Nibley City
Planning Commission Meeting
Thursday, October 19, 2023
Nibley City Hall
455 W. 3200 S.
Nibley, UT

6:30 p.m. Call to Order and Roll Call
Approval of Agenda
Approval of Minutes

In accordance with Utah Code Annotated 52-4-207 and Nibley City Resolution 12-04, this meeting may be conducted electronically. The anchor location for the meeting will be Nibley City Hall, 455 West 3200 South, Nibley, Utah. The public may participate in the meeting either in person or via the Zoom meeting link provided at www.nibleycity.com .

1. **Public Hearing**: Ordinance 23-35: Amendments to NCC 19.34 Animal Land Use Regulations Ordinance
2. **Discussion and Consideration:** Ordinance 23-35: Amendments to NCC 19.34 Animal Land Use Regulations Ordinance
3. **Presentation:** Cache County School District
4. **Workshop:** Subdivision Code Amendments
5. Staff Report and Action Items

Planning Commission agenda items may be tabled or continued if 1) Additional information is needed in order to take action on the item, OR 2) The Planning Commission feels there are unresolved issues that may need further attention before the Commission is ready to make a motion. ***No agenda item will begin after 10:00 p.m. without a unanimous vote of the Commission****. The Commission may carry over agenda items, scheduled late in the evening and not heard, to the next regularly scheduled meeting.*

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, REASONABLE ACCOMMODATIONS FOR INDIVIDUALS WITH DISABILITIES WILL BE PROVIDED UPON REQUEST. FOR ASSISTANCE, PLEASE CALL 752-0431 A MINIMUM OF 24 HOURS BEFORE THE MEETING.

Nibley City Planning Commission Agenda Item Report

October 19, 2023

Agenda Item #1 & #2: Animal Land Use

Description

Public Hearing: Ordinance 23-35: Amendments to NCC 19.34 Animal Land Use Regulations Ordinance

Discussion and Consideration: Ordinance 23-35: Amendments to NCC 19.34 Animal Land Use Regulations Ordinance

Department

City Planning

Action Type

Legislative

Recommendation

Recommend approval of Ordinance 23-35: Amendments to NCC 19.34 Animal Land Use Regulations Ordinance

Reviewed By

City Planner, City Manager, Animal Land Use Ordinance Committee members

Background

Update for 10/19/2023

Based upon general consent expressed during the October 5 workshop, the following provisions were added to the ordinance:

- The allowance for the offspring of pigs outside of the limits of point limits of the ordinance is limited to 3 months, rather than 12 months, as with other large animals.
- The temporary keeping of horses is allowed for 5 days or less, not subject to the limits of the ordinance.

Previous background information

Recently, an Ad Hoc committee was created to review and, if necessary, provide recommendations to the Nibley City Animal Land-Use Ordinance. This committee was formed based upon direction of City Council, who identified that the ordinance should be further reviewed based upon citizen input. Members of the committee included the following:

Nathan Laursen, City Council
Erin Mann, City Council
Holly Fronk, Nibley Resident
Eldon Buchanon, Nibley Resident
Ross Jacobson, Nibley Resident
Roxie Christensen, Morgan Farm Manager
Mike Christensen, Morgan Farm Manager
Larry Jacobsen, Mayor
Clair Schenk, Planning Commission
Garrett Mansell, Planning Commission
Jamie Gonzalez, Assistant City Recorder
Levi Roberts, City Planner

The Committee met six times over the course of two months to discuss and provide input to address perceived deficiencies of the existing ordinance. Based upon these discussions, a draft amended ordinance is being recommended to the Planning Commission for consideration. Several changes are being recommended, including the following:

- Reformatting of tables and sections within ordinance for better clarity and continuity.
- The introduction of a point system for small animals on lots less than 0.75 acre. Currently, small animals on small lots are only regulated by a maximum number of animals per species, but points are not accumulated.
- An adjustment to several animal points and the addition of new species to the chart which were previously unaccounted for.
- A provision for adjacent lots that only contain one primary dwelling unit, which allows the accumulation of acreage for the purpose of counting animal points.
- A provision for vacant lots, which would be allowed an additional 25 large and small animal points.
- A provision which allows for a second large animal at half the points of the first or subsequent animals to incentivize ‘companion’ animals.

- An added clarification that commercial or industrially-zoned properties are under the same restrictions as residential.
- A reference to state code for bee keeping.
- Minor adjustments to setback standards for barns and other structures.

Agenda Item #3: CCSD Presentation

Description

Presentation: Cache County School District

Department

City Planning

Action Type

None

Recommendation

Listen to presentation and ask questions

Background

The Cache County School District has been planning and preparing for the growth seen in the Valley and this election there will be a bond initiative on the ballot to address needs associated with this growth. City staff has had brief discussions with District staff about what the ramifications might be for Nibley City. In addition, CCSD recently presented to City Council about proposed additional buildings and other investments. During the last meeting, it was expressed that the greatest need, and likely the next project for the South end of Cache Valley will be an additional middle school. CCSD Staff has expressed that the likely location for that school would be next to Heritage Elementary, as the District already owns the property. Currently Spring Creek is a Middle School, but it would be adjusted to be a large elementary at that time. CCSD Staff will present on proposed changes that would be made possible if the bond initiative passes in November.

Agenda Item #4: Subdivision Code Amendments

Description

Workshop: Subdivision Code Amendments

Department

City Planning

Action Type

Administrative

Recommendation

Discuss potential changes to the Subdivision Ordinance in preparation for public hearing and consideration

Reviewed By

City Planner, City Engineer, City Manager

Background

SB 174, recently passed during the 2023 legislative session, sets forth a standard subdivision process that all municipalities in Utah must follow. This ordinance addresses this mandatory subdivision process that must be adopted no later than February 1, 2024 and integrates with other standard city processes. Specifically, SB 174 includes the following provisions:

1. Applies to single, two-family and townhome subdivisions
2. Removal of City Council as an approval authority for subdivisions (Preliminary & Final Plat)
3. Removal of Planning Commission from Final Plat approval process (still allowed for preliminary plat)
4. Need to designate 'administrative land use authority' for each approval.
5. Cities may hold one public hearing at preliminary plat but none at final plat, although hearing is not required.
6. Cities must create, maintain, and publish subdivision application forms and requirements that describe all application requirements, including fees, documentation required, details

for plan submittals, etc., and provide checklists for submittal requirements for both preliminary and final plats.

7. Cities must adopt a process for timely and quick review of subdivision submissions. Cities must follow a new "review cycle" process. A "review cycle" is one round of review—submission of complete application by the developer, city's review of the application, the city response to the developer, and the developer's reply to the city's response.
    a. For each application (preliminary/final subdivision plat and construction plans), only 4 review cycles are permitted. After the 4th cycle, the city must approve (if meets regulations) or deny (if does not meet regulations).
    b. In providing responses to applicants, the city must identify the specific changes/additional information required and the legal basis for the request. Applicant must similarly reply to each item identified by the city and explain the applicant's changes or refusal to comply, and the justification therefor. An applicant's failure to respond to an item means the review cycle remains incomplete.
8. Cities have 15 days to review preliminary plat applications, and 20 days for final plat applications, in order to complete the city review portion of each review cycle. If applicant does not reply with updated plans or information within 20 days after the city's review and response, the city has an additional 20 days to review.
9. Importantly, a city's failure to correct an issue on an application—to impose some requirement or require some adjustment—means the city waives its right to require the developer to correct the issue unless the issue is related to state or federal law or is a public health and safety issue.
    a. If an applicant makes a material change to an application—something other than what the city required or requested—the city can start the 4-cycle review process over again for that application if the city wants.
    b. So long as a city timely reviewed all submittals and notified the applicant of any deficiencies, nothing requires a city to approve a plat that does not meet the city's subdivision and zoning ordinances. The applicant simply has 4 chances to get it right with one submission of fees/application materials. If they can't do it, then the city can still deny the application (subject to appeal through the appeal authority process) and require the applicant to start again.

Staff has drafted an ordinance to address the mandates included in SB 174 while addressing a few other issues with the subdivision ordinance.

Specifically, the current draft:

1. Designates the Planning Commission as the administrative land use authority for preliminary plats and the City Manager as the administrative land use authority for final plats. Additional required signature lines added for water, sewer and stormwater departments, as well as City Planner to further ensure compliance with City standards.
2. Adopts to required process for all subdivisions, although mandatory timeframe is limited to single, two-family and townhome developments to ensure adequate time for review of more complex subdivisions.

3. Retains legislative authority for R-PUD subdivisions and certain development agreements for City Council, although the approval of the subdivision itself is delegated, as noted above.
4. Removes requirement for public hearing for preliminary plats, as this is not required and not necessary for the administrative approval.

The current draft is awaiting City attorney review. The purpose of this workshop is to discuss these proposed changes and provide any feedback in preparation for a public hearing and consideration or recommendation to City Council.

19.34.010 Intent

The intent of these regulations is to protect and preserve Nibley City's rural heritage while allowing multiple land uses, including agricultural and residential, within city boundaries.

19.34.020 Household Pets

A. Dogs and cats are permitted, according to the following table.

Dogs and Cats

Animals	Accessory and Secondary Dwellings	Residential Lots Less than .25 acre or multifamily units	Residential Lots Greater than or Equal to .25 and Less than .75 Acre	Residential Lots Greater than or Equal to .75 Acre	Agricultural Lots Greater than or Equal to 5.0 Acres
Dogs	1	2	2	2 (3)[1]	3
Cat	1	2	3	4	4

1. A kennel license which meets the requirements of 9.02.050, may be approved by designated Nibley City Staff for a third dog for lots with a single dwelling unit greater than or equal to .75 acre.
2. A residential lot with a two-family housing unit or with a single-family housing unit and an accessory or secondary dwelling may have 3 total dogs ~~with~~/without a kennel license.~~The maximum number of dogs for a two dwelling lot is 3.~~
3. Animals of the same species less than six (6) months old of permitted household pets that are parented on premises shall not be counted or regulated.
4. Service animals are not subject to the above restrictions.
5. Other household pets not listed, which are legal per State and Federal Laws, are permitted if such animals are housed at all times within the primary dwelling unit.
6. All other animals not specifically permitted are prohibited.

19.34.030 Small Animals

A. The following animals are permitted at a maximum rate of one hundred (100) small animal points per acre. Small animal points are assigned according to the following table:

Small Animal Points

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Animals	Residential Lots Greater than .10 acre and Less than .25 acre	Residential Lots Greater than or Equal to .25 acre and Less than .75 Acre	Residential Lots Greater than or Equal to .75 Acre	Agricultural Greater t Equal to 5
Rooster	-	-	105	50
Turkey	-	30	30	10
Goose	-	30	30	10
Rabbits	10	5	5	5
Ducks	10	5	5	5
Hen Chickens	10	5	5	5
Pigeons	10	2	2	2
Game Birds (Quail, Pheasants)	10	2	2	2

1. Animals of the same species less than six (6) months old of permitted small animals that are parented on premises shall not be counted or regulated.

19.34.040 Large Animals.

A. The following animals are permitted at a rate of one hundred (100) large animal points per acre. Large animal points are assigned according to the following table:

Large Animal Points

Animals	Residential Lots Less than .5 acre	Residential Lots Greater than or Equal to .5 acre and Less than .75 Acre	Residential Lots Greater than or Equal to .75 Acre	Agricultural Greater Equal to
Horse, pony, mule or donkey[4]	-	-	50	25

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Stallion	-	-	-	25
Cattle: cow, heifer, or steer	-	-	50	25
Cattle: bull	-	-	-	25
Bison or buffalo or yak	-	-	-	50
Caribou, reindeer	-	-	-	50
Camel	-	-	-	25
Pig[2]	-	-	50	25
Ostrich	-	-	50	25
Llama or alpaca	-	-	25	12
Emu	-	-	25	12
Miniature horse, donkey, cow[1]	-	-	25	12
Sheep	-	25	15	7
Goat: Female or wether	-	25	15	7
Goat: Billy	-	-	-	25

1. A miniature horse, donkey or cow must measure no taller than 42 inches in height and 200 pounds in weight. Larger horses, donkeys and cows shall be allotted the points of a horse, donkey or cow above.
2. Animals of the same species less than twelve (12) months old of permitted large animals, with the exception of pigs, that are parented on premises shall not be counted or regulated. Pigs that are less than three (3) months old that are parented on premises shall not be counted or regulated.
3. Second Animal Allotment: on parcels greater than or equal to ~~0~~.5 acre, the first animal shall be counted according to the regular points allotment as specified in this section, and a second large animal shall be allowed to be counted at half of the regular points allotted, for companionship and to reduce the likelihood of a single large animal becoming a nuisance. Any subsequent large animals shall be counted at the regular points allotted, as specified in this section.
4. Temporary boarding of a horse, pony, mule or donkey for five (5) days or less is allowed and not subject to the limits of this section.

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19.34.050 Combining Adjacent Parcels for Animal Occupancy

A. A ~~landowner~~resident may combine the total amount of adjacent parcels they own or occupy, including vacant parcels, for calculating the number of large, medium, and small animals they are allowed to keep on their combined properties.

B. Adjacent parcels, including vacant parcels, must be owned or occupied by the same resident to be eligible for combining. Proof of lease or other entitlement may be required for occupants of property other than the record title holder.

C. Property being combined for calculation of permitted animals shall be limited to vacant property with no dwelling units and property containing ~~A~~a maximum of one single-family dwelling unit and one accessory dwelling unit or one two-family dwelling unit ~~is allowed on all combined parcels~~.

19.34.060 Vacant Parcel Allowance for Animal Occupancy

A. A vacant parcel, with no dwelling unit, is allowed an additional 25 small animal points and an additional 25 large animal points. For the purposes of regulating animals based upon lot size within this section, a vacant parcel that is 0.5 acre or larger shall be counted and regulated with an additional 0.25 acre to the subject parcel. For example, a vacant parcel that is 0.6 acre shall be regulated the same as a 0.85 acre parcel that contains a dwelling unit for the purposes of this section.

19.34.070 Commercial and Industrial Parcels

Parcels which are zoned Commercial (C), Neighborhood Commercial (C-N) or Industrial (I), are subject to the same animal land use restrictions as a residential parcel.

19.34.080 Keeping of Bees

The keeping of bees is allowed under the guidelines listed in Utah Agricultural Code, Title 4 Chapter 11, Utah Bee Inspection Act and all other applicable State and Federal Regulations.

~~**19.34.020 Accessory Dwelling Units And Secondary Dwellings**~~

~~Accessory dwelling units and secondary dwellings of two-family housing units, regardless of the size of the lot shall be permitted the following animals. Animals allowed on a primary dwelling unit and associated lot shall be governed based upon the lot size, as provided in this chapter, which allowance shall not be limited or reduced based on the presence of an accessory or secondary dwelling unit on the lot, except for the limits on the number of additional dogs and cats included in this section.~~

~~1. Animals kept as household pets are permitted and are subject to each of the following limitations:~~
~~1. The maximum number of dogs for an accessory dwelling or secondary dwelling is one (1) dog. The maximum number of dogs for a two dwelling lot is three (3) dogs.~~
~~2. The maximum number of cats per household is one (1) cat.~~

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3. The combination of dogs and cats for an accessory dwelling or secondary dwelling shall not exceed two (2) animals.
4. Offspring less than six (6) months old of permitted household pets shall not be counted or regulated.
5. Service animals are not considered household pets and are not subject to the above restrictions.
6. Other household pets not listed, which are legal per State and Federal Laws, are permitted if such animals are housed at all times within a dwelling unit. All other animals not specifically permitted are prohibited.

19.34.030 Residential Lots Less Than Twelve Thousand Square Feet

Single-family housing units that are on lots that are less than twelve thousand (12,000) square feetare permitted the following animals. These limits shall also apply to multi-family housing units,

1. Animals kept as household pets are permitted and are subject to each of the following limitations:
    1. The maximum number of dogs for a single dwelling lot is two (2) dogs. The maximum number of dogs for a two dwelling lot is three (3) dogs
    2. The maximum number of cats per household is two (2) cats.
    3. The combination of dogs and cats per household shall not exceed two (2) animals for single dwelling lots. The combination of dogs and cats per household shall not exceed three (3) animals for two dwelling lots.
    4. Offspring less than six (6) months old of permitted household pets shall not be counted or regulated.
    5. Service animals are not considered household pets and are not subject to the above restrictions.
    6. Other household pets not listed, which are legal per State and Federal Laws, are permitted if such animals are housed at all times within a dwelling unit. All other animals not specifically permitted are prohibited.

19.34.040 Residential Lots Greater Than Or Equal To Twelve Thousand Square Feet And Less Than 0.75 Acre

Single-family residential lots that are greater than or equal to twelve thousand (12,000) square feet and less than 0.75 acre are permitted the following animals:

1. Animals kept as household pets are permitted and are subject to each of the following limitations:
    1. The maximum number of dogs per household is two (2) dogs.
    2. The maximum number of cats per household is four (4) cats.
    3. The combination of dogs and cats per household shall not exceed four (4) animals.
    4. Offspring less than six (6) months old of permitted household pets shall not be counted or regulated.
    5. Service animals are not considered household pets and are not subject to the above restrictions.

6. Other household pets not listed, which are legal per State and Federal Laws, are permitted if such animals are housed at all times within the primary dwelling unit. All other animals not specifically permitted are prohibited.

