



Nibley City
Planning Commission Meeting
Thursday, April 2, 2020
455 W. 3200 S.
Nibley, UT

6:30 p.m. Call to Order and Roll Call
 Approval of Agenda
 Approval of Minutes

1. **Workshop:** Accessory Dwelling Units
2. **Workshop:** Residential Planned Unit Development Code Update
3. **Workshop:** Rural Preservation Subdivision
4. Staff Report and Action Items
 - a. No meeting on April 16, 2020 discussion

*Planning Commission agenda items may be tabled or continued if 1) Additional information is needed in order to take action on the item, OR 2) The Planning Commission feels there are unresolved issues that may need further attention before the Commission is ready to make a motion. **No agenda item will begin after 10:00 p.m. without a unanimous vote of the Commission.** The Commission may carry over agenda items, scheduled late in the evening and not heard, to the next regularly scheduled meeting.*

*IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, REASONABLE
ACCOMMODATIONS FOR INDIVIDUALS WITH DISABILITIES WILL BE PROVIDED UPON REQUEST.
FOR ASSISTANCE, PLEASE CALL 752-0431 A MINIMUM OF 24 HOURS BEFORE THE MEETING.*



**Nibley City Planning
Commission
Agenda Item Report
April 2, 2020**

Agenda Item #1: Accessory Dwelling Units

Description

Workshop: Accessory Dwelling Units

Department

City Planning, Engineering, and Public Works

Action Type

Workshop

Recommendations

Review and make a recommendation

Reviewed By

City Planner

Background

An Accessory Dwelling Unit (ADU) is a secondary dwelling unit that is located on the same property as a primary dwelling unit. These take the form of basement apartments, guest houses, an apartment above the garage, etc. Nibley City's Moderate Income Housing Plan states the following as its first goal to address moderate income housing:

Allow for and reduce regulation related to accessory dwelling units in residential zones.

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

Moderate Income Housing Considerations

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

Timeframe: Early 2020

(Nibley City Moderate Income Housing Plan, 2019, p 18)



The 2016 Nibley City General Plan estimated that Nibley has anywhere from 20-30 ADUs in the City, all in the form of attached apartments. These apartments can serve as a way to provide affordable housing throughout the community and can allow property owners to more fully realize the value of their property.

Attached to this report is a presentation that was given at a Utah American Planning Association conference which provides additional information about ADU.

Cache County Monthly Planning Newsletter, February 2020 also provides some great information about ADUS: [Cache County Monthly Newsletter: February 2020](#)

A photograph of a light gray ADU (Accessory Dwelling Unit) with white trim. The building has a gabled roof and several multi-paned windows. A large tree stands to the right of the building, and a patio area with outdoor furniture and a green umbrella is visible in the background. The text "ADU Sizes in Nibley" is overlaid in white.

ADU Sizes in Nibley

Nibley Accessory Building Sizes

Lot Size	Maximum Square Footage	Maximum Building Height (Feet)
0 - 14,000 square feet	1,000	20
0.33 - 0.49 acre	1,200	20
0.5 - 0.74 acre	1,500	20
0.75 - 0.99 acre	3,000	30
1.0 - 1.99 acres	5,000	30
2.0 acres and above	No limit	30

Near 2600 S and 1000 W: .34 Acres



Perimeter ?

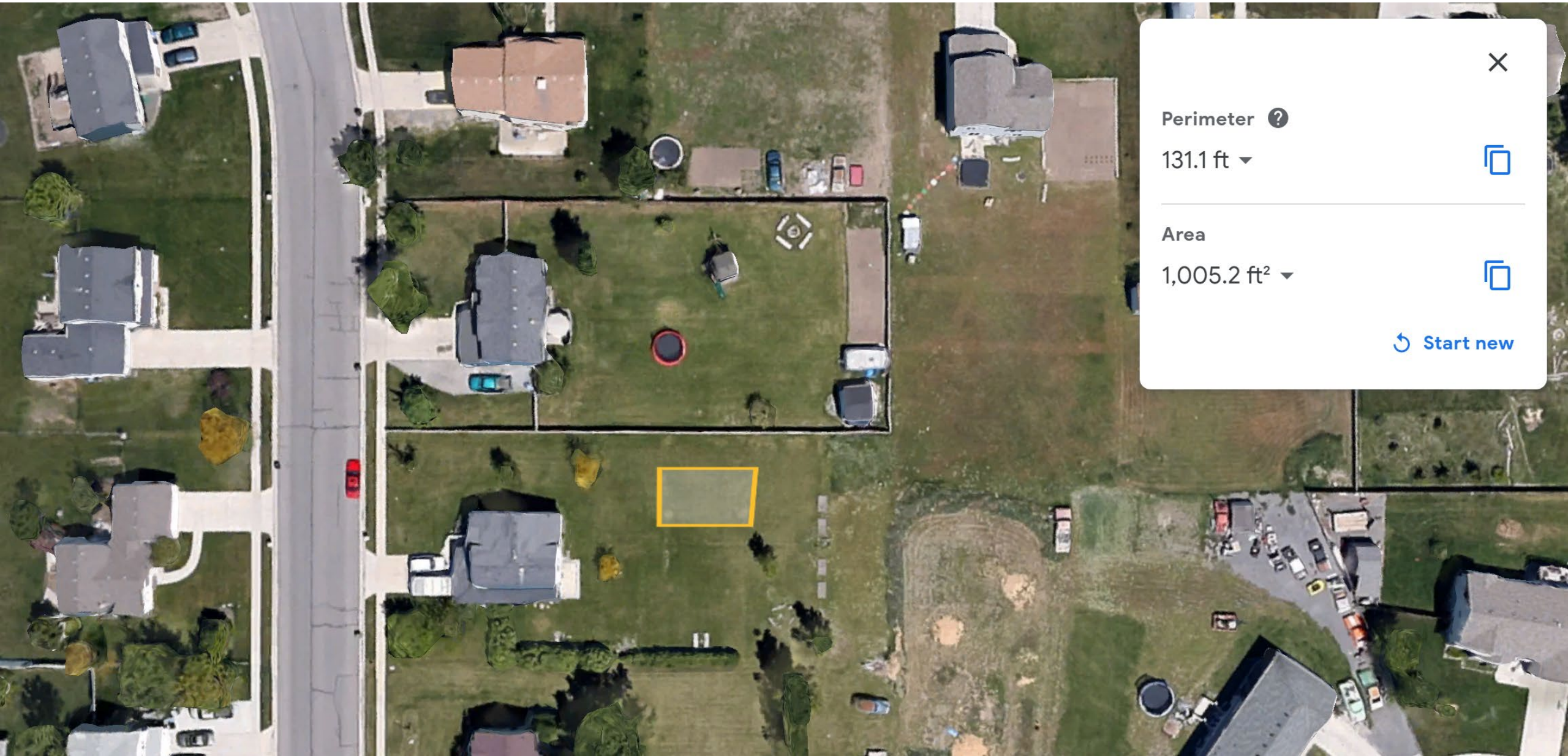
128.88 ft ▼

Area

1,005.75 ft² ▼

[↻ Start new](#)

In Elk Horn: .5 acres



×

Perimeter ?

131.1 ft ▼ 📄

Area

1,005.2 ft² ▼ 📄

[↻ Start new](#)

In Elk Horn: .5 acres



Perimeter ?

159.84 ft ▼

Area

1,496.63 ft² ▼

↻ Start new

On Hollow Road: Lot is 2 Acres

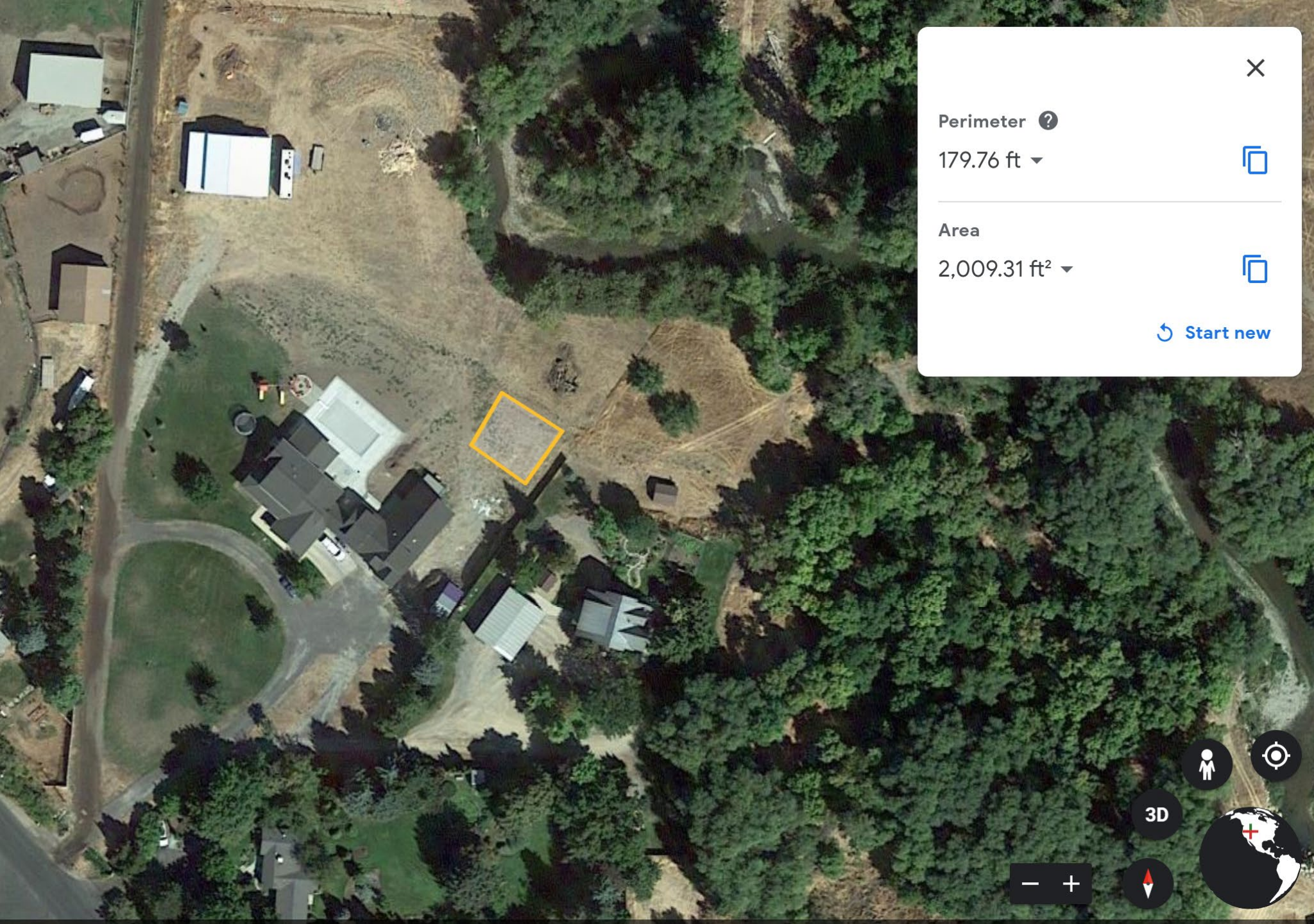


×

Perimeter ?
151.38 ft ▼ 📄

Area
1,410.37 ft² ▼ 📄

[↻ Start new](#)



×

Perimeter ?

179.76 ft ▾

Area

2,009.31 ft² ▾

↺ Start new

On Hollow
Road:
Lot is 4 Acres

Proposal Update



Cap Detached ADUs at 2,000
sq. ft.



No lots smaller than 12,000
may have a detach ADU

Other Ideas



ADUs in Commercial Areas?



No ADU can be used for short term rentals



ADU shall not be allowed within flood plains.

Chapter 19.XX
Accessory Dwelling Units (ADUs)

A. Purpose

1. This chapter establishes approval criteria and outlines processing procedures for accessory dwelling units (ADUs).
2. The purpose of this chapter is to allow accessory dwelling units within single-family detached dwellings in zoning districts specified in this title, to establish the conditions under which accessory dwelling units are regulated under this chapter, and to set forth criteria and standards to be required of accessory dwelling units when this chapter is applicable.

B. Definitions

1. Accessory Dwelling Unit: A residential dwelling unit, but not a Mobile Home as defined by this title, located on the same lot as a single-family dwelling unit, either within the same building as the single-family dwelling unit or in a detached building. Secondary dwelling units shall be developed in accordance with the standards set forth in this chapter and only in those zoning districts where the use is listed as a special review use.

