.

Ms. Phippen said the application was for a handyman business. Mr. Barrett's application stated that he would have no outside employees; the nature of the business was such that there would be no client visits, as all work would be done at the client's home, and no business vehicles that would require parking accommodations, beyond a truck that he could park in his driveway. Ms. Phippen said the business would be located in the Residential R-E zone and that the Nibley City Land Use Chart allows for home occupations as a conditional use in this zone. Ms. Phippen said that Mr. Barrett's business met the requirements to be classified and approved as a home occupation and recommended that it be approved and had no suggested conditions.

Commissioner Johnson asked if this was a new business. Mr. Barrett said that it was and described what he was currently doing until he got his Handyman's license.

Commissioner Bliesner made a motion to approve the business license and conditional use permit for Sir Fix-A-Lot located at 4800 Hollow Rd; applicant, John Barrett. Commissioner Johnson seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Johnson, Commissioner Davenport, Commissioner Swenson, and Commissioner Albrect all in favor.

Commissioner Swenson noted that they had approved a business license for a business entitled "Tiny's Kitchen" where they had required the applicant provide proof of their Food Handlers Permit. He asked why they hadn't required proof of the Handyman's License for Sir Fix-A-lot. He said this was a question of consistency. Commissioner Bliesner said he didn't feel the city should be in the business of enforcing other entities regulations except in cases where there were questionable things or things they could be nervous about. Commissioner Bliesner felt that this could be handled on a case-by-case basis. Commissioner Swenson said he felt they should be consistent and Commissioner Davenport felt they should do the same for everyone. Ms. Phippen explained that if you were going to do business in the city, the city needed to know that you are licensed to do the type of business you are requesting to do. Ms. Phippen agreed that the city didn't need to be enforcing but that it may be wise to say that if you will be doing a business that requires professional licensing then you needed to turn in or provide a copy of all appropriate licenses when an application was turn in to the city. The Planning and Zoning Commission discussed concerns of the city being held liable in permit situations. Commissioner Bliesner stated that because the city didn't enforce another agency's rules didn't make the city liable for the applicant's failure to pursue the license. To know every single agency, license, application and permit that was required was unreasonable and this was why there were agencies that specialized in those specific things. Commissioner Bliesner said they could require a food handlers permit be presented when an applicant was requesting participation in a city function and let the specific agency that specialized in food handlers permits do their job with the licensing. After the discussion, Commissioner Swenson said he would come down on the side of not requiring proof of permit from anyone. Ms. Phippen agreed that it needed to be "all or nothing." With the direction of the Planning and Zoning Commission, Ms. Phippen said she would research liability issues and bring the information back to the Planning and Zoning Commission.

### **Discussion**

#### **Discussion and consideration of a proposed update to the Nibley City conservation subdivision ordinance**

Ms. Phippen said she had reviewed her notes of the 7-13-16 meeting minutes and had researched the five items the Planning and Zoning Commission had asked of her. She described the information she had gathered and the revisions made to the proposed ordinance per the direction of the Planning and Zoning Commission.

First, mandating concept plan discussion by the Planning and Zoning Commission. She read the language that had been added to section 10-18-5 of the proposed ordinance.

*“A. Concept Plan. All applications for a Conservation Residential Subdivision shall submit a concept plan to the Nibley City Planning Commission for their review and comment. The concept plan shall include an overall layout of the property, including road alignments, lot sizes, open space location and how such open space is likely to be developed, owned and maintained.*

*B. Once the Planning Commission has had an opportunity to review and comment on the concept plan, applications for a Conservation Residential Subdivision shall be submitted and processed in accordance with the requirements and procedures set forth in the City Subdivision Ordinance, including submission and approval of schematic, preliminary and 6-227-27-16 Draft 4 final plans or plats, and any additional procedural requirements set forth in this Chapter, including, but not limited to, submission of a Sensitive Area Designation Plan and/or Master Development Plan.”*

Second, was to outline what would be required in the maintenance plan at each stage of development (concept, preliminary plat, final plat). She said this information had been added to 10-18-17.

*“ B. Plan. Each stage of required approval of a Conservation Residential Subdivision, developers shall submit a maintenance plan, with increasing levels of detail.*

- 1. At the concept plan stage, the developer shall submit a brief written plan for development and ownership of the open space, including options for amenities.*
- 2. As part of the preliminary plat approval, the developers shall submit a Master Plan outlining maintenance and operations of the conservation land and providing for and addressing the means for permanent maintenance of the conservation land within the proposed Conservation Residential Subdivision with the Preliminary Plat application for the Subdivision.*
- 3. As part of final plat approval, developers shall submit a Maintenance Plan which, in addition to the items required of the preliminary Maintenance Plan, shall include the following items: . . .”*

Next, Ms. Phippen described removing the option of Home Owners Association ownership and maintenance of open space. She said this had been stricken from 10-18-16 and read the edited wording. The Planning and Zoning Commission debated whether it was legal to prohibit ownership of open space by a Home Owner’s Association. Commissioner Bliesner suggested they could require that the home owner’s association form as a legally registered entity upfront which could purchase the open space. He said when HOAs are a legal entity they have legal responsibilities that can be enforced through recourse. Commissioner Davenport noted that the city would then become the enforcing agency. Commissioner Bliesner said he was fairly

confident that there were state laws governing HOAs; the City could require the HOA had to comply with State laws for HOAs by the submittal. Ms. Phippen said that Commissioner Bliesner was right in that they couldn't prohibit the sale of deeded property to whomever they chose. Ms. Phippen said the city still had the authority to approve the detail of the planting and maintenance of the property.

