



## NIBLEY CITY PLANNING AND ZONING COMMISSION AGENDA

Thursday, May 15, 2025 – 6:30 PM MDT

*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 W 3200 S, Nibley UT 84321. The public may also view the meeting via the YouTube link provided at [www.nibleycity.gov](http://www.nibleycity.gov). Public comment should be submitted to [talonb@nibleycity.gov](mailto:talonb@nibleycity.gov) by 6:30 PM MDT and will be read into the public record.*

1. Call to Order and Roll Call (Chair)
2. Approval of April 24, 2025, Meeting Minutes and the Current Agenda (Chair)
3. **Public Hearing:** Amending 19.12.040 Mixed Residential Zone R-M, 19.20.030 Mixed Use, 19.32 Residential Planning Unit Developments (R-PUD), 19.48 Transfer of Development Rights, and 21.10.020 Open Space Subdivision, Including Modifications to Minimum/Maximum Project Acreage, Setbacks, Amenity Requirements, Rear-Loaded Housing, Mixed-Use Development, Removing R-M Application Map, and Allowing Fee In-Lieu of Open Space Requirements
4. **Discussion and Consideration:** Amending 19.12.040 Mixed Residential Zone R-M, 19.20.030 Mixed Use, 19.32 Residential Planning Unit Developments (R-PUD), 19.48 Transfer of Development Rights, and 21.10.020 Open Space Subdivision, Including Modifications to Minimum/Maximum Project Acreage, Setbacks, Amenity Requirements, Rear-Loaded Housing, Mixed-Use Development, Removing R-M Application Map, and Allowing Fee In-Lieu of Open Space Requirements
5. **Staff Report and Action Items**

Adjourn

*Planning Commission agenda items may be tabled or continued if a) additional information is needed in order to take action on the item, OR b) 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 PM 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.*

*Nibley City's next scheduled Planning and Zoning Commission meeting will be on Thursday, June 5, 2025, at 6:30 PM MDT.*

*In compliance with the Americans With Disabilities Act, reasonable accommodations for individuals with disabilities will be provided upon request. For assistance, please call (435) 752-0431.*

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## **Nibley City Planning Commission Agenda Item Report May 15, 2025**

### **Agenda Item #3 & #4: R-M Zone Amendments**

#### **Description**

**Public Hearing:** Ordinance 25-15: Amending 19.12.040 Mixed Residential Zone R-M, 19.20.030 Mixed Use, 19.32 Residential Planning Unit Developments (R-PUD), 19.48 Transfer of Development Rights, and 21.10.020 Open Space Subdivision, Including Modifications to Minimum/Maximum Project Acreage, Setbacks, Amenity Requirements, Rear-Loaded Housing, Mixed-Use Development, Removing R-M Application Map, and Allowing Fee In-Lieu of Open Space Requirements

**Discussion and Consideration:** Recommendation for Ordinance 25-15: Amending 19.12.040 Mixed Residential Zone R-M, 19.20.030 Mixed Use, 19.32 Residential Planning Unit Developments (R-PUD), 19.48 Transfer of Development Rights, and 21.10.020 Open Space Subdivision, Including Modifications to Minimum/Maximum Project Acreage, Setbacks, Amenity Requirements, Rear-Loaded Housing, Mixed-Use Development, Removing R-M Application Map, and Allowing Fee In-Lieu of Open Space Requirements

#### **Department**

City Planning

#### **Action Type**

Legislative

#### **Recommendation**

Recommend approval of Ordinance 25-15: Amending 19.12.040 Mixed Residential Zone R-M, 19.20.030 Mixed Use, 19.32 Residential Planning Unit Developments (R-PUD), 19.48 Transfer of Development Rights, and 21.10.020 Open Space Subdivision, Including Modifications to Minimum/Maximum Project Acreage, Setbacks, Amenity Requirements, Rear-Loaded Housing, Mixed-Use Development, Removing R-M Application Map, and Allowing Fee In-Lieu of Open Space Requirements



## Reviewed By

City Planner, City Engineer, City Attorney

## Background

### Update for May 15

During the first consideration of this ordinance, the Planning Commission discussed a number of changes to the current draft ordinance. Changes are intended to:

- Direct the R-M zone in appropriately planned areas
- Disperse rather than concentrate higher density residential development
- Encourage the use of the R-PUD where appropriate
- Require some level of commercial mixed-use in appropriate areas
- Allow for a fee in-lieu of open space requirements in areas that are already well served by parks.

