



NIBLEY CITY COUNCIL MEETING AGENDA

Thursday, August 8, 2019 – 6:30 p.m.

Nibley City Hall 455 West 3200 South, Nibley, Utah

1. Selection of Mayor Pro-Tem and 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. Department Report: Streets Department
7. Adoption and Consideration of a Primary Canals and Waterways Map
8. A Public Hearing to receive comments regarding a preliminary plat for Mountain Vista Subdivision, a proposed 33.04-acre Rural Preservation Subdivision located at approximately 3575 South and 600 West
9. Discussion and Consideration of a preliminary plat for Mountain Vista Subdivision, a proposed 33.04-acre Rural Preservation Subdivision located at approximately 3575 South and 600 West
10. A Public Hearing to receive comment on Ordinance 19-12: An Update to Nibley City Code, 19.24.090 Fence Regulation
11. Discussion and Consideration of Ordinance 19-12: An Update to Nibley City Code 19.24.090, Fence Regulation (First Reading)
12. A Public Hearing to receive comment on Ordinance 19-13: An Update to Nibley City Code 19.28, Conditional Uses
13. Discussion and Consideration of Ordinance 19-13: An Update to Nibley City Code 19.28, Conditional Uses (First Reading)
14. A Public Hearing to receive comment on Ordinance 19-14: An Update to Nibley City Code 19.20, Land Use Chart.
15. Discussion and Consideration of Ordinance 19-14: An Update to Nibley City Code 19.20 Land Use Chart (First Reading)
16. A Public Hearing to receive comment on Ordinance 19-15: An Update to Nibley City Code 19.04, Land Use Definitions
17. Discussion and Consideration of Ordinance 19-15: An Update to Nibley City Code 19.04, Land Use Definitions (First Reading)
18. Concept Review of Firefly Estates
19. 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
August 8, 2019**

Agenda Item #6

Description	Department Report: Streets Department
Department	Public Works - Streets
Presenter	Justin Maughan, Public Works Director
Recommendation	Receive the report and provide feedback
Reviewed By	City Manager, Public Works Director

Background

The Public Works Director will provide a presentation regarding recent, ongoing and future streets projects.

Agenda Item #7

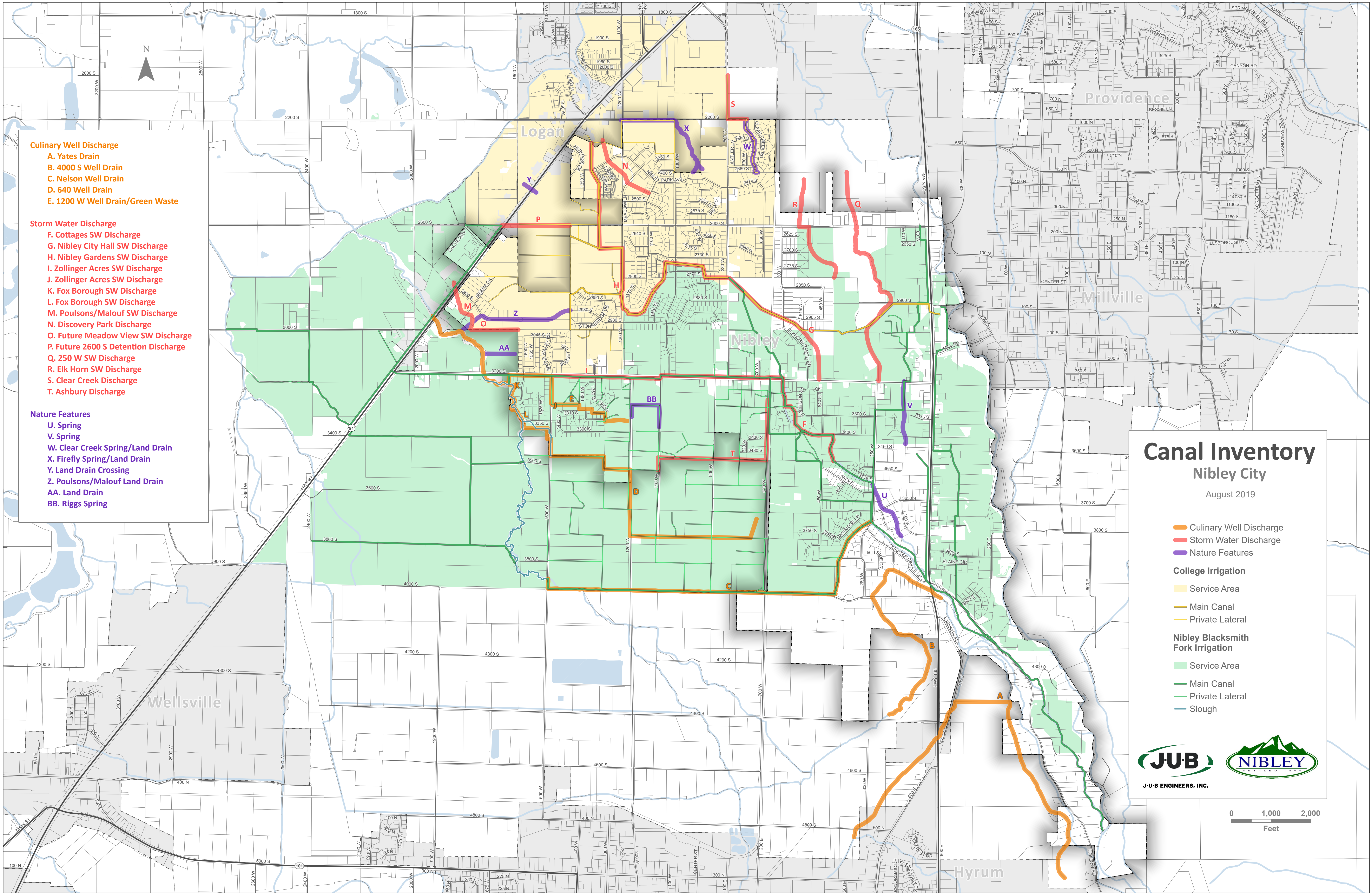
Description	Adoption and Consideration of a Primary Canals and Waterways Map
Department	Public Works - Stormwater
Presenter	Justin Maughan, Public Works Director
Recommendation	Provide feedback regarding the prepared map and move to accept the adoption of the Primary Canals Map.
Reviewed By	City Manager, Mayor, Public Works Director

Background

Nibley City has an agreement with the Nibley Blacksmith Fork Canal Company which calls for the creation of a map to identify primary canals and waterways in the city. Subsequent to entering into that agreement with the canal company, Nibley City adopted Ordinance **19.24.230 Preserving Safety And Maintenance Of Conveyance**, which addresses how the City preserves the safety, operations and maintenance of canals. That ordinance defines primary canals as follows:

“Primary Canals and Waterways shall be defined for the purposes of the ordinance as all waterways designated by the US Army Corps of Engineers as subject to their regulation, canals designated by canal companies as critical to their ability to deliver water to their customers through filing and delineation in the City GIS, and other natural and constructed canals and structures determined by the City Public Works Director to be critical to the performance of storm drainage systems, including sub-water collection and drainage.”

The map being presented is intended to be used as a reference tool for future development in order to identify critical canals and waterways that must be considered in relation to stormwater handling, the continued functioning of the canal irrigation system, and/or open waterway preservation for reasons related to nature or open space conservation.



- Culinary Well Discharge**
- A. Yates Drain
 - B. 4000 S Well Drain
 - C. Nelson Well Drain
 - D. 640 Well Drain
 - E. 1200 W Well Drain/Green Waste

- Storm Water Discharge**
- F. Cottages SW Discharge
 - G. Nibley City Hall SW Discharge
 - H. Nibley Gardens SW Discharge
 - I. Zollinger Acres SW Discharge
 - J. Zollinger Acres SW Discharge
 - K. Fox Borough SW Discharge
 - L. Fox Borough SW Discharge
 - M. Poulsons/Malouf SW Discharge
 - N. Discovery Park Discharge
 - O. Future Meadow View SW Discharge
 - P. Future 2600 S Detention Discharge
 - Q. 250 W SW Discharge
 - R. Elk Horn SW Discharge
 - S. Clear Creek Discharge
 - T. Ashbury Discharge

- Nature Features**
- U. Spring
 - V. Spring
 - W. Clear Creek Spring/Land Drain
 - X. Firefly Spring/Land Drain
 - Y. Land Drain Crossing
 - Z. Poulsons/Malouf Land Drain
 - AA. Land Drain
 - BB. Riggs Spring

Canal Inventory Nibley City

August 2019

- Culinary Well Discharge
- Storm Water Discharge
- Nature Features

College Irrigation

- Service Area
- Main Canal
- Private Lateral

Nibley Blacksmith Fork Irrigation

- Service Area
- Main Canal
- Private Lateral
- Slough



0 1,000 2,000
Feet

Agenda Item #8 & 9

Description	A Public Hearing to receive comments regarding a preliminary plat for Mountain Vista Subdivision, a proposed 33.04-acre Rural Preservation Subdivision located at approximately 3575 South and 600 West and Discussion and Consideration of a preliminary plat for Mountain Vista Subdivision, a proposed 33.04-acre Rural Preservation Subdivision located at approximately 3575 South and 600 West
Department	Planning
Presenter	Stephen Nelson, Nibley City Planner
Recommendation	Move to approve the preliminary plat for Mountain Vista Subdivision, a proposed 33.04-acre Rural Preservation Subdivision, located at approximately 3575 South and 600 West
Reviewed By	Planning Commission, City Manager, City Planner, Public Works Director, City Attorney, City Engineer

Background

Mountain Vista Subdivision Preliminary Plat is a Rural Preservation Subdivision application proposed by Visionary Homes. The project is located between 450 W and 640 W and located around 3575 S.

Planning Commission Review

The Planning Commission reviewed the plat and made the following recommendation on July 18, 2019:

Commissioner Obray moved to recommend approval of the proposed Mountain Vista Subdivision Preliminary Plat, a proposed 33.04-acre Rural Preservation Subdivision located at approximately 3575 South and 600 West; subject to creating an access point along the southern road to provide future connection to 3650, and swapping phases 2 and 3. Commissioner Albrect seconded the motion. The motion passed 4-1; with

Commissioner, Obray, Commissioner Albrect, Commissioner Swenson, and Commissioner Logan all in favor. Commissioner Mansell was opposed.

Staff will review the conditions recommended by the Planning Commission under the roads sections.

Zoning

Rural Preservation Subdivision Open Space	
Total Gross Acres	33.04
Total Developable Acres	26.12
Total Open Space Land	9.43
Open Space Percentage	.36
Incentive Multiplier	1.3
Total Lots Allow	68

Nibley City's Rural Preservation Subdivision exchanges bonus density for open space which is governed by NCC 21.10.020 (E). This calculation calculated the base density and then you apply an incentive multiplier to the base density to get the total number of lots. Based on the calculation, Mountain Vista would be allowed a total of 67.9.12 lots. However, Nibley City Code 19.04 Definitions reads as follows:

FRACTIONAL NUMBERS OR MEASUREMENTS: In determining the requirements of this title, whenever a fraction of a number or a unit is one-half (1/2) or more, and whenever a fraction of a number or unit resulting from a computation is one-half (1/2) or more, said fraction shall be considered as a whole number or a unit; where the fraction is less than one-half (1/2), said fraction shall not be included in determining requirements.

Staff has interpreted this code reference that, in the case of the Mountain Vista Subdivision, the number would be rounded up to the nearest whole number.

Staff finds that the plat meets the zoning requirements for the total number of lots, lot sizes, and setbacks. The Plat generally meets Nibley City standards in NCC 21.08.010 Preliminary Plat.

	Zoned: R-2 Rural Preservation Subdivision	Mountain Vista Subdivision Preliminary Plat
Minimum Lot Size	9,000 sq. ft.	9,000 sq. ft.
Average Lot Size	10,200 sq. ft.	10,816 sq. ft.
Frontage	85 ft.	Every lot meets the requirements
Side Yard Setbacks	10 ft.	The Plat Complies
Rear Yard Setback	25 ft.	The Plat Complies
Street Side Yard	25 ft.	The Plat Complies

Utility Lines

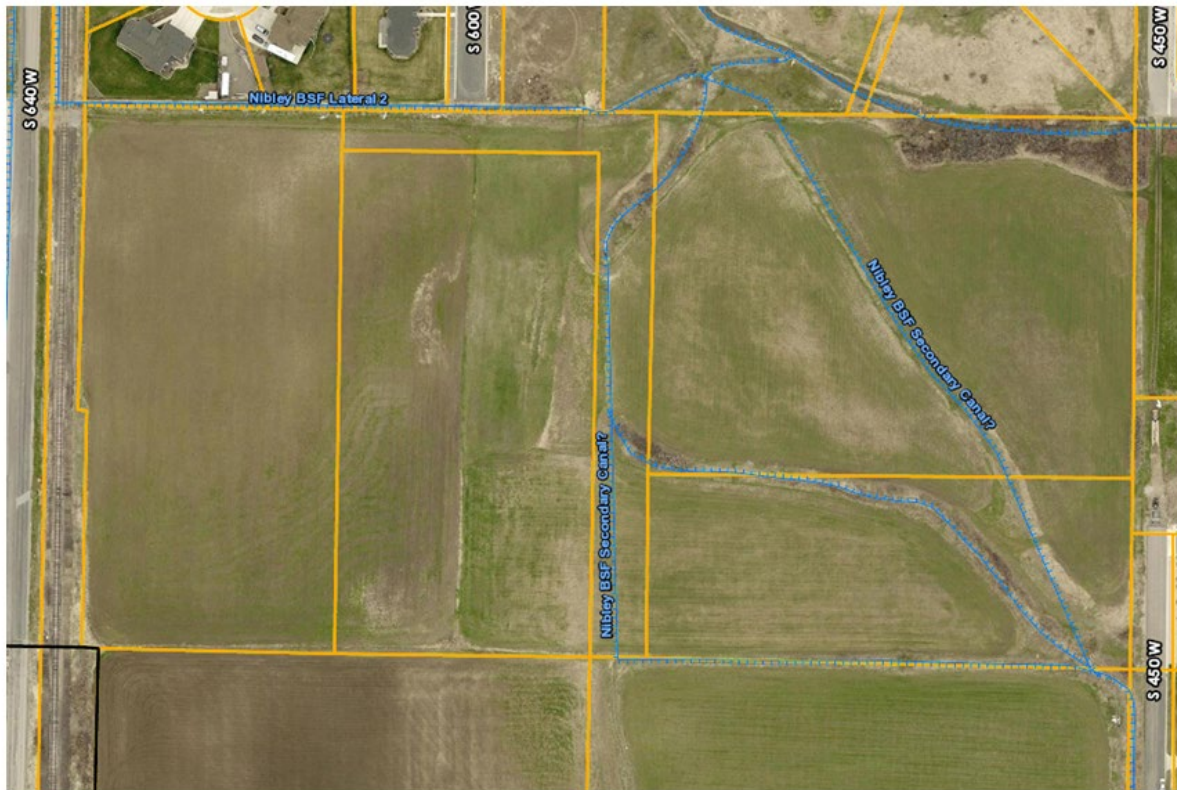
The plat contains the proposed water lines and sewer lines. The subdivision is planning on taking all the sewer from phase 1 and 2, and part of phase 3 under the railroad to the Nibley City lift station on 3480 S. Staff is working with the applicant to ensure that the lift station would be able to handle the extra capacity.

Canals

There are several canals on the property within the proposed subdivision. The plat does show every canal on the subdivision, and the Canal Company has been informed of the changes, but the canal company has not yet approved of the proposal. As required by NCC 21.08.010 (C)(6), “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.”

In addition to those requirements, Nibley City subdivision plats must follow [19.24.230 \(F\)](#). This section of code requires that all open primary canal or waterways within a subdivision have a right-of-way dedicated to the City of “15 feet from the top of each bank to be identified on the preliminary plat and final plat”. This ROW can be counted as open space within the subdivision. The Applicant can also pipe the canals and recorded a 10 ft easement on each side of the pipe

that would allow the canal company and the City to access the waterway. The developer has been made aware of these requirements and has added the required easements.



A map of Canals contained within the proposed subdivision

Roads

The proposed development shows roads and widths that align with existing roads that have been constructed, and City staff does not have any concerns about right-of-way widths. It is important to note that the 600 W does not align with 3575 S as shown on the City's street master plan, shown below. The developer participated in a workshop with the City Council and presented this project and a plan that aligned the roads according to the street master plan. The City Council gave the developer feedback that they preferred the option that is being proposed because it would allow for park space along 450 W, eliminated cul-de-sacs from the proposal, and shortened the block length on 450 W. An additional important note is that this road alignment is listed as a local road on our Master Plan. [NCC 21.12.050 \(A-B\)](#) gives more discretion to the developer for road alignments for local roads.

The Planning Commission recommended that the developer create a road stub to the south. That link is not specifically shown on the street master plan because the master plan map only shows a dotted-line road in that area, which is what the City shows on the map when it has not predetermined the exact alignment of local roads in some areas. However, there could be

benefits to extending the roadway further south as it would improve connectivity to the properties to the south, which are blocked by the railroad tracks on the west and by existing development on the south and east. Nibley City's Engineer does not believe that a southern road stub would be critical for traffic flow to the adjacent parcel. The developer has not made this change to the plans as of yet as would prefer to not have to add the stub.



The Planning Commission also recommended that the developer switch phases 2 and 3 in order to create a better flow of traffic during the development of the subdivision. The Developer has agreed to that change.

