



NIBLEY CITY COUNCIL
MEETING AGENDA

Thursday, March 28, 2019 – 6:30 p.m.
Nibley City Hall 455 West 3200 South, Nibley, Utah

1. Opening Ceremonies (Councilmember Beus)
2. Call to Order and Roll Call (Chair)
3. Approval of Minutes and Agenda (Chair)
4. Public Comment Period¹ (Chair)
5. Planning Commission Report
6. Discussion and Consideration of Resolution 19-07: A RESOLUTION APPROVING CHANGES TO JUSTICE COURT SERVICES, AUTHORIZING AGREEMENTS RELATED THERETO, AND RELATED MATTERS
7. Discussion and Consideration of Options for the 3200 S/ US 89-91 Realignment
8. Discussion and Consideration of an Agreement with the Cache Humane Society for Animal Impound Services
9. Workshop: Discussion of a Residential Planned Unit Development (R-PUD) Overlay Zone
10. Council Training on the Open and Public Meetings Act
11. Council and Staff Reports
12. Adjourn to Closed Session to discuss the purchase of real property pursuant to Utah Code 52-4-205

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.

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.



**Nibley City Council
Agenda Report for
March 28, 2019**

Agenda Item #6

Description	Discussion and Consideration of Resolution 19-07: A Resolution Approving Changes to Justice Court Services, Authorizing Agreements Related Thereto, and Related Matters
Department	Justice Court
Presenter	David Zook, Nibley Manager
Recommendation	Make a motion to Approve Resolution 19-07 and waive the second reading, to authorize notice to the state, notice to Mendon, the agreement with Hyrum City, and the agreement with the Justice Court Judge
Reviewed By	Mayor, City Manager, City Attorney, Justice Court Judge, Hyrum City, Mendon City, Utah Administrative Office of the Courts

Background

Cities and counties in Utah have the ability to operate a justice court to handle class B and C misdemeanors, small claims and the enforcement of city ordinances. Nibley City currently has a justice court and also handles justice court services for Mendon City through an interlocal agreement. Just as the Nibley and Mendon Courts are combined, several other cities in the county have combined courts.

Nibley City, as well as several other cities in Cache Valley, have been in talks for several years about options for further consolidating justice courts in order to increase efficiency and improve safety. Justice courts in many local cities have had declining revenue and increasing costs, which has driven that move toward further consolidation and efficiency. Nibley City currently operates its justice court with a budget deficit. For example, in the 2017-2018 budget year, the Nibley Justice Court brought in just over \$49,000 in revenue but expended more than \$76,000, an annual deficit of \$27,000.

Nibley has been in discussions with Hyrum City about entering into an interlocal agreement in which Hyrum would handle court services for Nibley and Mendon. If the two cities were to enter into that agreement, Hyrum would keep half of the revenue from fines from Nibley cases and Nibley would receive the other half, minus direct costs, such as those for prosecuting attorneys, defense attorneys, interpreter and witness fees. Those expenses amounted to approximately \$11,000 in the 2017-18 fiscal year. If subtracted from half the revenue from that year, Nibley would receive approximately \$14,000 in revenue instead of losing \$27,000, which would amount to a total change of more than \$40,000.

Hyrum City has verbally agreed to enter such an interlocal agreement, but its city council has not yet formally adopted the agreement. They are expected to do so next week. There are four things that must occur in order for this partnership to move forward, which this resolution authorizes:

1. The Nibley City Council would need to give direction to staff to send formal notice to the State of Utah that Nibley wishes to enter into this agreement with Hyrum.
2. Nibley City would need to approve an agreement with its justice court judge related to the judge stepping down from his position prior to the end of his term.
3. The interlocal agreement would need to be approved by both cities.
4. Nibley would give notice to Mendon that it is ending its interlocal agreement to handle Mendon cases in Nibley.

Mendon City is supportive of this change and its council voted at their last meeting to move forward with this change. Mendon has given Nibley and the State of Utah formal notice that it would like to end its interlocal agreement with Nibley and that it would like to enter into an interlocal agreement with Hyrum.

Utah law provides a check and balance between the executive and legislative powers of mayors and city council and their authority over judges. While the city appoints its justice court judge, it cannot terminate a judge or decrease a judge's pay during the judge's term. In fact, the level of a judge's pay is set by the state. A city can only discontinue paying a judge's salary at the end of that judge's term, if it closes its court. And, even if a city discontinues court services, it must continue to pay the judge's salary for the remainder of the judge's term, if the city discontinues court services in the middle of the judge's term. In addition to these restrictions, there is a required notice period before which a city can discontinue offering court services. However, if a judge were to resign from office mid-term, the state is likely to waive that timeframe in order to allow another city to assume those court services.

Nibley's justice court judge has offered to step down from his post prior to the end of his term in order to facilitate the proposed transition to a combined court with Hyrum in exchange for the

city paying him the amount that would have paid to him anyways throughout the remainder of his term, plus an additional amount added to cover taxes and an amount added as severance pay. Nibley's justice court judge has a term that would not normally end until the end of 2022, which is 3.5 years from the proposed end date for Nibley's Court of June 30, 2019.

Below are the numbers that would be involved based on the court discontinuing service as of June 30, 2019. The amount that has been negotiated between the judge, city manager and mayor as a payout to the judge is \$90,000, which breaks down as follows:

- \$65,000 is approximately what the judge's base pay and benefits would be during the remainder of his term, including retirement contributions and COLAs.
- \$10,000 is the extra amount that is being added as severance pay
- \$15,000 is what his estimated increased income taxes would be on this one-time lump-sum payout amount

This is approximately \$25,000 more than what the city would pay the judge anyways if the city kept the court for the remainder of his term. However, if the city were to keep the court, the city will likely continue to lose more than \$25,000 per year. This one-time payout of \$25,000 is equivalent to one year of court department losses, after which it is anticipated that the city would begin receiving approximately \$14,000 per year in revenue through the agreement with Hyrum. Staff believes that paying the extra \$25,000 this year, in lieu of losing \$25,000 per year from deficit operations, is a good trade off that will result in eliminating the loss in revenue and create positive revenue flow instead. In addition, there are other costs associated with operating the court that are not calculated in these numbers, such as the amount of time other staff members use assisting court customers on the phone or in the office, the use of city office space by the court etc.

The city attorney has drafted an agreement between the city and the justice court judge that would provide for the judge to step down early and the city to pay these funds, assuming the interlocal agreement with Hyrum is established and approved by the state.

Staff met with the State's Administrative Office of the Courts this Monday regarding this transition and they asked if the City could provide its notice of its intent as soon as possible in order to bring this matter before its governing bodies at their meetings over the next few weeks. The AOC advised that, if each of the three cities approve this transition by next week, they believe the Judicial Council will approve the change based on the proposed timeline. However, if notice is given later, they may not approve the transition to occur until next year. Therefore, staff requests that the City Council waive the second reading of this resolution and approve it at this meeting.

RESOLUTION 19-07

A RESOLUTION APPROVING CHANGES TO JUSTICE COURT SERVICES, AUTHORIZING AGREEMENTS RELATED THERETO, AND RELATED MATTERS

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

WHEREAS, Nibley City, as authorized by Utah law, has previously established and currently operates and maintains a municipal justice court, which justice court has been certified by the Judicial Council and has a duly appointed and acting justice court judge; and

WHEREAS, Nibley City has previously entered into an interlocal agreement with Mendon City to provide justice court services to Mendon City; and

WHEREAS, Hyrum City, as authorized by Utah law, has previously established and currently operates and maintains a municipal justice court, which justice court has been certified by the Judicial Council and has a duly appointed and acting justice court judge with the required support personnel and physical facilities; and

WHEREAS, Nibley City and Mendon City seek to gain greater efficiencies in the provision of justice court services and have approached Hyrum City regarding the merging of the Nibley City justice court into the Hyrum City justice court; and

WHEREAS, Nibley City and Mendon City may mutually agree to end their interlocal agreement; and

WHEREAS, Mendon City, as authorized by its interlocal agreement with Nibley City, has given Nibley City notice of its intent to terminate the agreement and enter into an agreement with Hyrum City; and

WHEREAS, the municipalities are authorized to enter into agreements regarding the cooperative provision of justice court services, pursuant to the Utah Interlocal Cooperation Act, Title 11, Chapter 13 of the Utah Code, and the Utah Justice Court Act, Title 78A, Chapter 7 of the Utah Code; and

WHEREAS, the expansion of the Hyrum City justice court to provide justice court services to Nibley City would benefit the public welfare and safety; and

WHEREAS, Nibley City desires to execute such agreements and documents as necessary to merge the Nibley City justice court into the Hyrum City justice court and to provide for the Nibley City justice court judge and the termination of the interlocal agreement with Mendon City in connection therewith.

NOW, THEREFORE, be it resolved by the City Council of Nibley City, Utah, as follows:

1. The City Council finds that there is good cause and that it is in the interest of the public welfare to merge the Nibley City justice court into the Hyrum City justice court, such that the Hyrum City justice court provides services to Nibley City.
2. The City Council authorizes the Mayor and such other City representatives as are necessary under the Utah Interlocal Agreement Act to execute an interlocal agreement with Hyrum City providing for the merger of the Nibley City justice court into the Hyrum City justice court and the terms and conditions of the provision of justice court services to Nibley.
3. The City Council authorizes the Mayor and such other City representatives as are necessary to prepare, execute, and submit a notice and request for certification of the justice court merger to the Utah Judicial Council.
4. The City Council authorizes the Mayor and such other City representatives as are necessary to execute an agreement with the Nibley City justice court judge providing for the end and severance of his service as such, conditioned on the execution of an interlocal agreement with Hyrum City and the approval and certification of the same by the Utah Judicial Council.
5. The City Council authorizes the Mayor and such other City representatives as are necessary to execute an agreement with Mendon City providing for the termination of the Nibley City/Mendon City interlocal agreement conditioned on the execution of an interlocal agreement with Hyrum City and the approval and certification of the same by the Utah Judicial Council.
6. All resolutions or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed and this Resolution shall be in full force and effect immediately upon its approval and adoption

PASSED BY THE CITY COUNCIL OF NIBLEY CITY, UTAH, this _____ day of _____, 2019.

Mayor

ATTESTED:

Recorder

INTERLOCAL AGREEMENT FOR JUSTICE COURT SERVICES

This Agreement, made and entered into this 28th day of March, 2019 by and between Nibley City, a body politic of the state of Utah, hereinafter referred to as “Nibley”, and Hyrum City, a body politic of the state of Utah, hereinafter referred to as “Hyrum”.

RECITALS

This Agreement is made and entered into by and between the parties based upon the following recitals:

- A. Section 78A-7-102, *Utah Code Ann.*, enables Hyrum to operate a justice court for public convenience and establish the appropriate precinct for that court. Accordingly, Hyrum has established and operates the Hyrum City Justice Court.
- B. Nibley is a municipal corporation of the State of Utah and has assumed local responsibility for the jurisdiction of the Nibley City Justice Court as enabled by Section 78A-7-102, *Utah Code Ann.* Pursuant to Section 78A-7-102, *Utah Code Ann.*, Nibley has determined to amend its method of assuming local responsibility for the jurisdiction of its justice court by entering into this Agreement with Hyrum and to adjudicate all matters within the jurisdiction of the Nibley City Justice Court in the Hyrum City Justice Court as more particularly provided herein.
- C. The parties are authorized by the *Utah Interlocal Cooperation Act* as set forth in Title 11, Chapter 13, *Utah Code Ann.*, to enter into this Agreement for the provision of justice court services.
- D. The parties desire to enter into an agreement for the provision of justice court services to both jurisdictions under the terms and provision of this interlocal cooperation agreement.
- E. Hyrum is willing to enter into this Agreement and thereby assume additional jurisdiction.

- F. Nibley hereby reserves its rights to amend its methods of assuming its local responsibility in the future and to operate its municipal justice court in accordance with law in the event that this Agreement is terminated for any reason.
- G. Hyrum reserves its right to enter into similar agreements with other municipalities to provide justice court services to those municipalities on terms as negotiated between Hyrum and such municipalities; provided, however, that such other contracts shall not interfere with Hyrum's performance of the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained hereafter, the parties hereto agree as follows:

1. **Justice Court Services**

Hyrum shall provide justice court services, including both criminal and small claims, to Nibley pursuant to Section 78A-7-204(4), *Utah Code Ann.*, through the Hyrum City Justice Court.

