

The Meeting of the Nibley Planning and Zoning Commission held at Nibley City Hall, 455 West 3200 South, Nibley, Utah on Wednesday, June 8, 2016.

The following actions were made during the meeting:

**Commissioner Bliesner motioned to continue consideration of a preliminary plat for Summerfield Place, a 29-lot subdivision located at approximately 2700 South 1000 West. Commissioner Johnson seconded the motion. The motion passed 5-0; with Commissioner Bliesner, Commissioner Johnson, Commissioner Green, Commissioner Swenson, and Commissioner Albrect all in favor.**

**Commissioner Johnson motioned to table the amendment to the Nibley City annexation policy plan. Commissioner Bliesner seconded the motion. The motion passed unanimously 5-0; with Commissioner Johnson, Commissioner Bliesner, Commissioner Green, Commissioner Swenson, and Commissioner Albrect all in favor.**

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Planning and Zoning Commission Co-Chair Brett Swenson called the Wednesday, June 8, 2016 Planning and Zoning Commission meeting to order at 5:35 p.m. Those in attendance included Commissioner Bret Swenson, Alternate Commissioner Aaron Bliesner, Commissioner Bill Green, Commissioner Carol Albrect, and Commissioner Jim Johnson. Ms. Shari Phippen, Nibley City Planner, was also present.

**Approval of 5-11-16 & 5-25-16 meeting minutes and the evening's agenda**  
General consent was given for the evening's agenda.

General consent was given for the May 11, 2016 meeting minutes.

General consent was given for the May 25, 2016 meeting minutes.

### **Public Hearing**

**A public hearing to receive comment concerning a preliminary plat for Summerfield Place, a 29-lot subdivision located at approximately 2700 South 1000 West.**

Ms. Phippen said this was a 29-lot subdivision on 10 acres. It was given preliminary approval as a 55 and older subdivision but that approval had expired and the developer had decided to develop the area as a traditional subdivision. Ms. Phippen discussed the public notification that been made according to State law.

Ms. Phippen said this property was zoned R-2A and in the R-2A zone the minimum lot size must be 12,000 square feet. All lots met or exceed standard lot size. Ms. Phippen said there is also a minimum frontage of 100 feet and all lots met or exceed that standard. The subdivision was proposed for development in two phases. Phase 1 will be Lots 1-10 and 23-29, which will build along 1000 West, 2600 South and 1100 West. Phase 2 will be Lots 11-22 and will be built in the cul-de-sac. She said the phasing was acceptable.

Ms. Phippen said the plat didn't provide the required pedestrian right-of-way from the cul-de-sac according to city code 11-5-5(E)(1) through 11-5-5(E)(4). The most likely place to provide the right-of-way would be between Lots 17 and 18, along the south portion of Lot 29 and out to 1100 West. Ms. Phippen said the pedestrian right-of-way should be resolved and included on the preliminary plat. It does not have to be in that location. The Commission may select an alternate location if they feel it provides a more desirable pedestrian right-of-way.

Ms. Phippen said that in all other respects, the plat met the necessary conditions to be recommended to the City Council for approval. She recommended the plat be recommended to City Council for their approval with the condition that prior to the plat appearing before the Council, the pedestrian right-of-way should be included, per ordinance.

Commissioner Swenson gave direction to the public present.

Commissioner Swenson opening the public hearing at 5:47 p.m.

Dennis Clark of 2770 South 1070 West said the original plat designated this as Phase 2 of Sunset Parks. He asked if the Sunset Park HOA would have any responsibility for this subdivision. He said the original specs and design hadn't been updated. He asked if there would be any tie between Sunset Parks subdivision and the proposed subdivision.

Marylin Miller of 1041 West 2740 South said it had been a disappointment to some of the residents of Sunset Parks with the Neighborhood Non-Profit development going in on the West and the two level homes going in there. She wondered if they would have the same in the new subdivision? She discussed the promises that had been made when she bought her home.

Seeing no further public comment, Commissioner Swenson closed the public hearing at 5:53 p.m.

Ms. Phippen this was not a Neighborhood Non-Profit Subdivision. She also said the City didn't have design standards and didn't have the legal ability to prohibit two-story homes. Ms. Phippen said the City didn't regulate or enforce restrictive covenants on a subdivision and didn't know if the restrictive covenants had been amended to remove this development. Commissioner Bliesner said covenants

typically didn't cover the entire mass of lots. The covenants should cover only the units on their plat and there should be nothing binding them to the other lots.

### **Discussion**

#### **Discussion and consideration of a preliminary plat for Summerfield Place, a 29-lot subdivision located at approximately 2700 South 1000 West (Applicant: Kelly Loosle)**

The developer, Kelly Loosle and project engineer, Steve Earl were present at the meeting.

