The Meeting of the Nibley Planning and Zoning Commission held at Nibley City Hall, 455 West 3200 South, Nibley, Utah on Wednesday, September 28, 2016.

The following actions were made during the meeting:

Jim Johnson motioned to continue discussions of the final plat for Valley View Meadows, a 20-lot conservation residential subdivision located at approximately 3400 South 250 West. Commissioner Albrect seconded the motion. The motion passed unanimously 4-0; with Commissioner Johnson, Commissioner Albrect, Commissioner Swenson, and Commissioner Bliesner all in favor.

Planning and Zoning Commission Co-Chair Brett Swenson called the Wednesday, September 28, 2016 Planning and Zoning Commission meeting to order at 5:30. Those in attendance included Commissioner Bret Swenson, Commissioner Carol Albrect, and Commissioner Jim Johnson. Alternate Commissioner Aaron Bliesner was present and acting as a voting member because Commissioner Dave Davenport and Commissioner Bill Green were absent from the meeting. Ms. Shari Phippen, Nibley City Planner, and Stephen Nelson, Nibley City Treasurer, were also present.

Approval of 9-14-16 meeting minutes and the evening's agenda
General consent was given for the evening's agenda.

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

<u>Final Plat</u>
Discussion and consideration of a final plat for Valley View Meadows, a 20-lot conservation residential subdivision located at approximately 3400 South 250 West (Applicant: Ironwood Development, LLC)
Mr. Jeff Jackson was present for the discussion representing Ironwood Development.

Ms. Phippen said Ironwood Development had submitted the final plat for Valley View Meadows subdivision. They were opting to do this all in one phase. She said the open space and density calculations hadn't changed since preliminary approval. Ms. Phippen described that the City Council opted to have the developer spread the open space throughout the development and have it be privately owned other than having the open space be owned by Nibley City at their preliminary review. She described that the exception was a walking path and property along the irrigation canal that would be owned by Nibley City.

Ms. Phippen said the right-of-ways were consistent with what Nibley City expected: the subdivision is proposed to be 60', 450 West runs on the western boundary of this project and the developer will be building their half of 450 West in conjunction with this project. Because it will server a larger traffic load than a local,

neighborhood road, the Transportation Master Plan dictates that 450 West will a 66' right of way.

Ms. Phippen listed the outstanding issues with Valley View Meadows subdivision plat: building setbacks need shown on all lots and a minor correction to the address of Lot 16. Ms. Phippen said these items would need to be included prior to the plat appearing before the City Council. Ms. Phippen described that she had the opportunity to meet with legal counsel for the Nibley Blacksmith Fork Irrigation Company today regarding this subdivision and that the Company didn't have any desire to halt this subdivision, but, as per the City's Operating Agreement with the Company, they needed the opportunity to review construction drawings related to the canal, retention pond and any other structures that will impact or be impacted by the development. She said that prior to the City Engineer accepting the construction drawings the developer would be required to have the canal company's approval on those drawings.

Ms. Phippen presented the concerns she had with the Maintenance Plan that had been presented to Nibley City. The area referred as "Western Open Space" needed to have the same fencing and structural limitations as "Eastern Open Space". She said there was a requirement that all privately held, non-buildable open space needed to come before the Planning and Zoning Commission for review and approval of any fencing used on the property. Ms. Phippen said there was a reference to suitable types of pasture or meadow grass suitable for grazing livestock, but no definition of what constitutes suitability and that any references to animals kept in the open space needed to refer to the Nibley City Code regarding animal land use.

Ms. Phippen said that the plat was in line with the preliminary plat and met the lot size, frontage, and other pertinent requirements outlined in Nibley City ordinance She recommended the consideration of the plat be continued to allow the developer time to update the maintenance plan, and then it should be forwarded on to the City Council with a favorable recommendation for their approval.

Commissioner Albrect asked Mr. Jackson how long he had to develop the walking path. Mr. Jackson said the maintenance agreement was very vague in the Nibley City code and was very hard to "nail" on the first try. He described the discussion that had taken place with the City Council and said if there was additional information to be included that they were not aware of if. He said he had included exactly what the City Council had asked for. Mr. Jackson described that the walking path was the responsibility of Nibley City. Mr. Jackson asked that the Planning and Zoning Commission vote on the consideration because he felt the developer had put their "best foot forward" to meet the requirement of Nibley City ordinance. Ms. Phippen said she didn't recall that the terms of the walking path had been settled on. She said her best understanding was that the trail was considered part of the infrastructure and an amenity similar to the sidewalks or the roads; she didn't believe an agreement contrary to her understanding was settled by the City Council.