2. The following animals are permitted with the following maximum number of animals per lot:\
    1. Two (2) female or wether pygmy goats.
    2. Two (2) lambs less than eight (8) months old.
    3. Two (2) turkeys.
    4. Six (6) rabbits.
    5. Six (6) hen chickens.
    6. Eight (8) pigeons.
    7. Six (6) ducks.
    8. Eight (8) game birds such as quail or pheasants.
3. A minimum lot size of eighteen thousand (18,000) square feet is required for subsections (B)(1), (B)(2), and (B)(3) of this section. Offspring less than six (6) months old of animals listed above shall not be counted or regulated.A combination of the animals listed in subsection B of this section is permitted on each lot with the following provisions:
    1. For lots greater than or equal to twelve thousand (12,000) square feet and less than or equal to 0.5 acre, two (2) different species are permitted at any one time.
    2. For lots greater than 0.5 acre and less than 0.75 acre, three (3) different species are permitted at any one time.

The animals permitted by subsection B of this section are independent of, and in addition to, the household pets permitted by subsection A of this section.

19.34.050 Residential Lots Greater Than Or Equal To 0.75 Acre

Single family residential lots that are greater than or equal to 0.75 acre are permitted the following animals:

1. Animals kept as household pets are permitted and are subject to each of the following limitations:
    1. The maximum number of dogs per household is two (2) dogs. A kennel license which meets the requirements of 9.02.050, may be approved by designated Nibley City Staff for a third dog.
    2. The maximum number of cats per household is four (4) cats.
    3. The combination of dogs and cats per household shall not exceed six (6) animals.
    4. Offspring less than six (6) months old of permitted household pets shall not be counted or regulated.
    5. Service animals are not considered household pets and are not subject to the above restrictions.
    6. Other household pets not listed, which are legal per State and Federal Laws, are permitted if such animals are housed at all times within the primary dwelling unit. All other animals not specifically permitted are prohibited.
2. The following animals are permitted at a maximum rate of one hundred (100) large animal points per acre. Large animal points are assigned based on the following table:

~~Offspring less than eight (8) months old of a permitted large animal shall not be counted or regulated.~~

3. ~~The following animals are permitted at a maximum rate of one hundred (100) small animal points per acre. Small animal points are assigned based on the following table:~~

~~Animal~~	~~Small Animal Points~~
~~Rabbit~~	~~10~~
~~Turkey~~	~~10~~
~~Duck~~	~~10~~
~~Goose~~	~~10~~
~~Hen Chicken~~	~~2~~
~~Game bird such as a quail or pheasant~~	~~2~~
~~Pigeon~~	~~2~~

4. ~~Offspring less than six (6) months old of a permitted small animal shall not be counted or regulated.~~

~~Animal~~	~~Large Animal Points~~
~~Horse, mule or donkey~~	~~75~~
~~Cattle: cow, heifer, or steer~~	~~50~~
~~Pig~~	~~50~~
~~Ostrich~~	~~50~~
~~Llama or alpaca~~	~~25~~
~~Emu~~	~~25~~
~~Miniature horse or donkey~~	~~25~~

Sheep	15
Goat: female or wether	15

5.

6. The animals permitted by subsections B and C of this section are independent of, and in addition to, the household pets permitted by subsection A of this section. In addition, residents are permitted to have any combination of permitted large and small animals as long as the combination does not exceed one hundred (100) large animal points per acre plus one hundred (100) small animal points per acre.

Examples for a 2.0 acre lot:

Maximum number of large animal points permitted = 100*2.0 = 200

Maximum number of small animal points permitted = 100*2.0 = 200

Two horses, two llamas (2*75 + 2*25 = 200 large animal points), plus one hundred hen chickens (100*2 = 200 small animal points) are permitted on a residential 2.0 acre lot

Two horses and three llamas (2*75 + 3*25 = 225 large animal points) are not permitted on a residential 2.0 acre lot.

Twenty-five hen chickens, twelve rabbits, and four turkeys (25*2 + 12*10 + 4*10 = 210 small animal points) are not permitted on a residential 2.0 acre lot

These examples are not all inclusive of the possible mix of animals.

HISTORY
Adopted by Ord. 09-12 on 9/3/2009
Amended by Ord. 21-16 on 9/23/2021

19.34.060 Agricultural Lots Greater Than Or Equal To 5.0 Acres
Lots in the agricultural zone that are greater than or equal to five (5.0) acres are permitted the following animals:

1. Animals kept as household pets are permitted and are subject to each of the following limitations:
    1. The maximum number of dogs per household is three (2) dogs.
    2. The maximum number of cats per household is four (4) cats.

    Offspring less than six (6) months old of permitted household pets shall not be counted or regulated.

    Applicants may be granted a conditional use permit that waives the above limitations for a service animal, such as a guide dog, or an animal that is being trained to provide such assistance.

2. The following animals are permitted at a maximum rate of one hundred (100) large animal points per acre. Large animal points are assigned based on the following table:

Animal	Large Animal Points
Horse, donkey, or mule	50
Cattle: cow, heifer, steer, or bull	50
Pig	50
Goat: billy	50
Ostrich	50
Llama or alpaca	25
Emu	25
Miniature horse or donkey	25
Sheep	15
Goat: female or wether	15

3. Offspring less than twelve (12) months old of a permitted small animal shall not be counted or regulated.
4. The following animals are permitted at a maximum rate of one hundred (100) small animal points per acre. Small animal points are assigned based on the following table:

Animal	Small Animal Points
Rooster Chicken	5
Rabbit	5
Turkey	5

~~Duck~~	~~5~~
~~Goose~~	~~5~~
~~Hen chicken~~	~~1~~
~~Game bird such as quail or pheasant~~	~~1~~
~~Pigeon~~	~~1~~

~~5.~~ ~~Offspring less than six (6) months old of a permitted small animal shall not be counted or regulated.~~

6. ~~The animals permitted by subsections B and C of this section are independent of, and in addition to, the household pets permitted by subsection A of this section. In addition, residents are permitted to have any combination of permitted large and small animals as long as the combination does not exceed one hundred (100) large animal points per acre plus one hundred (100) small animal points per acre.~~

19.34.0~~9~~70 Required Setbacks For Animal Land Uses

	Street Line, Public/Private	Dwelling Unit; Same Lot	Dwelling Unit; Adjacent Lot	Lot Line
Barnes, stables, coops, beehives, and other accommodations for non-household pets (~~over~~ more than 50 square feet)	50~~75~~ feet	~~35~~ 20 feet	50 feet	20 feet

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Barnes, stables, coops, beehives, and other accommodations for non-household pets (~~under~~ less than 50 square feet)	50 feet	10 feet	35 feet	10 feet
Manure piles, manure pits	150 feet	100 feet	100 feet	20 feet

19.34.1008~~0~~0 Surface Drainage

Surface drainage from barns, corrals, stables, coops and other similar buildings shall not be permitted to drain into a waterway that drains into a natural stream or canal.

19.34.1109~~0~~0 Restraint Of Livestock And Pets

All livestock and pets shall be so restrained that they shall not damage or destroy adjacent property and must comply with the Nibley City animal control, nuisance and noise regulations, including those listed in NCC 9.02, "Animal Control".

19.34.120~~0~~0 Creation And Continuation Of Nonconforming Uses

A. Established animal land uses that are impacted by an ordinance change, including rezoning, to a more restrictive animal land use regulation shall be allowed to continue as a legally nonconforming land use (sometimes known as a "grandfathered" land use), with these additional provisions:
B. The established animal land use must have been a legal land use that conformed to the previous, less restrictive regulations.
C. The burden of proving the established animal land use rests on the landowner.
D. The legally nonconforming animal land use will be lost if it is interrupted for more than twelve (12) continuous months. A legally nonconforming use is associated with the property on which it is established.
E. An increased intensity of non-animal land uses, including subdivision of property and new building construction, on lots with legally nonconforming animal land uses shall not be allowed.
F. Agricultural areas are established to provide areas where the growing of crops and the raising of livestock can be encouraged and supported within the city.

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21.02.020 Violation

A. No person shall subdivide any tract or parcel of land located wholly or in part in the City, except in compliance with the provisions of this title. No person shall purchase, sell or exchange any parcel of land which is any part of a subdivision or a proposed subdivision submitted to ~~the Planning Commission~~Nibley City, nor offer for recording in the office of the county recorder any deed conveying such parcel of land or any fee interest therein, unless such subdivision has been created pursuant to and in accordance with the provisions of this title.
B. Whoever shall violate any of the provisions of this title shall be guilty of a class C misdemeanor and, upon conviction of any such violation, shall be subject to penalty as provided in NCC 1.08.010.
C. Any parcel of land created, purchased, sold or exchanged in violation of this title shall not be eligible for building permit or other development approval until full compliance with the provisions of this title is achieved.
D. Any person or corporation that allows to continue any violation of any provision of this title shall be guilty of a misdemeanor for each and every day the violation continues, and each day shall be a separate violation.
E. Any plat of a subdivision, or any survey description, filed or recorded without the approvals required by this title is deemed to be void, for the purposes of development or the issuance of a building permit.
F. Any owner or agent of the owner of any land located in a subdivision, as defined herein, who transfers or sells any land located within the subdivision before the subdivision has been approved and recorded in the office of the Cache County Recorder, consistent with the requirements of this title, and applicable state and federal requirements, is guilty of a violation of this title, and of Utah Code § 10-9a, for each lot or parcel transferred or sold.
G. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring lots, plots, parcels, sites, units, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions does not exempt the transaction from the requirements of this title and such action from the penalties or remedies provided by this title, Nibley City land use ordinances, or the laws of the State of Utah.

21.02.030 Permits

A. The building inspector shall not grant a permit for the use of any land or the construction or alteration of any building or structure on a lot which would be in violation of any provisions of this title until a subdivision plat therefore has been recorded or approved as herein required. Any license or permit issued in conflict with such provisions shall be void. Approved development plans shall be filed with the ~~Planning Commission and~~ City Recorder or designee.

Commented [TD1]: Development Plans must be filed with the City Recorder?

Commented [LR2R1]: Good question. I added 'or designee;

21.02.040 General Requirements

A. The subdivider shall prepare all plats consistent with the standards contained herein and the Nibley City ~~Design Standards and Specifications~~Engineering design standards and specifications and shall pay for the design and inspection of the public improvements required. The City shall process said plats in accordance with the regulations set forth herein.

B. All improvements shall be constructed in accordance with the International Building Code, the Nibley City ~~Design Standards and Specifications~~Engineering design standards and specifications and other applicable federal, state and local regulations.

C. The City shall review the plats for design, for conformity to the Nibley City General Plan and to the land use ordinance; for the environmental quality of the subdivision design; and shall process the subdivision plats and reports as provided for in this title.

D. Proposed subdivisions shall be referred by the City to such City departments and special districts, governmental boards, bureaus, utility companies, and other agencies which will provide public and private facilities and services to the subdivision for their information and comment. The City is responsible for coordinating the comments received from all public and private entities and shall decide which agencies to refer the proposed subdivision.

E. The City Engineer shall make comments as to engineering requirements for plans submitted for construction, including, but not limited to, street widths, grades, alignments and flood control, whether the proposed public improvements are consistent with this title and other applicable ordinances and for the inspection and approval of all construction of public improvements. Street layout and overall circulation shall be coordinated with the Nibley City Transportation Master Plan.

F. The Planning Commission shall act as ~~an advisory agency to the City Council~~the administrative land use authority for approval of preliminary plats. It is charged with making investigations and decisions~~, reports and recommendations~~ on proposed subdivisions as to their conformance to ~~the Nibley City General Plan and~~ land use ordinances, and other pertinent ~~documents~~standards. ~~The Planning Commission shall recommend approval, approval with conditions, or denial of the preliminary and final plats to the City Council as described herein.~~

G. ~~The City, in conjunction with t~~The City Manager shall act as the administrative land use authority for approval of final plats. The City engineer and City attorney, shall approve the form of the final plat, that the subdivider dedicating land for use of the public is the owner of record, and that the land is free and clear of unacceptable encumbrances according to the title report.

~~H. The Nibley City Council has final jurisdiction in the approval of subdivision plats unless otherwise designated within this title; the establishment of requirements for the Nibley City Design Standards andSpecifications; and the acceptance of lands and public improvements that may be proposed for dedication.~~

Commented [LR3]: We still need to discuss who this should be. The logic behind making it the City Manager is that he oversees engineering, planning and public works who reviews the application, but we can come up with another internal approval authority.

1. The amendment and alteration of the Nibley City Design Standards and Specifications may, by resolution, be delegated to the Public Works Director and the City Engineer.

21.02.050 Site Preparation And Work Prohibited

A. No excavation, grading, regrading or removal of vegetation for a proposed subdivision shall take place and no building permits shall be issued until a proposed subdivision has received approval from the Nibley City Council and a Notice to Proceed has been issued.

21.02.060 Complete Submittal Required

A. No application for a subdivision shall be reviewed by the City Planning Commission or City Council or be entitled to substantive review and approval until the applicant has submitted all documents required by this Title and Nibley City Code. The City shall inform applicants of the information needed to provide a complete application. Once a complete application has been received, the application shall be reviewed by the City Engineer, City Planner, Public Works Director, and all other applicable departments or other public or private entities that will provide facilities or services to the subdivision for conformance to NCC and other applicable standards. When the preliminary plat application has been determined to be complete and in compliance with NCC and other applicable standards, the application will be placed on the next Planning Commission meeting which is at least (14) days from the date of compliance determination. The application will then be reviewed/approved by the applicable recommending/approval authorities as outlined in this Chapter. Once the Final Plat has been reviewed by all applicable departments, the City Manager will review and consider the application

21.02.070 Effect Of Approval

Commented [TD4]: If we are going to move toward a Record of Decision, this might be an appropriate place to describe the approval and its effects.

A. Any approval granted under this title, whether it be for a preliminary plat or for a final plat for all or part of a subdivision shall be effective for a period of one year from the date of approval by the Approval Authority. If the applicant has not recorded the final plat or, in the case of the preliminary plat, presented a final plat for a phase of the subdivision for approval, within that one year period, the City shall provide thirty (30) days' written notice to the applicant and thereafter, the approval shall be void., if the applicant fails to cure the default within said thirty (30) day period. Applicants shall then be required to submit a new application for review and approval, subject to local, state and federal laws and ordinances in effect at the time of the new submittal. An applicant may apply in writing for 1 extension of up to one year if made within the time period(s) reference above.

21.02.080 Phasing

A. When developing a large tract of land, subdividers may choose to construct the subdivision in phases rather than develop the entire property at once. A subdivider must submit a preliminary plat that contains the complete development, proposed phasing and complies with all preliminary plat requirements. Subdividers opting to phase the subdivision shall have ~~five~~two years for proposals exceeding 30 acres and ~~two years~~one year for proposals of equal to or less than 30 acres from the date of preliminary approval to present each phase of the subdivision for final approval. The final plat for each phase must conform with the approved preliminary plat for density and connectivity. Any phase that does not meet the ~~five-year~~ application deadline will be required to regain preliminary approval for remaining phases. ~~The subdivider must apply for final approval for the first phase within one year; if not, the preliminary approval for the development shall be expired.~~ An applicant may apply in writing for 1 extension of up to one year if made within the time period(s) reference above.

B. Phasing shall be done in a manner that maximizes connectivity between phases of the subdivision and shall be presented as part of the preliminary plat approval. Specific attention shall be paid to ensure that the roads in each phase connect to the roads in earlier phases.

C. Developers may choose to construct infrastructure improvements within the proposed subdivision, which may include, but are not limited to: utilities, parks, open space, stormwater facilities, trails, etc. When such improvements are approved as part of the subdivision approval, they shall be phased in proportion, based on percentage of the total value of the amenities in the subdivision, to the total number of lots in the subdivision, per phase. Example: If a phase contains 25% of the lots for the subdivision, then 25% of the total value of the subdivision's amenities are required to be constructed along with that phase.

D. Choosing to phase the subdivision does not relieve developers of the requirement to present the entire subdivision, in its phases, for final approval by the City within the ~~applicable five and two-years of receiving approval of the preliminary plat by the City, as~~ timelines outlined in NCC 21.06.080.A.

E. Each phase must comply with Nibley City access and connectivity standards as listed within this title and Nibley City Engineering design standards and specifications.

Commented [LR5]: This is already covered in 21.02.070.

21.02.100 Appeal

A. Except as otherwise specified, ~~A~~any person ~~adversely affected~~who wishes to appeal ~~by~~ an action or decision of ~~the Planning Commission or City Council~~Nibley City interpreting or applying Utah Code or Nibley City Code in the review, denial, or approval of a land use application may appeal the decision by following the procedures for appeal outlined in NCC 19.06 "Appeals".

B. An applicant who wishes to challenge the completeness or timeliness of an application shall follow the procedures set forth in Utah Code § 10-9a-509.5.

21.02.110 Enforcement

A. The ~~Planning Commission, the City Engineer~~City Manager and such other departments and agencies of the City as are specified under the provisions of this title are hereby designated and authorized as the agencies charged with the enforcement of the provisions of this title and shall enter such actions in court as are necessary. Failure of such departments to pursue appropriate legal remedies shall not legalize any violation of such provisions or waive the City's right to pursue such remedies in the future.

Commented [LR6]: Not sure about this one.

21.02.120 Inspection

A. Appropriate agencies and departments of the City shall inspect or cause to be inspected all public improvements in the course of construction, installation or repair as required in this title. Excavations for any publicly owned infrastructure must be installed in accordance with Nibley City Engineering design standards and specifications, and or other applicable codes and standards, and shall not be covered or backfilled until such installation shall have been approved by the Public Works Director or designee. If any such installation is covered before being inspected and approved, it shall be uncovered after notice to uncover has been issued to the responsible person by the inspector, and at the responsible person's cost and expense.

21.04 Definitions

A. For purposes specific to this title, all terms shall have the same definition as provided by Utah Code § 10-9a-103, 1953, as amended and also in NCC 19.04, except as such definitions are modified herein.

