



NIBLEY CITY COUNCIL MEETING AGENDA
Thursday, September 26, 2019 – 6:30 p.m.
Nibley City Hall 455 West 3200 South, Nibley, Utah

1. Opening Ceremonies (Councilmember Bernhardt)
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. Presentation of the Nibley City audit by Larson Certified Public Accountants
7. Discussion and Consideration of the Appointment of the Cache County Attorney's Office as Nibley City Prosecutor
8. A Public Hearing to receive comment on Resolution 19-12: The Addition of a Moderate-Income Housing Plan to Nibley City's General Plan
9. Discussion and Consideration of Resolution 19-12: The Addition of a Moderate-Income Housing Plan to Nibley City's General Plan
10. A Public Hearing to receive comment on Ordinance 19-16: An Update to Nibley City Code 19.32: R-PUD Town Center
11. Discussion and Consideration of Ordinance 19-16: An Update to Nibley City Code 19.32: R-PUD Town Center (First Reading)
12. Discussion and Consideration of Ordinance 19-13: An Update to Nibley City Code 19.28, Conditional Uses (Third Reading)
13. Discussion and Consideration of Ordinance 19-14: An Update to Nibley City Code 19.20, Land Use Chart (Third Reading)
14. A Public Hearing to receive comment on the proposed Nibley Farms Subdivision Preliminary Plat, a 32.49-acre Rural Preservation Subdivision located between 1200 West and 1500 West at 3400 South
15. Discussion and Consideration of the proposed Nibley Farms Subdivision Preliminary Plat, a 32.49-acre Rural Preservation Subdivision located between 1200 West and 1500 West at 3400 South
16. 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
September 26, 2019**

Agenda Item #6

Description	Presentation of the Nibley City Audit
Department	City Council and Administration
Presenter	Jon Haderlie of Larson and Company, Certified Public Accountants
Recommendation	Receive the report. Provide comments and directions. Make a motion to accept the audited financial report.
Reviewed By	City Manager, City Treasurer, Outside Accountant

Background

State law requires that the annual audited financial statement be presented to the City Council within six months of the end of the fiscal year, which ends June 30. The City has engaged the services of an independent auditor, Larson and Company - CPAs, to provide these services and present audited financials to the Council.

In performing the audit, the firm reviewed the City's financial records, worked with staff members, including the City Manager, Court Clerk, Treasurer, Accountant and others, contacted organizations with which the City has financial dealings, and verified multiple compliance items.

Agenda Item #7

Description	Discussion and Consideration of the Appointment of the Cache County Attorney's Office as Nibley City Prosecutor
Department	Administration
Presenter	David Zook, Nibley City Manager
Recommendation	Move to approve the appointment of the Cache County Attorney's Office as Nibley City Prosecutor
Reviewed By	Mayor, City Manager, Review Committee

Background

As of July 1 of this year, justice court cases formerly processed in the Nibley Justice Court are now handled by the Hyrum Justice Court, based on an interlocal agreement entered into by both cities. During the discussions between the two cities, there was discussion about whether or not Nibley would simply have Hyrum's prosecutor handle Nibley court cases or if Nibley wanted to hire its own prosecutor. Prior to the court shifting to Hyrum, attorneys from the Cache County Attorney's Office prosecuted Nibley cases.

The City Council gave staff direction to issue a request for proposals (RFP) for Nibley to hire its own prosecutor. An RFP was issued and three firms proposed plans to provide services for Nibley. A review committee was assembled to score the proposals. The committee was composed of the two council members, the City Manager, the City Attorney and one of the city's former court clerks. After each committee member reviewed the proposals, each reviewer scored the same proposal as the highest proposal. That proposal was the proposal from the Cache County Attorney's Office. This proposal had the lowest cost and would provide attorneys with a high level of expertise and experience. The proposed cost is \$600 per month, which is the same amount as has been paid historically.

The recommendation of the review committee is that the City Council appoint the Cache County Attorney's Office as the City Prosecutor. A proposed contact is provided to the Council for consideration as well.

AGREEMENT FOR PROSECUTION SERVICES

THIS AGREEMENT, is made and entered into this ____ day of _____, 2019, by and between CITY OF NIBLEY, a municipal corporation of the State of Utah, hereinafter “City” and CACHE COUNTY a Political Subdivision of the State of Utah, who shall hereinafter be referred to as “Prosecutor”.

WHEREAS, City may, pursuant to Utah Code § 10-3-928, Prosecute violations of city ordinance and, under state law, infractions and misdemeanors occurring within the boundaries of the City, and;

WHEREAS, Prosecutor is authorized pursuant to Utah Code § 17-18-1 to prosecute all public offenses within Cache County and is willing and as set forth in this agreement to prosecute violations of city ordinance and, under state law, infractions and misdemeanors occurring within the boundaries of the City, the parties agree as follows:

1. COMPENSATION. City agrees to pay Prosecutor for public prosecution services rendered pursuant to this Agreement compensation in the amount of \$600.00 monthly. The compensation shall be payable in twelve equal monthly installments of \$600.00 per month for services beginning the first month after the date on this Agreement. The City will arrange for office space for a prosecuting attorney to use while at the court located at the Hyrum Municipal Justice Court. Further, the City will arrange for Prosecutor to have internet access.

2. SERVICES PROVIDED. Prosecutor will provide public prosecution services for criminal violations of city ordinances, misdemeanors and infractions occurring within the boundaries of the City. The prosecution services include but are not limited to: consulting with law enforcement officers and reviewing law enforcement reports; drafting informations, motions, memoranda and briefs; appearing and prosecuting cases in the Hyrum Municipal Justice Court; secretarial assistance required in furtherance of the above-mentioned services; victim advocate assistance for victims of crimes; and other reasonable services in furtherance of the services described above, such as travel costs, printing, copying. These prosecution services shall include all appeals. Prosecutor will provide a prosecutor and support staff to adequately handle the case load at the Hyrum Municipal Justice Court.

3. DUTIES. Prosecutor shall comply with all legal requirements and duties of a public prosecutor in the prosecution of public offenses, shall be available to attend all relevant court hearings and other court appointments to represent the City, and shall carry out all duties in prompt, timely, and professional manner. Prosecutor shall have prosecutorial discretion relative to the cases that are the subject of this agreement. However, the Prosecutor shall consult with and reasonably consider any information provided by City regarding prosecution issues. Prosecutor shall be responsible for the standards of performance and discipline of prosecutorial staff. The City shall be the local government prosecuting the violation for purposes of Utah Code § 78A-7-120. Prosecutor

shall not assign its rights and duties under this Agreement without the prior written consent of the City.

4. JUSTICE COURT DUTIES. The Hyrum Municipal Justice Court will provide all notices to Prosecutor as set forth in the Utah Rules of Criminal Procedure and Utah Code of Judicial Administration and will reasonably schedule hearings and coordinate matters with Prosecutor.

5. CONFLICTS OR INABILITY TO PROSECUTE. If Prosecutor is disqualified by a court order based on a conflict of interest to prosecute any particular case, the Prosecutor shall arrange for another public prosecutor to prosecute.

6. DISCLAIMERS. It is understood that neither Prosecutor nor any of his staff or agents are employees of City, and that there is therefore no coverage for Prosecutor or his staff or agents for workmen's compensation, retirement and similar benefits. Prosecutor will be acting in all respects as an independent contractor. Prosecutor shall be responsible to maintain any required insurance. Prosecutor shall have sole control over the internal standards of performance, personnel policies, and discipline of prosecutorial staff.

7. SERVICE EVALUATION AND MODIFICATION. Either party can require an evaluation of the services being performed under this agreement at any time. However, the parties specifically agree to meet every six months at a time that is mutually convenient. This agreement may be modified in writing by the parties.

8. RENEWAL AND TERMINATION. This Agreement shall commence on the January 1, 2020, and shall continue in force for the term of one year. Either party may at any time, and for any reason, terminate this Agreement by written notice to the other party specifying the termination date, which shall be not less than six months from the date such notice is received. In the event of such termination, Prosecutor shall be paid such amount as shall compensate Prosecutor for the work satisfactorily completed, and accepted by the City, at the time of termination. At the end of the original term, this Agreement shall automatically renew under the same terms and conditions as set forth in this Agreement on a yearly basis, unless terminated as set forth herein. If the Agreement is terminated, then Prosecutor agrees to cooperate with any successor in filing the necessary pleadings for withdrawal or substitution and to deliver all applicable files, information and materials to any successor.

9. DISPUTE RESOLUTION. In the event of a dispute between Nibley City and Prosecutor regarding the extent of duties and functions to be rendered under this Agreement, the determination made by the Cache County Attorney and Nibley City Mayor shall be final and conclusive as between the parties. If the two parties are unable to resolve the dispute, they shall jointly choose a third party to participate in the dispute resolution and a majority shall then resolve the dispute.

IN WITNESS WHEREOF the parties have executed this agreement in duplicate,
each of which shall be deemed an original, on the _____ day of _____, 2019.

CITY OF NIBLEY

By: _____
Shaun Dustin, Mayor

ATTEST:

David Zook, Recorder

CACHE COUNTY

By: _____
Craig Buttars, Cache County Executive

ATTEST:

Jill Zollinger, Cache County Clerk

Agenda Item #8 & 9

Description	A public hearing to receive comment on Resolution 19-12: The Addition of a Moderate-Income Housing Plan to the Nibley City General Plan and Discussion and Consideration of Resolution 19-12: The Addition of a Moderate-Income Housing Plan to the Nibley City General Plan
Department	Planning
Presenter	Stephen Nelson, Nibley City Planner
Recommendation	Move to approve Resolution 19-12: The Addition of a Moderate-Income Housing Plan to the Nibley City General Plan
Reviewed By	City Manager, City Planner, Planning Commission

Background

This year, the State Legislature passed a bill requiring all municipalities that meet a specific size to update their Moderate Income Housing Plan as part of their General Plan. These Cities would need to adopt this update by December 1, 2019. Since Nibley City is located within a County of the third class and has a population of over 5,000 people, Nibley City is required to do this as well. The bill requires that the City will pursue and plan for three out of twenty-four options as listed in the law.

Full Bill: [S.B. 34 Affordable Housing Modifications](#)

10-9a-401. General plan required -- Content.

a) The general plan of a municipality, other than a town, shall plan for moderate income housing growth.

(b) On or before December 1, 2019, each of the following that have a general plan that does not comply with Subsection(3)(a) shall amend the general plan to comply with Subsection(3)(a):

(i) a city of the first, second, third, or fourth class;

(ii) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class; and

(iii) a metro township with a population of 5,000 or more.

(c) The population figures described in Subsections(3)(b)(ii)and(iii)shall be derived from:

(i) the most recent official census or census estimate of the United States Census Bureau; or

(ii) if a population figure is not available under Subsection(3)(c)(i), an estimate of the Utah Population Committee.

What is Moderate Income Housing and Affordable Housing?

Housing is considered affordable when households, regardless of their income, spend no more than 30% of their monthly income on housing expenses. Therefore, the cost-burdened household is that household whose housing expenses exceed 30% of their monthly income.

Moderate Income Housing is based on the Area Median Income (AMI). Below is the Cache County's Area Median Income

	2009 American Community Survey	2017 American Community Survey	Annual Growth Rate (Slope)	2024 Projection	Difference between 2017 and 2024
Median HOUSEHOLD income (ACS Table B19019)	\$0	\$53,812	\$3,925	\$68,000	\$ 14,188

The Moderate-Income Housing Plan should contain how Nibley City will address the future growth and provide affordable housing for those making 30%, 50%, and 80% of the AMI.

The following highlighted sections are the four proposed requirements included in the recommended plan.

10-9a-403. General plan preparation.

(a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and

(B) may include a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(ii) a transportation and traffic circulation element that:

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) for a municipality that has access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce;

(C) for a municipality that does not have access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development in areas that will maintain and improve the connections between housing, transportation, employment, education, recreation, and commerce; and

(D) correlates with the population projections, the employment projections, and the proposed land use element of the general plan; and

(iii) for a municipality described in Subsection 10-9a-401(3)(b), a plan that provides a realistic opportunity to meet the need for additional moderate income housing.

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that municipalities shall facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life;

(ii) for a town, may include, and for other municipalities, shall include, an analysis of how the municipality will provide a realistic opportunity for the development of moderate income housing within the next five years;

(iii) for a town, may include, and for other municipalities, shall include, a recommendation to implement three or more of the following strategies:

(A) rezone for densities necessary to assure the production of moderate income housing;

(B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing;

(C) facilitate the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) consider general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the city;

(E) create or allow for, and reduce regulations related to, accessory dwelling units in residential zones;

(F) allow for higher density or moderate income residential development in commercial and mixed-use zones, commercial centers, or employment centers;

(G) encourage higher density or moderate income residential development near major transit investment corridors;

(H) eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) allow for single room occupancy developments;

(J) implement zoning incentives for low to moderate income units in new developments;

(K) utilize strategies that preserve subsidized low to moderate income units on a long-term basis;

(L) preserve existing moderate income housing;

(M) reduce impact fees, as defined in Section 11-36a-102, related to low and moderate income housing;

(N) participate in a community land trust program for low or moderate income housing;

(O) implement a mortgage assistance program for employees of the municipality or of an employer that provides contracted services to the municipality;

(P) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing;

(Q) apply for or partner with an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity;

(R) apply for or partner with an entity that applies for affordable housing programs administered by the Department of Workforce Services;

(S) apply for or partner with an entity that applies for programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act;

(T) apply for or partner with an entity that applies for services provided by a public housing authority to preserve and create moderate income housing;

(U) apply for or partner with an entity that applies for programs administered by a metropolitan planning organization or other transportation agency that provides technical planning assistance;

(V) utilize a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency; and

(W) any other program or strategy implemented by the municipality to address the housing needs of residents of the municipality who earn less than 80% of the area median income; and

(iv) in addition to the recommendations required under Subsection (2)(b)(iii), for a municipality that has a fixed guideway public transit station, shall include a recommendation to implement the strategies described in Subsection (2)(b)(iii)(G) or (H).

RESOLUTION 19-12

A RESOLUTION ESTABLISHING AN AMENDMENT TO THE NIBLEY CITY GENERAL PLAN: ADDING THE NIBLEY CITY MODERATE INCOME HOUSING PLAN 2019

WHEREAS, Utah law allows municipalities to create land use laws within their boundaries to benefit their residents; and

WHEREAS, Nibley City has established zoning, land use laws, standards, and requirements to help enhance the lives and property of Nibley residents; and

WHEREAS, Utah is facing an affordable housing crisis; and

WHEREAS, Nibley City's zoning codes and land use policy can help contribute to affordable housing within the area; and

WHEREAS, Utah has adopted new standards for a Moderate Income Housing Plan that require Nibley City to update the plan.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF NIBLEY CITY,
STATE OF UTAH, AS FOLLOWS:

1. That the attached Moderate Income Housing Plan is accepted and adopted by the Nibley City Council.
2. The attached Plan is added to the Nibley City General Plan

Dated this ____ day of _____ 2019

Shaun Dustin, Mayor

ATTEST

David Zook, City Recorder



Nibley City Moderate Income Housing Plan 2019



INTRODUCTION

Nibley City is located in southern of Cache County, close to major employment areas in Logan City, and is adjacent to Highway 89/91, which serves as the primary transportation corridor to the Wasatch Front. Nibley City is also home to a young and growing population, with a median age of 23.6, and with 37% of its population 19 years old or younger (Census Bureau, 2018). Nibley City is a bedroom community with almost all of Nibley City residents traveling outside the City for employment, and most land uses in the City contain residential homes or agricultural use. Only a few areas within the City include industrial or commercial business and activities.

The City's demographics provide opportunities and some challenges for economic growth, smart housing growth, and maintaining Nibley's agricultural heritage. This plan will highlight Nibley's growing population, discuss Nibley's current housing stock, and talk about future growth and ways to allow for the building of moderate income housing.

POPULATION AND FUTURE GROWTH

Nibley City's population as of July 1, 2018, was estimated at 7,087 people, which is a 30% increase from the 2010 population of 5,466 (Census Bureau, 2018). Nibley City's 2016 General Plan predicts that Nibley City will grow by 300% by 2060. Nibley City's population is expected to triple in the 40 years.

Census	Projections					Absolute Change 2010-2060	Percent Change 2015-2065
2010	2020	2030	2040	2050	2060		
5,438	8,796	14,136	15,725	18,597	21,905	16,467	303%

(Governor's Office of Planning & Budget, 2012 Baseline Projections)

Nibley City will continue to attract residents and businesses because of its proximity to Logan and the Highway 89/91 transportation corridor. In addition, the city has a large annexation plan (40,000 acres) which will allow for future land development. Nibley City currently contains more than 900 acres of undeveloped property within Nibley City boundaries, most of which is agricultural use. There are almost 40,000 acres within Nibley City's annexation area potential. Growth will likely take place next to existing developments first, and then will continue to fill the undeveloped parcels within Nibley City and Nibley City's annexation area.

Cache County and the cities surrounding Nibley are also anticipating substantial growth over the same time period. Cache Count's population is expected to double in the next 45 years.

County	2015	2025	2035	2045	2055	2065	Absolute Change 2015-2065	Percent Change 2015-2065
Cache	121,855	146,338	171,969	195,325	212,908	234,744	112,890	93%

(Kem C Gardner Policy Institute The University of Utah, July 2017)

Every County in Utah is anticipated to experience some level of growth over the next 40 years. The four primary components of this population growth are:

- *Utah's total fertility rate (average number of children born to a Utah woman in her lifetime) is projected to continue the existing trend of a slow decline. From 2015-2065, rates are projected to decline from 2.32 to 2.29. These rates are projected to remain higher than national rates that move from 1.87 to 1.86 over a similar period.*
- *In 2065, life expectancy in Utah is projected to be 86.3 for women and 85.2 for men. This is an increase of approximately 4 years for women and 6 years for men. The sharper increase for men narrows the life expectancy gap traditionally seen between the sexes.*
- *Natural increase (births minus deaths) is projected to remain positive and account for two-thirds of the cumulative population increase to 2065. However, given increased life expectancy and declining fertility, the rate and amount of natural increase are projected to slowly decline over time.*
- *Net migration accounts for one-third of the cumulative population increase to 2065. Projections show the contributions of natural increase and net migration converging over time.*

(Kem C Gardner Policy Institute The University of Utah, July 2017)

These anticipated factors are apparent in Cache County and will have a direct impact on projected population growth in Nibley City.

CURRENT LAND USE AND HOUSING

With the increase in population, it is essential to evaluate current Nibley City's existing housing supply and housing stock. In the table below are Nibley City's 2017 Housing numbers of different type of housing units. The first table and graph shows the acres and percentage of Land Use within Nibley City for Agriculture and Vacant Land, Residential Land, and Commercial and Industrial Land

- Residential land use had the most properties and acres of land

- 84.1% of properties were residential
- 48.9% of total acres were residential
- Greenbelt were large properties
 - 3.9% of properties were greenbelt but totaled 32.7% of total acres
- There is still vacant land available for development, conservation or both
 - 11.0% of total acres were vacant
- Single family residential used the most land in residential development
 - 99.4% of residential land use was single family
- Townhomes were the second most residential property type but use the third least amount of land
 - 5.9% of properties were townhomes
 - Only 0.2% of residential land is townhomes
- Takeaways:
 - A significant portion of Nibley was residential, but there was still a significant portion that was available for development, such as agriculture, greenbelt and vacant properties. Although Nibley has much room to grow, social as well as environmental impacts of developing should be considered in the context of the Nibley, adjacent communities and Cache Valley.
 - Townhomes and twin homes are efficient ways to develop land and meet housing needs

Land Use Type	Properties		Acres	
	#	%	#	%
Agriculture	21	0.9%	18.3	0.7%
Commercial	49	2.2%	168.2	6.5%
Greenbelt	88	3.9%	848.3	32.7%
Residential	1,907	84.1%	1,270.8	48.9%
Secondary	6	0.3%	4.2	0.2%
Vacant	196	8.6%	286.7	11.0%
Total	2,267	-	2,596.5	-

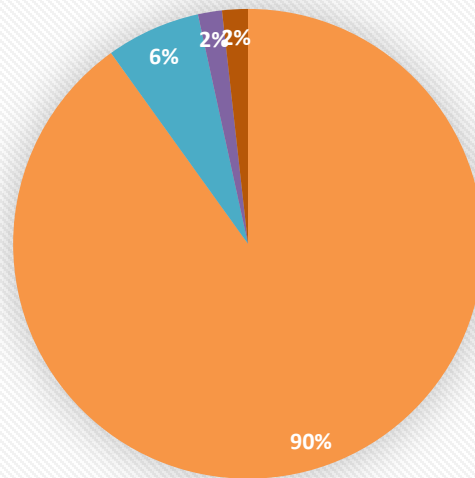
2019 Cache County GIS Department

*unclassified included 196 properties that did not have property sizes. Therefore the numbers in these tables are incomplete but still may represent general trends in land uses.

The following table and graph show the type of housing that is currently within Nibley City.

Housing Type	Number of Units in 2017
Single Family Homes	1527
Townhomes	110
Mobile Homes	28
Accessory Dwelling Units	20-30*

Nibley City Housing Type



Single Family Homes Townhomes Mobile Homes Accessory Dwelling Units

(U.S. Census Bureau. Table B25001: Total housing units. American Community Survey.)

*ADU number is an estimate based on the 2016 General Plan Update.

As shown in the table and graph above, 90% of homes within Nibley City are single-family homes. Single-family homes make up the majority of developed land uses within Nibley City, and these developments range from .11 acre lots to five-acre lots. However, most single-family homes are located on one-third to one-half acre lots, with the majority of residential zoning on undeveloped parcels zoned for half-acre lots minimum.

Nibley City Residential Lots Sizes	
Average	.993 Acres
Mode	.28 Acres
Median	.38 Acres

Cache County Recorder's Office, July 2, 2019

Nibley City currently only has two housing development that are not traditional single-family homes.

SPRING CREEK CROSSING PUD: TOWNHOMES



Spring Creek Crossing townhomes first started to be developed in 2007 and contains 120 units. The last four units are anticipated to be finished in the summer of 2019. The development is located on Nibley Park Ave

in the northwest corner of town. The development was approved as a Planned Unit Development. Spring Creek Crossing is the only development within Nibley City that contains townhomes.

NIBLEY MOBILE HOME PARK



This trailer park contains 28 units and is located on 2600 S at 100 W. The park is fully developed and is currently listed as a non-conforming use within Nibley City. The City does not anticipate any further expansion of the park.

HOUSING AGE

An assessment of structure age can, in some cases, reveal whether there is a need for housing rehabilitation. In Nibley 3.4% of residential structures were built in 1959 or earlier, 13% percent were built between 1960 and 1979, and 22.6% were built between 1980 and 1999, and 61% were built in the year 2000 or later. The above numbers suggest that the majority of homes in Nibley City are relatively new and generally in good condition.

ESTIMATE OF THE EXISTING SUPPLY OF MODERATE INCOME HOUSING

Definitions:

- **Affordable:** housing costs are equal to or less than 30% of a household's gross monthly income
- **Available:** a housing unit that is vacant
- **Affordable and Available:** a housing unit that is both affordable and vacant, or is currently occupied by a household at or below the defined income threshold

In 2015, there were 120 moderate-income renter households at the 0-80 percent AMI threshold. There were 110 rental units that households at the 0-80 percent AMI threshold could afford. However, there were only 70 units that were both affordable and available. This means that there was a deficit of 50 affordable and available rental units for households at the 0-80 percent AMI threshold.

Renter Occupied Housing					
AMI Level	Households	Affordable Units	Surplus/Deficit of Affordable Units	Available Units	Surplus/Deficit of Available Units
≤ 30%	20	20	0	0	-20
≤ 50%	45	80	+35	10	-35
≤ 80%	120	110	-10	70	-50

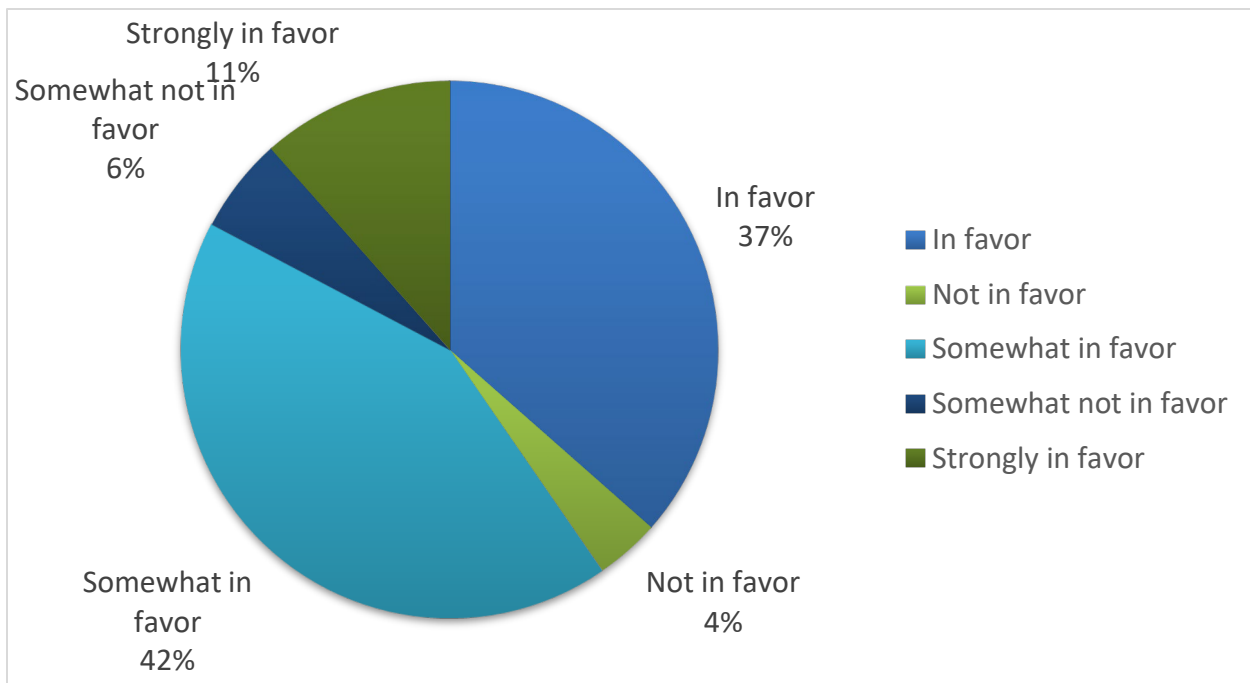
Source: Housing and Urban Development. (2018). 2011-2015 Comprehensive Housing Affordability Strategy [Data].

