



NIBLEY CITY COUNCIL
MEETING AGENDA

Thursday, May 9, 2019 – 6:30 p.m.

Nibley City Hall 455 West 3200 South, Nibley, Utah

1. Opening Ceremonies (Councilmember Ramirez)
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 an Annual Wastewater Report
7. Discussion and consideration of the appointment of Carter Hansen as Nibley City Youth Council advisor to the Nibley City Park and Recreation Advisory Committee (PRAC)
8. A Public Hearing to receive comments regarding Ordinance 19-03: Residential Planned Unit Development (R-PUD)
9. Discussion and Consideration of Ordinance 19-03: Residential Planned Unit Development (R-PUD) (First Reading)
10. A Public Hearing to receive comments regarding Ordinance 19-04: Highway 89/91 Setbacks and Commercial Node Definition
11. Discussion and Consideration of Ordinance 19-04: Highway 89/91 Setbacks and Commercial Node Definition (First Reading)
12. Discussion and Consideration of Ordinance 19-05: Amendments to Nibley City code, Title 21: Subdivision Regulations (First Reading)
13. Council and Staff Reports

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
May 9, 2019**

Agenda Item #6

Description	Discussion and Consideration of the Annual Wastewater Report
Department	Public Works: Sewer
Presenter	Justin Maughan, Public Works Director
Recommendation	Receive the report, provide feedback and ask questions, and make a motion to adopt the report.
Reviewed By	City Manager, Public Works Director

Background

The City is required to annually file a report regarding the City's sewer system with the State of Utah Department of Environmental Quality, Division of Water Quality. Staff will present the report to the Council for adoption prior to filing.

Agenda Item #7

Description	Discussion and consideration of the appointment of Carter Hansen as Nibley City Youth Council advisor to the Nibley City Park and Recreation Advisory Committee (PRAC)
Department	City Council
Presenter	Stephen Nelson, City Planner
Recommendation	Make a motion approving the appointment of Carter Hansen as Youth Council advisor to the Nibley City Park and Recreation Advisory Committee
Reviewed By	Mayor, City Manager

Background

When the Nibley City Park and Recreation Advisory Committee (PRAC) was formed, the City Council directed that one of the members of the committee be a member of the City's youth council. After consultation with the youth council advisors, Carter Hansen has been proposed as the representative from the youth council to serve on the PRAC.

Agenda Item #8 & 9

Description	A public hearing to receive comments regarding Ordinance 19-03: Residential Planned Unit Development (R-PUD) and Discussion and consideration of Ordinance 19-03: Residential Planned Unit Development (R-PUD)
Department	Planning
Presenter	Stephen Nelson, City Planner
Recommendation	Move to approve Ordinance 19-03: Residential Planned Unit Development (R-PUD)
Reviewed By	Mayor, City Manager, City Planner, City Attorney, Nibley City Planning Commission

Background

The Nibley City Council has been workshopping the Residential-Planned Unit Development (R-PUD) over the past few months and has made several recommended changes to the ordinance. The changes were reviewed with the Planning Commission on May 2, 2019 and their feedback will be presented at the City Council Meeting.

As a general review, these are the goals for the proposed ordinance

1. Allow the creation of great communities
2. Help create open space with amenities and preserve natural features
3. Allow for higher density and improve the affordability of housing
4. Allow further creation of Neighbor Commercial areas, and
5. Allow the City to control where R-PUDs are placed

The R-PUD accomplishes these goals by doing the following:

1. Allow the creation of great communities

The proposed R-PUD provides standards to help ensure good planning of the community. These standards are mostly contained in Sections 19.32.020 Definitions and Standards, 19.32.050 Open Space and Amenities, and 19.32.080 Development Standards. This code defines the number of trees in open space, details landscape buffers, requires connectivity the development, and requires town-homes to meet certain standards.

2. Help create open space with amenities and preserve natural features

One of the main goals of the R-PUD is to help preserve open space and protect natural features, including streams, waterways, and trees. The Code also requires the creation of public open space in the form of parks and trails depending on the size of the development. These standards can be found in 19.32.020 Definitions and Standards and 19.32.050 Open Space and Amenities.

3. Allow for higher density and improve the affordability of housing

The R-PUD also allows for increased density above any current City zoning, allowing up to 10 units per developable acre. It would allow for up to 80% of units to be townhomes and a minimum of 20% of units would need to be single-family homes. This increased density and smaller lot size will help the homes in these developments to be more affordable than the standard third to half acre lot in Nibley. These regulations can be found in 19.32.030 Use Regulations and 19.32.040 Area and Density Regulations.

4. Allow further creation of Neighborhood Commercial areas

The proposed R-PUD would allow for up to 30% of the development to be developed as a neighborhood commercial. The increased density may allow a developer to plan a section of the neighborhood that would provide some local commercial needs. The increase in density may also spur commercial development in other parts of Nibley.

5. Allow the City to control where R-PUDs are placed

In section 19.32.030 (A-B) describes the location of where an R-PUD can be built. The City created a map and limited the areas that an R-PUD can be developed. These areas were selected by the City Council based on the goals to have this neighborhood created by transportation corridors, large undeveloped tracts of land, and having some distance from existing neighborhoods.

The following items are the primary changes made by the City Council from the recommendation from the Planning Commission

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. The map also includes areas outside of Nibley City that may be incorporated into the City in the near future.

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 120 units and 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 acre 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 office space for the Owners Association constructed with the development.

ORDINANCE 19-03

AN ORDINANCE ADOPTING A RESIDENTIAL PLANNED UNIT DEVELOPMENT OVERLAY ZONE

WHEREAS, the Nibley General Plan states that, “Nibley will emphasize the conservation of open space and, using that conservation process, will incorporate a variety of housing forms”; and

WHEREAS, the Nibley General Plan states an update and adoption of a new Planned Unit Development Ordinances as a listed goal for Residential Development and Housing.

WHEREAS, Nibley City wishes to conserve, protect and create unique spaces within the City that will be visually and physically accessible to the public; and

WHEREAS, Nibley City wants to allow more affordable options within the City while enhancing the community charter and amenities available to Nibley residents.

WHEREAS, Nibley City wants to maintain its rural character while allowing property owners to use their property to its highest and best use.

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

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

PASSED BY THE NIBLEY CITY COUNCIL THIS ____ DAY OF _____, 2019.

ATTEST:

David Zook, City Recorder

Shaun Dustin, Mayor

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, club houses, swimming pools, splash pads, 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

Commented [RP1]: 24 plants per 100 linear foot, 1 plant every 4 feet or so? Am I reading that right? Just want to double check. It seems high, but I'm no plant expert

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.

Formatted: Font: Times New Roman, 12 pt

D.E. 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.

Formatted: Font: (Default) Times New Roman, 12 pt

E.F. 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.
6. Constrained and Sensitive Land, land dedicated along waterways, and other natural landscape or open space land may be considered net developable land when calculating for density if such land can be enhanced with trails, public access, picnic areas, park amenities, or other improvements.

Commented [RP2]: private and public?

F.G. Open Space: Any space in an R-PUD that does not contain any amenities, except for park 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. Private and public parks shall also be counted as Open Space.

G.H. 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.I. 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.

~~L.J.~~ 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.K.~~ 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.

~~K.L.~~ 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.M.~~ Tree Stand: A group or cluster of trees within a geographic location that are occurring naturally or artificially.

~~M.N.~~ 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.O.~~ 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 ~~(B)(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.
- B. R-PUD Application Map (insert map or link to map)
- C. 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 Land Use Chart in NCC 19.20, unless otherwise specified within this ordinance.
- D. Any uses not specifically permitted or conditionally permitted are prohibited.
- E. Animal Use: All animal uses shall be in accordance with Nibley City Code.

Commented [RP3]: Looks like you've identified subsection B as the map

- F. 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.
- G. When calculating density for dwelling units, any commercial area shall be subtracted from the gross acres of the R-PUD.

Commented [RP4]: Related to the "gross acres", the ordinance uses a lot of similar terms for what I think is the same concept: "net developable area" "net developable acres" "developable acre" etc. Since "net developable land" is the defined term, it should be used or these terms should be clarified as to how they relate to the defined term

Commented [RP5]: How does "gross acres" which doesn't seem to be defined relate to "net developable land," which is defined above? Is it a different calculation? the same?

19.32.040 Area And Density Regulations

- 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 R-PUD 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 R-PUD 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 ~~b~~Buffered area as defined within this chapter.

Formatted: Highlight

Formatted: Highlight

Formatted: Highlight

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	-	-
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
301-400	6.5	2	2	3	2 (At least one pool or Splashpad)	2
401-500	7.5	2	2	3	2 (At least one pool or Splashpad)	2
501 +	*	*	*	*	*	*

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. ~~Development may be phased according to NCC 21.02.080 and the Development Agreement. 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

Formatted: Highlight

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.
 6. Public and Private Park ~~Space~~ may be combined or spread throughout the development. Each Park ~~Pareel~~ 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. All amenities shall meet any federal, state, city, or other standards that apply.
 8. 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.
 9. Picnic Area: Two or more picnic tables for use by 10 or more persons.
 10. Pavilion: A covered picnic area. Each Pavilion must be designed for use of a minimum ten or more people.
 11. 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.
 12. 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.
 13. 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 a part 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 and responsibility for maintenance of the amenities;
 - b. The proposed use of the amenities' and how each parcel of amenities meets the standards listed in this Chapter;
 - c. The size of each amenities parcel; and
 - d. The proposed concept plan for landscaping of the amenities.
4. Final Maintenance Plan: The developer shall submit a plan outlining maintenance and operations of the amenities and providing for and addressing the means for the permanent maintenance of the amenities within the proposed R-PUD application for the subdivision. The developer shall provide a final maintenance plan with the final plat and the plan shall contain the following:
 - a. Documents and plans as listed in for the Preliminary Maintenance Plan.
 - b. A description of the use of the amenities and how that use complies with this Chapter;
 - c. The establishment of necessary regular and periodic operation and maintenance responsibilities for the various kinds of amenities (e.g., lawns, playing fields, meadow, pasture, wetlands, stream corridors, hillsides, clubhouse, pool, woodlands, etc.);
 - d. The estimated staffing needs, insurance requirements, and associated costs, 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 as set forth in NCC 21.14.
7. Failure to Maintain: The City may assume responsibility for the maintenance and operation of any portion of any amenity or common facility within an R-PUD in the event the party responsible for maintaining or operating the

Commented [RP6]: I made a reference to the subdivision ordinance for performance guarantees, but is this a different kind of guarantee specific to the maintenance of amenities?

amenity fails to do so in accordance with the terms of this Ordinance, the approved Maintenance Agreement, any Conditional Use Permits, Business Licenses or any other agreements between the City and the developer, owners, or other parties responsible for maintaining or operating amenities. If the City assumes responsibility under this paragraph, any remaining development escrow or bond funds may be forfeited, costs, fees, and liens for maintenance costs shall be assessed as described herein, and any permits, licenses or operating agreements may be revoked or suspended by the City in the City's sole discretion. Owners shall not impede the City in its efforts to maintain the amenities.

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

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.

Commented [RP7]: Is this different than "net developable land" defined above? It doesn't seem to be. I would recommend using the one term throughout

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.

Formatted: Highlight

	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'

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.
 3. All buildings and landscaping shall comply with NCC 19.24.110 Clear View of Intersecting Streets as amended.
- 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, outside professional management or -onsite 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 in the City Council's discretion:
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 aguarantees as set forth in NCC 21.14. ~~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 as detailed in NCC 21 Subdivision Regulations. 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 and the standards, conditions, and restrictions of the base zoning, unless superseded ~~for by the~~ provisions ~~listed within of~~ this ordinance.

Commented [RP8]: There is less risk of conflicting requirements if general requirements for bonding, phasing, etc. just point to the standard subdivision ordinance requirements, unless you're making specific changes.

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 City Council, with a recommendation from the Planning Commission, 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:
 - 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.
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.
 - 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 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. 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.
 7. 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. 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 within Nibley City. Developments shall possess a similar design theme, and the site shall be designed such that the overall development is cohesive. Building architecture, exterior materials, and colors shall coordinate.
2. All facades shall include architectural treatments to provide visual interest and to differentiate individual units. These design standards shall be applicable to all sides of a building, with each façade (front, rear, and side) being required to meet the terms of this Section.
3. Building Materials. The majority of each façade (51% or more of the wall area excluding windows and doors) shall be constructed of the following hard surface building materials: brick, stone, stucco, treated or split face decorative block

(CMU), fiber cement siding, concrete, 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.

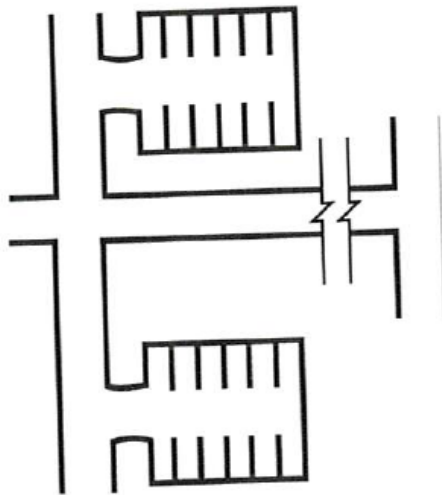
4. Vertical Separation. Buildings in excess of one (1) story in height shall exhibit architectural detailing that establishes a vertical separation between lower and upper stories. This may be accomplished by a mid-façade cornice or trim, a change in material, style or color, a façade step-back or roof 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-PUD²s 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. 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.
 - 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.

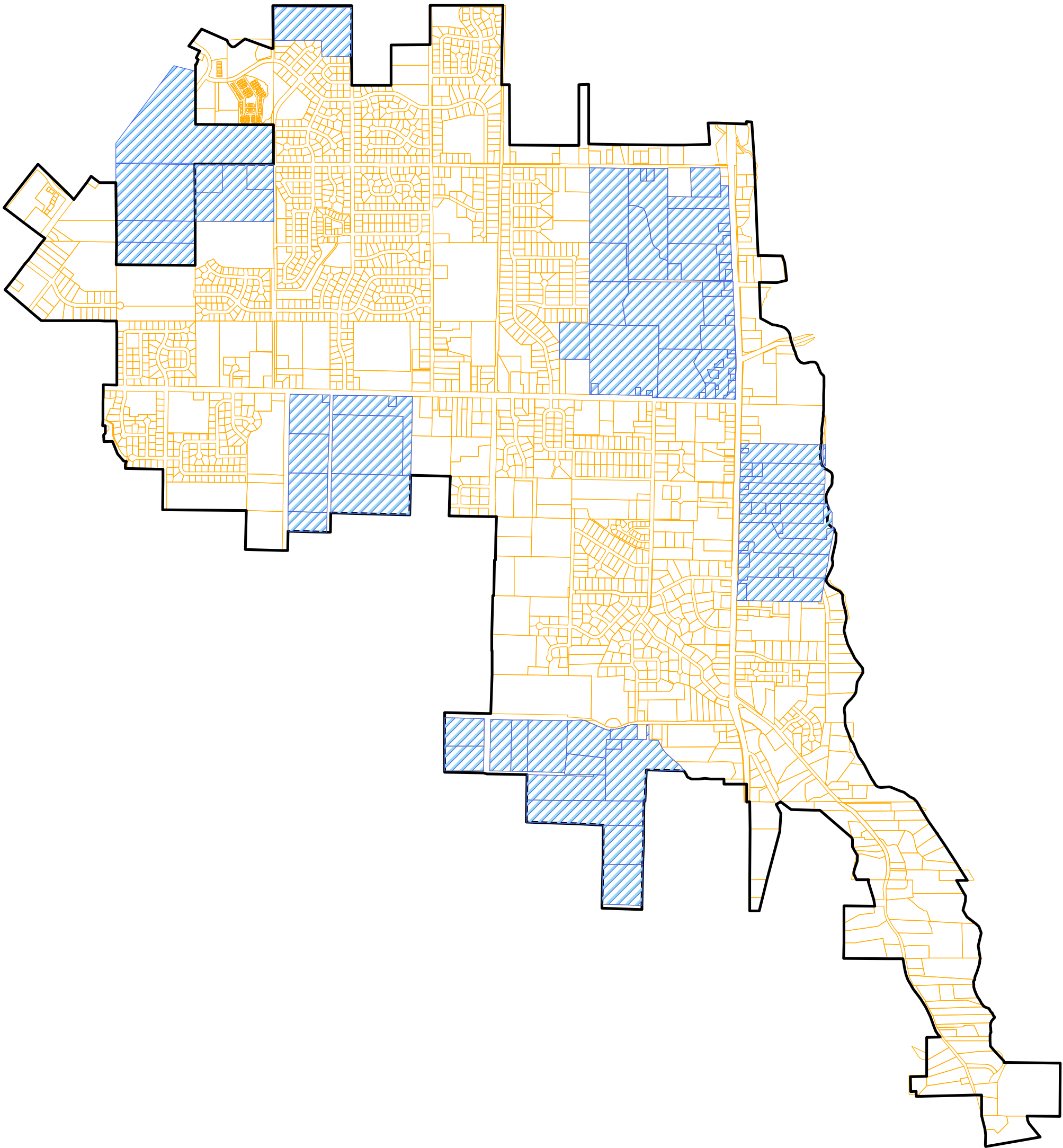
5. Parking: Each R-PUD shall provide 2 primary parking spaces for each unit. Primary parking must be contained in a garage, carports, driveway, or parking court. An R-PUD shall provide one guest parking spot for every three units. Guesting parking may be located in parking courts or on street parking maintained by the owner association.
- 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 10 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.
 - ii. 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.

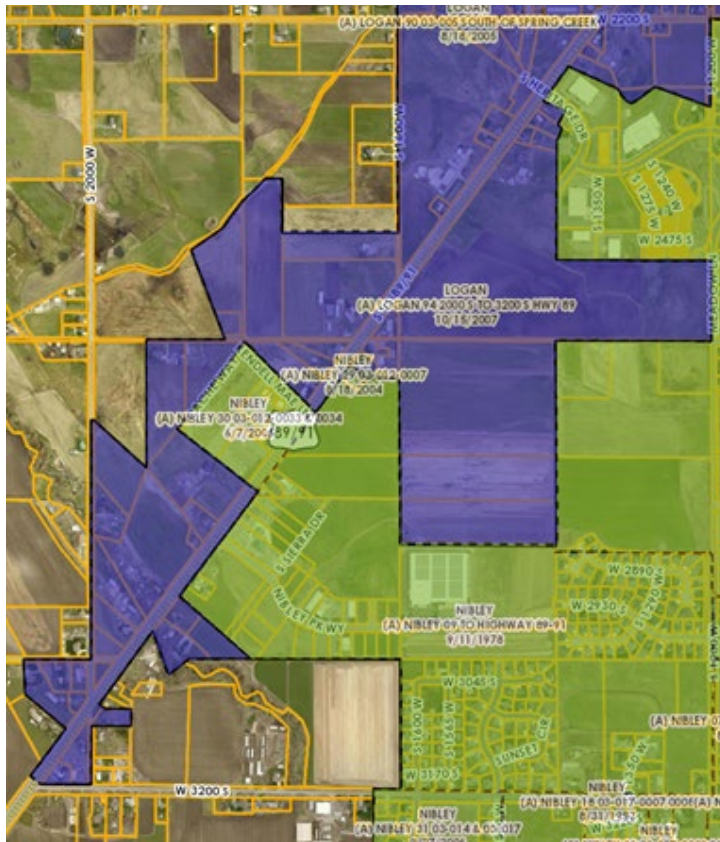
19.32.030 (B)(1) R-PUD Application Map



Agenda Item #10 & 11

Description	A public hearing to receive comments regarding Ordinance 19-04: Highway 89/91 Setbacks and Commercial Node Definition and Discussion and consideration of Ordinance 19-03: Highway 89/91 Setbacks and Commercial Node Definition
Department	Planning
Presenter	Stephen Nelson, City Planner
Recommendation	Move to approve Ordinance 19-03: Highway 89/91 Setbacks and Commercial Node Definition, for first reading.
Reviewed By	Mayor, City Manager, City Planner, Nibley City Planning Commission

Background



Nibley City has been in discussions with Logan City about a boundary line adjustment along US 89/91. Nibley City and Logan City have pieces of territory that extend across the highway as shown (Nibley City is in green, and Logan City is in blue). One of Logan's concerns about the boundary realignment is the loss of control over how development might occur along the primary gateway into Logan City, which development could affect viewsheds and traffic flow. As such, they have asked Nibley City to consider adopting a code similar to Logan City's Gateway Overlay standards. Logan's recently-adopted standards require a setback along US Route 89/91 of 150 feet and 75 feet at commercial nodes, in the section south of 2200 South. In the section of US

89/91 north of 2200 South, they require a setback of 100 feet.

Proposed changes to Nibley City's setback code are as follows:

19.22.020 Setbacks along Highway 89/91

A. The setback for any structure from Highway 89/91 shall be 100 ft. Parking lots, roads and private drives that run parallel to Highway 89/91 shall be setback a minimum of 50' from Highway 89/91.