B. "Administrative land use authority" means an individual, board, or commission, appointed or employed by municipality , including the staff or the planning commission.

~~A.~~C. "Administrative land use authority" does not include the municipal City Council or a member of the City Council.

~~B.~~D. "Appeal Authority" as used in Utah Code § 10-9a-103 means that body or person designated by NCC 19.06 "Appeals".

~~C.~~E. "Land Use Authority" as used in Utah Code § 10-9a-103means that body or person designated as the Approval Authority by Nibley Code 21.06.060 Land Use Authority.

F. "Nibley City ~~Design Standards and Specifications~~Engineering design standards and specifications" means those technical standards, specifications, measurements, and requirements adopted by the City Council ~~or its designee~~ that govern the design and construction of public and private infrastructure and facilities. Examples include but are not limited to Nibley City Engineering Design Standards and Specifications, Nibley City Design Standards for Commercial and Institutional Uses, etc.

G. "Review cycle" means the occurrence of:
   1. the applicant's submittal of a complete subdivision land use application;
   2. the City's review of that subdivision land use application;
   3. the City's response to that subdivision land use application, in accordance with this section; and
   4. the applicant's reply to the City's response that addresses each of the municipality's required modifications or requests for additional information.

H. "Subdivision improvement plans" means the civil engineering plans associated with required infrastructure and municipally controlled utilities required for a subdivision.

I. "Subdivision ordinance review" means review by the City to verify that a subdivision land use application meets the criteria of the City's subdivision ordinances.

~~D.~~J. "Subdivision plan review" means a review of the applicant's subdivision improvement plans and other aspects of the subdivision land use application to verify that the application complies with municipal ordinances and applicable standards and specifications.

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21.06.010 Compliance Required

A. Before dividing any tract of land into a "subdivision" as defined in NCC 21.04, a subdivider shall follow the procedures specifically provided for that type of development or zoning under Nibley City Code. If no more specific procedures are provided, a subdivider shall follow the procedures outlined in this chapter, except as may be provided for in Utah Code § 10-9a-605 and Utah Code § 10-9a-604~~, 1953~~, as amended.

21.06.030 Concept Plan Review And Development Review Commitee

A. If an applicant requests, ~~P~~prior to submitting a preliminary plat, a subdivider ~~shall~~ may submit a written "concept plan" to the Development Committee and the City shall, within 15 days of receiving the request, schedule a meeting to review the concept plan and give initial feedback. ~~The concept plan shall include a sketch plan of the proposed subdivision in which the proposed subdivision is sufficiently described to enable the Development Committee to determine whether the proposed subdivision complies with zoning title, master plans, street plans and services. The Development Committee shall advise the subdivider of possible problems with the proposed subdivision within thirty (30) days after it receives the concept plan.~~

B. At the pre-application meeting, the staff shall provide or have available on the city website the following:
   1. copies of applicable land use regulations;
   2. a complete list of standards required for the project;
   3. preliminary and final application checklists; and
   4. feedback on the concept plan.

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~~A. Development Committeeadvise on the concept plan shall not constitute preliminary or final approval of a particular subdivision plan or of the preliminary plat.~~

~~B.~~C. The Development Committee shall be composed of the City Engineer, the Public Works Director, and the City Planner, who shall chair the committee, and other members as appointed by the City Council.

~~C.~~D. The Development Committee does not have authority for approval of applications, but is a review body established to help subdivision applications comply with Nibley City Master Plans, Code, and Design Standards and Specifications. Development Committee advise on the concept plan shall not constitute preliminary or final approval of a particular subdivision plan or of the preliminary plat.

HISTORY
Adopted by Ord. No Source on 6/1/1992

21.06.040 Process and Application Requirements for~~Submission Of~~ Preliminary Plat

A. The subdivider shall submit the following in a readable, electronic format with each Preliminary Plat application found on the City's website and at the City Office:
   1. The proposed preliminary plat conforming to all development standards of NCC and Nibley City Engineering Design Standards.
   2. A title report, provided by a title company, for the property proposed to be subdivided, dated within thirty (30) days of the submittal of the preliminary plat.
   3. An owner's affidavit if the subdivider is not the landowner.
   ~~2.~~4. For R-M, Cluster, and Open Space subdivisions, phased development plans, and subdivisions where the City and developer agreed on terms, rights, or requirements outside of the requirements of City ordinances and standards, a draft Development Agreement outlining the roles and responsibilities of both the subdivider and Nibley City.

   ~~3.~~5. Except as outlined in NCC 21.12.040, prior to approval of the preliminary plat, the subdivider shall provide the City with documentation for each affected canal company that is signed by a representative of the canal company with the following information:
      a. The date the plans were provided to the canal company;
      b. A statement that the canal company has received the plans related to the use or alteration of affected canals;
      c. An acknowledgment that the canal company understands they have thirty (30) days from the date plans were provided to the canal company to bring any concerns to the City.
   ~~4.~~6. The following are required for all phased developments, developments larger than 20 acres, or as specifically required by City Staff:
      a. Preliminary Maintenance and Landscape Plans
      b. Traffic Impact Study

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c. Geotechnical Report
d. Preliminary Stormwater / Drainage Report
e. Preliminary Sewer Report
f. Preliminary Water Report
1) The preliminary water report will be provided by the City's water modeling consultant at a cost to the developer.

B. Review Process and Timing
1. The preliminary subdivision application shall be reviewed at a municipal staff level.
2. No later than 15 business days after the day on which an applicant submits a complete application, the municipality shall complete a review of the applicant's preliminary subdivision land use application for a subdivision, including preliminary subdivision improvement plans for single-family, two-family or townhome subdivisions.
3. In reviewing the preliminary subdivision land use application, the City may require:
a. additional information relating to an applicant's plans to ensure compliance with municipal ordinances and approved standards and specifications for construction of public improvements; and
b. modifications to plans that do not meet current ordinances, applicable standards or specifications, or do not contain complete information.
c. The City's request for additional information or modifications to plans under Subsection (B)(3)(a) or (b) shall be specific and include citations to all City ordinances, standards, or specifications that require the modifications to plans, and shall be logged in an index of requested modifications or additions.
d. The City Staff shall complete up to four (4) review cycles of a preliminary plat application to ensure conformance to all City ordinances, standards, or specifications.
e. Once conformance is determined, the application will be placed on the next available Planning Commission agenda that is at least fourteen (14) days from the determination of compliance for consideration of approval, The Planning Commission shall consider approval of the preliminary plat application in a public meeting. A public hearing is not required.

~~1)~~C.

HISTORY
Adopted by Ord. No Source on 6/1/1992
Amended by Ord. 22-17 on 9/22/2022

~~21.06.050 Public Notice And Hearing Required~~

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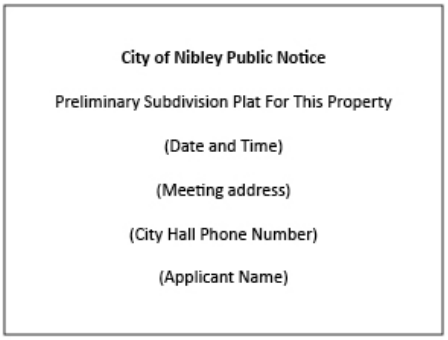
Commented [LR7]: This section is only needed if the Planning Commission opts to require a public hearing, but this is not required.

A. Subdivider shall post a sign on the property for the purpose of notifying the public of the proposed subdivision which complies with Utah State Code. The sign shall meet the following standards:

1. The sign shall be posted on the property in a location visible and within 10' of an adjacent right-of-way.

2. The sign(s) shall consist of four foot by four-foot(4' x 4') plywood or other hard surface and the bottom of the sign shall be at least three feet (3') above the ground.

a. Centered at the top of the four foot by four-foot (4' x 4') signboard(s) in six-inch (6") letters shall be the words "City Of Nibley Public Notice". In addition, each sign will inform the public of the nature of the notice, the date, time and address of the location, a summary of the proposal to be considered, a city contact phone number, the location of the development and the name of the applicant, and, if applicable, the proposed development. Each sign shall be painted white, and the letters shall be painted black.



B. Notice of the proposed subdivision shall be mailed by the subdivider or at the subdivider's cost, to all property owners within three hundred feet (300') in any direction of the property at issue at least ten (10) days prior to the meeting. The letter shall include the same information that is required for the sign.

C. If a public hearing is required, notice of the public hearing shall be added onto the sign and included with letters sent to property owners within 300 ft.

D. The failure of the subdivider to provide notice as set forth in this section shall not invalidate any decision or approval granted by the City, provided that the City provided notice of its meetings as required by Utah State Code and NCC 19.02.120.

HISTORY

Adopted by Ord. No Source on 6/1/1992
Amended by Ord. 07-17 on 11/15/2007
Amended by Ord. 21-13 on 6/10/2021

21.06.060 Land Use Authority

A. The Land Use Authority shall be established according to the table below for Land Use Applications.

Subdivision Type	Approval Authority
~~Standard Subdivision~~ Subdivision: Preliminary Plat	Planning Commission
~~Minor Subdivision~~Subdivision: Final Plat	~~Planning Commission~~City Manager
~~Rural Preservation Subdivision~~	~~City Council~~
~~Cluster Subdivision~~	~~City Council~~
R-PUDs and other Overlay Zones Development	City Council
Annexation Petition	City Council
Annexation Policy Plan	City Council
Conditional Use Permit	Planning Commission 1
General Plan	City Council
Ordinance Change (new or existing)	City Council
Plat Amendment	~~City Council or Planning Commission~~2City Manager
Proposal to Vacate, Alter or Amend a Public Street or Right-of-Way	City Council
Subdivision or Land Use Ordinance	City Council
~~Subdivision; Preliminary Approval~~	~~City Council~~
Zone Changes	City Council

1 The planning commission may designate to city staff, its land use authority for those conditional use permit application outline in NCC

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Commented [LR8]: I assume this should be consistent with Final Plat?

~~2 The Approval Authority for a Plat Amendment shall be the same approval authority as for the original subdivision~~

B. The Approval Authority ~~shall have approval authority of the Preliminary Plat, Final Plat, and~~ for any applicable Development Agreement ~~as required in Nibley City Code~~shall be as follows.
   1. The City Council shall approve any development agreement for the following:
      a. A Residential Planned Unit Development (R-PUD)~~and Final Plat if said~~
      b. A development agreement that would obligate the City to build infrastructure over $25,000.
      c. A development agreement for which the City and developer agree on terms, rights, or requirements outside of the requirements of City ordinances and standards.
      d. A subdivision which dedicates open space to Nibley City.
   2. The Planning Commission shall approve any development agreement for the following:
      a. A Cluster Subdivision or Open Space Subdivision which does not include a dedication of open space to Nibley City
      ~~1.~~b. A Standard Subdivision for which the City and developer agree on terms, rights, or requirements within the requirements of City ordinances and standards

   ~~2. If the City Council is the Approval Authority, they shall not approve, approve with conditions, or deny a Preliminary or Final Plat until they receive a recommendation from the Planning Commission.~~

C. ~~Construction Drawings~~Subdivision improvements Plans, Engineering Reports and Design Compliance shall be approved by the Nibley City Engineer, who shall consult with the City Planning Department and Public Works Departments before approval.
D. Subdivisions shall follow the established process within the section of Nibley City Code that outlines the requirements and process for that type of development.

21.06.080 Process and Application Requirements for Final Plat Approval

A. Within one year of receiving approval of the preliminary plat by the City, developers shall present the entire subdivision or first phase or phases for final approval by the specified ~~Land Use Authority~~Administrative Land Use Authority.
B. The application for final ~~approval~~ subdivision plat and materials can be found on the City's website and at the City Office and shall consist of the following:
   1. Final plats for the entire subdivision or for the proposed phases, prepared according to this ordinance and to the Nibley City Engineering Design Standards and Specifications;
   2. A stamped report, prepared by a Utah Licensed Professional Engineer or Professional geologist, establishing the ordinary high groundwater elevation and finished floor elevations for the subdivision.

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Commented [LR9]: This section will be considered for an amendment separately with basement/groundwater ordinance

a. No finished floor elevations, including basement floor elevations, shall be permitted below the aforementioned groundwater elevation.
b. The groundwater elevation and finished floor elevation limitations shall be recorded as a boxed note (min 14 pt font) on the recorded mylar
c. The report shall be attached to the Development Agreement.
d. An applicant is not required to submit a groundwater report or finished floor elevations of any permitted building if the applicant records on the final plat that no finished floor shall be built at an elevation lower than six inches (6") above finished curb or centerline of the street, whichever is higher, unless an individual lot owner is able to provide a stamped report meeting the qualifications as listed within this section for their lot, and unless that report is reviewed and approved by the City Engineer

3. ~~Construction drawings~~Subdivision improvement plans for the subdivision, prepared by licensed professionals according to this ordinance and to the Nibley City Engineering Design Standards and Specifications;
4. Final reports for which preliminary reports were required with the preliminary plat;
5. One (1) electronic copy of the final plats, ~~construction drawings~~subdivision improvement plans, and reports;
6. ~~For R-PUD, R-M, Cluster, and Open Space subdivisions, phased development plans, and subdivisions where the City and developer agreed on terms, rights, or requirements outside of the requirements of City ordinances and standards, a draft Development Agreement outlining the roles and responsibilities of both the subdivider and Nibley City.~~

C. Upon a subdividers failure to receive approval within that one year period, ~~the City shall provide thirty (30) days' written notice to the applicant and thereafter,~~ the approval shall be void~~., if the Applicant fails to cure the default within said thirty (30) day period.~~ Applicants shall then be required to submit a new application for review and approval, subject to local, state and federal laws and ordinances in effect at the time of the new submittal. An applicant may apply in writing for 1 extension of up to one year if made within the time period(s) reference above.
D. Final approval shall be valid for three (3) years. If a subdivision, or phase thereof, has not been constructed within three (3) years of the date of final approval by the Approval Authority, the Public Works Director shall suspend the Notice to Proceed and the developer shall be required to resubmit the final plats and ~~construction drawings~~subdivision improvement plans for review and compliance with City standards and specifications in effect at that time.
E. Final approval shall be conditioned on the developer's compliance with approved ~~construction drawings~~subdivision improvement plans and plans, City ordinances and standards regarding water and other property dedications, provision of infrastructure improvements or infrastructure improvement assurances, and approval of and compliance with any applicable development agreement or phasing

Commented [LR10]: I think this should move to R-PUD application if it is an R-PUD and Preliminary Plat for all other subdivisions. Another option would be to create a section that speaks specifically to development agreements and take out all other references, as there seems to be some conflicts.

plan, in addition to any other conditions of approval imposed by the Approval Authority. For phased developments, regardless of how the developer chooses to phase the subdivision, the development agreement shall encompass the entirety of the project and shall be recorded with the first recorded phase of the subdivision.

F. Review Process and Timing

1. No later than 20 business days after the day on which an applicant submits a complete application, the municipality shall complete a review of the applicant's final subdivision land use application for single-family, two-family or townhome subdivisions.
2. In reviewing the final subdivision land use application, the City may require:
   a. additional information relating to an applicant's plans to ensure compliance with municipal ordinances and approved standards and specifications for construction of public improvements; and
   b. modifications to plans that do not meet current ordinances, applicable standards or specifications, or do not contain complete information.

~~1.~~3. The City's request for additional information or modifications to plans under Subsection (F)(1)(a) or (b) shall be specific and include citations to all City ordinances, standards, or specifications that require the modifications to plans, and shall be logged in an index of requested modifications or additions.

21.08.90 Review Cycle Process for Review and Preliminary and Final Plat Applications

A. For Preliminary and Final Plat applications, no more than four review cycles are permitted with the following exceptions.
   1. The change or correction is necessitated by the applicant's adjustment to a plan set or an update to a phasing plan that adjusts the infrastructure needed for the specific development, a change or correction not addressed or referenced in a municipality's plan review is waived.
   2. A modification or correction necessary to protect public health and safety or to enforce state or federal law may not be waived.

B. If an applicant makes a material change to a plan set, the City has the discretion to restart the review process at the first review of the final application, but only with respect to the portion of the plan set that the material change substantively effects.

C. If an applicant does not submit a revised plan within 20 business days after the municipality requires a modification or correction, the City shall have an additional 20 business days to respond to the plans.

D. After the applicant has responded to the final review cycle, and the applicant has complied with each modification requested in the municipality's previous review cycle, the municipality may not require additional revisions if the applicant has not materially changed the plan, other than changes that were in response to requested modifications or corrections.

E. In addition to revised plans, an applicant shall provide a written explanation in response to the City' review comments, identifying and explaining the applicant's revisions and reasons for declining to make revisions, if any.

Commented [LR11]: We can limit this to single-family, two-family and townhomes, but I don't see any reason for adopting separate processes, timelines.

Commented [TD12R11]: I recommend being specific to one and two family dwellings- commercial and industrial reviews can be much more complex and can require additional time to get through reviews and engineering analyses

Commented [LR13R11]: Ok, in that case, we will need to do a little more homework to spell out that process separately. I suppose, we can just be specific on timing but the submission elements, etc. could probably still be the same.

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1. The applicant's written explanation shall be comprehensive and specific, including citations to applicable standards and ordinances for the design and an index of requested revisions or additions for each required correction.
2. If an applicant fails to address a review comment in the response, the review cycle is not complete and the subsequent review cycle by the City may not begin until all comments are addressed.