Commented [SN1]: Should we allow a mobile home as an ADU? No mobile homes or camping trailers. How do we define what a mobile home is?

C. Accessory Dwelling Unit Approval Required

1. Accessory Dwelling Units shall be considered permitted by right when they comply with the standards and provisions of this title. Accessory Dwelling Units that existed prior to the adoption of this ordinance, that have not received formal approval, shall be considered illegal until approved in compliance with these provisions
2. Short Term Rental, as defined within this title, shall be a prohibited use within ADUs.
3. No ADU shall be built on registered wetland or flood plain

Commented [SN2]: Prohibit Short Term Rentals.

D. Application

1. Persons shall make application for an accessory dwelling unit on forms prepared by MUNICIPALITY. No accessory dwelling unit application shall be processed without the submission of the application, all supporting materials as required by this chapter, and the processing fee. Incomplete applications shall not be processed under any circumstances.
2. Supporting Materials. The Accessory Dwelling Unit application shall be submitted with the materials listed herein.

- a. Notarized letter: a notarized letter of application shall be provided by the property owner stating that such owner will occupy the property except for bona fide temporary absences
- b. Floor Plan: A floor plan showing the floor in which the accessory apartment will be located shall be provided
- c. Parking Plans: A parking plan shall be submitted showing where off-street parking will be provided.
- d. Fire Extinguisher(s): Evidence of a fire extinguisher in the accessory dwelling unit shall be provided.
- e. Fee: The processing fee as required by the consolidated fee schedule as approved by the City council shall be paid in full.

E. Approval Criteria

1. Proposed accessory dwelling units in compliance with the following criteria to ensure the health and safety of occupants and that preserve the residential characteristic of the neighborhood shall be approved
2. Owner Occupation: the owner(s) of the residence shall live either in the dwelling in which the accessory dwelling unit was created or the ADU, except for bona fide temporary absences
3. Fire, building, and health codes. The design and size of the accessory dwelling unit shall conform to all applicable standards in the fire, building, and health codes. All necessary permits shall indicate the area to be designated for accessory dwelling unit use.
4. Exterior Appearance: The accessory dwelling unit shall be incorporated into the residence so that to the degree reasonably feasible, the appearance of the building remains that of a single-family residence, including landscaping, installation of separate utility meters for accessory dwelling units is prohibited. Separate addresses and mailboxes shall be placed on all accessory dwelling units regulated by this chapter as required for public safety purposes. All entrances to accessory dwelling units shall be located on the rear or side of the building.
5. Parking: Off-street parking for one vehicle, shall be provided for use by the tenants of the accessory dwelling unit
6. One Accessory Dwelling Unit: Only one accessory dwelling unit shall be created within a single-family dwelling
7. Detached Structures: Accessory dwelling units may be permitted in a detached structure so long as the setbacks of the detached structure are maintained.

~~8. Size criteria:~~

F. Size and Zoning

1. ADU shall have the following size requirements:

- a. Shall have the minimum size of 300 sq. ft.
- b. For ~~d~~Detached ADUs, the ADU shall following the sizing and setback requirements for other accessory buildings as listed in NCC 19.24. No detached ADUs shall be larger than 1,5000 sq. ft.
- ~~b-c.~~ Detached ADUs shall not be permitted on lots smaller than 12,000 sq. ft.
- d. The total square footage of all detached ADUs shall not occupy more than twenty five percent (25%) of the rear yard.

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2. ADU Use within Commercial, Neighborhood Commercial, and Industrial Zones

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- a. Commercial buildings within Neighborhood Commercial Zones shall be allowed to have up to two attached accessory dwelling units. ADUs shall be attached to the building. Dwelling Units shall be located either on the rear of the building or on the second story.
- b. Any Neighborhood Commercial Building shall supply two additional off-street parking for each ADU.
- c. Each ADU shall have a separate access apart from the commercial access to the building
- d. Each ADU must meet all applicable building, zoning, and fire code requirements.

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~~e-c.~~

G. Noncompliance

1. Owners of the single-family dwelling where the accessory dwelling unit use has been approved shall be responsible for their property's compliance with the city's ordinances and conditions of approval. Single-family owners who fail to maintain or violate the city's ordinances regulating accessory apartment use or conditions upon which approval was contingent may have the permit revoked. Notice of violation shall be given to the owner of the residence containing the accessory apartment use providing 14 days to correct a violation before the permit is revoked. Persons aggrieved by the revocation of their permit may use the appeal process to have their grievances heard.

Agenda Item #2: Residential Planned Unit Development Code Update

Description

Workshop: Residential Planned Unit Development Code Update

Department

City Planning, Engineering, and Public Works

Action Type

Workshop

Recommendations

Review and make a recommendation

Reviewed By

City Planner

Background

Nibley City has received three applications for the new Residential Planned Unit Development (R-PUD). There has been a desire to make some changes to the ordinance to clarify open space calculation, the application process, zoning, etc.

At the City Council meeting held on March 26, 2020, the City Council passed *Ordinance 20- 08: Residential Planned Unit Development Moratorium*. This ordinance puts a six-month hold on all new R-PUD applications. This will give the City some time to fully review the ordinance and make desired changes.

During this workshop, staff and the Planning Commission will identify key sections of code to be updated.

You can review the full code here:

[Nibley City Code 19.32 Residential Planned Unit Developments](#)

Opens Space and Amenities

There has been general concern and agreement on updating the definition of open space within the development. Currently, the R-PUD code allows for open space to count any public landscaping contained within setbacks and within the right-of-way. Staff has eliminated the clause within the definition that would allow for open space within the right-of-way.

Proposed Open Space Definition

Open Space: Any space in an R-PUD that does not contain any amenities, except for park amenities, as defined herein, buildings, parking lots or private yards. All Open Space must be completely landscaped with sod, trees, xeriscape, gardens or agricultural use. Natural features such as wetlands, meadows, tree stands and Constrained and Sensitive Lands may also be considered Open Space. Landscaping within building setbacks and right-of-ways shall not be counted towards the percentage of required landscaping.

Landscaping within the ROWs and setbacks shall still be required.

Open Space for the Public

One of the concerns voiced in public hearings and by some City Council and Planning Commission members is the lack of public amenities and the perceived benefit to surrounding neighborhoods. There has been a request for the City to require some amenities within the project to be given to the City.



Staff is requesting that the Planning Commission consider what these amenities would be like and how they could bring benefit to the general public. Some of these benefits could be public park amenities, trail spaces, open space next to adjacent homes, etc.

Density and Housing Mix

Another concern that has been expressed by the citizens, planning commissioners, and members of the city council is they would like to see a greater variety of housing types. This could reflect a change in the split of housing type, which right now allows for 80% of the units as townhomes and a minimum of 20% need to be single-family lots. Staff has provided some preliminary below:

Single-Family, Townhome, and Open Space Mix		
Single Family/Townhome	Open Space	
20/80		40%
30/70		35%
40/60		30%
50/50		25%
All Single-Family		20%

*The townhome numbers would represent the max

Town Center Single-Family, Townhome, and Open Space Mix		
Single Family/Townhome/Condos	Open Space	
20/40/40		40%
30/30/35		35%
40/30/30		30%
50/25/25		25%

*The condos and townhomes numbers would represent the max

Single-Family Lots
Min of 10% need to be .25 Acres in size
Average Lot Size 6,000 sq. ft.
Smallest Lot 4,500 sq. ft.

These tables above are loose recommendations, staff is currently performing more analysis for feasibility.

19.32 Residential Planned Unit Developments (PUD)

19.32.010 Purpose And Intent 19.32.020

Definitions And Standards 19.32.030

Use Regulations

19.32.040 Area And Density Regulations

19.32.050 Open Space Amenities 19.32.060

General Requirements

19.32.070 Approval Process

19.32.080 Development Standards

HISTORY

Repealed by Ord. 11-07 on

7/7/2011 Amended by Ord. 18-10

on 5/23/2019

0 Purpose And Intent

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

HISTORY

Adopted by Ord. 18-10 on 5/23/2019

19.32.020 Definitions And Standards

- A. Amenity: Natural or man-made feature which enhances the development. These include features such as picnic areas, walking paths/trails outside of required sidewalks, playgrounds, sports fields, club houses, swimming pools, splash pads, etc.
- B. Buffer: A landscape and planted area along a public right-of-way, street, or neighboring development, a buffer must be at least thirty (30') feet wide. Buffers must be landscaped, at the sole cost of the developer, and shall provide for every hundred (100) linear feet of buffer six trees and fifteen (15) shrubs. Tree and shrub species must be approved by the City's arborist or the City's Park Director. Trees and shrubs shall be planted within thirty (30) feet of the right-of-way or R-PUD boundary where required. Irrigation system shall be installed by the developer and shall be designed and installed to Nibley City Standards. Buffer areas shall be owned and maintained by an Owners Association.
- C. Condominium: A multiple-unit dwelling containing individually-owned dwelling units and jointly- owned shared areas and facilities, which dwelling, or development is subject to the provisions of state and local laws.

D. **Constrained and Sensitive Land:** Land which is generally unbuildable without engineered ground modifications, or which contains features including, but not limited to Federal, State, or municipally designated wetlands, water bodies, floodplains, slopes greater than 20%, faults, canals, and other geologically or environmentally sensitive features that require mitigation, special insurance, or permits from government authorities to allow development. This land may be used as amenities if it complies fully with conditions within this chapter for qualification of amenities.

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

Commented [SN1]: ADUs?

F. **Meadows:** Land vegetated with native species of grasses, trees, forbs, and flowers, either undisturbed or constructed, that can be sustained without supplemental irrigation. Actively used pasture and agricultural land are not considered Meadows under this definition.

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

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

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

Commented [SN2]: What about parking lots for parks?

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

J. **Private Parks:** A tract of land presently owned or controlled and used by a private entity or group and to which only members of that private entity or group have access or use rights. Private Parks must contain at least one amenity as defined herein. Private Parks must contain one (1) tree for every 1,000 sq. ft. and 60% of the area must be planted with sod. Sod and tree requirement may be altered for approved club houses, sport courts/fields, swimming pools, splash pads, covered pavilions or other approved recreation uses.

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

facilities.

- L. Public Park: A publicly-owned tract of land landscaped and developed for the general public. Public Parks, as defined for R-PUD, must contain at least one amenity as defined herein. Public Parks must contain one (1) tree for every 1,000 sq. ft. and 60% of the area must be planted with sod. All landscaping must meet Nibley City Standards. Sod and tree requirement may be altered for approved, sport courts/fields, swimming pools, splash pads, covered pavilions or other approved recreation uses. Public Parks shall be placed on the border of each development so that it may easily be accessed by the community as a whole. Each public park must contain a public bathroom.
- M. Single Family Dwelling Unit: A dwelling unit owned in fee and located on an individual lot and which is not attached to any other dwelling unit by any means.
- N. Town Center Area: The area as labeled on R-PUD Application Map as "Town Center Area."
- O. Townhome: A dwelling unit, with a private entrance, which is part of a structure whose dwelling units are attached horizontally in a linear arrangement and having a totally exposed front and rear wall to be used for access, light, and ventilation. Each townhome unit must be on its own parcel.
- P. Tree Stand: A group or cluster of trees within a geographic location that are occurring naturally or artificially.
- Q. Waterway: Surface water runoff and drainage, drainage ditches and irrigation waterways, whether surface or subsurface and natural waterways including creeks, streams, springs, rivers, ponds, and wetlands.
- R. Planned Unit Development: For the purpose of this chapter "residential planned unit development" (R-PUD) means an integrated design for the development of residential uses to allow flexibility and initiative in site and building design and location, in accordance with an approved plan and imposed general requirements, as specified by this chapter.

