



NIBLEY CITY COUNCIL MEETING AGENDA
THURSDAY, SEPTEMBER 10, 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 84321-6337. The public may also view the meeting via the YouTube link provided at www.nibleycity.gov. Public comment should be submitted to cherylb@nibleycity.gov by 6:30 PM.

Public comments with names and addresses will be read into the public record.

1. Opening Ceremonies (Nathan Laursen)
2. Call to Order and Roll Call (Chair)
3. Approval of the August 21, 2025, Meeting Minutes and the Current Agenda (Chair)
4. Public Comment Period¹ (Chair)
5. Planning and Zoning Commission Report

6. **Discussion and Consideration:** 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 (Second Reading)
7. **Discussion and Consideration:** 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 (Second Reading)
8. **Public Hearing:** Ordinance 25-17—Annexation and Zoning Assignment of Parcel 03-049-0011 Located at Approximately 3601 S 1200 W, Containing 9 Acres and Assigning Zoning of R-2A (Residential) Applicant: Heritage Land Holdings, LLC
9. **Discussion and Consideration:** Ordinance 25-17—Annexation and Zoning Assignment of Parcel 03-049-0011 Located at Approximately 3601 S 1200 W, Containing 9 Acres and Assigning Zoning of R-2A (Residential) Applicant: Heritage Land Holdings, LLC (First Reading)
10. **Discussion and Consideration:** Ordinance 25-30—Amending NCC 21.08.030 Property Boundary Adjustments, Boundary Establishment, and Amendments to a Subdivision (First Reading)

11. Council and Staff Reports

Nibley City's next scheduled Council meeting will be on Thursday, September 26, 2025, at 6:30 PM

¹ Public input is welcomed at all City Council Meetings. 15 minutes have been allotted to receive verbal public comment. Verbal comments shall be limited to 3 minutes per person. A sign-up sheet is available at the entrance to the Council Chambers starting 15 minutes prior to each council meeting and at the rostrum for the duration of the public comment period. Commenters shall identify themselves by name and address on the comment form and verbally for inclusion in the record. Comment will be taken in the order shown on the sign-up sheet. Written comment will also be accepted and entered into the record for the meeting if received prior to the conclusion of the meeting. Comments determined by the presiding officer to be in violation of Council meeting rules shall be ruled out of order.

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

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Agenda Item #6

Description	Discussion and Consideration: 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 (Second Reading)
Presenter	Levi Roberts, City Planner
Staff Recommendation	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
Planning Commission Recommendation	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	Justin Maughan, City Manager; Tom Dickinson, City Engineer; Joel Yellowhorse, City Attorney; Levi Roberts, City Planner; Planning Commission

Background:

Update for September 10 meeting:

During the 1st reading of this item, Councilmember Larsen asked about the requirement for improving the trail. Staff has reached out to the attorney regarding whether this

would be an appropriate exaction for this subdivision, who has offered the following opinion:

Requiring an entire trail with the associated improvements from a developer in exchange for a single lot would almost certainly be overdoing our ability to perform exactions. The impacts of a single lot being subdivided that would require a trail would mean that the single lot would have to generate enough traffic to warrant its own trail system through the park. Unless the lot is a very large apartment complex this is unlikely.

Prior Background Information:

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. 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, which affects Lot 35. On August 7, the Planning Commission reviewed and approved the Preliminary Plat conditional upon approval of this Development Agreement. A copy of the Preliminary Plat is included in the packet for reference.

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. The applicant has expressed that the updated open space area preserves more valuable sensitive lands than the previous boundary. A copy of the sensitive
- 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.

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**

WHEREAS, The Apple Creek Subdivision Phase 1 First Amendment, was conditionally approved as a Open Space Subdivision on August 7, 2025 under Nibley City Code 21.10.020 (“Open Space Subdivision Ordinance”) pursuant to the Development Agreement and other approvals issued by Nibley City; and

WHEREAS, The dedication of additional Open Space will be of beneficial use to the City and its residents.

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

1. The attached Development Agreement be approved
2. The Agreement shall not take place until the Developer and City have signed the attached Agreement and said Agreement has been properly recorded as required by Nibley City Code.
3. 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 and law, order, resolution or ordinance or part thereof.

PASSED BY THE NIBLEY CITY COUNCIL THIS ____ DAY OF _____ 2025

Larry Jacobsen, Mayor

ATTEST:

Cheryl Bodily, City Recorder

- 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. Frontage Requirements. Frontage requirements for Lot 37 in the Development shall be modified to conform to the setbacks as shown in the Amended Plat in Exhibit

- A. Placement of the allowed garage shall be in accordance with the site plan in Exhibit B.
- c. Design Standards. 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 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. **Assignment; Successors Bound.** 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.
6. **Modifications to Development Agreement.** 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. **Term.** 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:
 - i. 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. **Severability.** 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. **Third Parties.** 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. **Representations.** 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.

Exhibit A

(See the next page)

NOTES:

- 1. NO STRUCTURES MAY BE BUILT WITHIN ANY PUBLIC UTILITY EASEMENT, EXCEPT AS APPROVED BY 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 SUBSIDY.
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 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 SUBDIVISION LAND MAINTENANCE PLAN.
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 BUILDING PERMIT WILL BE ISSUED.
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 USE AND ACCESS EASEMENTS MAY EXIST ON RECORD.
14. SETBACKS ARE:
FRONT = 30'
REAR = 30'
SIDE = 10'

POWER NOTE:

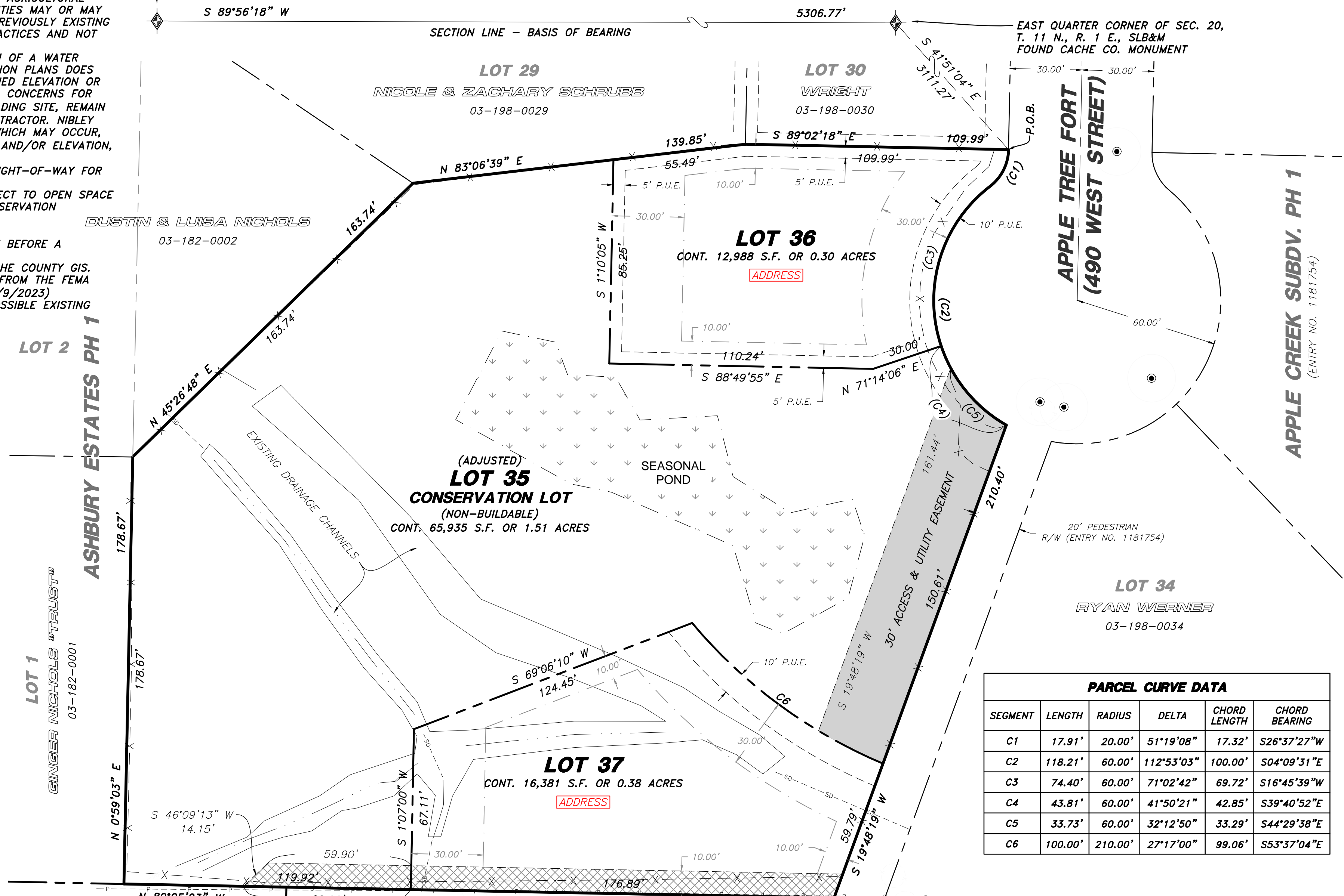
- 1. PURSUANT TO UTAH CODE ANN. 54-3-27 THIS PLAT CONVEYS TO THE OWNER(S) OR OPERATORS OF UTILITY FACILITIES A PUBLIC UTILITY EASEMENT ALONG WITH ALL THE RIGHTS AND DUTIES DESCRIBED THEREIN.
2. PURSUANT TO UTAH CODE ANN. 17-27A-603(4)(C)(II) ROCKY MOUNTAIN POWER ACCEPTS DELIVERY OF THE P.U.E. AS DESCRIBED 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
OR
(4) ANY OTHER PROVISION OF LAW.

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

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

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



PARCEL CURVE DATA table with columns: SEGMENT, LENGTH, RADIUS, DELTA, CHORD LENGTH, CHORD BEARING. Rows C1 through C6.

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 HEREOF.

SIGNED THIS ___ DAY OF ___ 2023.

ROGER C. SLADE, P.L.S.
UTAH LAND SURVEYOR LICENSE NO. 11386802.

SUBDIVISION BOUNDARY DESCRIPTION

A PART 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 SOUTHWEST 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.

IN WITNESS WE HAVE HEREUNTO SET OUR SIGNATURE THIS ___ DAY OF ___ 2023.

LESLI DUSTIN, TRUSTEE OF THE LESLI DUSTIN REVOCABLE TRUST, DATED SEPTEMBER 29, 2021

TRUST ACKNOWLEDGMENT

STATE OF UTAH)
COUNTY OF CACHE)

ON THIS ___ DAY OF ___ 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 OWNER'S 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

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

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 AND FILED AT THE REQUEST OF

DATE ___ TIME ___ FEE ___

ABSTRACTED

INDEX

FILED IN: ___ FILE OF PLATS

COUNTY RECORDER

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.

CENTURY LINK ___ DATE ___
COMCAST CORP. ___ DATE ___

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 ___

PLANNING COMMISSION APPROVAL

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

CHAIRMAN ___ DATE ___

COUNCIL APPROVAL

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

BY: ___ CHAIRMAN ATTEST: ___ CITY CLERK

ATTORNEY APPROVAL

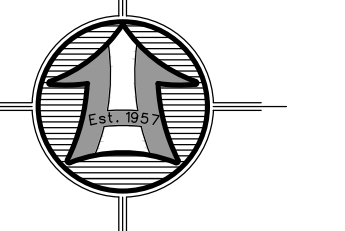
APPROVED AS TO FORM THIS ___ DAY OF ___ 20__.

CITY ATTORNEY ___ DATE ___

AGRICULTURAL NOTE

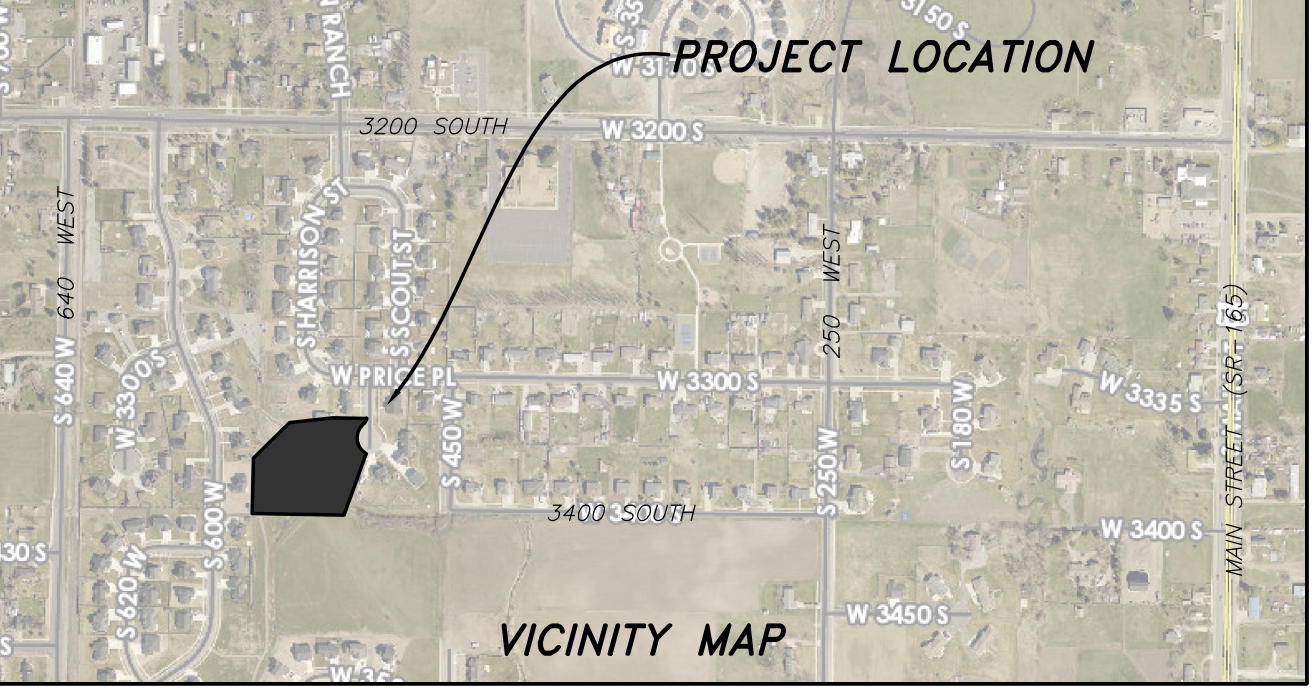
THIS PROPERTY IS LOCATED IN THE VICINITY OF PROPERTY THAT IS USED FOR AGRICULTURAL PURPOSES. IT MAY BE ANTICIPATED THAT SUCH AGRICULTURAL USES AND ACTIVITIES MAY OR MAY NOT IN THE FUTURE BE CONDUCTED IN THIS AREA AND THAT SUCH USES ARE PREVIOUSLY EXISTING USES. AGRICULTURAL USES AND SITUATIONS MUST BE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