Commissioner Bliesner said he wasn't concerned with the issues of the development agreement; the Planning and Zoning Commission had never been responsible to handle issues regarding the development agreement. Ms. Phippen reminded Commissioner Bliesner that they were discussing the maintenance agreement and described the difference between the development and maintenance agreement. Commissioner Bliesner asked why the consideration for final approval was on the agenda if there were still outstanding issue with the maintenance plan. Ms. Phippen said the Planning and Zoning Commission had recommended approval despite staff's opinion in the past. Commissioner Johnson and Ms. Phippen discussed the timeline and difficulty in resolving the issues presented.

Jim Johnson made a motion to recommend City Council approval of the final plat for Valley View Meadows, a 20-lot conservation residential subdivision located at approximately 3400 South 250 West to the Nibley City Council with the condition that the developer remedy the deficiencies outlined in Nibley City staff's FYI. Commissioner Albrect seconded the motion.

Commissioner Bliesner said he was not in favor of just passing something on and was not in favor of having items on the agenda that don't meet the requirement of the submittal; he said it was not a complete submittal. He said it was clear the applicant felt this wasn't his fault but said he was not clear on this because he hadn't been a part of the discussion. Ms. Phippen reported that in her review of previous meeting minutes there was no clear decision by the City Council on whether the City would construct the walking path; there was no motion stating so. Mr. Jackson said the developer would construct the walking path to the level (hard-packed, level, mow able surface) described in Nibley's standards.

The motion failed 0-4; with Commissioner Albrect, Commissioner Swenson, and Commissioner Bliesner opposed. Commissioner Johnson abstained.

Jim Johnson made a motion to continue discussions of the final plat for Valley View Meadows, a 20-lot conservation residential subdivision located at approximately 3400 South 250 West. Commissioner Albrect seconded the motion. The motion passed unanimously 4-0; with Commissioner Johnson, Commissioner Albrect, Commissioner Swenson, and Commissioner Bliesner all in favor.

<u>Public Hearing</u>

A public hearing to receive comment concerning a preliminary plat for The Cottonwoods at Hollow Rd, a 17-lot conservation residential subdivision located at approximately 4030 Hollow Road (Applicant: Jim Johnson)

Ms. Phippen the purpose of the meeting was not for the Planning and Zoning Commission to deliberate and make a recommendation to City Council on the proposed preliminary plat. She said the purpose of the meeting was to receive public comment on the proposed subdivision. Ms. Phippen said the Planning and Zoning Commission would deliberate the proposed preliminary plat at the October 12, 2016 meeting.

Ms. Phippen said Mr. Johnson, in conjunction with the landowner, Hal and Dolores Peterson has submitted a preliminary plat for a 17-lot conservation residential subdivision located at approximately 4030 Hollow Rd. The property was a mixture of the R-1 and R-1A zones. Ms. Phippen said City Code 10-18-4 stated that in existing R-1 zones, the base density is calculated as if the property were R-1A zones and despite there being a blend of the R-1 and R-1A zones, City code dictated that this property all be developed as if it were an R-1A zone. Ms. Phippen described the property's open space and density calculations.

Commissioner Swenson read the public comment period Rules of Order.

Commissioner Swenson opened the public comment period at 6:00 p.m.

Chris Daines said he was representing the Johnathan H. Daines Pension and Profit Sharing Trust, which owed land just north of the proposed subdivision. Mr. Daines distributed a letter he had sent to Nibley City. He said the Trust had a concern with the sensitive area boundary. He said if there were an official blessing to the sensitive area boundary line and designation then it could potentially affect his client's land as some sort of official act. Mr. Daines said they had potential buyers scared off by this. Mr. Daines was given more time because the Planning and Zoning Commission had not previously seen his letter. Mr. Daines referenced Nibley City code 11-1-4-1c7 which referenced items that needed to be shown on a plat.

Matt Draper of 4150 Hollow Road described why he had chose to live on Hollow Road. He said he was concerned with property values, bikers, runner, and traffic on the road. He said Hollow Road was an asset to Nibley City and he worried about putting too much on something that is so beautiful and serene.