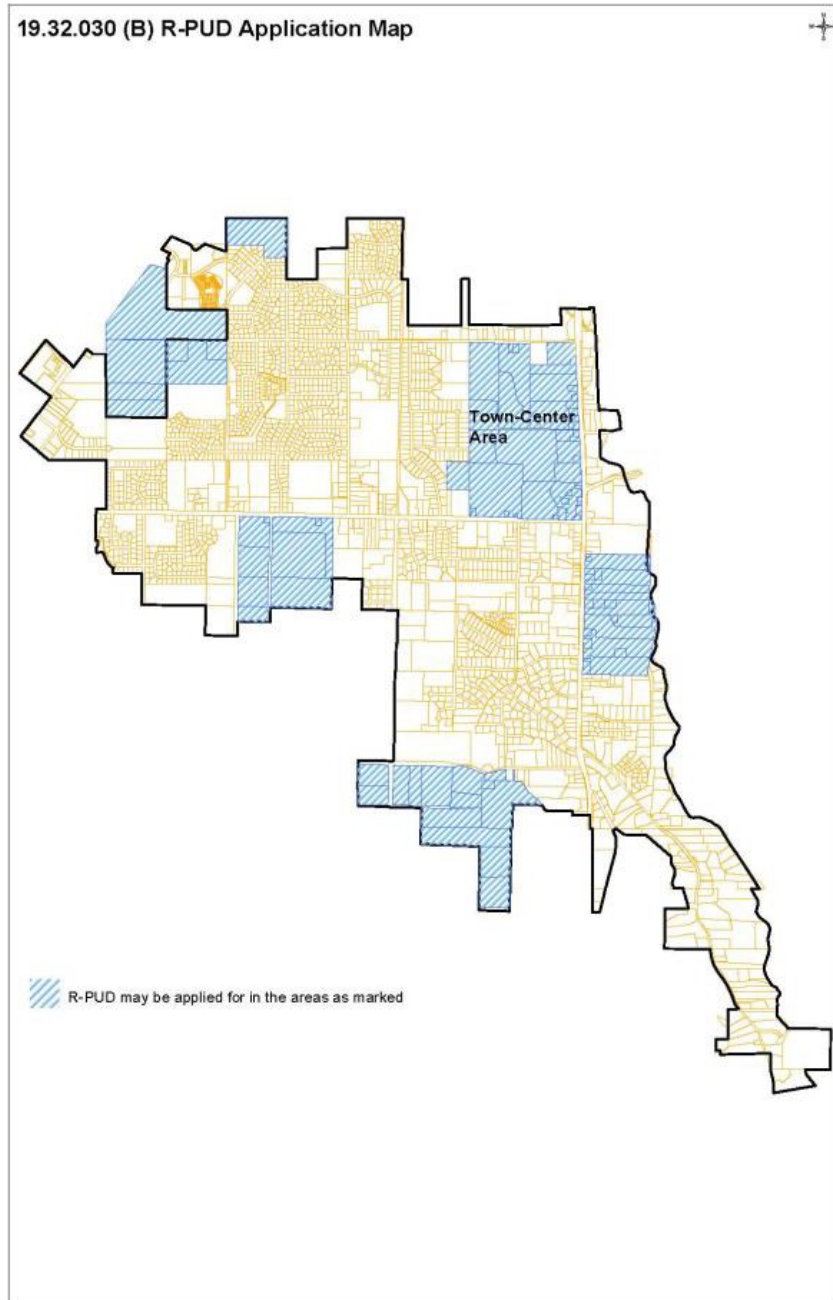
HISTORY

*Adopted by Ord. 18-10 on
5/23/2019 Amended by Ord. 19-16
on 10/10/2019*



0 Use Regulations

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



C. The following are permitted uses in an R-PUD:

1. Single Family and Townhome dwelling units may be permitted uses, as defined within this ordinance.

~~4. Within the Town Center, Single Family, Patio Homes, Townhomes and Condominiums may be permitted uses, as defined within this ordinance.~~

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2. All other uses not defined within this chapter shall comply with the underlying zone, lot size, and the Land Use Chart in NCC 19.20, unless otherwise specified within this ordinance.

D. Any uses not specifically permitted or conditionally permitted are prohibited.

E. Animal Use: All animal uses shall be in accordance with Nibley City Code.

F. Up to 30% of the Net Developable Area may be approved for neighborhood commercial use as part of an R-PUD. These uses shall comply with Nibley's City's Neighborhood Commercial Zone Use Chart and standards as listed in NCC 19.14.050. ~~Commercial use must be concentrated in one location.~~ These parcels shall be labeled on the plat as Neighborhood Commercial.

G. When calculating density for dwelling units, any Neighborhood Commercial area shall be subtracted from the Net Developable Area of the R-PUD.

HISTORY

Adopted by Ord. 18-10 on

*5/23/2019 Amended by Ord. 19-16
on 10/10/2019*



0 Area And Density Regulations

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

1. Single Family Homes: Equal to or less than 5 units per Net Developable Acre

a. Single Family Home R-PUD must contain a minimum of 50 units.

2. A Mix of Single Family and Townhomes: Equal to or less than 12 units per Net Developable Acre. Up to 80% of dwelling units can be townhomes.

a. A Mix of Single Family and Townhomes R-PUD must contain a minimum of 120 units.

B. Town-Center: The area as marked on R-PUD Application Map in NCC 19.32.030 (B) as Town- Center Area shall have the following Housing Requirements.

1. Single Family Home Development and Mix of Single Family and Townhome Development shall be governed by NCC 19.32.040 (A).

2. A Mix of Single Family, Townhomes and Condominiums: ~~E~~Qual to or less than 12 units per Net Developable Acres. Up to 40% of the units can be condominiums, and a minimum of 20% of homes must be single family homes.

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

D. The City may approve single family homes that do not meet the required setbacks and lot size, i.e.patio

homes. These homes shall not be counted toward the single-family home requirements contained in this section and shall be counted toward the number of townhomes.

HISTORYAdopted by Ord. 18-10 on5/23/2019 Adopted by Ord. 19-16

on 10/10/2019

**0 Open Space Amenities**

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

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

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Minimum Amenity						
Number of Units	Park Area	Pavilion	Swing Set	Playground	Clubhouse, Pool, or Splashpad	Sports Court/Fields
Less Than 100	1.5 Acres	—	—	1	—	—
101-150	2.5 Acres	—	1	1	—	
151-200	3.5 Acres	—	1	2	—	1
201-250	4.5 Acres	1	1	2	—	1
251-300	5.5 Acres	1	1	2	1 of the above options	1
301-400	6.5 Acres	2	2	3	2 of the above options (At least one pool or Splashpad)	2
401-500	7.5 Acres	2	2	3	2 of the above options (At least one pool or Splashpad)	2
501+	*	*	*	*	*	*

1. Development over 500 units must supply adequate and proportional amenities based on the table above.\

2. Development containing under a total of 20 gross acres must provide a minimum open space as

follows:

- a. Single Family: 20% open space as defined within this Chapter or 3 acres of open space, whichever is greater
- b. Mix: 35% Open space as defined within this Chapter or 5.5 acres of open space, whichever is greater

3. Development may be phased according to NCC 21.02.080 and the Development Agreement. The City Council may extend phasing deadlines within the development agreement based on the size of the project and proposed amenities. Public and Owners' Association-owned amenities shall be fully developed and operational in conjunction with each phase of the subdivision as a percentage of the total developed value of the subdivision (for example, if 25% of the dollar value of the development is being constructed, then a minimum of 25% of the dollar value of the built-out amenities must be developed). The determination of value, construction sequencing, and acceptance criteria shall be specified in the Development Agreement. Until improvements are accepted by the City for the attendant phase, no permits shall be issued for subsequent phases.

3-a. (An applicant may also escrow or bond for future improvements)

Commented [SN3]: Outline that developers may bring in a single phase at a time.

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- 4. All amenities designed and designated to be transferred to City ownership and maintenance must meet Nibley City Design Standards. The City must review and approve any improvements that will be owned and maintained by the City as part of the construction drawing review.
- 5. This chart does not cover all potential amenities. The applicant may apply for other amenities that would benefit the R-PUD. Any proposed amenities not listed, must be approved by the City Council. The City Council may also allow a substitution of amenities on the table above. These substitutions may only be approved if the cost, value and use of the amenity matches or is greater than the require amenity. An applicant may add additional amenities above and beyond the requirements of this section.
- 6. Public and Private Park space may be combined or spread throughout the development. Each Park shall be a minimum of .25 acres. Each dwelling unit shall be within a quarter mile of a park within the development, unless otherwise approved by the City Council. Parks may be public or private. Each public park development and placement within an R-PUD shall be agreed upon by the applicant and the City Council. Park space may not include alleyways, back yards, gangways, front yards, forecourts, private patios, porches, driveways, etc.; unless proper amenities and access are provided.
- 7. All amenities shall meet any federal, state, city, or other standards that apply.
- 8. Sports Courts/Fields: include a facility/amenity that is built for one of the following: Tennis Court, Pickleball Court, Basketball Courts, Soccer field, Volleyball pit, Baseball field, Softball field, wallball, golf course, disc golf course, or others as approved by the City Council.
- 9. Picnic Area: Two or more picnic tables for use by 10 or more persons.
- 10. Pavilion: A covered picnic area. Each Pavilion must be designed for use of a minimum ten or more people.
- 11. Club House: A building available to community members to house a club or social organization not conducted for private profit. Club Houses shall be owned and maintained by a homeowner's association. A club house shall be at least 1000 sq. ft. in size.
- 12. Playground: an area provided for children to play on. Each Playground must be designed for children twelve and younger. A playground must include features to appeal to children within the above age group including some of the following: slides, monkey bars, ladders, tunnels, climbers, bridges, ramps, platforms, etc. All playground equipment must be of commercial grade. Each playground must include a minimum of 8 features.

Commented [SN4]: List as number one.

13. Pool: A recreation facility designed and intended for water contact activities that serves an R-PUD. No pool shall be less than 800 sq. ft.
14. Splashpad: A recreation facility with sprinklers, fountains, nozzles and other devices or structures that spray water. Splashpads shall contain some above ground features.

B. Maintenance of Amenities

1. All R-PUDs must establish and maintain in perpetuity an Owners Association if there are open space and amenity under common ownership, or as otherwise required by federal, state or Nibley City law. The Developer shall be a member of said Owners Association while the subdivision is being developed. ~~The Owners Association for Mix developments shall have office space for the Owners Association constructed a part of the development.~~
2. Costs: Unless otherwise agreed to by the City, the cost and responsibility of maintaining amenities shall be borne by the fee owner of the property that is part of the R-PUD or Owners Association.
3. Preliminary Maintenance Plan: A Preliminary Maintenance Plan shall be submitted with the preliminary plat for proposed maintenance of amenities within the development. This plan shall outline the following:
 - a. The proposed ownership and responsibility for maintenance of the amenities;
 - b. The proposed use of the amenities' and how each parcel of amenities meets the standards listed in this Chapter;
 - c. The size of each amenities parcel; and
 - d. The proposed concept plan for landscaping of the amenities.
4. Final Maintenance Plan: The developer shall submit a plan outlining maintenance and operations of the amenities and providing for and addressing the means for the permanent maintenance of the amenities within the proposed R-PUD application for the subdivision. The developer shall provide a final maintenance plan with the final plat and the plan shall contain the following:
 - a. Documents and plans as listed in for the Preliminary Maintenance Plan.
 - b. A description of the use of the amenities and how that use complies with this Chapter;
 - c. The establishment of necessary regular and periodic operation and maintenance responsibilities for the various kinds of amenities (e.g., lawns, playing fields, meadow, pasture, wetlands, stream corridors, hillsides, clubhouse, pool, woodlands, etc.);
 - d. The estimated staffing needs, insurance requirements, and associated costs.
 - e. The landscaping plans for parcels that will be owned by an Owners Association or by the City.
5. Approval: The Final Maintenance Plan must be approved by the City Council prior to or concurrent with final plat approval for the subdivision. The Final Maintenance Plan shall be recorded against the property within the subdivision before any property or lots are sold or transferred and shall include provisions for the City's corrective action rights as set forth herein. Any changes or amendments to the Final Maintenance Plan must be approved by the City Council.
6. The developer shall offer an approved letter of credit, bond or escrow for all proposed

Commented [SN5]: Add in list of items needed for an application

improvements as set forth in NCC 21.14.

