The Meeting of the Nibley Planning and Zoning Commission held at Nibley City Hall, 455 West 3200 South, Nibley, Utah on Wednesday, September 27, 2017.

The following actions were made during the meeting:

Commissioner Johnson moved to recommend approval of a preliminary conservation subdivision plat for the Meadow Creek Subdivision, located at approximately at 3850 South and 100 East; applicant, Mike Swenson to the City Council; with the condition that setback lines be included on the plat; and that the City Council review with the applicant that the open space on conservation parcel 1 be incorporated to lot 1 and that conservation parcel 1 become a lot; to provide a rural nature in the subdivision of combining the open space on lots 12-15 into a continuous open space that could be used for large animals or pasture or farm production; that regarding that the open space along 3850 South, that the maintenance plan be clearly identified to be maintained as a justifiable buffer between the street in the spirit of the conservation ordinance; that the City Engineer review a model to indicate whether this subdivision will impact the adjacent associated subdivision by way of water impact with the applicant and that the water system will carry the proposed subdivision. Commissioner Albrect seconded the motion. The motion passed 3-1; with Commissioner Johnson, Commissioner Albrect, and Commissioner Bliesner in favor. Commissioner Green was opposed.

Commissioner Johnson moved to continue item three on the agenda (Presentation regarding the annexation process) to the next meeting. Commissioner Bliesner seconded the motion. The motion passed unanimously 5-0; with Councilmember Jacobsen, Commissioner Bliesner, Commissioner Green, Commissioner Swenson, and Commissioner Albrect all in favor.

Planning and Zoning Commission Chair Bret Swenson called the Wednesday, September 27, 2017 Planning and Zoning Commission meeting to order at 5:30 p.m. Those in attendance included. Mr. Stephen Nelson, Nibley City Planner, was also present.

Approval of 09-20-17 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.

Commissioner Bliesner suggested further explanation and alternate wording for information presented in the minutes regarding item 3 in the previous meeting minutes.

<u>Public Hearing</u>

A public hearing to receive comments regarding a preliminary conservation subdivision plat for the Meadow Creek Subdivision, located at approximately at 3850 South and 100 East (Applicant Mike Swenson)
Commissioner Swenson

> *"Because of my relationship to the applicants of times 1 and 2, I have chosen to recuse myself from items 1 and 2 on today's agenda as a Commissioner. Commissioner Bliesner will act as Chairman for items 1 and 2 and I will resume as Chair for items 3 and 4."*

Commissioner Green arrived at 5:33 p.m.

Commissioner Bliesner presented rules for the public hearing to the public present at the meeting. Commissioner Bliesner asked City staff to give a introduction for the application.

Mr. Nelson said Meadow Creek Subdivision was a preliminary conservation subdivision plat and described the property location. He said the developer submitted the plat on September 13, 2017. Staff advertised for a public hearing according to Nibley City code and state law. After reviewing the plat, staff found some errors and sent a report to the developer. The developer fixed a majority of the issues and resubmitted the plat. The developer offered to resend letters containing the revised plat out to property owners within 300' of the development, which was done.

Mr. Nelson presented that the developers were parents of Commissioner Bret Swenson, Chair of the Planning Commission. Mr. Bret Swenson has filed paperwork with the City Recorder acknowledging his conflict of interest as required by state law.

Mr. Nelson summarized that the development had split zoning between R-1 and R-1A Zones. He noted that Nibley City Code 10-18-4 Conservation Residential Subdivision Development Options stated:

> *"Applicants in existing R-1 zones may also choose to apply for a subdivision approval using the conservation residential subdivision. By so doing, the density from which all calculations shall be made shall be equal to 0.75 acre lots or the same density as the R- 1A zone."*

Mr. Nelson said the City had interpreted that this section would require developments with R-1 and R-1A split zoning to calculate their density and conservation land off the R-1A Conservation Subdivision Table. The developer had done this and the plat complied with this code. He said the plat provided 40% conservation space so the minimum lot size would be 11,000 square feet and reviewed the specification for lots in the Meadow Creek subdivision.

Mr. Nelson said the plat met the requirements listed in Nibley City Code for a preliminary plat except that the plat didn't have setback lines drawn on each lot. Setbacks were listed on the plat, just not drawn within each individual lot. Mr. Nelson said the developer had been informed the error.

Mr. Nelson said the streets within the Subdivision complied with Nibley City Code 11-5- 5 and Transportation Master Plan. Staff was currently reviewing if there needed to be improvement made to 3850 South. The Engineer believed 3850 would handle the increased traffic for 15 homes. Mr. Nelson pointed out that there was a protection strip located along the North of the proposed development controlled by Johnathan Daines. The protection strip currently prohibited the development from accessing 3850 South but the developer had reached out the Mr. Daines to secure access. Mr. Nelson reported that both parties are currently negotiating so the developer can secure access.

