

NIBLEY CITY PLANNING AND ZONING COMMISSION AGENDA THURSDAY, AUGUST 7, 2025 – 6:30 PM

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 live via the YouTube link provided at www.nibleycity.gov. Public comment should be submitted to talonb@nibleycity.gov by 6:30 PM on the day of the meeting. Submitted public comment will be read into the public record.

- 1. Call to Order and Roll Call
- 2. Approval of July 16, 2025, Meeting Minutes and the Current Agenda
- 3. **Public Hearing:** Ordinance 25-29: Development Agreement for the Apple Creek Subdivision Phase 1 First Amendment, Amending Lot 35, Creating an Additional Building Lot and Amending the Conservation Area, Including Modifications to Development and Zoning Standards
- 4. **Discussion and Consideration:** Recommendation for Ordinance 25-29: Development Agreement for the Apple Creek Subdivision Phase 1 First Amendment, Amending Lot 35, Creating an Additional Building Lot and Amending the Conservation Area, Including Modifications to Development and Zoning Standards
- 5. **Discussion and Consideration:** Approval of the Preliminary Plat for the Apple Creek Subdivision Phase 1 First Amendment
- 6. **Discussion and Consideration:** Approval of the Preliminary Plats for the Nibley Meadows Subdivision Phases 4, 5, and 7
- 7. **Discussion and Consideration:** Recommendation for Ordinance 25-23: Amending NCC 19.24.160 Parking Requirements and NCC 19.24.250 Accessory Dwelling Unit Standards, Including Parking Requirements for Single-Family and Two-Family Dwellings
- 8. Staff Report and Action Items

Adjourn

Planning Commission agenda items may be tabled or continued if either 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, August 28, 2025, at 6:30 PM.





Nibley City Planning and Zoning Commission Agenda Item Report August 7, 2025

Agenda Item # 3 & # 4: Development Agreement for Apple Creek Phase 1 Amendment

Description

Public Hearing: Ordinance 25-29: Development Agreement for the Apple Creek Subdivision Phase 1 First Amendment, Amending Lot 35, Creating an Additional Building Lot and Amending the Conservation Area, Including Modifications to Development and Zoning Standards

Discussion and Consideration: Recommendation for Ordinance 25-29: Development Agreement for the Apple Creek Subdivision Phase 1 First Amendment, Amending Lot 35, Creating an Additional Building Lot and Amending the Conservation Area, Including Modifications to Development and Zoning Standards

Action Type

Legislative

Recommendation

Recommend approval of Ordinance 25-29: Development Agreement for the Apple Creek Subdivision Phase 1 First Amendment, Amending Lot 35, Creating an Additional Building Lot and Amending the Conservation Area, Including Modifications to Development and Zoning Standards

Reviewed By

City Planner, City Engineer, Public Works, City Attorney

Background

Shaun Dustin, authorized representative of Lesli Dustin Revocable Trust, property owner of Parcel 03-198-0035, located at 3359 S 490 W has applied for Preliminary Plat approval for the Apple Creek Subdivision Phase 1 First Amendment. In accordance with NCC 21.06.040(A)(4), a Development Agreement is being proposed to set terms and conditions for the subdivision.

While the Planning Commission is the approval authority for the preliminary plat, City Council is approval authority for the development agreement. This is because the proposed agreement includes provisions which are in conflict with Nibley City Code. The proposal constitutes both an amendment to the approved Apple Creek Subdivision and a new 2-lot Open Space Subdivision. The following terms and conditions are included in the proposed development agreement.

- Allows for modification to conservation easement recorded on the lot. This would increase the conservation area by approximately 0.67, adjusting the boundaries of the conservation area and recording a separate conservation lot. This is in conflict with NCC 21.10.020(K)(2) and the original conservation subdivision ordinance, which states that open space land may not be subject to subdivision.
- Allows modification to frontage requirements, creating a flag lot for lot 37. This is in conflict with NCC 21.10.020(F), which requires that all lots within an Open Space Subdivision meet minimum frontages shown on lot standards chart.
- Allows modification of access drive requirements for Flag lot, requiring pavement to a minimum width of 12 ft with and overall width of 20 ft of all weather surface per County fire code. This is in conflict with NCC 19.46(B)(1)(a), which requires pavement to be 20 ft wide for flag lots.

APPLE CREEK PHASE 1- FIRST AMENDMENT SUBDIVISION DEVELOPMENT AGREEMENT

This Development Agreement ("Agreement") is entered into by <u>NIBLEY CITY</u> ("City") and ______ ("Developer"), and is effective as of the date that it is executed by all parties, as shown by the signatures contained herein.

RECITALS

A. Developer owns or otherwise has the right to develop certain property located within the City and seeks to develop the same ("Development"), containing approximately <u>2.42</u> <u>acres</u>, which property is more particularly described as:

Parcel #03-198-0035

LOT 35 OF THE APPLE CREEK SUBDIVISION, CONTAINING 2.42 ACRES MORE OR LESS PRIOR TO AMMENDMENT, AMENDED TO: EXCLUDE THE FOLLOWING: BEGINNING AT THE SOUTHEAST CORNER OF LOT 29, APPLE CREEK SUBDIVISION, THENCE NORTH 89° 02' 18" WEST 253.22 FEET TO A POINT INTERSECTING THE EAST BOUNDARY OF LOT 2, ASHBURY ESTATES SUBDIVISION, THENCE SOUTH 00° 59' 03" [WEST] 135.92 FEET TO THE SOUTHEAST CORNER OF LOT 2 OF THE ASHBURY ESTATES SUBDIVISION, THENCE NORTH 45° 26' 48" EAST 163.74 FEET, THENCE NORTH 83" 05' 07" EAST 139.91 FEET, TO THE POINT OF BEGINNING CONTAINING 0.23 ACRES MORE OR LESS CONT 2.18 AC (CCRO) SUBJ TO ESMNT SEE ENTRY #1295182 NOTE: THE DESCRIPTION USED IN ENTRY #1333356 APPEARS TO BE IN CONFLICT WITH THE BRACKETED INFORMATION SHOWN ABOVE.

- B. The Development is part of the Apple Creek subdivision which was originally approved as a Conservation Subdivision under the old Nibley City Code.
- C. The Development remains to be developed out.
- D. Developer desires to modify the boundaries of the Open Space areas in the Development to provide additional open space to the City and clarify the boundaries between the Open Space and Developable Areas through further subdivision and amendment of the Development Plat. Developer also seeks to allow for certain exceptions to the code in the Developable Areas that would be advantageous to both the City and Developer.
- E. Since the approval of the Apple Creek subdivision the Nibley City Code has changed conservation subdivision requirements to open space subdivision requirements which new requirements are referenced herein as the current zoning under Nibley City Code 21.10.020 ("Zoning").
- F. Developer has prepared an amended plat for the Development, which plat show the proposed amended lots and areas for the Development ("Amended Plat"), which Amended Plat is attached and incorporated herein as Exhibit A.

Commented [TD1]: The irrigation piping easements will need to be finalized and shown on the plat.

- G. The City has, determined that the approval of this Agreement with Developer, and the establishment thereby of specific requirements, elements, and aspects of the Development, some or all of which are not currently allowed under the Zoning, will result in benefits to the City and its residents that are not provided the Zoning.
- H. The Parties therefore desire to enter into this Agreement in order to provide specific requirements, elements, conditions, and standards that will govern the Development.

TERMS

1. Compliance with Regulations.

- a. The Development remains subject to all terms, conditions, and requirements of the Zoning and all other applicable federal, state, county, and City laws, ordinances, codes, standards, and land use regulations applicable to the Development and to any building, improvement, landscaping, excavation, or other work required or related to the Development, including but not limited to payment of fees and compliance with design, construction, and building and fire code standards. Developer shall be subject to all land use decision. This Agreement does not grant any land use approval or land use permit, and Developer agrees to apply for all such required approvals and permits prior to commencing any work or construction.
- b. To the extent that the terms, conditions, and requirements of this Agreement and the Development Plans expressly modify or are in direct conflict with the Zoning or another City-adopted ordinance, standard, or land use regulation applicable to the Development, this Agreement shall control and take precedence, but only to the extent of the express modification or direct conflict.
- c. Nothing herein alters any current non-conforming status of the Development.
- 2. Modification to Development and Zoning Standards. Developer shall be entitled to construct, and maintain the Development in a manner substantially similar to and in substantial compliance with the following modifications to zoning, and the terms, conditions, and requirements set forth below. The express terms of this Agreement shall control and take precedence in the event of a conflict between any rule and the terms of this Agreement.
 - a. Revision of open space boundaries. Lot 35 shall be subdivided as shown in the Amended Plat in Exhibit A, which subdivision shall separate two building lots known as Lots 36, and 37, from Lot 35. The remainder of Lot 35 shall be the conservation area, also known as open space. The open space shall follow conditions listed in Exhibit C, and additionally shall be subject to the maintenance and development master plan in Exhibit D as well as any other applicable law or ordinance.
 - b. <u>Frontage Requirements</u>. Frontage requirements for Lot 37 in the Development shall be modified to conform to the setbacks as shown in the Amended Plat in Exhibit

Commented [TD2]: Add a term or disclaimer that places responsibility of delineation and protection of wetlands on the developer.

- A. Placement of the allowed garage shall be in accordance with the site plan in Exhibit B.
- <u>Design Standards</u>. Nibley City will allow a garage to comprise the front plane of the structure.
- a. Alternative Fire Protection Plan. For purposes of fire protection compliance, and access, the access point to Lot 37 will be treated as a Private Drive, paved to a minimum width of 12 ft with and overall width of 20 ft of all weather surface per County fire code. Fire protection will be addressed by compliance with the requirements of City Code as administered by the Cache County Fire Marshal and by installation of automatic sprinkler systems designed and installed per International Residential Code Section R313.2 (Appendix H). A compliant sprinkler system will be installed as a condition of occupancy for any residential structures on Lot 37.
- b. Approvals. Developer shall obtain all approvals and abide by all provisions as contained in ordinance and Utah Code to subdivide or amend a subdivision plat.
- 3. Reserved Legislative Powers. The execution of this Agreement and the establishment of the vested rights shall not prevent the City, pursuant to the exercise of its legislative authority and power, to amend, enact, or repeal any provision of the Zoning or any other ordinance, specification, standard, or code, provided that no such legislative action shall reduce or eliminate the Developer's vested rights under this Agreement unless facts and circumstances are present and specifically found by the governing body of the City that meet the compelling, countervailing public interest exception to the vested rights doctrine under Utah law. Any such proposed legislative action affecting the vested rights shall be of general application to all development activity in the City.
- 4. Recordation. This Agreement, including the Development Plans, shall be recorded against title to all real property that is included in the Development prior to any further land use application, permit, or approval being sought for the Development. Developer shall ensure that there are no holders of interest that are superior in title to this Agreement, and that all interests, including but not limited to liens, mortgages, deeds of trust, and other similar instruments, have been made subordinate to this Agreement. Developer shall provide such documentation as is necessary to establish the fact of the recordation and of the priority of this Agreement prior to receiving any further approval related to the Development.
- 5. <u>Assignment: Successors Bound.</u> This Agreement may be assigned and transferred by Developer. This Agreement shall run with the land and be binding on and inure to the benefit of the successors and assigns of Developer, such that any person who obtains any right, title, or interest to any portion of the Development shall be bound by the rights and obligations of this Agreement and shall be responsible for performance of Developer's obligations related to such portion in the same manner as Developer. All assignees, transferees, and successors in interest shall be bound by all terms of this Agreement applicable to Developer as though such party were named herein as Developer.

Commented [TD3]: The City cannot guarantee that the canal modifications shown in Exhibit B will be approved by the Canal company

Commented [LR4]: Add clarification that the developer will need to adhere to Flag Lot requirements of NCC 19.46 for lot 37

Commented [TD5]: A note reflecting this portion of the DA shall be included on the final Plat

Commented [TD6]: This DA does not imply approval of Construction Drawings. Add a provision that specifies that developer will develop construction drawings for review and approval by the City and NBSF Irrigation.

- 6. <u>Modifications to Development Agreement.</u> Developer shall develop, construct, improve, and maintain the Development in a manner substantially similar to and in substantial compliance with all applicable laws, rules and ordinances and this Agreement and all amendments shall be signed in writing by both parties.
- 7. <u>Term.</u> The term of this Agreement shall commence as of the Agreement's effective date and shall continue until it is terminated, rendering the Development subject to the general zoning regulations applicable to the affected property, as set forth herein:
 - a. The Agreement may be terminated due to the uncured breach or default of one of the parties hereto, subject to the provisions set forth in Section 8.
 - b. The Agreement may be terminated by the mutual agreement of the parties.
 - c. The Agreement may be terminated by the City if Developer fails to begin construction on improvements with the Development within twelve (12) months after the effective date of this Agreement, or fails to complete the construction of the Development within twenty-four (24) months after the effective date of this Agreement.
 - d. Developer may apply for an extension of the deadlines set forth in this Section from the governing body of the City, who may grant an extension, with such terms and conditions as the body finds expedient, upon a finding of good cause for the delay or extension.

8. Default.

- a. In the event of a breach or default of any term of this Agreement, the non-breaching party shall provide written notice to the breaching party. Such notice shall describe the alleged breach, the applicable provisions of this Agreement, and the actions necessary to remedy and cure the breach.
- b. Within 30 days after the date of such notice, the breaching party shall either:
 - cure the breach and notify the non-breaching party, in writing, of the actions taken to cure the breach; or
 - ii. notify the non-breaching party, in writing, why the breach cannot be cured within 30 days and establishing a reasonable time to cure such breach, with a description of the actions to be taken by the breaching party.
- c. In the event the breaching party does not cure the breach or default within the specified timeframes, the non-breaching party may declare this Agreement to be terminated and send written notice of such declaration to the breaching party.
- 9. <u>Severability.</u> Each provision of this Agreement shall be separate, severable, and distinct from each other provision hereof, and the invalidity, unenforceability, or illegality of any such provisions shall not affect the enforceability of any other provision hereof.

10. No Waiver. Failure of a party to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise, at some future time, said right or any other right it may have hereunder, provided that this provision shall not operate to excuse Developer's non-compliance with the deadlines set forth in Section 8. No modification, waiver, or amendment to any right, term, condition, obligation, or provision of this Agreement shall be valid unless adopted through the process set forth in Section 6.

11. Entire Agreement.

- a. This Agreement is the entire agreement between the Parties with respect to the Development and the special rights and obligations granted to and assumed by Developer related to the Development.
- b. This Agreement shall supersede all prior agreements, conversations, understandings, contracts, and representations related to the Development or any term or provision of this Agreement. Neither party shall rely on or attempt to enforce any statement or representation, not contained herein, made by any person regarding the Development or Developer's rights and obligations thereto.
- 12. Enforcement and Governing Law. This Agreement may be enforced by any means available to the parties, subject to the notice and default provisions set forth in Section 8. This Agreement shall be governed by the laws of the State of Utah, and any court proceedings shall be brought in the First Judicial District Court of the State of Utah. Prior to initiating any such litigation, the parties shall first attempt to mediate or seek an advisory opinion regarding any dispute related to this Agreement through the Utah Property Rights Ombudsman's office or another qualified mediator that both parties agree upon. A party that prevails in any litigation following such mediation or opinion regarding this Agreement shall be entitled to recover their reasonable court costs and attorney fees related to the litigation.
- 13. <u>Third Parties.</u> This Agreement is intended for the sole benefit of the named parties thereto. No third party, except for permitted assignees, transferees, and successors-in-interest, shall have any right to enforce any of the terms or obligations herein contained.
- 14. <u>Representations.</u> The persons signing this Agreement on behalf of the parties represent and warrant that they have the authority and authorization to execute the Agreement on behalf of the respective party such that the party will be bound by all rights, obligations, terms, and conditions herein, and that all steps, requirements, and processes necessary for a party to approve and execute the Agreement have each been completed.

| For Nibley City: By: | Attested by: |
|--|---|
| Mayor | City Recorder |
| Date: | |
| For Developer: | |
| Ву: | Date: |
| Name: | Title: |
| STATE OF UTAH) | |
| County of) | |
| On the day of | the of Developer, the |
| | no duly acknowledged to me that they executed the same. |
| | NOTARY PUBLIC |
| STATE OF UTAH) | |
| County of) | |
| | the of Developer, the |
| signer of the foregoing instrument, wh | no duly acknowledged to me that they executed the same. |
| | NOTARY PUBLIC |

Exhibit A

(See the next page)

1. NO STRUCTURES MAY BE BUILT WITHIN ANY PUBLIC UTILITY EASEMENT, EXCEPT AS APPROVED BY

2. ALL EXPENSES INVOLVING THE NECESSARY IMPROVEMENTS OR EXTENSIONS FOR SANITARY SEWER SYSTEMS, GAS SERVICE, ELECTRICAL SERVICE, GRADING AND LANDSCAPING, STORM DRAIN SYSTEMS, CURB AND GUTTERS, FIRE HYDRANTS, PAVEMENT, SIDEWALKS, STREET LIGHTING AND SIGNING AND

3. SETBACKS ARE NOT SHOWN. ALL BUILDINGS SHALL BE SUBJECT TO SETBACKS REQUIRED BY CITY

4. 10' PUBLIC UTILITY EASEMENTS SHALL START AT THE EDGE OF THE SIDEWALK EASEMENT. 5. THIS PROPERTY IS LOCATED IN THE VICINITY OF PROPERTY THAT IS USED FOR AGRICULTURAL PURPOSES. IT MAY BE ANTICIPATED THAT SUCH AGRICULTURAL USES AND ACTIVITIES MAY OR MAY NOT IN THE FUTURE BE CONDUCTED IN THIS AREA AND THAT SUCH USES ARE PREVIOUSLY EXISTING USES. AGRICULTURAL USES AND SITUATIONS MUST BE SOUND AGRICULTURAL PRACTICES AND NOT BEAR A DIRECT THREAT TO THE PUBLIC HEALTH AND SAFETY.

6. AREAS IN NIBLEY HAVE GROUNDWATER PROBLEMS DUE TO THE VARYING DEPTH OF A WATER TABLE. THE CITY'S APPROVAL OF A FINAL PLAT, BUILDING PERMIT OR CONSTRUCTION PLANS DOES NOT CONSTITUTE A REPRESENTATION BY THE CITY THAT BUILDING AT ANY SPECIFIED ELEVATION OR LOCATION WOULD SOLVE SUBSURFACE OR GROUNDWATER PROBLEMS. IN ADDITION, CONCERNS FOR BUILDING ELEVATION AND/OR GRADING AND DRAINAGE ARE UNIQUE TO EACH BUILDING SITE, REMAIN SOLELY WITH THE BUILDING PERMIT APPLICATION, PROPERTY OWNER AND/OR CONTRACTOR. NIBLEY CITY IS NOT RESPONSIBLE FOR ANY SUBSURFACE OR GROUNDWATER PROBLEMS WHICH MAY OCCUR, NOR FOR SUCH CONCERNS INCLUDING. BUT NOT LIMITED TO. BUILDING LOCATION AND/OR ELEVATION.

7. A 6' SIDEWALK EASEMENT IS INCLUDED ON BOTH SIDES OF THE DEDICATED RIGHT-OF-WAY FOR INSTALLATION AND MAINTENANCE OF THE SIDEWALK.

8. LOT 35 IS A CONSERVANCY LOT AND IS NON-BUILDABLE. THIS LOT IS SUBJECT TO OPEN SPACE DESIGNATION AS STATED ON THIS PLAT AND THE APPLE CREEK SUBDIVISION CONSERVATION

9. ALL DRIVEWAYS SHALL BE LIMITED TO A MAXIMUM WIDTH OF 30'. 10. STREET TREES MUST BE INSTALLED PER REQUIREMENTS OF NIBLEY CITY CODE BEFORE A

11. WETLAND AREAS SHOWN WERE ESTABLISHED FROM DATA OBTAINED FROM CACHE COUNTY GIS. 12. FEMA FLOOD ZONE AREAS SHOWN WERE ESTABLISHED FROM DATA OBTAINED FROM THE FEMA FLOOD MAPPING SERVICE. (FIRM NO. 49005C0390D WITH EFFECTIVE DATE OF 5/9/2023) 13. EXISTING TOP OF BANK DITCH LINES ARE SHOWN FOR REFERENCE ONLY. POSSIBLE EXISTING

POWER NOTE:

1. PURSUANT TO UTAH CODE ANN. 54-3-27 THIS PLAT CONVEYS TO THE OWNER(S) OR OPERATORS OF UTILITY

FACILITIES A PUBLIC UTILITY EASEMENT ALONG WITH ALL THE RIGHTS AND DUTIES DESCRIBED THEREIN. 2. PURSUANT TO UTAH CODE ANN. 17-27A-603(4)(C)(II) ROCKY MOUNTAIN

POWER ACCEPTS DELIVERY OF THE P.U.E. AS DESCRIBED IN THIS PLAT AND APPROVES THIS PLAT SOLELY FOR THE PURPOSE OF CONFIRMING THAT THE PLAT CONTAINS PUBLIC UTILITY EASEMENTS AND APPROXIMATES THE LOCATION OF THE PUBLIC UTILITY EASEMENTS, BUT DOES NOT WARRANT THEIR PRECISE LOCATION. ROCKY MOUNTAIN POWER MAY REQUIRE OTHER EASEMENTS IN ORDER TO SERVE THIS DEVELOPMENT. THIS APPROVAL DOES NOT AFFECT ANY RIGHT THAT ROCKY

MOUNTAIN POWER HAS UNDER: (1) A RECORDED EASEMENT OR RIGHT-OF WAY;

(2) THE LAW APPLICABLE TO PRESCRIPTIVE RIGHTS; (3) TITLE 54, CHAPTER 8A, DAMAGE TO UNDERGROUND UTILITY FACILITIES

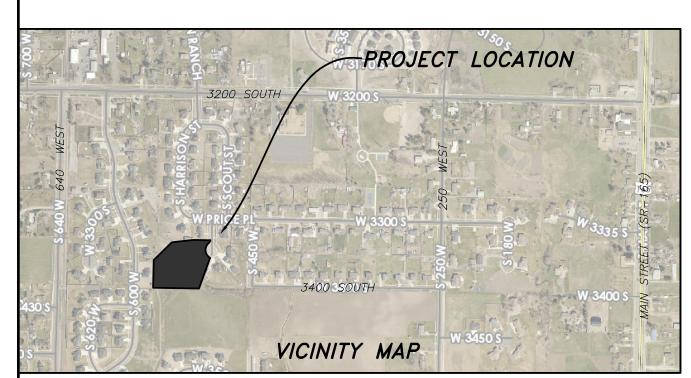
(4) ANY OTHER PROVISION OF LAW.

APPROVED BY THE ROCKY MOUNTAIN POWER, THIS ____ DAY OF _____ A.D.,

DOMINION ENERGY NOTE:

QUESTAR GAS COMPANY, DBA DOMINION ENERGY UTAH, HEREBY APPROVES THIS PLAT SOLELY FOR THE PURPOSE OF CONFIRMING THAT THE PLAT CONTAINS PUBLIC UTILITY EASEMENTS. DOMINION ENERGY UTAH MAY REQUIRE ADDITIONAL EASEMENTS IN ORDER TO SERVE THIS DEVELOPMENT. THIS APPROVAL DOES NOT CONSTITUTE ABROGATION OR WAIVER OF ANY OTHER EXISTING RIGHTS. OBLIGATIONS, OR LIABILITIES INCLUDING PRESCRIPTIVE RIGHTS AND OTHER RIGHTS. OBLIGATIONS OR LIABILITIES PROVIDED BY LAW OR EQUITY. THIS APPROVAL DOES NOT CONSTITUTE ACCEPTANCE, APPROVAL OR ACKNOWLEDGEMENT OF ANY TERMS CONTAINED IN THE PLAT, INCLUDING THOSE SET FORTH IN THE OWNER'S DEDICATION OR IN THE NOTES, AND DOES NOT CONSTITUTE A GUARANTEE OF PARTICULAR TERMS OR CONDITIONS OF NATURAL GAS SERVICE. FOR FURTHER INFORMATION PLEASE CONTACT DOMINION ENERGY UTAH'S RIGHT-OF-WAY DEPARTMENT AT 800-366-8532

APPROVED BY DOMINION ENERGY, THIS _____ DAY OF _____ A.D.,





HANSEN & ASSOCIATES, INC. Consulting Engineers and Land Súrveyors 538 North Main Street, Brigham, Utah 84302 Visit us at www.haies.net

MOUNT VISTA

COMMUNITY HOA

03-202-9001

SCALE: 1" = 30'

(Data in Parentheses is Record)

SUBJECT PROPERTY LINE

ADJOINING PROPERTY LINE

PUBLIC UTILITY EASEMENT (PUE)

CENTERLINE

FENCE LINE

SETBACKS

WETLANDS

____x_____

*** * * * * ***

EXISTING FLOWLINE

PEDESTRIAN EASEMENT

SECTION CORNER

ACCESS & UTILITY EASEMENT

SET 5/8"X24" REBAR WITH CAP

FOUND SURVEY MARKER SET BY OTHERS

INTERIOR LOT LINES / ADJOINING SUBDIVISION

DEVELOPER:

SHAUN DUSTIN

(435) 770-0147

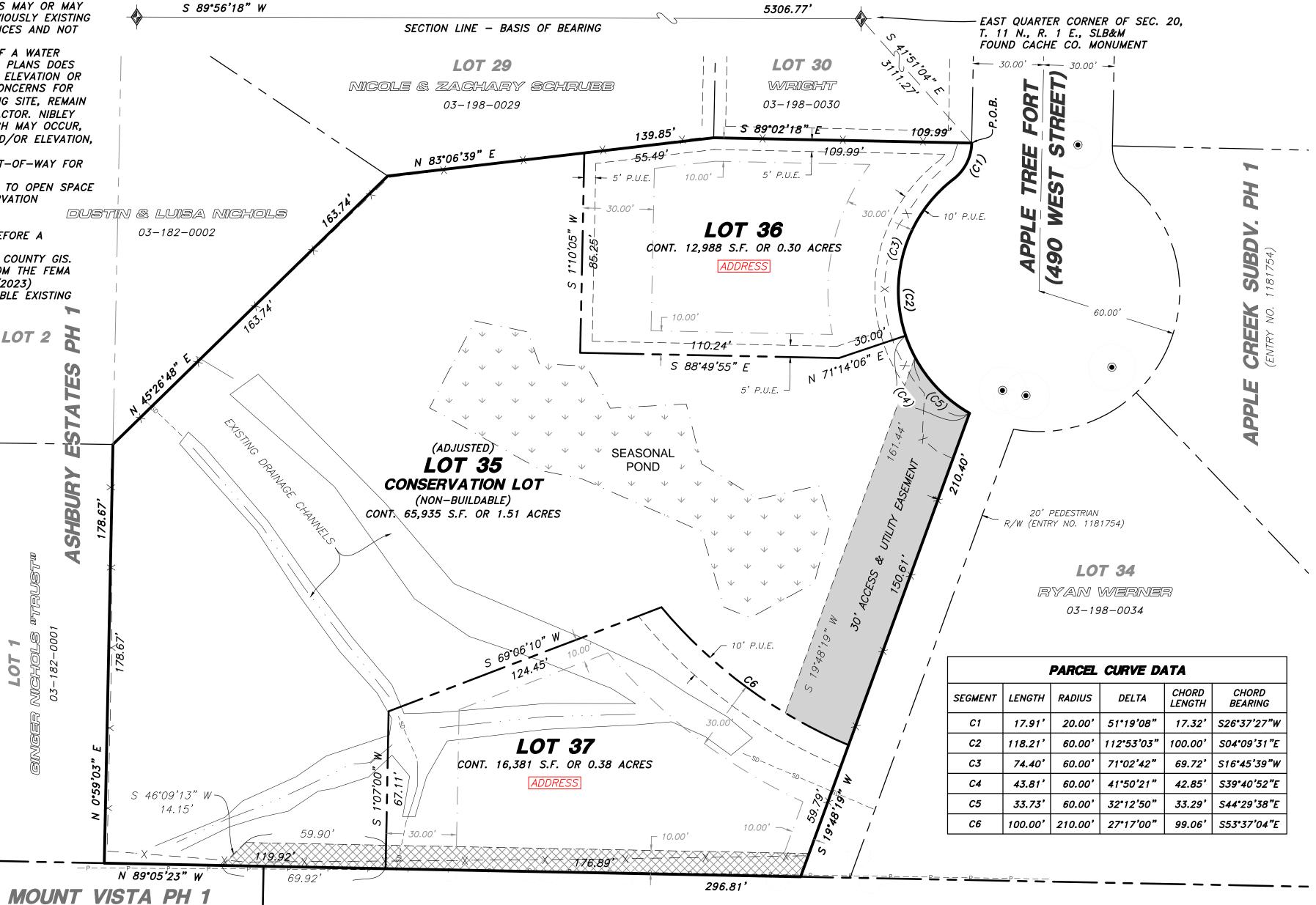
NIBLEY, UTAH 84321

(435) 723–3491 (801) 399–4905 (435) 752–8272 Celebrating over 65 Years of Business

APPLE CREEK SUBDIVISION, PHASE 1 - FIRST AMENDMENT

AMENDING LOT 35 EAST QUARTER CORNER OF SEC. 20. T. 11 N., R. 1 E., SLB&M

NIBLEY CITY, CACHE COUNTY, UTAH FOUND LYON ALUM. CAP MONUMENT A PART OF THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 11 NORTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN



COREY JOHNSON REVOCABLE TRUST 03-045-0027

UTILITY COMPANY APPROVALS

WE HAVE REVIEWS AND APPROVE THIS PLAT AS IT RELATES TO OUR PARTICULAR COMPANY, AND ARE IN AGREEMENT WITH PLACING ALL OF OUR UTILITIES UNDERGROUND WITHIN THE RIGHT-OF-WAY AS SHOWN ON THE PLANS AND ARE WILLING TO PROVIDE THE NEEDED SERVICE FOR THE DEVELOPMENT.