DEVELOPER: SHAUN DUSTIN NIBLEY, UTAH 84302 (435) 770-0147



LEGEND

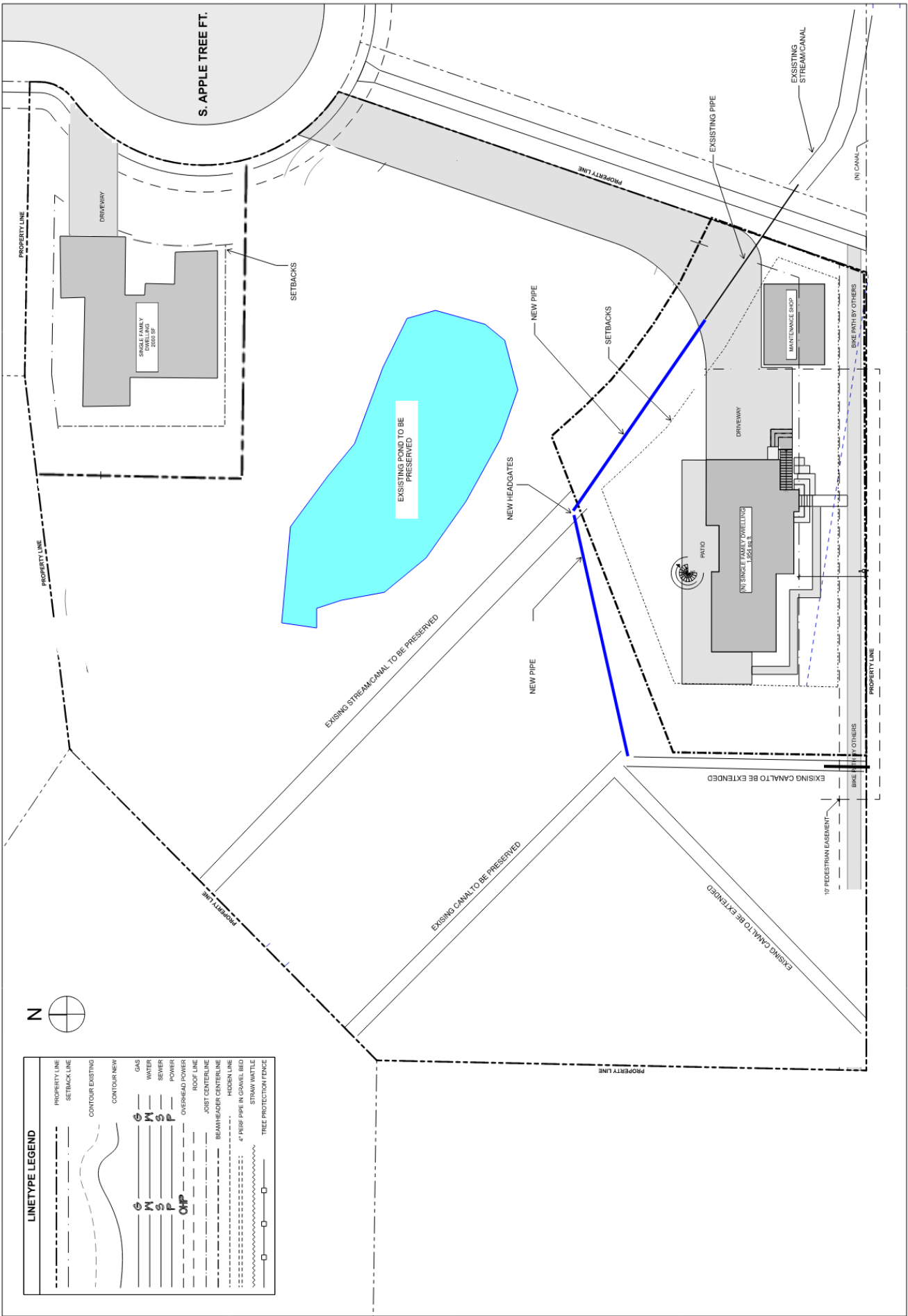
- SUBJECT PROPERTY LINE
INTERIOR LOT LINES / ADJOINING SUBDIVISION
ADJOINING PROPERTY LINE
CENTERLINE
PUBLIC UTILITY EASEMENT (PUE)
EXISTING FLOWLINE
TOP BANK
FENCE LINE
SETBACKS
PEDESTRIAN EASEMENT
WETLANDS
ACCESS & UTILITY EASEMENT
FOUND SURVEY MARKER SET BY OTHERS SET 5/8"x24" REBAR WITH CAP
SECTION CORNER



HANSEN & ASSOCIATES, INC. Consulting Engineers and Land Surveyors. 538 North Main Street, Brigham, Utah 84302. Visit us at www.haies.net. Celebrating over 65 Years of Business.

Exhibit B

(See the next page)



LINETYPE LEGEND

---	PROPERTY LINE
- - -	SETBACK LINE
~ ~ ~	CONTOUR EXISTING
~ ~ ~	CONTOUR NEW
G	GAS
M	WATER
S	SEWER
P	POWER
OP	OVERHEAD POWER
---	ROOF LINE
---	JOIST CENTERLINE
---	BEAM/HEADER CENTERLINE
---	HIDDEN LINE
---	4" PERP PIPE IN GRAVEL BED
---	STRAW WATTLE
---	TREE PROTECTION FENCE



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.
 2. 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 $\frac{3}{4}$ 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 Open 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

NOTES:

- NO STRUCTURES MAY BE BUILT WITHIN ANY PUBLIC UTILITY EASEMENT, EXCEPT AS APPROVED BY THE CITY ENGINEER.
- 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.
- SETBACKS ARE NOT SHOWN. ALL BUILDINGS SHALL BE SUBJECT TO SETBACKS REQUIRED BY CITY CODES IN EFFECT WHEN PERMITS ARE ISSUED.
- 10' PUBLIC UTILITY EASEMENTS SHALL START AT THE EDGE OF THE SIDEWALK EASEMENT.
- 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 USED. AGRICULTURAL USES AND SITUATIONS MUST BE SOUND AGRICULTURAL PRACTICES AND NOT BEAR A DIRECT THREAT TO THE PUBLIC HEALTH AND SAFETY.
- 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.
- A 6' SIDEWALK EASEMENT IS INCLUDED ON 490 WEST STREET RIGHT-OF-WAY FOR INSTALLATION AND MAINTENANCE OF THE SIDEWALK.
- 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.
- ALL DRIVEWAYS SHALL BE LIMITED TO A MAXIMUM WIDTH OF 24'.
- STREET TREES MUST BE INSTALLED PER REQUIREMENTS OF NIBLEY CITY CODE BEFORE A BUILDING PERMIT WILL BE ISSUED.
- WETLAND AREAS SHOWN WERE ESTABLISHED FROM DATA OBTAINED FROM NATIONAL WETLANDS INVENTORY.
- 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)
- EXISTING TOP OF BANK DITCH LINES ARE SHOWN FOR REFERENCE ONLY. POSSIBLE EXISTING USE AND ACCESS EASEMENTS MAY EXIST ON RECORD.
- SETBACKS ARE:
FRONT = 25'
REAR = 20'
SIDE = 8'
- 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:

- 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.
- 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
OR
(4) ANY OTHER PROVISION OF LAW.

APPROVED BY THE ROCKY MOUNTAIN POWER, THIS ____ DAY OF ____ A.D., 20__.

BY: _____ TITLE: _____

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., 20__.

BY: _____ TITLE: _____

APPLE CREEK SUBDIVISION, PHASE 1 - FIRST AMENDMENT

AMENDING LOT 35, APPLE CREEK SUBDIVISION

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

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 HEREOF.

SIGNED THIS ____ DAY OF ____ 2023.

ROGER C. SLADE, P.L.S.
UTAH LAND SURVEYOR LICENSE NO. 11386802.



SUBDIVISION BOUNDARY DESCRIPTION

A PART 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.

IN WITNESS WE HAVE HEREUNTO SET OUR SIGNATURE THIS ____ DAY OF ____ 2023.

LESLI DUSTIN, TRUSTEE OF
THE LESLI DUSTIN REVOCABLE TRUST, DATED SEPTEMBER 29, 2021

TRUST ACKNOWLEDGMENT

STATE OF UTAH)
COUNTY OF CACHE)
ON THIS ____ DAY OF ____ 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 AND FILED AT THE REQUEST OF _____

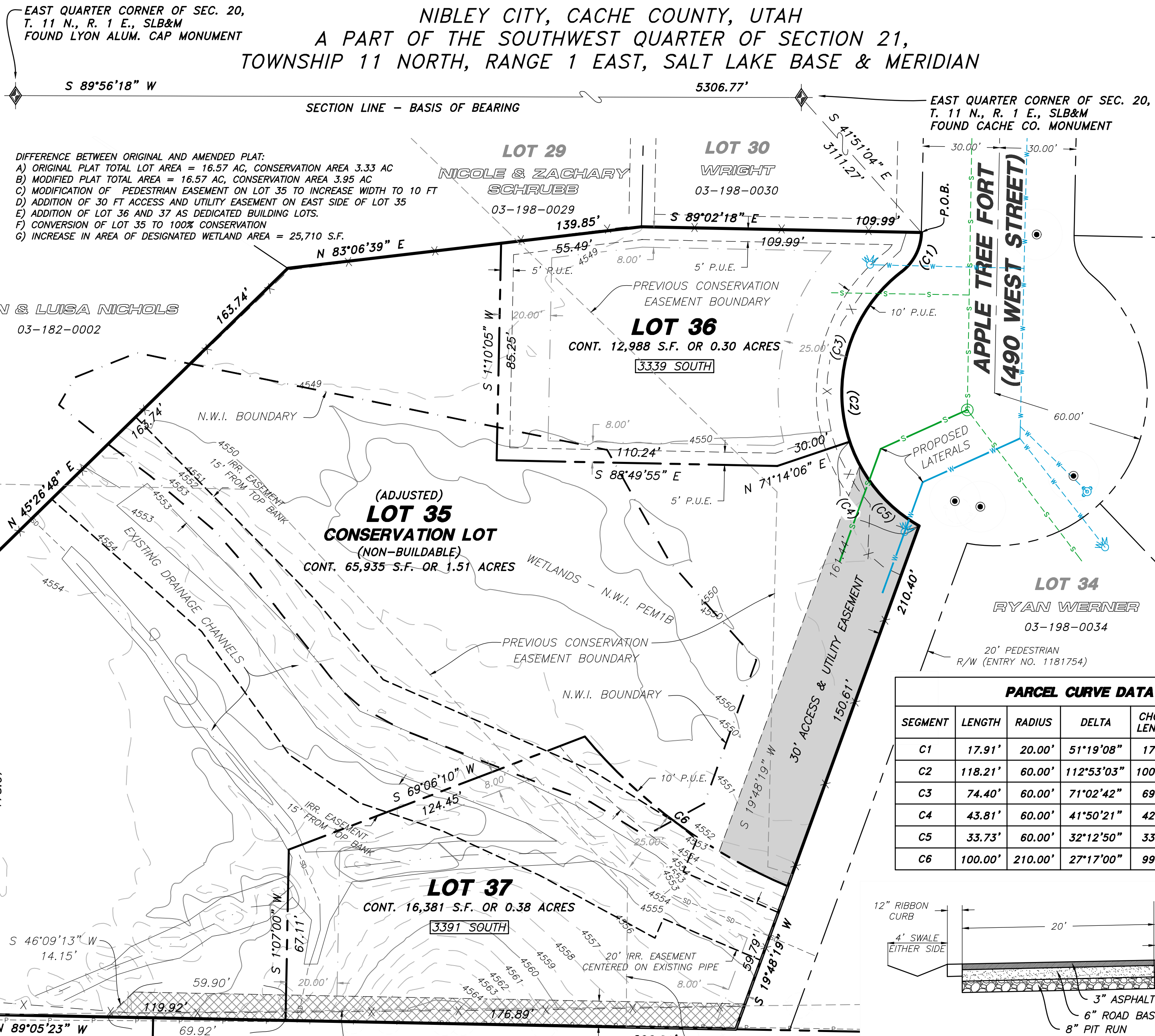
DATE _____ TIME _____ FEE _____

ABSTRACTED _____

INDEX _____

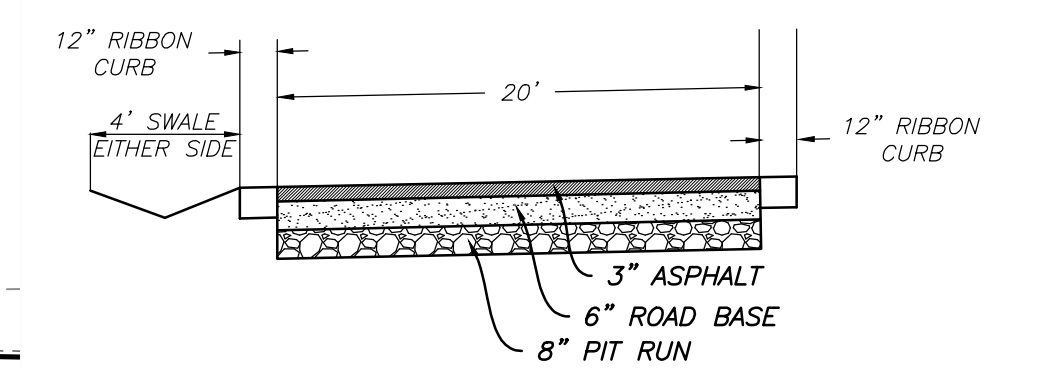
FILED IN: _____ FILE OF PLATS

COUNTY RECORDER



PARCEL CURVE DATA

SEGMENT	LENGTH	RADIUS	DELTA	CHORD LENGTH	CHORD BEARING
C1	17.91'	20.00'	51°19'08"	17.32'	S26°37'27"W
C2	118.21'	60.00'	112°53'03"	100.00'	S04°09'31"E
C3	74.40'	60.00'	71°02'42"	69.72'	S16°45'39"W
C4	43.81'	60.00'	41°50'21"	42.85'	S39°40'52"E
C5	33.73'	60.00'	32°12'50"	33.29'	S44°29'38"E
C6	100.00'	210.00'	27°17'00"	99.06'	S53°37'04"E



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

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.

CENTURY LINK _____ DATE _____
COMCAST CORP. _____ DATE _____

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

PLANNING COMMISSION APPROVAL

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

CHAIRMAN DATE

COUNCIL APPROVAL

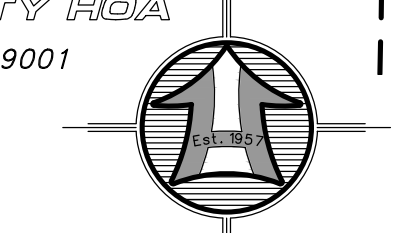
APPROVED & ACCEPTED BY THE NIBLEY CITY COUNCIL, THIS ____ DAY OF ____ A.D., 20__.

BY: _____ ATTEST: _____
CHAIRMAN CITY CLERK

ATTORNEY APPROVAL

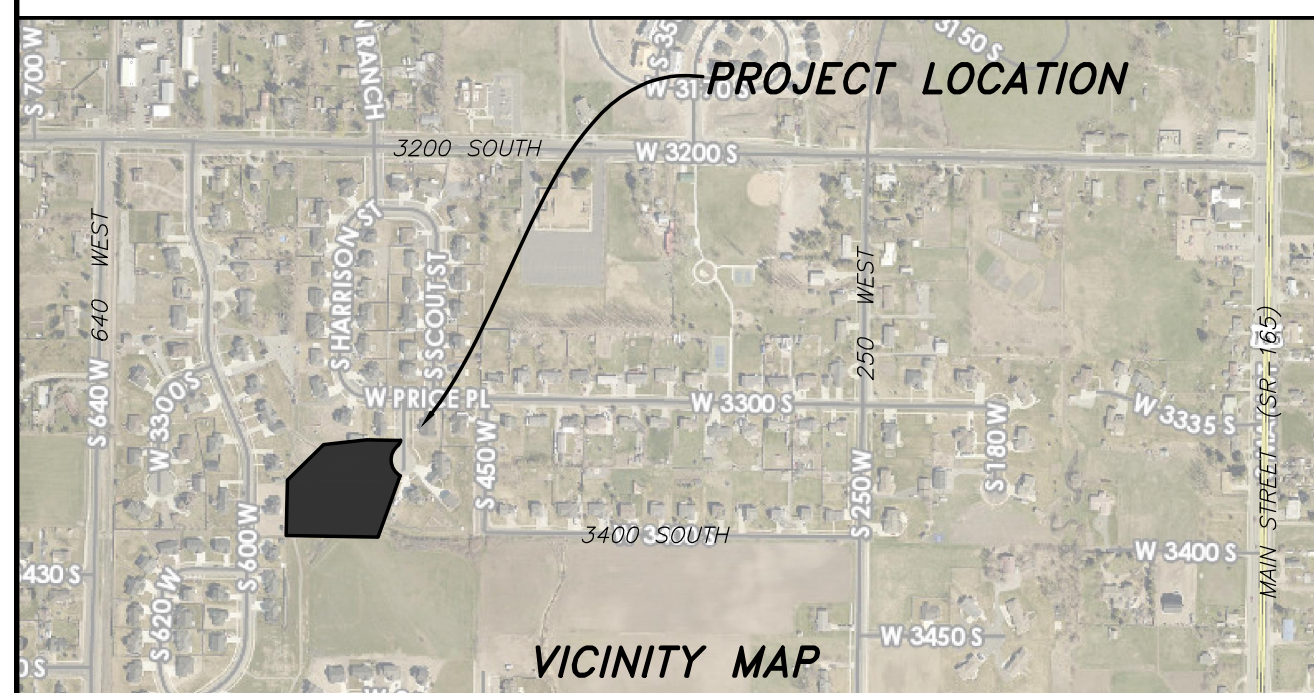
APPROVED AS TO FORM THIS ____ DAY OF ____ 20__.

