

The Meeting of the Nibley Planning Commission held at Nibley City Hall, 625 W. 3200 S. Nibley, Utah, on Wednesday, May 27, 2009.

The following actions were made during the meeting:

Commissioner Green motioned to approve the conditional use permit and business license for Carol Garner at 205 Quarter Circle Drive with the condition that she have only eight birds. Commissioner Bliesner seconded the motion. The motion passed 4-0; with Commissioner Green, Commissioner Bliesner, Commissioner Cook, and Commissioner Heidt all in favor. Commissioner Anderson abstained from voting.

Commissioner Bliesner motioned to approve the building permit for an accessory building located at 3844 S. 250 E. Commissioner Green seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Green, Commissioner Anderson, Commissioner Heidt, and Commissioner Cook all in favor.

Commissioner Bliesner motioned to approve the conditional use permit for 6 chickens for Craig and Carol Bond at 2506 S. 860 W. Commissioner Heidt seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Heidt, Commissioner Anderson, Commissioner Green, and Commissioner Cook all in favor.

Commissioner Bliesner motioned to approve the final plat of Foxborough Estates, Phase 2. Commissioner Anderson seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Anderson, Commissioner Green, Commissioner Heidt, and Commissioner Cook all in favor.

Commissioner Bliesner motioned to postpone the vote on the Animal Land Use Ordinance until the next meeting on June 24, 2009. Commissioner Anderson seconded the motion. The motion passed unanimously 5-0; with Commissioner Bliesner, Commissioner Anderson, Commissioner Green, Commissioner Heidt, and Commissioner Cook all in favor.

Commissioner Anderson motioned to approve the preliminary plat of Pleasant Haven Subdivision with the note that they finish all requirements for final plat listed in the ordinance. Commissioner Heidt seconded the motion.

Commissioner Bliesner motioned to amend that Pleasant Haven Subdivision not be put on the agenda for final plat until all requirements for final plat are done. Commissioner Anderson seconded the motion. The amendment passed 4-1; with Commissioner Bliesner, Commissioner Anderson, Commissioner Green, Commissioner Heidt in favor. Commissioner Cook was opposed.

The amended motion passed 4-1; with Commissioner Anderson, Commissioner Heidt, Commissioner Green, and Commissioner Green in favor. Commissioner Cook was opposed.

Commissioner Carrie Cook called the Wednesday, May 27, 2009 Nibley City Planning Commission meeting to order at 7:00 p.m. Those in attendance included Commissioner Carrie Cook, Commissioner Marina Heidt, Commissioner Bill Green, Commissioner Aaron Bliesner, and Commissioner Wayne Anderson. Shari Phippen, the City Planner, was also present.

Approval of the 5-13-09 meeting minutes and the evening's agenda.

The minutes of the May 13, 2009 meeting passed with general consent. The evening's agenda passed with general consent.

CONDITIONAL USE PERMIT/BUSINESS LICENSE

Wings of Peace—request a conditional use permit and business license for a home-office for a homing pigeon business located at 205 Quarter Circle Drive (Applicant: Carol Garner)

Mrs. Garner was present at the meeting. Ms. Phippen said she does not have specific problems with it because she will not have any employees and the birds will be in a loft in the back yard. Mrs. Garner said the loft is already present. Commissioner Heidt said Mrs. Garner is the standard for animal care. Ms. Phippen said on her application she is asking for 6-12 birds and if the new animal ordinance were to pass by the City Council she would be allowed 8. She recommended they pass the conditional use permit and business license for 8 birds. That number can be revised later depending on the ordinance the City Council passed.

Commissioner Bliesner arrived at 7:05 p.m.

Commissioner Green made a motion to approve the conditional use permit and business license for Carol Garner at 205 Quarter Circle Drive with the condition that she have only eight birds. Mrs. Garner said she did not feel eight birds was enough. She wants to start with the twelve and see how the business goes and perhaps get more birds later. Commissioner Heidt said if the birds were under six months old they would not be counted.

Commissioner Anderson arrived at 7:10 p.m.