PUBLIC INPUT

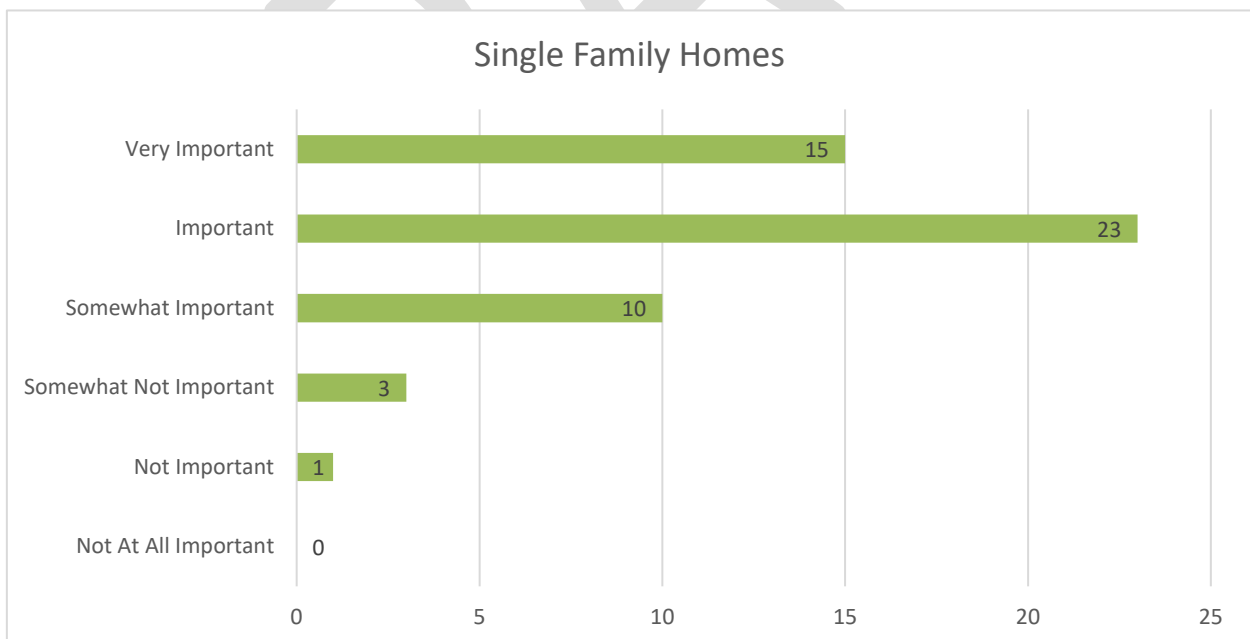
Nibley City, in the summer of 2018 conducted a survey about future land use within Nibley City. This data was used to help Nibley City create and adopted Nibley City's 2018 Future Land Use Map. Nibley City had a total of 52 residents that participated in the survey that was conducted at a booth during Heritage Days. There were several questions regarding housing within that survey and are presented below:

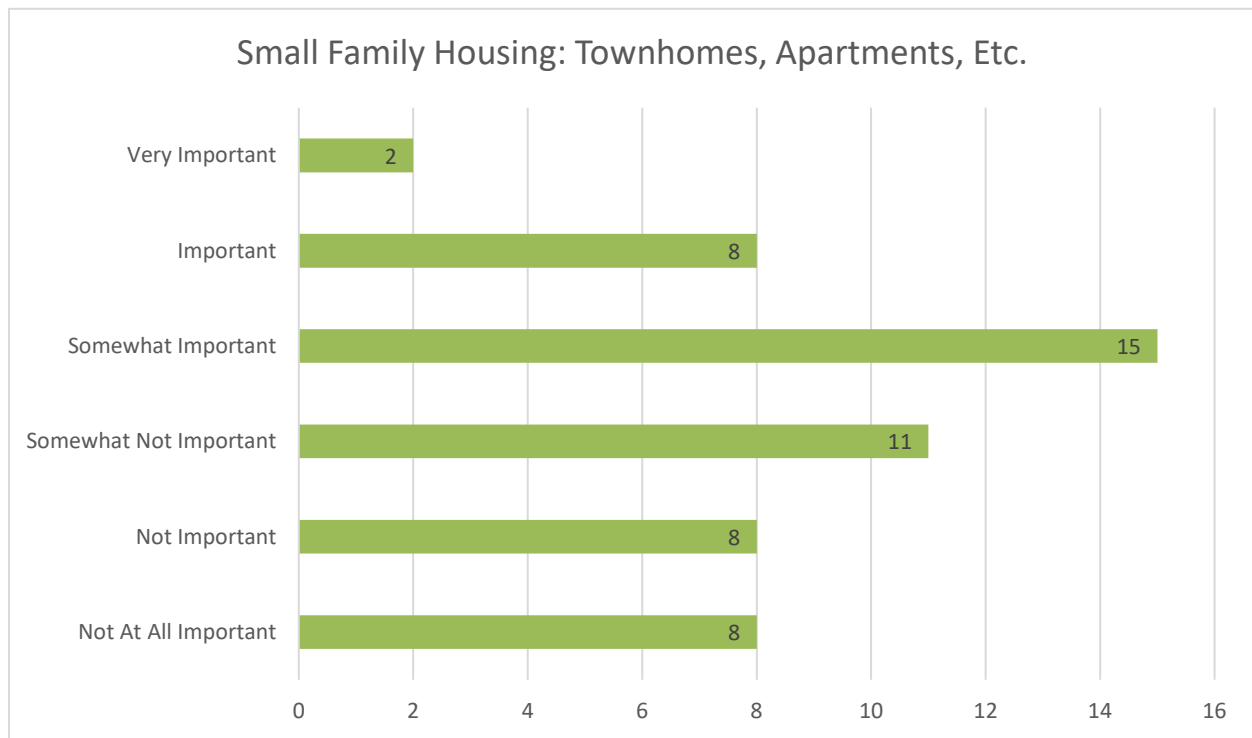
Town Center Questions:

Nibley City is examining the possibility of creating a downtown zone east of Nibley City Hall. This zone might allow commercial uses such as retail, office space, and restaurants; and/or housing with apartments, town-homes, and single-family Homes, and open space with parks, trails, and courtyards. How much would you support this planning effort by the City? (This question also showed a picture of Concept 3 from the 2016 Town Center Design Study):

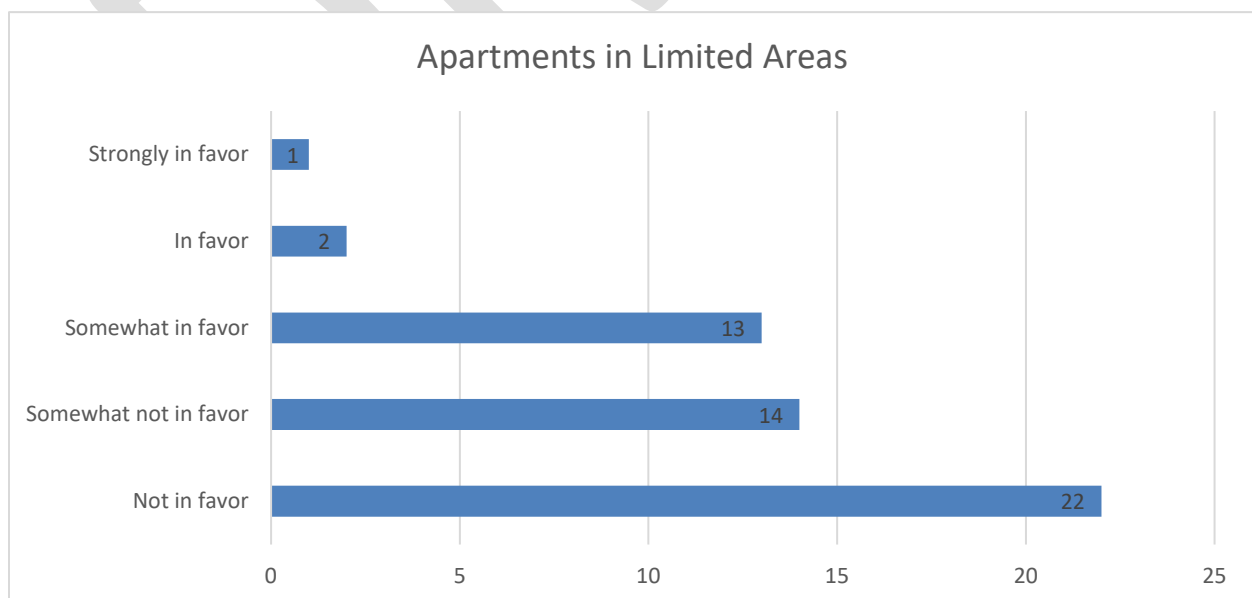


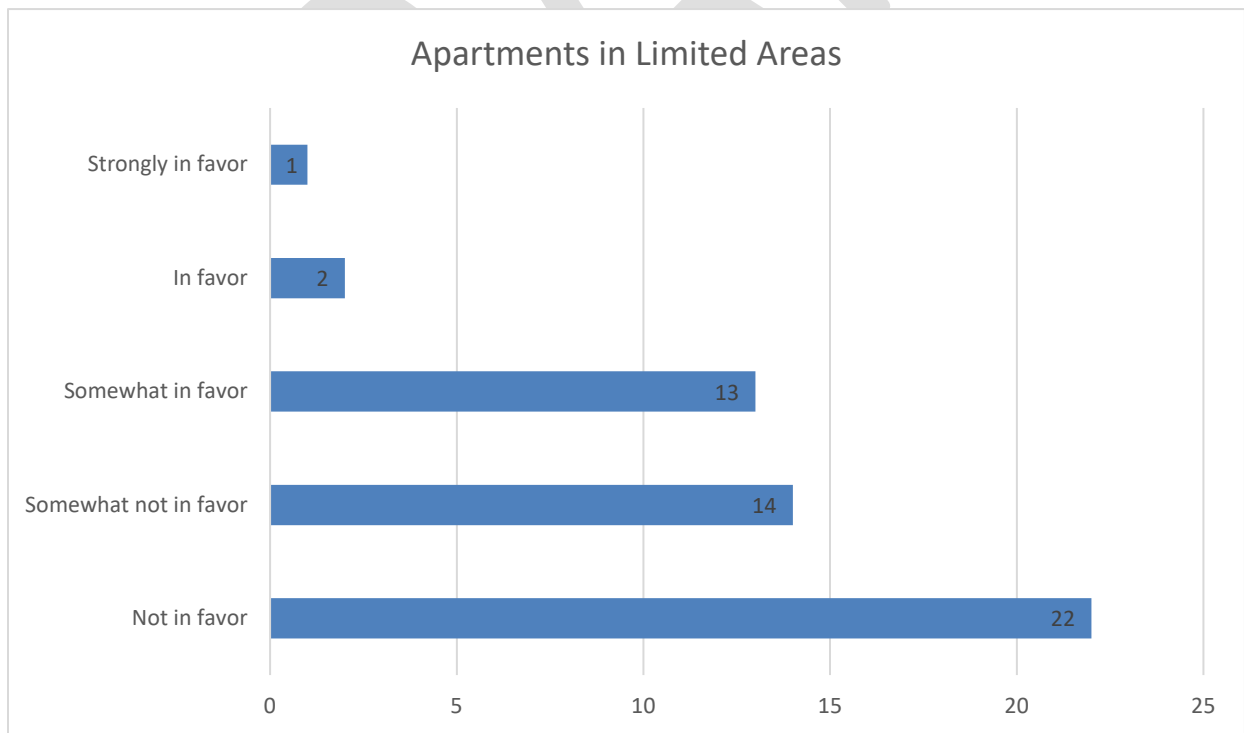
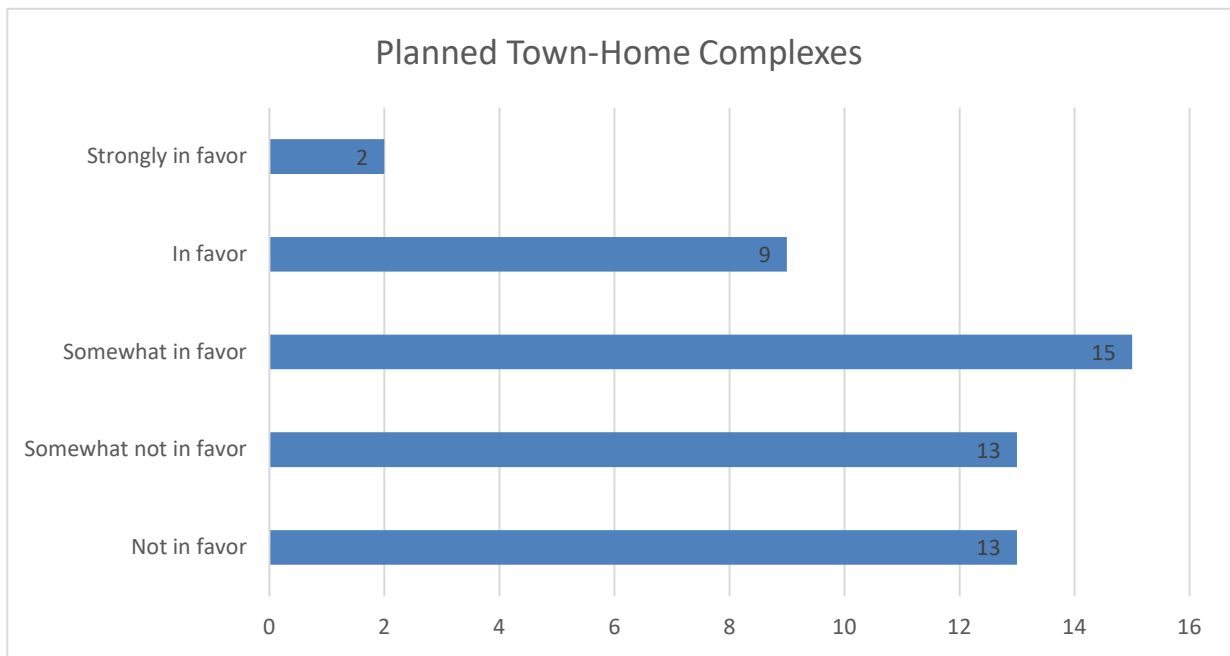
The following were answers to the question: *Select what you think Nibley City should make a priority in future land use planning:*

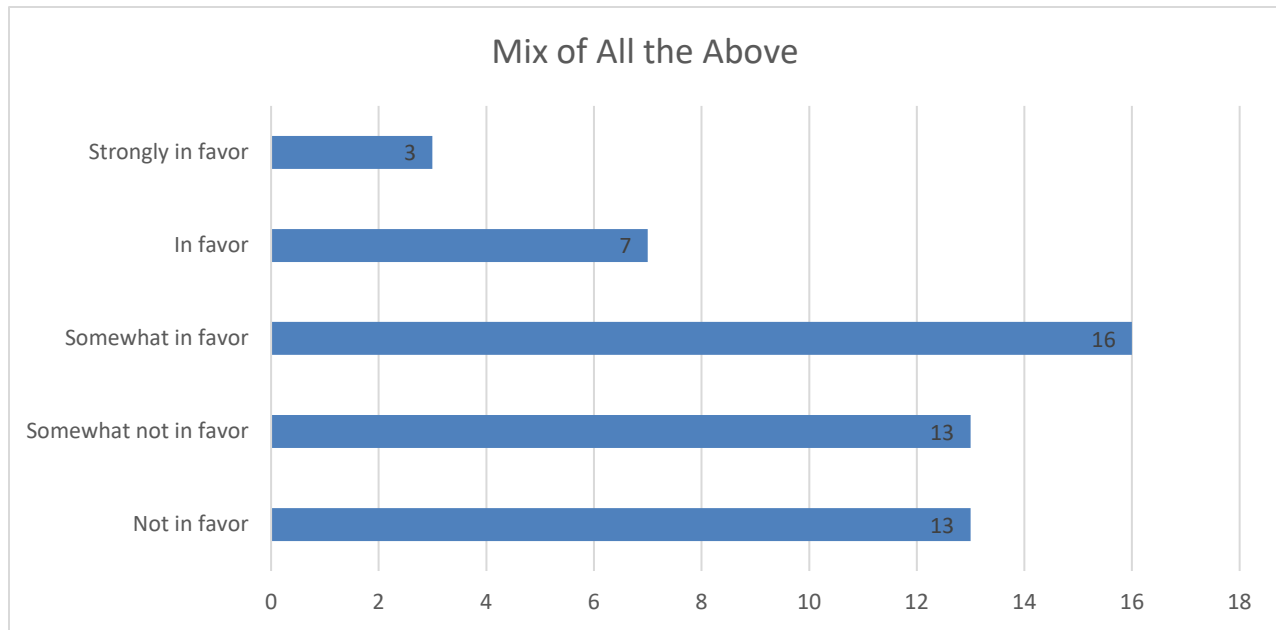




The following were responses to the following questions: *A recent study showed that Nibley has a shortage of housing available for less than \$200,000. What steps would you like to see Nibley take to help meet that need?*







In addition to a written survey, residents were presented with pictures of different types of housing and asked to give a first and second choice in “What type of Housing do you want to see built in Nibley City”



Picture	% First Choice	% Second Choice	Percent Total
1	67.21%	14.29%	40.65%
2	6.56%	5.36%	5.69%
3	0.00%	1.79%	0.81%
4	11.48%	41.07%	25.20%
5	3.28%	14.29%	9.76%
6	11.48%	23.21%	17.89%

FUTURE HOUSING NEEDS

Nibley City expects to continue to grow in population because of Nibley City's location within Cache Valley, its large potential annexation area, many acres of undeveloped land already in the city, and housing growth pressure in the surrounding area. Nibley City's household size has declined from 4.23 in 2009 to 4.04 in 2017 (American Community Survey, 2017). This figure was still larger than the statewide average of 3.14 people, which is the largest of any state in the nation (Census Bureau, 2018).

To provide housing for the anticipated population in 2030, assuming the current average of 4.04 people per household, Nibley City would need to have add 1,745 homes by 2030. Over the past five years, Nibley has issued an average of 68 building permits per year. If the Nibley continued to grow at that rate, 748 homes would be constructed by 2030. The number of home predicted is a shortfall of 929 units over 11 years to meet the expected 2030 population increase. The problem is exaggerated further if the number of people per household continues to fall and comes closer to the state's average number of 3.14 people per household.



MODERATE INCOME AND AFFORDABLE HOUSING

The tables below contain the information of estimate of the need for moderate income housing for the five years.

Number of Housing Units Needed by Tenure at AMI Thresholds by 2024

AMI Threshold	Total	Owner-Occupied	Renter-Occupied
≤30%	15.6	14	2
≤50%	32.6	29	4
≤80%	105.0	93	12
≤100%	153.3	135	16
>100%	413.0	364	49

Steps to Figuring out the Number of Moderate Income Housing for the Next Five Years

Step 1: Figure out the number of projected housing units needed by 2024.

Housing Units and Tenure, 2017 Estimate and 2024 Projection

	2017	2024	Difference
Total Housing Units ¹	1,594	2,007	413
Owner-Occupied ²	1,473	1,769	296
Renter-Occupied ²	121	238	117

Source 1: U.S. Census Bureau. Table B01003: Total Population. American Community Survey.

Source 2: U.S. Census Bureau. Table B25008: Total Population in occupied housing units by tenure. American Community Survey.

Step 2: Figure out the number of housing units by AMI threshold and tenure by levels.

Housing Units and Tenure by AMI Threshold

AMI Threshold	Owner	Renter	Total
≤30%	35	20	55
>30 to ≤50%	70	45	60
>50 to ≤80%	180	75	255
>80 to ≤100%	170	0	170
>100%	875	40	915
Total	1,300	160	1,455

Source: Housing and Urban Development. (2018). 2011-2015 Comprehensive Housing Affordability Strategy [Data].

Step 3: Figure out the percentage of housing units by AMI thresholds.

Table 2.3 Percentage of Households by Tenure and AMI Threshold

AMI Threshold	Total Units	Percentage of Total Units
≤30%	55	3.8%
≤50%	115	7.9%
≤80%	255	25.4%
≤100%	170	37.1%
>100%	915	100%
Total	1,455	

Step 4: Multiply the percentage of total units by the projected number of housing units needed by 2024.

Table 2.4 Projected Number of Housing Units Needed by AMI Thresholds in 2024

AMI Threshold	Percentage of Total Units	Projected Units by 2024	Total
≤30%	3.8%	413	15.6
≤50%	7.9%	413	32.6
≤80%	25.4%	413	105.0
≤100%	37.1%	413	153.3
>100%	100%	413	413.0

Step 5: Figure out the percentage of housing units by tenure in 2024.

Table 2.5 Total Percentage of Housing Units and Tenure in 2024

	Total	Percentage
Total Housing Units ¹	2,007	-
Owner-Occupied ²	1,769	88.1%
Renter-Occupied ²	238	11.9%

Source 1: U.S. Census Bureau. Table B01003: Total Population. American Community Survey.

Source 2: U.S. Census Bureau. Table B25008: Total Population in occupied housing units by tenure. American Community Survey.

Step 6: Multiply the number of housing units needed at each AMI threshold by the percentage of tenure (table 2.5).

Number of Housing Units Needed by Tenure at AMI Thresholds by 2024

AMI Threshold	Total	Owner-Occupied	Renter-Occupied
≤30%	15.6	14	2
≤50%	32.6	29	4
≤80%	105.0	93	12
≤100%	153.3	135	16
>100%	413.0	364	49

By 2024, Nibley will need an additional 364 housing units to house the projected population growth (see Table 2.1). To meet the needs of moderate-income households, 105 or a quarter of housing units need by 2024 will need to be moderate-income housing units (see Table 2.4). About 33 of those units will be needed at the 50 percent AMI threshold (see Table 2.6). Of the 33 housing units needed at the 50 percent AMI threshold, 29 should be owner-occupied housing and 4 renter-occupied (see Table 2.6).

The 105 additional moderate-income housing units needed by 2024 does not take into consideration the current deficit of moderate-income housing units. Therefore, Nibley will need more than 155 moderate-income housing units¹ to meet the needs of current and future moderate-income households.

¹This figure was calculated by adding the future amount of needed moderate-income housing (105) with the current deficit of rental-units (55). This figure does not consider the number of owner-units needed, therefore the total number of housing units needed by 2024, considering the current deficit and future need, will be greater than 155.

Summary of Affordability in 2018		
Household Income	Maximum Monthly Income for Housing Expenses	Maximum Mortgage Loan Amount
≤30% AMI	\$437	\$75,149
>30% to ≤ 50% AMI	\$729	\$125,249
>50% to ≤80% AMI	\$1,166	\$200,398
>80% to ≤100% AMI	\$1,458	\$250,497

NIBLEY CITY ZONING AND SUBDIVISION OPTIONS

Nibley City currently provides for a few zoning options for residential development. The table below shows the standard by right zoning with the minimum lot size, frontage, and setbacks.

NCC 19.22.010 Space Requirement Chart:

		A	R-E	R-1	R-1A	R-2	R-2A
A.	Minimum lot area	5 acres	2 acres	1 acre	3/4 acre	1/2 acre	12,000 sq. ft. average size of 14,000 sq. ft.
	Minimum lot width, measured at setback line	200	200	200	150	100	100
B.	Setback principal uses						
	Front yard	30(35) ³	30(35) ³	30(35) ³	30(35) ³	30(35) ³	30(35) ³
	Side yard, interior	15 ³	15	10	10	10	10
	Side yard, street	25(35) ³	25(35) ³	25(35) ³	25(35) ³	25(35) ³	25(35) ³
	Rear yard	30	30	30	30	25	25

Within these standard zones, single-family units are the primary housing type, but duplexes and attached Accessory Dwelling Units are both permitted as long as they comply with standards listed in Nibley City Code Title 19. In addition to standard zoning, Nibley City allows for three other forms of subdivisions that are currently permitted and one type of subdivision that has been repealed.

CLUSTER SUBDIVISIONS (SEE NCC 21.10.030)

A cluster Subdivision allows for a developer to be able to decrease their lot size in exchange for preserved open space. This open space can take the form of a park or agricultural land. No density bonus accompanies these types of developments within Nibley City.

Current Cluster Subdivision

- Stonebridge located at 1200 W and 2980 S

PLANNED UNIT DEVELOPMENT (PUD) REPEALED

Nibley City's Planned Unit Development Code was repealed in 2011. Nibley City has approved a new Residential-Planned Unit Development in May of 2019 that is being discussed below. The PUD ordinance allowed for greater density and flexibility for developers to negotiate with the City for density and open space. There are three subdivision that have been approved and developed under the former PUD Ordinance.

Current PUD Subdivisions

- Spring Creek Crossing located at Nibley Park Ave. (2350 S) and around 1250 W
- Sunset Parks located at 1000 W and 2770 S
- The Cottages Community located at 250 W and 3515 S

RURAL PRESERVATION SUBDIVISION/CONSERVATION SUBDIVISION (SEE NCC 21.10.020)

The Rural Preservation Subdivision (renamed from Conservation Subdivision) is a subdivision option that allows for development in R-1, R-1A, R-2, and to some extent R-2A to receive a higher density and smaller lot size in exchange for preserved open space. The lot size and density bonus are tiered based on the percentage of the project that is dedicated as open space.

Current Conservation and Rural Preservation Subdivisions

- Maple View Estates Located east of 1200 W and south of 2600 S
- The Cottonwoods located at Hollow RD and 4030 S
- Apple Creek located south of 3200 S and at 500 W
- Meadow Creek located at 3850 S and 150 E



RESIDENTIAL PLANNED UNIT DEVELOPMENT (R-PUD) (SEE NCC 19.32)

In May of 2019, Nibley City adopted Nibley City Code 19.32 Residential Planned Unit Development. This new section of code allows for a developer to apply for an overlay zone in six parts of town zoned for half-acre lots, three-quarter acres lots, or full acres lots minimums and would allow a developer to develop up to twelve units per net developable acre with a mix of single-family and townhomes. At the time of this writing, no R-PUDs have been applied or approved.