Based upon that discussion and Staff's recommendation, the following changes have been incorporated into the draft ordinance:

1. Establish a minimum zone size of 10 acres and maximum zone size of 40 acres for R-M zone.
2. Lower the minimum size of R-PUD from 40 to 20 acres.
3. Raise maximum density of R-PUD from 5 to 7 units/net developable acre.
4. Only allow R-M zone in high-density residential and town center areas, as defined by future land use map.
5. Only require commercial/residential mixed use within 200 feet of State highway and within 400 feet of the intersection of two arterial streets.
6. Allow an additional 2 units/acre (up to 12 units/acre) for projects that include mixed-use.
7. Only allow fee in-lieu of open space for projects that are within ½ mile of City Park (>2 acres).
8. Extend fee in-lieu of open space option to open space subdivisions.

### Previous Background Information

Recently, there was an application to assign a zone of Mixed Residential (R-M) to a piece of property at approximately 3701 S 1200 W. The Planning Commission recommended to City Council to zone the property as R-2A and expressed the need to review the R-M zone to ensure its application would be appropriate on a more widespread scale. It was discussed that the Planning Commission should review the ordinance prior to this discussion.



Staff has reviewed the existing ordinance and the Planning Commission has held workshops to discuss potential changes to the R-M ordinance. Based upon these discussion, there are a number of amendments recommended, which impact the R-M, R-PUD and Mixed-Use development within the Town Center Area. Specific amendments in the proposed draft include the following:

1. Requires that 10% of land within a R-M development must be for commercial use, which may include commercial/residential mixed use. Standards and specification for this regulation closely align with the mixed-use provision of commercial zones within the town center area (which requires at least 50% commercial). Additionally some clarifications and modifications are made to the former standard with regards to calculation of density, housing provision, and architectural design standards.
2. Amends design standard to require rear-loaded ingress/egress for multi-family housing. Although the existing ordinance encourages rear-loaded garages, they are not required. Designs with front-loading garages have a much less pedestrian-oriented street with continuous driveway access and are often difficult to effectively plow snow. A similar standard is incorporated into the R-PUD ordinance for consistency.
3. Removes the R-M Application Map from section. The R-M application map defines which parcels are eligible to be zoned as R-M. However, the future land use map provides guidance for zoning decisions. This simply adds another layer in the process of considering a rezone that may be unnecessary.
4. Modify setback standards. Allow reduced front yard setback for rear loaded units (15') while increasing rear yard setback (20') for such units.
5. Reduce building height to 40; when within 300' of existing residential zones.
6. Modify language that requires single-family within 300' of adjacent single-family. Instead limit construction to two stories and no more than 100' in building length as a transition area.
7. Remove Clubhouse, Pool or Splashpad from list of required amenities.
8. Add a fee-in-lieu option for required open space and amenities.

With these amendments, Staff recommends that Planning Commission and City Council direct rezones for R-M based upon recommendations of the Future Land Use Map.

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#### **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. Zone size: The minimum total area for an R-M zoned area shall be 10 acres. The maximum total area for an R-M zoned area is 40 acres.

~~B-D.~~ Location: An R-M zone may only be approved in areas designated as high-density residential or Town Center on the Future Land Use Map of the Nibley City General Plan.

E. 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.

1. Commercial/ Mixed-Use Requirement: For an R-M zone development, which is partially located within 200 feet of a State Highway or within 400 feet of the intersection of two arterial streets, as defined in the Transportation Master Plan, at least 10% of land must be dedicated to commercial uses. The 10% use may include the entirety of the ground floor area of buildings with commercial uses on the ground floor or horizontally separated uses where commercial uses occupy an entire building. For buildings with partial commercial uses on a floor or vertically separated uses, only the ground floor area of the portion dedicated to commercial uses may be counted. The portion of land that is apportioned as a commercial use shall include the ground floor area of commercial uses, as described above, and supportive uses, including parking and landscaping. Parking for a mixed-use building that is required for residential uses shall not be included as part of the land apportioned as commercial use.

a. For mixed commercial/residential developments that meet the requirements above, the maximum residential density shall be twelve (12) units per net developable acre with additional density allowable through transfer of development rights as described in NCC 19.48. The residential density shall be

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calculated based upon the entire net developable area, including any commercial or mixed-use buildings within the development.

b. Any commercial portion of the project that is dedicated solely to the benefit of the residential development (i.e. lease office, exclusive gym, vending, etc.) shall not count toward the required 10% required minimum area.

c. All buildings with commercial uses shall be built to the standards in Nibley City Design Standards for Commercial and Institutional Uses except for Remodeled Residential Units as stated within this chapter.

d. All multi-family residential buildings which do not have a commercial use shall adhere to Multifamily Housing Architectural Design Standards of NCC 19.12.040(I).