F. If, on the fourth or final review, the City fails to respond within 20 business days, the City shall, upon request of the property owner, and within 10 business days after the day on which the request is received:
   1. For a dispute arising from the subdivision improvement plans, assemble an appeal panel in accordance with Subsection 10-9a-508(5)(d) et seq. to review and approve or deny the final revised set of plans. Unless otherwise agreed by the applicant and the municipality, the panel shall consist of the following three experts:
      a. one licensed engineer, designated by the City;
      b. one licensed engineer, designated by the land use applicant; and
      c. one licensed engineer, agreed upon and designated by the two designated engineers as appointed in subsection (i) a and b.
   2. A member of the panel assembled by the City under Subsection (i) may not have an interest in the application that is the subject of the appeal.
   3. The land use applicant shall pay:
      a. 50% of the cost of the panel; and
      b. the City's published appeal fee.; or
      for a dispute arising from the subdivision ordinance review, advise the applicant, in writing, of the deficiency in the application and of the right to appeal the determination to a designated appeal authority.

21.08.020 Final Plat

A. Description: The final plat shall be drawn to scale on standard twenty-four inch by thirty-six inch (24"x36") ~~paper~~ format and shall include the following information:
   1. The proposed name of the subdivision.
   2. The boundaries of the proposed subdivision, including sufficient information to locate the project, and the total acreage of the project.
   3. A legal description of the property.
   4. The names and addresses of the owner, subdivider, if other than owner, and the engineer or surveyor of the subdivision.
   5. Date of preparation.
   6. Scale.
   7. The base heading of true north.

B. The plat shall contain the following information:
   1. Accurate dimensions for each lot, street, alley, easement, areas to be dedicated as open space and other important features. Dimensions shall be shown in feet and hundredths. Lot sizes shall be expressed in acreage.

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2. The street address for each lot. Lots on the north and west sides of the street shall have odd numbers. Lots on the south and east sides of the street shall have even numbers.
3. A description and delineation of other angles, distances, points, monuments, markers, boundaries and other geometries as described in the Nibley City ~~Design Standards and Specifications~~Engineering design standards and specifications.
4. Standard signature forms, the wording of which is found in the Nibley City Design Standards and Specifications, for the following:
    a. Registered land surveyor's certificate of survey, as applicable under Utah law;
    b. Owner's signature of dedication;
    c. Notary public acknowledgment;
    d. City engineer's certificate of approval;
    e. Utility companies' approval;
    f. City water, sewer and stormwater departments approval;
    ~~e.~~g. City Planner approval;
    ~~f. Planning Commission approval;~~
    ~~g.~~h. City approval, signed by the ~~Mayor and City Recorder if City Council is required to approve the plat~~Administrative Land Use Authority;
    ~~h.~~i. City attorney approval;
    ~~i.~~j. A block for use by the County Recorder containing the required recording information
    ~~j.~~k. The following note regarding groundwater:
        1) Areas in Nibley have groundwater problems due to the varying depth of a water table. The City's approval of a final plat, building permit or construction plans does not constitute a representation by the City that building at any specified elevation or location would solve subsurface or groundwater problems. In addition, concerns for building elevation and/or grading and drainage are unique to each building site, remain solely with the building permit application, property owner and/or contractor. Nibley City is not responsible for any subsurface or groundwater problems which may occur, nor for such concerns including, but not limited to, building location and/or elevation, site grading and drainage.

C. Additionally, construction plans shall be submitted with the final plat. These plans shall detail the size, design, type and location of all infrastructure improvements proposed for construction as part of the phase, including, but not limited to, streets, sidewalks, curbs, utility pipes and other infrastructure. Construction plans shall be prepared in accordance with the Nibley City ~~Design Standards and Specifications~~Engineering design standards and specifications.

21.08.040 Minor Subdivision Process

A. Purpose: In an effort to reduce the expense of developing relatively small residential subdivisions that meet certain conditions, residential subdivisions of five (5) lots or less may be considered and approved under this section. A subdivision approved under this section shall be known as a "Minor Subdivision." Minor subdivisions, when approved, are exempt from platting requirements for preliminary ~~and/or final~~ plats and may also be exempt from the requirements for some engineering reports and ~~construction drawings~~subdivision improvement plans as determined by the Nibley City Engineer and as provided in this section.

B. Minor Subdivision Requirements: To be considered for approval as a Minor Subdivision, the proposed subdivision must meet all the following requirements:

~~1. Notice is provided as required by ordinance;~~

2.1. The proposed parcel is not traversed by the mapped lines of a proposed street or trail as shown in the General Plan, Master Transportation Plan, and/or Trail Master Plan;

3.2. The proposed subdivision does not require the dedication of any land for street or other public purposes;

4.3. The proposed subdivision has been approved by the culinary water authority and the sanitary sewer authority;

5.4. The proposed subdivision is located in a residential zoned area;

6.5. The proposed subdivision conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance;

7.6. The proposed subdivision contains five (5) lots or less total;

8.7. The parcel being divided has not had other lots separated from it within the past five years, provided that if another lot or lots have been separated from the parcel that is the subject of the request for Minor Subdivision within the past five years, then the previously separated lots and the subject parcel will all be counted towards the five (5) lot limit for the purposes of the application for a Minor Subdivision under this section;

9.8. The proposed subdivision does not require or contemplate the creation or dedication of open space land for the purpose of receiving higher density and/or smaller lot size; and

10.9. The proposed subdivision complies with all other applicable requirements under Nibley City Code for a subdivision, including zoning, infrastructure improvements and bonding thereof, providing for drainage needs, providing required utility easements, and protecting sensitive land issues, etc.

C. Minor Residential Subdivision Application Procedure: The application procedure for a minor subdivision shall be as follows:

1. Pre-Application Meeting-The applicant may~~must~~ meet with Nibley City Staff to determine if the proposed subdivision meets the requirements of a Minor Subdivision. If a meeting is requested, ~~T~~the staff shall within 15 business days

Commented [LR14]: We will need to discuss how we want to/have to treat minor subdivisions. Because they don't require a preliminary plat, would this just need Staff approval?

Commented [LR15]: Since a public hearing is not allowed with final plat, I don't think this is applicable.

after the request, schedule the meeting to review the concept plan and give initial feedback. ~~provide a copy or access of this section of Nibley City code and inform the applicant of their options.~~ The staff shall review with the applicant any requirements for ~~construction drawings~~subdivision improvement plans that may be needed and required for approval.

2. Minor Subdivision Plat: ~~-~~Minor Subdivisions shall be exempt from preliminary plat application and shall file a final plat in compliance with all NCC 21 and standards on the plat as unless noted in this section. ~~and the applicant may only submit a final Minor Subdivision plat after a Pre-Application Meeting with Nibley City staff and a determination from City staff that the proposed subdivision meets the requirements for a Minor Subdivision. Nibley City staff shall write and proposed a development agreement to be considered with the minor subdivision application.~~
3. The ~~Planning Commission shall act as the land use authority~~City Manager shall be the Administrative Land Use Authority for a Minor Subdivision ~~and shall grant or deny an application for a Minor Subdivision within 60 days of its receipt of a complete application. The Planning Commission shall approve an application for a Minor Subdivision if the plat and development agreement meet all of Nibley City's ordinances as listed in NCC 19 and NCC 21, Public Work's design standards, general plan, master plans and all requirements for a final plat.~~

D. Recording of the final plat: Final approval shall be valid for ~~three~~ one (~~3~~1) year~~s~~. If an applicant fails to record the final plat within that time, the approval of the plat is void.
E. Notice to proceed and process after final approval: All Minor Subdivisions shall follow the Nibley City subdivision code and process as outlined after final approval.
F. Minor Subdivision standards: All Minor Subdivision shall comply with Nibley City Ordinances, as listed in Nibley Code, and Nibley City Engineering design standards and specifications~~engineering and public work design standards~~, unless otherwise listed in this section.
    1. Finished floor elevation recorded on the final plat:
        a. An applicant shall include all groundwater reports as required Nibley City code with the final plat. An applicant is not required to submit a groundwater report or finish floor elevations of any permitted building if the applicant records on the final plat that no finished floor shall be built at an elevation lower then six inches (6") above finish curb or centerline of the street, whichever is higher.
    2. ~~Construction Drawings~~Subdivision improvement plans and Engineering Reports:
        a. The applicant shall submit all report~~s~~ as required by Nibley City code unless otherwise exempted by the ~~Planning Commission~~City Engineer.
        b. Applicants shall submit detailed stormwater plans at the request of the Nibley City Engineer.

21.10.020 Open Space Subdivision

A. Purpose: The purpose of this section is to provide for subdivision development within Nibley City in a manner that:
    1. Helps preserve the rural feeling of Nibley City as outlined in the General Plan;
    2. Provides Open Space Land with a specific purpose that provides visual and physical access to the public.
    3. Supports adopted City policies to conserve a variety of irreplaceable and environmentally sensitive resources and agricultural lands as set forth in the General Plan;
    4. Protects constrained and sensitive lands, including, but not limited to, those areas containing sensitive features such as steep slopes, floodplains, and wetlands, by setting them aside from development;
    5. Provides Open Space Land, including those areas containing unique or natural features such as meadows, grasslands, tree stands, streams, stream corridors, berms, waterway, farmland, wildlife corridors and/or habitat, historical buildings and/or sites, archeological sites, and green space, by setting them aside from development;
    6. Reduces erosion and sedimentation by the retention of existing vegetation and the minimization of development on steep slopes and other constrained and sensitive lands;
    7. Provides for a diversity of lot sizes to accommodate a variety of age and income groups and residential preferences, so that the community's population diversity may be enhanced;
    8. Provides incentives for the creation of greenway systems and Open Space Land within the City for the benefit of present and future residents.
    9. Creates neighborhoods with direct visual and/or physical access to Open Space Land;
    10. Maintains and creates scenic views and elements of the City's rural and scenic character and minimizes perceived density by maintaining views of new development from existing roads.
B. Definitions: For the purpose of this section, the following words shall have the meanings set forth herein:
    1. OPEN SPACE LAND: Any parcel or area of land dedicated under this section as indicated on an Open Space Subdivision Plat for the access and/or visual enjoyment of the public. Open Space Land must meet the standards and requirements of this section. Open Space Land may not be contained in the privately-owned parcel except as specifically allowed in this ordinance. Open Space Land must have 25% of its border adjacent to public access right-of-way, easement, or City park or contain a trail open to the public which traverses or runs adjacent to the Open Space Land. Open Space Land area shall not be included in setback areas calculations for principal or accessory uses.

2. CONSTRAINED AND SENSITIVE LAND: Land which is generally unbuildable without engineered ground modifications, or which contains features including, but not limit to Federal, State, or municipally designated wetlands, floodplains, slopes greater than 20%, faults, designated canals per Nibley Ordinance and other geologically or environmentally sensitive features that require mitigation, special insurance or permits from government authorities to allow development. This land may be used as Open Space Land if it complies fully with conditions within this ordinance for qualification of Open Space.
3. WATERWAY: Surface water runoff and drainage, drainage ditches and irrigation waterways, whether surface or subsurface and natural waterways including creeds, streams, springs, rivers, ponds, and wetlands.
4. TREE STAND: A group or cluster of trees within a geographic location that are occurring naturally or artificially.
5. MEADOWS: Land vegetated with native species of grasses, trees, forbs, and flowers, either undisturbed or constructed, that can be sustained without supplemental irrigation. Actively used pasture and agricultural land are not considered Meadows under this definition.
6. PASTURE: A fenced enclosure or confined area used for the grazing of livestock or small animals which contains sufficient vegetation to serve as the principle food source for the livestock confined therein.
7. NET DEVELOPABLE LAND: Net Developable Land shall include the total area of the proposed development minus land that is required by Nibley City ordinance to be dedicated to the City including, but not limited to:
8. Public access rights-of-way
9. Land required to be dedicated along waterways
10. Preservation lands with infrastructure installed to City standards by the developer as part of the development process (parks, trails, etc.)
11. Constrained and Sensitive Land as defined herein
12. Easements, lands dedicated to the City for preservation space but without public rights of access, and other utility or general rights-of-way without access to the public shall be included as Net Developable Land.
13. Net Developable Land may be calculated for the purposes of concept review and preliminary plat approval based on either rule of thumb as outlined in the Lot Standards chart for the underlying zone of the proposed subdivision or based on actual measurements derived from the proposed plat. Calculation of Net Developable Land for final plat approval shall use actual measured Net Developable Land area. The proponent shall demonstrate compliance with this provision by calculation based on values demonstrably derived from the proposed final plat.

C. Applicability:
    1. The election to develop the property as an Open Space Subdivision is voluntary and provided to developers as an alternative to the standard subdivision process codified in NCC 19 and NCC 21. The intent of this section

and the Open Space Subdivision options is to encourage the creation and development of flexible designed Open Space Land and variety in lot size and conformation. Open Space Subdivisions may be developed within applicable residential zones of the City. Open Space Subdivisions shall be developed in accordance with and subject to the development standards, conditions, procedures and regulations of this section and with all other applicable subdivision ordinances and zoning regulations of the City which are not otherwise in conflict with the provisions of this section.

2. In cases of conflict with other Nibley City ordinances, the terms of this section shall govern.
3. Development Options: In R-1, R-1A, and R-2 zones in Nibley City, developers may elect to develop an Open Space Subdivision. R-2A zones may also be developed under the terms of this ordinance; in such cases, the R-2A zoned property shall be treated as R-2 for the purposes of calculating underlying base density, number of lots, bonus density, lot sizes, and all other provisions outlined in this ordinance. If the zone is not listed above, it does not qualify for an Open Space Subdivision.
4. Developers desiring to develop the property as Open Space Subdivision are subject to the development standards, conditions procedures and regulations of this section.

D. Application Process:

1. Applications for an Open Space Subdivision shall be submitted and processed in accordance with the requirements and procedures set forth in the City Subdivision Ordinance, including submission and approval of schematic, preliminary and final plans or plats, and any additional procedural requirements set forth in this section, including, but not limited to, submission of a sensitive area designation plan and maintenance plan.
2. Pre-application Meeting: Applicants for an Open Space Subdivision shall have a pre- application meeting with the Development Committee as established in NCC 21.06.030 to review the application and answer questions provided by the applicant. Prior to this meeting, the developer shall submit the draft plan of the proposed subdivision and shall include the following:
    a. Zoning and parcel location
    b. Total gross acres
    c. Estimated right-of-way dedication
    d. Estimated Constrained and Sensitive Land
    e. Estimated Net Developable Land
    f. Estimated Open Space Dedication and proposed uses.
    g. Total number of lots based on density bonus
    h. Estimated lot sizes and subdivision layout.
3. Sensitive Area Designation Plan Map: All applications for a Open Space Subdivision shall include a sensitive area designation plan map prepared in accordance with the provisions set forth herein and submitted with the

Commented [LR16]: I think this should be revisited.

Commented [LR17]: Can we still require this with SB 174? Not sure if this is ok since this is an elective process.

preliminary plat. The sensitive areas designation plan map shall identify all constrained and sensitive lands within the property boundaries as set forth in this section. The sensitive area designation plan map shall also clearly identify all-natural or cultural resources present on the property, including, but not limited to those defined in this ordinance (geographic features, meadows, tree stands, streams, stream corridors, floodwalls, berms, waterways, canals, irrigation ditches, farmland, pastures, wildlife corridors and/or habitat; historic buildings and/or sites; archeological sites; cultural features and green space). Applicants are solely responsible for the accuracy and designation of constrained and sensitive lands as defined in this ordinance, and natural and cultural resources as defined by the United States, State of Utah, Cache County, and Nibley City on the sensitive area designation plan map for their project and applicable adjacent property. The applicant shall include all sensitive areas within four hundred feet (400') of the developments property boundaries as noted in City, County, State, and Federal records.

4. Maintenance Plan for preserved Open Space Land: The developer must submit a Preliminary Maintenance Plan in accordance with subsection M,2 of this section and with the preliminary plat. For final plat application, the developer must submit a Final Maintenance Plan in accordance with subsection M,3 of this section. The Final Maintenance Plan shall be attached to the Development Agreement required by NCC 21 and recorded with the Final for the property.

E. Dimensional Standards:

1. The lot standards within an Open Space Subdivision shall be determined in accordance with the Lot Standards Chart. Lot Standards Chart.

Lot Standards Chart

Zone	Open Space Ratio [Note 1] (OSR)	Incentive Multiplier	Average Residential Lot Size	Minimum Residential Lot Size	Frontage [Note 2]
R-1	$0.25 \leq OSR < 0.30$	1.25	$\geq 18{,}700\ ft^2$	$\geq 17{,}000\ ft^2$	≥ 100 ft
	$0.30 \leq OSR < 0.35$	1.30	$\geq 16{,}700\ ft^2$	$\geq 15{,}000\ ft^2$	≥ 100 ft
	$0.35 \leq OSR < 0.40$	1.35	$\geq 14{,}700\ ft^2$	$\geq 13{,}000\ ft^2$	≥ 95 ft

	$0.40 \leq OSR$	1.40	$\geq 12{,}700\ ft^2$	$\geq 11{,}000\ ft^2$	≥ 90 ft
R-1A	$0.25 \leq OSR < 0.30$	1.25	$\geq 14{,}000\ ft^2$	$\geq 12{,}000\ ft^2$	≥ 100 ft
	$0.30 \leq OSR < 0.35$	1.30	$\geq 13{,}000\ ft^2$	$\geq 11{,}000\ ft^2$	≥ 95 ft
	$0.35 \leq OSR < 0.40$	1.35	$\geq 12{,}000\ ft^2$	$\geq 10{,}000\ ft^2$	≥ 90 ft
	$0.40 \leq OSR$	1.40	$\geq 11{,}000\ ft^2$	$\geq 9{,}000\ ft^2$	≥ 85 ft
R-2 and R-2A	$0.25 \leq OSR < 0.30$	1.20	$\geq 13{,}200\ ft^2$	$\geq 11{,}500\ ft^2$	≥ 95 ft
	$0.30 \leq OSR < 0.35$	1.25	$\geq 12{,}200\ ft^2$	$\geq 10{,}500\ ft^2$	≥ 90 ft
	$0.35 \leq OSR < 0.40$	1.30	$\geq 10{,}200\ ft^2$	$\geq 9{,}000\ ft^2$	≥ 85 ft
	$0.40 \leq OSR$	1.35	$\geq 9{,}200\ ft^2$	$\geq 7{,}800\ ft^2$	≥ 80 ft
Notes: 1. The OSR is the ratio of the area of the Open Spece Land divided by the area of the Net Developable Land. 2. Frontage is determined at the front setback line.					