Open Space, Sensitive Areas Designation Plan Map and Maintenance Plan

One of the key features of a Rural Preservation Subdivision is the open space required in exchange for the bonus density. Because of the open space requirements, the City requires that the preliminary plat application be submitted with a Sensitive Areas Designation Plan Map and a Preliminary

Maintenance Plan. Staff has received the Sensitive Areas Designation Plan Map as required in [21.10.020 \(D\)\(3\)](#), in addition to a preliminary maintenance plan. The maintenance plan, for a preliminary plat, must show the following:

NCC 21.10.020 (L) (2)

2. Preliminary Maintenance Plan: A Preliminary Maintenance Plan shall be turned in with the preliminary plat for proposed maintenance of Open Space Land within the subdivision. This plan shall outline the following:

- a) The proposed Ownership of the Open Space Land;*
- b) The party that will be responsible for maintenance of the Open Space Land;*
- c) The proposed use of the Open Space Land and how each parcel of Open Space Land meets the*
- d) standards listed within this section;*
- e) The size of each Open Space Land parcel; and*

f) The proposed concept plan for landscaping of the Open Space Land.

The Plan proposes that all six open space parcels be owned and maintained by a local HOA. The Rural Preservation Subdivision code would require that the stormwater basin, Open Space 3, be dedicated to Nibley City. The Open Space areas must meet the defined purpose and criteria contained in the following code:

NCC 21.10.020 (B) (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.

Nibley City staff have requested additional information to ensure that each Open Space Parcel complies with three of the seven criteria required in [NCC 21.10.020 \(I\)](#). The following descriptions of each open space area will contain what criteria are met from [NCC 21.10.020 \(I\)](#).

Open Space 1

Open Space 1 is one of the smallest proposed parcels of open space and is located just to the west of Open Space 2 in the subdivision. The proposed plan is to line the North and West side with pine trees and plant the area with grass. It meets items number 2, 5, and 6 from NCC 21.10.020 (I).

Open Space 2

Open Space 2 is the largest parcel of open space and is located on the hillside. The developer is planning to plant some trees and native grasses, which would comply with NCC [21.10.020 \(B\) Meadows](#). The developer also plans to install a trail system in the open space, which will connect to three sections of open space within the subdivision and a section of open space and trail within the Apple Creek Subdivision . This area meets items number 1, 2, 5, and 6.

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.

Open Space 3

Open Space 3 is the stormwater basin located in the Southwest corner of the subdivision. This parcel is planned to detain stormwater within the community. It will be planted to Nibley City

requirements with well over a hundred trees expected to be planted. This parcel meets number 5, 6, and 7.

Open Space 4

Open Space 4 is a trail that connects to the south property, linking to Open Space 2. This parcel meets 2, 5, and 6.

Open Space 5

Open Space 5 is planned to be developed park space. The landscaping plans shows there is a plan to plant grass and trees within the park, as well as a trail that links to Open Space 2. This Park is located on the edge of the development adjacent to 450 W. The City Council suggested to the developer that the City may want to take long-term ownership maintenance of the park in order to make it publicly accessible and to provide it as a benefit for neighboring residents from outside the proposed subdivision. This park would help the City achieve a goal to have a park within .25-.5 miles of every resident. This parcel meets 2, 5, and 6.



Open

Space 6

Open Space 6 is planned to be a naturally landscaped parcel with a few trees planted. There is currently a canal that runs through the parcel that is planned to be piped and continue in the ROW. Staff has requested more information about the plans of this open space and how it will comply with the needed criteria.

Recommended Findings

1. Lots meet minimum size and frontages and Rural Preservation Subdivision Lot bonus density
2. Canals meet standards listed in 19.24.230 (F)
 - a. Will need to get written approval from Nibley Blacksmith Fork Canal Company for alteration to the canal system
3. Subdivision meets Nibley City street and contitivity standards
4. Make updates to the Maintenance Plan to ensure each parcel meets Nibley City Standards as listed in [NCC 21.10.020 \(I\)](#).
5. Subdivider will need to verify that Nibley lift station can handles proposed extra capacity and secure easement for under the railroad tracks for sewer line.

Agenda Item #10 & 11

Description	A Public Hearing to receive comment on Ordinance 19-12: An Update to Nibley City Code, 19.24.090 Fence Regulation and Discussion and Consideration of Ordinance 19-12: An Update to Nibley City Code 19.24.090, Fence Regulation (First Reading)
Department	Planning
Presenter	Stephen Nelson, Nibley City Planner
Recommendation	Move to approve Ordinance 19-12: Update to Nibley City Code 19.24.090, Fence Regulation, for first reading.
Reviewed By	Mayor, City Manager, City Planner, Public Works Director

Background

Nibley City last reviewed and updated the Nibley City Code 19.24.090 Fence Regulations in early 2017. The purpose of the last change was to preserve a clear view of intersections, defining what a transparent fence is, and placing restrictions on fences along trails. Since implementing those changes, the Planning Commission and staff have received significant feedback about the changes and is bringing forth a recommendation for how to address concerns that many residents raised. Attached is a proposed ordinance change based on the recommendations from Nibley City staff, City engineer, several members of the public, and the Planning Commission.

The primary change proposed in the ordinance is an elimination of the side yard street fence setback requirements, in exchange for the provision of sight triangles around intersections and driveways adjacent to corner lots. There has also been some clarifying language added to the document about fences along trails, and to the definition for transparent/open fences and opaque fences. Staff has attached a presentation that reviews these changes and will be presented to the City Council at the meeting.



Nibley City Fences

Need for Change

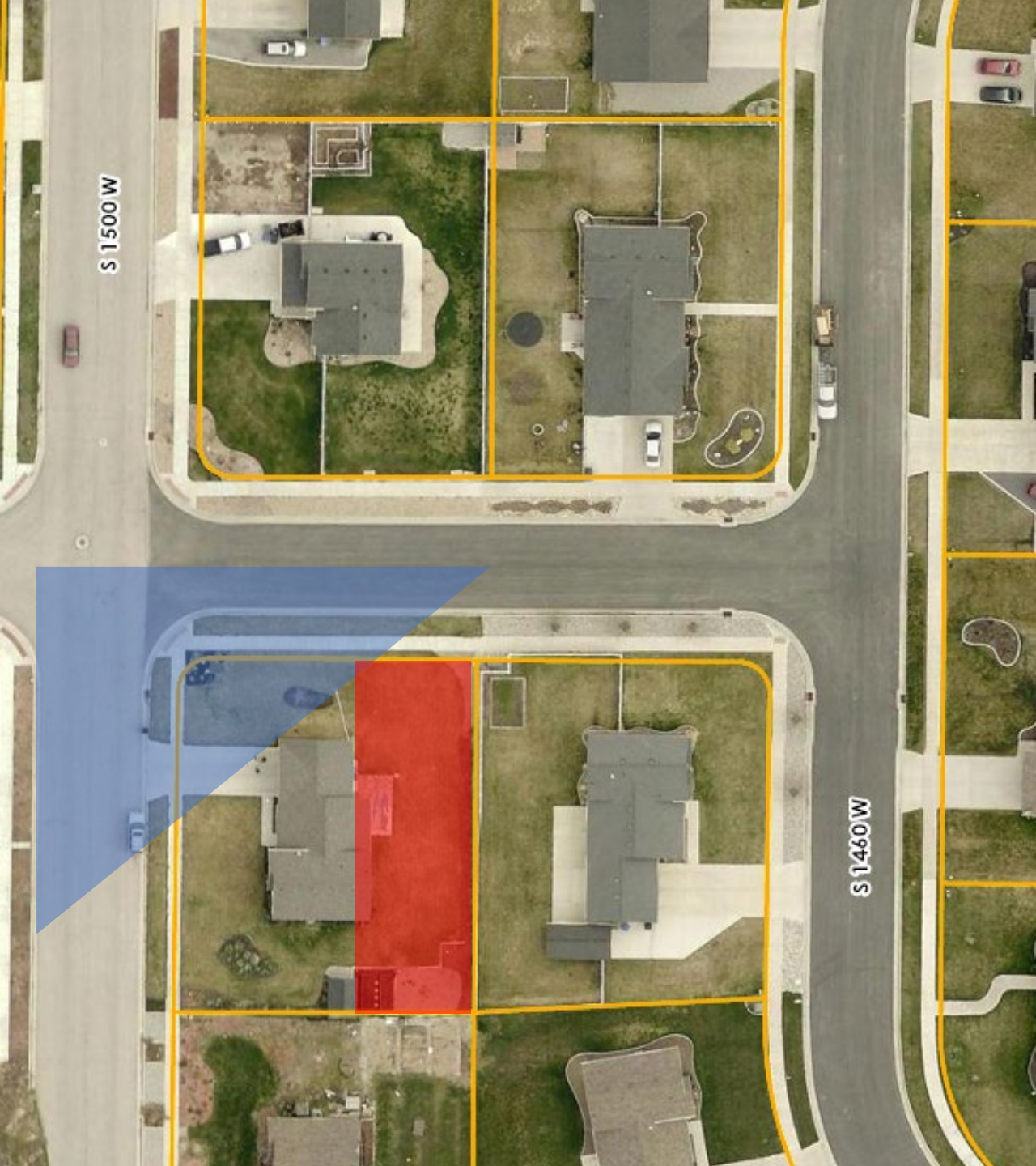
- Nibley City staff has received several complaints about current fence ordinance
- Biggest Concerns
 - Corner Lots
 - Lots next to trails
 - Fences next to canals
- A couple of variance request, one settlement



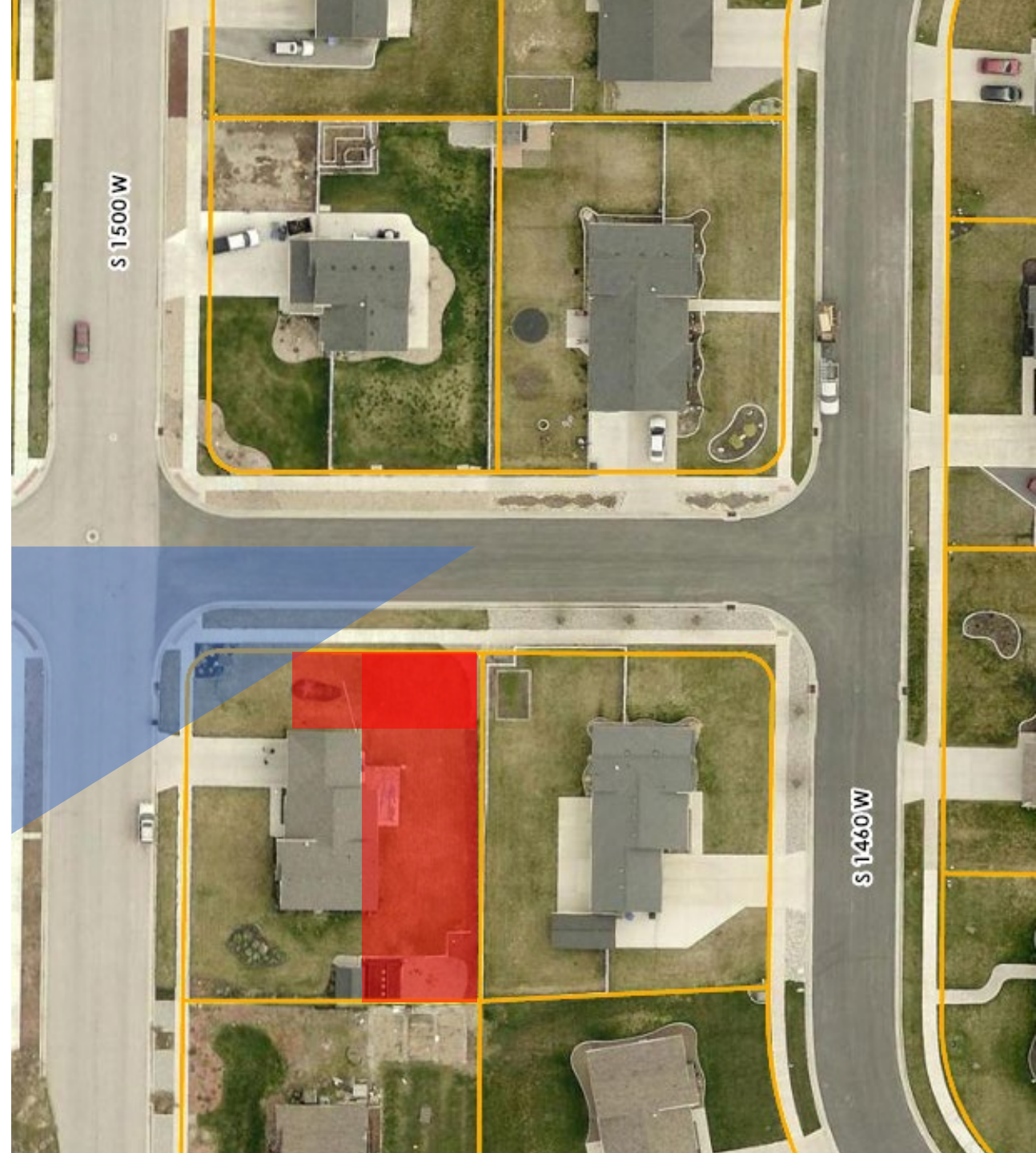


Corner Lot Fences

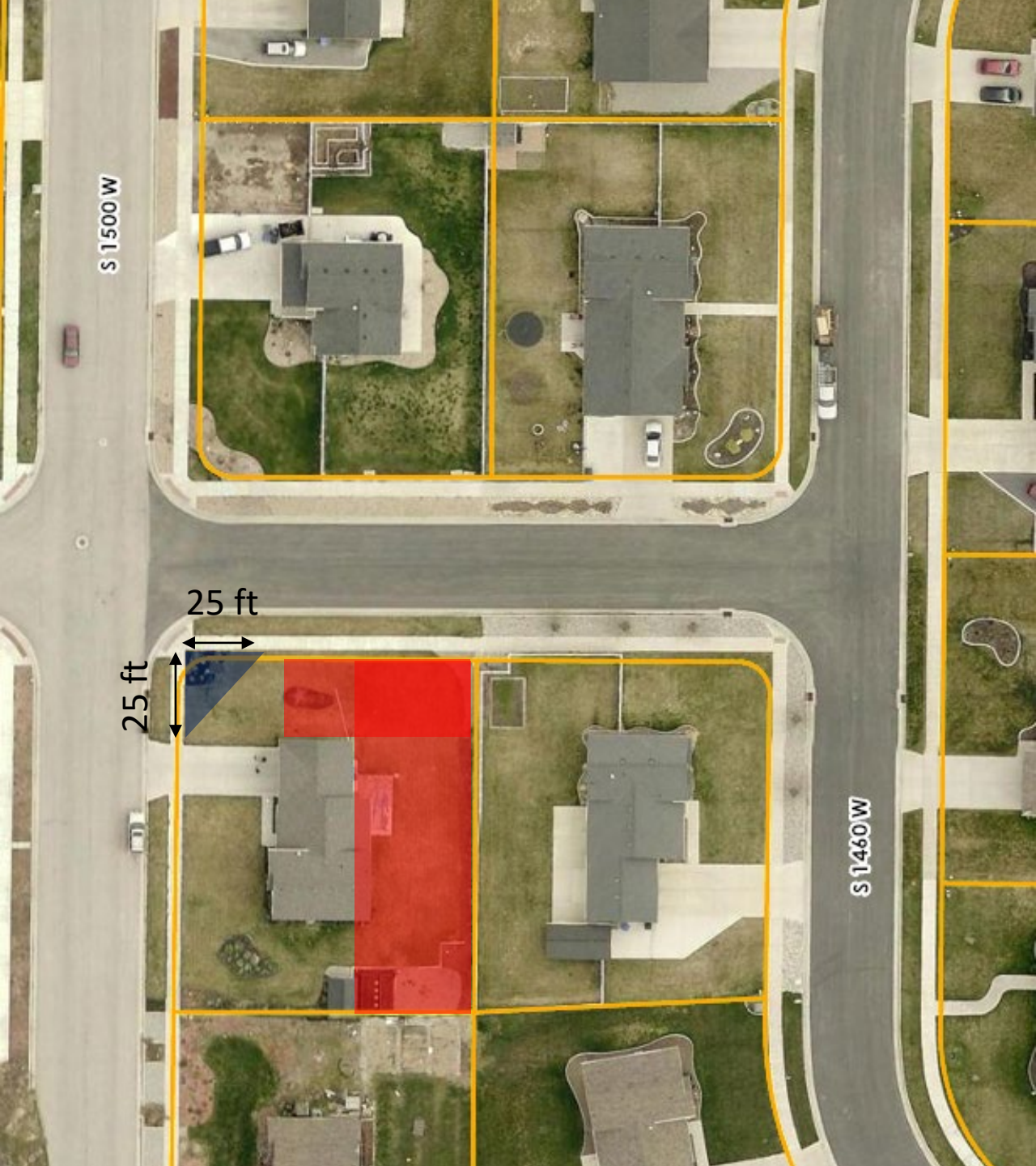
Fence Sight
Triangle for a requested
Application that was denied