Commissioner Bliesner stated the intent of the ordinance is not to regulate until six months. Commissioner Bliesner seconded the motion. The motion passed 4-0. Commissioner Anderson abstained from voting because he was not present for most of the discussion.

ACCESSORY BUILDING

Aaron Nielsen—request approval to construct a 36’ x 33’ accessory building located at 3844 S. 250 E.

Mr. Nielsen was present at the meeting. Mr. Nielsen is building a shed for Paul and Lori Klomp. Ms. Phippen said it meets all setbacks, and height limits. Ms. Phippen recommended approval. Commissioner Bliesner made a motion to approve the building permit for an accessory building located at 3844 S. 250 E. Commissioner Green seconded the motion. The motion passed unanimously.

ANIMAL LAND USE

Craig & Carol Bond—request approval for a conditional use permit to have 6-12 hen chickens located at 2506 S. 860 W.

Craig and Logan Bond are present at the meeting. Ms. Phippen said they have also asked for 6-12 hens—no roosters. If they Animal Land Use Ordinance were to pass by City Council they would be limited to six. Commissioner Bliesner said the state allows to post-pone action for 180 days, anything that is under consideration. He prefers to give the applicant a choice to follow the old ordinance or the new ordinance. Commissioner Bliesner said the distance of the coop from a living structure is an issue. The old ordinance requires 100 ft. The new ordinance requires 75 ft. He said the applicant could wait it out for the other ordinance and or they could approve it without a coop. Mr. Bond said he would guess the distance of the coop from the house is 40-50 ft. Commissioner Bliesner made a motion to approve the conditional use permit for 6 chickens for Craig and Carol Bond at 2506 S. 860 W. Commissioner Heidt seconded the motion. The motion passed unanimously.

Commissioner Anderson made a motion to suspend the agenda and move to another item until the public hearing. Commissioner Bliesner seconded the motion. The motion passed unanimously.

FINAL PLAT APPROVAL

Foxborough Estates—Phase 2- request for final approval of Phase 2 (22 lots) of Foxborough Estates, located at approximately 1500 West and 3350 South.

(Applicant: Brian Seamons)

Ms. Phippen said she could not contact the developer to see if they would be present at the meeting. She was under the impression that they were holding off on Phase 2. She did get the engineer review back. There are problems with the construction drawings but not with the plat. She recommended approval of the final plat with the caveat that they fix the construction drawings. Commissioner Bliesner made a motion to approve the final plat of Foxborough Estates, Phase 2. Commissioner Anderson seconded the motion. The motion passed unanimously.

PUBLIC HEARING

7:30 A public hearing to receive comments on a proposed modification to the land use code regarding the definition of a corner lot and of the regulations for fences.

Ms. Phippen said their definition of corner lots references two intersecting streets. However, they have multiple lots in Nibley where the roadway bends and do not meet the definition of a corner lot. If the intent of the ordinance is for a corner lot to be any lot that has multiple sides of the lot adjacent to the street then their definition needs to reflect that. She proposed amending the definition of a corner lot to: A lot where multiple sides of the property are adjacent to a public or private road, or a lot that abuts on two intersecting streets where the interior angle of intersection or interception does not exceed 135 degrees.

Ms. Phippen said she had another recommendation. She said she did not believe that the provisions regulating fences should apply to corner lots when a property owner's corner lot side yard is not adjacent to someone's front yard. There are no safety or aesthetics issues. She proposed the following be added to corner lot fence regulations: These provisions shall not apply to corner lots where the side yard is not adjacent to the front yard of any adjoining property. Commissioner Bliesner predicted that every vacant lot in Nibley will eventually be someone's front yard and wondered what they would do in the future.

Commissioner Cook opened the public hearing at 7:38. Tamar Arnoldson said that there isn't a front yard behind them but when they do build their driveway will not be against the fence. Their fence is 1 foot from the sidewalk and is 6 ft high and this does not make a safety problem with vision around the corner or an aesthetic problem. She said she did not see a problem with the fence. She said they had brought a proposal to the mayor. Ms. Phippen said Mrs. Arnoldson and other residents will be on the City Council agenda. Phillip Arnoldson asked for clarification on the new proposal regarding a corner lot. Commissioner Bliesner said if you are a corner lot and the lot around the corner of the lot is not a building lot you would not be required to follow the corner lot fence ordinance. Commissioner Cook closed the public hearing at 7:42.