2. **Territorial Jurisdiction**

The Jurisdiction of the Court shall extend into all of the territory within the corporate limits of Hyrum, the territory within the corporate limits of Nibley and such other territory as authorized by law.

3. **Court Jurisdiction**

The Court shall have the jurisdiction granted to it by the applicable laws and rules of the State of Utah and, in particular, those granted by Section 78A-7-106, *Utah Code Ann.* The Court shall have the authority to enforce the ordinances of both cities.

4. **Justice Court Judge Authority**

The judge of the Court shall have such authority as is granted by State law and applicable rules and, in particular, Section 78A-7-104, *Utah Code Ann.*

5. Place of Holding Court

- a. Court is currently held in a courtroom in the Hyrum City Justice Court, located at 60 West Main, Hyrum, Cache County, Utah.
- b. The court may be held elsewhere within the Court's territorial jurisdiction as may be appropriate and reasonable under the circumstances.

6. Certification

The Court shall, at all times, meet the minimum requirements for the certification of a justice court as provided in Section 78A-7-103, *Utah Code Ann.*

7. Justice Court Judge

- a. The Justice Court judge has been appointed and confirmed in accordance with law.
- b. In accordance with Section 78A-7-202(7), *Utah Code Ann.*, the Justice Court Judge shall be subject to a retention election in which all registered voters within the territorial jurisdiction of the court may vote.
- c. The Justice Court judge must meet the requirements specified in Section 78A-7-201, *Utah Code Ann.* for Justice Court Judge eligibility and be certified by the Utah Judicial Council to hold office.
- d. The Justice Court Judge shall be paid a fixed compensation established by resolution of the Hyrum City Council and which meets the requirements of Section 78A-7-206, *Utah Code Ann.* The compensation shall be reviewed annually by Hyrum and adjusted as may be appropriate.
- e. The Justice Court Judge shall comply with all state requirements for continuing education and attend all orientation and training sessions required by law and the Utah Judicial Council.

- f. The Hyrum City Council may appoint another Justice Court Judge who meets eligibility requirements of state law, within Hyrum to serve as a temporary Justice Court Judge in the absence or disqualification of the Justice Court Judge.
- g. In the event of a vacancy in the position of Justice Court Judge, the Justice Court Advisory Committee shall assist the Hyrum City Council in its selection and appointment of a new Justice Court Judge by submitting recommendations and performing such other tasks as assigned to it by the Council.

8. Court Hours and Facilities

- a. All official court business shall be conducted in the courtroom or an office located in the Hyrum City Hall or at another location which is conducive and appropriate to the administration of justice and allowed by law.
- b. The hours of the Court shall be posted conspicuously at the Hyrum City Hall and at such public buildings located within Nibley as may be deemed appropriate by Nibley.
- c. The Court shall have regularly scheduled hours at which the judge of the Court shall be present and the hours that the Court shall be open shall be in compliance with any requirements imposed by either State law or the Utah Judicial Council.
- d. The name assigned to the Justice Court shall be the Hyrum City Justice Court.

9. Copies of Ordinances and Materials

Hyrum shall provide the Court with current copies of the *Motor Vehicle Laws of the State of Utah*, the *Utah Code annotated*, the *Justice Court Manual* published by the State Court Administrator's Office, State laws affecting local government, and all ordinances of Hyrum, as well as other legal reference materials as may be determined necessary, including updates and supplements. Nibley shall provide the Court with copies of all current Nibley ordinances to be enforced through the Court, and updates and amendments.

10. Staff and Expenses

- a. Adequate, competent and appropriate staff shall be provided to the Court to conduct the business of the Court.
- b. Court clerical personnel shall be deemed employees of Hyrum and therefore, subject to selection, supervision, discipline and personnel policies and procedures of Hyrum as set forth in the *Hyrum City Personnel Policy*.
- c. The cost and expenses for travel and training of clerical personnel and training sessions conducted by the Judicial Council shall be the responsibility of Hyrum.
- d. Hyrum shall assume responsibility for all facilities, supplies, equipment, court personnel, and judicial and clerical training expenses of the Court, but not prosecution and related direct costs as provided by Section 12 of this Agreement. In no event shall court space costs, either capital or operational, be considered as an expense in computing the Nibley percentage of net revenues to be allocated to Nibley pursuant to Paragraph 14 below.

11. Records

- a. The records of the Court shall be maintained at the office of the Court but shall be made available, as required by law, to parties and the general public in accordance with the *Government Records Access and Management Act* as well as applicable court rules.
- b. Hyrum and Nibley shall work together to complete the transfer of such records as are necessary and appropriate from the Nibley City Justice Court to the Hyrum City Justice Court to implement this Agreement, including records and files of open cases, collections and other relevant matters.

12. Prosecution and Related Direct Costs

The costs for prosecution of all cases brought before the Court in which Nibley is a party or in which the violation of Nibley City ordinances is an issue shall be the responsibility of Nibley, including the payment of all direct costs therefore, and shall be deducted from the distribution of

court revenue, as detailed in Section 14 of this agreement, prior to distribution of funds to Nibley. Such prosecution/direct costs shall include, but not be limited to, fees of the Nibley City Prosecutor, indigent defense fees and costs, witness fees, interpreter fees, jury costs, transportation costs for defendants, jail costs, and all other fees and costs directly associated with the prosecution and defense of Nibley City cases in the Hyrum City Justice Court, exclusive of the expenses described in Section 10.d., of this Agreement.

13. Budget

- a. Hyrum shall review, determine and approve the budget for the Court.
- b. Budget approval for the Court shall be in accordance with the provisions of the *Uniform Fiscal Procedures for Cities* as set forth in Title 10, Chapter 6, *Utah Code Ann.*
- c. The fiscal year for the Court shall be from July 1 to June 30 of each year.

14. Distribution of Court Revenue

The parties have reviewed and considered various economic benefits and consequences to both parties and other factors of Hyrum and Nibley in order to determine the full and unique circumstances of the parties and what is the appropriate and reasonable allocation of justice court revenues. Based upon this review and consideration, as well as the negotiations involved, the parties have determined that the allocation of justice court net revenues, calculated as provided in paragraph 14(e) of this Agreement, is as follows:

- a. The allocation and distribution of the net revenues of the Court shall be determined and made quarterly on the following basis:
 - 1) Fifty percent (50%) of the net revenues attributable to citations issued by the Utah Highway Patrol, Cache County Sheriff's Department and any other agency which would cite and be cited into the Nibley City Municipal Justice Court, if such court were to continue to exist and receive cases, shall be allocated to Hyrum.

- 2) Fifty percent (50%) of the net revenues attributable to citations issued by the Utah Highway Patrol, Cache County Sheriff's Department and any other agency which would cite and be cited into the Nibley City Municipal Justice Court, if such court were to continue to exist and receive cases, shall be allocated to Nibley.
- b. The allocation of revenues may be reviewed upon the request of either party and may be adjusted by an addendum to this Agreement agreed to and signed by both parties.
 - c. An accounting of all revenues and expenses of the Court, as well as distribution of the revenues to the parties shall be made quarterly to the parties.
 - d. In those cases which are open in the Nibley City Municipal Justice Court and which are transferred as open cases to the Hyrum City Justice Court, if a fine has been imposed as part of a sentence and funds are continued to be collected on that case, the allocation of the net revenues actually collected shall be fifty-percent (50%) to Hyrum and fifty-percent (50%) to Nibley.
 - e. "Net revenues", for the purpose of this Agreement, means the total of all fines, bail forfeitures and filing fees actually received by the Court related to cases, criminal or civil, for each City, respectively, less any court or other costs assessed against a party, bail, restitution, program fees or costs or any surcharges received pursuant to Title 51, Chapter 9, Part 4, *Utah Code Ann.* and paid or payable to the State of Utah or other agency required by law.
 - f. Hyrum shall not be obligated to pay, nor Nibley entitled to receive, any interest on the share of the net revenues allocated and distributed to Nibley.

15. Reports

- a. In accordance with Section 78A-7-215, *Utah Code Ann.*, the Justice Court Judge shall file monthly reports with the Office of the Utah State Court Administrator as well as copies to Hyrum and Nibley. The report shall include, at the least, the number of cases,

the dispositions entered and other information as specified in forms provided by the State Court Administrator's Office.

- b. Annually, the Justice Court Judge shall appear before the Nibley City Council, if requested to do so, for the purpose of making a personal report of the Court and its activities as they pertain to Nibley and to respond to any inquiries of the Nibley City Council.

16. Effective Date

This Agreement shall become effective July 1, 2019.

17. Transition

- a. All citations issued on or after July 1, 2019 will be cited and forwarded to the Hyrum City Justice Court.
- b. All cases that are open as of Jan 1, 2019, shall be transferred to the Hyrum City Justice Court.
- c. Nibley shall notify all agencies that currently cite cases in the Nibley City Justice Court of the transfer of cases to the Hyrum City Justice Court and the requirement that all citations issued on or after JulyF 1, 2019, be cited into the Hyrum City Justice Court.

18. Termination

- a. This Agreement shall continue in effect until terminated by:
 - 1) The mutual consent of the parties; or
 - 2) The submission by either party, with or without cause, of a written notice six (6) months prior to the end of Hyrum's fiscal year.
- b. The termination shall take effect at the end of Hyrum's fiscal year.
- c. In no event shall the term of this Agreement exceed fifty (50) years.

19. Resolutions of Approval

This interlocal cooperation Agreement shall be conditioned upon its adoption by resolution of the legislative body of each party in accordance with Section 11-13-202.5, *Utah Code Ann.*

20. Attorney Opinions

This interlocal cooperation Agreement shall be conditioned upon the written approval of the authorized attorney of each party approving this Agreement as to its form and compatibility with State law in accordance with Section 11-13-202.5, *Utah Code Ann.*

21. Authorization

The individuals executing this Agreement on behalf of the parties confirm that they are the duly authorized representatives of the parties and are lawfully enabled to execute this Agreement on behalf of the parties.

WHEREFORE, the parties hereto have signed this Agreement the day and year first above written.

Hyrum City

Hyrum City

By _____
Mayor

By _____
Stephanie Miller, Mayor

Attest:

Attest:

City Recorder

Stephanie Fricke, City Recorder

Approved as to Form
And Compatibility with State Law

Approved as to Form
And Compatibility with State Law

, Nibley City Attorney

, Hyrum City Attorney

SEPARATION AGREEMENT AND RELEASE

This Separation Agreement (“**Agreement**”) is entered into between Nibley City, a Utah municipality (“**City**”) and Trevor Cook (“**Judge**”), an individual (individually or collectively, “**Party**” or “**Parties**”).

RECITALS

- A. “**Judge**” is currently employed by the City as the City justice court judge.
- B. The City intends to enter into an interlocal agreement with Hyrum City for Hyrum City to administer Nibley’s justice court system.
- C. The Parties intend for this Agreement to address the method and manner “**Judge’s**” resignation from City employment.
- D. In connection with the “**Judge’s**” resignation, the Parties wish to settle and release any and all actual or potential claims, complaints, or disputes, known or unknown, that have been or could have been raised by the Parties related to “**Judge’s**” employment and the method and manner of “**Judge’s**” resignation.

AGREEMENT

Now, therefore, in order to give effect to the recitals above, and for good and valuable consideration, the sufficiency and adequacy of which is hereby acknowledged, the Parties do agree and covenant as follows:

- 1. **Resignation.** “**Judge**” shall resign as the City justice court judge, effective as of June 30, 2019.
- 2. **Severance Pay.**
 - a. The City agrees to pay to “**Judge**” severance pay in a one-time, lump-sum payment on or before August 1, 2019 (“**Severance Pay**”). The Severance Pay shall total exactly \$90,000.00, based on the Parties’ stipulations regarding remaining compensation, incentive pay, and tax burden offset, as follows:
 - i. Remaining Compensation. The Parties agree that any and all future wages, benefits, retirement contributions, cost-of-living increases, and other forms of compensation to which “**Judge**” would have been entitled had he completed his term of office would have been equal to \$65,000.00.
 - ii. Incentive Pay. The City agrees to pay “**Judge**” \$10,000.00 as additional consideration for “**Judge’s**” execution of this Agreement and Release and voluntary relinquishment of any and all wages, benefits, and compensation to which he may have otherwise been entitled.
 - iii. Tax Offset. The City agrees to pay “**Judge**” \$15,000.00 to offset “**Judge’s**” anticipated tax burden from the lump-sum payment.
 - b. The Parties agree that the amounts described above are reasonable and represent their best estimate of the actual amounts that may otherwise be involved. Each Party expressly accepts and assumes the risk that the facts and figures may in the future prove to have been different from the amounts agreed on above, and each Party agrees that the terms of this Agreement shall in all respects be effective and not subject to modification, termination, or rescission by any such difference.