D.F. Space Requirements:

	Single-Family Home	Multi-Family Housing
Minimum Lot Size (sq. ft.)	4,500	-
Maximum Height	40'	50' <sup>(40')<sup>2</sup></sup>
Minimum Footage	50'	-
Front Yard	20' <sup>(15')<sup>3</sup></sup>	20' <sup>(15')<sup>3</sup></sup>
Front Porches	10'	10'
Side Yard	5'	10'

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Side Yard Porches, Deck Overhangs	5'	5'
Side Yard Adjacent to Streets	20' <sup>(15')<sup>3</sup></sup>	20' <sup>(15')<sup>3</sup></sup>
Rear Yard	15' <sup>(20')<sup>4</sup></sup>	15' <sup>(20')<sup>4</sup></sup>
Maximum Height	40'	

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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.
2. If located within 300 feet of an existing R-E, R-1, R-1A, R-2, R-2A zone or an existing single-family home, maximum building height is 40 feet.

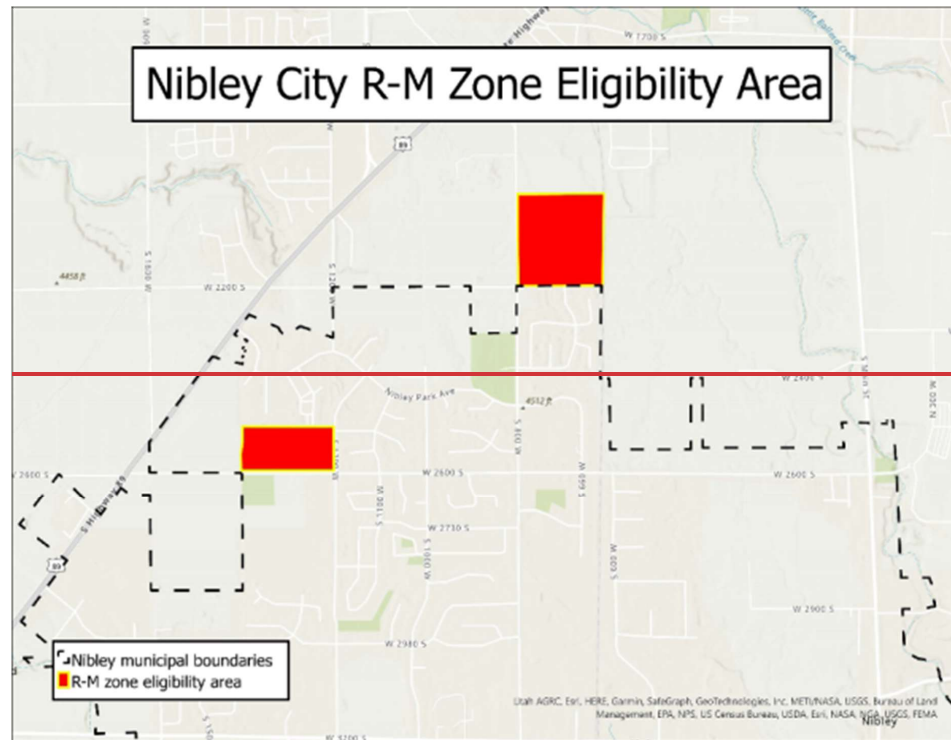
3. If housing unit is rear loaded, front yard and sideyard, street setback is reduced to 15'

4. If housing unit is rear loaded, rear yard setback is 20'.

E.G. 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 03-227-0003, 03-001-0013 and 03-001-0010, as of August 1, 2024.~~



#### G.H. Density Regulation

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 within 300 feet of~~ existing single-family homes ~~must place single family homes adjacent to the established single-family homes is limited to two stories in height and no more than 100 feet in building length~~ 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.I. Open Space Amenities

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

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

2.

Minimum Amenity							
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Number of Units	Park Area	Public Restroom	Pavilion	Swing Set	Playground	<del>Clubhouse; Pool, or Splashpad</del>	Sport Court/ Fields
Less Than 100	1.5 Acres	-	-	-	1	-	-
100-150	2.5 Acres	-	-	1	1	-	-
151-200	3.5 Acres	-	-	1	2	-	1
201-250	4.5 Acres	1	1	1	2	-	1
251-300	5.5 Acres	1	1	1	2	<del>1 of the above options</del>	1
301-400	6.5 Acres	1	2	2	3	<del>2 of the above options (At least one pool or Splashpad)</del>	
401-500	7.5 Acres	2	2	2	3	<del>2 of the above options (At least one pool or Splashpad)</del>	2
501+	*	*	*	*	*	<del>*</del>	*

- 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.~~j. 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.~~k. 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).