Amanda James of 4030 Hollow Road described her initial thoughts on a 17 home subdivision. She said she had researched this and realized this is what the law and Nibley City ordinance allowed. She said Mr. Johnson had followed the letter of the law in planning the subdivision. Mrs. James said she could see it was a thoughtful design. Mrs. James asked the Planning and Zoning Commission to consider the walking trail on the property bordered her property on the west side and crossed over the roadway access to her house. She said this obliterated any sense of privacy she or her family had. Mrs. James had a safety concern with the pedestrians on the trail that passed over the roadway. She said she would like to see the walking trail taken off the plan or rerouted. Mrs. James was concerned with a large stand of trees that acted as a wildlife habitat that she assumed would have to be taken down. She asked that the trees not be taken.

Tony Strelich of 4198 Hollow Road said he understood the number of lots and building permitted were a higher number than was allowed on Hollow Road. He said they needed to take into account environmental considerations. He said it was

important to have space around their own home to take care of the environment himself.

Anne Coleman of 4041 Hollow Road was concerned that the subdivision proposal would put approximately 36 cars on the road. Ms. Coleman said Hollow Road was a country, rural, walkers, cyclist, horse rider, recreation vehicle, elderly women with sticks road. She said it was a community road and that Hollow Road was a little bit of paradise. She said Hollow Road was not built to cater to 36 additional cars. Ms. Coleman asked the developer to look at an additional road; another access. She directed him to draw up a plan using the Shadow Brook subdivision road that was a main road that was built with a view in mind for additional development. Ms. Coleman referred to ordinances 10-18-8 and 10-1a-7c and said they hadn't been complied with and asked that this be corrected.

Mark Peterson of 3883 S. 250 E. said he had lived in Nibley most his live. He knew the subdivision would bring in nice houses that would improve the area. He said not all homeowners wanted large lots. Mr. Peterson said he lived in a subdivision with 17 houses and that they hardly every ran into any other cars on the road. He felt the road could handle additional cars and thought addition roads running onto other roads would increase the traffic.

Nathan Zollinger of 4080 Hollow Road commented that he was opposed to the plan. He would like to see it stick to the zoning that was in place, and not approve the variance for the conservation subdivision, because it didn't fit with anything "upstream or downstream."

David Nelson of 4070 Hollow Road referred to a 22-foot right-of-way that belonged to himself and Garry Murray. He asked if there would be a fence between his right-of-way and the property that was put down? Mr. Nelson said the 20-foot trail easement dedicated to Nibley City would be to the West of his property line and asked if there would be a fence between his property and the trail? Mr. Nelson asked where the existing ditch would be located to? He said he had access to that water and wanted to make sure that water was not covered up to prohibit his access.

Rick DeMoss of 4305 Hollow Road asked the Planning and Zoning Commission if they had any financial interest in the development and asked them disclose this for public record.

Brent Baum of 4315 Hollow Road was concerned with higher density population along the road. He referred to Nibley Code 10-18-8 Sensitive Area Designation Plan Map. He asked if one of these had been submitted and read the reference. Mr. Baum referred to the old Central Utah Railway right-of-way that ran through the property. He suggested the developer submit a plan to investigate the cultural resource and historic site and there be some sort of recognition set aside to emphasize the great history of Nibley.

Mason Lefler of 4080 Hollow Road said this high density was devastating for them. He said he was fine with it being developed but had qualms that the conservation bonus was ill sighted. Mr. Lefler discussed light pollution and devastating effects. He said a conservation bonus would negatively affect wildlife due to the light pollution.

Gary Murray of 4100 Hollow Road said he was the adjacent property owner on the south side. He said he was opposed to the changing from ¾ acre zoning. He said the City Council promoted rural living but pushed developers towards the conservation subdivision. Mr. Murray said Hollow Road was the last rural area in Nibley. He asked if the 22-foot right-of-way was figured into the conservation area? Mr. Murray asked if he could ride his mule in the trail? Mr. Murray said he also used the irrigation ditch.

Karina Brown of 5331 Sleepy Hollow Land described the reasons she had moved to the area. Ms. Brown was concerned with the .33 acre lot size. She said she would like to see the land developed with larger lot sizes and with no homeowner's association. Ms. Brown expressed her concern with the additional traffic.

Tami Jones of 4204 Hollow Road described living in Logan and moving to Hollow Road for its rural charm. She said this was the exact opposite of conservation. She wanted to conserve the priorities those on Hollow Road saw. Ms. Jones said this would change the rural charm of Hollow road and asked for consideration of the largest acre lots sizes they could.

Darwin Maughn, Nibley resident, asked if the development had satisfied the state requirement for public road width and utilities hooking on to Hollow Road? He said the division of previous lots from this acreage would force an issue on lot sizes to the north.