ENGINEER'S APPROVAL

I CERTIFY THAT I HAVE EXAMINED THIS PLAT AND FIND IT TO BE CORRECT AND IN ACCORDANCE WITH THE INFORMATION IN THIS OFFICE AND THE CITY ORDINANCE.

CITY ENGINEER DATE

COUNCIL APPROVAL

APPROVED & ACCEPTED BY THE NIBLEY CITY COUNCIL, THIS _____ DAY OF _____ A.D., 20___.

CHAIRMAN CITY CLERK

FINISHED FLOOR ELEVATION PER GROUNDWATER STUDY (ENTRY NO. 1181754)

LOT 35: BELOW CANAL = SLAB ON GRADE, ABOVE CANAL = 4552.0'

LOT 36 (ABOVE CANAL) = 4552.0

LOT 37 (BELOW CANAL = SLAB ON GRADE

*SEE ENTRY NO. 1181754 FOR ADDITIONAL NOTES AND BENCHMARK DATA

PLANNING COMMISSION APPROVAL

THIS PLAT RECOMMENDED FOR APPROVAL BY THE NIBLEY CITY PLANNING COMMISSION THIS _____, DAY OF _____ A.D., 20___.

> CHAIRMAN DATE

ATTORNEY APPROVAL

APPROVED AS TO FORM THIS___DAY OF_____, 20___.

CITY ATTORNEY DATE AGRICULTURAL NOTE

THIS PROPERTY IS LOCATED IN THE VICINITY OF PROPERTY THAT IS USED FOR AGRICULTURAL PURPOSES. IT MAY BE ANTICIPATED THAT SUCH AGRICULTURAL USES AND ACTIVITIES MAY OR MAY NOT IN THE FUTURE BE CONDUCTED IN THIS AREA AND THAT SUCH USES ARE PREVIOUSLY EXISTING USES. AGRICULTURAL USES AND SITUATIONS MUST BE SOUND AGRICULTURAL PRACTICES AND NOT BEAR A DIRECT THREAT TO THE PUBLIC HEALTH AND SAFETY.

SURVEYOR'S CERTIFICATE

I. ROGER C. SLADE. DO HEREBY CERTIFY THAT I AM A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF UTAH IN ACCORDANCE WITH TITLE 58, CHAPTER 22, PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS ACT: AND BY THE AUTHORITY OF THE OWNERS, I HAVE COMPLETED A SURVEY OF THE PROPERTY DESCRIBED AND SHOWN HEREON THIS PLAT IN ACCORDANCE WITH SECTION 17-23-17 AND HAVE VERIFIED ALL MEASUREMENTS AND HAVE HEREBY AMENDED AND SUBDIVIDED SAID TRACT INTO THREE LOTS. KNOWN HEREAFTER AS APPLE CREEK SUBDIVISION. PHASE 1 — FIRST AMENDMENT AND THAT THE SAME HAS BEEN SURVEYED AND MONUMENTS HAVE BEEN LOCATED AND/OR PLACED ON THE GROUND AS REPRESENTED ON THE PLAT HEREON.

| SIGNED | THIS | DAY OF | 2023. |
|--------|------|--------|-----------|
| | | | |

ROGER C. SLADE, P.L.S. UTAH LAND SURVEYOR LICENSE NO. 113868

A PART OF OF LOT 35, APPLE CREEK SUBDIVISION PHASE 1, NIBLEY, CACHE COUNTY, UTAH SITUATED IN THE SOUTHWEST QUARTER OF SECTION 21. TOWNSHIP 11 NORTH. RANGE 1 EAST. SALT LAKE BASE AND MERIDIAN. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 35 LOCATED 3111.27 FEET SOUTH 41°51'04" EAST FROM THE EAST QUARTER CORNER OF SECTION 20, TOWNSHIP 11 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN (BASIS OF BEARING IS THE EAST / WEST CENTER SECTION LINE OF SAID SECTION 20 WHICH BEARS SOUTH 89°56'18" WEST):

RUNNING THENCE ALONG THE BOUNDARY OF SAID LOT 35 THE FOLLOWING FIVE (5) COURSES: (1) SOUTHWESTERLY ON A NON-TANGENT CURVE TO THE RIGHT ALONG THE ARC OF A 20.00 FOOT RADIUS CURVE, A DISTANCE OF 17.91 FEET, CHORD BEARS SOUTH 26°37'27" WEST 17.32 FEET, HAVING A CENTRAL ANGLE OF 51°19'08"; (2) SOUTHERLY WITH A REVERSE TANGENT CURVE TO THE LEFT OF A 60.00 FOOT RADIUS CURVE, A DISTANCE OF 118.21 FEET, CHORD BEARS SOUTH 04°09'31" EAST 100.00 FEET, HAVING A CENTRAL ANGLE OF 112°53'03"; (3) SOUTH 19°48'19" WEST 210.40 FEET: (4) NORTH 89°05'23" WEST 296.81 FEET: AND (5) NORTH 00°59'03" EAST 178.67 FEET TO AN ANGLE POINT IN THE BOUNDARY OF DUSTIN & LUISA NICHOLS PROPERTY, TAX ID NO. 03-182-0002; THENCE NORTH 45°26'48" EAST 163.74 FEET ALONG SAID NICHOLS PROPERTY TO AN ANGLE POINT IN THE BOUNDARY OF NICOLE & ZACHARY SCHRUBB PROPERTY, TAX ID NO. 03-198-0029; THENCE NORTH 83°06'39" EAST 139.85 FEET TO THE SOUTHEAST CORNER OF SAID SCHRUBB PROPERTY, BEING A POINT ON THE NORTH LINE OF SAID LOT 35; THENCE SOUTH 89°02'18" EAST 109.99 FEET ALONG THE NORTH LINE OF SAID LOT 35 TO THE POINT OF BEGINNING. CONTAINING 2.19 ACRES.

OWNER'S DEDICATION

KNOW ALL MEN BY THESE PRESENT THAT WE, THE UNDERSIGNED OWNERS OF THE TRACT OF LAND, HAVING CAUSED THE SAME TO BE AMENDED AND SUBDIVIDED INTO LOTS TO BE HEREAFTER KNOWN AS APPLE CREEK SUBDIVISION, PHASE 1 - FIRST AMENDMENT, AS DEPICTED HEREON AND HEREBY DEDICATE, GRANT AND CONVEY TO NIBLEY CITY, CACHE COUNTY, UTAH, ALL THOSE PARTS OR PORTIONS OF SAID TRACT OF LAND DESIGNATED AS EASEMENTS FOR PUBLIC UTILITY AND DRAINAGE PURPOSES AS SHOWN HEREON. THE SAME TO BE USED FOR THE INSTALLATION, MAINTENANCE AND OPERATION OF PUBLIC UTILITY SERVICE LINES AND DRAINAGE AS MAY BE AUTHORIZED BY NIBLEY CITY. WE ALSO DEDICATE, GRANT AND CONVEY THE ACCESS AND UTILITY EASEMENT TO THE OWNERS OF LOT 37 FOR INGRESS, EGRESS AND UTILITY PURPOSES AS SHOWN HEREON. THE SAME TO BE USED FOR INGRESS, EGRESS AND THE INSTALLATION, MAINTENANCE AND OPERATION OF UTILITY LINES.

| WITNESS | WE | HAVE | HEREUNTO | SET | OUR | SIGNATURE | THIS | DAY O | F |
|---------|----|------|----------|-----|-----|-----------|------|-------|---|
| 023. | | | | | | | | | |

LESLI DUSTIN, TRUSTEE OF

THE LESLI DUSTIN REVOCABLE TRUST. DATED SEPTEMBER 29. 2021

TRUST ACKNOWLEDGMENT

STATE OF UTAH COUNTY OF CACHE

_, 2023, LESLI DUSTIN, TRUSTEE FOR THE LESLI DUSTIN REVOCABLE TRUST, DATED SEPTEMBER 29, 2021, PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID COUNTY OF CACHE. IN THE STATE OF UTAH. THE SIGNERS OF THE ATTACHED OWNERS DEDICATION. ONE IN NUMBER, WHO DULY ACKNOWLEDGED TO ME SHE SIGNED IT FREELY AND VOLUNTARILY AND FOR THE PURPOSE THEREIN MENTIONED ON BEHALF OF SAID TRUST.

NOTARY PUBLIC

NARRATIVE

THE PURPOSE OF THIS SURVEY WAS TO AMEND, ESTABLISH AND SET THE PROPERTY CORNERS OF THE AMENDED SUBDIVISION AS SHOWN AND DESCRIBED HEREON. THIS SURVEY WAS ORDERED BY SHAUN DUSTIN. THE CONTROL USED TO ESTABLISH THE PROPERTY CORNERS WAS THE OFFICIAL PLAT FOR APPLE CREEK SUBDIVISION PHASE 1, RECORDED AS ENTRY NO. 1181754 ALONG WITH THE EXISTING SURVEY MONUMENTATION FOUND WITHIN SAID APPLE CREEK SUBDIVISION PHASE 1 SITUATED IN THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 11 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN.

THE BASIS OF BEARING IS THE EAST / WEST CENTER SECTION LINE OF SECTION 20, TOWNSHIP 11 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, WHICH BEARS SOUTH 89°56'18" WEST. AN ASSUMED BEARING AS SHOWN ON THE OFFICIAL PLAT OF SAID APPLE CREEK SUBDIVISION, PHASE 1.

| COUNTY I | RECORDER'S | NO. | |
|----------|------------|-----|--|
|----------|------------|-----|--|

| FILED AT THE RE | QUEST OF | |
|-----------------|----------|-----|
| DATE | TIME | FEE |
| ABSTRACTED | | |

STATE OF UTAH, COUNTY OF CACHE, RECORDED AND

FILED IN: ____ FILE OF PLATS

COUNTY RECORDER

Exhibit B

(See the next page)

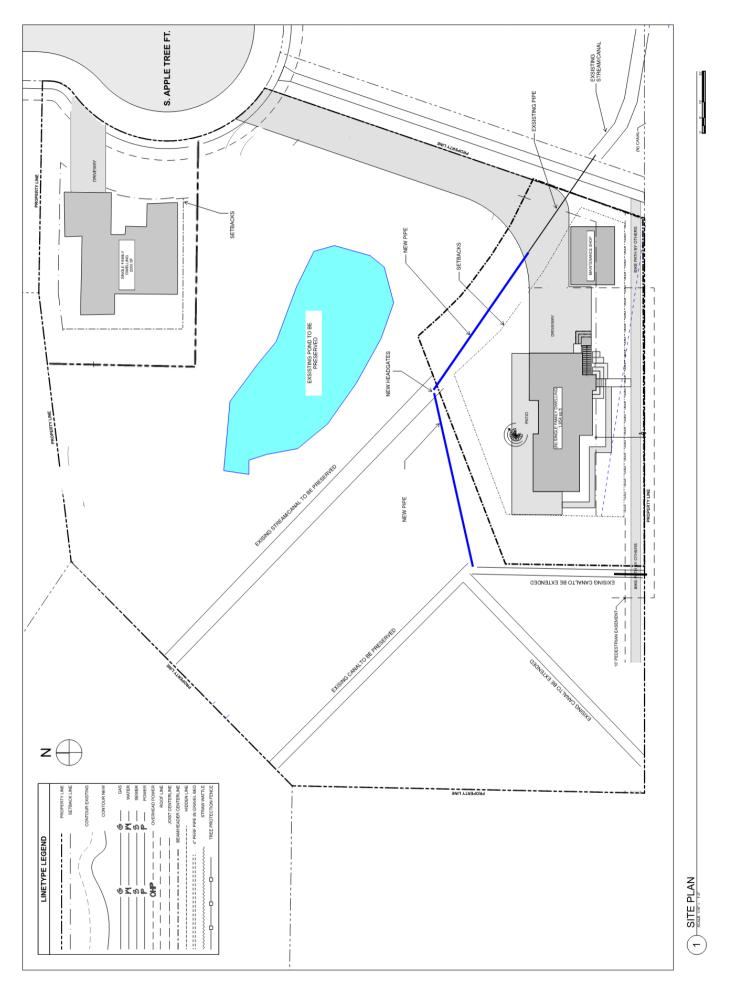


Exhibit C: Terms and Conditions for Conservation Easement

Terms and Conditions are as given in Appendix H, Lot 35 Conservation Easement. Section 10-20-16 of 08-01 requires that the Conservation Easement include the following terms and conditions:

- 7) Legal description of the easement:
 - a. Lot 35, Apple Creek Subdivision Phase 1, Nibley, Cache County, Utah as amended X.X.2023
- 8) Description of the current use and condition of the property
 - a. Current Use: Property is currently used as a pasture for horses
 - b. Condition: Property is in good condition. There is a shallow seasonal pond located in the lower portion of the lot. There are small tree stands of plums, crabapples, and roses. There are two irrigation ditches and one perennial stream that also serves as an irrigation conveyance.
- 9) Permanent duration of the easement
 - a. Duration of the easement is permanent
- 10) Permitted and conditional uses
 - a. Permitted uses are as outlined in Ordinance 08-01 and 20-14. Land will be managed as follows:
 - i. Garden
 - ii. Natural state.
 - 1. The perennial stream will be preserved as an open waterway. The stream may need to be rerouted to accommodate City building permit requirements and to reinforce existing fragile banks.
 - The wetland and pond will be managed to prevent mosquitoes and enhance habitat by improving free flow of water in the wetland.
 - iii. Subsurface utilities including water, sewer, geothermal, cable, telephone and other customary public and private utilities are permitted.
 - iv. Access easement to Lot 37 as shown on the plat
 - b. Conditional uses are as outlined in Ordinance 08-01 and 20-14. The following conditional uses as defined in the Ordinances will be permitted subject to conditions outlined herein and in 08-01 and 20-14. in the Land will be managed as follows:
 - i. Pasture
 - ii. Agricultural buildings to support management of conservation land.
 - iii. Trail easement on South property line is expanded to 10 ft as shown on the plat to allow City sufficient ROW to connect existing sidewalk to Mount vista subdivision, allowing a pedestrian shortcut of a ¾ mile walk

- and connecting three existing neighborhoods.
- iv. Irrigation and recreation water supply subject to Utah Division of Water Rights regulations
- v. Active, non-commercial recreation areas
- vi. Neighborhood open space
- vii. Fencing as required to support permitted and conditional uses
- 11) Maintenance responsibilities and duties
 - a. Maintenance shall be the responsibility of the owner of the open space lot except for the dedicated public access trail easement. Development and maintenance of the trail easement is the responsibility of the City per the pre-existing agreement. The owner of the open space will provide a connection to the irrigation system and water rights for the Open Space at no charge. If the City desires more frequent irrigation on the trail easement than is provided by the general open space watering schedule, the City has the right of entry and an easement on the open space to place a pump and power/control system that is separated from the general irrigation system for the conservation space trail at a location that minimizes impact on open space operations and development.
 - b. Duties of Owner shall include maintaining the open space as required by ordinance such that the intent of the open space is met.
- 12) Enforcement rights and procedures
 - a. As outlined in Nibley City Ordinance 20-14. For the portion of the Oen Space under City control (public access easement), reciprocal rights and procedures of enforcement as outlined in 20-14 apply to the owner of Lot 35.

Exhibit D: Maintenance and Development Master Plan

Maintenance and Development Master Plan. Section 10-20-17 of 08-01 requires a Maintenance Plan for the conservation land. Approval of this Development Agreement constitutes the approval of the Maintenance Plan. The plan is required to address the following:

- 1) Define ownership
- 2) Establish regular and periodic operation and maintenance responsibilities for the space
- 3) Estimate staffing, insurance, and other costs and define the means of funding the development, operations, and maintenance costs

The purpose of this document is to provide the management plan for Lot 35, a Conservation Lot in the Nibley, UT Apple Creek subdivision as required under Nibley City ordinance 08-01 (Code section 10-20).

The conservancy lot provides the following benefits and will be managed to support these uses:

- 1) Increased conservancy space. The increase in conservancy space is 0.6 acres for a total of 4.0 acres (20%).
- 2) Connectivity between green spaces. The proposed changes will directly connect Apple Creek and Mt Vista green spaces.
- 3) Trail/connectivity/pedestrian access. The new configuration resolves a connection between the existing trail/sidewalk connecting 450 W to a sidewalk extending outside the Apple Creek subdivision from the Apple Tree Fort cul-de-sac to the south edge of the subdivision. The proposed reconfiguration of the easement will provide enough space for the City to extend the sidewalk to connect with the trails in Mount Vista. The previous configuration of the lot did not provide sufficient space to place the sidewalk/trail. This configuration widens the easement to 10 ft along its length
- 4) Habitat protection. The proposed revised boundaries permit the preservation of open stream, pond/wetland, and meadow habitats as well as irrigation rights of way. The balance of the land will be maintained as pasture, garden, and supporting infrastructure.
- 5) Underground utility easements and access easements for managing the land and accessing the building lots as required and allowed by City code. Uses include water, sewer, irrigation, power, communications, ground source heat, and solar applications.

As required by Section 10-20-17.B, the Plan addresses the following:

- 1) Ownership
- 2) Operations and maintenance plans/responsibilities
- 3) Staffing, insurance, and associated needs, including a funding plan
- 4) Need for funding first year improvements

OWNERSHIP: The property shall be privately held and owned by the owner of Lot 36 or Lot 37 of the Apple Creek subdivision. Ownership may be transferred in the future to a third party conservation non profit or Nibley City with the approval of Nibley City and the parcel owner. Any ownership change will transfer all rights and obligations as outlined in City Code and herein.

OPERATIONS AND MAINTENANCE: The conservancy lot will be operated and maintained in

accordance with the requirements of Nibley Ordinance 08-01, and as outlined herein.

Maintenance shall be the responsibility of the owner of the open space lot except for the dedicated public access trail easement. Development and maintenance of the trail easement is the responsibility of the City per the pre-existing agreement.

The owner of the open space will provide a connection to the irrigation system and water rights for the Open Space at no charge. If the City desires control over irrigation on the trail easement, the City has the right of entry and an easement on the open space to place and maintain a pump and power/control system that is separated from the general irrigation system for the conservation space at a location that minimizes impact on open space operations and development. The City may not place the pump in a location that is intended for future construction of buildings or other infrastructure intended to support management of the open space.

Duties shall include maintaining the open space as required by ordinance such that the intent of the open space is met. The minimum standard for open space maintenance is as a pasture or natural meadowland. The Owner will maintain sufficient shares or water rights to irrigate the property for the proposed uses, install an irrigation system, and keep the systems watered.

Maintenance of the canal is the responsibility of the Nibley Blacksmith Fork Irrigation Company, per Company Charter and State Code.

The Owner may construct infrastructure necessary to maintain property including irrigation, drainage, fencing, outbuildings, power and other necessary improvements subject to the City's normal building permit process and City code.

DEVELOPMENT: For the portion of Lot 35 that is not open to public access, the Owner is responsible for all development expenses. For the portion that is open to public access (trail easement on south property line), the City is responsible for trail development costs as outlined in previous agreements.

STAFFING, INSURANCE, FUNDING: Owner is responsible for maintenance and development of all on-site improvements except for improvements desired by the City for the public access easement on the south boundary. Insurance will be carried by Owner for areas where public access is not permitted. The City will indemnify the Owner against any and all claims for persons utilizing the City's public access trail facility on the dedicated easement on the south property line.

In the event that a third party conservation organization or the City gains control or ownership of Lot 35, the controlling entity shall be responsible for any insurance, maintenance, or other costs.

The owner(s) of Lot 35 and Lot 37 will be held harmless by all users for any persons accessing or otherwise using the public easement. The easement will be maintained in accordance with the original agreement for the Apple Creek Subdivision.

FUNDING FIRST YEAR IMPROVEMENTS: Not applicable

Agenda Item #5: Preliminary Plat for Apple Creek Phase 1 Amendment

Description

Discussion and Consideration: Approval of the Preliminary Plat for the Apple Creek Subdivision Phase 1 First Amendment

Action Type

Administrative

Recommendation

Approval of the Preliminary Plat for the Apple Creek Subdivision Phase 1 First Amendment, adopting the recommended findings and conditions below.

Reviewed By

City Planner, City Engineer, Public Works

Background

Shaun Dustin, authorized representative of Lesli Dustin Revocable Trust, property owner of Parcel 03-198-0035, located at 3359 S 490 W has applied for Preliminary Plat approval for the Apple Creek Subdivision Phase 1 First Amendment. The proposal constitutes both an amendment to the approved Apple Creek Subdivision and a new 2-lot Open Space Subdivision. As such, the proposal will be evaluated both as a stand-alone open space subdivision and an amendment to the originally approved conservation subdivision.

Zoning and space requirements

Below is a summary of the development and zoning requirements:

| | NCC Requirements (Conservation) | Apple Creek (Overall) | NCC Requirements (Open Space) | Apple Creek Amendment 1 |
|-----------------------------|---------------------------------|--------------------------|-------------------------------------|----------------------------|
| Total Gross Acres | N/A | 20.26 | N/A | 2.19 |
| Proposed Public Row Area | N/A | 3.69 | N/A | 0 |

| Total Developable | N/A | 16.57 | N/A | 2.19 |
|-------------------|-------------|--------|---------|--------|
| Land | | | | |
| Open Space | 3.31 | 3.84 | 0.88 | 1.51 |
| (20%)/(40%) | | | | |
| Total Lots | 1.187*33=39 | 36 | 4*1.4=6 | 2 |
| Average Lot Size | 14,673 | 19,750 | 9,200 | 14,684 |
| Minimum Lot | 12,000 | 12,488 | 7,800 | 12,988 |
| Size | | | | |

As noted above, the proposed preliminary plat is located within a R-2 zone. NCC 21.10.020(E) includes dimensional standards within an Open Space Subdivision. The chart above evaluates the both the 2-lot subdivision as a stand alone subdivision, under the currently adopted Open Space Subdivision Ordinance and as an amendment to the approved Apple Creek conservation subdivision, using the standards adopted at the time of original approval for the subdivision. As noted in the chart above, the applicant has met all of the required standards within each section.

As noted in the proposed development agreement, the proposed Lot 37 does not meet the minimum frontage of the subdivision and is subject to approval of the development agreement.

Sensitive Areas

In accordance with NCC 21.10.020(D)(3), the applicant has provided a sensitive area designation plan map. The applicant has indicated that there is a perennial stream and canals in the southern area of the property. As part of this proposal, the applicant is proposing to reroute canals. This is subject to approval of the Nibley-Blacksmith Fork Irrigation Company.

Open Space Plan & Evaluation

In accordance with Nibley City Code § 21.10.020(L)(2), the applicant has provided a preliminary maintenance plan for proposed open space in the subdivision, which is proposed to be recorded as a conservation easement and lot and privately maintained/managed.

The applicant has proposed that the open space will be maintained with a garden, perennial stream, wetland and pond. The open space of the proposed subdivision complies with the minimum three standards set forth in NCC 21.10.020(I). Specifically, the following:

- 1. Significant Areas and Natural Landscape: The applicant proposes maintaining the stream and wetland area.
- 2. Contiguous Land: The proposed land is contiguous within the subdivision and to adjacent undeveloped property to the south.
- 3. Agricultural Land: The applicant has indicated agricultural use on the conservation land.

Utility Lines. Easements, and Storm Water

The applicant has shown a preliminary plan for connecting utilities to Nibley City's utility system, including locations of sewer, water lines. Public utility easements are shown where

necessary, as required by the City Engineer. Nibley City engineer and public works have reviewed the plans to ensure feasibility and compliance with City standards.

At this stage in the process, the City Engineer and Public Works is comfortable with the proposed design subject to further review at the Final Plat stage of the project.

Canals

As noted above, there are Nibley-Blacksmith Fork Irrigation canals in the southern area of the property, some of which are proposed to be rerouted. The applicant has provided documentation of an acknowledgement from the irrigation company of the proposed design, as required by NCC 21.06.040(A)(5), but a final approval of this design is still required. The applicant has indicated that they will continue to coordinate with the canal company through the Final stages of approval for the subdivision.

Trail Easement

The applicant is proposing to increase the width of the existing trail easement currently recorded on the property in order to make the construction of a master-planned trail more feasible on the property, rather than combined with the neighboring property to the south. The current Active Transportation Plan includes a paved trail along the southern border of the proposed subdivision.

Street Trees

NCC 21.12.170 provides that street trees be planted every 50'. The applicant will need to provide street trees in conformance with this standard.

Recommended Findings

- 1. The application complies with the minimum standards of NCC 21.10.020 Open Space Subdivision with the exception of those standards noted within the proposed development agreement, subject to approval by City Council.
- 2. The application complies with the infrastructure standards of NCC 21.12.

Recommended Conditions of Approval

- 1. The proposed development agreement, which includes exception to applicable standards and other terms and conditions, must be approved by Nibley City Council.
- 2. Indoor and outdoor water use calculations and certificate for equivalent shares, financial surety, and payment of development fees are required at time of Final Plat.
- 3. Canal Design must be approved by Nibley-Blacksmith Fork Irrigation Company prior to Final Plat approval.