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

### 3. Fee in-lieu of Open Space and Amenity Requirements

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- a. For developments that are within ½ mile of a dedicated or master-planned City Park which is two (2) acres or greater, as identified in the Nibley City Parks, Recreation and Open Space Master Plan, a developer may pay a fee in-lieu of amenities and open space required. The fee in-lieu of amenities shall be based upon the estimated cost to construct the required amenity. The fee in-lieu of open space required shall be based upon the acreage of the open space that is not provided and shall be set by the Consolidated Fee Schedule, adopted by the City Council.
- b. In no case shall open space within a development that includes multi-family housing be provided at a rate that is less than 10% of the net developable acreage.
- c. All fees in-lieu of open space and amenity required shall supplement the improvement and maintenance of parks and recreation facilities in Nibley City.
- ~~n.d.~~ If the developer pays a fee-in-lieu of open space requirements, the developer may develop the commensurate additional number of housing units that the fee-in-lieu offsets. For example, if the developer pays a fee-in-lieu for one (1) acre of required open space, the development is allowed up to ten (10) additional housing units or additional density if utilizing transfer of development rights (TDR), in accordance with NCC 19.48.

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#### 3.4. 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 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. .

- 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.

#### H.J. 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 and Parking Orientation.

- a. Multi-family housing, including townhomes, condominiums and apartments, 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 encouragedrequired for buildings located on interior project-public roads with units oriented toward a road-public street, trail or common courtyard area. Front loading garages that face a public streetmay be are not allowed for multi-family buildings that do not have any portion of the building adjacent to a current or planned public road or street outside of the development.

**Commented [LR1]:** The entrances

**Commented [LR2]:** Consider allowing front-loaded garages, but requiring spacing between driveways to encourage shared access.

**Commented [LR3]:** Consider applying this standard to all housing types.

7.b. For single-family housing, front loading garages are allowed on interior public roads. Driveway access is limited to one driveway access each eighty (80) feet of frontage. For lots that are narrower than eighty (80) feet wide, shared driveway access or rear-loaded access is required. Residential driveway width is limited to twenty-four (24) feet wide, whether for shared or single access to single-family housing.

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#### K. 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.L. 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.M. 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-N.** Parking: Multi-family housing shall provide 2 primary parking spaces for each unit with 2 or **more** 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-O.** 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.P. 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.Q. 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.

19.32.050 Open Space Amenities

- A. Each R-PUD 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 Space
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	Formatted Table	Sp Fie
Less Than 100	1.5 Acres	-	-	-	1	-		-
100-150	2.5 Acres	-	-	1	1	-		-
151-200	3.5 Acres	-	-	1	2	-		1
201-250	4.5 Acres	1	1	1	2	-		1
251-300	5.5 Acres	1	1	1	2	1 of the above options		1
301-400	6.5 Acres	1	2	2	3	2 of the above options (At least one pool or Splashpad)		2
401-500	7.5 Acres	2	2	2	3	2 of the above options (At least one pool or Splashpad)		2
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.~~10. 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.~~11. 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.~~12. 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 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.
- 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.

#### C. Fee in-lieu of Open Space and Amenity Requirements

1. For developments that are within ½ mile of a dedicated or master-planned City Park which is two (2) acres or greater, as identified in the Nibley City Parks, Recreation and Open Space Master Plan, a developer may pay a fee in-lieu of amenities and open space required. The fee in-lieu of amenities shall be based upon the estimated cost to construct the required amenity. The fee in-lieu of open space required shall be based upon the acreage of the open space that is not provided and shall be set by the Consolidated Fee Schedule, adopted by the City Council.
2. In no case shall open space within a development that includes multi-family housing be provided at a rate that is less than 10% of the net developable acreage.
3. All fees in-lieu of open space and amenity required shall supplement the improvement and maintenance of parks and recreation facilities in Nibley City.
4. If the developer pays a fee-in-lieu of open space requirements, the developer may develop the commensurate additional number of housing units that the fee-in-lieu offsets. For example, if the developer pays a fee-in-lieu for one (1) acre of required open space, the development is allowed up to seven (7) additional housing units or additional density if utilizing transfer of development rights (TDR), in accordance with NCC 19.48.

