



NIBLEY CITY COUNCIL MEETING AGENDA

Thursday, August 13, 2020 – 6:30 p.m.

1. Opening Ceremonies (Councilmember Sweeten)
2. Call to Order and Roll Call (Chair)
3. Approval of the Previous Meeting Minutes and Current Agenda (Chair)
4. Public Comment Period¹ (Chair)
5. Planning Commission Report
6. **Public Hearing** – Ordinance 20-15: Amending the Logan Wastewater Treatment Impact Fee
7. **Discussion & Consideration** – Ordinance 20-15: Amending the Logan Wastewater Treatment Impact Fee (First Reading)
8. **Discussion & Consideration** – Ordinance 20-14: Update to Nibley City Code 21.10.020 Amending the Rural Preservation Subdivision (Second Reading)
9. **Discussion & Consideration** – Ordinance 20-07: Residential Planned Unit Development Overlay Zone and Development Agreement for Nibley Meadows, located at approximately 1000 W and 3200 S. Proposing 273 units on 54.6 acres (Fourth Reading)
10. **Workshop** – Ordinance 20-13: Accessory Dwelling Unit Standards
11. **Council and Staff Reports**
12. **Adjourn to Closed Session**–To Discuss REAL ESTATE and PENDING LITIGATION, PURSUANT to Utah Code 52-4-205

In compliance with the Americans With Disabilities Act, reasonable accommodations for individuals with disabilities will be provided upon request. For assistance, please call (435) 752-0431.

¹ Public input is welcomed at all City Council Meetings. 15 minutes have been allotted to receive verbal public comment. Verbal comments shall be limited to 3 minutes per person. A sign-up sheet is available at the entrance to the Council Chambers starting 15 minutes prior to each council meeting and at the rostrum for the duration of the public comment period. Commenters shall identify themselves by name and address on the comment form and verbally for inclusion in the record. Comment will be taken in the order shown on the sign-up sheet. Written comment will also be accepted and entered into the record for the meeting if received prior to the conclusion of the meeting. Comments determined by the presiding officer to be in violation of Council meeting rules shall be ruled out of order.



**Nibley City Council
Agenda Report for
August 13, 2020**

Agenda Item #6 & 7

Description	Public Hearing – Ordinance 20-15: Amending the Logan Wastewater Treatment Impact Fee and Discussion & Consideration – Ordinance 20-15: Amending the Logan Wastewater Treatment Impact Fee (First Reading)
Department	Public Works-Sewer
Presenter	Shaun Dustin, Mayor
Recommendation	Make a motion to approve Ordinance 20-15: Amending the Logan Wastewater Treatment Impact Fee, and waive the second reading.
Reviewed By	Mayor, City Manager, Public Works Director, City Planner, City Attorney, Building Inspector

Background:

Nibley City, along with Logan, USU, Providence, River Heights, North Logan, Hyde Park and Smithfield, sends all of the wastewater collected through its sewer system to a regional wastewater treatment plant in Logan, which is operated by Logan City. A new

\$162 million plant is under construction in Logan to replace the existing plant. Logan City requested that all of the cities that contribute wastewater to the plant establish a \$2,433 impact fee for each new residential unit that would be paid by new wastewater customers (homes and businesses), as they are constructed, to assist in financing the construction of the plant.

Logan City prepared a draft ordinance for each of the client cities to adopt in order to implement the impact fee. The impact fee was adopted by Nibley City on March 12 of this year. The impact fee went into effect July 1. The original ordinance indicated that Logan City would collect the fee. However, Logan City later decided that they preferred to have each city collect the fee with the other building permit and impact fees collected by Nibley City at the time of the building permit. All of the other client cities have agreed to collect the fee and forward it to Logan. Nibley City staff pushed back against this request and requested that Logan collect its own fee. Logan has refused to do so, claiming that it is legally required that Nibley collect it. However, Logan's city attorney has not cited a legal authority demonstrating this requirement and the Nibley City attorney has indicated that he is unaware of a legal requirement for Nibley to collect the fee. Logan City has refused to accept the fee directly from builders and is demanding that Nibley collect the fee and forward it to Logan. This will require Nibley to adjust its budget and perform accounting and state reporting of the fees collected.

This ordinance only changes one sentence in the previous impact fee ordinance reflecting that the fee will be collected by Nibley City rather than Logan.