THE CITY ENGINEER. 2. ALL EXPENSES INVOLVING THE NECESSARY IMPROVEMENTS OR EXTENSIONS FOR SANITARY SEWER SYSTEMS, GAS SERVICE, ELECTRICAL SERVICE, GRADING AND LANDSCAPING, STORM DRAIN SYSTEMS, CURB AND GUTTERS, FIRE HYDRANTS, PAVEMENT, SIDEWALKS, STREET LIGHTING AND SIGNING AND OTHER IMPROVEMENTS SHALL BE FINANCED BY SUBDIVIDER. 3. SETBACKS ARE NOT SHOWN. ALL BUILDINGS SHALL BE SUBJECT TO SETBACKS REQUIRED BY CITY CODES IN EFFECT WHEN PERMITS ARE ISSUED. 4. 10' PUBLIC UTILITY EASEMENTS SHALL START AT THE EDGE OF THE SIDEWALK EASEMENT. 5. THIS PROPERTY IS LOCATED IN THE VICINITY OF PROPERTY THAT IS USED FOR AGRICULTURAL PURPOSES. IT MAY BE ANTICIPATED THAT SUCH AGRICULTURAL USES AND ACTIVITIES MAY OR MAY NOT IN THE FUTURE BE CONDUCTED IN THIS AREA AND THAT SUCH USES ARE PREVIOUSLY EXISTING USES. AGRICULTURAL USES AND SITUATIONS MUST BE SOUND AGRICULTURAL PRACTICES AND NOT BEAR A DIRECT THREAT TO THE PUBLIC HEALTH AND SAFETY. 6. AREAS IN NIBLEY HAVE GROUNDWATER PROBLEMS DUE TO THE VARYING DEPTH OF A WATER TABLE. THE CITY'S APPROVAL OF A FINAL PLAT, BUILDING PERMIT OR CONSTRUCTION PLANS DOES NOT CONSTITUTE A REPRESENTATION BY THE CITY THAT BUILDING AT ANY SPECIFIED ELEVATION OR LOCATION WOULD SOLVE SUBSURFACE OR GROUNDWATER PROBLEMS. IN ADDITION, CONCERNS FOR BUILDING ELEVATION AND/OR GRADING AND DRAINAGE ARE UNIQUE TO EACH BUILDING SITE, REMAIN SOLELY WITH THE BUILDING PERMIT APPLICATION, PROPERTY OWNER AND/OR CONTRACTOR. NIBLEY CITY IS NOT RESPONSIBLE FOR ANY SUBSURFACE OR GROUNDWATER PROBLEMS WHICH MAY OCCUR, NOR FOR SUCH CONCERNS INCLUDING. BUT NOT LIMITED TO. BUILDING LOCATION AND/OR ELEVATION SITE GRADING AND DRAINAGE. 7. A 6' SIDEWALK EASEMENT IS INCLUDED ON 490 WEST STREET RIGHT-OF-WAY FOR INSTALLATION AND MAINTENANCE OF THE SIDEWALK. 8. LOT 35 IS A CONSERVANCY LOT AND IS NON-BUILDABLE. THIS LOT IS SUBJECT TO OPEN SPACE DESIGNATION AS STATED ON THIS PLAT AND THE APPLE CREEK SUBDIVISION CONSERVATION SUBDIVISION LAND MAINTENANCE PLAN. 9. ALL DRIVEWAYS SHALL BE LIMITED TO A MAXIMUM WIDTH OF 24'. 10. STREET TREES MUST BE INSTALLED PER REQUIREMENTS OF NIBLEY CITY CODE BEFORE A BUILDING PERMIT WILL BE ISSUED. 11. WETLAND AREAS SHOWN WERE ESTABLISHED FROM DATA OBTAINED FROM NATIONAL WETLANDS 12. FEMA FLOOD ZONE AREAS SHOWN WERE ESTABLISHED FROM DATA OBTAINED FROM THE FEMA FLOOD MAPPING SERVICE. (FIRM NO. 49005C0390D WITH EFFECTIVE DATE OF 5/9/2023) 13. EXISTING TOP OF BANK DITCH LINES ARE SHOWN FOR REFERENCE ONLY. POSSIBLE EXISTING USE AND ACCESS EASEMENTS MAY EXIST ON RECORD. 14. SETBACKS ARE: FRONT = 25'REAR = 20'SIDE = 8'15. ANY RESIDENTIAL STRUCTURES LOCATED MORE THAN 150' FROM 490 WEST STREET SHALL BE PROVIDED WITH FIRE SPRINKLERS PER NFPA 13D CURRENT AT TIME OF BUILDING PERMIT ISSUANCE. **POWER NOTE:** 1. PURSUANT TO UTAH CODE ANN. 54-3-27 THIS PLAT CONVEYS TO THE OWNER(S) OR OPERATORS OF UTILITY FACILITIES A PUBLIC UTILITY EASEMENT ALONG WITH ALL THE RIGHTS AND DUTIES DESCRIBED THEREIN. 2. PURSUANT TO UTAH CODE ANN. 17-27A-603(4)(C)(II) ROCKY MOUNTAIN POWER ACCEPTS DELIVERY OF THE P.U.E. AS DESCRIBED IN THIS PLAT AND APPROVES THIS PLAT SOLELY FOR THE PURPOSE OF CONFIRMING THAT THE PLAT CONTAINS PUBLIC UTILITY EASEMENTS AND APPROXIMATES THE LOCATION OF THE PUBLIC UTILITY EASEMENTS, BUT DOES NOT WARRANT THEIR PRECISE LOCATION. ROCKY MOUNTAIN POWER MAY REQUIRE OTHER EASEMENTS IN ORDER TO SERVE THIS DEVELOPMENT. THIS APPROVAL DOES NOT AFFECT ANY RIGHT THAT ROCKY MOUNTAIN POWER HAS UNDER: (1) A RECORDED EASEMENT OR RIGHT-OF WAY; (2) THE LAW APPLICABLE TO PRESCRIPTIVE RIGHTS; (3) TITLE 54. CHAPTER 8A. DAMAGE TO UNDERGROUND UTILITY FACILITIES (4) ANY OTHER PROVISION OF LAW. APPROVED BY THE ROCKY MOUNTAIN POWER, THIS ____ DAY OF _____ A.D.,

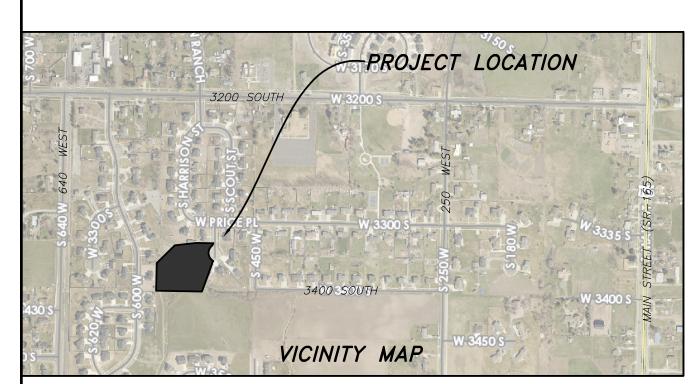
NOTES:

DOMINION ENERGY NOTE:

QUESTAR GAS COMPANY, DBA DOMINION ENERGY UTAH, HEREBY APPROVES THIS PLAT SOLELY FOR THE PURPOSE OF CONFIRMING THAT THE PLAT CONTAINS PUBLIC UTILITY EASEMENTS. DOMINION ENERGY UTAH MAY REQUIRE ADDITIONAL EASEMENTS IN ORDER TO SERVE THIS DEVELOPMENT. THIS APPROVAL DOES NOT CONSTITUTE ABROGATION OR WAIVER OF ANY OTHER EXISTING RIGHTS, OBLIGATIONS, OR LIABILITIES INCLUDING PRESCRIPTIVE RIGHTS AND OTHER RIGHTS, OBLIGATIONS OR LIABILITIES PROVIDED BY LAW OR EQUITY. THIS APPROVAL DOES NOT CONSTITUTE ACCEPTANCE, APPROVAL OR SET FORTH IN THE OWNER'S DEDICATION OR IN THE NOTES, AND DOES NOT CONSTITUTE A GUARANTEE OF PARTICULAR TERMS OR CONDITIONS OF NATURAL GAS SERVICE. FOR FURTHER INFORMATION PLEASE CONTACT DOMINION ENERGY UTAH'S RIGHT-OF-WAY DEPARTMENT AT 800-366-8532

1. NO STRUCTURES MAY BE BUILT WITHIN ANY PUBLIC UTILITY EASEMENT, EXCEPT AS APPROVED BY

APPROVED BY DOMINION ENERGY, THIS _____ DAY OF ____ A.D.,





onsulting Engineers and Land Surveyors 538 North Main Street, Brigham, Utah 84302 Visit us at www.haies.net

igham City (435) 723–3491 (801) 399–4905 (435) 752–8272 Celebrating over 65 Years of Business

APPLE CREEK SUBDIVISION, PHASE 1 - FIRST AMENDMENT AMENDING LOT 35, APPLE CREEK SUBDIVISION

- EAST QUARTER CORNER OF SEC. 20, NIBLEY CITY, CACHE COUNTY, UTAH T. 11 N., R. 1 E., SLB&M A PART OF THE SOUTHWEST QUARTER OF SECTION 21, FOUND LYON ALUM. CAP MONUMENT TOWNSHIP 11 NORTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN

| | SECTION LINE - | - BASIS OF BEARING | 3300.77 | S | - EAST QUARTER COR T. 11 N., R. 1 E., | SLB&M | 20, | |
|--|--|--|--|-------------------------------|--|--|--|---|
| B) MODIFIED PLAT TOTAL AR C) MODIFICATION OF PEDES D) ADDITION OF 30 FT ACCL E) ADDITION OF LOT 36 AND F) CONVERSION OF LOT 35 | T AREA = 16.57 AC, CONSERVATION AREA 3.33 AC EA = 16.57 AC, CONSERVATION AREA 3.95 AC STRIAN EASEMENT ON LOT 35 TO INCREASE WIDTH TO ESS AND UTILITY EASEMENT ON EAST SIDE OF LOT 3 D 37 AS DEDICATED BUILDING LOTS. TO 100% CONSERVATION ESSIGNATED WETLAND AREA - 25 710 S.E. | 70 10 FT SCHRUBB 35 03-198-0029 139.85' | 03-198-0030 | | FOUND CACHE CO. | 0' - | | |
| PE | N 83.06,39" | 5, A.U.E. | 8.00' 5' P.U.E. PREVIOUS CONSERVATION / EASEMENT BOUNDARY | -s-7-/s | TREE I | | | PH 1 |
| ISTIN & LUISA NICHO 03-182-0002 | 4549 | M 20.00 CONT. 1 | LOT 36 | 5.0b' (S) | APPLE (490 W | | \ | SUBDV. 81754) |
| TATES | N.W.I. BOUNDARY | \ | 110.24' 30 | | PROPOSED LATERALS | 60.00' | 7 | CREEK S |
| Sa Maria Mar | LO | JUSTED) OT 35 | 5' P.U.E. | CX CS | | | | APPLE |
| | | | | | | | • | |
| ASHSA ASSA | CONI. 63,933 3 | VATION LOT BUILDABLE) S.F. OR 1.51 ACRES PREVIOUS CONSERVE | | 77 EASEMENT 16) | / / / 03- | OT 34 I WERNE! 198–0034 | ₹ \ | |
| | CONI. 63,933 3 | PREVIOUS CONSERV. EASEMENT BOUND | PARY | UTILITY, EASEMENT | / RYAN 03- 20' PEDESTRI R/W (ENTRY NO. 1 | NVERNE: 198–0034 ^{AN} 181754) | | |
| 8.67' ASH | CON1. 65,935 S | PREVIOUS CONSERV. EASEMENT BOUND | OUNDARY TO SO TO S | SEG CITLITY EASEMENT 210.40 | / RYAN 03- 20' PEDESTRI R/W (ENTRY NO. 1 | 198-0034 AN 181754) EL CURVE DA DELTA | CHORD LENGTH | CHORD BEARING 6°37'27"W |
| 8.67' ASH | 15 /P.P. CASC - 1 | PREVIOUS CONSERV. EASEMENT BOUND | PARY | SEG CITILITY EASEMENT 210.40 | O3- 20' PEDESTRIA R/W (ENTRY NO. 1 PARCE GMENT LENGTH RADIUS | 198-0034 AN 181754) EL CURVE DA S DELTA 112.53.03." 71.02.42." | CHORD LENGTH 17.32' S20 100.00' S0 69.72' S10 | BEARING |
| 8.67' ASH | CONT. 63,933 | PREVIOUS CONSERVE EASEMENT BOUND N.W.I. BO | OUNDARY TO SO TO S | 150.67. SEGMENT STO.40 | O3- 20' PEDESTRIA R/W (ENTRY NO. 1 PARCE SMENT LENGTH RADIUS C1 17.91' 20.00 C2 118.21' 60.00 C3 74.40' 60.00 | 198-0034 AN 181754) EL CURVE DA S DELTA 112.53.03." 112.53.03." 112.53.03." 112.53.03." 113.50.21." 113.50.21." | CHORD LENGTH 17.32' S20 100.00' S0 69.72' S10 42.85' S3 33.29' S4 | BEARING 6°37'27"W 14°09'31"E 6°45'39"W |
| N 0.59°03" E 178.67' 22.24 2.254 2.254 2.254 2.254 2.254 | To Proceed the second s | PREVIOUS CONSERVE EASEMENT BOUND N.W.I. BO N.W.I. BO LOT 37 16,381 - S.F. OR 0.38 ACRES 3391 SOUTH | OUNDARY TO SO TO S | 150.67. SEGMENT STO.40 | ### CONTRACT PARCE PARCE | 198-0034 AN 181754) EL CURVE DA S DELTA 112.53.03." 1.12.53.03." 1.12.53.03." 2.12.50." 2.20. 20. | CHORD LENGTH 17.32' \$20 100.00' \$0 69.72' \$10 42.85' \$3 33.29' \$4 99.06' \$5 | BEARING 6°37'27"W 4°09'31"E 6°45'39"W 59°40'52"E 4°29'38"E |

(ENTRY NO. 1181754) UTILITY COMPANY APPROVALS LOT 35: BELOW CANAL = SLAB ON GRADE, ABOVE CANAL = 4552.0' WE HAVE REVIEWS AND APPROVE THIS PLAT AS IT RELATES TO OUR PARTICULAR COMPANY, AND ARE IN AGREEMENT WITH PLACING ALL OF OUR UTILITIES

LOT 36 (ABOVE CANAL) = 4552.0

LOT 37 (BELOW CANAL = SLAB ON GRADE

*SEE ENTRY NO. 1181754 FOR ADDITIONAL NOTES AND BENCHMARK DATA

FINISHED FLOOR ELEVATION PER GROUNDWATER STUDY

PLANNING COMMISSION APPROVAL

THIS PLAT RECOMMENDED FOR APPROVAL BY THE NIBLEY CITY PLANNING COMMISSION THIS _____, DAY OF _____ A.D., 20___

CHAIRMAN DATE

ATTORNEY APPROVAL

APPROVED AS TO FORM THIS___DAY OF_____, 20___. AGRICULTURAL USES AND ACTIVITIES MAY OR MAY NOT IN THE FUTURE BE CONDUCTED IN THIS AREA AND THAT SUCH USES ARE PREVIOUSLY EXISTING USES. AGRICULTURAL USES AND SITUATIONS MUST BE SOUND AGRICULTURAL PRACTICES AND NOT BEAR A DIRECT THREAT TO THE PUBLIC HEALTH AND SAFETY.

SURVEYOR'S CERTIFICATE

I. ROGER C. SLADE, DO HEREBY CERTIFY THAT I AM A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF UTAH IN ACCORDANCE WITH TITLE 58, CHAPTER 22, PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS ACT: AND BY THE AUTHORITY OF THE OWNERS, I HAVE COMPLETED A SURVEY OF THE PROPERTY DESCRIBED AND SHOWN HEREON THIS PLAT IN ACCORDANCE WITH SECTION 17-23-17 AND HAVE VERIFIED ALL MEASUREMENTS AND HAVE HEREBY AMENDED AND SUBDIVIDED SAID TRACT INTO THREE LOTS. KNOWN HEREAFTER AS APPLE CREEK SUBDIVISION, PHASE 1 — FIRST AMENDMENT AND THAT THE SAME HAS BEEN SURVEYED AND MONUMENTS HAVE BEEN LOCATED AND/OR PLACED ON THE GROUND AS REPRESENTED ON THE PLAT HEREON.

| SIGNED THIS | DAY OF | |
|-------------|--------|--|
| | | |

ROGER C. SLADE, P.L.S. UTAH LAND SURVEYOR LICENSE NO. 1138680

A PART OF OF LOT 35, APPLE CREEK SUBDIVISION PHASE 1, NIBLEY, CACHE COUNTY, UTAH SITUATED IN THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 11 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 35 LOCATED 3111.27 FEET SOUTH 41°51'04" EAST FROM THE EAST QUARTER CORNER OF SECTION 20, TOWNSHIP 11 NORTH, RANGE 1 EAST. SALT LAKE BASE AND MERIDIAN (BASIS OF BEARING IS THE EAST / WEST CENTER SECTION LINE OF SAID SECTION 20 WHICH BEARS SOUTH 89°56'18" WEST);

RUNNING THENCE ALONG THE BOUNDARY OF SAID LOT 35 THE FOLLOWING FIVE (5) COURSES: (1) SOUTHWESTERLY ON A NON-TANGENT CURVE TO THE RIGHT ALONG THE ARC OF A 20.00 FOOT RADIUS CURVE, A DISTANCE OF 17.91 FEET, CHORD BEARS SOUTH 26°37'27" WEST 17.32 FEET, HAVING A CENTRAL ANGLE OF 51°19'08"; (2) SOUTHERLY WITH A REVERSE TANGENT CURVE TO THE LEFT OF A 60.00 FOOT RADIUS CURVE, A DISTANCE OF 118.21 FEET, CHORD BEARS SOUTH 04°09'31" EAST 100.00 FEET, HAVING A CENTRAL ANGLE OF 112°53'03"; (3) SOUTH 19°48'19" WEST 210.40 FEET; (4) NORTH 89°05'23" WEST 296.81 FEET; AND (5) NORTH 00°59'03" EAST 178.67 FEET TO AN ANGLE POINT IN THE BOUNDARY OF DUSTIN & LUISA NICHOLS PROPERTY, TAX ID NO. 03-182-0002: THENCE NORTH 45°26'48" EAST 163.74 FEET ALONG SAID NICHOLS PROPERTY TO AN ANGLE POINT IN THE BOUNDARY OF NICOLE & ZACHARY SCHRUBB PROPERTY, TAX ID NO. 03-198-0029; THENCE NORTH 83°06'39" EAST 139.85 FEET TO THE SOUTHEAST CORNER OF SAID SCHRUBB PROPERTY, BEING A POINT ON THE NORTH LINE OF SAID LOT 35; THENCE SOUTH 89°02'18" EAST 109.99 FEET ALONG THE NORTH LINE OF SAID LOT 35 TO THE POINT OF BEGINNING. CONTAINING 2.19 ACRES.

OWNER'S DEDICATION

KNOW ALL MEN BY THESE PRESENT THAT WE, THE UNDERSIGNED OWNERS OF THE TRACT OF LAND, HAVING CAUSED THE SAME TO BE AMENDED AND SUBDIVIDED INTO LOTS TO BE HEREAFTER KNOWN AS APPLE CREEK SUBDIVISION, PHASE 1 - FIRST AMENDMENT, AS DEPICTED HEREON AND HEREBY DEDICATE, GRANT AND CONVEY TO NIBLEY CITY, CACHE COUNTY, UTAH, ALL THOSE PARTS OR PORTIONS OF SAID TRACT OF LAND DESIGNATED AS EASEMENTS FOR PUBLIC UTILITY AND DRAINAGE PURPOSES AS SHOWN HEREON. THE SAME TO BE USED FOR THE INSTALLATION, MAINTENANCE AND OPERATION OF PUBLIC UTILITY SERVICE LINES AND DRAINAGE AS MAY BE AUTHORIZED BY NIBLEY CITY. WE ALSO DEDICATE, GRANT AND CONVEY THE ACCESS AND UTILITY EASEMENT TO THE OWNERS OF LOT 37 FOR INGRESS, EGRESS AND UTILITY PURPOSES AS SHOWN HEREON. THE SAME TO BE USED FOR INGRESS, EGRESS AND THE INSTALLATION, MAINTENANCE AND OPERATION OF UTILITY LINES. WE ALSO HEREBY DEDICATE. GRANT AND CONVEY TO NIBLEY CITY A 10' PEDESTRIAN / TRAIL RIGHT-OF-WAY AS SHOWN HEREON. THE SAME TO BE USED FOR PEDESTRIAN ACCESS.

| WITNESS | WE | HAVE | HEREUNTO | SET | OUR | SIGNATURE | THIS | DAY OF | |
|-------------|----|------|-----------------|-----|-----|-----------|------|--------|--|
| <i>23</i> . | | | | | | | | | |

LESLI DUSTIN, TRUSTEE OF

THE LESLI DUSTIN REVOCABLE TRUST, DATED SEPTEMBER 29, 2021

TRUST ACKNOWLEDGMENT

STATE OF UTAH COUNTY OF CACHE

ON THIS 2023, LESLI DUSTIN, TRUSTEE FOR THE LESLI DUSTIN REVOCABLE TRUST, DATED SEPTEMBER 29, 2021, PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID COUNTY OF CACHE, IN THE STATE OF UTAH, THE SIGNERS OF THE ATTACHED OWNERS DEDICATION, ONE IN NUMBER, WHO DULY ACKNOWLEDGED TO ME SHE SIGNED IT FREELY AND VOLUNTARILY AND FOR THE PURPOSE THEREIN MENTIONED ON BEHALF OF SAID TRUST.

NOTARY PUBLIC

NARRATIVE

THE PURPOSE OF THIS SURVEY WAS TO AMEND, ESTABLISH AND SET THE PROPERTY CORNERS OF THE AMENDED SUBDIVISION AS SHOWN AND DESCRIBED HEREON. THIS SURVEY WAS ORDERED BY SHAUN DUSTIN. THE CONTROL USED TO ESTABLISH THE PROPERTY CORNERS WAS THE OFFICIAL PLAT FOR APPLE CREEK SUBDIVISION PHASE 1. RECORDED AS ENTRY NO. 1181754 ALONG WITH THE EXISTING SURVEY MONUMENTATION FOUND WITHIN SAID APPLE CREEK SUBDIVISION PHASE 1 SITUATED IN THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 11 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN.

THE BASIS OF BEARING IS THE EAST / WEST CENTER SECTION LINE OF SECTION 20, TOWNSHIP 11 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, WHICH BEARS SOUTH 89°56'18" WEST. AN ASSUMED BEARING AS SHOWN ON THE OFFICIAL PLAT OF SAID APPLE CREEK SUBDIVISION, PHASE 1.

| COUNTY RECORDER'S NO |
|---|
| STATE OF UTAH, COUNTY OF CACHE, RECORDED AN |
| FILED AT THE REQUEST OF |
| DATE FEE |
| ABSTRACTED |
| |
| INDEX |

COUNTY RECORDER

23-3-158 23-3-158v19.dwg 06/18/2025 RS

MOUNT

DEVELOPER:

LESLI DUSTIN

169 WEST 3300 SOUTH

NIBLEY, UTAH 84321

(435) 770-0147

MOUNT VISTA

COMMUNITY HOA

03-202-9001

LOT 2

INTERIOR LOT LINES / ADJOINING SUBDIVISION ADJOINING PROPERTY LINE CENTERLINE PUBLIC UTILITY EASEMENT (PUE) EXISTING FLOWLINE FENCE LINE ___x____

SECTION CORNER

SUBJECT PROPERTY LINE

SCALE: 1" = 30"

Scale in Feet

(Data in Parentheses is Record)

LEGEND

S 89°56'18" W

SETBACKS EXISTING SEWER EXISTING WATERLINE EXISTING 5.0' CONTOUR EXISTING 1.0' CONTOUR

PEDESTRIAN / TRAIL R/W WETLANDS - N.W.I. PEM1B ACCESS & UTILITY EASEMENT

FOUND SURVEY MARKER SET BY OTHERS

COMCAST CORP.

CHAIRMAN SET 5/8"X24" REBAR WITH CAP

COUNCIL APPROVAL APPROVED & ACCEPTED BY THE NIBLEY CITY COUNCIL, THIS _____ DAY OF _____ A.D., 20___.

ENGINEER'S APPROVAL

I CERTIFY THAT I HAVE EXAMINED THIS PLAT AND FIND

IT TO BE CORRECT AND IN ACCORDANCE WITH THE

INFORMATION IN THIS OFFICE AND THE CITY ORDINANCE.

COREY JOHNSON REVOCABLE TRUST

03-045-0027

CITY ENGINEER

UNDERGROUND WITHIN THE RIGHT-OF-WAY AS SHOWN ON THE PLANS AND ARE

WILLING TO PROVIDE THE NEEDED SERVICE FOR THE DEVELOPMENT.

CENTURY LINK _____ DATE ____

CITY CLERK

DATE

CITY ATTORNEY DATE

THIS PROPERTY IS LOCATED IN THE VICINITY OF

AGRICULTURAL NOTE

PROPERTY THAT IS USED FOR AGRICULTURAL PURPOSES. IT MAY BE ANTICIPATED THAT SUCH

FILED IN: _____ FILE OF PLATS



Draft Development Agreement Proposal

Lot 35, 36, 37 Apple Creek Subdivision (3359 S 490 W, Nibley, UT 84321) Nibley, UT Tax ID 03-198-0035

Contents

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Draft Development Agreement Proposal, Lot 35, 36, 37 Apple Creek Subdivision, Nibley, UT, Tax ID 03-198-0035

SUMMARY

The Apple Creek subdivision was approved and developed in 2017 and 2018 as a Conservation Subdivision in Nibley, UT under Nibley Ordinance 08-01, Conservation Residential Subdivision (Appendix A). The intent of the ordinance, per the preamble, is to:

- 1) Encourage the preservation of open space and the rural character of Cache Valley
- 2) Create a unique and powerful community identity and sense of place;
- 3) Provide flexible subdivision and design standards to encourage the creation of open space;
- 4) Create incentives to developers to create open spaces that are enjoyable places to live with appropriate safeguards to protect the value of the residences;
- 5) Open space may be publicly or privately owned (with appropriate measures)

The original subdivision allocated 20% of the developable area dedicated as privately owned conservation space, allowing a total density of 39 lots on the ~20 acre parcel under the ordinance (Appendix B, Subdivision Calculations and Recorded Plats). The original subdivision consisted of 35 lots. The conservation space was incorporated into the buildable lots.

Lot 35 (3359 S 490 W, Nibley, UT 84321) was left as a conservation lot with two sections of developable land. The current layout is not optimal for either conservation or building uses. The intent of this proposal is to separate the buildable land from the conservation space as two building lots, and clarify the future use and development of the conservation space.

The inclusion of conservation space in building lots has been problematic in that it is difficult for the City to monitor and regulate uses when the conservation space is inside a building lot. By separating the two uses, this will provide clarity for the owners and the City. This also provides an opportunity to improve and increase the public access and conservation benefit of the conservation space. The building space size will be reduced and the conservation land dedication will increase.

In addition to clarifying protections and uses for the conservation space, increasing the size of the dedicated open space, and finalizing developer driven development in the subdivision, the proposal provides for public access to the trail easement on the south boundary, providing a "last mile" link to tie four subdivisions to the Mount Vista open space and reduce pedestrian trip distances in that part of the city by up to ¾ of a mile, increases the usability of the conservation land, and specifically protects some of the unique features of the property. See Appendix C for the proposed revised plat.

The reason this development agreement is necessary is that the previous and current ordinances require that these improvements, while they comply with the intent and substance of City and State code, be approved legislatively as explained below.

The specific proposal is intended to:

1) Preserve additional open space by increasing the size of the conservation space dedication by

approximately ½ acre

- 2) Improve public access by
 - a. Connecting open space directly to the public ROW on Apple Tree Fort (490 W)
 - b. Dedicating a buildable width easement to provide a formally protected public access to replace the informal trail that currently connects Ashbury Estates, Apple Creek, Anderson Estates, and Mount Vista subdivisions through private farm ground, preserving the pedestrian access and trail system in perpetuity, and preserving the sense of community and access that currently exists between the neighborhoods. With this trail, the distance from Anderson Estates to Mount Vista is approximately 200 yards. Without it, the distance is approximately ¾ of a mile.
 - c. Separating the conservation land from the buildable lot space by placing all the conservation land inside a conservation lot, and confining the buildable space to the two reduced size buildable lots.
- 3) Clarify ownership and use by adjusting the boundaries of the conservation land (2.c above) and subdividing Lot 35 to separate the two buildable parcels from the realigned conservation space.
- 4) Account for a site plan specific to Lot 37

LEGAL BASIS FOR LAND USE MODIFICATION

The authorization for land use modification is based on UT Code 10-9a-532 (Appendix D). UT Code 10-9a-532 provides a pathway for land use proposals that would be of benefit to and consistent with the culture, vision and intent of communities, and that current ordinance structure may not have anticipated. This is done by putting together a mutually agreeable development agreement (this document) and running that agreement through the same process that would be followed under State code for an ordinance change. Elected and appointed officials can then approve the use on a limited basis constrained by the approved development agreement. This Development Agreement will be the mechanism by which the subdivision amendment is evaluated, processed, and approved under the terms of the original ordinance as outlined herein.

The proposal utilizes code that was current at the time of approval of the original subdivision (Nibley Ordinance 08-01 (Appendix A) to amend the Plat. This approach ensures that the entire Apple Creek subdivision and its open space can be managed consistently.

COMPLIANCE WITH INTENT AND REQUIREMENTS OF CITY GENERAL PLAN AND CODE

The proposal is compliant with current City code for land use of conservation space (Ordinance 20-14, Rural Preservation Subdivision (amended) (Appendix E), the original requirements of the subdivision ordinance (08-01) that governed Apple Creek's creation, and the Nibley City General Plan. Compliance of the proposed plat to these requirements is detailed in Appendix F, Conservation Land Compliance Report, and summarized below:

- 1) The Apple Creek subdivision allows the creation of up to 39 buildable lots given the percentage open space provided, the underlying zoning, and the minimum lot size requirements (Appendix E). This development agreement finalizes the number of buildable lots at 36. With the completion of the proposed subdivision amendment, there will be no unencumbered developable spaces remaining in the subdivision (Appendix B). The total number of building lots in Apple Creek will be capped at 36.
- 2) The Development Agreement proposes that the amended plat be evaluated in the context of Ordinance 08-01, the ordinance governing the land use at the time of subdivision.

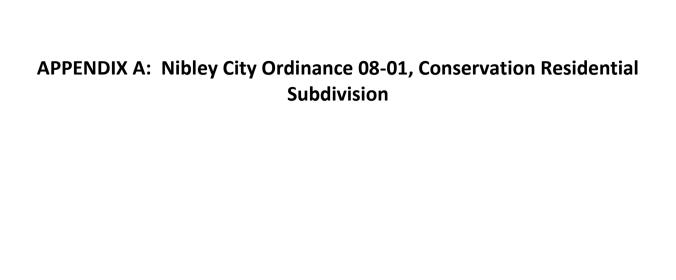
There are four proposed revisions that require waivers or clarifications. The proposed waivers are permitted at the discretion of the Council under Section 10-20-7 of the Code (per 08-01):

- 1. Revision of the open space boundaries
- 2. Clarification of the frontage and setback requirements for Lot 37
- 3. Waive Section 10-20-11, Design Standards to be consistent with balance of Apple Creek subdivision (front loading garage behind front plane of house).
- 4. Approval of the alternate fire protection plan as endorsed by Jason Wynn, Cache County Fire Marshal (Appendix H).