7. Failure to Maintain: The City may assume responsibility for the maintenance and operation of any portion of any amenity or common facility within an R-PUD in the event the party responsible for maintaining or operating the amenity fails to do so in accordance with the terms of this Ordinance, the approved Maintenance Agreement, any Conditional Use Permits, Business Licenses or any other agreements between the City and the developer, owners, or other parties responsible for maintaining or operating amenities. If the City assumes responsibility under this paragraph, any remaining development escrow or bond funds may be forfeited, costs, fees, and liens for maintenance costs shall be assessed as described herein, and any permits, licenses or operating agreements may be revoked or suspended by the City in the City's sole discretion. Owners shall not impede the City in its efforts to maintain the amenities.
8. Corrective Action: The City may enter onto any amenity provided as part of an R-PUD and take such corrective action, including extended maintenance, repairs, modifications, or the execution of additional agreements, as the City determines is necessary for the amenity to satisfy the terms of this Ordinance, the approved Maintenance Agreement, any Conditional Use Permits, Business Licenses or any other agreements between the City and the developer, owners, or other parties responsible for maintaining or operating amenities. The costs of such corrective action shall be charged to the owners and may include administrative costs, legal costs, and penalties. Such costs shall become a lien on said properties. Notice of such lien shall be filed by the City in the county recorder's office. The maintenance plan and all other documents creating or establishing any Association or conservation organization for the property shall reference the City's corrective action authority set forth herein and shall be recorded against the property before any property or lots are sold or transferred.
9. Implementation and Maintenance: The developer of the subdivision shall fund implementation and maintenance of the amenities until such time as the control of the amenity is transferred to the owner listed in the maintenance plan. The developer shall address the implementation, development, maintenance and transfer procedures in the sensitive area designation plan map or master development plan, as applicable.
10. Maintenance Access: The developer of the subdivision shall provide sufficient maintenance access from a dedicated right-of-way to all amenities and constrained and sensitive lands within the R-PUD to allow the owner of the property to have sufficient access.

HISTORY

*Adopted by Ord. 18-10 on
5/23/2019 Amended by Ord. 19-16
on 10/10/2019*



0 General Requirements

- A. The R-PUD should be compatible with surrounding land uses, building types and physical features of the site. Specific requirements are included below:
- B. Determination of Net Developable Land:
 1. In calculating what portion of the project is considered developable, areas designated as constrained and sensitive land may not be included in the project size.
 2. If the constrained and sensitive land, property along waterways or other natural landscapes may reasonably be turned into a publicly-accessible amenity, it may be re-

included in the project size.

3. Net Developable Land must comply with the definition within this chapter.

C. Site Development Standards: The following shall serve as the setback/site development standards for each proposed R-PUD.

	Single-Family Home	Townhome	Patio Home	Condo
Minimum Lot Size (sq. ft.)	4,500	—	—	—
Minimum Frontage	50'	—	—	—
Primary-Use Setbacks				
Front Yard	20'	20'	20'	30'
Front Porches	10'	10'	10'	10'
Side Yard	5'	10'	0'	10'
Side Yard Porches, Deck, Overhangs	5'	5'	0'	5'
Side Yard Adjacent to Streets	20'	20'	20'	25'
Rear Yard	15'	15'	15'	15'
Maximum Height	40'	40'	40'	40'

Accessory-Use Setbacks	Single-Family Home	Townhome	Patio Home	Condo
Front Yard	20'	20'	20'	20'
Side Yard	3'	3'	3'	3'
Side Yard Street	20'	20'	20'	20'
Rear Yard	1'	1'	1'	1'
Maximum Height	15'	15'	15'	15'

1. Setback and frontage requirements shall apply to each building, and not each dwelling unit
2. All other setbacks shall comply with Nibley City Code.
3. All buildings and landscaping shall comply with NCC 19.24.110 Clear View of Intersecting Streets as amended.

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

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

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

townhome must have onsite management, outside professional management or onsite point of contact.

F. Amenities and Open Space: Maintenance and ownership of amenities and Open space may be provided for under one of the following options as approved by the City Council in the City Council's discretion. The City may require any Amenities or Open Space within the R-PUD to be dedicated to Nibley City in order to fulfill goals listed in the Parks, Trails, and Recreation and Open Space Master Plan, or to further public good and advance goals within the General Plan or other Master Plans of the Nibley City:

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

G. Bond: For each phase, the developer shall be required to provide guarantees as set forth in NCC 21.14.

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

I. Subdivision Regulations: Any part of an R-PUD that is proposed as a subdivision is subject to the provisions of the subdivision title and the standards, conditions, and restrictions of the base zoning, unless superseded by the provisions of this ordinance.

HISTORY

*Adopted by Ord. 18-10 on
5/23/2019 Amended by Ord. 19-16
on 10/10/2019*



0 Approval Process

A. An R-PUD is an overlay zone. That is, developers apply for the overlay to be applied, allowing them to receive the density bonuses outlined herein in exchange for public amenities, all while retaining the original zoning of the property. The City Council, with a recommendation from the Planning Commission, may approve, deny or approve with conditions as a legislative action and no applicant has any entitlement to the approval of an R-PUD.

B. Application Submission: An application for an R-PUD shall be submitted to the City with all required documents, maps, plats and plans as listed below.

C. Procedure:

1. An R-PUD shall go through the following process to gain approval:
 - a. Development Committee: An applicant shall have a preliminary meeting with a development committee composed of applicable City staff, and other elected and appointed official as appointed by the Mayor and approved by the City Council.

Overlay Zone Application: Applicants shall submit an R-PUD Overlay Zone and preliminary plat application with the following:

- (1) A complete development plan application that is duly signed by the property owner or the owner's representative and that includes a legal description of the property and a nonrefundable application fee.
- (2) A vicinity map showing the approximate location of the subject parcel in relation to other major areas of the city.
- ~~(3)~~ A general description of the proposed development, together with a map indicating the general development pattern, land uses, densities, intensities, open spaces, parks and recreation, and how the project is coordinating with existing and planned trails, sidewalks and pedestrian walkways and any other important elements within or adjacent to the project.
- ~~(3)~~~~(4)~~ Preliminary Maintenance Plan as defined within this Chapter
- ~~(4)~~~~(5)~~ Sufficient detail to indicate how the proposed development complies with the development standards for residential and nonresidential uses according to Nibley City Code and Design Standards.
- ~~(5)~~~~(6)~~ A description of architectural design standards that will apply to all buildings within the development plan.
- ~~(6)~~~~(7)~~ A data table showing the total number of lots/units. Existing and proposed infrastructure including proposed roadways, utility locations and capacities and the estimated impacts of the proposed development plan on all public utilities including culinary water, secondary water, wastewater, transportation, storm drainage, fire protection, solid waste, parks and recreation demands of the proposed project.
- ~~(7)~~~~(8)~~ Existing physical characteristics of the site including all constrained and sensitive land
- ~~(8)~~~~(9)~~ Identify how environmental issues, if any, will be protected or mitigated, i.e., wetlands, historical sites, endangered plants and animals.
- ~~(9)~~~~(10)~~ Conceptual information relating to storm drainage including 100-year 24- hour drainage flows, 10-year 24-hour stormwater flows and proposed storm drainage facilities.
- ~~(10)~~~~(11)~~ Major street layout that meets Nibley City standards.
- ~~(11)~~~~(12)~~ A general description of controlling entities and methods such as the use of CC&Rs, Owners Associations, architectural or design review committees or associations proposed to ensure that internal compatibility related to issues such as site design and architecture will be maintained over the life of the project.
- ~~(12)~~~~(13)~~ A list of property owners' names and addresses within three hundred feet (300') of the subject property and stamped and pre-addressed envelopes (return address to be left blank) for all property owners within three hundred feet (300') of the propose development.
- ~~(13)~~~~(14)~~ A list of land adjacent in the same ownership.
- ~~(14)~~~~(15)~~ An electronic file of all submitted plans in PDF format or other electronic format determined by city staff. Such other information shall be included as may be necessary to determine that the contemplated arrangement of

uses makes it desirable to apply regulations and requirements differing from those ordinarily applicable under this title.

b. Preliminary Plat: A preliminary plat that complies with Nibley City Subdivision Code and all other applicable code for the subdivision. Preliminary plat approval may be granted at the same time of approval of the overlay zone.

c. Approval with Development Agreement:

(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.

d. Final Subdivision Approval: Once the overlay zone and development agreement have been recorded, an applicant may apply for final plat approval. An applicant shall provide the following:

(1) An applicant shall follow the standards as listed in NCC §21 for Final Plat approval of a subdivision.

(2) An applicant must submit all construction and civil engineering drawings and detailed plans for all amenities for the proposed phase of the development. These shall include landscape drawings and details. The City Engineer shall review and ensure all plans meet Nibley City standards.

(3) A maintenance plan and ownership plan for all improvements, amenities, and open space that complies with the terms of this chapter.

(4) The Planning Commission shall review and make a recommendation for final plat approval, approve with conditions, or denial to the City Council.

(5) The City Council shall approve, approve with conditions, or deny the final plat application base on the standards listed within Nibley City Code, Design Standards, and the applicant's compliance with the Development Agreement.

Commented [SN6]: Reword so that it is clear that the R-PUD does not get approval until Development agreement is signed a recorded, but can be recorded at the same meeting.

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 ~~A~~menities.
4. Landscaping and Screening: The landscaping and screening as related to the several uses within the development and as a means of its integration into its surroundings.
5. Signs: The size, location, design and nature of signs, if any, and the intensity and direction or area of floodlighting.
6. Ability to Complete Project: The demonstrated ability of the proponents of the R-PUD to financially carry out the proposed project under total or phase development proposals within the time limit established.
7. Criteria for Issuing Conditional Use Permit: Criteria used in NCC 19.28 of this title.

E. Revisions: In the event an approved preliminary or final site plan requires revision by the developer, the site plan, and its revision shall be approved by the Nibley City Council with the recommendation of the Planning Commission. In the event revision is for a final site plan, all property owners in the development shall be notified in writing by the Planning Commission that a revision has been submitted and will be considered by the Planning Commission.

F. Building Permit Issuance: The building inspector shall not issue any permit for the proposed building or use within the project unless such building or use is in accordance with the approved development plan and any conditions imposed, including completion of amenities. Time Limit: Unless there is substantial action leading toward completion of a R-PUD or an approved phase thereof within three years from the date of approval, such approval shall expire unless after reconsideration of the progress of the project an extension is approved by the City Council.

HISTORY

*Adopted by Ord. 18-10 on
5/23/2019 Amended by Ord. 19-16
on 10/10/2019*

0 Development Standards

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

A. Townhome, Patio Homes, and Condominium Architectural Standards

1. General Design Concepts. New development shall be designed for its specific context within Nibley City. Developments shall possess a similar design theme, and the site shall

be designed such that the overall development is cohesive. Building architecture, exterior materials, and colors shall coordinate.

2. All facades shall include architectural treatments to provide visual interest and to differentiate individual units. These design standards shall be applicable to all sides of a building, with each façade (front, rear, and side) being required to meet the terms of this Section.
3. Building Materials. The majority of each façade (51% or more of the wall area excluding windows and doors) shall be constructed of the following hard surface building materials: brick, stone, stucco, treated or split face decorative block (CMU), fiber cement siding, concrete, composite siding, or other durable building material as approved by the City Council. EIFS or untreated concrete block (CMU) may be allowed as an accent or secondary material only. The Planning Commission may approve metal as an exterior building material and as a primary material on a case-by-case basis if an applicant can show that the type of metal is of a high grade and provides architectural quality to a building.
4. Vertical Separation. Buildings in excess of one (1) story in height shall exhibit architectural detailing that establishes a vertical separation between lower and upper stories. This may be accomplished by a mid-façade cornice or trim, a change in material, style or color, a façade step-back or roof pitch with dormer windows, or other methods
5. Building Entrances. Building entrances shall have porches and shall be oriented toward the street or an open space area and provide connecting pedestrian access between the street, parking or open space areas.
6. Variation. Townhome dwellings units shall be designed with architectural wall variations spaced at intervals of thirty (30) to fifty (50) feet in linear width, depending on the size of the building. The following architectural features shall be incorporated into the design of the building:
 - a. Change in building materials;
 - b. Building projections measuring at least twelve(12) inches in depth based on the scale of the proposed building;
 - c. Awnings and lighting, or another architectural variation as approved on a case-by- case basis that creates visual interest.
7. Garages. Townhomes shall be designed oriented toward exterior public roads with rear loading garages accessed by a paved parking area or alleyway, except along Highway 165 and 89/91 as approved. Rear loading garages are highly encouraged for townhomes located on interior project roads with units oriented toward a road or common courtyard area. Front loading garages may be allowed for townhomes that do not have any portion of the building adjacent to a current or planned public road or street outside of the development. Multiple unit structures shall have garages incorporated into the primary structure. At least fifty percent (50%) of units shall contain a two-car garage. Detached garages are prohibited in R-PUDs

B. Site Design Standards.

1. Natural features. R-PUDs shall respect and maintain natural features such as existing trees, hills, drainages, wetlands, bodies of water, or other natural features.
2. A landscaping plan for the front yards shall be included. The landscaping plan shall include at least one (1) tree for every dwelling unit, and two (2) shrub of five (1) gallon

size for each dwelling units. Coniferous trees shall be at least six (6) feet in height and the deciduous trees shall be at least one and a half (1.5) inches in caliper.

