

NIBLEY CITY CORPORATION  
PLANNING & ZONING COMMISSION, Wednesday, August 8, 2007  
The following motions were made during the meeting

**Action Item 1: Commissioner Anderson made a motion to continue this item until the previous conditional use permit is taken care of in this area. Seconded by Commissioner Rudd. Motion passed unanimously.**

**Action Item 2: Commissioner Anderson made a motion to suspend the agenda. Seconded by Commissioner Heidt. Motion passed unanimously.**

**Action Item 3: Commissioner Dustin made a motion to approve the rezone as requested for the 1.6 acres from R-2 to Commercial at the intersection of 3200 South Highway 165 running westerly for approximately 364.6 feet and northerly 264 feet. Seconded by Commissioner Rudd. Motion passed unanimously.**

**Action Item 4: Commissioner Anderson made a motion to approve to amend the subdivision of 4-Pointe Corporation with three conditions:**

- 1- Describe a cross easement for parking between lots 1 and 2.**
- 2- There is a more detailed description on the road use easements.**
- 3- A description on the plat for storm water easement between lots 1 & 2.**

**Seconded by Commissioner Dustin. Motion passed unanimously.**

**Action Item 5: Commissioner Anderson made a motion to approve the rezone as stated on the agenda. Seconded by Commissioner Dustin. Motion passed unanimously.**

**Action Item 6: Commissioner Anderson made a motion to approve preliminary plat for Zollinger Acres subdivision contingent on the land trade with the city as noted and that the final plat shows all items listed in Chapter 11-4-2 final plat. Seconded by Commissioner Rudd. The motion passed with Commissioners Anderson, Rudd and Heidt in favor and Commissioner Dustin opposed to the motion.**

**Action Item 7: Commissioner Anderson made a motion to approve a building permit for the red version of the Maverik sign as detailed. Seconded by Commissioner Dustin. Motion passed unanimously.**

**Action Item 8: Commissioner Anderson made a motion to approve the final plat for Sunrise Meadows Subdivision Phase 4. Seconded by Commissioner Rudd. Motion passed unanimously.**

**Action Item 9: Commissioner Rudd made a motion to approve the proposed street width guideline with the following changes:**

- 1- That the word "guideline" becomes "requirements".**
- 2- Delete number 1.**
- 3- Change number 2 to developments of 2-9 lots.**

**Seconded by Commissioner Anderson. Motion passed unanimously.**

## MINUTES OF THE MEETING

Minutes were taken by Deputy City Recorder Jessica Lawes

The following members of the Nibley City Planning and Zoning Commission were in attendance: Commission members Aaron Bliesner, Wayne Anderson, Curtis Rudd, Marina Heidt and Shaun Dustin. Also in attendance was interim Shari Phippen. The meeting took place in the Nibley City hall, 625 West 3200 South. Chairman Bliesner called the meeting to order at 7:00 p.m.

**Item #1: Approval of agenda: Commission Chairman Aaron Bliesner asked for general consent to approve the evening's agenda. Members of the commission gave general consent for approval.**

**Item #2: Dave Musacchia** - requests consideration for a conditional use permit to allow two horses on each of lots 1 and 2 of Equestrian Estates, entrance at approximately 3335 South Highway 165. Applicant Dave Musacchia for Lynn Hulme met before the council. Commissioner Anderson asked Mr. Musacchia if the sign has been moved yet. Mr. Musacchia said it has been moved. The only thing that has not been done but will be done, once the project is finished, is remove his logo from the sign. Commissioner Anderson said he drove passed recently and the sign has not been moved.

**Commissioner Anderson made a motion to continue this item until the previous conditional use permit is taken care of in this area. Seconded by Commissioner Rudd. Motion passed unanimously.**

**Commissioner Anderson made a motion to suspend the agenda. Seconded by Commissioner Heidt. Motion passed unanimously.**

**Item #3: Public Hearing** - The hearing is to consider a request to amend the Nibley City Master Land Use Plan to re-zone 1.6 acres from R-2 to Commercial. The property begins at the intersection of 3200 South and Highway 165 and runs westerly for approximately 364.5 feet and northerly 264 feet. Applicant Becky Johnson met with the council. Commissioner Anderson said that the gas station is already commercial and Mrs. Johnson said that the ground to the west where they park their U-Hauls is not commercial and would like to have it rezoned regular commercial to match the rest of the property. Mrs. Johnson said they are interested in selling the business and the person that is looking into buying wants to have that land for continued parking and U-Haul, but didn't not want to purchase it if it was zoned agriculture and find out that he can't use it as a parking lot. One of his stipulations is that the property is rezoned.

