



Nibley City
Planning Commission Meeting
Thursday, May 16, 2024
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 electronically via the meeting link provided at www.nibleycity.com.

1. **Public Hearing:** Ordinance 24-06: Amending 21.10.020 Open Space Subdivision, adjusting lot standards, including adoption of standards within R-2A zones and revising setbacks in various zones
2. **Discussion and Consideration:** Ordinance 24-06: Amending 21.10.020 Open Space Subdivision, adjusting lot standards, including adoption of standards within R-2A zones and revising setbacks in various zones
3. **Workshop:** Parking Requirements
4. 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
May 16, 2024**

Agenda Item #1 & #2: Open Space Subdivision Amendments

Description

Public Hearing: Ordinance 24-06: Amending 21.10.020 Open Space Subdivision, adjusting lot standards, including adoption of standards within R-2A zones and revising setbacks in various zones

Discussion and Consideration: Ordinance 24-06: Amending 21.10.020 Open Space Subdivision, adjusting lot standards, including adoption of standards within R-2A zones and revising setbacks in various zones

Department

City Planning

Action Type

Legislative

Recommendation

Recommend approval of Ordinance 24-06: Amending 21.10.020 Open Space Subdivision, adjusting lot standards, including adoption of standards within R-2A zones and revising setbacks in various zones

Reviewed By

City Planner, City Manager, City Attorney

Background

NCC 21.10.020 provides standards for development within an Open Space Subdivision. An Open Space Subdivision (formerly rural preservation and conservation) provides an incentive for developers to preserve open space by offering a density bonus with some flexibility for lot size and width. The ordinance was crafted to incentivize the usage of open space preservation in R-1, R-1A and R-2 zones. R-2A zones are also eligible. However, for the purposes of the ordinance, they are treated the same as a R-2 zone. In other words, the base density is based upon $\frac{1}{2}$ acre lots, rather than 14,000 sq ft lots (.32 acre) lots. Therefore, there is no real incentive to develop an open space subdivision in a R-2A zone as the maximum density bonus allowed in an open space subdivision is 35% and R-2A allows for approximately 35% additional lots compared to a conventional development within a R-2 zone.

This nuance to the ordinance has created a disincentive for the City to rezone property to R-2A, as it diminishes the prospect of providing open space within a new development. The Planning Commission discussed potential alternatives to this code limitation including the following:

1. Amendments to the Open Space Subdivision Code that would allow additional density based upon R-2A zoning, thus incentivizing its use within a R-2 zone. This could, in effect, allow development with the equivalent density of $\frac{1}{4}$ acre lots (~10,000 sq ft) with potential allowances for 6,000 sq ft lots with potentially limited multi-family development within R-2A zones.
2. Remove the R-2A zone for consideration for future development. This would, in effect, 'downzone' areas, removing the option for residential development on lots lower than $\frac{1}{2}$ acre without the provision of open space.
3. Limit R-2A zones to smaller areas (potentially less than 5 acres). Larger areas would be R-2 or lower density, thus incentivizing the use of open space subdivision on larger parcels that have a greater potential for open space preservation.

During two workshop discussions, the Planning Commission generally indicated support for option 1. Staff has drafted amendments to the existing open space ordinance, which would allow for an 'incentive multiplier' or density bonus within R-2A zones based upon R-2A minimum lot sizes, rather than R-2. Additional proposed amendments include:

- Specifications for minimum lot sizes and lot width within R-2A zones, based upon the amount of open space provided. The lot sizes are based upon the proportion specified in other zones, but using R-2A as the base density. The smallest lot size within an open space subdivision would be 5,000 sq. ft.
- Allowance for an additional 5% incentive multiplier in R-2 zones, in line with other zones.
- Modifications to minimum setbacks within all zones. Because lot sizes are reduced within an Open Space Subdivision, reducing setbacks is necessary to allow for a reasonable building footprint on varying lot configurations.

In addition to feedback obtained from Planning Commission members, Staff solicited feedback from local developers and design engineers to assess the appropriateness and feasibility of the proposed amendments from their perspective. The following are a summary of comments expressed:

- One engineer expressed that while they like what the City is trying to do, they prefer that the City simply define maximum units/acre and allow flexibility on lot sizes. This allows for more creativity with the design.