Commented [SN7]: Should this be fore just for Townhomes and Condos? Right now applies to all dwelling Units

3. Connectivity. R-PUD shall provide connectivity with the surrounding area and throughout the development. All improvements shall consider vehicle, bicycle, and pedestrian access.

- a. Street Design: All street designs shall comply with the General Plan and Transportation Master Plan including Nibley City's street standards and connectivity requirements. Each development shall provide at least two working access points that provide access to an existing street right-of-way. Additional access points may be required in order to facilitate an adequate and convenient circulation system within the City. Such additional access points will be located where they will implement the City's Transportation Master Plan, connect to existing street rights of way, or provide access for the logical development of adjacent, undeveloped properties.
- b. All streets are encouraged to incorporate traffic calming and beautification methods as listed in Nibley City design standards and Transportation Master Plan. This included islands, bulb-outs, roundabouts, etc. Each traffic calming measure shall be approved by the City Engineer.
- c. All Streets shall be dedicated public streets built to Nibley City Code and standards. Private drives shall only be built to access parking courts or garages that are located directly behind each unit.
- d. Private Drives/Alleyways provide vehicular access to parking and dwelling units but do not provide primary pedestrian access to units. Private Drives are intended to be used primarily for vehicular circulation and dwelling access and should be visually distinct from streets.

(1) Private drives shall be a minimum width of 20 ft.

(2) All private drives shall be perpendicular, within 10 degrees, to the street they connect to.

(3) Driveways that access a single dwelling unit are not considered private drives or an alleyway

- e. Developments shall provide a pedestrian access to the development border at intervals at a minimum of 660 feet unless expressly prohibited by conflicting with previously developed subdivisions or land use as determined by the land use authority. These access points shall be aligned with other trail systems, street right-of-way, or amenities and shall match the layout and size of the connection. A connection shall contain a minimum of eight ft (8') sidewalk.

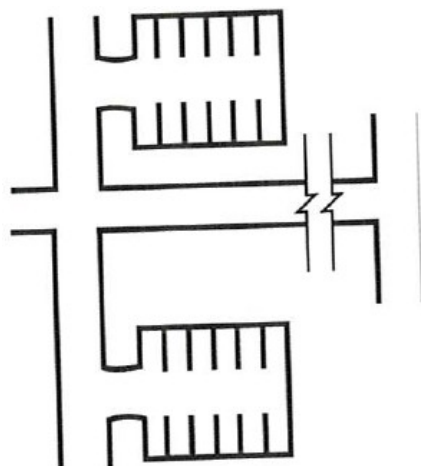
- f. No dwelling units in an R-PUD shall have driveway access to any arterial roadway as listed in Nibley's Transportation Master Plan. Townhome units may face and have frontage along arterial roadways but must have rear loading garages. Public and private parks, open space or Buffering as defined within this chapter may also be along arterial roads.

Commented [SN8]: Clarify that streets meet this standard.

4. Pedestrian circulation. R-PUD shall provide a circulation map and show the following improvements to for pedestrian circulation and safety:

- a. Pedestrian walkways that interconnect the adjacent street(s), amenities, parking areas, building entries, adjacent sites and adjacent master planned trails where

- applicable. Each building located along a public road must provide a sidewalk connection from the building entrance to the public sidewalk.
- b. Walkways shall be hard surfaced with concrete.
 - c. Crosswalks shall be placed where pedestrian walkways cross streets and internal roads and shall be painted or made of concrete.
 - d. The development shall provide connections to the Nibley City trail system. These trails must be dedicated to the City and built to Nibley City standards as listed in the Trails Master Plan and Nibley City Design Standards.
5. Parking: Each R-PUD shall provide 2 primary parking spaces for each unit. Primary parking must be contained in a garage, carports, driveway, or parking court. An R-PUD shall provide one guest parking spot for every three units. Guesting parking may be located in parking courts or on street parking maintained by the owner association.
- a. Individual parking courts shall contain no more than 20 parking spaces and shall be physically and visually separated by a landscape area a minimum of 10 feet in width from any adjacent right-of-way. The separation shall be landscaped with grass, trees, or xeriscape plants.



- b. A parking court of any length shall consist of no more than one double-loaded parking aisle.
- c. Parking courts shall be located in the interior of the development and located between or in the rear of buildings for townhome developments.
- d. On-street parking shall be limited to local roads only. On-street parking shall have dedicated and marked spaces and must be approved by the City Engineer,
- e. Parking Courts shall be paved and built to Nibley City parking lot standards.

6. Landscaping: All portions of the lot not improved with structures or other impervious surfaces shall be maintained with suitable landscaping of plants, trees, shrubs, grasses, or similar landscaping materials.

- a. Landscaping shall also be installed in all park strips to the same standards as other onsite landscaping. Asphalt, concrete, bricks, pavers, railroad ties, and other nonvegetative material are not allowed in the park strip area between the curb and sidewalk. Xeriscaping is permitted. The developer should plant street trees of an approved species and size along all street. Trees should be planted at intervals of every 50 feet and must meet Nibley City Standards.
- b. Buffering: R-PUD developments shall provide buffering along Highway 89/91 or Highway 165, or along the boundary of an R-PUD that is adjacent to commercial, or industrial zones. Buffering landscaping is not required if commercial or industrial zones are separated by a public street from the R-PUD. Buffering shall meet the standards within this ordinance.
- c. Natural Landscape: All open space land dedicated to natural use must maintain its natural landscaping and plant life.

7. Fences:

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

A. 1. a.

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HISTORY

*Adopted by Ord. 18-10 on
5/23/2019 Amended by Ord. 19-16
on 10/10/2019*

Activity/Facility	Recommended Space Requirements	Recommended Size and Dimensions
Badminton	1620 sq. ft.	Singles 17'x44 Double 20x44
Basketball Youth	2400-3036 sq. ft.	46-50x 84
Basketball Highschool	5040-7280 sq. ft.	50'x84'
Collegiate	5600-7980 sq. ft. 50x94	50x94
Handball	800 sq. ft. for 4 walls and 1000 sq ft. for 3	20x 40
Ice Hockey	22,000 sq ft	Rink 85x200(185') additional 5000
Tennis	7,200 sq. ft. Single court (2 acres for comp	36x78, 12' clearance on both sides, 21' cl
Volleyball	Minimum of 4,000 sq. ft.	30x60 minimum 6' clearance on all sides
Baseball Official		

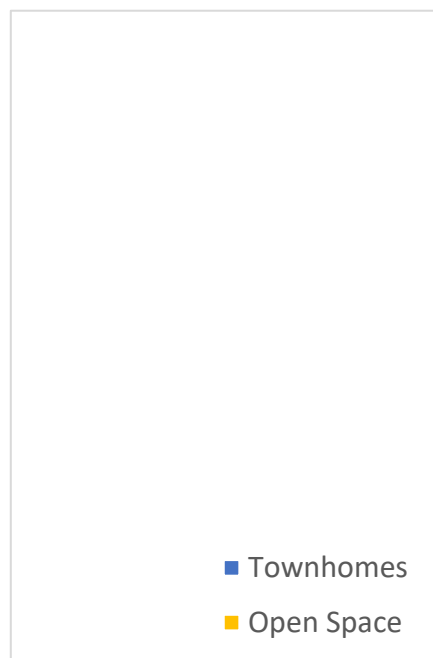
Recommended Orientation	No. of Units per population	Service Radius	Location notes
Long axis North-South	1 per 5000	1/4-1/2 miles	usually in school, recreation center
Long axis North-South	1 per 5000	1/4-1/2 miles	Same as badminton. Outdoor
Long axis North-South	1 per 5000	1/4-1/2 miles	Same as badminton. Outdoor
Long axis North-South	1 per 20,000	15-30 minutes travel	4-wall usually indoor as part of recreation center
Long axis North-South	1 per 20,000	1/2-1 hour	Climate important consideration
Long axis North-South	1 court per 2000	1/4-1/2 miles	Best in batteries of 2-4. Local
Long axis North-South	1 per 5,000	1/4-1/2 miles	Same as other court activities

r courts in neighborhood and community parks, plus active recreation areas in other parks settings
r courts in neighborhood and community parks, plus active recreation areas in other parks settings

PUD Type	Total Acres	ND Acres	Percentage of Amenities	Units Per-Acre	
Single Family Home		20	16	20%	5
Mix		20	16	35%	12

Mix Use Houseing	Max Percentage	Lot size	Possible Number	Housing Lots
Townhomes	80%	1,200	153.6	184,320
Single Family	20%	4,500	38.4	172,800
Total	100%		192	357,120

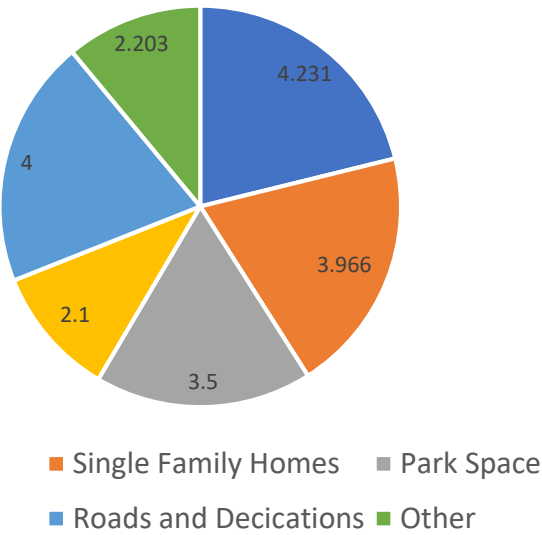
Spaced Use	Acres	Percentage
Townhomes	4.231	21%
Single Family Homes	3.966	20%
Park Space	3.5	18%
Open Space	2.1	11%
Roads and Decications	4	20%
Other	2.203	11%
Total	20	100%

[illegible]

Total Units	Sq. Ft. of homes lots	Acres of Homes	Acres of Open Space	Remaining Acres
80	400,000.00	9.18	3.2	3.62
192	960,000	8.197	5.6	2.203

In Acres
4.231
3.966
8.197

Current R-PUD Max for 20 Acres



PUD Type	Total Acres	ND Acres	Percentage of Amenities	Units Per-Acre
Single Family Home	20	16	20%	5
Mix	20	16	35%	10

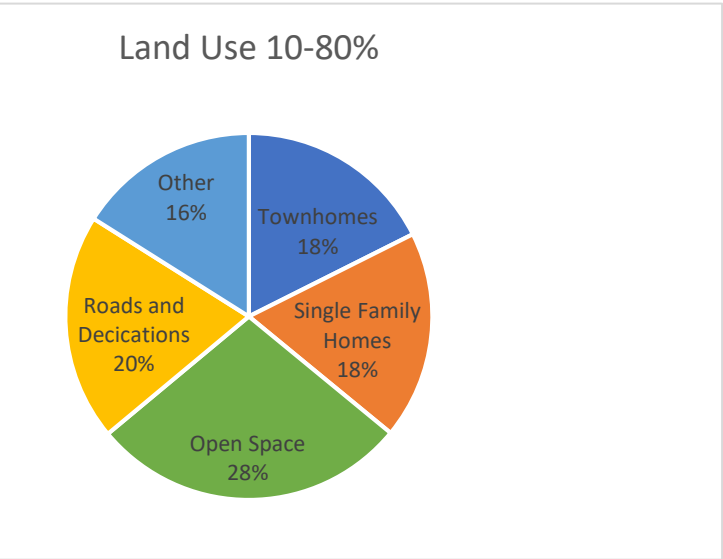
Mix Use Houseing	Max Percentage	Lot size	Possible Number	Housing Lots
Townhomes	80%	1,200	128	153,600
Single Family	20%	5,000	32	160,000
Total	100%		160	313,600

Spaced Use	Acres	Percentage
Townhomes	3.52	18%
Single Family Homes	3.67	18%
Open Space	5.6	28%
Roads and Decications	4	20%
Other	3.21	16%
Total	20	100%



Total Units	Sq. Ft. of homes lots	Acres of Homes	Acres of Open Space	Remaining Acres
80	400,000.00	9.18	3.2	3.62
160	800,000	7.19	5.6	3.21