Commissioner Bliesner discussed the road connection that was on the original plan. He thought Ms. Phippen recommendation to put the right-of-way was absolutely necessary but said they should switch the direction of that trail to be accessible to where people really needed to go; to the East or 1000 West. That put the trail in closer proximity to connect with the trail that ran behind the church and to the retention basins. Ms. Phippen agreed that Commissioner Bliesner suggestion tied more into an already established trail network. Commissioner Bliesner said a very common usage of that trail would be to put the residents out to the church. He further suggested they find a way to make the trail connect on both sides if it would still allow the developer to fall under the accessible lot size.

Commissioner Johnson asked if this could be done as an easement. Ms. Phippen said that City Council ordinance required the land be dedicated as a public right-of-way. Commissioner Johnson asked if they were able to reduce the minimum lot size if they asked the developer to put in the other right-of-way. Ms. Phippen said she didn't believe there was anything specifically written that allowed them to. Commissioner Bliesner said it was more likely that the city would pay for the extra easement and would help the developer to bear the burden of the extra right-of-way. Commissioner Albrect said the trail was important and Ms. Phippen agreed that they needed to get people out of their cars and walking. She said this was a priority of the city and Mayor Dustin.

Commissioner Bliesner said he didn't have any objection to the proposal with the exception of the trail and but felt that no proposal should be on the Planning and Zoning Commission docket if it didn't meet the ordinance.

Commissioner Bliesner made a motion to recommend the City Council approve a preliminary plat for Summerfield Place, a 29-lot subdivision located at approximately 2700 South 1000 West to the City Council with the condition that the required trail be moved to ingress and egress from 1000 West. Commissioner Albrect seconded the motion.

The Mr. Loosle said he was not aware that the trail was a requirement. Mr. Earl said he had spoken to city staff three months ago and had been told that it might be required. He wasn't aware if it was a requirement or a request. He felt that they were going to lose a lot with the requirement. Mr. Earl referred to the pocket park

that was on the south-west of the property. He asked if the City Council would be willing to sell that park in order to accommodate the trail. Ms. Phippen discussed the detailed process that would have to take place for the city to sell property. Commissioner Johnson said if this motion was sent forward then they would be required to loose a lot. If they wanted to consider a lot sale they would need to come pack with a different proposal. Mr. Earl said he felt it would be worth their while to hold off. Commissioner Johnson agreed and recommended they hold off on the approval until these issues were resolved.

The motion failed 0-5; with Commissioner Bliesner, Commissioner Albrect, Commissioner Green, Commissioner Swenson, and Commissioner Johnson all opposed.

Commissioner Bliesner made a motion to continue consideration of a preliminary plat for Summerfield Place, a 29-lot subdivision located at approximately 2700 South 1000 West. Commissioner Johnson seconded the motion. The motion passed 5-0; with Commissioner Bliesner, Commissioner Johnson, Commissioner Green, Commissioner Swenson, and Commissioner Albrect all in favor.

Commissioner Swenson called for a recess at 6:29 p.m. The meeting resumed at 6:32 p.m.

### **Public Hearing**

#### **A public hearing to receive comment concerning a proposal to amend the Nibley City annexation policy plan.**

Commissioner Swenson gave direction to the public present.

Ms. Phippen said after further discussion with the City Manager and Public Works Director, and in looking at growth and development that is likely to happen in the future, she didn't believe it was appropriate for Nibley to extend its annexation boundaries. The driving force behind this amendment was the possibility of a large-scale development in Nibley across from Heritage Park West. However, the City Council has directed that high-density apartment complexes not be allowed in Nibley, and so the property will not be annexing into Nibley. Ms. Phippen said she believed Nibley's annexation boundaries should stay as they were. Ms. Phippen displayed Nibley City's current annexation boundaries. Ms. Phippen reviewed that that Planning and Zoning Commission had expressed concern at the City's ability to provide services West of Highway 89/91. She discussed this point with Justin Maughan, the Public Works Director, and he said that it wouldn't be difficult to provide services. Nibley already reaches across Hwy 89/91, in order to serve the Peterson Farm Store complex, so it would be possible to extend those lines further. Sewer would present a more difficult situation, as the elevation lowers as you get closer to the Little Bear, so any development that far west would require a force main sewer line to provide the necessary flow lift.

Ms. Phippen said she believed there was some work to be done on the actual policy portion of the annexation policy. Ms. Phippen recommended the Planning and Zoning Commission recommend the revised written portion of the policy to the City Council.

Ms. Phippen read a letter from the Logan City Community Development Director.

