

The Meeting of the Nibley Planning and Zoning Commission held at Nibley City Hall, 455 West 3200 South, Nibley, Utah on Wednesday, October 12, 2016.

The following actions were made during the meeting:

**Commissioner Green made a motion to recommend approval of a preliminary plat for The Cottonwoods at Hollow Rd, a 17-lot conservation residential subdivision located at approximately 4030 Hollow Road to Nibley City Council. Commissioner Albrect seconded the motion.**

**Commissioner Bliesner made a motion to amend that a waiver on the right-of-way be issued by City Council that includes the entire 60-foot right-of-way; that eliminates curb and gutter and replaces it with a swale but still includes sidewalk service. Commissioner Green seconded the motion. The amendment passed unanimously 5-0; with Commissioner Bliesner, Commissioner Green, Commissioner Davenport, Commissioner Swenson, and Commissioner Albrect all in favor.**

**Commissioner Albrect made a motion to amend to recommend that the City Council require that the City take ownership of the conservancy cottonwood lot of the Cottonwood at Hollow Roads subdivision. Commissioner Bliesner seconded the motion. The motion passed unanimously 5-0; with Commissioner Albrect, Commissioner Bliesner, Commissioner Green, Commissioner Davenport, and Commissioner Swenson all in favor.**

**Commissioner Bliesner made a motion to amend that the applicant adds the utility easements to the plat before the plat goes to City Council. Commissioner Albrect seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Albrect, Commissioner Green, Commissioner Swenson, and Commissioner Davenport all in favor.**

**Commissioner Bliesner made a motion to amend to recommend the City Council require adequate right-of-way width along the Hollow Road frontage to accommodate the developer's share of the 60-foot right-of-way. Commissioner Green seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Green, Commissioner Davenport, Commissioner Swenson, and Commissioner Albrect all in favor.**

**The amended motion passed unanimously 5-0; with Commissioner Green, Commissioner Albrect, Commissioner Davenport, Commissioner Swenson, and Commissioner Bliesner all in favor.**

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Planning and Zoning Commission Co-Chair Dave Davenport called the Wednesday, October 12, 2016 Planning and Zoning Commission meeting to order at 5:31 p.m. Those in attendance included Commissioner Dave Davenport, Commissioner Bret Swenson, Commissioner Carol Albrect, and Commissioner Jim Johnson. Alternate Commissioner, Aaron Bliesner was also present and acting as a voting member due to the absence of Commissioner Bill Green. Ms. Shari Phippen, Nibley City Planner, was also present.

**Approval of 9-28-16 meeting minutes and the evening's agenda**

General consent was given for the evening's agenda.

Commissioner Swenson, Commissioner Albrect, Commissioner Johnson, and Commissioner Bliesner all gave general consent for the previous meeting's minutes.

Commissioner Green arrived at 5:34 p.m.

Considering it was Ms. Phippen's last Planning and Zoning Commission meeting, Commissioner Davenport publicly thanked Ms. Phippen for her service to Nibley City and the Nibley City Planning and Zoning Commission.

**Preliminary Plat**

**Discussion and consideration of a preliminary plat for The Cottonwoods at Hollow Rd, a 17-lot conservation residential subdivision located at approximately 4030 Hollow Road (Applicant: Jim Johnson)**

Councilmember Larry Jacobsen was present in the audience.

Commissioner Johnson recused himself from the agenda item and moved from the front dais. Commissioner Bliesner was considered a voting member for this agenda item.

Mr. Johnson had a scale model of the subdivision placed at the front of the room for the Planning and Zoning Commission and public to view.

Ms. Phippen said the proposal had been revised since the Planning and Zoning Commission had last seen the plat. The plat was now a 19-lot subdivision. Ms. Phippen described the stand of cottonwood trees on the lot that the public had expressed they would like to have remain on the lots. Mr. Johnson had made this stand of trees conserved space, which had increased the amount of property being conserved and allowed him to propose two additional building lots because of the increased density bonus. Ms. Phippen said the walking trail was now turned away from the James home and turn in to the public right-of-way. Ms. Phippen discussed the sensitive area delineation concerns expressed at the last Planning and Zoning Commission meeting public hearing. She said the boundaries were correct. Ms.

