NIBLEY CITY COUNCIL MEETING AGENDA
Thursday, January 23, 2020 – 6:30 p.m.
Nibley City Hall 455 West 3200 South, Nibley, Utah

1. Opening Ceremonies (Councilmember Laursen)
2. Call to Order and Roll Call (Chair)
3. Approval of the January 9, 2020 Meeting Minutes and Agenda (Chair)
4. Public Comment Period[1] (Chair)
5. Planning Commission Report
6. Discussion and Consideration of an Appointment to the Nibley City Planning Commission and Appointments of the 2020 Planning Commission Chair and Vice-Chair
7. Discussion and Consideration of Ordinance 20-01—An Ordinance Requiring All Nibley City Utilities to be in the Property Owners Name (Second Reading)
8. Presentation and Workshop: Ordinance 20-02—An Ordinance Updating Standards for Outdoor Lighting
9. A public hearing to receive comments regarding Ordinance 20-02—An Ordinance Updating Standards for Outdoor Lighting
10. Presentation and Workshop: Ordinance 20-03—An Impact Fee Facilities Plan and Impact Fee Enactment for Wastewater
11. A public hearing to receive comments regarding Ordinance 20-03—An Impact Fee Facilities Plan and Impact Fee Enactment for Wastewater
12. Presentation and Workshop: Preliminary Subdivision Plat for Firefly Estates, located at approximately 2200 South and 1200 West
13. A public hearing to receive comments regarding a Preliminary Subdivision Plat for Firefly Estates, located at approximately 2200 South and 1200 West
14. Presentation and Workshop: Ordinance 20-04—Residential Planned Unit Development Overlay Zone Application and Development Agreement for the Proposed Firefly Estates Development, located at approximately 2200 South and 1200 West
15. A public hearing to receive comments regarding Ordinance 20-04—A Residential Planned Unit Development Overlay Zone Application and Development Agreement for the Proposed Firefly Estates Development, located at approximately 2200 South and 1200 West
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.

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[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
January 23, 2020

Agenda Item #6

Description	Discussion and Consideration of an Appointment to the Nibley City Planning Commission and Appointments of the 2020 Planning Commission Chair and Vice-Chair
Department	Planning
Presenter	Shaun Dustin, Mayor
Recommendation	Move to approve the Appointment to the Nibley City Planning Commission and Appointments of the 2020 Planning Commission Chair and Vice-Chair
Reviewed By	Mayor, City Manager, and City Planner

Background:

Mayor Dustin will propose a new member to the Nibley City Planning Commission to fill an upcoming vacancy due to the expiration of the term for Commissioner Carol Albrecht, who will complete her first 5-year term on February 5. Mayoral appointments to the planning commission require the advice and consent of the City Council.

Ordinance 18-01 made a few changes to the role and organization of the Planning Commission. Instead of the Planning Commission picking their own chairman and other officers, this power was given to the Mayor to appoint these officers annually, with approval from the City Council.

Mayor Dustin will propose a Nibley City Planning Commission Chair and Vice-Chair for the consent and approval of the City Council

CERTIFICATE OF APPOINTMENT

State of Utah}
County of Cache}
City of Nibley}

Be it ordained by the Nibley City Council that **John/Jane Doe** has been appointed by the Nibley City Council to the Nibley City Planning Commission, to serve for a term of five (5) years, ending December 31, 2025.

Subscribed and sworn before me this 9th day of January 2020.

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Shaun Dustin, Mayor

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David Zook, Recorder

Agenda Item #7

Description	Discussion and Consideration of Ordinance 20-01: An Ordinance Requiring All Nibley City Utilities to be in the Property Owners Name (Second Reading)
Department	Administration
Presenter	Michelle Jensen, Treasurer and Utility Manager
Recommendation	Move to approve Ordinance 20-01: An Ordinance Requiring All Nibley City Utilities to be in the Property Owners Name for second reading.
Reviewed By	City Manager, City Treasurer and Utility Manager, City Attorney

Background

Private-property owners in Nibley who might be renting their property to a resident or business tenant can check credit and references before deciding to allow that person to rent from them. However, as a municipality, Nibley City cannot be selective about who receives utility services. Under current city policy, the City is required to provide services if the applicant does not owe an outstanding balance. Currently, when renters leave town without paying, a private-property owner can sign up a new renter immediately without paying the debt owed to the City from the previous renter. These accounts then become difficult to collect.

When a renter leaves and a new renter checks in, the City cannot shut off utilities for the new renter as a mechanism to make the former renter pay. Each month, the City opens an average of 6 new utility accounts for renters. This creates extra paperwork and clutters the City's accounting software with multiple renters for the address when instead it would be simpler to only have one account with the single property owner as potentially multiple renters come and go. Conflicts also often arise when there are disputes between when a renter tells the city they have moved out and when the landlord thinks they need to assume responsibility for utilities.

The solution that is being presented is for owners to be responsible for the utilities. In the case of a rental home where a utility bill isn't paid, utilities could be shut off and remain off until the debt is paid and the outstanding debt would be easier to collect. Utility accounts would also remain in the name of the owner as renters come and go. All new utility accounts would require proof of ownership to be provided to the City via recorded documents.

Private-property owners can still require their renter to pay the bill monthly, but the owner is ultimately responsible. If owners choose to have a renter or property management company receive the bill, then the owner will need to sign an agreement stating they understand that the owner is ultimately responsible.

The following options will be available to assist the owner:

- Provide access to both the landlord and tenant to the City's electronic/online billing system
- Mail a paper bill to either the owner or tenant

The first reading of this ordinance was approved on January 9.

ORDINANCE 20-01

AN ORDINANCE ESTABLISHING OWNER RESPONSIBILITY FOR RESIDENTIAL AND COMMERCIAL UTILITY ACCOUNTS

WHEREAS, Nibley City operates and collects fees for sewer, water, and stormwater utilities; and

WHEREAS, Nibley City collects fees for solid waste and emergency communication services, which are provided by Logan City; and

WHEREAS, the City anticipates that there will be a growing number of rental dwellings within the City limits; and

WHEREAS, the City desires to ensure regular collection of utility payments from renters; and

WHEREAS, collecting utility fees from renters has proven to be more difficult than collections from property owners.

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

1. The attached ordinance is hereby adopted as Nibley Code 15.2.020 as modified.

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

3. This ordinance shall become effective upon posting as required by law.

PASSED BY THE NIBLEY CITY COUNCIL THIS 9 DAY OF January 2020.

____
Shaun Dustin, Mayor

ATTEST:

____
David Zook, City Recorder

15.02.020 Applications For Connection, Service

A. Connection: Any person, other than a subdivider or developer seeking multiple connections, who desires or is required to secure a new connection to the city water system, shall file with the water department for each such connection a written and signed connection application which is on file in the office of the water department.
B. Connection By Subdividers: Whenever a subdivider or developer desires or is required to install water connections and extensions for a subdivision or development, the subdivider or developer shall enter into a written extension agreement, which shall constitute an application for permission to make the extensions and connections, and an agreement specifying the terms and conditions under which the water extensions and connections shall be made and the payments that shall be required.
C. Service: Any person who desires or is required to secure water service when such service is available from the city water system, shall file with the water department a written application and agreement for the service which is on file in the office of the water department.
~~D. Nonowner Applicants: Applications for water service made by the tenant of an owner must, in addition to the above requirements, be guaranteed by an agreement signed by the owner of the premises or his duly authorized agent which is on file in the office of the water department.~~
E. No landowner, person, subdivider or developer's application to connect to Nibley City's water and sewer system will be considered unless the property noted on the application is within Nibley City limits. No application for connection or service will be considered from outside Nibley City limits until the property is properly annexed into Nibley City. The City Council may make exceptions for public entities.
F. Owners of record of dwellings and commercial buildings are responsible for any and all City utility usage associated with their property. As such, owners of all dwellings and commercial buildings in the City are responsible for the payment of City Utilities provided to their property.
G. Only property owners of record may apply for residential and commercial utilities provided by the City.
H. Residential and commercial utility customers are required to provide documentation proving property ownership prior to receiving City Utility services.

Agenda Item #8 & 9

Description	Presentation and Workshop: Ordinance 20-02—An Ordinance Updating Standards for Outdoor Lighting and A public hearing to receive comments regarding Ordinance 20-02: An Ordinance Updating Standards for Outdoor Lighting
Department	Planning
Presenter	Stephen Nelson, City Planner
Recommendation	Receive the presentation and ask questions regarding Ordinance 20-02: An Ordinance Updating Standards for Outdoor Lighting
Reviewed By	City Manager, City Planner, City Attorney, Planning Commission, Cache Valley Astronomical Society

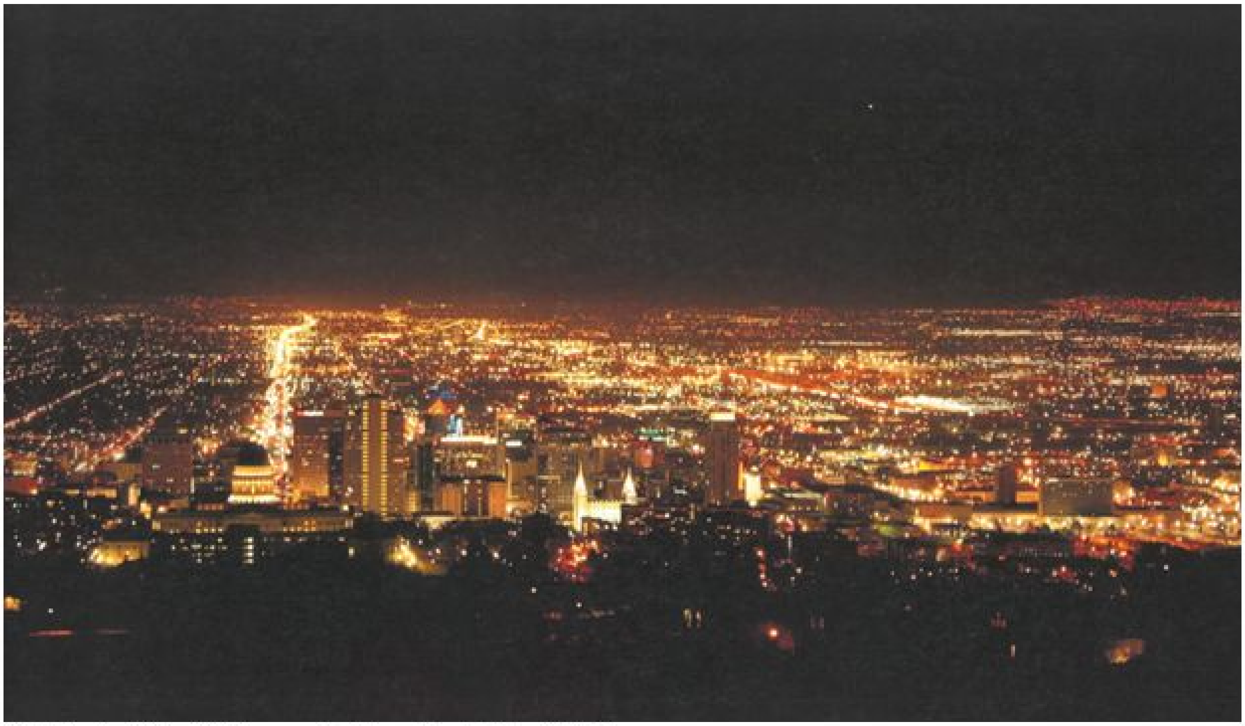
Background

Nibley City has considered creating outdoor lighting standards for the past few years because of the rapid growth of residential and commercial development in the city. Therefore, the Planning Commission workshopped and debated new lighting standards that would address light pollution. The Planning Commission made a positive recommendation of this proposed ordinance.