CITY ATTORNEY DATE



DEVELOPER:
LESLI DUSTIN
169 WEST 3300 SOUTH
NIBLEY, UTAH 84321
(435) 770-0147

- LEGEND**
- SUBJECT PROPERTY LINE
 - INTERIOR LOT LINES / ADJOINING SUBDIVISION
 - ADJOINING PROPERTY LINE
 - CENTERLINE
 - PUBLIC UTILITY EASEMENT (PUE)
 - EXISTING FLOWLINE
 - TOP BANK
 - FENCE LINE
 - 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 SET 5/8"x24" REBAR WITH CAP
 - SECTION CORNER



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Celebrating over 65 Years of Business

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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 $\frac{3}{4}$ 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

**APPENDIX A: Nibley City Ordinance 08-01, Conservation Residential
Subdivision**

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

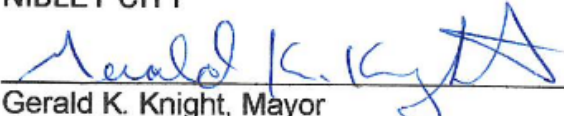
All ordinances, resolutions, and policies of the city, or parts thereof inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency. This repealer shall not be construed as reviving any law, order, resolution or ordinance or part thereof.

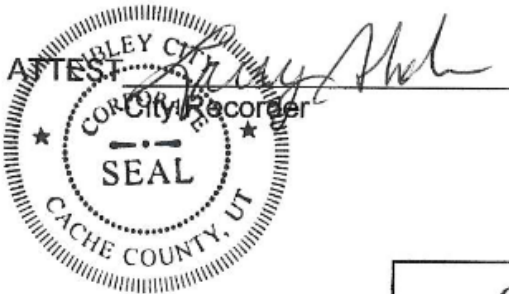
4. SEVERABILITY

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 17TH DAY OF JANUARY, 2008.

NIBLEY CITY


Gerald K. Knight, Mayor

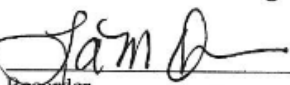


CERTIFICATE OF POSTING OF ORDINANCE

I, the duly appointed and acting City Recorder for the City of Nibley, hereby certify that copies of the foregoing ordinance number 08-01 were posted in three public places within the municipality this 23 day of January, 2008.
To wit:

- 1. Bob's Service
- 2. The Old City Hall
- 3. City Hall

Dated this 23 day of Jan 2008.


Recorder
For Recorder

Ordinance 08-01 Conservation Residential Subdivision

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**
- 10 **10-20-8 Sensitive Area Designation Plan**
- 11 **10-20-9 Master Development Plan**
- 12 **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

- 24 A. Protects areas of the City with productive agricultural soils for continued agricultural use by
25 conserving blocks of land large enough to allow for farm operations;
- 26
- 27 B. Provides standards accommodating to some extent the varying circumstances and interests of
28 individual landowners and the individual characteristics of their properties; and
- 29
- 30 C. Protects constrained and sensitive lands, including those areas containing sensitive and
31 undevelopable features such as steep slopes, floodplains and wetlands, by setting them aside
32 from development;
- 33
- 34 D. Conserves conservation and open space land, including those areas containing unique or
35 natural features such as meadows, grasslands, tree stands, streams, stream corridors, berms,
36 watercourses, farmland, wildlife corridors and/or habitat, historical buildings and/or sites,
37 archeological sites, and green space, by setting them aside from development;
- 38
- 39 E. Provides greater design flexibility and efficiency in the siting of services and infrastructure,
40 including the opportunity to reduce length of roads, utility runs, and the amount of paving
41 required for residential development;
- 42
- 43 F. Reduces erosion and sedimentation by the retention of existing vegetation and the
44 minimization of development on steep slopes and other constrained and sensitive lands;
- 45

- 1 G. Provides for a diversity of lot sizes to accommodate a variety of age and income groups and
2 residential preferences, so that the community's population diversity may be enhanced;
3
- 4 H. Provides incentives for the creation of greenway systems and open space within the City for
5 the benefit of present and future residents;
6
- 7 I. Implements adopted City policies to conserve a variety of irreplaceable and environmentally
8 sensitive resource and agricultural lands as set forth in the Comprehensive General Plan;
9
- 10 J. Implements adopted land use, environment, natural hazards, transportation, and community
11 policies, as identified in the Comprehensive General Plan;
12
- 13 K. Creates neighborhoods with direct visual and/or recreational access to constrained, sensitive
14 and conservation land;
15
- 16 L. Provides for the conservation and maintenance of constrained, sensitive and conservation
17 land within the City to achieve the goals of the Nibley City General Plan;
18
- 19 M. Provides incentives and design alternatives for landowners to minimize impacts on
20 environmental resources such as, sensitive lands, wetlands, floodplain, and steep slopes, and
21 to minimize disturbance of natural or cultural features such as, mature woodlands, tree lines,
22 wildlife habitats and corridors, and historic buildings;
23
- 24 N. Conserves scenic views and elements of the City's rural and scenic character and minimizes
25 perceived density by minimizing views of new development from existing roads.
26

27 **10-20-2 Applicability**
28

- 29 A. The election to develop property as a Conservation Residential Subdivision is voluntary and
30 provided to developers as an alternative to development of property as a Conventional
31 Subdivision pursuant to other applicable provisions of this Title. The intent of this Chapter
32 and the Conservation Residential Subdivision options is to encourage the creation and
33 development of flexibly-designed open space subdivisions. Conservation Residential
34 Subdivisions may be developed within applicable residential zones of the City. Conservation
35 Residential Subdivisions shall be developed in accordance with and subject to the
36 development standards, conditions, procedures and regulations of this Chapter and with all
37 other applicable subdivision ordinances and zoning regulations of the City which are not
38 otherwise in conflict with the provisions of this Chapter.
39
- 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
43 meanings set forth herein:
44

- 45 A. Conservation Land. Conservation land means land containing unique, historic, cultural,
46 archeological, natural or other significant features, including, but not limited to, meadows,

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

- 4
5 B. Constrained and Sensitive Land. Constrained and sensitive land means land which is
6 generally unbuildable and which contains constrained and sensitive features including, but
7 not limited to, wetlands, floodplains, steep slopes, faults and other geologically or
8 environmentally sensitive features.

9
10 **10-20-4 Development Options**

- 11
12 A. All areas in Nibley City zoned R-1 or R-2, both current and those areas that may be annexed
13 in the future, have the option of a conservation residential subdivision. The intent of the
14 conservation residential subdivision is to encourage the preservation of usable open space,
15 thus helping to maintain the rural character of Nibley City. The City will provide density
16 bonuses to developers who elect to have this type of subdivision, thus increasing the number
17 of lots for development.
18
19 B. Applicants in newly annexed R-1 zones may choose to apply for a subdivision approval
20 using the Conservation Residential Subdivision. By so doing, the density from which all
21 calculations shall be made shall be equal to .5 acre lots or the same density as R-2 zone.
22
23 C. Applicants in existing R-1 zones may also choose to apply for a subdivision approval using
24 the Conservation Residential Subdivision. By so doing, the density from which all
25 calculations shall be made shall be equal to .75 acre lots or the same density as the R-1A
26 zone.
27
28 D. Developers desiring to develop property as a Conservation Residential Subdivision are
29 subject to the development standards, conditions, procedures and regulations of this Chapter.
30

31 **10-20-5 Approval Process**

- 32
33 A. Applications for a Conservation Residential Subdivision shall be submitted and processed in
34 accordance with the requirements and procedures set forth in the City Subdivision
35 Ordinance, including submission and approval of schematic, preliminary and final plans or
36 plats, and any additional procedural requirements set forth in this Chapter, including, but not
37 limited to, submission of a Sensitive Area Designation Plan and/or Master Development
38 Plan.
39

40 **10-20-6 Development Activities Prohibited**

- 41
42 A. In order to ensure the preservation and enhancement of existing conditions of certain
43 property within the City, including, but not limited to, constrained and sensitive lands,
44 natural and cultural resources, wildlife habitat and other unique and sensitive lands, no new
45 development activity shall be permitted on property proposed for development as a
46 Conservation Residential Subdivision prior to final plat approval as provided herein. Upon

1 final plat approval, all development activity shall be conducted in accordance with and
2 subject to applicable permit and development approval processes required by City
3 Ordinances, rules and regulations. For purposes of this Section, "development activity" shall
4 include any disturbance or alteration of the property in any way, but shall not include
5 continuation of any currently existing permitted use of the property.
6

7 **10-20-7 Waiver**
8

9 A. Subject to the provisions set forth herein, any provision of this Chapter may be waived by the
10 City Council upon a vote of not less than three (3) members of the City Council. Such
11 waiver(s) shall be granted only in limited circumstances as deemed appropriate and necessary
12 by the City Council. No waiver shall be granted absent a finding of good cause based upon
13 specific special circumstances attached to the property, nor shall any waiver be granted for
14 reasons of financial hardship. No waiver shall be granted that would be contrary to the public
15 interest or contrary to the underlying intent of this Chapter. Any waiver of the required
16 minimum conservation land dedication shall require comparable compensation, off-site
17 improvements, amenities or other consideration of comparable size, quality and/or value.
18

19 **10-20-8 Sensitive Area Designation Plan Map**
20

21 A. All applications for a Conservation Residential Subdivision shall include a Sensitive Area
22 Designation Plan Map prepared in accordance with the provisions set forth herein. The
23 Sensitive Area Designation Plan Map shall identify all constrained and sensitive lands within
24 the property boundaries and within four hundred (400) feet outside of the property
25 boundaries, including, but not limited to, floodplains, wetlands, and steep slopes. The
26 Sensitive Area Designation Plan Map shall also clearly identify all natural or cultural
27 resources present on the property and within four hundred (400) feet outside of the property,
28 including, but not limited to, geographic features, including, but not limited to, meadows,
29 grasslands, tree stands, streams, stream corridors, flood walls, berms, watercourses, farmland,
30 wildlife corridors and/or habitat; historic buildings and/or sites; archeological sites; cultural
31 features and green space. Applicants are solely responsible for checking and ensuring the
32 accuracy and designation of constrained and sensitive lands and natural and cultural
33 resources on the Sensitive Area Designation Plan Map for their particular project and
34 applicable adjacent property. If site analysis, surveying and/or identification of constrained
35 and sensitive lands and natural and cultural resources require entry onto adjacent properties,
36 applicants are solely responsible for obtaining all required permits and/or approvals for such
37 entry and analysis, surveying and/or identification.
38

39 **10-20-9 Master Development Plan**
40

41 A. When deemed necessary or desirable by the City, application and approval for a
42 Conservation Residential Subdivision may require the submission and approval by the City
43 Council of a Master Development Plan and/or Development Agreement. Such Master
44 Development Plan and/or Development Agreement may be required by the City at any stage
45 of the subdivision approval process.
46

1 **10-20-10 Dimensional Standards**

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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 Land	Incentive Multiplier	Minimum Average Lot Size	Lot Size Minimum	Required Frontage
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'

7

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'

8

Development Incentive Chart- R-1A				
Conservation Land	Incentive Multiplier	Minimum Average Lot Size	Lot Size Minimum	Required Frontage
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'

9

10 The average lot size of the subdivision in areas developed as R-1A may vary slightly from the
11 figures listed, depending on the gross acreage of the project, but the variation will be less than
12 3% either way. This chart is based on a project with gross acreage of 10 acres, which would
13 provide 12 lots. (Original number of ¼ acre lots = gross acreage of the proposed subdivision x
14 1.2)

15

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

1 conservation land by the original number of lots. (Original number of ½ acre lots = gross
 2 acreage of the proposed subdivision x 1.6) The following is an example of how density
 3 bonuses would be calculated on a 10 acre parcel of land zoned R-1. The chart is based on the
 4 premise that 10 acres gross land less roads = 8 acres developable land = 16 half-acre lots (10
 5 x 1.6).
 6

7 **Example of Density Bonuses- 10 acre parcel of property zoned R-1**
 8

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

9
 10 C. **Minimum Required Conservation Land.** All Conservation Residential Subdivisions shall
 11 provide a minimum amount of conservation land within the Conservation Residential
 12 Subdivision as set forth in the Development Incentive Chart in Subsection A. The minimum
 13 percentage of required conservation land for any given Conservation Residential Subdivision
 14 shall be calculated based upon the total acreage of property within the proposed subdivision.
 15 Except as otherwise provided herein, conservation land shall not be included within any
 16 residential lot.
 17

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

31 E. **Lot Area.** The lot area and minimum lot size for lots within a Conservation Residential
 32 Subdivision shall be determined in accordance with the Development Incentive Chart set
 33 forth in Subsection A. The typical lot area is likely to be much closer in size to the
 34 established threshold for each zone because that lot size can be delivered by developers while
 35 still meeting the minimum conservation land requirements set forth herein.
 36

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

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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.

1. Front Setback. The minimum front yard setback for main buildings in a Conservation Residential Subdivisions shall be thirty (30) feet.
2. Rear Setback. The minimum rear yard setback for main buildings within a Conservation Residential Subdivisions shall be twenty-five (25) feet.
3. 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.

1. Main buildings:

- 1 a. Main buildings shall not exceed forty (40') feet in height;
2 b. No dwelling or structure shall contain less than one story.
3
4 2. Accessory buildings or structures shall not exceed twenty (20') feet in height unless an
5 increased height is approved by the Planning Commission after review of a conditional
6 use application filed by the property owner.
7
8 3. Accessory buildings on lots greater than ½ acre in size shall meet the setback and height
9 requirements of the underlying zone in which they are located.

10
11 **10-20-11 Design Standards**

- 12
13 A. Individual Lots. Individual lots in Conservation Residential Subdivisions shall be laid out
14 pursuant to the dimensional standards set forth herein. With the exception of conservancy
15 lots, individual residential lots shall not encroach upon or contain any of the required
16 minimum designated conservation land for the Subdivision or any constrained or sensitive
17 lands, as defined herein.
18
19 B. Front-loading Garages. Garage door entrances shall be level to or behind the front plane of
20 the dwelling.
21
22 C. Conservation Land Coordination. In order to create larger areas of conservation land and to
23 combine open space from a variety of developments, conservation land shall be coordinated
24 either with existing adjacent conservation land or with planned future conservation land. If
25 no adjacent parcels of land are planned for development, conservation land shall be planned
26 to provide the greatest likelihood of adjoining future developments' conservation land.
27
28 D. Conservation Lands. Standards pertaining to the quantity, quality, configuration, use,
29 permanent protection, ownership, and maintenance of the conservation land within a
30 Conservation Residential Subdivision shall be complied with as provided herein.
31
32 E. Constrained and Sensitive Lands. Restrictions and regulations regarding the preservation,
33 protection, ownership and maintenance of constrained and sensitive lands within a
34 Conservation Residential Subdivision shall be complied with as provided herein.
35

36 **10-20-12 Conservancy Lots**

- 37
38 A. Conservancy Lots. Conservation land and constrained and sensitive land may be included
39 within individual residential lots in limited circumstances when such areas can be properly
40 protected and preserved in accordance with the intent and purpose of this Chapter. Such lots
41 shall be known and referred to as "Conservancy Lots" and must be approved by the City
42 Council in conjunction with the subdivision approval.
43
44 B. Regulations. Conservation land and constrained and sensitive land within a Conservancy Lot
45 shall remain subject to all regulations and requirements for such land as set forth herein,
46 including, but not limited to, use, design, maintenance, ownership and permanent protection.

1
2 C. Ownership. Ownership may be held in perpetuity by an individual or corporation with a
3 restriction on the recorded plat preventing further development by providing a conservation
4 easement to Nibley City.
5

6 **10-20-13 Use Regulations**
7

8 A. Subdivision. Subject to use and development restrictions of constrained and sensitive lands
9 as set forth herein, land within Conservation Residential Subdivisions may be used for the
10 following purposes:
11

- 12 1. Permitted Uses. Any uses permitted in the relevant zone.
- 13
- 14 2. Conservation Land. Conservation land, subject to the use and development restrictions of
15 conservation land as set forth herein.
- 16
- 17 3. Accessory Uses. Any permitted accessory uses as provided in the relevant zoning
18 regulations.
19

20 B. Conservation Land. Conservation land may be used for the following purposes:
21

- 22 1. Permitted Uses. The following uses are permitted in conservation land areas:
23
 - 24 a. Conservation of open land in its natural state; e.g., meadow, grassland, tree stands,
25 farmland, etc.
 - 26
 - 27 b. Agricultural and horticultural uses, including raising crops.
 - 28
 - 29 c. Underground utility easements for drainage, access, sewer or water lines, or other
30 public purposes.
 - 31
 - 32 d. Above-ground utility and street rights-of-way may traverse conservation land if
33 permitted under City Ordinances; provided, areas encumbered by such facilities
34 and/or rights-of-way shall not be counted towards the minimum required conservation
35 land for the Subdivision.
 - 36
 - 37 e. Conservation land of less than one half (.5) acre may be used as landscaped buffers
38 for road ways, landscaped entrances to subdivisions, neighborhood "pocket parks" or
39 similar amenities as approved by the Planning Commission.
 - 40
- 41 2. Conditional Uses. The following uses shall be considered as conditional in conservation
42 land areas:
43
 - 44 a. Agricultural uses, not otherwise permitted, including livestock and associated
45 buildings that support an active, agricultural or horticultural operation, but excluding
46 livestock operations involving swine, poultry, and mink.