Phippen described that Mr. Johnson had met with Councilmember Bryan Hansen several times and had taken some of his suggestions: the configuration of the street and the trail configuration. The trail will wind and be more serpentine instead of a strait trail. Ms. Phippen said the open space and density calculations were in line with what was allowed by Nibley City ordinance; the average lot size was within ordinance all lots met or exceeded the required frontage. Ms. Phippen said she believed that the lot drawings had been submitted to the Nibley Blacksmith Fork Irrigation Company. Commissioner Davenport asked Ms. Phippen to review the right-of-way width and the layout change.

Ms. Phippen said the right-of-way width wasn't a standard right-of-way width. She described the standard right-of-way width for neighborhood road. She said Mr. Johnson, with staff support, had proposed an alternate right-of-way cross-section. Ms. Phippen read from Nibley ordinance 11-5-5D.2.

*"2. The above requirements may be waived in rural estate and agricultural zones if it is felt that curb, gutter and sidewalks would detract from the rural setting of the subdivision."*

Ms. Phippen said the full asphalt width was being proposed but the sidewalk was only being proposed in areas that would accommodate higher traffic loads. The cul-de-sac and side of the road wouldn't have sidewalk or curb and gutter. Ms. Phippen described the new configuration of 250 East. Ms. Phippen said that as she had looked over the plans for this project, there are several problems with having the proposed connection of 250 East and Hollow Road:

- The connection ran directly through a FEMA Flood Zone
  - To construct a road through this property would require significant costs and mitigation work with the Army Corps of Engineers, and it is not guaranteed that they would issue the necessary permits to construct the road through there.
  - There were at least two homes/parcels that the City would need to purchase, if we were to require this configuration of connecting the two neighborhoods.
  - This configuration would make a direct connection down 250 East to Hollow Road and will lead to increased speeds in the area, detracting from the rural feel of the neighborhood.

Ms. Phippen said this configuration would create an unnecessary financial burden on Nibley City and come at taxpayer expense because it would go through existing properties that were already developed. Additionally, the potential safety burden on the residents of Brookfield Meadows and this portion of Hollow Road requires the City to have a closer look at an alternative configuration for connecting these two neighborhoods. She believed the intent of the Master Road Plan was to have a connection off of Hollow Road to the Brookfield Meadows subdivision and believed Mr. Johnson's proposal laid out a connection between the neighborhoods which

would offset the safety concern, would take the development of the road out of any floodplain or sensitive lands, and removed the need for the City to purchase any property to complete the road. The intent was still accomplished and she didn't believe an amendment to the Master Road Plan was necessary.

Mr. Johnson recognized one of his partners, Dolores Peterson, who was present at the meeting.

Mr. Johnson expressed his appreciation of the public hearing and said he had paid close attention and reiterated that they had closely followed all State and local laws and ordinances in the design of the subdivision. Mr. Johnson described the stand of cottonwood trees on the property and said it became apparent that it was necessary to keep that stand of trees for wildlife and for historical value and had decided to keep the trees on the property. Mr. Johnson described redesigning the subdivision roadway and viewscape. He described the reasoning behind reducing some of the lot sizes to allow for diversity in house and lot sizes. Mr. Johnson said he had committed to pay for the trees and watering that would border the subdivision. Mr. Johnson distributed a modified plan to the Planning and Zoning Commission and Ms. Phippen. Mr. Johnson said they had listened carefully to city staff, the City Council, and Mayor and felt impressed to provide a stormwater management system that wouldn't put a pond in the middle of the development. He said they had designed the road to handle the water to the sides of the road in the swales. He said he was willing to put in sidewalk if it was the wish of the Planning and Zoning Commission. Mr. Johnson said the idea for the trail was to have an area that residents could wander through. He said it was between a .5 mile and .25 mile trail and there was discussion of having the trail connect to Hollow road but that for now the trail stayed in the subdivision. Mr. Johnson described the intent for the large open space area for animals. He described the maintenance of the open space and how maintenance would be enforced per Nibley City ordinance. Mr. Johnson asked for direction on the walking trail; if it should be maintained by the HOA or by some other means. He said the subdivision would have an HOA to manage the secondary water system. Mr. Johnson noted that he had the traffic study redone and said the results were unchanged. Mr. Johnson read a list of what Nibley City got from the development of the Cottonwoods at Hollow Roads subdivision:

Physical benefits beyond those gained from a conventional subdivision:

- Approximately 4 acres of conservation land. Never to be developed
- Preservation of approximately 0.5 acres of mature trees
- Protection of approximately 2 acres of productive agricultural soil
- Preservation and planting of approximately 0.75 acres of new tree stands
- Preservation of approximately 1 acre of wildlife habitat and corridors
- Preservation of approximately 2 acres of farmland
- Preservation of a stream and stream corridor. With associated berm
- Access to approximately 1,500 ft. of improved walking trail. With newly planted trees and landscaping