Section 10-20-7 of Ordinance 08-01 states that "...any provision of this Chapter may be waived by the City Council upon a vote of not less than three (3) members of the City Council.... No waiver shall be granted that would be contrary to the public interest or contrary to the underlying intent of this Chapter..." (see Appendix A for full text). The specific waivers or clarifications that would be required in order to permit this development agreement would be as follows:

- a. Permit the changes in the conservation land boundaries and creation of the separated building lots. The existing ordinance is ambiguous on this point and treating it as a waiver clarifies the interpretation of the rule.
- b. For Lot 37, measure the minimum frontage requirement from the public ROW as shown in the Plat (Appendix C). Permit placement of detached garage as shown in site plan, Appendix G
- c. Ordinance 08-01 requires that garage doors be behind the front plane of the house. This provision was either waived or superseded by changes in Nibley's design standards as Apple Creek was developed. Garages for 30 of 32 front loading garage homes comprise the front plane of the structure. This agreement continues this standard.
- d. For purposes of fire protection compliance, and access, the access point will be treated as a Private Drive, paved to a minimum width of 12 ft with and overall width of 20 ft of all weather surface per County fire code. Fire protection will be addressed by compliance with the requirements of City Code as administered by the Cache County Fire Marshal. The Fire Marshal will accept an automatic sprinkler system designed and installed per International Residential Code Section R313.2 (Appendix H). A compliant sprinkler system will be installed as a condition of occupancy for any residential structures on Lot 37.
- 3) Sensitive Areas Designation Plan Map (08-01, Section 10-20-08): See Appendix I
- 4) Compliance Matrix: See Appendix E for a complete narrative describing requirements of current and past Nibley conservation land use requirements and compliance matrix for the proposed conservation land use. Current ordinance requires that conservation land meet a minimum of three specified criteria. With the proposed modifications, the Lot 35 conservation space meets 9 of 10 criteria (see Compliance Table, Appendix E).
- 5) Terms and Conditions are as given in Appendix H, Lot 35 Conservation Easement. Section 10-20-16 of 08-01 requires that the Conservation Easement include the following terms and conditions:
 - a. Legal description of the easement
 - b. Description of the current use and condition of the property
 - c. Permanent duration of the easement
 - d. Permitted and conditional uses
 - e. Maintenance responsibilities and duties
 - f. Enforcement rights and procedures
- 6) Maintenance and Development Master Plan. Section 10-20-17 of 08-01 requires a Maintenance Plan for the conservation land. See Appendix H. Approval of this Development Agreement constitutes the approval of the Maintenance Plan. The plan is required to address the following:

- a. Define ownership
- b. Establish regular and periodic operation and maintenance responsibilities for the space
- c. Estimate staffing, insurance, and other costs and define the means of funding the development, operations, and maintenance costs



ORDINANCE 08-01

AN ORDINANCE ESTABLISHING CONSERVATION RESIDENTIAL SUBDIVISION AS AN ALTERNATIVE FORM OF DEVELOPMENT IN NIBLEY

WHEREAS, the Nibley City General Plan adopted in December, 2007, states the vision of Nibley City as "a well-planned community that encourages the preservation of open space and the rural heritage of Cache Valley." One of the objectives of the Plan is to "apply all appropriate rural community design techniques to create a unique and powerful community identity and sense of place," and

WHEREAS, the Plan also provides for the adoption of flexible subdivision and design standards to encourage the creation of open space, and

WHEREAS, open space may be publicly owned or, with appropriate measures, privately owned, and

WHEREAS, it is the intent of Nibley City to offer incentives to developers to create neighborhoods with open space that will be enjoyable places to live with appropriate safeguards to protect the value of the residences, and

WHEREAS, the following ordinance has been written to achieve some of the goals of the Nibley City General Plan.

NOW, THEREFORE BE IT ORDAINED BY THE NIBLEY CITY COUNCIL, NIBLEY, UTAH, THAT:

- 1. The attached Conservation Residential Subdivision ordinance is hereby adopted as an integral part of this ordinance.
- 2. This ordinance shall become effective upon signature of the Mayor and posting of the ordinance.

3. REPEALER

All ordinances, resolutions, and policies of the city, or parts thereof inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency. This repealer shall not be construed as reviving any law, order, resolution or ordinance or part thereof.

Ordinance 08-01 Conservation Residential Subdivision

4. SEVERABILITY

Should any provision, clause, or paragraph of this ordinance or the application thereof to any person or circumstance be declared by a court of competent jurisdiction to be invalid, in whole or in part, such invalidity shall not affect the other provisions or applications of this ordinance or the Nibley City Municipal code to which these amendments apply. The valid part of any provision, clause, or paragraph of this ordinance shall be given independence from the invalid provisions or applications and to this end the parts, sections and subsections of this ordinance, together with the regulations contained therein, are hereby declared to be severable.

PASSED BY THE NIBLEY CITY COUNCIL, NIBLEY, UTAH THIS 17^{TH} DAY OF JANUARY, 2008.

NIBLEY CITY

Gerald K. Knight, Mayor

CERTIFICATE OF POSTING OF ORDINANCE

I, the duly appointed and acting City Recorder for the City of Nibley, hereby certify that copies of the foregoing ordinance number 28-01 were posted in three public places within the municipality this 23day or January. 2008. To wit:

1. Bob's Service

2. The Old City Hall

3. City Hall

Dated this 2.3 day of Tao 2008

For Recorder

Ordinance 08-01 Conservation Residential Subdivision

SE. SE.

| 1 | CONSERVATION RESIDENTIAL SUBDIVISION ORDINANCE | |
|----|--|--|
| 2 | | |
| 3 | 10-20-1 | Purpose |
| 4 | 10-20-2 | Applicability |
| 5 | 10-20-3 | Definitions |
| 6 | 10-20-4 | Development Options |
| 7 | 10-20-5 | Approval Process |
| 8 | 10-20-6 | Development Activities Prohibited |
| 9 | 10-20-7 | Waiver |
| 0 | 10-20-8 | Sensitive Area Designation Plan |
| 11 | 10-20-9 | Master Development Plan |
| 2 | 10-20-10 | Dimensional Standards |
| 13 | 10-20-11 | Design Standards |
| 14 | 10-20-12 | Conservancy Lots |
| 15 | 10-20-13 | Use Regulations |
| 16 | 10-20-14 | Conservation Land Design Standards |
| 17 | 10-20-15 | Permanent Protection of Conservation Lands |
| 18 | 10-20-16 | Ownership of Conservation Lands |
| 19 | 10-20-17 | Maintenance of Conservation Lands |
| 20 | | |
| 21 | 10-20-1 | Purpose: The purpose of this Chapter is to provide for subdivision development |
| 22 | | within Nibley City in a manner that: |
| 23 | | |

A. Protects areas of the City with productive agricultural soils for continued agricultural use by conserving blocks of land large enough to allow for farm operations;

 B. Provides standards accommodating to some extent the varying circumstances and interests of individual landowners and the individual characteristics of their properties; and

C. Protects constrained and sensitive lands, including those areas containing sensitive and undevelopable features such as steep slopes, floodplains and wetlands, by setting them aside from development;

D. Conserves conservation and open space land, including those areas containing unique or natural features such as meadows, grasslands, tree stands, streams, stream corridors, berms, watercourses, farmland, wildlife corridors and/or habitat, historical buildings and/or sites, archeological sites, and green space, by setting them aside from development;

E. Provides greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce length of roads, utility runs, and the amount of paving required for residential development;

 F. Reduces erosion and sedimentation by the retention of existing vegetation and the minimization of development on steep slopes and other constrained and sensitive lands;

- G. 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;
- H. Provides incentives for the creation of greenway systems and open space within the City for
 the benefit of present and future residents;
- Implements adopted City policies to conserve a variety of irreplaceable and environmentally sensitive resource and agricultural lands as set forth in the Comprehensive General Plan;
- J. Implements adopted land use, environment, natural hazards, transportation, and community
 policies, as identified in the Comprehensive General Plan;
- K. Creates neighborhoods with direct visual and/or recreational access to constrained, sensitive
 and conservation land;
- L. Provides for the conservation and maintenance of constrained, sensitive and conservation
 land within the City to achieve the goals of the Nibley City General Plan;
- M. Provides incentives and design alternatives for landowners to minimize impacts on environmental resources such as, sensitive lands, wetlands, floodplain, and steep slopes, and to minimize disturbance of natural or cultural features such as, mature woodlands, tree lines, wildlife habitats and corridors, and historic buildings;
 - N. Conserves scenic views and elements of the City's rural and scenic character and minimizes perceived density by minimizing views of new development from existing roads.

10-20-2 Applicability

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- A. The election to develop property as a Conservation Residential Subdivision is voluntary and provided to developers as an alternative to development of property as a Conventional Subdivision pursuant to other applicable provisions of this Title. The intent of this Chapter and the Conservation Residential Subdivision options is to encourage the creation and development of flexibly-designed open space subdivisions. Conservation Residential Subdivisions may be developed within applicable residential zones of the City. Conservation Residential Subdivisions shall be developed in accordance with and subject to the development standards, conditions, procedures and regulations of this Chapter and with all other applicable subdivision ordinances and zoning regulations of the City which are not otherwise in conflict with the provisions of this Chapter.
- 40 B. In cases of conflict with other Nibley City ordinances, this shall be the prevailing ordinance.
 41
- 42 10-20-3 **Definitions.** For purposes of this Chapter, the following words shall have the meanings set forth herein:
- A. Conservation Land. Conservation land means land containing unique, historic, cultural,
 archeological, natural or other significant features, including, but not limited to, meadows,

grasslands, tree stands, streams, stream corridors, flood walls, berms, watercourses, farmland, wildlife corridors and/or habitat, historic buildings and/or sites, archeological sites, and open space.

ı

B. Constrained and Sensitive Land. Constrained and sensitive land means land which is generally unbuildable and which contains constrained and sensitive features including, but not limited to, wetlands, floodplains, steep slopes, faults and other geologically or environmentally sensitive features.

10-20-4 Development Options

A. All areas in Nibley City zoned R-1 or R-2, both current and those areas that may be annexed in the future, have the option of a conservation residential subdivision. The intent of the conservation residential subdivision is to encourage the preservation of usable open space, thus helping to maintain the rural character of Nibley City. The City will provide density bonuses to developers who elect to have this type of subdivision, thus increasing the number of lots for development.

B. Applicants in newly annexed R-1 zones may choose to apply for a subdivision approval using the Conservation Residential Subdivision. By so doing, the density from which all calculations shall be made shall be equal to .5 acre lots or the same density as R-2 zone.

C. Applicants in existing R-1 zones may also choose to apply for a subdivision approval using the Conservation Residential Subdivision. By so doing, the density from which all calculations shall be made shall be equal to .75 acre lots or the same density as the R-1A zone.

D. Developers desiring to develop property as a Conservation Residential Subdivision are subject to the development standards, conditions, procedures and regulations of this Chapter.

10-20-5 Approval Process

 A. Applications for a Conservation Residential 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 Chapter, including, but not limited to, submission of a Sensitive Area Designation Plan and/or Master Development Plan.

10-20-6 Development Activities Prohibited

A. In order to ensure the preservation and enhancement of existing conditions of certain property within the City, including, but not limited to, constrained and sensitive lands, natural and cultural resources, wildlife habitat and other unique and sensitive lands, no new development activity shall be permitted on property proposed for development as a Conservation Residential Subdivision prior to final plat approval as provided herein. Upon final plat approval, all development activity shall be conducted in accordance with and subject to applicable permit and development approval processes required by City Ordinances, rules and regulations. For purposes of this Section, "development activity" shall include any disturbance or alteration of the property in any way, but shall not include continuation of any currently existing permitted use of the property.

10-20-7 Waiver

A. Subject to the provisions set forth herein, any provision of this Chapter may be waived by the City Council upon a vote of not less than three (3) members of the City Council. Such waiver(s) shall be granted only in limited circumstances as deemed appropriate and necessary by the City Council. No waiver shall be granted absent a finding of good cause based upon specific special circumstances attached to the property, nor shall any waiver be granted for reasons of financial hardship. No waiver shall be granted that would be contrary to the public interest or contrary to the underlying intent of this Chapter. Any waiver of the required minimum conservation land dedication shall require comparable compensation, off-site improvements, amenities or other consideration of comparable size, quality and/or value.

10-20-8 Sensitive Area Designation Plan Map

A. All applications for a Conservation Residential Subdivision shall include a Sensitive Area Designation Plan Map prepared in accordance with the provisions set forth herein. The Sensitive Area Designation Plan Map shall identify all constrained and sensitive lands within the property boundaries and within four hundred (400) feet outside of the property boundaries, including, but not limited to, floodplains, wetlands, and steep slopes. The Sensitive Area Designation Plan Map shall also clearly identify all natural or cultural resources present on the property and within four hundred (400) feet outside of the property, including, but not limited to, geographic features, including, but not limited to, meadows, grasslands, tree stands, streams, stream corridors, flood walls, berms, watercourses, farmland, wildlife corridors and/or habitat; historic buildings and/or sites; archeological sites; cultural features and green space. Applicants are solely responsible for checking and ensuring the accuracy and designation of constrained and sensitive lands and natural and cultural resources on the Sensitive Area Designation Plan Map for their particular project and applicable adjacent property. If site analysis, surveying and/or identification of constrained and sensitive lands and natural and cultural resources require entry onto adjacent properties, applicants are solely responsible for obtaining all required permits and/or approvals for such entry and analysis, surveying and/or identification.

10-20-9 Master Development Plan

A. When deemed necessary or desirable by the City, application and approval for a Conservation Residential Subdivision may require the submission and approval by the City Council of a Master Development Plan and/or Development Agreement. Such Master Development Plan and/or Development Agreement may be required by the City at any stage of the subdivision approval process.

A. Density. The permitted density for development within a Conservation Residential Subdivision shall be determined in accordance with the following chart, hereinafter referred to as the "Development Incentive Chart".

| | Development Incentive Chart- R-1 | | | | | | | | | |
|--|----------------------------------|------------------------|---------------------|----------------------|--|--|--|--|--|--|
| Conservation Incentive Land Multiplier | | Minimum Average Lot | Lot Size Minimum | Required Frontage | | | | | | |
| | | Size | | | | | | | | |
| 25% | 18.75% | 13,677 | 12,000 | 100' | | | | | | |
| 30% | 25% | 12,196 | 10,500 | 95' | | | | | | |
| 35% | 31.25% | 10,759 | 8,500 | 85' | | | | | | |
| 40% | 37.5% | 9,496 | 8,000 | 80' | | | | | | |

| Development Incentive Chart- R-2 | | | | | | | | | |
|----------------------------------|-------------------------|--------------------------------|---------------------|----------------------|--|--|--|--|--|
| Conservation Land | Incentive Multiplier | Minimum Average Lot Size | Lot Size Minimum | Required Frontage | | | | | |
| 15% | 12.5% | 16,456 | 14,000 | 100° | | | | | |
| 20% | 18.75% | 14,673 | 12,000 | 100' | | | | | |
| 25% | 25% | 13,068 | 10,500 | 95' | | | | | |
| 30% | 31.25% | 11,616 | 9,000 | 90' | | | | | |
| 35% | 37.5% | 10,296 | 7,800 | 80' | | | | | |

| | Development Incentive Chart- R-1A | | | | | | | | | |
|--------------|-----------------------------------|-------------|----------|----------|--|--|--|--|--|--|
| Conservation | Incentive | Minimum | Lot Size | Required | | | | | | |
| Land | Multiplier | Average Lot | Minimum | Frontage | | | | | | |
| | | Size | | | | | | | | |
| 15% | 8.33% | 24,209 | 23,000 | 100' | | | | | | |
| 20% | 16.67% | 21,157 | 20,000 | 100' | | | | | | |
| 25% | 25% | 18,513 | 17,000 | 100' | | | | | | |
| 30% | 33.33% | 16,199 | 15,000 | 100' | | | | | | |
| 35% | 41.67% | 14,157 | 13,000 | 95' | | | | | | |
| 40% | 50% | 12,342 | 11,000 | 90' | | | | | | |

The average lot size of the subdivision in areas developed as R-1A may vary slightly from the figures listed, depending on the gross acreage of the project, but the variation will be less than 3% either way. This chart is based on a project with gross acreage of 10 acres, which would provide 12 lots. (Original number of $\frac{3}{4}$ acre lots = gross acreage of the proposed subdivision x 1.2)

B. Procedure For Calculating Density Bonuses. The density bonus for a conservation subdivision shall be arrived at by multiplying the incentive multiplier for the percentage of

Example of Density Bonuses- 10 acre parcel of property zoned R-1

| Conservation Land | Acres of Open Space | Net Acres of Land | Incentive Multiplier | Number of Lots | Minimum Average Lot Size |
|----------------------|------------------------|----------------------|-------------------------|-------------------|--------------------------------|
| 25% | 2 | 6 | 18.75% | 19 | 13,677 |
| 30% | 2.4 | 5.6 | 25% | 20 | 12,196 |
| 35% | 2.8 | 5.2 | 31.25% | 21 | 10,759 |
| 40% | 3.2 | 4.8 | 37.5% | 22 | 9,496 |

- C. Minimum Required Conservation Land. All Conservation Residential Subdivisions shall provide a minimum amount of conservation land within the Conservation Residential Subdivision as set forth in the Development Incentive Chart in Subsection A. The minimum percentage of required conservation land for any given Conservation Residential Subdivision shall be calculated based upon the total acreage of property within the proposed subdivision. Except as otherwise provided herein, conservation land shall not be included within any residential lot.

- D. Attached Housing Incentive. In an approved Conservation Residential Subdivision ten (10) acres or larger in size that provides for 30% or more Conservation Land, the City may approve one attached housing structure of up to four units for an additional 5% Conservation Land set aside in the project, with no more than one (1) structure per ten (10) gross project acres. The attached housing structures must be located on lots a minimum of 16,000 square feet in size. Each attached housing unit approved will count as only a single residential unit for density calculation purposes in the project. For example, a twenty-acre Conservation Residential Subdivision in the R-1 zone with 30% proposed Conservation Land would receive a 25% Incentive Multiplier, resulting in a 40 lot approved unit count for the project. For an additional 5% Conservation Land commitment, the applicant could receive approval for development of two lots for attached housing, resulting in approval of 46 residential units in the project, 38 single-family lots and two four-unit attached housing lots.

- E. Lot Area. The lot area and minimum lot size for lots within a Conservation Residential Subdivision shall be determined in accordance with the Development Incentive Chart set forth in Subsection A. The typical lot area is likely to be much closer in size to the established threshold for each zone because that lot size can be delivered by developers while still meeting the minimum conservation land requirements set forth herein.

F. Lot Width at Front Setback. The minimum lot width at the front setback (Required Frontage) for main buildings within a Conservation Residential Subdivision shall be in accordance with the Development Incentive Chart.

- 46 1. Main buildings:

- G. Yard Regulations. The builder or developer of a Conservation Residential Subdivision may consider variations in the principal building position and orientation, but shall observe the following minimum standards for buildings within a Conservation Residential Subdivision. Exceptions to these minimum setback regulations may be approved by the City Council, in its sole discretion, during plat approval process when deemed appropriate and desirable under the circumstances.
 - Front Setback. The minimum front yard setback for main buildings in a Conservation Residential Subdivisions shall be thirty (30) feet.
 - Rear Setback. The minimum rear yard setback for main buildings within a Conservation Residential Subdivisions shall be twenty-five (25) feet.
 - Side Setback. The minimum side yard setback for main buildings within a Conservation Residential Subdivision shall be ten (10) feet.
 - 4. Side Corner Setback. The minimum side setback on a corner lot for main buildings within a Conservation Residential Subdivision shall be fifteen (15') feet from the property line in compliance with clear vision standards set forth in Section 10-12-11 of this Title.
 - 5. Accessory buildings shall be located at least six (6') feet to the rear of the dwelling, shall not occupy more than twenty-five percent (25%) of the rear yard, and shall be located at least fifteen (15') feet from any dwelling on an adjacent lot. Such buildings may be located within three (3') foot of the side or rear property line. Accessory buildings on lots with the rear property line adjacent to the conservation land shall be a minimum of ten (10') feet from the rear property line. Accessory buildings shall be subordinate in height to the main building and shall have an area maximum equal to seventy-five (75%) percent of the footprint area of the house.
 - 6. Animal shelters, hay barns, coops, corrals or other similar buildings or structures shall be located not less than ten (10) feet from any side or rear property line and one hundred (100) feet from any public street or from any dwelling on an adjacent property.
 - 7. A detached garage, or other architecturally compatible structure as approved by the Planning Commission, may be located in the side yard of a lot providing that a six (6') foot separation is maintained from the residence and all front, side, and rear setbacks are met.
 - 8. On double-frontage lots, accessory buildings shall be located not less than thirty (30') feet from each street upon which the lot has frontage.

H. Building Height.

- a. Main buildings shall not exceed forty (40') feet in height;
 - b. No dwelling or structure shall contain less than one story.

Accessory buildings or structures shall not exceed twenty (20') feet in height unless an
increased height is approved by the Planning Commission after review of a conditional
use application filed by the property owner.

3. Accessory buildings on lots greater than ½ acre in size shall meet the setback and height requirements of the underlying zone in which they are located.

10-20-11 Design Standards

A. Individual Lots. Individual lots in Conservation Residential Subdivisions shall be laid out pursuant to the dimensional standards set forth herein. With the exception of conservancy lots, individual residential lots shall not encroach upon or contain any of the required minimum designated conservation land for the Subdivision or any constrained or sensitive lands, as defined herein.

B. Front-loading Garages. Garage door entrances shall be level to or behind the front plane of
 the dwelling.

C. Conservation Land Coordination. In order to create larger areas of conservation land and to combine open space from a variety of developments, conservation land shall be coordinated either with existing adjacent conservation land or with planned future conservation land. If no adjacent parcels of land are planned for development, conservation land shall be planned to provide the greatest likelihood of adjoining future developments' conservation land.

D. Conservation Lands. Standards pertaining to the quantity, quality, configuration, use, permanent protection, ownership, and maintenance of the conservation land within a Conservation Residential Subdivision shall be complied with as provided herein.

E. Constrained and Sensitive Lands. Restrictions and regulations regarding the preservation, protection, ownership and maintenance of constrained and sensitive lands within a Conservation Residential Subdivision shall be complied with as provided herein.

10-20-12 Conservancy Lots

A. Conservancy Lots. Conservation land and constrained and sensitive land may be included within individual residential lots in limited circumstances when such areas can be properly protected and preserved in accordance with the intent and purpose of this Chapter. Such lots shall be known and referred to as "Conservancy Lots" and must be approved by the City Council in conjunction with the subdivision approval.

B. Regulations. Conservation 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.

| 1 | | | | |
|----------------------------|-----|------|-------|--|
| 2 3 4 5 | C. | res | trict | ship. Ownership may be held in perpetuity by an individual or corporation with a ion on the recorded plat preventing further development by providing a conservation ent to Nibley City. |
| 6 | 10- | 20- | 13 | Use Regulations |
| 7 8 9 10 | A. | as : | set f | rision. Subject to use and development restrictions of constrained and sensitive lands forth herein, land within Conservation Residential Subdivisions may be used for the ing purposes: |
| l 1 l 2 l 3 | | 1. | Per | mitted Uses. Any uses permitted in the relevant zone. |
| 14 15 16 | | 2. | | nservation Land. Conservation land, subject to the use and development restrictions of servation land as set forth herein. |
| 17 18 19 | | 3. | | cessory Uses. Any permitted accessory uses as provided in the relevant zoning gulations. |
| 20 | В. | Co | nsei | rvation Land. Conservation land may be used for the following purposes: |
| 21 22 | | 1. | Per | rmitted Uses. The following uses are permitted in conservation land areas: |
| 23 24 25 | | | a. | Conservation of open land in its natural state; e.g., meadow, grassland, tree stands, farmland, etc. |
| 26 27 | | | b. | Agricultural and horticultural uses, including raising crops. |
| 28 29 30 | | | c. | Underground utility easements for drainage, access, sewer or water lines, or other public purposes. |
| 31 32 33 34 35 | | | d. | Above-ground utility and street rights-of-way may traverse conservation land if permitted under City Ordinances; provided, areas encumbered by such facilities and/or rights-of-way shall not be counted towards the minimum required conservation land for the Subdivision. |
| 36 37 38 39 | | | e. | Conservation land of less than one half (.5) acre may be used as landscaped buffers for road ways, landscaped entrances to subdivisions, neighborhood "pocket parks" or similar amenities as approved by the Planning Commission. |
| 40 41 42 43 | | 2. | | onditional Uses. The following uses shall be considered as conditional in conservation ad areas: |
| 44 45 46 | | | a. | Agricultural uses, not otherwise permitted, including livestock and associated buildings that support an active, agricultural or horticultural operation, but excluding livestock operations involving swine, poultry, and mink. |

| _ | | | |
|--------|----|-----|--|
| 1 2 | | b. | Pastureland for sheep, cows and horses. |
| 3 | | | |
| 4 | | C. | Equestrian facilities. |
| 5 | | | |
| 6 | | d. | Wholesale nurseries and associated buildings that are specifically needed to support |
| 7 | | | active, viable horticultural operations. |
| 8 | | | |
| 9 | | e. | Silviculture, in keeping with established standards for selective harvesting and |
| 10 | | | sustained-yield forestry. |
| 11 | | | |
| 12 | | f. | Neighborhood open space uses such as village greens, commons, picnic areas, |
| 13 | | | community gardens, trails, and similar low-impact passive recreational uses |
| 14 | | | specifically excluding motorized off-road vehicles, rifle ranges, and other uses similar |
| 15 | | | in character and potential impact. |
| 16 | | | |
| 17 | | g. | Active non-commercial recreation areas, such as trails, playing fields, playgrounds, |
| 18 | | | courts, and bikeways. |
| 19 | | | |
| 20 | | h. | Golf courses, not including miniature golf. |
| 21 | | | |
| 22 | | î. | Water supply and sewage disposal systems, and stormwater detention areas designed, |
| 23 | | | landscaped, and available for use as an integral part of the conservation land. |
| 24 | | | |
| 25 | | j. | Fencing, when deemed necessary and appropriate for the particular use, condition, |
| 26 | | | purpose and/or location of the conservation land. |
| 27 | | | |
| 28 | 3. | | chibited Uses. The following uses shall be considered prohibited in conservation land |
| 29 | | are | eas: |
| 30 | | | |
| 31 | | a. | Any residential, commercial or industrial activity; |
| 32 | | | |
| 33 | | b. | Any development, construction or location of any manmade modification or |
| 34 | | | improvements such as buildings, structures, roads, parking lots, or other |
| 35 | | | improvements, except as may be necessary to support a permitted or conditional use; |
| 36 | | | |
| 37 | | C. | Any filling, dredging, excavating, mining, drilling, or exploration for and extraction |
| 38 | | | of oil, gas, minerals or other resources from the property; |
| 39 | | | |
| 40 | | á. | Any dumping or storing of ashes, trash, garbage or junk vehicles or equipment; |
| 41 | | | |
| 42 | | e. | Burning of any materials, except as necessary for agricultural, drainage and fire |
| 43 | | | protection purposes; |
| 44 | | | |

- 1 conservation land (less than one hundred (100) feet wide) are prohibited, unless approved by
 2 the City Council during plat approval process upon a finding that such configuration of the
 3 conservation land is necessary and/or desirable to connect other significant areas, to protect
 4 linear resources such as streams or trails, or to provide a buffer.
 - C. Open Space Network Connection. Conservation land within a Conservation Residential Subdivision shall be designed and laid out as part of a larger continuous and integrated open space system to ensure that an interconnected network of open space will be provided throughout the City.
- D. Visibility. Conservation land shall be located and designed within the Conservation
 Residential Subdivision to add to the visual amenities of neighborhoods and to the
 surrounding area by maximizing the visibility of internal open space. Such enhanced
 visibility of conservation land may be accomplished through design and location of such
 open space as terminals at the ends of streets or along "single-loaded" street segments,
 particularly along the outside edges of street curves, and by maximizing the visibility of
 external open space as perimeter "greenbelt" conservation land.
 - E. Buffering. Conservation land shall be designed to provide buffers and to protect scenic views as seen from existing roadways and from public parks. Where the proposed development abuts a national forest or other public park, open space, wildlife sanctuary or preserve, a natural greenway buffer at least twenty-five (25') feet wide shall be provided within the development along its common boundary with said land, within which no new structures shall be constructed, nor shall any clearing of trees or understory growth be permitted (except as may be necessary for street or trail construction or fire safety). Where this buffer is unwooded, the City may require vegetative screening to be planted at developer's sole cost and expense and/or that the buffer be managed to encourage natural forest succession through policies and the periodic removal of invasive alien plant and tree species.
- F. Pedestrian Access. Developer shall provide adequate pedestrian access to conservation land
 which is open to public or resident use.
 - G. Maintenance Access. Developer shall provide sufficient maintenance access to all conservation land and constrained and sensitive lands within the Conservation Residential Subdivision.
 - H. Landscaping. All conservation land that is not wooded, farmed, or maintained as conservation meadows, grassland, or other approved open space, shall be landscaped at developer's sole cost and expense in accordance with landscaping requirements for subdivisions.