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- b. Pastureland for sheep, cows and horses.
 - c. Equestrian facilities.
 - d. Wholesale nurseries and associated buildings that are specifically needed to support active, viable horticultural operations.
 - e. Silviculture, in keeping with established standards for selective harvesting and sustained-yield forestry.
 - f. Neighborhood open space uses such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses specifically excluding motorized off-road vehicles, rifle ranges, and other uses similar in character and potential impact.
 - g. Active non-commercial recreation areas, such as trails, playing fields, playgrounds, courts, and bikeways.
 - h. Golf courses, not including miniature golf.
 - i. Water supply and sewage disposal systems, and stormwater detention areas designed, landscaped, and available for use as an integral part of the conservation land.
 - j. Fencing, when deemed necessary and appropriate for the particular use, condition, purpose and/or location of the conservation land.
3. Prohibited Uses. The following uses shall be considered prohibited in conservation land areas:
- a. Any residential, commercial or industrial activity;
 - b. 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 or conditional use;
 - c. Any filling, dredging, excavating, mining, drilling, or exploration for and extraction of oil, gas, minerals or other resources from the property;
 - d. Any dumping or storing of ashes, trash, garbage or junk vehicles or equipment;
 - e. Burning of any materials, except as necessary for agricultural, drainage and fire protection purposes;

- 1 f. The use of motor vehicles, including snowmobiles, all-terrain vehicles, motorcycles
2 and other recreational vehicles, except as may be necessary to maintain and operate
3 the property and/or utility facilities within the property;
- 4
- 5 g. Hunting or trapping for any purpose other than predatory or problem animal control;
- 6
- 7 h. Advertising of any kind or nature and any billboards or signs; provided, directory and
8 information signs may be displayed describing the easement and prohibited or
9 authorized use of the same;
- 10
- 11 i. Any cutting of trees or vegetation, except as necessary for fire protection, thinning,
12 elimination of diseased growth, control of non-native plant species, maintenance of
13 landscaped areas, and similar protective measures or those activities relating to
14 permitted agricultural uses;
- 15
- 16 j. The change, disturbance, alteration, or impairment of significant natural ecological
17 features and values of the property or destruction of other significant conservation
18 interests on the property;
- 19
- 20 k. The division, subdivision or de facto subdivision of the property;
- 21
- 22 l. Changing the topography of the property by placing on it any soil, dredging spoils,
23 land fill, or other materials, except as necessary to conduct specific permitted
24 purposes; and
- 25
- 26 m. All other uses and practices inconsistent with and detrimental to the stated objectives
27 and purpose of the easement.

28

29 C. Constrained and Sensitive Lands. Except for passive recreational activities, no development
30 or residential uses shall be permitted within constrained and sensitive lands.

31

32 **10-20-14 Conservation Land Design Standards.** Designated conservation land within a
33 Conservation Residential Subdivision shall meet the following standards:

- 34
- 35 A. Significant Areas and Features. Conservation land should include the most unique and
36 sensitive resources and locally significant features of the property within the Subdivision
37 such as meadows, grasslands, tree stands, streams, stream corridors, berms, watercourses,
38 farmlands, wildlife corridors and/or habitat, historic buildings and/or sites, archeological
39 sites, cultural features, green space, scenic views, etc.
- 40
- 41 B. Contiguous Land. Conservation lands within a development shall be contiguous to provide
42 for large and integrated open space areas within the Subdivision. Non-contiguous parcels of
43 conservation lands may be approved by the City Council during plat approval process upon a
44 finding that such exception is necessary and/or desirable based upon consideration of the size
45 of the project, the size of the conservation parcels, the types of features and resources
46 included within the conservation lands, and other relevant considerations. Long thin strips of

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.
5

6 C. Open Space Network Connection. Conservation land within a Conservation Residential
7 Subdivision shall be designed and laid out as part of a larger continuous and integrated open
8 space system to ensure that an interconnected network of open space will be provided
9 throughout the City.
10

11 D. Visibility. Conservation land shall be located and designed within the Conservation
12 Residential Subdivision to add to the visual amenities of neighborhoods and to the
13 surrounding area by maximizing the visibility of internal open space. Such enhanced
14 visibility of conservation land may be accomplished through design and location of such
15 open space as terminals at the ends of streets or along "single-loaded" street segments,
16 particularly along the outside edges of street curves, and by maximizing the visibility of
17 external open space as perimeter "greenbelt" conservation land.
18

19 E. Buffering. Conservation land shall be designed to provide buffers and to protect scenic views
20 as seen from existing roadways and from public parks. Where the proposed development
21 abuts a national forest or other public park, open space, wildlife sanctuary or preserve, a
22 natural greenway buffer at least twenty-five (25') feet wide shall be provided within the
23 development along its common boundary with said land, within which no new structures
24 shall be constructed, nor shall any clearing of trees or understory growth be permitted (except
25 as may be necessary for street or trail construction or fire safety). Where this buffer is
26 unwooded, the City may require vegetative screening to be planted at developer's sole cost
27 and expense and/or that the buffer be managed to encourage natural forest succession
28 through policies and the periodic removal of invasive alien plant and tree species.
29

30 F. Pedestrian Access. Developer shall provide adequate pedestrian access to conservation land
31 which is open to public or resident use.
32

33 G. Maintenance Access. Developer shall provide sufficient maintenance access to all
34 conservation land and constrained and sensitive lands within the Conservation Residential
35 Subdivision.
36

37 H. Landscaping. All conservation land that is not wooded, farmed, or maintained as
38 conservation meadows, grassland, or other approved open space, shall be landscaped at
39 developer's sole cost and expense in accordance with landscaping requirements for
40 subdivisions.
41

42 **10-20-15 Permanent Protection of Conservation Lands.**
43

44 A. Conservation Easement. All conservation land shall be permanently restricted from future
45 development by a conservation easement or other method of protection and preservation
46 acceptable to the City. Under no circumstances shall any development be permitted in the

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

7
8 B. Terms and Conditions. All conservation easements, or other acceptable method of protection
9 and preservation of the conservation land within a Conservation Residential Subdivision,
10 shall be in substantially the same form as the standard conservation easement form provided
11 by the City and shall include, at a minimum, the following terms and/or conditions:

- 12
- 13 1. legal description of the easement;
- 14 2. description of the current use and condition of the property;
- 15 3. permanent duration of easement;
- 16 4. permitted and conditional uses;
- 17 5. prohibited development and/or uses;
- 18 6. maintenance responsibilities and duties; and
- 19 7. enforcement rights and procedures.

20
21 C. Grantee. Unless otherwise approved by the City Council, the grantee of a conservation
22 easement shall consist of one of the following acceptable entities which entity shall be
23 qualified to maintain and enforce such conservation easement: land trust, conservation
24 organization or governmental entity. The City may, but shall not be required to, accept, as
25 grantee, a Conservation Easement encumbering conservation lands within a Conservation
26 Residential Subdivision, provided there is no cost of acquisition to the City for the easement
27 and sufficient access to and maintenance responsibilities regarding the conservation land are
28 provided.

29
30 **10-20-16 Ownership of Conservation Lands.**

31
32 A. Undivided Ownership. Unless otherwise approved by the City and subject to the provisions
33 set forth in this Chapter, the underlying fee ownership of the conservation land shall remain
34 in single ownership and may be owned and maintained by one of the following entities:
35 homeowners' association, land trust, conservation organization, governmental entity, or
36 private individual.

37
38 B. Property subject to a conservation easement, or other acceptable method of protection and
39 preservation, shall not be subdivided.

40
41 C. Owners' Association. Conservation land may be held in common ownership by a
42 condominium homeowners' or other acceptable owners' association, subject to all of the
43 provisions for owners' associations set forth in State regulations and the City's Subdivision
44 regulations. In addition, the following regulations shall be met:
45

- 1 1. A description of the organization of the proposed association, including its by-laws, and
2 all documents governing ownership, maintenance, and use restrictions for conservation
3 land, including restrictive covenants for the Subdivision, shall be submitted by the
4 developer with the Final Plat application.
5
- 6 2. The proposed association shall be established and operating (with financial subsidization,
7 if necessary) prior to or concurrent with the recording of the Final Plat for the
8 Subdivision.
9
- 10 3. Membership in the association shall be mandatory for all purchasers of property within
11 the Subdivision and their successors in title.
12
- 13 4. The association shall be responsible for maintenance and insurance of conservation land.
14
- 15 5. The by-laws of the association and restrictive covenants for the Subdivision shall confer
16 legal authority on the association to place a lien on the real property of any member who
17 falls delinquent in dues. Such dues shall be paid with the accrued interest before the lien
18 may be lifted.
19
- 20 6. Written notice of any proposed transfer of conservation land by the association or the
21 assumption of maintenance for the conservation land must be given to all members of the
22 association and to the City no less than thirty (30) days prior to such event.
23
- 24 7. The association shall have adequate staff to administer, maintain, and operate such
25 conservation land.
26

27 **10-20-17 Maintenance of Conservation Lands.**
28

- 29 A. Costs. Unless otherwise agreed to by the City, the cost and responsibility of maintaining
30 conservation land shall be borne by the owner of the underlying fee of the conservation land.
31
- 32 B. Plan. The developer shall submit a Master Plan outlining maintenance and operations of the
33 conservation land and providing for and addressing the means for permanent maintenance of
34 the conservation land within the proposed Conservation Residential Subdivision with the
35 Preliminary Plat application for the Subdivision. The Maintenance Plan shall provide the
36 following:
37
 - 38 1. The Plan shall define ownership.
39
 - 40 2. The Plan shall establish necessary regular and periodic operation and maintenance
41 responsibilities for the various kinds of open space (e.g., lawns, playing fields, meadow,
42 pasture, wetlands, stream corridors, hillsides, cropland, woodlands, etc.).
43
 - 44 3. The Plan shall estimate staffing needs, insurance requirements, and associated costs, and
45 define the means for funding the maintenance of the conservation land and operation of
46 any common facilities on an on-going basis. Such funding plan shall include the means

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

3
4 4. At the City's discretion, the applicant may be required to escrow sufficient funds for the
5 maintenance and operation costs of common facilities for up to one year following
6 acceptance by the City.

7
8 C. Approval. The Maintenance Plan must be approved by the City Council prior to or
9 concurrent with Final Plat approval for the Subdivision. The Maintenance Plan shall be
10 recorded against the property and shall include provisions for the City's corrective action
11 rights as set forth herein. Any changes or amendments to the Maintenance Plan shall be
12 approved by the City Council.

13
14 D. Failure to Maintain. In the event that the organization established to maintain the
15 conservation land and the common facilities, or any successor organization thereto, fails to
16 maintain all or any portion thereof in reasonable order and condition, the City may assume
17 responsibility, as a right but not an obligation, for maintenance, in which case any escrow
18 funds may be forfeited and any permits may be revoked or suspended.

19
20 E. Corrective Action. The City may enter the premises and take corrective action, including
21 extended maintenance. The costs of such corrective action may be charged to the property
22 owner and may include administrative costs and penalties. Such costs shall become a lien on
23 said properties. Notice of such lien shall be filed by the City in the County Recorder's office.
24 The Maintenance Plan and all other documents creating or establishing any association or
25 conservation organization for the property shall reference the City's corrective action
26 authority set forth herein and shall be recorded against the property.

27
28 F. The developer shall fund implementation and maintenance of the conservation easement until
29 such time as the control of the easement is transferred to the long-term manager. The
30 developer shall address implementation, development, maintenance and transfer procedures
31 in the Sensitive Area Designation Plan Map or Master Development Plan, as applicable.

32
33
34
35 Additionally, Section 10-1-7 shall be amended to read:

36
37 **TERRITORY ANNEXED TO CITY:** at the time of the annexation of new territory to the city,
38 the city council shall classify such territory for zoning purposes as:

39
40 A. Less than five (5) acres, may be zoned the same as the surrounding land already in the city.

41
42 B. Greater than or equal to five (5) acres shall be zoned either Residential (R-1) or Commercial
43 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.

The total area of the subdivision was 20.26 acres
 Public infrastructure dedications totaled 3.69 acres
 Net developable area is 16.57 acres

There are three cases reviewed in this analysis.

1) Platted. This is the original Apple Creek subdivision lot configuration. This was designed as a Conservation

The original design was done under Ordinance 08-01 with the following geometric requirements:

R2 base zoning => 2 lots per net developable acre

Max number of lots under R2 = 16.57 ac * 2 lots/ac = 33 lots

Conservancy Calculations

Conservancy dedication: 3.33 acres (20% of net developable area)

Density bonus multiplier 18.75% (for 20% conservancy dedication)

Minimum lot size 12000 sf

Minimum average lot size 14673 sf

Maximum number of lots = 33 lots (base) * 1.1875 (incentive) = 39 lots

Total lots platted Phase 1 Phase 2 = 35 lots

Remaining lot availability = 4 lots

Lot 35 was left as a large development parcel with two potential building sites

The FEMA flood zone boundaries were subsequently amended by FEMA Letter of Amendment, and eliminated in 2023 mapping

The area delineated as possible wetland has been re-designated as a pond in the plat. Per UT 10-9a-521, Wetlands, only the US Army Corps of Engineers or another Federal agency may designate a jurisdictional wetland. No determination has been made, and the conservation easement on the property renders the question moot.

2) Current. Lots 28 and 35, and Lot 2 of the Ashbury Estates subdivision, were realigned in 2020 to the configuration and sizes shown.

Lot 35 was reduced in size to accommodate a neighbor request to increase the size of their lot.

Ashbury Estates Lot 2 was increased in size 0.25 acres; approximately 2500 SF from Lot 29 Apple Creek and balance from Lot 35 Apple Creek

All conservancy lot requirements and regulations are still attached to the original conservancy boundaries

3) Proposed. Finalize conservancy lot in Lot 35 by splitting off lots 36 and 37 as new buildable lots. Remainder (1.55 acres) to be set aside as dedicated conservancy lot

Lot 35 reconfigured to 1.55 acres conservation comprising pond, pasture, tree stand, meadow

Lot 36 to be 12000 sf on cul de sac, 100 ft frontage at setback

Lot 37 to be 15600 sf lot on end of private drive on easement

As a nondevelopable conservancy lot, Lot 35 will be held privately and managed under the same terms as the other conservation lots in Apple Creek

Plat data, Apple Creek Subdivision (Phase 1 and 2)					
Mixed lots are building lots with designated conservation space as permitted by ordinance					
PLATTED					
Lot	Type	Total Area		Conservation	
		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		
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		
15	Building	12894	0.30		
16	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	36612	0.84	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	105521	2.42	49658	1.14
Total		721890	16.57	145055	3.33
Min		12488	0.29		
Max		105521	2.42		
Average		20625	0.47		
% of total		100%	100%	20%	20%

Plat data, Apple Creek Subdivision					
		Current Layout			
Lot	Type	Area		Conservation	
		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		
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		
15	Building	12894	0.30		
16	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	--	--	--	--
Ashbury 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%
Δ Conserv				0	0.00

				sf/acre	43560			
			Plat data, Apple Creek Subdivision					
			PROPOSED					
		Type	Area		Conservation			
		Lot	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				
		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				
		15 Building	12894	0.30				
		16 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	65785	1.51	65785	1.51		
		36 Building	12959	0.30	--	--		
		37 Building	16344	0.38	--	--		
		35* 37 Access	4639	0.11				
		Ashbury 2 Mixed	10890	0.25	10890	0.25		
		Total	721890	16.57	172072	3.95		
		Total (less access easement)			167433	3.84		
		Min	12488	0.29				
		Max	65785	1.51				
		Average	19750	0.45				
		% of total	100%	100%	24%	24%		
		Δ Conserv *			27017	0.62		
		% total without access easement			23%	23%		
		* Conservation land counting towards total does not include portion dedicated to Lot 37 access easement						

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.
2. 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.
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: *Cheryl Bodily*
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;
 4. Protects constrained and sensitive lands, including, but not limited to, those areas containing sensitive features such as steep slopes, floodplains, and wetlands, by setting them aside from development;
 5. Provides Open Space Land, including those areas containing unique or natural features such as meadows, grasslands, tree stands, streams, stream corridors, berms, waterway, farmland, wildlife corridors and/or habitat, historical buildings and/or sites, archeological sites, and green space, by setting them aside from development;
 6. Reduces erosion and sedimentation by the retention of existing vegetation and the minimization of development on steep slopes and other constrained and sensitive lands;
 7. Provides for a diversity of lot sizes to accommodate a variety of age and income groups and residential preferences, so that the community's population diversity may be enhanced;
 8. Provides incentives for the creation of greenway systems and Open Space Land within the City for the benefit of present and future residents.
 9. Creates neighborhoods with direct visual and/or physical access to Open Space Land;
 10. Maintains and creates scenic views and elements of the City's rural and scenic character and minimizes perceived density by maintaining views of new development from existing roads.
- B. Definitions: For the purpose of this section, the following words shall have the meanings set forth herein:
1. **OPEN SPACE LAND:** Any parcel or area of land dedicated under this section as indicated on an Open Space Subdivision Plat for the access and/or visual enjoyment of the public. Open Space Land must meet the standards and requirements of this section. Open Space Land may not be contained in the privately-owned parcel except as specifically allowed in this ordinance. Open Space Land must have 25% of its border adjacent to public access right-of-way, easement, or City park or contain a trail open to the public which traverses or runs adjacent to the Open Space Land. Open Space Land area shall not be included in setback areas calculations for principal or accessory uses.
 2. **CONSTRAINED AND SENSITIVE LAND:** Land which is generally unbuildable without engineered ground modifications, or which contains features including, but not limited to Federal, State, or municipally designated wetlands, floodplains, slopes greater than 20%, faults, designated canals per Nibley Ordinance and other geologically or environmentally sensitive features that require mitigation, special insurance or permits from government authorities to allow development. This land may be used as Open Space Land if it complies fully with conditions within this ordinance for qualification of Open Space.