Mr. Nelson reviewed that there was a canal that ran across the development. The developer was proposing to keep the ditch open and provide a 25' right-of-way on the west side of the ditch. Because the ditch was not a "Primary Canal", the developer was not required to provide a 15' right of-way on each side Mr. Nelson read Nibley City code 10-12-23 (F)(2):

> *"2. Each new subdivision shall dedicate Rights-of-Way to the City, for use by the public if the City chooses, along open Conveyances. The company that is responsible for the maintenance of the Conveyance shall also have access to the Right-of-Way in order to render service or maintenance to the Conveyance.*
>
> a. *For subdivisions that require open space, public space, or conservation space; the dedicated right-of-way's acreage along open irrigation conveyances shall count toward the development's total open space, public space or conservation space as required by zoning and subdivision code."*

Mr. Nelson said the developer had received verbal "okay" from the Canal Company.

Mr. Nelson described that the developer's preliminary plans for stormwater was for roadside swales to match the Cottonwoods development since they will be linked by 150 West. He said the soil composition was very similar to the Cottonwoods development. Staff does not have any concerns about this plan but will require test from the developer for the Final Plat application. Mr. Nelson presented plans for a sewer line in the development and other utility line connections.

Mr. Nelson said the developer was planning on several parcels of Conservation Space. The developer is proposing to have 30' wide conservation space buffering lots 1-5 and 15. Lots 12-15 will have conservation space on the back of each lot about 90' feet off the front property line which would be privately owned. This would most likely have some of the conservation space set in the back setback. Mr. Nelson said the developer hadn't provided a full maintenance plan for these lots; however, the developer had discussed that they could be used for some agricultural

purpose. Staff had requested the developer have a more detailed plan available for the open spaces. Mr. Nelson said the City was currently talking to the developer about the use of Conservation Parcel 1 since it was not tied to a lot and ownership is currently unclear. Mr. Nelson described possible uses for the proposed conservation space.

Mr. Nelson reported that staff had received a letter from George and Lillian Shiffman, which would be included in the meeting minutes. Mr. Nelson offered to read in the letter during the public hearing.

Commissioner Bliesner opened the public hearing at 5:53 p.m.

Richard Combs of 65 East 3850 South said he had a concern with the road and whether if would handle the excess traffic. He said the road had only 34 feet of drive space on the road; especially in the morning because of the traffic coming out of Hyrum. He said they had a problem with the easement on 3850 South because it wasn't being maintained. He said they would be getting this space, only wider, that would need to be maintained. Mr. Combs said their water line was under the old ordinance. He said they only had a 6-inch main and was concerned with what this would do to their water pressure. He said they currently had a hard time running their households. He understood the minimum water meter size were one inch meters. He feared they would have a hard time taking a shower.

Tyler Obray of 3815 South 250 East said he was speaking for himself, Craig and Julie Schifmans, and Mike and Melissa Bishop. They said it was correct that the application was within the conservation subdivision ordinance but it was in no way within the spirit of the conservation subdivision ordinance. Mr. Obray read from the conservation subdivision ordinance. He said the buffer zone conservation was a backyard. He said the conservation space wasn't continuous open space for the enjoyment of the community as a whole. He presented that animal rights couldn't be exercised for animal rights because City code didn't allow for animal outbuidlings must be 100 feet from a public street. Mr. Obray read from Nibley City code 10-18-7:

> *"Subject to the provisions set forth herein, any provision of this chapter may be waived by the city council upon a vote of not less than three (3) members of the city council. Such waiver(s) shall be granted only in limited circumstances as deemed appropriate and necessary by the city council. No waiver shall be granted absent a finding of good cause based upon specific special circumstances attached to the property, nor shall any waiver be granted for reasons of financial hardship. No waiver shall be granted that would be contrary to the public interest or contrary to the underlying intent of this chapter. Any waiver of the required minimum conservation land dedication shall require comparable compensation, off site improvements, amenities or other consideration of comparable size, quality and/or value."*

Mr. Obray said that the residents were not against development. The zoning of R-2a allowed for 11 homes and this was what their neighborhood was looking for. They wanted restrictions within the codes of the City. Mr. Obray said lots 1-5 and lots 12-15 put the conservation space into private areas. Mr. Obray read from Nibley City code 10-18-7 and 10-8-10. Mr. Obray referred to Nibley City code 10-18-12 and 10-18-13 and said the conservation spaces were private lots owned by private individuals. He suggested taking away the private space and making the park space bigger. He didn't see how the City Council could approve this as a conservation subdivision. Mr. Obray referred to the Cottonwoods subdivsion, saying it was a beautiful development with open space to enjoy.