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#### 19.32.040 Area And Density Regulations

1. Minimum development size: The minimum total area for an R-PUD shall be 2040 acres
2. Housing Types: Only single-family homes and town homes are allowed in the R-PUD in residential areas, except as allowed in the Town-Center Area. The density shall be based on Net Developable Acres of the development as follows:
  1. Equal to or less than 75 units per Net Developable Acre a. Single Family Home R-PUD must contain a minimum of 50 units.
  2. A Mix of Single Family and Townhomes: Equal to or less than 5 units per Net Developable Acre. Up to 60% of dwelling units can be townhomes. a. A Mix of Single Family and Townhomes R-PUD must contain a minimum of 120 units.
3. Town-Center: The area as marked on R-PUD Application Map in NCC 19.32.030 (B) as Town- Center Area shall have the following Housing Requirements.
  1. Single Family Home Development and Mix of Single Family and Townhome Development shall be governed by NCC 19.32.040 (A).
  2. A Mix of Single Family, Townhomes and Condominiums: Equal to or less than 740 units per Net Developable Acres. Up to 40% of the units can be condominiums, and a minimum of 40% of homes must be single family homes.
4. ~~A Housing of a~~ proposed R-PUD adjacent to existing single-family homes ~~must is limited to two stories in height and no more than 100 feet in building length~~ ~~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.



5. The City may approve single family homes that do not meet the required setbacks and lot size, i.e. patio homes. These homes shall not be counted toward the single-family home requirements contained in this section and shall be counted toward the number of townhomes.

#### **19.32.060 General Requirements**

- A. The R-PUD should be compatible with surrounding land uses, building types and physical features of the site. Specific requirements are included below:
- B. Determination of Net Developable Land:
1. In calculating what portion of the project is considered developable, areas designated as constrained and sensitive land may not be included in the project size.
  2. If the constrained and sensitive land, property along waterways or other natural landscapes may reasonably be turned into a publicly-accessible amenity, it may be re-included in the project size.
  3. Net Developable Land must comply with the definition within this chapter.
- C. Site Development Standards: The following shall serve as the setback/site development standards for each proposed R-PUD.

	Single-Family Home	Townhome	Patio Home	Condo
Minimum Lot Size (sq. ft.)	4,500	–	–	–
Minimum Frontage	50'	–	–	–
Primary -Use Setbacks				

Front Yard	20' <del>(15')<sup>3</sup></del>	20' <del>(15')<sup>3</sup></del>	20' <del>(15')<sup>3</sup></del>	30' <del>(15')<sup>3</sup></del>
Front Porches	10'	10'	10'	10'
Side Yard	5'	10'	0'	10'
Side Yard Porches, Deck, Overhangs	5'	5'	0'	5'
Side Yard Adjacent to Streets	20' <del>(15')<sup>3</sup></del>	20' <del>(15')<sup>3</sup></del>	20' <del>(15')<sup>3</sup></del>	25' <del>(15')<sup>3</sup></del>
Rear Yard	15' <del>(20')<sup>4</sup></del>	15' <del>(20')<sup>4</sup></del>	15' <del>(20')<sup>4</sup></del>	15' <del>(20')<sup>4</sup></del>
Maximum Height	40'	40'	40'	40'

<b>Accessory-Use Setbacks</b>	Single-Family Home	Townhome	Patio Home	Condo
Front Yard	20'	20'	20'	20'
Side Yard	3'	3'	3'	3'
Side Yard Street	20'	20'	20'	20'
Rear Yard	1'	1'	1'	1'
Maximum Height	15'	15'	15'	15'

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

2. All other setbacks shall comply with Nibley City Code.

3. If housing unit is rear loaded, front yard and sideyard, street setback is reduced to 15'

2-4. If housing unit is rear loaded, rear yard setback is 20'

5. All buildings and landscaping shall comply with NCC 19.24.110 Clear View of Intersecting Streets as amended.

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D. Signs: Any signs proposed for the development, other than traditional street signs, must conform to Nibley City Code.

E. All property developed as Townhomes or Condominiums, must be subject to covenants, conditions and restrictions and must be subject to and governed by an owner's associations in compliance with Utah Code Annotated Title 57.

1. In addition, each owner's association must have a governing board made up of property owners within the R-PUD, but general administration and maintenance of the development may be handled with a property manager. Any R-PUD that contains townhome must have onsite management, outside professional management or onsite point of contact.