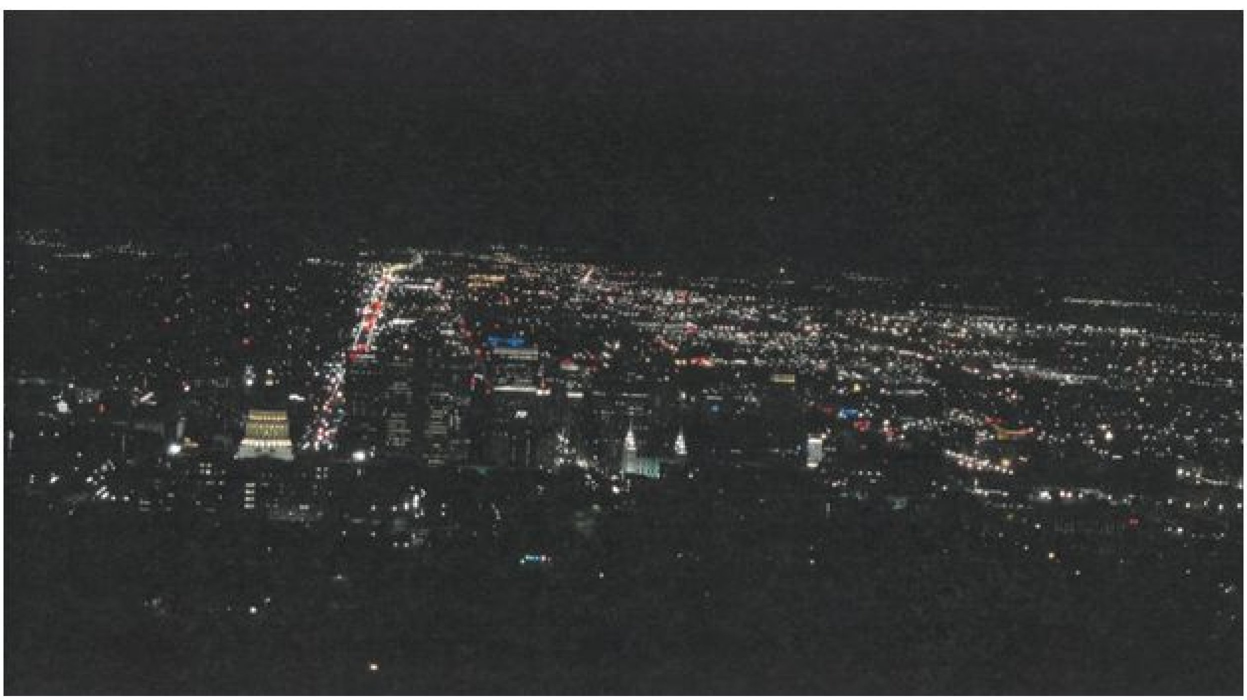
Light pollution can be defined as the following:

> *The inappropriate or excessive use of artificial light…[and] can have serious environmental consequences for humans, wildlife, and our climate. Components of light pollution include:*
>
> ***Glare** – excessive brightness that causes visual discomfort*
> ***Skyglow** – brightening of the night sky over inhabited areas*
> ***Light trespass** – light falling where it is not intended or needed*
> ***Clutter** – bright, confusing and excessive groupings of light sources*

(IDA, n.d.)



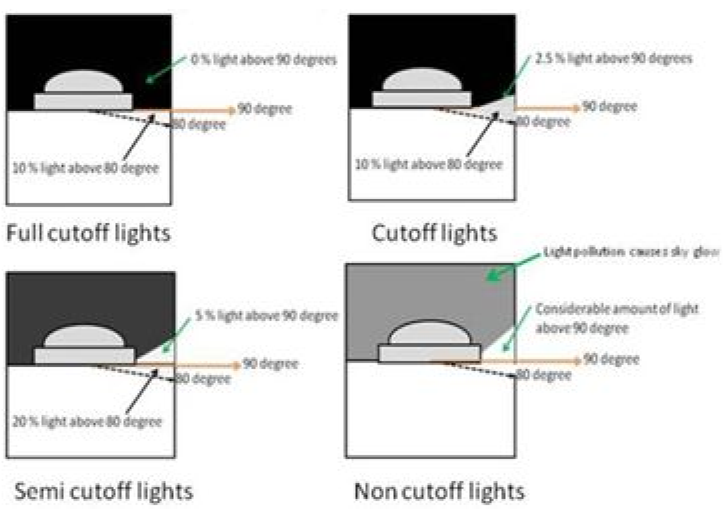
Salt Lake City Before and After Dark Sky Lighting



Light pollution is a significant problem across the United States and has a negative impact on humans and wildlife alike. Some of the main reasons Nibley City Planning Commission and staff recommend consideration of the proposed ordinance is for the following:

1. To help protect the health of Nibley City Residents
2. To protect wildlife, particularly the fireflies located in firefly park and other parts of the community.
3. To help protect the rural feeling within Nibley City.
4. To set a precedent for other communities in Cache County.
5. To help light fixtures become more efficient

The Proposed Outdoor Lighting Standards



The ordinance proposes that outdoor lighting fixtures must be Full Cutoff Luminaires. This would require that an outdoor lighting fixture does not allow any light to escape above the light fixtures' horizontal plane. This would make it so the lighting would be directed towards the ground and not toward the sky. There are a few exceptions to this rule, which can be found in C.1 in the proposed ordinance. Some of those exceptions are for flags, if the luminaires are producing less than 1,000 lumens, or for limited uses.

Firefly Park Buffer Area

Fireflies are vulnerable to light pollution. During the mating season, fireflies will use bioluminescence to attract mates. When light pollution is present, this can make it difficult for fireflies to see other fireflies. In order to protect the rare fireflies found in Firefly Park, the proposed code would create a 500’ buffer area around Firefly Park. Residents within the buffer area would have until January 1, 2023 to become compliant with these new standards. Others in the City would need to become compliant as new buildings are built or modifications are done to existing structures. The City is also considering offering some incentives to residents around Firefly Park to encourage them to voluntarily switch out their lights for dark sky compliant lighting.

More about Dark Sky Policies

Learn more about light pollution and the Dark Sky Movement at the following links:

Why We Are Losing the Night Sky: By It’s Okay to Be Smart

The International Dark Sky Alliance

ORDINANCE 20-02

AN ORDINANCE AN ORDINANCE UPDATING STANDARDS FOR OUTDOOR LIGHTING

WHEREAS, Nibley City wants to help protect the health and safety of its residents; and

WHEREAS, the City wants to protect wildlife and wildlife habitat within and around Nibley City boundaries; and

WHEREAS, the City wants to help preserve the rural feeling within Nibley City; and

WHEREAS, the City wants to encourage outdoor lighting to become more efficient.

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

1. The attached ordinance is hereby adopted as Nibley City Code 19.24.240.

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

3. This ordinance shall become effective upon posting as required by law.

PASSED BY THE NIBLEY CITY COUNCIL THIS ___ DAY OF ______ 2020.

____
Shaun Dustin, Mayor

ATTEST:

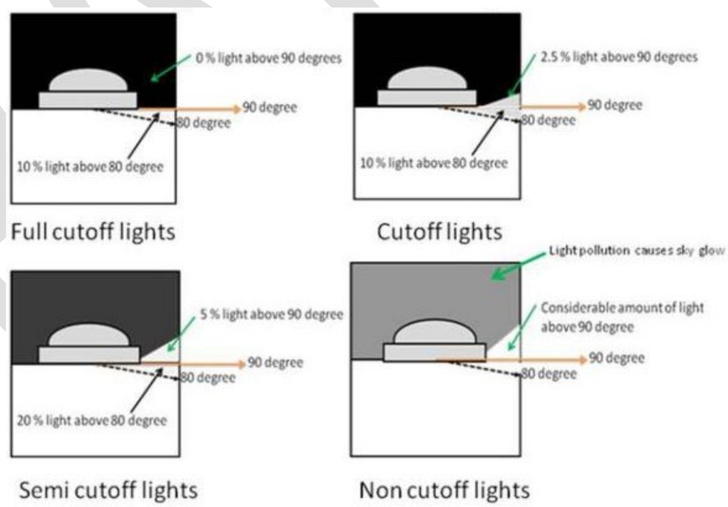
____
David Zook, City Recorder

19.24.240: Outdoor Lighting Standards

A. The purpose of this Section is to provide for adequate and appropriate site lighting that increases night time visibility, adds aesthetic quality, and improves safety. These standards are designed to enhance night vision while mitigating glare and light pollution. All exterior lighting shall be designed and located to minimize glare, light trespass, skyglow and energy waste.

B. DEFINITIONS: For the purpose of this chapter, certain words, phrases and terms used herein shall have the meanings assigned to them by this section:

1. ARCHITECTURAL LIGHTING: Lighting of building surfaces, landscape features, statues and similar items for the purpose of decoration, accents, or ornamentation; or lighting that does not contribute to the safety or security of residents, guests, employees or customers on a property.
2. DIRECT ILLUMINATION: Illumination resulting from light emitted directly from a luminaire. This does not include light reflected from other surfaces, such as the ground or building faces.
3. FLOODLIGHT: A luminaire designed to "flood" an area with light; A specific form of luminaire designed to direct its output in a specific direction. Such luminaires are often designated by the manufacturer and are commonly used in residential outdoor lighting.
4. FULL CUTOFF LUMINAIRE: An outdoor luminaire designed so that the installed luminaire emits no light above the horizontal plane. Full cutoff luminaires must be shielded in and of themselves. Surrounding structures, like canopies, are not to be considered when determining if the luminaire is full cutoff. Full cutoff luminaires must be appropriately mounted so that the shielding prevents direct illumination from escaping above the horizontal and all direct illumination is directed downward.



5. INTERNALLY ILLUMINATED: As it relates to signs, any sign which has a light source entirely enclosed within the sign and not directly visible to the eye.
6. LIGHT POLLUTION: Any adverse effect of manmade light. Often used to denote "sky glow" from cities, but also includes glare, light trespass, visual clutter and other adverse effects of lighting.
7. LIGHT SOURCE: The part of a luminaire that produces light, e.g., the bulb.

8. LIGHT TRESPASS: Light falling where it is not wanted or needed. Spill light falling over property lines that illuminates adjacent grounds or buildings in an objectionable manner.
9. LUMINAIRE: A complete lighting unit consisting of a light source such as a lamp or lamps, together with the parts designed to position the light source and connect it to the power supply. It may also include parts to protect the light source or the ballast or to distribute the light. A lampholder itself is not a luminaire. Includes light fixtures, lamps, reflectors, and other similar devices.
10. OUTDOOR LUMINAIRE: A luminaire used for lighting the exterior of structures, parking lots, pathways, service canopies, recreational areas, signs or other similar outdoor lighting uses.
11. RECREATIONAL LIGHTING: Lighting used to illuminate sports fields, ball courts, playgrounds or similar outdoor recreational facilities.
12. SECURITY LIGHTS: Lighting designed to illuminate a property or grounds for the purpose of visual security.
13. TOWER: Any monopole, antenna or the like that exceeds eighteen feet (18') in height.
14. UNSHIELDED LUMINAIRE: A luminaire that allows direct illumination to be emitted above the horizontal either directly or indirectly from the luminaire; Any luminaire that is not a full cutoff luminaire.

C. Use of Luminaires.

1. All outdoor luminaires must be full cutoff luminaires unless otherwise specified within this section. No unshielded luminaires are permitted. All outdoor luminaires shall have the light source downcast and fully shielded from view with the following exceptions:
    a. If the luminaires are less than one thousand (1,000) lumens per luminaire (equal to one sixty (60) watt incandescent lamp) provided the luminaire has an opaque top or is under a solid overhang;
    b. Floodlights with external shielding of the light source and is angled down toward the ground at thirty (30) degrees or less;
    c. Temporary lighting needed by emergency services;
    d. Lighting for the United States of America and State of Utah flags;
    e. The lighting of telecommunication towers to meet Federal Aviation Administration regulations;
    f. Lighting associated with an approved and permitted exterior sign;
    g. Luminaires used only for recreational lighting when all reasonable measures have been taken to minimize the lighting of surrounding properties. Any adjacent luminaires surrounding the recreational facility, such as lighting for sidewalks, are not exempt.
    h. Exterior emergency exit lighting.
    i. Motion sensing luminaires that are on for less than five minutes at a time, and are not used for extended lighting beyond the five-minute increments.

    j. Lighting for private or public outdoor events. Lighting must be turned off by 12:00 a.m. and property may not have lighting on more than twice a week. Lighting for private or public outdoor events must comply with all other standards set forth in any other applicable section of this or any other chapter.