10-20-15 Permanent Protection of Conservation Lands.

A. Conservation Easement. All conservation 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

conservation land at any time, except for those permitted or conditional uses listed herein and approved in conjunction with the Conservation Residential Subdivision. All conservation easements, or other acceptable method of protection and preservation of the conservation land within a Conservation Residential Subdivision, shall be approved by the City Council and recorded prior to or concurrent with the recording of the final plat for the Conservation Residential Subdivision.

B. Terms and Conditions. All conservation easements, or other acceptable method of protection and preservation of the conservation land within a Conservation Residential 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:

- 1. legal description of the easement;
- 2. description of the current use and condition of the property;
- 3. permanent duration of easement;
- 4. permitted and conditional uses;
- prohibited development and/or uses;
- 6. maintenance responsibilities and duties; and
 - 7. enforcement rights and procedures.

C. 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 conservation lands within a Conservation Residential Subdivision, provided there is no cost of acquisition to the City for the easement and sufficient access to and maintenance responsibilities regarding the conservation land are provided.

10-20-16 Ownership of Conservation Lands.

 A. Undivided Ownership. Unless otherwise approved by the City and subject to the provisions set forth in this Chapter, the underlying fee ownership of the conservation 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.

B. Property subject to a conservation easement, or other acceptable method of protection and preservation, shall not be subdivided.

C. Owners' Association. Conservation land may be held in common ownership by a condominium homeowners' or other acceptable owners' association, subject to all of the provisions for owners' associations set forth in State regulations and the City's Subdivision regulations. In addition, the following regulations shall be met:

- A description of the organization of the proposed association, including its by-laws, and all documents governing ownership, maintenance, and use restrictions for conservation land, including restrictive covenants for the Subdivision, shall be submitted by the developer with the Final Plat application.
- The proposed association shall be established and operating (with financial subsidization, if necessary) prior to or concurrent with the recording of the Final Plat for the Subdivision.
- Membership in the association shall be mandatory for all purchasers of property within the Subdivision and their successors in title.
- 4. The association shall be responsible for maintenance and insurance of conservation land.
- 5. The by-laws 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.
- Written notice of any proposed transfer of conservation land by the association or the
 assumption of maintenance for the conservation land must be given to all members of the
 association and to the City no less than thirty (30) days prior to such event.
- The association shall have adequate staff to administer, maintain, and operate such conservation land.

10-20-17 Maintenance of Conservation Lands.

- A. Costs. Unless otherwise agreed to by the City, the cost and responsibility of maintaining conservation land shall be borne by the owner of the underlying fee of the conservation land.
- B. Plan. The developer shall submit a Master Plan outlining maintenance and operations of the conservation land and providing for and addressing the means for permanent maintenance of the conservation land within the proposed Conservation Residential Subdivision with the Preliminary Plat application for the Subdivision. The Maintenance Plan shall provide the following:
 - 1. The Plan shall define ownership.
- The Plan shall establish necessary regular and periodic operation and maintenance
 responsibilities for the various kinds of open space (e.g., lawns, playing fields, meadow,
 pasture, wetlands, stream corridors, hillsides, cropland, woodlands, etc.).
 - The Plan shall estimate staffing needs, insurance requirements, and associated costs, and define the means for funding the maintenance of the conservation land and operation of any common facilities on an on-going basis. Such funding plan shall include the means

for funding long-term capital improvements as well as regular yearly operating and maintenance costs.

- 1

 At the City's discretion, the applicant may be required to escrow sufficient funds for the maintenance and operation costs of common facilities for up to one year following acceptance by the City.

C. Approval. The Maintenance Plan must be approved by the City Council prior to or concurrent with Final Plat approval for the Subdivision. The Maintenance Plan shall be recorded against the property and shall include provisions for the City's corrective action rights as set forth herein. Any changes or amendments to the Maintenance Plan shall be approved by the City Council.

D. Failure to Maintain. In the event that the organization established to maintain the conservation land and the common facilities, or any successor organization thereto, fails to maintain all or any portion thereof in reasonable order and condition, the City may assume responsibility, as a right but not an obligation, for maintenance, in which case any escrow funds may be forfeited and any permits may be revoked or suspended.

 E. 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.

F. The developer 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.

Additionally, Section 10-1-7 shall be amended to read:

TERRITORY ANNEXED TO CITY: at the time of the annexation of new territory to the city, the city council shall classify such territory for zoning purposes as:

A. Less than five (5) acres, may be zoned the same as the surrounding land already in the city.

B. Greater than or equal to five (5) acres shall be zoned either Residential (R-1) or Commercial or Industrial.

APPENDIX B: Apple Creek Subdivision Density Calculations and Recorded Plats

SUBDIVISION ANALYSIS NARRATIVE

The purpose of this analysis is to calculate the compliance of each configuration with the numerical requirements for Nibley's subdivision ordinances 08--1, 18-05, and 20-14 to verify that the requirements for each ordinance would be met if Lot 35 of the original subdivision were to be split into a large Conservation parcel and two building lots.

There are three types of lots in the subject parcels. 1) Conservancy lot with residential building, 2) Conservancy lot without residential building, 3) Residential lot. Conservancy lots with residential allow construction of a single residential building permit and share conservancy space. Conservancy Lots are 100% conservancy space.

Residential lots do not contain conservancy space.

| | idential buildi sidential lots d | • . | | | | | . Conse | vancy | Lots are | 100% cc | nservanc | y space. | |
|-----|-------------------------------------|-------------------------|-----------------------|---------------------|-------------------------|-------------------|----------|-----------|-------------|------------|--------------|-------------------------------------|---------|
| | | | | | , ., | | | | | | | | |
| The | total area of | the sub | division v | was 20 | .26 acres | | | | | | | | |
| Pub | olic infrastruct | ture ded | ications 1 | totaled | 3.69 acre | es | | | | | | | |
| Net | developable | area is 1 | L6.57 acr | es | | | | | | | | | |
| | | | | | | | | | | | | | |
| | | | | | | | | | | | | | |
| The | ere are three o | | | | | | | | | | | | |
| | 1) Platted. T | | | | | | | | | | | | |
| | 1 | | | | | | | | | ollowing | geometr | ic reqiren | nents: |
| | | | | | => 2 lots | | | | | 22.1.1 | | | |
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| | | | Conserv | | alculation | | 2 22 . | / | 200/ af := | | | | |
| | | | | | - | | | | | | opable ar | | |
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| | | | | | Minimur | | | | 72 cf | | | | |
| | | | | | | | _ | | | se) *1 1: | 875 lincer | ntive) = 39 | lots |
| | | | | | Total lot | | | | | | 373 (IIICCI | itive) – 33 | 71013 |
| | | | | | Remaini | | | | | 1013 | | | |
| | Т | The FEM | | one bo | | | | | | | | of Amendr | nent, |
| | g | 9a-521, V a jurisdic | Vetlands tional we | , only t etland. | he US Arı | my Cor minatio | ps of En | gineers | or ano | ther Fed | eral agend | e plat. Per cy may de easemer | signate |
| | 2) Current. L | ots 28 a | nd 35 ar | nd Lot 2 | of the A | shhurv | Estates | subdiv | ision w | ere reali | ned in 20 | 020 to the | |
| | configuratio | | | | 2 01 1110 71 | Jii Dui y | Lotates | Jaban | 151011, 11 | ere ream | 51100 111 21 | 020 10 1110 | |
| | eem.garatie | | | | | | | | | | | | |
| | L | ot 35 wa | as reduce | ed in si | ze to acco | mmod | ate a ne | ighbor | request | t to incre | ase the si | ize of thei | r lot. |
| | | - | | | as increas Lot 35 Ap | | | acres; | approxi | mately 2 | 500 SF fro | om Lot 29 | Apple |
| | | All conse coundar | | ot requ | irements | and re | gulation | s are s | till attacl | hed to th | ie origina | l conserva | ncy |
| | 3) Proposed | | | - | | | _ | ff lots 3 | 36 and 3 | 7 as new | buildabl | e lots. Rei | mainde |
| | (1.55 acres) | to be se | t aside as | s dedic | ated cons | servano | y lot | | | | | | |
| | | ot 35 re | configure | ed to 1 | 55 acres | conser | vation c | omnris | ing non | d nastur | e tree sta | and, mead | how |
| | | | | | cul de sa | | | | | a, pastai | c, a cc 310 | ana, meat | . J VV |
| | | | | | | | | _ | | | | | |
| | | | | | on end o | | | | | المحاملة | mana ====1 | | |
| | | | - | | | | | | iu privat | ely and r | nanaged | under the | same |
| | | erms as | me ome | i conse | ervation l | ots in A | while cr | еек | | | | | |

| Plat data, A | pple Cree | ek Subdiv | ision (| Phase 1 a | nd 2) | | | | |
|-------------------------|-----------|-----------|----------|------------|--------|---------|--|--|--|
| | Mixed lo | ts are bu | ilding l | ots with o | design | ated | | | |
| | conserva | tion spac | e as p | ermitted | by ord | linance | | | |
| | | PL | ATTED | | | | | | |
| Total Area Conservation | | | | | | | | | |
| Lot | Type | SF | AC | SF | AC | | | | |
| 1 | Mixed | 15913 | 0.37 | 1742 | 0.04 | | | | |
| 2 | Mixed | 38249 | 0.88 | 20909 | 0.48 | | | | |
| 3 | Building | 18422 | 0.42 | | | | | | |
| 4 | Building | 15086 | 0.35 | | | | | | |
| 5 | Building | 15128 | 0.35 | | | | | | |
| 6 | Building | 15145 | 0.35 | | | | | | |
| 7 | Building | 15298 | 0.35 | | | | | | |
| 8 | Building | 15161 | 0.35 | | | | | | |
| | Building | 13492 | 0.31 | | | | | | |
| 10 | Building | 13478 | 0.31 | | | | | | |
| | Building | 13483 | 0.31 | | | | | | |
| | Building | 13489 | 0.31 | | | | | | |
| | Building | 13494 | 0.31 | | | | | | |
| | Building | 12900 | 0.30 | | | | | | |
| | Building | 12894 | 0.30 | | | | | | |
| | Building | 13502 | 0.31 | | | | | | |
| | Building | 13505 | 0.31 | | | | | | |
| | Building | 13508 | 0.31 | | | | | | |
| | Building | 13511 | 0.31 | | | | | | |
| | Building | 12488 | 0.29 | | | | | | |
| | Building | 19721 | 0.45 | | | | | | |
| | Building | 13831 | 0.32 | | | | | | |
| | Building | 13840 | 0.32 | | | | | | |
| | Building | 13849 | 0.32 | | | | | | |
| | Building | 13858 | 0.32 | | | | | | |
| | Building | 13893 | 0.32 | | | | | | |
| | Building | 16512 | 0.38 | | | | | | |
| | Mixed | 35884 | 0.82 | 17424 | 0.40 | | | | |
| | Mixed | 36612 | 0.84 | _ | 0.39 | | | | |
| | Building | 15553 | 0.36 | | 2.00 | | | | |
| | Building | 15522 | 0.36 | | | | | | |
| | Building | 16398 | 0.38 | | | | | | |
| | Mixed | 44504 | 1.02 | 23958 | 0.55 | | | | |
| | Mixed | 38246 | 0.88 | | 0.33 | | | | |
| | Mixed | 105521 | 2.42 | 49658 | 1.14 | | | | |
| - 33 | | | | .5555 | | | | | |
| Total | | 721890 | 16.57 | 145055 | 3.33 | | | | |
| Min | | 12488 | 0.29 | 1.5555 | 3.33 | | | | |
| Max | | 105521 | 2.42 | | | | | | |
| Average | | 20625 | 0.47 | | | | | | |
| % of total | | 100% | 100% | 20% | 20% | | | | |

| | | | Current | t Layout | |
|----------|----------|--------|---------|----------|-------|
| | Туре | Area | 04 | Conserva | ation |
| Lot | . 7 - | SF | AC | SF | AC |
| | Mixed | 15913 | 0.37 | | 0.04 |
| 2 | Mixed | 38249 | 0.88 | | 0.48 |
| 3 | Building | 18422 | 0.42 | | |
| | Building | 15086 | 0.35 | | |
| | Building | 15128 | 0.35 | | |
| | Building | 15145 | 0.35 | | |
| 7 | | 15298 | 0.35 | | |
| 8 | Building | 15161 | 0.35 | | |
| | Building | 13492 | 0.31 | | |
| 10 | Building | 13478 | 0.31 | | |
| | Building | 13483 | 0.31 | | |
| 12 | Building | 13489 | 0.31 | | |
| 13 | Building | 13494 | 0.31 | | |
| 14 | Building | 12900 | 0.30 | | |
| 15 | Building | 12894 | 0.30 | | |
| | Building | 13502 | 0.31 | | |
| 17 | Building | 13505 | 0.31 | | |
| 18 | Building | 13508 | 0.31 | | |
| 19 | Building | 13511 | 0.31 | | |
| 20 | Building | 12488 | 0.29 | | |
| 21 | Building | 19721 | 0.45 | | |
| 22 | Building | 13831 | 0.32 | | |
| 23 | Building | 13840 | 0.32 | | |
| 24 | Building | 13849 | 0.32 | | |
| 25 | Building | 13858 | 0.32 | | |
| 26 | Building | 13893 | 0.32 | | |
| 27 | Building | 16512 | 0.38 | | |
| 28 | Mixed | 35884 | 0.82 | 17424 | 0.40 |
| 29 | Mixed | 36155 | 0.83 | 16988 | 0.39 |
| 30 | Building | 15553 | 0.36 | | |
| 31 | Building | 15522 | 0.36 | | |
| 32 | Building | 16398 | 0.38 | | |
| 33 | Mixed | 44504 | 1.02 | 23958 | 0.55 |
| 34 | Mixed | 38246 | 0.88 | 14375 | 0.33 |
| 35 | Mixed | 95088 | 2.18 | 49658 | 1.14 |
| 36 | Building | | | | |
| 37 | Building | | | | |
| hbury 2 | Mixed | 10890 | 0.25 | 10890 | 0.25 |
| Total | | 721890 | 16.57 | 145055 | 3.33 |
| Min | | 12488 | 0.29 | | |
| Max | | 95088 | 2.18 | | |
| Average | | 20625 | 0.47 | | |
| of total | | 100% | 100% | 20% | 20% |
| Conserv | | | | 0 | 0.00 |

| | | | sf/acre | 43560 | | |
|-----------------|-----------------|------------|------------|-------|---------|-------|
| | Plat data, A | pple Creek | Subdivisio | | | |
| | | | | PROP | OSED | |
| | | Туре | Area | | Conserv | ation |
| | Lot | | SF | AC | SF | AC |
| | 1 | Mixed | 15913 | 0.37 | 1742 | 0.0 |
| | 2 | Mixed | 38249 | 0.88 | 20909 | 0.48 |
| | 3 | Building | 18422 | 0.42 | | |
| | 4 | Building | 15086 | 0.35 | | |
| | 5 | Building | 15128 | 0.35 | | |
| | 6 | Building | 15145 | 0.35 | | |
| | 7 | Building | 15298 | 0.35 | | |
| | 8 | Building | 15161 | 0.35 | | |
| | 9 | Building | 13492 | 0.31 | | |
| | 10 | Building | 13478 | 0.31 | | |
| | 11 | Building | 13483 | 0.31 | | |
| | 12 | Building | 13489 | 0.31 | | |
| | 13 | Building | 13494 | 0.31 | | |
| | 14 | Building | 12900 | 0.30 | | |
| | | Building | 12894 | 0.30 | | |
| | | Building | 13502 | 0.31 | | |
| | | Building | 13505 | 0.31 | | |
| | | Building | 13508 | 0.31 | | |
| | | Building | 13511 | 0.31 | | |
| | | Building | 12488 | 0.29 | | |
| | | Building | 19721 | 0.45 | | |
| | | Building | 13831 | 0.32 | | |
| | | Building | 13840 | 0.32 | | |
| | | Building | 13849 | 0.32 | | |
| | | Building | 13858 | 0.32 | | |
| | | Building | 13893 | 0.32 | | |
| | | Building | 16512 | 0.38 | | |
| | | Mixed | 35884 | 0.82 | 17424 | 0.4 |
| | | Mixed | 36155 | 0.83 | 16988 | 0.3 |
| | | Building | 15553 | 0.36 | 10300 | 0.5 |
| | | Building | 15522 | 0.36 | | |
| | | Building | 16398 | 0.38 | | |
| | | Mixed | 44504 | 1.02 | 23958 | 0.5 |
| | | Mixed | 38246 | 0.88 | _ | 0.3 |
| | | Mixed | 65785 | 1.51 | 65785 | 1.5 |
| | | Building | 12959 | 0.30 | 03763 | 1.3 |
| | | Building | 16344 | 0.30 | | |
| | | | | | | |
| | | 37 Access | 4639 | 0.11 | 10000 | 0.2 |
| | Ashbury 2 | iviixea | 10890 | 0.25 | 10890 | 0.2 |
| | Total | | 721000 | 16.57 | 172072 | 2.0 |
| Tatal (lass as | Total | | 721890 | 16.57 | | 3.9 |
| Total (less at | ccess easement) | | 12400 | 0.20 | 167433 | 3.8 |
| | Min | | 12488 | 0.29 | | |
| | Max | | 65785 | 1.51 | | |
| | Average | | 19750 | 0.45 | 2 *** | ~ |
| | % of total | | 100% | 100% | 24% | 249 |
| 0/ 1-1-1 2::1 | Δ Conserv * | | | | 27017 | 0.6 |
| W total without | access easement | | | | 23% | 239 |

APPENDIX C: Proposed Revised Plat

APPENDIX D: UT Code 10-9a-532, Development Agreements

10-9a-532. Development agreements.

- (1) Subject to Subsection (2), a municipality may enter into a development agreement containing any term that the municipality considers necessary or appropriate to accomplish the purposes of this chapter.
- (2) (a) A development agreement may not:
 - (i) limit a municipality's authority in the future to:
 - (A) enact a land use regulation; or
 - (B) take any action allowed under Section 10-8-84;
 - (ii) require a municipality to change the zoning designation of an area of land within the municipality in the future; or
 - (iii) allow a use or development of land that applicable land use regulations governing the area subject to the development agreement would otherwise prohibit, unless the legislative body approves the development agreement in accordance with the same procedures for enacting a land use regulation under Section 10-9a-502, including a review and recommendation from the planning commission and a public hearing.
 - (b) A development agreement that requires the implementation of an existing land use regulation as an administrative act does not require a legislative body's approval under Section 10-9a-502.
 - (c) (i) If a development agreement restricts an applicant's rights under clearly established state law, the municipality shall disclose in writing to the applicant the rights of the applicant the development agreement restricts.
 - (ii) A municipality's failure to disclose in accordance with Subsection (2)(c)(i) voids any provision in the development agreement pertaining to the undisclosed rights.
 - (d) A municipality may not require a development agreement as a condition for developing land if the municipality's land use regulations establish all applicable standards for development on the land.
 - (e) To the extent that a development agreement does not specifically address a matter or concern related to land use or development, the matter or concern is governed by:
 - (i) this chapter; and
 - (ii) any applicable land use regulations.

Amended by Chapter 478, 2023 General Session

APPENDIX E: Nibley Ordinance 20-14, Rural Preservation Subdivision (Amended)

ORDINANCE 20-14 UPDATE TO NIBLEY CITY CODE 21.10.020 AMENDING THE RURAL PRESRVATION SUBDIVISION

WHEREAS, Nibley City regulates the subdivision of land within Nibley City boundaries; and

WHEREAS, Nibley City promotes the preservation of meaningful open space for the enjoyment of its citizens; and

WHEREAS, Nibley City promotes the efficient use of public resources to maintain open space in a satisfactory condition.

NOW, THEREFORE, BE IT ORDAINED BY THE NIBLEY CITY COUNCIL OF NIBLEY, UTAH THAT:

- 1. The attached proposed amendment to NCC 21.10.020 be adopted.
- All ordinances, resolutions, and policies of the City, or parts thereof, inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency. This repealer shall not be construed as reviving any law, order, resolution, or ordinance, or part thereof.
- 3. Should any provision, clause, or paragraph of this ordinance or the application thereof to any person or circumstance be declared by a court of competent jurisdiction to be invalid, in whole or in part, such invalidity shall not affect the other provisions or applications of this ordinance or the Nibley City Municipal Code to which these amendments apply. The valid part of any provision, clause, or paragraph of this ordinance shall be given independence from the invalid provisions or applications, and to this end the parts, sections, and subsections of this ordinance, together with the regulations contained therein, are hereby declared to be severable.

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4. This ordinance shall become effective upon posting as required by law.

PASSED BY THE NIBLEY CITY COUNCIL THIS 13 DAY OF August, 2020.

Shaun Dustin, Mayor

ATTEST: Therese Daile

Cheryl Bodily, Deputy City Recorder

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;
 - 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;
 - 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;
 - Maintains and creates scenic views and elements of the City's rural and scenic character and minimizes perceived density by maintaining views of new development from existing roads.
- B. Definitions: For the purpose of this section, the following words shall have the meanings set forth herein:
 - 1. OPEN SPACE LAND: Any parcel or area of land dedicated under this section as indicated on an Open Space Subdivision Plat for the access and/or visual enjoyment of the public. Open Space Land must meet the standards and requirements of this section. Open Space Land may not be contained in the privately-owned parcel except as specifically allowed in this ordinance. Open Space Land must have 25% of its border adjacent to public access right-of-way, easement, or City park or contain a trail open to the public which traverses or runs adjacent to the Open Space Land. Open Space Land area shall not be included in setback areas calculations for principal or accessory uses.
 - 2. CONSTRAINED AND SENSITIVE LAND: Land which is generally unbuildable without engineered ground modifications, or which contains features including, but not limit to Federal, State, or municipally designated wetlands, floodplains, slopes greater than 20%, faults, designated canals per Nibley Ordinance and other geologically or environmentally sensitive features that require mitigation, special insurance or permits from government authorities to allow development. This land may be used as Open Space Land if it complies fully with conditions within this ordinance for qualification of Open Space.

- 3. WATERWAY: Surface water runoff and drainage, drainage ditches and irrigation waterways, whether surface or subsurface and natural waterways including creeds, streams, springs, rivers, ponds, and wetlands.
- TREE STAND: A group or cluster of trees within a geographic location that are occurriged naturally or artificially.
- MEADOWS: Land vegetated with native species of grasses, trees, forbs, and flowers, either undisturbed or constructed, that can be sustained without supplemental irrigation. Actively used pasture and agricultural land are not considered Meadows under this definition.
- 6. PASTURE: A fenced enclosure or confined area used for the grazing of livestock or small animals which contains sufficient vegetation to serve as the principle food source for the livestock confined therein.
- 7. NET DEVELOPABLE LAND: Net Developable Land shall include the total area of the proposed development minus land that is required by Nibley City ordinance to be dedicated to the City including, but not limited to:
- 8. Public access rights-of-way
- 9. Land required to be dedicated along waterways
- 10. Preservation lands with infrastructure installed to City standards by the developer as part of the development process (parks, trails, etc.)
- 11. Constrained and Sensitive Land as defined herein
- 12. Easements, lands dedicated to the City for preservation space but without public rights of access, and other utility or general rights-of-way without access to the public shall be included as Net Developable Land.
- 13. Net Developable Land may be calculated for the purposes of concept review and preliminary plat approval based on either rule of thumb as outlined in the Lot Standards chart for the underlying zone of the proposed subdivision or based on actual measurements derived from the proposed plat. Calculation of Net Developable Land for final plat approval shall use actual measured Net Developable Land area. The proponent shall demonstrate compliance with this provision by calculation based on values demonstrably derived from the proposed final plat.

C. Applicability:

- 1. The election to develop the property as an Open Space Subdivision is voluntary and provided to developers as an alternative to the standard subdivision process codified in NCC 19 and NCC 21. The intent of this section and the Open Space Subdivision options is to encourage the creation and development of flexible designed Open Space Land and variety in lot size and conformation. Open Space Subdivisions may be developed within applicable residential zones of the City. Open Space Subdivisions shall be developed in accordance with and subject to the development standards, conditions, procedures and regulations of this section and with all other applicable subdivision ordinances and zoning regulations of the City which are not otherwise in conflict with the provisions of this section.
- 2. In cases of conflict with other Nibley City ordinances, the terms of this section shall govern.
- 3. Development Options: In R-1, R-1A, and R-2 zones in Nibley City, developers may elect to develop an Open Space Subdivision. R-2A zones may also be developed under the terror of this ordinance; in such cases, the R-2A zoned property shall be treated as R-

- 2 for the purposes of calculating underlying base density, number of lots, bonus density, lot sizes, and all other provisions outlined in this ordinance. If the zone is not listed above, it does not qualify for an Open Space Subdivision.
- 4. Developers desiring to develop the property as Open Space Subdivision are subject to the development standards, conditions procedures and regulations of this section.

D. Application Process:

- 1. Applications for an Open Space Subdivision shall be submitted and processed in accordance with the requirements and procedures set forth in the City Subdivision Ordinance, including submission and approval of schematic, preliminary and final plans or plats, and any additional procedural requirements set forth in this section, including, but not limited to, submission of a sensitive area designation plan and maintenance plan.
- 2. Pre-application Meeting: Applicants for an Open Space Subdivision shall have a pre-application meeting with the Development Committee as established in NCC 21.06.030to review the application and answer questions provided by the applicant. Prior to this meeting, the developer shall submit the draft plan of the proposed subdivision and shall include the following:
 - a. Zoning and parcel location
 - b. Total gross acres
 - c. Estimated right-of-way dedication
 - d. Estimated Constrained and Sensitive Land
 - e. Estimated Net Developable Land
 - f. Estimated Open Space Dedication and proposed uses.
 - g. Total number of lots based on density bonus
 - h. Estimated lot sizes and subdivision layout.
- 3. Sensitive Area Designation Plan Map: All applications for a Open Space Subdivision shall include a sensitive area designation plan map prepared in accordance with the provisions set forth herein and submitted with the preliminary plat. The sensitive areas designation plan map shall identify all constrained and sensitive lands within the property boundaries as set forth in this section. The sensitive area designation plan map shall also clearly identify all-natural or cultural resources present on the property, including, but not limited to those defined in this ordinance (geographic features, meadows, tree stands, streams, stream corridors, floodwalls, berms, waterways, canals, irrigation ditches, farmland, pastures, wildlife corridors and/or habitat; historic buildings and/or sites; archeological sites; cultural features and green space). Applicants are solely responsible for the accuracy and designation of constrained and sensitive lands as defined in this ordinance, and natural and cultural resources as defined by the United States, State of Utah, Cache County, and Nibley City on the sensitive area designation plan map for their project and applicable adjacent property. The applicant shall include all sensitive areas within four hundred feet (400') of the developments property boundaries as noted in City, County, State, and Federal records.
- 4. Maintenance Plan for preserved Open Space Land: The developer must submit a Preliminary Maintenance Plan in accordance with subsection M,2 of this section and with the preliminary plat. For final plat application, the developer must submit a Final Maintenance Plan in accordance with subsection M,3 of this section. The Final

Maintenance Plan shall be attached to the Development Agreement required by NCC 21 and recorded with the Final for the property.