B. The Setback areas shall be landscaped. Setback areas may contain landscaping, trails, stormwater facilities, signed allowed by NCC 19.24.150 and transparent fencing as allowed in NCC 19.24.090

C. Commercial Nodes structures shall have a 30' setback from Highway 89/91.

19.04.010 Definitions

Commercial Node: The concentration of commercial development at the intersections of arterials roads. A Commercial node may extend 660 feet in every direction from the intersections.

Logan City has reviewed and sent comments about the proposal and has stated that they would like to see 150' ft. setback and 75' setbacks in commercial nodes. These setbacks would include parking lots, signage, displays and other uses except for landscaping. These setbacks are on the larger end of what Nibley City and Logan City originally discussed.

Some of Logan City's concerns are about uses adjacent to Highway 89/91. Nibley City current zoning map and Future Land Use show that no industrial use is planned to run adjacent to Highway 89/91.

Public Feedback,

Many of the property owners along the Highway have expressed concern about the depth of these setbacks, if they were to be adopted at 100 feet. Their worry is that the City is making large areas of their property undevelopable. They have threatened legal action if the City were to adopt these standards as proposed. The Nibley City Attorney has reviewed concerns from the property owners and has stated that there is case law that establishes a city's right to enact these types of setbacks. However, those cases involved smaller setbacks than these.

ORDINANCE 19-04

AN ORDINANCE HIGHWAY 89/91 SETBACKS AND COMMERCIAL NODE DEFINITION

WHEREAS, Highway 89/91 is one of the primary corridors used by residents of Nibley City and Cache County; and

WHEREAS, Highway 89/91 is will likely expand in the future, as will development along the highway; and

WHEREAS, Nibley City wishes to collaborate with other local governments and political agencies on to establish standards for development along the corridor; and

WHEREAS, Nibley City desires to help preserve the natural beauty of Cache Valley and it natural and rural character and history.

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

1. The attached Highway 89/91 Setbacks and Commercial Node Definition Ordinance is adopted.
2. All ordinances, resolutions, and policies of the City, or parts thereof, inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency. This repealer shall not be construed as reviving any law, order, resolution, or ordinance, or part thereof.
3. Should any provision, clause, or paragraph of this ordinance or the application thereof to any person or circumstance be declared by a court of competent jurisdiction to be invalid, in whole or in part, such invalidity shall not affect the other provisions or applications of this ordinance or the Nibley City Municipal Code to which these amendments apply. The valid part of any provision, clause, or paragraph of this ordinance shall be given independence from the invalid provisions or applications, and to this end the parts, sections, and subsections of this ordinance, together with the regulations contained therein, are hereby declared to be severable.
4. This ordinance shall become effective upon posting as required by law.

PASSED BY THE NIBLEY CITY COUNCIL THIS ____ DAY OF _____, 2019.

ATTEST:

David Zook, City Recorder

Shaun Dustin, Mayor

Proposed changes to Nibley City's setback code are as follows:

19.22.020 Setbacks along Highway 89/91

A. The setback for any structure from Highway 89/91 shall be 100 ft. Parking lots, roads and private drives that run parallel to Highway 89/91 shall be setback a minimum of 50' from Highway 89/91.

Commented [SN1]: Logan City's proposed ordinance is 150 ft. with only landscaping allowed and monument signs.

B. The Setback areas shall be landscaped. Setback areas may contain landscaping, trails, stormwater facilities, signage allowed by NCC 19.24.150 and transparent fencing as allowed in NCC 19.24.090

C. Structures, parking lots, and other uses with in a Commercial Node shall have a 30' setback from Highway 89/91.

Commented [SN2]: Logan Defines that Commercial nodes are only at 2600 S, and 3200 S. Our definition would allow for a Commercial node at Heritage Dr., 2600 S, Nibley Park Way, and 3200 S.

19.04.010 Definitions

Commercial Node: The concentration of commercial development at the intersections of arterials roads. A Commercial node may extend 660 feet in every direction from the intersections.

Commented [SN3]: Logan City's proposed ordinance is 75.

Agenda Item #12

Description	Discussion and Consideration of Ordinance 19-05: Amendments to Nibley City code, Title 21: Subdivision Regulations
Department	Planning
Presenter	Stephen Nelson, City Planner
Recommendation	Move to approve Ordinance 19-05: Amendments to Nibley City Code, Title 21: Subdivision Regulations, for first reading.
Reviewed By	Mayor, City Manager, City Planner, City Attorney, Nibley City Planning Commission

Background

The Planning Commission has been reviewing and making recommended changes to Nibley City Subdivision Regulations contained within Title 21. Below, is a summary of all of those changes.

Process for Approval

The proposed ordinance changes the approval process for standard subdivisions.

Section 21. 06.060 Land Use Authority shows these changes by assigning different types of subdivisions different approval authority. The Approval Authority would be as follows:

A. The Land Use Authority shall be established according to the table below for Preliminary Plats, Final Plats, and Development Agreements.

<i>Subdivision Type</i>	<i>Approval Authority</i>	<i>Public Hearing Required</i>
<i>Standard Subdivision</i>	<i>Planning Commission</i>	<i>No</i>
<i>Minor Subdivision</i>	<i>Planning Commission</i>	<i>No</i>
<i>Rural Preservation Subdivision</i>	<i>City Council</i>	<i>Yes</i>

<i>Cluster</i>	<i>City Council</i>	<i>Yes</i>
<i>PUDs and Subdivisions in Overlay Zones</i>	<i>City Council</i>	<i>Yes</i>

This table outlines who would have the ability to approve a subdivision and what subdivision would require a public hearing. Below is more detail about the proposed approval process.

Pre-Application

- Subdividers would need to submit a concept plan to the Development Committee
- The Development Committee will be made up of staff, a City Council Member and a Planning Commissioner
- The Development Committee's role is to give guidance and recommendations, but they are not an approval body

Preliminary Plat

- Shall be acted on within 45 days of complete application
- For Rural Preservation Subdivisions, Cluster Subdivisions, or any subdivision that requires an Overlay Zone approval will require a public hearing with the Planning Commission and City Council. The City Council would be the Approval Authority but needs a recommendation from the Planning Commission
- For Standard Subdivisions, no public hearing is required and the Planning Commission is the approval authority.
- Minor Subdivisions would skip the Preliminary Plat and move to final plat.

Final Plat

- For Rural Preservation Subdivisions, Cluster Subdivisions, or any subdivision that requires an Overlay Zone approval, the City Council is the Approval Authority for the Final Plat and Development Agreement. No public hearing required for final approval.
- For Standard Subdivisions and Minor Subdivision, the Planning Commission is the Final Approval Authority for the Final Plat and Development Agreement. The only exception to this is if the Development Agreement would obligate the City to spend \$25,000 or more in improvements.
- The City Engineer would be the final approval for all construction drawings and engineering reports after they consult with the Planning Department and Public Works Departments

Construction

- The Developer would need to get the development agreement signed and secure Improvement Completion Assurance or complete all improvements before they can record the plat.
- Preconstruction Meeting: The applicant is required to hold a preconstruction meeting with the Public Works Department before the Public Works Director can issue a notice to proceed.
- City will not accept any improvements until inspected by City staff.
- The City will require a warranty bond for all improvements accepted by the City.

Phasing: 21.02.080

The proposed ordinance contains changes for how developments can be phased. It extends the phasing deadline from one year to ten. The reasons are to allow a large development to be able to effectively phase a project, which will hopefully eliminate most remainder parcels and allow large tracts of land to be developed by one developer.

Public Notice: 21.06.050

This section outlines the process for public notices and public hearings for subdivisions. All subdivisions, even if they are not required to hold a public hearing, must still give notice to adjacent property owners to allow them to submit any findings to Nibley City and also to allow for transparency. This sections also outlines that public hearing are for preliminary plats only.

Groundwater Report: 21.06.080

The Groundwater Report requirement has been altered to allow a developer to not do a groundwater report if they state on the plat, “that no finished floor shall be built at an elevation lower than six inches (6”) above finished curb or centerline of the street, whichever is higher unless an individual lot owner is able to provide a stamped report meeting the qualification as listed within NCC 21.06.070 (B) for their lot. This report must be reviewed and approved by the City Engineer.”

Amendment to a Plat: 21.08.030

The proposed ordinance now references state code if a developer wants to amend a plat.

Water Supply: 21.12.020

There are only a couple of small word changes, but they are important because the City cannot sell or lease its water shares or rights but may sell or lease the water itself that is controlled by those rights and/or shares.

Streets: 21.12.050

Nibley City recently updated our Transportation Master Plan and is currently updating our Design Standards. The Master Plan updated several street cross sections with several updates and suggestions. Sections C (3-6) are in the current code but have been moved from another section.

Connectivity, Blocks, and Trail Standards: 21.12.060

There have been several major changes and additions within this section of code. The first change is to provide a definition of Block Length and limiting blocks to 1,600 ft. This is aimed at providing breaks in streets and to increase connectivity throughout neighborhoods.

The Cul-de-sac standards have also been moved into this section. This section requires a trail to leave the cul-de-sac and to link to the nearest ROW. The trail pavement has increased to the width of 8’, instead of 5’ to comply with our Trails Master Plan and that fencing is required to be installed next to the trail by the developer.

The next big change within this section of code is the requirement of access roads. This code change highlights the need for the developer to provide two functioning accesses to a development with 30 or more units. The code also clarifies what an access road outside of the development should look like. An access road outside of development must be a minimum of 22’

wide asphalt with a 5' sidewalk. These roads should be built to meet design standards of the future full road and have sufficient stormwater.

The new proposed code also addresses Traffic Calming measure that are suggested in the Transportation Master Plan. In developments that contain arterial or collector roadways, a developer must provide some form of traffic calming at each entrance and exit of the development.

The last major change in this section is Trails, Bicycles, and Pedestrian Connectivity standards. We currently do not have any trail standards listed within Nibley City's code, except for those that must leave the back of a cul-de-sac. This states that trails must be added to all subdivision developments according to our Trail Master Plan and Transportation Master Plan. It also requires that there be a trail at an interval of every 660 ft for blocks longer than 660 ft.

Definitions: 21.14.020

There are a couple of changes within this section. One of the main ones is the change of the "bond" to "Improvement Completion Assurance." This change is to represent how it is defined in state law and to apply more broadly to other forms of financial assurance. Other changes are mostly geared towards clarification.

ORDINANCE 19-05

AMENDMENTS TO NIBLEY CITY CODE, TITLE 21: SUBDIVISION REGULATIONS

WHEREAS, State law gives Nibley City authority to create regulations and ordinances governing subdivision of land within the City's boundaries; and

WHEREAS, Nibley City has subdivision regulations and desires to update them; and

WHEREAS, Nibley City wants to provide higher standards for connectivity, trails, and infrastructure design; and

WHEREAS, Nibley City wants to simplify the process while still allowing public notice and proper review.

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

1. The attached changes to Title 21: Subdivision Regulations be adopted.
2. All ordinances, resolutions, and policies of the City, or parts thereof, inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency. This repealer shall not be construed as reviving any law, order, resolution, or ordinance, or part thereof.
3. Should any provision, clause, or paragraph of this ordinance or the application thereof to any person or circumstance be declared by a court of competent jurisdiction to be invalid, in whole or in part, such invalidity shall not affect the other provisions or applications of this ordinance or the Nibley City Municipal Code to which these amendments apply. The valid part of any provision, clause, or paragraph of this ordinance shall be given independence from the invalid provisions or applications, and to this end the parts, sections, and subsections of this ordinance, together with the regulations contained therein, are hereby declared to be severable.
4. This ordinance shall become effective upon posting as required by law.

PASSED BY THE NIBLEY CITY COUNCIL THIS ____ DAY OF _____, 2019.

ATTEST:

David Zook, City Recorder

Shaun Dustin, Mayor

21 Subdivision Regulations

21.02 General Provisions

21.04 Definitions

21.06 Approval Process

21.08 Standards Of Approval

21.10 Subdivision Options

21.12 Infrastructure Improvements

21.14 Inspection And Guarantee Of Work

21.16 Notice To Proceed And Authorization To Begin Work On The Subdivision

21.18 Acceptance Of The Completed Subdivision

HISTORY

Repealed & Reenacted by Ord. 15-02 An Ordinance Amending the Nibley City Subdivision Ordinance on 6/11/2015

21.02 General Provisions

21.02.010 Purposes

21.02.020 Violation

21.02.030 Permits

21.02.040 General Requirements

21.02.050 Site Preparation And Work Prohibited

21.02.060 Complete Submittal Required

21.02.070 Effect Of Approval

21.02.080 Phasing

21.02.090 Fees

21.02.100 Appeal

21.02.110 Enforcement

21.02.120 Inspection

21.02.130 Prohibition On Subdivision

21.02.010 Purposes

The purposes of this title are:

1. To promote the health, safety and general welfare of the residents of the City.
2. To promote the efficient and orderly growth of the City.
3. The Nibley City Council adopts this title pursuant to the Utah Municipal Land Use, Development and Management Act, Utah Code 10-9a, 1953, as amended, for the purposes set forth therein. Maps referenced herein are a part hereof. The intent of this title is to provide a means of ensuring predictability and consistency in the use of land and individual properties and to implement the goals and policies of the Nibley City General Plan.
4. To provide standards for the physical development of subdivisions of land, construction of buildings and improvements within the City, including, but not limited to, the construction and installation of roads, streets, curbs, gutters, drainage systems, water, stormwater and sewer systems, design standards for public facilities and utilities, accesses to public rights of way, dedication of land and streets, granting easements or rights of way and to establish fees and other charges for the authorizing of a subdivision.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted

Formatted

Formatted

Formatted

Formatted

Formatted

Formatted

Formatted

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted

Formatted

Formatted

Formatted

Formatted

Formatted

Formatted

Formatted

Formatted

Formatted

Formatted

Formatted

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

HISTORY

Adopted by Ord. No Source on 6/1/1992

Repealed & Reenacted by Ord. [15-02](#) on 6/11/2015

21.02.020 Violation

1. No person shall subdivide any tract or parcel of land located wholly or in part in the City, except in compliance with the provisions of this title. No person shall purchase, sell or exchange any parcel of land which is any part of a subdivision or a proposed subdivision submitted to the Planning Commission, nor offer for recording in the office of the county recorder any deed conveying such parcel of land or any fee interest therein, unless such subdivision has been created pursuant to and in accordance with the provisions of this title.
2. Whoever shall violate any of the provisions of this title shall be guilty of a class C misdemeanor and, upon conviction of any such violation, shall be subject to penalty as provided in NCC 1.08.010.
3. Any parcel of land created, purchased, sold or exchanged in violation of this title shall not be eligible for building permit or other development approval until full compliance with the provisions of this title is achieved.
4. Any person or corporation that allows to continue any violation of any provision of this title shall be guilty of a misdemeanor for each and every day the violation continues, and each day shall be a separate violation.
5. Any plat of a subdivision, or any survey description, filed or recorded without the approvals required by this title is deemed to be void, for the purposes of development or the issuance of a building permit.
6. Any owner or agent of the owner of any land located in a subdivision, as defined herein, who transfers or sells any land located within the subdivision before the subdivision has been approved and recorded in the office of the Cache County Recorder, consistent with the requirements of this title, and applicable state and federal requirements, is guilty of a violation of this title, and of Utah Code § 10-9a, for each lot or parcel transferred or sold.
7. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring lots, plots, parcels, sites, units, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions does not exempt the transaction from the requirements of this title and such action from the penalties or remedies provided by this title, Nibley City land use ordinances, or the laws of the State of Utah.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

HISTORY

Adopted by Ord. No Source on 6/1/1992

Repealed & Reenacted by Ord. [15-02](#) on 6/11/2015

21.02.030 Permits

~~From the time of the effective date hereof, t~~The building inspector shall not grant a permit for the use of any land or the construction or alteration of any building or structure on a lot which would be in violation of any provisions of this title until a subdivision plat therefore has been recorded or approved as herein required. Any license or permit issued in conflict with such provisions

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

shall be void. Approved development plans shall be filed with the Planning Commission and City Recorder.

HISTORY

Adopted by Ord. No Source on 6/1/1992

Amended by Ord. 2002 Code on 1/1/2002

21.02.040 General Requirements

1. The subdivider shall prepare all plats consistent with the standards contained herein and also as may be described in the Nibley City Design Standards and Specifications and shall pay for the design and inspection of the public improvements required. The City shall process said plats in accordance with the regulations set forth herein.
2. All improvements shall be constructed in accordance with the International Building Code, the Nibley City Design Standards and Specifications and other applicable federal, state and local regulations.
3. The City shall review the plats for design, for conformity to the Nibley City General Plan and to the land use ordinance; for the environmental quality of the subdivision design; and shall process the subdivision plats and reports as provided for in this title.
4. Proposed subdivisions shall be referred by the City to such City departments and special districts, governmental boards, bureaus, utility companies, and other agencies which will provide public and private facilities and services to the subdivision for their information and comment. The City is responsible for coordinating the comments received from all public and private entities and shall decide which agencies to refer the proposed subdivision.
5. The City engineer shall make comments as to engineering requirements for plans submitted for construction, including, but not limited to, street widths, grades, alignments and flood control, whether the proposed public improvements are consistent with this title and other applicable ordinances and for the inspection and approval of all construction of public improvements. Street layout and overall circulation shall be coordinated with the Nibley City Transportation Master Plan.
6. The Planning Commission shall act as an advisory agency to the City Council. It is charged with making investigations, reports and recommendations on proposed subdivisions as to their conformance to the Nibley City General Plan and land use ordinances, and other pertinent documents. The Planning Commission shall recommend approval, approval with conditions, or denial of the preliminary and final plats to the City Council.
7. The City, in conjunction with the City engineer and City attorney, shall approve the form of the final plat, that the subdivider dedicating land for use of the public is the owner of record, and that the land is free and clear of unacceptable encumbrances according to the title report.
8. The Nibley City Council has final jurisdiction in the approval of subdivision plats unless otherwise designated within this title; the establishment of requirements for the Nibley City Design Standards and Specifications; and the acceptance of lands and public improvements that may be proposed for dedication.

Commented [RP1]: Are they really filed with both? How about just "the City"?

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Commented [RP2]: This is used as a defined term throughout the ordinance, but is never defined so far as I can see

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Commented [SN3]: Recommend taking City Council out of the process. If so search the whole document for where City Council is involved.

Formatted: Font: Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman

Commented [RP4]: Under MLUDMA, you can have an application process that has "a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested." It's not clear what this means, but you may be able to have P&Z handle most zoning matters and leave the Council for appeals for contested/difficult questions. It looks like that's what you're proposing below

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

1. The amendment and alteration of the Nibley City Design Standards ~~and~~ Specifications may, by resolution, be delegated to the Public Works Director and the City Engineer.

Formatted: Font: (Default) Times New Roman

HISTORY

Adopted by Ord. No Source on 6/1/1992

Repealed & Reenacted by Ord. 15-02 on 6/11/2015

21.02.050 Site Preparation And Work Prohibited

No excavation, grading, regrading or removal of vegetation for a proposed subdivision shall take place and no building permits shall be issued until a proposed subdivision has received approval from the Nibley City Council and a Notice to Proceed has been issued.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

HISTORY

Adopted by Ord. No Source on 6/1/1992

Repealed & Reenacted by Ord. 15-02 on 6/11/2015

21.02.060 Complete Submittal Required

No application for a subdivision shall be reviewed by the City Planning Commission or City Council ~~or be entitled to substantive review and approval;~~ until the applicant has submitted all documents required by this Chapter. The City shall inform applicants of the information needed to provide a complete application. Once a complete application has been received, the application shall be reviewed/approved as outlined in this Chapter.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

HISTORY

Adopted by Ord. No Source on 6/1/1992

21.02.070 Effect Of Approval

Any approval granted under this title, whether it be for a preliminary plat or for a final plat for all or part of a subdivision shall be effective for a period of one year from the date of approval by the ~~City Council, or their designee~~ Approval Authority. If the applicant has not recorded the final plat or, in the case of the preliminary plat, presented a final plat for a phase of the subdivision for approval, within that one year period, the City shall provide thirty (30) days' written notice to the applicant and thereafter, the approval shall be void, if the applicant fails to cure the default within said thirty (30) day period. Applicants shall then be required to submit a new application for review and approval, subject to local, state and federal laws and ordinances in effect at the time of the new submittal.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Commented [RP5]: Other proposed changes have called into question this timeline.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Commented [RP6]: Do you want to provide authority to grant an extension upon application for good cause

Formatted: Font: (Default) Times New Roman

HISTORY

Adopted by Ord. No Source on 6/1/1992

Repealed & Reenacted by Ord. 15-02 on 6/11/2015

21.02.080 Phasing

1. When developing a large tract of land, subdividers may choose to construct the subdivision in phases rather than develop the entire property at once. A subdivider must submit a preliminary plat that contains the complete development, proposed phasing and

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

complies with all preliminary plat requirements. Subdividers opting to phase the subdivision shall have ~~ten years~~ ^{one year} from the date of preliminary approval to present each phase of the subdivision, inclusive of all phases, for final approval. The final plat for each phase must conform with the approved preliminary plat for density and connectivity. Any phase that does not meet the ten year application deadline will be required to gain preliminary approval again. The subdivider must apply for final approval for the first phase within one year; if not, the preliminary approval for the development shall be expired.