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

C. Applicability:

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

2 for the purposes of calculating underlying base density, number of lots, bonus density, lot sizes, and all other provisions outlined in this ordinance. If the zone is not listed above, it does not qualify for an Open Space Subdivision.

4. Developers desiring to develop the property as Open Space Subdivision are subject to the development standards, conditions procedures and regulations of this section.

D. Application Process:

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

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

Lot Standards Chart					
Zone	Open Space Ratio (OSR)	Incentive Multiplier	Average Residential Lot Size	Minimum Residential Lot Size	Frontage
R-1	0.25 ≤ OSR < 0.30	1.25	≥ 16,700 ft ²	≥ 17,000 ft ²	≥ 100 ft
	0.30 ≤ OSR < 0.35	1.30	≥ 16,700 ft ²	≥ 16,000 ft ²	≥ 100 ft
	0.35 ≤ OSR < 0.40	1.35	≥ 14,700 ft ²	≥ 13,000 ft ²	≥ 95 ft
	0.40 ≤ OSR	1.40	≥ 12,700 ft ²	≥ 11,000 ft ²	≥ 90 ft
R-1A	0.25 ≤ OSR < 0.30	1.25	≥ 14,000 ft ²	≥ 12,000 ft ²	≥ 100 ft
	0.30 ≤ OSR < 0.35	1.30	≥ 13,000 ft ²	≥ 11,000 ft ²	≥ 95 ft
	0.35 ≤ OSR < 0.40	1.35	≥ 12,000 ft ²	≥ 10,000 ft ²	≥ 90 ft
	0.40 ≤ OSR	1.40	≥ 11,000 ft ²	≥ 9,000 ft ²	≥ 85 ft
R-2 and R-2A	0.25 ≤ OSR < 0.30	1.20	≥ 13,200 ft ²	≥ 11,500 ft ²	≥ 95 ft
	0.30 ≤ OSR < 0.35	1.25	≥ 12,200 ft ²	≥ 10,500 ft ²	≥ 90 ft
	0.35 ≤ OSR < 0.40	1.30	≥ 10,200 ft ²	≥ 9,000 ft ²	≥ 85 ft
	0.40 ≤ OSR	1.35	≥ 9,200 ft ²	≥ 7,800 ft ²	≥ 80 ft

Notes:

- The OSR is the ratio of the area of the Open Space Land divided by the area of the Net Developable Land.
- Frontage is determined at the front setback line.

- 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:

- 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.
- Provide to the City the total area contained within the subdivision plat.
- Provide to the City the total area being dedicated to rights-of-way.
- Provide to the City the total acres of Constrained and Sensitive Land.
- Provide the City the total Net Developable Land area as defined within this section.
- State the area of proposed Open Space Land.
- Calculate Open Space Ratio.
- Calculate the Base Number of Lots per zone:

$$(1) \text{ Base Number of Lots R-1} = \text{Net Developable Land} / 1 \text{ acre}$$

- (2) Base Number of Lots R-1A = Net Developable Land / .75 acres
- (3) Base Number of Lots R-2 and R-2A = Net Developable Land / 0.5 acres

i. Determine Incentive Multiplier

- (1) Determine Incentive Multiplier based on the Lot Standards Chart, the applicable zone, and the Open Space Ratio.

j. Calculate total allowed

- (1) Total allowed lots = Base number of lots multiplied by the Incentive Multiplier

F. Lot Area, Frontages, and Zoning Regulations:

- 1. The subdivision, along with each lot within the subdivision, shall meet and comply with the minimum lot sizes, average lot sizes, and frontages shown on the Lot Standards Chart. Except for these requirements, the Zoning Regulations (NCC 19) for the underlying zone shall apply to Open Space Subdivisions, unless otherwise noted within this section.

G. Conservancy Lots:

- 1. Open Space Land and Constrained and Sensitive Land may be included within individual residential lots when such areas can be properly protected and preserved in accordance with the intent and purpose of this section. Such lots shall be known and referred to as "conservancy lots". These lots must contain a minimum of 0.5 acres of Open Space Land, except for areas approved by Nibley City as defined Landscape Buffers, and that Open Space Land must meet the design standards and use standards within this section.
- 2. Regulations: Open Space Land and Constrained and Sensitive land within a Conservancy Lot shall remain subject to all regulations and requirements for such land as set forth herein, including, but not limited to, use, design, maintenance, ownership and permanent protection. Open Space Land must be developed and maintained within the first year of the date of issuance of a Notice to Proceed under NCC 21.
- 3. The portion of each Conservancy Lot that is not Open Space Land must meet the minimum lot size on the applicable Lot Standards Chart and shall be the portion of the Conservancy Lot used to calculate the average and minimum lot size within the subdivision.

H. Use Regulation: Use of the land in a Open Space Subdivision that is not Open Space Land is subject to any restrictions set forth in NCC 19, unless otherwise specified within this section, for the zone in which the land is located. Use of Open Space Land within a Open Space Subdivisions is subject to the following:

- 1. Permitted Uses on Open Space Land: The following uses are permitted in Open Space Land areas:
 - a. Street rights-of-way may traverse Open Space Land if permitted under City ordinances; provided, areas encumbered by such facilities and/or rights-of-way shall not be counted as Open Space Land when computing the Open Space Ratio in the Lot Standards Chart.
 - b. Utility rights-of-way or easements, including above ground and underground utilities may traverse Open Space Land if permitted by City ordinance; areas encumbered by such facilities and/or rights-of-way may be counted as Open

Space Land when computing the Open Space Ratio in the Lot Standards Chart so long as the rights-of-way and easements otherwise meet the requirements of this ordinance for Open Space Land.

- c. Agricultural and horticultural uses, including raising crops wholesale nurseries and associated buildings that are specifically needed to support active, vital 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.
- l. Pasture for sheep, goats, cows, horses or other animals approved by Nibley City code. Pasture and animal density must conform with Nibley City Animal Land Use Regulations and be enclosed with appropriate fencing.
- m. Silviculture, in keeping with established standards for selective harvesting and sustained yield forestry.
- n. Water supply and sewage disposal systems, and stormwater detention areas designed, landscaped, and available for use as an integral part of the Open Space Land. These facilities must be built to Nibley City Design Standards and Specifications, must contain a tree for every 300 square feet and planted around the perimeter, an irrigation system must be installed, and be planted with grass or natural vegetation

2. Prohibited Uses on Open Space Land: The following uses shall be considered prohibited in Open Space Land areas:

- a. Motor vehicles are prohibited except as necessary to maintain and operate the property and/or utility facilities within the property. Recreational motorized off-road vehicle usage including but not limited to motorcycles, dirt bikes, go-carts, OHVs, dune buggies, side-by-sides and their derivatives, and snowmobiles are prohibited.
- b. Firearm ranges, and other uses similar in character and potential impact are prohibited.
- c. Advertising of any kind and any billboards or signs; provided, directory and information signs may be displayed describing the easement and prohibited or authorized the use of the same.
- d. Any cutting of trees or vegetation, except as reasonably necessary for fire protection, thinning, elimination of diseased growth, control of non-native plant species, maintenance of landscaped areas, and similar protective measures or those activities relating to permitted agricultural uses or other uses allowed within this section.
- e. Any development, construction or location of any manmade modification or improvements such as buildings, structures, roads, parking lots, or other improvements, except as may be necessary to support a permitted use.
- f. Any dumping or storing of ashes, trash, garbage, vehicles, trailers, recreational vehicles or other equipment except for equipment needed to maintain the land.
- g. Any filling, dredging, excavating, mining, drilling, or exploration for and extraction of oil, gas, minerals or other resources from the property.
- h. Any residential, commercial or industrial activity except as specifically permitted in this ordinance.
- i. Burning of any materials, except as necessary for agricultural, drainage and fire protection purposes.
- j. Changing the topography of the property by placing on it any soil, dredging spoils, landfill, or other materials, except as necessary to conduct specifically permitted purposes.
- k. Hunting or trapping for any purpose other than predatory or problem animal control.
- l. The change, disturbance, alteration, or impairment of significant natural ecological features and values of the property or destruction of other significant conservation interests on the property.
- m. The division, subdivision or de facto subdivision of the property.
- n. The use of motor vehicles, including snowmobiles, all-terrain vehicles, motorcycles and other recreational vehicles.
- o. All other uses and practices inconsistent with and detrimental to the stated objectives and purpose of this section.

3. Constrained and Sensitive Lands: Except for passive recreational activities, no development or residential uses shall be permitted within Constrained and Sensitive Lands

4. Open Space Land Coordination: When directed by the Planning Commission and City Council, Open space land shall be consolidated and located on the border of proposed subdivision and be located adjacent to undeveloped or open space land. In consideration of open space consolidation, design standards described in this chapter shall be maximized, including the preservation of significant areas and natural landscape, and adequate pedestrian access.
 5. Open Space Lands: Standards pertaining to the quantity, quality, configuration, use, permanent protection, ownership, and maintenance of the Open Space Land within an Open Space Subdivision shall be complied with as provided herein.
- I. Open Space Land Design Standards: Open Space Land shall be located and designed within the Open Space Subdivision to add to the visual amenities of neighborhoods and the surrounding area by maximizing the visibility of Open Space Land. Designated Open Space Land within an Open Space Subdivision shall also comply as defined in this section, permitted uses as listed in this section, and meet three (3) or more of the following standards:
1. Significant Areas and Natural Landscape: Open Space Land shall include the most unique and sensitive resources and locally significant features of the property within the subdivision. Specifically, meadows, waterways and wetlands as defined in this Ordinance, and tree stands and contain a minimum of 0.5 acres. Other uses include berms, wildlife corridors and/or habitat and must extend a minimum of 15' on each side of the feature. This Open Space Land may also contain historic buildings and/or sites, archeological sites, and cultural features. The maintenance plan shall outline how the property will be preserved and maintained. The maintenance plan must specify what type of feature(s) that is being preserved and how the property will be maintained.
 2. Contiguous Land: Open Space Land within a Rural Conservation Subdivision shall be contiguous within the subdivision, or to other Open Space Land in adjacent subdivisions' developments to provide for large and integrated Open Space Land areas within the City.
 3. Agricultural Land: Privately held Open Space Land that is used for agricultural purposes as defined in this Ordinance and is 0.5 acre or greater in size.
 4. Buffering: Open Space Land shall be designed to provide buffers and to protect scenic views as seen from existing public rights-of-way and from public parks or trails. Buffering area along public rights-of-way or street must be at least thirty (30') feet wide. Buffering must be landscaped, at the sole cost of the developer and shall provide for every hundred (100) linear feet of buffer, six (6) trees and fifteen (15) shrubs. Tree and shrub species must be approved by the City's arborist or the City's Park Director. Trees and shrubs shall be planted within thirty (30) feet of the right-of-way or public park. Irrigation shall be provided by the developer and shall be designed and installed to Nibley City Standards for City parks current at the time of approval of Final Plat. Open Space buffer areas shall be under single ownership.
 5. Pedestrian Access: Developer shall provide pedestrian access to Open Space Land which is open to public or owners' association member use. Access methods can be a trail, park, recreation space, or neighborhood gathering space.
 6. Recreation Space: Open Space Land 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 owned open spaces shall be fully developed and operational in conjunction with each phase of

the subdivision as a percentage of the total developed value of the subdivision (for example, if 25% of the dollar value of the development is being constructed, then a minimum of 25% of the dollar value of the built-out Recreation Space must be developed). The determination of value, construction sequencing, and acceptance criteria shall be specified in the development agreement; until improvements are accepted by the City for the attendant phase, no permits shall be issued for subsequent phases.

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

J. Permanent Protections of Open Space Land:

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

easement and sufficient access to and maintenance responsibilities regarding the Open Space Land are provided.

K. Ownership of Open Space Land:

1. Undivided Ownership: Unless otherwise approved by the City Council and subject to the provisions set forth in this section, the underlying fee Ownership of the Open Space Land shall remain in single Ownership and may be owned and maintained by one of the following entities: homeowners' association, land trust, conservation organization, governmental entity, or private individual.
2. Property Not Subject to Subdivision: Property subject to a conservation easement, or another acceptable method of protection and preservation, shall not be subdivided.
3. Nibley City may at its sole discretion opt to take ownership of Open Space Land at the subdivision approval stage. The developer shall landscape the property with sod, grass, trees and an irrigation system or other natural landscape features as appropriate as determined by the City Council.
4. Owners Association: Open Space Land may be held in common ownership by a Home Owners or other acceptable Owners Association, subject to all the provisions for Owners Associations set forth in state law, the City Code, and the following:
 - a. A description of the organization of the proposed Association, including its bylaws, and all documents governing ownership, maintenance, and use restrictions for Open Space Land, including restrictive covenants for the subdivision, shall be submitted by the developer with the final plat application.
 - b. The proposed association shall be established, funded and operating (with financial subsidization from the Developer, if required in by the City in the development agreement) prior to or concurrent with the recording of the final plat for the subdivision;
 - c. Membership in the association shall be mandatory for all purchasers of property within the subdivision and their successors in title.
 - d. The association shall be the responsible party for maintenance and insurance of its Open Space Land under the Final Maintenance Plan for the subdivision;
 - e. The bylaws of the association and restrictive covenants for the subdivision shall confer legal authority on the association to place a lien on the real property of any member who falls delinquent in dues. Such dues shall be paid with the accrued interest before the lien may be lifted; and
 - f. Written notice of any proposed transfer of Open Space Land by the Association or the assumption of maintenance for the Open Space Land must be given to all members of the Association and to the City no less than thirty (30) days prior to such event.
 - g. The owners' association shall be required to provide a bond or line of credit to the City for the cost of one year of maintenance of property owned by the Association, to be maintained by the Association for as long as the Association owns the Open Space.
 - h. In the event of a failure of the owners' association to maintain the properties in accordance with the requirements of the development agreement, the City shall revoke the owners' association's bond, determine an appropriate assessment for the operation and maintenance of the open space, and assess all properties of the Subdivision on a monthly basis for said maintenance.