- Approximately 4 acres of conservation land which is not maintained by the city
- Less road and infrastructure maintenance. (Approximately 10%)
- Conservation land buffers with trees screens to minimize visual impact on the on neighborhood traffic
- Large areas of open space throughout the subdivision which are accessible and visible
- Enhanced population diversity through variable lots sizes
- Implementation of adopted city policies for land use, environmental protection, infrastructure conservation and transportation
- A neighborhood with direct visual and recreational access to conservation land

Financial benefits beyond those gained from a conventional subdivision

- \$71,352 in additional impact fees
- \$1,694,117 in local income to the community as a result of construction
- \$216,000 in taxes and governmental revenue as a result of construction
- 24 local job equivalents as a result of construction
- \$24,705 per year, in continual local income
- \$178,140 per year, in taxes and revenue for local governments
- 4 local ongoing job equivalents

Commissioner Davenport described the Planning and Zoning Commission role in the subdivision process to the public present noting that the Nibley City Council had the final approval of the subdivision.

Commissioner Green asked if there were sewer lines to the development. Ms. Phippen said there were. Commissioner Green asked for more information on the sidewalks being proposed. Mr. Johnson described the sidewalk/swale process. Commissioner Green asked which types of trees would be planted. Mr. Johnson said he would consult with Nibley's arborists and plant whichever trees made sense and fit best in the area.

Marcus Simons, Nibley City Engineer, who was present at the meeting, read a list of suggested trees included in Nibley's landscape design standards.

Commissioner Davenport asked about an easement to the James property. Mr. Johnson stated it was an easement across the property. Commissioner Davenport asked how the proposed trail fit in with the Nibley City Trail Master plan. Mr. Johnson said the trail served the subdivision well and discussed the desire for trails along the river. He said the proposed trail was a perfect trail to the river and could go down and connect to 250 West. He said the trail could also be connected to the west and go into other subdivisions as they develop. Ms. Phippen described the hierarchy of trails that existed in Nibley City and discussed the update of the existing trail plan in the near future. Mr. Johnson described his intent for HOA

development. Commissioner Davenport asked if there was any portion of the subdivision in a flood plain. Mr. Johnson and Ms. Phippen both agreed there wasn't. Commissioner Davenport discussed sidewalks, curbs, and gutter. He read from Nibley ordinance 11-5-5-D.2. and said he felt based on the average lot size and minimum lot size that the character and nature of the subdivision was equivalent or less than an R-2A subdivision and not a rural subdivision. He felt they couldn't grant the waiver for sidewalk, curb and gutter. Mr. Johnson said he had followed the recommendation of city staff and city officials in planning the sidewalks for the subdivision. He read from Nibley City ordinance 10-18-2-B:

*"B. In cases of conflict with other Nibley City ordinances, this chapter shall prevail."*

Mr. Johnson felt the statement said that the conservation subdivision ordinance trumped all other ordinance. Mr. Johnson said he would do whatever the City asked him to do within the laws.

Commissioner Swenson commended Mr. Johnson on his presentation. Commissioner Swenson asked Ms. Phippen if the change in density bonus required a new public hearing. Ms. Phippen she said no. Commissioner Swenson noted lots 1, 2, 3, 5, 6, 7, & 8, and said it looked as if Mr. Johnson was conserving land that didn't need to be conserved because nothing could be built in the area anyway. He felt Mr. Johnson was using that square footage to go to his density bonus and wasn't usable space. Mr. Johnson reiterated that conservation space could be used as a buffer from surrounding elements and neighbors. He and Commissioner Swenson discussed how the conservation space could be used and animal rights. Commissioner Swenson asked why Mr. Johnson elected to not take the walking trail behind lots 6-8. Mr. Johnson said he was not averse to including the trail in that area but wasn't sure it worked with the subdivision. He said he was trying to respect the property rights of an existing home and not have a trail run around that owner's property. Mr. Johnson and Commissioner Swenson discussed open space ownership options. Ms. Phippen the ordinance needed flexibility to accommodate a number of ownership types because of the variation of open space. She felt the ordinance was purposefully non-specific on how ownership was spelled out. Commissioner Swenson and Mr. Johnson discussed the line of the subdivision road and CCNRs.