2. Phasing shall be done in a manner that maximizes connectivity between phases of the subdivision and shall be presented as part of the preliminary plat approval. Specific attention shall be paid to ensure that the roads in each phase connect to the roads in earlier phases.
3. Developers may choose to construct infrastructure improvements within the proposed subdivision, which may include, but are not limited to: utilities, parks, open space, stormwater facilities, trails, etc. When such improvements are approved as part of the subdivision approval, they shall be phased in proportion, based on percentage of the total value of the amenities in the subdivision, to the total number of lots in the subdivision, per phase. Example: If a phase contains 25% of the lots for the subdivision, then 25% of the total value of the subdivision's amenities are required to be constructed along with that phase.
4. Choosing to phase the subdivision does not relieve developers of the requirement to present the entire subdivision, in its phases, for final approval by the City Planning Commission and City Council within ~~ten~~ ^{one} years of receiving approval of the preliminary plat by ~~the City Council~~, as outlined in NCC 21.06.080.
- 4.5. Each phase must comply with Nibley City access and connectivity standards as listed within this title.

HISTORY

Adopted by Ord. No Source on 6/1/1992

Amended by Ord. 2002 Code on 1/1/2002

Repealed & Reenacted by Ord. 15-02 on 6/11/2015

21.02.090 Fees

Subdividers shall pay non-refundable filing fees for each of the preliminary plat(s), final plat(s) and plat amendments, ~~in such amounts as may be established by resolution of the City Council.~~ Subdividers shall also pay a deposit to cover costs including, but not limited to, staff review, legal review and engineering review. Fees shall be paid prior to the subdivision receiving either preliminary or final plat approval. Subdividers shall also pay any fee if bond money is insufficient. Fees and deposit amounts shall be established by resolution of the City Council.

HISTORY

Adopted by Ord. 15-02 on 6/11/2015

21.02.100 Appeal

- A. Any person adversely affected by an action or decision of the Development Committee, disagreeing with the actions of the Planning Commission, or City Council

Commented [RP7]: 10 years is a long time, but may help with some complex developments that take a while. Another option may be like a 5 year timeframe with the option to make application to extend for another 5 years under the original, vested approval.

Commented [SN8R7]: Could review it based on if the transportation master plan or other significant code has been updated.

Commented [SN9]: Is that timing ok?

Commented [SN10]: Reword to make more clear.

Commented [RP11]: Not clear on this

relative interpreting or applying Utah Code or Nibley City Code in the review, denial, or approval to the approval, approval with conditions, or disapproval of a land use application proposed subdivision plat may appeal such actions by following the procedures for appeal outlined in NCC 19.06 "Appeals".

A.B. An applicant who wishes to challenge the completeness or timeliness of an application shall follow the procedures set forth in Utah Code § 10-9a-509.5.

Commented [SN12]: Write into Nibley City code that a staff action may be appealed to the City Council or Planning Commission

Commented [RP13]: Seconding the above comment. You would have to amend NCC 19.06. One easy way of doing this is to have staff be appealed to PZ, and PZ appealed to City Council, and then CC appealed either to a hearing officer or just to district court. Standards for appeal authority set out in 10-9a-701(4)

HISTORY

Adopted by Ord. 15-02 on 6/11/2015

21.02.110 Enforcement

The Planning Commission, the City engineer and such other departments and agencies of the City as are specified under the provisions of this title are hereby designated and authorized as the agencies charged with the enforcement of the provisions of this title and shall enter such actions in court as are necessary. Failure of such departments to pursue appropriate legal remedies shall not legalize any violation of such provisions or waive the City's right to pursue such remedies in the future.

HISTORY

Adopted by Ord. 15-02 on 6/11/2015

21.02.120 Inspection

Commented [SN14]: Put this section at the end?

Appropriate agencies and departments of the City shall inspect or cause to be inspected all public improvements in the course of construction, installation or repair as required in this title. Excavations for any publicly owned infrastructure shall not be covered or backfilled until such installation shall have been approved by the Public Works Director. If any such installation is covered before being inspected and approved, it shall be uncovered after notice to uncover has been issued to the responsible person by the inspector, and at the responsible person's cost and expense.

HISTORY

Adopted by Ord. 15-02 on 6/11/2015

21.02.130 ~~21.02.130~~ Prohibition On Subdivision

A. It is unlawful for any person to subdivide any tract or parcel of land located wholly or in part in the Nibley City limits, and no application for any subdivision for any tract or parcel of land may be approved, if any of the following apply;

1. The applicant or subdivider is a member of the City Council;
2. The applicant or subdivider is a spouse of a City Council member;
3. A member of the City Council owns an interest of any kind in the applicant or subdivider;

B. As set forth in NCC 1.10.030, the Mayor is a member of the City Council for the purpose of this Section.

A violation of this section is a Class B Misdemeanor.

HISTORY

Adopted by Ord. [18-02](#) on 3/15/2018

21.04 Definitions

- A. For purposes specific to this title, all terms shall have the same definition as provided by Utah Code § 10-9a-103, 1953, as amended and also in NCC 19.04, [except as such definitions are modified herein](#).
- B. "Appeal Authority" as used in Utah Code § 10-9a-103 means that body or person designated by NCC 19.06 "Appeals".
- C. "Land Use Authority" as used in Utah Code § 10-9a-103 means that body or person designated as the Approval Authority by Nibley Code 21.06.060 Land Use Authority.
- D. "Nibley City Design Standards and Specifications" means those technical standards, specifications, measurements, and requirements adopted by the City Council or its designee that govern the design and construction of public and private infrastructure and facilities.

21.06 Approval Process

21.06.010 Compliance Required

21.06.020 Standards And Lot Size

21.06.030 Concept Plan Review and Development Committee

21.06.040 Submission Of Preliminary Plat

21.06.050 Public Notice Hearing Required

21.06.060 Notification Of Adjacent Property Owners 21.06.060 Land Use Authority

21.06.070 Authorization To Proceed

21.06.080 Final Plat Approval

21.06.010 Compliance Required

Before dividing any tract of land into a "subdivision" as defined in NCC 21.04, a subdivider shall follow the procedures [specifically provided for that type of development or zoning under Nibley City Code](#). [If no more specific procedures are provided, a subdivider shall follow the procedures outlined in this chapter, except as may be provided for in Utah Code § 10-9a-605, 1953, as amended.](#)

HISTORY

Adopted by Ord. No Source on 6/1/1992

Amended by Ord. 2002 Code on 1/1/2002

21.06.020 Standards And Lot Size

Commented [SN15]: Make note that other developments, like RPS or RPUD may have different approval processes.

All subdivisions must meet the minimum lot and development standards as outlined in each zone of the Nibley City land use ordinance and within this Title.

HISTORY

Adopted by Ord. No Source on 6/1/1992

21.06.030 Concept Plan Review and Development Review Committee

A. Prior to submitting a preliminary plat, a subdivider ~~shall may~~ submit an ~~initial~~ written "concept plan" to the ~~Development Committee~~ Planning Commission. The concept plan shall include a sketch plan of the proposed subdivision in which the proposed subdivision is sufficiently described to enable the ~~Development Committee~~ Planning Commission to determine whether the proposed subdivision complies with zoning title, master plans, street plans and services. The ~~Development Committee~~ Planning Commission shall advise the subdivider of possible problems with the proposed subdivision within thirty (30) days after it receives the concept plan. ~~DRC advise on the Approval of the~~ concept plan shall not constitute preliminary or final approval of a particular subdivision plan or of the preliminary plat. ~~This section is not mandatory and a subdivider may submit a preliminary plat plan in lieu of the concept plan.~~

B. ~~The Development Committee shall be compose of the City Engineer, the Public Works Director, the City Planner who shall chair the committee and other members as appointed by the City Planner.~~

~~A.C.~~ The Development Committee does not have authority for approval of applications, but is a review body to established to help subdivision application comply with Nibley City Master Plans, Code, and Design Standards and Specifications.

Commented [SN16]: Who else shall we have on there. Should Planning Commission still be involved.

Commented [SN17]: Do we want City Council and Planning Commissioners on committee. Does the whole committee have to meet, or can it just be a email or ditgal meeting?

HISTORY

Adopted by Ord. No Source on 6/1/1992

21.06.040 Submission Of Preliminary Plat

The subdivider shall submit ~~three (3) five (5)~~ paper copies and one (1) electronic copy, in a format that is readable, of the proposed preliminary plat to the Planning Commission at least fourteen (14) days prior to the date of the Planning Commission meeting at which the preliminary subdivision plan is to be reviewed. The Planning Commission shall circulate copies of the proposed preliminary plat to all affected departments and to any districts which may be providing special services for comment and review.

The preliminary plat shall conform to the development standards outlined in NCC 21.08.010.

HISTORY

Adopted by Ord. No Source on 6/1/1992

21.06.50 ~~21.06.050 Pu~~ 21.06.050 Public NoticeHearing Requirements

A. Subdivider shall post a sign on the property for the purpose of notifying the public of the proposed subdivision. The sign shall meet the following standards:

1. The sign shall be posted on the property in a location visible and within 10' of an adjacent right-of-way.

Commented [SN18]: Review by Fire.

Commented [SN19]: Do we really need 5 copies?

Commented [SN20]: No need for a public hearing, but it still might be good for advertisement on property

2. The sign(s) shall consist of four foot by four foot (4' x 4') plywood or other hard surface and the bottom of the sign shall be at least three feet (3') above the ground.
3. Centered at the top of the four foot by four foot (4' x 4') signboard(s) in six inch (6") letters shall be the words "City Of Nibley Public Notice". In addition, each sign will inform the public of the nature of the notice, the date, time and address of the location, a summary of the proposal to be considered, a city contact phone number, the location of the development and the name of the applicant, and, if applicable, the proposed development. Each sign shall be painted white, and the letters shall be painted black.

<u>City of Nibley Public Notice</u> <u>Preliminary Subdivision Plat For This</u> <u>Property</u> <u>(Date and time)</u> <u>(Meeting Address)</u> <u>(City Hall Phone Number)</u> <u>(Applicant Name)</u>

- B. Notice of the proposed subdivision shall be mailed to all property owners within three hundred feet (300') in any direction of the property at issue at least ten (10) days prior to the meeting. The letter shall give state the phone number of Nibley City hall to residents can call to ask questions or voice concerns.
- C. If a public hearing is required, notice of the public hearing shall be added onto the sign and included with letters sent to property owners within 300 ft. Other public hearing notices shall be followed as outlined in NCC 19.02.120

- A. ~~Upon receipt of a subdivision application, the City Council and Planning Commission shall hold public hearings on all preliminary plats, to hear public comment and concern regarding the proposed development.~~

HISTORY

Adopted by Ord. No Source on 6/1/1992

Amended by Ord. 07-17 on 11/15/2007

21.06.060 Notification Of Adjacent Property Owners

Written notice of the time, date and place where the Planning Commission and City Council will hold public hearings and consider giving preliminary approval to the subdivision shall be given to adjacent property owners within three hundred (300') feet of the proposed subdivision in accordance with NCC 19.02.120(G). The written notice shall also advise the property owner that he or she has the right to be present and to comment on the proposed subdivision. The applicant shall provide the Planning Commission with the names of all persons to whom the notice was mailed.

21.06.060 Land Use Authority

- A. The Land Use Authority shall be established according to the table below for Preliminary Plats, Final Plats, and Development Agreements.

<u>Subdivision Type</u>	<u>Approval Authority</u>	<u>Public Hearing Required</u>
<u>Standard Subdivision</u>	<u>Planning Commission</u>	<u>No</u>
<u>Minor Subdivision</u>	<u>Planning Commission</u>	<u>No</u>
<u>Rural Preservation Subdivision</u>	<u>City Council</u>	<u>Yes</u>
<u>Cluster</u>	<u>City Council</u>	<u>Yes</u>
<u>PUDs</u>	<u>City Council</u>	<u>Yes</u>

Commented [SN21]: David: Remove table and add something like they would be able to submit written comments to the approval authority instead of the public hearing.

Commented [SN22]: Planning Commission

- B. The Approval Authority shall have approval authority of the Preliminary Plat, Final Plat, and Development Agreement as required in Nibley City Code.

1. The City Council shall approve any development agreement and Final Plat if said development agreement would obligate the City to build infrastructure over \$25,000.
2. If the City Council is the Approval Authority, they shall not approve, approve with conditions, or deny a Preliminary or Final Plat until they receive a recommendation from the Planning Commission.

- C. Construction Drawing, Engineering Reports and Design Compliance shall be approved by the Nibley City Engineer, who shall consult with the City Planning Department and Public Works Departments before approval.

- D. Subdivision, other than Standard Subdivisions, shall followed the established processed within the section of Nibley City Code that outlines that subdivision.

A.—

HISTORY

Adopted by Ord. No Source on 6/1/1992

21.06.070 Authorization To Proceed

Upon approval of the preliminary plat ~~by the City Council~~, copies of the approved preliminary plat with written conditions attached shall be delivered to the City Planner and to the subdivider. Receipt of same shall be authorization for the subdivider to proceed with the preparation of the final plat and plans and specifications for the improvements required in the final plat.

Prior to the construction of any improvements required by this title, the subdivider shall provide the City engineer with all plans, information and data necessary to install and construct the improvements. This information shall be examined by the City engineer and shall be approved if he determines them to be in accordance with the requirements of City ordinances.

Commented [SN23]: Are the reports needed listed in our design standards?

HISTORY

Adopted by Ord. No Source on 6/1/1992

21.06.080 Final Plat Approval

- A. Within one year of receiving approval of the preliminary plat by the ~~City-City Council~~, developers shall present the entire subdivision ~~or first phase or phases~~ for final approval by the ~~specified Land Use Authority~~ ~~Planning Commission and the City Council~~. ~~Planning Commission shall make a recommendation to the City Council for the final subdivision approval, approval with conditions, or disapproval.~~
- B. The application for final approval ~~final subdivision submittal~~ shall consist of the following:
1. Final plats for ~~each of the entire~~ subdivision's ~~or for the~~ proposed phases, prepared according to this ordinance and to the Nibley City Design Standards ~~and~~ Specifications;
 2. A stamped report, prepared by a Utah Licensed Professional Engineer or Professional geologist, establishing the ordinary high groundwater elevation and finished floor elevations for the subdivision.
 1. No finished floor elevations, including basement floor elevations, shall be permitted below the aforementioned groundwater elevation.
 2. The groundwater elevation and finished floor elevation limitations shall be recorded as a boxed note (min 14 pt font) on the recorded mylar
 3. The report shall be attached to the Development Agreement.
 - 3-4. An applicant is not required to submit a groundwater report or finish floor elevations of any permitted building if the applicant records on the final plat that no finished floor shall be built at an elevation lower than six inches (6") above finish curb or center line of the street, whichever is higher unless an individual lot owner is able to provide a stamped report meeting the qualification as listed within NCC 21.06.070 (B) for their lot. This report must be reviewed and approved by the City Engineer.
 3. Construction drawings for the subdivision, prepared by licensed professionals according to this ordinance and to the Nibley City Design Standards ~~and~~ Specifications;
 4. Three (3) hard copies of the final plats and construction drawings and one (1) electronic copy of the same; and
 5. A draft Development Agreement, prepared by Nibley City, outlining the roles and responsibilities of both the subdivider and Nibley City. The Development Agreement shall be approved by the ~~City-City Council~~ as part of the final approval.
- C. Upon a ~~subdivider's~~ subdividers failure to receive approval within that one year period, the City shall provide thirty (30) days' written notice to the applicant and thereafter, the approval shall be void, if the Applicant fails to cure the default within said thirty (30) day

Commented [RP24]: Does this mean the last submission for final plat approval or just A submission for a final plat/phase approval?

Commented [RP25]: All or just one phase?

Commented [RP26]: Your design specs may cover this, but I don't see any specific requirement for licensed professionals for construction drawings

period. Applicants shall then be required to submit a new application for review and approval, subject to local, state and federal laws and ordinances in effect at the time of the new submittal.

- D. Developers are not required to record all phases of the subdivision, once final approval has been given. They are required only to receive final approval for the entire subdivision and then they may construct the subdivision in phases.
- E. Final approval shall be valid for three (3) years. If a subdivision, or phase thereof, has not been constructed within three (3) years of the date of final approval by the City Council, the Public Works Director shall suspend the Notice to Proceed and the developer shall be required to resubmit the final plats and construction drawings for review and compliance with City standards and specifications in effect at that time.
- F. At the time final approval is requested, the City and the developer shall enter into a development agreement outlining the roles and responsibilities of each respective to the development. Regardless of how the developer chooses to phase the subdivision, the development agreement shall encompass the entirety of the project and shall be recorded with the first recorded phase of the subdivision.

HISTORY

Adopted by Ord. No Source on 6/1/1992

[21.08 Standards Of Approval](#)

[21.08.010 Preliminary Plat](#)

[21.08.020 Final Plat](#)

[21.08.030 Lot Line Adjustments](#)

[21.08.040 Minor Subdivision Process](#)

21.08.010 Preliminary Plat

1. As part of the submittal of the preliminary plat, subdividers shall provide Nibley City with the following information:

~~1. A list containing the names and mailing addresses of person(s) or other entities who are the owners of record of property located within three hundred feet (300') of any portion of the property proposed for development.~~

~~2.1.~~ A title report, provided by a title company, for the property proposed to be subdivided, dated within thirty (30) days of the submittal of the preliminary plat.

2. Description: The preliminary plat shall be drawn to a scale not smaller than one hundred feet to the inch (1" = 100') on standard twenty four inch by thirty six inch (24" x 36") paper and shall include the following information in the title block:
 1. The proposed name of the subdivision.
 2. The boundaries of the proposed subdivision, including sufficient information to locate the project, and the total acreage of the project..
 3. A legal description of the property.
 4. The names and addresses of the owner, subdivider if other than owner, and the engineer or surveyor of the subdivision.
 5. Date of preparation.
 6. Scale.

Commented [RP27]: This is duplicated. I would recommend not have duplicative provisions. Code references are better so there's less chance of confusion/discrepancies. "Failure of the subdivider to receive a final plat approval may result in the approval becoming void as described in 21.02.070."

Formatted: Font: (Default) Times New Roman

Commented [RP28]: This doesn't seem to mesh with the change above allowing the developer to submit one phase for final approval. I would recommend allowing them to get final plat approval in phases.

Formatted: Font: (Default) Times New Roman

Commented [SN29]: I feel that is too short, any large project will take 10 years or more for build out.

Commented [RP30]: This seems to be contradicted by 21.02.070, which gives one year from final approval. This should be rectified and probably just made into a reference.

Formatted: Font: Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Commented [SN31]: Do we want a single development agreement for each phase?

Formatted: Font: Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Indent: Left: 1", No bullets or numbering

3. Existing Conditions: The plat shall show:
 1. The location of the nearest benchmark and property monuments.
 2. All property contiguous to the proposed subdivision under the control of the subdivider, even if only a portion is being subdivided.
 3. The location, width and names of all existing streets, railroads, open spaces, sewers, water mains, culverts or other utility lines and rights-of-way, and permanent buildings and structures located within the tract and within three hundred feet (300') of the outermost boundary of the subdivision.
 4. The location of all wells, proposed, active and abandoned, and of all reservoirs within the tract.
 5. Existing sewers, water mains, culverts or other underground facilities within the tract and to a distance of at least one hundred feet (100') beyond the tract boundaries, indicating pipe sizes, grades, manholes and exact location.
 6. Existing ditches, canals, natural drainage channels and open waterways and proposed realignments.
 1. Except as outlined in NCC 21.10.040, prior to approval of the preliminary plat, the subdivider shall provide the City with signed documentation that any affected canal company has had the chance to review plans related to the alteration of affected canals, and further, that the canal company understands they have thirty (30) days from the date of notification to bring any concerns to the City.
 7. Identification of known natural features including, but not limited to, wetlands as identified by the US Army Corps of Engineers, areas which would be covered in the event of a 100-year storm event, all water bodies, floodways and drainageways, slopes exceeding twenty percent (20%) and any other natural features as may be required by the Planning Commission or City Council for the subdivision, including the acreage in each required feature.
 8. Boundary lines of adjacent tracts of land, showing ownership where possible.
 9. Contour map at vertical intervals of not more than five feet (5') where the slope is greater than ten percent (10%) and not more than two feet (2') where the slope is less than ten percent (10%).
 10. A plan outlining how the subdivider intends to phase construction of the project, if phasing is intended.
4. Proposed Development: In addition to the above-listed items, the preliminary plat shall show:
 1. The layout of streets, showing location, widths and other dimensions of proposed streets, crosswalks, alleys and easements.
 2. The layout, numbers and typical dimensions of lots.
 3. Open space intended to be dedicated for public use or set aside for the private use of property owners in the subdivision.
 4. Building setback lines, including dimensions of said lines.
 5. Easements, including dimensions, for water, sewer, drainage, utility lines and other purposes as required by the Planning Commission or by City law.
 6. A tentative plan or method for the subdivision's groundwater, fire hydrant, sewer and stormwater drainage facilities.