**Commissioner Bliesner opened the public hearing and hearing no public comment closed the public hearing.**

During discussion Commissioner Bliesner asked if the purchaser was present and Mrs. Johnson said no that it is not even a positive commitment from them, it was just an interest, but down the road there would be the same problem. Commissioner Bliesner asked if the second lot was legally considered a separate lot and Mrs. Johnson said that it was. Robert Harris said that it would enhance what is there now to make a better unit and improve the overall looks. Commissioner Bliesner said that any prospective buyer would have to be aware of the improvements that the city would require. Mrs. Johnson said that is why they would like it to be rezoned.

**Commissioner Dustin made a motion to approve the rezone as requested for the 1.6 acres from R-2 to Commercial at the intersection of 3200 South Highway 165 running westerly for approximately 364.6 feet and northerly 264 feet. Seconded by Commissioner Rudd. Motion passed unanimously.**

**Item #4: Pointe Corporation - Petersen Farm Store :** Request is to amend a subdivision at approximately 2600 South US Highway 89/91 from one lot into two lots. No other changes are contemplated. Matt Peterson met before the council. Mr. Anhder said that the staff has reviewed the plans and only have a few minor comments. Mr. Anhder said the easements need to be called out a little bit better for cross easements, especially for the parking lot west of lot 1. The engineers have been spoken to and they will make that change, other than that all easement are covered. The landscaping plan will be followed for the whole subdivision. Mr. Anhder said they are asking for the division for their own proposes of financing and accounting and there are no foreseeable problems with the subdivision. Mr. Anhder recommended the approval with one stipulation of the easement for parking. Commissioner Bliesner asked Mr. Peterson if he understood the recommendation and if he had any problems with it. Mr. Peterson said he understood and had no problems. Commissioner Anderson said by his memory it was always the plan to split the property. Commissioner Anderson asked Mr. Anhder if they are sharing storm water and if they were then it should be on the cross easement and Mr. Anhder said that storm water is usually approved on a subdivision basis.

**Commissioner Anderson made a motion to approve to amend the subdivision of 4-Pointe Corporation with three conditions:**

- 1- Describe a cross easement for parking between lots 1 and 2.**
- 2- There is a more detailed description on the road use easements.**
- 3- A description on the plat for storm water easement between lots 1 & 2.**

**Seconded by Commissioner Dustin. Motion passed unanimously.**

**Item #5: Public Hearing -** The hearing is to consider a request to amend a portion of the Nibley City Master Land Use Plan from R-1 and R-1-A to R-2. The property at issue is the area South and East of the Nibley Blacksmith Fork Canal, bounded by the Nibley Blacksmith Fork Canal on the North and West by 4000 South on the South and by Highway 165 on the East encompassing the entire Quarter Circle Subdivision. Applicant Darwin McPhie. Ms. Phippen said the land is currently zoned for 1 acre lots and all lots are non conforming lots and the intent is to rezone them down to ½ acre lots to bring them into compliance.

**Commissioner Bliesner opened the public hearing.**

Bob Sidwell, 162 Quarter Circle Drive, said he is aware of what has been happening and said that Mr. McPhie has sent a petition around to all of the people to see if they would go along with this change to bring them into compliance and has received about 50% of the petitions back that have been signed and would be happy with the rezone. Mr. Sidwell said he has no objections to the rezone.

Mr. McPhie said he would just like to have his lots conforming and does not like the idea of being nonconforming. Councilman Jacobsen asked if there were any lots that this rezone would open up an opportunity for subdivision into smaller lots. Mr. McPhie said there are not. Mr. Anhder said that there are because the rezone, as it is proposed, goes all the way to 4000 South and there are two properties on 4000 South that are larger lots. Mr. McPhie said that 4000 South is not part of Quarter Circle Drive. Mr. Anhder said that he drew the line at 4000 South because it was an easily identifiable area. Mr. McPhie said the subdivision was originally developed into ½ acre or larger lots and in 1993 they were zoned 1 acre lots and all he wants to do is get it back to where it was originally and is not asking for 4000 South, only Quarter Circle Drive. Mr. Sidwell said that the houses on 4000 South did not get the petition sent to them because they are not part of Quarter Circle Drive.

**With no other public comments, Commissioner Bliesner closed the Public Hearing.**

During discussion Commissioner Bliesner asked if residents on 4000 South needed to be included in the process. Mr. Anhder said that they were included in the public notice that was sent out. Mr. Anhder said that many are in the opinion that 1 acre lots are 1/4 acre building lot and 3/4 weed patch.