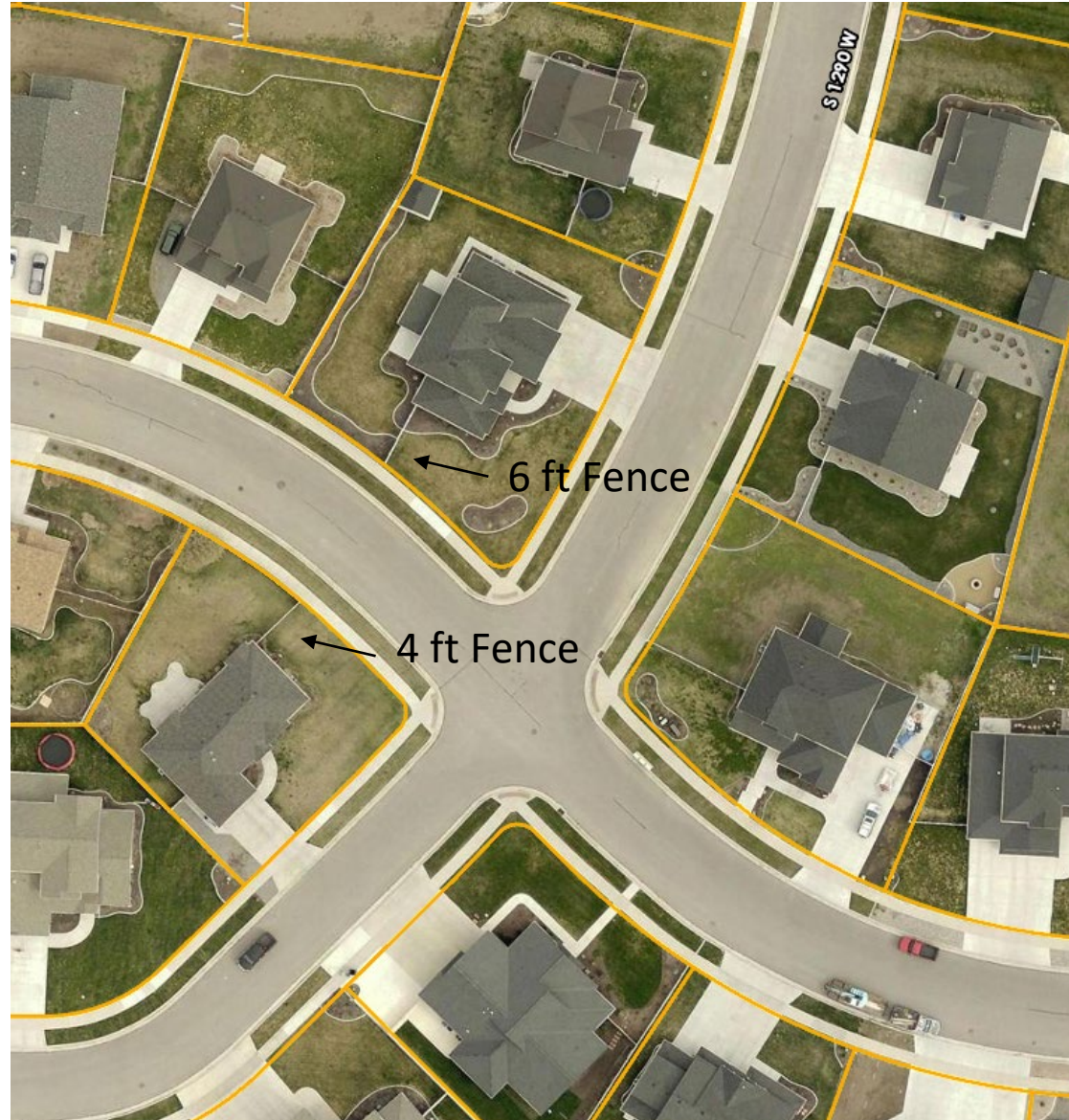


Fence Sight
Triangle for a possible
application



Nibley City's current sight triangle













Fences Next to Driveways





Fences Next to Trails







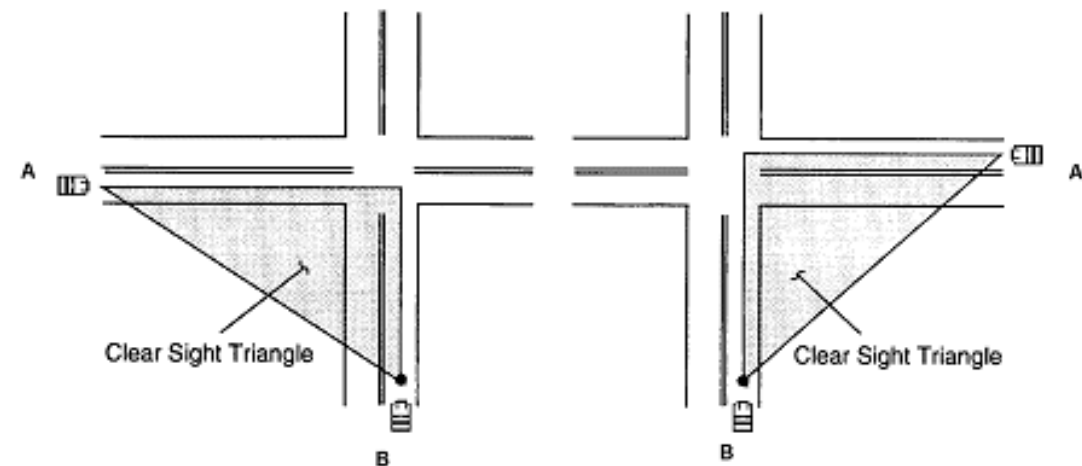
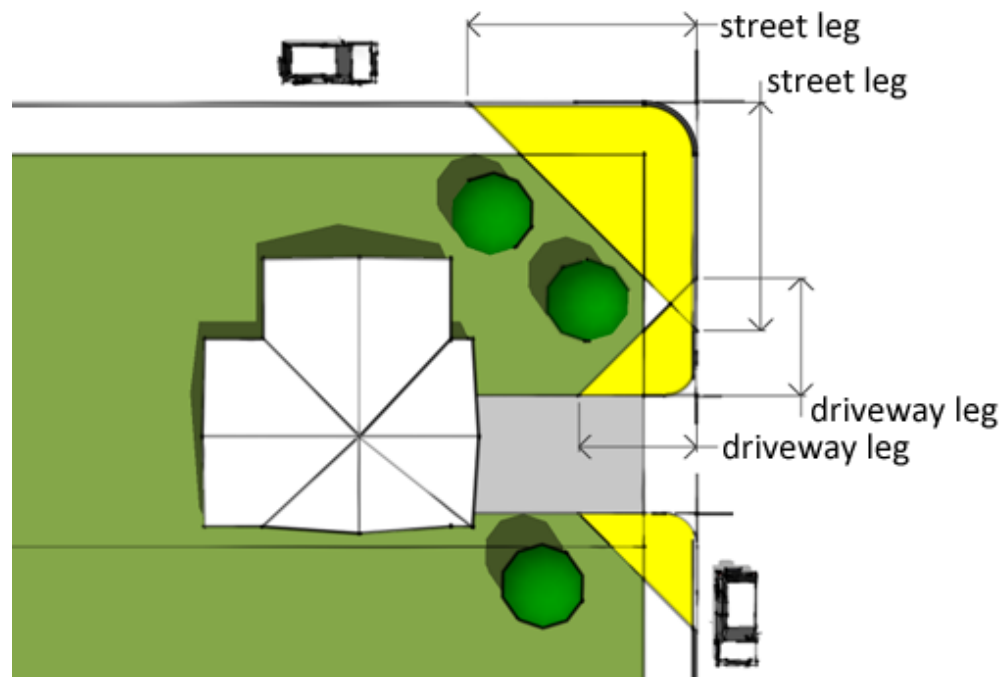
Allowed Fencing Types for Corner Lots and Trails



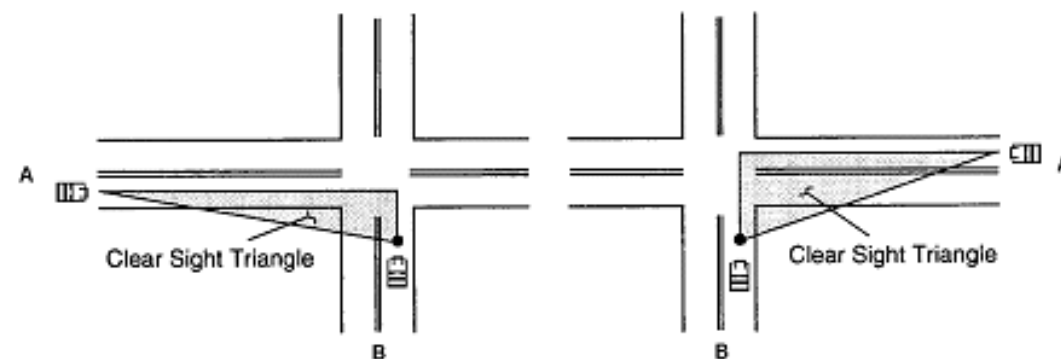




What Should We Do?



A -- Approach Sight Triangles

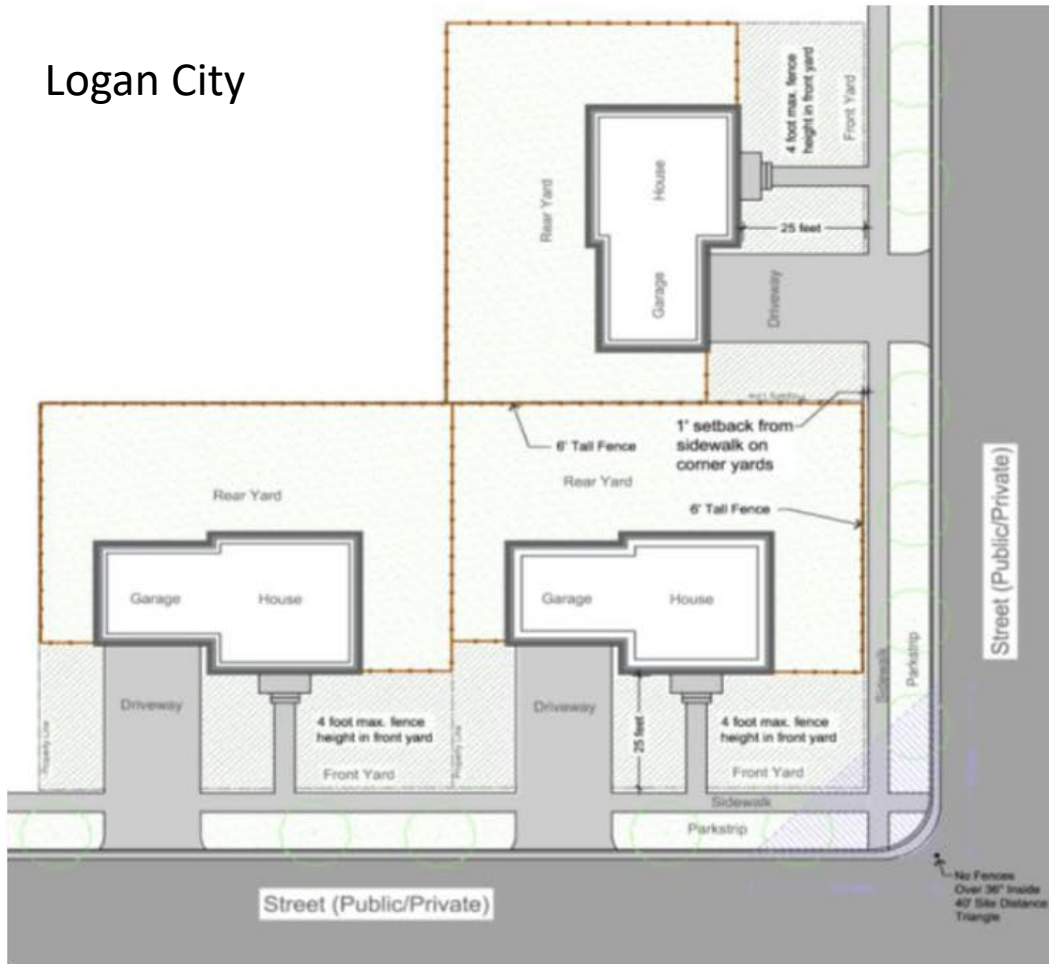


B -- Departure Sight Triangles

Eagle Mountain



Logan City



Fence Regulation Summary

For complete fence regulations see Land Development Code 17.37.110

Residential Height:

Front yard = 4' max.

Rear & side yard = 6' max.

Corner yard = 6' max. (behind front of home)

Residential Material:

Chain link and barbed wire (similar) are prohibited in the front yard

Com. & Ind. Height

Front yard = 4' max.

Rear & side yard = 8' max.

Corner yard = 6' max. (behind front of primary building)

Commercial Material:

barbed wire (similar) is prohibited in the front yard

No fence or wall is allowed within the 40' sight distance triangle of street intersections.