MINOR SUBDIVISION AND FLAG LOTS (SEE NCC 21.08.040 AND 19.46)

Nibley City in 2018 pass two ordinances that 1) allows for the development of a minor subdivision and 2) provides for the creation of flag lots. These two code updates allow property owners more options to develop their property for moderate income housing. The minor subdivision allows for a smaller subdivision, containing five lots or less, the ability to move through the subdivision process quicker. The updated flag lot ordinance allows for the development of property that has little to no frontage along a public or private roadway.

GOALS, PROJECTS, AND ACTION ITEMS

When planning for moderate income housing within Nibley City, it is important to note that cities have limited ability to ensure that affordable housing is built. Nibley City will encourage and support the development of home construction and subdivision by developers and home builders. The housing market also plays a part in what type of homes are built within these developments. The following goals are recommended to the City to encourage the construction of new and moderate income housing within Nibley City.

Nibley City should provide opportunities within the City for the construction of moderate income Housing. Nibley City should take the following steps to ensure the City is meeting goals listed within this plan

- Review the objectives listed below and work to achieve the goals by the suggested time frame
- Review building permits for housing units annually and evaluates Moderate Income Housing additions to the City compared to the needed housing and goals listed within this plan
- Update this plan as needed or at a five-year minimum time frame
- Take Moderate Income Housing into consideration when reviewing rezone applications. If possible, encourage developers to build affordable housing as part of developments as a condition of the rezone

ALLOW FOR AND REDUCE REGULATION RELATED TO ACCESSORY DWELLING UNITS IN RESIDENTIAL ZONES.

Nibley City currently allows for attached accessory dwelling units (ADUs). These ADUs mostly take the form of basement apartments. Nibley City should consider expanding allowances for detached ADUs with most residential zones. ADUs can be a great way to expand moderate income housing stock with minimal impacts to neighborhoods and can encourage the spread of these type of housing units throughout the City. As established above, many of Nibley City lots are larger than half an acre.

Moderate Income Housing Considerations

- How large would the City allow an ADU to be in reference to the primary structure
- What zones and lot sizes would a detached ADU be allowed?
- Parking requirements? Having no or minimal parking requirements would allow for more homeowners to build ADUs
- Property owner habitation
- Make ADUs for short-term rentals as a prohibited use
- Registration of ADUs so the City could track the number of units.

Timeframe: Early 2020

ALLOW FOR HIGHER DENSITY OF MODERATE INCOME RESIDENTIAL DEVELOPMENTS IN COMMERCIAL AND MIXED-USE ZONES, TOWN CENTER, NEIGHBOR COMMERCIAL, AND OTHER EMPLOYMENT AREAS

Nibley City 2016 General Plan recommends establishing and creating a town-center area that would be composed of commercial, residential, and open space uses. The City in May of 2019 passed an R-PUD that would allow for the beginning development of a town center area. This R-PUD would allow for some commercial areas within the R-PUD and allow for townhomes and single-family homes. The City should continue to plan and update City zoning code for a town-center that would allow mix-use within Commercial and Neighborhood Commercial Zones.

Nibley City should also start to plan for the future 4400 S industrial corridor, as shown on the future land use map. Nibley City should coordinate these planning efforts with Hyrum, Wellsville, Cache County, and UDOT. The City should consider housing densities and types that would be allowed to take place along and next to that corridor.

Moderate Income Housing Considerations

- Create mix-use areas within the future Town-Center
- Allow for apartments and condominiums within Neighborhood Commercial Zones attached to commercial buildings

- Plan for future 4400 S Industrial Corridor

Timeframe: End of 2020

REZONE FOR DENSITIES NECESSARY TO ASSURE THE PRODUCTION OF MODERATE INCOME HOUSING

Nibley City has recently passed an R-PUD ordinance with increased density within areas of the City. The R-PUD Overlay Zone increases the density from the underlying zone and allow up to twelve units a per-net developable acre. The City should work with property owners and developers in approving an appropriate amount of R-PUD Overlay Zones and Developments to help achieve the needs of affordable housing.

Nibley City should also continue working on the Town Center Planning and Zoning Ordinance and allow for a variety of housing types, including single-family homes, townhomes, condominiums and apartments as part of that zoning criteria and development. Nibley City should involve Cache County Transit District (CVTD) in these plans to provide for adequate public transportation in the area. This would allow for residents of the Town Center to have easy access to significant employment, recreation and shopping centers in Cache Valley, including Utah State University.

Moderate Income Housing Considerations

- Create a Town Center Zoning Ordinance that would allow for mix-use, condominiums, townhomes, and single-family homes in addition to open space and commercial uses.
- Involve CVTD with Town Center and provide areas for bus stops and active transportation within the development.
- Work closely with Developers and property owners and make appropriate rezones for R-PUD developments.

Timeframe: As applications come in

PARTNER WITH ORGANIZATIONS THAT OFFER GRANTS OR OTHER ASSISTANCE IN HOUSING AFFORDABILITY

Nibley City has a history of working with organizations that build affordable housing or offer services. Nibley has partnered with Neighborhood Housing Solutions in the past and has had a couple of hundred homes built for qualifying families. Nibley City has also worked and partnered with Bear River Association of Governments (BRAG) which offer programs to help lower-income families be able to pay for needed utility, assist with rent, conduct required home repairs, etc.

Moderate Income Housing Considerations

- Nibley should be willing and be pro-active in seeking partnerships with Neighborhood Housing Solutions, or other cooperations or non-prophets organizations in building affordable housing.
- Nibley City should refer to those that may be in need to BRAG and post helpful information about programs that are offered through BRAG and HUD.

Time Frame: Current

DRAFT



American Planning Association

Making Great Communities Happen

Housing Policy Guide

Approved by APA Delegate Assembly, April 14, 2019

Ratified by APA Board of Directors, May 14, 2019

planning.org/policy

The American Planning Association advocates for public policies that create just, healthy, and prosperous communities that expand opportunity for all through good planning. APA's advocacy is based on adopted positions and principles contained in policy guides. These guides address the critical policy issues confronting planners and communities by identifying solutions for local, state, and federal policy makers. Policy guides are led by the APA Legislative and Policy Committee, ratified by the APA Board of Directors, and developed through the careful and extensive involvement of planners across the country. APA policy guides articulate and advance the principles of good planning in law and regulation.

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Cover: Westlawn Gardens in Milwaukee, recipient of a 2018 APA National Planning Excellence Award, created 250 new affordable housing options in a community where they were needed most. Born out of a master-planning process, Westlawn Gardens is an example of the type of housing options possible when planners, community members, and public and private partners work together to create a shared vision.

Introduction

“In order for communities to function, there must be an adequate supply of housing in proximity to employment, public transportation, and community facilities, such as public schools. The housing stock must include affordable and accessible for sale and rental units, not only to meet social equity goals, but in order to ensure community viability. The development of a diverse and affordable housing stock must be carried out without sacrificing sound regulations that are in place to protect the environment and public health.”

— Housing Policy Guide, 2006

While the goals of the 2006 Housing Policy Guide remain as valid as ever, progress has been mixed over the past 13 years. Many of the same challenges remain and some, particularly housing availability and affordability, have worsened. Many desirable communities are out of reach for those earning an average wage and too many Americans must spend an inordinate amount of their income on housing expenses. In addition, the long-term adverse effects of discriminatory financial lending practices and exclusionary zoning—including redlining—continue to impact the social, cultural, ethnographic, and economic diversity of our urban, exurban, and suburban regions in ways that negatively impact low-income and minority households disproportionately.

Emerging Trends

1. Inventory and conditions

The nation's housing supply has continued to rise from 122.7 million units in 2004 to 134.1 million in 2016 but at a slower rate than previous years. While housing stock keeps ahead of overall household growth, it fails to meet the needs of changing socioeconomic characteristics of the population.

Housing starts have slowed, with an average of 0.8 million units built annually from 2010 through 2016 compared to a 1.1 million average previously. The percentages of unit types in the national housing supply varied slightly: The number of single-unit structures rose from 67 percent to 67.4 percent; multiunit structures were constant at 26 percent; and mobile homes declined from seven to 6.3 percent.

According to the U.S. Census Bureau's *Characteristics of New Single-Family Houses Completed*, the average size of single-family homes constructed nationally declined during the Great Recession from a high of 2,528 square feet in 2008 to a low of 2,402 in 2009, then steadily increased to 2,637 square feet in 2016. Beyond increased space, most of these new homes contain additional amenities such as multiple bathrooms.

The national average single-family home price was \$356,160 in 2016, increasing 34 percent over a five-year period. While there are variations in household income, cost burden is measured as not paying more than 30 percent on housing costs. For an average owner not to be cost burdened, their income would have to be \$103,200 annually to have afforded the "average" single-family home constructed in 2016. Renters can face an even higher burden.

Average home lot sizes decreased from a high of 18,871 square feet in 2009 to a low of 15,167 in 2013, rising the following years to 16,381 in 2015 and dropping to 15,641 in 2016. The National Association of Home Builders/Wells Fargo Housing Market Index found that the percentage of builders reporting a low or very-low supply of lots in their markets rose to 64 percent in 2017 from nine percent in 2009.

National annual average multifamily housing construction more than doubled from 2010 (155,000 units) to 2016 (358,000 units). Newly constructed units, unless subsidized as affordable housing, had higher sales and rental prices consistent with increased pricing of the newly constructed single-family homes. The deviation of construction and land cost increases and stagnating incomes put much of the newly constructed multifamily dwelling units beyond the reach of even those of median income.

According to the *State of the Nation's Housing 2018*, there are four primary impediments to stronger housing construction. The first is a deficient supply of skilled workers. The second is a rise in cost of building materials. Third is the depletion of developable lots and fourth, the impact of land-use regulations and zoning on the density and type of construction. Productivity gains in housing construction have lagged

against other industries, an additional impediment to the market.

Lowered vacancy rates from 2010 to 2016, 2.4 to 1.8 percent in owner-occupied housing and 7.8 to 6.2 percent in rental housing, signal a tightening of the housing market. Vacancy rates are lowest in lower-cost housing, relaxing as the price of units increase.

Overcrowded conditions are reported slightly higher in the 2016 American Community Survey data, rising from 3.4 to 3.9 percent. The survey shows 3.3 percent of households live with more than one person per room while 1.2 million households or 1.1 percent live with more than 1.5 persons per room.

The National Housing Preservation Database indicates that of the nearly 4.7 million publicly supported rental homes, more than 10 percent with affordability restrictions will expire in the next five years. With more than 8.1 million extremely low-income households spending more than half of their income on rent, there is a shortage of approximately 7.4 million homes affordable to the extremely low-income households in need.

There has been an uptick in a loss of older housing inventory. A Hudson Institute analysis found that about 60 percent of low-cost units in 1985 were lost from the U.S. housing stock by 2013 through a combination of permanent removals (27 percent), conversions to other uses (18 percent), and upgrading to higher rents (12 percent). Moreover, just under a third of affordable rentals in 2013 had been low-cost units in 1985, underscoring the importance of affordable housing preservation.

2. Affordability

Perhaps the most significant economic trend of the last 12 years is the widening gap between the highest earners and the average wage. Those at the top of the income curve have seen their earnings increase while the majority has experienced stagnation or reduction. This has directly affected the housing supply, which is steadily bifurcating into strong or weaker markets while the middle range is shrinking.

Over 41 million households in the United States (approximately 35 percent) are described as cost burdened, meaning these households are spending more than 30 percent of their income on housing expenses. The numbers are increasingly dire for those households that earn roughly a minimum wage income. Assume the breadwinner in a household earns \$10 per hour at a full-time job; this equates to an annual household income of \$20,000 per year. This income cohort represents 15 percent of U.S. households and more than 80 percent of these low-income households are cost burdened.

Further complicating the issue is the fact that wages have not increased proportionally to housing costs. After adjusting for inflation,

wages are only 10 percent higher in 2017 than they were in 1973 (with annual real wage growth just below 0.2 percent). During that same period, the cost of housing increased almost 30 percent nationally and at significantly higher percentages in markets such as New York City, Los Angeles, San Francisco, Seattle, and Washington, D.C. According to the *State of the Nation's Housing 2018* report by the Joint Center for Housing Studies of Harvard University, "In 1988, when the first *State of the Nation's Housing* report highlighted historically high homeowner-ship costs, the national home price-to-income ratio was 3.2, with just one metro posting a ratio above 6.0. In 2017, the national price-to-income ratio stood at 4.2, and 22 metros had ratios above 6.0." As a rule of thumb, most banks consider a home price-to-income ratio in the 3.0–3.5 range generally financeable (assuming minimal outstanding debt obligations for car loans, student loans, credit cards, etc.).

As the cost per square foot to build housing continues to increase, a greater number of units built by the private market have moved to higher rent or for-sale units while losing lower rent or for sale units. With the average cost per square foot for new construction in the \$150 to \$300 range (geography dependent), it is impossible to build a new 1,500-square-foot single-family house that is affordable to households earning the U.S. median income of \$57,652 (in 2017) without a public subsidy in the form of land, money, or both. Unfortunately, many of the state and federal programs are limited to assisting only those households at 60 percent area median income (AMI) or less. The reality is that housing is often unaffordable to households earning up to 120 percent AMI (and higher in many markets). A tiered approach to the provision of subsidies and economic incentives, especially at the local level, is necessary to ensure the construction and preservation of a wide range of affordable housing types in our nation's communities.

Scaling back the size of newly constructed housing offers some cost savings provided the minimum buildable lot size is reduced accordingly to realize a savings on land acquisition. Homes in the 900- to 1,200-square-foot range are becoming more commonplace, but the trend in America is still toward larger houses. According to the U.S. Census, the size of the average single-family house increased from 1,535 square feet in 1975 to 2,169 square feet in 2010—an increase of 41 percent.

3. Housing Location

There is an increasing disconnect between job location and housing supply, placing greater demands on our transportation system and causing a greater proportion of time and income to be spent on commuting.

Long Commutes. Driven in part by the search for affordable housing, rising commute times are an issue both regionally and nationwide, adding even more expenses to full-time workers. Brookings Institution research found that between 2000 and 2012, more Americans took on outsized commutes: The number of jobs within the typical commute distance for residents in a major metro area fell by seven percent nationwide. The 2015 American Community Survey found that the country's average commute rose to 26.4 minutes in 2015, and the number of Americans who live in one county and work in another soared

from 23.5 million to 40.1 million between 1990 and 2014, a 71 percent increase. More time behind the wheel or on a bus or train is taking more money from the working poor.

The census data shows the longest commutes are also the fastest growing. The number of workers who are over the age of 16 grew by roughly 1.7 percent from 2014 to 2015 (a total of 148.3 million workers). But the number of workers with 45-minute commutes grew even faster (3.5 percent). The number with hour-long commutes grew even faster than that (5.1 percent). And workers with extreme commutes—90 minutes or more—grew by the fastest rate of all (eight percent). At the other end of the spectrum, the number of workers with commutes less than 10 minutes actually shrank.

But research increasingly finds that for many, longer drives are a direct result of a dearth of housing near jobs, especially in increasingly expensive downtown districts. Our dreary national commute reflects larger choices about zoning, housing development, and infrastructure investments which add to the affordability crisis that has gotten worse over the last decade, especially for the poor and the middle class.

The median commute distance for those earning \$15,000 a year or less has jumped from 12 to 21 miles between 2006 and 2013. There's also a pronounced racial dimension to the increase in commuting time: Brookings Institution research found that as more lower-income urban Americans are pushed to suburban areas due to rising rents, the number of jobs near the typical Hispanic (17 percent decline) and black (14 percent decline) resident in major metro areas declined much more steeply than for white residents (six percent decline).

Production. Nationally, the number of households grew by 11.2 million between 2005 and 2015, while only 9.9 million new housing units were constructed during the same period. Only 10 of the nation's 50 largest metros have produced enough new housing to keep pace with job growth in recent years. Job growth tends to be centered in the counties containing a core city while a greater share of housing units is added to the surrounding suburbs—leading to heightened levels of undersupply in the core cities.

There is a strong correlation between the number of jobs and rent growth from 2005 to 2015. Real estate values plummeted following the Great Recession and construction came to a near halt across the country, with the number of new housing units permitted to be constructed dropping to the lowest level on record in May 2009. Since then, the housing market and the overall economy have recovered, but new construction continues to lag. The number of companies building homes dropped by 50 percent from 2007 to 2012, and the construction industry is currently facing a serious labor shortage. The resulting lack of new construction is contributing to rising rents, which are creating an affordability crisis in many parts of the country.

In the postrecession period, most large metros areas are lacking in housing supply but are high in demand. When we focus on the postrecession period from 2010 to 2015, only 10 of the 50 largest metros added fewer than two jobs per residential building permit.

Cost/Income. Out of 30 metro areas that increased economic productivity, average wages, and standard of living since 2010, only 11 were able to distribute that growth across income groups.

4. Housing Needs for All

Over the past 12 years, home design has evolved to building homes that accommodate the changing demographics of our nation. More housing is being developed for a mix of life stages and at a range of price points, including extended families and caretakers, those who may need first-floor living and zero-step entries, larger families, and single-person households. A diversity of housing types accommodates all needs.

Universal Design and Visitability Principles. Creating a range of housing options for residents in a community is one way for older adults to not only remain in their homes, but also remain in their communities. Over the past decade, builders have implemented more Universal Design and Visitability elements in housing design as standard rather than as an option. The principles emphasize the design of buildings and environments that are accessible to all people, regardless of age, disability, or other factors.

Aging in Community. According to AARP's Public Policy Institute, the vast majority of people age 50 and older want to stay in their homes and communities for as long as possible. However, Fannie Mae's research anticipates that aging baby boomers will trigger an exodus in the housing market. Fannie Mae states: "The beginning of a mass exodus looms on the horizon, fueling fears of a 'generational housing bubble.'" Such a scenario "would reverberate through the housing market and economy." Fannie Mae's report states that "the number of homeowners who reach age 65 by the year 2026 will drop by 10.5 million to 11.9 million, more than the loss of 9.2 million in that age bracket from 2006 to 2016." A broader range of housing options benefits a broader range of people and households, including accessory dwelling units and smaller rental homes. Community planning should incorporate access to amenities such as parks, trails, and transportation networks near existing housing for older populations.

Cost Burden. Housing and transportation are the two biggest expenses in a typical U.S. household. Statistics suggest that the combination of housing affordability and affordable transportation is an issue for more than two-thirds of Americans, with the nation's lowest-income households absorbing the greatest costs. Access to alternative modes of affordable transportation, particularly transit, is critical to these households.

Future Home Owners. More than 32 percent of Americans age 18 to 35 currently reside with their family. There may be a number of reasons for this. The first is the lack of a range of housing options in regions throughout the United States. The second is the increased economic instability of young adults due to increased personal debt burden and, in some locations, lack of access to job growth opportunities. These two issues combined present barriers to future home ownership and economic stability.

Impacts of Immigration. For decades, immigration has affected communities throughout the United States. According to Joint Center

for Housing Studies data, immigrants currently make up 20 percent of renter households and 12 percent of home owners. From 2006 through 2016, these households have been shown to stabilize both urban and rural communities that might have otherwise lost populations.

Sustainable Design. In the past few years, efforts to create more sustainable homes have increased. There has been progress in the use of cleaner fuels and renewable energy for home heating. From 2010 to 2016 electric heat increased from 34.2 percent of the market to 37.7; solar increased from 1.26 to 1.82 percent. Utility gas/bottled/LP gas decreased from 63.1 percent to 62.5; however, fuel oil/kerosene increased from 15.6 to 16.1 percent and use of wood from 9.3 to 10.3 percent.

Increased interest in carbon reduction leads to greater focus on energy efficiency of lighting, plug loads, HVAC systems, and water-saving devices as well as improved building codes. While there is considerable variation in state policies, most encourage use of the measures cited above.

This factor and carbon reduction strategies in all other sectors is reflected in the steady decline of annual per capita energy use (300 million BTU) and CO₂ emissions (15.8 metric tons of CO₂) in 2017, lower than any year after 1970.

Clear indications of the energy market transformation is the rapid increase in the number of passive house and net-zero building projects in the country. Projects exist in states with more stringent building codes such as California and Florida, but are gaining traction in other states and localities that are committed to reducing greenhouse gases substantially by 2030 and 2050.

A passive house combines a high level of comfort with very low energy consumption through an efficient envelope requiring less heating and cooling. The number of passive house projects certified or in construction rose from 25 in 2011 to 350 in 2016, providing approximately 3,000 housing units. Net-zero buildings, very efficient buildings with solar and batteries that produce as much energy as they use, are increasing as states adopt more stringent energy codes. Currently the Net-Zero Energy Coalition estimates there are more than 5,000 NZE single-family homes and 7,000 NZE multifamily units nationwide. For example, by 2020 all new buildings in California will meet these standards, producing 100,000 NZE homes annually.

Homelessness. In 2017, the U.S. Department of Housing and Urban Development (HUD) reported that 553,742 people experienced homelessness in the United States on a single night. Two-thirds of the homeless were located in transitional housing or emergency shelters, with the remaining third in unsheltered locations. Thirty-three percent of the homeless were in families with children; the remaining 67 percent were single individuals. Most of the families were in sheltered situations.

From 2016 to 2017, there was an overall increase in the homeless population of one percent, consisting of a rise in homeless individuals counterbalanced by a five percent decline in the number of homeless families. This is the first reported increase in national homelessness in seven years. The increase occurred in major cities, with a decrease in the homeless in smaller towns and statewide. Across the nation there was an increase in the persons experiencing homelessness who were

unsheltered. On a particular night in January 2017, approximately 24 percent of those experiencing homelessness were chronically homeless, a decline of five percent from 2007. However, the share of unsheltered chronically homeless increased from 65 percent to 69 percent.

Approximately half of the homeless are located in one of five states: California (25 percent), New York (16 percent), Florida (six percent), and Texas and Washington (four percent). There are also wide variances by state in the percentage of homeless unsheltered, ranging from a high of 77.8 percent in California to a low of 6.9 percent in Iowa.

Policy Positions

POSITION 1 Modernize state and local laws to ensure housing opportunities are available, accessible, and affordable to all.

Position 1A The American Planning Association and its Chapters and Divisions support the modernization of state planning laws to ensure that state enabling statutes for zoning promote local planning efforts and provide housing resources to solve our most pressing affordability challenges. State involvement and resources are needed to ensure consistency and universal participation among municipalities. States should require binding comprehensive plans or a specific community-wide housing plan that both understand current and future housing trends and actively plan for the availability and affordability of housing. Further, states should not prohibit jurisdictions from establishing inclusionary housing and zoning programs and related rules and regulations aimed at creating and preserving housing. Mandates, funding, technical assistance, or other incentives may be used. Further, states should designate a single agency to oversee housing policy, support local planning, and achieve key production and affordability goals.

Position 1B The American Planning Association and its Chapters and Divisions support the modernization of local zoning bylaws and ordinances to increase housing production, while taking local context and conditions into account. While challenging to confront and, ultimately, amend or dismantle exclusionary zoning, rules, and practices, planners must take the lead in modernizing zoning. Local jurisdictions should adopt bylaws or ordinances, policies, and incentives that facilitate a range of housing types and densities and that serve a diversity of housing needs. Local jurisdictions should review and modernize bylaws and ordinances and planners need resources to make updates happen and to ensure adequate public engagement occurs.

Updates to bylaws and ordinances should address mixed use and multifamily development, including affordability. Updates should also include rezoning for higher densities where there may be existing lower densities. Local jurisdictions should consider reducing or eliminating minimum lot-size requirements, reducing minimum dwelling unit requirements, allowing greater height and density and reducing or eliminating off-street minimum parking requirements, and they should specifically identify and eliminate or minimize regulatory obstacles to the establishment of accessory dwelling units, whether attached to or detached from the principal dwelling unit. Local jurisdictions should also allow for and encourage adaptive reuse and use conversions to encourage housing production. Local jurisdictions

should also research and analyze, and as part of any zoning amendment, preempt all restrictive covenants and barriers to fair housing and access to housing choice, including barriers to on-street, overnight parking.

Location should be addressed without compromising equity or resiliency. Local jurisdictions should consider incorporating into bylaws and ordinances transit-oriented development principles and principles that address the importance of housing location in relation to access and proximity to schools, jobs, parks, transportation, and other critical amenities and resources. States should consider moving to a Housing + Transportation Index when determining affordability.

Position 1C The American Planning Association and its Chapters and Divisions support a better regional location balance for jobs, schools, and housing. Planners should support a regional fair-share distribution of housing, in general, and affordable housing, in particular, in proximity to employment opportunities. Planners recognize that housing markets closely align with labor markets, and function on a regional scale. Addressing any misalignment between them calls for interjurisdictional dialogue and cooperation. Local jurisdictions should amend zoning and regulations to encourage better balance of jobs and housing, including an increase of mixed uses in downtown and commercial areas, and establishing home occupation standards that have a low regulatory burden.

Position 1D The American Planning Association and its Chapters and Divisions recognize and support ongoing and expanded efforts to build market-rate and workforce housing in rural locations. Aging demographics and declining wages, combined with an older unmaintained housing stock, contribute to the need to ensure an equitable supply of safe housing in these areas. State, county, and local planners must ensure that resources, including capital, are directed to housing efforts in these locations, including funding for utilities and infrastructure, such as water and wastewater systems and roads, particularly in areas with lower-income populations.

Position 1E The American Planning Association and its Chapters and Divisions emphasize the importance of having an adequate supply of housing, and especially affordable housing, in economic development strategies. State and local jurisdictions should engage with business leaders to provide public messaging on the importance of housing and housing development to meet the needs of economic growth. Examples of potential strategies include: preserving existing mixed-income, multifamily housing stock near major employers and transit hubs in order to create housing opportunities in close proximity

to new suburban, exurban, and rural employment and service centers; performing housing impact studies, in conjunction with large employers, to analyze the availability of affordable housing for their workforce in proximity to work locations; encouraging employers to invest in their workforce and neighborhoods by supporting employer-assisted housing programs; and supporting transportation and transit improvements to increase job access and tracking and managing impacts from short-term rentals.