3. **Settlement and Release.**

- a. The Parties agree to fully settle, release, waive, and discharge each other individually and collectively with each Party's respective principals, agents, officers, attorneys, employees, and representatives, from any and all claims, demands, rights, liabilities, obligations, duties, and causes of action of any nature, known or unknown, fixed or contingent, actual or potential, at law or in equity related to "Judge's" employment with the City, including all claims, demands, rights, liabilities, obligations, duties, and causes of action related to the method and manner of "Judge's" resignation.
- b. The Parties acknowledge that any and all claims that are settled and released through this Agreement are disputed and unproven, and that the making of this Agreement does not in any way constitute an admission that any such claims exist or constitute a concession of wrongdoing or liability on the part of either Party.

4. **Condition to Agreement.** This Agreement is conditioned upon the Utah Judicial Council's approval and certification of the expansion of the Hyrum justice court and the Interlocal Agreement between Nibley and Hyrum on or before June 30, 2019. In the event such approval and certification is not obtained, this Agreement shall be void and of no effect, "Judge" shall continue in his position as justice court judge, and the City shall not be obligated to issue the Severance Pay.
5. **Non-Disparagement.** Each Party shall use reasonable and good faith efforts to refrain from taking any action or making any statement concerning the other Party and its respective principals, agents, officers, attorneys, employees, and representatives that would reasonably damage such Party's reputation or good will, including but not limited to disparaging, defamatory, or false statements regarding the other Party's competency, quality of services, management style, role in the community, or treatment of employees.
6. **Mutuality.** The Parties agree that the promises and terms of this Agreement are dependent on and were agreed to in reliance on all other promises and terms of this Agreement, and that no one promise or term may be severed from the other.
7. **Governing Law and Venue.** This Agreement shall be governed and construed in accordance with the laws of the State of Utah. Any dispute arising out of this Agreement shall be brought in the First Judicial District Court, State of Utah.
8. **No Third-Party Beneficiaries.** The rights, duties, and obligations of this Agreement are for the sole benefit of the named Parties who have executed this Agreement below, and no third party, other than assignees, transferees, and other successors in interest, has any rights hereunder to enforce the terms of this Agreement.
9. **Agreements and Documents.** The Parties agree to complete, execute, and return any agreement, deed, stipulation, contract, acknowledgement, receipt, or other document that is necessary to fulfill the terms of this Agreement.
10. **Amendments.** This Agreement may not be altered, amended, modified, or otherwise changed in any respect except in a writing executed by all Parties.
11. **Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed an original and together constitute the same contract whether each Party executes a separate counterpart.

12. **Headings.** Headings used in this Agreement are for convenience and reference only and shall not alter or limit the meaning of the terms and provisions of the Agreement.

13. **Authority to Execute.** The person executing this Agreement on behalf of each Party hereby represents that he or she has full authority to execute the Agreement and to bind each Party to the terms of this Agreement, and that all necessary actions for him or her to enter into this Agreement have heretofore been completed.

THE UNDERSIGNED HAVE READ AND HAVE HAD THE OPPORTUNITY TO SEEK THE ADVICE OF INDEPENDENT COUNSEL WITH RESPECT TO THE FOREGOING, AND HEREBY ACKNOWLEDGE AND AGREE TO BE BOUND BY THESE TERMS.

DATED this ____ day of _____, 2019.

On Behalf of Nibley City, Utah

ATTESTED:

Mayor

Recorder

DATED this ____ day of _____, 2019.

Trevor Cook, Justice Court Judge

TERMINATION AGREEMENT

This Termination Agreement, made and entered into this ___ day of _____, 2019 by and between Nibley City, a body politic of the state of Utah, hereinafter referred to as “Nibley”, and Mendon City, a body politic of the state of Utah, hereinafter referred to as “Mendon,” which entities may be individually or collectively referred to as “Party” or “Parties.”

RECITALS

This Termination Agreement is made and entered into by and between the parties based upon the following recitals:

- A. On or about April 19, 2012, Nibley and Mendon entered into an INTERLOCAL AGREEMENT FOR JUSTICE COURT SERVICES (“Interlocal Agreement”), wherein the parties agreed that Nibley would provide justice court services for Mendon on certain terms and conditions.
- B. The Interlocal Agreement provides in part that it shall continue in effect until terminated by the mutual consent of the parties.
- C. The parties desire to terminate the Interlocal Agreement and provide for justice court services through other means.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained hereafter, the parties hereto agree as follows:

1. Termination of Interlocal Agreement

- a. Nibley and Mendon agree to terminate the Interlocal Agreement entered into on or about April 19, 2012, which termination shall be effective July 1, 2019, on the following conditions:
 - 1) The Utah Judicial Council’s approval and certification of the dissolution of the Nibley Justice Court; and

2) Mendon obtaining justice court services through other means.

- b. In the event the above-described conditions have not been completed by July 1, 2019, this Termination Agreement shall not take effect until July 1, 2020. In the event the above-described conditions have not been completed by July 1, 2020, this Termination Agreement shall be void and shall have no effect, and the Interlocal Agreement shall remain in effect.

2. Authorization

The individuals executing this Agreement on behalf of the parties confirm that they are the duly authorized representatives of the parties and are lawfully enabled to execute this Agreement on behalf of the parties.

WHEREFORE, the parties hereto have signed this Agreement the day and year first above written.

Nibley City

Mendon City

By _____
Shaun Dustin, Mayor

By _____
Ed Buist, Mayor

Attest:

Attest:

David N. Zook, City Recorder

Paul Cressall, City Recorder

TERMINATION AGREEMENT

This Termination Agreement, made and entered into this __ day of _____, 2019 by and between Nibley City, a body politic of the state of Utah, hereinafter referred to as "Nibley", and Mendon City, a body politic of the state of Utah, hereinafter referred to as "Mendon," which entities may be individually or collectively referred to as "Party" or "Parties."

RECITALS

This Termination Agreement is made and entered into by and between the parties based upon the following recitals:

- A. On or about April 19, 2012, Nibley and Mendon entered into an INTERLOCAL AGREEMENT FOR JUSTICE COURT SERVICES ("Interlocal Agreement"), wherein the parties agreed that Nibley would provide justice court services for Mendon on certain terms and conditions.
- B. The Interlocal Agreement provides in part that it shall continue in effect until terminated by the mutual consent of the parties.
- C. The parties desire to terminate the Interlocal Agreement and provide for justice court services through other means.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained hereafter, the parties hereto agree as follows:

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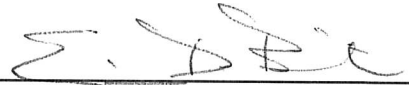
Nibley City

By _____
Mayor

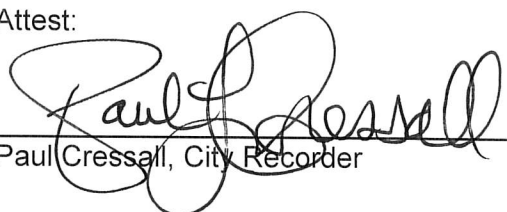
Attest:

City Recorder

Mendon City

By _____
Ed Buist, Mayor

Attest:

_____
Paul Cressall, City Recorder



Mendon City Corporation

P.O. Box 70 Mendon, UT
84325

Phone (435) 753-3449
www.mendoncacity.org

March 26, 2019

Jim Peters
Administrative Office of the Courts
PO Box 140241
Salt Lake City, Utah 84114-0241

Re: Request for Certification of Nibley City Justice Court Dissolution and Hyrum City Justice Court Expansion; Request for Waiver of Time Requirement – 78A-7-102 & 123

Dear Mr. Peters:

This is a request and notice regarding the justice court systems of Hyrum City, Nibley City, and Mendon City. Currently, Hyrum City provides its own justice court serving its own City and Paradise City, and Nibley provides a separate justice court serving both Nibley and Mendon, pursuant to interlocal agreements. The cities would like to change the current system as follows:

- Hyrum City desires to expand the territorial jurisdiction of its justice court, through interlocal agreement, to include and serve Nibley City and Mendon City.
- Nibley City desires to have Hyrum handle Nibley Justice Court Matters. The current Nibley City justice court judge will be resigning as of June 30, 2019.

The net result of this arrangement would be that Hyrum City provides the sole justice court for all three cities. The cities have each agreed to this arrangement by interlocal agreements. Copies of the various agreements stipulating to this arrangement are included for your review.

The cities desire to have these changes take effect as of July 1, 2019. Each of the cities is of the opinion that the transition contemplated by this request and notice can be completed by July 1, 2019, without disruption of court activity. Accordingly, we request the Administrative Office of the Courts and the Judicial Council (1) grant a waiver of the timing requirements for notice, as permitted by Utah Code sections 78A-7-123(3) and 78A-7-102(4)(c)(i) and (2) grant approval and certification of the expansion of the Hyrum City Justice Court and the Interlocal Agreements between Hyrum and Nibley City Justice Court.

We appreciate your willingness to review and consider these requests, and we look forward to your reply.

Sincerely,

Ed Buist, Mayor

Mayor
Shaun Dustin



Norman Larsen

March 28, 2019

Jim Peters
Administrative Office of the Courts
PO Box 140241
Salt Lake City, Utah 84114-0241

Re: Request for Certification of Nibley City Justice Court Dissolution and Hyrum City Justice Court Expansion; Request for Waiver of Time Requirement – 78A-7-102 & 123

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We appreciate your willingness to review and consider these requests, and we look forward to your reply.

Sincerely,

Agenda Item #7

Description	Discussion and Consideration of Options for the 3200 S/ US 89-91 Realignment
Department	Planning/Transportation
Presenter	Jeff Gilbert, Regional Transportation Planner with the Cache Metropolitan Planning Organization
Recommendation	Provide feedback on which alignment is preferred
Reviewed By	Mayor, City Manager, City Planner, Public Works Director

Background

The intersection of 3200 S and US 80/91 is currently unsignalized and has a history of several severe accidents. The intersection's alignment is skewed because 3200 S does not meet the highway at a 90-degree angle. Because of these factors, UDOT studied the intersection and determined that it meets the warrants to be signalized with traffic lights. Several agencies are involved with this project. UDOT is involved because US 89/91 is a state highway, Logan City is involved because the northeast and southeast corners of the current intersection are in Logan, Cache County is involved because the other corners are in unincorporated areas, and Nibley City is involved because the intersection is the primary western gateway to Nibley and half of the intersection is likely to eventually be annexed into Nibley. In addition, one of the proposed realignments would be in Nibley. The Cache Metropolitan Planning Organization (CMPO) and Council of Governments (COG) are involved because the alignment affects regional transportation routes and the COG provided approximately \$1 million to assist with the project.

In order to signalize the intersection, it must be realigned to provide for a standard 90-degree intersection. This realignment will require the purchase of property from adjacent land owners. The originally planned alignment would have moved 3200 S to the northeast through Ted's Service Station, which is on the northeast corner. Logan City spent the last several years attempting to negotiate an agreement with Ted's Service Station to realign 3200 S through the service station property. Those negotiations ultimately failed and Logan City is not interested in condemning the property against the wishes of the owner. Therefore, another alignment is being sought.

After plans to construct the originally planned route failed, the parties met to discuss other options. Several potential options were identified and UDOT hired an engineering consulting firm to analyze the cost of those potential alignments. Representatives from those organizations met recently to discuss the options and decided to present the options to the elected councils of Logan City, Cache County and Nibley City to solicit their input before a final decision is made.

UDOT is the project manager on this project and will proceed with constructing the alignment based on the feedback provided by the local jurisdictions. UDOT has committed to pay the costs for the project related to construction within their right-of-way.