D. Standards.

1. Height and Location.
    a. Luminaire height and location shall be designed to illuminate the site only. Light cut-offs are required to prevent spillover of direct light.
    b. Luminaires and supporting structures shall be placed on the same property as intended to light.
    c. Parking areas and exterior freestanding luminaires shall be no taller than thirty-two (32) feet, including the pole and base. When a parking area is adjacent to a residential zone, freestanding luminaires on the perimeter closest to the residential zone shall be no taller than eighteen (18) feet.
    d. Freestanding luminaires on private property in residential zones shall be no taller than twelve (12) feet.
    e. Luminaires for public street lights and recreational lighting are exempt from height regulations.
    f. Soffit and canopy luminaires shall be recessed or flush mounted to the bottom surface of the structure.
    g. Luminaires for lighting private streets and allyways shall be mounted between eight (8’) to sixteen (16’) feet above grade to provide continuous illumination of all street sidewalks and shall reflect the architectural design and characteristics of the surrounding area.
    h. Exterior building luminaires affixed to buildings on street-front elevations shall be mounted between 6’ and 14’ above adjacent grade.
2. Visual Characteristics.
    a. All public areas shall be lighted with average minimum and maximum levels as follows:
        i. Minimum (for low or non-pedestrian and vehicular traffic areas) of 0.5 foot candles;
        ii. Moderate (for moderate or high volume pedestrian areas) of 1-2 foot candles; and
        iii. Maximum (for high volume pedestrian areas and building entries) of 4 foot candles.
    b. Lighting shall be provided at consistent levels, with gradual transitions between maximum and minimum levels of lighting and between lit areas and unlit areas. Highly contrasting pools of light and dark areas shall be avoided.

c. Architectural lighting is not permitted, except as approved through design review for highlighting signature landscape features, signs or building elements. Architectural lighting shall be designed to only light the feature, shall not trespass onto any adjacent property, and shall be limited in use from 7:00 a.m.- to 12:00 a.m.
d. HID or fluorescent tube lights (except compact fluorescent bulbs) are not permitted as exterior building lights.

E. New Structures
1. Commercial, Neighborhood Commercial, Institutional, and Industrial buildings must submit a lighting plan with their building permit application with sufficient detail to determine compliance with lighting standards.
    a. Details needed include lighting information for parking lots, signs, walkways, luminaires over doorways, or architectural lighting.
2. All new residential structures must comply with standards within this chapter

F. Compliance of Existing Nonconforming Luminaires.
1. Compliance: All outdoor luminaires installed after the effective date hereof in all zones in the city shall conform to the requirements established by this chapter. This chapter does not apply to indoor lighting. However, light trespass from interior lighting that negatively impacts adjacent properties is also prohibited.
2. Nonconforming Uses: All existing outdoor luminaires that do not meet the requirements of this chapter and are not exempted by this chapter shall be considered a nonconforming use. The city will encourage property owners to voluntarily bring nonconforming luminaires into compliance with this chapter. Where appropriate, the city may also provide assistance and expertise to homeowners in bringing their outdoor luminaires into compliance with this chapter.
    a. All outdoor luminaires on or for properties within the Firefly Park 500ft buffer zone (See Annex 1) need to be in compliance before January 1, 2023.
3. Modifications; Compliance Through Building Permit Process: The city may require outdoor luminaires to be brought into compliance through the building permit process if substantial modifications are made to the exterior of the building or if the footprint of the structure is enlarged.
4. Conflicts: Should this chapter be found to conflict with other ordinances of the city, the more restrictive shall apply.

G. VIOLATIONS:

1. The following constitute violations of this chapter:
    a. The installation, maintenance or operation of any luminaire not in compliance with the provisions of this chapter if such luminaire is installed after this chapter is formally adopted.
    b. The alteration of outdoor luminaires after a certificate of occupancy has been issued without the review and approval of the building inspector when such alteration does not conform to the provisions of this chapter.
    c. Failure to shield, correct or remove lighting that is installed, operated, maintained or altered in violation of this chapter.

H. PENALTIES:

1. Violations and Legal actions. If, after investigation, the City Planner finds that any provision of this chapter is being violated, the City Planner or designee shall give notice by hand delivery or by certified mail, return receipt requested, of such violation to the owner and/or occupant of such premises, demanding that the violation be abated within 30 days of the date of hand delivery or of the date of mailing of the notice. The planning department staff shall be available to assist in working with the violator to correct said violation. If the violation is not abated within the 30-day period, the City Planner or designee may institute actions and proceedings, either legal or equitable, to enjoin, restrain or abate any violations of this chapter and to collect penalties for such violations.
2. Penalties. A violation of this chapter, or any provision thereof, shall be punishable by a Infractions as defined in NCC 1.08, and each day of violation after the expiration of the 30-day period shall constitute a separate offense for the purpose of calculating the fine.

Examples of Acceptable / Unacceptable Lighting Fixtures

Illustrations by Bob Crelin © 2005. Rendered for the Town of Southampton, NY. Used with permission.

Agenda Item #10 & 11

Description	Presentation and Workshop: Ordinance 20-03—An Impact Fee Facilities Plan and Impact Enactment for Wastewater and A public hearing to receive comments regarding Ordinance 20-03: An Impact Fee Facilities Plan and Impact Enactment for Wastewater
Department	Sewer Department
Presenter	David Zook, City Manager
Recommendation	Receive the presentation and ask questions regarding Ordinance 20-03: An Impact Fee Facilities Plan and Impact Enactment for Wastewater for first reading.
Reviewed By	Mayor, City Manager, City Planner

Background

Nibley City, along with Logan, USU, Providence, River Heights, North Logan, Hyde Park and Smithfield, sends all of the wastewater collected through its sewer system to a regional wastewater treatment plant in Logan, which is operated by Logan City. A new $162 million plant is under construction in Logan to replace the existing plant. Logan City has proposed that all of the cities that contribute wastewater to the plant establish an impact fee that would be paid by new wastewater customers (homes and businesses), as they are constructed in the future, to assist in financing the construction of the plant.

The impact fee is proposed to be $2,433 for each new residential unit. The impact fee would go into effect 90 days after Logan City adopts their version of this ordinance. Logan City is waiting for all of the client cities to adopt the ordinance before it adopts the ordinance.

The following is the executive summary from the Impact Fee Facilities Plan, which was prepared for Logan City by their financial consultant, Lewis Young Robertson and Burningham:

The purpose of this Impact Fee Analysis (IFA), is to fulfill the requirements established in Utah Code Title 11 Chapter 36a, the “Impact Fees Act,” and help Logan City (the “City”) fund necessary capital improvements for future growth. This document will address the future sewer treatment infrastructure needed to serve new development through the next ten years, as well as the appropriate impact fees the City may charge to new growth to maintain the level of service.

Impact Fee Service Area: The Service Area for the wastewater treatment impact fees includes the communities of Logan, Smithfield, Hyde Park, North Logan, River Heights, Providence, Nibley, and Utah State University.

Demand Analysis: The demand unit utilized in this analysis is existing flow and equivalent residential units, or ERUs. Currently, the Service Area has an estimated flow of 13.7 Million Gallons Per Day (MGD), for a total of 55,918 ERUs. Based on a growth rate of 2.5 percent identified in the 2018 Sewer Collection Master Plan (see p.36), an additional 16,053 ERUs will be added to the System. A more moderate growth of 1.5 percent will produce another 9,112 ERUs. Regardless of the projected growth, the Sewer Treatment Facility has a defined capacity of 18 MGD annual average demand. Therefore, the impact fee analysis will allocate the available capacity based on the current level of service.

Level of Service: The level of service identified in the Master Plan assumes each future ERU will contribute an average sanitary flow of 0.17 GPM, or 70 gallons per person per day. This equates to 245 GPD per ERU, assuming an average household size of 3.5 people for each.1

Excess Capacity: While the construction of the new treatment facility is needed to further treat for phosphorus and ammonia removal, existing facilities will continue to be utilized to provide storage facilities to existing and future ERUs to account for max day flows. This analysis includes a buy-in to existing facilities to account for this capacity. The existing sewer treatment infrastructure has an original value of $16,561,911.

Capital Facilities Analysis: A new treatment facility is anticipated to cost a total of $162,146,550. $38,735,009, or 24 percent of the total cost, is considered impact fee eligible capital cost.

Funding of Future Facilities: This analysis assumes future growth-related facilities will be funded through a combination of wastewater revenues, debt financing, and impact fee revenues.

ORDINANCE 20-03

AN ORDINANCE ADOPTING AN IMPACT FEE FACILITIES PLANS AND AN IMPACT FEE ENACTMENT FOR WASTEWATER, AND NOTICE OF PUBLIC HEARING

WHEREAS, the City of Nibley (the "City") is a political subdivision of the State of Utah, authorized and organized under applicable provisions of Utah law; and

WHEREAS, the City has legal authority, pursuant to Title 11, Chapter 36a of the Utah Code Annotated, as amended ("Impact Fees Act" or "Act"), to impose development impact fees as a condition of development approval, which impact fees are used to defray capital infrastructure costs attributable to new Development Activity; and

WHEREAS, the City does not currently charge an impact fee for wastewater treatment;

WHEREAS, wastewater treatment service for the City is provided by Logan City Corporation ("Logan City") pursuant to interlocal agreements; collectively referred to as the "Logan City Agreements"; and

WHEREAS, the City desires to implement an impact fee for wastewater treatment, referred to hereafter as "Wastewater Impact Fee" in accordance with applicable provisions of the Impact Fees Act in order to appropriately assign capital infrastructure costs to development in an equitable and proportionate manner as more particularly provided herein; and

WHEREAS, the proposed Wastewater Impact Fee is based upon Logan City's Regional Wastewater Impact Fees Facilities Plan and Impact Fee Analysis, a copy of which is attached as Exhibit A, which the City Council hereby finds to be a reasonable plan that otherwise complies with the common law and the Act; and

WHEREAS, the proposed Wastewater Impact Fee established by this ordinance is reasonable related to the cost of providing such public facilities necessitated by anticipated future growth within the City or are reasonably related to public facility costs previously incurred by the City and/or Logan City and said fee does not exceed the highest fee justified by the Impact Fee Analysis prepared by Logan City; and

WHEREAS, the City has provided the required notice and public hearing requirements as established under the Act and related statutes; and

WHEREAS, a public hearing was held before the City Council on January 23, 2020 to receive public input and comment regarding the proposed Wastewater Impact Fee.

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

1. The attached Nibley City Code 17.08 be adopted.
2. Nibley City accepts the impact fee analysis.

ADOPTED and PASSED by the Nibley City Council this ___ day of _________, 2019.

____
Shaun Dustin, Mayor

ATTEST:

____
David Zook, City Recorder

17.08 Impact Fee Facilities Plans and an Impact Fee Enactment for Wastewater

17.08.010 Definitions

A. "System Improvements" means:
   1. Existing public facilities that are:
      a. Identified in the Impact Fee Analysis ("IFA"), attached as Exhibit "A"; and
      b. Designed to provide services to the service areas within the community at large; and
   2. Future public facilities that are intended to provide services to service areas within the community at large.

B. "Equivalent Residential Unit" means that unit of demand that has an impact on the wastewater treatment infrastructure of Logan City that is equivalent to a single-family residence with a flow of 245 gallons per day.

C. "Public Facilities" for purposes of this ordinance means only the following impact fee related facilities that have a life expectancy of 10 or more years and are owned by Logan City, and which are operated on behalf of the City:
   1. Wastewater collection and treatment facilities

17.08.020 Impact Fee Analysis, Service Area

A. The City Council hereby adopts the Impact Fee Facilities Plan (IFFP) and Impact Fee Analysis (IFA) prepared for Logan City by Lewis Young Robertson & Burningham, Inc.
B. A copy of the IFA is included as Exhibit "A".
C. The entire area of the City is hereby designated as one service area with respect to wastewater treatment facilities.

17.08.030

The IFFP and IFA as set forth in Exhibit "A" is hereby adopted in its entirety by the City in accordance with applicable provisions of the Impact Fees Act.

17.08.040 Wastewater Impact Fee

A. A Wastewater Impact Fee is hereby established and imposed as a condition of the issuance of a building permit by the City for any development activity which creates additional demand and need for public facilities in accordance with the Act. The Wastewater Impact Fee shall be $2,433.00 per Equivalent Residential Unit. The non-standard Wastewater Impact Fee is calculated as by determining the Estimated Flow divided by 245GPD multiplied by $2,433.00.