7. Where the plan submitted covers only part of the subdivider's tract, the preliminary plat shall include a sketch of the prospective future street system which shall be considered in light of the future street system of the larger area.
5. Approval Of Preliminary Plat:

1. Conditions Of Approval: The ~~Approval Authority Planning Commission~~ shall approve only those preliminary plats ~~that satisfy which it finds have been developed in accordance with~~ the standards and criteria specified in this title, ~~Zoning~~ Title ~~19-10~~ of the Nibley City Code and all other applicable City ordinances.
2. Environmental Impact Analysis: The Planning Commission shall determine from the preliminary plat the possible need for environmental impact analysis. .
3. Approval Or Disapproval By ~~the Approval Authority Planning Commission~~: The ~~Approval Authority Planning Commission~~ shall, ~~within forty five (45) days after the preliminary plat is filed with the Planning Commission,~~ approve the preliminary subdivision plan if it finds that the subdivision complies with City ordinances. The ~~Approval Authority Planning Commission~~ may conditionally approve a preliminary subdivision plat imposing such conditions as required in order to bring the subdivision plat into compliance with the requirements of City ordinances. In the event the ~~Approval Planning Commission~~ disapproves the preliminary plat, ~~it shall do so within forty five (45) days after the date the subdivider made application for approval~~ and shall state in writing each reason for the disapproval. ~~All comments and recommendations shall be forwarded to the City Council within the prescribed time limit.~~
4. ~~Approval Or Disapproval By City Council: The City Council shall, within thirty (30) days after receiving the preliminary plan with recommendations from the Planning Commission, approve, approve with conditions, or disapprove the preliminary plan. A representative of the Planning Commission shall meet with the City Council to discuss and clarify the Planning Commission's position. The final conditions of approval or reasons for disapproval shall be stated in writing to the subdivider.~~
5. ~~Plats not acted upon within the above time frames shall be deemed to have been approved. A plat shall be deemed to be acted upon if it is approved, denied, approved with conditions, continued for further review or tabled.~~

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

HISTORY

Adopted by Ord. No Source on 6/1/1992

21.08.020 Final Plat

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

- A. Description: The final plat shall be drawn to a scale ~~not smaller than one hundred feet to the inch (100' = 1")~~ on standard twenty four inch by thirty six inch (24"x36") paper and shall include the following information:
1. The proposed name of the subdivision.
 2. The boundaries of the proposed subdivision, including sufficient information to locate the project, and the total acreage of the project.
 3. A legal description of the property.

4. The names and addresses of the owner, subdivider, if other than owner, and the engineer or surveyor of the subdivision.
 5. Date of preparation.
 6. Scale
 7. The base heading of true north.
- B. The plat shall contain the following information:
1. Accurate dimensions for each lot, street, alley, easement, areas to be dedicated as open space and other important features. Dimensions shall be shown in feet and hundredths. Lot sizes shall be expressed in acreage.
 2. The street address for each lot. Lots on the north and west sides of the street shall have odd numbers. Lots on the south and east sides of the street shall have even numbers.
 3. A description and delineation of other angles, distances, points, monuments, markers, boundaries and other geometries as described in the Nibley City Design Standards and Specifications.
 4. Standard signature forms, the wording of which is found in the Nibley City Design Standards and Specifications, for the following:
 - i. Registered land surveyor's certificate of survey, as applicable under Utah law;
 - ii. Owner's signature of dedication;
 - iii. Notary public acknowledgement;
 - iv. City engineer's certificate of approval;
 - v. Utility companies' approval;
 - vi. Planning Commission approval;
 - vii. City approval, signed by the Mayor and City Recorder if City Council is required to approve the plat;
 - viii. City attorney approval;
 - ix. A block for use by the County Recorder containing the required recording information.
 - ix. ~~The following note regarding agricultural uses of property:~~
 - a. ~~This property is located in the vicinity of property that is used for agricultural purposes. It may be anticipated that such uses and activities may or may not in the future be conducted in this area and such uses are previously existing uses. Agricultural uses and situations must be sound agricultural practices and not bear a direct threat to public health and safety.~~
 - x. The following note regarding groundwater:
 - a. Areas in Nibley have groundwater problems due to the varying depth of a water table. The City's approval of a final plat, building permit or construction plans does not constitute a representation by the City that building at any specified elevation or location would solve subsurface or groundwater problems. In addition, concerns for building elevation and/or grading and drainage are unique to each building site, remain solely with the building permit application, property owner and/or contractor. Nibley City is not responsible for any subsurface or groundwater problems which

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Commented [RP32]: This seems to be unnecessary. It's more of a warning than anything else. Whether or not the City can regulate preexisting agricultural uses through nuisance law is not really relevant to a new subdivision.

Formatted: Font: (Default) Times New Roman

Commented [SN33]: Do we need this?

Formatted: Font: Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman

may occur, nor for such concerns including, but not limited to, building location and/or elevation, site grading and drainage.

- C. Additionally, construction plans shall be submitted with the final plat. These plans shall detail the size, design, type and location of all infrastructure improvements proposed for construction as part of the phase, including, but not limited to, streets, sidewalks, curbs, utility pipes and other infrastructure. Construction plans shall be prepared in accordance with the Nibley City Design Standards and Specifications.

Commented [RP34]: Maybe not necessary, but it's not bad to have a waiver for liability from groundwater.

Commented [SN35]: Or this?

Formatted: Font: (Default) Times New Roman

Formatted: Font: Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman

HISTORY

Adopted by Ord. No Source on 6/1/1992

Amended by Ord. 2002 Code on 1/1/2002

21.08.30 Line Adjustments and amendments to a subdivision plat

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

- A. An agreement to adjust lot lines between adjoining properties, whether in a subdivision or on unsubdivided parcels of land, may be executed by the owners of record of said properties and recorded upon execution, if the following conditions are met:

1. No new lot results from the lot line adjustment.
2. No previously existing lot is eliminated as a result of the adjustment.
3. If the properties to be adjusted are in a subdivision, the lot sizes, frontages and configurations are consistent with this title and NCC 19.
4. No lot is made undevelopable without a variance or other special consideration.
5. All property owners directly affected by the lot line adjustment give their consent.
6. The lot line adjustment does not result in a remnant piece of land that did not exist previously.
7. The lot line adjustment does not result in the violation of any applicable zoning ordinance.
8. The lot line adjustment does not substantially alter legal lots that may otherwise need further review by the Planning Commission or City Council in the form of a subdivision amendment.

9. Provided the above conditions are met, no municipal land use authority approval is required.

Formatted

Formatted: Indent: Left: 1", No bullets or numbering

- 8-B. An amendment to a subdivision plat shall follow the process and standards within Utah State Code 10-9a-6 as amended, and any applicable Nibley City ordinances.

Formatted

~~Provided the above conditions are met, no municipal land use authority approval is required.~~

21.08.040 Minor Subdivision Process

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

1. Purpose: In an effort to reduce the expense of developing relatively small residential subdivisions that meet certain conditions, residential subdivisions of five (5) lots or less may be considered and approved under this section. A subdivision approved under this section shall be known as a "Minor Subdivision." Minor subdivisions, when approved, are exempt from platting requirements for preliminary and/or final plats and may also be

exempt from the requirements for some engineering reports and construction drawings as determined by the Nibley City Engineer and as provided in this section.

2. Minor Subdivision Requirements: To be considered for approval as a Minor Subdivision, the proposed subdivision must meet all the following requirements:

1. Notice is provided as required by ordinance;

2. The proposed parcel is not traversed by the mapped lines of a proposed street or trail as shown in the General Plan, Master Transportation Plan, and/or Trail Master Plan;

3. The proposed subdivision does not require the dedication of any land for street or other public purposes;

4. The proposed subdivision has been approved by the culinary water authority and the sanitary sewer authority;

5. The proposed subdivision is located in a residential zoned area; and

6. The proposed subdivision conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance;

7. The proposed subdivision contains five (5) lots or less total;

8. The parcel being divided has not had other lots separated from it within the past five years, provided that if another lot or lots have been separated from the parcel that is the subject of the request for Minor Subdivision within the past five years, then the previously separated lots and the subject parcel will all be counted towards the five (5) lot limit for the purposes of the application for a Minor Subdivision under this section;

9. The proposed subdivisions does not require or contemplate that require the creation or dedication of open space land for the purpose of receiving higher density and/or smaller lot size may not use the minor subdivision process; and

10. The proposed subdivision complies with All other applicable requirements under Nibley City Code for a subdivision, including zoning, infrastructure improvements and bonding thereof, providing for drainage needs, providing required utility easements, and protecting sensitive land issues, etc. must be provided for as applicable as outlined Nibley City subdivision requirements.

3. Minor Residential Subdivision Application Procedure: The application procedure for a minor subdivision shall be as follows:

1. Pre-Application Meeting- The applicant must meet with Nibley City Staff to determine if the proposed subdivision meets the requirements of a Minor Subdivision. The staff shall provide a copy or access of this section of Nibley City code and inform the applicant of their options. The staff shall review with the applicant any requirements for construction drawings that may be needed and required for approval.
2. Minor Subdivision Plat- Minor Subdivisions shall be exempt from preliminary plat application and shall file a final plat in compliance with all NCC 21 and standards on the plat as unless noted in this section and the applicant may only submit a final Minor Subdivision plat after a Pre-Application Meeting with Nibley City staff and a determination from City staff that the proposed subdivision meets the requirements for a Minor Subdivision. Nibley City staff

Commented [RP36]: Edits for clarification and matching style

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

shall write and proposed a development agreement to be considered with the minor subdivision application.

3. The Planning Commission shall act as the land use authority for a Minor Subdivision and shall grant or deny an application for a Minor Subdivision within 60 days of its receipt of a complete application. The Planning Commission shall approve an application for a Minor Subdivision if the plat and development agreement meet all of Nibley City's ordinances as listed in NCC 19 and NCC 21, Public Work's design standards, general plan, master plans and all requirements for a final plat.
4. Recording of the final plat: Final approval shall be valid for three (3) years. If an applicant fails to record the final plat within that time, the approval of the plat is void.
5. Notice to proceed and process after final approval: All Minor Subdivisions shall follow the Nibley City subdivision code and process as outlined after final approval.
6. Minor Subdivision standards: All Minor Subdivision shall comply with Nibley City Ordinances, as listed in Nibley Code, and engineering and public work design standards, unless otherwise listed in this section.
 1. Finished floor elevation recorded on the final plat:
 1. An applicant shall include all groundwater reports as required Nibley City code with the final plat. An applicant is not required to submit a groundwater report or finish floor elevations of any permitted building if the applicant records on the final plat that no finished floor shall be built at an elevation lower then six inches (6") above finish curb or center line of the street, whichever is higher.
 2. Construction Drawings and Engineering Reports:
 1. The applicant shall submit all report as required by Nibley City code unless otherwise exempted by the Planning Commission.
 2. Applicants shall submit detailed stormwater plans at the request of the Nibley City Engineer.

Commented [RP37]: Again, different from the general approval timeline

Formatted: Font: (Default) Times New Roman

HISTORY

Adopted by Ord. 18-07 on 8/2/2018

21.10 Subdivision Options

21.10.010 Type Of Subdivisions

21.10.020 Rural Preservation Subdivision

21.10.030 Cluster Subdivisons

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

21.10.010 Type Of Subdivisions

A developer may subdivide under one of the following subdivisions:

Type of Subdivision	Applicable Zones	Density	Open Space Requirements	Lot Size
---------------------	------------------	---------	-------------------------	----------

Standard Subdivision	All zones	Density must comply with zoning	Open space is not required	Lot size must comply with zoning
Rural Preservation Subdivision	R-1, R-1A, R-2, and R-2A	Bonus density	Open space is required	Smaller lots are allowed
Cluster Subdivision	A, R-E, R-1, R-1A, R-2, and R-2A	Density must comply with zoning	Open space is required	Smaller lots are allowed

1. Standard Subdivision must follow all zoning and subdivision code contained within Nibley City code and design standards, including lot sizes, frontages, setbacks, etc.
2. Rural Preservation Subdivision must follow all zoning and subdivision code contained within Nibley City Code unless specified within the Rural Preservation Subdivision requirements stated within Nibley City Code.
3. Cluster Subdivision must follow all zoning and subdivision code contained within Nibley City Code unless specified with the Cluster Subdivision requirements stated within Nibley City Code.
4. Each subdivision must follow State law and the Utah Land Use Development Management Act.

Formatted: Font: (Default) Times New Roman

HISTORY

Adopted by Ord. 18-05 on 7/19/2018

21.10.020 Rural Preservation Subdivision

1. Purpose: The purpose of this section is to provide for subdivision development within Nibley City in a manner that:
 1. Helps preserve the rural feeling of Nibley City as outlined in the General Plan;
 2. Provides Open Space Land with a specific purpose that provides visual and physical access to the public.
 3. Supports adopted City policies to conserve a variety of irreplaceable and environmentally sensitive resources and agricultural lands as set forth in the General Plan;
 4. Protects constrained and sensitive lands, including, but not limited to, those areas containing sensitive features such as steep slopes, floodplains, and wetlands, by setting them aside from development;
 5. Provides Open Space Land, including those areas containing unique or natural features such as meadows, grasslands, tree stands, streams, stream corridors, berms, waterway, farmland, wildlife corridors and/or habitat, historical buildings and/or sites, archeological sites, and green space, by setting them aside from development;
 6. Reduces erosion and sedimentation by the retention of existing vegetation and the minimization of development on steep slopes and other constrained and sensitive lands;

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

7. Provides for a diversity of lot sizes to accommodate a variety of age and income groups and residential preferences, so that the community's population diversity may be enhanced;
 8. Provides incentives for the creation of greenway systems and Open Space Land within the City for the benefit of present and future residents.
 9. Creates neighborhoods with direct visual and/or physical access to Open Space Land;
 10. Maintains and creates scenic views and elements of the City's rural and scenic character and minimizes perceived density by maintaining views of new development from existing roads.
2. Definitions: For purpose of this section, the following words shall have the meanings set forth herein:
1. OPEN SPACE LAND: Any parcel or area of land dedicated under this section as indicated on a Rural Preservation Subdivision Plat for the access and/or visual enjoyment of the public. Open Space Land must meet the standards and requirements of this section. Open Space Land may not be contained in the privately-owned parcel except as specifically allowed in this ordinance. Open Space Land must have 25% of its border adjacent to public access right-of-way, easement, or City park or contain a trail open to the public which traverses or runs adjacent to the Open Space Land. Open Space Land area shall not be included in setback areas calculations for principal or accessory uses.
 2. CONSTRAINED AND SENSITIVE LAND: Land which is generally unbuildable without engineered ground modifications, or which contains features including, but not limit to Federal, State, or municipally designated wetlands, floodplains, slopes greater ~~then than~~ 20%, faults, designated canals per Nibley Ordinance and other geologically or environmentally sensitive features that require mitigation, special insurance or permits from government authorities to allow development. This land ~~may~~ be used as Open Space Land if it complies fully with conditions within this ordinance for qualification of Open Space.
 3. WATERWAY: Surface water runoff and drainage, drainage ditches and irrigation waterways, whether surface or subsurface and natural waterways including creeks, streams, springs, rivers, ponds, and wetlands.
 4. TREE STAND: A group or cluster of trees within a geographic location that are occurring naturally or artificially.
 5. MEADOWS: Land vegetated with native species of grasses, trees, forbs, and flowers, either undisturbed or constructed, that can be sustained without supplemental irrigation. Actively used pasture and agricultural land are not considered Meadows under this definition.
 6. PASTURE: A fenced enclosure or confined area used for the grazing of livestock or small animals which contains sufficient vegetation to serve as the principle food source for the livestock confined therein.
 7. NET DEVELOPABLE LAND: Net Developable Land shall include the total area of the proposed development minus land that is required by Nibley City ordinance to be dedicated to the City including, but not limited to:
 8. Public access rights-of-way
 9. Land required to be dedicated along waterways

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

10. Preservation lands with infrastructure installed to City standards by the developer as part of the development process (parks, trails, etc.)
 11. Constrained and Sensitive Land as defined herein
 12. Easements, lands dedicated to the City for preservation space but without public rights of access, and other utility or general rights-of-way without access to the public shall be included as Net Developable Land.
 13. Net Developable Land may be calculated for the purposes of concept review and preliminary plat approval based on either rule of thumb as outlined in the Lot Standards chart for the underlying zone of the proposed subdivision or based on actual measurements derived from the proposed plat. Calculation of Net Developable Land for final plat approval shall use actual measured Net Developable Land area. The proponent shall demonstrate compliance with this provision by calculation based on values demonstrably derived from the proposed final plat.
3. Applicability:
1. The election to develop the property as a Rural Preservation Subdivision is voluntary and provided to developers as an alternative to the standard subdivision process codified in NCC 19 and NCC 21. The intent of this section and the rural preservation subdivision options is to encourage the creation and development of flexible designed Open Space Land and variety in lot size and conformation. Rural Preservation Subdivisions may be developed within applicable residential zones of the City. Rural Preservation Subdivisions shall be developed in accordance with and subject to the development standards, conditions, procedures and regulations of this section and with all other applicable subdivision ordinances and zoning regulations of the City which are not otherwise in conflict with the provisions of this section.
 2. In cases of conflict with other Nibley City ordinances, the terms of this section shall govern.
 3. Development Options: In R-1, R-1A, and R-2 zones in Nibley City, developers may elect to develop a Rural Preservation Subdivision. R-2A zones may also be developed under the terms of this ordinance; in such cases, the R-2A zoned property shall be treated as R-2 for the purposes of calculating underlying base density, number of lots, bonus density, lot sizes, and all other provisions outlined in this ordinance. If the zone is not listed above, it does not qualify for a Rural Preservation Subdivision.
 4. Developers desiring to develop the property as Rural Preservation Subdivision are subject to the development standards, conditions procedures and regulations of this section.
4. Application Process:
1. Applications for a Rural Preservation Subdivision shall be submitted and processed in accordance with the requirements and procedures set forth in the City Subdivision Ordinance, including submission and approval of schematic, preliminary and final plans or plats, and any additional procedural requirements set forth in this section, including, but not limited to, submission of a sensitive area designation plan and maintenance plan.

2. Pre-application Meeting: Applicants for a Rural Preservation Subdivision shall have a pre-application meeting with the Development Committee as established in NCC 21.06.030 Nibley City staff to review the application and answer questions provided by the applicant. Prior to this meeting, the developer shall submit the draft plan of the proposed subdivision and shall include the following:
 1. Zoning and parcel location
 2. Total gross acres
 3. Estimated right-of-way dedication
 4. Estimated Constrained and Sensitive Land
 5. Estimated Net Developable Land
 6. Estimated Open Space Dedication and proposed uses.
 7. Total number of lots based on density bonus
 8. Estimated lot sizes and subdivision layout.
3. Sensitive Area Designation Plan Map: All applications for a Rural Preservation Subdivision shall include a sensitive area designation plan map prepared in accordance with the provisions set forth herein and submitted with the preliminary plat. The sensitive areas designation plan map shall identify all constrained and sensitive lands within the property boundaries as set forth in this section. The sensitive area designation plan map shall also clearly identify all natural or cultural resources present on the property, including, but not limited to those defined in this ordinance (geographic features, meadows, tree stands, streams, stream corridors, floodwalls, berms, waterways, canals, irrigation ditches, farmland, pastures, wildlife corridors and/or habitat; historic buildings and/or sites; archeological sites; cultural features and green space). Applicants are solely responsible for the accuracy and designation of constrained and sensitive lands as defined in this ordinance, and natural and cultural resources as defined by the United States, State of Utah, Cache County, and Nibley City on the sensitive area designation plan map for their project and applicable adjacent property. The applicant shall include all sensitive areas within four hundred feet (400') of the developments property boundaries as noted in City, County, State, and Federal records.
4. Maintenance Plan for preserved Open Space Land: The developer must submit a Preliminary Maintenance Plan in accordance with subsection M,2 of this section and with the preliminary plat. For final plat application, the developer must submit a Final Maintenance Plan in accordance with subsection M,3 of this section. The Final Maintenance Plan shall be attached to the Development Agreement required by NCC 21 and recorded with the Final for the property.
5. Dimensional Standards:

Formatted: Font: (Default) Times New Roman

1. The lot standards within a Rural Preservation Subdivision shall be determined in accordance with the Lot Standards Chart.