Jeff Gilbert, from the CMPO will present the realignment options to the City Council and would like feedback from the the City Council on which option would be their preferred alignment. Mr. Gilbert will also be providing the same presentation to the Logan City Council and the County Council in the next few weeks according to the following schedule:

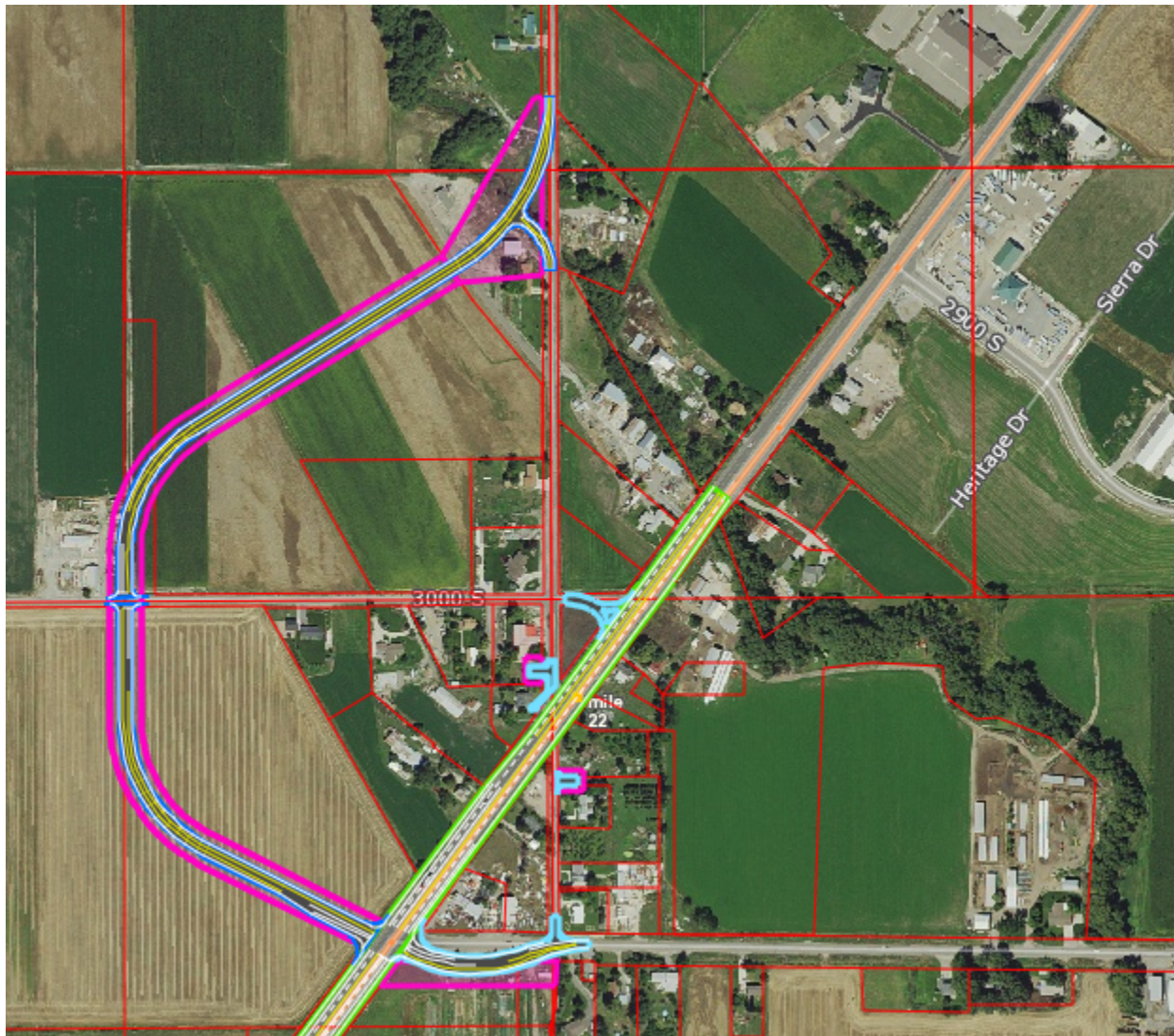
- March 12th 5:30 pm Cache County Council
- March 14th 6:30 pm Nibley City Council
- March 19th 5:30 pm Logan City Council

UDOT's feasibility analysis can be reviewed at the following website:

<https://uplan.maps.arcgis.com/apps/MapSeries/index.html?appid=7bc8e8c5be6942089667f2553b8b6f22>

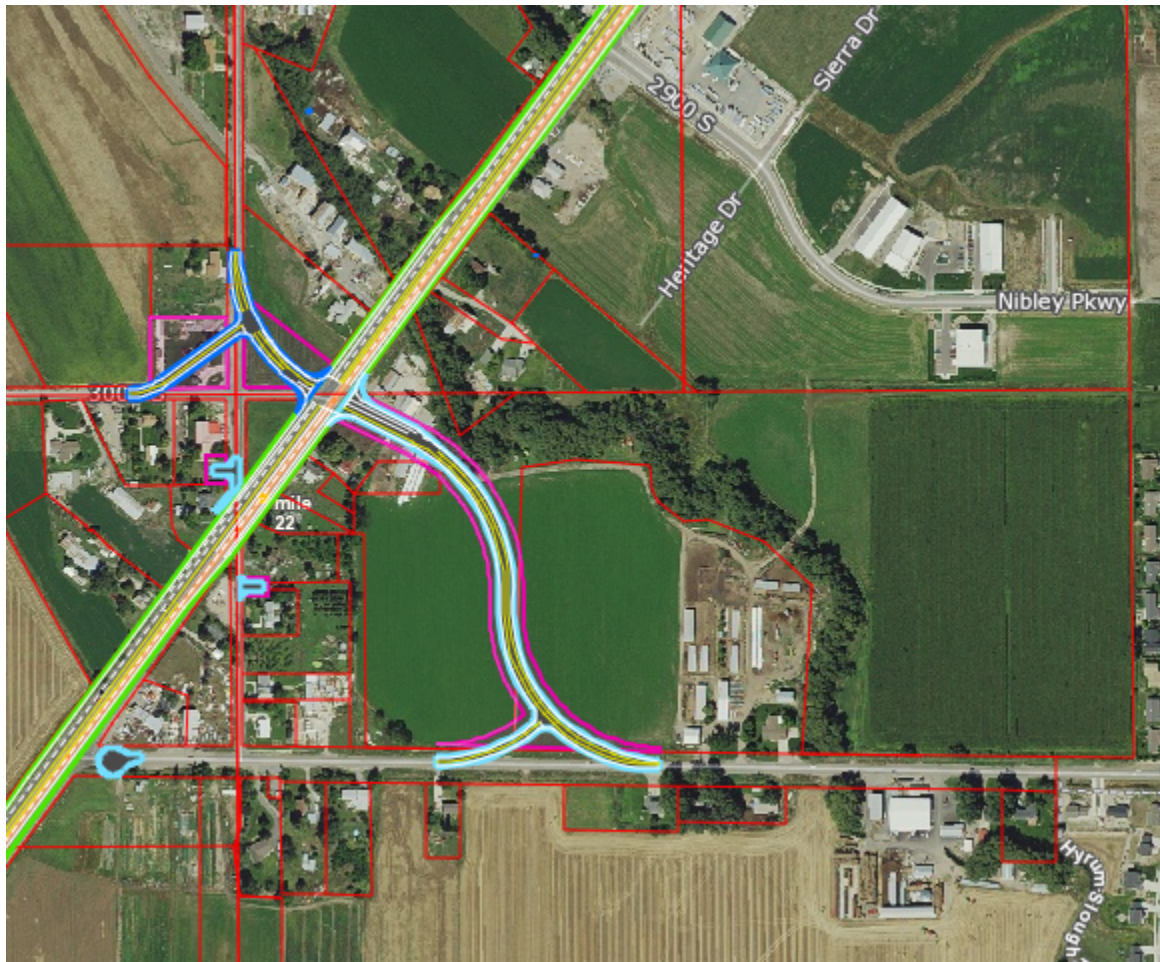
The analysis provides three alternative alignments for the intersection, as well as the costs for each alignment.

Alternative 1



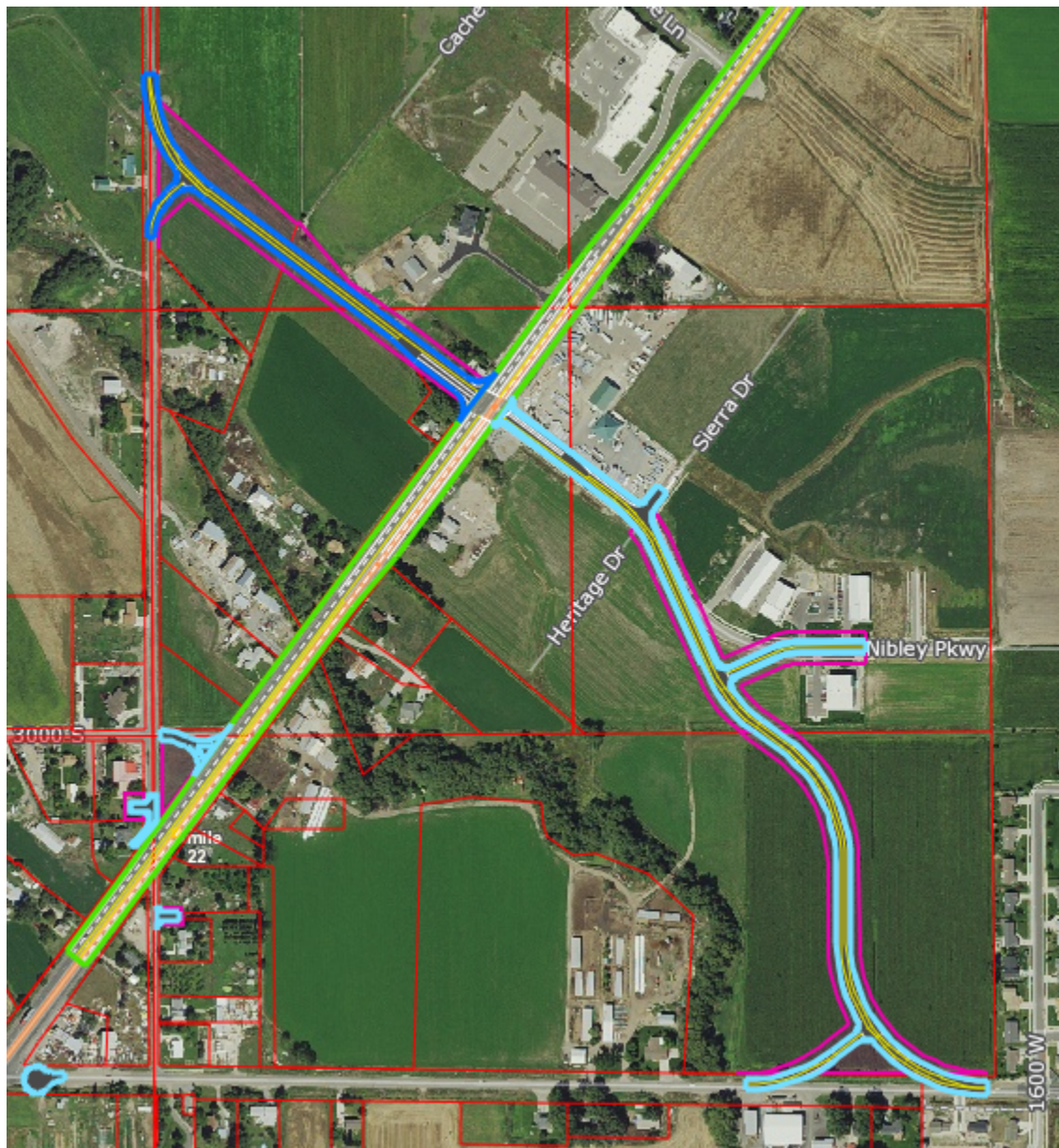
Alternative 1 would move 3200 S slightly to the south in order to create a 90-degree intersection. This would require the purchase of some land from one property owner on the south side of 3200 S. That property owner has indicated initial willingness to sell the necessary property, assuming his concerns related to the project are addressed. This alignment would cost approximately \$1 million, however future construction of the west side road to which 3200 South might eventually connect would cost an additional \$5.7 million. That connection does not need to be constructed as part of this project, however the CMPO would like to continue the 3200 S alignment to the west and north to eventually connect to a future western arterial that could potentially be aligned with 2000 West. Alignment at this location provides potential for future economic development at the intersection and essentially preserves the current alignment of 3200 S.