Midvale

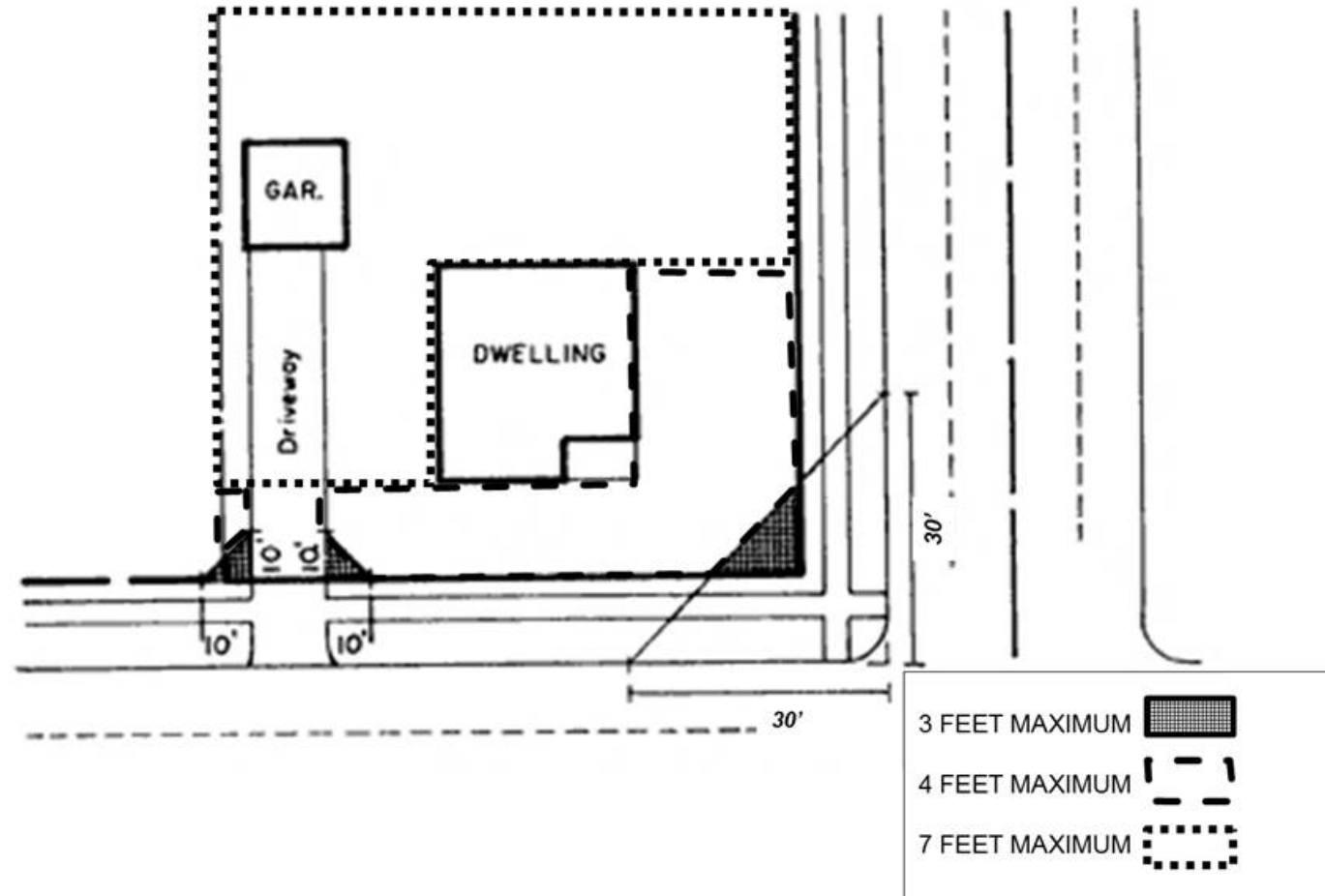


Figure 6.1
Saratoga Springs

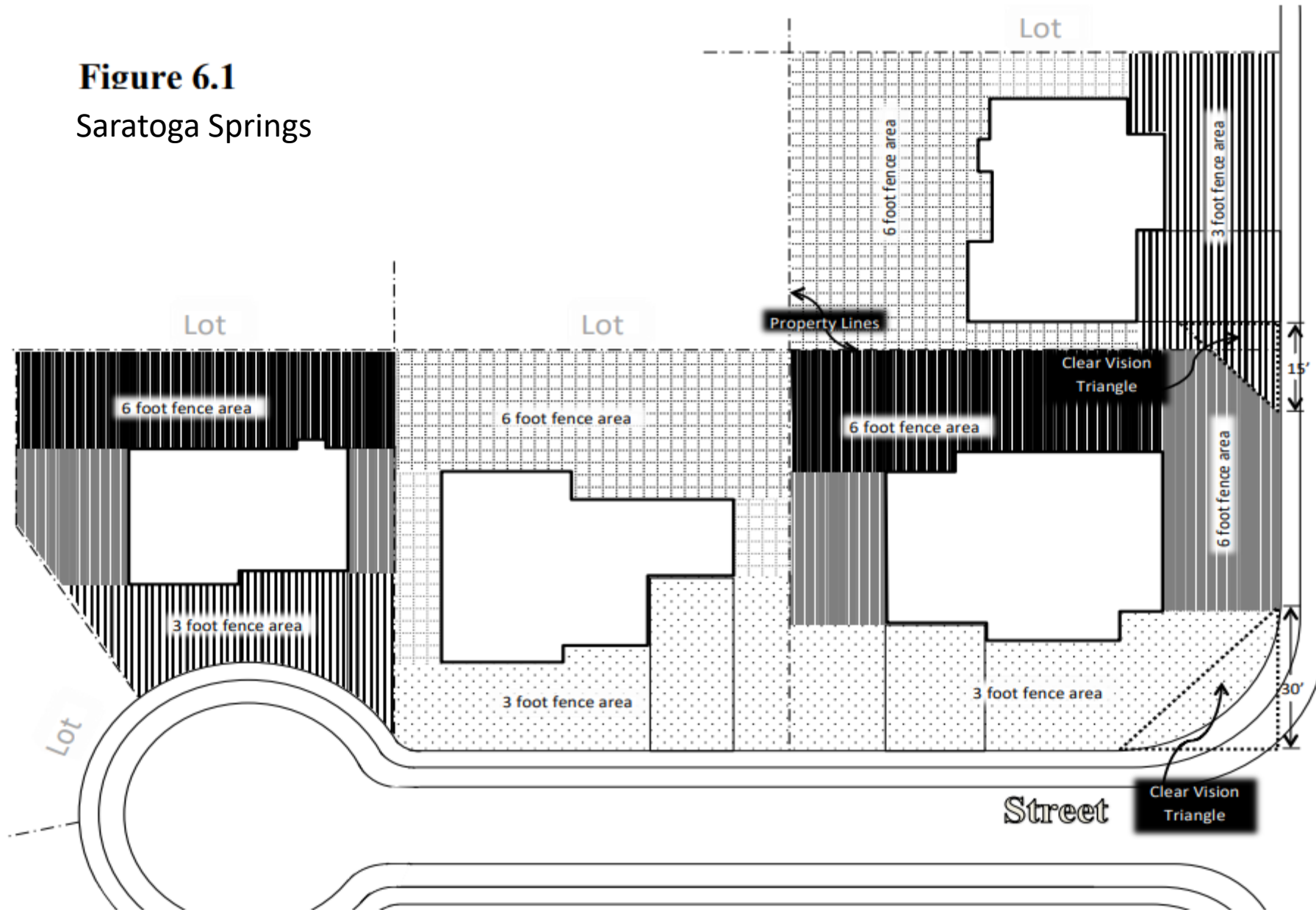
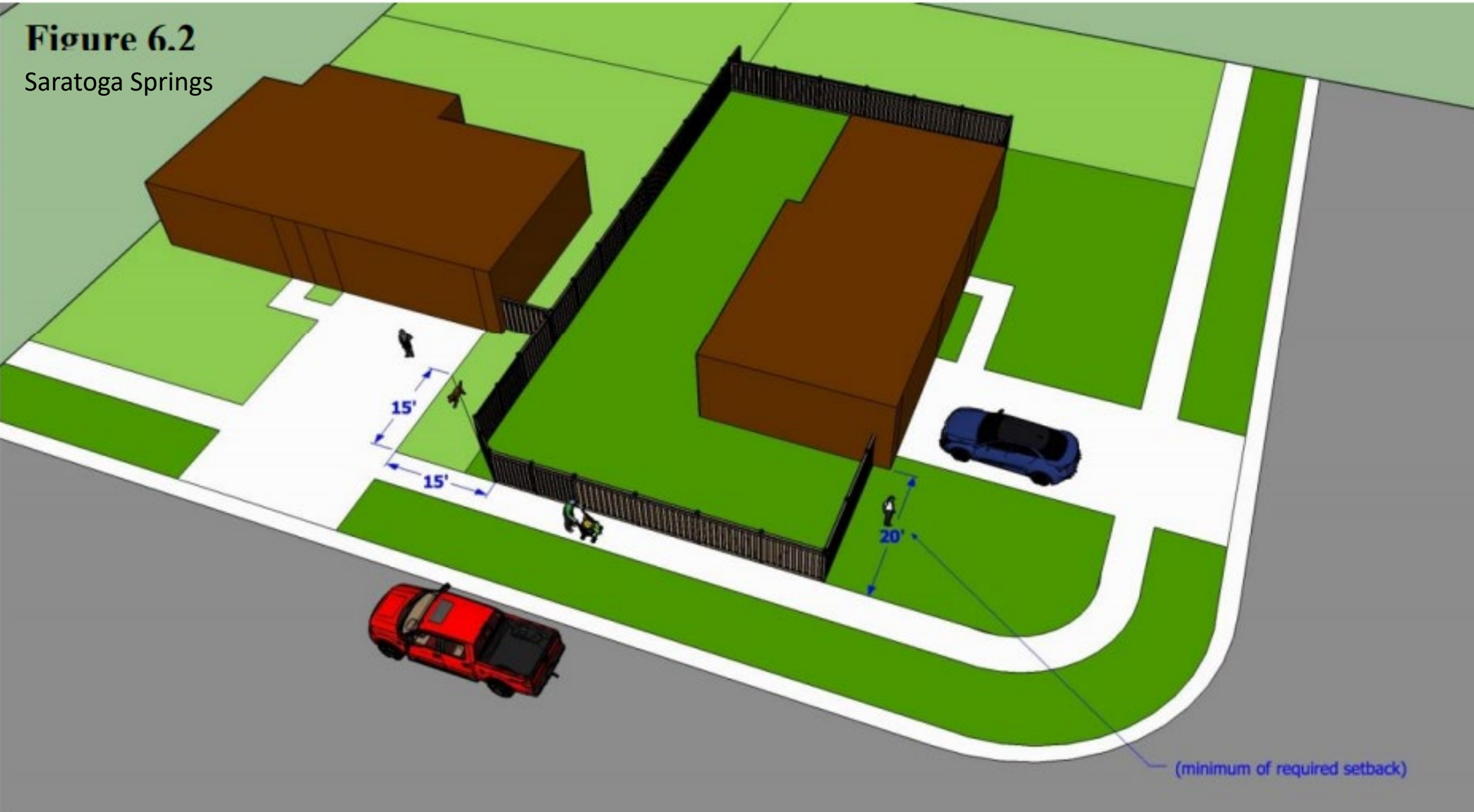


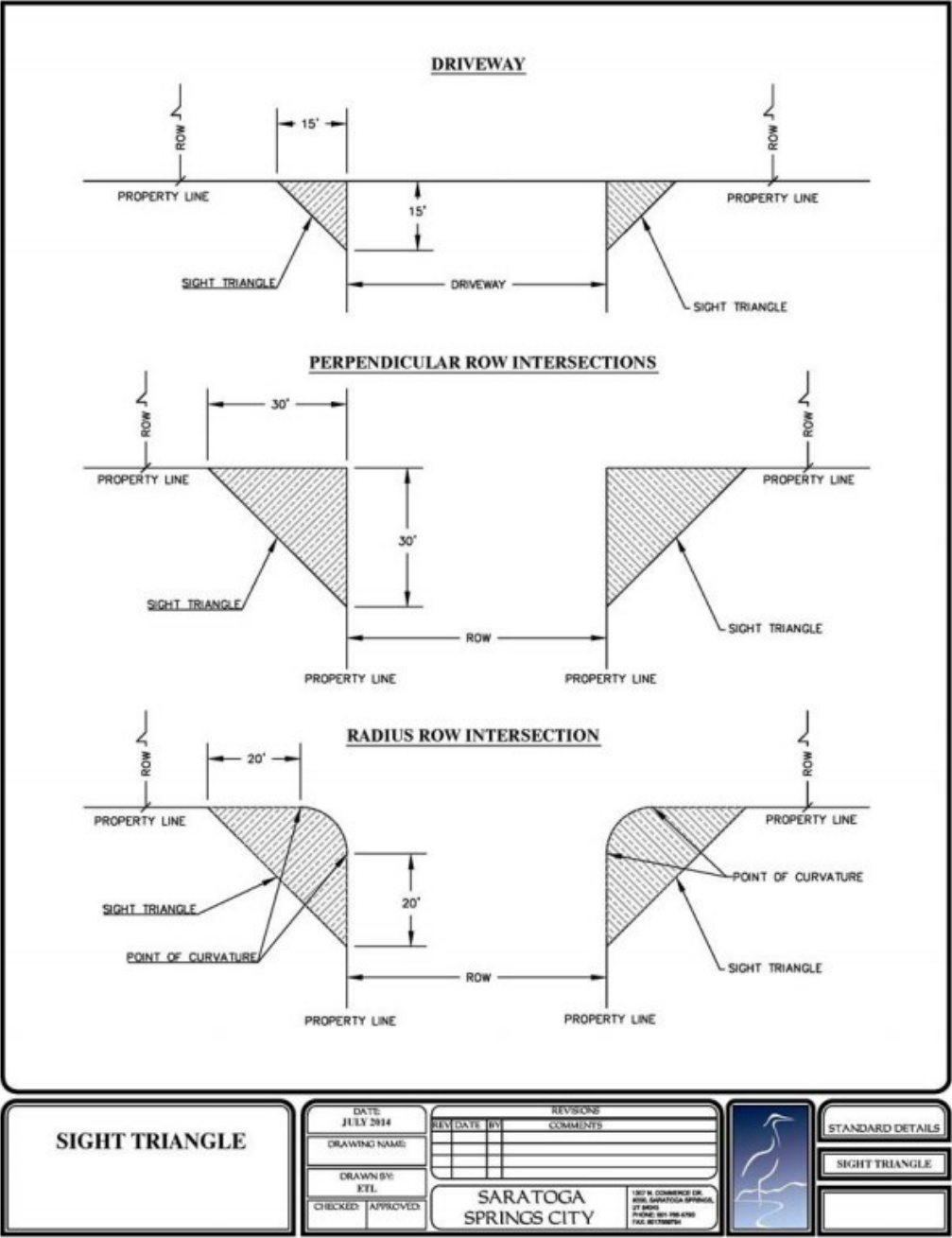
Figure 6.2

Saratoga Springs



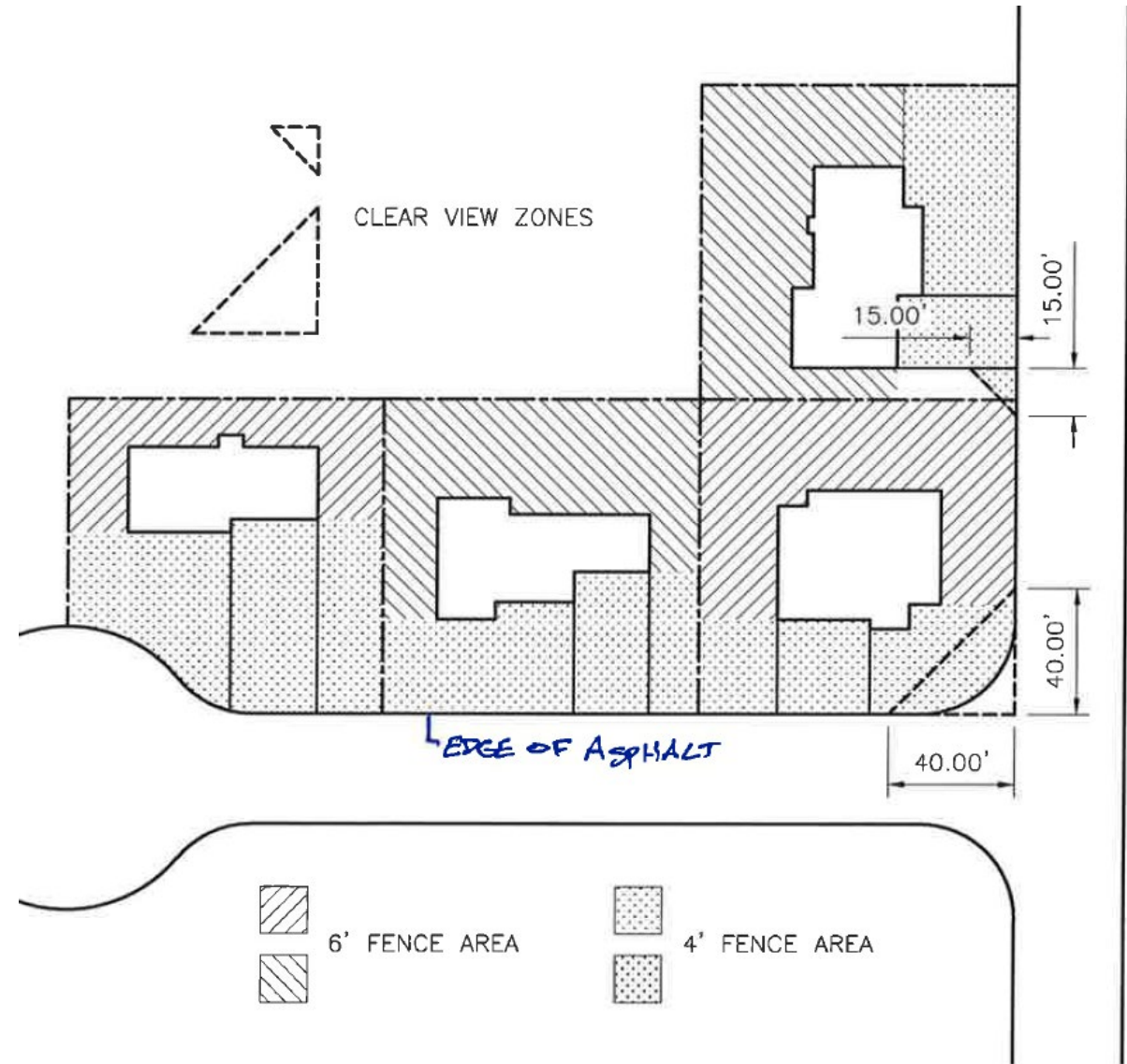
Clear Sight Triangle:

Saratoga Springs



Proposing Sight Triangle

- 40' for corner lots, and 15' driveways adjacent to corner lots





Trails

The proposed code does not change the current trail restrictions in place but clarifies the code.

ORDINANCE 19-12

AN UPDATE TO NIBLEY CITY CODE, 19.24.090 FENCE REGULATION

WHEREAS, Nibley City governs fences on property in order to enhance public safety on City roads and trails; and

WHEREAS, Nibley City also want residents to have the ability to fence their yard for safety and privacy; and

WHEREAS, Nibley City seeks to continue to enhance the code and clarify purpose and intent.

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

1. The attached changes to Nibley City Code 19.24.090 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.

Shaun Dustin, Mayor

ATTEST: _____
David Zook, City Recorder

19.24.90 Fence Regulations

Public Trail: A public trail shall be defined, for the purpose of this ordinance, as a multi-use path, whether improved or unimproved, used primarily for muscle-powered activities such as, but not limited to, bicycling, walking, jogging or cross-country skiing, and which is used by the public, or to which the public has legal right of access, or as designated on the City's Trails Master Plans or a subdivision plat. Sidewalks that do not meet the definition above are not considered a Public Trail.

Formatted: Underline

Formatted: Underline

Formatted: Underline

Formatted: No underline, Underline color: Auto

B.A. Definitions

1. Fence: An enclosure of tangible barrier or obstruction, with the purpose, intent, or effect of obstructing passage or view across the fence line. Includes such as wooden posts, wire, iron, aluminum, vinyl, shrubs, bushes, hedges, walls, chain-link, rails, and any other material used as a boundary, means of protection, privacy screening, enclosure, or confinement.

Commented [RP1]: I don't know if the fence has to enclose anything to be a fence. I would suggest copying to some extent the definition from your general zoning definitions

2. Opaque Fence: A Fence, including any gates, that prevents-permits direct vision through less than 75% of any one section/panel including post. Examples would include vinyl, wood, cement, brick or blocks.

Commented [RP2]: Maybe I'm not reading this right, but "prevents direct vision through less than 75%" reads to me as a fence that prevents 100% is not opaque while a fence that prevents 50% is opaque. Should it be "permits direct vision through less than 75%" or "prevents direct vision through 25% or more"?

3. Public Trail: A corridor of property designated-maintained by the City for the purposes of non-motorized transportation, such as hiking, walking, jogging, running, horseback riding, cycling, or other similar uses, including any trails identified in the City's Parks, Trails, Recreation, & Open Space Master Plan or in a recorded subdivision plat, whether now constructed or planned for future construction.

Commented [RP3]: I really like this definition. I just worry that "maintained" raises an issue of whether a not-yet created trail, which is not yet "maintained by the City" would qualify.

4. Transparent/Open Fences: A Fence, including any gates, that permits direct vision through at least 75% of any one section/panel fence including post. Examples include chain link, hog wire, metal rod, and some post and rail fences.

2.5.

B. General Requirement

1. Fence: Front Yards: No fence, ~~wall or other similar structure~~ shall be erected in any front yard setback area to a height in excess of four feet (4') except as allowed under section C:

Commented [RP4]: With the clarified definition of fence, I think this is redundant

Formatted

2. Back and sideyards: ~~nor shall any~~ No fence, ~~wall or other similar structure or landscaping element shall~~ be erected or maintained in any side or rear yard to a height in excess of seven feet (7') for an opaque ~~fence-fence (eighty percent (80%) or more opaque)~~, e.g., solid wood, and eight feet (8') for a ~~transparent-non-opaque (less than twenty percent (20%) opaque)~~ fence, e.g., chain link, subject to the limitations identified herein for fences bordering Public Trails, ~~corner lots, and adjacent to streets. Public Walkways and Public Easements for non-motorized vehicles (collectively Public Trails hereafter). Public Trails located in Public Parks are excluded from the fence regulations, conditions and provisions of subsection C of this section.~~

Commented [RP5]: I'm not seeing anything in section C that would permit higher than 4' fences in a front yard. Seems like C just adds more places where fences are limited to 4'.