Position 1F The American Planning Association and its Chapters and Divisions support inclusionary growth to ensure fair opportunities to access affordable housing and economic prosperity, while addressing the negative effects of gentrification. Fair share increases opportunity such as access and proximity to jobs, accredited schools, community centers, and mobility options. State should remove barriers and create enabling legislation to allow local jurisdictions to adopt inclusionary growth and related requirements which may: mandate a minimum percentage of affordable units in a development are set aside in exchange for greater density, allow for a prorated number of affordable units that may be provided off-site, allow for payment to a dedicated fund for use by other developers, and require a diversity of housing unit sizes, including housing units with at least three bedrooms in support of families and households that include caregivers.

Position 1G The American Planning Association and its Chapters and Divisions should eliminate barriers to affordable and multifamily housing development and exclusionary zoning, rules, and practices, especially in areas where such development is supported by the necessary transportation, social, cultural, utility, and economic infrastructure. Local jurisdictions should allow multifamily, mixed-income housing as a by-right use and reduce permitting barriers that create development uncertainty, increase the cost of land and development, and stimulate opposition. Local jurisdictions should streamline approval processes that coincide with identified housing needs and demand and establish higher thresholds that are subject to special permit reviews.

Position 1H The American Planning Association and its Chapters and Divisions support “enabling design”—design that enables residents of varying levels of physical ability to live in all multifamily housing and single-family residential, and recommends requiring its use in housing assisted with federal subsidies.

Position 1I The American Planning Association and its Chapters and Divisions should work to transform the community engagement process relative to multifamily and mixed-income housing preservation and development. Local jurisdictions should move to active implementation of housing policy and development and build public support for housing affordability. Local jurisdictions should consider developing outreach and engagement strategies to establish a framework and guide dialogue with the public and key stakeholders about housing need, demand, and trends, as well as the consequences of inaction. Local jurisdictions should be inclusive and responsive to a broad range of constituents, while

promoting best practices and educating the public with attention to ensuring all populations have access to information in a variety of formats.

Position 1J The American Planning Association and its Chapters and Divisions support efforts to combat housing discrimination and support efforts that foster racial and economic integration. This includes support for the inclusive goals of the National Housing Act of 1949 and the Fair Housing Act of 1968, specifically including the latter’s objective of affirmatively furthering fair housing. It also includes support for the adoption of federal and state laws that would prohibit and provide additional protections against housing discrimination based on the source of income/ receiving public assistance and other protected classes, including but not limited to additional protections for ancestry, age, gender identity, genetic information, marital status, sexual orientation, and veteran/ military history. Finally, APA supports the dismantling of exclusionary land use and zoning practice and policies that contribute to and continue historic patterns of segregation, which includes discriminatory definitions of family in local zoning and ordinances.

Position 1K The American Planning Association and its Chapters and Divisions support better understanding of the variations in acceptable housing occupancy standards across cultures to encourage and support flexibility in housing occupancy standards while ensuring safe, humane, and reasonable standards of living. Housing occupancy varies across different sociocultural groups including different preferences for multigenerational and larger households.

Position 1L The American Planning Association and its Chapters and Divisions have a special responsibility to establish affordable, accessible and available housing as core values in states and localities. Engagement of community leaders, elected officials, and the public in support of these core values can lay the groundwork for modernization of state enabling statutes and reform of local plans and codes that may inhibit housing affordability and availability. Effective engagement can also diminish concerns regarding increased density and new housing forms in existing neighborhoods.

POSITION 2 Preserve existing housing to maintain the quality and overall supply of affordable housing.

Position 2A The American Planning Association and its Chapters and Divisions recognize that preservation of the existing affordable housing stock is critical for protecting older owner-occupied and renter-occupied housing. These types of housing units are often the dominant building fabric and largest source of naturally occurring affordable housing for many inner-ring neighborhoods. Communities should develop plans for substandard and abandoned housing and identify properties that risk falling into substandard conditions. Local jurisdictions should ensure that comprehensive housing plan policy

recommendations support the preservation of existing housing stock as a key component of those plans. Incentivizing and/or mandating the preservation of existing affordable housing is also often the most sustainable way a municipality can ensure housing provision. The only exception to this position would be in the case of existing housing that is substandard, the removal of which would give way to higher-density multifamily developments.

Position 2B The American Planning Association and its Chapters and Divisions support the preservation of existing affordable housing. In order to stem the loss of existing affordable units in gentrifying neighborhoods due to permanent removal, conversion to other uses, and rent increases, local jurisdictions should support the preservation or replacement of these units. Planners and local policy makers should consider a package of incentives to ensure some level of affordability remains associated with these units. Planners should encourage models to preserve affordable housing units, such as low-equity cooperatives and community land trusts. Local jurisdictions should consider the impact of redevelopment proposals on existing neighborhoods, particularly with regard to the potential for residential displacement of low- to middle-income households. Planners should encourage adoption of inclusionary zoning and regulatory measures that proactively preserve housing that is affordable to low- and very-low income households along current and future transit corridors, downtowns, and village or community centers. This ensures that transit-dependent populations in developing or redeveloping areas will have continued access to amenities such as jobs, schools, health care, and goods and services.

Position 2C The American Planning Association and its Chapters and Divisions support monitoring of existing affordable housing units in state and local jurisdictions. Many communities nationwide have successfully used inclusionary zoning as a means to ensure that a specified percent of new market units developed are rent- or sale-restricted for households earning less than 100 percent of Area Median Income. Planners should ensure that units remain affordable through the term of their deed restriction.

Position 2D The American Planning Association and its Chapters and Divisions support options for older adults to age in community. Local jurisdictions should encourage the maintenance and modernization of existing housing by providing or identifying options for financial assistance from loan and grant programs, home modification programs for people with disabilities, and weatherization and home energy assistance programs.

Position 2E The American Planning Association and its Chapters and Divisions support options for public education on home ownership, maintenance, and repair. First-time home owners should understand the benefits and responsibility of home ownership.

POSITION 3 Encourage environmental sustainability and resiliency as critical elements of housing availability and affordability.

Position 3A: The American Planning Association and its Chapters and Divisions encourage sustainability, resiliency, and energy and water efficiency in the housing sector. States and local jurisdictions should investigate opportunities to amend zoning and building requirements to increase production of net-zero and passive homes, and homes with water harvesting and gray water systems. Planners should work with the developers to educate energy end users about choosing renewable energy, water conservation and reuse, and sustainable lifestyles.

Position 3B The American Planning Association and its Chapters and Divisions encourage additional housing to be located in walkable, transit-rich areas to support broader low-carbon emission choices and goals.

Position 3C The American Planning Association and its Chapters and Divisions encourage the siting and design of housing away from flood-prone areas and areas prone to natural disasters and hazards, incorporating green infrastructure into future development. Planners should encourage compact development and mixed use housing to reduce impacts on watersheds and environmentally sensitive areas and in areas prone to natural disasters and hazards.

Position 3D The American Planning Association and its Chapters and Divisions should work to ensure that environmental sustainability and resilience are incorporated into the design and construction of all housing typologies.

POSITION 4 Ensure that public and private finance keeps pace and innovates to support increased housing availability and affordability.

Position 4A The American Planning Association and its Chapters and Divisions support increased financial resources from the federal government to support the preservation and production of housing. Planners should advocate for the continued reauthorization and increased funding for federal housing programs, such as the HOME Investment Partnerships Program, the Community Development Block Grant, Housing Choice Vouchers, and the Native American Housing and Self-Determination Act funding. Planners should support the continued allocation of funds to the National Housing Trust Fund from the profits of Fannie Mae and Freddie Mac. Planners should support increases to the Low-Income Housing Tax Credit Program and reforms to simplify that program. Planners should support the preservation and modernization of federally assisted housing for older residents, including

Section 202 Supportive Housing for the Elderly and the U.S. Department of Agriculture 515 and 521 programs. Finally, planners should support full federal funding for public housing capital and administrative funds.

Position 4B The American Planning Association and its Chapters and Divisions support reforms to private financial resources to support the preservation and production of housing. Lending institutions often have inflexible standards or periods of restricted lending. Planners should encourage lending institutions to support mixed use and other nontraditional development formats while avoiding risky lending practices and lax regulation. Lenders also can support housing affordability by reducing requirements for parking spaces. Planners should advocate for reforms to the Community Reinvestment Act to ensure fair lending practices and greater investment in lower-income communities. Lenders must address historic patterns of discrimination practices, particularly against mortgage applicants who are black and Hispanic to ensure that the opportunity of home ownership is available to all.

Position 4C The American Planning Association and its Chapters and Divisions support the establishment and growth of creative and flexible housing programs, such as the Rental Assistance Demonstration Program (recapitalization of public housing) and the Moving to Work Program (flexible use of housing choice vouchers). As much as possible, planners should seek to use regulatory tools to leverage the power of private capital to create affordable housing, and significant gains can be made through robust inclusionary zoning incentives in areas where the market supports new housing development.

Position 4D The American Planning Association and its Chapters and Divisions should support the continued role of the federal government in ensuring access to residential mortgage capital support to the housing market either indirectly through existing government sponsored enterprises (Fannie Mae and Freddie Mac), or through some other similar mechanism that also provides ongoing market stability. Planners should support the Duty to Serve program of the Federal Housing Finance Agency as a means of providing access to mortgage financing for low-income home purchasers, including purchasers of manufactured housing. Planners should support the establishment and use of innovative approaches that create home ownership opportunities, such as shared-equity home ownership, resident-owned manufactured housing communities, life-cycle underwriting, and portable and assumable mortgages. Planners should support changes to the mortgage interest tax deduction that directly benefit low- and moderate-income home owners.

Position 4E The American Planning Association and its Chapters and Divisions support increased coordination among existing federal planning programs, such as the Consolidated Plan required for HUD funds, with state and local plans. Planners should support the alignment of funding cycles among different programs and matching regulatory requirements to simplify developer compliance and to expedite both reviews and approvals of funding applications. Unified application processes will reduce developer regulatory burdens and increase program utility to improve the efficiency of funds deployed. Planners

should advocate to their federal representatives the importance of restoring and increasing HUD funding. Further, planners should advocate for federal representatives to address the impacts of recent tax reform on a range of tax credits and related financing tools for housing.

Position 4F The American Planning Association and its Chapters and Divisions support innovations to government assessment and tax policies. State and local jurisdictions should work together to create reforms to tax assessment policies, creating model frameworks and local assessment categories. Planners should educate assessors and others engaged in local tax policy setting with affordable housing assessment policies. At the federal level, planners should support the establishment of a project-based low-income renters' tax credit, to be administered at the state level to maximize coordination with other programs such as the Low-Income Housing Tax Credit. Planners should also support the establishment of a middle-income housing tax credit.

Position 4G The American Planning Association and its Chapters and Divisions should support the establishment of programs at the state and local levels to provide financing for or subsidize development of accessory dwelling units that are targeted for occupancy by lower-income households, including those with Housing Choice (Section 8) and Veterans Affairs Supportive Housing Vouchers, or that have below-market rents.

Position 4H The American Planning Association and its Chapters and Divisions continue to support the federal Low Income Housing Tax Credit program that provides equity for new and rehab housing developments directed at households earning below 60 percent or 50 percent of Area Median Income. Planners should support the ongoing reform of the associated Qualified Allocation Plans that are a requirement for each state for the allocation of these tax credits. In particular, states should consider the inclusion of criteria that ensure equal representation for rural and urban housing as well as additional locational preferences.

Position 4I The American Planning Association and its Chapters and Divisions support the ongoing creation and funding of Housing Trust Funds (HTFs) around the country, specifically and solely for the purpose of housing-related expenditures. Whether these funds are established at the local, county, or state level, they are designed to receive ongoing sources of public funding to support the preservation and production of affordable housing and increase opportunities for families and individuals to access decent affordable homes. Planners support funding HTFs via direct allocation from general funds (budgetary line items) as well as the issuance of housing bonds at both the local and state level. Planners should prioritize dedicated funding streams to fund HTFs when possible in addition to annual allocations from general funds. Dedicated funding streams prevent volatile changes in funding based on an administration's political views. All HTF funds should be limited to expenditures related to creating or preserving affordable housing; use of these funds should not be directed to other projects or budget items.

Position 4J The American Planning Association and its Chapters and Divisions support the cultivation of partnerships to best utilize the full

range of available resources to develop affordable housing. Local jurisdictions should seek to pair potential partners to broaden community involvement in the production of affordable housing. Organizations and individuals that are not typically involved in housing production, such as arts groups, medical associations, or education coalitions, should be sought out for potential partnerships in addition to nonprofit community foundations.

POSITION 5 Support funding and program flexibility to provide services, shelters, and permanent supportive housing for people experiencing homelessness, veterans, immigrants, and the formerly incarcerated.

Position 5A The American Planning Association and its Chapters and Divisions support continued reauthorization and full funding of federal programs that directly benefit America's homeless population, including the HUD Continuum of Care Homeless Assistance and Emergency Solutions Grant Programs, and also continued funding of the National Housing Trust Fund, which is used to produce new housing that targets extremely low-income people. Planners should also support the creative and flexible use of other federal, state, and local housing resources that are used to establish and operate shelters and permanent supportive housing for people experiencing homelessness, including but not limited to veterans, immigrants, and the formerly incarcerated.

Related Policy Guides

In addition to housing, APA has recently or is currently issuing guides on topics as diverse as social equity, water, food policy, and autonomous vehicles. Almost no topic stands completely apart from the others and housing touches upon every other topic. A sampling of relevant Policy Guides includes the following:

Equity

The **Planning for Equity Policy Guide**, adopted in 2019, is a comprehensive assessment of the growing disparities in income, opportunity, mobility and choice. Specific to housing, the Policy Guide cites the principal goal of the National Housing Act of 1949 as “realization as soon as feasible of the goal of a decent home and suitable living environment for every American family” and examines where we, as a nation, have fallen short.

Public Health

The **Healthy Communities Policy Guide**, adopted in October 2017, defines healthy communities as “places where all individuals have access to healthy built, social, economic, and natural environments that give them the opportunity to live to their fullest potential regardless of their race, ethnicity, gender, income, age, abilities, or other socially defined circumstances.” The Policy Guide emphasizes neighborhood design that is conducive to walking and bicycling.

Sustainability

The Sustainability Policy Framework, adopted in January 2016, is intended to supersede the **Planning for Sustainability Policy Guide** adopted in 2000. Among the key elements of the Framework is the goal to “ensure that all elements of the built environment, including land use, transportation, housing, energy, and infrastructure, work together to provide sustainable, green places for living, working, and recreation, with a high quality of life” and specifically that local development codes include “provisions for a variety of housing types (e.g., accessory dwelling units, cohousing, multiplexes, row houses, and mixed use buildings) for neighborhood residents of all ages, with different incomes, needs, and physical abilities.”

Water

The **Water Policy Guide**, second update adopted July 2016, stressed the need to evolve from planning for hazard mitigation and flood control to considering the supply, demand, and quality of our drinking water. The recommendations for integrated resource management include community land-use planning that seeks to achieve development that results in sustainable land-use patterns coupled with the efficient use of scarce and/or oversubscribed water supplies. Beyond the obvious recommendations to avoid or minimize housing construction within flood hazard areas, the Policy Guide emphasizes the need to consider proximity to water supply and to incorporate sustainable design practices to reduce water demand.

Aging in Community

Implementing housing policies is critical to advancing the Aging in Community Policy Guide, adopted in April 2014. The guide states that planners should aim to “provide a range of affordable and accessible housing options. Promote housing development of differing sizes and costs. Better utilize existing housing resources, and advance universal design and visitability standards to promote accessibility in new housing.”

Surface Transportation

The **Surface Transportation Policy Guide**, adopted in 2019, emphasizes the role of transportation in mitigating the effects of climate change, how data can be leveraged to make equitable and effective transit decisions, and transportation revenue amid a changing policy landscape. The location of housing relative to job sites is undoubtedly the single most important factor in assessing transportation needs.

Please refer directly to these closely allied policy guides for additional information on these topics: <http://planning.org/policy>.

Moderate Income Housing Plan

10-9a-401. General plan required -- Content.

- (3) (a) The general plan of a municipality, other than a town, shall plan for moderate income housing growth.
- (b) On or before December 1, 2019, each of the following that have a general plan that does not comply with Subsection [\(3\)\(a\)](#) shall amend the general plan to comply with Subsection [\(3\)\(a\)](#):
- (i) a city of the first, second, third, or fourth class;
 - (ii) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class; and
 - (iii) a metro township with a population of 5,000 or more.
- (c) The population figures described in Subsections [\(3\)\(b\)\(ii\)](#) and [\(iii\)](#) shall be derived from:
- (i) the most recent official census or census estimate of the United States Census Bureau; or
 - (ii) if a population figure is not available under Subsection [\(3\)\(c\)\(i\)](#), an estimate of the Utah Population Committee.

What is Moderate Income Housing and Affordable Housing?

Housing is considered affordable when households, regardless of their income, spend no more than 30% of their monthly income on housing expenses. Therefore, the cost-burdened household is that household whose housing expenses exceed 30% of their monthly income.

Moderate Income Housing is based on Area Median Income (AMI). Below is the Cache County's current and projected AMI:

	2009 American Community Survey	2017 American Community Survey	Annual Growth Rate (Slope)	2024 Projection	Difference between 2017 and 2024
Median HOUSEHOLD income (ACS Table B19019)	\$0	\$53,812	\$3,925	\$87,693	\$ 33,881

The Moderate Income Housing Plan should contain how a municipality will address their future growth and provide affordable housing for those making 30%, 50%, and 80% of the AMI.

10-9a-403. General plan preparation.

- (2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:
- (i) a land use element that:
 - (A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and
 - (B) may include a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;
 - (ii) a transportation and traffic circulation element that:
 - (A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;
 - (B) for a municipality that has access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce;
 - (C) for a municipality that does not have access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development in areas that will maintain and improve the connections between housing, transportation, employment, education, recreation, and commerce; and
 - (D) correlates with the population projections, the employment projections, and the proposed land use element of the general plan; and
 - (iii) for a municipality described in Subsection [10-9a-401\(3\)\(b\)](#), a plan that provides a realistic opportunity to meet the need for additional moderate income housing.
- (b) In drafting the moderate income housing element, the planning commission:
- (i) shall consider the Legislature's determination that municipalities shall facilitate a reasonable opportunity for a variety of housing, including moderate income housing:
 - (A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and
 - (B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life;

- (ii) for a town, may include, and for other municipalities, shall include, an analysis of how the municipality will provide a realistic opportunity for the development of moderate income housing within the next five years;
- (iii) for a town, may include, and for other municipalities, shall include, a recommendation to implement three or more of the following strategies:
 - (A) rezone for densities necessary to assure the production of moderate income housing;
 - (B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing;
 - (C) facilitate the rehabilitation of existing uninhabitable housing stock into moderate income housing;
 - (D) consider general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the city;
 - (E) create or allow for, and reduce regulations related to, accessory dwelling units in residential zones;
 - (F) allow for higher density or moderate income residential development in commercial and mixed-use zones, commercial centers, or employment centers;
 - (G) encourage higher density or moderate income residential development near major transit investment corridors;
 - (H) eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;
 - (I) allow for single room occupancy developments;
 - (J) implement zoning incentives for low to moderate income units in new developments;
 - (K) utilize strategies that preserve subsidized low to moderate income units on a long-term basis;
 - (L) preserve existing moderate income housing;
 - (M) reduce impact fees, as defined in Section [11-36a-102](#), related to low and moderate income housing;
 - (N) participate in a community land trust program for low or moderate income housing;
 - (O) implement a mortgage assistance program for employees of the municipality or of an employer that provides contracted services to the municipality;
 - (P) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing;
 - (Q) apply for or partner with an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity;

- (R) apply for or partner with an entity that applies for affordable housing programs administered by the Department of Workforce Services;
 - (S) apply for or partner with an entity that applies for programs administered by an association of governments established by an interlocal agreement under [Title 11, Chapter 13, Interlocal Cooperation Act](#);
 - (T) apply for or partner with an entity that applies for services provided by a public housing authority to preserve and create moderate income housing;
 - (U) apply for or partner with an entity that applies for programs administered by a metropolitan planning organization or other transportation agency that provides technical planning assistance;
 - (V) utilize a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency; and
 - (W) any other program or strategy implemented by the municipality to address the housing needs of residents of the municipality who earn less than 80% of the area median income; and
- (iv) in addition to the recommendations required under Subsection [\(2\)\(b\)\(iii\)](#), for a municipality that has a fixed guideway public transit station, shall include a recommendation to implement the strategies described in Subsection [\(2\)\(b\)\(iii\)\(G\)](#) or [\(H\)](#).

Contents of a Model Housing Element for a Comprehensive General Plan

Excerpted from:

American Planning Association. (2002). Section 4-208.9: Contents of a housing element. In Stuart Meck (ed.), *Growing smart legislative guidebook, 2002 Edition* (pp. 4.92-4.95). Chicago, IL: American Planning Association.

Contents of a Housing Element

- 1) The housing element of the local government's comprehensive plan is intended to provide an analysis and identification of existing and prospective housing needs, especially for middle-, moderate-, and low-income housing, in its housing region and to set forth implementing measures for the preservation, improvement and development of housing. The housing element shall include all of the following, none of which may serve as a basis for excusing a local government from fulfilling its regional fair-share obligation:
 - a) an inventory of the local government's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to middle-, moderate-, and low-income households and the number of substandard housing units capable of being rehabilitated;
 - b) a projection of the local government's housing stock, including the probable future construction of middle-, moderate-, and low-income housing for the next [5] years, taking into account, but not necessarily limited to, construction permits issued, preliminary as well as final approvals of applications for development, and all lands identified by the local government for probable residential development;
 - c) an analysis of the local government's demographic characteristics, including but not necessarily limited to, household size, income level, and age of residents;
 - d) an analysis of the existing and probable future employment characteristics and opportunities within the boundaries of the local government, especially those jobs that will pay moderate or low wages;
 - e) an analysis of the existing and planned infrastructure capacity, including, but not limited to sewage and water treatment, sewer and water lines, and roads;
 - f) a statement of the local government's own assessment of its present and prospective housing needs for all income levels, including its regional fair share for low- and moderate-income housing, and its capacity to accommodate those needs. The regional fair share as determined by the [Council *or* regional planning agency] shall form the minimum basis for the local government's determination of its own fair share;
 - g) an identification of lands within the local government that are most appropriate for the construction of low- and moderate-income housing and of existing structures most appropriate for conversion to, or rehabilitation for, low- and moderate-income

housing, including a consideration of lands and structures of developers who have expressed a commitment to provide low- and moderate-income housing and lands and structures that are publicly or semi-publicly owned;

h) a statement of the local government's housing goals and policies;

♦ As part of the housing element, the local government can provide for its fair share by any technique or combination of techniques which provides a realistic opportunity for the provision of its fair share. The housing element should contain an analysis demonstrating that it will provide such a realistic opportunity. The local government should review its land-use and other relevant ordinances to incorporate provisions for low- and moderate-income housing and remove any unnecessary cost generating features that would affect whether housing is affordable. The model legislation provides, in (i) below, for the elimination or reduction of unnecessary cost generating features for all housing or affordable housing (on the theory that such action would reduce housing costs overall) or for only inclusionary developments (on the theory that it would ensure project feasibility).

i) the text of adopted or proposed ordinances or regulations of the local government that are intended to eliminate or reduce unnecessary cost generating requirements for [all housing *or* affordable housing *or* inclusionary developments]; and

j) the text of adopted or proposed ordinances or regulations of the local government that are intended to provide a realistic opportunity for the development of low- and moderate-income housing. Such ordinances or regulations shall consider the following techniques, as well as others that may be proposed by the local government or recommended by the Council as a means of assuring the achievement of the local government's regional fair share, removing barriers to and providing incentives for the construction of low- and moderate-income housing and generally removing constraints that unnecessarily contribute to housing costs or unreasonably restrict land supply:

1. expanding or rehabilitating public infrastructure;
2. reserving infrastructure capacity for low- and moderate-income housing;
3. establishing a process by which the local government may consider, before adoption, policies, procedures, ordinances, regulations, or plan provisions that may have a significant impact on the cost of housing;
4. designating a sufficient supply of sites in the housing element that will be zoned at densities that may accommodate low- and moderate-income housing, rezoning lands for densities necessary to assure the economic viability of any inclusionary developments, and giving density bonuses for mandatory set-asides of low- and moderate-income dwelling units as a condition of development approval;¹³⁰
5. establishing controls to ensure that once low- and moderate-income housing is built or rehabilitated through subsidies or other means, its availability will be maintained through measures such as, but not limited to, those that establish income qualifications for low- and moderate-income housing residents, promote affirmative marketing measures, and regulate the price and rents of such housing, including the resale price, pursuant to Section [4-208.22] below;

6. establishing development or linkage fees, where appropriate, authorizing such other land dedications or cash contributions by a nonresidential developer in lieu of constructing or rehabilitating low- and moderate-income housing, the need for which arises from the nonresidential development, generating other dedicated revenue sources, or committing other financial resources to provide funding for low- and moderate-income housing. Such development or linkage fees, land dedications, cash contributions, and dedicated revenue sources may be used for the following activities or other activities approved by the Council: rehabilitation; new construction; purchase of land for low- and moderate-income housing; improvement of land for low- and moderate-income housing; and assistance designed to render units to be more affordable;
7. modifying procedures to expedite the processing of permits for inclusionary developments and modifying development fee requirements, including reduction or waiver of fees and alternative methods of fee payment;
8. using funds obtained from any state or federal subsidy toward the construction of low- and moderate- income housing; and
9. providing tax abatements or other incentives, as appropriate, for the purposes of providing low- and moderate-income housing.

MODERATE INCOME HOUSING

State code 10-9a-403* requires:

*for a municipality described in Subsection 10-9a-401(3)(b), a plan that provides a realistic opportunity to meet the need for additional **moderate income housing***

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that municipalities shall facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people desiring to live in the community; and

(B) to allow persons with moderate incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) for a town, may include, and for other municipalities, shall include, an analysis of why the recommended means, techniques, or combination of means and techniques provide a realistic opportunity for the development of moderate income housing within the next five years, which means or techniques may include a recommendation to:

(A) rezone for densities necessary to assure the production of moderate income housing;

(B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing;

(C) encourage the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) consider general fund subsidies to waive construction related fees that are otherwise generally imposed by the city;

(E) consider utilization of state or federal funds or tax incentives to promote the construction of moderate income housing;

(F) consider utilization of programs offered by the Utah Housing Corporation within that agency's funding capacity; [and]

(G) consider utilization of affordable housing programs administered by the Department of Workforce Services; and

(H) consider utilization of programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

The housing section of the general plan highlights the quality, affordability, and types of housing that currently exist in the community, and which the community hopes to develop. Your housing plan should coordinate with your land use and transportation plans.