Agenda Item #3: Parking Requirements

Description

Workshop: Parking Requirements

Department

City Planning

Action Type

No Action

Recommendation

Discuss potential modifications to City Code

Reviewed By

City Planner

Background

NCC 19.24.160 provides Parking Requirements, including standards for the minimum number of parking stalls, dependent upon use. These minimum requirements are applied anytime a building is erected, altered, or converted to another use. The adopted minimum parking requirements are based upon square footage, number of dwelling units, number of beds, seats, or employees depending upon use. Additional parking standards for residential dwelling units within R-PUD

overlay zones are provided in NCC 19.28. Additional parking standards for residential dwelling units within R-M zones are provided in NCC 19.20.040.

It has been discussed that the current standards may be overly restrictive, which may require more parking than is necessary. This may impact the affordability, feasibility and design of various developments. Parking provisions also have a profound impact on walkability, with excessive parking discouraging travel that is not in an automobile. The existing standards, generally, have not been updated in several years and there is no record as to what they are based upon. Staff has started researching potential methods for updating the existing standards, including reviewing nearby peer cities' parking requirements and referencing the Institute of Traffic Engineers (ITE) Parking Generation Manual. The purpose of this workshop is to review existing standards and consider an appropriate approach for updating them.

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 creeks, 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, and R-2A~~ 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 may request a pre- application meeting with the Development Committee as established in NCC 21.06.030. To assist with this review the developer may submit the draft plan of the proposed subdivision with such details as the following 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 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. Lot Standards: 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 ^{Note2}
R-1	$0.25 \leq \text{OSR} < 0.30$	1.25	$\geq 18,700 \text{ ft}^2$	$\geq 17,000 \text{ ft}^2$	$\geq 100 \text{ ft}$

	$0.30 \leq \text{OSR} < 0.35$	1.30	$\geq 16,700 \text{ ft}^2$	$\geq 15,000 \text{ ft}^2$	$\geq 100 \text{ ft}$
	$0.35 \leq \text{OSR} < 0.40$	1.35	$\geq 14,700 \text{ ft}^2$	$\geq 13,000 \text{ ft}^2$	$\geq 95 \text{ ft}$
	$0.40 \leq \text{OSR}$	1.40	$\geq 12,700 \text{ ft}^2$	$\geq 11,000 \text{ ft}^2$	$\geq 90 \text{ ft}$
R-1A	$0.25 \leq \text{OSR} < 0.30$	1.25	$\geq 14,000 \text{ ft}^2$	$\geq 12,000 \text{ ft}^2$	$\geq 100 \text{ ft}$
	$0.30 \leq \text{OSR} < 0.35$	1.30	$\geq 13,000 \text{ ft}^2$	$\geq 11,000 \text{ ft}^2$	$\geq 95 \text{ ft}$
	$0.35 \leq \text{OSR} < 0.40$	1.35	$\geq 12,000 \text{ ft}^2$	$\geq 10,000 \text{ ft}^2$	$\geq 90 \text{ ft}$
	$0.40 \leq \text{OSR}$	1.40	$\geq 11,000 \text{ ft}^2$	$\geq 9,000 \text{ ft}^2$	$\geq 85 \text{ ft}$
R-2 and R-2A	$0.25 \leq \text{OSR} < 0.30$	1.25 0	$\geq 13,0200 \text{ ft}^2$	$\geq 11,2500 \text{ ft}^2$	$\geq 95 \text{ ft}$