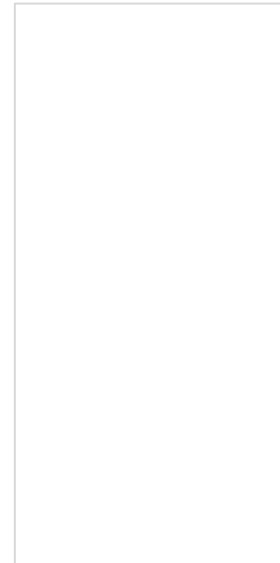
In Acres
3.52
3.67
7.19



PUD Type	Total Acres	ND Acres	Percentage of Amenities	Units Per-Acre
Single Family Home	20	16	20%	5
Mix	20	16	35%	12

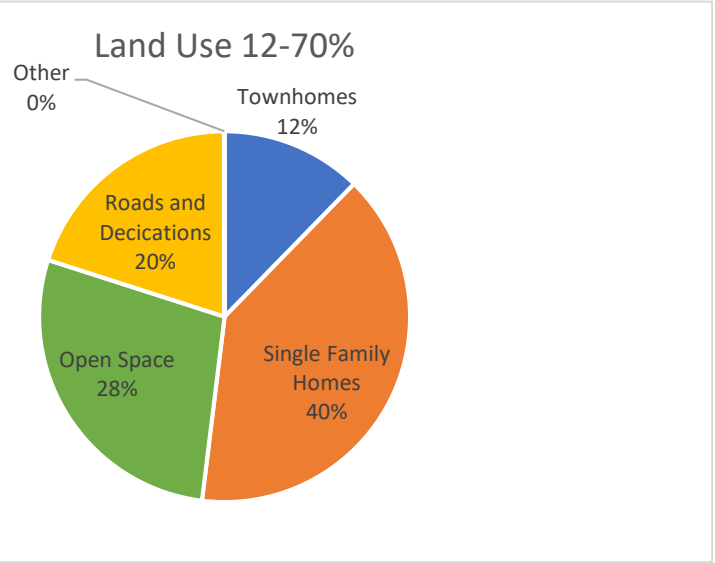
Mix Use Houseing	Max Percentage	Lot size	Possible Number	Housing Lots
Townhomes	70%	800	134.4	107,520
Single Family	30%	6,000	57.6	345,600
Total	100%		192	453,120

Spaced Use	Acres	Percentage
Townhomes	2.46	12%
Single Family Homes	7.93	40%
Open Space	5.6	28%
Roads and Decications	4	20%
Other	0.01	0%
Total	20	100%



Total Units	Sq. Ft. of homes lots	Acres of Homes	Acres of Open Space	Remaining Acres
80	480,000.00	11.02	3.2	1.78
192	453,120	10.39	5.6	0.01

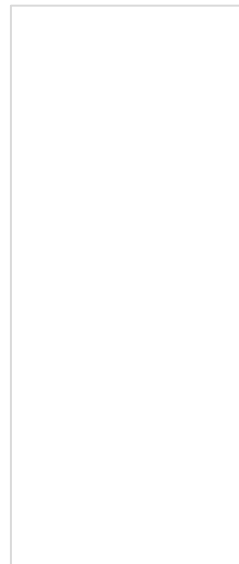
In Acres
2.46
7.93
10.39



PUD Type	Total Acres	ND Acres	Percentage of Amenities	Units Per-Acre
Single Family Home	20	16	20%	5
Mix	20	16	35%	10

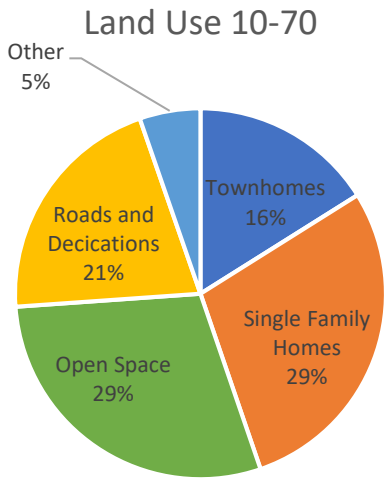
Mix Use Housing	Max Percentage	Lot size	Possible Number	Housing Lots
Townhomes	70%	1,200	112	134,400
Single Family	30%	5,000	48	240,000
Total	100%		160	374,400

Spaced Use	Acres	Percentage
Townhomes	3.09	16%
Single Family Homes	5.51	29%
Open Space	5.6	29%
Roads and Decications	4	21%
Other	1.02	5%
Total	19.22	100%



Total Units	Sq. Ft. of homes lots	Acres of Homes	Acres of Open Space	Remaining Acres
80	400,000.00	9.18	3.2	3.62
160	800,000	8.595	5.6	1.805

In Acres
3.085
5.51
8.595



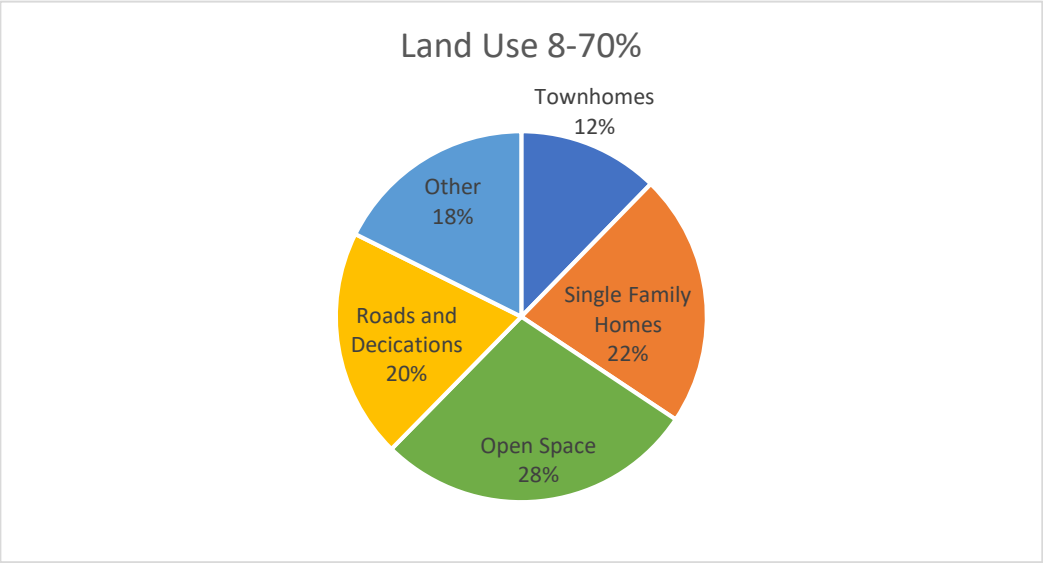
PUD Type	Total Acres	ND Acres	Percentage of Amenities	Units Per-Acre
Single Family Home	20	16	20%	5
Mix	20	16	35%	8

Mix Use Houseing	Max Percentage	Lot size	Possible Number	Housing Lots
Townhomes	70%	1,200	89.6	107,520
Single Family	30%	5,000	38.4	192,000
Total	100%		128	299,520

Spaced Use	Acres	Percentage
Townhomes	2.46	12%
Single Family Homes	4.41	22%
Open Space	5.6	28%
Roads and Decications	4	20%
Other	3.53	18%
Total	20	100%

Total Units	Sq. Ft. of homes lots	Acres of Homes	Acres of Open Space	Remaining Acres
80	400,000.00	9.18	3.2	3.62
128	640,000	6.87	5.6	3.53

In Acres
2.46
4.41
6.87



Spring Creek Crossing	
0.16	6
0.14	6
0.14	6
0.08	4
0.16	6
0.16	6
0.16	6
0.16	6
0.16	6
0.16	6
0.16	6
0.16	6
0.16	6
0.16	6
0.16	6
0.16	6
0.16	6
0.16	6
0.16	6
0.16	6
0.16	6
0.12	6
0.15	4
3.03	116
units pre acre	38.28382838

Average Unit Size 0.02612069
1137 sq. ft.

Total Density 8.721804511

Net Developable Density 9.555189456

ORDINANCE 20-

AN ORDINANCE ESTABLISHING TEMPORARY LAND USE REGULATIONS PROHIBITING THE RECEIPT, PROCESSING AND APPROVAL OF ALL APPLICATIONS FOR RESIDENTIAL PLANNED UNIT DEVELOPMENTS

WHEREAS, Nibley City (“City”) is a municipal corporation duly organized and existing under the laws of Utah; and

WHEREAS, the City Council finds that in conformance with Utah Code (“UC”) §10-3-717, and UC §10-3-701, the governing body of the city may exercise all administrative and legislative powers by resolution or ordinance; and

WHEREAS, the City finds that UC §10-9a-101 et. seq. and related sections provide that the City Council may enact zoning and subdivision ordinances establishing regulations for land use and development within the City; and

WHEREAS, the City finds that the management and administration of the applications for zoning, re-zoning, subdivision approval and annexation are an integral part of the function of both the Nibley City Planning Commission and Nibley City Council; and

WHEREAS, Nibley City, is in the process of updating its Residential Planned Unit Development; and

WHEREAS, the City finds that the continued receipt of applications or approval of such is not in the best interest of the City nor its residents and would be harmful to the public interest until the City’s updates and adopts the amendments to the code; and

WHEREAS the City finds that a certain amount of time will be required to complete the review, design, and amendment of said ordinance; and

WHEREAS the City finds that UC §10-9a-504 provides, in part, that the City Council may, without prior consideration of or recommendation from the planning commission, enact an ordinance establishing a temporary land use regulation for any part or all of the area within the municipality.

WHEREAS, Utah State Law provides as follows:

UCA 10-9a-504 Temporary Land Use Regulations.

- (1) (a) A municipal legislative body may, without prior consideration of or recommendation from the planning commission, enact an ordinance establishing a temporary land use regulation for any part or all of the area within the municipality if:

- (i) the legislative body makes a finding of compelling, countervailing public interest; or
- (ii) the area is unregulated.

(b) A temporary land use regulation under Subsection (1)(a) may prohibit or regulate the erection, construction, reconstruction, or alteration of any building or structure or any subdivision approval.

(c) A temporary land use regulation under Subsection (1)(a) may not impose an impact fee or other financial requirement on building or development.

...

and;

WHEREAS, the Nibley City Council finds that there is compelling, countervailing public interest to have the Nibley City Code 19.32 Residential Planned Unit Development put on a temporary land use regulation prohibiting the receipt, processing and approval of all new application for Residential Planned Unit Developments.

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

1. The Nibley Code 19.32 Residential Planned Unit Development is hereby temporarily amended, the imposition of immediate, temporary land use regulations which prohibit the receipt, processing and approval of applications for the Residential Planned Unit Development.
2. These temporary land use regulations shall be effective for a period of time not exceeding six (6) months, starting on the date this Ordinance is posted as required by law.
3. These temporary land use regulations may be rescinded prior to the end of said six (6) month period, upon a finding by the Nibley City Council that it would be in the best interest of the City so to do.
4. All ordinances, resolutions and policies of the City, or parts thereof, inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency and only for the period of time this Ordinance remains effective. This repealer shall not be construed as reviving any law, order, resolution or ordinance or part thereof.
5. Should any provision, clause or paragraph of this ordinance or the application thereof to any person or circumstance be declared by a court of competent jurisdiction to be invalid, in whole or in part, such invalidity shall not affect the other provisions or applications of this ordinance or the Nibley City Municipal Code to which these amendments apply. The valid part of any provision, clause or paragraph of this ordinance shall be given independence from

the invalid provisions or applications and to this end the parts, sections and subsections of this ordinance, together with the regulations contained therein, are hereby declared to be severable.

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

Passed by the Nibley City Council this _____ day of _____, 2015.

Shaun Dustin, Mayor

David Zook, City Recorder

Posting Date: _____

Agenda Item #3: Rural Preservation Subdivision Code Update

Description

Workshop: Rural Preservation Subdivision

Department

City Planning, Engineering, and Public Works

Action Type

Workshop

Recommendations

Review and make a recommendation

Reviewed By

City Planner

Background

Planning Commissioner Mansell has made a recommendation that the Planning Commission review and make two changes to this code:

1. Lots adjacent to existing subdivisions are 80% of the zoning minimum of the adjacent zone
2. Eliminating “islands” of open space

After reviewing these suggestions, the Planning Commission directed staff to review these and make the appropriate modifications. Staff will plan on presenting those modifications to the Planning Commission this week.