Alternative 2



Alternative 2 would bring 3200 South to the north through property owned by one resident. That property owner has indicated initial willingness to sell the necessary property, assuming his concerns related to the project are addressed. This alignment would result in cul-de-sacking the current west end of 3200 S and would move the new signalized intersection north to line up with 3000 S at a cost of approximately \$4.2 million. This alignment likely provides for much less economic development potential at the intersection because the properties around what would be the new intersection are already developed with mostly residential housing.

Alternative 3



Alternative 3 would bring 3200 South to the north through property that is primarily owned by one owner. That property owner has indicated initial willingness to provide the necessary property, assuming his concerns related to the project are addressed. This alignment would result in cul-de-sacking the current west end of 3200 S and would move the new signalized intersection approximately a half-mile north to line up with Nibley Parkway at a cost of more than \$10 million. This cost could come down significantly if the property owner donates some or all of the needed land. This alignment likely provides for less economic development potential at the intersection because many of the properties around what would be the new signalized intersection are already developed.

Agenda Item #8

Description	Discussion and Consideration of an Agreement with the Cache Humane Society for Animal Impound Services
Department	Planning-Animal Control
Presenter	Stephen Nelson, City Planner
Recommendation	Move to approve the agreement with the Cache Humane Society for Animal Impound Services.
Reviewed By	Mayor, City Manager, City Attorney, City Planner, Front Desk Staff, City Treasurer, and members of public works who manage Nibley's kennel.

Background

Staff has worked with the Cache Humane Society to update the City's contract for the impounding and surrendering of animals. The proposed contract would have the Cache Humane Society handle the impounding of dogs that are captured by the City's Animal Control Officer or are ordered by the court to be impounded in Nibley. This contract would change Nibley's current impound system and allow the City to stop kenneling animals at its public works site. There are several reasons why staff reached out to the Cache Humane Society so that it could manage all of the City's animal impounds, including:

- Liability of keeping animals in the City's kennels
- The Cache Humane Society is a professional kennel and is better equipped to impound animals at its facility with professionally trained staff
- Impounding dogs with the Humane Society will eliminate overtime costs for City staff who are currently caring for kenneled dogs after hours and on the weekends
- State law provides multiple regulations related to operation of a kennel and there has been discussion in the legislature about increasing those requirements
- The Cache Humane Society offers hour of 10:00 a.m.-6:00 p.m. Monday-Friday and 12:00-5:00 p.m. on Saturday, offering more hours for Nibley resident to pick up their dogs
- The Cache Humane Society will collect the \$30.00 impound fee for the City and the residents will pay \$18.00 for each day the dog is impounded. The City will only cover the cost if the animal is not claimed within five days, which has been rare in the city's kennel

- The Cache Humane Society is able to provide rabies and other vaccinations
- The Cache Humane Society is in the process of implementing a Trap, Neuter and Release program for felines

The proposed contract includes a trap, neuter and release program for felines which takes feral cats and neuters them and then releases them. This program is designed to decrease feral cat population and to also to help with issue of aggressive tomcats.

Members of staff, including the City Attorney, have reviewed the agreement and recommend that the City Council approve the proposed agreement.

**AGREEMENT FOR ANIMAL IMPOUND SERVICES BETWEEN _____ AND THE CACHE
HUMANE SOCIETY**

THIS AGREEMENT ("Agreement"), dated for convenience this ____ day of _____.

This Agreement is made and entered into between _____ ("Entity"), a Municipal Corporation of the State of Utah and the Cache Humane Society ("CHS") a non-profit corporation.

RECITALS

WHEREAS, the Entity wishes to contract with CHS for the performance of animal impound and like services; and

WHEREAS, CHS is agreeable to rendering services on the terms and conditions set forth.

NOW THEREFORE, in consideration of the promises and covenants contained herein and for other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the Parties agree as follows:

A. DEFINITIONS

ADOPTION: The placement of an un-owned or relinquished animal in a new home.

COMMUNITY CAT: A feral or free-roaming cat that is without visibly discernible or microchip owner identification of any kind, and has been sterilized, vaccinated and ear-tipped.

COURT ORDERED HOLD: Requirement imposed by the court to hold a domestic animal beyond the normal impound period.

DOMESTIC ANIMAL: Domestic animal means an animal of a species of vertebrates that has been domesticated by humans so as to live and breed in a tame condition and depend on humankind for survival. Animals raised for agricultural purposes and wildlife are excluded from the definition.

IMPOUND PERIOD: Mandated 5-day Impound Period as established by Utah Animal Welfare Act 11-46-103.

IMPOUNDING JURISDICTIONS: A jurisdiction holding a current Agreement for Animal Impound Services with CHS. The responding Animal Control Officer determines the impounding jurisdiction at the time of impound.

NUISANCE CATS: A cat that has been returned to location pursuant to the Utah State Community Cat Act and has been the subject of two or more further complaints.

QUARANTINE PERIOD: Mandated 10-day Quarantine for all reported animal bites in compliance with Utah Administrative Code R386-702-12, Special Measures for Control of Rabies.

RELINQUISHED ANIMAL: An animal held for the required period without being claimed.

B. ENTITY'S RESPONSIBILITIES

1. Payment of Fees. The Entity shall, within 20 days after receiving an invoice for services, remit payment to CHS based on the following fee schedule:

- | | |
|--|-----------------|
| a. Impound Boarding Canine/Feline | \$18.00 per day |
| b. Impound Other Domestic Animal Species | \$25.00 per day |
| c. Feline Trap Neuter Release (TNR) | \$35 per cat |
| d. Quarantine Boarding Canine/Feline | \$25.00 per day |
| e. Canine Euthanasia & Disposal | \$30.00* |
| f. Feline Euthanasia & Disposal | \$20.00* |

*Service reserved for animals injured beyond likely recovery. Subject to signed approval by at least one Animal Control Officer and one representative for Cache Humane Society.

Any dispute over the jurisdiction in which the animal is found remains the responsibility of the Animal Control Officer and the Entity. Timely payment to CHS is required regardless of the status of any dispute between the Animal Control Officer and Entity.

Additional Quarantine boarding fees and Court Ordered Hold boarding fees beyond the normal impound period are the responsibility of the Entity.

2. Maximum Allowable Fees.

- In no event shall the Entity be responsible for more than five (5) days' worth of services for any one animal held for an Impound Period
- In no event shall the Entity be responsible for more than ten (10) days' worth of services for any one animal held for a Quarantine Period
- In no event shall the Entity be responsible for any fees associated with a Relinquished Animal after the mandatory hold period has expired.

- d. Feline Trap Neuter Release (TNR) fees are inclusive of all surgical and sterilization costs for a Community Cat. In no event shall the Entity be responsible for any additional boarding fees associated with TNR prior to surgery. The Entity will have 48 hours to return the Community Cat to its original location prior to the assessment of any Boarding Fees.
- e. A Court Ordered Hold is required for any animal held by CHS for more than the standard Impound or Quarantine Period as part of an active investigation or law enforcement action. The Entity will be responsible for all boarding costs at the appropriate Boarding rate.

3. Delivery of Animals. The Entity shall deliver to the shelter maintained by CHS at 2370 West 200 North, Logan, any domestic animal deemed appropriate for impound, quarantine, or TNR.

4. Return of Cats to Field. Within 48 hours of the sterilization of a Community Cat, the Entity will return the same to an area located within a three block radius of the location where Community Cats congregate. If the animal remains in the facility after 48 hours, the Entity will be billed at the boarding rates in Section B, Item 1-b. A Community Cat that has been impounded multiple times may be relocated to another area within the boundary of the Entity to be utilized as a rodent deterrent animal.

C. CACHE HUMANE SOCIETY'S RESPONSIBILITIES

1. Canine Impound

- a. Ensure 24-hour access to the building for Entity's law enforcement personnel.
- b. Reserve 10 kennels for use by Impounding Jurisdictions.
- c. Provide shelter, food, and water for impounded animals.
- d. Comply with the provisions of the Utah Animal Welfare Act and Utah Municipal Animal Shelter Pet Sterilization Act.

2. Feline Impound

- a. Ensure 24-hour access to the building for law enforcement personnel
- b. Reserve 12 kennels for use by Impounding Jurisdictions.
- c. Provide shelter, food, and water for impounded animals
- d. Nursing mothers with kittens will be recorded as a single animal; kittens without a nursing parent will be recorded as individuals and billed accordingly.

- e. Determine within 24 hours of entry if a feline qualifies for sterilization and release as a Community Cat under the Utah State Community Cat Act.
- f. Candidates for return to location will be determined based on health, temperament, and lack of visible signs of ownership.
 - i. Cats identified as nuisance cats by Animal Control Officers will not be considered candidates for return to location.
 - ii. Comply with the provisions of the Utah Animal Welfare Act and Utah Municipal Animal Shelter Pet Sterilization Act.

3. Return of Impounded Animal to Owner

- a. Collect impound and boarding fees from owner at the point of reclaim based on the following fee schedule:
 - i. Impound Fine \$30.00 per animal
 - ii. Boarding Canine/Feline \$18.00 per day
 - iii. Boarding Other Domestic Animal Species \$25.00 per day
 - iv. Additional charges for vaccination and/or veterinary care provided during the boarding period, as determined by CHS.
- b. CHS will remit full codified impound fine to the Entity, up to the maximum of \$30. CHS reserves the right to remit payment directly or apply to outstanding balance for impound services.
- c. The Entity will not be charged for animals reclaimed during the 5-day impound period.
- d. CHS will provide name and address of reclaiming owners to the Entity upon request for purposes of license verification.

D. GENERAL PROVISIONS

- 1. **Existing Agreements.** Upon execution of this Agreement, any prior existing service agreements between Entity and CHS for the provision of animal services will be terminated.
- 2. **Shelter Services.** CHS shall provide staff and facilities for the execution of this Agreement, including the impounding, receiving of unwanted animals, housing, and feeding of animals through the required hold period. Disposition of animals after the hold period shall be at the discretion of CHS.

3. **Invoicing for Services.** CHS may invoice Entity not more than once a month for fees set forth in B.1. CHS invoice shall reflect a credit to Entity for impound fines collected from animal owners on behalf of Entity. The Entity will notify CHS in writing of any changes to impound fines or other changes to municipal code as related to domestic animals.
4. **Maintenance of Records.** Records of animals impounded, including the description of each animal, date of impound shall be entered by the Animal Control Officer delivering the animal to the shelter facility. CHS will add to this record: date and manner of disposal, medical treatment received, the name of the person redeeming the animal (if applicable). These records will be maintained by CHS and made available to Entity when appropriate.
5. **Term and Effective Period.** This Agreement shall become effective on _____ and shall remain in effect until terminated by either party, or until _____ whichever occurs first. Continued use of CHS following the contract term will be at the current public daily boarding rate.
6. **Annual Contract Review Period.** CHS shall provide Entity with proposed service and rate changes by January 2nd, with an effective date of July 1.
7. **Termination of Agreement.** This Agreement may be terminated by either party, with or without cause by giving written notice to the addresses listed in this Agreement, at least four months prior to the termination date.
8. **Entire Agreement; Modification; Additional Agreements.** This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreement and understandings between the Parties with respect to the subject matter hereof. This Agreement may not be modified, amended or supplemented or otherwise changed, except by a written document executed by an authorized representative of each of the Parties. The Parties will request and seek written consent of the other Party prior to entering into an agreement that impacts or relates to the purposes of this program.
9. **Hold Harmless and Indemnification.** The Entity shall hold harmless, indemnify, and defend CHS, their officers, employees and agents from and against any and all claims, suits or actions of any kind brought for or on account of injuries to or death of any person or damage to any property of any kind and to whomsoever belonging which arrive out of the performance or negligent or wrongful acts of the Entity, its officers or employees.

Furthermore, CHS shall hold harmless, indemnify, and defend Entity, their officers, employees and agents from and against any and all claims, suits or actions of any kind brought for or on account of injuries to or death of any person or damage to any property of any kind and to whomsoever belonging which arrive out of the performance or nonperformance of CHS's obligations under this Agreement and which result from the negligent or wrongful acts of the CHS, its officers or employees.