Lot Standards Chart					
Zone	Open Space Ratio (OSR) ^{NOTE 1}	Incentive Multiplier	Average Residential Lot Size	Minimum Residential Lot Size	Frontage ^{NOTE 2}
R-1	$0.25 \leq \text{OSR} < 0.30$	1.25	$\geq 18,700 \text{ ft}^2$	$\geq 17,000 \text{ ft}^2$	$\geq 100 \text{ ft}$
	$0.30 \leq \text{OSR} < 0.35$	1.30	$\geq 16,700 \text{ ft}^2$	$\geq 15,000 \text{ ft}^2$	$\geq 100 \text{ ft}$
	$0.35 \leq \text{OSR} < 0.40$	1.35	$\geq 14,700 \text{ ft}^2$	$\geq 13,000 \text{ ft}^2$	$\geq 95 \text{ ft}$
	$0.40 \leq \text{OSR}$	1.40	$\geq 12,700 \text{ ft}^2$	$\geq 11,000 \text{ ft}^2$	$\geq 90 \text{ ft}$
R-1A	$0.25 \leq \text{OSR} < 0.30$	1.25	$\geq 14,000 \text{ ft}^2$	$\geq 12,000 \text{ ft}^2$	$\geq 100 \text{ ft}$
	$0.30 \leq \text{OSR} < 0.35$	1.30	$\geq 13,000 \text{ ft}^2$	$\geq 11,000 \text{ ft}^2$	$\geq 95 \text{ ft}$
	$0.35 \leq \text{OSR} < 0.40$	1.35	$\geq 12,000 \text{ ft}^2$	$\geq 10,000 \text{ ft}^2$	$\geq 90 \text{ ft}$
	$0.40 \leq \text{OSR}$	1.40	$\geq 11,000 \text{ ft}^2$	$\geq 9,000 \text{ ft}^2$	$\geq 85 \text{ ft}$
R-2 and R-2A	$0.25 \leq \text{OSR} < 0.30$	1.20	$\geq 13,200 \text{ ft}^2$	$\geq 11,500 \text{ ft}^2$	$\geq 95 \text{ ft}$
	$0.30 \leq \text{OSR} < 0.35$	1.25	$\geq 12,200 \text{ ft}^2$	$\geq 10,500 \text{ ft}^2$	$\geq 90 \text{ ft}$
	$0.35 \leq \text{OSR} < 0.40$	1.30	$\geq 10,200 \text{ ft}^2$	$\geq 9,000 \text{ ft}^2$	$\geq 85 \text{ ft}$
	$0.40 \leq \text{OSR}$	1.35	$\geq 9,200 \text{ ft}^2$	$\geq 7,800 \text{ ft}^2$	$\geq 80 \text{ ft}$
Notes:					
1. The OSR is the ratio of the area of the Open Space Land divided by the area of the Net Developable Land.					
2. Frontage is determined at the front setback line.					

2. Procedure for Calculating Allowed Number of Lots: The Allowed Number of Lots including the density bonus for a Rural Preservation Subdivision shall be determined as follows using the appropriate Incentive Multiplier from the Lot Standards Chart. The developer shall follow the process outlined below to determine allowable properties of the proposed subdivision and use these properties in developing the preliminary and final plats. All calculations and measurements shall be clearly documented in order and following the process outlined below and submitted with the plat applications:

1. The subdivision must be in one of the approved zones as listed within the Rural Preservation Subdivision requirements, and all calculation will be based on the parcel's current zone at the time of application and the associated Lot Standards Chart with the exception of R-2A zones: R-2A zones shall be treated as R-2 zones for the purposes of this ordinance.
2. Provide to the City the total area contained within the subdivision plat.
3. Provide to the City the total area being dedicated to rights-of-way.
4. Provide to the City the total acres of Constrained and Sensitive Land.
5. Provide the City the total Net Developable Land area as defined within this section.
6. State the area of proposed Open Space Land.
7. Calculate Open Space Ratio.
8. Calculate the Base Number of Lots per zone:
 1. Base Number of Lots R-1 = Net Developable Land / 1 acre
 2. Base Number of Lots R-1A = Net Developable Land / .75 acres

3. Base Number of Lots R-2 and R-2A = Net Developable Land / 0.5 acres
 9. Determine Incentive Multiplier
 1. Determine Incentive Multiplier based on the Lot Standards Chart, the applicable zone, and the Open Space Ratio.
 10. Calculate total allowed
 1. Total allowed lots = Base number of lots multiplied by the Incentive Multiplier
6. Lot Area, Frontages, and Zoning Regulations:
 1. The subdivision, along with each lot within the subdivision, shall meet and comply with the minimum lot sizes, average lot sizes, and frontages shown on the Lot Standards Chart. Except for these requirements, the Zoning Regulations (NCC 19) for the underlying zone shall apply to Rural Preservation Subdivisions, unless otherwise noted within this section.
7. Conservancy Lots:
 1. Open Space Land and Constrained and Sensitive Land may be included within individual residential lots when such areas can be properly protected and preserved in accordance with the intent and purpose of this section. Such lots shall be known and referred to as "conservancy lots". These lots must contain a minimum of 0.5 acres of Open Space Land, except for areas approved by Nibley City as defined Landscape Buffers, and that Open Space Land must meet the design standards and use standards within this section.
 2. Regulations: Open Space Land and Constrained and Sensitive land within a Conservancy Lot shall remain subject to all regulations and requirements for such land as set forth herein, including, but not limited to, use, design, maintenance, ownership and permanent protection. Open Space Land must be developed and maintained within the first year of the date of issuance of a Notice to Proceed under NCC 21.
 3. The portion of each Conservancy Lot that is not Open Space Land must meet the minimum lot size on the applicable Lot Standards Chart and shall be the portion of the Conservancy Lot used to calculate the average and minimum lot size within the subdivision.
8. Use Regulation: Use of the land in a Rural Preservation Subdivision that is not Open Space Land is subject to any restrictions set forth in NCC 19, unless otherwise specified within this section, for the zone in which the land is located. Use of Open Space Land within a Rural Preservation Subdivisions is subject to the following:
 1. Permitted Uses on Open Space Land: The following uses are permitted in Open Space Land areas:
 1. Street rights-of-way may traverse Open Space Land if permitted under City ordinances; provided, areas encumbered by such facilities and/or rights-of-way shall not be counted as Open Space Land when computing the Open Space Ratio in the Lot Standards Chart.
 2. Utility rights-of-way or easements, including above ground and underground utilities may traverse Open Space Land if permitted by City ordinance; areas encumbered by such facilities and/or rights-of-way may be counted as Open Space Land when computing the Open Space Ratio in

- the Lot Standards Chart so long as the rights-of-way and easements otherwise meet the requirements of this ordinance for Open Space Land.
3. Agricultural and horticultural uses, including raising crops wholesale nurseries and associated buildings that are specifically needed to support active, viable horticultural operations. Wholesale nurseries must obtain an operating permit and business license from the City and must comply with all fencing and maintenance requirements of this ordinance.
 4. Conservation of open land in its natural state; e.g., meadows, tree stands, wetlands, forestland.
 5. Waterways along with dedicated public access rights-of-way or easements along one or both sides.
 6. Underground utility easements for drainage, access, sewer or water lines, electric lines or other public purposes.
 7. Active noncommercial recreation areas, such as trails, playing fields, playgrounds, courts, and multipurpose trails. These parcels shall be maintained by the City or an owners' association and shall be open to the public if maintained by the City, or residents within the Rural Preservation Subdivision if maintained by a functional owners association.
 8. Agricultural uses excluding livestock operations involving swine, poultry, and mink. Open Space Land of less than one-half (0.5) acre may be used as landscaped buffers for roadways, landscaped entrances to subdivisions, neighborhood "pocket parks" or similar amenities that meet standards and uses listed herein.
 9. Fencing that is rural in character. All fencing must be transparent, such as rail fences, post fences, or wire fences and architecturally appropriate to the use as determined by the City Planner. Chain link fences are not permitted on Open Space Land. All applicants must receive a fence permit from the City before construction of any proposed fence.
 10. Golf courses, not including commercial miniature golf. A development plan must be turned in as part of the approval process that outlines ownership, development, and building plans.
 11. Neighborhood Open Space Land uses such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses. Neighborhood Open Space Land must be owned and maintained by an owners' association or the City.
 12. Pasture for sheep, goats, cows, horses or other animals approved by Nibley City code. Pasture and animal density must conform with Nibley City Animal Land Use Regulations and be enclosed with appropriate fencing.
 13. Silviculture, in keeping with established standards for selective harvesting and sustained yield forestry.
 14. Water supply and sewage disposal systems, and stormwater detention areas designed, landscaped, and available for use as an integral part of the Open Space Land. These facilities must be built to Nibley City Design Standards [and Specifications](#), must contain a tree for every 300 square feet

Formatted: Font: (Default) Times New Roman

and planted around the perimeter, an irrigation system must be installed, and be planted with grass or natural vegetation.

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

~~1.~~ ~~Commercial activities are not permitted unless otherwise specifically permitted within this section.~~

Formatted: Indent: Left: 1.5", No bullets or

Commented [RP38]: duplicated in 9

Formatted: Font: (Default) Times New Roman

~~2-1.~~ Motor vehicles are prohibited except as necessary to maintain and operate the property and/or utility facilities within the property. Recreational motorized off-road vehicle usage including but not limited to motorcycles, dirt bikes, go-carts, OHVs, dune buggies, side-by-sides and their derivatives, and snowmobiles are prohibited.

~~3-2.~~ Firearm ranges, and other uses similar in character and potential impact are prohibited.

~~4-3.~~ Advertising of any kind and any billboards or signs; provided, directory and information signs may be displayed describing the easement and prohibited or authorized the use of the same.

~~5-4.~~ Any cutting of trees or vegetation, except as reasonably necessary for fire protection, thinning, elimination of diseased growth, control of non-native plant species, maintenance of landscaped areas, and similar protective measures or those activities relating to permitted agricultural uses or other uses allowed within this section.

~~6-5.~~ Any development, construction or location of any manmade modification or improvements such as buildings, structures, roads, parking lots, or other improvements, except as may be necessary to support a permitted use.

~~7-6.~~ Any dumping or storing of ashes, trash, garbage, vehicles, trailers, recreational vehicles or other equipment except for equipment needed to maintain the land

~~8-7.~~ Any filling, dredging, excavating, mining, drilling, or exploration for and extraction of oil, gas, minerals or other resources from the property.

~~9-8.~~ Any residential, commercial or industrial activity except as specifically permitted in this ordinance.

~~10-9.~~ Burning of any materials, except as necessary for agricultural, drainage and fire protection purposes.

~~11-10.~~ Changing the topography of the property by placing on it any soil, dredging spoils, landfill, or other materials, except as necessary to conduct specifically permitted purposes.

~~12-11.~~ Hunting or trapping for any purpose other than predatory or problem animal control.

~~13-12.~~ The change, disturbance, alteration, or impairment of significant natural ecological features and values of the property or destruction of other significant conservation interests on the property.

~~14-13.~~ The division, subdivision or de facto subdivision of the property.

~~45-14.~~ The use of motor vehicles, including snowmobiles, all-terrain vehicles, motorcycles and other recreational vehicles.

~~46-15.~~ All other uses and practices inconsistent with and detrimental to the stated objectives and purpose of this section.

3. Constrained and Sensitive Lands: Except for passive recreational activities, no development or residential uses shall be permitted within Constrained and Sensitive Lands.
4. Open Space Land Coordination: Open Space Land shall be coordinated and located to maximize the continued use of the space. To create larger areas of Open Space Land and to combine Open Space Land from a variety of developments, Open Space Land shall be coordinated either with existing adjacent Open Space Land or with planned future Open Space Land. If no adjacent parcels of land are planned for development, Open Space Land shall be planned to provide the greatest likelihood of adjoining future developments' Open Space Land.
5. Open Space Lands: Standards pertaining to the quantity, quality, configuration, use, permanent protection, ownership, and maintenance of the Open Space Land within a rural preservation Subdivision shall be complied with as provided herein.
9. Open Space Land Design Standards: Open Space Land shall be located and designed within the Rural Preservation Subdivision to add to the visual amenities of neighborhoods and the surrounding area by maximizing the visibility of Open Space Land. Designated Open Space Land within a Rural Preservation Subdivision shall also comply as defined in this section, permitted uses as listed in this section, and meet three (3) or more of the following standards:
 1. Significant Areas and Natural Landscape: Open Space Land shall include the most unique and sensitive resources and locally significant features of the property within the subdivision. Specifically, meadows, waterways and wetlands as defined in this Ordinance, and tree stands and contain a minimum of 0.5 acres. Other uses include berms, wildlife corridors and/or habitat and must extend a minimum of 15' on each side of the feature. This Open Space Land may also contain historic buildings and/or sites, archeological sites, and cultural features. The maintenance plan shall outline how the property will be preserved and maintained. The maintenance plan must specify what type of feature(s) that is being preserved and how the property will be maintained.
 2. Contiguous Land: Open Space Land within a Rural Conservation Subdivision shall be contiguous within the subdivision, or to other Open Space Land in adjacent subdivisions or developments to provide for large and integrated Open Space Land areas within the City.
 3. Agricultural Land: Privately held Open Space Land that is used for agricultural purposes as defined in this Ordinance and is 0.5 acre or greater in size.
 4. Buffering: Open Space Land shall be designed to provide buffers and to protect scenic views as seen from existing public rights-of-way and from public parks or trails. Buffering area along public rights-of-way or street must be at least thirty (30') feet wide. Buffering must be landscaped, at the sole cost of the developer and shall provide for every hundred (100) linear feet of buffer, 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 or public park. Irrigation shall be provided by the developer and shall be designed and installed to Nibley City Standards for City parks current at the time of approval of Final Plat. Open Space buffer areas shall be under single ownership.

5. Pedestrian Access: Developer shall provide pedestrian access to Open Space Land which is open to public or owners' association member use. Access methods can be a trail, park, recreation space, or neighborhood gathering space.
 6. Recreation Space: Open Space Land maybe designated as recreation space or park space, including maintained grass, trails, picnic areas, playgrounds, sports fields or other recreation and park amenities. These recreation spaces are conditional upon the City Council's approval, and amenities must be approved by the City Council before final approval of the maintenance plan can be given. Publicly and owners' association owned open spaces shall be fully developed and operational in conjunction with each phase of the subdivision as a percentage of the total developed value of the subdivision (for example, if 25% of the dollar value of the development is being constructed, then a minimum of 25% of the dollar value of the built-out Recreation Space must be developed). The determination of value, construction sequencing, and acceptance criteria shall be specified in the development agreement; until improvements are accepted by the City for the attendant phase, no permits shall be issued for subsequent phases.
 7. Stormwater Basin: These facilities must be built to Nibley City Design Standards [and Specifications](#), must contain a tree for every 300 square feet and planted and clustered around the perimeter basin area; an irrigation system must be installed, and be planted with grass, natural vegetation and shrubs. The stormwater basin can be a local or regional basin and must be owned and maintained by Nibley City.
10. Permanent Protections of Open Space Land:
1. Conservation Easement: All Open Space Land shall be permanently restricted from future development by a conservation easement or other method of protection and preservation acceptable to the City. Under no circumstances shall any development be permitted in the Open Space Land at any time, except for those permitted or conditional uses listed herein and approved in conjunction with the rural preservation subdivision. All conservation easements, or another acceptable method of protection and preservation of the Open Space Land within a Rural Preservation Subdivision, shall be approved by the City Council and recorded prior to or concurrent with the recording of the final plat for the Rural preservation subdivision.
 2. Terms and Conditions: All conservation easements, or another acceptable method of protection and preservation of the Open Space Land within a Rural Preservation Subdivision, shall be in substantially the same form as the standard conservation easement form provided by the City and shall include, at a minimum, the following terms and/or conditions:
 1. Legal description of the easement;
 2. Description of the current use and condition of the property;
 3. Permanent duration of easement;

Formatted: Font: (Default) Times New Roman

4. Permitted and conditional uses;
 5. Prohibited development and/or uses;
 6. Maintenance responsibilities and duties; and
 7. Enforcement rights and procedures.
3. Marking of Open Space Land: Open space land shall be marked at each corner and property line intersection with a minimum 4" diameter x 3' deep concrete monument provided with an aluminum or brass cap cast or epoxied into the monument. Caps shall be stamped "Nibley Conservation Marker, Do Not Remove", and an arrow stamped into the cap perpendicular to the Open Space boundary line and pointing into the Open Space. Monuments shall be placed such that the top 6" of the monument is above finished grade at the monument location.
 4. Grantee: Unless otherwise approved by the City Council, the grantee of a conservation easement shall consist of one of the following acceptable entities which entity shall be qualified to maintain and enforce such conservation easement: land trust, conservation organization, or governmental entity. The City may, but shall not be required to, accept, as grantee, a conservation easement encumbering Open Space Lands within a Rural Preservation Subdivision, provided there is no cost of acquisition to the City for the easement and sufficient access to and maintenance responsibilities regarding the Open Space Land are provided.
11. Ownership of Open Space Land:
1. Undivided Ownership: Unless otherwise approved by the City Council and subject to the provisions set forth in this section, the underlying fee Ownership of the Open Space Land shall remain in single Ownership and may be owned and maintained by one of the following entities: homeowners' association, land trust, conservation organization, governmental entity, or private individual.
 2. Property Not Subject to Subdivision: Property subject to a conservation easement, or another acceptable method of protection and preservation, shall not be subdivided.
 3. Nibley City may at its sole discretion opt to take ownership of Open Space Land at the subdivision approval stage. The developer shall landscape the property with sod, grass, trees and an irrigation system or other natural landscape features as appropriate as determined by the City Council.
 4. Owners' Association: Open Space Land may be held in common ownership by a Home Owners' or other acceptable Owners' Association, subject to all the provisions for Owners' Associations set forth in state law, the City Code, and the following:
 1. A description of the organization of the proposed Association, including its bylaws, and all documents governing ownership, maintenance, and use restrictions for Open Space Land, including restrictive covenants for the subdivision, shall be submitted by the developer with the final plat application.
 2. The proposed association shall be established, funded and operating (with financial subsidization from the Developer, if required in by the City in the development agreement) prior to or concurrent with the recording of the final plat for the subdivision;

3. Membership in the association shall be mandatory for all purchasers of property within the subdivision and their successors in title.
 4. The association shall be the responsible party for maintenance and insurance of its Open Space Land under the Final Maintenance Plan for the subdivision;
 5. The bylaws of the association and restrictive covenants for the subdivision shall confer legal authority on the association to place a lien on the real property of any member who falls delinquent in dues. Such dues shall be paid with the accrued interest before the lien may be lifted; and
 6. Written notice of any proposed transfer of Open Space Land by the Association or the assumption of maintenance for the Open Space Land must be given to all members of the Association and to the City no less than thirty (30) days prior to such event. vii. The owners' association shall be required to provide a bond or line of credit to the City for the cost of one year of maintenance of property owned by the Association, to be maintained by the Association for as long as the Association owns the Open Space.
 7. In the event of a failure of the owners' association to maintain the properties in accordance with the requirements of the development agreement, the City shall revoke the owners' association's bond, determine an appropriate assessment for the operation and maintenance of the open space, and assess all properties of the Subdivision on a monthly basis for said maintenance.
5. Private Ownership: A conservation parcel may be owned by a private individual or entity. Such parcels shall have a defined purpose and restrictions recorded in the maintenance plan and comply with this section.

12. Maintenance of Open Space Lands:

1. Costs: Unless otherwise agreed to by the City, the cost and responsibility of maintaining Open Space Land shall be borne by the owner of the underlying fee of the Open Space Land.
2. Preliminary Maintenance Plan: A Preliminary Maintenance Plan shall be turned in with the preliminary plat for proposed maintenance of Open Space Land within the subdivision. This plan shall outline the following:
 1. The proposed Ownership of the Open Space Land;
 2. The party that will be responsible for maintenance of the Open Space Land;
 3. The proposed use of the Open Space Land and how each parcel of Open Space Land meets the
 4. standards listed within this section;
 5. The size of each Open Space Land parcel; and
 6. The proposed concept plan for landscaping of the Open Space Land.
3. Final Maintenance Plan: The developer shall submit a plan outlining maintenance and operations of the Open Space Land and providing for and addressing the means for the permanent maintenance of the Open Space Land within the proposed Rural Preservation Subdivision application for the subdivision. The

developer shall provide a final maintenance plan with the final plat and the plan shall contain the following:

1. Ownership agreements for Open Space Land;
2. A description of the use of the Open Space Land and how that use complies with this section;
3. The establishment of necessary regular and periodic operation and maintenance responsibilities for the various kinds of Open Space Land (e.g., lawns, playing fields, meadow, pasture, wetlands, stream corridors, hillsides, cropland, woodlands, etc.);
4. The estimated staffing needs, insurance requirements, and associated costs, and define the means for funding the maintenance of the Open Space Land, and the operation of any common facilities located thereon, on an ongoing basis, including means for funding long-term capital improvements as well as regular yearly operating and maintenance costs; and
5. The landscaping plans for parcels that will be owned by an owners association or by the City.
6. Approval: The Final Maintenance Plan must be approved by the City Council prior to or concurrent with final plat approval for the subdivision. The Final Maintenance Plan shall be recorded against the property within the subdivision and shall include provisions for the City's corrective action rights as set forth herein. Any changes or amendments to the Final Maintenance Plan must be approved by the City Council.
4. The developer shall offer an approved letter of credit, bond or escrow for all proposed improvements and must complete all proposed open space improvements within the first three years of approval. If a designated open space parcel is planned to be maintained by a single property owner, the developer shall maintain that property until title is transferred to a new property owner.
5. Failure to Maintain: For all open space designated under the terms of this Ordinance, including privately held Open Space Lands, the responsible party for the maintenance of the Open Space Land in accordance with the terms of this ordinance, the approved maintenance agreement, any conditional use permits, business licenses or any other agreements between the City and the responsible party, or the operation of any common facilities located thereon fails to maintain all or any portion of the Open Space Land or common facilities in accordance with the aforementioned agreements and ordinances, the City may assume responsibility for the maintenance and operation of the Open Space Land. If the City assumes responsibility under this paragraph, any remaining development escrow or bond funds may be forfeited, liens for maintenance costs shall be assessed as described herein, and any permits, licenses or operating agreements may be revoked or suspended by the City in the City's sole discretion. The owner shall not impede the City in their efforts to maintain the open space.
6. Corrective Action: The City may enter the premises and take corrective action, including extended maintenance. The costs of such corrective action may be charged to the property Owner and may include administrative costs and penalties. Such costs shall become a lien on said properties. Notice of such lien

shall be filed by the City in the county recorder's office. The maintenance plan and all other documents creating or establishing any Association or conservation organization for the property shall reference the City's corrective action authority set forth herein and shall be recorded against the property.