2. Procedure for Calculating Allowed Number of Lots: The Allowed Number of Lots including the density bonus for a Open Space Subdivision shall be determined as follows using the appropriate Incentive Multiplier from the Lot Standards Chart. The developer shall follow the process outlined below to determine allowable properties of the proposed subdivision and use these properties in developing the preliminary and final plats. All calculations and measurements shall be clearly documented in order and following the process outlined below and submitted with the plat applications:
    a. The subdivision must be in one of the approved zones as listed within the Open Space Subdivision requirements, and all calculation will be based on the parcel's current zone at the time of application and the associated Lot Standards Chart with the exception of R-2A zones: R-2A zones shall be treated as R-2 zones for the purposes of this ordinance.
    b. Provide to the City the total area contained within the subdivision plat.
    c. Provide to the City the total area being dedicated to rights-of-way.

d. Provide to the City the total acres of Constrained and Sensitive Land.
e. Provide the City the total Net Developable Land area as defined within this section.
f. State the area of proposed Open Space Land.
g. Calculate Open Space Ratio.
h. Calculate the Base Number of Lots per zone:
    1. Base Number of Lots R-1 = Net Developable Land / 1 acre
    2. Base Number of Lots R-1A = Net Developable Land / .75 acres
    3. Base Number of Lots R-2 and R-2A = Net Developable Land / 0.5 acres
i. Determine Incentive Multiplier
    1. Determine Incentive Multiplier based on the Lot Standards Chart, the applicable zone, and the Open Space Ratio.
j. Calculate total allowed
    1. Total allowed lots = Base number of lots multiplied by the Incentive Multiplier

F. Lot Area, Frontages, and Zoning Regulations:
    1. The subdivision, along with each lot within the subdivision, shall meet and comply with the minimum lot sizes, average lot sizes, and frontages shown on the Lot Standards Chart. Except for these requirements, the Zoning Regulations (NCC 19) for the underlying zone shall apply to Open Space Subdivisions, unless otherwise noted within this section.
G. Conservancy Lots:
    1. Open Space Land and Constrained and Sensitive Land may be included within individual residential lots when such areas can be properly protected and preserved in accordance with the intent and purpose of this section. Such lots shall be known and referred to as "conservancy lots". These lots must contain a minimum of 0.5 acres of Open Space Land, except for areas approved by Nibley City as defined Landscape Buffers, and that Open Space Land must meet the design standards and use standards within this section.
    2. Regulations: Open Space Land and Constrained and Sensitive land within a Conservancy Lot shall remain subject to all regulations and requirements for such land as set forth herein, including, but not limited to, use, design, maintenance, ownership and permanent protection. Open Space Land must be developed and maintained within the first year of the date of issuance of a Notice to Proceed under NCC 21.
    3. The portion of each Conservancy Lot that is not Open Space Land must meet the minimum lot size on the applicable Lot Standards Chart and shall be the portion of the Conservancy Lot used to calculate the average and minimum lot size within the subdivision.
H. Use Regulation: Use of the land in a Open Space Subdivision that is not Open Space Land is subject to any restrictions set forth in NCC 19, unless otherwise specified

within this section, for the zone in which the land is located. Use of Open Space Land within a Open Space Subdivisions is subject to the following:

1. Permitted Uses on Open Space Land: The following uses are permitted in Open Space Land areas:
    a. Street rights-of-way may traverse Open Space Land if permitted under City ordinances; provided, areas encumbered by such facilities and/or rights-of-way shall not be counted as Open Space Land when computing the Open Space Ratio in the Lot Standards Chart.
    b. Utility rights-of-way or easements, including above ground and underground utilities may traverse Open Space Land if permitted by City ordinance; areas encumbered by such facilities and/or rights-of-way may be counted as Open Space Land when computing the Open Space Ratio in the Lot Standards Chart so long as the rights-of-way and easements otherwise meet the requirements of this ordinance for Open Space Land.
    c. Agricultural and horticultural uses, including raising crops wholesale nurseries and associated buildings that are specifically needed to support active, viable horticultural operations. Wholesale nurseries must obtain an operating permit and business license from the City and must comply with all fencing and maintenance requirements of this ordinance.
    d. Conservation of open land in its natural state, e.g., meadows, tree stands, wetlands, forestland.
    e. Waterways along with dedicated public access rights-of-way or easements along one or both sides.
    f. Underground utility easements for drainage, access, sewer or water lines, electric lines or other public purposes.
    g. Active noncommercial recreation areas, such as trails, playing fields, playgrounds, courts, and multipurpose trails. These parcels shall be maintained by the City or an owners' association and shall be open to the public if maintained by the City, or residents within the Open Space Subdivision if maintained by a functional owners association.
    h. Agricultural uses excluding livestock operations involving swine, poultry, and mink. Open Space Land of less than one-half (0.5) acre may be used as landscaped buffers for roadways, landscaped entrances to subdivisions, neighborhood "pocket parks" or similar amenities that meet standards and uses listed herein.
    i. Fencing that is rural in character. All fencing must be transparent, such as rail fences, post fences, or wire fences and architecturally appropriate to the use as determined by the City Planner. Chain link fences are not permitted on Open Space Land. All applicants must receive a fence permit from the City before construction of any proposed fence.

j. Golf courses, not including commercial miniature golf. A development plan must be turned in as part of the approval process that outlines ownership, development, and building plans.
k. Neighborhood Open Space Land uses such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses. Neighborhood Open Space Land must be owned and maintained by an owners' association or the City.
l. Pasture for sheep, goats, cows, horses or other animals approved by Nibley City code. Pasture and animal density must conform with Nibley City Animal Land Use Regulations and be enclosed with appropriate fencing.
m. Silviculture, in keeping with established standards for selective harvesting and sustained yield forestry.
n. Water supply and sewage disposal systems, and stormwater detention areas designed, landscaped, and available for use as an integral part of the Open Space Land. These facilities must be built to Nibley City ~~Design Standards and Specifications~~Engineering design standards and specifications, must contain a tree for every 300 square feet and planted around the perimeter, an irrigation system must be installed, and be planted with grass or natural vegetation

2. Prohibited Uses on Open Space Land: The following uses shall be considered prohibited in Open Space Land areas:
    a. Motor vehicles are prohibited except as necessary to maintain and operate the property and/or utility facilities within the property. Recreational motorized off-road vehicle usage including but not limited to motorcycles, dirt bikes, go-carts, OHVs, dune buggies, side-by-sides and their derivatives, and snowmobiles are prohibited.
    b. Firearm ranges, and other uses similar in character and potential impact are prohibited.
    c. Advertising of any kind and any billboards or signs; provided, directory and information signs may be displayed describing the easement and prohibited or authorized the use of the same.
    d. Any cutting of trees or vegetation, except as reasonably necessary for fire protection, thinning, elimination of diseased growth, control of non-native plant species, maintenance of landscaped areas, and similar protective measures or those activities relating to permitted agricultural uses or other uses allowed within this section.
    e. Any development, construction or location of any manmade modification or improvements such as buildings, structures, roads, parking lots, or other improvements, except as may be necessary to support a permitted use.

f. Any dumping or storing of ashes, trash, garbage, vehicles, trailers, recreational vehicles or other equipment except for equipment needed to maintain the land.
g. Any filling, dredging, excavating, mining, drilling, or exploration for and extraction of oil, gas, minerals or other resources from the property.
h. Any residential, commercial or industrial activity except as specifically permitted in this ordinance.
i. Burning of any materials, except as necessary for agricultural, drainage and fire protection purposes.
j. Changing the topography of the property by placing on it any soil, dredging spoils, landfill, or other materials, except as necessary to conduct specifically permitted purposes.
k. Hunting or trapping for any purpose other than predatory or problem animal control.
l. The change, disturbance, alteration, or impairment of significant natural ecological features and values of the property or destruction of other significant conservation interests on the property.
m. The division, subdivision or de facto subdivision of the property.
n. The use of motor vehicles, including snowmobiles, all-terrain vehicles, motorcycles and other recreational vehicles.
o. All other uses and practices inconsistent with and detrimental to the stated objectives and purpose of this section.

3. Constrained and Sensitive Lands: Except for passive recreational activities, no development or residential uses shall be permitted within Constrained and Sensitive Lands
4. Open Space Land Coordination: When directed by the Planning Commission ~~and City Council~~, Open space land shall be consolidated and located on the border of proposed subdivision and be located adjacent to undeveloped or open space land. In consideration of open space consolidation, design standards described in this chapter shall be maximized, including the preservation of significant areas and natural landscape, and adequate pedestrian access.
5. Open Space Lands: Standards pertaining to the quantity, quality, configuration, use, permanent protection, ownership, and maintenance of the Open Space Land within an Open Space Subdivision shall be complied with as provided herein.

I. Open Space Land Design Standards: Open Space Land shall be located and designed within the Open Space Subdivision to add to the visual amenities of neighborhoods and the surrounding area by maximizing the visibility of Open Space Land. Designated Open Space Land within an Open Space Subdivision shall also comply as defined in this section, permitted uses as listed in this section, and meet three (3) or more of the following standards:

1. Significant Areas and Natural Landscape: Open Space Land shall include the most unique and sensitive resources and locally significant features of the property within the subdivision. Specifically, meadows, waterways and wetlands as defined in this Ordinance, and tree stands and contain a minimum of 0.5 acres. Other uses include berms, wildlife corridors and/or habitat and must extend a minimum of 15' on each side of the feature. This Open Space Land may also contain historic buildings and/or sites, archeological sites, and cultural features. The maintenance plan shall outline how the property will be preserved and maintained. The maintenance plan must specify what type of feature(s) that is being preserved and how the property will be maintained.
2. Contiguous Land: Open Space Land within a Rural Conservation Subdivision shall be contiguous within the subdivision, or to other Open Space Land in adjacent subdivisions or developments to provide for large and integrated Open Space Land areas within the City.
3. Agricultural Land: Privately held Open Space Land that is used for agricultural purposes as defined in this Ordinance and is 0.5 acre or greater in size.
4. Buffering: Open Space Land shall be designed to provide buffers and to protect scenic views as seen from existing public rights-of-way and from public parks or trails. Buffering area along public rights-of-way or street must be at least thirty (30') feet wide. Buffering must be landscaped, at the sole cost of the developer and shall provide for every hundred (100) linear feet of buffer, six (6) trees and fifteen (15) shrubs. Tree and shrub species must be approved by the City's arborist or the City's Park Director. Trees and shrubs shall be planted within thirty (30) feet of the right-of-way or public park. Irrigation shall be provided by the developer and shall be designed and installed to Nibley City Standards for City parks current at the time of approval of Final Plat. Open Space buffer areas shall be under single ownership.
5. Pedestrian Access: Developer shall provide pedestrian access to Open Space Land which is open to public or owners' association member use. Access methods can be a trail, park, recreation space, or neighborhood gathering space.
6. Recreation Space: Open Space Land may be designated as recreation space or park space, including maintained grass, trails, picnic areas, playgrounds, sports fields or other recreation and park amenities. These recreation spaces are conditional upon the City Council's approval, and amenities must be approved by the City Council before final approval of the preliminary plat or maintenance plan can be given. Publicly and owners' association owned open spaces shall be fully developed and operational in conjunction with each phase of the subdivision as a percentage of the total developed value of the subdivision (for example, if 25% of the dollar value of the development is being constructed, then a minimum of 25% of the dollar value of the built-

Commented [LR18]: Need to discuss City Council's role with Open Space Subdivision under SB 174. It is considered an administrative approval, but the dedication of open space, particularly to the City should go through City Council.

out Recreation Space must be developed). The determination of value, construction sequencing, and acceptance criteria shall be specified in the development agreement; until improvements are accepted by the City for the attendant phase, no permits shall be issued for subsequent phases.

7. Stormwater Basin: These facilities must be built to Nibley City ~~Design Standards and Specifications~~Engineering design standards and specifications, must contain a tree for every 300 square feet and planted and clustered around the perimeter basin area; an irrigation system must be installed, and be planted with grass, natural vegetation and shrubs. The stormwater basin can be a local or regional basin and must be owned and maintained by Nibley City.

J. Permanent Protections of Open Space Land:
    1. Conservation Easement: All Open Space Land shall be permanently restricted from future development by a conservation easement or other method of protection and preservation acceptable to the City. Under no circumstances shall any development be permitted in the Open Space Land at any time, except for those permitted or conditional uses listed herein and approved in conjunction with the Open Space Subdivision. All conservation easements, or another acceptable method of protection and preservation of the Open Space Land within a Open Space Subdivision, shall be approved by the City Council and recorded prior to or concurrent with the recording of the final plat for the Open Space Subdivision.
    2. Terms and Conditions: All conservation easements, or another acceptable method of protection and preservation of the Open Space Land within a Open Space Subdivision, shall be in substantially the same form as the standard conservation easement form provided by the City and shall include, at a minimum, the following terms and/or conditions:
        a. Legal description of the easement;
        b. Description of the current use and condition of the property;
        c. Permanent duration of easement;
        d. Permitted and conditional uses;
        e. Prohibited development and/or uses;
        f. Maintenance responsibilities and duties; and
        g. Enforcement rights and procedures.
    3. Marking of Open Space Land: Open space land shall be marked at each corner and property line intersection with a minimum 4" diameter x 3' deep concrete monument provided with an aluminum or brass cap cast or epoxied into the monument. Caps shall be stamped "Nibley Conservation Marker, Do Not Remove", and an arrow stamped into the cap perpendicular to the Open Space boundary line and pointing into the Open Space. Monuments shall be placed such that the top 6" of the monument is above finished grade at the monument location.
    4. Grantee: Unless otherwise approved by the City Council, the grantee of a conservation easement shall consist of one of the following acceptable

entities which entity shall be qualified to maintain and enforce such conservation easement: land trust, conservation organization, or governmental entity. The City may, but shall not be required to, accept, as grantee, a conservation easement encumbering Open Space Lands within a Open Space Subdivision, provided there is no cost of acquisition to the City for the easement and sufficient access to and maintenance responsibilities regarding the Open Space Land are provided.

K. Ownership of Open Space Land:
    1. Undivided Ownership: Unless otherwise approved by the City Council and subject to the provisions set forth in this section, the underlying fee Ownership of the Open Space Land shall remain in single Ownership and may be owned and maintained by one of the following entities: homeowners' association, land trust, conservation organization, governmental entity, or private individual.
    2. Property Not Subject to Subdivision: Property subject to a conservation easement, or another acceptable method of protection and preservation, shall not be subdivided.
    3. Nibley City may at its sole discretion opt to take ownership of Open Space Land at the subdivision approval stage. The developer shall landscape the property with sod, grass, trees and an irrigation system or other natural landscape features as appropriate as determined by the City Council.
    4. Owners Association: Open Space Land may be held in common ownership by a Home Owners or other acceptable Owners Association, subject to all the provisions for Owners Associations set forth in state law, the City Code, and the following:
        a. A description of the organization of the proposed Association, including its bylaws, and all documents governing ownership, maintenance, and use restrictions for Open Space Land, including restrictive covenants for the subdivision, shall be submitted by the developer with the final plat application.
        b. The proposed association shall be established, funded and operating (with financial subsidization from the Developer, if required in by the City in the development agreement) prior to or concurrent with the recording of the final plat for the subdivision;
        c. Membership in the association shall be mandatory for all purchasers of property within the subdivision and their successors in title.
        d. The association shall be the responsible party for maintenance and insurance of its Open Space Land under the Final Maintenance Plan for the subdivision;
        e. The bylaws of the association and restrictive covenants for the subdivision shall confer legal authority on the association to place a lien on the real property of any member who falls delinquent in dues. Such dues shall be paid with the accrued interest before the lien may be lifted; and

Commented [LR19]: If we want to keep this provision, City Council should stay in the process somehow.

f. Written notice of any proposed transfer of Open Space Land by the Association or the assumption of maintenance for the Open Space Land must be given to all members of the Association and to the City no less than thirty (30) days prior to such event.
g. The owners' association shall be required to provide a bond or line of credit to the City for the cost of one year of maintenance of property owned by the Association, to be maintained by the Association for as long as the Association owns the Open Space.
h. In the event of a failure of the owners' association to maintain the properties in accordance with the requirements of the development agreement, the City shall revoke the owners' association's bond, determine an appropriate assessment for the operation and maintenance of the open space, and assess all properties of the Subdivision on a monthly basis for said maintenance.

5. Private Ownership: A conservation parcel may be owned by a private individual or entity. Such parcels shall have a defined purpose and restrictions recorded in the maintenance plan and comply with this section.