10. **Independent Contractor.** CHS and their employees and agents are independent contractors with respect to the performance of any obligation hereunder or connected herewith and not employees or agents of the Entity.

11. **Assignments.** Except as otherwise provided for herein, neither party shall assign any of its obligations or rights hereunder without permission of the other.

12. **Notices.** Any notices required to be given in pursuant to this agreement shall be given in writing and shall be mailed or otherwise delivered at the addresses of each of the parties, as follows:

To Entity: _____

To CHS:

Cache Humane Society

Attention: Stacey Frisk, Director

2370 West 200 North

Logan, Utah 84321

13. **Construction of Agreement.** Each Party acknowledges that it has participated in the negotiation of this Agreement and that no provision of this Agreement shall be construed against or interpreted to the disadvantage of any Party hereto by any court or other governmental or judicial authority by reason of such Party having or deemed to have structured, dictated or drafted such provision.

As evidence of their agreement to the terms and conditions set forth herein, the parties affix their authorized signatures hereto:

Agenda Item #9

Description	Discussion of a Residential Planned Unit Development (R-PUD) Overlay Zone
Department	Planning
Presenter	Stephen Nelson, City Planner
Recommendation	Receive updated information from the City Planner and provide feedback.
Reviewed By	Mayor, City Council R-PUD Subcommittee, City Manager, City Planner

Background

At the last City Council meeting, the City Council reviewed areas in the City where they believed it would be appropriate for an R-PUD to be developed and debated what areas within Nibley City should be marked as available for an R-PUD to be developed. Nibley City staff is currently working on the map and is updating it based on the Riggs Annexation that was approved at the last City Council meeting.

The City Council also debated a few items that have been addressed within the proposed ordinance.

Map

The reference to the proposed map will be contained in 19.32.030 (A). This section provides that only areas within the map can be approved for an R-PUD. The half mile requirement has also been removed.

Density

In Section 19.32.040, there have been a couple of changes made, including a minimum amount of units for an R-PUD development. The code proposes that a mixed development must contain a minimum of a 120 units and single family developments must contain a minimum of 50 units. There is also required buffering next to single family homes. The proposed change reads as follows:

A proposed R-PUD adjacent to existing single-family homes must place single family homes adjacent to the established single-family homes unless otherwise buffered by an arterial roadway or 300 foot width of open space including a landscaped buffered area as defined within this chapter.

Open Space and Amenities

The Tables in 19.32.050 have been updated and the 300 unit cap has been removed. The Amenity Table only goes up to 500 units, with a note that developments over 500 units must supply adequate and proportional amenities based on the table. Staff has also added a minimum acres of open space requirement for single family and mix R-PUD on less than 20 acres. The minimum open space requirement for townhomes is 5.5 acres and for single-family developments the minimum is 3 acres.

HOA and Development

Section 19.32.050 (B)(1) requires the developer to be a member of the Owners Association while the subdivision is being developed. All Mixed developments shall provide an office space for the Owners Association constructed with the development.

19.32 Residential Planned Unit Developments (R-PUD)

- 19.32.010 Purpose And Intent
- 19.32.020 Definitions And Standards
- 19.32.030 Use Regulations
- 19.32.040 Area And Density Regulations
- 19.32.050 Open Space and Amenities
- 19.32.060 General Requirements
- 19.32.070 Approval Process
- 19.32.080 Development Standards

19.32.010 Purpose And Intent

- A. Intent: This section provides enabling authority and standards for the review and approval of applications for Residential Planned Unit Developments (R-PUD's). The intent of this ordinance is to provide an alternative to traditional subdivision design by encouraging innovation and offering some flexibility in the design of residential developments, which may incorporate the permanent preservation of amenities, agricultural lands and other valuable natural and cultural resources, as well as providing a variety of amenities for the enjoyment and benefit of the citizens of Nibley.
- B. Purpose: An R-PUD is an overlay rezone. That is, applicants apply for the overlay to be applied, allowing them to receive the density outlined herein in exchange for public amenities, all while retaining the original zoning of the property. The Planning Commission and City Council may approve, deny or approve the R-PUD with conditions, and no applicant has any entitlement to the approval of an R-PUD.

19.32.020 Definitions And Standards

- A. Amenity: Natural or man-made feature which enhances the development. These include features such as picnic areas, walking paths/trails outside of required sidewalks, playgrounds, sports fields, etc.
- B. Buffer: A landscape and planted area along a public right-of-way, street, or neighboring development, a buffer must be at least thirty (30') feet wide. Buffers must be landscaped, at the sole cost of the developer, and shall provide for every hundred (100) linear feet of buffer, four (4) deciduous trees, five (5) evergreen 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, neighboring development, or public park. Irrigation shall be provided by the developer and shall be designed and installed to Nibley City Standards. Buffer areas shall be owned and maintained by an Owners Association.
- C. 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, water bodies, floodplains, slopes greater than 20%, faults, canals, and other geologically or environmentally sensitive features that require mitigation, special insurance, or permits from government authorities to allow

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development. This land may be used as amenities if it complies fully with conditions within this chapter for qualification of amenities.

- D. Dwelling Unit: Any building or portion thereof which is designed for or occupied by one family for living, sleeping, and/or eating purposes. A dwelling unit may include up to two (2) persons per unit to whom rooms are rented in addition to a family related by blood, marriage or adoption, but if the number of such additional persons exceeds two (2) or if they use or are furnished separate cooking facilities, whether temporary or permanent, such additional persons shall be considered a separate dwelling unit. 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.
- E. 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:
1. Public access rights-of-way, including roadways and sidewalks
 2. Land required to be dedicated along waterways
 3. Preservation lands with infrastructure installed to City standards by the developer as part of the development process (parks, trails, etc.)
 4. Constrained and Sensitive Land, as defined herein
 5. Easements, lands dedicated to the City for preservation space but without public rights of access, and other utility or general rights-of-way without public access.
- F. Open Space: Any space in an R-PUD that does not contain any amenities, as defined herein, buildings, parking lots or private yards. All Open Space must be completely landscaped with sod, trees, xeriscape, gardens or agricultural use. Natural features such as wetlands, meadows, tree stands and Constrained and Sensitive Lands may also be considered Open Space.
- G. Private Parks: A tract of land presently owned or controlled and used by a private entity or group and to which only members of that private entity or group have access or use rights. Private Parks must contain at least one amenity as defined herein). Private Parks must contain one (1) tree for every 1,000 sq. ft. and 60% of the area must be planted with sod. Sod and tree requirement may be altered for approved club houses, sport courts/fields, swimming pools, splash pads, covered pavilions or other approved recreation uses.
- H. Owners' Association: A community association which is organized within a development in which individual owners share common interest and responsibilities for open space, landscaping, or facilities.
- I. Public Park: A publicly-owned tract of land landscaped and developed for the general public. Public Parks, as defined for R-PUD, must contain at least one amenity as defined herein. Public Parks must contain one (1) tree for every 1,000 sq. ft. and 60% of the area must be planted with sod. All landscaping must meet Nibley City Standards. Sod and tree requirement may be altered for approved, sport courts/fields, swimming pools, splash pads, covered pavilions or other approved recreation uses. Public Parks shall be placed on the border of each development so that it may easily be accessed by the community as a whole. Each public park must contain a public bathroom.
- J. Single Family Dwelling Unit: A dwelling unit owned in fee and located on an individual lot and which is not attached to any other dwelling unit by any means.

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- K. Townhome: A dwelling unit, with a private entrance, which is part of a structure whose dwelling units are attached horizontally in a linear arrangement and having a totally exposed front and rear wall to be used for access, light, and ventilation. Each townhome unit must be on its own parcel.
- L. Tree Stand: A group or cluster of trees within a geographic location that are occurring naturally or artificially.
- M. 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.
- N. Planned Unit Development: For the purpose of this chapter "residential planned unit development" (R-PUD) means an integrated design for the development of residential uses to allow flexibility and initiative in site and building design and location, in accordance with an approved plan and imposed general requirements, as specified by this chapter.

19.32.030 Use Regulations

- A. An R-PUD may be applied for by following the steps listed in 19.32.070 (A) on properties designated on the R-PUD Application Map in NCC 19.32.030 (A)(1). These areas keep their base zoning, with that zoning's standards, conditions, and restrictions, unless the City Council approves the use of the R-PUD through an R-PUD application process. R-PUDs are prohibited in all other areas. The City Council, with a recommendation from the Planning Commission, may make changes to what parcels are labeled on the R-PUD Application Map by following proper ordinance change procedures.
 - 1. R-PUD Application Map (insert map or link to map)
- B. The following are permitted uses in an R-PUD:
 - 1. Single Family and Townhome dwelling units may be permitted uses, as defined within this ordinance.
 - 2. All other uses not defined within this chapter shall comply with the underlying zone, lot size, and the L and U Chart in NCC 19.20, unless otherwise specified within this ordinance.
- C. Any uses not specifically permitted or conditionally permitted are prohibited.
- D. Animal Use: All animal uses shall be in accordance with Nibley City Code.
- E. Up to 30% of the net developable area, may be approved for neighborhood commercial use as part of an R-PUD. These uses shall comply with Nibley's City's Neighborhood Commercial Zone Use Chart and standards as listed in NCC 19.14.050. Commercial use must be concentrated in one location. These parcels shall be labeled on the plat as Neighborhood Commercial.
- F. When calculating density for dwelling units, any commercial area shall be subtracted from the gross acres of the R-PUD.

19.32.040 Area And Density Regulations

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A. Housing Types: Only single-family homes and town homes are allowed in the R-PUD in residential areas. The density shall be based on Net Developable Acres of the development as follows:

1. Single Family Homes: Equal to or less than 5 units per developable acre
 - i. Single Family Home HOA must contain a minimum of 50 units.
2. A Mix of Single Family and Townhomes: Equal to or less than 10 units per developable acre. Up to 80% of dwelling units can be townhomes.
 - i. A Mix of Single Family and Townhomes must contain a minimum of 120 units.

B. A proposed R-PUD adjacent to existing single-family homes must place single family homes adjacent to the established single-family homes unless otherwise buffered by an arterial roadway or 300 foot width of open space including a landscaped buffered area as defined within this chapter.

A. 19.32.050 Open Space and Amenities

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

Min Open Space Requirement	
Dwelling Type	Percentage of Net Developable Acres Required to be used for Amenities and Open Space
Single Family	20%
A Mix of Single Family and Townhomes	35%

Minimum Amenity						
Number of Units	Park Area	Pavilion	Swing Set	Playground	Clubhouse, Pool, or Splash Pad	Sports Court/Fields
Less Than 100	1.5 Acres	-	-	1	-	-
101-150	2.5 Acres	-	1	1	-	-

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151-200	3.5 Acres	-	1	2	-	1
201-250	4.5 Acres	1	1	2	-	1
251-300	5.5 Acres	1	1	2	1	1
<u>301-400</u>	<u>6.5</u>	<u>2</u>	<u>2</u>	<u>3</u>	<u>2 (At least one pool or Splashpad)</u>	<u>2</u>
<u>401-500</u>	<u>7.5</u>	<u>2</u>	<u>2</u>	<u>3</u>	<u>2 (At least one pool or Splashpad)</u>	<u>2</u>
<u>501 +</u>	<u>*</u>	<u>*</u>	<u>*</u>	<u>*</u>	<u>*</u>	<u>*</u>

1. Development over 500 units must supply adequate and proportional amenities based on the table above.
2. Development containing under 20 gross acres must provide a minimum open space as follows:
 - a. Single Family: 20% open space as defined within this Chapter or 3 acres of open space, whichever is greater
 - b. Mix: 35% Open space as defined within this Chapter or 5.5 acres of open space, whichever is greater
3. Public and Owners' Association-owned amenities shall be fully developed and operational in conjunction with each phase of the subdivision as a percentage of the total developed value of the subdivision (for example, if 25% of the dollar value of the development is being constructed, then a minimum of 25% of the dollar value of the built-out amenities must be developed). The determination of value, construction sequencing, and acceptance criteria shall be specified in the Development Agreement. Until improvements are accepted by the City for the attendant phase, no permits shall be issued for subsequent phases.
4. All amenities designed and designated to be transferred to City ownership and maintenance must meet Nibley City Design Standards. The City must review and approve any improvements that will be owned and maintained by the City as part of the construction drawing review.
5. This chart does not cover all potential amenities. The applicant may apply for, other amenities that would benefit the R-PUD. Any proposed amenities not listed, must be approved by the City Council. The City Council may also allow a substitution of amenities on the table above. These substitutions may only be approved if the cost, value and use of the amenity matches or is greater than the require amenity. An applicant may add additional amenities above and beyond the requirements of this section.