Discussion regarding a proposed modification to the land use code regarding the definition of a corner lot and of the regulations for fences.

Commissioner Bliesner thought the corner lot definition change was good. He does not agree with the new language on the corner lots regarding the setback on the fence. He believed they should not require the current distance for fence setback. He believed the simple and quantifiable way to set those setbacks was to have the standard safety triangle for the speed limit. He said he believed the ordinance should be designed around site triangles. Commissioner Anderson said it is tough to do a site triangle off an undeveloped lot. Commissioner Bliesner made a motion to recommend the language change to the definition of a corner lot as written. Commissioner Heidt seconded the motion. The motion passed unanimously 5-0.

Commissioner Bliesner said he did not care what the setback was as long as it is quantifiable. Commissioner Cook said the site triangle would still leave a problem with an undeveloped area. Commissioner Bliesner said the responsibility should then fall to the developer of the undeveloped lot. That is how it is dealt with on a commercial basis. Commissioner Anderson said they need more information on site triangle standards.

Commissioner Bliesner made a motion to hold the recommendation on the previous item concerning language on the definition of a corner lot until they resolve the fence setback issue so they can go to City Council together. Commissioner Anderson seconded the motion. The motion passed unanimously 5-0. Commissioner Cook recommended the use as much foresight as possible when making these decisions so they would not have to deal with this again and again.

PRELIMINARY PLAT

Pleasant Haven Subdivision—request preliminary approval for a 79 lot conservation subdivision located at approximately 3575 S. 450 W. (Applicant: Bill Matthews/Dell Johnson)

Mr. Matthews is present at the meeting. Ms. Phippen said she did not get the engineers review back on this. It has been through multiple revisions. There are issues to work out with the land going around property that is owned by somebody else. There are little bits of street on property not owned by Dell Johnson. Some of the land is owned by Dell Johnson's son. Mr. Matthews said a third sheet showed a plan of how these areas would fit together. Mr. Matthews showed this to the Commission. Commissioner Green asked what the plan was for the open land. Mr. Matthews said they are planning on putting an equestrian center in that space. Ms. Phippen said the maintenance plan for the open area is required with the final plat.

PUBLIC HEARING

8:00 A public hearing to receive comments on a proposed ordinance regulating animal land use in Nibley City.

Ms. Phippen said the original motivation to revise the existing animal land use ordinance was the increasing difficulty of handling conditional use permits for animals. All conditional use permits are allowed, the land use authority is only allowed to put conditions on a request. They cannot flat out deny a conditionally permitted item. Staff undertook this to state what would be allowed so there would be no ambiguity. It is true that this ordinance limits the number of animals allowed. However, all cities regulate their animals to some extent. Reasonable limits can and should be set to ensure the health, safety and welfare to all residents and animals. She said it had also been suggested that animals be regulated by age, weight, and height. Animals under a certain age are not counted. She believed it became too cumbersome to enforce under those regulations. She supports the value of having a pig for a 4-H or home schooling project but is also aware of the mess and smell that come with pigs even when they are well maintained. Ms. Phippen had spoke to the city attorney who said cities have historically been allowed to ban pig entirely. She recommended they use the city attorney's recommendation of 2 pigs regardless of lot size. Ms. Phippen said it has also been suggested that lot that are zoned residential but are being used for non-residential use (a pasture) should have higher animal density rights put on them. She believed they should conform to the same provision of lots with houses on them. Ms. Phippen said unfortunately regulatory ordinances usually arise out of the worst-case-scenarios. Ms. Phippen said she thought this ordinance, as recommended by the committee, balanced between encouraging and allowing the citizens to own and maintain animals and the city being overrun with animal problems. Ms. Phippen distributed copies of the proposed ordinance to the public.