E. Dimensional Standards:

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

| | nanca cal di kina sidikabida caharan saya saya saya saya saya saya saya sa | Lot S | tandards Char | | ograposymus o o romaniza annolarishim benefit E |
|------|--|-------------------------|------------------------------------|------------------------------------|--|
| Zone | Open Space Ratio (OSR) | Incentive Multiplier | Average Residential Lot Size | Minimum Residential Lot Size | Frontage **** |
| R-1 | 0.25 S OSR < 0.30 | 1.26 | ≥ 16,700 ft* | ≥ 17,000 ft' | ≥ 100 ft |
| | 0.30 ≤ OSR < 0.35 | 1.30 | ≥ 16,700 ft* | ≥ 15,000 ft' | ≥ 100 ft |
| | 0.35 S OSR < 0.40 | 1.35 | ≥ 14,700 ft | 2 13,000 ft | ≥ 9511 |
| | 0.40 s OSR | 1.40 | a 12,700 lt | ≥ 11,000 ft' | # 00 ≤ |
| R-1A | 0.25 ≤ OSR < 0.30 | 1.25 | ≥ 14,000 R′ | ≥ 12,000 ft* | ≥ 100 ft |
| | 0.30 £ OSR < 0.35 | 1.30 | ≥ 13,000 ft" | ≥ 11,000 ft* | ≥ 95 ft |
| | 0.35 £ OSR < 0.40 | 1.35 | ≥ 12,000 ft* | \$ 10,000 11 | 8 90 N |
| | 0.40 s OSR | 1,40 | ≥ 11,000 ft* | ≥ 9,000 10 | ≥ 85 R |
| 18-2 | 0.25 ≤ OSR < 0.30 | 1.20 | ≥ 13,200 ft* | ≥ 11,500 ft | 2 95 ft |
| and | 0.30 ± OSR < 0.35 | 1.25 | ≥ 12,200 ft* | ≥ 10,500 K | ≥ 90 ft |
| R-2A | 0.35 s OSR < 0.40 | 1.30 | ≥ 10,200 ft* | ≥ 9,000 ft* | 2 85 ft |
| | 0.40 s OSR | 1.36 | ≥ 9,200 ft | ≥ 7,800 ft' | 2 80 N |

- Notes:
 - The OSR is the ratio of the area of the Open Space Land divided by the area of the Not Developable Land.
 - 2. Frontage is determined at the front setback line.
- 2. Procedure for Calculating Allowed Number of Lots: The Allowed Number of Lots including the density bonus for a Open Space Subdivision shall be determined as follows using the appropriate Incentive Multiplier from the Lot Standards Chart. The developer shall follow the process outlined below to determine allowable properties of the proposed subdivision and use these properties in developing the preliminary and final plats. All calculations and measurements shall be clearly documented in order and following the process outlined below and submitted with the plat applications:
 - a. The subdivision must be in one of the approved zones as listed within the Open Space Subdivision requirements, and all calculation will be based on the parcel's current zone at the time of application and the associated Lot Standards Chart with the exception of R-2A zones: R-2A zones shall be treated as R-2 zones for the purposes of this ordinance.
 - b. Provide to the City the total area contained within the subdivision plat.
 - c. Provide to the City the total area being dedicated to rights-of-way.
 - d. Provide to the City the total acres of Constrained and Sensitive Land.
 - e. Provide the City the total Net Developable Land area as defined within this section.
 - f. State the area of proposed Open Space Land.
 - g. Calculate Open Space Ratio.
 - h. Calculate the Base Number of Lots per zone:
 - (1) Base Number of Lots R-1 = Net Developable Land / 1 acre

- (2) Base Number of Lots R-1A = Net Developable Land / .75 acres
- (3) Base Number of Lots R-2 and R-2A = Net Developable Land / 0.5 acres
- i. Determine Incentive Multiplier
 - (1) Determine Incentive Multiplier based on the Lot Standards Chart, the applicable zone, and the Open Space Ratio.
- 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:
 - 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 appears associated buildings that are specifically needed to support active, viate 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 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.
- I. Pasture for sheep, goats, cows, horses or other animals approved by Nibley City code. Pasture and animal density must conform with Nibley City Animal Land Use Regulations and be enclosed with appropriate fencing.
- m. Silviculture, in keeping with established standards for selective harvesting and sustained yield forestry.
- n. Water supply and sewage disposal systems, and stormwater detention areas designed, landscaped, and available for use as an integral part of the Open Space Land. These facilities must be built to Nibley City Design Standards and Specifications, must contain a tree for every 300 square feet and planted arouthe perimeter, an irrigation system must be installed, and be planted with grass or natural vegetation

- 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.
 - Any residential, commercial or industrial activity except as specifically permitted in this ordinance.
 - 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.
 - 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.
 - All other uses and practices inconsistent with and detrimental to the stated objectives and purpose of this section.
- 3. Constrained and Sensitive Lands: Except for passive recreational activities, no development or residential uses shall be permitted within Constrained and Sensitive Lands

- 4. Open Space Land Coordination: When directed by the Planning Commission and City Council, Open space land shall be consolidated and located on the border of proposed subdivision and be located adjacent to undeveloped or open space land. In consideration of open space consolidation, design standards described in this chapter shall be maximized, including the preservation of significant areas and natural landscape, a 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.
 - 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 developments to provide for large and integrated Open Space Land areas within the City.
 - 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.
 - 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 maybe designated as recreation space or park space, including maintained grass, trails, picnic areas, playgrounds, sports fields or other recreation and park amenities. These recreation spaces are conditional upon the City Council's approval, and amenities must be approved by the City Council before final approval of the maintenance plan can be given. Publicly and owners' association own 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 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 toprovisions set forth in this section, the underlying fee Ownership of the Open Space Land shall remain in single Ownership and may be owned and maintained by one of the following entities: homeowners' association, land trust, conservation organization, governmental entity, or private individual.
- 2. Property Not Subject to Subdivision: Property subject to a conservation easement, or another acceptable method of protection and preservation, shall not be subdivided.
- 3. Nibley City may at its sole discretion opt to take ownership of Open Space Land at the subdivision approval stage. The developer shall landscape the property with sod, grass, trees and an irrigation system or other natural landscape features as appropriate as determined by the City Council.
- 4. Owners Association: Open Space Land may be held in common ownership by a Home Owners or other acceptable Owners Association, subject to all the provisions for Owners Associations set forth in state law, the City Code, and the following:
 - a. A description of the organization of the proposed Association, including its bylaws, and all documents governing ownership, maintenance, and use restrictions for Open Space Land, including restrictive covenants for the subdivision, shall be submitted by the developer with the final plat application.
 - b. The proposed association shall be established, funded and operating (with financial subsidization from the Developer, if required in by the City in the developmed 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 sharevoke 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:
 - Costs: Unless otherwise agreed to by the City, the cost and responsibility of maintaining Open Space Land shall be borne by the owner of the underlying fee of the Open Space Land.
 - 2. Preliminary Maintenance Plan: A Preliminary Maintenance Plan shall be turned in with the preliminary plat for proposed maintenance of Open Space Land within the subdivision. This plan shall outline the following:
 - a. The proposed Ownership of the Open Space Land:
 - b. The party that will be responsible for maintenance of the Open Space Land:
 - c. The proposed use of the Open Space Land and how each parcel of Open Space Land meets the standards listed within this section;
 - d. The size of each Open Space Land parcel; and
 - e. The proposed concept plan for landscaping of the Open Space Land.
 - 3. Final Maintenance Plan: The developer shall submit a plan outlining maintenance and operations of the Open Space Land and providing for and addressing the means for the permanent maintenance of the Open Space Land within the proposed Open Space Subdivision application for the subdivision. The developer shall provide a final maintenance plan with the final plat and the plan shall contain the following:
 - a. Ownership agreements for Open Space Land;
 - 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
 - The landscaping plans for parcels that will be owned by an owners association or by the City.
 - f. Approval: The Final Maintenance Plan must be approved by the City Council 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 City Council.
 - 4. The developer shall offer an approved letter of credit, bond or escrow for all proposed improvements and must complete all proposed open space improvements within the first

- three years of approval. If a designated open space parcel is planned to be maintained by a single property owner, the developer shall maintain that property until title is transferred to a new property owner.
- 5. Failure to Maintain: For all open space designated under the terms of this Ordinance including privately held Open Space Lands, the responsible party for the maintenance 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 shaddress 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.

HISTORY Adopted by Ord. 1<u>8-05</u> on 7/19/2018

APPENDIX F: Compliance Report

Apple Creek Subdivision Phase 1 Plat Amendment Compliance Report Nibley, UT Tax ID 03-198-0035

June 1 2023

Client:

Lesli Dustin Revocable Trust (435) 770-7816 169 W 3300 S leslidustin@gmail.com Nibley, UT 84321

Contact:

 Shaun Dustin, PE
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 169 W 3300 S
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 Nibley, UT 84321

Contact:

DESCRIPTION OF THE WORK:

DB2 Civil Engineers LLC has been contracted to work with Nibley City to address a proposed plat amendment for Phase 1 of the Apple Creek subdivision that would add a building lot and preserve additional open space. The proposal will add 0.66 acres of open space, clarify the status of the building rights currently attached to Lot 35 by separating them from the conservancy lot, and allocate an additional ~12,000 sf as a building lot. These changes would affect Lot 35 of the subdivision (Cache County Tax ID 03-198-0035, physical address 3359 S 450 W, Nibley, UT).

The proposed plat amendment appears to be viable; the analysis shows that City Code allows up to 39 building lots in Apple Creek and the proposal would result in a build out of 36; frontage and average lot size requirements are met or exceeded under the proposed amendment, and the revised open space/conservancy plan greatly enhances the community value and potential of the existing open space by adding 0.62 acres of new conservation space, a buildable trail easement that establishes legal permanent pedestrian access between four existing subdivisions, and providing a permanent connection between the preserved lands and City streets.

HISTORY

The original subdivision had 35 lots. Lot 35 was reserved as a quasi-remainder parcel; there were some uncertainties about where and how the lot could and should be developed, with two potential building pads outlined, and up to four additional subdivision parcel lots. An easement across Lot 1 of the adjoining Ashbury Estates subdivision was established for access to the upper portion of the parcel, with access to the lower portion from two driveway aprons in the 450 West/Apple Tree Fort cul de sac.

Lot 35 was initially laid out as part of the Apple Creek Conservation Subdivision under Section 10-20 of

Nibley City code on July 6 2017.

The Apple Creek subdivision is permitted up to 39 lots based on a net developable area of 16.57 acres, a conservancy area dedication of 20%, and a density bonus of 18.75%.

The original conservation area in the Lot 35 footprint was 1.14 acres out of 2.42 acres (47%). Since the original subdivision, Lot 35 has been adjusted via boundary adjustments to realign boundaries with Lot 2 of Ashbury and Lot 29 of Apple Creek to a total of 2.18 acres. The total area and boundaries of the original conservation dedication have been retained and the goals/covenants and restrictions are unchanged as required by code.

The goal of this submittal is to finalize the Apple Creek subdivision. Per discussions with Nibley City Planner Levi Roberts, it is our understanding that this is possible subject to compliance with the following requirements:

- 1) The subdivision must be compliant with Ordinance 08-01 (Conservation Subdivision) for minimum and average lot size, and conservation requirements for size, continuity, use, and percentage of total area of the ordinances in place at the time of the original subdivision to ensure that the final subdivision is consistent with the code at time of approval.
- 2) The open space requirements for use, continuity, and community good should be compliant with the requirements of the City's ordinances that have superseded Ordinance 08-01 including 18-05 Rural Preservation Subdivision and 20-14 Open Space Subdivision.

The Conservation Subdivision ordinance has been modified and superseded twice since the original approval was put in place as listed below. For the full text of the applicable ordinances, see Appendix A:

- 1. 08-01, Code Section 10-20 Conservation Residential Subdivision Ordinance (passed 17 Jan 2008)
- 2. 18-05, Code Section 11-5, Rural Preservation Subdivision (passed 19 July 2018)
- 3. 20-14, Code Section 21-10-020, Open Space Subdivision (passed 13 August 2020)

PROPOSAL

This proposal is to complete the subdivision of the Apple Creek parcel as follows:

Split Lot 35 into two building lots and one conservation lot

- a. Lot 35 (conservation lot), est. 1.62 acres
- b. Lot 36 (building lot), est. 12,959 SF
- c. Lot 37 (building lot), est. 16,344 SF

This proposal will increase Apple Creek's total conservation area to ~4 acres and incorporate additional sensitive/significant features. It complies with the requirements outlined above and significantly enhances the public benefits of the Apple Creek open space including:

- 1) Additional open space dedication at no additional cost to City
- 2) Trail easement dedication permits completion of a ¾ mile trail loop connecting Apple Creek, Mt Vista, Anderson Estates, Ashbury, and future Simpson subdivisions
- 3) Additional open space protects more sensitive/significant areas (perennial stream)
- 4) Improved open space corridor connectivity by connecting Apple Creek and Mt Vista open space corridors
- 5) Improved viewscape connectivity by eliminating opaque fencing in SW corner of Apple Creek

- 6) Additional property tax revenue
- 7) Compliance with current and past conservation ordinance goals for open space quality and function (see compliance matrices)

Open space will be privately held and managed as grassland/meadow, stream, pond, pasture, a public trail, and garden space.

The following sections address detailed compliance with code for lot size and quantity, with permitted uses, with conservation land goals, and with ownership structure

Code compliance matrix, lot size and quantity:

| | Current | Proposed | Change | Compliant |
|---|---------------|---------------|------------|-----------|
| Gross Developable Area | 20.26 ac | 20.26 ac | | Yes |
| Net Developable Area | 16.57 ac | 16.57 ac | | Yes |
| Conservation acres (%) | 3.33 ac (20%) | 4.00 ac (24%) | + 0.67* ac | Yes |
| Permitted lots (18.75% density bonus) | 39 | 39 | | Yes |
| Total building lots (one conservancy lot) | 35 | 36 | +1 | Yes |
| Average building lot size (14000 sf min) | 20,625 sf | 20,052 sf | 19750 sf | Yes |
| Minimum lot size (12,000 sf min) | 12,000 sf | 12,000 sf | 12,000 sf | Yes |

^{*}The 8500 sf access easement to Lot 37 may not be counted towards the % conservation space dedications to be used to calculate bonus density. With the revised plat and not counting the easement, the % conservation space that can be counted towards density is 23%.

Permitted Use matrix, conservation requirements:

| Permitted Uses Matrix | | 18- | 20- | Current | Proposed |
|--|----|-----|-----|---------|----------|
| | 01 | 05 | 14 | | |
| Conservation of land in natural state | Х | Χ | Х | Χ | Х |
| Agricultural/horticultural use (pasture/crop) | Χ | Χ | Χ | Χ | X |
| Underground utilities/easements | Χ | Χ | Χ | | X |
| Above ground ROW or easement | Χ | Χ | Χ | Χ | X |
| Agricultural uses not otherwise permitted (excepting | С | Χ | Х | | |
| swine, poultry, mink) | | | | | |
| Pastureland | С | Χ | Χ | Χ | Χ |
| Equestrian facilities | С | Χ | Χ | | |
| Nurseries | С | Χ | Х | | |
| Silviculture | С | Χ | Х | | |
| Neighborhood open space uses (greens, commons, | С | Χ | Х | Χ | Х |
| picnic areas, community gardens, trails, similar | | | | | |
| Non-commercial trails, playing fields, playgrounds, | С | Х | Х | | |
| courts, bikeways | | | | | |
| Golf | С | Χ | Χ | | |
| Water supply and sewage disposal and stormwater | С | Х | Х | | |
| detention areas | | | | | |
| Fencing | С | Χ | Χ | Х | Χ |
| Nurseries | С | Χ | Χ | | |
| Waterways | | Χ | Χ | Χ | Χ |

Permitted Uses Narrative:

Current use preserves land in natural state and anticipates operating the property as a small hobby farm with pasture and formal and informal gardens. There is a partial trail easement along the south property line that touches but is not sufficient to allow connection to the Mount Vista green space and trail system to the south. The property is currently fenced as pasture. There are three canals that cross the property, a shallow seasonal pond, and a larger wetland.

Proposed use enhances this as follows:

- 1) Land will be managed as pasture, garden and viewscape.
- 2) Trail easement will be expanded to 10 ft under existing covenants to allow City sufficient ROW to connect existing sidewalk to Mount vista subdivision, allowing a pedestrian shortcut of a ¾ mile walk and connecting three existing neighborhoods.
- 3) The main canal is a perennial stream and flows year round. This will be preserved as an open waterway. The stream may need to be rerouted to accommodate City building permit requirements and to reinforce existing fragile banks.
- 4) The wetland and pond will be managed to prevent mosquitoes and enhance habitat by improving free flow of water in the wetland.
- 5) An underground utility easement part of the section used for gardening/pasture, will be dedicated as a subsurface geothermal heat exchange field for a ground source heat pump.

Conservation Land Standards matrix, conservation requirements:

| Standards (18-05 and 20-14 must meet min 3) | | 18- 05 | 20- 14 | Current | Proposed |
|---|---|-----------|-----------|---------|----------|
| Significant Areas and Features Protection | | | | | |
| Include most unique and sensitive resources (meadows, grasslands, tree stands, streams, corridors, habitat, farmlands, wildlife corridors/habitat, historic buildings/sites, archaeological sites, cultural features, | Х | Х | Х | Х | X |
| green space, scenic views, etc. Agricultural use | X | Х | Х | X | X |
| Underground utilities | X | ^ | ^ | ^ | X |
| Above ground ROW or easement | X | | | | X |
| Contiguous land | 1 | | | | |
| Corridor protection | Х | Χ | Χ | Х | Χ |
| Open space network protection (interconnected open space network through City) | Х | Х | Х | | Х |
| Visibility | | | | | |
| Maximize visibility of internal open space | Х | Χ | | | Χ |
| Buffering | | | | | |
| Provide buffers and protect scenic views from existing roadways and parks | Х | Х | Х | | X |
| Pedestrian access | | | | | |
| Provide pedestrian access to land open for public or resident use | Х | Х | Х | | X |
| Recreation Space | | | | | |
| Provide pedestrian access to land open for public or resident use | Х | С | С | | |

Conservation Land Standards Narrative:

Current use complies with three of the standards from 08-01.

- 1) The open space preserves unique and sensitive resources, including the spring, tree stand, open canals and stream, and scenic views.
- 2) Space is used for pasture (agricultural use)
- 3) Functions as a continuous corridor connecting all the south end open space in Apple Creek.
- 4) Provides a partial easement that can be combined with future land dedications to make a functional trail easement

The following additional conservation standards and allowed uses are proposed for the lot:

- 1) Preserves unique and sensitive resources including the perennial stream, the wetland and shallow pond, and tree stands along the canal banks in the SW corner. Additional dedication of trail easement and conservation land increases scenic viewshed protection.
- 2) Pasture, meadow, and garden spaces
- 3) Underground utility easements for canals, water, power, sewer, and ground source heat
- 4) Contiguous land
 - a. Corridor will be connected to Mt Vista open space
 - b. Additional easement dedication on south boundary will allow construction of trail connecting Mt Vista, Ashbury, and Apple Creek subdivisions and connection to trail from Apple Creek to 450 West trail systems
- 5) Visibility. Dedication of additional land in SW corner of property will allow continuous viewscape from Mt Vista open space and trails to Apple Creek open space. Fence regulations on dedicated open space will ensure this remains open.
- 6) Pedestrian access. See 4b above. Trail connectivity creates a 0.75 mile loop through three neighborhoods.

Conservation Land Standards matrix, Ownership requirements:

| | | 08-01 | 18-05 | 20-14 |
|---|-----------------------------|-------|-------|-------|
| C |)wnership | | | |
| | Private ownership permitted | Χ | Χ | Χ |

All three ordinances allow the proposed ownership structure, ie privately held land with a recorded conservation easement.

Frontage and Access

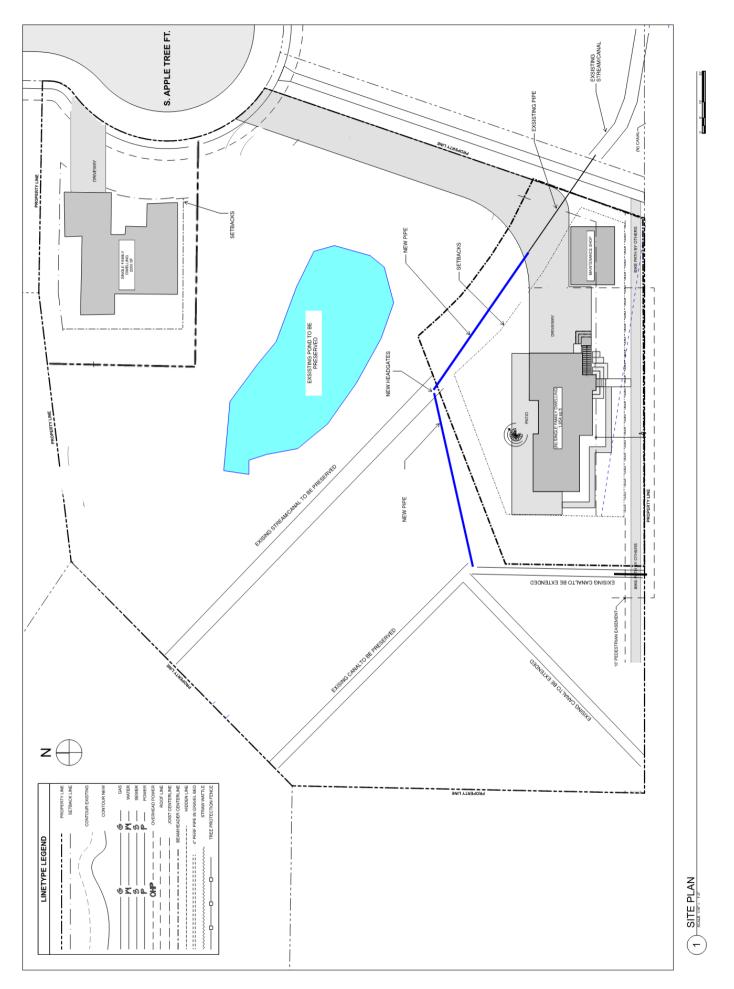
City code regarding frontage and access will be facilitated for Lot 36 with 100 ft frontage at the setback line. For Lot 37, the frontage at the setback is sufficient but a clarification may be required by the Council for 1) fire code compliance and 2) to allow the frontage to be measured at the setback instead of a specific distance from the street. Per discussions with Jason Wynn, Cache County Fire Marshal, fire protection requirements can be met with installation of a residential fire sprinkler system and a 20 ft all weather surface access drive.

APPENDIX G: Proposed Architectural Design AND concept site plan, Lots 36 and 37

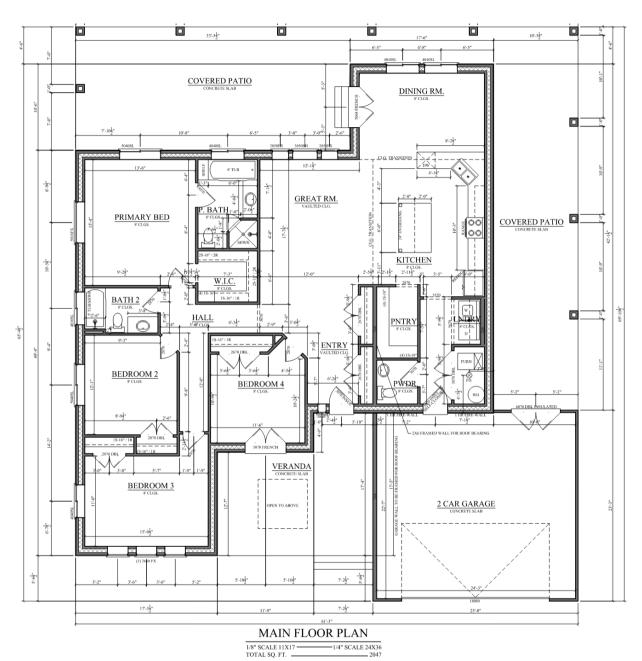
Lot 37 site plan proposal includes a detached garage as shown in the site plan and

located per the site plan. Setbacks and easements are approximately located as shown.

Irrigation canals will be relocated per State and City code requirements as shown.



LOT 36, 2000 SF



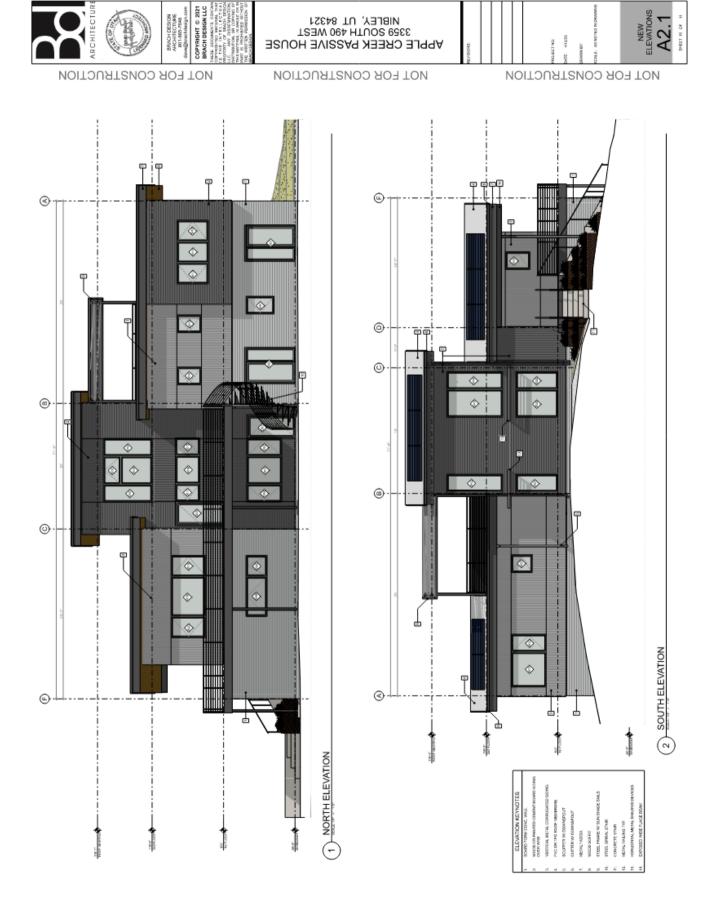
Lot 37, 3500 SF





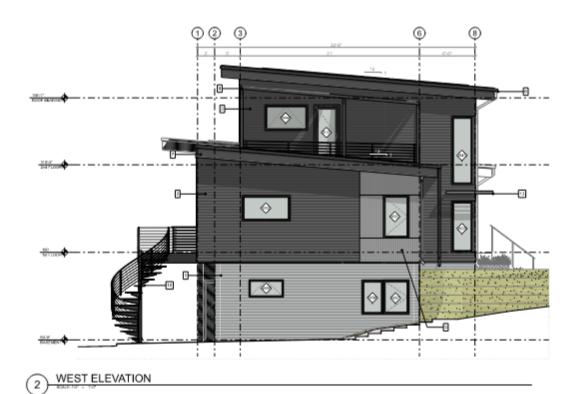








EAST ELEVATION



NOT FOR CONSTRUCTION

ARCHITECTUR

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APPLE CREEK PASSIVE HOUSE 3359 SOUTH 490 WEST NIBLEY, UT 84321

NOT FOR CONSTRUCTION

NOT FOR CONSTRUCTION NEW ELEVATIONS

APPENDIX H: Fire Marshal Approval

ple Creek Subdivision fire protection September 1, 2023 9:06:22 AM

On Thu, Aug 31, 2023 at 2:37 PM Shaun Dustin <sdustin@db2civil.com> wrote:

Thanks Jason, I appreciate the reply. I think that for now if I print out this email thread and include it in the application package that should be all for now, then when we get to the building permits you will just have your normal review?

Shaun Dustin, PE, PhD Managing Partner DB2 Civil Engineers +1 435-770-0147

From: Jason Winn <jason.winn@cachecounty.org> Sent: Thursday, August 31, 2023 10:36:43 AM To: Shaun Dustin <sdustin@db2civil.com> Subject: Re: Apple Creek Subdivision fire protection clarification

Hey Shaun, yes I am familiar with the conversation . I am totally good with what we talked about. What do you need from me?

On Wed, Aug 30, 2023 at 4:32 PM Shaun Dustin <s dustin@db2civil.com> wrote:

A few months ago we talked about how best to get fire protection for a lot in Nibley. I'm to the appoint of applying for the permits and the City needs documentation that what we discussed is going to work for your department since you guys handle those reviews for the City.

The lot address is 3359 S 490 W in Nibley.

There is a fire hydrant about 30 ft from the access point. Normally City Code would require a turnaround for a driveway of this length. The driveway is about 200 ft as the crow flies and 250 along the curve so it definitely needs some additional fire protection.

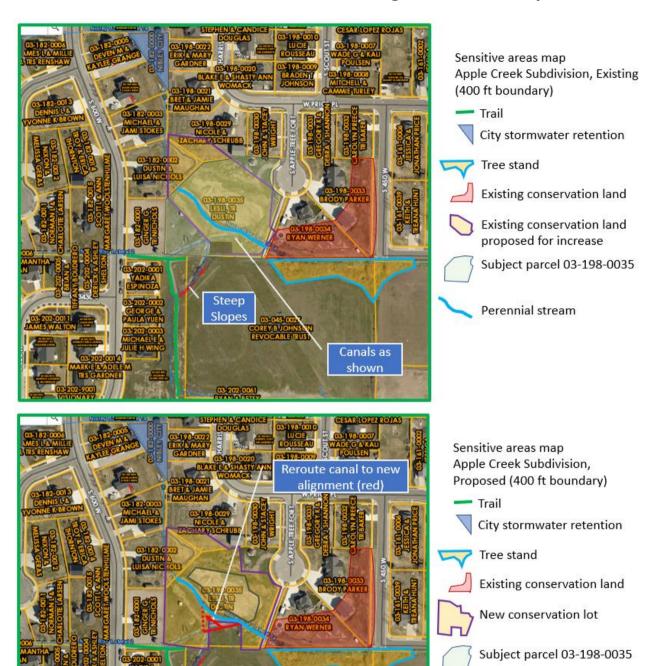
If we put in the turnaround, then we basically end up with a cul-de-sac next to a cul-de-sac.