Mr. McPhie asked Commissioner Rudd, because he resides on 4000 South, how he felt about not being notified. Commissioner Rudd said he was disappointed and should have been notified and feels that all others on 4000 South are probably in the same boat. Commissioner Anderson said it was important to note that everybody is notified and that the agendas go out to the paper and they are posted and that people need to take some due diligence upon themselves sometime. Commissioner Anderson agrees with Mr. Anhder that it is better to break it on a nice line, such as 4000 South.

**Commissioner Anderson made a motion to approve the rezone as stated on the agenda. Seconded by Commissioner Dustin. Motion passed unanimously.**

**Item #6: Public Hearing** - The hearing is to consider a request for a preliminary approval of a subdivision of 90 lots, located at approximately 1300 West 3200 South. Applicant Steve Edwards. Ms. Phippen said this is proposed as the Zollinger Acres subdivision and the engineer has reviewed the plat and said that, with a couple of minor exceptions, he thinks the overall layout and the average lot size are okay and the developer will work with Foxborough subdivision regarding the utilities. Ms. Phippen said the engineer mentioned the building setback lines, the boundary and dimensions of partials, the addresses on the lots need to be numbered and the south east area on the plat indicates that it is not annexed. The engineer has said that these details can be resolved during the construction plan and final plat process if the commission is satisfied with the layout and dimensions of this preliminary plat.

**Commissioner Bliesner opened the public hearing.**

Tammy Isaacson, 1416 West 3200 South, said that when they irrigate water goes into the fields and will go into lot 31 and surrounding lots and they do not want to have problems with the subdivision. Paul Leishman, 2315 South Highway 81/91, is representing Nibley Blacksmith Fork Irrigation Company and said he has talked to Steve Edwards about the plan and the irrigation ditches and they have come to a satisfactory agreement with the ones through the property to go ahead and pipe and to assure that there would be continued water there so that Guy Isaacson can irrigate his property. Mr. Leishman said that as far as what Mrs. Isaacson mentioned, that ground does sub in those areas and is something that has happened for years. Commissioner Bliesner asked if piping would solve the problem with surface water and Mr. Leishman said that it would not because the area in question will not be piped because the ditch is on the Isaacson's property.

Mr. Leishman said there are plans for detention ponds in all of the subdivisions, including this one, and has talked to Mr. Edwards about this one and is aware of where they will go. Mr. Leishman said that before the Irrigation Company will allow the detention ponds to allow the water to enter their canal system, he would request that the commission and city council need to work on getting the storm water plan where some of the maintenance to these ditches and canals are maintained by Nibley City.

**Hearing no further public comment, Commissioner Bliesner closed the public hearing.**

During discussion Commissioner Anderson said that one way to alleviate surface water conditions on the lots next to the Isaacson's property is to note on the plat that they need to be raised up or they will have

surface water on their properties. Commissioner Bliesner said that the law concerning this issue is that if it is ground water, the farmer has no liability, but if it is surface water, then the farmer does have liability and the farmer may not allow that water to cross the property. Mr. Anhder said they do put a disclaimer on the final plats that talks about the high ground water in Nibley and the buyer should be aware of that and the city attorney has advised against making specific notations because the more specific you get the more your liability is increased.

Commissioner Dustin said that historically there is a problem with how it is permitted to let a lot to go in there in the first place and Commissioner Bliesner said it is up to the owner to alleviate the problem. Mr. Anhder said by the time the road goes in the grade will be raised for the lot and a home built slab on grade probably will not have a problem. Commissioner Rudd asked if there could be an ordinance that states there will not be any basements in certain areas due to ground water problems. Mr. Anhder said that is where the dilemma is because they have had flooding in basements where it was not suspected and that is what brought up the question about what wordings to use.

Commissioner Anderson asked about the roadway lining up with the other side, the private road, and was wondering if it has been resolved. Commissioner Dustin said the commission had asked to have the next set of drawing show both roads. Commissioner Bliesner asked the developer if the roads have been changed to align and is just not showing yet. Adam Mackelprang said the road was within 20 or 30 feet of where it would be lined up but does not have an approved plan. Carrie Cook said it is her road that is across and they are very close to where they need to be.

Commissioner Anderson asked if public works has any issues with the layout and Mr. Anhder said the subdivision is very much liked. It maximizes the use of open space and also the trade of property the council is considering and allows traffic to access the property south of it. Councilman Jacobsen said the issue of road widths has been resolved by the engineers. Commissioner Anderson said the only thing this is contingent on is the land trade and Mr. Anhder said the council will vote on it one week from tomorrow night.