Ms. Phippen then said she had clarified the development rights to open space. She explained that she had covered this in section 10-18-15 "*Permanent Protection of Conservation Lands*" which stated:

*"All conservation easements, or other acceptable method of protection and preservation of the conservation land within a Conservation Residential Subdivision, shall be approved by the City Council and recorded prior to or concurrent with the recording of the final plat for the Conservation Residential Subdivision."*

Commissioner Davenport said he was interested in what the open space would be like when it was developed and what would be included in the open space as part of the maintenance plan. We wanted to ensure they had seen this information by final plat. Commissioner Bliesner said he wanted to compartmentalize the documents they received into specifics. Ms. Phippen suggested the titles development maintenance plan or landscaping maintenance plan. The Planning and Zoning Commission decided it should be a development plan and a maintenance plan. Commissioner Albrect said she was not sure who would maintain the open spaces and suggested they should require a few things upfront to reduce the required level of maintenance. Ms. Phippen suggested the following:

*"Open Space Development Plan*

- 1. At the concept plan stage, the developer shall submit a brief written proposal for development and ownership of the open space, including conceptual landscaping plans and options for amenities.*
- 2. As part of the preliminary plat approval, the developers shall submit a detailed Master Plan outlining landscaping maintenance and operations of the conservation land and providing for and addressing the means for permanent maintenance and schematics for the landscaping shall be included for the conservation land within the proposed Conservation Residential Subdivision with the Preliminary Plat application for the Subdivision.*

Ms. Phippen said there would be further requirements at the final approval stage.

Commissioner Bliesner asked Ms. Phippen to include "property management" at the beginning stage of development; he wanted the developer thinking of what the "end game" would be right from the beginning. Commissioner Johnson described land he was trying to develop under the conservation subdivision option. He said he felt there were only a few options available for the open space; to leave it as it naturally was or grass. He said the city had no "teeth" to require trails, parks, etc. He said the language they were proposing had no design standards to hold the

developer to. Commissioner Johnson said it came down to a proposal by a developer and said they had no authority to say to the developer what the city wanted them to do. The Planning and Zoning Commission debated if the city had the authority to require certain amenities based on what was in city ordinance. Commissioner Johnson said they needed guidelines of what would be required in open space. Commissioner Davenport read from page 12 of the proposed ordinance, *"Landscaping. All conservation land that is not wooded, farmed, or maintained as conservation meadows, grassland, or other approved open space, shall be landscaped at developer's sole cost and expense in accordance with landscaping requirements for subdivisions."* Commissioner Albrect discussed that she was more concerned with the maintenance of the open land. She described a "Service Learning Program." She asked if there was a way for the citizens to "own" the maintenance of their open space? Commissioner Bliesner and Commissioner Davenport agreed that they would like to see all the open space taken over by the City and discussed that costs would go up should this happen. Ms. Phippen was given direction to include the language regarding HOAs that had been stricken, which was completed.

Ms. Phippen reviewed the direction given regarding *Permanent Protection of Conservation Lands*. She read from section 10-18-15 of the proposed ordinance.

*"Conservation Easement. All conservation land shall be permanently restricted from future development by a conservation easement or other method of protection and preservation acceptable to the City. Under no circumstances shall any development be permitted in the conservation land at any time, except for those permitted or conditional uses listed herein and approved in conjunction with the Conservation Residential Subdivision. All conservation easements, or other acceptable method of protection and preservation of the conservation land within a Conservation Residential Subdivision, shall be approved by the City Council and recorded prior to or concurrent with the recording of the final plat for the Conservation Residential Subdivision."*

Commissioner Johnson said he had read through the requirements for percentage of open space based on acreage or zoning. He felt the older requirements made more sense and the new requirements were confusing. He said the old conversion options were easier to understand and administer. He suggested a 1:1 option. The Planning and Zoning Commission discussed where the incentive multipliers had originated.

Commissioner Bliesner left at 6:46 p.m. and returned at 6:48 p.m.

Ms. Phippen described how conservation lots and open space were calculated and attempted to demonstrate the open space conversion process with an example parcel of land.

Commissioner Swenson said he strongly felt that that the RE zone shouldn't be an option for the conservation subdivision ordinance. Ms. Phippen described the GIS data she had collected from the County regarding parcels of land that were 5 or

more acres. She said in the RE zone there were 4 pieces of 5+ acre property. Based on this information, Commissioner Swenson suggested they remove the conservation subdivision requirement from the residential estate zone because it was not worth the effort or heartache. All the Planning and Zoning Commission and Ms. Phippen agreed and were comfortable with pulling the RE zone out of the proposed conservation subdivision ordinance. After further prompting by Commissioner Johnson, Ms. Phippen suggested she could put together a presentation to compare the old open space calculation numbers with the proposed calculation numbers.

Commissioner Swenson started discussion regarding canals and piping. Ms. Phippen described and clarified typical development in reference to canals.

**Staff Report**

There was general consent to adjourn the meeting at 7:08 p.m.

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