B. The Non-Standard Impact Fee is defined as commercial and industrial facilities, public facilities, multifamily residential units (more than one dwelling sharing one connection), and any other user which may create different impact than what is standard for its land use. The City of Logan Environmental Director or his designee is responsible for the assessment and adjustment of the non-Standard Impact Fee.

C. Logan City or the Environmental Services Department will collect the Wastewater Impact Fee at the time of building permit application. All impact fees must be paid in full before a building permit is issued.

D. Logan City and/or the Logan City Environmental Director is authorized to adjust the standard impact fee described above at the time the fee is paid in order to:

   1. Respond to:
      a. Unusual circumstances in specific cases; or
      b. A request for a prompt and individualized impact fee review for the development activity of the state, a school district, or a charter school and an offset or credit for a public facility for which an impact fee has been or will be collected; and
   2. Ensure that the impact fee is imposed fairly.

E. The amount of the Wastewater Impact Fee to be imposed on a particular development may be adjusted by Logan City and/or the Logan City Environmental Director.

F. Applications for exceptions are to be filed with Logan City and/or the Logan City Environmental Director at the time the applicant first requests the extension of service to the applicant's development or property.

G. Subject to approval by the Logan City and/or the Logan City Environmental Director, developers, including a school district or a charter school, may be allowed a credit against Impact Fees or proportionate reimbursement of Impact Fees if the developer 1) dedicates land for a System Improvement, 2) builds and dedicates some or all of a System Improvement, or 3) dedicates a public facility that Logan City and the developer agree will reduce the need for a System Improvement; provided that the System Improvement is: (i) identified in the Logan City Impact Fee Facility Plan; and (ii) is required by Logan City as a condition of approving the Development Activity. To the extent required in Section 11-36a-402 of the Act, the City, subject to the approval of Logan City and/or the Logan City Environmental Director, shall provide a credit against Impact Fees for any dedication of land for, improvements to, or new construction of any System Improvements provided by the developer if the facilities, 1) are a System Improvement; or 2) are dedicated to the public and offset the need for an identified System Improvement.

17.08.050 Accounting, Expenditure

A. Logan City shall account for, expend, and refund Wastewater Impact Fees pursuant in accordance with provisions of the Act.

17.08.060 Administrative Challenges and Appeals Procedure

A. Any person or entity required to pay a Wastewater Impact Fee imposed by Logan City who believes the fee does not meet the requirements of law may file a written request for information with Logan City and/or the Logan City Environmental Director as provided by law.
B. Within two weeks after the receipt of the request for information, Logan City and/or the Logan City Environmental Director shall provide the person or entity with the written impact fee analysis required by the Act and with any other relevant information relating to the impact fee.

17.08.070 Amendments, Inconsistencies, Severability, Establishment

A. This ordinance and fee schedule may be amended by subsequent ordinances, subject to approval by Logan City and/or the Logan City Environmental Director.
B. The City may adopt policies consistent with this ordinance and any resolutions passed by the City Council to assist in the implementation, administration and interpretation of this ordinance related to Impact Fees.
C. Any parts or portions of previous ordinances, resolutions, rules, and regulations which are inconsistent or in conflict with this ordinance are hereby repealed.
D. Prior policies, ordinances, rules, and regulations of the City regarding Wastewater Impact Fees that are not in conflict with this ordinance remain in effect.
E. If any part of this Ordinance is declared invalid by a court of accepted jurisdiction, the remainder shall not be affected thereby.
F. As required by Section 401(2) of the Act, this ordinance shall become effective 90 days after passage by the City Council and public notice as required by law.

WASTEWATER TREATMENT
IMPACT FEE FACILITIES PLAN (IFFP) AND
IMPACT FEE ANALYSIS (IFA)

LOGAN CITY ENVIRONMENTAL DEPARTMENT

AUGUST 2019

LEWIS YOUNG
ROBERTSON & BURNINGHAM, INC.
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IMPACT FEE CERTIFICATION

IFFP CERTIFICATION

LYRB certifies that the attached impact fee facilities plan:

1. includes only the costs of public facilities that are:
    a. allowed under the Impact Fees Act; and
    b. actually incurred; or
    c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;
2. does not include:
    a. costs of operation and maintenance of public facilities;
    b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents;
    c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement; and,
3. complies in each and every relevant respect with the Impact Fees Act.

IFA CERTIFICATION

LYRB certifies that the attached impact fee analysis:

1. includes only the costs of public facilities that are:
    a. allowed under the Impact Fees Act; and
    b. actually incurred; or
    c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;
2. does not include:
    a. costs of operation and maintenance of public facilities;
    b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents;
    c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement;
3. offsets costs with grants or other alternate sources of payment; and,
4. complies in each and every relevant respect with the Impact Fees Act.

LYRB makes this certification with the following caveats:

1. All of the recommendations for implementations of the IFFP made in the IFFP documents or in the IFA documents are followed by City Staff and elected officials.
2. If all or a portion of the IFFP or IFA are modified or amended, this certification is no longer valid.
3. All information provided to LYRB is assumed to be correct, complete, and accurate. This includes information provided by the City as well as outside sources.

DEFINITIONS

The following acronyms or abbreviations are used in this document:

AF: Acre Foot

ERU: Equivalent Residential Unit

GAL: Gallons

GPM: Gallons per Minute

GPD: Gallons per Day

IFA: Impact Fee Analysis

IFFP: Impact Fee Facilities Plan

LOS: Level of Service

LYRB: Lewis Young Robertson and Burningham, Inc.

MG: Million Gallons

MGD: Million Gallons per Day

SECTION 1: EXECUTIVE SUMMARY

The purpose of this Impact Fee Analysis (IFA), is to fulfill the requirements established in Utah Code Title 11 Chapter 36a, the "Impact Fees Act," and help Logan City (the "City") fund necessary capital improvements for future growth. This document will address the future sewer treatment infrastructure needed to serve new development through the next ten years, as well as the appropriate impact fees the City may charge to new growth to maintain the level of service.

- **Impact Fee Service Area:** The Service Area for the wastewater treatment impact fees includes the communities of Logan, Smithfield, Hyde Park, North Logan, River Heights, Providence, Nibley, and Utah State University.
- **Demand Analysis:** The demand unit utilized in this analysis is existing flow and equivalent residential units, or ERUs. Currently, the Service Area has an estimated flow of 13.7 Million Gallons Per Day (MGD), for a total of 55,918 ERUs. Based on a growth rate of 2.5 percent identified in the 2018 Sewer Collection Master Plan (see p.36), an additional 16,053 ERUs will be added to the System. A more moderate growth of 1.5 percent will produce another 9,112 ERUs. Regardless of the projected growth, the Sewer Treatment Facility has a defined capacity of 18 MGD annual average demand. Therefore, the impact fee analysis will allocate the available capacity based on the current level of service.
- **Level of Service:** The level of service identified in the Master Plan assumes each future ERU will contribute an average sanitary flow of 0.17 GPM, or 70 gallons per person per day. This equates to 245 GPD per ERU, assuming an average household size of 3.5 people for each.[1]
- **Excess Capacity:** While the construction of the new treatment facility is needed to further treat for phosphorus and ammonia removal, existing facilities will continue to be utilized to provide storage facilities to existing and future ERUs to account for max day flows. This analysis includes a buy-in to existing facilities to account for this capacity. The existing sewer treatment infrastructure has an original value of $16,561,911.
- **Capital Facilities Analysis:** A new treatment facility is anticipated to cost a total of $162,146,550. $38,735,009, or 24 percent of the total cost, is considered impact fee eligible capital cost.
- **Funding of Future Facilities:** This analysis assumes future growth-related facilities will be funded through a combination of wastewater revenues, debt financing, and impact fee revenues.

PROPOSED WASTEWATER TREATMENT IMPACT FEE

The wastewater treatment impact fees proposed in this analysis will be assessed within the Service Area. **Table 1.1** illustrates the appropriate fee associated with wastewater treatment projects occurring within the planning horizon.

TABLE 1.1: IMPACT FEE PER ERU

	TOTAL COST	% TO GROWTH	COST TO IFFP	ERUS SERVED	COST PER ERU
Existing Facilities (Buy-In)	$16,561,911	24%	$3,956,456	17,551	$225
Future Facilities	$162,146,550	24%	$38,735,009	17,551	$2,207
Professional Expense	$13,050	100%	$13,050	17,551	$1
Impact Fee Fund Balance	-	100%	-	17,551	-
Total per ERU			**$42,704,516**		**$2,433**

NON-STANDARD WASTEWATER TREATMENT IMPACT FEES

The City reserves the right under the Impact Fees Act to assess an adjusted fee that more closely matches the true impact that the land use will have upon public facilities.[2] This adjustment could result in a lower impact fee if the City determines that a particular user may create a different impact than what is standard for its land use. The formula for a non-standard impact fee calculation is shown below.

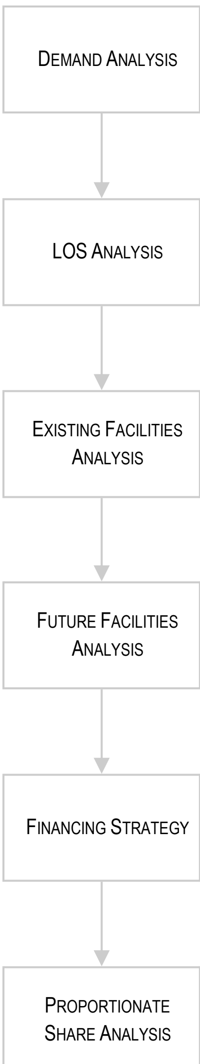
NON-STANDARD IMPACT FEE FORMULA

Estimated Flow/245 GPD x $2,433 = Impact Fee

[1] 2018 Wastewater Collection Master Plan IFFP, p. 36.
[2] 11-36a-402(1)(c)

SECTION 2: GENERAL IMPACT FEE METHODOLOGY

FIGURE 2.1: IMPACT FEE METHODOLOGY



The purpose of this study is to fulfill the requirements of the Impact Fees Act regarding the establishment of an IFA[3]. The IFFP, completed by Gardner Engineering, is designed to identify the demands placed upon the City's existing facilities by future development and evaluate how these demands will be met by the City, as well as the future improvements required to maintain the existing LOS. The purpose of the IFA is to proportionately allocate the cost of the new facilities and any excess capacity to new development, while ensuring that all methods of financing are considered. The following elements are important considerations when completing an IFA.

DEMAND ANALYSIS
The demand analysis serves as the foundation for this analysis. This element focuses on a specific demand unit related to each public service – the existing demand on public facilities and the future demand as a result of new development that will impact system facilities.

LEVEL OF SERVICE ANALYSIS
The demand placed upon existing public facilities by existing development is known as the existing LOS. Through the inventory of existing facilities, combined with the growth assumptions, this analysis identifies the LOS which is provided to a community's existing residents and ensures that future facilities maintain these standards. Any excess capacity identified within existing facilities can be apportioned to new development. Any demand generated from new development that overburdens the existing system beyond the existing capacity justifies the construction of new facilities.

EXISTING FACILITY INVENTORY
In order to quantify the demands placed upon existing public facilities by new development activity, the analysis provides an inventory existing **system** facilities. The inventory of existing facilities is important to properly determine the excess capacity of existing facilities and the utilization of excess capacity by new development.

FUTURE CAPITAL FACILITIES ANALYSIS
The demand analysis, existing facility inventory and LOS analysis allow for the development of a list of capital projects necessary to serve new growth and to maintain the existing system. This list includes any excess capacity of existing facilities, as well as future **system improvements** necessary to maintain the level of service. Any demand generated from new development that overburdens the existing system beyond the existing capacity justifies the construction of new facilities.

FINANCING STRATEGY
This analysis must also include a consideration of all revenue sources, including impact fees, future debt costs, alternative funding sources and the dedication of system improvements, which may be used to finance system improvements.[4] In conjunction with this revenue analysis, there must be a determination that impact fees are necessary to achieve an equitable allocation of the costs of the new facilities between the new and existing users.[5]

PROPORTIONATE SHARE ANALYSIS
The written impact fee analysis is required under the Impact Fees Act and must identify the impacts placed on the facilities by development activity and how these impacts are reasonably related to the new development. The written impact fee analysis must include a proportionate share analysis, clearly detailing each cost component and the methodology used to calculate each impact fee. A local political subdivision or private entity may only impose impact fees on development activities when its plan for financing system improvements establishes that impact fees are necessary to achieve an equitable allocation of the costs borne in the past and to be borne in the future (UCA 11-36a-302).