*“Logan City offers the following comments on Nibley City’s proposed Annexation Policy Plan amendment for your consideration during the Planning Commission’s public hearing on June 8, 2016.*

*We believe the proposed annexation policy plan amendment is flawed in a number of different ways. First, the proposed boundaries include properties already located within both Logan City and Millville City. Second, the proposed map amendment is contrary to the actual existing and proposed language of the text in front of the Planning Commission. Third, the proposed boundaries represent a complete disregard for the underpinnings of why each City is required to prepare and update an annexation policy plan. Fourth, the proposed map amendment is not rooted in any rational reasons why Nibley needs to expand into this area, especially as it relates to the recently adopted General Plan. And finally, the proposed amendment fails to work collectively with each other jurisdiction in the County in planning and providing services and infrastructure to both existing and future residents.*

*Logan City respects the rights of each of the different municipalities within the valley to plan and prepare for future growth deemed important and beneficial for both the municipality as well as the residents involved. We support the logical and well thought out extension of City boundaries to build communities and provide necessary services to new residents. Logan City does, however, take issue with the impingement upon our, or any other municipality’s, area of proposed expansion and annexation by arbitrarily drawing an annexation expansion map that has had little thought and analysis put into it as it includes lands already within our respective municipal boundaries and is an area that we have planned to grow into since 2002.*

*Utah Municipal Code (UMC) 10-2-401.5 is the governing State Law on annexations and requires that each municipality adopt an Annexation Policy Plan before annexing any new properties. Logan City has had an Annexation Policy Plan in place since 2002, with revisions occurring in 2007 and additional updating currently in process. I would assume that Nibley City has had a similar document in place since 2002/2003 as UMC 10-2-401.5(1) required the adoption of a Plan prior to December 31, 2002 in order to continue annexing additional property. Some of the basic reasons why an annexation policy plan is required is to help inform a jurisdiction’s capital improvement planning and programming for current and future land uses, to help ensure that new developments are compatible with surrounding land uses, to ensure the provision of infrastructure and services is provided in an orderly fashion, and to work with other jurisdictions in avoiding the duplication of infrastructure and services to new areas.*

*Since 2002, Logan City has clearly stated that our intent is to annex the properties identified in this proposed annexation map amendment, and more specifically, those properties located north of 2200 North, west of Millville's Annexation Plan boundaries, and east of SR 89/91. We have designated this area as an Urban Services Areas with the understanding that at the time of annexation, these properties would come in under a zoning classification consistent with City residential densities and commercial intensities. Some of the existing developed properties identified for inclusion into Nibley City's annexation policy plan are already located within Logan City and Millville City boundaries, with much of these lands already developed with a variety of uses, including a hotel, RV Park, ATV sales/service, shipping and warehousing, industrial manufacturing, and residential uses.*

*UMC 10-2-401.5(4) provides the guiding language for the preparation and adoption of an annexation policy plan. We believe this proposal is inconsistent with the intent and provisions of UMC 10-2-401.5(4) which states that an annexation policy plan should avoid gaps or overlaps with other municipalities, should be rooted in the municipalities long range planning, should be based on rational growth projections, and should be based on an identifiable need to the additional land area.*

*This proposal accomplishes none of these things. The proposed area not only includes properties within both Logan City and Millville City, it includes properties we each have identified and planned for in our own respective annexation policy plans. The proposal is not avoiding gaps or overlaps; rather, it is creating a system of overlaps between the three jurisdictions that is confusing for residents, entirely avoidable, and unnecessary.*

*The proposal does not include any information on how it satisfies a pressing demand based on the next 20 years worth of population growth nor has it been identified as an area of interest or future expansion in any of Nibley's infrastructure plans. The proposal fails to include, even in the most general terms, how this area will be served, when it would be served, and at what cost to all taxpayers. The newly updated Nibley City Master Plan should have provided some of the supporting analysis and data, and even called out this area as a potential commercial center, but didn't even contemplate that Nibley was growing in this direction. In fact, the Nibley City Master Plan states that "Nibley's commercial development will be compact and economically sustainable, focused in identified centers, balanced with residential growth, and will promote the area's character and charm." The Plan's focus was on new commercial centers elsewhere within Nibley and not expansion into an area along the highway*

*The proposed annexation policy map is inconsistent with the Nibley City Annexation Policy Plan language currently before the Planning Commission. Both section 1 and 2 state that annexations will occur in unincorporated areas. Clearly, the proposed map includes areas that are not within unincorporated Cache County, but are within both Logan City and Millville City. If this is the policy of Nibley City to disregard the long term planning of adjoining municipalities, then what is to stop all the other cities from re-drafting their annexation maps to lay claim to each other jurisdictional areas?*