ORDINANCE 20-15

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

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

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

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

WHEREAS, the City desires to modify the current ordinance for impact fee for wastewater treatment, referred to hereafter as "Wastewater Impact Fee" in accordance with applicable provisions of the Impact Fees Act; and

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

WHEREAS, a public hearing was held before the City Council on August 13, 2020 to receive public input and comment regarding the proposed Wastewater Impact Fee ordinance change.

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

1. The attached Nibley City Code 17.08 be amended.

ADOPTED and PASSED by the Nibley City Council this _____ day of _____, 2020.

Shaun Dustin, Mayor

ATTEST:

David Zook, City Recorder

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

17.08.010 Definitions

17.08.020 Impact Fee Analysis, Service Area

17.08.030

17.08.040 Wastewater Impact Fee

17.08.050 Accounting, Expenditure

17.08.060 Administrative Challenges and Appeals Procedure

17.08.070 Amendments, Inconsistencies, Severability, Establishment

17.08.010 Definitions

- A. “System Improvements” means:
 - 1. Existing public facilities that are:
 - a. Identified in the Impact Fee Analysis (“IFA”), attached as Exhibit “A”; and
 - b. Designed to provide services to the service areas within the community at large; and
 - 2. Future public facilities that are intended to provide services to service areas within the community at large.
- B. “Equivalent Residential Unit” means that unit of demand that has an impact on the wastewater treatment infrastructure of Logan City that is equivalent to a single-family residence with a flow of 245 gallons per day.
- C. “Public Facilities” for purposes of this ordinance means only the following impact fee related facilities that have a life expectancy of 10 or more years and are owned by Logan City, and which are operated on behalf of the City:
 - 1. Wastewater collection and treatment facilities

17.08.020 Impact Fee Analysis, Service Area

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

17.08.030

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

17.08.040 Wastewater Impact Fee

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

standard Wastewater Impact Fee is calculated as by determining the Estimated Flow divided by 245GPD multiplied by \$2,433.00.

- B. The Non-Standard Impact Fee is defined as commercial and industrial facilities, public facilities, multifamily residential units (more than one dwelling sharing one connection), and any other user which may create different impact than what is standard for its land use. The City of Logan Environmental Director or his designee is responsible for the assessment and adjustment of the non-Standard Impact Fee.
- C. ~~Nibley City Logan City or the Environmental Services Department~~ will collect the Wastewater Impact Fee at the time of building permit application. All impact fees must be paid in full before a building permit is issued.
- D. Logan City and/or the Logan City Environmental Director is authorized to adjust the standard impact fee described above at the time the fee is paid in order to:
 - 1. Respond to:
 - a. Unusual circumstances in specific cases; or
 - b. A request for a prompt and individualized impact fee review for the development activity of the state, a school district, or a charter school and an offset or credit for a public facility for which an impact fee has been or will be collected; and
 - 2. Ensure that the impact fee is imposed fairly.
- E. The amount of the Wastewater Impact Fee to be imposed on a particular development may be adjusted by Logan City and/or the Logan City Environmental Director.
- F. Applications for exceptions are to be filed with Logan City and/or the Logan City Environmental Director at the time the applicant first requests the extension of service to the applicant's development or property.
- G. Subject to approval by the Logan City and/or the Logan City Environmental Director, developers, including a school district or a charter school, may be allowed a credit against Impact Fees or proportionate reimbursement of Impact Fees if the developer 1) dedicates land for a System Improvement, 2) builds and dedicates some or all of a System Improvement, or 3) dedicates a public facility that Logan City and the developer agree will reduce the need for a System Improvement; provided that the System Improvement is: (i) identified in the Logan City Impact Fee Facility Plan; and (ii) is required by Logan City as a condition of approving the Development Activity. To the extent required in Section 11-36a-402 of the Act, the City, subject to the approval of Logan City and/or the Logan City Environmental Director, shall provide a credit against Impact Fees for any dedication of land for, improvements to, or new construction of any System Improvements provided by the developer if the facilities, 1) are a System Improvement; or 2) are dedicated to the public and offset the need for an identified System Improvement.