[3]UC 11-36a-301,302,303,304
[4] UC 11-36a-302(2)
[5] UC 11-36a-302(3)

SECTION 3: OVERVIEW OF SERVICE AREA, DEMAND, AND LOS

SERVICE AREAS

Utah Code requires the impact fee enactment to establish one or more service areas within which impact fees will be imposed.[6] The Service Area for the wastewater impact fees includes the following areas:

- Logan
- Smithfield
- Hyde Park
- North Logan
- River Heights
- Providence
- Nibley
- Utah State University

Logan City is in the process of updating the lagoons to a mechanical plant in order to accommodate more stringent ammonia and phosphorous standards as well as future total nitrogen limits. Construction is estimated to be completed and the plant operational by the end of the year 2022.

TABLE 3.1: SERVICE AREA ERU GROWTH PROJECTIONS

	FLOW (MODERATE GROWTH RATE 1.5%)	ERUs	FLOW (HIGH GROWTH RATE 2.5%)	ERUs
2018	13,700,000	55,918	13,700,000	55,918
2019	13,905,500	56,757	14,042,500	57,316
2020	14,114,083	57,609	14,393,563	58,749
2021	14,325,794	58,473	14,753,402	60,218
2022	14,540,681	59,350	15,122,237	61,723
2023	14,758,791	60,240	15,500,293	63,267
2024	14,980,173	61,144	15,887,800	64,848
2025	15,204,875	62,061	16,284,995	66,469
2026	15,432,948	62,992	16,692,120	68,131
2027	15,664,443	63,937	17,109,423	69,834
2028	15,899,409	64,896	17,537,158	71,580
2029	16,137,900	65,869	17,975,587	73,370
2030	16,379,969	66,857	18,424,977	75,204
IFFP Growth (2019-2029)	2,232,400	9,112	3,933,087	16,053

Source: LYRB projections, based on data from Logan City, and the 2018 Wastewater Collection Master plan.

DEMAND UNITS

The demand unit utilized in this analysis is existing flow and equivalent residential units, or ERUs. The primary impact on the system will be growth in residential and commercial ERUs through development. As development occurs within the Service Area, it generates increased demand on the wastewater treatment system, above the current demand. The system improvements identified in this study are designed to maintain the existing level of service for any new or redeveloped property within the Service Area. If growth assumptions change substantially, the impact fee analysis should be updated to reflect these changes.

Currently, the Service Area has an estimated flow of 13.7 Million Gallons Per Day (MGD), for a total of 55,918 ERUs. Based on a growth rate of 2.5 percent identified in the 2018 Sewer Collection Master Plan (see p.36), an additional 16,053 ERUs will be added to the System. A more moderate growth of 1.5 percent will produce another 9,112 ERUs. Regardless of the projected growth, the Sewer Treatment Facility has a defined capacity of 18 MGD annual average demand. Therefore, the impact fee analysis will allocate the available capacity based on the current level of service.

LEVEL OF SERVICE STANDARDS

Impact fees cannot be used to finance an increase in the level of service to current or future users of capital improvements. Therefore, it is important to identify the wastewater level of service to ensure that the new capacities of projects financed through impact fees do not exceed the established standard. The 2018 Sewer Collection Master Plan identifies the existing level of service on a per ERU basis. According to the Impact Fee Act, the proposed level of service may diminish or equal the existing level of service. The existing level of service identified in the Master Plan assumes each future ERU will contribute an average sanitary flow of 0.17 GPM, or 70 gallons per person per day. This equates to 245 GPD per ERU, assuming an average household size of 3.5 people for each.[7]

[6] UC 11-36a-402(1)(a)
[7] 2018 Wastewater Collection Master Plan IFFP, p. 36.

SECTION 4: EXISTING FACILITIES INVENTORY

EXCESS CAPACITY

The Environmental Department's existing regional wastewater treatment consists of 460 acres of lagoons, and 240 acres of wetlands to treat and further polish wastewater. While the construction of the new treatment facility is needed to further treat for phosphorus and ammonia removal, existing facilities will continue to be utilized to provide storage facilities to existing and future ERUs to account for max day flows. This analysis includes a buy-in to existing facilities to account for this capacity. The existing sewer treatment infrastructure has an original value of $16,561,911. This includes pump stations, land, and improvements. The capacity of the lagoon system is applied to the total treatment capacity of the system, or 18 MGD.

MANNER OF FINANCING EXISTING PUBLIC FACILITIES

There is currently no outstanding debt related to the wastewater treatment system. This analysis assumes future growth-related facilities will be funded through a combination of utility revenues, impact fee revenues and debt financing.

SECTION 5: CAPITAL FACILITY ANALYSIS

The estimated costs attributed to new growth were analyzed based on existing development versus future development patterns. From this analysis, a portion of future development costs were attributed to new growth and included in this impact fee analysis as shown in **Table 5.1**. Capital projects related to curing existing deficiencies were not included in the calculation of the impact fees. The costs of projects related to curing existing deficiencies cannot be funded through impact fees.

Based on capacity of the proposed improvements, the treatment facility can serve an additional 4.3 MGD, which represent 24 percent of the total capacity of the facility. Based on the existing LOS, this will serve an additional 17,551 ERUs.

TABLE 5.1: ILLUSTRATION OF CAPITAL IMPROVEMENTS SCHEDULED TO BE COMPLETED

FUTURE FACILITIES	TOTAL CONSTRUCTION YEAR COST	% TO GROWTH	COST TO GROWTH	% CITY FUNDED	TOTAL IMPACT FEE ELIGIBLE COST
New Treatment Facility	$150,271,315	24%	$35,898,147	100%	$35,898,147
Interest	$11,875,235	24%	$2,836,862	100%	$2,836,862
Total	**$162,146,550**		**$38,735,009**		**$38,735,009**

The treatment facility is anticipated to cost a total of $162,146,550. $38,735,009, or 24 percent of the total cost, is considered impact fee eligible capital cost.

SYSTEM VS. PROJECT IMPROVEMENTS

System improvements are defined as existing and future public facilities designed to provide services to service areas within the community at large.[8] Project improvements are improvements and facilities that are planned and designed to provide service for a specific development (resulting from a development activity) and considered necessary for the use and convenience of the occupants or users of that development.[9] To the extent possible, this analysis only includes the costs of system improvements related to new growth within the proportionate share analysis.

FUNDING OF FUTURE FACILITIES

The IFFP must also include a consideration of all revenue sources, including impact fees and the dedication of system improvements, which may be used to finance system improvements.[10] In conjunction with this revenue analysis, there must be a determination that impact fees are necessary to achieve an equitable allocation of the costs of the new facilities between the new and existing users.[11]

Other revenues such as utility rate revenues will be necessary to fund non growth-related projects and to fund growth-related projects when sufficient impact fee revenues are not available. In the latter case, impact fee revenues will be used to repay utility rate revenues for growth related projects. A brief description of alternative financing options is included below.

- **Utility Rate Revenues:** Utility rate revenues serve as the primary funding mechanism within enterprise funds. Rates are established to ensure appropriate coverage of all operations and maintenance expenses, debt service coverage, and capital project needs. Impact fee revenues are generally considered non-operating revenues and help offset future capital costs.
- **Grants, Donations and Other Contributions:** Grants and donations are not expected as a future funding source. The impact fees should be adjusted if grant monies are received. New development may be entitled to a reimbursement for any grants or donations received for growth related projects, or for developer funded IFFP projects.
- **Debt Financing:** The City will utilize debt financing to fund future capital facility projects.

The City has acquired low interest loans from the Utah Division of Water Quality, the State of Utah's Community Impact Board, and cash reserves or tax-exempt bonding in the public markets for the balance of the project. In addition, utility rate revenue and fund balances will be used to fund the project. Impact fees can be used to pay the proposed debt service, pay back existing rate payers and replenish the fund balance for the growth-related portions of the project. Future financing costs are illustrated in **Table 5.2**. A total of $11.8M in interest cost is included in this analysis and added to the total cost found in **Table 5.1**.

[8] 11-36a-102(21)
[9] 11-36a-102(14)
[10] 11-36a-302(2)
[11] 11-36a-302(3)

TABLE 5.2: ILLUSTRATION OF PROPOSED FINANCING MECHANISMS

	2016 TAXABLE SEWER TREATMENT REVENUE BONDS		2018A STATE SEWER REVENUE BONDS		2018B CIB SEWER REVENUE BONDS	
FISCAL YEAR	INTEREST	PRINCIPAL	INTEREST	PRINCIPAL	INTEREST	PRINCIPAL
2019-20	-	-	23,504	-	94,941	-
2020-21	-	-	300,000	532,000	150,000	430,000
2021-22	-	3,257,000	292,020	540,000	143,550	435,000
2022-23	500,573	3,282,000	283,920	549,000	137,025	440,000
2023-24	475,958	3,306,000	275,685	557,000	130,425	445,000
2024-25	451,163	3,331,000	267,330	565,000	123,750	455,000
2025-26	426,180	3,356,000	258,855	574,000	116,925	465,000
2026-27	401,010	3,381,000	250,245	582,000	109,950	470,000
2027-28	375,653	3,406,000	241,515	591,000	102,900	480,000
2028-29	350,108	3,432,000	232,650	600,000	95,700	490,000
2029-30	324,368	3,458,000	223,650	609,000	88,350	495,000
2030-31	298,433	3,484,000	214,515	618,000	80,925	500,000
2031-32	272,303	3,510,000	205,245	627,000	73,425	510,000
2032-33	245,978	3,536,000	195,840	637,000	65,775	520,000
2033-34	219,458	3,563,000	186,285	646,000	57,975	530,000
2034-35	192,735	3,589,000	176,595	656,000	50,025	535,000
2035-36	165,818	3,616,000	166,755	666,000	42,000	545,000
2036-37	138,698	3,643,000	156,765	676,000	33,825	550,000
2037-38	111,375	3,671,000	146,625	686,000	25,575	560,000
2038-39	83,843	3,698,000	136,335	696,000	17,175	570,000
2039-40	56,108	3,726,000	125,895	707,000	8,625	575,000
2040-41	28,163	3,755,000	115,290	718,000	-	-
2041-42	-	-	104,520	729,000	-	-
2042-43	-	-	93,585	740,000	-	-
2043-44	-	-	82,485	751,000	-	-
2044-45	-	-	71,220	762,000	-	-
2045-46	-	-	59,790	774,000	-	-
2046-47	-	-	48,180	785,000	-	-
2047-48	-	-	36,405	797,000	-	-
2048-49	-	-	24,450	809,000	-	-
2049-50	-	-	12,315	821,000	-	-
Total	**$5,117,925**	**$70,000,000**	**$5,008,469**	**$20,000,000**	**$1,748,841**	**$10,000,000**

PROPOSED CREDITS OWED TO DEVELOPMENT

The Impact Fees Act requires a local political subdivision or private entity to ensure that the impact fee enactment allows a developer, including a school district or a charter school, to receive a credit against or proportionate reimbursement of an impact fee if the developer: (a) dedicates land for a system improvement; (b) builds and dedicates some or all of a system improvement; or (c) dedicates a public facility that the local political subdivision or private entity and the developer agree will reduce the need for a system improvement.[12] The facilities must be considered system improvements or be dedicated to the public, and offset the need for an improvement identified in the IFFP.

EQUITY OF IMPACT FEES

Impact fees are intended to recover the costs of capital infrastructure that relate to future growth. The impact fee calculations are structured for impact fees to fund 100 percent of the growth-related facilities identified in the proportionate share analysis as presented in the impact fee analysis. Even so, there may be years that impact fee revenues cannot cover the annual growth-related expenses. In those years, other revenues such as general fund revenues will be used to make up any annual deficits. Any borrowed funds are to be repaid in their entirety through impact fees.

[12] 11-36a-402(2)

NECESSITY OF IMPACT FEES

An entity may only impose impact fees on development activity if the entity's plan for financing system improvements establishes that impact fees are necessary to achieve parity between existing and new development. This analysis has identified the improvements to public facilities and the funding mechanisms to complete the suggested improvements. Impact fees are identified as a necessary funding mechanism to help offset the costs of new capital improvements related to new growth. In addition, alternative funding mechanisms are identified to help offset the cost of future capital improvements.