Commissioner Dustin said he still has a concern for allowing driveways to enter on major cross streets along 1500 West and would prefer not to see that. Commissioner Heidt asked how would the issue of water on lot 31 be resolved and Commissioner Anderson said the commission did not have to resolve it. Commissioner Bliesner said he thinks it is worth addressing but needs to be solved independently.

**Commissioner Anderson made a motion to approve preliminary plat for Zollinger Acres subdivision contingent on the land trade with the city as noted and that the final plat shows all items listed in Chapter 11-4-2 final plat. Seconded by Commissioner Rudd. The motion passed with Commissioners Anderson, Rudd and Heidt in favor and Commissioner Dustin opposed to the motion.**

Commissioner Dustin said he did not like the road alignment or the driveways on 1500 West. Commissioner Bliesner said that he agreed with that and it is another thing that needs to be looked at as an ordinance, but where it has been encourage in the past, an ordinance change needs to be done before holding people to that requirement.

**Item #7: Final Approval - Sign Design:** Maverik Corporation: request is for final approval on the design of the sign to be located at the corner of 3100 South and Highway 165 in Nibley. Applicants Yes Co, Matt Wren, and Maverik, Don Lilyquist met with the commission. Commissioner Bliesner said that he

liked the red version. Commissioner Anderson said previously he was leaning towards the white version but seeing the mock ups, he now prefers the red.

Commissioner Anderson said he looked at it and it meets the ordinance found in the last meeting. Commissioner Bliesner said his only concern was the landscaping around the sign and asked if there was going to be shrubs around the sign. Don Lilyquist said there would not be any; they want the sign to be visible.

**Commissioner Anderson made a motion to approve a building permit for the red version of the Maverik sign as detailed. Seconded by Commissioner Dustin. Motion passed unanimously.**

**Item #8: Final Plat Approval** - Sunrise Meadows Phase 4: requests final plat approval for Sunrise Meadow Phase 4 located at approximately 2500 South 1100 West. Applicant Sherwood Hirschi. Representative for Sunrise Meadow's, Steve Earl met with the council. Mr. Anhder said the construction drawings have all been approved for this whole subdivision and this is just a next phase unit, 10 lots at the end of the cull-de-sac.

**Commissioner Anderson made a motion to approve the final plat for Sunrise Meadows Subdivision Phase 4. Seconded by Commissioner Rudd. Motion passed unanimously.**

**Item #9: Consideration of a proposed ordinance regarding street-width guidelines in subdivisions of less than 10 lots.** During discussion Mr. Anhder summarized the ordinance by saying that 4 lots or less would allow for private roads, built to the cross section of 24 feet of asphalt with appropriate sides and no sidewalks. Subdivisions from 4 to 10 lots would have a 50 foot cross section, sidewalks and a planting strip and over 10 lots, subdivision will abide by the current street design ordinances. Mr. Anhder said the reason this was precipitated is there are no clear guideline for private roads and when private roads will be allowed. The city council did not want to take responsibility for those private roads and allows small lots that do not have a lot of space to develop. Commissioner Dustin asked if city was encouraging the development of the smaller sections. Commissioner Bliesner said they are encouraging quality of those smaller sections. Commissioner Dustin said his personal feeling was that he would rather not encourage the development on a small scale of the flag lots. Commissioner Rudd asked that if those lots were not developed then what do you do with them and Commissioner Dustin said that they are either left alone or combined to make larger, more uniform developments. Mr. Anhder said the guidelines take the debate out of how to handle small lots. Commissioner Dustin said that the easier the city makes it to develop those small lots, the less likely Highway 165 and 3200 South will ever turn into commercial districts, as soon as you start putting houses behind houses, it is residential on into forever.

Commissioner Anderson suggested to just strike number 1 and start from 2-9 lots. Commissioner Bliesner asked if he was the only one in favor of private streets. Commissioner Anderson said that he is not against private streets, but eventually the city will have to maintain them. He also said that he thinks that streets should have sidewalks. Commissioner Bliesner said that words were too loosely interchanged, like guideline. A guideline tends to be a little looser, it should be the requirement.

**Commissioner Rudd made a motion to approve the proposed street width guideline with the following changes:**

- 4- That the word "guideline" becomes "requirements".
- 5- Delete number 1.
- 6- Change number 2 to developments of 2-9 lots.

**Seconded by Commissioner Anderson. Motion passed unanimously.**

**Item #10: Consideration of a proposed ordinance establishing public notification requirements in Nibley City.** During discussion Mr. Anhder said the intent of this ordinance is to codify, in one section, all the noticing requirements that are currently state code and that are currently in Nibley's land ordinance and make it all consistent with state code.