Larry Slade wondered why they jump from 12,000 sq. ft. up to .75 acres on page one. It seems to be reasonable that if you must set a limit that you set a limit of 100 animal units per acre and put it on a scale where you get 50 animal units if you have a half acre and so on. He said on page 3, it seemed unreasonable to have the same number of points assigned to a goat, pig, or ostrich as they do a horse or cattle. He saw many discrepancies with the assigned point value of animals he did not agree with. He asked to make the point values a round number instead of using a fractional number. He thought that if you have a lot that does not have a house on it you should be allowed to have more animals. Susan Hepworth thinks they can have horses that can be used on land without residential use. She said there should be a higher density for that type of land. She read ordinance from Hyde Park. She thinks if the land goes residential that it back falls to the residential lot provision. She also wanted to see those with .5 to .47 acres that they have the opportunity to choose which animals they wanted instead of being restricted. She read from the back page of the ordinance a statement which said the legally non-conforming animal use will be lost if it is interrupted for more than 12 continuous months. She believes in today's economy that puts an undue stress on landowners. She thought it needed to be abolished. She thought the draft was pretty good. Ben Garner asked who was pushing for a change. Commissioner Cook said it is coming from staff because conditional use permits were becoming hard to deal with. Commissioner Anderson said as applicants have come in for conditional use permits on animals they have discovered that the existing ordinance was too limited. Ben Garner said there needed to be better definitions on animal units by size. He asked them where they draw the line between freedom and tyranny. He wondered if it was really a huge problem. He asked where Nibley was being overrun with animals. He asked why they could not have a rooster and said pigs could be as clean as any other animal. Another Nibley resident asked were limiting animals would take care of the problem. She thinks they are pushing people to be dishonest. She does not think it will solve much. It is profitable for children to be exposed to animals. Ben Garner said they should be able to pick which animals they want. Ed Nunes said it comes back to being neighbors. You need to go talk to your neighbor not the city. They need to encourage people to talk to their neighbors. Karen Nunes said people need to start doing things to work together with your neighbor. She does not feel it is fair that residents come to the city and make it their problem without trying to work through it with their neighbor. Richard Eversull said he just wanted to protect the rural nature of Nibley. If you value those things and foster them this is the place to be. He does not feel this is quite as friendly. He agreed with the comments on the point values. 50 points for a rooster is extreme when a hen is 1 point. He thought the statement all animals not specifically permitted are prohibited should be removed from all sections of the ordinance. He said he did not think adequate thought had been put in to the ordinance. Mike Pierce said he did not think he would be affected by this with his animal rights but he is concerned about establishing and enforcing these kinds of things and forcing out the types of people who have been drawn to Nibley. Susan Hepworth said the city generally has areas that are conducive to large animals. Craig Bond said he came from a community where they did drive out the farmers by this type of action. Wendy Pierce said with stricter guidelines it will take more work to enforce. It sounded like more work.

Larry Jacobson, who chaired the committee, expressed his appreciation to the committee which conducted their duty under the full view of the public. He said they have heard views on how this takes away property rights. It does, that is what zoning ordinances are all about. It is an acknowledgement that the public has a right to that space as well—even if they don't own it. He said he thought that there is a large perception that the proposed ordinance is more strict. This is not true. The current ordinance did not allow chickens on .66 acres. The current ordinance does not allow any horse on a half acre. He distributed an outline of what is more restrictive and less restrictive to the Commission and public. Councilman Jacobsen said the biggest thing that is more restrictive are the conditional use permits. Councilman Jacobsen said the real motivation was to get rid of the conditional use permits. He encouraged the public to get familiar with the current ordinance and note how the new ordinance is less restrictive.

Susan Hepworth said to work with animals on a half acre you could make it that you have to have an additional 20,000 square feet besides the residence with the restriction of not having the animal on a neighbors fence line. For a medium animal it was 10,000 square feet. Richard Eversull said he recognized this is a more liberal version and suggested making it more liberal still and incorporating the suggested ideas. Commissioner Cook closed the public hearing at 8:48. Commissioner Cook expressed her appreciation to the public who came to the hearing.