SECTION 6: WASTEWATER TREATMENT IMPACT FEE CALCULATION

Impact fees are calculated based on many variables centered on proportionality and level of service. The previous sections identified the future demand, the existing and proposed level of service, the availability of excess capacity and the needed future facilities to serve new development. The following section identifies the appropriate impact fee to be assessed to new development to maintain the existing level or service.

PROPOSED WASTEWATER TREATMENT IMPACT FEE

Impact fees can be calculated based on a defined set of costs specified for future development, usually defined within the Master Plan, Capital Improvement Plan and IFFP. The total project costs are divided by the total demand units the projects are designed to serve. Under this methodology, it is important to identify the existing level of service and determine any excess capacity in existing facilities that could serve new growth. Impact fees are then calculated based on many variables centered on proportionality share and level of service.

The wastewater treatment impact fees proposed in this analysis will be assessed within the Service Area. The table below illustrates the appropriate impact fee to maintain the existing level or service, based on the assumptions within this document. The fee below represents the maximum allowable impact fee assignable to new development. The total fee per ERU is **$2,433**.

TABLE 6.1: IMPACT FEE PER ERU

	TOTAL COST	% TO GROWTH	COST TO IFFP	ERUS SERVED	COST PER ERU
Existing Facilities (Buy-In)	$16,561,911	24%	$3,956,456	17,551	$225
Future Facilities	$162,146,550	24%	$38,735,009	17,551	$2,207
Professional Expense	$13,050	100%	$13,050	17,551	$1
Impact Fee Fund Balance	-	100%	-	17,551	-
Total per ERU			**$42,704,516**		**$2,433**

NON-STANDARD IMPACT FEES

The City reserves the right under the Impact Fees Act[13] to assess an adjusted fee that more closely matches the true impact that the land use will have upon the wastewater system. This adjustment could result in a lower impact fee if evidence suggests a particular user will create a different impact than what is standard for its category. The formula for a non-standard impact fee calculation is shown below.

NON-STANDARD IMPACT FEE FORMULA

Estimated Flow/245 GPD x $2,433 = Impact Fee

CONSIDERATION OF ALL REVENUE SOURCES

The Impact Fees Act requires the proportionate share analysis to demonstrate that impact fees paid by new development are the most equitable method of funding growth-related infrastructure. See Section 5 for further discussion regarding the consideration of revenue sources.

EXPENDITURE OF IMPACT FEES

Legislation requires that impact fees should be spent or encumbered within six years after each impact fee is paid. Impact fees collected in the next five to six years should be spent only on those projects outlined in the IFFP as growth related costs to maintain the level or service.

GROWTH-DRIVEN EXTRAORDINARY COSTS

The City does not anticipate any extraordinary costs necessary to provide services to future development.

SUMMARY OF TIME PRICE DIFFERENTIAL

The Impact Fees Act allows for the inclusion of a time price differential to ensure that the future value of costs incurred at a later date are accurately calculated to include the costs of construction inflation. While an inflation component may be included in the impact fee analysis to reflect the future cost of facilities, at the request of the City it is not considered in the cost estimates in this study. However, the impact fee analysis should be updated regularly to account for changes in costs estimates over time.

[13] 11-36a-402(1)(c)

Agenda Item #12 & 13

Description	Presentation and Workshop: Preliminary Subdivision Plat for Firefly Estates, located at approximately 2200 South and 1200 West and A public hearing to receive comments regarding a Preliminary Subdivision Plat for Firefly Estates, located at approximately 2200 South and 1200 West
Department	Planning
Presenter	Stephen Nelson, City Planner
Recommendation	Receive the presentation and ask questions regarding the Preliminary Subdivision Plat for Firefly Estates, located at approximately 2200 South and 1200 West
Reviewed By	Planning Commission, City Manager, City Planner, City Public Works Director, City Engineer

Background

This item is for the preliminary plat for the Firefly Estates R-PUD Development. The applicant has decided to turn in both an R-PUD application and Preliminary Plat application at the same time. Because it involves the same development, many of the items in the report for the R-PUD application will apply, but there will need to be two different motions, one for the overlay application and another for the preliminary plat. The approval of this application partly hinges on the approval of the overlay application. If the Firefly Estate R-PUD application is denied or continued then the preliminary plat should be denied or continued as well.

Utility Lines and Easements

The applicant has shown a preliminary plan for connecting utilities to Nibley City's utility system. Nibley City engineer and public works director have reviewed the plan and the City has no major concerns.

Canals

The canal company has been shown the proposed plat and has signed a letter stating they are reviewing the plans (attached). The company has requested that all canals be piped.

Roads

Nibley City's transportation master plan shows that 1200 W/Meadow Lane connects to Logan City at the northern boundary of the property (the orange road). This roadway is planned to be an 80' wide arterial roadway and will serve as one of the main roadways in and out of the Nibley City. The applicant is proposing to build the roadway as required in our master plan.

The applicant will need to provide some traffic calming features on the north end as required by NCC 21.12.060 (E) in Meadow Lane. The applicant has shown islands on the plat.

The Applicant will also need to align 1000 W as shown in the plan and make improvements to 2200 S.

The applicant's plat complies with the Transportation Master Plan.

The private roadway and alley access to the back of the townhomes is allowed under NCC 19.32.080 (B)(3).

Findings and Recommendations:

Staff recommends the City Council finds the following for the Preliminary Plat

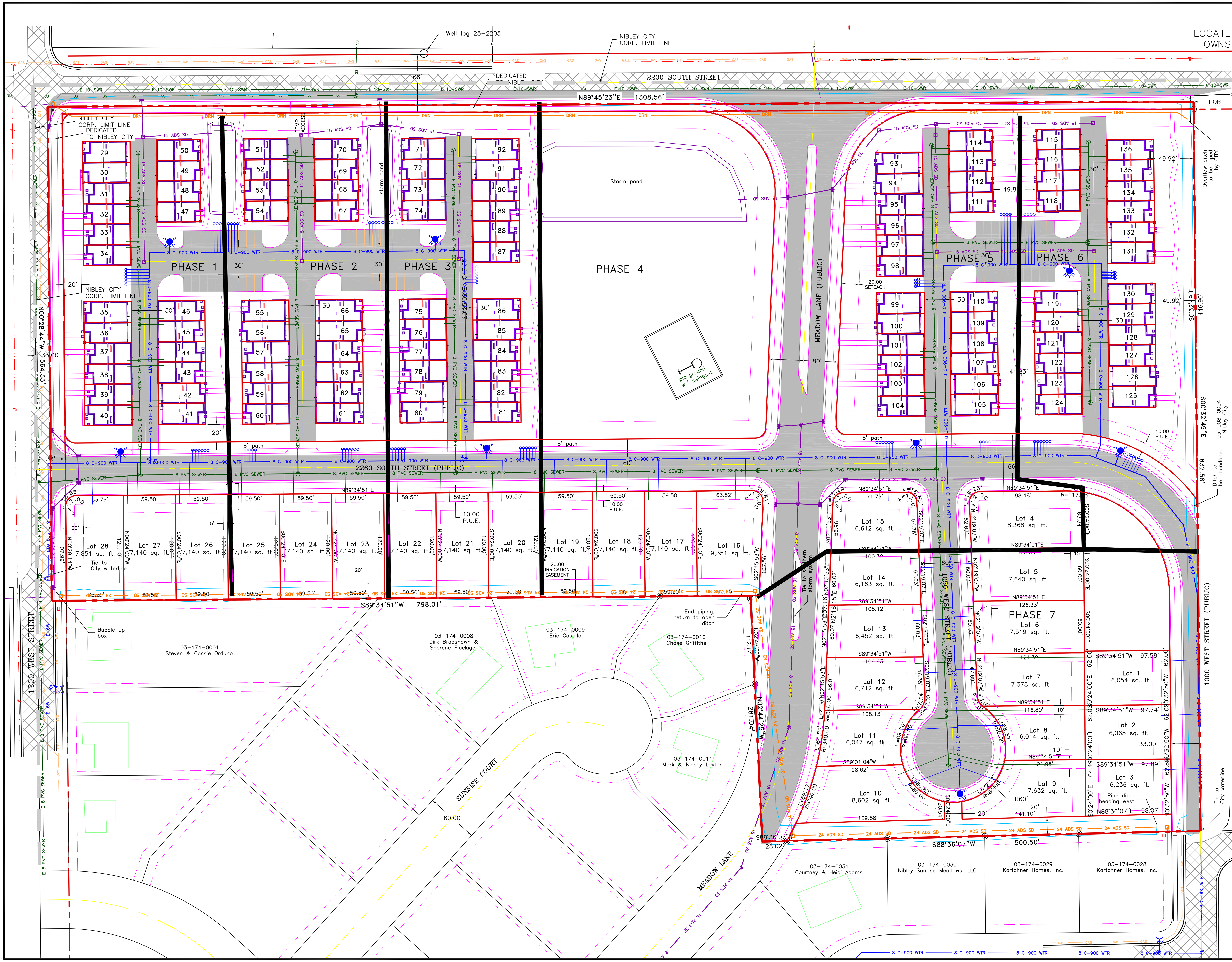
1. Needs a legal description of the property
2. Phasing needs to be altered to provide for two access once the total number of lots is greater than 30. Staff recommends that the private drive in Phase 2 access 2260 S and 2200 S in order to provide that access.

3. Staff will need more detailed construction drawings for Meadow Lane and the traffic calming features before final approval of the subdivision
4. General lot size, setbacks and other zoning requirements comply with R-PUD standards as listed in NCC 21.

FIREFLY ESTATES

LOCATED IN THE SE QUARTER OF SECTION 17,
TOWNSHIP 11 NORTH, RANGE 1 EAST, SLB&M
1050 WEST 2200 SOUTH
NIBLEY, UTAH

PRELIMINARY PLAT



SCALE: 1"=50' (24x36 PLAN SET)

LEGEND

- BOUNDARY LINE
- LOT LINE
- PHASE LINE
- STREET CENTERLINE
- EASEMENT (PUE–PUBLIC UTILITY EASEMENT)
- SETBACK LINE
- CORPORATE LIMIT LINE
- EXISTING GAS
- EXISTING POWER
- EXISTING FENCE
- EXISTING SEWER
- EXISTING PRESSURE SEWER
- PROPOSED SEWER
- EXISTING WATER
- PROPOSED WATER
- EXISTING STORM
- PROPOSED STORM
- EXISTING DITCH
- PROPOSED DITCH RE–ROUTE
- EXIST MNR CONTOUR (1')
- EXIST MJR CONTOUR (5')
- EXISTING ASPHALT
- PROPOSED ASPHALT

SUMMARY:
TOTAL AREA: 20.11 ac.
PUBLIC ROADS: 4.61 ac.
NET DEVELOPABLE GROUND: 15.5 ac.

TOTAL UNITS: 136
SINGLE FAMILY LOTS: 28
TOWNHOUSE UNITS: 108
AVERAGE SINGLE FAMILY LOT SIZE: 7109
SINGLE FAMILY HOME SETBACK = 20'
OPEN SPACE: 6.95 ac. (44.84%)
PRIVATE DRIVEWAYS: 1.79 ac.

LEGAL DESCRIPTION

Part of Section 17, Township 11 North, Range 1 East of the Salt Lake Base and Meridian described as follows:

Commencing East Quarter Corner of said Section 17 monumented with a Brass Cap monument thence S 89°45'23" W 1324.55 feet; thence South 24.75 feet to the POINT OF BEGINNING and running

thence S 00°32'49" E 832.58 feet;

thence S 88°36'07" W 500.50 feet (S88°35'24"W, By Record) along the north line of Sunrise Meadows Subdivision, Phase 8 and its projection thereof;
thence along the boundary of Sunrise Meadows Subdivision, Phase 1 the next two courses:
1) thence N 02°44'25" W 281.04 feet (N 02°45'21" W, By Record);
2) thence S 89°34'51" W 798.01 feet (S 89°36'00" W, By Record);
thence N 00°28'44" W 564.33 feet;
thence N 89°45'23" E 1,308.56 feet to the point of beginning, containing 20.11 acres, more or less.