F. Amenities and Open Space: Maintenance and ownership of amenities and Open space may be provided for under one of the following options as approved by the City Council in the City Council's discretion. The City may require any Amenities or Open Space within the R-PUD to be dedicated to Nibley City in order to fulfill goals listed in the Parks, Trails, and Recreation and Open Space Master Plan, or to further public good and advance goals within the General Plan or other Master Plans of the Nibley City:

1. Dedication of the land to Nibley City as a public park or parkway system; or

2. Granting to the city a permanent amenities easement on and over the said private amenities to guarantee that the amenities remain perpetually in recreation use, with ownership and maintenance being the responsibility of a homeowners' association established with articles of association and bylaws; or
3. Adoption of covenants, conditions, and restrictions and creation of an owners' association that provides for the payment of common expenses for the upkeep of common areas and facilities.

G. Bond: For each phase, the developer shall be required to provide guarantees as set forth in NCC 21.14.

H. Subsequent Subdivision: If the R-PUD is to be subsequently divided either as a subdivision into phase development parcels or separately owned and operated units, such division boundaries shall be indicated on the development plan and preliminary subdivision approval concurrently obtained in the case of a subdivision.

I. Subdivision Regulations: Any part of an R-PUD that is proposed as a subdivision is subject to the provisions of the subdivision title and the standards, conditions, and restrictions of the base zoning, unless superseded by the provisions of this ordinance.

#### **19.32.080 Development Standards**

These standards are intended to create R-PUD developments that will establish permanent neighborhoods and provide a sense of community. To meet the intent of this section, the following provisions shall be applied to all new multi-family residential and mixed-use developments. For exterior remodels, these standards shall be required. Commercial areas of an R-PUD must comply with Nibley City Commercial design standards for commercial developments.

##### **A. Townhome, Patio Homes, and Condominium Architectural 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.

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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, 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 Length: Building length shall not exceed 150 feet.
6. 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.
7. Variation. Townhome dwellings units 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:
  1. Change in building materials;
  2. Building projections measuring at least twelve (12) inches in depth based on the scale of the proposed building;

3. Awnings and lighting, or another architectural variation as approved on a case-by- case basis that creates visual interest.
8. Garages. Townhomes shall be designed oriented toward exterior public roads with rear loading garages accessed by a paved parking area or alleyway, except along Highway 165 and 89/91 as approved. Rear loading garages are highly encouraged for townhomes located on interior project roads with units oriented toward a road or common courtyard area. Front loading garages may be allowed for townhomes that do not have any portion of the building adjacent to a current or planned public road or street outside of the development. Multiple unit structures shall have garages incorporated into the primary structure. At least fifty percent (50%) of units shall contain a two-car garage. Detached garages are prohibited in R-PUDs

#### 19.20.030 Mixed Use

- A. Any mix of permitted or conditional uses listed in this section is allowed within the same lot or parcel, whether within the same building or in a permitted accessory building, provided that all setbacks and other applicable standards of this Title are adhered to for each use. Buildings containing mixed uses shall comply with the most restrictive standard among the standards applicable to the uses within the building.
- B. Within the Town Center Area, as described in NCC 19.32.030(B), housing is allowed within Commercial and Neighborhood Commercial Zones ~~when attached to a commercial building as part of a mixed use development~~. Within such developments, at least 50% of land must be dedicated to commercial uses. The 50% use may include the entirety of the ground floor area of buildings with commercial uses on the ground floor or horizontally separated uses where commercial uses occupy an entire building. For buildings with partial commercial uses on a floor or vertically separated uses, only the ground floor area of the portion dedicated to commercial uses may be counted. The portion of land that is apportioned as a commercial use shall include the ground floor area of commercial uses, as described above, and supportive uses, including parking and landscaping. Parking for a mixed-use building that is required for residential uses shall not be included as part of the land apportioned as commercial use. The maximum residential density shall be ten (10) units per net developable acre with additional density allowable through transfer of development rights as described in NCC 19.48 ~~The residential density shall be calculated based upon the entire net~~

**Commented [LR5]:** This would fix a conflict in this section.

~~developable area, including any commercial or mixed-use buildings within the development. The residential density shall be calculated based upon the area that is dedicated to residential uses, including any mixed-use buildings.~~

~~1. All buildings with commercial uses shall be built to the standards in Nibley City Design Standards for Commercial and Institutional Uses except for Remodeled Residential Units as stated within this chapter.~~

~~B:2. All multi-family residential buildings which do not have a commercial use shall adhere to Multifamily Housing Architectural Design Standards of NCC 19.12.040(l).~~

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#### 19.48.030 Transfer Of Development Rights Receiving Overlay