* 10-9a-403 was amended by HB 259, Moderate Income Housing Amendments in the 2018 legislative session. This bill also changed the population threshold from 1,000 or greater to 5,000 or greater, if the city is located in a county of the first, second, or third class; a metro township of 5,000 or more; a metro township with a population of 5,000 or less if located in a county of the first, second, or third class—effective May 8, 2018.

SECTION CONTENTS:

HOUSING

Introduction

Current Moderate-Income Population

Current Housing Stock

Current Availability and Need

Forecast of Moderate-income Housing

Need

Plans to Meet Need

Moderate-income housing: Housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

Plan for moderate income housing:

a written document adopted by a city legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the city;

(b) an estimate of the need for moderate income housing in the city for the next five years as revised biennially;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the city's program to encourage an adequate supply of moderate income housing.

UTAH CITY / COUNTY CLASSIFICATIONS

Class	Municipalities	Counties
1st	>100,000	>700,000
2nd	65,000–100,000	125,000–700,000
3rd	30,000–65,000	31,000–125,000
4th	10,000–30,000	11,000–31,000
5th	1,000–10,000	4,000–11,000
Town / 6th	< 1,000	< 4,000

NOTE: Some of the content suggested here may be found already in the plan background section. You may need to repeat the information. We encourage communities conducting moderate income planning to use tools available through the Housing and Community Development's Affordable Housing shared Google Drive folder: <https://goo.gl/z4bm8Y>.

PRO TIP : AMI GROUPS

Area Median Income is the midpoint of a region's income distribution. This means that half of households in the area of examination earn less and half earn more than the median. These different groups are typically grouped by percentages of that area median income: ≤80%, ≤50%, ≤30%.

THIS SECTION SHOULD ANSWER...

- What's the current population of target income groups?
- How has it changed over time?

THIS SECTION SHOULD ANSWER...

- What is the amount, availability, and condition of the current moderate-income housing stock?
- How many units have received Low Income Housing Tax Credit (LIHTC) or Olene Walker Housing Loan Fund (OWHLF) money?
- How many households have a Section 8 voucher?

INTRODUCTION

Begin by stating the purpose of the moderate income housing section. Since state law requires a moderate income housing plan for many communities, legal compliance is often cited as a primary purpose. All towns should consider including a housing section. Some towns under 5000 embrace the benefits of understanding and planning for moderate income and workforce housing. You can also describe how the moderate-income housing plan fits within the general plan's context and how these planning efforts fit within regional efforts.

If not previously addressed, it may be helpful to describe current community background information: growth patterns, community sentiments towards housing, local economic conditions, or other factors which may influence the supply or demand for moderate income housing.

Examine your current land use ordinances, and regulations for how they impact the availability of affordable housing. Discuss any other potential barriers to affordable or moderate income housing.

EXAMPLE // Affordable housing for towns // Torrey

As a town with a population of less than 1,000, this particular section of the Utah Code does not technically apply to Torrey. However, in keeping with the spirit of the law, Torrey Town wants to serve all present and future residents and businesses by ensuring that an adequate supply of affordable homes and rental units exist within town and the annexation area.

CURRENT MODERATE-INCOME POPULATION

In order to determine the current demand for moderate income housing, include current demographic data, how it has changed over time, and the number of households which fall into targeted income groups (≤80% AMI, ≤50% AMI, and ≤30% AMI). When combined with current moderate income housing supply, this will be used later to calculate current and anticipated moderate income housing need.

CURRENT HOUSING STOCK

In order to calculate the total supply of moderate income housing units, list the total number of housing units available, then break down the data by occupancy (renter-occupied or owner-occupied), size (number of bedrooms), and quality ("new," "dilapidated," etc.). This might be best accomplished by using a simple table (see below). This should include the number of Low Income Housing Tax Credit units and the number of housing vouchers.

# AVAILABLE HOUSING UNITS	RENTER-OCCUPIED	OWNER-OCCUPIED	# BEDROOMS	AGE	#	# LIHTC	# VOUCHERS
19,879	5,622 (28.3%)	9,513 (47.9%)	Studio: 270 1bd: 761 2bd: 1616 3bd: 2101 4bd: 503 5bd: 247	>2000: 1980-1999: 1960-1979: 1940-1959: <1939:	1236 2020 1396 429 417	2125	1436

CURRENT AVAILABILITY AND NEED

After defining the number of housing units, you must determine the **availability of existing housing** for targeted income groups ($\leq 80\%$ AMI, $\leq 50\%$ AMI, and $\leq 30\%$ AMI). This can be done through searches on real estate listing websites like realtor.com or zillow.com.

Next by using household growth estimates and current housing availability, determine the number of current moderate income **units available** and **additional units needed**, breaking it down by targeted income groups (homeless, disabled, veterans, elderly, youth aging out of foster care, victims of domestic violence, etc.), race and ethnicity, housing size, and special needs groups.

FORECAST OF MODERATE-INCOME HOUSING NEED

Using the current statistics as a baseline, project low, medium, and high **household growth** for the next five and ten years. Then estimate the percentage of the population that will fall within targeted income levels and special needs groups over the next five and ten years.

Next compare the projected growth of households and expected housing construction for the next five and ten years. Note that optimal housing is to have one household per housing unit. If the average household size is 3.15 people, you'd need one housing unit per 3.15 people. Housing production that significantly lags behind household formation is a key affordability indicator.

Estimate of the **number of housing units needed** by residents within targeted income levels and special needs groups for the next five and ten years.

DEVELOPMENT PLAN TO MEET NEED

After understanding all the previous data, draft **goals, objectives, and plans** to strategically meet forecasted affordable housing needs, and to eliminate regulatory barriers to affordable housing. This should include the number of affordable housing units to be built, possible locations for new affordable housing units, and community resources that can be used to support development (RDA/EDA housing set-aside funds, fee waivers, local CDBG funds, donated land, etc.).

EXAMPLE // Moderate income housing plan //

The Meropis City Moderate-Income Housing Plan is held up as an example of a well structured plan. This plan is available at <https://goo.gl/z4hm8Y>.

PRESERVATION PLAN TO MEET NEED

Communities should not rely on new development to meet housing needs. Units exiting subsidy programs are the second biggest cause of affordable housing loss. Older housing stock is one of the primary sources for affordable housing. Communities should make efforts to keep current housing affordable.

THIS SECTION SHOULD ANSWER...

- What is the current demand for moderate-income housing?
- What is the current supply of moderate-income housing?
- How many additional units are required to meet current demand?

THIS SECTION SHOULD ANSWER...

- What is the demand for moderate-income housing in the near future?
- How many units are needed to meet future demand?

THIS SECTION SHOULD ANSWER...

- How will your community meet moderate-income housing demand in the future?

FAIR HOUSING SECTION

This section is an explicit statement of the city's fair housing policies and practices. It should expressly acknowledge support of the State's fair housing laws and U.S. fair housing laws. This section should include a base map of the city with residential zoning layers (excluding other layers). The section should also include basic maps of the city broken into census block groups, if possible. Including the following:

- Minority owner median income
- Minority renter median income
- Median rental costs
- Median ownership costs

Cities that are too small to have more than one census block do not need these maps.

THIS SECTION SHOULD ANSWER...

- What types of housing exist in our community? What types do we want to see?
- Are we aware of any threats to housing, such as floodplains or fault lines?
- Do we understand the housing needs of our residents?
- Can people of different financial means afford to live here?
- Are there areas where we should not allow housing?
- How does our housing element coordinate with our land-use and transportation section?

BEYOND AFFORDABILITY

Beyond addressing moderate-income housing, this section can include discussions on treatment of subdivisions, encouragement or discouragement of certain housing types, and projected housing build out. This section should also address the coordination and collaboration efforts of local governments to ensure that no single community bears a disproportionate share of regional moderate income housing needs.

Many of the moderate-income housing plans the Utah Housing and Community Development Division receives each year are adequate. Most could use improvement in some key areas, however. We've noticed four recurring deficiencies that most cities could easily fix:

1) FLESHING-OUT GOALS:

A goal without actions is just a wish, but a moderate-income housing plan element without project-oriented goals is not a plan at all. Setting concrete goals is the most important part of planning. Cities that fail to set concrete goals for moderate-income housing are indeed planning to fail, and they should expect their affordable housing problems to worsen. ONLY project-oriented plans that are championed by actively involved city council members will improve housing conditions in a community.

It is the role of the city council to set policy and make the tough decisions about affordable housing in their community. Regrettably, it is readily apparent which moderate-income housing plan elements have been prepared by a city's staff without the active involvement of the city council. These housing elements tend to be insubstantial, skimpy on detail, wishy-washy, noncommittal, pedantically recite policies and statutes, and fail to critically evaluate the successes and failings of the city's housing programs. Some cities try to mask the obvious lack of city council involvement with glossy pages, brightly colored graphs, figures, and pictures. Others simply over-compensate with extensive housing market studies and expansive technical documents from expensive consultants. To the reader, these pseudo-plan elements always seem impractical, disconnected from the community, and overtly lacking in specific, actionable goals. Ultimately, city councils must be the ones who decide what needs to be done, how it should be done, where it should be done, when it should be done, and who should do it, so active involvement is critical.

Nonetheless, here are some guidelines that will help city staff in preparing better strategic goals to present to the city council:

- a. Planning staff should advise their council to limit the goals section of the moderate-income housing element to just 4 or 5 actionable goals at the most.
 - i. In this order of importance, they should focus on:
 1. Goals to reduce any housing shortages—e.g. Goal: Increase 5-year affordable housing production by 5%.
 2. Goals preserving the existing stock of affordable housing.
 3. Goals reviewing and eliminating regulatory barriers that exacerbate the cost of housing or hinder the production of affordable housing.

4. Goals facilitating and coordinating a regional housing plan.

b. Moderate-income Housing Goals should:

- i. Goals should be measurable, i.e. if you cannot quantify it, you're wasting your time and your constituents' tax dollars.
 - To paraphrase Peter Drucker, that which gets measured, gets done.
- ii. Goals should pertain directly to the problems that were identified through analysis, estimates, and projections.
 - A lot of communities set goals that are completely unrelated to the estimated housing needs of their moderate-income households and vulnerable populations.
- iii. Goals should be related to valid solutions that have been identified through a reasonable literature review.
 - Goals to solve problems are not considered rational unless there is valid evidence that a preferred method reliably resolves similar problems under similar circumstances.
- iv. Goals should be consistent with clearly stated planning principles, city policies, and a community's values.
 - The MIHE should clearly articulate the county or city's vision of affordable housing and summarize its respective housing policies at the beginning. Policy statements do not belong in the goals section.
- v. Goals *must* always be lawful, ethical, and humane.
 - It is not ethical to resolve your city's moderate-income housing issues by increasing the housing burdens of another local government. For example, busing homeless people to another city may violate their civil liberties and places an undue burden on another city.

c. Moderate-income housing goals **MUST** state concrete objectives

- i. Goals describe a desired outcome. *Objectives define how to reach that outcome.* Well-specified moderate-income housing goals are fleshed out with project management-oriented objectives. Project management-oriented housing objectives do the following:
 1. Outline specific steps and tasks
 2. Assign accountable parties
 3. Review and allocate available resources
 4. Identify viable locations
 5. Set definite deadlines

2) ACKNOWLEDGING UTAH'S FAIR HOUSING ACT

Every moderate-income housing plan needs to include a very short section specifically entitled, "Utah Fair Housing Act Acknowledgement"

- a. You can copy and paste this exact paragraph into your MIHP after substituting the name of your city or county:

In accordance with state and federal laws, [City/County] exercises the authority to plan, zone, and regulate land-use in promoting the community's health, safety, and welfare. The moderate-income housing element of this plan acknowledges and upholds the Utah Fair Housing Act by promoting the equal protection and equitable treatment of all people who lawfully seek to rent, lease, purchase, or develop real property within its jurisdiction. Its housing policies and plans strictly prohibit discrimination on the basis of color, disability, ethnicity, familial status, gender identity, national origin, race, religion, sex, sexual orientation, source of income, or any other suspect classification. It is the policy of [City/County] to report housing discrimination to the Utah Antidiscrimination Labor Division immediately. It is the goal of [City/County] to prevent, eliminate, and/or mitigate any unfair housing practices that may result from its plans, policies, regulations, and ordinances. It is also the goal [City/County] to affirmatively further fair and affordable housing by reviewing the housing needs of its moderate-income households and its vulnerable populations biennially, and by proactively planning to meet their needs.

3) DESCRIBING DEMOGRAPHICS

Many cities and counties have never empirically verified whether their affordable housing issues correlate with their most vulnerable populations. They tend to assume that their community is too small or too homogeneous to have such issues. Nonetheless, it is the State's presumption that all of its communities are diverse. Therefore, it is the responsibility of each city or county to disprove this presumption with evidence to the contrary.

A moderate-income housing plan should always include a basic demographic analysis of your locality's population and its growth rate. When examining your locality's population, you should at least look at the following subpopulation distributions:

- Age
- Sex
- Race
- Ethnicity
- Disability

Once you've described the demographic distribution of subpopulations within your jurisdiction, you'll need to look at the median income of each subpopulation to estimate whether they deviate significantly from the overall median income in the county in which your jurisdiction is located. Tables S1903 and B18140 from The American Community Survey (www.factfinder.census.gov) provide the annual median income of each of these demographic groups, which will allow you to calculate and compare the affordability of housing for these subpopulations within your city. (An affordable housing unit is any unit whose gross monthly costs are equal to or less than 30% of the household's gross monthly income). Once you've calculated the affordability threshold of each demographic group, you'll need to ask: How many housing units with our community are affordable at that price point and below? The table below provides an example of demographic-based affordability.

<i>Household Type by Householder</i>	<i>Gross Monthly Income</i>	<i>Affordable Housing Costs</i>
Area Median Family	\$7,318	\$2,195
50-80% AMFI Household	\$3,659 to \$5,854	\$1,098 to \$1,756
30-50% AMFI Household	\$2,195 to \$3,659	\$659 to \$1,098
0-30% AMFI Household	\$0 to \$2,195	\$0 to \$659
Median Homeowner Household	\$6,046	\$1,466
Median Renter Household	\$3,492	\$1,108
White Household	\$6,648	\$2,084
Hispanic Household	\$7,995	\$2,398
Elderly Household (65+)	\$3,487	\$1,046
Disabled Person Household	\$4,223	\$1,267

Source: U.S. Census Bureau, 2016, 2011-2015 American Community Survey

4) CONTINGENCY PLANS

Your community may not have a particular housing issue at the moment, but experience tells us that things can change very rapidly and unexpectedly. It is better to have a contingency plan in place and never have to use it than to not have one and find out that you really, really need one.

A lack of contingency planning is a significant flaw in most moderate-income housing plans. Contingency planning is essentially emergency planning, but instead of preparing procedures and precautions for disastrous events, contingency plans are alternative plans for when results deviate from expectations or fail to materialize. This means that some cities and some counties are ill-equipped to handle housing-related issues when things don't go as planned. Contingency planning is simply a precautionary measure that provides cities and counties with basic guidelines on how to deal with unexpected or unintended housing situations until a better solution becomes available.

Agenda Item #10 & 11

Description	A public hearing to receive comment on Ordinance 19-16: An Update to Nibley City Code 19.32: R-PUD Town Center and Discussion and Consideration of Ordinance 19-16: An Update to Nibley City Code 19.32: R-PUD Town Center
Department	Planning
Presenter	Stephen Nelson, Nibley City Planner
Recommendation	Move to approve Ordinance 19-16: An Update to Nibley City Code 19.32: R-PUD Town Center for first reading
Reviewed By	City Manager, City Planner, Planning Commission

Background

Nibley City Planning Commission has been discussing creating a Town Center Area as recommended by the Nibley City General Plan. After several workshops, the Planning Commission's general feeling was to use the R-PUD to help create a Town Center Area. After a discussion between the Nibley City Mayor, City Manager, and City Planner; the Planning Commission's recommendation is to add the ability to have condominiums within the proposed Town Center. The suggested changes would require a change within the R-PUD code.

The proposal would allow for up to 40% of the units within the Town Center to contain condominiums but would not allow any extra density as currently listed within the ordinance. The new proposal also defines the ability for developers to be able to include Patios Homes, which are single family homes with reduced setbacks or lot sizes. Patios Homes would not count toward the single family homes as would be required in a Development.

ORDINANCE 19-16

AN UPDATE TO NIBLEY CITY CODE 19.32: R-PUD TOWN CENTER

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

WHEREAS, Nibley City recently adopted the Residential-Planning Unit Development; and

WHEREAS, Nibley City wants to help allow for affordable housing and economic take place within the proposed town center; and

WHEREAS, Nibley City's General Plan recommends that the City take steps to create a town-center.

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

1. The attached changes to Nibley City Code 19.32 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

19.32 Residential Planned Unit Developments (R-PUD)

19.32.010 Purpose And Intent

19.32.020 Definitions And Standards

19.32.030 Use Regulations

19.32.040 Area And Density Regulations

19.32.050 Open Space and Amenities

19.32.060 General Requirements

19.32.070 Approval Process

19.32.080 Development Standards

19.32.010 Purpose And Intent

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

19.32.020 Definitions And Standards

- A. Amenity: Natural or man-made feature which enhances the development. These include features such as picnic areas, walking paths/trails outside of required sidewalks, playgrounds, sports fields, club houses, swimming pools, splash pads, etc.
- B. Buffer: A landscape and planted area along a public right-of-way, street, or neighboring development, a buffer must be at least thirty (30') feet wide. Buffers must be landscaped, at the sole cost of the developer, and shall provide for every hundred (100) linear feet of buffer six trees and fifteen (15) shrubs. Tree and shrub species must be approved by the City's arborist or the City's Park Director. Trees and shrubs shall be planted within thirty (30) feet of the right-of-way or R-PUD boundary where required. Irrigation system shall be installed by the developer and shall be designed and installed to Nibley City Standards. Buffer areas shall be owned and maintained by an Owners Association.
- C. Condominium: A multiple-unit dwelling containing individually-owned dwelling units and jointly-owned shared areas and facilities, which dwelling, or development is subject to the provisions of state and local laws.
- E.D. Constrained and Sensitive Land: Land which is generally unbuildable without engineered ground modifications, or which contains features including, but not limited to Federal, State, or municipally designated wetlands, water bodies, floodplains, slopes

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greater than 20%, faults, canals, and other geologically or environmentally sensitive features that require mitigation, special insurance, or permits from government authorities to allow development. This land may be used as amenities if it complies fully with conditions within this chapter for qualification of amenities.

D-E. Dwelling Unit: Any building or portion thereof which is designed for or occupied by one family for living, sleeping, and/or eating purposes. A dwelling unit may include up to two (2) persons per unit to whom rooms are rented in addition to a family related by blood, marriage or adoption, but if the number of such additional persons exceeds two (2) or if they use or are furnished separate cooking facilities, whether temporary or permanent, such additional persons shall be considered a separate dwelling unit

E-F. 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.

F-G. Net Developable Land: Net Developable land shall include the total area of the proposed development minus land that is required by Nibley City Ordinance to be dedicated to the City, including, but not limited to:

1. Public access rights-of-way, including roadways and sidewalks
2. Land required to be dedicated along waterways
3. Preservation lands with infrastructure installed to City standards by the developer as part of the development process (public and private parks, trails, etc.)
4. Constrained and Sensitive Land, as defined herein
5. Easements, lands dedicated to the City for preservation space but without public rights of access, and other utility or general rights-of-way without public access.
6. Constrained and Sensitive Land, land dedicated along waterways, and other natural landscape or open space land may be considered net developable land when calculating for density if such land can be enhanced with trails, public access, picnic areas, park amenities, or other improvements.

H. Open Space: Any space in an R-PUD that does not contain any amenities, except for park amenities, as defined herein, buildings, parking lots or private yards. All Open Space must be completely landscaped with sod, trees, xeriscape, gardens or agricultural use. Natural features such as wetlands, meadows, tree stands and Constrained and Sensitive Lands may also be considered Open Space. Landscaping within the rights-of-way including public sidewalks and trails, and private and public parks shall also be counted as Open Space.

G-I. Patio Home: A detached, single-family unit situated on a reduced-size lot and with reduced setbacks.

H-J. Private Parks: A tract of land presently owned or controlled and used by a private entity or group and to which only members of that private entity or group have access or use rights. Private Parks must contain at least one amenity as defined herein). Private Parks must contain one (1) tree for every 1,000 sq. ft. and 60% of the area must be planted with sod. Sod and tree requirement may be altered for approved club houses,

sport courts/fields, swimming pools, splash pads, covered pavilions or other approved recreation uses.

~~I.K.~~ K. Owners' Association: A community association which is organized within a development in which individual owners share common interest and responsibilities for open space, landscaping, or facilities.

~~J.L.~~ L. Public Park: A publicly-owned tract of land landscaped and developed for the general public. Public Parks, as defined for R-PUD, must contain at least one amenity as defined herein. Public Parks must contain one (1) tree for every 1,000 sq. ft. and 60% of the area must be planted with sod. All landscaping must meet Nibley City Standards. Sod and tree requirement may be altered for approved, sport courts/fields, swimming pools, splash pads, covered pavilions or other approved recreation uses. Public Parks shall be placed on the border of each development so that it may easily be accessed by the community as a whole. Each public park must contain a public bathroom.

~~K.M.~~ M. Single Family Dwelling Unit: A dwelling unit owned in fee and located on an individual lot and which is not attached to any other dwelling unit by any means.

N. Town Center Area: The area as labeled on R-PUD Application Map as "Town Center Area"

~~L.O.~~ O. Townhome: A dwelling unit, with a private entrance, which is part of a structure whose dwelling units are attached horizontally in a linear arrangement and having a totally exposed front and rear wall to be used for access, light, and ventilation. Each townhome unit must be on its own parcel.

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

~~N.Q.~~ Q. Waterway: Surface water runoff and drainage, drainage ditches and irrigation waterways, whether surface or subsurface and natural waterways including creeks, streams, springs, rivers, ponds, and wetlands.

~~O.R.~~ R. Planned Unit Development: For the purpose of this chapter "residential planned unit development" (R-PUD) means an integrated design for the development of residential uses to allow flexibility and initiative in site and building design and location, in accordance with an approved plan and imposed general requirements, as specified by this chapter.

19.32.030 Use Regulations

- A. An R-PUD may be applied for by following the steps listed in 19.32.070 (A) on properties designated on the R-PUD Application Map in NCC 19.32.030(B). These areas keep their base zoning, with that zoning's standards, conditions, and restrictions, unless the City Council approves the use of the R-PUD through an R-PUD application process. R-PUDs are prohibited in all other areas. The City Council, with a recommendation from the Planning Commission, may make changes to what parcels are labeled on the R-PUD Application Map by following proper ordinance change procedures.
- B. R-PUD Application Map (insert map or link to map)
- C. The following are permitted uses in an R-PUD:
 - 1. Single Family and Townhome dwelling units may be permitted uses, as defined within this ordinance.

2. All other uses not defined within this chapter shall comply with the underlying zone, lot size, and the Land Use Chart in NCC 19.20, unless otherwise specified within this ordinance.
- D. Any uses not specifically permitted or conditionally permitted are prohibited.
- E. Animal Use: All animal uses shall be in accordance with Nibley City Code.
- F. Up to 30% of the Net Developable Area may be approved for neighborhood commercial use as part of an R-PUD. These uses shall comply with Nibley's City's Neighborhood Commercial Zone Use Chart and standards as listed in NCC 19.14.050. Commercial use must be concentrated in one location. These parcels shall be labeled on the plat as Neighborhood Commercial.
- G. When calculating density for dwelling units, any Neighborhood Commercial area shall be subtracted from the Net Developable Area of the R-PUD.

19.32.040 Area And Density Regulations

- A. Housing Types: Only single-family homes and town homes are allowed in the R-PUD in residential areas, except as allowed in the Town-Center Area. The density shall be based on Net Developable Acres of the development as follows:
 1. ~~Single Family~~ Single Family Homes: Equal to or less than 5 units per Net Developable Acre
 - i. ~~Single Family~~ Single Family Home R-PUD must contain a minimum of 50 units.
 2. A Mix of Single Family and Townhomes: Equal to or less than 12 units per Net Developable Acre. Up to 80% of dwelling units can be townhomes.
 - i. A Mix of Single Family and Townhomes R-PUD must contain a minimum of 120 units.
- B. Town-Center: The area as marked on R-PUD Application Map in NCC19.32.030 (B) as Town-Center Area shall have the following Housing Requirements.
 1. Single Family Home Development and Mix of Single Family and Townhome Development shall be governed by NCC 19.32.040 (A).
 2. A Mix of Single Family, Townhomes and Condominium: Equal to or less than 12 units per Net Developable Acres. Up to 40% of the units can be condominiums, and a minimum of 20% of homes must be single family homes.
- ~~B.~~ C. A proposed R-PUD adjacent to existing single-family homes must place single family homes adjacent to the established single-family homes unless otherwise buffered by an arterial roadway or 300-foot width of open space including a landscaped Buffer as defined within this chapter.
- ~~B.~~ D. The City may approve single family homes that do not meet the required setbacks and lot size, i.e. patio homes. These homes shall not be counted toward the single-family home requirements contained in in this section and shall be counted toward the number of townhomes.