	$0.30 \leq \text{OSR} < 0.35$	1.30 25	$\geq \underline{11,712,200}$ ft^2	$\geq 10,0500 \text{ ft}^2$	$\geq 90 \text{ ft}$
	$0.35 \leq \text{OSR} < 0.40$	1.35	$\geq 10,200 \text{ ft}^2$	$\geq 9,000 \text{ ft}^2$	$\geq 85 \text{ ft}$
	$0.40 \leq \text{OSR}$	1.40 35	$\geq 9,200 \text{ ft}^2$	$\geq 7,800 \text{ ft}^2$	$\geq 80 \text{ ft}$
<u>R-2A</u>	<u>$0.25 \leq \text{OSR} < 0.30$</u>	<u>1.25</u>	<u>$\geq 8,400 \text{ ft}^2$</u>	<u>$\geq 7,200 \text{ ft}^2$</u>	<u>$\geq 75 \text{ ft}$</u>
	<u>$0.30 \leq \text{OSR} < 0.35$</u>	<u>1.30</u>	<u>$\geq 7,600 \text{ ft}^2$</u>	<u>$\geq 6,400 \text{ ft}^2$</u>	<u>$\geq 70 \text{ ft}$</u>
	<u>$0.35 \leq \text{OSR} < 0.40$</u>	<u>1.35</u>	<u>$\geq 6,500 \text{ ft}^2$</u>	<u>$\geq 5,500 \text{ ft}^2$</u>	<u>$\geq 60 \text{ ft}$</u>
	<u>$0.40 \leq \text{OSR}$</u>	<u>1.40</u>	<u>$\geq 5,800 \text{ ft}^2$</u>	<u>$\geq 5,000 \text{ ft}^2$</u>	<u>$\geq 50 \text{ ft}$</u>
Notes: 1. The OSR is the ratio of the area of the Open Space Land divided by the area of the Net Developable Land. 2. Frontage is determined at the front setback line.					

Formatted Table

2. Minimum Setback Standards: Minimum setbacks for principal buildings within an Open Space Subdivision shall be determined in accordance with the Minimum Setback Standards Chart. Minimum setbacks of accessory buildings shall be determined in accordance with the underlying zone.

Formatted: Font: (Default) Roboto Slab, Font color: Custom Color(81,89,103)), Ligatures: None

Formatted: List Paragraph

Formatted: Font: (Default) Roboto Slab, Font color: Custom Color(81,89,103)), Ligatures: None

Minimum Setback Chart					
Zone	Open Space Ratio (OSR)	Front yard	Side yard, interior	Side yard, street	Rear yard
R-1	As per underlying zone (see NCC 19.22.010)				25
R-1A	As per underlying zone (see NCC 19.22.010)				25
R-2	$0.25 \leq \text{OSR} < 0.30$	As per underlying zone (see NCC 19.22.010)			25
	$0.30 \leq \text{OSR} < 0.35$	As per underlying zone (see NCC 19.22.010)			25
	$0.35 \leq \text{OSR} < 0.40$	25(35) ¹	8	25(35) ¹	20

Formatted Table

	<u>0.40 ≤ OSR</u>	<u>25(35)¹</u>	<u>8</u>	<u>25(35)¹</u>	<u>20</u>
<u>R-2A</u>	<u>0.25 ≤ OSR < 0.30</u>	<u>25(35)¹</u>	<u>8</u>	<u>25(35)¹</u>	<u>20</u>
	<u>0.30 ≤ OSR < 0.35</u>	<u>25(35)¹</u>	<u>8</u>	<u>25(35)¹</u>	<u>20</u>
	<u>0.35 ≤ OSR < 0.40</u>	<u>20(35)¹</u>	<u>5</u>	<u>20(35)¹</u>	<u>15</u>
	<u>0.40 ≤ OSR</u>	<u>20(35)¹</u>	<u>5</u>	<u>20(35)¹</u>	<u>15</u>

1. Greater distance required where yard faces arterial road.

Formatted: Font: Pattern: Clear, Ligatures: None

Formatted: List Paragraph, Indent: Left: 2"

2.3. 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
 - ~~3-4.~~ Base Number of Lots R-2A = Net Developable Land / 0.32 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 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, 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. Any recreation spaces that are to be dedicated to Nibley City 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-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 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 prior to the preliminary plat approval stage. If the event that the applicant requests or the Planning Commission recommends that Open Space land be dedicated to Nibley City, the City Council must approve the development agreement which includes dedication of open space prior to preliminary plat approval. 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
 - 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. If the maintenance plan addresses Open Space Land that is to be owned or dedicated to Nibley City, the maintenance plan shall conform to all conditions and terms of the development agreement approved by the City Council that includes the dedication of open space. 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 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.
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.