Discussion regarding a proposed ordinance regulating animal land use in Nibley City.

Ms. Phippen suggested they discuss whether changes would be made based on the discussion. She thought that for consistency sake that they should adjust the points on a sliding scale based on acreage (i.e. .45 acres would be 45 animal units). It allows people to have what animals they want but at the same time are limited by points. Commissioner Bliesner said he thought the opposition to the ordinance would be the other way around. He has not heard of anyone coming in to say there are too many animals. They have never had any public say this is too loose. He advised the public to become familiar with the old ordinance and come to City Council with a full understanding of what they want. As part of the committee he does not want to change things at this point. Commissioner Anderson said you need to be careful with saying there are no public that think it is too loose because those people only come in when there is a problem. There was discussion about who was on the committee that drafted the ordinance. Councilman Jacobsen said there was a resident that was not able to come to the meetings but saw the drafts and voted and it passed through committee 6-1. Commissioner Bliesner said this is a good balance between what people want and what they know will become an issue. Commissioner Bliesner said he thought there were issues the ordinance had not discussed such as environmental issues. The state regulates any animals on any piece of property, at any density, for periods of time exceeding any 45 days of the year. With the possibility that the State was more restrictive than them he suggested the Commission add a statement that noted when city ordinance did not align with federal or state laws that the most restrictive law applied. Commissioner Anderson agreed with that. Ms. Phippen said that Mr. Slades proposal to put residential lots on a sliding scale solves 90% of the problems. Councilman Jacobsen said if that is done then one of the ramifications is that

you can have a horse or cow on a half acre. Commissioner Heidt wanted to recommend adding wording about using a non-residential, unimproved lot for pasture. She would like non-residential lots more dense. Commissioner Cook said she does not know that they have the time in once meeting to take apart an ordinance that took weeks to draft. Commissioner Anderson made a motion to recommend the Animal Use Ordinance to City Council with Commissioner Bliesner suggested addition to page one. Commissioner Heidt seconded the motion. Commissioner Bliesner made a motion to postpone the vote on the Animal Land Use Ordinance until the next meeting on June 24, 2009. Commissioner Anderson seconded the motion. The motion passed unanimously.

PRELIMINARY PLAT (continued)

Pleasant Haven Subdivision—request preliminary approval for a 79 lot conservation subdivision located at approximately 3575 S. 450 W. (Applicant: Bill Matthews/Dell Johnson)

Ms. Phippen said there may still be things that need to be changed. She anticipates that it will not be anything major. She does not doubt that those will in fact be changed. Sometimes they have approved without an engineering review, sometimes they have not. Commissioner Heidt is concerned with the placement of the open space. Ms. Phippen said the open space being where it is benefits more residents. There is also a landowner just down the road from the open space who is looking to put his property in ag protection. The Commission discussed trail access to the open space in the subdivision. Commissioner Bliesner said from a land use regulation standpoint it looked pretty good. He is concerned about approving a subdivision of land without knowing what the open space is going to be. Commissioner Cook agreed with that statement. Commissioner Anderson gave Mr. Matthews a list of items to address on the plat. Ms. Phippen said she anticipated those items on the engineering review. Commissioner Cook said she did not like this plan and thought there were too many unanswered questions. Commissioner Anderson made a motion to approve the preliminary plat of Pleasant Haven Subdivision with the note that they finish all requirements for final plat listed in the ordinance. Commissioner Heidt seconded the motion. Commissioner Bliesner made a motion to amend the motion that Pleasant Haven Subdivision not be put on the agenda for final plat until all requirements for final plat are done. Commissioner Anderson seconded the motion. The amendment passed 4-1 with Commissioner Cook opposed. The amended motion passed 4-1 with Commissioner Cook opposed. Commissioner Heidt said she did not like the design but he met all the requirements for preliminary plat.

WORKSHOP ITEMS

Planning & Zoning reports

There was general consent to adjourn at 10:48 p.m.