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A. 19.32.050 Open Space and Amenities

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

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

Minimum Amenity						
Number of Units	Park Area	Pavilion	Swing Set	Playground	Clubhouse, Pool, or Splash Pad	Sports Court/Fields
Less Than 100	1.5 Acres	-	-	1	-	-
101-150	2.5 Acres	-	1	1	-	-
151-200	3.5 Acres	-	1	2	-	1
201-250	4.5 Acres	1	1	2	-	1
251-300	5.5 Acres	1	1	2	1 of the above options	1
301-400	6.5	2	2	3	2 of the above options (At least one pool or Splashpad)	2
401-500	7.5	2	2	3	2 of the above options_(	2

					(At least one pool or Splashpad)	
501 +	*	*	*	*	*	*

1. Development over 500 units must supply adequate and proportional amenities based on the table above.
2. Development containing under a total of 20 gross acres must provide a minimum open space as follows:
 - a. Single Family: 20% open space as defined within this Chapter or 3 acres of open space, whichever is greater
 - b. Mix: 35% Open space as defined within this Chapter or 5.5 acres of open space, whichever is greater
3. Development may be phased according to NCC 21.02.080 and the Development Agreement. The City Council may extend phasing deadlines within the development agreement based on the size of the project and proposed amenities. Public and Owners' Association-owned amenities shall be fully developed and operational in conjunction with each phase of the subdivision as a percentage of the total developed value of the subdivision (for example, if 25% of the dollar value of the development is being constructed, then a minimum of 25% of the dollar value of the built-out amenities must be developed). The determination of value, construction sequencing, and acceptance criteria shall be specified in the Development Agreement. Until improvements are accepted by the City for the attendant phase, no permits shall be issued for subsequent phases.
4. All amenities designed and designated to be transferred to City ownership and maintenance must meet Nibley City Design Standards. The City must review and approve any improvements that will be owned and maintained by the City as part of the construction drawing review.
5. This chart does not cover all potential amenities. The applicant may apply for other amenities that would benefit the R-PUD. Any proposed amenities not listed, must be approved by the City Council. The City Council may also allow a substitution of amenities on the table above. These substitutions may only be approved if the cost, value and use of the amenity matches or is greater than the require amenity. An applicant may add additional amenities above and beyond the requirements of this section.
6. Public and Private Park space may be combined or spread throughout the development. Each Park shall be a minimum of .25 acres. Each dwelling unit shall be within a quarter mile of a park within the development, unless otherwise approved by the City Council. Parks may be public or private. Each public park development and placement within an R-PUD shall be agreed upon by the applicant and the City Council. Park space may not include alleyways, back yards, gangways, front yards, forecourts, private patios, porches, driveways, etc.; unless proper amenities and access are provided.

7. All amenities shall meet any federal, state, city, or other standards that apply.
8. Sports Courts/Fields: include a facility/amenity that is built for one of the following: Tennis Court, Pickleball Court, Basketball Courts, Soccer field, Volleyball pit, Baseball field, Softball field, wallball, golf course, disc golf course, or others as approved by the City Council.
9. Picnic Area: Two or more picnic tables for use by 10 or more persons.
10. Pavilion: A covered picnic area. Each Pavilion must be designed for use of a minimum ten or more people.
11. Club House: A building available to community members to house a club or social organization not conducted for private profit. Club Houses shall be owned and maintained by a homeowner's association. A club house shall be at least 1000 sq. ft. in size.
12. Playground: an area provided for children to play on. Each Playground must be designed for children twelve and younger. A playground must include features to appeal to children within the above age group including some of the following: slides, monkey bars, ladders, tunnels, climbers, bridges, ramps, platforms, etc. All playground equipment must be of commercial grade. Each playground must include a minimum of 8 features.
13. Pool: A recreation facility designed and intended for water contact activities that serves an R-PUD. No pool shall be less than 800 sq. ft.
14. Splashpad: A recreation facility with sprinklers, fountains, nozzles and other devices or structures that spray water. Splashpads shall contain some above ground features.

C. Maintenance of Amenities

1. All R-PUDs must establish and maintain in perpetuity an Owners Association if there are open space and amenity under common ownership, or as otherwise required by federal, state or Nibley City law. The Developer shall be a member of said Owners Association while the subdivision is being developed. The Owners Association for Mix developments shall have office space for the Owners Association constructed a part of the development.
2. Costs: Unless otherwise agreed to by the City, the cost and responsibility of maintaining amenities shall be borne by the fee owner of the property that is part of the R-PUD or Owners Association.
3. Preliminary Maintenance Plan: A Preliminary Maintenance Plan shall be submitted with the preliminary plat for proposed maintenance of amenities within the development. This plan shall outline the following:
 - a. The proposed ownership and responsibility for maintenance of the amenities;
 - b. The proposed use of the amenities' and how each parcel of amenities meets the standards listed in this Chapter;
 - c. The size of each amenities parcel; and
 - d. The proposed concept plan for landscaping of the amenities.
4. Final Maintenance Plan: The developer shall submit a plan outlining maintenance and operations of the amenities and providing for and addressing the means for the permanent maintenance of the amenities within the

proposed R-PUD application for the subdivision. The developer shall provide a final maintenance plan with the final plat and the plan shall contain the following:

- a. Documents and plans as listed in for the Preliminary Maintenance Plan.
 - b. A description of the use of the amenities and how that use complies with this Chapter;
 - c. The establishment of necessary regular and periodic operation and maintenance responsibilities for the various kinds of amenities (e.g., lawns, playing fields, meadow, pasture, wetlands, stream corridors, hillsides, clubhouse, pool, woodlands, etc.);
 - d. The estimated staffing needs, insurance requirements, and associated costs.
 - e. The landscaping plans for parcels that will be owned by an Owners Association or by the City.
5. Approval: The Final Maintenance Plan must be approved by the City Council prior to or concurrent with final plat approval for the subdivision. The Final Maintenance Plan shall be recorded against the property within the subdivision before any property or lots are sold or transferred and shall include provisions for the City's corrective action rights as set forth herein. Any changes or amendments to the Final Maintenance Plan must be approved by the City Council.
6. The developer shall offer an approved letter of credit, bond or escrow for all proposed improvements as set forth in NCC 21.14.
7. Failure to Maintain: The City may assume responsibility for the maintenance and operation of any portion of any amenity or common facility within an R-PUD in the event the party responsible for maintaining or operating the amenity fails to do so in accordance with the terms of this Ordinance, the approved Maintenance Agreement, any Conditional Use Permits, Business Licenses or any other agreements between the City and the developer, owners, or other parties responsible for maintaining or operating amenities. If the City assumes responsibility under this paragraph, any remaining development escrow or bond funds may be forfeited, costs, fees, and liens for maintenance costs shall be assessed as described herein, and any permits, licenses or operating agreements may be revoked or suspended by the City in the City's sole discretion. Owners shall not impede the City in its efforts to maintain the amenities.
8. Corrective Action: The City may enter onto any amenity provided as part of an R-PUD and take such corrective action, including extended maintenance, repairs, modifications, or the execution of additional agreements, as the City determines is necessary for the amenity to satisfy the terms of this Ordinance, the approved Maintenance Agreement, any Conditional Use Permits, Business Licenses or any other agreements between the City and the developer, owners, or other parties responsible for maintaining or operating amenities. The costs of such corrective action shall be charged to the owners and may include administrative costs, legal costs, and penalties. Such costs shall become a lien

on said properties. Notice of such lien shall be filed by the City in the county recorder's office. The maintenance plan and all other documents creating or establishing any Association or conservation organization for the property shall reference the City's corrective action authority set forth herein and shall be recorded against the property before any property or lots are sold or transferred.

9. Implementation and Maintenance: The developer of the subdivision shall fund implementation and maintenance of the amenities until such time as the control of the amenity is transferred to the owner listed in the maintenance plan. The developer shall address the implementation, development, maintenance and transfer procedures in the sensitive area designation plan map or master development plan, as applicable.
10. Maintenance Access: The developer of the subdivision shall provide sufficient maintenance access from a dedicated right-of-way to all amenities and constrained and sensitive lands within the R-PUD to allow the owner of the property to have sufficient access.

19.32.060 General Requirements

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

	Single-Family Home	Townhome	Patio Home	Condo
Minimum Lot Size (sq. ft.)	4,500	-	=	=
Minimum Frontage	50'	-	=	=
Primary-Use Setbacks				
Front Yard	20'	20'	<u>20'</u>	<u>30'</u>

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Front Porches	10'	10'	<u>10'</u>	<u>10'</u>
Side Yard	5'	10'	<u>0'</u>	<u>10'</u>
Side Yard Porches, Deck, Overhangs	5'	5'	<u>0'</u>	<u>5'</u>
Side Yard Adjacent to Streets	20'	20'	<u>20'</u>	<u>25'</u>
Rear Yard	15'	15'	<u>15'</u>	<u>15'</u>
Maximum Height	40'	40'	<u>40'</u>	<u>40'</u>

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

1. Setback and frontage requirements shall apply to each building, and not each dwelling unit

~~1.~~

2. All other setbacks shall comply with Nibley City Code.

3. All buildings and landscaping shall comply with NCC 19.24.110 Clear View of Intersecting Streets as amended.

D. Signs: Any signs proposed for the development, other than traditional street signs, must conform to Nibley City Code.

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

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

- contains townhome must have onsite management, outside professional management or onsite point of contact.
- F. Amenities: Maintenance and ownership of amenities may be provided for under one of the following options as approved by the City Council in the City Council's discretion:
 - 1. Dedication of the land to Nibley City as a public park or parkway system; or
 - 2. Granting to the city a permanent amenities easement on and over the said private amenities to guarantee that the amenities remain perpetually in recreation use, with ownership and maintenance being the responsibility of a homeowners' association established with articles of association and bylaws; or
 - 3. Adoption of covenants, conditions, and restrictions and creation of an owners' association that provides for the payment of common expenses for the upkeep of common areas and facilities.
 - G. Bond: For each phase, the developer shall be required to provide guarantees as set forth in NCC 21.14.
 - H. Subsequent Subdivision: If the R-PUD is to be subsequently divided either as a subdivision into phase development parcels or separately owned and operated units, such division boundaries shall be indicated on the development plan and preliminary subdivision approval concurrently obtained in the case of a subdivision.
 - I. Subdivision Regulations: Any part of an R-PUD that is proposed as a subdivision is subject to the provisions of the subdivision title and the standards, conditions, and restrictions of the base zoning, unless superseded by the provisions of this ordinance.

19.32.070 Approval Process

- A. An R-PUD is an overlay zone. That is, developers apply for the overlay to be applied, allowing them to receive the density bonuses outlined herein in exchange for public amenities, all while retaining the original zoning of the property. The City Council, with a recommendation from the Planning Commission, may approve, deny or approve with conditions as a legislative action and no applicant has any entitlement to the approval of an R-PUD.
- B. Application Submission: An application for an R-PUD shall be submitted to the City with all required documents, maps, plats and plans as listed below.
- C. Procedure:
 - 1. An R-PUD shall go through the following process to gain approval:
 - a. Development Committee: An applicant shall have a preliminary meeting with a development committee composed of applicable City staff, and other elected and appointed official as appointed by the Mayor and approved by the City Council. Overlay Zone Application: Applicants shall submit an R-PUD Overlay Zone and preliminary plat application with the following:
 - i. A complete development plan application that is duly signed by the property owner or the owner's representative and that

- includes a legal description of the property and a nonrefundable application fee.
- ii. A vicinity map showing the approximate location of the subject parcel in relation to other major areas of the city.
 - iii. A general description of the proposed development, together with a map indicating the general development pattern, land uses, densities, intensities, open spaces, parks and recreation, and how the project is coordinating with existing and planned trails, sidewalks and pedestrian walkways and any other important elements within or adjacent to the project.
 - iv. Sufficient detail to indicate how the proposed development complies with the development standards for residential and nonresidential uses according to Nibley City Code and Design Standards.
 - v. A description of architectural design standards that will apply to all buildings within the development plan.
 - vi. A data table showing the total number of lots/units. Existing and proposed infrastructure including proposed roadways, utility locations and capacities and the estimated impacts of the proposed development plan on all public utilities including culinary water, secondary water, wastewater, transportation, storm drainage, fire protection, solid waste, parks and recreation demands of the proposed project.
 - vii. Existing physical characteristics of the site including all constrained and sensitive land
 - viii. Identify how environmental issues, if any, will be protected or mitigated, i.e., wetlands, historical sites, endangered plants and animals.
 - ix. Conceptual information relating to storm drainage including 100-year 24-hour drainage flows, 10-year 24-hour stormwater flows and proposed storm drainage facilities.
 - x. Major street layout that meets Nibley City standards.
 - xi. A general description of controlling entities and methods such as the use of CC&Rs, Owners Associations, architectural or design review committees or associations proposed to ensure that internal compatibility related to issues such as site design and architecture will be maintained over the life of the project.
 - xii. A list of property owners' names and addresses within three hundred feet (300') of the subject property and stamped and pre-addressed envelopes (return address to be left blank) for all property owners within three hundred feet (300') of the proposed development.
 - xiii. A list of land adjacent in the same ownership.
 - xiv. An electronic file of all submitted plans in PDF format or other electronic format determined by city staff. Such other information shall be included as may be necessary to determine

that the contemplated arrangement of uses makes it desirable to apply regulations and requirements differing from those ordinarily applicable under this title.

- b. Preliminary Plat: A preliminary plat that complies with Nibley City Subdivision Code and all other applicable code for the subdivision. Preliminary plat approval may be granted at the same time of approval of the overlay zone.
- c. Approval with Development Agreement:
 - i. Before an R-PUD Overlay Zone can be approved, the City Council and applicant must enter into a development agreement which shall be recorded on title to the real property that is the subject of the development and which shall be binding upon and shall run with that property. The development agreement must include the following provisions:
 - a. That the development must be developed in a way that is substantially similar to the site plan and proposed amenity improvements.
 - b. That the preliminary site plan and all supporting documentation shall be attached to the development agreement.
 - c. That any development of the proposed real property shall not exceed the number of units as listed on the preliminary plat.
 - ii. The applicant shall provide the necessary documentation to establish that any holders of interests that are superior on title to the development agreement, including, but not limited to, liens, mortgages, deeds of trust, and other similar devices have been made subordinate to the development agreement.
 - iii. Signing and recording of the development agreement, and the subordination to the development agreement of any superior interests on title, must be accomplished before an R-PUD Overlay Zone may be approved.
- d. Final Subdivision Approval: Once the overlay zone and development agreement have been recorded, an applicant may apply for final plat approval. An applicant shall provide the following:
 - i. An applicant shall follow the standards as listed in NCC §21 for Final Plat approval of a subdivision.
 - ii. An applicant must submit all construction and civil engineering drawings and detailed plans for all amenities for the proposed phase of the development. These shall include landscape drawings and details. The City Engineer shall review and ensure all plans meet Nibley City standards.
 - iii. A maintenance plan that complies with the terms of this chapter.

- iv. The Planning Commission shall review and make a recommendation for final plat approval, approve with conditions, or denial to the City Council.
 - v. The City Council shall approve, approve with conditions, or deny the final plat application based on the standards listed within Nibley City Code, Design Standards, and the applicant's compliance with the Development Agreement.
- D. R-PUD Considerations: In approving with conditions, denying or approving an R-PUD proposal, the Planning Commission and City Council shall consider the following in addition to all other considerations required by law:
- 1. Design of Buildings: The architectural design of buildings and their relationship on the site and their relationship to development beyond the boundaries of the development.
 - 2. Streets and Parking: Which streets shall be public, and which shall be private, the entrances and exits to the development, and the provisions for internal and external traffic circulation and off-street parking.
 - 3. Type, Size, and Location of amenities.
 - 4. Landscaping and Screening: The landscaping and screening as related to the several uses within the development and as a means of its integration into its surroundings.
 - 5. Signs: The size, location, design and nature of signs, if any, and the intensity and direction or area of floodlighting.
 - 6. Ability to Complete Project: The demonstrated ability of the proponents of the R-PUD to financially carry out the proposed project under total or phase development proposals within the time limit established.
 - 7. Criteria for Issuing Conditional Use Permit: Criteria used in NCC 19.28 of this title.
- E. Revisions: In the event an approved preliminary or final site plan requires revision by the developer, the site plan, and its revision shall be approved by the Nibley City Council with the recommendation of the Planning Commission. In the event revision is for a final site plan, all property owners in the development shall be notified in writing by the Planning Commission that a revision has been submitted and will be considered by the Planning Commission.
- F. Building Permit Issuance: The building inspector shall not issue any permit for the proposed building or use within the project unless such building or use is in accordance with the approved development plan and any conditions imposed, including completion of amenities. Time Limit: Unless there is substantial action leading toward completion of a R-PUD or an approved phase thereof within three years from the date of approval, such approval shall expire unless after reconsideration of the progress of the project an extension is approved by the City Council.

19.32.080 Development Standards

These standards are intended to create R-PUD developments that will establish permanent neighborhoods and provide a sense of community. To meet the intent of this section, the

following provisions shall be applied to all new multi-family residential and mixed-use developments. For exterior remodels, these standards shall be required. Commercial areas of an R-PUD must comply with Nibley City Commercial design standards for commercial developments.

A. Townhome, Patio Homes, and Condominium Architectural Standards.

1. General Design Concepts. New development shall be designed for its specific context within Nibley City. Developments shall possess a similar design theme, and the site shall be designed such that the overall development is cohesive. Building architecture, exterior materials, and colors shall coordinate.
2. All facades shall include architectural treatments to provide visual interest and to differentiate individual units. These design standards shall be applicable to all sides of a building, with each façade (front, rear, and side) being required to meet the terms of this Section.
3. Building Materials. The majority of each façade (51% or more of the wall area excluding windows and doors) shall be constructed of the following hard surface building materials: brick, stone, stucco, treated or split face decorative block (CMU), fiber cement siding, concrete, composite siding, or other durable building material as approved by the City Council. EIFS or untreated concrete block (CMU) may be allowed as an accent or secondary material only. The Planning Commission may approve metal as an exterior building material and as a primary material on a case-by-case basis if an applicant can show that the type of metal is of a high grade and provides architectural quality to a building.
4. Vertical Separation. Buildings in excess of one (1) story in height shall exhibit architectural detailing that establishes a vertical separation between lower and upper stories. This may be accomplished by a mid-façade cornice or trim, a change in material, style or color, a façade step-back or roof pitch with dormer windows, or other methods
5. Building Entrances. Building entrances shall have porches and shall be oriented toward the street or an open space area and provide connecting pedestrian access between the street, parking or open space areas.
6. Variation. Townhome dwellings units shall be designed with architectural wall variations spaced at intervals of thirty (30) to fifty (50) feet in linear width, depending on the size of the building. The following architectural features shall be incorporated into the design of the building:
 - a. Change in building materials;
 - b. Building projections measuring at least twelve(12) inches in depth based on the scale of the proposed building;
 - c. Awnings and lighting, or another architectural variation as approved on a case-by-case basis that creates visual interest.
7. Garages. Townhomes shall be designed oriented toward exterior public roads with rear loading garages accessed by a paved parking area or alleyway, except along Highway 165 and 89/91 as approved. Rear loading garages are highly encouraged for townhomes located on interior project roads with units oriented toward a road or common courtyard area. Front loading garages may be allowed for townhomes

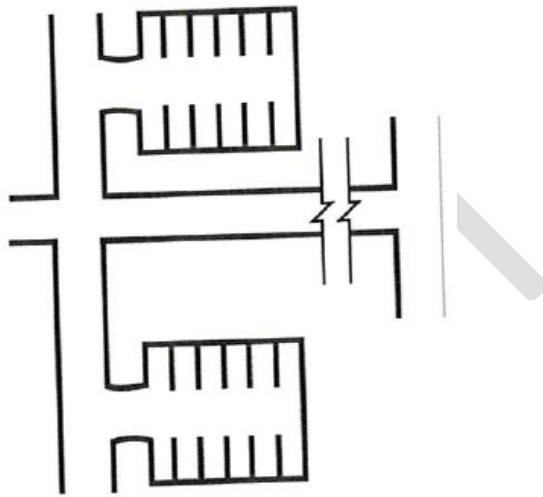
that do not have any portion of the building adjacent to a current or planned public road or street outside of the development. Multiple unit structures shall have garages incorporated into the primary structure. At least fifty percent (50%) of units shall contain a two-car garage. Detached garages are prohibited in R-PUDs

B. Site Design Standards.

1. Natural features. R-PUDs shall respect and maintain natural features such as existing trees, hills, drainages, wetlands, bodies of water, or other natural features.
2. A landscaping plan for the front yards shall be included. The landscaping plan shall include at least one (1) tree for every dwelling unit, and two (2) shrub of five (1) gallon size for each dwelling units. Coniferous trees shall be at least six (6) feet in height and the deciduous trees shall be at least one and a half (1.5) inches in caliper.
3. Connectivity. R-PUD shall provide connectivity with the surrounding area and throughout the development. All improvements shall consider vehicle, bicycle, and pedestrian access.
 - i. Street Design: All street designs shall comply with the General Plan and Transportation Master Plan including Nibley City's street standards and connectivity requirements. Each development shall provide at least two working access points that provide access to an existing street right-of-way. Additional access points may be required in order to facilitate an adequate and convenient circulation system within the City. Such additional access points will be located where they will implement the City's Transportation Master Plan, connect to existing street rights of way, or provide access for the logical development of adjacent, undeveloped properties.
 - ii. All streets are encouraged to incorporate traffic calming and beautification methods as listed in Nibley City design standards and Transportation Master Plan. This included islands, bulb-outs, roundabouts, etc. Each traffic calming measure shall be approved by the City Engineer.
 - iii. All Streets shall be dedicated public streets built to Nibley City Code and standards. Private drives shall only be built to access parking courts or garages that are located directly behind each unit.
 - iv. Private Drives/Alleyways provide vehicular access to parking and dwelling units but do not provide primary pedestrian access to units. Private Drives are intended to be used primarily for vehicular circulation and dwelling access and should be visually distinct from streets.
 - a. Private drives shall be a minimum width of 20 ft.
 - b. All private drives shall be perpendicular, within 10 degrees, to the street they connect to.
 - c. Driveways that access a single dwelling unit are not considered private drives or an alleyway

- v. Developments shall provide a pedestrian access to the development border at intervals at a minimum of 660 feet unless expressly prohibited by conflicting with previously developed subdivisions or land use as determined by the land use authority. These access points shall be aligned with other trail systems, street right-of-way, or amenities and shall match the layout and size of the connection. A connection shall contain a minimum of eight ft (8") sidewalk.
 - vi. No dwelling units in an R-PUD shall have driveway access to any arterial roadway as listed in Nibley's Transportation Master Plan. Townhome units may face and have frontage along arterial roadways but must have rear loading garages. Public and private parks, open space or Buffering as defined within this chapter may also be along arterial roads.
4. Pedestrian circulation. R-PUD shall provide a circulation map and show the following improvements to for pedestrian circulation and safety:
- a. Pedestrian walkways that interconnect the adjacent street(s), amenities, parking areas, building entries, adjacent sites and adjacent master planned trails where applicable. Each building located along a public road must provide a sidewalk connection from the building entrance to the public sidewalk.
 - b. Walkways shall be hard surfaced with concrete.
 - c. Crosswalks shall be placed where pedestrian walkways cross streets and internal roads and shall be painted or made of concrete.
 - d. The development shall provide connections to the Nibley City trail system. These trails must be dedicated to the City and built to Nibley City standards as listed in the Trails Master Plan and Nibley City Design Standards.
5. Parking: Each R-PUD shall provide 2 primary parking spaces for each unit. Primary parking must be contained in a garage, carports, driveway, or parking court. An R-PUD shall provide one guest parking spot for every three units. Guesting parking may be located in parking courts or on street parking maintained by the owner association.

- i. Individual parking courts shall contain no more than 20 parking spaces and shall be physically and visually separated by a landscape area a minimum of 10 feet in width from any adjacent right-of-way. The separation shall be landscaped with grass, trees, or xeriscape plants.



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

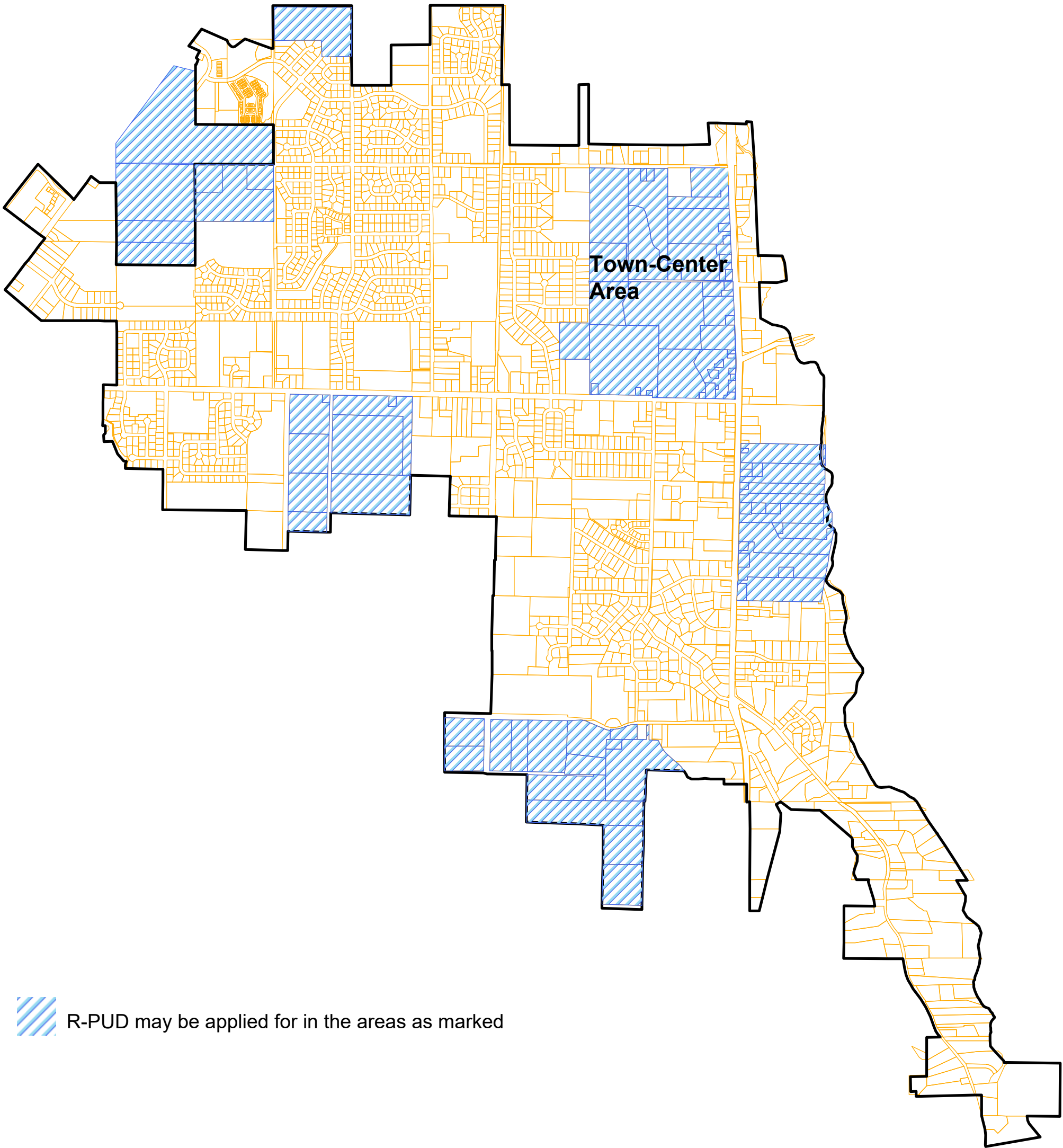
should plant street trees of an approved species and size along all street. Trees should be planted at intervals of every 50 feet and must meet Nibley City Standards.