7. Implementation and Maintenance: The developer of the subdivision shall fund implementation and maintenance of the conservation easement until such time as the control of the easement is transferred to the long-term manager. The developer shall address implementation, development, maintenance and transfer procedures in the sensitive area designation plan map or master development plan, as applicable.
8. Maintenance Access: The developer of the subdivision shall provide sufficient maintenance access from a dedicated right-of-way to all Open Space Land and constrained and sensitive lands within the Rural preservation subdivision.

HISTORY

Adopted by Ord. 18-05 on 7/19/2018

21.10.030 Cluster Subdivisions

1. Purpose and Intent: Cluster subdivisions are intended to allow flexibility in neighborhood and subdivision lot design by permitting the development of dwellings on lots smaller than normally required for the zone in which the subdivision is located and by dedicating or reserving the land so saved to needed open space. It is not intended that this type of subdivision be universally applied but only where circumstances or natural features and land use make it appropriate and of special benefit to the residents of the subdivision and surrounding area.
2. General Regulations:
 1. Conditional Use: A cluster subdivision shall be a conditional use in the A, R-E, R-1, R-1A, R-2 and R-2A zones, and the terms and requirements of those zones shall govern the subdivision except as such terms and requirements are modified by this section. and, notwithstanding any other provisions of this title, the provisions as hereinafter set forth shall be applicable if any conflict exists; provided, however, that no such cluster subdivision shall contain fewer than ten (10) dwelling units.
 - 4.2. Minimum Subdivision Size: A proposed cluster subdivision shall have a minimum of ten (10) dwelling units and sufficient land to meet the density requirements of the zone in which the development is located, as set forth below.
 - 2.3. Reduction In Minimum Lot Area: Where land is proposed for subdivision into lots and a subdivider dedicates or permanently reserves land within the subdivision for recreational use or open space, a reduction in the minimum lot area required for the zone in which the cluster subdivision is located may be recommended for approval by the planning commission to the city council, provided the provisions of this chapter are met and further provided that the cluster subdivision receives subdivision approval.
3. Site Development Standards:
 1. Lot Area: The minimum lot area for dwellings may be reduced below the area normally required in the zone in which the cluster subdivision is located, but the

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Commented [RP39]: This is confusing. A lot of exceptions. Are we just saying the specific cluster subdivision standards govern? Lot number feels like it should be its own requirement

Formatted: Font: (Default) Times New Roman

overall density of the cluster subdivision shall not exceed the density allowed in the zone in which the development is located.

2. Use And Height Regulations: Use and height regulations shall be the same as for the zone in which the cluster subdivision is located.
3. Yard Setbacks: The required yard setbacks of the zone shall be maintained on the perimeter of the cluster subdivision.
4. General Considerations: The cluster subdivision should be compatible with the surrounding land uses, building types and physical features of the site. The planning commission should consider the criteria used in NCC 19.28.
5. Basis For Issuance Of Conditional Use Permit: In addition, the planning commission should consider the following:
 1. Fencing, screening and landscaping both inside and at the perimeter of the site;
 2. The quality, quantity and potential uses of the reserved or dedicated open space land; and
 3. Bulk and location of buildings on the site.
4. Open Space
 1. Required: There shall be permanently reserved within the subdivision for recreation and/or open space, parcels of land whose total area is not less than the amount by which the areas of residential lots are reduced below the minimum area normally required in the zone in which the cluster subdivision is located.
 2. Preservation And Maintenance: Recreation and/or open space areas to be permanently reserved shall be improved, landscaped and maintained in accordance with a plan approved by the planning commission. The developer shall specify how and by whom the reserved open space land will be maintained.
5. Procedure for Approval: A preliminary site plan of the cluster subdivision showing topography, proposed building sites and locations, proposed uses, areas within the subdivision to be permanently reserved for recreation and/or open space, improvements and method of maintenance of such areas shall be presented to the planning commission. The planning commission shall submit its recommendation for approval or denial, together with such modifications necessary to serve the public and ensure integration of the development into the neighborhood, to the city council. The site plan must be approved by the city council before the cluster subdivision proposal becomes a permitted use in the zone in which it is proposed.

[21.12 Infrastructure Improvements](#)

[21.12.010 Compliance Required](#)

[21.12.020 Water Supply](#)

[21.12.030 Sewage Disposal](#)

[21.12.040 Storm Drainage](#)

[21.12.050 Streets](#)

[21.12.060 Blocks](#)

[21.12.070 Lot Layout And Design](#)

[21.12.080 Railroad](#)

[21.12.090 Ditches And Canals](#)

[21.12.100 Safety Fences](#)

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

[21.12.110 Street Signs](#)

[21.12.120 Landscaping](#)

[21.12.130 Monuments/Pins](#)

[21.12.140 Street Lighting](#)

[21.12.150 Protection Strips](#)

[21.12.160 Utilities](#)

21.12.010 Compliance Required

Prior to the release of the mylar, to the subdivider, for recordation and subsequent issuance of building permits by the City, the improvements described in this section shall be completed by the subdivider and approved by the Public Works Director. All improvements described in this title shall meet the standards set forth in the Nibley City Design Standards and Specifications.

In lieu of completion of the infrastructure requirements, surety may be provided as described in [NCC 21.14.010 et seq. herein](#).

HISTORY

Adopted by Ord. No Source on 6/1/1992

21.12.020 Water Supply

All subdivisions shall be required to connect to the Nibley City culinary water system. Subdividers shall, at their own expense, install water mains, fire hydrants and service laterals to each lot within the subdivision in accordance with the Nibley City Design Standards and Specifications. The subdivider must also install the necessary pipeline from the subdivision to the nearest City water line. In addition, the following minimum standards shall apply:

- 4.A. Subdividers shall be required, in all zones, to provide Nibley City with water shares sufficient to serve the culinary needs of the subdivision. The amount required shall be determined by the City Engineer as part of the preliminary plat review.

 1. In calculating the amount of water needed, the City shall follow Utah Administrative Code Rule R309-510: Facility Design Operation: Minimum Sizing Requirements, as may be amended.
- 2.B. In areas where flood irrigation or pressurized irrigation is available, subdividers are encouraged to install a secondary water system, in addition to the required hook-on to the Nibley City culinary system. Subdividers shall notify Nibley City of their intent to install a secondary system at the time the preliminary plat is submitted and shall submit plans for the design and operation of the secondary system. Providing a secondary water system does not relieve subdividers of providing the City with water shares, as outlined in NCC 21.10.020(A). However, the City ~~may shall sell lease back~~ to the owners of the secondary system ~~secondary water such shares~~ as may be needed to support the secondary system. The subdivider shall provide the City with engineered calculations demonstrating the amount of ~~watershares~~ they require to support the secondary system. The cost of the ~~waterlease~~ will be limited to actual costs associated with maintaining the shares, plus a reasonable administrative fee.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 12 pt

Commented [RP40]: Code reference would be good here

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Outline numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Tab after: 0.5" + Indent at: 0.5"

Formatted: Outline numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Tab after: 1" + Indent at: 1"

Formatted: Outline numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Tab after: 0.5" + Indent at: 0.5"

HISTORY

Adopted by Ord. No Source on 6/1/1992

21.12.030 Sewage Disposal

Public sanitary sewer facilities shall be provided for each lot in the subdivision. Where a public sanitary sewer is available within three hundred feet (300') of a subdivision property line, or any part or portion thereof, including the property lines for each individual parcel located within the subdivision, at the time of recording the final plat, the subdivider shall connect with such sanitary sewer and provide sewer mains and extend laterals from the main sewer line to each lot in the subdivision prior to the installation of the road base, surfacing, curbs, gutters and sidewalks.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

HISTORY

Adopted by Ord. No Source on 6/1/1992

Amended by Ord. 2002 Code on 1/1/2002

21.12.040 Storm Drainage

~~4-A.~~ A storm drainage system shall be provided and must meet the approval of the City engineer. This system must be independent of any sanitary sewer system. No ditch or canal shall be approved as suitable for use as storm drainage without the written permission of the appropriate ditch or canal company, and/or the affected water users. If permission is obtained, ditches and canals must be adequately improved to handle such water as might reasonably be expected to flow from normal irrigation and spring water, storm runoff water, and any other water expected to reach such ditch or canal.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Outline numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Tab after: 0.5" + Indent at: 0.5"

Commented [RP41]: It'd be better to use AND or OR, depending on what you want

Formatted: Font: (Default) Times New Roman

~~2-B.~~ Any use of the irrigation canal system owned by the Nibley Blacksmith Fork Irrigation Company (NBFI) for stormwater drainage shall be approved as provided in the Operating Agreement between the City and NBFI dated August 21, 2014, as may be amended.

1. Prior to the approval of a preliminary plat by the ~~Approval Authority, City Council,~~ developer shall present to the NBFI, any and all plans related to the alteration of canals owned and operated by NBFI on the developer's property under consideration for subdivision. Such plans shall include, but not be limited to: relocation of canals on the property, proposed pipe size, location and design of proposed inlet and outlet structures, and calculations demonstrating how the proposed alterations will affect the discharge volume of canals on the property.
2. At the time of presentation of plans to the NBFI, developer shall secure a signed and dated receipt showing the NBFI has received the plans.
3. Within sixty (60) days of receipt of said plans, which shall be calculated from the date on the signed receipt, NBFI shall notify the developer and Nibley City in writing, of having accepted said plans or, by empirical data, demonstrated a sound reasoning for refusing said plans. Failure to contact developer and Nibley City within sixty (60) days shall constitute acceptance of said plans.
4. Once Nibley City has received notification from NBFI, the preliminary plat may be approved by the Nibley City Council. Developer may, at their discretion, choose to seek NBFI approval prior to submittal of the preliminary plat to Nibley City.

Formatted: Outline numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Tab after: 1" + Indent at: 1"

Formatted: Font: (Default) Times New Roman

3-1. Nibley City storm drainage regulations are governed by the State of Utah Construction General Permit. (CGP) and the Nibley City Municipal Separate Storm Sewer System (MS4). All plans related to storm drainage, including but not limited to, a Stormwater Pollution Prevention Plan, shall be designed and constructed in accordance with the CGP, ~~and the MS4, and as well as~~ the Nibley City Design Standards and Specifications.

4-C. The City encourages developers to utilize Low Impact Development (LID) techniques in developing their plan(s) for storm drainage. Prior to approval of any LID techniques, the developer must be able to demonstrate how such techniques will satisfy the subdivision's storm drainage needs. Any LID technique must be approved by the City Engineer.

5-D. At the time a subdivider intends to record a plat for a subdivision, or for a phase thereof, the subdivider shall submit for review and approval, a stormwater pollution prevention plan (SWPPP), which shall meet the standards and requirements of the State of Utah Construction General Permit, the Nibley City MS4, and such other federal, state and local regulations regarding stormwater as may be in effect at the time of such submittal.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman
Formatted: Outline numbered + Level: 1 + Numbering
Style: A, B, C, ... + Start at: 1 + Alignment: Left +
Aligned at: 0.25" + Tab after: 0.5" + Indent at: 0.5"

Commented [RP42]: I don't think this is defined anywhere

Formatted: Font: (Default) Times New Roman

HISTORY

Adopted by Ord. No Source on 6/1/1992

21.12.050 Streets

4-A. Street Design: Subdividers shall locate streets within the subdivision so that streets will connect with existing streets. Streets shall be located and designed so that the adjoining land shall not be diminished in value. If the adjoining land is zoned for residential use, streets shall be located so that the adjacent land may be efficiently subdivided.

Half streets (completed only to centerline) are allowed only when the City engineer has reviewed the proposed half street design and can attest that public safety issues have been satisfied. A minimum of twenty feet (20') of asphalt shall be required on all half streets.

2-B. Streets To Conform To Transportation Master Plan: Subdividers shall provide all Arterial and collector streets as described in shall conform to the Transportation Master plan, including providing temporary dead-end streets as necessary. Whenever a subdivision is in an area for which a major or collector street plan has not been adopted, major or collector streets shall be provided as determined by staff and the City engineer.

3-C. Minimum Street Widths: ~~The minimum street widths shall be:~~

1. The neighborhood street may be used in areas that would not generally be considered a through street or a street that would carry significant amounts of traffic other than that generated on that street. A cul-de-sac may be a neighborhood street.

2. ~~All sidewalks shall be a minimum of five feet (5') in width. Planting strips shall be at least seven feet (7') in width.~~

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Outline numbered + Level: 1 + Numbering
Style: A, B, C, ... + Start at: 1 + Alignment: Left +
Aligned at: 0.25" + Tab after: 0.5" + Indent at: 0.5"

Formatted: Font: (Default) Times New Roman

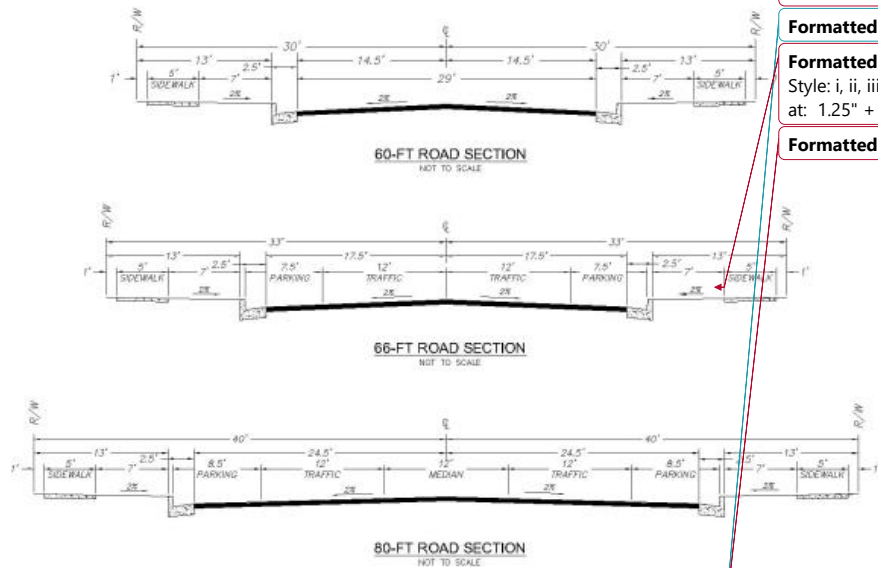
Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Outline numbered + Level: 2 + Numbering
Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned
at: 0.75" + Tab after: 1" + Indent at: 1"

3.2. The design of road types shall be in accordance with the Nibley City Design Standards and Specifications, and as follows:



i.

To view larger image, please click here:

<https://s3-us-west-2.amazonaws.com/municipalcodeonline.com/new/nibley/ordinances/files/NibleyRoadSections.jpg>

3. Street Width Requirements For Small Acreage Parcels On Cul-De-Sacs: The following shall serve as street width requirements for development of small acreage parcels using a cul-de-sac as the only access to the development:
4. Private roads are allowed for areas of three (3) lots or less. The cross section of the road shall include: twenty feet (20') of asphalt, two feet (2') of shoulder on each side and four (4) to six feet (6') (each side) for stormwater swale. These roads shall be built to the standards of the Nibley City Design Standards and Specifications and shall include five foot (5') sidewalks where required by City ordinance.
5. Developments of four (4) to seven (7) lots shall have a publicly dedicated roadway with a fifty foot (50') cross section as follows: twenty five feet (25') of asphalt, and the following on each side of the road: 2.5 feet of curb and gutter, four feet (4') of planting strip, five foot (5') sidewalk and one foot (1') strip to property line. These roads shall be built to the standards of the Nibley City Design Standards and Specifications.

Formatted: Outline numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Tab after: 1" + Indent at: 1"

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Outline numbered + Level: 3 + Numbering Style: i, ii, iii, ... + Start at: 1 + Alignment: Left + Aligned at: 1.25" + Tab after: 1.5" + Indent at: 1.5"

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Outline numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Tab after: 1" + Indent at: 1"

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Commented [RP43]: This may impact the minor subdivision procedure. Minor subdivisions can't be approved if they have to dedicate land for public roads, but are theoretically allowed to develop up to 5 lots. But this says if you have 4 or more lots, you have to make a public dedication. It may be good to align those requirements

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

6. All other developments shall have roadways that conform to this section.

- 4-D. Curb, Gutter And Sidewalks: The subdivider shall be required to install curb and gutter on all new and existing streets within or adjoining the proposed subdivision.
1. Sidewalks are required in all ~~arear~~areas of new development.
 2. The above requirements may be waived in rural estate and agricultural zones, if it is felt that curb, gutter and sidewalks would detract from the rural setting of the subdivision.
 3. The requirement for curb and gutter on existing streets may be waived only if future changes to the street are anticipated that would make the installation of curb and gutter unwise. In such cases, the Planning and Zoning Commission may require that the subdivider pay to the city a sum equal to the best estimate of the cost of the improvements not installed to allow sufficient funds to later complete the improvements. Any such proceeds shall be placed in the street capital improvement fund.
 4. Alternate curb and gutter cross sections may be proposed as part of Low Impact Development (LID) practices. Proposed alternates shall be in compliance with Nibley City Design Standards and Specifications and shall include design drawings and engineering calculations showing the effectiveness of the proposed LID technique. Proposed alternates shall be reviewed and approved by the City Engineer and Public Works Director.

Formatted: Outline numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Tab after: 0.5" + Indent at: 0.5"

Formatted: Outline numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Tab after: 1" + Indent at: 1"

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

~~5. Cul-De-Sacs: Cul-de-sacs shall not exceed one-eighth (1/8) mile in length, except in R-E zones where they shall not exceed one-fourth (1/4) mile in length. Each cul-de-sac must be terminated by a turnaround with a radius of at least sixty feet (60'). If surface water drainage runs into the turnaround due to the grade of the street, necessary catch basins and drainage easements shall be provided. Where a street is designed to remain only temporarily as a dead end street, an adequate temporary turning area shall be provided at the dead end street. It shall remain and be available to the public so long as the dead end exists.~~

- ~~1. The subdivider shall provide a pedestrian ROW as outlined below linking the cul-de-sac to the nearest adjacent public ROW unless expressly prohibited by conflict with previously developed subdivisions or land uses.~~
- ~~2. In the event that this provision requires a trail that terminates adjacent to a compatible or undeveloped land use, viz. agriculture or undeveloped subdivision, the ROW and sidewalk shall be provided to the subdivision property line. Upon development of the adjacent land, the sidewalk and ROW shall be continued from that point through the new subdivision to the nearest public trail or street.~~
- ~~3. All pedestrian ROWs shall be designed for compliance with the Transportation Master plan to maximize non-motorized transportation network efficiency.~~
- ~~4. The right-of-way shall consist of a minimum 5' sidewalk and a minimum 7.5' landscaped area on each side of the sidewalk. The Developer shall submit a compliant Landscaping Plan to the City for approval. The ROW shall be dedicated to the City upon completion and acceptance by the Public Works Director.~~

6. ~~Alleys: Alleys may be required in the rear of business lots, but will not be accepted in residential blocks except under unusual conditions where such alleys are considered necessary by the planning commission.~~
7. ~~Street Width Requirements For Small Acreage Parcels On Cul-De-Sacs: The following shall serve as street width requirements for development of small acreage parcels using a cul-de-sac as the only access to the development:~~
 1. ~~Private roads are allowed for areas of three (3) lots or less. The cross section of the road shall include: twenty feet (20') of asphalt, two feet (2') of shoulder on each side and four (4) to six feet (6') (each side) for stormwater swale. These roads shall be built to the standards of the Nibley City design standards and specifications and shall include five foot (5') sidewalks where required by City ordinance.~~
 2. ~~Developments of four (4) to seven (7) lots shall have a publicly dedicated roadway with a fifty foot (50') cross section as follows: twenty five feet (25') of asphalt, and the following on each side of the road: 2.5 feet of curb and gutter, four feet (4') of planting strip, five foot (5') sidewalk and one foot (1') strip to property line. These roads shall be built to the standards of the Nibley City design standards and specifications.~~
 3. ~~All other developments shall have roadways that conform to this section.~~
8. ~~Flag Lots~~
 1. ~~A lot meeting the minimum size requirement for the underlying zone but which lacks the required minimum frontage may be approved by the Planning Commission for a building permit, provided the following conditions are met:~~
 1. ~~A paved driving surface of not less than twenty feet (20') with six inches (6") minimum crushed gravel base and a three foot (3') drainage on one side.~~
 1. ~~The driving surface shall be paved entirely from the point where the stem of the flag lot meets the publicly dedicated road to the point where the stem of the flag lot meets the flag portion of the lot, except in the case of the R-E zone, where the driving surface shall be paved for the first fifty feet (50') from point where the stem of the flag lot meets the publicly dedicated road.~~
 2. ~~A turnaround per the international fire code standard.~~
 1. ~~Prior to the Planning Commission's approval of the building permit, the applicant shall submit plans for the turnaround to the local fire protection agency and shall receive the agency's approval for the turnaround.~~
 3. ~~A stormwater pollution prevention plan shall be submitted, demonstrating how any dust, erosion or sediment problems which may result will be eliminated.~~
 4. ~~The flag lot shall not be created as part of a subdivision proposed under this ordinance.~~
 5. ~~The flag portion of the lot shall meet the size requirement of the underlying zone, regardless of the size of the flag stem portion of the lot.~~
 6. ~~All other requirements of the underlying zone which may be outlined in Nibley City Code or in the Nibley City Design Standards & Specifications;~~

including, but not limited to: maximum grade, building height, setback, etc., shall be observed.