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6. Park Space may be combined or spread throughout the development. Each Park Parcel shall be a minimum of .25 acres. Each dwelling unit shall be within a quarter mile of a park within the development, unless otherwise approved by the City Council. Parks may be public or private. Each public park development and placement within an R-PUD shall be agreed upon by the applicant and the City Council. Park Space may not include alleyways, back yards, gangways, front yards, forecourts, private patios, porches, driveways, etc.; unless proper amenities and access are provided.
 7. Constrained and Sensitive Lands may be counted towards the percentage of open space and park space if public access and amenities are provided.
 8. All amenities shall meet any federal, state, city, or other standards that apply.
 9. Sports Courts/Fields: include a facility/amenity that is built for one of the following: Tennis Court, Pickleball Court, Basketball Courts, Soccer field, Volleyball pit, Baseball field, Softball field, wallball, golf course, disc golf course, or others as approved by the City Council.
 10. Picnic Area: Two or more picnic tables for use by 10 or more persons.
 11. Pavilion: A covered picnic area. Each Pavilion must be designed for use of a minimum ten or more people.
 12. Club House: A building available to community members to house a club or social organization not conducted for private profit. Club Houses shall be owned and maintained by a homeowner's association. A club house shall be at least 1000 sq. ft. in size.
 13. Playground: an area provided for children to play on. Each Playground must be designed for children twelve and younger. A playground must include features to appeal to children within the above age group including some of the following: slides, monkey bars, ladders, tunnels, climbers, bridges, ramps, platforms, etc. All playground equipment must be of commercial grade. Each playground must include a minimum of 8 features.
 14. Pool: A recreation facility designed and intended for water contact activities that serves an R-PUD. No pool shall be less than 800 sq. ft.
- C. Maintenance of Amenities
1. All R-PUDs must establish and maintain in perpetuity an Owners Association if there are open space and amenity under common ownership, or as otherwise required by federal, state or Nibley City law. The Developer shall be a member of said Owners Association while the subdivision is being developed. The Owners Association for Mix developments shall have office space for the Owners Association constructed apart of the development.
 2. Costs: Unless otherwise agreed to by the City, the cost and responsibility of maintaining amenities shall be borne by the fee owner of the property that is part of the R-PUD or Owners Association.
 3. Preliminary Maintenance Plan: A Preliminary Maintenance Plan shall be submitted with the preliminary plat for proposed maintenance of amenities within the development. This plan shall outline the following:
 - a. The proposed ownership of the amenities;
 - b. The owner that will be responsible for maintenance of the amenities;

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Comment [1]: "Owner" is capitalized as a defined term, but does not appear to have a specific definition

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Comment [2]: When will there be a difference between owner and responsible party?

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- c. The proposed use of the amenities' and how each parcel of amenities meets the standards listed in this Chapter;
 - d. The size of each amenities parcel; and
 - e. The proposed concept plan for landscaping of the amenities.
- 4. Final Maintenance Plan: The developer shall submit a plan outlining maintenance and operations of the amenities and providing for and addressing the means for the permanent maintenance of the amenities within the proposed R-PUD application for the subdivision. The developer shall provide a final maintenance plan with the final plat and the plan shall contain the following:
 - a. Documents and plans as listed in for the Preliminary Maintenance Plan.
 - b. A description of the use of the amenities and how that use complies with this Chapter;
 - c. The establishment of necessary regular and periodic operation and maintenance responsibilities for the various kinds of amenities (e.g., lawns, playing fields, meadow, pasture, wetlands, stream corridors, hillsides, clubhouse, pool, woodlands, etc.);
 - d. The estimated staffing needs, insurance requirements, and associated costs, and define the means for funding the maintenance of the amenities, 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.
- 5. 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 before any property or lots are sold or transferred and shall include provisions for the City's corrective action rights as set forth herein. Any changes or amendments to the Final Maintenance Plan must be approved by the City Council.
- 6. The developer shall offer an approved letter of credit, bond or escrow for all proposed improvements.
- 7. Failure to Maintain: The City may assume responsibility for the maintenance and operation of any portion of any amenity or common facility within an R-PUD in the event the party responsible for maintaining or operating the amenity fails to do so in accordance with the terms of this Ordinance, the approved Maintenance Agreement, any Conditional Use Permits, Business Licenses or any other agreements between the City and the developer, owners, or other parties responsible for maintaining or operating amenities. If the City assumes responsibility under this paragraph, any remaining development escrow or bond funds may be forfeited, costs, fees, and liens for maintenance costs shall be assessed as described herein, and any permits, licenses or operating agreements may be revoked or suspended by the City in the City's

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Comment [3] : I had a hard time following this section. I would suggest an edit to clarify, maybe something like this.

sole discretion. Owners shall not impede the City in its efforts to maintain the amenities.

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

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Comment [4]: There may be issues with using the same word in slightly different contexts to refer to the same thing: "the Owner" "Owners" "property Owner" – it would be good to pick one term or phrase, specifically define it, then use it consistently throughout

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19.32.060 General Requirements

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

	Single-Family Home	Townhome
--	--------------------	----------

Minimum Lot Size (sq. ft.)	4,500	-
Minimum Frontage	50'	-
Primary-Use Setbacks		
Front Yard	20'	20'
Front Porches	10'	10'
Side Yard	5'	10'
Side Yard Porches, Deck, Overhangs	5'	5'
Side Yard Adjacent to Streets	20'	20'
Rear Yard	15'	15'
Maximum Height	40'	40'

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Accessory-Use Setbacks		
Front Yard	20'	20'
Side Yard	3'	3'
Side Yard Street	20'	20'
Rear Yard	1'	1'
Maximum Height	15'	15'

1. Setback and frontage requirements shall apply to each building, and not each dwelling unit
 2. All other setbacks shall comply with Nibley City Code.
- D. Signs: Any signs proposed for the development, other than traditional street signs, must conform to Nibley City Code.

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

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

F. Amenities: Maintenance and ownership of amenities may be provided for under one of the following options as approved by the City Council:

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

G. Bond: For each phase, the developer shall be required to provide a surety or cash bond in an amount equal to 100% of the estimated cost of improvements including amenities, guaranteeing the completion of the development of the amenities, or a phase thereof. When completed in accordance with the approved plan, the bond shall be released. The City shall approve partial releases on a bond at the completion of and approval of improvements at the request of the developer If uncompleted at the end of one (1) year after notice to proceed, the city will review the progress and may use the bond funds to make the improvements to the amenity's areas in accordance with the approved plan.

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

I. Subdivision Regulations: Any part of an R-PUD that is proposed as a subdivision is subject to the provisions of the subdivision title, unless superseded for provisions listed within this ordinance.

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Comment [5]: Partial releases?

19.32.070 Approval Process

- A. An R-PUD is an overlay zone. That is, developers apply for the overlay to be applied, allowing them to receive the density bonuses outlined herein in exchange for public amenities, all while retaining the original zoning of the property. The Planning Commission and City Council may approve, deny or approve with conditions as a legislative action and no applicant has any entitlement to the approval of an R-PUD.
- B. Application Submission: An application for an R-PUD shall be submitted to the City with all required documents, maps, plats and plans as listed below.
- C. Procedure:

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1. An R-PUD shall go through the following process to gain approval:
 - a. Development Committee: An applicant shall have a preliminary meeting with a development committee composed of applicable City staff, a member of the Planning Commission and a member of the City Council to review a concept plan before preliminary application.
 - a. Overlay Zone Application: Applicants shall submit an R-PUD Overlay Zone and preliminary plat application with the following:
 - i. A complete development plan application that is duly signed by the property owner or the owner's representative and that includes a legal description of the property and a nonrefundable application fee.
 - ii. A vicinity map showing the approximate location of the subject parcel in relation to other major areas of the city.
 - iii. A general description of the proposed development, together with a map indicating the general development pattern, land uses, densities, intensities, open spaces, parks and recreation, and how the project is coordinating with existing and planned trails, sidewalks and pedestrian walkways and any other important elements within or adjacent to the project.
 - iv. Sufficient detail to indicate how the proposed development complies with the development standards for residential and nonresidential uses according to Nibley City Code and Design Standards.
 - v. A description of architectural design standards that will apply to all buildings within the development plan.
 - vi. A data table showing the total number of lots/units, floor area ratio (FAR) calculations (for commercial space only), square footage of proposed buildings by floor, number of proposed garage parking spaces, if any, number of proposed surface parking spaces, percentage of buildable land, percentage of open space or landscaping and net density of dwelling units by acre.
 - vii. Existing and proposed infrastructure including proposed roadways, utility locations and capacities and the estimated impacts of the proposed development plan on all public utilities including culinary water, secondary water, wastewater, transportation, storm drainage, fire protection, solid waste, parks and recreation demands of the proposed project.
 - viii. Existing physical characteristics of the site including all constrained and sensitive land
 - ix. Identify how environmental issues, if any, will be protected or mitigated, i.e., wetlands, historical sites, endangered plants and animals.
 - x. Conceptual information relating to storm drainage including 100-year 24-hour drainage flows, 10-year 24-hour stormwater flows and proposed storm drainage facilities.

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- xi. Major street layout that meets Nibley City standards.
 - xii. A general description of controlling entities and methods such as the use of CC&Rs, Owners Associations, architectural or design review committees or associations proposed to ensure that internal compatibility related to issues such as site design and architecture will be maintained over the life of the project.
 - xiii. A list of property owners' names and addresses within three hundred feet (300') of the subject property and stamped and pre-addressed envelopes (return address to be left blank) for all property owners within three hundred feet (300') of the propose development.
 - xiv. A list of land adjacent in the same ownership.
 - xv. An electronic file of all submitted plans in PDF format or other electronic format determined by city staff. Such other information shall be included as may be necessary to determine that the contemplated arrangement of uses makes it desirable to apply regulations and requirements differing from those ordinarily applicable under this title.
 - xvi. A preliminary plat that complies with Nibley City Subdivision Code and all other applicable code for the subdivision. Preliminary plat approval may be granted at the same time of approval of the overlay zone.
- b. Approval with Development Agreement:
- i. Before an R-PUD Overlay Zone can be approved, the City Council and applicant must enter into a development agreement which shall be recorded on title to the real property that is the subject of the development and which shall be binding upon and shall run with that property. The development agreement must include the following provisions:
 - a. That the development must be developed in a way that is substantially similar to the site plan and proposed amenity improvements.
 - b. That the preliminary site plan and all supporting documentation shall be attached to the development agreement.
 - c. That any development of the proposed real property shall not exceed the number of units as listed on the preliminary plat.
 - ii. The applicant shall provide the necessary documentation to establish that any holders of interests that are superior on title to the development agreement, including, but not limited to, liens, mortgages, deeds of trust, and other similar devices have been made subordinate to the development agreement.
 - iii. Signing and recording of the development agreement, and the subordination to the development agreement of any superior

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- interests on title, must be accomplished before an R-PUD Overlay Zone may be approved.
- c. Final Subdivision Approval: Once the overlay zone and development agreement have been recorded, an applicant may apply for final plat approval. An applicant shall provide the following:
- i. An applicant shall follow the standards as listed in NCC §21 for Final Plat approval of a subdivision.
 - ii. An applicant must submit all construction and engineering drawings and detailed plans for all amenities. These shall include landscape drawings and details. The City Engineer shall review and ensure all plans meet Nibley City standards.
 - iii. A maintenance plan that complies with the terms of this chapter.
 - iv. The Planning Commission shall review and make a recommendation for final plat approval, approve with conditions, or denial to the City Council.
 - v. The City Council shall approve, approve with conditions, or deny the final plat application base on the standards listed within Nibley City Code, Design Standards, and the applicant's compliance with the Development Agreement.
- D. R-PUD Considerations: In approving with conditions, denying or approving an R-PUD proposal, the Planning Commission and City Council shall consider the following in addition to all other considerations required by law:
1. Design of Buildings: The architectural design of buildings and their relationship on the site and their relationship to development beyond the boundaries of the development.
 2. Streets and Parking: Which streets shall be public, and which shall be private, the entrances and exits to the development, and the provisions for internal and external traffic circulation and off-street parking.
 3. Type, Size, and Location of amenities.
 4. Landscaping and Screening: The landscaping and screening as related to the several uses within the development and as a means of its integration into its surroundings.
 5. Signs: The size, location, design and nature of signs, if any, and the intensity and direction or area of floodlighting.
 6. Density: The residential density of the proposed development and its distribution as compared with the residential density of the surrounding lands, either existing or as indicated on the zoning map, as being a desirable future residential density.
 7. Ability to Complete Project: The demonstrated ability of the proponents of the R-PUD to financially carry out the proposed project under total or phase development proposals within the time limit established.
 8. Criteria for Issuing Conditional Use Permit: Criteria used in NCC 19.28 of this title.