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

L. Maintenance of Open Space Lands:

1. Costs: Unless otherwise agreed to by the City, the cost and responsibility of maintaining Open Space Land shall be borne by the owner of the underlying fee of the Open Space Land.
2. Preliminary Maintenance Plan: A Preliminary Maintenance Plan shall be turned in with the preliminary plat for proposed maintenance of Open Space Land within the subdivision. This plan shall outline the following:
 - a. The proposed Ownership of the Open Space Land;
 - b. The party that will be responsible for maintenance of the Open Space Land;
 - c. The proposed use of the Open Space Land and how each parcel of Open Space Land meets the standards listed within this section;
 - d. The size of each Open Space Land parcel; and
 - e. The proposed concept plan for landscaping of the Open Space Land.
3. Final Maintenance Plan: The developer shall submit a plan outlining maintenance and operations of the Open Space Land and providing for and addressing the means for the permanent maintenance of the Open Space Land within the proposed Open Space Subdivision application for the subdivision. The developer shall provide a final maintenance plan with the final plat and the plan shall contain the following:
 - a. Ownership agreements for Open Space Land;
 - b. A description of the use of the Open Space Land and how that use complies with this section;
 - c. The establishment of necessary regular and periodic operation and maintenance responsibilities for the various kinds of Open Space Land (e.g., lawns, playing fields, meadow, pasture, wetlands, stream corridors, hillsides, cropland, woodlands, etc.);
 - d. The estimated staffing needs, insurance requirements, and associated costs, and define the means for funding the maintenance of the Open Space Land, and the operation of any common facilities located thereon, on an ongoing basis, including means for funding long-term capital improvements as well as regular yearly operating and maintenance costs; and
 - e. The landscaping plans for parcels that will be owned by an owners association or by the City.
 - f. Approval: The Final Maintenance Plan must be approved by the City Council 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 of the Open Space Land in accordance with the terms of this ordinance, the approved maintenance agreement, any conditional use permits, business licenses or any other agreements between the City and the responsible party, or the operation of any common facilities located thereon fails to maintain all or any portion of the Open Space Land or common facilities in accordance with the aforementioned agreements and ordinances, the City may assume responsibility for the maintenance and operation of the Open Space Land. If the City assumes responsibility under this paragraph, any remaining development escrow or bond funds may be forfeited, liens for maintenance costs shall be assessed as described herein, and any permits, licenses or operating agreements may be revoked or suspended by the City in the City's sole discretion. The owner shall not impede the City in their efforts to maintain the open space.
6. **Corrective Action:** The City may enter the premises and take corrective action, including extended maintenance. The costs of such corrective action may be charged to the property Owner and may include administrative costs and penalties. Such costs shall become a lien on said properties. Notice of such lien shall be filed by the City in the county recorder's office. The maintenance plan and all other documents creating or establishing any Association or conservation organization for the property shall reference the City's corrective action authority set forth herein and shall be recorded against the property.
7. **Implementation and Maintenance:** The developer of the subdivision shall fund implementation and maintenance of the conservation easement until such time as the control of the easement is transferred to the long-term manager. The developer shall address implementation, development, maintenance and transfer procedures in the sensitive area designation plan map or master development plan, as applicable.
8. **Maintenance Access:** The developer of the subdivision shall provide sufficient maintenance access from a dedicated right-of-way to all Open Space Land and constrained and sensitive lands within the Open Space Subdivision.

HISTORY

Adopted by Ord. 18-05 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
169 W 3300 S
Nibley, UT 84321

(435) 770-7816
leslidustin@gmail.com

Contact:

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

(435) 770-0147
sdustin@db2civil.com

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 ¼ 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	08-01	18-05	20-14	Current	Proposed
Conservation of land in natural state	X	X	X	X	X
Agricultural/horticultural use (pasture/crop)	X	X	X	X	X
Underground utilities/easements	X	X	X		X
Above ground ROW or easement	X	X	X	X	X
Agricultural uses not otherwise permitted (excepting swine, poultry, mink)	C	X	X		
Pastureland	C	X	X	X	X
Equestrian facilities	C	X	X		
Nurseries	C	X	X		
Silviculture	C	X	X		
Neighborhood open space uses (greens, commons, picnic areas, community gardens, trails, similar	C	X	X	X	X
Non-commercial trails, playing fields, playgrounds, courts, bikeways	C	X	X		
Golf	C	X	X		
Water supply and sewage disposal and stormwater detention areas	C	X	X		
Fencing	C	X	X	X	X
Nurseries	C	X	X		
Waterways		X	X	X	X

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)	08-01	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, green space, scenic views, etc.	X	X	X	X	X
Agricultural use	X	X	X	X	X
Underground utilities	X				X
Above ground ROW or easement	X				X
Contiguous land					
Corridor protection	X	X	X	X	X
Open space network protection (interconnected open space network through City)	X	X	X		X
Visibility					
Maximize visibility of internal open space	X	X			X
Buffering					
Provide buffers and protect scenic views from existing roadways and parks	X	X	X		X
Pedestrian access					
Provide pedestrian access to land open for public or resident use	X	X	X		X
Recreation Space					
Provide pedestrian access to land open for public or resident use	X	C	C		

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
Ownership			
Private ownership permitted	X	X	X

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

Frontage and Access

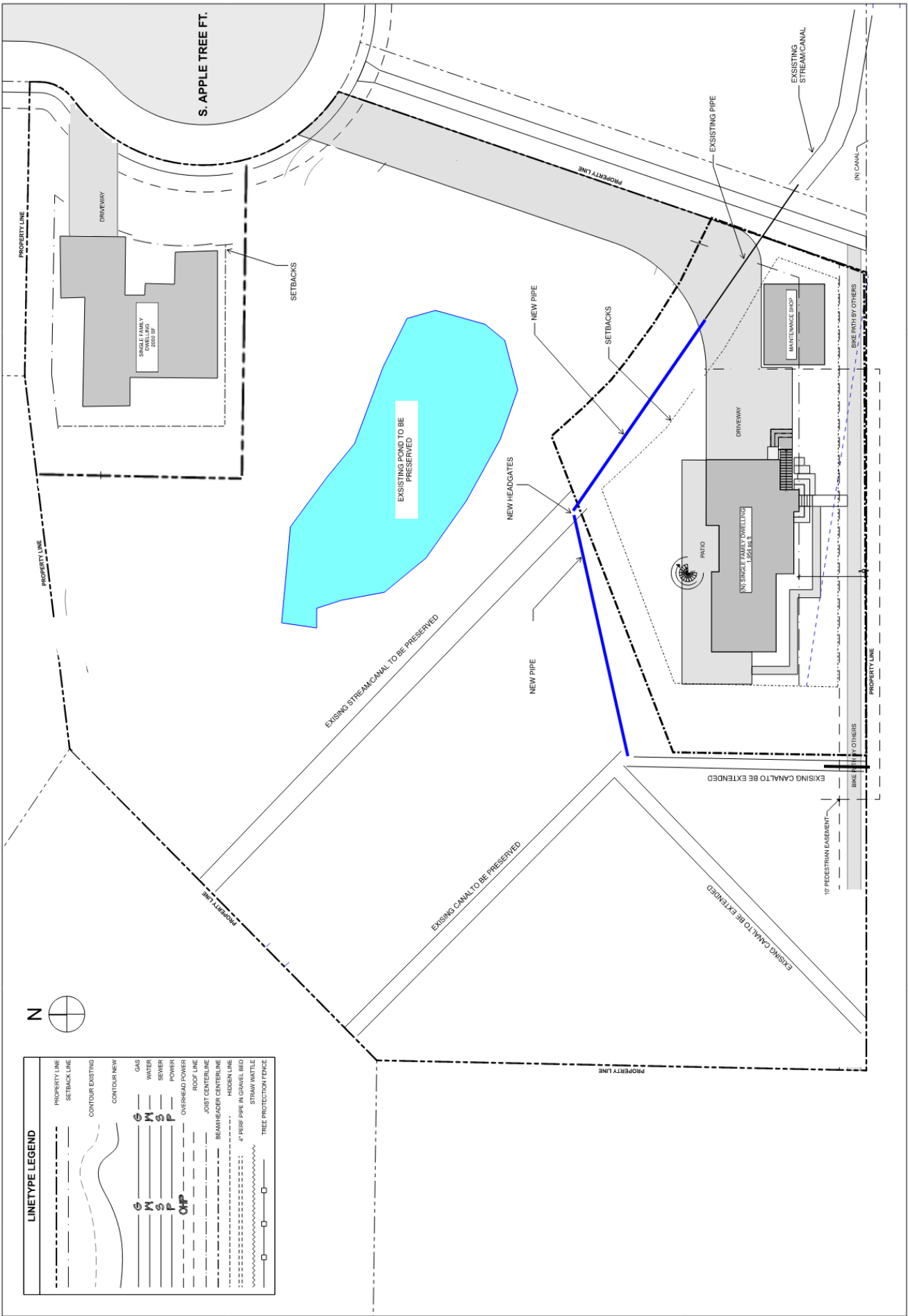
City code regarding frontage and access will be facilitated for Lot 36 with 100 ft frontage at the setback line. For Lot 37, the frontage at the setback is sufficient but a clarification may be required by the Council for 1) fire code compliance and 2) to allow the frontage to be measured at the setback 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.

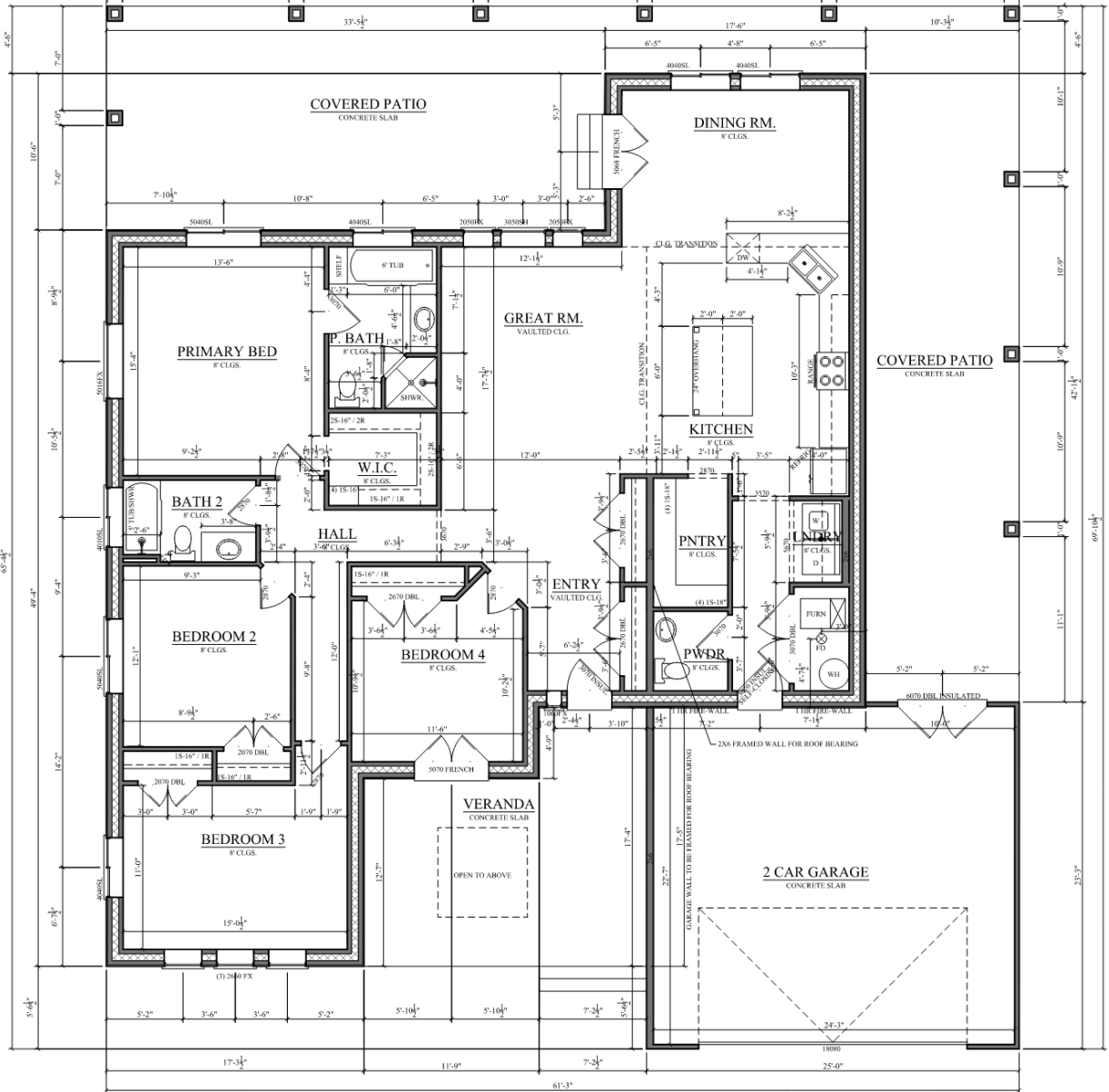


LINETYPE LEGEND

---	PROPERTY LINE
- - -	SETBACK LINE
~ ~ ~	CONTOUR EXISTING
~ ~ ~	CONTOUR NEW
— G —	GAS
— W —	WATER
— S —	SEWER
— P —	POWER
— OP —	OVERHEAD POWER
— R —	ROOF LINE
— J —	JOIST CENTERLINE
— B —	BEAM/HEADER CENTERLINE
— H —	HIDDEN LINE
— 4" —	4" PERP PIPE IN GRAVEL BED
— S —	STRAW WATTLE
— T —	TREE PROTECTION FENCE



LOT 36, 2000 SF



MAIN FLOOR PLAN

1/8" SCALE 11X17 ——— 1/4" SCALE 24X36
 TOTAL SQ. FT. ——— 2047

Lot 37, 3500 SF







BRACHT DESIGN
ARCHITECTURE
1001 SOUTH 400 WEST
SUITE 100
SALT LAKE CITY, UT 84115-2746
bracht@brachtdesign.com

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

REVISIONS:

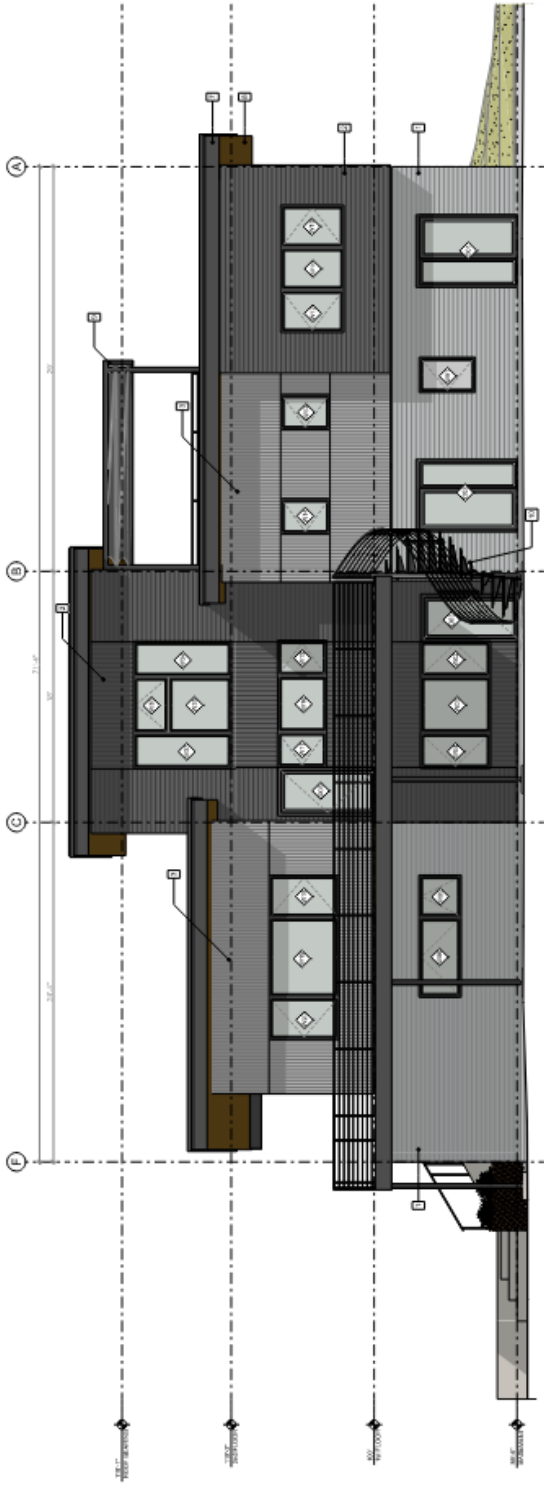
PROJECT NO.
DATE: 01.13.23
DRAWN BY:
SCALE: AS NOTED IN DRAWINGS