4. Setback shall be calculated from the point where the stem of the flag lot meets the flag portion of the lot.
7. All accesses to flag lots, regardless of the underlying zone, shall be maintained as private accesses and the responsibility for maintenance of the same shall lie with those property owners who may utilize said access to access their respective properties.
8. Owners of a flag lot shall grant to Nibley City a permanent, recorded easement along the full width of the access allowing for emergency vehicle access and also for City inspection.
9. All utilities running the length of the flag stem which service the home on the flag lot shall be owned and maintained by the owners of the flag lot.
10. Approved flag lot accesses shall be for single lot access only.
11. The Planning Commission may impose such other conditions as they deem necessary and proper.

HISTORY

Adopted by Ord. No Source on 6/1/1992

Amended by Ord. 2002 Code on 1/1/2002

Amended by Ord. 03-04 on 3/6/2003

Amended by Ord. 06-08 on 8/3/2006

Amended by Ord. 07-13 on 9/6/2007

Amended by Ord. 17-02 on 1/19/2017

21.12.060 Connectivity, Blocks, and Trail Standards

A. Block Length is defined as the distance along any given road frontage between two intersections with three or more connecting links. Links that connect into a cul-de-sac shall not be considered the termination point of a block length.

1. Blocks shall not be longer than one thousand six hundred feet (1,600'). Blocks intended for business or industrial use shall be designed specifically for such purposes with adequate space set aside for off street parking and delivery facilities.

B. Cul-de-sac: Cul-de-sacs shall not exceed one-eighth (1/8) mile in length, except in R-E zones where they shall not exceed one-fourth (1/4) mile in length. If surface water drainage runs into the turnaround due to the grade of the street, necessary catch basins and drainage easements shall be provided. Where a street is designed to remain only temporarily as a dead end street, an adequate temporary turning area shall be provided at the dead end street. It shall remain and be available to the public so long as the dead end exists.

1. The subdivider shall provide a pedestrian ROW as outlined below linking the cul-de-sac to the nearest adjacent public ROW, park, or school unless expressly prohibited by conflict with previously developed subdivisions or land uses.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Commented [SN44]: Add Pictures Clarify with how that is defined, and that cul-de-sac does not count toward block length.

Formatted: Font: Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman

Formatted

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman

Formatted: Indent: Left: 0.5", No bullets or

Formatted: Outline numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Tab after: 1" + Indent at: 1"

Formatted: Font: (Default) Times New Roman

2. In the event that this provision requires a trail that terminates adjacent to a compatible or undeveloped land use, viz. agriculture or undeveloped subdivision, the ROW and sidewalk shall be provided to the subdivision property line. Upon development of the adjacent land, the sidewalk and ROW shall be continued from that point through the new subdivision to the nearest public trail or street.
3. All pedestrian ROWs shall be designed for compliance with the Transportation Master Plan to maximize non-motorized transportation network efficiency.
4. The right-of-way shall consist of a minimum 8' sidewalk. The Developer shall install fencing that complies with Nibley City fencing code on each side of the right-of-way. The ROW shall be dedicated to the City upon completion and acceptance by the Public Works Director.
- C. Alleys: Alleys may be required in the rear of business lots, but will not be accepted in residential blocks except under unusual conditions where such alleys are considered necessary by the planning commission.
- D. Access Roads
1. Subdividers shall provide sufficient access to the development from an established public road or street. Subdivision of 30 lots or more shall provide two functioning access roads that comply with Nibley City street standards
2. Access Roads outside of development: If a developer cannot provide sufficient access to a development with adjacent roads, the developer shall construct access road(s) from an improved public road. Access roads shall be a minimum of 22' asphalt and provide a sidewalk built to City Standards. Sidewalks and roads shall be built to Nibley City Design Standards and Specifications and shall be placed as close to where full roadway shall be built in the future. Sufficient stormwater drainage shall be provided for each access road.
- E. Traffic Calming
1. In developments that contain arterial or collector roadways, developer must provide traffic calming features, as described in Nibley City's Transportation Master Plan, at each entrance/exit of the development along the arterial or collector road. Each traffic calming feature shall be designed to meet projected traffic levels and speeds. Traffic calming features must be approved by the City Engineer.
- F. Trails, Bicycles, and Pedestrian Connectivity
1. Trails, bike paths, and horse trails shall be provided by the Developer in accordance with the City Trails Master Plan and where otherwise necessary as determined by the Approval Authority. Trails should connect traffic generators such as schools, recreation facilities, commercial areas, parks, future and existing city trails and other significant natural features. Such trails shall be built to City specifications and easements shall be dedicated for such trails. The trails shall be constructed with the accompanying phase and development, unless the Approval Authority determines otherwise.
2. Bicycle lanes and facilities shall be added to roads and trails according to Nibley Design Standards, Transportation Master Plan and Trails Master Plan.
3. Blocks longer than 660 feet shall provide a pedestrian ROW at minimum 660-foot intervals as outlined below linking the block to the nearest adjacent public or

Formatted: Font: (Default) Times New Roman

Commented [SN45]: How do we prevent hidden spaces.

Formatted: Font: (Default) Times New Roman

Formatted: Outline numbered + Level: 1 + Numbering
Style: A, B, C, ... + Start at: 1 + Alignment: Left +
Aligned at: 0.25" + Tab after: 0.5" + Indent at: 0.5"

Formatted: Font: (Default) Times New Roman, 12 pt

Commented [SN46]: Reword and/or provide drawing.

Formatted: Font: Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted

Formatted: Font: Times New Roman, 12 pt

Formatted: Font: Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt,
Font color: Black

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt,
Font color: Black

Formatted: Font: (Default) Times New Roman, 12 pt

private street, cul-de-sac, park, school, or City trail unless expressly prohibited by conflict with previously developed subdivisions or land uses.

i. In the event that this provision requires a trail that terminates adjacent to a compatible or undeveloped land use, viz. agriculture or undeveloped subdivision, the ROW and sidewalk shall be provided to the subdivision property line. Upon development of the adjacent land, the sidewalk and ROW shall be continued from that point through the new subdivision to the nearest public trail or street. The right-of-way shall consist of a minimum 8' sidewalk. The Developer shall install fencing that complies with Nibley City fencing code on each side of the right-of-way.

ii. In the event that this provision requires a trail that terminates adjacent to a compatible or undeveloped land use, viz. agriculture or undeveloped subdivision, the ROW and sidewalk shall be provided to the subdivision property line. Upon development of the adjacent land, the sidewalk and ROW shall be continued from that point through the new subdivision to the nearest public trail or street.

iii. The Approval Authority may make an exception to the requirements if the block street makes a 90 degree connecting turn towards an exciting ROWs.

4. All pedestrian ROWs shall be designed for compliance with the Transportation Masterplan and Trails Master Plan to maximize non-motorized transportation network efficiency.

Road segments longer than 660 feet shall provide a pedestrian ROW at minimum 660 foot intervals as outlined below linking the block to the nearest adjacent public or private street or cul-de-sac unless expressly prohibited by conflict with previously developed subdivisions or land uses.

In the event that this provision requires a trail that terminates adjacent to a compatible or undeveloped land use, viz. agriculture or undeveloped subdivision, the ROW and sidewalk shall be provided to the subdivision property line. Upon development of the adjacent land, the sidewalk and ROW shall be continued from that point through the new subdivision to the nearest public trail or street.

All pedestrian ROWs shall be designed for compliance with the Transportation Masterplan to maximize non-motorized transportation network efficiency.

The right of way shall consist of a minimum 5' sidewalk and a minimum 7.5' landscaped area on each side of the sidewalk. The Developer shall submit a compliant Landscaping Plan to the City for approval. The ROW shall be dedicated to the City upon completion and acceptance by the Public Works Director.

HISTORY

Adopted by Ord. No Source on 6/1/1992

Formatted

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Indent: Left: 1", No bullets or numbering

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman

21.12.070 Lot Layout And Design

- ~~4-A.~~ Standards: All lots shown on the subdivision plan shall conform to the minimum requirements of the zoning title for the zone in which the subdivision is located, and to the minimum requirements of the Nibley City Design Standards and Specifications.
- ~~2-B.~~ Street Access: All lots shall abut a dedicated public street, a private street or a street which has become a public right of way or right of use. In the event a lot abuts a public right of way created by use, the subdivider is responsible for demonstrating and proving to the City's satisfaction that the right of way has been dedicated to public use and shall improve the right of way to the standards required by this title.
- ~~3-C.~~ Lot Arrangement: The lot arrangement and design shall be based on the following criteria: provide satisfactory and desirable sites for buildings, be properly related to topography, to the character of surrounding developments and to existing requirements.
- ~~4-D.~~ Lot Remnants: All remnants of lots less than minimum size left over after subdividing a larger tract shall be added to adjacent lots rather than be allowed to remain lot remnants.
- ~~5-E.~~ Undeveloped Lots: Undeveloped lots shall be kept free of trash, weeds, abandoned automobiles, machinery and other unsanitary, unsightly or unsafe material.
- ~~6-F.~~ Lot Ownership: Where the land in a subdivision includes two (2) or more parcels in separate ownership and the lot arrangement is such that a property ownership line divides one or more lots, the land in each lot so divided shall be held in either single or joint ownership before approval of the final plan and such ownership shall be recorded in the office of the county recorder.

HISTORY

Adopted by Ord. No Source on 6/1/1992

21.12.080 Railroad

- A. Where the proposed subdivision contains or is adjacent to a railroad right of way, provision shall be made for either:
1. A street approximately parallel to and on each side of such right of way; or
 2. A buffer planting strip of trees and/or shrubs at least ten feet (10') in width.
 3. A six foot (6') fence running the length of the property adjacent to the railroad right-of-way.
- B. Any plan for improvement along the railroad right-of-way shall include a description of who will be responsible for maintenance of the improvements.

HISTORY

Adopted by Ord. No Source on 6/1/1992

21.12.90 ~~21.12.090 Ditches, And~~ Canals and Conveyance

- A. Open ditches or canals are prohibited within or adjoining a subdivision except along rear or side lot lines or through permanently reserved open space. Subdividers may also be required to pipe any ditches and canals on the property. Subdividers shall coordinate any improvements to canals with the affected canal company, as stated herein.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Outline numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Tab after: 0.5" + Indent at: 0.5"

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Outline numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Tab after: 0.5" + Indent at: 0.5"

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Outline numbered + Level: 3 + Numbering Style: 01, 02, 03, ... + Start at: 90 + Alignment: Left + Aligned at: 0" + Indent at: 0.74"

Formatted: Font: (Default) Times New Roman

B. Each subdivision must comply with the provision of NCC 19.24.230 Preserving Safety And Maintenance of Conveyance

Formatted: Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

HISTORY

Adopted by Ord. No Source on 6/1/1992

21.12.100 Safety Fences

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Subdividers may be required to install a six foot (6'), nonclimbable chainlink fence, or its equivalent, along railroad rights of way, ditches and canals or streets.

HISTORY

Adopted by Ord. 02-11 on 10/17/2002

21.12.110 Street Signs

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

The subdivider shall be required to pay for the installation of all necessary street signs. Fees for such shall be assessed as part of the subdivision fee schedule.

HISTORY

Adopted by Ord. No Source on 6/1/1992

21.12.120 Landscaping

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

In compliance with the State of Utah Construction General Permit, subdividers shall provide ground cover where it is determined that soil erosion may be a problem, that surface water may flood portions of the City or damage City property, to prevent the growth of noxious weeds which may become a nuisance or fire hazard or endanger the public health and may specify the types of ground cover.

HISTORY

Adopted by Ord. No Source on 6/1/1992

21.12.130 Monuments/Pins

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

4-A. Permanent monuments shall be accurately set and established at such points as are necessary to definitely establish all lines of the plat except those outlining individual lots. All subdivision plats shall be tied to a corner or monument of record.

2-B. Property lines outlining individual lots shall be established by setting pins in the curb, as detailed in the Nibley City Design Standards and Specifications.

Formatted: Outline numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Tab after: 0.5" + Indent at: 0.5"

HISTORY

Adopted by Ord. No Source on 6/1/1992

21.12.140 Street Lighting

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Streetlights shall be required every five hundred feet (500') throughout the subdivision, at every street intersection and at the back of each cul-de-sac. Street lights shall comply with Nibley City standards.

HISTORY

Adopted by Ord. No Source on 6/1/1992

21.12.150 ~~21.12.150 P~~Protection Strips

~~4-A.~~ A. Where subdivision streets parallel contiguous property of other owners, the subdivider may, upon approval of the City Council, retain a protection strip not less than one foot (1') in width between the street and adjacent property. The protection strip shall be subject to the following provisions:

1. An agreement shall be made between the subdivider and the City whereby the subdivider shall deed the protection strip to the City at the end of six (6) years; said deed shall not be recorded until the end of the six (6) year period;
2. The agreement will provide for the reimbursement to the subdivider for the fair cost of land in the protection strip and the street improvements and other infrastructure properly chargeable to the adjacent property owner;
3. The subdivider shall agree to pay the costs associated with the agreement (engineering review, attorney fees, etc).

~~2-B.~~ B. Time for determining the six (6) year period shall be determined from the time the subdivider receives notice that the improvements of his property are substantially complete and usable.

~~3-C.~~ C. At the time that the adjacent property is proposed for development, as a condition of approval, the property owner shall pay to the City the full cost of the improvements initially installed by the first subdivider, which are chargeable to the owner of the adjacent property.

~~4-D.~~ D. Protection strips shall not be permitted at the end of streets.

Commented [SN47]: Do we still need this section?

Commented [RP48]: I am not clear on the purpose of this

Formatted: Font: (Default) Times New Roman

Formatted: Font: Times New Roman, 12 pt

Formatted: Outline numbered + Level: 3 + Numbering Style: 01, 02, 03, ... + Start at: 150 + Alignment: Left + Aligned at: 0" + Indent at: 0.74"

Formatted: Font: (Default) Times New Roman

Formatted: Outline numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Tab after: 0.5" + Indent at: 0.5"

Formatted: Outline numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Tab after: 1" + Indent at: 1"

Formatted: Outline numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Tab after: 0.5" + Indent at: 0.5"

HISTORY

Adopted by Ord. 03-00 on 3/2/2000

21.12.160 Utilities

All utilities shall be installed underground. In addition to infrastructure for utilities proposed as part of the subdivision, Developers shall install conduit for future utilities, as outlined in the Nibley City Standards and Specifications.

21.14 Inspection And Guarantee Of Work

21.14.010 Effect

21.14.020 Definitions

21.14.030 Inspections

21.14.040 Building Permit Issuance

21.14.050 Guarantee Of Work

21.14.060 Guarantee Of Improvements

21.14.070 Form And Method Of Guarantee Of Improvements

21.14.010 Effect

The provisions contained in this section shall apply to all subdivisions and, in the event that a developer chooses to phase their subdivision, to each phase of the subdivision.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

21.14.020 Definitions

- A. The following definitions are used in this section relating to the guarantee of improvements in subdivisions.
- 4-B. Acceptance Inspection: An inspection of the completed subdivision improvements conducted by the Public Works Director to determine completion status of all required improvements for a subdivision, or a specific phase thereof. Once the improvements are complete, the Public Works Director shall issue an Improvements Completion and Acceptance Report stating such and accepts the improvements on behalf of Nibley City.
- 2-C. Cost Estimate of Improvements: The subdivider's estimate (~~normally done by the developer's engineer and verified by the City Engineer~~) of the costs of all work to be done to complete subdivision improvements required in accordance with the subdivision's approved construction drawings. The cost estimate is used to determine the amounts of the ~~Improvements Bond~~Improvement Completion Assurance~~Improvement Completion Assurance~~ for the subdivision. The Cost Estimate of Improvements or actual cost of the improvements is used to establish the amount of the Warranty Bond.
- 3-D. Final Inspection: An inspection of the completed subdivision improvements conducted by the Public Works Director after the one-year Guarantee Period for the subdivision improvements to determine if the improvements are free from material defects or workmanship for the Guarantee Period.
- 4-E. Guaranty Period: The period (normally one year) following the completion and acceptance by the City of all subdivision improvements during which time the subdivider is responsible to ensure, by a Warranty Bond, that the improvements are free of material defect or workmanship.
- 5-F. ~~Improvements~~Improvement Completion Assurance~~Bond~~: The legal/financial instrument by which the subdivider of the subdivision guarantees to the City, and to the purchasers of the various lots within the subdivision, that all of the subdivision improvements required in accordance with the subdivision's approved development plan are completed. Improvement Completion Assurance must comply with all aspect of this Title and State law.
- 6-G. Improvements Completion and Acceptance Report: A report issued by the Public Works Director stating the findings of the Acceptance Inspection and acknowledging the City's acceptance of the subdivision improvements.
- 7-H. Notice to Proceed: The written notification by the City (issued by the Public Works Director, after consultation with the City Planner), to the subdivider that work may commence on the subdivision improvements.
- 8-I. Partial Acceptance Inspection: Periodic inspections by the Public Works Director throughout the construction of the subdivision improvements to determine if the work is being done properly. These inspections may be done during each of "Parts 1, 2 and 3", as defined herein, in order to release portions of the Improvement Completion Assurance~~Improvements Bond~~Improvement Completion Assurance~~Improvement Completion Assurance~~ to the subdivider.
- 9-J. Parts 1, 2 and 3: A list and grouping of tasks within the total work requirements for a subdivision which divides and sequences the project. This is done in order to provide

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Outline numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Tab after: 0.5" + Indent at: 0.5"

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

points at which inspections shall be done and partial releases made, thus ensuring work is completed in a logical manner. Each of the parts is as follows:

1. Part 1: Installation of underground utilities and stormwater structures.
2. Part 2: Construction of open space amenities and roads, minus asphalt, to the point that they provide access to the individual building lots.
3. Part 3: Asphalt roads and construction of the sidewalks.
4. Any exceptions to Parts 1, 2 and 3 must be approved by the City Engineer and the Public Works Director and shall be incorporated into the subdivision's Development Agreement. No certificates of occupancy for individual building lots shall be issued until the inspection and acceptance of Part 3.

Formatted: Outline numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Tab after: 1" + Indent at: 1"

40-K. Pre-Construction Meeting: A meeting held prior to any construction being started for the subdivision, or each phase thereof, in which appropriate City staff members and the subdivider, his general contractor and any other associates of the subdivider directly related to the subdivision, meet together to discuss the project.

Formatted: Outline numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Tab after: 0.5" + Indent at: 0.5"

44-L. Public Works Director: The Public Works Director for Nibley City, or his designated representative.

42-M. Subdivision Development Agreement: An agreement between the subdivider and Nibley City relative to the specific subdivision subdivider is proposing whereby the subdivider agrees to construct all improvements in the subdivision in accordance with the Nibley City Design Standards and Specifications and an estimated schedule, and the City agrees to allow for building permits to be issued within the subdivision at an agreed upon point in the construction process, typically after the completion of Parts 1 and 2.