POINT OF BEGINNING TIE

S89°45'23"W 1324.55'
SOUTH 24.75'
POB
E¼ SECTION 17
Brass cap
Elev: 4498.65

REGISTERED PROFESSIONAL ENGINEER
NO. 368590
Adam Mackelprang
ADAM W. MACKELPRANG
1-21-2020
STATE OF UTAH

ALLIANCE CONSULTING ENGINEERS
150 EAST 200 NORTH SUITE P
LOGAN, UTAH 84321
(435)755-5121
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OWNER:
RETURN DEVELOPMENT
CHRISTOPHER HUFFMAN(801)557-3170
ETHAN POPPLETON (435)760-6934
4505 S. WASATCH BLVD, STE 150
HOLLADAY, UTAH 84124

No.	REVISIONS/ SUBMISSIONS	DATE

REVIEWED :
CAD FILE :
DRAWN :
PROJECT NO. :

PROJECT TITLE
FIREFLY ESTATES
945 WEST 2200 SOUTH
LOGAN, UTAH 84321

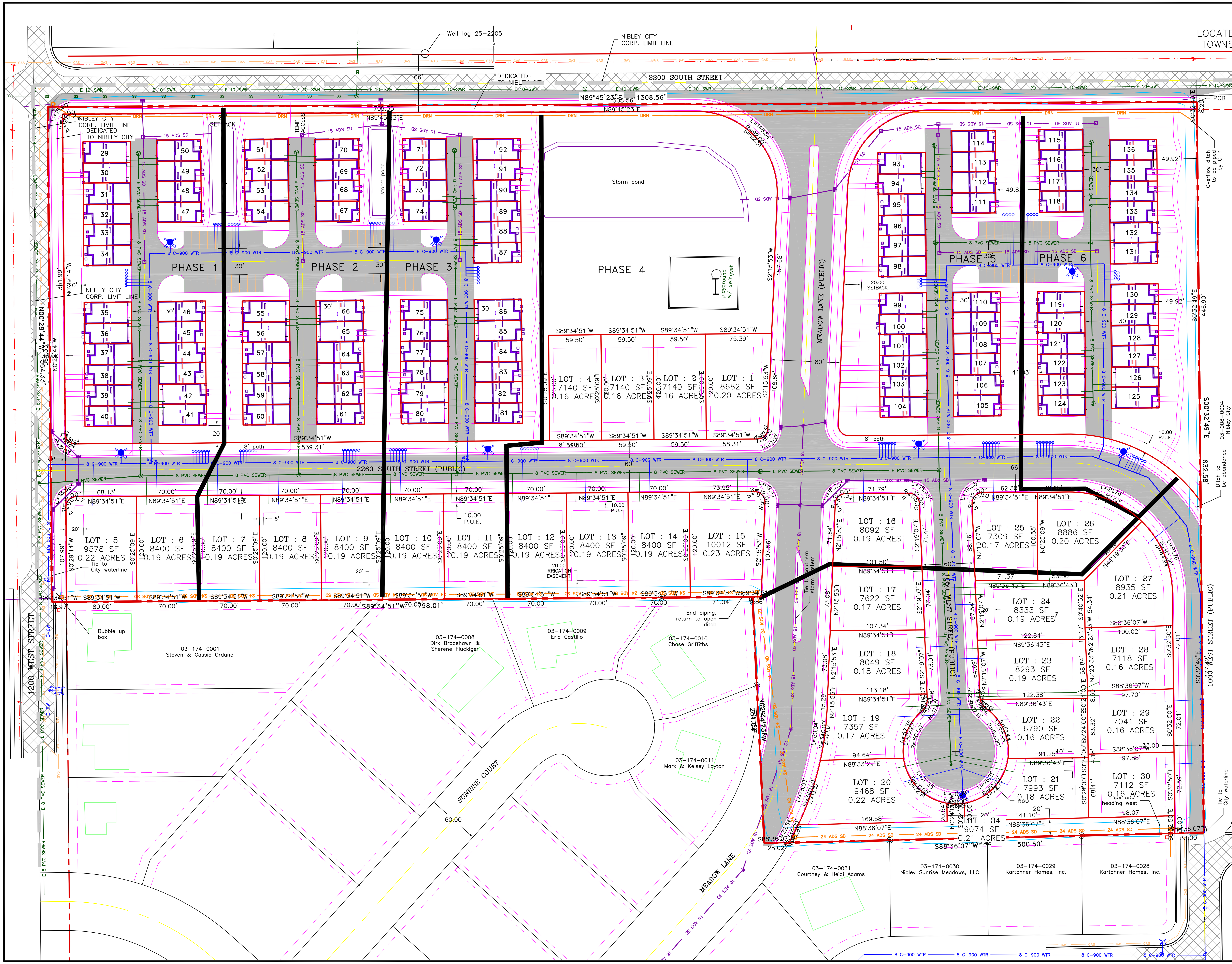
DRAWING TITLE
PRELIMINARY PLAT

DATE : NOV,2019
DRAWING No.

FIREFLY ESTATES

LOCATED IN THE SE QUARTER OF SECTION 17, TOWNSHIP 11 NORTH, RANGE 1 EAST, SLB&M
1050 WEST 2200 SOUTH
NIBLEY, UTAH

PRELIMINARY PLAT



SCALE: 1"=50' (24x36 PLAN SET)

LEGEND

- BOUNDARY LINE
- LOT LINE
- PHASE LINE
- STREET CENTERLINE
- EASEMENT (PUE=PUBLIC UTILITY EASEMENT)
- SETBACK LINE
- CORPORATE LIMIT LINE
- EXISTING GAS
- EXISTING POWER
- EXISTING FENCE
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- EXISTING PRESSURE SEWER
- PROPOSED SEWER
- EXISTING WATER
- PROPOSED WATER
- EXISTING STORM
- PROPOSED STORM
- EXISTING DITCH
- PROPOSED DITCH RE-ROUTE
- EXIST MNR CONTOUR (1')
- EXIST MJR CONTOUR (5')
- EXISTING ASPHALT
- PROPOSED ASPHALT

SUMMARY:
TOTAL AREA: 20.11 ac.
PUBLIC ROADS: 4.61 ac.
NET DEVELOPABLE GROUND: 15.5 ac.

TOTAL UNITS: 138
SINGLE FAMILY LOTS: 30
SINGLE FAMILY AVG. LOT SIZE: 8123 s.f.
TOWNHOUSE UNITS: 108
SINGLE FAMILY HOME SETBACK = 20'
OPEN SPACE: 5.90 ac. (38.06%)
PRIVATE DRIVEWAYS: 1.79 ac.

LEGAL DESCRIPTION

Part of Section 17, Township 11 North, Range 1 East of the Salt Lake Base and Meridian described as follows:

Commencing East Quarter Corner of said Section 17 monumented with a Brass Cap monument thence S 89°45'23" W 1324.55 feet; thence South 24.75 feet to the POINT OF BEGINNING and running

thence S 00°32'49" E 832.58 feet;

thence S 88°36'07" W 500.50 feet (S88°35'24"W, By Record) along the north line of Sunrise Meadows Subdivision, Phase 8 and its projection thereof;
thence along the boundary of Sunrise Meadows Subdivision, Phase 1 the next two courses:
1) thence N 02°44'25" W 281.04 feet (N 02°45'21" W, By Record);
2) thence S 89°34'51" W 798.01 feet (S 89°36'00" W, By Record);
thence N 00°28'44" W 564.33 feet;
thence N 89°45'23" E 1,308.56 feet to the point of beginning, containing 20.11 acres, more or less.

POINT OF BEGINNING TIE

S89°45'23"W 1324.55'
SOUTH 24.75'
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E¼ SECTION 17
Brass cap
Elev: 4498.65

REGISTERED PROFESSIONAL ENGINEER
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STATE OF UTAH

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4505 S. WASATCH BLVD, STE 150
HOLLADAY, UTAH 84124

No.	REVISIONS/ SUBMISSIONS	DATE

REVIEWED :
CAD FILE :
DRAWN :
PROJECT NO. :

PROJECT TITLE
FIREFLY ESTATES
945 WEST 2200 SOUTH
LOGAN, UTAH 84321

DRAWING TITLE
PRELIMINARY PLAT

DATE : NOV,2019
DRAWING No. 1

Agenda Item #14 & 15

Description	Presentation and Workshop: Ordinance 20-04—Residential Planned Unit Overlay Zone Application and Development Agreement for the Proposed Firefly Estates Development, located at approximately 2200 South and 1200 West and Public Hearing to receive comments regarding Ordinance 20-04—Residential Planned Unit Overlay Zone Application and Development Agreement for the Proposed Firefly Estates Development, located at approximately 2200 South and 1200 West
Department	Planning
Presenter	Stephen Nelson, Planner
Recommendation	Receive the presentation and ask questions regarding a Residential Planned Unit Overlay Zone Application for the proposed Firefly Estates Development, located at approximately 2200 South and 1200 West
Reviewed By	Planning Commission, City Manager, CityPlanner, City Public Works Director, City Engineer

Background

Nibley City Code 19.32 established the Residential Planned Unit Development, Overlay Zone. NCC 19.32.010 states the following:

19.32.010 Purpose And Intent

> *1. 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.

2. 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.

Unlike other developments and subdivisions, the applicant does not have a right to the density as listed in the overlay zone unless approved by the City. Therefore, the City Council should evaluate the application on two grounds.

1. Legislative: Is this a good location and design for an R-PUD?
2. Administrative: Does the Application meet the R-PUD, zoning, and subdivision requirements?

The applicant has also decided to submit both an R-PUD application and Preliminary Plat application at the same time. Each item is to be considered as separate agenda items, but the approval of the preliminary plat partly hinges on the decision for the R-PUD Application.

Nibley City Code 19.32.70 has the following for consideration for an R-PUD:

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.*

The City Council is a Land Use Authority for an R-PUD and preliminary plat. The Planning Commission has reviewed the application and made a recommendation listed below in this report.

Zoning

As you can see from the table below, the general lot sizes, open space, parking, density, and most other general zoning requirements are met for an R-PUD. There are a couple of items that still need to be addressed that are listed in the Recommended Finding Section below.

	R-PUD Requirements	Firefly Estates
Listed on R-PUD Application Map	Parcels need to be listed on the map	Yes
Total Gross Acres	N/A	20.11
Net Developable Acres	N/A	15.5
Total Open Space Land	35% (5.425 Acres)	38% (5.9 Acres)
Units Per Net Developable Acre	12 Max Units	8.2 Units
Total Number of Single Family Lots	20% min (28 Units)	21% (30 Units)
Min Lot Size for Single Family Lots	4,500 sq. ft.	6, 790 sq. ft.
Total Lots		138
Total Park Space Required	2.5 Acres with one swing set and one playground	Park provided, need to confirm the size of the park.
Parking	2 spaces for each unit (254), and one guest parking for every 3 units(41 guest spots)	Each unit has a two-car garage plus driveway for single-family homes. The development has 60 guest parking spots in townhomes.

Surrounding Zoning and Land Use

Above is a picture from Cache County's GIS Parcel Viewer with City Zoning and Logan City Zoning Layers turned on. Nibley City's and Logan's boundary is shown as the black line, Logan City is to the North and West of the proposed development, while Nibley City territory included the proposed development, the land to the South and East. To the North of the property, in Logan City, the red area is a Commercial Zone with commercial development taking place right now (a large warehouse in under construction), the green-gray color is Mixed Residential-20, which allows for up to 20 units per acre and there are currently apartments being built there. The RC is Logan's agricultural zoning with low density. To the south is a development built under the Nibley R-2A requirements. The lot sizes adjacent are .28 acres to .75 acres in size. To the East is Nibley City's Firefly Park (Dark Blue).

The Applicant has placed single-family homes along the south boarder adjacent to existing single-family homes as required in NCC 19.32.040 (C).

The City Council should consider the placement of this development in the context of surrounding development. The applicant turned in a map, shown below, that they proposed that this parcel could be a transition area that moves from higher density and commercial to single-family homes.

Utility Lines and Easements

The applicant has shown a preliminary plan for connecting utilities to Nibley City's utility system. Nibley City engineer and public works director have reviewed the plan and the City has no major concerns.

Canals

The canal company has been shown the proposed plat and has signed a letter stating they are reviewing the plans (attached). The company has requested that all canals be piped.