*Logan City has expressed a willingness to work with adjoining jurisdictions to resolve boundary issues. We recently adjusted our collective municipal boundary along North Main Street with North Logan in order to facilitate better governance and service provision to both existing and future commercial areas. We are currently working with River Heights on a couple of problematic areas to help facilitate improved road access to a new residential area as well as working to facilitate the construction of a multi-family housing project. We have approached Nibley City in the past about working on a "clean-up" of our mutual boundary along SR 89/91 with the goal of providing better services to both existing and future residents, and maintaining a healthy & productive land use and transportation corridor. This proposal is contrary to any kind of cooperative spirit of City's working together for the betterment of the residents. If you have any questions regarding these comments, please don't hesitate to contact me at (435) 716-9022 or [mike.desimone@loganutah.org](mailto:mike.desimone@loganutah.org)."*

Ms. Phippen said she was given direction on this project for a very specific purpose. She was very much against it and didn't like it from the beginning. Ms. Phippen said her orders were to include a very specific property in the city's annexation boundaries. The Mayor and City Manager directed her. Rather than focus on the specific property, she was directed to take it into these areas because the lines were cleaner. She relayed information she had been given by a developer within the proposed annexation borders. Commissioner Bliesner discussed how he felt the Planning and Zoning Commission had been misled. If the proposal was for a specific project then that information should have been leading statement when the project was started and not withheld from the conversation. Commissioner Johnson said he was not sure the letter from Logan was right. He thought a lot of annexation was telling property owners that "we would love to have you." He believed it was a something that allowed them to talk to property owners about annexation and that letter didn't say anything about property owners. Commissioner Johnson said he didn't feel Logan City should determine where they went with their annexation. Ms. Phippen and the Planning and Zoning Commission discussed annexation changes between Logan and Nibley.

Commissioner Swenson opened the public hearing at 6:54 p.m.

Barbara Wilden agreed with Ms. Phippen and said she agreed that it was time to back off and regroup.

Seeing no further public comment, Commissioner Swenson closed the public hearing at 6:55 p.m.

## **Discussion**

### **Discussion and consideration of an amendment to the Nibley City annexation policy plan.**

Commissioner Swenson said he didn't like the tone of the letter and felt that Logan was being the "bully of the valley." He said he took exception to the letter and asked

if Logan had any authority to stop them from doing the annexation boundary change. Ms. Phippen agreed that there wasn't.

Commissioner Johnson made a motion to table the amendment to the Nibley City annexation policy plan. Commissioner Bliesner seconded the motion. The motion passed unanimously 5-0; with Commissioner Johnson, Commissioner Bliesner, Commissioner Green, Commissioner Swenson, and Commissioner Albrect all in favor.

Ms. Phippen said the Planning and Zoning Commission could deal with the road annexation policy even if it wasn't explicitly stated. She said they could leave this until they worked something out with Logan.

**Discussion regarding an update to Nibley City Code 10-18: Conservation Residential Subdivisions.**

Ms. Phippen said she had made revisions to the conservation subdivision ordinance based on the direction given by the Planning and Zoning Commission at the last meeting that not all zones should be mandatory. Ms. Phippen said she had left the mandatory zones to R-2 and R-2A and excluded all other zones and left the conservation subdivision as an option in those zones where it is not mandatory. Ms. Phippen said she was still developing a section regulating townhome development and that it should be presented in the next draft. Ms. Phippen said she was asking the Planning and Zoning Commission to give staff further direction on items to include, exclude, or amend.

Swenson said he had "heartburn" with the project size minimum and with the conservation subdivision ordinance being mandatory. He felt it should be incentivized so that developers would want to choose to develop under the ordinance. Ms. Phippen said the overall incentive was that they got more lots and saved on infrastructure cost. Ms. Phippen discussed the raw ground development that was coming and being presented to the City. Ms. Phippen expressed that the public works director was nervous about the conservation subdivision being mandatory because he feared that it would all be publicly dedicated and then the city would have to maintain all the open space. Commissioner Albrect pointed out that the general plan called for diversity. She wanted neighborhoods that kept families happy but also created diversity. She said they needed more variation and affordability in housing in Nibley. She said if it wasn't going to create diversity then they didn't need to make it mandatory. Commissioner Albrect said if they really wanted to enhance diversity in Nibley then they needed to take steps to make it happen or not have it as a main goal. Councilmember Jacobsen said they should create diversity with zoning and have some multi-family housing. Commissioner Bliesner and Commissioner Johnson discussed different types of diversity with Commissioner Albrect. Commissioner Bliesner said he said they needed to adjust the density bonuses to ensure that it penciled out and to have it mandatory so the community is provided with what they were here to protect.



**Staff Report**

Ms. Phippen said the City Council may be adopting the budget at their meeting the following evening (June 9, 2016) and it did propose a sizable property tax rate increase. She described what Mayor Dustin intended to do with the increase.

There was general consent to adjourn at 7:47 p.m.

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