Commented [RP49]: It's worth reconsidering the need for development agreements. Generally, I've found that you only want agreements when the developer wants some special exception or favor beyond the normal standards, and the City is willing to grant it in exchange for certain benefits. A development agreement that just reiterates that both sides will follow the requirements and standards of Utah Code and City Code doesn't really add much except more administration. However, you would need to adopt a fee/water share schedule so that doesn't need to be done by agreement.

43-N. Warranty Bond: The legal/financial instrument by which the subdivider warrants to the City, and to the purchasers of various lots within the subdivision, that all of the subdivision improvements are free of defective materials or workmanship for one-year following the City's issuance of the Improvements Completion and Acceptance Report. The amount of the warranty bond is equal to ten percent (10%) of the actual cost of making the subdivision improvements.

Formatted: Font: (Default) Times New Roman

Commented [SN50]: This is not currently within out development agreements.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

21.14.030 Inspections

A. All construction work involving the installation of improvements in subdivisions shall be subject to inspection by Nibley City. The appropriate person or agencies of the City shall inspect or cause to be inspected in the course of construction, installation, or repair, any infrastructure outlined in approved construction drawings, including, but not limited to: roadways, curb, gutter, sidewalk, trails, landscaping, stormwater facilities and piping, sewer and water systems. Any underground utilities which may be publicly owned shall not be covered until such installations shall have been inspected by the Public Works Director or other authorized City inspector. Certain types of construction shall have continuous inspection, with no work being done except in the presence of the inspector or with the specific approval from the inspector allowing the work to continue in his absence. Partial Acceptance Inspections shall be made as needed in order to evaluate the completion of Parts 1, 2 or 3 and to allow for the partial release of the Improvements Bond/Improvement Completion Assurance/Improvement Completion Assurance.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Commented [RP51]: How has this worked for you? It seems like it may be more administration to have someone there continuously rather than inspecting after the work is done.

1. Continuous Inspection. Continuous inspection shall be required on the following types of work:

Formatted: Font: (Default) Times New Roman

- i. Laying of street surfacing
 - ii. Pouring of concrete for curb and gutter, sidewalks and other structures
 - iii. Installation of infrastructure related to sewer, stormwater and culinary water systems
 - iv. Acceptance testing
 - v. Direct connections to existing sewer, stormwater and culinary water systems.
2. Periodic Inspection. Periodic inspection shall be required on the following:
 - i. Street grading and gravel base
 - ii. Excavations for curb, gutter and sidewalks
 - iii. Excavations for structures
 - iv. Forms for concrete for curb and gutter, sidewalks and structures
 - v. Required improvements to or reclamation of open spaces or any common areas.
3. Requests for Inspection. Requests for inspection shall be made to the municipality by the person responsible for the construction. Requests for inspection on work requiring continuous inspection shall be made at least three (3) days prior to commencing the work. Requests for inspection on work requiring periodic inspection shall be made at least one (1) day prior to commencing the work.
4. Acceptance Inspection. Upon the request of the subdivider, an Acceptance Inspection shall be made by the Public Works Director or their designee after all construction work is completed. Any faulty or defective work shall be corrected by the persons responsible for the work within a period of thirty (30) days of the date the Public Works Director or their designee issues an inspection report defining the faulty or defective work. Upon satisfactory completion of all improvements, allowing for minor "punch list" items, the Public Works Director shall issue to the subdivider an Improvements Completion and Acceptance Report. The warranty period shall begin once the Improvements Completion and Acceptance Report has been issued by the Public Works Director.
5. Whenever, in the judgment of the Public Works Director, the subdivision improvements cannot be seen, tested, or otherwise properly inspected, such as when the area is covered with snow, he may postpone and/or delay inspection of the subdivision improvements, including the Acceptance Inspection, until such time as the improvements requiring inspection can be appropriately seen/tested/inspected.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

21.14.040 Building Permit Issuance

Formatted: Font: (Default) Times New Roman

No building permit for construction of any building on any lot within a subdivision shall be issued until after:

Formatted: Font: (Default) Times New Roman

1. All improvements required by Parts 1 and 2 are completed or the subdivider has executed a Subdivision Development Agreement with the City setting forth a schedule to complete all required improvements prior to the issuance of any building permit; and
2. An ~~Improvements Bond~~Improvement Completion Assurance~~Improvement Completion Assurance~~ is in place, pursuant to this ~~title~~section.

Formatted: Font: (Default) Times New Roman

21.14.050 Guarantee Of Work

The subdivider shall warrant and guarantee that ~~the improvements~~the improvements provided for hereunder, and every part thereof, will be completed to the satisfaction of the City and thereafter remain in good condition by providing the assurances described hereunder, for the subdivision and for each phase thereof, as applicable.

1. Financial Guaranty

1. Improvements ~~Bond~~Improvement Completion Assurance. The subdivider shall provide an ~~Improvements~~Improvement Completion Assurance~~Bond~~ stating that 100% of all agreed upon improvements ~~shall be~~ completed in accordance with the Subdivision Development Agreement and this ordinance. The work covered by this guaranty shall begin with the Notice to Proceed for the subdivision and shall end with the issuance of an Improvements Completion and Acceptance Report by the Public Works Director whereby the improvements are accepted by the City. No specific time period is associated with the ~~Improvements~~Improvement Completion Assurance~~Bond~~. It must remain in place until the issuance of the Improvements Completion and Acceptance Report by the PUBLIC WORKS DIRECTOR and the Warranty Bond has been provided.
2. Warranty Bond. The Warranty Bond shall ensure that the improvements constructed are free from defective material or workmanship for a period of one year following the date of the Improvements Completion and Acceptance Report issued by the Public Works Director ("Guaranty Period"). This Warranty Bond shall be filed with the Public Works Director and shall secure the subdivider's agreement to make all repairs to and maintain the improvements and every part thereof in good condition during that time, with no cost to the City. The City reserves the right, as appropriate, to extend the Guaranty Period to a period of two (2) years following the date of the Improvements Completion and Acceptance Report~~ICAR~~ issued by the Public Works Director, in accordance with the provisions of Utah Code § 10-9a-604.5, as amended.

2. Repair of Work

1. The Public Works Director shall determine when repairs or maintenance are required for improvements which have not been accepted by the City, or for improvements which have been accepted by the City, based on the ~~ICAR~~Improvements Completion and Acceptance Report, but which are not free of defective materials or workmanship for the one (1) year Guaranty Period. Unless unreasonable, arbitrary or capricious, the Public Works Director's decision shall be binding on the subdivider. Required repairs or maintenance to improvements may extend to, but is not limited to, the street base, and all pipes, joints, valves, backfill and compaction, as well as the working surface, curbs, gutters, sidewalks and other accessories which are or may be affected by the construction operations.
2. Whenever, in the judgment of the Public Works Director, the work needs repair, maintenance or rebuilding, he shall cause a written notice to be served on the subdivider and thereupon, the subdivider shall undertake and complete such repairs, maintenance or rebuilding. If the subdivider fails to do so within thirty

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

(30) days from the date of the service of such notice, the Public Works Director may have such repairs made and the costs of such repairs shall be charged to the subdivider with an additional twenty-five percent (25%) of the cost of the repairs levied for stipulated damages resulting from such failure on the part of the subdivider to make the repairs.

21.14.060 Guarantee Of Improvements

Prior to the recording of the Final Plat, whereafter lots may be sold, and before the issuance of any building permit within the subdivision, the subdivider shall guarantee, by an ~~Improvements Bond~~Improvement Completion Assurance, the installation and construction of any payment for the required improvements. Prior to the City's acceptance of the improvements and the final release of the ~~Improvements Bond~~Improvement Completion Assurance, the subdivider shall guarantee, by a Warranty Bond, that the improvements shall be maintained in a state of good repair, free from defective material or workmanship for the Guaranty Period. The provisions of both such guarantees, regardless of form, shall be as approved by the Public Works Director as to the amount of the bond and as approved by the City Attorney as to the form of the guarantee and shall provide for the following:

1. The ~~Improvements-Bond~~Improvement Completion Assurance shall be in an amount equal to one hundred ~~ten~~ percent (~~10+10~~%) of the cost of all improvements as estimated by the subdivider and verified by the City Engineer. The estimated improvements costs shall include only those costs for which the subdivider is responsible including the installation and construction of, and payment for such improvements within the time period required by the City, and based on the circumstances of each subdivision and set forth in an agreement between the City and subdivider. The estimated cost upon which the ~~Improvements Security Bond~~ is based shall not include the subdivision processing fees, the fee for the initial seal coat application for roads built as part of the subdivision, or any improvements for which the subdivider has no responsibility such as those improvements to be done at another time, those to be done by the City or other entity, or as otherwise agreed upon in the process of approving the subdivision.
2. The subdivider shall have the right to partial release(s) against the ~~Improvements Improvement Completion Assurance Bond~~ with the municipality providing however that a sum equal to ten percent (10%) of the estimated costs of all improvements installed in the subdivision shall remain with the municipality until after the issuance of an "Improvements Completion and Acceptance Report" by the City Engineer and the Warrantee Bond has been provided. The subdivider must show evidence of payment of all costs for the improvements and show that the lots and the improvements thereto are free from any liens before any release (partial or full) of funds from the ~~Improvements Bond~~Improvement Completion Assurance. The City Engineer may release a portion of this remaining part of the ~~Improvement Bond~~Improvement Completion Assurance (meaning the 10% above the estimated costs of all the improvements) if, in his opinion, there remains encumbered a sufficient amount of the ~~Improvement Bond~~Improvement Completion Assurance to ensure the completion of the required subdivision improvements. The Warrantee Bond provided to the City is to

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Commented [RP52]: Utah Code speaks generally about posting an assurance that "provides for completion of 100% of the required landscaping or infrastructure improvements" 100% is safest, though you could potentially go higher under the reasoning that the City completing the work would require additional costs beyond the developer's costs

Commented [SN53]: Can we do that? I think we can only do 100% and then 10% for Warrantee.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

guarantee that improvements are correctly installed, constructed, and are maintained through the Guarantee Period and to secure the City as to the costs of any required corrections of defects of such improvements.

3. During said Guarantee Period, if all or any part of the required improvements are found not to be correctly installed, constructed and maintained, and paid for according to the standards required in ~~this title~~the municipality's subdivision ordinance and Nibley City Design Standards and Specifications, the City shall notify the subdivider in writing of the defects or any other problems and shall make demand on the subdivider that defects/problems be corrected and paid for. If the defects are not corrected and paid for within thirty (30) days the municipality may correct the defects and charge to the subdivider the costs of correcting the defects as provided ~~for in subsection (4)(b) above,~~ including administrative costs. There shall be no draw(s) made by the subdivider against the Warrantee Bond. The cost of correcting any deficiencies must be borne by the subdivider without access to the Warrantee Bond.
4. After eleven (11) months of the Guarantee Period have expired, the subdivider shall call for Final Inspection by the City Engineer. If the required improvements remain substantially free from defects, or other problems, and free from liens, the municipality shall certify such fact to the subdivider and the municipality shall discharge the subdivider of its obligation to the municipality within thirty (30) days from the time of Final Inspection by releasing the Warrantee Bond. Any items that need correcting following the Final Inspection must be corrected within thirty (30) days to have the Warrantee Bond released. Any items not completed at the end of these last thirty (30) days, or in other words one year from the date of initial acceptance of the improvements, shall require an additional, or extension of the, Warrantee Bond be established to ensure the completion of any corrections, and/or the City may obtain draw(s) against the Warrantee Bond for such purpose.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

21.14.70 21.14.070 Form And Method Of Guarantee Of Improvements

- A. The form and method of the guarantee of improvements, for both the ~~Improvements Bond~~Improvement Completion Assurance and the Warrantee Bond shall be as approved by the City Engineer as to the amount of the bond, escrow, letter of credit or deposit with the municipality and as approved by the City Attorney as to the form of said guarantee documents. All guarantee methods shall provide surety in accordance with ~~this Title~~subsection (5) above and may consist in the form of one or more of the following:
 - 4.B. Bond. The subdivider may furnish and file with the City Recorder a bond issued by a licensed, reputable corporate surety in an amount as required by this ordinance. The bond agreement must include a provision that the bond may only be released, in whole or in part, by an order executed ~~by the subdivider and~~ by an authorized officer of the City, subject to the requirements of subsection ~~(eE)~~, below.
 - 2.C. Escrow. The subdivider may deposit with a licensed, reputable and/or duly chartered insurance company, bank, title company or savings and loan institution in an escrow account an amount as required by this ordinance. The escrow agreement must include a provision that the funds in escrow may only be released, in whole or in part, by an order executed ~~by the subdivider and~~ by an authorized officer of the City, subject to the requirements of subsection ~~m(eE)~~, below.

Formatted: List Paragraph, Outline numbered + Level: 3 + Numbering Style: 01, 02, 03, ... + Start at: 70 + Alignment: Left + Aligned at: 0" + Indent at: 0.67"

Formatted: List Paragraph, Outline numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Tab after: 0.5" + Indent at: 0.5"

Formatted: Font: (Default) Times New Roman, 12 pt, Font color: Black

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman, 12 pt, Font color: Black

Formatted: Font: (Default) Times New Roman

Commented [RP54]: The bond needs to be able to be released/foreclosed without the developer's approval, and don't want to introduce any question regarding the City's authority on that matter

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

~~3-D.~~ Irrevocable Letter of Credit. The subdivider may file with the municipality an irrevocable letter of credit from a duly chartered state or national bank or savings and loan institution in an amount as required by this ordinance. The letter of credit must include a provision that the guaranteed credit amount may only be reduced by an order executed ~~by the subdivider and~~ by an authorized officer of the City, subject to the requirements of subsection (e), below.

~~4-E.~~ Any of the above Forms and Methods for Guarantee of Improvements shall be subject to approval by the City Attorney, as to form and content of the documents used, and shall be signed by the subdivider, the municipality, and the entity providing the surety bond or holding the escrow, or the financial institution providing the letter of credit, or by the subdivider and municipality for a deposit with the municipality, as applicable. The Guarantee of Improvement may include provisions that allow for partial release or reduction of the funds ~~by an authorized officer of the City~~ for partial completion of work ~~in the case of any of the approved Methods for Guarantee of Improvements~~. The Guarantee of Improvements utilized must name the City as the payee or beneficiary, in the event of default or non-performance and shall provide for the City's access to all or any remaining funds, without the subdivider's approval, for both ~~Improvements Bond~~Improvement Completion Assurance~~Improvement Completion Assurance~~ and Warrantee Bond purposes, in the event of default or non-performance by the subdivider. In the case of both the ~~Improvements Bond~~Improvement Completion Assurance~~Improvement Completion Assurance~~ and Warrantee Bond, the provisions shall provide for use of all or any remaining funds by the City in accordance with subsection (4), above, in order to complete required improvements and/or make repairs not completed in a timely manner by the subdivider. The Guarantee of Improvements documents used shall also include provisions whereby the subdivider agrees to pay all administrative costs, legal fees, and other costs of enforcement incurred by the City pursuant to the agreement.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

21.16 Notice To Proceed And Authorization To Begin Work On The Subdivision

21.16.010 Preconstruction

Formatted: Font: (Default) Times New Roman

21.16.020 Conditions Prior To Authorization

Formatted: Font: (Default) Times New Roman

21.16.030 Authorizing Work To Begin An A Subdivision Without ~~Improvements Bond~~Improvement Completion AssuranceImprovement Completion Assurance

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

21.16.010 Preconstruction

The ~~Public Works Director~~City Engineer may require that all contractors participating in the construction meet for a pre-construction conference to discuss the project prior to beginning work.

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

21.16.020 Conditions Prior To Authorization

~~Except as provided in subsection (3) below, p~~Prior to authorizing construction, the City Engineer shall be satisfied that the following conditions have been met:

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

4. The final plat, ~~or if a minor subdivision the Approval Document~~, shall have been approved by the City, ~~and filed with the County Recorder as required in this Code.~~

~~2-1.~~ All required contract and construction documents shall be completed and filed with the City Engineer.

~~3-2.~~ Fee simple title to all necessary off-site easements or dedications required for public facilities, not shown on the final plat or final site plan, must be conveyed separately to the City, or other agency approved by the City, with proper signatures affixed. The originals of each document, and filing fees as determined by the City shall be delivered to the City Engineer prior to approval and release of the construction documents.

3. The ~~Improvements-Bond~~ Improvement Completion Assurance and other documents required to be accomplished in accordance with this ordinance and the development plan, and any applicable ancillary agreements shall be completed and filed with the City Engineer.

4. The final plat and development agreement shall be filed with the County Recorder as required in this Title.

~~4.~~

21.16.030 Authorizing Work To Begin An A Subdivision Without ~~Improvements-Bond~~ Improvement Completion Assurance

The Public Works Director may authorize work to begin on a subdivision without an ~~Improvements-Bond~~ Improvement Completion Assurance if all other conditions in NCC 21.16.020 have been met. Until the ~~City Mayor~~ has signed the final plat, or if a minor subdivision the Approval Document, no plat shall be filed with the County Recorder and therefore no lots may be sold. The final plat or Approval Document shall be signed by the Mayor and filed with the County Recorder only after all subdivision improvements have been completed and the 10% Warrantee Bond has been established and filed with the City Engineer.

1. All contractors participating in the construction shall be presented with a set of approved plans bearing the stamp of release of the City Engineer. These plans shall remain on the job site at all times.
2. A complete list of the contractors, their representatives on the site, and telephone numbers where a responsible party may be reached at all times must be submitted to the City Engineer.
3. All applicable fees must be paid to the City prior to issuance of the Notice to Proceed.

21.18 Acceptance Of The Completed Subdivision

21.18.010 Applicant's Submittal Of Completed Subdivision

21.18.020 As-Built Drawings

21.18.030 Public Works Director Review

21.18.040 Partial Release Of ~~Improvements-Bond~~ Improvement Completion Assurance

21.18.050 Final Release Of Warrantee Bond

21.18.010 Applicant's Submittal Of Completed Subdivision

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Indent: Left: 0.5", No bullets or

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Applicant's Submittal of Completed Subdivision. Subdivider may notify the City in writing of the completion of the subdivision and request Final Inspection when the subdivider believes that they have done the following:

1. Completed all infrastructure work in the subdivision or development, as prescribed in the Nibley City Design Standards ~~and~~ Specifications and per approved construction drawings.
2. Provided to the City the required as-built drawings, and
3. Otherwise complied with all conditions required by the City Council or this ordinance as preconditions to approval of the Development Agreement, Final Plat, and Construction Drawings.

Formatted: Font: (Default) Times New Roman

21.18.020 As-Built Drawings

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

The subdivider shall provide to the City as-built drawings and specifications for all infrastructure improvements in the subdivision. Drawings and specifications shall include but not necessarily be limited to roads, curb/gutter, sidewalks, drainage systems, irrigation systems, waterlines, and sewer lines. Standards for as-builts shall be the same as called for in construction drawings in the Nibley City Design Standards and Specifications. The drawings and specifications, certified by a registered engineer, shall be submitted to and approved by the City Engineer before final release of funds established by the subdivider to ensure improvement completion under any ~~Improvements Bond~~ ~~Improvement Completion Assurance~~ ~~Improvement Completion Assurance~~, provided, ~~as set forth in section 12D-501~~. One (1) reproducible mylar copy of drawings shall be provided to the City. In addition the subdivider shall provide either:

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

1. A Computer Assisted Design file of the subdivision (must be readable by AUTOCAD as updated) or ArcMap file of the subdivision; and
2. Electronic PDF copies of the as-built drawings

21.18.030 Public Works Director Review

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

The Public Works Director shall conduct such review as he/she considers appropriate to determine whether the subdivision is complete and whether the Applicant has satisfied all applicable conditions. If the Public Works Director finds that the Applicant has completed the subdivision and has satisfied all applicable conditions, and that all other requirements of applicable law have been met, the Public Works Director shall, ~~in accordance with section 12D-501~~, approve the as-built drawings and shall forward to the City Recorder a copy of the Improvements Completion and Acceptance Report, and notify him that the ~~Improvements Bond~~ ~~Improvement Completion Assurance~~ ~~Improvement Completion Assurance~~ has been released.

Formatted: Font: (Default) Times New Roman

21.18.040 Partial Release Of ~~Improvements Bond~~ ~~Improvement Completion Assurance~~ ~~Improvement Completion Assurance~~

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

The Public Works Director is authorized from time to time, at the request of the subdivider or his successors in interest, and with recommendation from the City Attorney to release all or a

portion of a subdivider's ~~Improvements Bond~~Improvement Completion Assurance Improvement Completion Assurance, up to the amount of one hundred percent (100%) of the value of the improvements. The remaining percent (10%) may only be released in accordance with this Title~~accordance with section 12D-501.~~

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

21.18.050 Final Release Of Warrantee Bond

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

Release Submittal and Approval. Following a review of the subdivider's request to have the subdivision's Warrantee Bond released, the Public Works Director shall forward to the City Council a recommendation for the release of the Warrantee Bond and the City Council shall release, in accordance with section 12D-501 (5), the subdivider's Warrantee Bond, with respect to the subdivision.

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman

Formatted: Font: Times New Roman, 12 pt