BJ Smith owned a lot east of lots 12-14 of the proposed subdivsion. He seconded what Mr. Obray had said. Mr. Smith said they had looked for 12-15 years for a lot on the South end of the valley that didn't require a lot of money building a home on the bench. He said they had chosen Nibley because it was one of the few City's that had stuck to certain areas representing certain types of housing to multiple types of people. He felt this was a hodge-podge. Mr. Smith said that secondly, the conservation behind lots 12-14 weren't a conservation strip; it was a backyard. He referred that the open space needed to be accessed by the public and that the property owners wouldn't be willing to maintain this. Mr. Smith said he was pro-development and said swales were a poor decision and were hard to maintain. Mr. Smith said he didn't realize that he needed to look for a technicality in the City zoning map. They bought the lot specifically for the zoning.

Bill Player of 4815 Hollow Road said he hadn't heard about this subdivision because he wasn't within 300 feet of the subdivision. He believed the sign needed to be 6 x 4. Mr. Nelson clarified that it needed to be 4 x 4. He asked how long it needed to be in place. Mr. Nelson said it was 10 days. Mr. Player wanted the city to follow the ordinances. He said one resident had received their letter 4 days ago. He asked if the conservation subdivision had been modified? He referred to the ordinance saying a study had to be done of all properties within 400 ft. of the conservation subdivision. He didn't believe this was done and said it wasn't done on the Cottonwood either. He said they needed to follow the ordinance to the tee. Mr. Player said he wasn't against growth but they would have to change the website of Nibley because it said it was a rural environment.

Rob Bott said he lived at 3856 South 250 East. He referred to the notification of residents within 300 ft. and said it was bad politics. Mr. Bott agreed with Mr. Combs. He said the water problems were real. He said Mr. Obray's comments were correct and the entire street was concerned about these things. He said the subdivision filled the technical questions of the ordinance but didn't fill the spirit of the ordinance. He said it needed to be public dedicated property or the property would wind up being fenced.

Mr. Danny McFarland with Civil Solutions Group said he represented the developer on this subdivision. He said there would be a conservation maintenance plan

submitted and the plan would state who owned and maintained what. He said this was the third conservation subdivision they had done and there had been privately owned conservation land. Mr. McFarland discussed 3850 South, saying the current standard was 35 hard feet of surface and he had no doubt there would be adequate space for traffic. Mr. McFarland described that all three conservation subdivisions his firm had done had conservation space in private ownership. He said lots 12-15 limited where the homes could go leaving a buffer. Mr. McFarland referred to Mr. Player's comment and said a sensitive resources map had been submitted. Mr. McFarland said the subdivision would be nice and the

Mark Johnson of 87 East 3850 South supported Tyler Obray's comments. He disagreed with what was said by the developer. Mr. Johnson said they understood growth would happen and asked that it be done with a vision and responsibility with managing the growth. He challenged the City, questioning what the City's vision was for the future? He challenged the Mayor and City Council to provide a vision for the future that it's constituents would approve of. He asked that the community that brought them here be maintained.

Mr. Brandon Sparrow of 3728 South 250 East said he was a new resident to the area. He moved to the area for the open space and because it was a little more rural. He moved to the area because of the open feeling and the development that was going on left the open feeling. He referred to the Cottonwoods Subdivision and noted that there was a lot of open space. He said the conservation space in this subdivision was all in someone's backyard and there was only .46 that was truly public. He said they crowded the building lots in so that they couldn't have adequate setbacks. He suggested a concept with 11 lots and a true conservation area.

Seeing no further public comment, Commissioner Bliesner closed the public comment period at 6:22 p.m.

Discussion and consideration of a recommendation regarding a preliminary conservation subdivision plat for the Meadow Creek Subdivision, located at approximately at 3850 South and 100 East (Applicant Mike Swenson)
Mr. Nelson addressed the questions that were brought up during the public hearing He described that the road was a 50 foot cross section with 29 feet of asphalt on the ground. He said they were seeing smaller park strips. The City Engineer believed the street was more than capable of handling the estimated extra traffic. The Engineer had suggested there be no on street parking allowed on one side of the road. Mr. Nelson addressed comments about water. He said the Public Works Director and City engineer were looking in to the water. According to Nibley's water model there should be a problem. He said the neighborhood was in the low zone and did have lower pressure. When the water line was linked to the water line on Hollow Road and the Cottonwoods the area would be switched to the high zone which would increase water pressure to the area. Short term there would be some impact to the water system but the engineer felt it would be pretty nominal. Commissioner Bliesner asked when the water line would be connected? Mr. Nelson said there was