Formatted: No underline, Underline color: Auto, Pattern: Clear

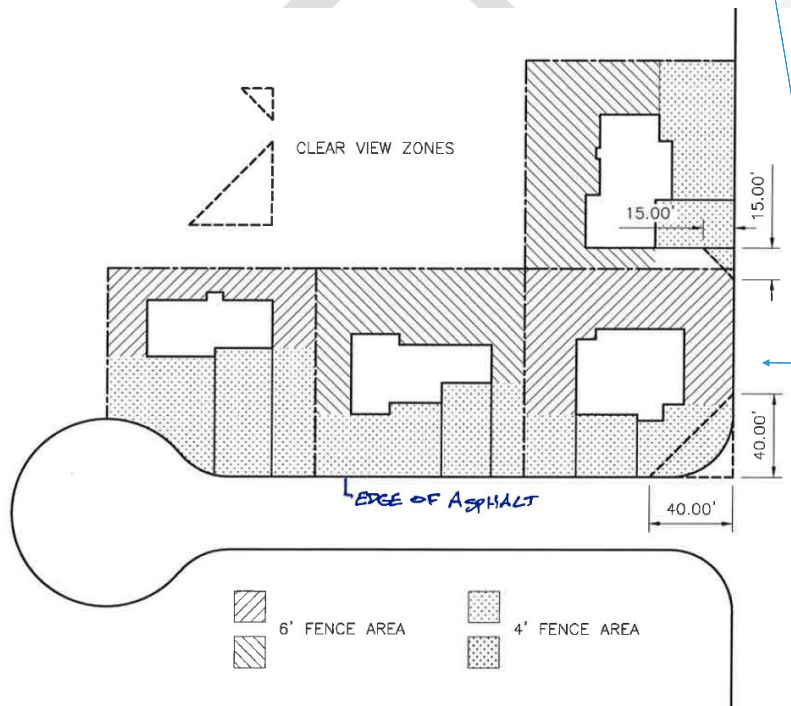
3. -Under all circumstances, no structure or landscaping element may interfere with property address identification. Landscaping elements exclude varieties of trees approved by the City Planner or Planning Department. Any

Formatted

conflicts between this Chapter and NCC 19.22.010, NCC 19.24.230, and any other provision of the Nibley City Code shall be governed by the more restrictive or limiting provision.

C. Corner Lots and clear view triangles:

1. Street Side Yards: No fences, ~~wall, hedge or other visual obstructions~~ in excess of four feet (4') shall be placed on any corner lot within a triangular area formed by the intersecting points of the street 40 feet from the intersection of the streets or roadway, except trees pruned appropriately to permit automobile drivers an unobstructed view.
2. Driveways: Fencing in the street side yards adjacent to a driveway shall not exceed four feet (4') for a distance of fifteen feet back from the intersection of driveway and sidewalk, or driveway and property line where no sidewalk exists as shown on the drawing below.
3. Clear View Fencing Diagram:



4. This section shall apply to all fences as defined herein; other obstructions shall comply with NCC 19.24.110.

D.

0. Corner lot fences shall comply with one of the following:

Commented [RP6]: I think "wall and hedge" is covered by the fence definition. "Other visual obstruction" seems to overlap and contradict 19.24.110. Either this section governs all sight-lines, and 19.24.110 should just be repealed, or this should be limited to fences and 19.24.110 covers all other visual obstructions

Formatted

Formatted: Font: Times New Roman, 12 pt, Font color: Custom Color(RGB(81,89,103)), Do not check spelling or grammar

Formatted: Font: Times New Roman, 12 pt, Font color: Custom Color(RGB(81,89,103)), Do not check spelling or grammar

Formatted: Font: Times New Roman, 12 pt, Font color: Custom Color(RGB(81,89,103)), Do not check spelling or grammar

Formatted: Font: Times New Roman, 12 pt, Font color: Custom Color(RGB(81,89,103)), Do not check spelling or grammar

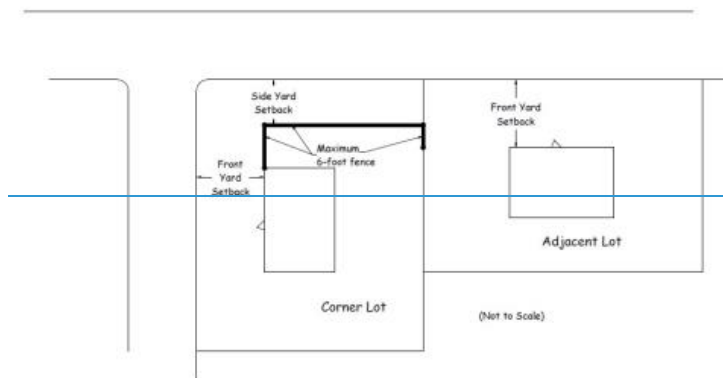
Formatted: Font: Times New Roman, 12 pt, Font color: Custom Color(RGB(81,89,103)), Do not check spelling or grammar

Formatted: No underline, Underline color: Auto, Pattern: Clear

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

Formatted: Font: Do not check spelling or grammar

- No opaque fence, wall or other similar structure shall be erected in any yard bordering a street or front yard of an adjoining lot to a height in excess of four feet (4'). These four-foot fences may be built on the property line.
- Six-foot (6') tall opaque fences adjacent to a street are allowed at the side yard setback line, starting at the corner lot's front yard setback line and running to the corner lot's rear property line. When the rear yard of a corner lot is adjacent to the front yard of a neighboring lot, the maximum fence height is six feet (6') in the part of corner lot's rear yard that is adjacent to the neighboring lot's front yard setback area. The following figure shows where six-foot fences are allowed on corner lots. Although this figure shows the front of each house placed at the front yard setback line, houses may also be placed behind the front yard setback lines. In this case, the six-foot fence placement is still defined by the setback lines, not by the houses. Setback lines defining the placement of corner lot fences adjacent to private streets are referenced from the edge of the private-street easement or from the property line, whichever is further from the center of the private street.



- Transparent fences shall conform to the guidelines of section 10-11-1 of this chapter.

0. All fences on corner lots shall comply with the clear view of intersecting streets as defined in NCC 19.24.110.

1.D. Fencing or landscaping elements along Public Trails: All fences or landscaping elements adjacent to Public Trails, shall be limited to the following:

1. Fencing or hedges that may exceed four feet (4') but not be more than ~~six~~ six feet (6') in height:

Commented [SN7]: Change for to match sight triangles.

Commented [SN8]: Make more clear about what type of fencing is allowed along trails.

- i. ~~Post and rail fencing;~~
- ii. ~~Field fencing;~~
- iii. ~~High tension wire fencing; and~~
- iv.i. Any other fencing or landscaping elements that meet the transparent/open fence requirement definition contained within this chapter, not exceeding twenty percent (20%) opaque.

2. Fencing or hedges that may not exceed four feet (4') in height:

- i. ~~Chain link fencing; and~~
- ii.i. Any ~~Opaque Fencings~~ other fencing or hedges ~~are exceeding twenty percent (20%) opaque.~~

3. Fencing ~~types and materials or hedges~~ may be combined so long as non-permitted elements do not exceed four feet (4') in height.

~~4. All heights under this subsection shall be determined based upon the centerline of the Public Trail.~~

4. Nothing in this subsection shall be interpreted to limit the height of fences or hedges that are adjacent to a street as identified in subsection (E) below.

5. Public Trails located in Public Parks, within or adjacent to a public or private street right-of-way, or contained over existing railroad tracks are excluded from the fence regulations, conditions and provisions of this subsection.

~~K.E.~~ Elevation Changes: Where there is a difference in the elevation on either side of a fence or a wall, the height of the fence shall be determined by the difference between the top of the fence and the average of two points that are perpendicularly ten feet (10') on either side of the fence.

~~L.F.~~ Opaque fences in rear yards that are adjacent to a street or adjacent to the front yard setback of another lot, shall not exceed six feet (6") in height. Wherever possible and feasible, Nibley City will negotiate a minimum ten foot (10') public easement between the placement of these six foot fences and the rear property line.

~~M.G.~~ Fences installed adjacent to a street shall have the finished side facing the street. All gates that adjoin public property or public easements shall open inward (toward the property owner's yard).

~~N.H.~~ Fences shall not be built within one foot (1') of a sidewalk or the projected location of a future sidewalk.

~~I.~~ All fences in rear yards shall provide access ~~Access to a rear yard is required~~ for emergency purposes, which access ~~and~~ shall be at least four feet wide.

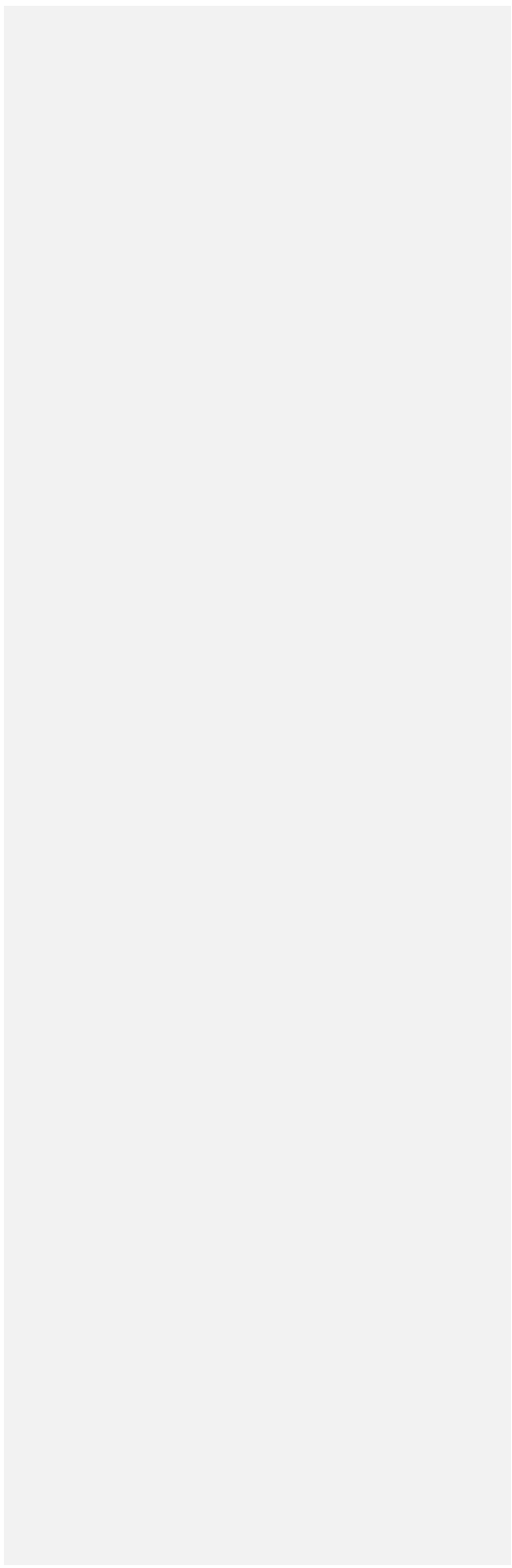
~~O.~~

~~P.J.~~ A permit is required to build a fence. Nibley City staff shall have the authority to review and grant applications for fences. A fence permit shall be valid for two year from the day it is issued. Citizens disagreeing with City staff decisions may appeal those decisions to the Nibley City Planning ~~and Zoning~~ Commission within (10) calendar days after approval or denial of a permit.

Commented [RP9]: A sidewalk is a public trail under the definition above, and would be adjacent to a public street, which would exempt a lot of homes from these regulations. They would still be subject to all other fence regulations. Just making sure that's the intent.

Commented [SN10R9]: Yes

DRAFT



Agenda Item #12 & 13

Description	A Public Hearing to receive comment on Ordinance 19-13: An Update to Nibley City Code 19.28, Conditional Uses and Discussion and Consideration of Ordinance 19-13: An Update to Nibley City Code 19.28, Conditional Uses (First Reading)
Department	Planning
Presenter	Stephen Nelson, Nibley City Planner
Recommendation	Move to approve Ordinance 19-13: Update to Nibley City Code 19.28, Conditional Uses, for first reading.
Reviewed By	Mayor, City Manager, City Planner, Public Works Director



Background

One of the goals that the Planning Commission established for this year was to review and update the Conditional Use, Zoning Definition, and Land Use Table code sections. The Planning Commission has worked on these updates over the past couple of months and has recommended several changes. At the recommendation of the City Attorney, staff has divided the proposal into three different ordinances. The Planning Commission has now made a positive recommendation on each ordinance.

Utah law gives cities authority to control different types of land uses within their boundaries. Utah cities can control those with Permitted Uses, Conditional Uses, and Not Permitted Uses; and other zoning standards. A Permitted Use means that a land use is allowed in any zone that is listed as permitted. A couple of examples of this would be homes in residential zones or pastureland in agriculture zones. A city may establish rules to govern and define

permitted uses. A Permitted Use has no need to obtain a permit unless otherwise stated in City Code. A Non-Permitted Use is also straightforward to understand; it is a use that is not allowed within a particular zone. It is recommended that uses are defined so that the City can apply the code equally to all applicants. A city also may have wording that any use not listed is not permitted. This language is included in the ordinance.

Conditional Use: Found in Nibley City Code 19.28

Conditional Uses are more complicated to understand with the law ever-changing regarding the application of a conditional use. Generally, in land use planning across the country, a Conditional Use may be generally defined as follows:

A use that, because of special requirements or characteristics, may be allowed in a particular zoning district only after review...and granting of a conditional use approval imposing such conditions as necessary to make the use compatible with the other uses permitted in the same zone or vicinity. (A Planners Dictionary 2004, p 434)

However, Utah law is stricter in the interpretation and application of conditional use permits than this definition. The Utah Land Use Development and Management Act (LUDMA) defines and puts the following requirements for conditional uses:

10-9a-507. Conditional uses.

- (1
-) (a *A municipality may adopt a land use ordinance that includes conditional uses and*
-) *provisions for conditional uses that require compliance with standards set forth in an applicable ordinance.*
-
- (b *A municipality may not impose a requirement or standard on a conditional use that*
-) *conflicts with a provision of this chapter or other state or federal law.*

(2

) (a

) (i) *A land use authority shall approve a conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.*

(ii) *The requirement described in Subsection [\(2\)\(a\)\(i\)](#) to reasonably mitigate*

) *anticipated detrimental effects of the proposed conditional use does not require elimination of the detrimental effects.*

(b) *If a land use authority proposes reasonable conditions on a proposed conditional use, the land use authority shall ensure that the conditions are stated on the record and reasonably relate to mitigating the anticipated detrimental effects of the proposed use.*

(c) *If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the land use authority may deny the conditional use.*

(3) *A land use authority's decision to approve or deny conditional use is an administrative land use decision.*

The [Utah Ombudsman website](#) summarizes as follows:

A local government has authority to designate uses as conditional, but that designation must also refer to performance standards that guide decisions on what conditions may be applied. The designation must be in the local government's land use ordinance. A use may be listed as permitted in one zone or area, but be conditional in another zone or area.

~

The local government also establishes the method to consider applications for a conditional use permit. Consideration should focus on facts and applicable standards, and avoid "public clamor," or emotional arguments for or against a permit. An application may be denied only if the detrimental impacts cannot be mitigated by reasonable conditions. (Ombudsman, n.d.)

In Utah, Cities are obligated to follow state law and do not have the authority to contradict the requirements in LUDMA. In many ways, a conditional use is not very different from a permitted use under LUDMA, other than some enhance flexibility based on adopted standards.

Utah law requires cities to be able to justify any conditions placed on an application for a conditional use permit and to be supported by local code or adopted standards. It is essential that cities ensure their criteria are specific enough to ensure they can be applied to an application. An applicant may reasonably argue standards that are too vague that they do not apply to their property.

Nibley City Conditional Use Standards can be found in [19.28 Conditional Uses](#). The main changes the Planning Commission recommended was to ensure our code matches state law. For example, the code section 19.28.050 states that the City will only issue a Conditional Use Permit if:

That the proposed use of the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the community;

This section is in clear violation of Utah law. In this section, there is also a list of standards that the Planning Commission has reviewed and added more details. The proposed ordinance has been reviewed by the Utah Ombudsman and the City Manager and their suggested edits have been added to the proposed ordinance.



ORDINANCE 19-13

AN UPDATE TO NIBLEY CITY CODE 19.28, CONDITIONAL USES

WHEREAS, Nibley City has the ability to control zoning and land use within Nibley City boundaries; and

WHEREAS, Nibley City wishes to protect individual property rights and also protect the surrounding communities from nuisances; and

WHEREAS, Nibley City wants to bring its laws in line with state requirements; and

WHEREAS, Nibley City wants to establish clear standards for Conditional Uses.

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

1. The attached changes to Nibley City Code 19. 28 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.

Shaun Dustin, Mayor

ATTEST: _____
David Zook, City Recorder

19.28.010 Purpose And Intent

The purpose and intent of conditional uses is to allow in certain areas compatible integration of uses which are related to the permitted uses of the zone upon certain conditions which make the uses suitable.

Commented [BB1]: This is very problematic. The purpose of CUP is not the make the uses suitable. That sounds too much like a subjective "use that we like" standard. The purpose should read that the CUP exists to mitigate any detrimental effects that may arise from the use.

HISTORY

Adopted by Ord. No Source on 6/3/1993

19.28.020 Conditional Use Permit

A conditional use permit shall be required for all uses listed as conditional uses in NCC 19.20. A conditional use permit may be revoked by the Planning Commission or City Council for failure to comply with the conditions imposed with the original approval of the permit as follows:

1. Notice of the alleged noncompliance and the date and time of the public meeting on the potential revocation shall be given to the permittee no later than ten (10) days before the meeting.
2. The permittee shall be given an opportunity during the public meeting to address the alleged noncompliance, demonstrate why the permit should not be revoked, and submit any desired evidence.
3. After reviewing the evidence and arguments, the Planning Commission or City Council shall issue a written decision with its factual findings and legal conclusions.