You can review the complete Rural Preservation Subdivision Code here:

[Nibley City Code 21.10.020 Rural Preservation Subdivision](#)

21.10.020 Open Space Subdivision~~**Rural Preservation Subdivision**~~**Open Space Subdivision**

A. Purpose: The purpose of this section is to provide for subdivision development within Nibley City in a manner that:

1. Helps preserve the rural feeling of Nibley City as outlined in the General Plan;
2. Provides Open Space Land with a specific purpose that provides visual and physical access to the public.
3. Supports adopted City policies to conserve a variety of irreplaceable and environmentally sensitive resources and agricultural lands as set forth in the General Plan;
4. Protects constrained and sensitive lands, including, but not limited to, those areas containing sensitive features such as steep slopes, floodplains, and wetlands, by setting them aside from development;
5. Provides Open Space Land, including those areas containing unique or natural features such as meadows, grasslands, tree stands, streams, stream corridors, berms, waterway, farmland, wildlife corridors and/or habitat, historical buildings and/or sites, archeological sites, and green space, by setting them aside from development;
6. Reduces erosion and sedimentation by the retention of existing vegetation and the minimization of development on steep slopes and other constrained and sensitive lands;
7. Provides for a diversity of lot sizes to accommodate a variety of age and income groups and residential preferences, so that the community's population diversity may be enhanced;
8. Provides incentives for the creation of greenway systems and Open Space Land within the City for the benefit of present and future residents.
9. Creates neighborhoods with direct visual and/or physical access to Open Space Land;
10. Maintains and creates scenic views and elements of the City's rural and scenic character and minimizes perceived density by maintaining views of new development from existing roads.

B. Definitions: For the purpose of this section, the following words shall have the meanings set forth herein:

1. OPEN SPACE LAND: Any parcel or area of land dedicated under this section as indicated on a ~~Rural Preservation Subdivision~~ **Open Space Subdivision** Plat for the access and/or visual enjoyment of the public. Open Space Land must meet the standards and requirements of this section. Open Space Land may not be contained in the privately-owned parcel except as specifically allowed in this ordinance. Open Space Land must have 25% of its border adjacent to public access right-of-way, easement, or City park or contain a trail open to the public which traverses or runs adjacent to the Open Space Land. Open Space Land area shall not be included in setback areas calculations for principal or accessory uses.
2. CONSTRAINED AND SENSITIVE LAND: Land which is generally unbuildable without engineered ground modifications, or which contains features including, but not limit to Federal, State, or municipally designated wetlands, floodplains, slopes greater than 20%, faults, designated canals per Nibley Ordinance and other geologically or environmentally sensitive features that require mitigation, special insurance or permits from government authorities to allow development. This land may be used as Open Space Land if it

complies fully with conditions within this ordinance for qualification of Open Space.

3. **WATERWAY:** Surface water runoff and drainage, drainage ditches and irrigation waterways, whether surface or subsurface and natural waterways including creeks, streams, springs, rivers, ponds, and wetlands.
4. **TREE STAND:** A group or cluster of trees within a geographic location that are occurring naturally or artificially.
5. **MEADOWS:** Land vegetated with native species of grasses, trees, forbs, and flowers, either undisturbed or constructed, that can be sustained without supplemental irrigation. Actively used pasture and agricultural land are not considered Meadows under this definition.
6. **PASTURE:** A fenced enclosure or confined area used for the grazing of livestock or small animals which contains sufficient vegetation to serve as the principle food source for the livestock confined therein.
7. **NET DEVELOPABLE LAND:** Net Developable Land shall include the total area of the proposed development minus land that is required by Nibley City ordinance to be dedicated to the City including, but not limited to:
 8. Public access rights-of-way
 9. Land required to be dedicated along waterways
10. Preservation lands with infrastructure installed to City standards by the developer as part of the development process (parks, trails, etc.)
11. Constrained and Sensitive Land as defined herein
12. Easements, lands dedicated to the City for preservation space but without public rights of access, and other utility or general rights-of-way without access to the public shall be included as Net Developable Land.
13. Net Developable Land may be calculated for the purposes of concept review and preliminary plat approval based on either rule of thumb as outlined in the Lot Standards chart for the underlying zone of the proposed subdivision or based on actual measurements derived from the proposed plat. Calculation of Net Developable Land for final plat approval shall use actual measured Net Developable Land area. The proponent shall demonstrate compliance with this provision by calculation based on values demonstrably derived from the proposed final plat.

C. Applicability:

1. The election to develop the property as a ~~Rural Preservation Subdivision~~Open Space Subdivision is voluntary and provided to developers as an alternative to the standard subdivision process codified in NCC 19 and NCC 21. The intent of this section and the ~~rural preservation subdivision~~Open Space Subdivision options is to encourage the creation and development of flexible designed Open Space Land and variety in lot size and conformation. ~~Rural Preservation Subdivision~~Open Space Subdivisions may be developed within applicable residential zones of the City. ~~Rural Preservation Subdivision~~Open Space Subdivisions shall be developed in accordance with and subject to the development standards, conditions, procedures and regulations of this section and with all other applicable subdivision ordinances and zoning regulations of the City which are not otherwise in conflict with the provisions of this section.
2. In cases of conflict with other Nibley City ordinances, the terms of this section shall govern.
3. Development Options: In R-1, R-1A, and R-2 zones in Nibley City, developers may elect to develop a ~~Rural Preservation Subdivision~~Open Space Subdivision. R-2A zones may

also be developed under the terms of this ordinance; in such cases, the R-2A zoned property shall be treated as R-

2 for the purposes of calculating underlying base density, number of lots, bonus density, lot sizes, and all other provisions outlined in this ordinance. If the zone is not listed above, it does not qualify for a ~~Rural Preservation Subdivision~~Open Space Subdivision.

4. Developers desiring to develop the property as ~~Rural Preservation Subdivision~~Open Space Subdivision are subject to the development standards, conditions procedures and regulations of this section.

D. Application Process:

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

the preliminary plat. For final plat application, the developer must submit a Final Maintenance Plan in accordance with subsection M,3 of this section. The Final

Maintenance Plan shall be attached to the Development Agreement required by NCC 21 and recorded with the Final for the property.

E. Dimensional Standards:

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

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

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

- a. The subdivision must be in one of the approved zones as listed within the ~~Rural Preservation Subdivision~~ Open Space Subdivision requirements, and all calculation will be based on the parcel's current zone at the time of application and the associated Lot Standards Chart with the exception of R-2A zones: R-2A zones shall be treated as R-2 zones for the purposes of this ordinance.
- b. Provide to the City the total area contained within the subdivision plat.
- c. Provide to the City the total area being dedicated to rights-of-way.
- d. Provide to the City the total acres of Constrained and Sensitive Land.
- e. Provide the City the total Net Developable Land area as defined within this section.
- f. State the area of proposed Open Space Land.
- g. Calculate Open Space Ratio.
- h. Calculate the Base Number of Lots per zone:

$$(1) \text{ Base Number of Lots R-1} = \text{Net Developable Land} / 1 \text{ acre}$$

(2) Base Number of Lots R-1A = Net Developable Land / .75 acres

(3) Base Number of Lots R-2 and R-2A = Net Developable Land / 0.5 acres

i. Determine Incentive Multiplier

(1) Determine Incentive Multiplier based on the Lot Standards Chart, the applicable zone, and the Open Space Ratio.

j. Calculate total allowed

(1) Total allowed lots = Base number of lots multiplied by the Incentive Multiplier

3. Phasing of lot sizes: Open Space Subdivision located in R-2 and R-2A zones and adjacent to an existing subdivision shall have the lots that boarder that subdivision shall be 80% of the sizes of the minimum of lots size for the underlying zone. Open Space Subdivisions in R-1 and R-1A zones shall have the lots that boarder other subdivision shall be a minimum of 14,000 sq. ft.

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F. Lot Area, Frontages, and Zoning Regulations:

1. The subdivision, along with each lot within the subdivision, shall meet and comply with the minimum lot sizes, average lot sizes, and frontages shown on the Lot Standards Chart. Except for these requirements, the Zoning Regulations (NCC 19) for the underlying zone shall apply to ~~Rural Preservation Subdivision~~Open Space Subdivisions, unless otherwise noted within this section.

G. Conservancy Lots:

1. Open Space Land and Constrained and Sensitive Land may be included within individual residential lots when such areas can be properly protected and preserved in accordance with the intent and purpose of this section. Such lots shall be known and referred to as "conservancy lots". These lots must contain a minimum of 0.5 acres of Open Space Land, except for areas approved by Nibley City as defined Landscape Buffers, and that Open Space Land must meet the design standards and use standards within this section.
2. Regulations: Open Space Land and Constrained and Sensitive land within a Conservancy Lot shall remain subject to all regulations and requirements for such land as set forth herein, including, but not limited to, use, design, maintenance, ownership and permanent protection. Open Space Land must be developed and maintained within the first year of the date of issuance of a Notice to Proceed under NCC 21.
3. The portion of each Conservancy Lot that is not Open Space Land must meet the minimum lot size on the applicable Lot Standards Chart and shall be the portion of the Conservancy Lot used to calculate the average and minimum lot size within the subdivision.

H. Use Regulation: Use of the land in a ~~Rural Preservation Subdivision~~Open Space Subdivision that is not Open Space Land is subject to any restrictions set forth in NCC 19, unless otherwise specified within this section, for the zone in which the land is located. Use of Open Space Land within a ~~Rural Preservation Subdivision~~Open Space Subdivisions is subject to the following:

1. Permitted Uses on Open Space Land: The following uses are permitted in Open Space Land areas:

a. Street rights-of-way may traverse Open Space Land if permitted under City

ordinances; provided, areas encumbered by such facilities and/or rights-of-way shall not be counted as Open Space Land when computing the Open Space Ratio in the Lot Standards Chart.

- b. Utility rights-of-way or easements, including above ground and underground utilities may traverse Open Space Land if permitted by City ordinance; areas encumbered by such facilities and/or rights-of-way may be counted as Open

Space Land when computing the Open Space Ratio in the Lot Standards Chart so long as the rights-of-way and easements otherwise meet the requirements of this ordinance for Open Space Land.

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

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

- a. Motor vehicles are prohibited except as necessary to maintain and operate the property and/or utility facilities within the property. Recreational motorized off-road vehicle usage including but not limited to motorcycles, dirt bikes, go-carts, OHVs, dune buggies, side-by-sides and their derivatives, and snowmobiles are prohibited.
- b. Firearm ranges, and other uses similar in character and potential impact are prohibited.
- c. Advertising of any kind and any billboards or signs; provided, directory and information signs may be displayed describing the easement and prohibited or authorized the use of the same.
- d. Any cutting of trees or vegetation, except as reasonably necessary for fire protection, thinning, elimination of diseased growth, control of non-native plant species, maintenance of landscaped areas, and similar protective measures or those activities relating to permitted agricultural uses or other uses allowed within this section.
- e. Any development, construction or location of any manmade modification or improvements such as buildings, structures, roads, parking lots, or other improvements, except as may be necessary to support a permitted use.
- f. Any dumping or storing of ashes, trash, garbage, vehicles, trailers, recreational vehicles or other equipment except for equipment needed to maintain the land.
- g. Any filling, dredging, excavating, mining, drilling, or exploration for and extraction of oil, gas, minerals or other resources from the property.
- h. Any residential, commercial or industrial activity except as specifically permitted in this ordinance.
- i. Burning of any materials, except as necessary for agricultural, drainage and fire protection purposes.
- j. Changing the topography of the property by placing on it any soil, dredging spoils, landfill, or other materials, except as necessary to conduct specifically permitted purposes.
- k. Hunting or trapping for any purpose other than predatory or problem animal control.
- l. The change, disturbance, alteration, or impairment of significant natural ecological features and values of the property or destruction of other significant conservation interests on the property.
- m. The division, subdivision or de facto subdivision of the property.
- n. The use of motor vehicles, including snowmobiles, all-terrain vehicles, motorcycles and other recreational vehicles.
- o. All other uses and practices inconsistent with and detrimental to the stated objectives and purpose of this section.