an empty lot owned by the Peterson's that the city had an easement across and the water line would be placed in the easement. Commissioner Johnson asked if water delivery was impacted, what would happen? Mr. Nelson said if the subdivision provided a great impact and didn't meet fire code they could require the developer to beef up the entire system to update his subdivision. Commissioner Johnson asked who would determine this? Mr. Nelson said it was the City Engineer who was looking into that water and development impacts. Commissioner Albrect said it sounded like it was currently a problem and asked how low the numbers had to be to be under fire code? Mr. Nelson said he was not sure. The Planning and Zoning Commission discussed water pressure and factors that effected water pressure to individual homes. Commissioner Bliesner said they should let the engineer do the talking on this issue.

Mr. Nelson described that the public notification had been posted 10 days prior but because there was a change to the plat they had resent the letter that included the plat. He said the letter that had been received only a couple days ago was probably the second letter that had been sent.

Mr. Nelson referred to Nibley City code 10-18-14 regarding buffering.

Mr. Nelson said the sensitive land area designation map had been provided noting that part of the code was illegal; they couldn't require a developer to go on to someone else's property to survey it so the general interpretation had been they could use public resources. Mr. Nelson displayed the sensitive land area map to the Planning and Zoning Commission and the public present.

Commissioner Albrect said her understanding was that if the City Engineer reviewed a development and discovered there was a problem unrelated to the subdivision, then the City was responsible; not the developer. Mr. Nelson said if the City Engineer and the Public Works Director reviewed that the infrastructure was not adequate in a subdivision then it was a City issue and the City would have to fix it.

Commissioner Green said he agreed with Mr. Bott and Johnson. He didn't see what Nibley got out of this. He said the water thing bothered him and he discussed being a fireman. He felt the only one getting anything out of this was the developer and landowner. Commissioner Bliesner said he felt they agreed that the original conservation ordinance didn't accomplish the intent for which it was designed which is why they were currently reviewing the ordinance; but discussion of the ordinance wasn't on the agenda.

Commissioner Johnson was interested in the protection strip that went along the front of 3850 South. Commissioner Johnson asked if there conditions placed on the subdivision of the property because of the protection strip. He asked if the City had researched if there were any conditions in place with the strip of property. Mr. Nelson said the original development agreement had outlined some conditions for

the protection strip. Mr. Nelson said the applicant had gone to expense to research what had happened in the past. Mr. Nelson summarized the conditions attached to the protection strip and said the applicant was aware of the conditions. Commissioner Johnson asked if any traffic studies had been done on 181 and 3850. Mr. Swenson said there hadn't been a study. He said it was their opinion that a traffic study wasn't necessary because the City recently changed the Master Road Plan. Commissioner Johnson suggested a study might help the neighbors to understand the traffic impact as a gesture of good will.

Commissioner Johnson suggested the applicant combine the conservation spaces behind lots 12-15. He said it would be better served as a joint open space that was owned by one landowner so that they could enjoy some animal use and it could be clearly maintained as open/rural space. Commissioner Johnson suggested the buffer space along the back was included in the lot depth requirement. He asked if the lot depth requirement went to the border of the open space or went through the open space? Mr. Swenson said he believed it went through the lot space. Commissioner Johnson said he believed under the ordinance that the lots had to be calculated and then the open space was above and beyond the calculation. Mr. Nelson said the ordinance stated that open space could be privately owned but this had to be approved by the City Council. Commissioner Johnson said he wasn't opposed to this as long as there was a maintenance plan that provided the space truly be a buffer zone. Commissioner Albrect asked if a homeowners association was completely out of the plan. Mr. Swenson said it was. Commissioner Albrect described that she felt there were three ways to maintain land; a homeowners association, City ownership, or private ownership. They were relying on people to maintain their land and it seemed they had done this with good will without truly enforcing. Mr. Swenson said he knew this and that this was the case with every single parcel in the City. Commissioner Johnson suggested the applicant had the ability in the maintenance plan to write the maintenance plan with the requirement to maintain the land in a certain fashion.

Commissioner Johnson discussed conservation parcel 1. He asked if there would be a development agreement between the developer and the City? Mr. Nelson said there would be a development agreement and some sort of landscaping plan would be required. Mr. Swenson said the proposed trail would only be a trail if the City wanted it to be a trail and conservation parcel 1 would only be turned over to the City if they wanted it; otherwise the parcel would be connected to lots 10 & 11.