17.08.050 Accounting, Expenditure

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

17.08.060 Administrative Challenges and Appeals Procedure

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

17.08.070 Amendments, Inconsistencies, Severability, Establishment

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

Agenda Item #8

Description	Discussion & Consideration – Ordinance 20-14: Update to Nibley City Code 21.10.020 Amending the Rural Preservation Subdivision (Second Reading)
Department	Planning
Presenter	Shaun Dustin, Mayor
Recommendation	Make a motion to approve Ordinance 20-14: Update to Nibley City Code 21.10.020 Amending the Rural Preservation Subdivision.
Reviewed By	Mayor, City Manager, City Planner, Planning Commission

Background:

Update for August 13

During the July 30 City Council meeting, made a motion to amend the wording of the ordinance deleting “where possible” and adding “As directed by the Planning Commission and City Council” to the first sentence. This change has been made to the current draft of the ordinance.

During the June 25 City Council workshop, a workshop was held regarding this ordinance amendment. A concern was expressed about ensuring that significant and sensitive lands were prioritized to be preserved in conjunction with the provision that open space be consolidated. The recommended ordinance amendment has been updated to reflect this provision.

During the June 18, 2020 meeting, the Planning Commission recommended approval of Ordinance 20-14: Update to Nibley Ordinance 20-14: Update to Nibley City Code

21.10.020 Amending the Rural Preservation Subdivision. The proposed code changes, which are reflected in the new ordinance, include:

1. Clarifying language in section H-4 to encourage larger open spaces that can be built upon with future development, while eliminating “islands” of open space
2. Changing the name of the Subdivision type to ‘Open Space Subdivision.’

Planning Commission Recommendation

During the June 18, 2020 meeting, the Planning Commission recommended to approve Ordinance 20-14: Update to Nibley Ordinance 20-14: Update to Nibley City Code 21.10.020 Amending the Rural Preservation Subdivision

ORDINANCE 20-14
UPDATE TO NIBLEY CITY CODE 21.10.020 AMENDING THE RURAL PRESRVATION
SUBDIVISION

WHEREAS, Nibley City regulates the subdivision of land within Nibley City boundaries; and

WHEREAS, Nibley City promotes the preservation of meaningful open space for the enjoyment of its citizens;
and

WHEREAS, Nibley City promotes the efficient use of public resources to maintain open space in a satisfactory condition.

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

1. The attached proposed amendment to NCC 21.10.020 be adopted.
2. All ordinances, resolutions, and policies of the City, or parts thereof, inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency. This repealer shall not be construed as reviving any law, order, resolution, or ordinance, or part thereof.
3. Should any provision, clause, or paragraph of this ordinance or the application thereof to any person or circumstance be declared by a court of competent jurisdiction to be invalid, in whole or in part, such invalidity shall not affect the other provisions or applications of this ordinance or the Nibley City Municipal Code to which these amendments apply. The valid part of any provision, clause, or paragraph of this ordinance shall be given independence from the invalid provisions or applications, and to this end the parts, sections, and subsections of this ordinance, together with the regulations contained therein, are hereby declared to be severable.
4. This ordinance shall become effective upon posting as required by law.

PASSED BY THE NIBLEY CITY COUNCIL THIS _____ DAY OF _____, 2020.

Shaun Dustin, Mayor

ATTEST: _____
David Zook, City Recorder

21.10.020 Open Space SubdivisionOpen Space Subdivision**Deleted: Rural Preservation 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 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.

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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 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 Open Space Subdivision options is to encourage the creation and development of flexible designed Open Space Land and variety in lot size and conformation. Open Space Subdivisions may be developed within applicable residential zones of the City. 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 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-

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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 Open Space Subdivision.

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

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D. Application Process:

1. Applications for a 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.

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2. Pre-application Meeting: Applicants for a 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:

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- 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 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.

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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 Open Space Subdivision shall be determined in accordance with the Lot Standards Chart.

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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 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:

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- a. The subdivision must be in one of the approved zones as listed within the 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:

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

- (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

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 Open Space Subdivisions, unless otherwise noted within this section.

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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 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 Open Space Subdivisions is subject to the following:

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- 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 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

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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: As directed by the Planning Commission and City Council, Open space land shall be consolidated and located on the border of proposed subdivision and be located adjacent to undeveloped or open space land. In consideration of open space consolidation, design standards described in this chapter shall be maximized, including the preservation of significant areas and natural landscape, and adequate pedestrian access.

5. Open Space Lands: Standards pertaining to the quantity, quality, configuration, use, permanent protection, ownership, and maintenance of the Open Space Land within a 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 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 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

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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 Open Space Subdivision. All conservation easements, or another acceptable method of protection and preservation of the Open Space Land within a 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 Open Space Subdivision.