What you and I had discussed instead was installing a sprinkler system in the home and upsizing the water service to support it instead of disturbing the wetland and . This is the language that we have in the proposal to the City:

"For purposes of fire protection compliance, and access, the access point will be treated as a Private Drive, paved to a minimum width of 12 ft with and overall width of 20 ft of all weather surface per County fire code. Fire protection will be addressed by compliance with the requirements of City Code as administered by the Cache County Fire Marshal. The Fire Marshal has reviewed the plan and accepted the alternate of an automatic sprinkler system designed and installed per International Residential Code Section R313.2 (Appendix XXX). A compliant sprinkler system will be installed as a condition of occupancy for any residential structures on Lot 37."

Does this still work for you? I know it has been a long time, but if I missed anything from our discussion or you need more information I'm happy to come in and discuss it.

APPENDIX I: Sensitive Areas Designation Plan Maps



Spring extents

Perennial stream

Steep

Slopes

Canals as shown

APPENDIX J: Terms and Conditions for Conservation Easement

Terms and Conditions are as given in Appendix H, Lot 35 Conservation Easement. Section 10-20-16 of 08-01 requires that the Conservation Easement include the following terms and conditions:

- 7) Legal description of the easement:
 - a. Lot 35, Apple Creek Subdivision Phase 1, Nibley, Cache County, Utah as amended X.X.2023
- 8) Description of the current use and condition of the property
 - a. Current Use: Property is currently used as a pasture for horses
 - b. Condition: Property is in good condition. There is a shallow seasonal pond located in the lower portion of the lot. There are small tree stands of plums, crabapples, and roses. There are two irrigation ditches and one perennial stream that also serves as an irrigation conveyance.
- 9) Permanent duration of the easement
 - a. Duration of the easement is permanent
- 10) Permitted and conditional uses
 - a. Permitted uses are as outlined in Ordinance 08-01 and 20-14. Land will be managed as follows:
 - i. Garden
 - ii. Natural state.
 - 1. The perennial stream will be preserved as an open waterway. The stream may need to be rerouted to accommodate City building permit requirements and to reinforce existing fragile banks.
 - The wetland and pond will be managed to prevent mosquitoes and enhance habitat by improving free flow of water in the wetland.
 - iii. Subsurface utilities including water, sewer, geothermal, cable, telephone and other customary public and private utilities are permitted.
 - iv. Access easement to Lot 37 as shown on the plat
 - b. Conditional uses are as outlined in Ordinance 08-01 and 20-14. The following conditional uses as defined in the Ordinances will be permitted subject to conditions outlined herein and in 08-01 and 20-14. in the Land will be managed as follows:
 - i. Pasture
 - ii. Agricultural buildings to support management of conservation land.
 - iii. Trail easement on South property line is expanded to 10 ft as shown on the plat to allow City sufficient ROW to connect existing sidewalk to Mount vista subdivision, allowing a pedestrian shortcut of a ¾ mile walk

- and connecting three existing neighborhoods.
- iv. Irrigation and recreation water supply subject to Utah Division of Water Rights regulations
- v. Active, non-commercial recreation areas
- vi. Neighborhood open space
- vii. Fencing as required to support permitted and conditional uses
- 11) Maintenance responsibilities and duties
 - a. Maintenance shall be the responsibility of the owner of the open space lot except for the dedicated public access trail easement. Development and maintenance of the trail easement is the responsibility of the City per the pre-existing agreement. The owner of the open space will provide a connection to the irrigation system and water rights for the Open Space at no charge. If the City desires more frequent irrigation on the trail easement than is provided by the general open space watering schedule, the City has the right of entry and an easement on the open space to place a pump and power/control system that is separated from the general irrigation system for the conservation space trail at a location that minimizes impact on open space operations and development.
 - b. Duties of Owner shall include maintaining the open space as required by ordinance such that the intent of the open space is met.
- 12) Enforcement rights and procedures
 - a. As outlined in Nibley City Ordinance 20-14. For the portion of the Oen Space under City control (public access easement), reciprocal rights and procedures of enforcement as outlined in 20-14 apply to the owner of Lot 35.

APPENDIX I: Maintenance and Development Master Plan

Maintenance and Development Master Plan. Section 10-20-17 of 08-01 requires a Maintenance Plan for the conservation land. Approval of this Development Agreement constitutes the approval of the Maintenance Plan. The plan is required to address the following:

- 1) Define ownership
- 2) Establish regular and periodic operation and maintenance responsibilities for the space
- 3) Estimate staffing, insurance, and other costs and define the means of funding the development, operations, and maintenance costs

The purpose of this document is to provide the management plan for Lot 35, a Conservation Lot in the Nibley, UT Apple Creek subdivision as required under Nibley City ordinance 08-01 (Code section 10-20).

The conservancy lot provides the following benefits and will be managed to support these uses:

- 1) Increased conservancy space. The increase in conservancy space is 0.6 acres for a total of 4.0 acres (20%).
- 2) Connectivity between green spaces. The proposed changes will directly connect Apple Creek and Mt Vista green spaces.
- 3) Trail/connectivity/pedestrian access. The new configuration resolves a connection between the existing trail/sidewalk connecting 450 W to a sidewalk extending outside the Apple Creek subdivision from the Apple Tree Fort cul-de-sac to the south edge of the subdivision. The proposed reconfiguration of the easement will provide enough space for the City to extend the sidewalk to connect with the trails in Mount Vista. The previous configuration of the lot did not provide sufficient space to place the sidewalk/trail. This configuration widens the easement to 10 ft along its length
- 4) Habitat protection. The proposed revised boundaries permit the preservation of open stream, pond/wetland, and meadow habitats as well as irrigation rights of way. The balance of the land will be maintained as pasture, garden, and supporting infrastructure.
- 5) Underground utility easements and access easements for managing the land and accessing the building lots as required and allowed by City code. Uses include water, sewer, irrigation, power, communications, ground source heat, and solar applications.

As required by Section 10-20-17.B, the Plan addresses the following:

- 1) Ownership
- 2) Operations and maintenance plans/responsibilities
- 3) Staffing, insurance, and associated needs, including a funding plan
- 4) Need for funding first year improvements

OWNERSHIP: The property shall be privately held and owned by the owner of Lot 36 or Lot 37 of the Apple Creek subdivision. Ownership may be transferred in the future to a third party conservation non profit or Nibley City with the approval of Nibley City and the parcel owner. Any ownership change will transfer all rights and obligations as outlined in City Code and herein.

OPERATIONS AND MAINTENANCE: The conservancy lot will be operated and maintained in

accordance with the requirements of Nibley Ordinance 08-01, and as outlined herein.

Maintenance shall be the responsibility of the owner of the open space lot except for the dedicated public access trail easement. Development and maintenance of the trail easement is the responsibility of the City per the pre-existing agreement.

The owner of the open space will provide a connection to the irrigation system and water rights for the Open Space at no charge. If the City desires control over irrigation on the trail easement, the City has the right of entry and an easement on the open space to place and maintain a pump and power/control system that is separated from the general irrigation system for the conservation space at a location that minimizes impact on open space operations and development. The City may not place the pump in a location that is intended for future construction of buildings or other infrastructure intended to support management of the open space.

Duties shall include maintaining the open space as required by ordinance such that the intent of the open space is met. The minimum standard for open space maintenance is as a pasture or natural meadowland. The Owner will maintain sufficient shares or water rights to irrigate the property for the proposed uses, install an irrigation system, and keep the systems watered.

Maintenance of the canal is the responsibility of the Nibley Blacksmith Fork Irrigation Company, per Company Charter and State Code.

The Owner may construct infrastructure necessary to maintain property including irrigation, drainage, fencing, outbuildings, power and other necessary improvements subject to the City's normal building permit process and City code.

DEVELOPMENT: For the portion of Lot 35 that is not open to public access, the Owner is responsible for all development expenses. For the portion that is open to public access (trail easement on south property line), the City is responsible for trail development costs as outlined in previous agreements.

STAFFING, INSURANCE, FUNDING: Owner is responsible for maintenance and development of all on-site improvements except for improvements desired by the City for the public access easement on the south boundary. Insurance will be carried by Owner for areas where public access is not permitted. The City will indemnify the Owner against any and all claims for persons utilizing the City's public access trail facility on the dedicated easement on the south property line.

In the event that a third party conservation organization or the City gains control or ownership of Lot 35, the controlling entity shall be responsible for any insurance, maintenance, or other costs.

The owner(s) of Lot 35 and Lot 37 will be held harmless by all users for any persons accessing or otherwise using the public easement. The easement will be maintained in accordance with the original agreement for the Apple Creek Subdivision.

FUNDING FIRST YEAR IMPROVEMENTS: Not applicable

Agenda Item # 6: Preliminary Plats: Nibley Meadows Phase 4, 5 & 7

Description

Discussion and Consideration: Approval of the Preliminary Plats for the Nibley Meadows Subdivision Phases 4, 5, and 7

Action Type

Administrative

Recommendation

Recommend approval of Preliminary Plats for the Nibley Meadows Subdivision Phases 4, 5, and 7 with the findings and conditions noted below

Reviewed By

City Planner, City Engineer, Public Works, Fire Marshall

Background

Nibley Meadows (applicant: Westates) was approved by the City Council as an R-PUD overlay zone on August 13, 2020. The subdivision has started construction on Phases 1-3. More recently, an amendment to the R-PUD Development Agreement, which includes modifications to the approved development plans was approved, then recorded on July 3, 2025. The modified development plans impacted phases 4, 5 and 7. The proposed preliminary plat is intended to bring the subdivision in compliance with these updated plans.

The approved R-PUD Development Plan for the 54.6 acres development includes 295 units, including 190 townhomes and 105 single-family lots, with approximately 15.29 acres of HOA maintained open space and an additional 4.75 acre park to be dedicated to the City.

For the portion of the development included within the proposed updated preliminary plat, there are 29 single-family lots with 151 townhomes. This phase also includes a clubhouse and pool within phase 4.

Zoning and Space Requirements

Minimum density and open space requirements for Nibley Meadows were evaluated at the time of the R-PUD amendment approval noted above.

Minimum site development standards of NCC 19.32.060(C), including setbacks, minimum lot size and lot frontages are met with the proposed lay-out.

Utility Lines. Easements, Storm Water and Canals

The applicant has shown a preliminary plan for connecting utilities to Nibley City's utility system, including locations of sewer, water and stormwater. A diagram of standard public utility easements is also provided. Storm water management is primarily planned to be provided with swales and a small detention pond in the HOA maintained park area. Nibley City engineer and public works director have reviewed the plan to ensure compliance with City standards. The applicant has previously coordinated with appropriate modifications associated with existing irrigation systems associated with this phase of the development. Therefore, coordination with the canal company is unnecessary at this time.

Transportation

Nibley City's Transportation Master Plan (TMP) shows an extension of 1000 West through this property, to align with 900 West to the south. As part of the approval of the R-PUD amendment, the proposed alignment of 920 West was approved. This roadway is planned as a collector street. The alignment and right-of way width and cross section is sufficiently consistent with the TMP. The applicant proposes an appropriate street cross section for the remaining local street, as well as a private drive to access the townhome parking.

In addition to the streets noted above, an 8' wide trail is proposed to be built on the southern end of the development, consistent with the City's Active Transportation Plan.

Parking

NCC 19.32.080(B)(5) states:

Parking: Each R-PUD shall provide 2 primary parking spaces for each unit. Primary parking must be contained in a garage, carports, driveway, or parking court. An R-PUD shall provide one guest parking spot for every three units. Guest parking may be provided in parking courts maintained by the owner association.

The applicant proposes to include 2-car garages for each townhome unit and 109 guest parking spaces that are accessed via a private drive. The provided parking exceeds the minimum parking requirements for the proposed development.

Open Space and Maintenance Plan

The applicant has submitted a preliminary landscape and maintenance plan for the open space area surrounding the townhomes and the common area, which is not proposing significant changes from the previously approved plan.

Landscaping and Street Trees

Staff has determined that the proposed landscaping plan includes the proper spacing and species of street trees to comply with NCC 21.12.170 and the City's Tree Care Plan. In addition, the applicant proposes landscaping which is compliant with the City's recently updated landscaping standards, including for waterwise landscaping in park strips, in front of residential units (including townhomes) and in areas of less than 8' in width.

Townhome Architectural Design

The applicant proposes a modification to the design of the townhomes from what was originally approved with the R-PUD. Staff has reviewed the updated design, which complies with the requirements of NCC 19.23.080(A).

Recommended Findings:

1. The application meets the zoning standards and requirements of NCC 19.32.

Recommended Conditions:

1. Indoor and outdoor water use calculations and certificate for equivalent shares, financial surety, and payment of development fees are required at time of Final Plat.





SINGLE FAMILY SETBACK & EASEMENT DETAIL

PRELIMINARY PLAT NIBLEY MEADOWS SUBDIVISION PHASES 4, 5, & 7

SECTION 20 TOWNSHIP 11 NORTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN

GENERAL NOTES:

PROPERTIES LC

- 1. PROPERTY TAX ID. #: 03-018-0017, 03-050-0001, 03-050-0007
 - PHASE 4: 151 TOWNHOMES PHASE 5: 9 SINGLE FAMILY LOTS PHASE 7: 20 SINGLE FAMILY LOTS
- TOTAL: 29 SINGLE FAMILY, 151 TOWNHOMES
- PHASE 4: 14.15 AC +/ PHASE 5: 1.69 AC +/-
- PHASE 7: 4.66 AC +/-TOTAL AREA: 20.49 AC +/-
- 4. ALL OPEN SPACES PARCELS ARE SUBJECT TO A BLANKET PUBLIC UTILITY EASEMENT ACROSS THEIR ENTIRETY WITH THE EXCEPTION OF WITHIN THE FOOTPRINT OF ANY FUTURE BUILDINGS CONSTRUCTED ON SAID PARCELS. 5. PROJECT ZONE: R-2
- 6. THERE ARE NO SENSITIVE LANDS LOCATED WITHIN THE PROJECT LOCATION.
- REQUIRED: 7.17 AC +/- (35% OF NET DEVELOPABLE LAND) PROVIDED INCLUDING SIDEWALK & PARK STRIP: 8.01 AC +/-PROVIDED EXCLUDING SIDEWALK & PARK STRIP: 7.56 AC +/-
- PARKING FOR TOWNHOMES: PRIVATE GARAGE STALLS PROVIDED: 302 **GUEST STALLS REQUIRED: 51**

- GUEST STALLS PROVIDED: 109

PROJECT CONTACTS:

- 1. DEVELOPER:
- NIBLEY MEADOWS, LLC. & NIBLEY TOWNS, LLC 1950 NORTH 2200 WEST, STE. 9 SALT LAKE CITY, UT 84116

6

- 2. PROPERTY OWNER:
- NIBLEY MEADOWS, LLC. & NIBLEY TOWNS, LLC
- 3. CIVIL ENGINEER:
- MICHAEL TAYLOR 498 WEST 100 SOUTH PROVIDENCE, UT 84332 E: M.TAYLOR@CSG.WORK P: 435.890.4498
- 4. SURVEYOR:
- **CURTIS BOWN** 498 WEST 100 SOUTH PROVIDENCE, UT 84332 E: CBOWN@CIVILSOLUTIONSGROUP.NET

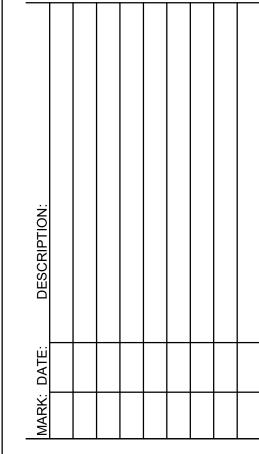
LEGAL DESCRIPTION

PHASES 4, 5, & 7 COMPOSITE BOUNDARY DESCRIPTION



A portion of that Real Property described as Parcel No. 5 in Deed Book 2098 Page 582 of the Official Records of Cache County, more

file in the Office of the Cache County Recorder, located N89°51'19"W along the 1/4 Section line 1,686.59 feet and South 2,467.60 feet from the of Lot 7, Block 16, MILLVILLE WEST FIELD SURVEY; thence along said Survey the following 2 (two) courses and distances; N88°48'24"W



PROJECT #: DRAWN BY:

PROJECT MANAGER: M. TAYLOR



SURVEY PLAN

1 OF 5

- DESIGNING OUR FUTURE $\, -\!\!\!-\!\!\!\!-$



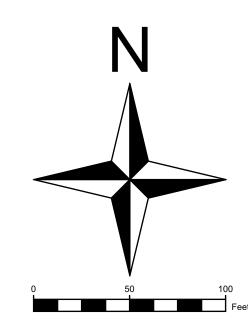
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CIVIL PLAN

2 OF 5





NIBLEY MEADOWS SUBDIVISION PHASES 4, 5, & 7

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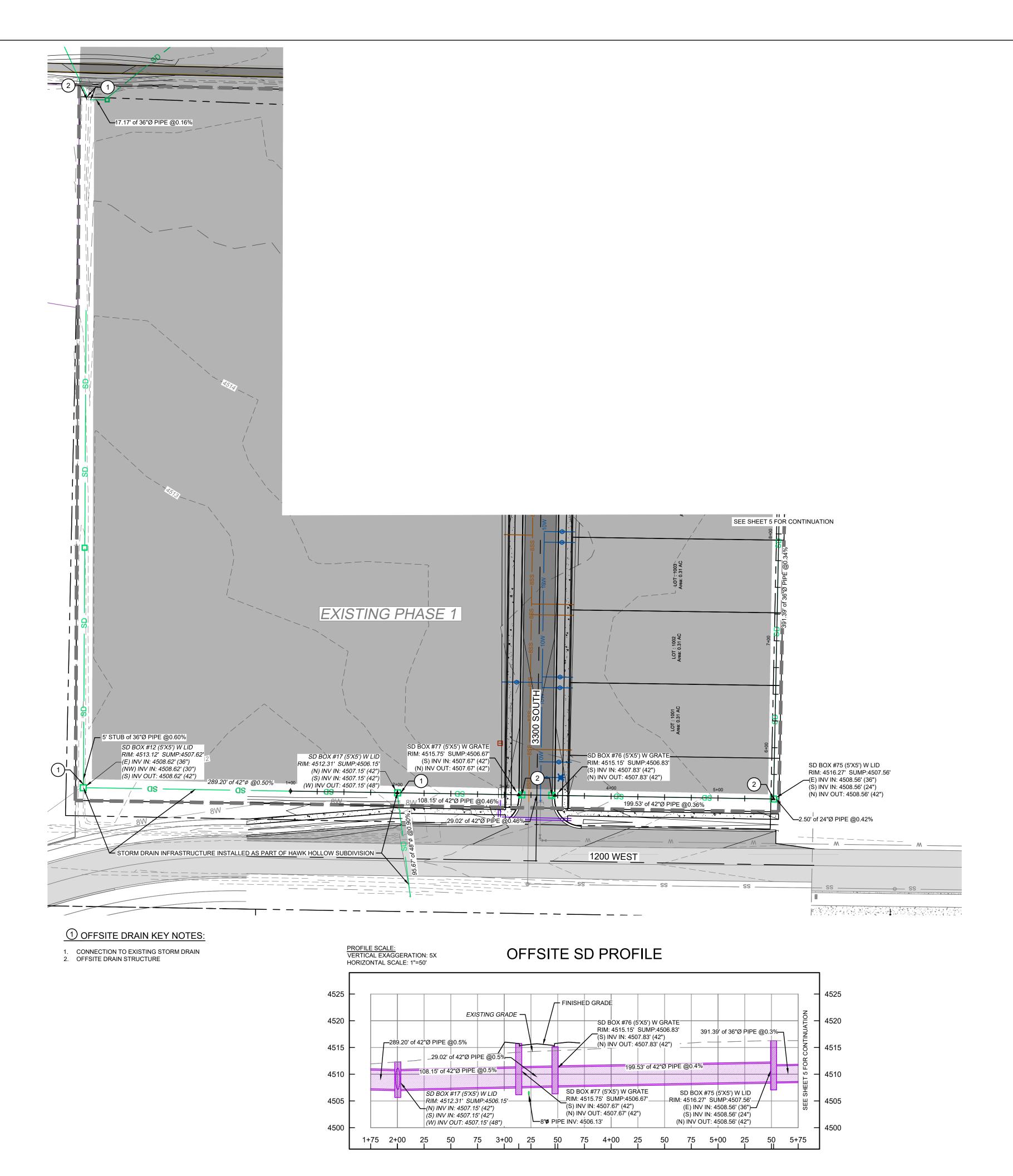
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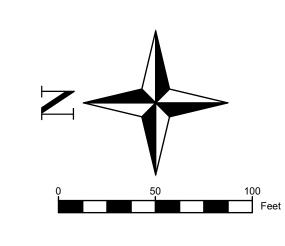
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DRAWN BY: J. DAY
PROJECT MANAGER: M. TAYLOF



PRELIMINARY GRADING PLAN

3 OF 5





NIBLEY MEADOWS
 SUBDIVISION PHASES 4, 5, & 7
 PRELIMINARY PLAT

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MARK: DATE: DESCRIPTION:

PROJECT #: 19-368

DRAWN BY: J. DAY

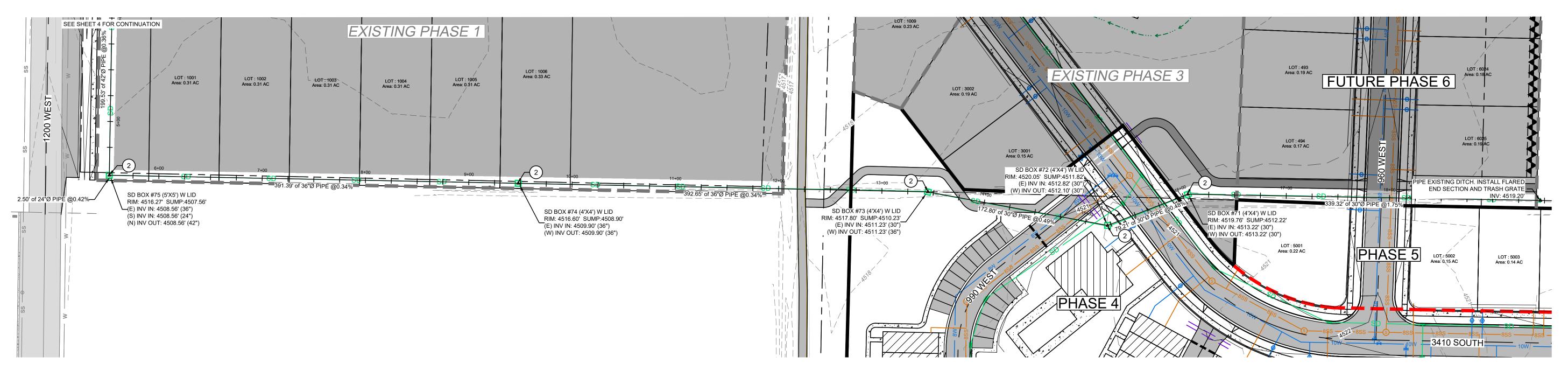
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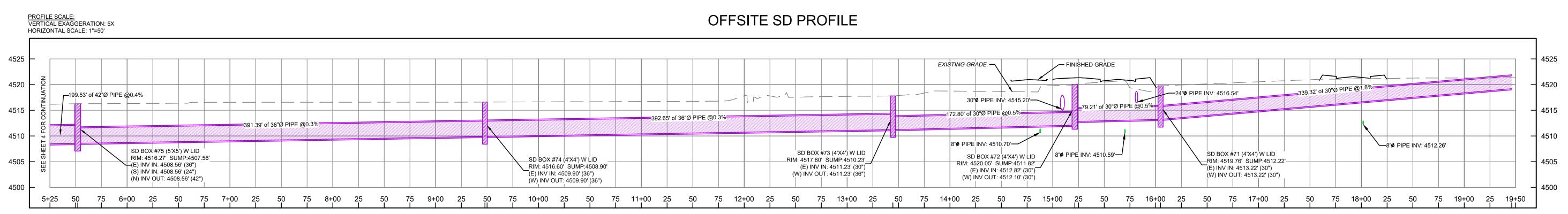
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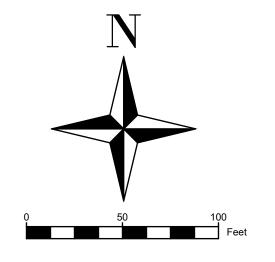
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1 OFFSITE DRAIN KEY NOTES

CONNECTION TO EXISTING STORM DRAIN
 OFFSITE DRAIN STRUCTURE





NIBLEY MEADOWS SUBDIVISION PHASES 4, 5, 8

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PROJECT #: 19-368

DRAWN BY: J. DAY

PROJECT MANAGER: M. TAYLOR

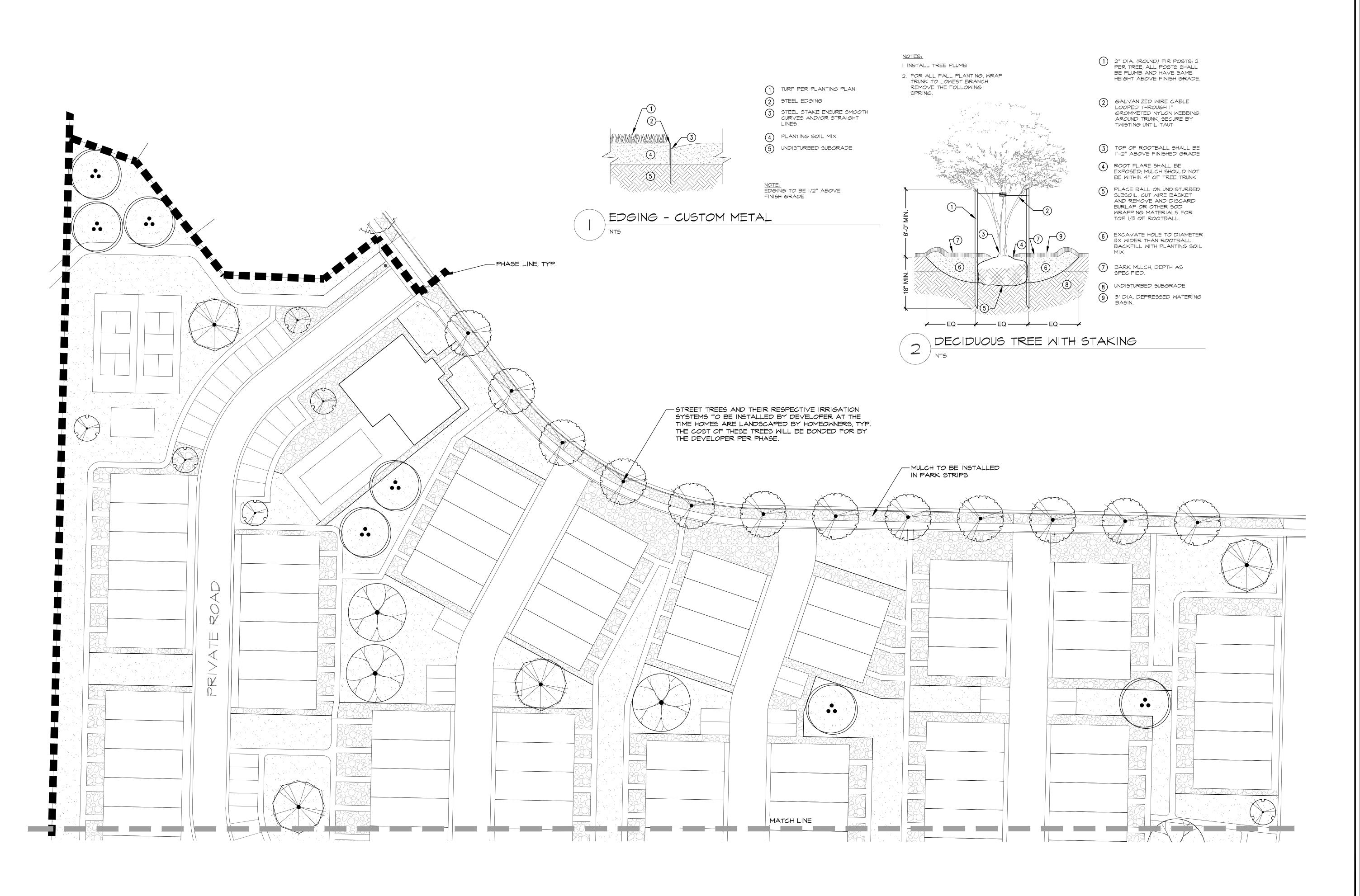
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OFFSITE DRAINAGE PLAN 5 OF 5