HISTORY

Adopted by Ord. No Source on 6/3/1993

19.28.030 Review Procedure

1. The Planning Commission is the land use authority for Conditional Use Permits, but may appoint staff to review and approve conditional use permit application according to NCC 3.02.040.
2. Application: Application for a conditional use permit shall be made to the City.
3. Proposed Use: The applicant shall provide sufficient detail of the proposed use to allow the City to properly classify the use and gauge the proposed impact the use.
4. Plans Required: Detailed location, site and any applicable building plans shall accompany the complete application forms provided by the city.
5. Consideration By the City: The application, together with all pertinent information, shall be considered by the Planning Commission at its next regularly scheduled meeting according to application deadlines as adopted by the Planning Commission, or be reviewed by staff within a timely fashion.
6. Public Hearing: The planning commission may call a special public hearing on any application after adequate notice if it is deemed by the planning commission or staff to be in the public interest. If a public hearing is deemed in the public interest, it shall be the responsibility of the applicant to pay a fee as set by the City Council to cover the costs

Commented [BB2]: I like this option.

incurred in advertising and notifying residents and neighbors. All property owners within three hundred feet (300') of the applicant's property must be notified by mail at least ten (10) days before the public hearing. HISTORY
Adopted by Ord. No Source on 6/3/1993

19.28.040 Determination

~~The City may deny or permit a conditional use based on standards within Nibley City Code, Design Standards, or Commercial and Institutional Design Standards. The Planning Commission shall impose reasonable conditions according to standards adopted and established by the City. The determination and all conditions shall be stated on the record through a written decision.~~

HISTORY

Adopted by Ord. No Source on 6/3/1993

19.28.050 Basis For Issuance Of Conditional Use Permit

- A. A conditional use permit shall be approved if reasonable conditions are ~~imposed~~proposed or can be imposed to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, then the conditional use may be denied. Substantial mitigation shall not mean complete elimination of all detrimental effects.
- B. The granting of a conditional use permit shall not exempt the application from other relevant provisions of this or other ordinances of the Nibley City, or other state, federal, fire or building standards. All proposed uses shall comply with the regulations and conditions specified in this title for such use.
- C. The City shall consider the following, plus other adopted standards in order to mitigate any detrimental effects of a conditional use application

1. Additional Standards for Conditional Uses for Residential Zones:

- i. All Conditional Uses within Residential Zones shall comply with all conditions as for forth in this Title, Nibley City Code, Nibley City Design Standards and Specifications, and any applicable state or federal law.
- ii. Traffic and Connectivity
 - a. Roadways and intersections shall maintain a Level of Service (LOS) C. Conditional Use Applicants shall be required to make any road updates in order to ensure the roadway will maintain LOS C.
 - b. Site plans must comply with the Transportation and Trails Master Plan.
- iii. Parking
 - a. Applicant shall provide off-street parking for the proposed use. Parking may be contained in a driveway, RV pad, or parking lot.

Commented [BB3]: The state law is very specific about the standard for denial, and what you have here does not conform to state law. Since you do cite and closely follow the state law below (well done), I suggest that you do not even need this section. Including it creates kind of a conflict.

Commented [SN4R3]:

- b. Other Parking requirement shall comply with NCC 19.24.160
- iv. Hours of operation: Conditional Uses shall not operate, or cause outside disturbance from 10:00 p.m. to 7:00 a.m.
- v. Short-term rentals
 - a. All short-term rentals shall be inspected by the Fire Marshal annually to insure each home meets residential fire standards.
 - b. Shall provide a minimum of two 90 gallon garbage can and one recycling can issued by Logan Environmental Services.
 - c. Only one Short-term rental shall be allowed for each property.
- 2. Additional Standards for Conditional Uses in Commercial and Industrial Zones
 - i. All Commercial Conditional Use Application shall comply with underlying zoning requirements as list in this Title.
 - ii. All Industrial Conditional Use Application shall comply with underlying zoning requirements as listed in this Title.
 - iii. All buildings located in Commercial and Neighborhood Commercial Zone must comply [Nibley City Design Standards for Commercial and Institutional Uses](#)
 - iv. Traffic and Connectivity
 - a. Roadways and intersections shall maintain a Level of Service (LOS) C. Conditional Use Applicants shall be required to make any road updates in order to ensure the roadway will maintain LOS C.
 - b. Site plans must comply with the Transportation and Trails Master Plan.
 - v. All buildings shall comply with fire code and are subject to inspection of the Fire Marshall before a business license and conditional use permit is given. New buildings shall be inspected by the Fire Marshal before Occupancy can be given [and inspection must be passed annually thereafter.](#)
 - vi. Hours of Operation: The city may put limits of hours of operation from 7:00 a.m. to 10:00 p.m. on a conditional use application to mitigate noise and traffic to nearby residential zones.
 - vii. All site plans shall be approved by the City's Engineer and Public Works departments. All sites plans shall comply with Nibley City Design Standards and all projects located [in](#) Commercial and Neighborhood

Formatted: Pattern: Clear (White)

Commercial Zone shall comply with Nibley City Design Standards for Commercial and Institutional Use.

- viii. The City may require the placement of fences or walls to enhance security and mitigate aesthetic or other impacts at facilities adjacent to residential areas.

3. Animals

- a. NCC 19.34 shall govern what animals are permitted or are required to obtain a conditional use permit.
 - b. Applicants must provide a plan on how to mitigate noise, waste, dust or other neighborhood impacts, including proper housing and waste disposal.
 - c. Applicant must also provide sufficient information that the proposed property is sufficiently sized to house ~~the~~ the proposed animal.
 - d. All animals must be contained on the property. The Land Use Authority may require that animals that cause noise at night or early morning, like rosters, must be contained inside a structure or building that blocks the sound between 10:00 p.m. ~~and~~ 7:00 a.m.
- B. The proposed use ~~shall~~will not lead to the deterioration of the environment of the general area, nor will produce conditions or noises or emit pollutants of such type or of such a quantity so as to detrimentally effect, to any appreciable degree, public and private properties, including the operation of existing uses thereon, or the health and safety of persons in the immediate vicinity of the community or area as a whole.

HISTORY

Adopted by Ord. No Source on 6/3/1993

19.28.060 Appeal

1. Authority; Time Limit: The decision of the planning commission may be appealed to the City Council by filing such appeal within fifteen (15) days after the date of the notice of decision sent the applicant.
2. Decision Final: The City Council may uphold or reverse the decision of the planning commission and impose any additional conditions that it may deem necessary in granting an appeal. The decision of the City Council shall be final.

HISTORY

Adopted by Ord. No Source on 6/3/1993

19.28.070 Building Permit

Upon receipt of a conditional use permit, the developer shall take such permit to the building inspector who will review the permit and conditions attached. Based on this review and compliance with any other items that might develop in the pursuance of his duties, the building inspector may approve an application for a building permit and shall ensure that development is undertaken and completed in compliance with said permit and conditions pertaining thereto.

HISTORY

Adopted by Ord. No Source on 6/3/1993

19.28.080 Expiration Of Permit

Unless there is substantial action, meaning completion of sixty percent (60%) of the proposed development, under a conditional use permit within a period of one year of its issuance, as determined by the planning commission, the conditional use permit shall expire. The planning commission may grant a maximum extension of six (6) months under exceptional circumstances.

HISTORY

Adopted by Ord. No Source on 6/3/1993

Agenda Item #14 & 15

Description	A Public Hearing to receive comment on Ordinance 19-14: An Update to Nibley City Code 19.20, Land Use Chart and Discussion and Consideration of Ordinance 19-14: Update to Nibley City Code 19.20 Land Use Chart (First Reading)
Department	Administration
Presenter	Stephen Nelson, Nibley City Planner
Recommendation	Move to approve Ordinance 19-14: Update to Nibley City Code 19.20 Land Use Chart, for first reading.
Reviewed By	Mayor, City Manager, City Planner, Public Works Director

Background

As the Planning Commission has been working on updating the Conditional Use section of the Nibley Code, the Planning Commission also reviewed the Land Use Chart and Zoning Definitions. Reviewing these sections is important because it is attached to the Conditional Use section. The Land Use Chart defines what is a Permitted Use, Not Permitted Use, and a Conditional Use; while the Zoning Definition described what each use is and contains many standards. Most uses listed are either Not Permitted or Conditional, and the Planning Commission has recommended more uses to be listed as permitted, especially within the commercial zone.

The format for the Land Use chart has also been updated, so that items are broken down by use, instead of alphabetically, in order to help the Land Use Chart be easier to use for the average resident.

Some of the main changes include adding Housing, Short-Term Rental, Temporary Vendor/Food Trucks. The Park/School Zone has also been added.

ORDINANCE 19-14

AN UPDATE TO NIBLEY CITY CODE 19.20, LAND USE CHART

WHEREAS, Nibley City has the ability to control zoning and land use within Nibley City boundaries; and

WHEREAS, Nibley City wishes to protect individual property rights and also protect the surrounding communities from nuisances; and

WHEREAS, Land Use demands change from time to time and City uses need to be updated; and

WHEREAS, Nibley City desires that the Land Use Chart to be easier to use by residents and property owners; and

WHEREAS, Nibley City wanted to provide further standards for the Park/School Zone.

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

1. The attached changes to Nibley City Code 19. 20.020 be adopted.
2. All ordinances, resolutions, and policies of the City, or parts thereof, inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency. This repealer shall not be construed as reviving any law, order, resolution, or ordinance, or part thereof.
3. Should any provision, clause, or paragraph of this ordinance or the application thereof to any person or circumstance be declared by a court of competent jurisdiction to be invalid, in whole or in part, such invalidity shall not affect the other provisions or applications of this ordinance or the Nibley City Municipal Code to which these amendments apply. The valid part of any provision, clause, or paragraph of this ordinance shall be given independence from the invalid provisions or applications, and to this end the parts, sections, and subsections of this ordinance, together with the regulations contained therein, are hereby declared to be severable.
4. This ordinance shall become effective upon posting as required by law.

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

Shaun Dustin, Mayor

ATTEST: _____
David Zook, City Recorder

Use	A	R-E	R-1	R-1A	R-2	R-2A	P/S	C	C-N	I
Residential										
Assisted living facility	C	C	NP	NP	NP	NP	NP	C	C	NP
Artisan shop	C	C	C	C	C	C	NP	C	C	C
Bed and breakfast inn	C	C	C	C	NP	NP	NP	C	C	NP
Building moved from another site	C	C	C	C	C	C	C	C	C	C
Group living facility ¹							NP			
Home occupation	C	C	C	C	C	C	NP	NP	NP	NP
Home office	P	P	P	P	P	P	NP	NP	NP	NP
Housing, Short-Term Rental	C	C	C	C	C	C	NP	NP	NP	NP
Housing, single-family	P	P	P	P	P	P	NP	C	C	C
Housing, two-family	P	P	P	P	P	P	NP	C	C	C
Mobile home park	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Nursing home	C	C	C	C	C	C	NP	C	C	NP
Temporary office/model home	NP	C	C	C	C	C	NP	C	C	C
Agricultural/Animal										
Ag implement sales and service	C	NP	NP	NP	NP	NP	NP	C	NP	C
Agricultural production	P	P	P	P	P	P	P	C	C	C
Animal Crematorium	NP	NP	NP	NP	NP	NP	NP	C	NP	C
Arboretum/nature center	C	C	C	C	C	C	C	C	C	C
Farmers' market	C	C	C	NP	NP	NP	C	C	C	C
Florist/garden center	C	C	NP	NP	NP	NP	NP	C	P	C
Slaughterhouse	C	NP	NP	NP	NP	NP	NP	NP	NP	C
Veterinary clinic, large animal	P	NP	NP	NP	NP	NP	NP	C	NP	C
Veterinary clinic, small animal	P	NP	NP	NP	NP	NP	NP	C	C	C
Public, Institutional, and Civic Uses										
Bus/transit terminal	NP	NP	NP	NP	NP	NP	P	C	C	C

[illegible]

Use	A	R-E	R-1	R-1A	R-2	R-2A	P/S	C	C-N	I
Mineral extraction	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Pest control	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Recycling collection facility	NP	NP	NP	NP	NP	NP		NP	NP	C
Sign shop	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Sports facilities	NP	NP	NP	NP	NP	NP	C	C	NP	C
Storage facility	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Warehousing	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Warehousing, Residential Storage	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Welding/machine shop	NP	NP	NP	NP	NP	NP	NP	NP	NP	C

Notes

1. Group living Facilities are governed by NCC 19.42
2. Any land use not listed is not permitted

Key

A: Agricultural Zone

R-E: Rural Estate Zone

R-1: Residential Zone R-1

R-1A: Residential Zone R-1A

R-2: Residential Zone R-2

R-2A: Residential Zone R-2A

P/S: Park/School

C: Commercial Zone

C-N: Neighborhood Commercial Zone

I: Industrial Zone

P: Permitted Use

NP: Not Permitted Use

C: Conditional Use

Agenda Item #16 & 17

Description	A Public Hearing to receive comment on Ordinance 19-15: An Update to Nibley City Code 19.04, Land Use Definitions and Discussion and Consideration of Ordinance 19-15: Update to Nibley City Code 19.04, Land Use Definitions (First Reading)
Department	Planning
Presenter	Stephen Nelson, Nibley City Planner
Recommendation	Move to approve Ordinance 19-15: Update to Nibley City Code 19.04, Land Use Definitions, for first reading.
Reviewed By	Mayor, City Manager, City Planner, Public Works Director

Background

As the Planning Commission has been working on updating the Conditional Use section of the Nibley Code, the Planning Commission reviewed the Land Use Chart and Zoning Definition.

The main changes have been made to the following definitions

- Home Occupation: The difference is to allow a home occupation to have at most one employee report to the home.
- Housing, Short-Term Rental: New definition that was not previously defined
- Personal Instruction Services: Further clarifies what is allowed in a residential zone and commercial and industrial zones
- Planning commission Appointment, Chairperson and Term of Office: Removed
- Temporary Food Vendor: New definition that was not previously defined
- Warehouse, Residential Storage: New definition that was not previously defined

ORDINANCE 19-15

AN UPDATE TO NIBLEY CITY CODE 19.04 LAND USE DEFINITIONS

WHEREAS, Nibley City has the ability to control zoning and land use within Nibley City boundaries; and

WHEREAS, Nibley City wishes to protect individual property rights and also protect the surrounding communities from nuisances; and

WHEREAS, land use demands change from time to time and Nibley City uses need to be updated; and

WHEREAS, Nibley City wanted to provide further definitions for a higher variety of land uses; and

WHEREAS, Nibley City want to allow a higher variety of home-based business.

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

1. The attached changes to Nibley City Code 19.04 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.

Shaun Dustin, Mayor

ATTEST: _____
David Zook, City Recorder

19.04.010 Definitions

ACCESS STRIP: A strip of land which is part of a lot and provides access to the part thereof used or to be used for buildings or structures.

ACRE: A measurement of area equal to forty-three thousand five hundred sixty (43,560) square feet.

AG IMPLEMENT SALES AND SERVICE: A place and/or building, or portion thereof, that is used or is intended to be used for retail sale of a product(s) unique to and directly related to farm and ranch operations. This term includes feed/seed sales, irrigation equipment sales, farm machinery sales and repair, and the like.

AGRICULTURAL PRODUCTION: Commercial agriculture, animal husbandry or poultry husbandry, the production for a commercial purpose of field crops, tobacco, fruits, vegetables, timber, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, or any combination of such husbandry or production. It also includes the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with such husbandry or production.

AGRICULTURE: The tilling of the soil, the raising of crops, horticulture and gardening, but not including keeping or raising of domestic animals and fowl, except household pets, and not including any agricultural industry or business, such as fruit packing plants, fur farms, animal hospitals, sales of crops or animals, or similar uses.

Commented [RP1]: Should this be included or excluded?

ALLEY: A public thoroughfare less than twenty-six feet (26') wide and not intended for general traffic circulation.

ANIMAL CREMATORIUM: An establishment intended for cremation and mortuary services for animals, both domestic and agricultural.

APARTMENT: A single ~~dwelling~~ unit within a residential dwelling~~family dwelling unit~~~~building~~ and constituting a separate housing unit, including at least a bathroom, kitchen area and living and sleeping accommodations and is owned by one of the main dwelling unit occupants.

ARBORETUM/NATURE CENTER: A public or private establishment intended for use as a botanical garden containing living collections of primarily woody plants intended at least partly for scientific study and which is an organization with a visitor center designed to educate people about nature and the environment. Also, a public or private establishment set aside for the preservation of habitat for study of birds, plants or other species of animal or vegetation.

ARTISAN SHOP: A place and/or building, or portion thereof, that is used or is intended for creating works of art and/or production of handmade craft items on a small scale, and which do not require industrial machinery for production of the items. Examples of such items include paintings, sculptures, pottery, jewelry, handblown glass, small wooden items, candles, soaps, and lotions.

ASSISTED LIVING FACILITY: Facilities that provide supervision or assistance with activities of daily living and coordination of services by outside healthcare providers for more than eight (8) unrelated persons.

AUDITORIUM: A performance space, outdoor or indoor, where the audience is located in areas surrounding a stage in order to hear and participate in a live performance.

BAIL BONDS: A business where any person or corporation acts as a surety and pledge money or property as bail for the appearance of a criminal defendant in court.

BAKERY: An establishment which produces and/or sells bread, pies, pastries, cakes, biscuits, cookies, etc., possibly serving coffee, tea or other nonalcoholic beverages to customers who wish to consume the freshly baked goods on the bakery's premises.

BANKS/FINANCIAL INSTITUTIONS: A place and/or building, or portion thereof, that is used or is intended for providing financial and banking services. This term includes banks, savings and loan institutions, and other lending institutions that do not qualify as, ~~and check cashing/credit services facilities~~. This term does not include automated teller machines, which are considered an accessory use to commercial enterprises.