Councilman Jacobsen asked where do public hearings take place, planning commission or city council, because right now public hearings are being duplicated at the planning commission and city council. Mr. Anhder said that the new law says that the land use authority shall hold a hearing and the land use authority has not been defined yet and more thought needs to be put into that question.

Commissioner Bliesner wanted to talk about public places and where notification is placed at public places. Commissioner Bliesner said that historically it has been considered that Bob's Gas Station is a public place, and it is not, it is a private place. Mr. Anhder said it is consistent with what other communities do. Commissioner Bliesner said he sees this as a problem. Mr. Anhder said they need to post notices in three public places, currently it is the window box at the City Hall, the front door of the old City Hall and Bob's Gas Station and of all those three places, Bob's gets the most public view. Commissioner Bliesner suggested the school. Commissioner Heidt suggested the new farm store and Maverik or some kind of reminder or information in either the Nibley City bill or the Newsletter reminding the citizens that they have an obligation to inform themselves and the places where they can get the information needed.

Commissioner Bliesner said he is concerned that citizens are taking it upon themselves to go and inform their neighbors about issues to get public opinion. Mr. Anhder said that the official notification should be given by the city, paid for by the applicant. Carrie Cook asked how clear the hearing notifications are and are they worded so that anyone can understand them and Mr. Anhder said they used to give legal descriptions and nobody could understand them so they changed the wordings on notifications to be general. Commissioner Dustin said that another thing he has seen that has been effective is the actual location where the change is being proposed staked and signed. Commissioner Bliesner said it was probably the most effective place.

Mr. Anhder said that when a subdivision is advertised, 300 feet around, all the neighbors come in because nobody wants a subdivision, the subdivision can not be denied if it is zoned right, and so people go away feeling frustrated at city government when the real decision is made in the rezone. Commissioner Dustin said that they should put more emphasis on the rezones and let people understand what the implication of what the rezone is. Commissioner Anderson said to remember that they very rarely hear somebody come in and compliment a project, only the negative is heard. One thing you want to watch out for is over legislation, because then all the latitude is taken out of what you can do. Councilman Jacobsen said he is willing to take the abuse that citizens hand out on subdivision hearing, by additional notification and there are individual property rights and subdividing their land is their right. Mr. Anhder said that the city does not have a lot of latitude. The laws of the State of Utah are very strongly in favor of the property owner. Commissioner Bliesner said that subdivisions are market driven, just like everything else in this country. Mr. Anhder suggested to the commission to read Dave Church's memo that was handed out two meetings ago; it basically says that they are here to help the citizens develop their property.

Commissioner Anderson asked which hearings planning commission should hear and which should city council hear. Mr. Anhder said his philosophy is that hearings should be held at city council levels, planners should make planning decisions not political decisions. Commissioner Anderson said that city council would get general plans, land use, subdivisions and proposals to vacate and conditional use permit

will be planning and zoning and the rest of them the commission will send their recommendations. Mr. Anhder said that many of the conditional use permits should be kicked back to the staff level. Commissioner Bliesner said there has to be enough staff for that.

**City Council Report:**

Councilman Jacobsen said that the city council has enacted a moratorium on accepting new applications for subdivisions and rezones for a maximum of six months or when the general plan update is finished, and applications that are already in front of the city will have standing with current ordinance. February 1, 2008 will be the deadline for the six months.

Councilman Jacobsen said the council also talked about the position of the city planner and what was the best way to fill that position and would like to hear the input of the planning commission, as the planner is an important part of their meetings. Commissioner Anderson said his thoughts on the issue is that with the amount of ordinance changes that need to happen with the new general plan, it would be in the city's best interest to have somebody on staff, just for planning as opposed to contracting out. Commissioner Dustin said that the city is not going to get any smaller and need someone full time. Commissioner Bliesner said that as long as there is land that needs to be annexed, there will be a need for somebody. Councilman Jacobsen said that with Mr. Anhder retiring within a few years, the city needs to develop tribal knowledge and corporate history in a replacement for Mr. Anhder, whether it is a separate issue than a city planner or the positions can be put together somehow.

Councilman Jacobsen said the tour that the councils took of the city was informative and helped him see how everything was going to hook together in the future. Commissioner Bliesner said there was talk about a couple of park options and road routs.

Councilman Jacobsen said that the preliminary plat for the Zollinger Acres is similar to their concept plan and for that plan to work there has to be a trade of land from private individuals to the city and visa versa and that the city council is in favor of the land trade and will be voted on by the city council in the future.

**Item #11: Adjournment - adjourn at 10:25 by general consent.**

Signed \_\_\_\_\_ Attest \_\_\_\_\_  
Planning & Zoning Chairman Assistant Deputy Recorder