3. Constrained and Sensitive Lands: Except for passive recreational activities, no development or residential uses shall be permitted within Constrained and Sensitive Lands

4. Open Space Land Coordination: ~~Open Space Land shall be located on the boarder of proposed subdivision and be located adjacent to undeveloped land where possible. The City may make exceptions for internal trails, constrained and sensitive lands. Open Space Land shall be coordinated and located to maximize the continued use of the space. To create larger areas of Open Space Land and to combine Open Space Land from a variety of developments, Open Space Land shall be coordinated either with existing adjacent Open Space Land or with planned future Open Space Land. If no adjacent parcels of land are planned for development, Open Space Land shall be planned to provide the greatest likelihood of adjoining future developments' Open Space Land.~~
5. Open Space Lands: Standards pertaining to the quantity, quality, configuration, use, permanent protection, ownership, and maintenance of the Open Space Land within a ~~rural preservation Subdivision~~Open Space Subdivision shall be complied with as provided herein.
- I. Open Space Land Design Standards: Open Space Land shall be located and designed within the ~~Rural Preservation Subdivision~~Open Space Subdivision to add to the visual amenities of neighborhoods and the surrounding area by maximizing the visibility of Open Space Land. Designated Open Space Land within a ~~Rural Preservation Subdivision~~Open Space Subdivision shall also comply as defined in this section, permitted uses as listed in this section, and meet three (3) or more of the following standards:
 1. Significant Areas and Natural Landscape: Open Space Land shall include the most unique and sensitive resources and locally significant features of the property within the subdivision. Specifically, meadows, waterways and wetlands as defined in this Ordinance, and tree stands and contain a minimum of 0.5 acres. Other uses include berms, wildlife corridors and/or habitat and must extend a minimum of 15' on each side of the feature. This Open Space Land may also contain historic buildings and/or sites, archeological sites, and cultural features. The maintenance plan shall outline how the property will be preserved and maintained. The maintenance plan must specify what type of feature(s) that is being preserved and how the property will be maintained.
 2. Contiguous Land: Open Space Land within a Rural Conservation Subdivision shall be contiguous within the subdivision, or to other Open Space Land in adjacent subdivisions or developments to provide for large and integrated Open Space Land areas within the City.
 3. Agricultural Land: Privately held Open Space Land that is used for agricultural purposes as defined in this Ordinance and is 0.5 acre or greater in size.
 4. Buffering: Open Space Land shall be designed to provide buffers and to protect scenic views as seen from existing public rights-of-way and from public parks or trails. Buffering area along public rights-of-way or street must be at least thirty (30') feet wide. Buffering must be landscaped, at the sole cost of the developer and shall provide for every hundred (100) linear feet of buffer, six (6) trees and fifteen (15) shrubs. Tree and shrub species must be approved by the City's arborist or the City's Park Director. Trees and shrubs shall be planted within thirty (30) feet of the right-of-way or public park. Irrigation shall be provided by the developer and shall be designed and installed to Nibley City Standards for City parks current at the time of approval of Final Plat. Open Space buffer areas shall be under single ownership.
 5. Pedestrian Access: Developer shall provide pedestrian access to Open Space Land which is open to public or owners' association member use. Access methods can be a trail, park, recreation space, or neighborhood gathering space.
 6. Recreation Space: Open Space Land maybe designated as recreation space or park space, including maintained grass, trails, picnic areas, playgrounds, sports fields or other

recreation and park amenities. These recreation spaces are conditional upon the City Council's approval, and amenities must be approved by the City Council before final approval of the maintenance plan can be given. Publicly and owners' association owned open spaces shall be fully developed and operational in conjunction with each phase of

the subdivision as a percentage of the total developed value of the subdivision (for example, if 25% of the dollar value of the development is being constructed, then a minimum of 25% of the dollar value of the built-out Recreation Space must be developed). The determination of value, construction sequencing, and acceptance criteria shall be specified in the development agreement; until improvements are accepted by the City for the attendant phase, no permits shall be issued for subsequent phases.

7. Stormwater Basin: These facilities must be built to Nibley City Design Standards and Specifications, must contain a tree for every 300 square feet and planted and clustered around the perimeter basin area; an irrigation system must be installed, and be planted with grass, natural vegetation and shrubs. The stormwater basin can be a local or regional basin and must be owned and maintained by Nibley City.

J. Permanent Protections of Open Space Land:

1. Conservation Easement: All Open Space Land shall be permanently restricted from future development by a conservation easement or other method of protection and preservation acceptable to the City. Under no circumstances shall any development be permitted in the Open Space Land at any time, except for those permitted or conditional uses listed herein and approved in conjunction with the ~~rural preservation subdivision~~Open Space Subdivision. All conservation easements, or another acceptable method of protection and preservation of the Open Space Land within a ~~Rural Preservation Subdivision~~Open Space Subdivision, shall be approved by the City Council and recorded prior to or concurrent with the recording of the final plat for the ~~Rural preservation subdivision~~Open Space Subdivision.
2. Terms and Conditions: All conservation easements, or another acceptable method of protection and preservation of the Open Space Land within a ~~Rural Preservation Subdivision~~Open Space Subdivision, shall be in substantially the same form as the standard conservation easement form provided by the City and shall include, at a minimum, the following terms and/or conditions:
 - a. Legal description of the easement;
 - b. Description of the current use and condition of the property;
 - c. Permanent duration of easement;
 - d. Permitted and conditional uses;
 - e. Prohibited development and/or uses;
 - f. Maintenance responsibilities and duties; and
 - g. Enforcement rights and procedures.
3. Marking of Open Space Land: Open space land shall be marked at each corner and property line intersection with a minimum 4" diameter x 3' deep concrete monument provided with an aluminum or brass cap cast or epoxied into the monument. Caps shall be stamped "Nibley Conservation Marker, Do Not Remove", and an arrow stamped into the cap perpendicular to the Open Space boundary line and pointing into the Open Space. Monuments shall be placed such that the top 6" of the monument is above finished grade at the monument location.
4. Grantee: Unless otherwise approved by the City Council, the grantee of a conservation easement shall consist of one of the following acceptable entities which entity shall be qualified to maintain and enforce such conservation easement: land trust, conservation organization, or governmental entity. The City may, but shall not be required to, accept, as grantee, a conservation easement encumbering Open Space Lands within a ~~Rural~~

~~Preservation Subdivision~~ Open Space Subdivision, provided there is no cost of acquisition to the City for the

easement and sufficient access to and maintenance responsibilities regarding the Open Space Land are provided.

K. Ownership of Open Space Land:

1. Undivided Ownership: Unless otherwise approved by the City Council and subject to the provisions set forth in this section, the underlying fee Ownership of the Open Space Land shall remain in single Ownership and may be owned and maintained by one of the following entities: homeowners' association, land trust, conservation organization, governmental entity, or private individual.
2. Property Not Subject to Subdivision: Property subject to a conservation easement, or another acceptable method of protection and preservation, shall not be subdivided.
3. Nibley City may at its sole discretion opt to take ownership of Open Space Land at the subdivision approval stage. The developer shall landscape the property with sod, grass, trees and an irrigation system or other natural landscape features as appropriate as determined by the City Council.
4. Owners' Association: Open Space Land may be held in common ownership by a Home Owners' or other acceptable Owners' Association, subject to all the provisions for Owners' Associations set forth in state law, the City Code, and the following:
 - a. A description of the organization of the proposed Association, including its bylaws, and all documents governing ownership, maintenance, and use restrictions for Open Space Land, including restrictive covenants for the subdivision, shall be submitted by the developer with the final plat application.
 - b. The proposed association shall be established, funded and operating (with financial subsidization from the Developer, if required in by the City in the development agreement) prior to or concurrent with the recording of the final plat for the subdivision;
 - c. Membership in the association shall be mandatory for all purchasers of property within the subdivision and their successors in title.
 - d. The association shall be the responsible party for maintenance and insurance of its Open Space Land under the Final Maintenance Plan for the subdivision;
 - e. The bylaws of the association and restrictive covenants for the subdivision shall confer legal authority on the association to place a lien on the real property of any member who falls delinquent in dues. Such dues shall be paid with the accrued interest before the lien may be lifted; and
 - f. Written notice of any proposed transfer of Open Space Land by the Association or the assumption of maintenance for the Open Space Land must be given to all members of the Association and to the City no less than thirty (30) days prior to such event.
 - g. The owners' association shall be required to provide a bond or line of credit to the City for the cost of one year of maintenance of property owned by the Association, to be maintained by the Association for as long as the Association owns the Open Space.
 - h. In the event of a failure of the owners' association to maintain the properties in accordance with the requirements of the development agreement, the City shall revoke the owners' association's bond, determine an appropriate assessment for the operation and maintenance of the open space, and assess all properties of the Subdivision on a monthly basis for said maintenance.

5. Private Ownership: A conservation parcel may be owned by a private individual or entity. Such parcels shall have a defined purpose and restrictions recorded in the maintenance plan and comply with this section.

L. Maintenance of Open Space Lands:

1. Costs: Unless otherwise agreed to by the City, the cost and responsibility of maintaining Open Space Land shall be borne by the owner of the underlying fee of the Open Space Land.
2. Preliminary Maintenance Plan: A Preliminary Maintenance Plan shall be turned in with the preliminary plat for proposed maintenance of Open Space Land within the subdivision. This plan shall outline the following:
 - a. The proposed Ownership of the Open Space Land;
 - b. The party that will be responsible for maintenance of the Open Space Land;
 - c. The proposed use of the Open Space Land and how each parcel of Open Space Land meets the standards listed within this section;
 - d. The size of each Open Space Land parcel; and
 - e. The proposed concept plan for landscaping of the Open Space Land.
3. Final Maintenance Plan: The developer shall submit a plan outlining maintenance and operations of the Open Space Land and providing for and addressing the means for the permanent maintenance of the Open Space Land within the proposed ~~Rural Preservation Subdivision~~Open Space Subdivision application for the subdivision. The developer shall provide a final maintenance plan with the final plat and the plan shall contain the following:
 - a. Ownership agreements for Open Space Land;
 - b. A description of the use of the Open Space Land and how that use complies with this section;
 - c. The establishment of necessary regular and periodic operation and maintenance responsibilities for the various kinds of Open Space Land (e.g., lawns, playing fields, meadow, pasture, wetlands, stream corridors, hillsides, cropland, woodlands, etc.);
 - d. The estimated staffing needs, insurance requirements, and associated costs, and define the means for funding the maintenance of the Open Space Land, and the operation of any common facilities located thereon, on an ongoing basis, including means for funding long-term capital improvements as well as regular yearly operating and maintenance costs; and
 - e. The landscaping plans for parcels that will be owned by an owners association or by the City.
 - f. Approval: The Final Maintenance Plan must be approved by the City Council prior to or concurrent with final plat approval for the subdivision. The Final Maintenance Plan shall be recorded against the property within the subdivision and shall include provisions for the City's corrective action rights as set forth herein. Any changes or amendments to the Final Maintenance Plan must be approved by the City Council.
4. The developer shall offer an approved letter of credit, bond or escrow for all proposed

improvements and must complete all proposed open space improvements within the first

three years of approval. If a designated open space parcel is planned to be maintained by a single property owner, the developer shall maintain that property until title is transferred to a new property owner.

5. Failure to Maintain: For all open space designated under the terms of this Ordinance, including privately held Open Space Lands, the responsible party for the maintenance of the Open Space Land in accordance with the terms of this ordinance, the approved maintenance agreement, any conditional use permits, business licenses or any other agreements between the City and the responsible party, or the operation of any common facilities located thereon fails to maintain all or any portion of the Open Space Land or common facilities in accordance with the aforementioned agreements and ordinances, the City may assume responsibility for the maintenance and operation of the Open Space Land. If the City assumes responsibility under this paragraph, any remaining development escrow or bond funds may be forfeited, liens for maintenance costs shall be assessed as described herein, and any permits, licenses or operating agreements may be revoked or suspended by the City in the City's sole discretion. The owner shall not impede the City in their efforts to maintain the open space.
6. Corrective Action: The City may enter the premises and take corrective action, including extended maintenance. The costs of such corrective action may be charged to the property Owner and may include administrative costs and penalties. Such costs shall become a lien on said properties. Notice of such lien shall be filed by the City in the county recorder's office. The maintenance plan and all other documents creating or establishing any Association or conservation organization for the property shall reference the City's corrective action authority set forth herein and shall be recorded against the property.
7. Implementation and Maintenance: The developer of the subdivision shall fund implementation and maintenance of the conservation easement until such time as the control of the easement is transferred to the long-term manager. The developer shall address implementation, development, maintenance and transfer procedures in the sensitive area designation plan map or master development plan, as applicable.
8. Maintenance Access: The developer of the subdivision shall provide sufficient maintenance access from a dedicated right-of-way to all Open Space Land and constrained and sensitive lands within the ~~Rural preservation subdivision~~ Open Space Subdivision.

HISTORY

Adopted by Ord. [18-05](#) on 7/19/2018