Mr. Simons came to the podium. Commissioner Swenson asked his opinion of the roadway going on to Hollow Road and his opinion of how this subdivision fit into Nibley's Transportation Master plan, and for his opinion of the cross-section. Mr. Simons felt it would be a requirement of the subdivision to provide half a 60-ft right-of-way on Hollow Road. Mr. Simons said the Transportation Master plan showed a road connecting from Hollow Road to 250 and said it was hard to define where the connection should happen. His opinion was that the proposed road needed to tie in better according to the Transportation Master plan. Regarding the cross-section sidewalk curb and gutter, Mr. Simons said there were no design standards for roadside swale and this presented an opportunity to design method and means for a

swale. He said they would need to design swale widths and standard but that drainage could be accomplished using swales. Mr. Johnson said the detailed engineering came in the final plan.

Commissioner Albrect asked who had responsibility for the existing cottonwood grove. Mr. Johnson presented different ownership options. Commissioner Albrect commended Mr. Johnson for his design and presentation and said she felt he had made the subdivision almost invisible; perhaps too invisible. Commissioner Albrect said she had done a lot of research and was worried that they were headed toward a segregated city. She discussed how she didn't feel that this subdivision would provide diversity and discussed the pitfalls of conforming to one group; poverty, stereotyping, fewer opportunities to serve, less sense of community, and crime. She said she had seen no diversity in neighborhoods and discussed that the people on Hollow Road had a lot of power. Commissioner Albrect said the development was the illusion of diversity and the people of Hollow Road didn't want diversity. She said Nibley and the City Council needed to do it like they said it or just stop saying it; either they wanted diversity or they didn't. Mr. Johnson said some of the lots would be more inexpensive than others and hoped that this would create some diversity.

Commissioner Bliesner said he appreciated the applicant and the public through this process. He appreciated the level of effort that had been prepared for review. Commissioner Bliesner said many of the problems he had with the application were with the ordinance and not the application. He felt this was a good subdivision. Commissioner Bliesner said the only lots that had animal rights by his count were the remainder lots and 1 and 13. He noted that the animal ordinance define animal rights based on lot size and did not give a combination of two lots was an option. Commissioner Bliesner suggested that the conservation lots not be sold as individual lots to be sold separately to make sure individuals who thought they would have animals could have animals and that the lots have deed restrictions. Commissioner Bliesner said he was not in favor of creating a situation where pedestrians had nowhere to go except for the street. He said Hollow Road was an undesirable option for pedestrian access. He said he was in favor of the swales and felt said they should have sidewalks. Commissioner Bliesner said the plat needed to designate the trail boundary as a public access easement. Ms. Phippen said the trail was proposed to be dedicated to Nibley City. Commissioner Bliesner suggested it was not advisable to have all one type of tree on a property. If there were bugs in the species then they would lose all the trees. Commissioner Bliesner said he would recommend the City Council require a full sixty-foot right-of-way with a sidewalk and a swale.

Commissioner Albrect clarified that her comment were statistically based and not emotional comment. She strongly encouraged the City to look into these statistics as they moved forward with the Master Plan.

Commissioner Davenport called for a 10-minute recess at 7:57 p.m. The meeting reconvened at 8:08 p.m.

Commissioner Green made a motion to recommend approval of a preliminary plat for The Cottonwoods at Hollow Rd, a 17-lot conservation residential subdivision located at approximately 4030 Hollow Road to Nibley City Council. Commissioner Albrect seconded the motion.

Commissioner Bliesner made a motion to amend that a waiver on the right-of-way be issued by City Council that includes the entire 60-foot right-of-way; that eliminates curb and gutter and replaces it with a swale but still includes sidewalk service. Commissioner Green seconded the motion.

Commissioner Bliesner said there needed to be an adequate sidewalk to remove snow and for pedestrian circulation and he felt that swales dealt with water in a more modern way. Commissioner Davenport agreed that there should be sidewalks but questioned how they addressed that there were no current standards for swales. Commissioner Bliesner felt the details of the sidewalk and swale could be worked through with Ms. Phippen's help. Mr. Simons believed a 60-foot cross-section was adequate and would fit.

The amendment passed unanimously 5-0; with Commissioner Bliesner, Commissioner Green, Commissioner Davenport, Commissioner Swenson, and Commissioner Albrect all in favor.

Commissioner Albrect expressed concern with access and ownership of the conservancy lot that included a stand of cottonwood treed. The Planning and Zoning Commission discussed the perceived ownership of the conservancy lots. Ms. Phippen the conservancy lots could be shown as non-buildable portions of the lots to which they are attached. This would allow people access to animal rights as if it were one larger lot. The conservancy lots would be unbuildable portions that are attached to the individual property. The Planning and Zoning Commission discussed the stand of cottonwood trees on the proposed development.