Roads

Nibley City's transportation master plan shows that 1200 W/Meadow Lane connects to Logan City at the northern boundary of the property (the orange road). This roadway is planned to be an 80' wide arterial roadway and will serve as one of the main roadways in and out of the Nibley City. The applicant is proposing to build the roadway as required in the City's master plan.

The applicant will need to provide some traffic calming features on the north end as required by NCC 21.12.060 (E) in Meadow Lane. The applicant has shown islands on the plat.

The Applicant will also need to align 1000 W as shown in the plan and make improvements to 2200 S.

The applicant's plat complies with the Transportation Master Plan.

The private roadway and alley access to the back of the townhomes is allowed under NCC 19.32.080 (B)(3).

Open Space and Maintenance Plan

The applicant has submitted a preliminary landscape plan for the open space and area around the townhomes. The applicant has also turned in a preliminary maintenance plan and has identified areas for the different amenities. The applicant will need to provide 2.5 acres of park space with a swing set and one playground as listed in NCC 19.32.050. Park space is provided, but the park space is not defined by acres so the City cannot confirm the park meets the minimum standard. The park space is also listed in Phase 4 of the development, the City requires a phased plan for the construction of the park meets the following code:

> *NCC 19.32.050 (A)*
>
> *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.*

The applicant has provided a Pedestrian Circulation Plan to show internal trails as required within the Subdivision. There will need to be a trail out of the end of the cul-de-sac, a 10' trail along Meadow Lane on the West side, and a trail that runs East and West. The east-west trail is provided as an 8' sidewalk on the north side of 2260 S to provide a connection from the development to Firefly and Heritage Park. The Pedestrian Circulation Plan meets these requirements.

It is essential to note in final approval for each phase that there are more landscaping details needed as listed in NCC 19.32.080 (B).

R-PUD Development Agreement

With each R-PUD, a Development Agreement must be approved. NCC 19.32.070 (C) (1)(c) states the following:

C. Approval with Development Agreement:

> *1. 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 and open space.*
> >
> > *(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.*
>
> *2. 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.*
>
> *3. 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.*

Any approval of the R-PUD application should have the condition that the development agreement is signed and recorded before the Overlay Approval takes effect.

Planning Commission Recommendation:

Commissioner Mansell moved to recommend approval of a Residential Planned Unit Overlay Zone Application for the proposed Firefly Estates Development, located approximately at 2200 South and 1200 West with the following conditions;

1. *that all the lots adjacent to existing neighborhoods be 80% of the minimum of the R-2A zone in square footage;*
2. *10th west is a one-way street with connection to meadow view lane;*
3. *and including all other items in the 1-2-2020 staff report as listed by Mr. Nelson. Commissioner Swenson seconded themotion.*

The motion passed unanimously 4-0; with Commissioner Mansell, Commissioner Swenson, Commissioner Albrect, and Commissioner Logan all in favor.

The applicant is willing to have parts of 1000 W as a one-way road, but the request is under review by City staff. The applicant had increased the average lot size on the southern border from .15 acres to .19 acres and has moved two lots. In order to meet the 80% of the size of the minimum lot size for an R-2A subdivision as requested by the Planning Commission, each lot would need to be .22 acres in size.

Staff Recommendations and Findings

The Findings for the R-PUD Application:

1. The Development Agreement must be approved and recorded before the R-PUD Overlay Zone can take effect.
2. Architectural standards have been provided in the form of pictures. The general layout appears to comply with the code with a few small exceptions. The development agreement should require that buildings are built to the standards within the code.
3. At least 50% of the units require a two-car garage. The applicant has stated that each unit will have a two-car garage.
4. A Pedestrian Circulation Map has been submitted. Shows sidewalks, sidewalk to each front door, crosswalks, trails, and a path to amenities. 1200 W needs a trail on the west side (see cross-section in Transportation Master Plan). Nibley City's Trail Master Plan shows an 8 foot that should go East and West on the parcel which has been provided. Trail out of the end of 1050 W only needs to be 8' wide, then need a 10' easement from the centerline of the canal pipe. See NCC 19.32.080 (B)(4) and NCC 21.12.060 (A)(B) and (F)
5. Each unit needs two parking spaces, needs at least 45 guest parking spaces. The proposed plat complies
6. Open Space Amenities: Need one playground and one swing set. The location has been provided. The applicant will need to build the park space in proportion as listed in 19.32.050 (A)(3). Staff has requested a phased plan for the park.
7. Note on plat needs to be updated to show 38% open space based on the Net Developable Land.
8. The applicant needs to confirm the size of the proposed park space and that it meets a minimum of 2.5 acres.
9. A Preliminary Maintenance Plan has been submitted. See 19.32.050 (B)

ORDINANCE 20-04

RESIDENTIAL PLANNED UNIT DEVELOPMENT OVERLAY ZONE APPLICATION AND DEVELOPMENT AGREEMENT FOR THE PROPOSED FIREFLY ESTATES DEVELOPMENT, LOCATED AT APPROXIMATELY 2200 SOUTH AND 1200 WEST

WHEREAS, Nibley City's Moderate Income Housing Plan encourages development of higher diversity of housing types; and

WHEREAS, the City Council created the Residential Planned Unit Overlay Zone to allow a higher diversity of housing types and developments; and

WHEREAS, the City Council and Planning Commission finds the proposed Firefly Estates meets the criteria listed in Nibley City Code and is a desirable place for a Residential Planned Unit Development Overlay Zone.

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

1. The attached Residential Planned Unit Development Overlay Zone Application be approved.
2. The attached Development Agreement be approved
3. The Overlay Zone shall not take place until the Developer and City have signed the attached Development Agreement and said Development Agreement has been properly recorded as required by Nibley City Code.
4. All ordinances, resolutions and polices of the City, or parts thereof, inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency. This repealer shall not be construed as reviving and law, order, resolution or ordinance or part thereof.

PASSED BY THE NIBLEY CITY COUNCIL THIS ___ DAY OF ______ 2020.

____
Shaun Dustin, Mayor

ATTEST:

____
David Zook, City Recorder

NIBLEY CITY
R-PUD DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Agreement"), entered into this _____ day of_____________, 20____, between_______________, hereinafter referred to as "Developer" and Nibley City, here in after referred to as "City", and

WHEREAS, __________________, hereinafter referred to as "the Development" seeks to obtain approval as a Residential Planned Unit Development ("R-PUD") under Nibley City Code Title 19, Chapter 32 ("R-PUD Ordinance"); and

WHEREAS, the approval of an R-PUD requires the City, by legislative act, to apply the R-PUD overlay zone to the Development, which act is preconditioned on the Developer entering into and complying with the terms of this Agreement; and

WHEREAS, the Developer has prepared preliminary plans for the Development, including a preliminary site plan, proposed amenity improvements, proposed open space, total number of units to be developed, proposed phasing, maintenance plans, and other supporting documentation as required by the City and the R-PUD Ordinance, ("Preliminary Plans") which plans are attached hereto and made part of this Agreement as Exhibit "A"; and

WHEREAS, it is necessary for the interest of the public welfare that the Development be developed and improved according to the specifications set forth in Nibley City Ordinances and Design Standards and this Agreement; and

NOW, THEREFORE, to induce Nibley City to approve the proposed R-PUD development and rezoning, the Developer does hereby unconditionally promise and agree with Nibley City as follows:

1. Developer hereby acknowledges receipt of a copy of the Nibley City Subdivision Ordinance, Nibley City Code Title 21, the R-PUD Ordinance and the Nibley City Design Standards. Developer hereby acknowledges that Developer, or an agent of Developer, has read and understands the provisions of the ordinances and standards and that Developer will fully and completely comply with the provisions and requirements therein contained.

2. Developer hereby acknowledges that the execution of this Agreement, on its own, does not constitute final plat approval, approval of the R-PUD rezone, or permission to begin development, and that any such approvals granted by the City may be granted only upon Developer's compliance with the terms of the Nibley City Ordinances, Design Standards, and this Agreement.

3. This Agreement, including the Preliminary Plans attached hereto, shall govern the Development. The Developer shall develop, construct, improve, and maintain the Development in a way that is substantially similar to the Preliminary Plans. In no event may the number of units in the Development exceed the number of units described in the Preliminary Plans.

4. Developer shall develop and construct all open space, landscaping, housing units, uttilites, amenities, roadways, and all other improvements in accordance with the standards listed within Nibley City Design Standards, Nibley City Code Title 21, Nibley City Code Title 21 Chapter 32, and as shown on the Preliminary Plans.

a. The Developer shall submit full construction drawings as part of final approval with each phase. The Developer shall be responsible for the construction and building of all roadways within the development, including Meadow Lane. The Developer shall also be required to make improvements to 2200 S and 1200 W as required by Nibley City Subdivision standards.

5. Developer shall develop the park and amenities in proportional phases as required in NCC 19.32.050(A). The development shall follow the phasing plan outlined in the Preliminary Plans.

6. Developer shall provide a preliminary maintenance plan with the Preliminary Plans for the maintenance of amenities as required by NCC 19.32.050(B).

7. Each unit shall provide a two car garage.

8. This Agreement and the Preliminary Plans may be revised or amended only upon the approval of the Nibley City Council, with the recommendation of the Planning Commission.

9. Developer shall ensure that there are no holders of interests that are superior in title to this Agreement, and that all interests, including but not limited to liens, mortgages, deeds of trust, and other similar devices, have been made subordinate to this Agreement. Developer shall provide such documentation as is necessary to establish these facts prior to receiving final plat approval or approval of the R-PUD rezone.

10. Developer shall comply with all applicable federal, state, county and City requirements, regulations and laws for each aspect of this Development, including payment of fees, provision of bonds and other guarantees, and compliance with design and construction standards. Nothing in this Agreement shall be deemed to relieve Developer from the obligation to comply with all such applicable laws, ordinances and requirements as now existing and as enacted and/or amended prior to construction. In the event of a conflict between this Agreement and any applicable federal, state, county, or city requirement, regulation, or law, the federal, state, county, or city requirement, regulation, or law shall prevail to the extent of such conflict.

11. Developer shall not engage in any construction or disturbance of soil in the development prior to issuance of the Notice to Proceed by the Public Works Director.

12. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto mentioned and permitted successors and assigns including all parties who acquire title to any portion of the Development; provided, however, that this Agreement cannot be otherwise assigned, transferred or conveyed by either party, without the express, written consent of the other party.

13. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid for any reason, the parties consider and intend that this Agreement shall be deemed amended to the extent necessary to make it consistent with such decision and the balance of this Agreement shall remain in full force and affect.

14. Time is of the Essence. Time is of the essence to this Agreement and every right or responsibility shall be performed within the times specified.

15. Mutual Drafting. Each party has participated in negotiating and drafting this Agreement and therefore no provision of this Agreement shall be construed for or against either party based on which party drafted any particular portion of this Agreement.

16. Entire Agreement. This Agreement, and all Exhibits thereto, is the entire agreement between the Parties and may not be amended or modified except either as provided herein or by a subsequent written amendment signed by all parties.

17. No Third Parties. This Agreement, and all Exhibits thereto, is intended for the sole benefit of the named parties thereto. No third party, except for permitted successors and assigns, shall have any right to enforce any of the terms or obligations herein.

18. Recordation and Running with the Land. This Agreement shall be recorded in the chain of title for the Development. This Agreement shall be deemed to run with the land and bind all future owners of any part of the Development.

19. Attorney Fees. Both Parties shall pay for their own attorney fees and costs arising out of or connected in any way to the execution of this Agreement. Any Party that prevails in any legal proceeding, including court proceedings, arbitration, and administrative proceedings, to enforce this Agreement or adjudicate any issues under or in connection with this Agreement will be entitled to recover its reasonable attorney fees, costs, and expenses of such proceedings.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first above written.

NIBLEY CITY	**DEVELOPER**
______________________________	______________________________
By: DAVID N. ZOOK	By:
Its: City Manager	
	______________________________
	By:

STATE OF UTAH)
:ss
County of Cache)

On this ____ day of ____________, 2019, personally appeared before me DAVID N. ZOOK, City Manager, the signer of the within instrument, who duly acknowledged to me that he executed the same as City Manager for Nibley City Corporation.

____
NOTARY PUBLIC

STATE OF UTAH)
: ss
County of Cache)

On the ____ day of ________________, 2019, personally appeared before me,_______________, Developer, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same.

____
NOTARY PUBLIC

Exhibit A

Preliminary Plans