Commented [RP2]: Check cashing/credit services are a separate thing under your ordinances that under your current and proposed land use table have different authorizations

BARN: A structure whose primary use is for the housing, shelter or breeding of livestock, poultry or other fowl, or other large animals.

BASEMENT: A story partly underground and having at least one-half (1/2) its height above the average level of the adjoining ground. Abasement shall be counted as a story, for purposes of height measurement.

BEAUTY SALON/SPA: A place where patrons go to get their hair cut, styled, highlighted or colored or is an establishment dealing with cosmetic facial and body treatments for men or women, including massages.

BED AND BREAKFAST INN: A single-family residence that offers overnight accommodations and a meal for a daily charge and which also serves as a primary residence of the operator or owner.

BLOCK: The land surrounded by streets and other rights of way other than an alley, or land which is designated or shown as a block on any recorded subdivision plat or official map or plat adopted by the city council.

BUILDING, ACCESSORY: A detached subordinate building ~~clearly~~ incidental to and located upon the same lot occupied by the main building.

BUILDING, AGRICULTURAL ACCESSORY: A building whose primary use is for the storage of agricultural implements, equipment, fodder, etc., but not used to house agricultural or domesticated animals.

BUILDING, HEIGHT OF: The vertical distance from the grade elevation measured from center of street line running in front of the building or structure to the highest point of the roof.

BUILDING, MAIN: The principal building or one of the principal buildings upon a lot, or the building or one of the principal buildings housing the principal use of the lot.

BUILDING, PUBLIC: A building owned and operated, or owned and intended to be operated by a public agency of the United States of America, of the state of Utah, or any of its subdivisions, or of the city of Nibley.

BUILDING, SETBACK LINE: A line designating the distance which a building is set back from a street line or lot line.

BUILDING: Any structure built or erected for the support, shelter or enclosure of persons, animals, chattel or property of any kind.

BUS/TRANSIT TERMINAL: A place and/or building, or portion thereof, that is used or is intended for loading and unloading of bus passengers along with facilities for ticket sales and food service areas primarily intended for bus passengers.

BUSINESS EQUIPMENT SALES AND SERVICE: A place and/or building, or portion thereof, that is used or is intended for the sales and service of business equipment, such as personal computers, typewriters, copy machines, facsimile machines or other similar equipment.

CAR WASH: A place and/or building, or portion thereof, that is used or is intended to clean the exterior and in some cases, the interior of motor vehicles, whether self-service or automatic.

CARPORT: A private garage not completely enclosed by walls or doors. For the purposes of this title, a carport shall be subject to all the regulations prescribed for a garage.

CELLAR: A story having more than one-half (1/2) its height below the average level of the adjoining ground. A cellar shall not be counted as a story for the purposes of height measurement.

CEMETERY: A place and/or building, or portion thereof, that is used or is intended for burial purposes. Accessory uses include columbariums and mausoleums when operated in conjunction with and within the boundaries of such area.

CHECK CASHING/CREDIT SERVICES: A business whose primary function is to engage in small, short term loans that are intended to cover a borrower's expenses until his or her next payday.

CHURCH/PLACES OF WORSHIP: A place and/or building, or portion thereof, that may have tax exempt status and that is primarily used or ~~is~~ intended as a place where people can regularly assemble for religious worship and associated activities. This term includes sanctuaries, chapels, cathedrals, churches, synagogues, and temples and other on-site accessory buildings such as parsonages, friaries, convents, fellowship halls, Sunday schools, rectories, and daycare centers within the same structure. This term does not include community recreation facilities, dormitories, private educational facilities, emergency shelters, healthcare facilities, and ~~the like~~ other facilities where religious worship and associated activities are incidental to the facilities' primary uses.

CITY COUNCIL: The governing body of the city of Nibley as established in NCC 1.10.

CITY ENGINEER: The person appointed by the city of Nibley to be the city engineer.

CLUB/SERVICE ORGANIZATION/LODGE: A place and/or building, or portion thereof, that is used or is intended for large gatherings of people, which is sponsored by a civic organization (i.e., Elks, Rotary, etc.), and where there are no sleeping facilities. If there are on site sleeping facilities, such lodge will fall under the "hotel/motel" regulations.

CLUSTER SUBDIVISION: A subdivision of land in which the areas and widths of residential lots are reduced below the minimum lot area and lot width requirements of the zone in which the subdivision is located and where equivalent common open space areas are provided to compensate for such lot reduction.

COLLECTOR STREET: See definition of Street, Collector.

COLLEGE/UNIVERSITY: Any place and/or building, or portion thereof, that offers or is intended to provide secondary education. This term includes colleges, universities, community colleges, and vocational schools.

COMMON AREA: An area designed to serve two (2) or more dwelling units or separate uses with convenient access to the area.

COMMUNITY CENTER: A central social and recreational building as part of a housing development.

COMPREHENSIVE PLAN: The adopted Nibley City General Plan.

CONDITIONAL USE: A use of land for which a conditional use permit is required pursuant to NCC 19.28.

CONSTRUCTION SALES AND SERVICE: A place and/or building, or portion thereof, used or is intended for wholesale or retail sales or rental of bulk construction materials and equipment, such as roofing, lumber, bricks, component parts (trusses), HVAC components and the like. This term does not include hardware stores, concrete plants, asphalt mixing plants, or any facility that manufactures building materials and offers them for retail sale on the premises.

CONSTRUCTION STANDARDS: The standards and specifications adopted by this title.

CORRAL: A permanent fenced enclosure other than a building for the confinement of large animals on which the large animal density is greater than one large animal per ten thousand (10,000) square feet of corral area.

COVERAGE LOT: The percentage of the lot area covered by the main and accessory buildings.

CUL-DE-SAC: See definition of Street, Cul-De-Sac.

DAYCARE/PRESCHOOL, COMMERCIAL: A place and/or building, or portion thereof, that is used or is intended to provide daycare on a regular basis for more than eight (8) children at any one time and where the children do not live at the same location where the care is provided.

DUPLEX: See definition of Housing, Two-Family.

DWELLING UNIT: One or more rooms in a dwelling, apartment, hotel or apartment hotel designed for or occupied by one family for living, sleeping and/or eating purposes. A dwelling unit may contain more than one set of kitchen facilities, whether temporary or permanent, provided they are used only by members of the family occupying the dwelling unit or their nonpaying guests. A single 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.

DWELLING: Any building or portion thereof which is designed for use for residential purposes, except hotels, apartment hotels, boarding houses, lodging houses, tourist courts and apartment courts.

~~EASEMENT: The quantity of land set aside or over which a liberty, privilege or advantage in land without profit, existing distinct from the ownership of the land, is granted to the public or some particular person or part of the public.~~

Commented [RP3]: Don't know that you need a definition for easement, as it is a pretty standard legal term. Having a definition suggests you're trying to limit or change the normal meaning of the word, which I don't think you are

ENVIRONMENTAL IMPACT STATEMENT: A statement prepared by an engineer, geologist or other person qualified by training or experience, as determined by the planning commission, which indicates or describes the impact that the development will likely have on the natural features of the immediate area, and which describes the measures that will be taken to lessen the occurrence of adverse conditions with respect to:

1. Control of erosion within the area to be developed.
2. Reseeding of cuts and fills.
3. Provision for potable water.
4. Disposition of any geologic hazards or soil conditions which may cause injury to persons or injury or damage to improvements which may be constructed in the development, such as buildings, water and sewer lines, and streets.
5. Provisions for the proper disposal of solid and liquid wastes that will likely come from the occupants of the development when it is fully developed.
6. Prevention of the destruction of vegetation or else the establishing of new vegetation.
7. Prevention of the accumulation of weeds and debris.
8. Disposal of surface water and disposition of flood hazards.

FAMILY: One or more persons related by blood, marriage or adoption, plus domestic servants employed for service on the premises, or a group ~~of bachelor and/or bachelorettes~~ of not more than four (4) unrelated persons ~~who need not be so related~~, living together as a single nonprofit housekeeping unit.

FARMERS' MARKET: A market, usually held out of doors, in a public space, where local merchants can sell locally grown, fresh produce and small handcrafted items to the public.

FENCE: A tangible barrier or obstruction of any material, with the purpose, ~~or~~ intent, or ~~having the~~ effect of preventing passage or view across the fence line. It includes hedges and walls.

FINAL PLAT: A map or chart of a subdivision which has been accurately surveyed, and such survey marked on the ground so that streets, alleys, blocks, lots and other divisions thereof can be identified.

FLOOD PLAIN: Land adjacent or near to a body of water which has been designated as flood plain by the U.S. Army Corps of Engineers, the Federal Emergency Management Agency or another federal agency.

FLOOR AREA: The sum of the gross horizontal areas of the several floors of a building and its accessory buildings on the same lot, excluding cellar and basement floor areas not devoted to residential use.

FLOOR-LOT AREA RATIO: The total floor area of a building divided by the area of the lot on which it is located.

FLORIST/GARDEN CENTER: A retail firm that sells flowers and plants and products related to gardens as its primary business. It is open to the public, with facilities to care for and display plants.

FRACTIONAL NUMBERS OR MEASUREMENTS: In determining the requirements of this title, whenever a fraction of a number or a unit is one-half (1/2) or more, and whenever a fraction of a number or unit resulting from a computation is one-half (1/2) or more, said fraction shall be considered as a whole number or a unit; where the fraction is less than one-half (1/2), said fraction shall not be included in determining requirements.

Commented [RP4]: Not really a definition, more just a guide to interpretation or construction of ordinances

FRONT LOT LINE: The property line of the lot toward which the front line of a main building faces or may face, and which abuts a public dedicated street or a right of way approved by the city council.

FRONTAGE, MINIMUM: Every building lot must have frontage on a public highway, street, public right of way, or alley or private lane.

Commented [RP5]: Not really a definition, more just a requirement.

FRONTAGE: All the property fronting on one side of the street between intersecting or intercepting streets, or between a street and a right of way, end of dead-end street, or political subdivision boundary, measured along the street line. An intercepting street shall determine only the boundary of the frontage of the side of the street which it intercepts.

FUNERAL HOME: A place and/or building, or portion thereof, used or intended for the care and preparation of human dead for burial. This term includes funeral homes, mortuaries and crematoriums.

GARAGE, PRIVATE: An enclosed space or accessory building for the storage of one or more motor vehicles; provided, that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a nonresident of the premises. A garage shall be considered part of a dwelling if the garage and dwelling have a roof or wall in common.

GASOLINE SERVICE STATION: A facility which sells fuel and lubricants for motor vehicles and which also may house a small store for the sale of convenience items (snacks, beer, soda, cigarettes, etc.).

GASOLINE, WHOLESALE: A place and/or building, or portion thereof, that is used or is intended for commercial bulk storage and sales of petroleum products or any other fuel.

GOVERNMENT SERVICES: A place and/or building, or portion thereof, that is used or is intended as a governmental office or administrative facility. This term includes post offices, City office buildings, public community recreation centers, courthouses, correctional facilities and the like.

GRADE:

A. The elevation of the sidewalk or center line of the nearest fronting street to the primary building, whichever is higher, at right angles to the midpoint of the fronting wall of the primary building on the lot.

Formatted: Indent: Left: 0.5"

B. For buildings having no wall fronting the street, the average level of the sidewalk or center line of the nearest street, whichever is higher.

HALF STREETS: The portion of a street within a subdivision comprising one-half (1/2) the minimum required right of way on which improvements are constructed and in accord with one-half (1/2) of an approved typical street cross section.

HOME OCCUPATION: The use of a portion of a dwelling as an office, studio, or workroom for occupations which are conducted in the home and are incidental to the primary use as a home or residence; provided additionally that: 1) individuals who own and operate the business must also live at that residence who perform occupation related activities at the home occupation residence must also live at that residence; 2) each home occupation may not have more than one employee who does not live at the residence report to that residence at a time ~~individuals who do not live at the home occupation residence must not report to that residence for occupation related activities~~; and 3) the occupation shall not use any accessory building, yard, or any space outside the main building not normally associated with residential use. Applications meeting these criteria may (as determined by the appropriate land use authority) be classified a home occupation rather than being classified by the actual activity associated with the business, with the following exceptions: ~~1) Child daycare/preschool for more than eight (8) children~~ at a time shall be classified as a commercial daycare rather than a home occupation; ~~and 2) In addition,~~ activities involving the sale, service, leasing and/or rental of motor vehicles shall not be classified as a home occupation.

Commented [SN6]: Separate by time

HOME OFFICE: The use of a portion of a dwelling as an office for a business where: 1) no client visits are conducted and 2) no persons not living in the home are employed by the business. Home-based businesses ~~es who that~~ do not meet these requirements may still be conducted but shall be classified as a home occupation rather than a home office.

HOSPITAL: A place and/or building, or portion thereof, whether public or private, excluding federal facilities, whether organized for profit or not, that is used or is intended to provide health services, medical treatment, or nursing, rehabilitative, or preventative care to any person or individuals. This term does not include offices of private physicians or dentists.

HOTEL/MOTEL: A building that is used, intended, kept, maintained as, advertised as, or held out to the public to be a hotel, motel, inn, motor court, tourist court, public lodging house, or place where sleeping accommodations are furnished for a fee to transient guests (as defined in state law) with or without meals, excluding a bed and breakfast, as defined herein.

HOUSEHOLD PETS: Animals or fowl ordinarily permitted in the house and kept for company or pleasure, such as dogs, cats and canaries, but not including a sufficient number of dogs to constitute a "kennel" as defined in this section.

HOUSING, MULTI-FAMILY: A single building situated on one lot and that contains three (3) or more separate dwelling units. Entrances to the dwelling units may be separate or combined. The units may be rented or owned as in a condominium. Multi-family units may only be developed as part of a conservation residential subdivision.

HOUSING, SINGLE-FAMILY: A single building that is situated on one lot, contains one dwelling unit, and is not attached to any other dwelling unit. This term includes factory built homes, manufactured homes, and stick built homes, but excludes mobile homes.

HOUSING, SHORT-TERM RENTAL: Any dwelling or portion thereof that is available for use or is used for accommodations or lodging of guests paying a fee or other compensation for a period of less than 30 consecutive days.

HOUSING, TWO-FAMILY: A single building that is situated on one lot and that contains two (2) dwelling units. ~~The main unit shall be owner occupied.~~

IMPROVED LOT: A lot which has all of the improvements required by this title.

IMPROVEMENTS: Includes roads, streets, curbs, gutters, grading, landscaping, water and sewer systems, drainage systems and public facilities required by this title.

JUNK/SALVAGE YARD: A place and/or building, or portion thereof, that is used or is intended for collecting, selling, exchanging, storing, cleaning, packing, processing, or otherwise handling salvage materials, or for the dismantling, demolition or abandonment of motor vehicles or machinery or parts thereof.

KENNEL: The land or buildings used in the keeping of three (3) or more dogs over the age of six (6) months.

LANDSCAPING: Landscaping shall mean some combination of planted trees, shrubs, vines, ground cover, flowers or lawns. In addition, the combination or design may include rocks and such structural features as fountains, pools, art works, screens, walls, fences or benches, but such objects alone shall not qualify as landscaping.

LAUNDRY SERVICE: A business intended for laundering items for restaurants, hotels, conference centers or other similar commercial scale enterprises or for small-scale personal use of laundry or dry cleaning facilities.

LIQUOR STORE: A place and/or building, or portion thereof, that is used or is intended for retail sales of alcoholic beverages for off-site consumption. This term includes package liquor stores.

LOT AREA: For purposes of computation of lot area, all contiguous land shall be included, regardless of whether or not a portion of the land is outside the city limits.

LOT DEVELOPMENT STANDARDS: Established regulations concerning lot areas, yard setbacks, building height, lot coverage, open green space and any other special regulations deemed necessary to accomplish the purpose of this title as indicated in NCC 19.02.020.

LOT, CORNER: A lot abutting on two (2) intersecting streets where the interior angle of intersection or interception does not exceed one hundred thirty five degrees (135°).

LOT, INTERIOR: A lot other than a corner lot.

LOT: The contiguous land in the same ownership, as recorded in the County Recorder's office, which is not divided by any public highway or alley, including any part thereof subject to any easement for any purpose other than a public highway, street, public right of way or alley. Any land severed from another lot. If that severance makes the latter lot or structures on said latter lot nonconforming, such lot shall or may be occupied by a main building or group of buildings (main and accessory) together with such yards, open spaces, lot width and lot area as are required by this title, and having frontage upon a street or public right of way or private lane. Except for

Commented [RP7]: Unclear

two-family dwellings and multiple-family dwellings, not more than one dwelling structure shall occupy any one lot.

LOW POWER RADIO SERVICE/CELL TOWER: A site where antennas and electronic communications equipment are placed to create a cell in a mobile phone or radio network.

MANUFACTURING, HEAVY: A place and/or building, or portion thereof, that is used or is intended for the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products, but excluding basic industrial processing. This term includes furniture production, apparel manufacturing, printing, publishing, and the like.

MANUFACTURING, INDUSTRIAL: A place and/or building, or portion thereof, that is used or is intended for the following or similar uses: processing or manufacture of materials or products predominantly from extracted or raw materials; storage of or manufacturing processes using flammable or explosive materials; or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions. This term includes motor vehicle assembly, oil refineries, textile production, sawmills, post and pole plants, log yards, asphalt and concrete operations, primary metal processing, and the like.