L. Maintenance of Open Space Lands:

1. Costs: Unless otherwise agreed to by the City, the cost and responsibility of maintaining Open Space Land shall be borne by the owner of the underlying fee of the Open Space Land.
2. Preliminary Maintenance Plan: A Preliminary Maintenance Plan shall be turned in with the preliminary plat for proposed maintenance of Open Space Land within the subdivision. This plan shall outline the following:
    a. The proposed Ownership of the Open Space Land;
    b. The party that will be responsible for maintenance of the Open Space Land;
    c. The proposed use of the Open Space Land and how each parcel of Open Space Land meets the standards listed within this section;
    d. The size of each Open Space Land parcel; and
    e. The proposed concept plan for landscaping of the Open Space Land.
3. Final Maintenance Plan: The developer shall submit a plan outlining maintenance and operations of the Open Space Land and providing for and addressing the means for the permanent maintenance of the Open Space Land within the proposed Open Space Subdivision application for the subdivision. The developer shall provide a final maintenance plan with the final plat and the plan shall contain the following:
    a. Ownership agreements for Open Space Land;
    b. A description of the use of the Open Space Land and how that use complies with this section;
    c. The establishment of necessary regular and periodic operation and maintenance responsibilities for the various kinds of Open Space Land (e.g., lawns, playing fields, meadow, pasture, wetlands, stream corridors, hillsides, cropland, woodlands, etc.);

d. The estimated staffing needs, insurance requirements, and associated costs, and define the means for funding the maintenance of the Open Space Land, and the operation of any common facilities located thereon, on an ongoing basis, including means for funding long-term capital improvements as well as regular yearly operating and maintenance costs; and
e. The landscaping plans for parcels that will be owned by an owners association or by the City.
f. Approval: The Final Maintenance Plan must be approved by the ~~City Council~~Administrative Land Use Authority prior to or concurrent with final plat approval for the subdivision. The Final Maintenance Plan shall be recorded against the property within the subdivision and shall include provisions for the City's corrective action rights as set forth herein. Any changes or amendments to the Final Maintenance Plan must be approved by the Administrative Land Use Authority~~City Council~~.

4. The developer shall offer an approved letter of credit, bond or escrow for all proposed improvements and must complete all proposed open space improvements within the first three years of approval. If a designated open space parcel is planned to be maintained by a single property owner, the developer shall maintain that property until title is transferred to a new property owner.
5. Failure to Maintain: For all open space designated under the terms of this Ordinance, including privately held Open Space Lands, the responsible party for the maintenance of the Open Space Land in accordance with the terms of this ordinance, the approved maintenance agreement, any conditional use permits, business licenses or any other agreements between the City and the responsible party, or the operation of any common facilities located thereon fails to maintain all or any portion of the Open Space Land or common facilities in accordance with the aforementioned agreements and ordinances, the City may assume responsibility for the maintenance and operation of the Open Space Land. If the City assumes responsibility under this paragraph, any remaining development escrow or bond funds may be forfeited, liens for maintenance costs shall be assessed as described herein, and any permits, licenses or operating agreements may be revoked or suspended by the City in the City's sole discretion. The owner shall not impede the City in their efforts to maintain the open space.
6. Corrective Action: The City may enter the premises and take corrective action, including extended maintenance. The costs of such corrective action may be charged to the property Owner and may include administrative costs and penalties. Such costs shall become a lien on said properties. Notice of such lien shall be filed by the City in the county recorder's office. The maintenance plan and all other documents creating or establishing any Association or conservation organization for the property shall reference

the City's corrective action authority set forth herein and shall be recorded against the property.

7. Implementation and Maintenance: The developer of the subdivision shall fund implementation and maintenance of the conservation easement until such time as the control of the easement is transferred to the long-term manager. The developer shall address implementation, development, maintenance and transfer procedures in the sensitive area designation plan map or master development plan, as applicable.
8. Maintenance Access: The developer of the subdivision shall provide sufficient maintenance access from a dedicated right-of-way to all Open Space Land and constrained and sensitive lands within the Open Space Subdivision.

21.10.030 Cluster Subdivisons

A. Purpose and Intent: Cluster subdivisions are intended to allow flexibility in neighborhood and subdivision lot design by permitting the development of dwellings on lots smaller than normally required for the zone in which the subdivision is located and by dedicating or reserving the land so saved to needed open space. It is not intended that this type of subdivision be universally applied but only where circumstances or natural features and land use make it appropriate and of special benefit to the residents of the subdivision and surrounding area.

B. General Regulations:

~~1. Conditional Use: A cluster subdivision shall be a conditional use in the A, R-E, R-1, R-1A, R-2 and R-2A zones, and the terms and requirements of those zones shall govern the subdivision except as such terms and requirements are modified by this section.~~

~~2.~~1. Minimum Subdivision Size: A proposed cluster subdivision shall have a minimum of ten (10) dwelling units and sufficient land to meet the density requirements of the zone in which the development is located, as set forth below.

~~3.~~2. Reduction In Minimum Lot Area: Where land is proposed for subdivision into lots and a subdivider dedicates or permanently reserves land within the subdivision for recreational use or open space, a reduction in the minimum lot area required for the zone in which the cluster subdivision is located may be recommended for approval by the planning commission to the city council, provided the provisions of this chapter are met and further provided that the cluster subdivision receives subdivision approval.

C. Site Development Standards:

1. Lot Area: The minimum lot area for dwellings may be reduced below the area normally required in the zone in which the cluster subdivision is located, but the overall density of the cluster subdivision shall not exceed the density allowed in the zone in which the development is located.

2. Use And Height Regulations: Use and height regulations shall be the same as for the zone in which the cluster subdivision is located.
3. Yard Setbacks: The required yard setbacks of the zone shall be maintained on the perimeter of the cluster subdivision.
4. General Considerations: The cluster subdivision should be compatible with the surrounding land uses, building types and physical features of the site. The planning commission should consider the criteria used in NCC 19.28.
5. Basis For Issuance Of Conditional Use Permit: In addition, the planning commission should consider the following:
    1. Fencing, screening and landscaping both inside and at the perimeter of the site;
    2. The quality, quantity and potential uses of the reserved or dedicated open space land; and
    3. Bulk and location of buildings on the site.

D. Open Space:
1. Required: There shall be permanently reserved within the subdivision for recreation and/or open space, parcels of land whose total area is not less than the amount by which the areas of residential lots are reduced below the minimum area normally required in the zone in which the cluster subdivision is located.
2. Preservation And Maintenance: Recreation and/or open space areas to be permanently reserved shall be improved, landscaped and maintained in accordance with a plan approved by the planning commission. The developer shall specify how and by whom the reserved open space land will be maintained. Any open space proposed to be dedicated and/or maintained by Nibley City must be approved by the Nibley City Council.

E. Procedure for Approval: A preliminary site plan of the cluster subdivision showing topography, proposed building sites and locations, proposed uses, areas within the subdivision to be permanently reserved for recreation and/or open space, improvements and method of maintenance of such areas shall be presented to the planning commission. The planning commission shall submit its recommendation for approval or denial, together with such modifications necessary to serve the public and ensure integration of the development into the neighborhood, to the city council. The site plan must be approved by the city council before the cluster subdivision proposal becomes a permitted use in the zone in which it is proposed.A Cluster Subdivision shall follow the same procedure of approval as provided in NCC 21.

Commented [LR20]: These standards seem to be open to interpretation and at risk of resulting in an arbitrary/capricious decision. If we want specific standards here, we should amend, perhaps borrowing from open space subdivision. Another option would be to simply repeal the Cluster Subdivision provision, as the open space subdivision is much more developed and results in more appropriate development.

19.32.010 Purpose And Intent

A. Intent: This section provides enabling authority and standards for the review and approval of applications for Residential Planned Unit Developments (R-PUD's). The intent of this ordinance is to achieve local economic development goals, provide a diversity of housing options, create walkable neighborhoods, and protect air, water and open space resources by providing an alternative to traditional subdivision

design; by encouraging innovation and offering flexibility in design of residential developments with an emphasis on the permanent preservation and creation of a variety of amenities for the enjoyment and benefit of the citizens of Nibley.

B. Purpose: An R-PUD is an overlay rezone. That is, applicants apply for the overlay to be applied, allowing them to receive the density outlined herein in exchange for public amenities, all while retaining the original zoning of the property. The Planning Commission and City Council may approve, deny or approve the R-PUD with conditions, and no applicant has any entitlement to the approval of an R-PUD.

19.32.050 Open Space Amenities

A. Each R-PUD shall provide the following types and amounts of open space and amenities:

	Min Open Space Requirement
Dwelling Type	**Percentage of Net Developable Acres Required to be Used**
Single Family	20%
A Mix of Single Family, Townhomes and Condominiums	35%

Minimum Amenity						
Number of Units	Park Area	Public Restroom	Pavilion	Swing Set	Playground	Clubhouse, Pool, or Splashpad
Less Than 100	1.5 Acres	_	_	_	1	_
100-150	2.5 Acres	_	_	1	1	_
151-200	3.5 Acres	_	_	1	2	_
201-250	4.5 Acres	1	1	1	2	_

251-300	5.5 Acres	1	1	1	2	1 of the abov
301-400	6.5 Acres	1	2	2	3	2 of the above options (At lea
401-500	7.5 Acres	2	2	2	3	2 of the above options (At lea
501+	*	*	*	*	*	*

1. This chart does not include all potential amenities. The applicant may apply for other amenities that would benefit the R-PUD and are in support of Nibley City's Parks and Recreation goals. Any proposed amenities not listed, must be approved by the City Council. The City Council may also allow a substitution of amenities on the table above. These substitutions may only be approved if the cost, value and use of the amenity matches or is greater than the required amenity. The burden shall be on the developer to provide justification and is subject to review and acceptance by staff prior to Council consideration. An applicant may include additional amenities beyond the requirements of this section.
2. Development over 500 units must supply adequate and proportional amenities based on the table above.
3. Development may be phased according to NCC 21.02.080 and the Development Agreement. The City Council may extend phasing deadlines within the development agreement based on the size of the project and proposed amenities. Public and Owners' Association-owned amenities shall be fully developed and operational in conjunction with each phase of the subdivision as a percentage of the total developed value of the subdivision (for example, if 25% of the dollar value of the development is being constructed, then a minimum of 25% of the dollar value of the built-out amenities must be developed). The determination of value, construction sequencing, and acceptance criteria shall be specified in the Development Agreement. An applicant may also provide an escrow or bond for improvements according to Nibley City Standards. Until improvements are accepted by the City for the attendant phase, no permits shall be issued for subsequent phases.
4. All amenities designed and designated to be transferred to City ownership and maintenance must meet Nibley City Design Standards. The City must review and approve any improvements that will be owned and maintained by the City as part of the construction drawing review.
5. Public and Private Park space may be combined or spread throughout the development. Each Park shall be a minimum of .25 acres. Each dwelling

unit shall be within a quarter mile of a park within the development, unless otherwise approved by the City Council. Parks may be public or private. Each public park development and placement within an R-PUD shall be agreed upon by the applicant and the City Council. Park space may not include alleyways, back yards, gangways, front yards, forecourts, private patios, porches, driveways, etc.; unless proper amenities and access are provided.

6. All amenities shall meet any federal, state, city, or other standards that apply.
7. Sports Courts/Fields: include a facility/amenity that is built for one of the following: Tennis Court, Pickleball Court, Basketball Courts, Soccer field, Volleyball pit, Baseball field, Softball field, wallball, golf course, disc golf course, or others as approved by the City Council.
8. Picnic Area: Two or more picnic tables for use by 10 or more persons.
9. Pavilion: A covered picnic area. Each Pavilion must be designed for use of a minimum ten or more people.
10. Club House: A building available to community members to house a club or social organization not conducted for private profit. Club Houses shall be owned and maintained by a homeowner's association. A club house shall be at least 1000 sq. ft. in size.
11. Playground: an area provided for children to play on. Each Playground must be designed for children twelve and younger. A playground must include features to appeal to children within the above age group including some of the following: slides, monkey bars, ladders, tunnels, climbers, bridges, ramps, platforms, etc. All playground equipment must be of commercial grade. Each playground must include a minimum of 8 features.
12. Pool: A recreation facility designed and intended for water contact activities that serves an R-PUD. No pool shall be less than 800 sq. ft.
13. Public Restroom: a room or small building with toilets and sinks that is available for use by the general public. One (1) public restroom shall contain at minimum 2 individual rooms with toilets and sinks (male/female or unisex). Larger restroom facilities may be required depending on the amount of activity projected at a particular open space/park area. All restroom facilities shall be built in compliance with the Americans with Disabilities Act (ADA).
14. Splashpad: A recreation facility with sprinklers, fountains, nozzles and other devices or structures that spray water. Splashpads shall contain some above ground features.

B. Maintenance of Amenities
    1. All R-PUDs must establish and maintain in perpetuity an Owners Association if there are open space and amenity under common ownership, or as otherwise required by federal, state or Nibley City law. The Developer shall be a member of said Owners Association while the subdivision is being developed.

2. Costs: Unless otherwise agreed to by the City, the cost and responsibility of maintaining amenities shall be borne by the fee owner of the property that is part of the R-PUD or Owners Association.
3. Preliminary Maintenance Plan: A Preliminary Maintenance Plan shall be submitted with the preliminary plat for proposed maintenance of amenities within the development. This plan shall outline the following:
    a. The proposed ownership and responsibility for maintenance of the amenities;
    b. The proposed use of the amenities' and how each parcel of amenities meets the standards listed in this Chapter;
    c. The size of each amenities parcel; and
    d. The proposed concept plan for landscaping of the amenities.
4. Final Maintenance Plan: The developer shall submit a plan outlining maintenance and operations of the amenities and providing for and addressing the means for the permanent maintenance of the amenities within the proposed R-PUD application for the subdivision. The developer shall provide a final maintenance plan with the final plat and the plan shall contain the following:
    a. Documents and plans as listed in for the Preliminary Maintenance Plan.
    b. A description of the use of the amenities and how that use complies with this Chapter;
    c. The establishment of necessary regular and periodic operation and maintenance responsibilities for the various kinds of amenities (e.g., lawns, playing fields, meadow, pasture, wetlands, stream corridors, hillsides, clubhouse, pool, woodlands, etc.);
    d. The estimated staffing needs, insurance requirements, and associated costs.
    e. The landscaping plans for parcels that will be owned by an Owners Association or by the City.
5. Approval: The Final Maintenance Plan must be approved by the ~~City Council~~Administrative Land Use Authority prior to or concurrent with final plat approval for the subdivision. The Final Maintenance Plan shall be recorded against the property within the subdivision before any property or lots are sold or transferred and shall include provisions for the City's corrective action rights as set forth herein. Any changes or amendments to the Final Maintenance Plan must be approved by the Administrative Land Use Authority~~City Council~~.
6. The developer shall offer an approved letter of credit, bond or escrow for all proposed improvements as set forth in NCC 21.14.
7. Failure to Maintain: The City may assume responsibility for the maintenance and operation of any portion of any amenity or common facility within an R-PUD in the event the party responsible for maintaining or operating the amenity fails to do so in accordance with the terms of this

Ordinance, the approved Maintenance Agreement, any Conditional Use Permits, Business Licenses or any other agreements between the City and the developer, owners, or other parties responsible for maintaining or operating amenities. If the City assumes responsibility under this paragraph, any remaining development escrow or bond funds may be forfeited, costs, fees, and liens for maintenance costs shall be assessed as described herein, and any permits, licenses or operating agreements may be revoked or suspended by the City in the City's sole discretion. Owners shall not impede the City in its efforts to maintain the amenities.

8. Corrective Action: The City may enter onto any amenity provided as part of an R-PUD and take such corrective action, including extended maintenance, repairs, modifications, or the execution of additional agreements, as the City determines is necessary for the amenity to satisfy the terms of this Ordinance, the approved Maintenance Agreement, any Conditional Use Permits, Business Licenses or any other agreements between the City and the developer, owners, or other parties responsible for maintaining or operating amenities. The costs of such corrective action shall be charged to the owners and may include administrative costs, legal costs, and penalties. Such costs shall become a lien on said properties. Notice of such lien shall be filed by the City in the county recorder's office. The maintenance plan and all other documents creating or establishing any Association or conservation organization for the property shall reference the City's corrective action authority set forth herein and shall be recorded against the property before any property or lots are sold or transferred.
9. Implementation and Maintenance: The developer of the subdivision shall fund implementation and maintenance of the amenities until such time as the control of the amenity is transferred to the owner listed in the maintenance plan. The developer shall address the implementation, development, maintenance and transfer procedures in the sensitive area designation plan map or master development plan, as applicable.
10. Maintenance Access: The developer of the subdivision shall provide sufficient maintenance access from a dedicated right-of-way to all amenities and constrained and sensitive lands within the R-PUD to allow the owner of the property to have sufficient access.

19.32.070 Approval Process

A. An R-PUD is an overlay zone. That is, developers apply for the overlay to be applied, allowing them to receive the density bonuses outlined herein in exchange for public amenities, all while retaining the original zoning of the property. The City Council, with a recommendation from the Planning Commission, may approve, deny or approve with conditions as a legislative action and no applicant has any entitlement to the approval of an R-PUD.

B. Application Submission: An application for an R-PUD shall be submitted to the City with all required documents, maps, plats and plans as listed below.
C. Procedure:
    1. An R-PUD shall go through the following process to gain approval:
        a. Development Committee: An applicant shall have a preliminary meeting with a development committee composed of applicable City staff, and other elected and appointed official as appointed by the Mayor and approved by the City Council. Overlay Zone Application: Applicants shall submit an R-PUD Overlay Zone and preliminary plat application with the following:
            1) A complete development plan application that is duly signed by the property owner or the owner's representative and that includes a legal description of the property and a nonrefundable application fee.
            2) A vicinity map showing the approximate location of the subject parcel in relation to other major areas of the city.
            3) A general description of the proposed development, together with a map indicating the general development pattern, land uses, densities, intensities, open spaces, parks and recreation, and how the project is coordinating with existing and planned trails, sidewalks and pedestrian walkways and any other important elements within or adjacent to the project.
            4) Preliminary Maintenance Plan as defined within this Chapter
            5) Sufficient detail to indicate how the proposed development complies with the development standards for residential and nonresidential uses according to Nibley City Code and Design Standards.
            6) A description of architectural design standards that will apply to all buildings within the development plan.
            7) A data table showing the total number of lots/units. Existing and proposed infrastructure including proposed roadways, utility locations and capacities and the estimated impacts of the proposed development plan on all public utilities including culinary water, secondary water, wastewater, transportation, storm drainage, fire protection, solid waste, parks and recreation demands of the proposed project.
            8) Existing physical characteristics of the site including all constrained and sensitive land
            9) Identify how environmental issues, if any, will be protected or mitigated, i.e., wetlands, historical sites, endangered plants and animals.
            10) Conceptual information relating to storm drainage including 100-year 24- hour drainage flows, 10-year 24-hour stormwater flows and proposed storm drainage facilities.