Bill Player of 4815 Hollow Road asked Ms. Phippen or Commissioner Johnson to read 10-18-8 of Nibley City ordinance. He was directed to have a member of the public read the wording regarding Conservation Area Designation Plan Map. Mr. Player asked if this had been done and said the tree stand hadn't been outlined as a sensitive area. Mr. Player described where he felt the traffic from the subdivision should go. Mr. Player said he felt they shouldn't be having the discussion on the subdivision because there was no summary on the sign placed on the property.

Steve Stowers of 4390 Hollow Road thought the loudest voice would be the number of Hollow Road residents seated in the meeting. He described that they felt the intent and motives by which they selected where they built their homes was threatened by the subdivision being presented otherwise there would be little interest in being here. Mr. Stowers said he was more passionate about personal property rights but sought for greater congruence to what exited in the atmosphere, lifestyle, and amenities they enjoyed on Hollow Road. Mr. Stowers asked the developers to give greater attention to the neighbors who were directly impacted by the development.

Cory Jensen of 4154 Hollow Road said everyone on Hollow Road was very welcoming. He said he felt this was still the point but they were asking that certain variances not be granted to allow the high density. He described his proximity to the development and felt any impact would be significant when you had children on a road that didn't have sidewalk and blind corners. Mr. Jensen had questions regarding the properties bordering the subdivision and if they had to have compliant fencing? He asked if they would have to get their fencing approved?

Jim Johnson of 510 W 3800 S said he had the privilege of being the developer of the property. He described the difficulties meeting the rules and laws outlined by Nibley. Mr. Johnson said they took into consideration the nature of the area and also what was outlined by the public in the General Plan, which spoke to encouraging the development of conservation subdivisions. Mr. Johnson said they had followed the ordinance to develop the subdivision and felt it could be one of the marquee subdivisions for Nibley; that would maintain the atmosphere of Hollow Road and met the needs and requirements of the conservation subdivision. Mr. Johnson said they had been very specific in following the State and Nibley's laws; he said they hadn't done anything outside of what was permitted.

Ron Hellstern of 4766 Hollow Road asked a question about lot 3 and what it was for. Mr. Hellstern said he was for wildlife and lower density. He agreed that the proposal was within the realm of legality. He said he was in favor of maintaining the stand of trees and open space.

Seeing no further comment, Commissioner Swenson closed the public comment period at 7:00 p.m.

Ms. Phippen answered the questions that had been presented during the public hearing. Ms. Phippen said on projects greater than 10 acres it was possible to have a single lot with up to 4 attached housing units on it provided they that they were designed to look like a traditional home. However, there were two preliminary plats submitted; one showed 4 on lot three and one with a traditional building lot. Ms. Phippen said lot 3 was being proposed as a single building lot with a single, single family home on it.

Ms. Phippen addressed the notification question. She described her conversation with Nibley's attorney and said the physical plat had been mailed out and was available to the public on the website and met the state requirement for notification.

Ms. Phippen displayed that Commissioner Johnson was noted as a Nibley City Planning and Zoning Commission on the City website and described when direct contact information wasn't listed on the website. Ms. Phippen said all City Council members and Planning and Zoning Commission members were required to comply with disclosers under the Municipal Officers and Employees Ethics Act and that Mr.

Johnson had filed the required disclosure statement with the Mayor. No other disclosures were required.

Commissioner Swenson stated he had no financial interest in the property. Commissioner Albrect stated she had no financial interest in the property. Commissioner Bliesner stated he had no financial interest in the property.

Ms. Phippen note that Commissioner Dave Davenport Commissioner Bill Green were absent from the meeting and felt it would be appropriate for them to make their disclosure at the next Planning and Zoning Commission meeting.

Ms. Phippen discussed the Conservation Area Designation Plan Map and asked the Planning and Zoning Commission to consider the stand of trees on the property and if they were significant and unique. She said the Planning and Zoning Commission needed to decide if it was unique enough to that it warranted a permanent conservation or if the conservation and creation of other open spaces compensated for the loss of the Cottonwood trees. Ms. Phippen described what could happen if the lot with the stand of trees were set aside as open space and said it was possible for the developer to maintain 17 building lots.

Ms. Phippen addressed traffic concerns. She said the developer had commissioned a traffic study completed by a firm in Salt Lake. The study had shown that Hollow Road had sufficient design and width to accommodate the traffic related to the subdivision with the current single access. The standards used in the traffic study were the same standards used by Nibley City to design roads and therefore the City was not in a position to mandate a second access.