NEW ELEVATIONS
A2.1
SHEET 13 OF 11

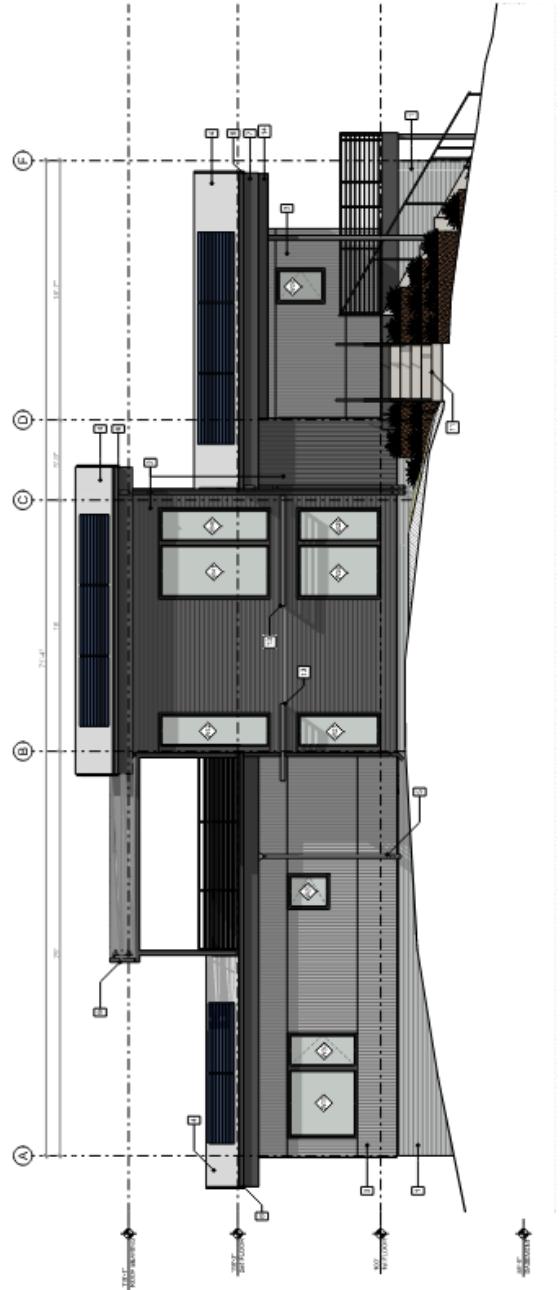
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NOT FOR CONSTRUCTION



1 NORTH ELEVATION

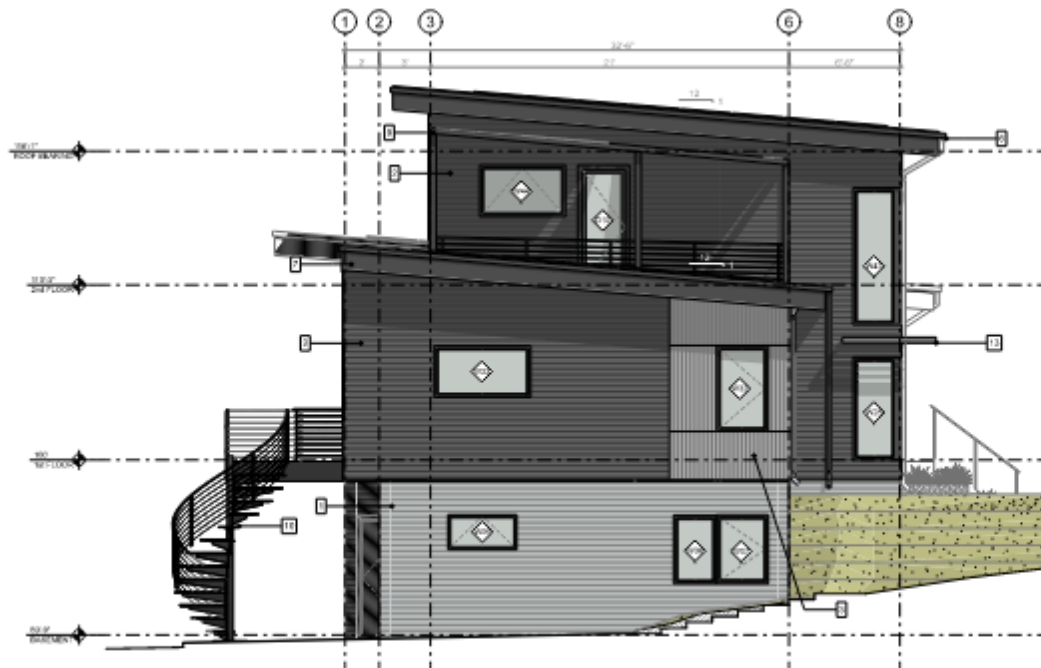


2 SOUTH ELEVATION

ELEVATION KEYNOTES	
1.	GRAVEL CONC. WALK
2.	WOOD SHINGLED CEILING BOARD SIDING OVER WOOD
3.	VERTICAL METAL CORRUGATED SIDING
4.	FLY ON TWO RAMP AIRBRAKE
5.	SCULPTURE W/ DOWNPOUT
6.	GUTTER W/ DOWNPOUT
7.	METAL FASCIA
8.	WOOD JOIST
9.	STEEL FRAME W/ 2x4x8x12 SILL
10.	STEEL GIRDER STAIR
11.	CONCRETE STAIR
12.	METAL BOLTING TIE
13.	HORIZONTAL METAL BRACKET BRANCH
14.	EXPOSED WIDE FLANGE BEAM



1 EAST ELEVATION
SCALE: 1/8" = 1'-0"



2 WEST ELEVATION
SCALE: 1/8" = 1'-0"

NOT FOR CONSTRUCTION

NOT FOR CONSTRUCTION

NOT FOR CONSTRUCTION



BRACH DESIGN ARCHITECTURE
801-865-7648
dave@brachdesign.com

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

REVISIONS:

PROJECT NO:

DATE: 4/13/23

DRAWN BY:

SCALE: AS NOTED IN DRAWING

NEW
ELEVATIONS
A2.2

SHEET 11 OF 11

APPENDIX H: Fire Marshal Approval

From: Jason Winn
To: Shaun Dustin
Subject: Re: Apple Creek Subdivision fire protection clarification
Date: Friday, September 1, 2023 9:06:22 AM
Attachments: image003.png
image004.png

Perfect!

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 <sdustin@db2civil.com> wrote:

Jason,

A few months ago we talked about how best to get fire protection for a lot in Nibley. I'm to the point 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:

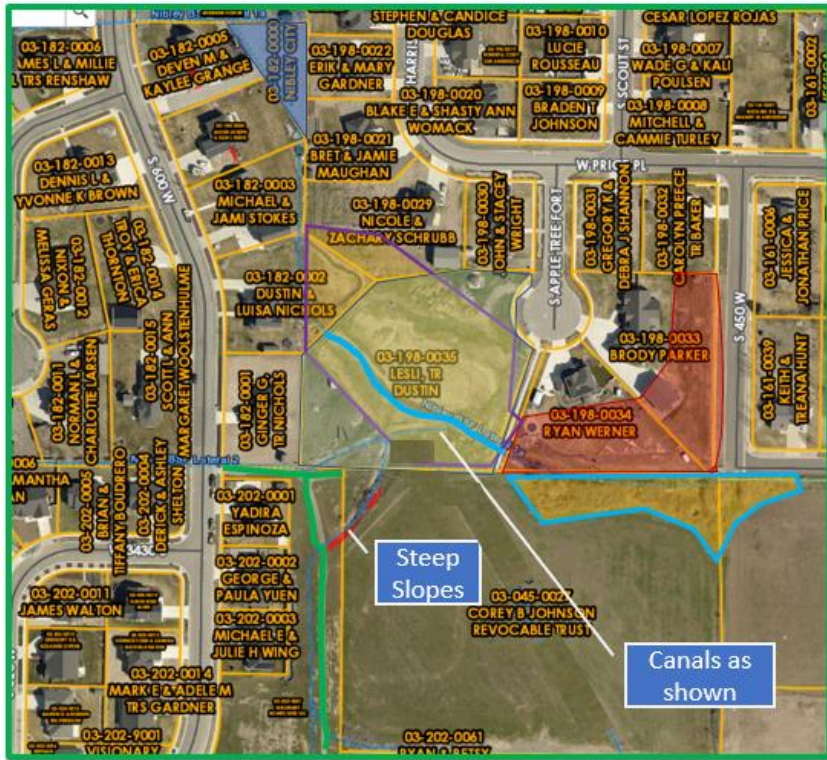
“For purposes of fire protection compliance, and access, the access point will be treated as a Private Drive, paved to a minimum width of 12 ft with and overall width of 20 ft of all weather surface per County fire code. Fire protection will be addressed by compliance with the requirements of City Code 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.

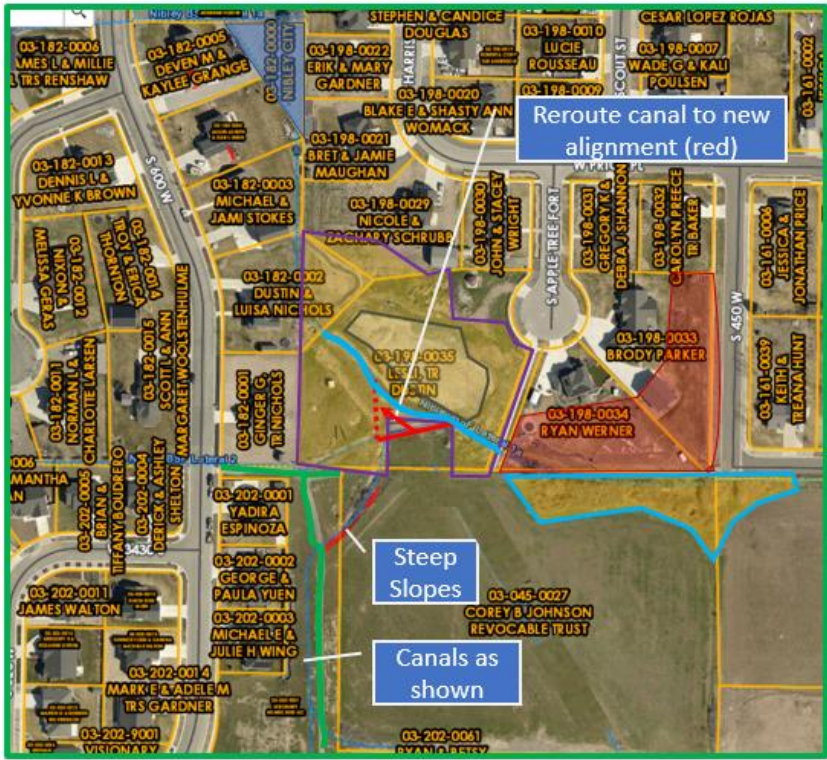
Thanks,

Shaun

APPENDIX I: Sensitive Areas Designation Plan Maps



- Sensitive areas map
Apple Creek Subdivision, Existing
(400 ft boundary)
- Trail
 - City stormwater retention
 - Tree stand
 - Existing conservation land
 - Existing conservation land proposed for increase
 - Subject parcel 03-198-0035
 - Perennial stream



- Sensitive areas map
Apple Creek Subdivision,
Proposed (400 ft boundary)
- Trail
 - City stormwater retention
 - Tree stand
 - Existing conservation land
 - New conservation lot
 - Subject parcel 03-198-0035
 - Spring extents
 - Perennial stream

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.
 2. 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 $\frac{3}{4}$ 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 Open 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 #7

Description	Discussion and Consideration: 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 (Second Reading)
Presenter	Levi Roberts, City Planner
Staff Recommendation	Approve 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
Planning Commission Recommendation	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 with the modification that required parking be increased to 3 parking spaces for single-family dwellings and to 4 spaces for two-family dwellings
Reviewed By	Justin Maughan, City Manager; Joel Yellowhorse, City Attorney; Levi Roberts, City Planner; Planning Commission

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:

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

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.

The Planning Commission recommended to increase the number of required parking spaces to 3 parking spaces for single-family dwellings and to 4 spaces for two-family dwellings. The Planning Commission expressed that in many cases, 2 spaces for a single-family dwelling is inadequate and may result in spillover parking on neighborhood streets, which do not allow parking during winter months.

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

WHEREAS, Nibley City regulates land use within Nibley City boundaries; and

WHEREAS, During the 2025 Legislative Session, the Utah State Legislature passed S.B. 181, which requires each municipalities to comply to limitations related to regulating parking; and

WHEREAS, Nibley City promotes providing adequate parking to meet the anticipated needs of land uses within the community and mitigate potential negative externalities associated with inadequate parking.

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

1. The attached amendments to Nibley City Code 19.24.160 be adopted.
2. 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.
4. This ordinance shall become effective upon posting as required by law.

PASSED BY THE NIBLEY CITY COUNCIL THIS ___ DAY OF _____ 2025.

Larry Jacobsen, Mayor

ATTEST: _____
Cheryl Bodily, City Recorder

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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.

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	3 off-street spaces.	-
Residential, Two Family ²	4 off-street spaces	-
Other Retail Stores, Businesses Selling or Catering	3 spaces per 1,000 square feet.	1 space per 2,000 square feet.

to the Public, Recreational Places of Assembly		
------------------------------------------------	--	--

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.
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 shall be provided per NCC 19.24.160..
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)

Agenda Item #8 & 9

<p>Description</p>	<p>Public Hearing: Ordinance 25-17—Annexation and Zoning Assignment of Parcel 03-049-0011 Located at Approximately 3601 S 1200 W, Containing 9 Acres and Assigning Zoning of R-2A (Residential) Applicant: Heritage Land Holdings, LLC</p> <p>and</p> <p>Discussion and Consideration: Ordinance 25-17—Annexation and Zoning Assignment of Parcel 03-049-0011 Located at Approximately 3601 S 1200 W, Containing 9 Acres and Assigning Zoning of R-2A (Residential) Applicant: Heritage Land Holdings, LLC (First Reading)</p>
<p>Presenter</p>	<p>Levi Roberts, City Planner</p>
<p>Staff Recommendation</p>	<p>Approve Ordinance 25-17—Annexation and Zoning Assignment of Parcel 03-049-0011 Located at Approximately 3601 S 1200 W, Containing 9 Acres and Assigning Zoning of R-2A (Residential) Applicant: Heritage Land Holdings, LLC</p>
<p>Planning Commission Recommendation</p>	<p>Assign Zoning of R-2A to Parcel 03-049-0011 in conjunction with the proposed annexation</p>
<p>Reviewed By</p>	<p>Planning Commission Levi Roberts, City Planner Mayor Larry Jacobsen Justin Maughan, City Manager Cheryl Bodily, City Recorder Joel Yellowhorse, City Attorney</p>

Background:

Judy Andreason, representative of BRUCE W ALBRETSSEN & CONNIE C ALBRETSSEN REVOCABLE LIVING TRUST, filed an annexation petition to annex parcel 03-049-0011, located at approximately 3601 South 1200 West into Nibley City. The parcel contains 9 acres, with the overall proposed annexation area, including the adjacent 1200 W ROW containing 10.74 acres. The affected property owner has signed the petition. The area is within the City’s annexation declaration boundary of the annexation policy plan. The annexation would be contiguous with existing City boundaries. It would not create an unincorporated island or peninsula, as defined by UCA 10-2-401(1)(I).

In conjunction with the annexation petition, the applicant has requested R-2A zoning for the property.

General Plan Guidance and Staff Analysis

The Future Land Use Map designates Parcel 03-049-0011 as 'Medium Density Residential'. The R-2A zone, with a base minimum lot size of 12,000 sq ft and an average lot size of 14,000 sq ft would support this future land use designation.

Other than the existing Nibley Farms Subdivision to the north, the current land uses in this area are characterized by agricultural uses.

Other provisions of the General Plan related to this request include:

- *Land Use Goal 1: Encourage development that respects and preserves the character of the City and provides a mix of commercial, residential housing and some light industrial uses. Carefully plan for growth within the City, ensuring that development occurs in suitable locations and can be efficiently served over the long term.*
- *Land Use Goal 2: Guide land use and growth decisions through application of the General Plan, the Future Land Use Map, and relevant goals, principles, and projects.*
- *Residential Development and Housing Goal 1: Ensure that new residential development is compatible with existing development and protects Nibley's rural character and natural resources.*

Based upon the context of the site and the guidance provided in the Future Land-Use Map and goals of the general plan, Staff has determined that this application is in support of the General Plan and the Future Annexation Policy Plan.

Planning Commission Recommendation

The Planning Commission recommended approval of Zone designation for Parcel 03-049-0011 to Residential (R-2A), in conjunction with proposed annexation.