MANUFACTURING, LIGHT: A place and/or building, or portion thereof, that is used or is intended for manufacturing and/or assembly of goods where no air contaminants or potentially offensive odors are emitted outside of the building or area of manufacture/assembly; no radioactive materials or hazardous substances or hazardous wastes or regulated substances are handled or produced. Such uses do not produce offensive noises outside of the building or area of manufacturing/assembly. Such uses typically have relatively small volumes of products shipped in and out, so as to not adversely impact neighboring uses (such as residential, office or commercial in mixed use zones). Typical uses include assembly of computers; testing, producing and/or packaging software; packaging of pre-made goods, etc.

MASTER STREET PLAN: The Nibley City transportation master plan.

MEDICAL SALES AND SERVICES: A place and/or building, or portion thereof, that is used or intended to provide for the sale of healthcare products and services. This term includes pharmacies, vision care facilities, hearing aid facilities, prosthetic facilities, etc. It also includes facilities where tests are done on clinical specimens in order to get information about the health of a patient or where medical and/or dental supplies and devices are made and/or repaired.

MEDICAL/DENTAL OFFICE AND CLINIC: A place and/or building, or portion thereof, that is used for providing medical services including prevention, diagnosis, treatment, or rehabilitation. This term includes dental clinics, doctors' offices, and sports medicine facilities. This term does not include those uses as classified as a hospital.

MINERAL EXTRACTION: A business whose primary function is the extraction of valuable minerals or other geological materials from the earth, usually (but not always) from an ore body, vein or seam.

MOBILE HOME PARK: A place providing two (2) or more mobile home lots for lease or rent to the general public.

MOBILE HOME: A movable living unit designed to be transportable, after fabrication, on its own wheels, attached wheels or low boy, suitable for year-round occupancy. Presectionalized, modular or prefab housing not placed on a permanent foundation shall be regarded as a mobile home whether or not such units meet the city's building and housing codes. Presectionalized, modular or prefab housing which meets the city's applicable building and housing codes and which is placed on a permanent foundation is controlled by this title and other applicable ordinances the same as dwelling units constructed in the conventional manner.

MOTOR VEHICLE SALES AND SERVICE: A place and/or building, or portion thereof, that is used or is intended for sales, maintenance, service, and/or repair of vehicles and/or their components.

NATURAL WATERWAYS: Those areas, varying in width, along streams, creeks, gullies, springs or washes which are natural drainage channels as determined by the building inspector and in which areas no buildings shall be constructed.

NONCONFORMING BUILDING: A building or structure or portion thereof lawfully existing at the time any applicable zoning regulation or regulations become effective, the design, erection, use, height, area and yard dimensions of which do not conform to the provisions of such regulation or regulations.

NONCONFORMING LOT: A parcel of land in separate ownership at the time of the adoption of this title and which did not then meet the lot area or lot width requirements and whose size or shape has not been diminished or changed by sale or lease since the time of the adoption of this title.

NONCONFORMING USE: The prior lawful use of land or of a building or structure which subsequently is prohibited by zoning regulations pertaining to the zone in which the building or land is situated.

NURSING HOME: A place that provides twenty four (24) hour services including room and board to unrelated residents who because of their mental or physical condition require nursing care.

OPEN GREEN SPACE: An open space suitable for relaxation or landscaping. It shall be unoccupied and unobstructed by buildings and/or hard surfaces such as asphalt, cement and packed gravel, except that such open green space may be traversed by necessary sidewalks.

OWNER: Includes the plural as well as the singular, and may mean either a natural person, firm, association, partnership, private corporation, public or quasi-public corporation or any combination thereof.

PARCEL OF LAND: A contiguous area of land in the possession or ownership of one person.

PARKING LOT: An open area, other than a street, used for the parking of more than four (4) automobiles and available for public use, whether free, for compensation, or as an accommodation for clients or customers, designed so that access to the parking spaces in the lot is, where possible, by means of private interior roadways or alleys and not by direct access from a public street.

PARK STRIP: The area, excluding the sidewalk, if any, between the property line and the curb or, in the absence of a curb, between the property line and the nearest edge of street paving. The closest adjacent property owner shall maintain landscaping within the park strip adjacent to their home unless otherwise maintained by an home owners association or other entity.

PARKING, COMMERCIAL: Off street parking intended to temporarily store vehicles, not accessory to any principal use, and for which a fee may be charged.

PAWNBROKER: A business which lends money for a fee or at a high interest rate and holds some of the borrower's personal goods as collateral, to be sold to the public (in a pawnshop) in the event of default.

PERSON: An individual, individuals, tenants in common, joint tenants, a corporation, partnership, firm, limited partnership or association of individuals however styled or designated.

PERSONAL INSTRUCTION SERVICES: Those services intended to offer instruction, training, or tutelage in such areas as gymnastics, dance, art, music, martial arts, and the- like. Personal Instruction Services located in within R-E, R-1, R-1A, R-2 and R-2A and in any other residential structure shall be limited to 8 students at a time.~~like.~~

PEST CONTROL: A business whose primary function is the regulation or management of a species commonly known as a pest (fleas, mosquitoes, boll weevil, etc.).

PLANNING COMMISSION APPOINTMENT, CHAIRPERSON AND TERM OF OFFICE:

- ~~1. Members of the planning commission are appointed by the mayor with the consent of the city council for a term of five (5) years. The terms of office should be arranged so that one new member is appointed each year.~~
- ~~2. The chairperson is elected by the members of the planning commission for a term of one year.~~

PLANNING COMMISSION: The planning commission of Nibley, Utah as established in NCC 3.02.

PLUMBING SERVICES: A business whose primary function is working with pipes, tubing and plumbing fixtures for drinking water systems and the drainage of waste, both residential and commercial, and which includes the sale of related parts and supplies.

PRELIMINARY PLAT: A map or plan of a proposed subdivision.

PRINTING, COMMERCIAL: A store that provides printing, copying and binding services for commercial, industrial and other large-scale businesses.

PROFESSIONAL OFFICES: A building, or portion thereof, that is used or is intended to house services involving predominantly professional, clerical, or similar operations where customers come on a regular basis. This term includes law offices, real estate offices, insurance offices, travel agencies, and the like.

PROTECTION STRIP: A strip of land of less than the minimum depth required by the zoning title for a building lot bordering the boundary of a subdivision and a street within the subdivision

for the purpose of controlling the access of property owners abutting the subdivision along the street.

PROTECTIVE SERVICES: Any place and/or building, or portion thereof, which is used or is intended for housing private protective services. This term includes private investigators, private security, social work, etc.

~~**PUBLIC FACILITIES:** Structures for the use and benefit of the community, including, but not limited to, schools, hospitals, churches, parks or cultural buildings.~~

RECREATION/ ENTERTAINMENT, COMMERCIAL: A place and/or building, or portion thereof, that is used or is intended for fee based, indoor or outdoor recreation of all types. This term includes, but is not limited to, bowling alleys, skating rinks, billiard and pool halls, dance hall, amusement center, movie theaters, arcades, athletic clubs, equestrian facilities, indoor tennis/racquetball courts, miniature golf courses, athletic training centers, gyms, and the like.

RECREATIONAL VEHICLE: A vehicular unit, other than a mobile home, designed as a temporary dwelling for travel, recreational and vacation use, which is either self-propelled or is mounted on or pulled by another vehicle, including, but not limited to, travel trailer, camp trailer, folding tent trailer, truck camper or motor home.

RECYCLING COLLECTION FACILITY: A place and/or building, or portion thereof, that is used or is intended for collecting and/or processing recoverable materials prior to shipment to others who use those materials to manufacture new products. Typical types of recoverable materials include glass, newspaper, metal, and plastic. This term shall not include a junkyard.

REPAIR SERVICE, GENERAL: A place and/or building, or portion thereof, that is used or is intended for the repair of consumer goods such as shoes, bicycles, appliances, musical equipment, and the like. This term does not include repair of vehicles or industrial equipment.

RESEARCH AND DEVELOPMENT: A business whose primary function is to engage in the development of new products and services for commercial clients.

RESEARCH SERVICE: Businesses whose primary function is to engage in direct marketing in which a salesperson solicits to prospective customers to buy products or services, to service already existing accounts or to engage in responding to survey questions.

RESTAURANT: A place and/or building, or portion thereof, that is used or is intended for the preparation and sale of food and beverages for consumption on or off site, and where consumption of beer, wine, or other liquors, if any, is clearly secondary and subordinate to the sale of food and beverages. This term does not include a grocery or convenience store with a food service section. Such establishments may include a drive-through window, and may or may not include on site seating.

RETAIL: A place and/or building, or portion thereof, which is used or is intended for retail sale of a diverse product line. This term includes full scale grocery stores, warehouse retail outlets, comparison shopping stores, full line department stores, and the like. It also includes retail uses such as secondhand stores, copying/printing stores, services and video rental.

RIGHT OF WAY: A strip of land dedicated or acquired for use as a public thoroughfare, which normally includes streets, sidewalks and other public utilities or service areas.

Commented [RP8]: As far as I can tell, your code doesn't use the term "public facilities" except as a reference for public infrastructure/amenities (as opposed to buildings) and "public facility" isn't on your land use list, whereas each of the building types included in this definition are. This definition seems unnecessary and possibly confusing.

ROD: A measurement of length equal to sixteen feet six inches (16'6").

SCHOOL, K-12: A place and/or building, or portion thereof, which is used or is intended for use as a preschool, elementary, middle school, junior high, or high school. This includes charter schools and private/parochial schools.

SETBACK LINE: A line running parallel to the front of the principal structure on the lot, at the setback distance.

SETBACK: The ~~shortest~~minimum allowed distance between the property line and the foundation, wall or main frame of the building.

SEXUALLY ORIENTED BUSINESS: Includes the following types of uses: adult arcades, adult bookstores/adult video stores, adult cabarets, adult motels, and adult motion picture theaters. Must conform to Nibley City's ordinance regulating this type of business.

SIGN SHOP: A business whose primary function is to engage in the commercial production and installation of custom signs, sign letters, metal plaques, wooden signs, custom decals, banners and vinyl lettering.

SIGN: Any device used for visual communication to the general public and displayed out of doors. All signs are regulated by Nibley City Code 10-12-15, Permitted Signs.

SLAUGHTERHOUSE: A building used for the killing, butchering and/or processing of animals for human consumption, except that the killing and butchering of animals for family food production is not considered a slaughterhouse.

SPORTS FACILITIES: A place, or venue, for sports, concerts or other events, consisting of # courts, fields or stages and which are partly or completely surrounded by a structure designed to allow spectators to stand or sit and view the event. Examples include, but are not limited to: swimming pools, golf courses, a country club, basketball arenas and baseball stadiums.

STABLE: A detached, accessory building for the keeping of horses.

STORAGE FACILITY: A place and/or building, or portion thereof, that is divided into individual spaces and that is used or is intended as individual storage units that are rented, leased, or owned. This term includes a tract of land used to store vehicles that are not for sale or trade.

STORY, HALF: A story with at least two (2) of its sides situated in a sloping roof, the floor area of which does not exceed two-thirds (2/3) of the floor immediately below it.

STORY: The space within a building, other than a cellar, included between the surface of any floor and the surface of the ceiling next above.

STREET, COLLECTOR: A street, existing or proposed, ~~which~~that is the main means of access to the major street system.

STREET, CUL-DE-SAC: A minor terminal street provided with a turnaround.

STREET, MAJOR: A street, existing or proposed, which serves or is intended to serve as a major traffic way and is designated on the master street plan as a controlled-access highway, major street, parkway or other equivalent term to identify those streets comprising the basic structure of the street plan.

STREET, MARGINAL ACCESS: A minor street which is parallel to and adjacent to a limited access major street and which provides access to abutting properties and protection from through traffic.

STREET, MINOR: A street, existing or proposed, which is supplementary to a collector street and of limited continuity which serves or is intended to serve the local needs of a neighborhood.

STREET, PRIVATE: A thoroughfare within a subdivision which has been reserved by dedication unto the subdivider or lot owners to be used as private access to serve the lots platted within the subdivision and complying with the adopted street cross section standards of the city of Nibley and maintained by the subdivider or other private agency.

STREET: A thoroughfare ~~which has been dedicated and accepted by the city council, which that the city owns, including thoroughfares has~~ acquired by deed, prescriptive right ~~or which the city owns, or offered for~~ dedication on an approved final plat, ~~or a thoroughfare of at least twenty six feet (26') in width which has been abandon~~mented, or ~~made~~ dedication by public use, ~~by right of use and~~ which affords access to abutting property; including highways, roads, lanes, avenues and boulevards.

Commented [RP9]: Don't want to have arguments regarding whether this imposes additional requirements for dedicating or accepting roads beyond Utah code/caselaw

STRUCTURE: Anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground.

SUBDIVISION: Any land that is divided, resubdivided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots, 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.

TEMPORARY FOOD VENDOR: The operation of a business on a vacant lot, outside of an enclosed buildings, within a temporary or portable structure, cart, or vehicle or trailer that will be operating from a single location for more than seven consecutive days, or more than 30 days within Nibley City Boundary. These uses included food trucks, snow cone shacks, snack stands, street food vendors, etc. Temporary Food Vendors shall not operate from within a public right-of-way and must be contained on private or public property.

TEMPORARY OFFICE/MODEL HOME: A building placed on a construction site that is used by the contractor as a field office and removed when construction is complete or a residential dwelling in a residential development that is temporarily used as a sales office for other on site residential dwellings.

TRANSPORTATION SERVICES: A business whose primary function is to engage in for profit transportation of air freight (i.e., UPS, FedEx, DHL, etc.). Also includes businesses where the primary use is storage, loading, unloading or transfer of cargo from tractor trailers and/or rail stock.

USE, ACCESSORY: A use customarily incidental to and located upon the same lot occupied by the main use and devoted exclusively to the main use of the premises.

USE, CONDITIONAL: A use or occupancy of a building, or use of land, permitted only when authorized upon issuance of a conditional use permit and subject to the limitations and conditions specified therein, as provided in NCC 19.28, intended to allow compatible integration of uses

which may be suitable only in certain locations within a particular zone, or only upon certain conditions and/or design criteria being achieved.

USE, EXISTING: Any use legally existing at the time of adoption of this title.

USE, PERMITTED: Any use lawfully occupying land or buildings as authorized in the zone regulations and for which no conditional use permit is required.

USE: The specific purpose for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained.

UTILITIES: Includes culinary water lines, pressure and gravity irrigation lines, sanitary and storm sewer lines, electric power, gas and telephone transmission lines, and other public uses as may be defined by the city of Nibley.

UTILITY SUBSTATION: Any aboveground device of a culinary water, irrigation, sewer, natural gas, electrical, telecommunications (excluding low power radio service/cell tower), cable television, or other public or private utility system. Excluded from this definition are: 1. Conventional utility poles, features or equipment to be placed on such a pole, light poles; and 2. Features or equipment whose primary benefit is limited to the building or land use where the feature or equipment is located.

VETERINARY CLINIC, LARGE ANIMAL: A veterinary clinic that specializes in the care and treatment of large animals and livestock. May include office space, medical labs, appurtenant facilities, and kennels and/or enclosures for animals under the immediate medical care of a veterinarian.

VETERINARY CLINIC, SMALL ANIMAL: A veterinary clinic that specializes in the care and treatment of small animals including dogs, cats, birds, and other small domesticated and semi-domesticated animals. May include office space, medical labs, appurtenant facilities, and kennels and/or enclosures for animals under the immediate medical care of a veterinarian.

WAREHOUSING: A place and/or building, or portion thereof, that is used or/is intended for the storage of goods and materials, for wholesale sales, temporary storage, and distribution. This term does not include fuel tank farms.

WAREHOUSE, RESIDENTIAL STORAGE: A storage facility containing independent, fully enclosed bays that are leased to individuals exclusively for long term storage of their household goods or personal property.

WELDING/MACHINE SHOP: A room, company or building where power driven machine tools are used with a sharp cutting tool to mechanically cut or shape the material to achieve the desired geometry or where materials are welded together by melting the separate pieces and joining them together by pressure or heat, including metal fabrication.

WIDTH OF LOT: The distance between the side lot lines measured along the front yard setback line.

YARD, FRONT: An open space on the same lot with a building between the front line of the building (exclusive of steps) and the front lot line and extending across the full width of the lot. On a corner lot, the front yard may be applied to either street.

Commented [SN10]: What do we do about office's that have warehouse space? Like Stander?

YARD, REAR: An open unoccupied space on the same lot with a building between the rear line of the building (exclusive of steps) and the rear lot line and extending the full width of the lot. In the case of a corner lot where the building facade faces on the side street, the rear yard may be established from the side of the house to the side property line.

YARD, SIDE: An open, unoccupied space on the same lot with a building between the side line of the building (exclusive of steps) and the side lot line and extending from the front yard to the rear yard.

YARD: An open space on a lot, other than a court, unoccupied and unobstructed from the ground upward by permanently parked vehicles, buildings or structures, except as otherwise provided herein. **ZONE:** The geographical area of the city within which the zoning regulations are uniform.

ZONING TITLE: The zoning title of Nibley City.

HISTORY

Agenda Item #18

Description	Discussion with the property owner of a proposed R-PUD: Firefly Estates
Department	Planning
Presenter	Stephen Nelson, City Planner
Action Type	Workshop
Findings	N/A
Recommendation	Review concepts and make general recommendations
Reviewed By	City Planner, Mayor, City Manager

Background

The property owners of Firefly Estates, property located at 1200 W and 2200 S, have come to Nibley City staff to review a concept of a future R-PUD proposal. Based on their concept plan and discussion with Nibley City staff, the property owners wanted to review a few items with the

City Council before they brought in an application. They would like to do a workshop with the City Council to talk about a future R-PUD proposal. Items they would like to discuss include:

- Open Space next to Firefly Park
- 1000 W: The property owners are proposing that the City remove that connection that goes through firefly park and their property from our Transportation Master Plan
- 1200 W and a Nibley City Gateway
- Overall density and mitigation
- Stormwater