- ii. Buffering: R-PUD developments shall provide buffering along Highway 89/91 or Highway 165, or along the boundary of an R-PUD that is adjacent to commercial, or industrial zones. Buffering landscaping is not required if commercial or industrial zones are separated by a public street from the R-PUD. Buffering shall meet the standards within this ordinance.
- iii. Natural Landscape: All open space land dedicated to natural use must maintain its natural landscaping and plant life.

7. Fences:

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

19.32.030 (B) R-PUD Application Map



 R-PUD may be applied for in the areas as marked

Agenda Item #12

Description	Discussion and Consideration of Ordinance 19-13: An Update to Nibley City Code 19.28, Conditional Uses (Third Reading)
Department	Planning
Presenter	Stephen Nelson, Nibley City Planner
Recommendation	Move to approve Ordinance 19-13: An Update to Nibley City Code 19.28, Conditional Uses
Reviewed By	City Planner, Planning Commission, Councilmember Jacobsen

Background



Sept 19, 2019 Update:

Based on the comments and discussion from the City Council during the last City Council meeting where this proposal was considered, there have been a few changes made to the proposed ordinance. The main changes have been made to 19.28.040 Basis For Issuance of Conditional Use Permit (C)(2). This change was to make the standards for commercial and industrial zones apply to all zones in the Nibley City. Staff has also reviewed the

language and has cleaned up a few sections or removed duplicate standards.

Other Background Information

Utah law gives cities the 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 a land use is allowed in any zone that is listed as permitted. 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 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.
-4	A legislative body shall classify any use that a land use regulation allows in a zoning district as either a permitted or conditional use under this chapter.

The Utah Ombudsman website summarizes conditional use 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 enhanced 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 for conditions 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 do not apply to their Property.

Nibley City Conditional Use Standards can be found in 19.28 Conditional Uses. The changes the Planning Commission recommended are 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.

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 [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.

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 all Zones~~in Commercial and Industrial Zones~~
 - i. All ~~Commercial~~ Conditional Use Application shall comply with underlying zoning requirements as listed 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~~
- ~~iv.~~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.
 - c. Applicants may be required to provide an additional vehicle access to the site for one or more of the following reasons
 - a. There is only one vehicle access road to the site
 - b. Allow for greater emergency access to the site
 - c. Provide for better connectivity and enhance the safety of surrounding roadways and intersections.
 - ~~b.d.~~Construction access to minimize impact to existing homes and infrastructure

iii. Utilities

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a. Utility lines shall be updated to comply with water, sewer and stormwater master plans within the application property and adjacent rights-of-way.

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b. A conditional use permit shall only be granted if the City can reasonably supply water and sewer services to the applicant for their proposed use. The City may require an applicant to tun over water shares or water rights in order to allow the City to provide long term water service to the site.

c. Applicants shall connect to service lines needed to supply the use of an application. If no utility lines are available or current utility lines and services are determined to be insufficient for the proposed use by the City Engineer, the applicant shall build or provided plans for the needed infrastructure before a conditional use permit may be granted.

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~~iv.~~ iv. 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.~~ v. 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.

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

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vii. 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.

viii. In Commercial Zones, warehousing and storage may be allowed as part of business if it is attached to offices or retail.

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 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 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.

B.C. The City may charge a conditional use applicant the cost of engineering, legal, or other professional review of the application.

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

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Agenda Item #13

Description	Discussion and Consideration of Ordinance 19-14: An Update to Nibley City Code 19.20, Land Use Chart (Third Reading)
Department	Planning
Presenter	Stephen Nelson, Nibley City Planner
Recommendation	Move to approve Ordinance 19-14: An Update to Nibley City Code 19.20, Land Use Chart
Reviewed By	City Planner, Planning Commission, Councilmember Jacobsen

Background

As the City has been working on updating the Conditional Use section of the Nibley Code, it has 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 describes 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 a 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. Offices Corporate, 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

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Use	A	R-E	R-1	R-1A	R-2	R-2A	P/S	C	C-N	I
Manufacturing, industrial	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Manufacturing, light	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
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

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]

[illegible]

Use	A	R-E	R-1	R-1A	R-2	R-2A	P/S	C	C-N	I
Manufacturing, light	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
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 #14 & 15

Description	A public hearing to receive comment on the proposed Nibley Farms Subdivision Preliminary Plat, a 32.49-acre Rural Preservation Subdivision located between 1200 West and 1500 West at 3400 South and Discussion and Consideration of the proposed Nibley Farms Subdivision Preliminary Plat, a 32.49-acre Rural Preservation Subdivision located between 1200 West and 1500 West at 3400 South
Department	Planning
Presenter	Stephen Nelson, Nibley City Planner
Recommendation	Move to approve the Nibley Farms Subdivision Preliminary Plat, a 32.49-acre Rural Preservation Subdivision located between 1200 West and 1500 West at 3400 South
Reviewed By	City Manager, City Planner, Planning Commission

Background



Nibley Farms Subdivision Preliminary Plat is a Rural Preservation Subdivision application proposed by Westates Companies, LLC. The project is located between 1200 W and 1500 W and at 3400 S. The proposal contains a total of 65 lots, which is under the allowed 75 lot density bonus. Staff has sent comments back to the developer and is expecting an updated plat before the meeting. However, without the updated plat, staff has some concerns about the proposed development. These concerns can be

found in the “Findings” section below.

Zoning

Rural Preservation Subdivision Open Space	
Total Gross Acres	32.49
Total Developable Acres	27.81
Total Open Space Land	11.189
Open Space Percentage	40.23%
Incentive Multiplier	1.35
Total Lots Allow	75, proposed 65

Staff finds that the plat meets the zoning requirements for the total number of lots, lot sizes, setbacks, and the proportion of proposed open space. The minimum frontage requirement for the Open Space Ratio is 80', which the plat complies. The plat generally meets Nibley City standards in NCC 21.08.010 Preliminary Plat but for the exceptions listed within the Finding section of this report.

	Zoned: R-2 Rural Preservation Subdivision	Nibley Farms Subdivision Preliminary Plat
Minimum Lot Size	7,800 sq. ft.	8,845 sq. ft.
Average Lot Size	9,200 sq. ft.	10,552 sq. ft.
Frontage	80 ft.	The Plat Complies
Side Yard Setbacks	10 ft.	The Plat Complies
Rear Yard Setback	25 ft.	The Plat Complies
Street Side Yard	25 ft.	The Plat Complies

Phasing: NCC 21.02.080

A preliminary plat needs to show the proposed phasing plan. The applicant has added the phasing to the plat. Nibley City Subdivisions code requires that a preliminary plat shows "a plan outlining how the subdivider intends to phase construction of the project if phasing is intended." NCC 21.08.010. The City also needs to ensure that phasing will take place in a way to allow for proper access during development so that once the development has 30 homes or more, a second access is developed. As proposed, Phase 1 and Phase 2 contain a total of 29 lots, and then Phase 3 would add another access at 1300 W.

Staff's primary concern is about the construction of needed improvements over so many different phases. However, phases are generally proportional and compliant with Nibley City Code.

Utility Lines

The plat contains the proposed water lines and sewer lines and the connection points as required.

NCC 21.08.010 (C)(5)

Existing sewers, water mains, culverts or other underground facilities within the tract and to a distance of at least one hundred feet (100') beyond the tract boundaries, indicating pipe sizes, grades, manholes and exact location.

The Subdivision will also need to place utility lines to the south of 1500 W to comply with Nibley City's Water and Sewer Master Plans. The proposed utility lines currently terminate their southward direction at the proposed 3410 S.

Canals

There are several canals on the property within the proposed subdivision. The Canal Company has not given approval of the proposed changes as required NCC 21.08.010 (C)(6), but all plans have been submitted to the canal company, and those plans are under review. The applicant is currently evaluating, with the Canal Company and the City, if the 1200 W canal could be abandoned.

In addition to those requirements, Nibley City subdivision plats must follow NCC 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' from top of each bank to be identified on the preliminary plat and final plat". However, there are no primary canals 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. There is a local road link that shows 1300 S continuing to the South in the Transportation Master Plan. That road is contained on the plat.

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 comes 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). 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 proposal is that the open space parcels are owned and maintained by the City, and Lot 1 and Lot 3 to be leased out as agricultural open space. All the Open Space must meet the defined purpose and criteria contained in the following code:

NCC 21.10.020 (B) (1)

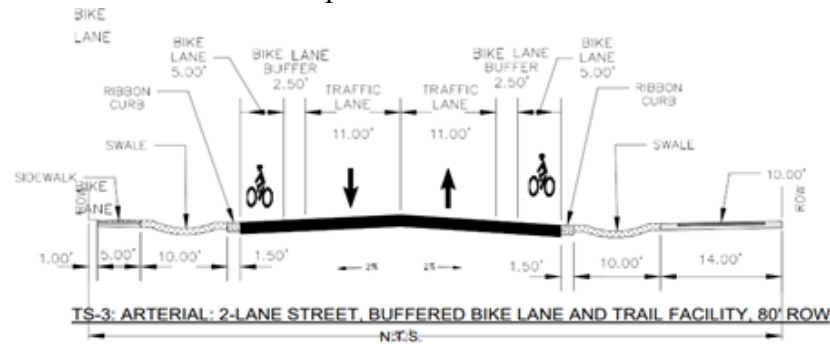
OPEN SPACE LAND: Any parcel or area of land dedicated under this section as indicated on a Rural Preservation Subdivision Plat for the access and/or visual enjoyment of the public. Open Space Land must meet the standards and requirements of this section. Open Space Land may not be contained in the privately-owned 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.

Findings

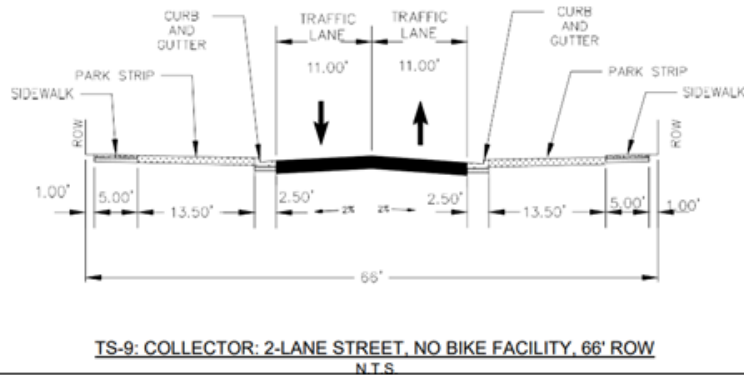
The following is a list of updated findings and has been given and discussed with the developer. Staff anticipates an updated plat will be turned into the City before this week's meeting.

1. Lots meet minimum size, frontages, and setbacks
2. Rural Preservation Calculations are accurate as listed on the plat
3. Phasing:

- a. A plan outlining how the subdivider intends to phase the construction of the project if phasing is intended. NCC 21.08.010 (c) (10)
 - b. Phasing is defined and generally looks proportional. Staff is concerned about the construction of infrastructure for each phase with so many different phases.
4. Make sure canals are all shown on the plat.
 - a. 1200 W canal is partly missing on the plat and is currently under review to see if it can be abandoned
 - b. Canal Company has received the plans and is reviewing the plans
5. Transportation Master Plan and Trails
 - a. Build out 1200 W to TS-3 in Transportation Master Plan on West Side of the road



- b. Build out 1500 W to TS-9 in Transportation Master Plan on East Side of the road



- b. Sidewalk and other improvements need to be shown for the whole roadway adjacent to the property for 1500 W and 1200 W
 - c. The developer may need to add deceleration lanes at each access point along 1200 W
 - d. Transportation Master Plan shows 1300 W continuing South. Road is on plat.

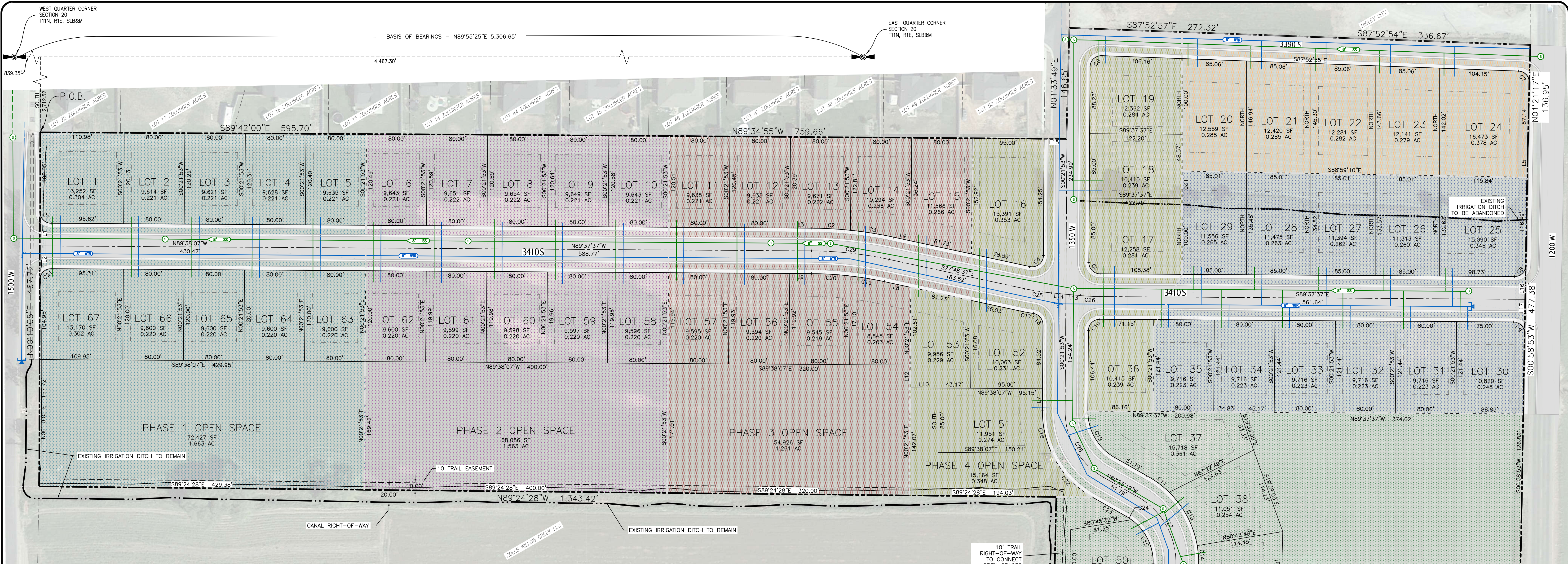


- e. Trail Master Plan shows a trail along the canal area. Trail is on plat.



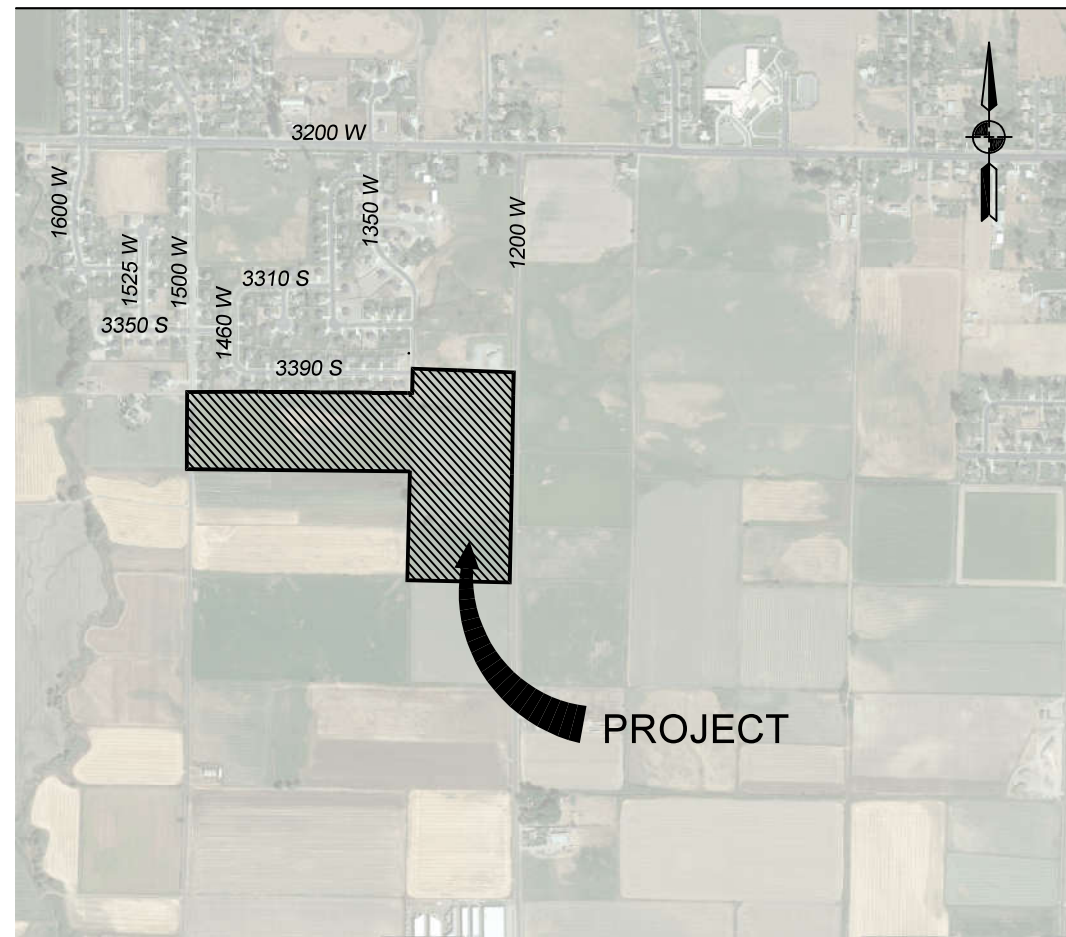
6. Get Utility layout approved by City Engineer and Public Works Departments
 - a. Sewer and Water need to be shown on the south side of 1500 W to the end of the development
 - i. Still not there.
 - b. Need to show any existing utility lines and connection points and easements
 - i. This includes power lines, and other utility lines on or within 100' of the project
7. No names and addresses of the owner and subdivider are listed on the Plat.
8. Stormwater is planned to be located in the southwest open space by 1500 W. Staff has concerns about stormwater because of the high groundwater and grading of the subdivision.
9. Sensitive Areas Designation Plan Map has been turned in as required in 21.10.020 (D)(3)
 - a. Planning Commission recommended that the developer check for surrounding wetlands within 400 ft.
10. Maintenance Plan and Open Space Plan need the following
 - a. The proposed Ownership of the Open Space Land;
 - i. The Developer, at the Mayor's Request, is proposing that the City own the open space. The City would then have the ability to lease out the property for ag use or use for future development as park space. This is allowed under NCC 21.10.020 (K)(3). The Planning Commission recommended that the City take ownership of property along 1200 W.

- ii. NCC 21.10.020 (K)(3): *Nibley City may at its sole discretion opt to take ownership of Open Space Land at the subdivision approval stage. The developer shall landscape the property with sod, grass, trees and an irrigation system or other natural landscape features as appropriate as determined by the City Council.*
 - iii. Staff would interpret this section of the code to give the City Council the ability to negotiate with the developer about landscaping or any amenities that may be put on a property planned to be given to the City.
- b. The party that will be responsible for maintenance of the Open Space Land;
 - i. This would be the City under the current proposal
- c. The proposed use of the Open Space Land and how each parcel of Open Space Land meets
 - i. The City would decide how the land would be used over the short term and long term. The City could lease out the property in the short term but put in a park sometime in the future.
- d. What Standards does it comply with;
 - i. See Finding 11
- e. The proposed concept plan for landscaping of the Open Space Land.
 - i. A landscaping plan has been turned in.
- 11. Open Space: All Open Space Parcels must meet three of the criteria in 21.10.020 (I)
 - a. Open Space meets 1, 2, (3,) and 5
 - i. 3 is dependents on the City's Plan
 - b. At least 25% of the board is adjacent to a road or has trail access
 - c. Proposed uses comply with Code
- 12. Will need a Tree Planting Plan for Final Phase as required in 21.12.170 Street Trees
 - a. Trees along 1500 W and 1200 W are not shown
- 13. A trail needs to be added to connect 3410 S to proposed trail at midway of the block according to 21.12.060 Blocks, Connectivity and Trail Standards (F)(3)
- 14. Based on several items the minimum spacing Nibley City requires on the intersection access to 1200 W. is 350'. The current updated layout from Nibley Farms doesn't work with this spacing.



VICINITY MAP

N.T.S.



NOTES

PUBLIC UTILITY EASEMENTS:

ALL LOTS IN THIS SUBDIVISION ARE SUBJECT TO PUBLIC UTILITY EASEMENTS ALONG ALL PROPERTY LINES AS FOLLOWS:
FRONT: 10 FEET
REAR: 10 FEET
SIDE: 5 FEET

ZONING INFORMATION

ZONE: R-2

APPROVED MINIMUM SETBACKS ARE AS FOLLOWS:
FRONT: 30 FEET
REAR: 25 FEET
SIDE: 10 FEET

CORNER LOTS ARE SUBJECT TO A 25 FOOT BUILDING SETBACK ON THE STREET THAT IS NOT BEING FRONTED ON. ALL SETBACKS ARE SUBJECT TO NIBLEY CITY ZONING ORDINANCE REQUIREMENTS AT THE TIME A BUILDING PERMIT IS ISSUED.

TABULATIONS

	ZONED	SUBDIVISION
MINIMUM LOT SIZE	7,800 sf	8,845 sf
AVERAGE LOT SIZE	9,200 sf	10,552 sf
FRONTAGE	80'	80'

Size of parcel - 1415332.74 sf - 32.49 ac
Net developable (city default) = 32.49 ac x 0.8 = 26.0 ac
Net developable (calculated) = 32.49 ac - 4.85 = 27.64 ac
Max number of homes 27.64 x 2 = 55

Open space required = 27.64 x 0.40 = 11.06
Open space provided = 11.36 ac
Open space ratio = 11.36 / 27.64 = .411
Incentive multiplier = 1.35

Max number of homes = 1.35 x 55 = 74 homes

67 lots designed
Min width = 80 ft

CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	15.00'	23.51'	21.16'	N44°44'01"W	89°48'12"
C2	13.00'	61.31'	51.29'	N86°51'13"W	6°52'48"
C3	530.00'	58.00'	57.97'	N80°56'43"W	6°16'12"
C4	15.00'	26.66'	23.29'	S51°16'38"W	101°49'50"
C5	15.00'	23.56'	21.21'	N44°37'52"W	89°59'29"
C6	15.00'	24.02'	21.54'	N46°14'29"E	91°45'12"
C7	15.00'	23.36'	21.07'	S43°15'49"E	89°14'12"
C8	15.00'	23.40'	21.10'	S45°40'38"W	89°23'31"
C9	15.00'	23.72'	21.33'	S44°19'22"E	90°36'29"
C10	15.00'	23.56'	21.21'	N45°22'08"E	90°00'31"
C11	130.00'	33.83'	33.73'	N52°57'54"W	14°54'36"
C12	70.00'	74.26'	70.83'	N30°01'40"W	60°47'05"
C13	130.00'	80.78'	78.49'	N27°42'11"W	35°36'11"
C14	130.00'	25.50'	25.46'	N04°17'14"W	11°14'23"
C15	70.00'	67.42'	64.84'	S26°15'27"E	55°10'49"
C16	130.00'	37.57'	37.19'	S12°20'34"E	25°24'55"
C17	330.00'	17.93'	17.93'	S78°22'01"E	3°06'42"
C18	15.00'	21.28'	19.54'	S40°16'46"E	81°17'17"
C19	470.00'	45.59'	45.58'	S80°55'22"E	6°33'29"
C20	470.00'	51.34'	51.31'	S86°29'52"E	6°15'30"
C21	15.00'	23.61'	21.25'	N45°15'59"E	90°11'48"
C22	130.00'	80.25'	78.98'	S42°44'07"E	35°22'10"
C23	30.11567'	51.79'	51.79'	S60°25'12"E	0°05'55"
C24	70.00'	8.03'	8.03'	S57°08'02"E	6°34'21"
C25	300.00'	35.74'	35.71'	S81°13'22"E	6°49'30"
C26	300.00'	26.14'	26.13'	S87°07'52"E	4°59'29"
C27	100.00'	102.78'	102.64'	N29°32'37"W	61°45'09"
C28	100.00'	106.09'	101.18'	S30°01'40"E	80°47'05"
C29	500.00'	103.12'	102.94'	N83°43'07"W	11°49'00"

LINE TABLE

LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE
L1	S00°10'05"W	44.95'	L11	N88°40'03"W	20.00'
L2	S00°10'05"W	45.05'	L12	S00°21'58"W	30.21'
L3	N89°37'37"W	28.77'	L13	S84°38'07"E	18.96'
L4	N77°48'37"W	23.19'	L14	N84°38'07"W	18.96'
L5	S00°58'53"W	37.76'	L15	S89°33'59"E	29.38'
L6	S01°19'57"W	37.46'	L16	S00°58'53"W	44.84'
L7	S00°21'53"W	29.21'	L17	S00°58'53"W	45.16'
L8	S77°48'37"E	35.75'	L18	N88°40'03"W	30.00'
L9	S89°37'37"E	28.76'	L19	N88°40'03"W	30.00'
L10	S89°38'07"E	36.83'	L20	SOUTH	36.43'

BOUNDARY DESCRIPTION

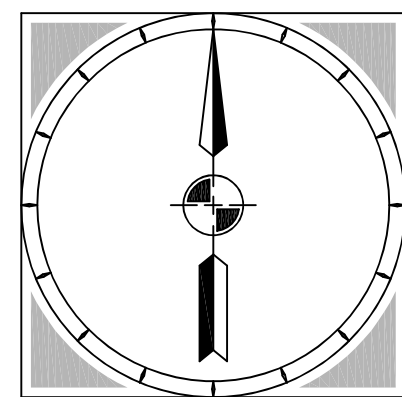
BEGINNING AT A POINT N89°55'25"E 839.35 FEET AND SOUTH 2,712.52 FEET FROM THE WEST ONE-QUARTER CORNER OF SECTION 20, TOWNSHIP 11 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN;

THENCE S89°42'00"E 595.70 FEET;
THENCE S89°34'55"W 759.66 FEET;
THENCE N01°33'49"E 146.65 FEET;
THENCE S87°52'57"E 272.32 FEET;
THENCE S87°52'54"E 336.67 FEET;
THENCE S01°21'17"W 136.95 FEET;
THENCE S00°58'53"W 477.38 FEET;
THENCE EAST 0.00 FEET;
THENCE S01°06'13"W 652.51 FEET;
THENCE N88°40'16"W 617.35 FEET;
THENCE N01°19'57"E 655.44 FEET;
THENCE N89°24'28"E 1,343.42 FEET;
THENCE N00°10'05"E 467.72 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 32,492 ACRES, OR 1,415,343 SQUARE FEET

BASIS OF BEARINGS

THE BASIS OF BEARINGS FOR THIS SURVEY WAS ESTABLISHED AS NORTH 89°55'25" EAST BETWEEN THE SURVEY MONUMENTS AT THE WEST AND EAST ONE-QUARTER CORNERS OF SECTION 20, TOWNSHIP 11 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN.