11) Major street layout that meets Nibley City standards.
12) A general description of controlling entities and methods such as the use of CC&Rs, Owners Associations, architectural or design review committees or associations proposed to ensure that internal compatibility related to issues such as site design and architecture will be maintained over the life of the project.
13) A list of property owners' names and addresses within three hundred feet (300') of the subject property and stamped and pre-addressed envelopes (return address to be left blank) for all property owners within three hundred feet (300') of the propose development.
14) A list of land adjacent in the same ownership.
15) An electronic file of all submitted plans in PDF format or other electronic format determined by city staff. Such other information shall be included as may be necessary to determine that the contemplated arrangement of uses makes it desirable to apply regulations and requirements differing from those ordinarily applicable under this title.

b. Preliminary Plat: A preliminary plat that complies with Nibley City Subdivision Code and all other applicable code for the subdivision. ~~Preliminary plat approval may be granted at the same time of approval of the overlay zone.~~

Commented [LR21]: This option should be removed since P&Z has to approve PrePlat and City Council needs to approve the R-PUD.

c. Approval with Development Agreement:
    1) Before an R-PUD Overlay Zone can be approved, the City Council and applicant must enter into a development agreement which shall be recorded on title to the real property that is the subject of the development and which shall be binding upon and shall run with that property. The R-PUD Overlay Zone and development agreement may be approved at the same time, provided that the R-PUD Overlay Zone shall not be final or take effect until the development agreement is recorded. The development agreement must include the following provisions:
        (A) That the development must be developed in a way that is substantially similar to the site plan and proposed amenity improvements and open space.
        (B) That the preliminary site plan and all supporting documentation shall be attached to the development agreement.
        (C) That any development of the proposed real property shall not exceed the number of units as listed on the preliminary plat.
    2) The applicant shall provide the necessary documentation to establish that any holders of interests that are superior on title

to the development agreement, including, but not limited to, liens, mortgages, deeds of trust, and other similar devices have been made subordinate to the development agreement.

3) Signing and recording of the development agreement, and the subordination to the development agreement of any superior interests on title, must be accomplished before an R-PUD Overlay Zone may be approved.

d. Final Subdivision Approval: Once the overlay zone and development agreement have been approved and recorded, an applicant may apply for final plat approval. An applicant shall provide the following:

1) An applicant shall follow the standards as listed in NCC §21 for Final Plat approval of a subdivision.

2) An applicant must submit all construction and civil engineering drawings and detailed plans for all amenities for the proposed phase of the development. These shall include landscape drawings and details. The City Engineer shall review and ensure all plans meet Nibley City standards.

3) A maintenance plan and ownership plan for all improvements, amenities, and open space that complies with the terms of this chapter.

~~4) The Planning Commission shall review and make a recommendation for final plat approval, approve with conditions, or denial to the City Council.~~

~~5)~~4) The ~~City Council~~Administrative Land Use Authority shall approve, approve with conditions, or deny the final plat application base on the standards listed within Nibley City Code, Design Standards, and the applicant's compliance with the Development Agreement.

D. R-PUD Considerations: In approving with conditions, denying or approving an R-PUD proposal, the Planning Commission and City Council shall consider the following in addition to all other considerations required by law:

1. Design of Buildings: The architectural design of buildings and their relationship on the site and their relationship to development beyond the boundaries of the development.
2. Streets and Parking: Which streets shall be public, and which shall be private, the entrances and exits to the development, and the provisions for internal and external traffic circulation and off-street parking.
3. Type, Size, and Location of Amenities.
4. Landscaping and Screening: The landscaping and screening as related to the several uses within the development and as a means of its integration into its surroundings.
5. Signs: The size, location, design and nature of signs, if any, and the intensity and direction or area of floodlighting.

6. Ability to Complete Project: The demonstrated ability of the proponents of the R-PUD to financially carry out the proposed project under total or phase development proposals within the time limit established.
7. Criteria for Issuing Conditional Use Permit: Criteria used in NCC 19.28 of this title.

E. Revisions: In the event an approved ~~preliminary or final site plan~~development plans require~~s~~ revision by the developer, the ~~site plan~~development plans, and its revision shall be approved by the Nibley City Council with the recommendation of the Planning Commission. In the event revision is for a final site plan, all property owners in the development shall be notified in writing by the Planning Commission that a revision has been submitted and will be considered by the Planning Commission.

F. Building Permit Issuance: The building inspector shall not issue any permit for the proposed building or use within the project unless such building or use is in accordance with the approved development plan and any conditions imposed, including completion of amenities. Time Limit: Unless there is substantial action leading toward completion of a R-PUD or an approved phase thereof within three years from the date of approval, such approval shall expire unless after reconsideration of the progress of the project an extension is approved by the City Council.

19.12.040 Mixed Residential Zone R-M

A. Purpose: The purpose of the Mixed Residential Zone is to provide a variety of housing types to accommodate the diverse housing preferences of the community's existing and future residents that are supported by an appropriate provision of jobs, retail, services, open space and amenities.
B. Definitions: Refer to NCC 19.04 and 19.32.020
C. Use Regulations: See NCC 19.20. Allowed uses in this zone may be provided either separately from or within the same building or lot as other allowed uses, if approved pursuant to an authorized site plan.
D. Space Requirements:

	Single Family Home	Multi-Family Housing
Minimum Lot Size (sq. ft.)	4,500	-
Maximum Height	40'	50'
Minimum Frontage	50'	-
Front Yard	20'	20'

Front Porches	10'	10'
Side Yard	5'	10'
Side Year Porches, Deck Overhangs	5'	5'
Side Yard Adjacent to Streets	20'	20'
Rear Yard	15'	15'
Maximum Height	40'	

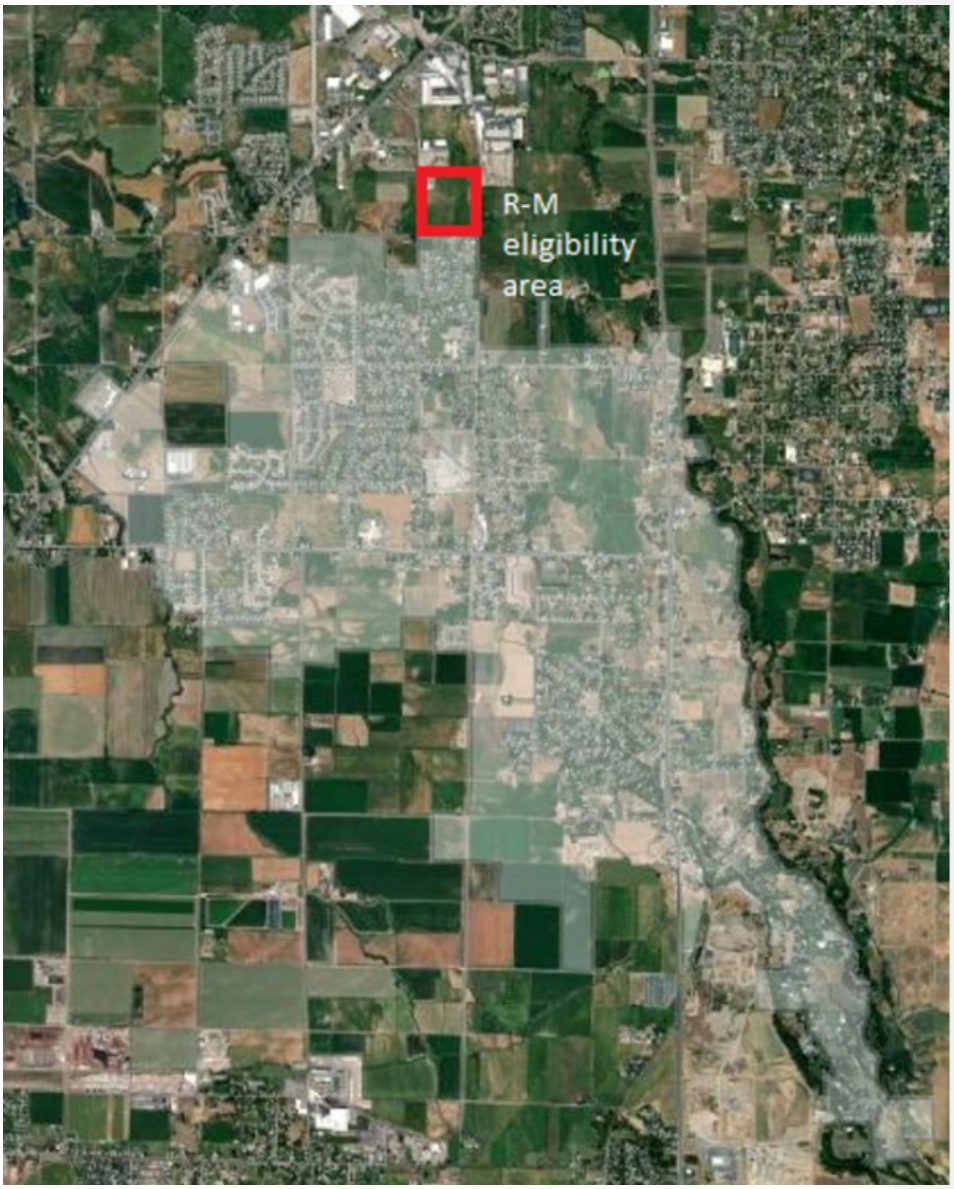
Accessory-Use Setbacks	Single-Family Home	Multi-Family Housing
Front Yard	20'	20'
Side Yard	3'	3'
Side Yard Street	20'	20'
Rear Yard	1'	1'
Maximum Height	15'	15'

1. Setback and frontage requirements shall apply to each building, and not each dwelling unit

E. Animal And Fowl Unit Regulations: See NCC 19.34.

F. R-M Application Map

An R-M Zone designation shall only be applied for in the following areas which includes parcels with Tax ID numbers 03-001-0013 and 03-001-0010, as of April 15, 2021.



G. Density Regulations
    1. The maximum density of a residential development within the R-M zone shall be 10 units per net developable acre.

2. A proposed Multi-family housing development adjacent to existing single-family homes must place single family homes adjacent to the established single-family homes unless otherwise buffered by an arterial roadway or 300-foot width of open space including a landscaped Buffer as defined within this chapter.
3. The City may approve single family homes that do not meet the required setbacks and lot size, i.e. patio homes. These homes shall be considered 'multi-family housing' and shall assume the associated open space requirements of such.

H. Open Space and Amenities

1. Each residential development within an R-M zone shall provide the following types and amounts of open space and amenities:

	Minimum Open Space Requirement
Dwelling Type	Percentage of Net Developable Acres Required to be Used for Amenities and Open Sp
Single Family	20%
Multi Family or mix of Single Family and Multifamily	35%

2.

Minimum Amenity						
Number of Units	Park Area	Public Restroom	Pavilion	Swing Set	Playground	Clubhouse, Pool, or Splashpad
Less Than 100	1.5 Acres	_	_	_	1	
100-150	2.5 Acres	_	_	1	1	
151-200	3.5 Acres	_	_	1	2	

201-250	4.5 Acres	1	1	1	2	
251-300	5.5 Acres	1	1	1	2	
301-400	6.5 Acres	1	2	2	3	2 of th
401-500	7.5 Acres	2	2	2	3	2 of th
501+	*	*	*	*	*	

a. This chart does not include all potential amenities. The applicant may apply for other amenities that would benefit the development and are in support of Nibley City's Parks and Recreation goals. Any proposed amenities not listed, must be approved by the City Council. The City Council may also allow a substitution of amenities on the table above. These substitutions may only be approved if the cost, value and use of the amenity matches or is greater than the required amenity. The burden shall be on the developer to provide justification and is subject to review and acceptance by staff prior to Council consideration. An applicant may include additional amenities beyond the requirements of this section.
b. Development over 500 units must supply adequate and proportional amenities based on the table above.
c. Development may be phased according to NCC 21.02.080 and the Development Agreement. The City Council may extend phasing deadlines within the development agreement based on the size of the project and proposed amenities. Public, Common or Owners' Association-owned amenities shall be fully developed and operational in conjunction with each phase of the subdivision as a percentage of the total developed value of the subdivision (for example, if 25% of the dollar value of the development is being constructed, then a minimum of 25% of the dollar value of the built-out amenities must be developed). The determination of value, construction sequencing, and acceptance criteria shall be specified in the Development Agreement. An applicant may also provide an escrow or bond for improvements according to Nibley City Standards. Until improvements are accepted by the City for the attendant phase, no permits shall be issued for subsequent phases.

d. All amenities designed and designated to be transferred to City ownership and maintenance must meet Nibley City Design Standards. The City must review and approve any improvements that will be owned and maintained by the City as part of the construction drawing review.
e. Public and Private Park space may be combined or spread throughout the development. Each Park shall be a minimum of .25 acres. Each dwelling unit shall be within a quarter mile of a park within the development, unless otherwise approved by the City Council. Parks may be public or private. Each public park development and placement within an R-M development shall be agreed upon by the applicant and the City Council. Park space may not include alleyways, back yards, gangways, front yards, forecourts, private patios, porches, driveways, etc.; unless proper amenities and access are provided.
f. All amenities shall meet any federal, state, city, or other standards that apply.
g. Sports Courts/Fields: include a facility/amenity that is built for one of the following: Tennis Court, Pickleball Court, Basketball Courts, Soccer field, Volleyball pit, Baseball field, Softball field, wallball, golf course, disc golf course, or others as approved by the City Council.
h. Picnic Area: Two or more picnic tables for use by 10 or more persons.
i. Pavilion: A covered picnic area. Each Pavilion must be designed for use of a minimum ten or more people.
j. Club House: A building available to community members to house a club or social organization not conducted for private profit. Club Houses shall be owned and maintained by a homeowner's association. A club house shall be at least 1000 sq. ft. in size.
k. Playground: an area provided for children to play on. Each Playground must be designed for children twelve and younger. A playground must include features to appeal to children within the above age group including some of the following: slides, monkey bars, ladders, tunnels, climbers, bridges, ramps, platforms, etc. All playground equipment must be of commercial grade. Each playground must include a minimum of 8 features.
l. Pool: A recreation facility designed and intended for water contact activities. No pool shall be less than 800 sq. ft.
m. Public Restroom: a room or small building with toilets and sinks that is available for use by the general public. One (1) public restroom shall contain at minimum 2 individual rooms with toilets and sinks (male/female or unisex). Larger restroom facilities may be required depending on the amount of activity projected at a particular open space/park area. All restroom facilities shall be built in compliance with the Americans with Disabilities Act (ADA).

n. Splashpad: A recreation facility with sprinklers, fountains, nozzles and other devices or structures that spray water. Splashpads shall contain some above ground features.

3. Maintenance of Amenities
    a. All R-M developments must establish and maintain in perpetuity by the property owner or an Owners Association if there are open space and amenity under common ownership, or as otherwise required by federal, state or Nibley City law. The Developer shall be a member of said Owners Association while the subdivision is being developed.
    b. Costs: Unless otherwise agreed to by the City, at the City's discretion and on such terms and conditions as the City may agree to, the cost and responsibility of maintaining amenities shall be borne by the fee owner of the property or Owners Association.
    c. Preliminary Maintenance Plan: A Preliminary Maintenance Plan shall be submitted with the preliminary plat or concept site plan for proposed maintenance of amenities within the development. This plan shall outline the following:
        1) The proposed ownership and responsibility for maintenance of the amenities;
        2) The proposed use of the amenities' and how each parcel of amenities meets the standards listed in this Chapter;
        3) The size of each amenities parcel; and
        4) The proposed concept plan for landscaping of the amenities.
    d. Final Maintenance Plan: The developer shall submit a plan outlining maintenance and operations of the amenities and providing for and addressing the means for the permanent maintenance of the amenities within the proposed R-M application for the subdivision or development. The developer shall provide a final maintenance plan with the final plat or site plan and the plan shall contain the following:
        1) Documents and plans as listed in for the Preliminary Maintenance Plan.
        2) A description of the use of the amenities and how that use complies with this Chapter;
        3) The establishment of necessary regular and periodic operation and maintenance responsibilities for the various kinds of amenities (e.g., lawns, playing fields, meadow, pasture, wetlands, stream corridors, hillsides, clubhouse, pool, woodlands, etc.) and any private streets and other accesses;
        4) The estimated staffing needs, insurance requirements, and associated costs.
        5) The landscaping plans for parcels that will be owned by an Owners Association or by the City.

e. Approval: The Final Maintenance Plan must be approved by the ~~City Council~~Administrative Land Use Authority for a Subdivision application or the specified approval authority for a site plan review application, prior to or concurrent with final plat approval for the subdivision. The Final Maintenance Plan shall be recorded against the property within the subdivision before any property or lots are sold or transferred and shall include provisions for the City's corrective action rights as set forth herein. Any changes or amendments to the Final Maintenance Plan must be approved by the Administrative Land Use Authority for a Subdivision application or the specified approval authority for a site plan review application. ~~City Council~~.

f. The developer shall offer an approved letter of credit, bond or escrow for all proposed improvements as set forth in NCC 21.14.

g. Failure to Maintain: The City may assume responsibility for the maintenance and operation of any portion of any amenity or common facility within an R-M development in the event the party responsible for maintaining or operating the amenity fails to do so in accordance with the terms of this Ordinance, the approved Maintenance Agreement, any Conditional Use Permits, Business Licenses or any other agreements between the City and the developer, owners, or other parties responsible for maintaining or operating amenities. If the City assumes responsibility under this paragraph, any remaining development escrow or bond funds may be forfeited, costs, fees, and liens for maintenance costs shall be assessed as described herein, and any permits, licenses or operating agreements may be revoked or suspended by the City in the City's sole discretion. Owners shall not impede the City in its efforts to maintain the amenities.

h. Corrective Action: The City may enter onto any amenity provided as part of an R-M development and take such corrective action, including extended maintenance, repairs, modifications, or the execution of additional agreements, as the City determines is necessary for the amenity to satisfy the terms of this Ordinance, the approved Maintenance Agreement, any Conditional Use Permits, Business Licenses or any other agreements between the City and the developer, owners, or other parties responsible for maintaining or operating amenities. The costs of such corrective action shall be charged to the owners and may include administrative costs, legal costs, and penalties. Such costs shall become a lien on said properties. Notice of such lien shall be filed by the City in the county recorder's office. The maintenance plan and all other documents creating or establishing any Association or conservation organization for the property shall reference the City's corrective

action authority set forth herein and shall be recorded against the property before any property or lots are sold or transferred.

i. Implementation and Maintenance: The developer of the subdivision shall fund implementation and maintenance of the amenities until such time as the control of the amenity is transferred to the owner listed in the maintenance plan. The developer shall address the implementation, development, maintenance and transfer procedures in the sensitive area designation plan map or master development plan, as applicable.

j. Maintenance Access: The developer of the subdivision shall provide sufficient maintenance access from a dedicated right-of-way to all amenities and constrained and sensitive lands within the R-M DEVELOPMENT to allow the owner of the property to have sufficient access.