ORDINANCE 25-17

ANNEXATION AND ZONING ASSIGNMENT OF PARCEL 03-049-0011 LOCATED AT APPROXIMATELY 3601 S 1200 W, CONTAINING 9 ACRES AND ASSIGNING ZONING OF R-2A (RESIDENTIAL)

BE IT ORDAINED BY THE NIBLEY CITY COUNCIL LOCATED AT NIBLEY, UTAH, THAT:

1. The attached Annexation Petition, with the following legal description, be approved to annex into the City:

Part of Lot 14, Block 15 and adjoining streets, Millville West Field Survey located in the North Half of Section 29, Township 11 North, Range 1 East of the Salt Lake Baseline and Meridian described as follows: Commencing at the West Quarter Corner of Section 20, Township 1 East of the Salt Lake Baseline and Meridian monumented with an Aluminum Cap (East Quarter Corner of said Section 20 monumented with a Brass Cap bears N 89°55'25" E 5306.65 feet) thence N 89°55'25" E 2183.73 feet E 5306.65 feet) thence N 89°55'25" E 2183.73 feet E 2183.73 feet along the Quarter Section line; thence South 3852.35 feet to the Southwest Corner of Nibley Farms, Phase 6 recorded in the Cache County Recorder's Office under Entry No. 1322379 on June 21, 2022 and the POINT OF BEGINNING and running thence S 88°55'24" E 701.51 feet along the south line of said Nibley Farms, Phase 6 and its projection thereof to the east right of way line of 1200 East Street; thence along said east right of way line the next two courses: 1) thence S 00°32'23" W 18.15 feet; thence S 00°32'23" W 18.15 feet; 2) thence 650.59 feet along a curve to the left, with a thence 650.59 feet along a curve to the left, with a central angle of 01°20'01", a radius of 27950.50 feet, and a chord that bears S 00°07'38" E 650.59 feet; thence N 88°52'50" W 701.58 feet along the south line of Lot 14, Block 15, Millville West Field Survey and its projection thereof; thence N 00°06'14" W 668.20 along west line of Lot 14, Block 15, Millville West Field Survey to the point of beginning, containing 10.74 acres, more or less.

2. Parcel 03-049-0011 shall be assigned the zone as R-2A (Residential).

PASSED BY THE NIBLEY CITY COUNCIL THIS ____ DAY OF _____, 2025.

Larry Jacobsen, Mayor

ATTEST: _____
Cheryl Bodily, City Recorder

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ANNEXATION PETITION

Contact Sponsor:

Blaine Hamblin

470 N 2450 W

Tremonton UT, 84337

435-881-1735

Parcel ID: 03-049-0011:

THE W/4 OF LOT 14 & W PART OF E/2 OF W/2 LOT 14 BLK 15 CHURCH FARM PLAT OF MILLVILLE WEST
FIELD SVY CONT 9 AC


Signatures of property owners in the Annexation boundary

Notice:

- **There will be no public election on the annexation proposed by this petition because Utah law does not provide for an annexation to be approved by voters at a public election.**
- **If you sign this petition and later decide that you do not support the petition, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of Nibley City. If you choose to withdraw your signature, you shall do so no later than 30 days Nibley City receives notice that the petition has been certified.**

Parcel # 03-049-0011

Bruce W Albretsen and Connie Albretsen Revocable living Trust






Signed by:

E93246B87E1C49C... 4/30/2025 | 13:12 MDT

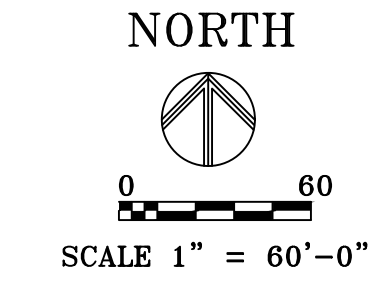
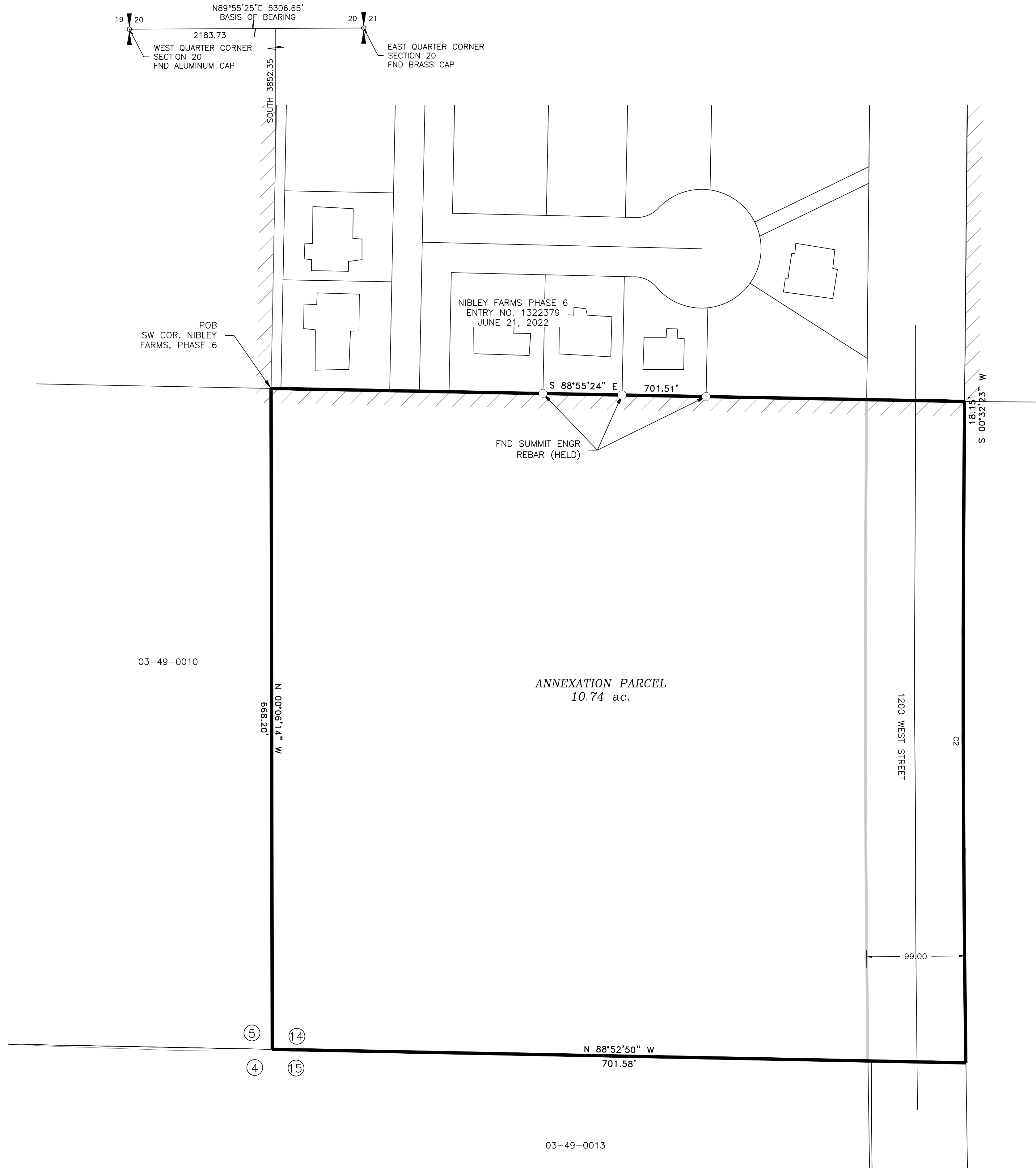
ALBRETSSEN ANNEXATION

TO THE NIBLEY CITY

PART OF LOT 14, BLOCK 15 AND
ADJOINING STREETS, MILLVILLE WEST FIELD SURVEY
LOCATED IN
PART OF THE NORTH HALF OF SECTION 29
TOWNSHIP 11 NORTH, RANGE 1 EAST
SALT LAKE BASELINE AND MERIDIAN

LEGEND

-  BOUNDARY TO BE INCORPORATED INTO NIBLEY CITY
-  EXISTING CITY CORPORATE BOUNDARIES
-  FOUND REBAR AS NOTED
-  SECTION CORNER
-  MILLVILLE WEST FIELD SURVEY LOT



ACCEPTANCE BY LEGISLATIVE BODY

THIS IS TO CERTIFY THAT WE, THE NIBLEY CITY COUNCIL, HAVE RECEIVED A PETITION SIGNED BY A MAJORITY OF THE OWNERS OF THE TRACT SHOWN HEREON REQUESTING THAT SAID TRACT BE ANNEXED TO NIBLEY CITY, AND THAT A COPY OF THE ORDINANCE HAS BEEN PREPARED FOR FILING HERewith ALL IN ACCORDANCE WITH THE UTAH CODE SECTION 10-2-403, AND THAT WE HAVE EXAMINED AND DO HEREBY APPROVE AND ACCEPT THE ANNEXATION OF THE TRACT AS SHOWN AS A PART OF SAID CITY.

WITNESS MY HAND AND OFFICIAL SEAL THIS _____ DAY OF _____, 20____.

APPROVED: _____
MAYOR

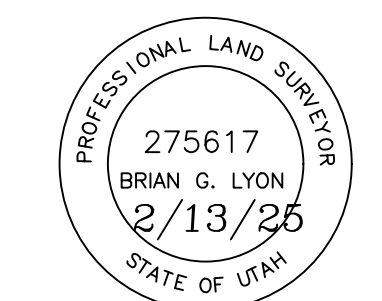
DEPUTY COUNTY SURVEYOR APPROVAL

This plat has been reviewed by the county surveyor's office and is hereby approved as a final local entity plat, pursuant to Utah Code Annotated 17-23-20.

Date _____ Deputy County Surveyor _____

SURVEYOR'S CERTIFICATE

I, BRIAN G. LYON, HEREBY CERTIFY THAT THIS IS A TRUE AND ACCURATE MAP OF THE TRACT OF LAND TO BE ANNEXED TO NIBLEY CITY, CACHE COUNTY, UTAH.



BOUNDARY CERTIFICATE

Part of Lot 14, Block 15 and adjoining streets, Millville West Field Survey located in the North Half of Section 29, Township 11 North, Range 1 East of the Salt Lake Baseline and Meridian described as follows:

Commencing at the West Quarter Corner of Section 20, Township 1 East of the Salt Lake Baseline and Meridian monumented with an Aluminum Cap (East Quarter Corner of said Section 20 monumented with a Brass Cap bears N 89°55'25" E 5306.65 feet) thence N 89°55'25" E 2183.73 feet along the Quarter Section line; thence South 3852.35 feet to the Southwest Corner of Nibley Farms, Phase 6 recorded in the Cache County Recorder's Office under Entry No. 1322379 on June 21, 2022 and the POINT OF BEGINNING and running thence S 88°55'24" E 701.51 feet along the south line of said Nibley Farms, Phase 6 and its projection thereof to the east right of way line of 1200 East Street; thence along said east right of way line the next two courses:
1) thence S 00°32'23" W 18.15 feet;
2) thence 650.59 feet along a curve to the left, with a central angle of 01°20'01", a radius of 27950.50 feet, and a chord that bears S 00°07'38" E 650.59 feet;
thence N 88°52'50" W 701.58 feet along the south line of Lot 14, Block 15, Millville West Field Survey and its projection thereof;
thence N 00°06'14" W 668.20 along west line of Lot 14, Block 15, Millville West Field Survey to the point of beginning, containing 10.74 acres, more or less.

ALBRETSSEN ANNEXATION

TO THE NIBLEY CITY

PART OF LOT 14, BLOCK 15 AND
ADJOINING STREETS, MILLVILLE WEST FIELD SURVEY
LOCATED IN
PART OF THE NORTH HALF OF SECTION 29
TOWNSHIP 11 NORTH, RANGE 1 EAST
SALT LAKE BASELINE AND MERIDIAN

ACE ALLIANCE CONSULTING ENGINEERS
150 EAST 200 NORTH SUITE P
LOGAN, UTAH 84321
(435) 755-5121

DATE JULY-2025

CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C2	27950.50'	650.59'	650.58'	S 00°07'38" E	1°20'01"

03-49-0013

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Agenda Item #10

Description	Discussion and Consideration: Ordinance 25-30—Amending NCC 21.08.030 Property Boundary Adjustments, Boundary Establishment, and Amendments to a Subdivision (First Reading)
Presenter	Levi Roberts, City Planner
Staff Recommendation	Approve Ordinance 25-30—Amending NCC 21.08.030 Property Boundary Adjustments, Boundary Establishment, and Amendments to a Subdivision
Planning Commission Recommendation	Approve Ordinance 25-30—Amending NCC 21.08.030 Property Boundary Adjustments, Boundary Establishment, and Amendments to a Subdivision
Reviewed By	Planning Commission Levi Roberts, City Planner Mayor Larry Jacobsen Justin Maughan, City Manager Tom Dickinson, City Engineer Joel Yellowhorse, City Attorney

Background:

During the 2025 Legislative Session, the Utah State Legislature passed SB 104, which modifies the process for proposing a boundary adjustment between two contiguous properties. This included updates to the required process and terminology. This includes a slightly different process for a full boundary adjustment, which may include, for example, modifications to easements and a simple boundary adjustment. Also included in the bill is a process for boundary establishment, which allows adjacent property owners to clarify ambiguous boundaries. The purpose of this ordinance is to bring Nibley City Code in compliance with Utah Code in regard to boundary adjustments and establishments.

The discretionary piece of this legislation is whether to require a plat amendment for full boundary adjustments. The Cache County Recorder has expressed a preference for plat amendments when boundary adjustments affect a subdivision as they are recorded in a way that is clearer to property owners. Staff recommend this requirement for full boundary adjustments that are within a subdivision.

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ORDINANCE 25-30

AMENDING NCC 21.08.030 PROPERTY BOUNDARY ADJUSTMENTS, BOUNDARY ESTABLISHMENT, AND AMENDMENTS TO A SUBDIVISION

WHEREAS, Nibley City regulates land use within Nibley City boundaries; and

WHEREAS, During the 2025 Legislative Session, the Utah State Legislature passed S.B. 104, which sets forth the process and requirements for boundary establishments and boundary adjustments.

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

1. The attached amendments to Nibley City Code 21.08.030 be adopted.
2. 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.
4. This ordinance shall become effective upon posting as required by law.

PASSED BY THE NIBLEY CITY COUNCIL THIS ___ DAY OF _____ 2025.

Larry Jacobsen, Mayor

ATTEST: _____
Cheryl Bodily, City Recorder

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21.08.030 Property Boundary Adjustments, Boundary Establishment And Amendments To A Subdivision

A. Boundary Establishment

1. The owners of record of adjoining properties may exchange title to portions of those properties to resolve an ambiguous, uncertain, or disputed boundary between the adjoining properties and agree upon the location of an existing common boundary between properties according to Utah Code 10-9a-524. To execute, the adjoining property owners shall prepare an establishment document that complies with Utah State Code 57-1-45 and record the boundary establishment with the Utah County Recorder. It does not require consent or approval from the City before it may be recorded.

B. Simple Boundary Adjustment

1. A proposal for a simple boundary adjustment shall:
 - a. Include a conveyance document that complies with Utah State Code 57-1-45.5;
 - b. Describe all lots or parcels affected by the proposed boundary adjustment.
2. The City Planner or City Engineer shall consent to a proposed simple boundary adjustment if the proposed simple boundary adjustment:
 - a. Meets the requirement of paragraph 1 of this subsection; and
 - b. Does not:
 1. Affect a public right-of-way, municipal utility easement, or other public property;
 2. Affect an existing easement, onsite wastewater system, or an internal lot restriction; or
 3. Result in a lot or parcel out of conformity with land use regulations.
3. If the City Planner or City Engineer determines that a proposed simple boundary adjustment does not meet the requirements of paragraph 2 of this subsection, a full boundary adjustment is required.

C. Full Boundary Adjustment

1. To propose a full boundary adjustment, the adjoining property owners shall submit a proposal to the City that includes:
 - a. A conveyance document that complies with Utah State Code 57-1-45.5;
 - b. A survey that complies with Utah State Code 57-1-45.5(3)(b).
 - c. If either property is part of a subdivision plat, an amended plat in accordance with Utah Code 10-9a-608(1)(b).
 2. The City Planner or City Engineer shall consent to a proposed full boundary adjustment if:
 - a. The proposal submitted includes all necessary information in paragraph 1 of this subsection;
 - b. The survey shows no evidence of a violation of a land use regulation.
 3. Notice of consent shall be provided to the person proposing the boundary adjustment in a format that makes clear;
 - a. The City is not responsible for any error related to the boundary adjustment; and
 - b. The County Recorder may record the boundary adjustment.
- D. A boundary adjustment is effective from the day on which the boundary adjustment, as consented to by the City Planner or City Engineer, is recorded by the County Recorder along with the relevant conveyance document.
- E. Non-conforming lots: notwithstanding the conditions described above, a property boundary adjustment for an existing non-conforming lot which does not result in conformity with the land use ordinance may be approved if the adjustment does not result in a lower level of conformance for any established lot size, frontage or other established standards. For example, if a $\frac{1}{2}$ acre lot located within a zone with a minimum lot size of 1 acre applies for a property boundary adjustment which increases the size of the lot to $\frac{3}{4}$ acre via a property boundary adjustment, it may be approved.
- F. All other amendments to a subdivision plat not described above shall follow the process and standards within Utah State Code 10-9a-608 as amended, and any applicable Nibley City ordinances.