Commissioner Albrect made a motion to amend to recommend that the City Council require that the City take ownership of the conservancy cottonwood lot of the Cottonwood at Hollow Roads subdivision. Commissioner Bliesner seconded the motion. The motion passed unanimously 5-0; with Commissioner Albrect, Commissioner Bliesner, Commissioner Green, Commissioner Davenport, and Commissioner Swenson all in favor.

The Planning and Zoning Commission discussed the placement of the main roadway in the proposed subdivision. Commissioner Bliesner said his impression was there was enough density in the area to require the connections demonstrated on the Master Plan and the ratio of cost to benefit was not good. He agreed with Ms. Phippen's analysis and said the proposal seemed acceptable to him and the applicant had done more than his share of work in showing there would be little traffic impact. Ms. Phippen didn't believe they would need to modify the



Transportation Master plan because this proposal accomplished the intent of the Transportation Master plan. Commissioner Swenson asked if the sensitive area boundary line had been resolved. Ms. Phippen said it have been resolved as far as it concerned the Daines' property.

The Planning and Zoning Commission discussed deed restrictions. Ms. Phippen said deed restrictions would be prepared as part of the final plat. The Planning and Zoning Commission directed the developer that ownership needed to be clearly defined and development restrictions placed on the deed for each conservancy lot.

Commissioner Bliesner made a motion to amend that the applicant adds the utility easements to the plat before the plat goes to City Council. Commissioner Albrect seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Albrect, Commissioner Green, Commissioner Swenson, and Commissioner Davenport all in favor.

Mr. Johnson and the Planning and Zoning Commission discussed ownership of the trail on the proposed development. The Planning and Zoning Commission agreed that they were all right with how the trail had been delineated on the plat. Nibley City Public Works Director, Justin Maughn asked the Planning and Zoning Commission to consider the width of Hollow Road. He was not sure the current plat addressed what the width was and how it addressed the Transportation Master plan. Councilmember Jacobsen said if there were rights-of-way that needed to be dedicated to the City because they were inadequate for a level of service this would normally be shown on the preliminary plat and would need to be dedicated on the plat. Mr. Simons said the current Hollow road was 51-feet according to the Cache County parcel mapping service and the Road Master plan called for 60-ft.

Commissioner Bliesner made a motion to amend to recommend the City Council require adequate right-of-way width along the Hollow Road frontage to accommodate the developer's share of the 60-foot right-of-way. Commissioner Green seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Green, Commissioner Davenport, Commissioner Swenson, and Commissioner Albrect all in favor.

The amended motion passed unanimously 5-0; with Commissioner Green, Commissioner Albrect, Commissioner Davenport, Commissioner Swenson, and Commissioner Bliesner all in favor.

### **Ordinance Revision**

#### **Discussion and consideration of an update to the Nibley City conservation residential subdivision ordinance**

Commissioner Johnson rejoined the Planning and Zoning Commission at 8:53 p.m. He left briefly at 8:53 p.m.

There was general consent to continue this item until the next Nibley City Planning and Zoning Commission meeting.

### **Workshop**

#### **Discussion of future Planning Commission projects**

Ms. Phippen said she was writing a transition memo with a list of projects for her replacement.

Commissioner Johnson returned at 8:54 p.m.

Ms. Phippen asked the Planning and Zoning Commission if there were any suggestions they wanted her to pass along to her replacement.

Commissioner Green left at 8:57 p.m. He returned to the meeting at 8:59 p.m.

Commissioner Albrect said she would like to get to know Nibley City residents better. Ms. Phippen said this was already on her list. The Planning and Zoning Commissioners said they would put some thought into Ms. Phippen's request and would email her.

Commissioner Bliesner said they needed to address the subdivision application process and the lack of clarity in some of Nibley City's ordinance. Ms. Phippen said there had been discussion between herself, Marcus, and Justin that they would start mandating pre-development meetings. Commissioner Johnson summarized his subdivision application process with Nibley City thus far. He said the lines were mixed between what was political and administrative. A subdivision application should be totally administrative.

### **Staff Report**

Commissioner Johnson reported that he would not be available for the next Planning and Zoning Commission meeting. Commissioner Bliesner also said he was not certain he would be able to come to the next meeting.

There was general consent to adjourn the meeting at 9:12 p.m.

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