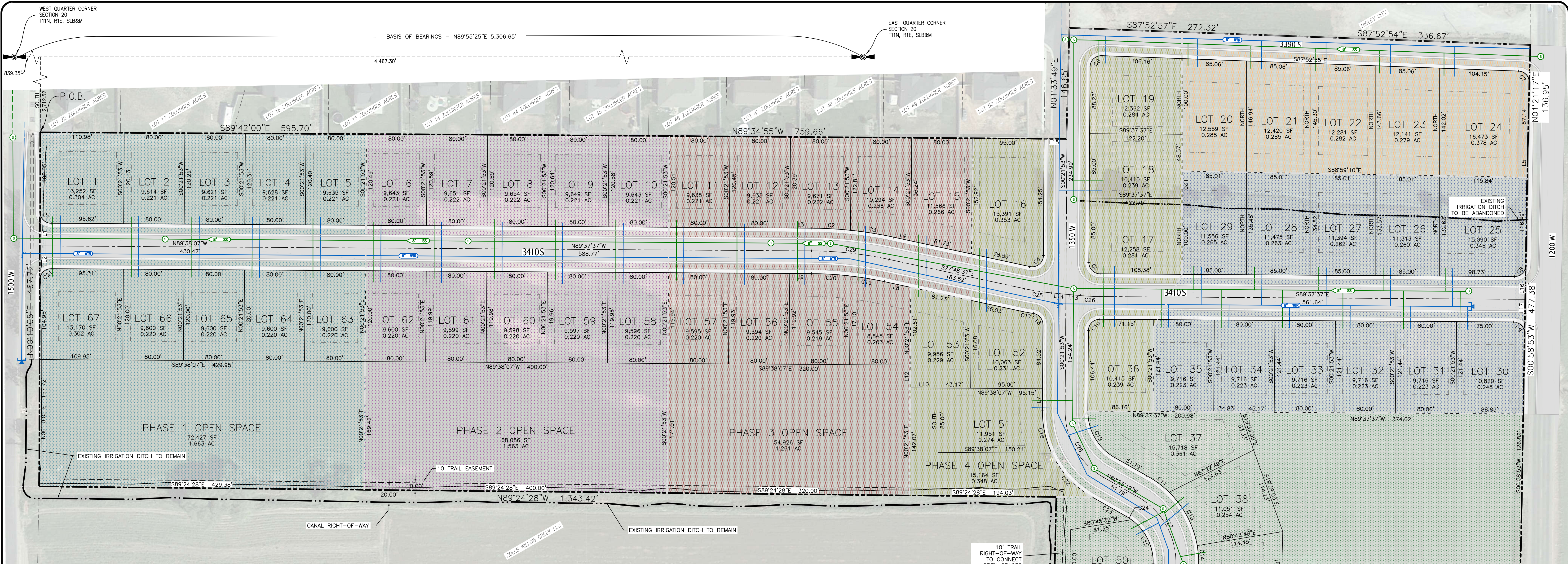
PROJECT
C19-025
SHEET
1 OF 2
ISSUE DATE
09-04-19

Summit Engineering Group Inc.
Structural • Civil • Surveying
55 WEST CENTER • P.O. BOX 176
HEBER CITY, UTAH 84032
P: 435-854-9229 • F: 435-854-9231

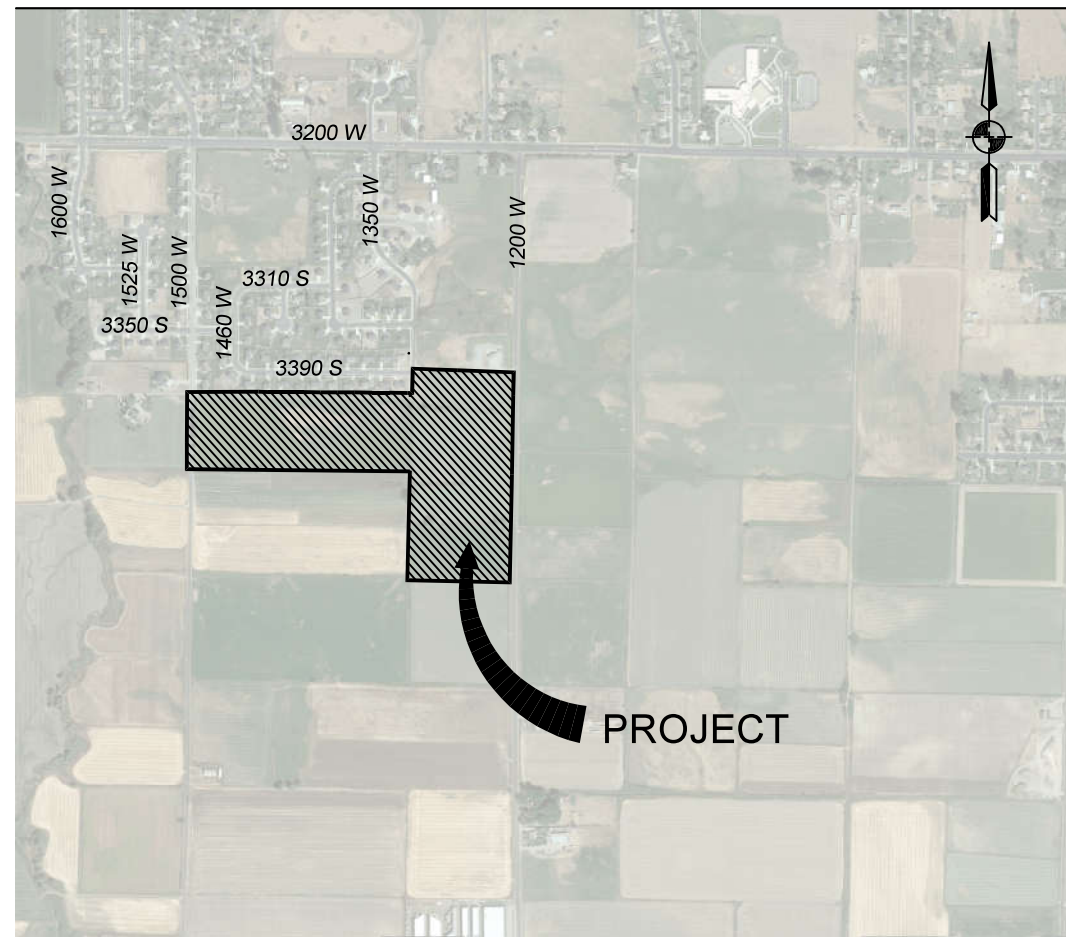
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DRAWING ALTERATION
IT IS A VIOLATION OF LAW FOR ANY PERSON, UNLESS ACTING UNDER THE DIRECTION OF THE PROFESSIONAL LAND SURVEYOR TO ALTER ANY ITEM ON THIS DOCUMENT IN ANY MANNER. ANY SUCH ALTERATION SHALL BE CONSIDERED A VIOLATION OF THE PROFESSIONAL LAND SURVEYOR'S OATH AND SHALL BE PUNISHED BY THE BOARD OF LAND SURVEYORS. ANY SUCH ALTERATION SHALL BE CONSIDERED A VIOLATION OF THE PROFESSIONAL LAND SURVEYOR'S OATH AND SHALL BE PUNISHED BY THE BOARD OF LAND SURVEYORS.

NIBLEY FARMS PRELIMINARY PLAT

LOCATED IN THE NORTHWEST 1/4 OF SECTION 29, TOWNSHIP 11 NORTH, RANGE 1 EAST, SLB&M,
NIBLEY CITY, CACHE COUNTY, UTAH



VICINITY MAP
N.T.S.



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L8	S77°48'37"E	35.75'	L18	N88°40'03"W	30.00'
L9	S89°37'37"E	28.76'	L19	N88°40'03"W	30.00'
L10	S89°38'07"E	36.83'	L20	SOUTH	36.43'

BOUNDARY DESCRIPTION

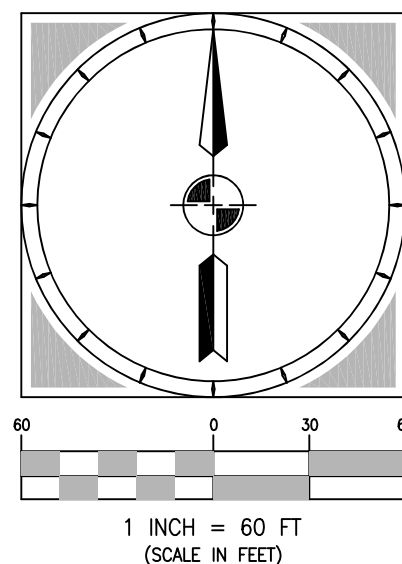
BEGINNING AT A POINT N89°55'25"E 839.35 FEET AND SOUTH 2,712.52 FEET FROM THE WEST ONE-QUARTER CORNER OF SECTION 20, TOWNSHIP 11 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN;

THENCE S89°42'00"E 595.70 FEET;
THENCE S89°34'55"W 759.66 FEET;
THENCE N01°33'49"E 146.65 FEET;
THENCE S87°52'57"E 272.32 FEET;
THENCE S87°52'54"E 336.67 FEET;
THENCE S01°21'17"W 136.95 FEET;
THENCE S00°58'53"W 477.38 FEET;
THENCE EAST 0.00 FEET;
THENCE S01°06'13"W 652.51 FEET;
THENCE N88°40'16"W 617.35 FEET;
THENCE N01°19'57"E 655.44 FEET;
THENCE N89°24'28"E 1,343.42 FEET;
THENCE N00°10'05"E 467.72 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 32.492 ACRES, OR 1,415,343 SQUARE FEET

BASIS OF BEARINGS

THE BASIS OF BEARINGS FOR THIS SURVEY WAS ESTABLISHED AS NORTH 89°55'25" EAST BETWEEN THE SURVEY MONUMENTS AT THE WEST AND EAST ONE-QUARTER CORNERS OF SECTION 20, TOWNSHIP 11 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN.



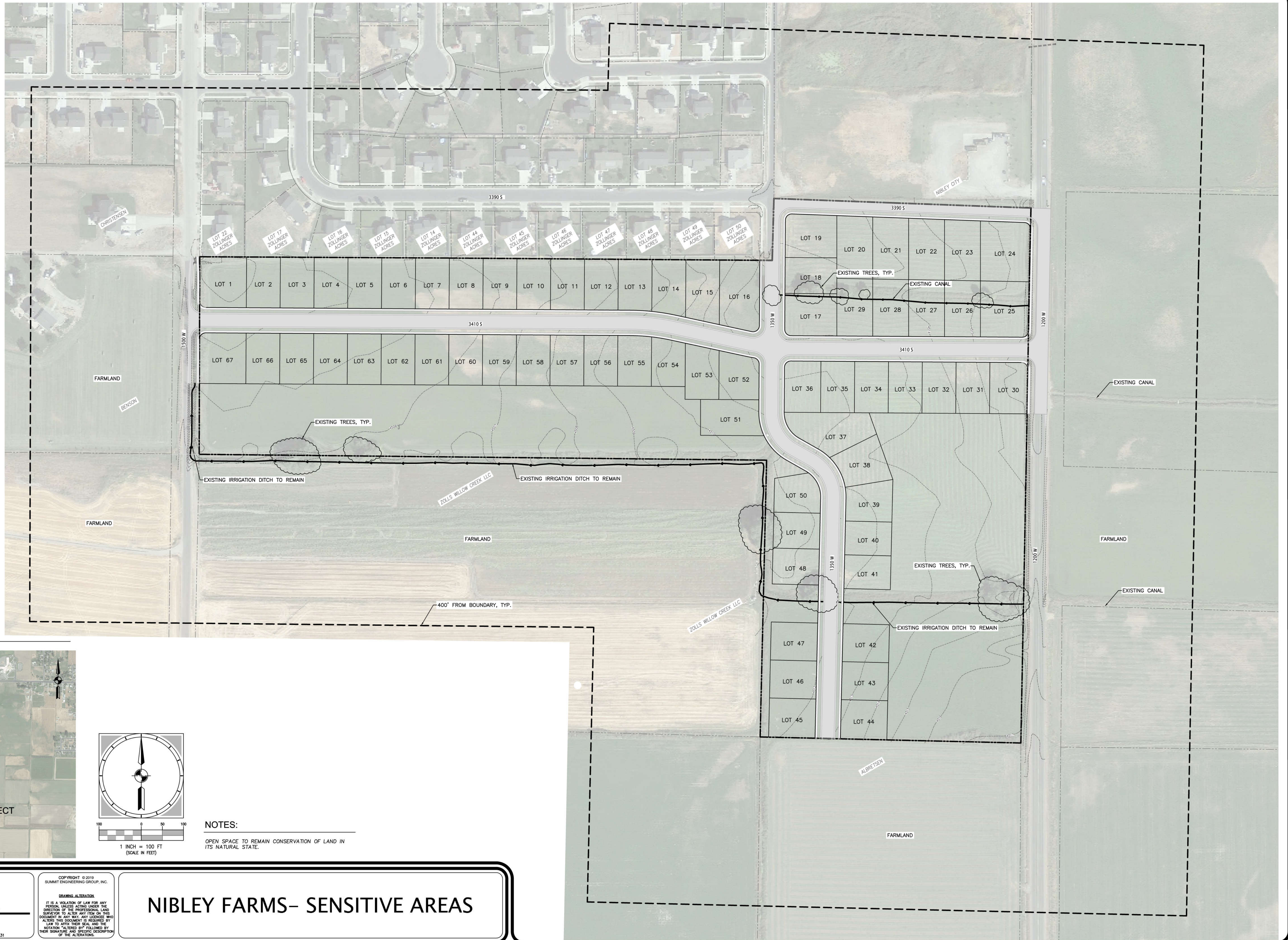
PROJECT
C19-025
SHEET
1 OF 2
ISSUE DATE
09-04-19

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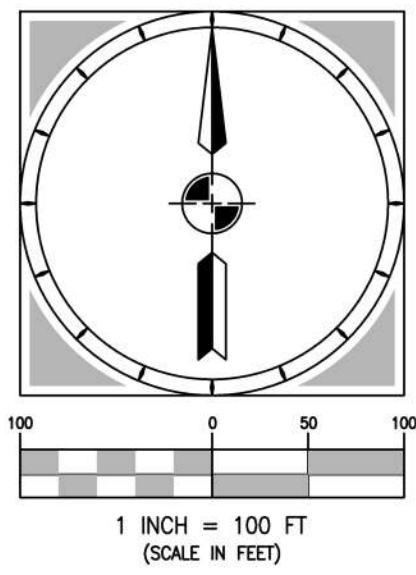
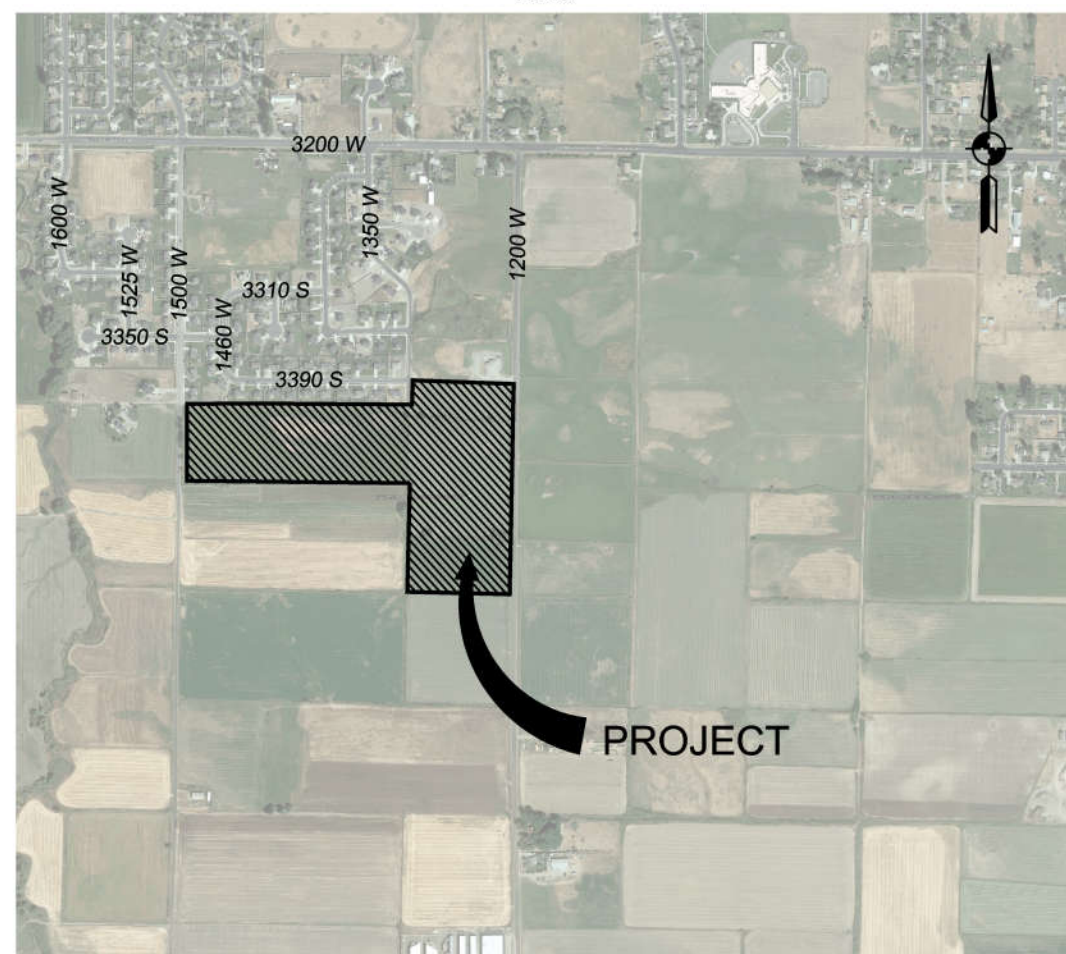
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NIBLEY FARMS PRELIMINARY PLAT

LOCATED IN THE NORTHWEST 1/4 OF SECTION 29, TOWNSHIP 11 NORTH, RANGE 1 EAST, SLB&M,
NIBLEY CITY, CACHE COUNTY, UTAH



VICINITY MAP
N.T.S.



NOTES:

OPEN SPACE TO REMAIN CONSERVATION OF LAND IN ITS NATURAL STATE.

PROJECT
C19-025
SHEET
3 OF 3
ISSUE DATE
09-05-19


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NIBLEY FARMS- SENSITIVE AREAS

Preliminary Maintenance Plan for Open Space

Nibley Farms

Introduction

This Preliminary Maintenance Plan for Open Space is for the proposed Nibley Farms subdivision containing 67 lots and approximately 32.49 acres. The proposed open space layout is shown on the attached Preliminary Plat.

Applicable Code Section:

21.10.020 Rural Preservation Subdivision

L.2.Preliminary Maintenance Plan: A Preliminary Maintenance Plan shall be turned in with the preliminary plat for proposed maintenance of OpenSpace 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 OpenSpace Land;
- c) The proposed use of the OpenSpace Land and how each parcel of OpenSpace Land meets the standards listed within this section;
- d) The size of each OpenSpace Land parcel; and
- e) The proposed concept plan for landscaping of the OpenSpace Land.

General

Nibley Farms has two main sections of open space that are connected via walkable trail. This walkable trail is intended to interconnect with future publicly and privately built trails extending throughout the city. The total open space is 11.36 acres with 5.41 acres in the west parcel and 5.95 acres in the east parcel.

Both parcels are situated adjacent to undeveloped land, creating both a peaceful pathway from 1200 West to 1500 West. As adjacent land develops, the city has a significant opportunity to either match what has been done on this property or to further develop the property to more active recreational uses.

Proposed Ownership

We propose to deed the open space property to Nibley City by phase with the recording of each plat. The amount of land is significant enough and the connectivity to both trails and sidewalk opens the property up to city-wide use but makes the areas especially accessible and usable to this development as well as the Zollinger Acres development to the north and future development on the eastern portion of the Pete Riggs property.

Proposed Usage

The property as proposed, provides immediate use as a walkable route with grazing or farming opportunities. The city has prioritized land adjacent to canals as trail routes. This provides a tranquil setting for walking, jogging or bike riding.

Accomplishes:

- Walkability with connectivity through street connections and outlets for future trail connections
- Preservation of rural use – specifically the open canal and agricultural ground.
- Options for future city improvements and conversion of portions, if not all, to a more active open space use.

Maintenance

Maintenance would follow the ownership of the open space property. Requirements for the trail include crack sealing of the asphalt surface, usually in conjunction with the preventive maintenance of a nearby street and usually every couple of years. A seal coat would also typically be applied every few years, also following the city's standard asphalt pavement maintenance plan. The areas directly adjacent to the hard surface trail would typically be cut two or three times per year.

The remainder of the open space area would likely be leased to a local farming or grazing operation for a nominal amount in exchange for the lessee operating and maintaining the area in accordance with the city's lease requirements.

Protection

The open space parcels will be protected via protective easement in accordance with the City Council's requirement.

Standards

The proposed open space are designed to meet the requirements outlined in sections 1, 2 and 5. Depending on future city plans, section 3 will also apply.

21.10.020 Rural Preservation Subdivision

- l) OpenSpace Land Design Standards: OpenSpace Land shall be located and designed within the Rural Preservation Subdivision to add to the visual amenities of neighborhoods and the surrounding area by maximizing the visibility of OpenSpace Land. Designated OpenSpace Land within a Rural Preservation Subdivision shall also comply as defined in this section, permitted uses as listed in this section, and meet three (3) or more of the following standards:

1. **Significant Areas and Natural Landscape:** OpenSpace Land shall include the most unique and sensitive resources and locally significant features of the property within the subdivision. Specifically, meadows, waterways and wetlands as defined in this Ordinance, and tree stands and contain a minimum of 0.5 acres. Other uses include berms, wildlife corridors and/or habitat and must extend a minimum of 15' on each side of the feature. This OpenSpace Land may also contain historic buildings and/or sites, archeological sites, and cultural features. The maintenance plan shall outline how the property will be preserved and maintained. The maintenance plan must specify what type of feature(s) that is being preserved and how the property will be maintained.

2. Contiguous Land: OpenSpace Land within a Rural Conservation Subdivision shall be contiguous within the subdivision, or to other OpenSpace Land in adjacent subdivisions or developments to provide for large and integrated OpenSpace Land areas within the City.
3. Agricultural Land: Privately held OpenSpace Land that is used for agricultural purposes as defined in this Ordinance and is 0.5 acre or greater in size.
4. Buffering: OpenSpace Land shall be designed to provide buffers and to protect scenic views as seen from existing public rights-of-way and from public parks or trails. Buffering area along public rights-of-way or street must be at least thirty (30') feet wide. Buffering must be landscaped, at the sole cost of the developer and shall provide for every hundred (100) linear feet of buffer, six (6) trees and fifteen (15) shrubs. Tree and shrub species must be approved by the City's arborist or the City's Park Director. Trees and shrubs shall be planted within thirty (30) feet of the right-of-way or public park. Irrigation shall be provided by the developer and shall be designed and installed to Nibley City Standards for City parks current at the time of approval of Final Plat. OpenSpace buffer areas shall be under single ownership.
5. Pedestrian Access: Developer shall provide pedestrian access to OpenSpace Land which is open to public or owners' association member use. Access methods can be a trail, park, recreation space, or neighborhood gathering space.
6. Recreation Space: OpenSpace Land maybe designated as recreation space or park space, including maintained grass, trails, picnic areas, playgrounds, sports fields or other recreation and park amenities. These recreation spaces are conditional upon the City Council's approval, and amenities must be approved by the City Council before final approval of the maintenance plan can be given. Publicly and owners' association owned openspaces shall be fully developed and operational in conjunction with each phase of the subdivision as a percentage of the total developed value of the subdivision (for example, if 25% of the dollar value of the development is being constructed, then a minimum of 25% of the dollar value of the built-out Recreation Space must be developed). The determination of value, construction sequencing, and acceptance criteria shall be specified in the development agreement; until improvements are accepted by the City for the attendant phase, no permits shall be issued for subsequent phases.
7. Stormwater Basin: These facilities must be built to Nibley City Design Standards and Specifications, must contain a tree for every 300 square feet and planted and clustered around the perimeter basin area; an irrigation system must be installed, and be planted with grass, natural vegetation and shrubs. The stormwater basin can be a local or regional basin and must be owned and maintained by Nibley City.