##### C. Receiving Areas Identified.

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1. Receiving areas shall be designated on the official Zoning Map of Nibley City and shall function as overlay zones, such that all the provisions of the underlying zone shall apply, unless altered by the provisions of the overlay.
2. Where a property is partially contained within a Receiving Area, only the portion of the property contained within the Receiving Area may be used for the purposes of applying transferable development rights (TDRs).
3. A property owner may apply to have their property be designated as a Receiving Area and rezoned to receive the Transfer of Development Rights Receiving Overlay Zone through the City's rezoning process set forth in 19.02.
4. The City Council may designate additional areas as a Receiving Area through the City's rezoning process. The Zoning Map should be updated upon designation. For future receiving area designations, the Planning Commission and City Council, in accordance with City Code, shall consider the ability of the property, utilities, nearby roadway networks, transportation system capacities and options, and other land use characteristics to accommodate additional density on the property.

5. A receiving property that brings TDR credits to their property may only use the development rights permitted in accordance with the existing zoning regulations applicable to the receiving property and as shown in the table below:

Base Zone	Base Density	Receiving Area Allowable Density Increase
R-1, R-1A, R-2, R-2A Zones	As per zone	Up to 50% increase over the existing zone requirements
R-RUD eligible areas	57 units per net developable acre	Up to 15 units per net developable acre
R-M eligible areas	10 units per net developable acre	Up to 20 units per net developable acre
Residential/Commercial mixed use Projects within C or C-N zones	As per existing zone	Up to 15 units per net developable acre

Commercial mixed use developments within a TDR receiving overlay zone and a Commercial or Neighborhood Commercial zone must include a minimum of 50% of land for commercial uses. The 50% use may include the entirety of the ground floor area of buildings with commercial uses on the ground floor or horizontally separated uses where commercial uses occupy an entire. For buildings with partial commercial uses on a floor or vertically separated uses, only the ground floor area of the portion dedicated to commercial uses may be counted. The portion of land that is apportioned as a commercial use shall



include the ground floor area of commercial uses, as described above, and supportive uses, including parking and landscaping. Parking for a mixed-use building that is required for residential uses shall not be included as part of the land apportioned as commercial use. The residential density shall be calculated based upon the area that is dedicated to residential uses, including any mixed-use buildings. Any residential uses along 4400 South or Highway 89/91 shall be setback at least 500 feet from each right-of-way. Properties designated as receiving areas and with proof of transferred development credits, as shown in City and County records, shall be vested in the density of the underlying zone plus the additional development credits up to the limits shown in “e” above. Properties designated as receiving areas that are within R-PUD or R-M eligible areas shall be vested in the density of the R-PUD or R-M zoning designation plus additional development credits up to the limits shown in “e” above. Transfer of Development Rights to Receiving Properties shall comply with the following:

1. Any proposed transfer of development rights may be initiated only upon completing an Eligibility application by the owners of the sending properties, holders of a TDR Certificate, or owners of the receiving properties.
2. Nibley City may not require property owners to transfer or receive a transfer of development rights as a condition of the development of any property, however no increases in density beyond what the existing zone allows shall be given without proof of transferrable development credits from a sending property.
3. The record owner of receiving property within the Transfer of Development Rights Receiving Overlay Zone shall file an application for a determination of eligibility to determine the number of transferrable residential development rights available to be transferred and affixed to one or more receiving properties in compliance with this ordinance. Such application shall include:
  1. A completed determination of eligibility application and TDR Certificate from the sending property.
  2. A tax map, plat or site plan outlining the boundaries of the property for each lot, tract or parcel as described in the deed.
  3. The existing zoning of the property.
  4. A title policy or other title documentation for the receiving property including a legal description of the receiving property.

5. A copy of a survey plat of the proposed receiving parcel prepared by a surveyor licensed in the State of Utah.
  6. Water shares or rights necessary to support the new project as provided in NCC 21.12.020.
  7. A statement of the number of residential development rights proposed to be transferred and affixed as residential development rights to one or more receiving properties, and calculations upon which the number is based.
  8. All applicable fees.
  9. A signed conservation easement agreement covering the sending property with a certified Land Trust, non-profit organization or Nibley City
  10. Any additional information required by Nibley City, shown in the application, as necessary to determine the number of residential development rights that qualify for transfer.
4. The City shall provide a written statement of the maximum number of TDRs available to be transferred and affixed to one or more receiving properties.
  5. A transfer of development rights occurs when the owner of the development rights records a Deed of Transfer against the receiving property in the land records of Cache County.
  6. The Deed of Transfer shall be executed by the sending area property owners of the development rights being transferred, and any lien holders of such property owners, and shall identify the development rights being severed, and the sending properties and/or the receiving properties, as applicable.
  7. No Deed of Transfer may be recorded among the land records of Cache County unless the Deed of Transfer contains a copy of the signed TDR Certificate by the City Planner indicating the number of residential development rights being transferred and/or affixed to one or more receiving properties.
  8. Upon recordation of the Deed of Transfer, the transferable development rights are conveyed to one or more parties and/or are affixed to one or more receiving properties stated in the Deed of Transfer.