Ms. Phippen described a variance and noted that the developer wasn't asking for a variance; he was asking that an existing ordinance be applied to the property.

Ms. Phippen said the adjoining property owners wouldn't be required to come to the Planning and Zoning Commission for fencing. All fences in the city required permits that were administered on a staff level. The adjacent property owners would need to come to staff for approval. She stated that only fencing of the conserved lots would need to come before the Planning and Zoning Commission. Ms. Phippen described that the access easement was not calculated in the open space requirement.

Ms. Phippen described that anyone with access to the irrigation ditch would still have the same level of access. She said the irrigation company was required to review and approve alteration of any ditch structures on a property. Both the city and canal company review this on every property.

Ms. Phippen described that this was the first time she had been made aware of any railway access right-of-way. Commissioner Swenson asked her to look into this issue. Ms. Phippen said she would.

Ms. Phippen described the FEMA designated flood boundary and said the developer would need to match what FEMA had survey out and coordinate with the County GIS data. She showed the flood plane boundaries.

Commissioner Swenson called for a 10 minutes meeting recess.

The meeting resumed at 7:26 p.m. Commissioner Johnson was not present.

<u>Ordinance Revision</u>
Discussion and consideration of an update to the Nibley City conservation residential subdivision ordinance
Ms. Phippen stated for the record that the last application under consideration and discussion and consideration of an update to the conservation subdivision ordinance had nothing to do with one another. The ordinance update was undertaken long before the project came up for consideration. The project was being evaluated based on the ordinance currently on the books and was not being examined based on any update to the ordinance.

Ms. Phippen reminded the Planning and Zoning Commission that they were considering adding residential design standards to the ordinance in order to ensure the quality of housing was not adversely impacted by the size of the lot. Ms. Phippen described that South Salt Lake City had residential design guidelines that she had modified in a few spots and incorporated into the proposed update and thought were a good starting point for discussion. Ms. Phippen displayed sketches but said she was worried about the effect that the combination of frontage and setback requirements will have on small lots.

Commissioner Johnson returned at 7:30 p.m.

She described that the sketches showed the buildable area on a lot if they made adjustments to the setback requirements. Ms. Phippen said that alternatively, they could adjust the frontage so that there was more depth to the lot. She said it seems that mid-sized homes ran from 35-45 feet deep.

Commissioner Johnson had an example of a house that was built on a 7,000 square-foot lot. He said the side setback was 12 feet, with 30-foot setback in the front, and in the 25 feet setback in the back. He said they were beautiful homes but were built on deeper lots. The deeper lots allow you to build a house that had over 5,000 square feet. He said he was in favor of smaller but the lots needed to have a dimension that allowed them to be built very deep front-to-back. Ms. Phippen felt the depth of a lot had more of an impact on housing than the width. Commissioner Johnson agreed and said they needed to incorporate this into the ordinance.

Commissioner Johnson said the design standards were great but was concerned with having the ability to police everything. He said policing standards was a

significant task. Commissioner Johnson was also concerned with each housing being different in a subdivision and asked how they determined this on properties where individual lots were developed instead of under one developer. Ms. Phippen said that evaluation could be done as part of the subdivision application. Commissioner Albrect agreed that her concern would be policing of the standards.

Commissioner Bliesner thought there were benefits to this type of development if rural character was at threat. He argued that the ordinance should be mandated in R2 and R2A but should be prohibited in RE, R1, and R1A because those zones were not at risk of losing rural character. Commissioner Albrect stated her concern with this ordinance being enforced and described yards of weeds. She said there was no point in writing ordinance that were not enforced and they overestimated their power. Commissioner Johnson described going through the conservation subdivision process. He said if they were going to have an ordinance they needed to describe the process and then have developed measureable standards. If there were no standards then the process became subjective and became a political decision, which is where courts can get involved. Commissioner Johnson said they needed concrete, specific, measureable things and said he could provide examples. Commissioner Swenson said the definition of open space was too broadly written. Commissioner Albrect stated they needed to be equally concerned about development and maintenance of the open space areas. Commissioner Johnson suggested the Planning and Zoning Commission go through the ordinance section by section and have concrete comments prepared for each section.

The Planning and Zoning Commission agreed to continue the discussion of the conservation residential subdivision ordinance at their next meeting.

Staff Report

Commissioner Swenson adjourned the meeting at 7:30 p.m.

Attest: _____

Deputy City Recorder