I. Multifamily Housing Architectural Design Standards

1. General Design Concepts. New development shall be designed for its specific context within Nibley City. Developments shall possess a similar design theme, and the site shall be designed such that the overall development is cohesive. Building architecture, exterior materials, and colors shall coordinate.
2. All facades shall include architectural treatments to provide visual interest and to differentiate individual units. These design standards shall be applicable to all sides of a building, with each façade (front, rear, and side) being required to meet the terms of this Section.
3. Building Materials. The majority of each façade (51% or more of the wall area excluding windows and doors) shall be constructed of the following hard surface building materials: brick, stone, stucco, treated or split face decorative block (CMU), fiber cement siding, concrete, composite siding, vinyl siding with a minimum of 40-year warranty, or other durable building material as approved by the City Council. EIFS or untreated concrete block (CMU) may be allowed as an accent or secondary material only. The Planning Commission may approve metal as an exterior building material and as a primary material on a case-by-case basis if an applicant can show that the type of metal is of a high grade and provides architectural quality to a building.
4. Vertical Separation. Buildings in excess of one (1) story in height shall exhibit architectural detailing that establishes a vertical separation between lower and upper stories. This may be accomplished by a mid-façade cornice or trim, a change in material, style or color, a façade step-back or roof pitch with dormer windows, or other methods
5. Building Entrances. Building entrances shall have porches and shall be oriented toward the street or an open space area and provide connecting pedestrian access between the street, parking or open space areas.

6. Variation. Multi-family housing shall be designed with architectural wall variations spaced at intervals of thirty (30) to fifty (50) feet in linear width, depending on the size of the building. The following architectural features shall be incorporated into the design of the building:
    a. Change in building materials;
    b. Building projections measuring at least twelve (12) inches in depth based on the scale of the proposed building;
    c. Awnings and lighting, or another architectural variation as approved on a case-by- case basis that creates visual interest.
7. Garages. Multi-family housing shall be designed oriented toward exterior public roads with rear loading garages or parking accessed by a paved parking area or alleyway, except along Highway 165 and 89/91, as approved. Rear loading garages are highly encouraged for buildings located on interior project roads with units oriented toward a road or common courtyard area. Front loading garages may be allowed for buildings that do not have any portion of the building adjacent to a current or planned public road or street outside of the development.

J. Site Design Standards.
1. Natural features. R-M developments shall respect and maintain natural features such as existing trees, hills, drainages, wetlands, bodies of water, or other natural features or constrained and sensitive land. The City may require the developer to identify, delineate, and describe how the development will appropriately address and obtain any required authorizations related to such features.
2. A landscaping plan for the front yards shall be included. The landscaping plan shall include at least one (1) tree for every dwelling unit, and two (2) shrub of five (1) gallon size for each dwelling units. Coniferous trees shall be at least six (6) feet in height and the deciduous trees shall be at least one and a half (1.5) inches in caliper.

K. Connectivity. R-M developments shall provide connectivity with the surrounding area and throughout the development. All improvements shall consider vehicle, bicycle, and pedestrian access.
1. Street Design: All street designs shall comply with the General Plan and Transportation Master Plan including Nibley City's street standards and connectivity requirements. Each development shall provide at least two working access points that provide access to an existing street right-of-way. Additional access points may be required in order to facilitate an adequate and convenient circulation system within the City. Such additional access points will be located where they will implement the City's Transportation Master Plan, connect to existing street rights of way, or provide access for the logical development of adjacent, undeveloped properties.
2. All streets are encouraged to incorporate traffic calming and beautification methods as listed in Nibley City design standards and Transportation

Master Plan. This included islands, bulb-outs, roundabouts, etc. Each traffic calming measure shall be approved by the City Engineer.

3. All Streets shall be dedicated public streets built to Nibley City Code and standards. Private drives shall only be built to access parking courts or garages that are located directly behind each unit.
4. Private Drives/Alleyways provide vehicular access to parking and dwelling units but do not provide primary pedestrian access to units. Private Drives are intended to be used primarily for vehicular circulation and dwelling access and should be visually distinct from streets.
    a. Private drives shall be a minimum width of 20 ft.
    b. All private drives shall be perpendicular, within 10 degrees, to the street they connect to.
    c. Driveways that access a single dwelling unit are not considered private drives or an alleyway
    d. The maintenance of all private drives, including snow clearing, shall be addressed as part of the maintenance plan
5. Developments shall provide a pedestrian access to the development border at intervals at a minimum of 660 feet unless expressly prohibited by conflicting with previously developed subdivisions or land use as determined by the land use authority. These access points shall be aligned with other trail systems, street right-of-way, or amenities and shall match the layout and size of the connection. A connection shall contain a minimum of eight ft (8') trail or sidewalks on public streets that meet Nibley City standards.
6. No dwelling units in an R-M development shall have driveway access to any arterial roadway as listed in Nibley's Transportation Master Plan. Multi-family housing units may face and have frontage along arterial roadways but must have rear loading garages. Public and private parks, open space or Buffering as defined within this chapter may also be along arterial roads.

L. Pedestrian circulation. R-M development shall provide a circulation map and show the following improvements to for pedestrian circulation and safety.
    1. Pedestrian walkways that interconnect the adjacent street(s), amenities, parking areas, building entries, adjacent sites and adjacent master planned trails where applicable. Each building located along a public road must provide a sidewalk connection from the building entrance to the public sidewalk.
    2. Walkways shall be hard surfaced with concrete.
    3. Crosswalks shall be placed where pedestrian walkways cross streets and internal roads and shall be painted or made of concrete.
        a. The development shall provide connections to the Nibley City trail system. These trails must be dedicated to the City and built to Nibley City standards as listed in the Trails Master Plan and Nibley City Design Standards.

M. Parking: Multi-family housing shall provide 2 primary parking spaces for each unit with 2 or bedrooms and 1.5 spaces for 1 bedroom or studio units. Primary parking must be contained in a garage, carports, driveway, or parking court. An R-M development shall provide one guest parking spot for every three units. Guest parking may be provided in parking courts or lots maintained by the property owner or owner association.
    1. Individual parking courts or lots shall include landscaping with grass, trees or xeriscape plants separating parking areas of no more than 20 parking spaces Each parking area of 20 or less spaces shall be physically and visually separated by a landscape area a minimum of 10 feet in width.
    2. Parking courts or lots shall be located in the interior of the development and located between or in the rear of buildings for multi-family developments.
    3. Parking Courts or lots shall be paved and built to Nibley City parking lot standards.
    4. Interior parking structures or garages are encouraged and shall meet Nibley City Design Standards
N. Landscaping: All portions of the lot not improved with structures or other impervious surfaces shall be maintained with suitable landscaping of plants, trees, shrubs, grasses, or similar landscaping materials.
    1. Landscaping shall also be installed in all park strips to the same standards as other onsite landscaping. Asphalt, concrete, bricks, pavers, railroad ties, and other nonvegetative material are not allowed in the park strip area between the curb and sidewalk. Xeriscaping is permitted. The developer should plant street trees of an approved species and size along all streets. Trees should be planted at intervals of every 50 feet and must meet Nibley City Standards.
    2. Buffering: R-M developments shall provide buffering along Highway 89/91 or Highway 165, or along the boundary of an R-M development that is adjacent to commercial, or industrial zones. Buffering landscaping is not required if commercial or industrial zones are separated by a public street from the R-M development. Buffering shall meet the standards within this ordinance.
    3. Natural Landscape: All open space land dedicated to natural use must maintain its natural landscaping and plant life.
O. Fences:
    1. Permitted Fences: Dwelling units are allowed to install and construct fences in compliance with NCC 19.24.090. Vinyl fences are only permitted in an R-M development for the purpose to mark property lines of individual dwelling units.
    2. Fencing to mark the boundary of the development or amenities must meet the following standards:
        a. Opaque fences or walls must only be 4 feet tall. Any fencing above 4 feet must be at a minimum 80% transparent.

b. Fencing and walls must be constructed out of concrete, bricks, rock, or metal bars. Chain link fences are prohibited and vinyl fences are prohibited unless used to mark the property boundary of the dwelling unit. Wood may only be used in a rail or agricultural-type fencing. Other materials may be approved by the Planning Commission based on the longevity of the material and if the material will aesthetically enhance the property. Walls and fencing shall also comply with NCC 19.24.090 and other fencing setback requirements as contained within Nibley City Code.

P. Approval Process

1. Subdivisions within the R-M zone must complete the approval process of NCC 21.06 to ensure compliance with this section. All multifamily development that does not require a subdivision must complete the Site Plan Review Process of NCC 19.14.050.

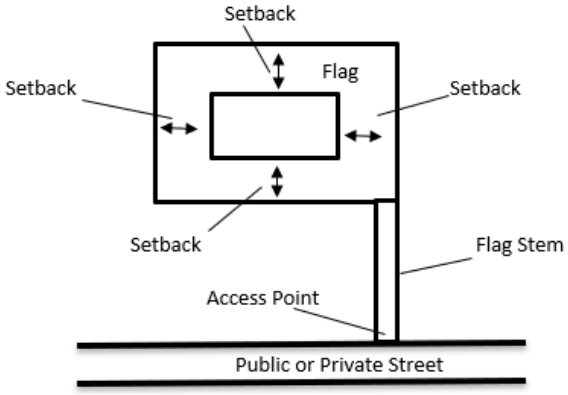
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19.46.010 Flag Lot Requirements

A. A flag lot is defined as a lot not fronting, or abutting, or with insufficient frontage along a public or private roadway, per the underlying zone, and where access to the roadway is limited to a narrow, private right-of-way or easement.

1. Each unit shall have both a "front" and "rear" yard on opposite sides of the unit, with setback requirements per underlying zone. (See diagram)



B. Existing Flag Lots: The Nibley City Planning Commission shall ~~approve each application~~provide zoning clearance before a property owner can obtain a building permit from the Nibley City building inspector for an existing~~a~~ flag lot outside of an approved subdivision. Building permits for principal structures to be built upon a flag lot may be approved provided the following conditions are met:

1. Fire protection: Each flag lot shall meet the following standards for access and address identification.

a. The stem or access drive must be composed of a paved driving surface of not less than twenty feet (20′) in width with six inches (6″) minimum crushed gravel base and an eight-foot (8′) swale on one side, and a two-foot (2′) buffer on the opposite side of the swale, or a minimum of five-foot (5′). swale on each side. The Planning Commission may approve building permit for existing flag lots that existing access does not meet the full thirty-foot (30′) width if the applicant can provide proper fire access. All flag lots access shall also conform with Nibley City driveway standards.
b. The driving surface shall be paved entirely from the point where the stem of the flag lot meets the publicly dedicated road to the point where the stem of the flag lot meets the flag portion of the lot, except in the case of the R-E zone, where the driving surface shall be paved from the public right-of-way or private road and remain paved within one hundred feet (100′) of any adjacent home and one hundred and fifty feet (150′) from the point where the stem of the flag lot meets the public right-of-way or private road or up to the stem of the flag lot where it meets the flag portion of the lot.
c. Address of the flag lot shall be placed at the access point of each flag lot so that the address can be clearly identified from the street. The City shall install each sign and the shall charge the property owner through the building permit or invoice.
d. A turnaround, per the international fire code, is required to be constructed at the end of the access to the home. Prior to the Planning Commission's approval of the building permit or subdivision application, the applicant shall submit plans for the access and turnaround to the fire marshal and shall receive the fire marshal's approval for the access and turnaround.
e. A fire hydrant and water line shall be placed at the access point or within the flag lot based on international fire code standards.
    1) If, in the opinion of the fire marshal, fire hydrants are vulnerable to vehicular damage, appropriate crash posts shall be required. No obstruction shall exist within a three foot (3') working area of each fire hydrant. Required crash posts shall be constructed according to Nibley City Engineering and Design Standards.
    2) The fire hydrant, water line and access road or driveway shall be located within a public utility easement of at least twenty feet (20') in width, such that emergency and utility service vehicles and personnel have unimpeded access to the improvements.
f. Owners of a flag lot shall grant to Nibley City a permanent, recorded easement along the full width of the access, allowing for emergency vehicle access and for City inspection.

2. All associated stormwater shall be retained on individual flag lots and in accordance with Nibley City stormwater design standards or stormwater plans for flag lots must be approved by the Nibley City Public Works Director.
3. A stormwater pollution prevention plan shall be submitted, demonstrating how any dust, erosion or sediment problems which may result will be eliminated.

~~4.~~C. New Flag Lots: The creation of flag lots shall only ~~take place in limited circumstances and shall~~ be approved by the planning commission if the flag lot meets the conditions of this ordinance. The creation of a flag lot must receive ~~separate approval~~preliminary plat approval by the Planning Commission before final plat approval of a subdivision. ~~An applicant may propose a flag lot during the preliminary plat approval process or before a preliminary plat is applied for. The Planning Commission must give approval of the flag lot design and application before approval of a final plat.~~ The Final Plat shall be approved by the Administrative Land Use Authority. Creation of a flag lot must meet the following standards:

~~a.~~1. Shall only be allowed for single-family detached units located in residential zones.

~~b.~~2. Shall be created as part of a legal submission arising from an application under NCC 21.

~~c.~~3. Flag lots shall only be allowed as part of a legal subdivision of three lots or less.

~~d.~~4. Flag lot creation shall only be allowed in a subdivision where the parcel that is being subdivided is limited for future development by its overall size, frontage, severe topography, ~~and~~ or land use in the adjacent parcels.

~~e.~~5. ~~The creation of a flag lot shall be limited within each new development.~~ A subdivision that can reasonably supply frontage for each lot shall not be granted the creation of a new flag lot.

~~f.~~6. New flag lots shall not have access off arterial streets or roadways as listed in Nibley City's General and Master Plans.

~~g.~~7. The creation of a flag lot shall not be approved in places where they would prohibit future public infrastructure connections as contained in the City's General and Master Plans, including public roads, trails waterlines, sewer lines, stormwater facilities, etc.

~~h.~~8. The flag lot owner owns and is responsible to maintain the stem portion of the flag lot as defined above.

~~i.~~9. The flag lot must comply with all other conditions and requirements as listed in this chapter and within Nibley City ordinances.

~~5.~~10. The flag portion of the lot shall meet the size requirement of the underlying zone, regardless of the size of the flag stem portion of the lot.

~~6.~~11. All other requirements of the underlying zone, which may be outlined in Nibley City Code or in the Nibley City Design Standards & Specifications, including, but not limited to: maximum grade, building height, setback, etc., shall be observed.

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~~7.~~12. Setback shall be calculated from the point where the stem of the flag lot meets the flag portion of the lot. Setbacks shall comply with the underlying zone.

~~8.~~13. The address of the flag lot shall represent the location of the access point and the street it connects to, not the actual location of the flag portion of the lot.

~~9.~~14. All accesses to flag lots, regardless of the underlying zone, shall be maintained as private accesses and the responsibility for maintenance of the same shall lie with those property owners who utilize said access to access their respective properties.

~~10.~~15. All utilities running the length of the flag stem which service the home on the flag lot, shall be owned and maintained by the owners of the flag lot.

~~11.~~16. Approved flag lot accesses shall be for single lot access. The Planning Commission may consider at most a second access off the stem, if both flag lot owners have entered into a formal maintenance agreement over the access road. Two-lot access roads are not required to meet the private road access standards in NCC 21.14.050. Both flag lots must be connected to Nibley City's required utilities including sewer. Each lot must have their own utility lines that meet Nibley City Design Standards.

~~12.~~17. All of the required improvements as required by Nibley City design standards and code shall be installed at the property owner's expense.

~~13. The Planning Commission may impose such other conditions as they deem necessary and proper.~~

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