Commissioner Albrect asked about the location of sidewalks. Mr. Nelson described where sidewalks would/could be placed. Commissioner Albrect felt this would also mitigate traffic impact. Commissioner Albrect discussed swales. Commissioner Johnson discussed Nibley City's swale standards, saying the swales had a small slope were easily maintained by a push mower.

Commissioner Bliesner had an issue with a three-sided lot (lot 1). He said the setbacks on a corner and three-sided lot got "catty-wompus" and if he had his way

they wouldn't be permitted in the City. He felt conservation lot 1 could be a slaw of land that could potentially be added to by the subsequent development of the southern property. He would like to explore the possibility of having conservation parcel 1 put in the place of lot 1 to eliminate creating a three-sided lot and the conservation piece would benefit the existing neighborhood and be in a more central location. He said he would like the applicant to consider addressing this in some way. Commissioner Albrect addressed whether this would cause problems or traffic on the road adjacent to the parcel. Commissioner Bliesner thought having the park in a more central location could yield benefits to the applicant in terms of marketability. Mr. Swenson said he would let the engineers look at this to see if it was possible. Commissioner Bliesner said he estimated the current ordinance didn't empower the city to enforce the spirit of the ordinance; and why they had a problem with the ordinance.

Commissioner Bliesner noted that Mr. Mark Johnson had left the meeting. Commissioner Bliesner asked the public and neighbors to direct Mr. Johnson to Nibley City's General Plan because it did spell out a vision for the City. He said there was a tremendous amount of energy and expense put into the General Plan and every Citizen should know what it was and have access to it. Commissioner Bliesner asked the Planning and Zoning Commission if there were issues on the proposed plat that was presented that would justify continuing the consideration to the next meeting? Commissioner Johnson said he had a hard time sending the application forward if they didn't know how the protective strip was included in the subdivision. The Planning and Zoning Commission discussion conditions and issues they would like addressed on the proposed plat. Mr. Nelson said staff recommended the plat be recommended for approval with the condition that setback lines are drawn on the plat. He agreed this was the only technicality based on Nibley City code they had found.

Commissioner Johnson made a motion to recommend approval of a preliminary conservation subdivision plat for the Meadow Creek Subdivision, located at approximately at 3850 South and 100 East; applicant, Mike Swenson to the City Council; with the condition that setback lines be included on the plat; and that the City Council review with the applicant that the open space on conservation parcel 1 be incorporated to lot 1 and that conservation parcel 1 become a lot; to provide a rural nature in the subdivision of combining the open space on lots 12-15 into a continuous open space that could be used for large animals or pasture or farm production; that regarding that the open space along 3850 South, that the maintenance plan be clearly identified to be maintained as a justifiable buffer between the street in the spirit of the conservation ordinance; that the City Engineer review a model to indicate whether this subdivision will impact the adjacent associated subdivision by way of water impact with the applicant and that the water system will carry the proposed subdivision. Commissioner Albrect seconded the motion.

Commissioner Albrect said she was concerned with making a park that had three sides open to the roads. Commissioner Green didn't think the conservation subdivision met the standard they had set. It had to be of benefit and it had to be preserving something. He didn't see it preserving or being of benefit. Commissioner Albrect said they had seen Commissioner Johnson do a very nice thing with the conservation subdivision and felt this applicant would do the same; he had a vested interest living in the community to do things in the spirit of things. Commissioner Albrect reiterated that she was concerned with the recommendation regarding the conservation lot and having the conservation space bordered by three streets. She was very much in favor of combining the conservation land and giving ownership to one owner. Commissioner Albrect said she would prefer a homeowners association. She said she had seen them work well.

The motion passed 3-1; with Commissioner Johnson, Commissioner Albrect, and Commissioner Bliesner in favor. Commissioner Green was opposed.

Commissioner Swenson returned to the dais at 7:47 p.m. and resumed chairing the meeting.

Commissioner Johnson made a motion to continue item three on the agenda (Presentation regarding the annexation process) to the next meeting. Commissioner Bliesner seconded the motion. The motion passed unanimously 5-0; with Councilmember Jacobsen, Commissioner Bliesner, Commissioner Green, Commissioner Swenson, and Commissioner Albrect all in favor.

Commissioner Swenson excused Commissioner Bliesner at 7:49 p.m.

Commission and Staff Report and Action Items

Commissioner Albrect said she wouldn't be available at the next meeting.

There was general consent to adjourn the meeting at 7:50 p.m.

Attest: _____

Deputy City Recorder