- E. Revisions: In the event an approved preliminary or final site plan requires revision by the developer, the site plan, and its revision shall be approved by the Nibley City Council with the recommendation of the Planning Commission. In the event revision is for a final site plan, all property owners in the development shall be notified in writing by the Planning Commission that a revision has been submitted and will be considered by the Planning Commission.
- F. Building Permit Issuance: The building inspector shall not issue any permit for the proposed building or use within the project unless such building or use is in accordance with the approved development plan and any conditions imposed, including completion of amenities. Approved development plans shall be filed with the Planning Commission and the City Recorder.
- G. Time Limit: Unless there is substantial action leading toward completion of a R-PUD or an approved phase thereof within three years from the date of approval, such approval shall expire unless after reconsideration of the progress of the project an extension is approved by the City Council.

19.32.080 Development Standards

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

A. Townhome Architectural Standards.

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

Stephen Nelson 2/21/2019 9:44 AM

Comment [6] : Marcus: What concert are we look at?

Stephen Nelson 3/4/2019 4:47 PM

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Stephen Nelson 3/4/2019 4:47 PM

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change in material, style or color, a façade step-back or roof pitch with dormer windows, or other methods

5. Building Entrances. Building entrances shall have porches and shall be oriented toward the street or an open space area and provide connecting pedestrian access between the street, parking or open space areas.
6. Variation. Townhome dwellings units shall be designed with architectural wall variations spaced at intervals of thirty (30) to fifty (50) feet in linear width, depending on the size of the project. The following architectural features shall be incorporated into the design of the building:
 - a. Change in building materials;
 - b. Building projections measuring at least eighteen (18) inches to three (3) feet in depth based on the scale of the proposed building;
 - c. Awnings and lighting, or another architectural variation as approved on a case-by-case basis that creates visual interest.
7. Garages. Townhomes shall be designed oriented toward public roads with rear loading garages accessed by a paved parking area or alleyway. Rear loading garages are highly encouraged for townhomes located on interior project roads with units oriented toward a road or common courtyard area. Front loading garages may be allowed for townhomes that do not have any portion of the building adjacent to a current or planned public road or street outside of the development. Multiple unit structures shall have garages incorporated into the primary structure. At least fifty percent (50%) of units shall contain a two-car garage. Detached garages are prohibited in R-PUDs

B. Site Design Standards.

1. Natural features. R-PUD's shall respect and maintain natural features such as existing trees, hills, drainages, wetlands, bodies of water, or other natural features.
2. A landscaping plan for the front yards shall be included, which shall be installed before occupancy can be given to the home. The landscaping plan shall include at least one (1) tree for every dwelling unit, half of which shall be coniferous evergreen trees and two (2) shrub of five (5) gallon size for each dwelling units. The coniferous trees shall be at least six (6) feet in height and the deciduous trees shall be at least one and a half (1.5) inches in caliper.
3. Connectivity. R-PUD shall provide connectivity throughout the development. All improvements shall consider vehicle, bicycle, and pedestrian access.
 - i. Street Design: All street designs shall comply with Nibley City's street standards and the General Plan and Transportation Master Plan. Each development shall provide at least two working access points that provide access to an existing street right-of-way. Additional access points may be required in order to facilitate an adequate and convenient circulation system within the City. Such additional access points will be located where they will implement the City's Transportation Master Plan, connect to existing street rights of way, or provide access for the logical development of adjacent, undeveloped properties.

Stephen Nelson 2/20/2019 10:42 AM
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Stephen Nelson 2/21/2019 9:51 AM
Comment [7]: Every unit needs a least a one car garage.

Stephen Nelson 2/21/2019 10:00 AM
Comment [8]: Uphold in the development agreement. What do we want to see in the landscaping plan?

Stephen Nelson 2/21/2019 10:00 AM
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Stephen Nelson 2/21/2019 9:55 AM
Comment [9]: Can we withhold occupancy for landscaping, Can we make sure the HOA keeps up-keep of all front yards. Put in development agreement that it needs to be done within one year after occupancy and they need to bond for it.

Stephen Nelson 3/8/2019 11:06 AM
Comment [10R9]: State is debating a law that would not allow the City to withhold occupancy for landscaping.

Stephen Nelson 2/21/2019 9:18 AM
Comment [11]: Should this be for single family homes also?

Robert Patterson 2/18/2019 10:49 AM
Comment [12]: This seems to repeat the previous requirement to some extent. It looks like you want to ensure that you can require additional connections where necessary. Perhaps an edit like the one I suggested can do that a bit clearer.

Robert Patterson 2/18/2019 10:53 AM
Deleted: All developments shall supply two functional access points and one additional access point that either connects to an existing right-of-way or to an additional undeveloped parcel, unless prohibited by surrounding development.

- ii. All streets are encouraged to incorporate traffic calming and beautification methods as listed in Nibley City design standards and Transportation Master Plan. This included islands, bulb-outs, roundabouts, etc. Each traffic calming measure shall be approved by the City Engineer.
 - iii. All Streets shall be dedicated public streets built to Nibley City Code and standards. Private drives shall only be built to access parking courts or garages that are located directly behind each unit.
 - iv. Private Drives/Alleyways provide vehicular access to parking and dwelling units but do not provide primary pedestrian access to units. Private Drives are intended to be used primarily for vehicular circulation and dwelling access and should be visually distinct from streets.
 - a. Private drives shall be a minimum width of 20 ft.
 - b. All private drives shall be perpendicular to the street they connect to.
 - c. Driveways that access a single dwelling unit are not considered private drives or an alleyway
 - v. Developments shall provide a pedestrian access to the development border at intervals at a minimum of 660 feet unless expressly prohibited by conflicting with previously developed subdivisions or land use. These access points shall be aligned with other trail systems, street right-of-way, or amenities and shall match the layout and size of the connection. A connection shall contain a minimum of eight ft (8') sidewalk.
4. Pedestrian circulation. R-PUD shall provide a circulation map and show the following improvements to for pedestrian circulation and safety:
- a. Pedestrian walkways that interconnect the adjacent street(s), amenities, parking areas, building entries, adjacent sites and adjacent master planned trails where applicable. Each building located along a public road must provide a sidewalk connection from the building entrance to the public sidewalk.
 - b. Walkways shall be hard surfaced with concrete.
 - c. Crosswalks shall be placed where pedestrian walkways cross streets and internal roads and shall be painted or made of concrete.
 - d. The development shall provide connections to the Nibley City trail system. These trails must be dedicated to the City and built to Nibley City standards as listed in the Trails Master Plan and Nibley City Design Standards.
5. Parking: Each R-PUD shall provide 2 primary parking spaces for each unit. Primary parking must be contained in a garage, carports, driveway, or parking court. An R-PUD shall provide one guest parking spot for every three units. Guesting parking may be located in parking courts or angled or perpendicular parking space that are adjacent to the right-of-way but no are not contained within the right-of-way.

Stephen Nelson 2/21/2019 10:11 AM

Comment [13] : When will we make them do this. Keep it vague.

Stephen Nelson 2/21/2019 10:29 AM

Comment [14] : Street design standards: cross sections should be no parking lines.

Stephen Nelson 2/21/2019 10:24 AM

Comment [15] : How many units should be defined.

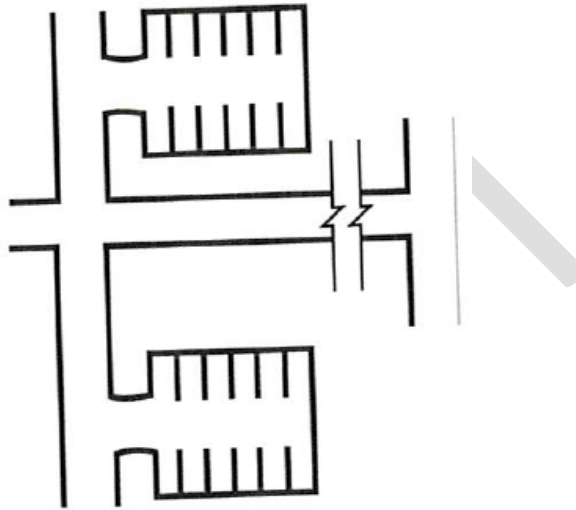
Stephen Nelson 2/21/2019 9:21 AM

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Stephen Nelson 2/21/2019 10:32 AM

Comment [16] : Get rid of parking on public streets.

- i. Individual parking courts shall contain no more than 20 parking spaces and shall be physically and visually separated by a landscape area a minimum of 20 feet in width from any adjacent right-of-way. The separation shall be landscaped with grass, trees, or xeriscape plants.



- ii. A parking court of any length shall consist of no more than one double-loaded parking aisle.
 - iii. Parking courts shall be located in the interior of the development and located in the rear of buildings for townhome developments.
 - iv. On-street parking shall be limited to local roads only. On-street parking shall have dedicated and marked spaces and must be approved by the City Engineer,
 - v. Parking Courts shall be paved and built to Nibley City parking lot standards.
6. Landscaping: All portions of the lot not improved with structures or other impervious surfaces shall be maintained with suitable landscaping of plants, trees, shrubs, grasses, or similar landscaping materials.
- i. Landscaping shall also be installed in all park strips to the same standards as other onsite landscaping. Asphalt, concrete, bricks, pavers, railroad ties, and other nonvegetative material are not allowed in the park strip area between the curb and sidewalk. Xeriscaping is permitted. The developer

should plant street trees of an approved species and size along all street. Trees should be planted at intervals of every 50 feet and must meet Nibley City Standards.

- ii. Buffering: R-PUD developments shall provide buffering along any arterial roads, commercial, or industrial roads. Buffering shall meet the standards within this ordinance.
- iii. Natural Landscape: All open space land dedicated to natural use must maintain its natural landscaping and plant life.

7. Fences:

- i. Permitted Fences: Dwelling units are allowed to install and construct fences in compliance with NCC 19.24.090. Vinyl fences are only permitted in an R-PUD for the purpose to mark property lines of individual dwelling units. Fencing to mark the boundary of the development or amenities must meet the following standards:
 - a. Opaque fences or walls must only be 4 feet tall. Any fencing above 4 feet must be at a minimum 80% transparent.
 - b. Fencing and walls must be constructed out of concrete, bricks, rock, or metal bars. Chain link and vinyl fences are prohibited unless used to mark the property boundary of the dwelling unit. Wood may only be used in a rail or agricultural-type fencing. Other materials may be approved by the Planning Commission based on the longevity of the material and if the material will aesthetically enhance the property. Walls and fencing shall also comply with NCC 19.24.090 and other fencing setback requirements as contained within Nibley City Code.

Stephen Nelson 2/21/2019 10:56 AM

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Stephen Nelson 2/21/2019 10:57 AM

Comment [17]: Add stormwater sections.

Nibley



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W 4800

Agenda Item #10

Description	Council Training on the Open and Public Meetings Act
Department	Recorder
Presenter	Cheryl Bodily, Deputy Recorder
Recommendation	Receive the training, ask questions and provide feedback
Reviewed By	Nibley City Manager/Recorder

Background

Utah State code 52-4-104 requires the City Council receive training regarding Utah State Code 52-4; the Open and Public Meetings Act, on an annual basis.

“The presiding officer of the public body shall ensure that the members of the public body are provided with annual training on the requirements of this chapter.

This training will fulfill this requirement.