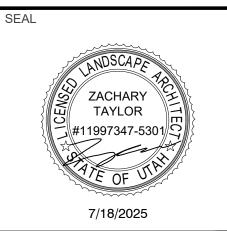
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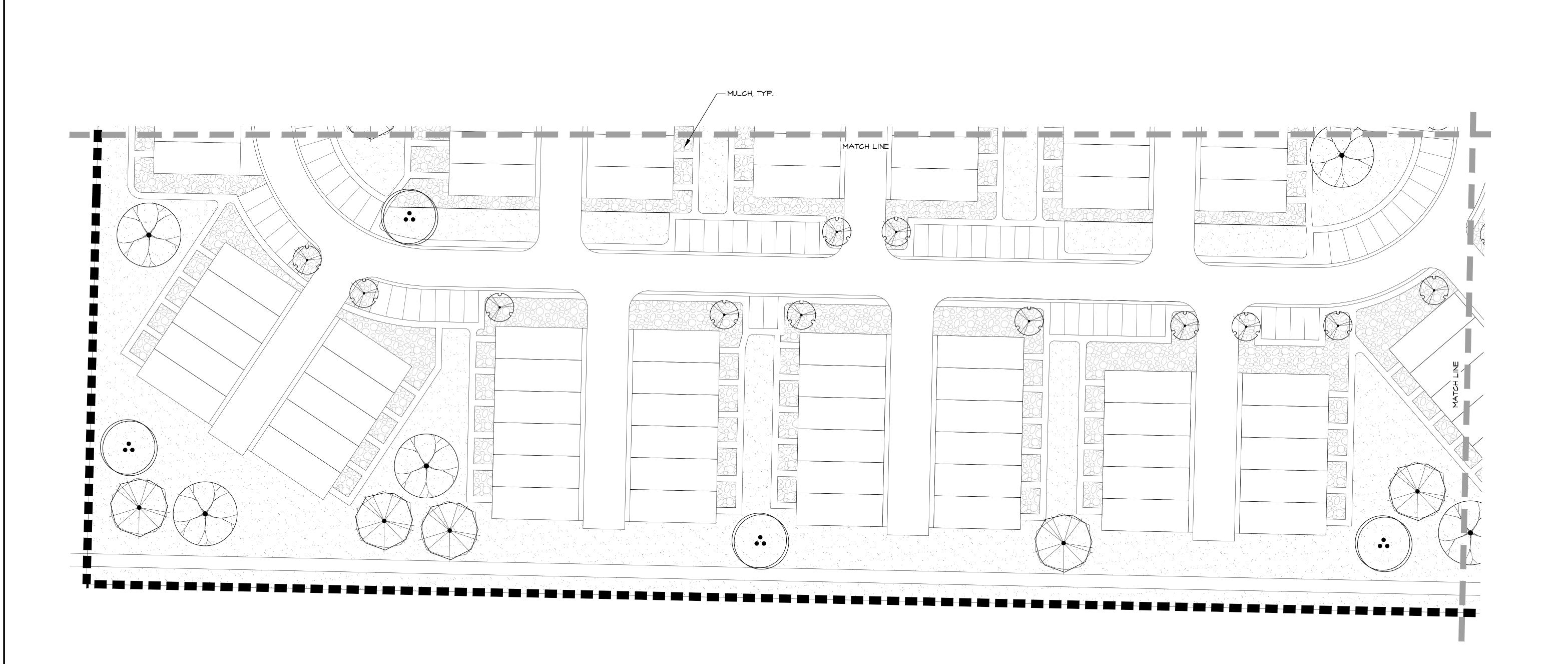
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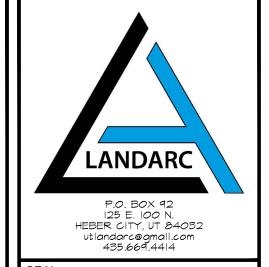
PHASE 4
LANDSCAPE
PLAN

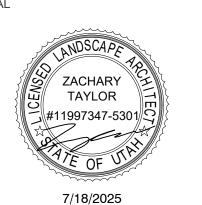
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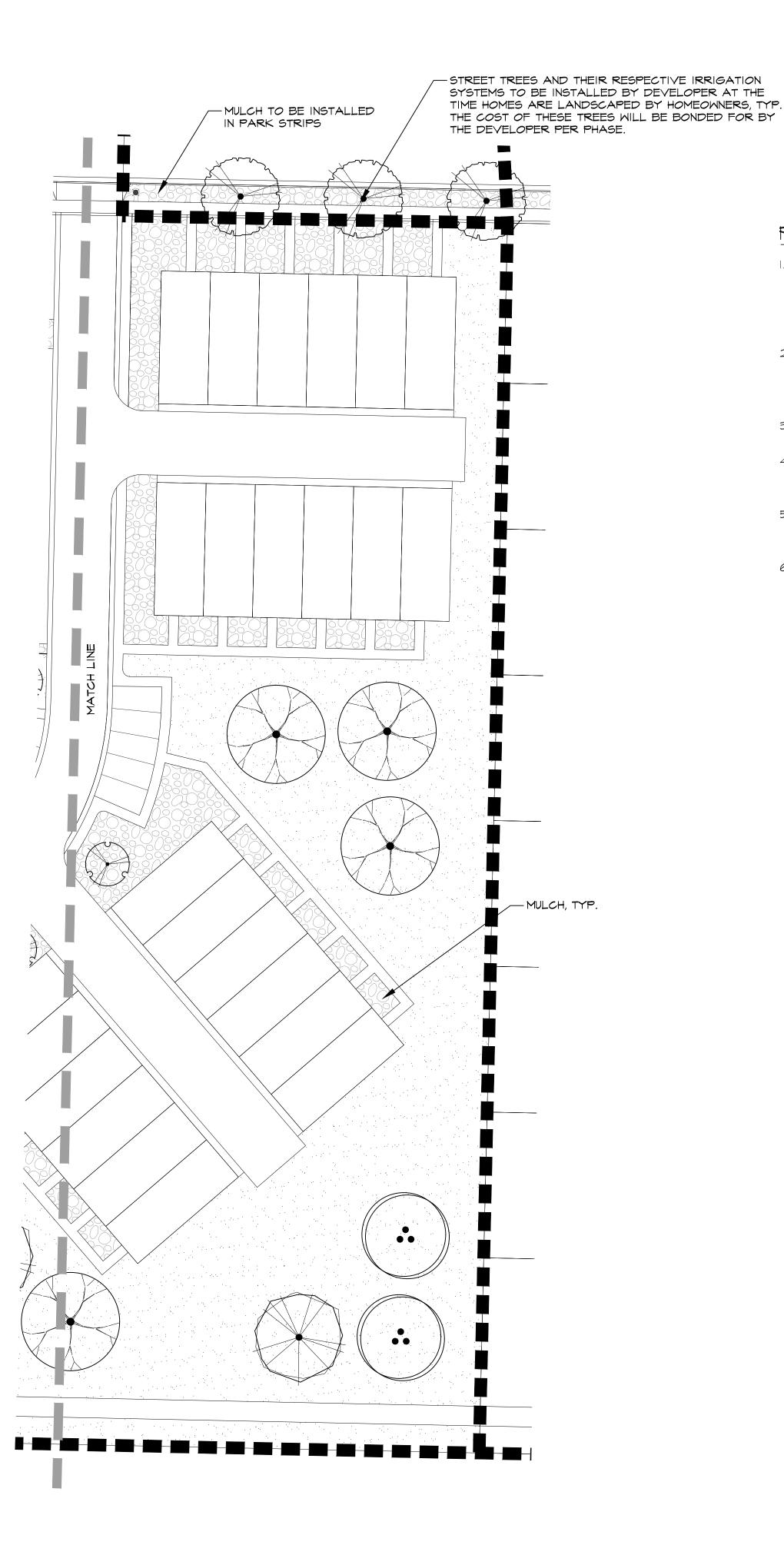
LANDSCAPE

PLAN

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0 30 60 90 feet SCALE: 1" = 30' ON A 24 X 36 SHEET





PLANTING NOTES

I. THE BASE INFORMATION FOR THIS DRAWING WAS OBTAINED FROM OTHERS. THE CONTRACTOR IS RESPONSIBLE FOR VERIFYING THE DRAWING WITH ACTUAL FIELD CONDITIONS PRIOR TO BEGINNING ANY WORK, AND IMMEDIATELY NOTIFYING THE LANDSCAPE ARCHITECT OF ANY DISCREPANCIES. IN THE EVENT THAT THE CONTRACTOR BEGINS WORK PRIOR TO VERIFYING AND COMPARING THE BASE INFORMATION WITH ACTUAL FIELD CONDITIONS, THEN ANY CHANGES OR ALTERATIONS TO THE WORK INVOLVED WITH THESE DRAWINGS DUE TO SUCH DISCREPANCIES WILL BE PERFORMED BY THE CONTRACTOR AT NO ADDITIONAL EXPENSE TO THE OWNER.

2. THE CONTRACTOR IS RESPONSIBLE FOR VERIFYING AND MARKING THE LOCATIONS OF ALL UTILITIES WITHIN THE LIMITS OF WORK PRIOR TO BEGINNING CONSTRUCTION. CONTACT THE OWNER, BLUE STAKES OF UTAH (I-800-662-4|||), AND ALL OTHER ENTITIES AS NECESSARY. IN THE EVENT THAT THE CONTRACTOR BEGINS WORK PRIOR TO VERIFYING AND STAKING ALL UTILITIES, AND DAMAGE TO UTILITIES OCCURS, THE DAMAGED UTILITIES WILL BE PREPARED AND/OR REPLACED AT NO ADDITIONAL COST TO THE OWNER.

3. IF PROVIDED, REFER TO LEGENDS, NOTES, DETAILS, AND SPECIFICATIONS FOR FURTHER INFORMATION.

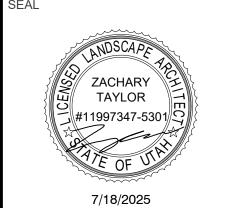
4. ALL PLANTS TO BE BALLED AND BURLAPPED OR CONTAINER GROWN, UNLESS OTHERWISE NOTED ON THE PLANT LIST. SUBSTITUTIONS FOR CULTIVARS OF SIMILAR SIZE MAY BE USED BASED ON AVAILABILITY AT TIME OF PLANTING

5. QUANTITIES INDICATED IN THE PLANT SCHEDULE ARE FOR CONVENIENCE ONLY. THE CONTRACTOR IS RESPONSIBLE FOR VERIFYING ALL QUANTITIES, AND SHALL SUPPLY ALL PLANT MATERIAL IN QUANTITIES SUFFICIENT TO COMPLETE THE PLANTING DESIGN SHOWN ON THE PLANS, REGARDLESS OF QUANTITIES INDICATED IN THE PLANT SCHEDULE.

6. LOCATION AND SPACING OF STREET TREES TO BE ADJUSTED FOR DRIVEWAYS. OVERALL COUNT TO REMAIN.

| PLANT SC | HEDULE PHASE 4 | | | |
|---------------|---|---------|----------------|-------------|
| SYMBOL | BOTANICAL / COMMON NAME | CONT | | QTY |
| TREES | ACER FREEMANII 'AUTUMN BLAZE' / AUTUMN BLAZE MAPLE | 2" CAL. | | 10 |
| | GLEDITSIA TRIACANTHOS INERMIS 'SHADEMASTER' TM / SHADEMASTER LOCUST | 2" CAL. | | II |
| | GLEDITSIA TRIACANTHOS 'IMPERIAL' / IMPERIAL HONEYLOCUST | 2" CAL. | | 23 |
| | PRUNUS VIRGINIANA 'CANADA RED' / CANADA RED CHOKECHERRY | 2" CAL. | | 19 |
| | TILIA CORDATA / LITTLELEAF LINDEN | 2" CAL. | | 13 |
| SYMBOL | BOTANICAL / COMMON NAME | CONT | <u>SPACING</u> | <u> QTY</u> |
| GROUND COVERS | CHANSHARE FARMS IMPERIAL BLUEGRASS / DROUGHT TOLERANT BLUEGRASS | SOD | | 243,339 SF |
| | MULCH- 3" THICK MINIMUM | | | 74,620 SF |





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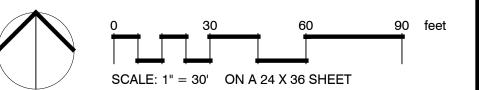
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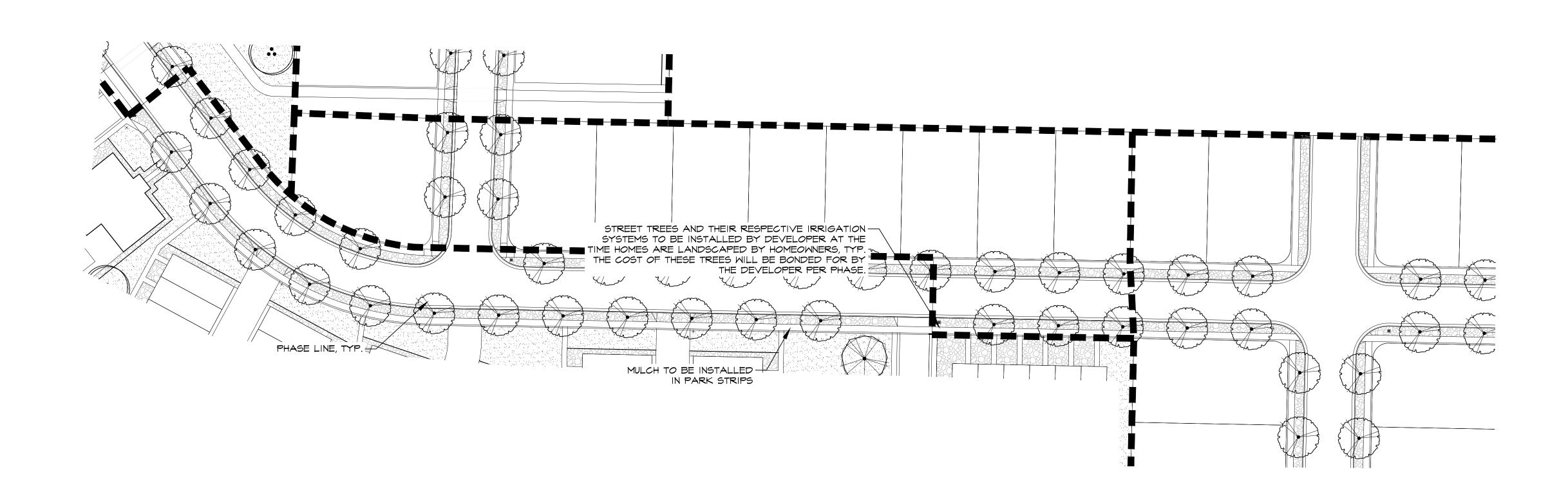
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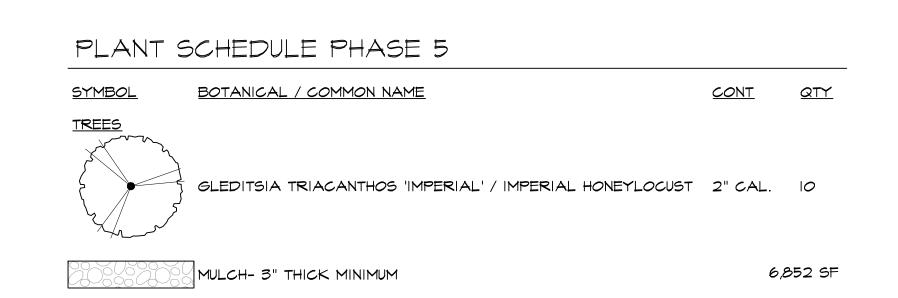


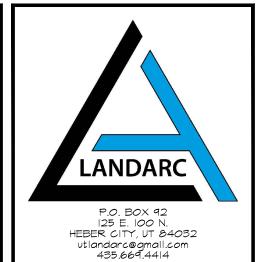




PLANTING NOTES

- I. THE BASE INFORMATION FOR THIS DRAWING WAS OBTAINED FROM OTHERS. THE CONTRACTOR IS RESPONSIBLE FOR VERIFYING THE DRAWING WITH ACTUAL FIELD CONDITIONS PRIOR TO BEGINNING ANY WORK, AND IMMEDIATELY NOTIFYING THE LANDSCAPE ARCHITECT OF ANY DISCREPANCIES. IN THE EVENT THAT THE CONTRACTOR BEGINS WORK PRIOR TO VERIFYING AND COMPARING THE BASE INFORMATION WITH ACTUAL FIELD CONDITIONS, THEN ANY CHANGES OR ALTERATIONS TO THE WORK INVOLVED WITH THESE DRAWINGS DUE TO SUCH DISCREPANCIES WILL BE PERFORMED BY THE CONTRACTOR AT NO ADDITIONAL EXPENSE TO THE OWNER.
- 2. THE CONTRACTOR IS RESPONSIBLE FOR VERIFYING AND MARKING THE LOCATIONS OF ALL UTILITIES WITHIN THE LIMITS OF WORK PRIOR TO BEGINNING CONSTRUCTION. CONTACT THE OWNER, BLUE STAKES OF UTAH (I-800-662-4111), AND ALL OTHER ENTITIES AS NECESSARY. IN THE EVENT THAT THE CONTRACTOR BEGINS WORK PRIOR TO VERIFYING AND STAKING ALL UTILITIES, AND DAMAGE TO UTILITIES OCCURS, THE DAMAGED UTILITIES WILL BE PREPARED AND/OR REPLACED AT NO ADDITIONAL COST TO THE OWNER.
- 3. IF PROVIDED, REFER TO LEGENDS, NOTES, DETAILS, AND SPECIFICATIONS FOR FURTHER INFORMATION.
- 4. ALL PLANTS TO BE BALLED AND BURLAPPED OR CONTAINER GROWN, UNLESS OTHERWISE NOTED ON THE PLANT LIST. SUBSTITUTIONS FOR CULTIVARS OF SIMILAR SIZE MAY BE USED BASED ON AVAILABILITY AT TIME OF PLANTING
- 5. QUANTITIES INDICATED IN THE PLANT SCHEDULE ARE FOR CONVENIENCE ONLY. THE CONTRACTOR IS RESPONSIBLE FOR VERIFYING ALL QUANTITIES, AND SHALL SUPPLY ALL PLANT MATERIAL IN QUANTITIES SUFFICIENT TO COMPLETE THE PLANTING DESIGN SHOWN ON THE PLANS, REGARDLESS OF QUANTITIES INDICATED IN THE PLANT SCHEDULE.
- 6. LOCATION AND SPACING OF STREET TREES TO BE ADJUSTED FOR DRIVEWAYS. OVERALL COUNT TO REMAIN.







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PLANTING NOTES

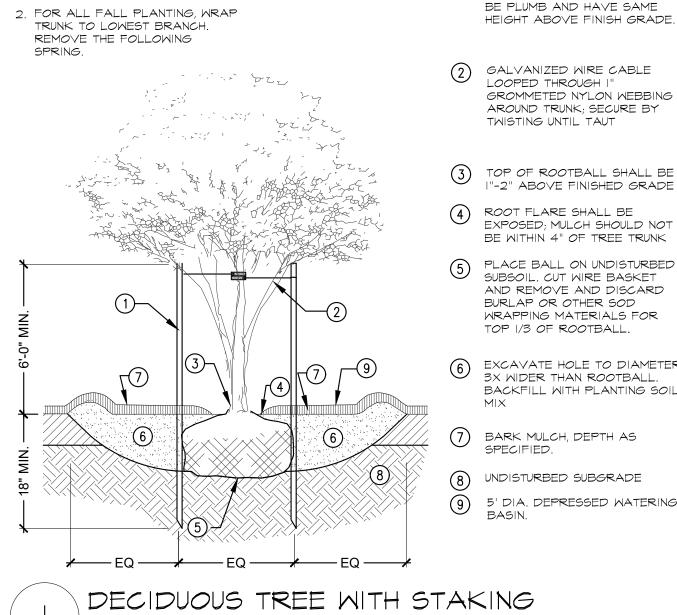
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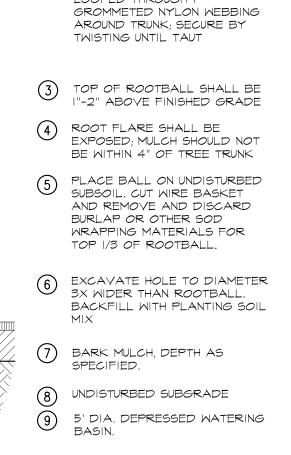
PLANT SCHEDULE PHASE 7

<u>SYMBOL</u> BOTANICAL / COMMON NAME <u>CONT</u> <u> QTY</u> GLEDITSIA TRIACANTHOS 'IMPERIAL' / IMPERIAL HONEYLOCUST 2" CAL. 27 11,582 SF MULCH- 3" THICK MINIMUM

NOTES:

I. INSTALL TREE PLUMB





1 2" DIA. (ROUND) FIR POSTS; 2 PER TREE; ALL POSTS SHALL



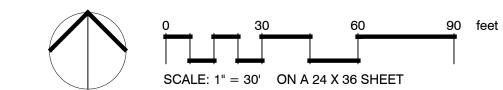


PROJECT

ISSUE DRAWING LOG



PHASE 7



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Agenda Item #7: Parking Requirements

Description

Discussion and Consideration: Recommendation for Ordinance 25-23: Amending NCC 19.24.160 Parking Requirements and NCC 19.24.250 Accessory Dwelling Unit Standards, Including Parking Requirements for Single-Family and Two-Family Dwellings

Department

City Planning

Action Type

Legislative

Recommendation

Recommend Approval of Ordinance 25-23: Amending NCC 19.24.160 Parking Requirements and NCC 19.24.250 Accessory Dwelling Unit Standards, Including Parking Requirements for Single-Family and Two-Family Dwellings

Reviewed By

City Planner, City Engineer, Public Works

Background

During the 2025 Legislative Session, the Utah State Legislature passed S.B. 181, which among other provisions, enacted some restrictions about how municipalities regulate parking. This ordinance is in direct response to this legislation, primarily to bring the City into compliance with the State Code.

There are two provisions of this legislation that the currently adopted City Code does not comply with, specifically the following:

1. A specified municipality may not restrict a two-car garage from satisfying two parking spaces as part of a minimum parking space requirement.

2. A specified municipality may not restrict an unobstructed tandem parking space from satisfying two parking spaces as part of a minimum parking space requirement

The proposed Code amendment strikes a provision of Nibley City Code that does not count parking within a garage toward the parking requirement. Instead, Staff recommends that 2 parking stalls are required for each single-family dwelling and 3 parking stalls are required for each two-family dwelling. This includes properties that have an accessory dwelling unit. These rates would be in line with the research performed during the recent parking requirements amendments and would bring the City in compliance with State Code.

In addition to this amendment, Staff recommends striking a provision of the ADU ordinance which requires that ADU parking does not obstruct parking for the primary dwelling, as this provision is currently in violation of State Code regarding tandem parking.

19.24.160 Parking Requirements

- A. General Requirements: Except as herein provided, no building or structure shall be erected or expanded by greater than 10% of the overall building square footage unless there shall be provided on the lot or parcel, off street vehicle parking which meets or exceeds the standards of this section.
- B. Minimum Parking Requirements: In all districts, the following minimum parking requirements shall apply:

| Use | Minimum Vehicular Parking Spaces | Minimum Bicycle Parking Spaces |
|--|---|---------------------------------|
| Churches, theaters, meeting rooms, places of public assembly | 1 space per 5 fixed seats; 20 inches of bench shall be considered 1 seat and 1 space per 50 square feet of floor area for moveable seats under maximum seating arrangement. | 1 space per 50 fixed seats. |
| Food establishments without Drive-through | 6 spaces per 1,000 square feet. | 1 space per 2,000 square feet. |
| Food establishments with Drive-through | 5 spaces per 1,000 square feet. | 1 space per 2,000 square feet. |
| Hospital | 1 space per bed. | 1 space per 20,000 square feet. |
| Assisted Living or Nursing Homes | 1 space per each 2 beds. | 1 space per 2,000 square feet. |

Commented [LR1]: This amendment only impacts subsection B for this section.

| Professional, Corporate or General Offices | 3 spaces per 1,000 square feet of examination treatment, office and waiting rooms. | 1 space per 2,000 square feet. |
|--|--|---------------------------------|
| School, College | 0.25 spaces per student. Parking spaces provided for the school may be considered as parking for the public assembly areas. | 1 space per 20 students. |
| School, Elementary or Middle | 1 per teacher and employee. Parking spaces provided for the school may be considered as parking for the public assembly areas. | 1 space per 20 students. |
| Daycare | 0.2 spaces per child. | - |
| Hotel or Bed & Breakfast | 1 space per room. | 1 space per 20 rooms. |
| Short Term Rental | 1 space per 4 occupants. | - |
| Motor Vehicle Sales & Service | 3 spaces per 1,000 square feet. | 1 space per 20,000 square feet. |
| Residential, Single Family | 2 off-street spaces per dwelling in addition to any carport or garage. | - |
| Residential, Two Family ² | 3 off-street spaces | _ |
| Other Retail Stores, Businesses Selling or Catering | 3 spaces per 1,000 square feet. | 1 space per 2,000 square feet. |

Commented [LR2]: Removed to comply with SB 181.

Commented [LR3]: Recommended for consistency with state IADU restrictions (10-9a-530(4)©(i) since the City doesn't decipher between IADU and other two-family housing.

| to the Public, Recreational Places of Assembly | |
|---|--|
| Other Uses Not Listed | |

- 1. For uses not listed, the appropriate approval authority shall assign minimum parking requirements based upon the most comparable use(s) described in the chart or the applicant may submit an alternative parking plan, as described in this section, for review.
- 1.2. This applies to single family residential properties with an accessory dwelling unit and two-family residential properties.

19.24.250 Accessory Dwelling Unit Standards

D. Approval Criteria

- 1. Proposed accessory dwelling units in compliance with the following criteria to ensure the health and safety of occupants.
- 2. Fire, building, and health codes. The design and size of the accessory dwelling unit shall conform to all applicable standards in the fire, building, and health codes. All necessary permits shall indicate the area to be designated for accessory dwelling unit use.
- 3. Separate addresses and mailboxes shall be placed on all accessory dwelling units regulated by this chapter as required for public safety purposes.
- 4. Parking: Off-street parking for two vehicles, shall be provided per NCC 19.24.160. provided for use by the tenants of the accessory dwelling unit. This parking shall be provided in addition to the required parking for the primary dwelling unit and shall not obstruct access to the parking of the primary dwelling unit and shall be located behind the front plane of the primary dwelling. Parking dimensions shall be provided in accordance with NCC 19.24.160. Parking surfaces shall be constructed of a hard surface, such as concrete or asphalt, or gravel.

Commented [LR4]: This amendment only impacts subsection D for this section.

Commented [LR5]: Removed to comply with SB 181 re: tandem parking.

- 5. One Accessory Dwelling Unit: Only one accessory dwelling unit shall be allowed for each single-family dwelling. Accessory dwelling units are not allowed on lots that contain a two-family dwelling.
- 6. No accessory dwelling unit shall be built on a registered wetland or flood plain.
- 7. The use of an accessory dwelling unit shall be limited to residential uses. With the exception of a home occupation, no commercial or industrial uses are permitted within an accessory dwelling unit.
- 8. Accessory dwelling units shall be charged the base rate for water and sewer usage in accordance with the Nibley City Fee Schedule.
- 9. Impact Fees: Accessory dwelling units that install a separate water or sewer meter shall be subject to 100% of the impact fee of a multi-family dwelling units. Accessory dwelling unites that do not install a separate water or sewer meter shall be subject to 50% of the impact fee of a multi-family dwelling units as set forth in the latest associated Impact Fee Ordinance adjustment.
 - 1. Owners may petition the City for a rebate of impact fees for accessory dwelling units which provide rent that is considered affordable, as described below. The maximum rebate amount shall be set at 33 1/3% annually of the total collected impact fee for a period of three (3) years. City Staff shall determine if documentation of rent collected is acceptable. If documentation is not provided within 30 days of each anniversary of the issuance of the certificate of occupancy, the rebate shall be forfeited for that year. The rebate shall be non-transferrable.
 - 1. The unit's rent is considered affordable to a household of four (4) earning 50% of the area median income of the Logan, UT-ID Metropolitan Statistical Area (MSA), according to income limits set by the US Department of Housing and Urban Development (HUD) for a period of three (3) years.

The rent limit shall be set using the following calculation: HUD annual 4-person 50% AMI Income Limit * 0.3 (30 %) – \$150 (for utility expenses)