9. The Deed of Transfer shall be in a form substantially similar to the Deed of Transfer attached as exhibit “C” to this ordinance and shall otherwise comply with the requirements of this ordinance and any changes to the deed attached as an exhibit in a particular case shall be in a form that is approved by the Nibley City Attorney.
10. Any transfer of development rights to a receiving property pursuant to this ordinance only authorizes an increase in maximum residential density over the base density as per the table in “d” above.
11. The existing zoning district regulations may be reduced/modified in terms of the following table:

	R-M Eligible Areas	R-PUD Eligible Areas	R-1	R-1A	R-2	R-2A
Minimum lot area <sup>1</sup> (Single-family) <sup>2</sup>	4,500 sq. ft.	4,500 sq. ft.	14,000 sq. ft	12,000 sq. ft	10,000 sq. ft	6,000 sq. ft
Minimum lot width <sup>3</sup>	50'	50'	100'	80'	70'	65'
Minimum front yard setback (principal use) <sup>4</sup>	7'	7'	20'		12'	
Minimum garage front setback <sup>5</sup>	20'	20'	25'		22'	
Minimum side yard, interior setback	5'		10'		8'	

Minimum side yard, street setback	15'	20'	15'
Minimum rear yard setback <sup>6</sup>	10'	20'	15'
Parking	10% parking minimum reduction	10% parking minimum reduction	
Unit Types & Unit Split	Not applicable	A minimum of 20% percent of the units must be single-family detached. Remaining units may be flexible attached and/or multi-family units	Not applicable
Minimum project size	Not applicable	20 acres	

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12.

<sup>1</sup> Lot bonus increase is only granted a maximum per table in 19.48.030 C 5 and it is expected that each development will have a variety of lot sizes and not all lots will be the minimum size.

<sup>2</sup> Two-family housing is permitted per Nibley City Code 19.20. Minimum lot size per two-family home is 9,000 sq. ft or minimum area per zone in TDR ordinance, whichever is greater.

<sup>3</sup> Lot width is measured at the front yard setback line.

<sup>4</sup> The building home setback includes the front of the home, living spaces, and porches, but not garages.

<sup>5</sup> The garage is intended to be setback further than the home.

<sup>6</sup> Minimum alley or rear loaded setbacks are 5' if garage is located on the rear and is accessed from the alley.

13. Developments in R-PUD eligible areas – housing types may include flexible attached units with building lengths no greater than 150'. Projects with bonified TDR credits, shall, when the application meets all City standards, be approved after appropriate administrative processing for a subdivision or conditional use.
14. Proposals for use of TDR credits within the R-PUD eligible areas as currently shown in NCC 19.32.030, shall become administrative and not require the rezone process in order to apply TDR credits to the project in order to allow for density which is greater than 50% greater than the underlying residential zoning designation. R-PUD projects shall follow the development standards and approval process of NCC 19.32, except as provided in this chapter.

#### 21.10.020 Open Space Subdivision

##### M. ~~Fee~~ in-lieu of Open Space

1. For Open Space Subdivision developments that are within ½ mile of a dedicated or master-planned City Park which is two (2) acres or greater, as identified in the Nibley City Parks, Recreation and Open Space Master Plan, a developer may pay a fee in-lieu of amenities and open space required. The fee in-lieu of open space required shall be based upon the acreage of the open space that is not provided and shall be set by the Consolidated Fee Schedule, adopted by the City Council.
2. All fees in-lieu of open space shall supplement the improvement and maintenance of parks and recreation facilities in Nibley City.
3. If the developer pays a fee-in-lieu of open space requirements, the developer may develop the commensurate additional number of housing units that the fee-in-lieu offsets. For example, if the developer pays a fee-in-lieu of open space that is equal to 0.25 Open Space Ratio, an additional 0.25 Incentive Multiplier shall be allotted to the development, as noted in the Lot Standards Chart of this Section.

**Commented [LR7]:** Add this sub-section at the end of NCC 21.10.020.

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