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2. Terms and Conditions: All conservation easements, or another acceptable method of protection and preservation of the Open Space Land within a 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:

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

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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 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

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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 Open Space Subdivision.

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

Agenda Item #9

Description	Discussion & Consideration – Ordinance 20-07: Residential Planned Unit Development Overlay Zone and Development Agreement for Nibley Meadows, located at approximately 1000 W and 3200 S. Proposing 273 units on 54.6 acres (Fourth Reading)
Department	Planning
Presenter	Justin Maughan, Public Works Director
Recommendation	The staff recommendation is to make a motion to approve the ordinance, along with the findings listed in the staff report, Ordinance 20-07: Residential Planned Unit Development Overlay Zone and Development Agreement for Nibley Meadows, located at approximately 1000 W and 3200 S. Proposing 273 units on 54.6 acres.
Recommended Findings	1. Proposed development during Preliminary Plat and Final Plat approval shall not substantially deviate from the concept plan 2. Require an additional stub road between 1000 and 1100 West to connect to future development to the south 3. Adding an additional pedestrian connection to the northeast directly to Heritage Elementary
Reviewed By	Mayor, City Manager, City Planner, Public Works Director, City Engineer, Planning Commission, City Attorney

Background:

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

19.32.010 Purpose And Intent

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

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

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

[Nibley City Code 19.32.70](#) lists the following for consideration for an R-PUD:

D. R-PUD Considerations: In approving with conditions, denying or approving an R-PUD proposal, the Planning Commission and City Council shall consider the following in addition to all other considerations required by law:

1. *Design of Buildings: The architectural design of buildings and their relationship on the site and their relationship to development beyond the boundaries of the development.*
2. *Streets and Parking: Which streets shall be public, and which shall be private, the entrances and exits to the development, and the provisions for internal and external traffic circulation and off-street parking.*

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

The Planning Commission is a recommending body for an R-PUD, while the City Council is the land-use authority. The Planning Commission has made a positive recommendation of the original proposed layout with amenities that meet the requirements.

During the March 26 City Council meeting, City Council members expressed concerns with the design of the development, including the stark segregation of housing types and lack of variety of housing lot sizes. The applicant provided an updated design at the June 11 meeting, which provided more integration of townhomes and single family homes, with several townhomes and single-family homes sharing blocks and streets, and a wider range of lot sizes for single-family homes. **The Council further expressed concerns at the June 11 meeting, including that they would like to consider a lower ratio of townhomes to single family homes. The applicant updated the design further to address these comments. The following considerations reflect the updated concept plan.**

Design of Buildings

NCC 19.32.080 provides the following architectural design standards for townhomes, condominiums and patio homes:

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.

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.

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.

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

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.

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:

Change in building materials;

- a. Building projections measuring at least twelve (12) inches in depth based on the scale of the proposed building;*
- b. Awnings and lighting, or another architectural variation as approved on a case-by-case basis that creates visual interest.*

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

The applicant has submitted architectural renderings for the proposed townhomes that appear to meet the standards of this ordinance. The proposed building facade includes a combination of brick veneer, stucco and vinyl siding material. Approximately 72% of building materials for the front façade are of hard surface, with 79% of the rear façade of hard surface. The design of the façade includes vertical separation elements, including changes in material, roof pitch and façade step back elements. Based upon the updated concept plan, building entrances are oriented toward open space for the majority of the townhomes, with some facing toward public streets. Rear loading garages will be provided and the applicant has indicated that all units will have 2-car garages.

Zoning

As displayed in the table below, the general lot sizes, open space, parking, density, and other general zoning requirements are met for an R-PUD.

	R-PUD Requirements	Nibley Meadows
Listed on R-PUD Application Map	Parcels need to be listed on the map	Yes
Total Gross Acres	N/A	54.602
Net Developable Acres	N/A	43.7
Total Open Space Land	35%(15.29 Acres)	45.7% (19.98 Acres)
Units Per Net Developable Acre	12 Max Units	6.25 Units

Min Lot Size for Single Family Lots	4,500 sq. ft.	5,000 sq. ft.
Total Lots	Max of 524 Unit	273 Units
Single Family Town Home Mix	20%/80%	44%/56% (120 Single Family and 153 Townhomes)
Total Park Space Required	6.5 acres with 3 Playground, 2 swing sets, 2 sport courts or fields, 2 pavilions, 2 of either clubhouse, pool, or splash pad.	14.91 acres of common open space, including 5-acre public park with 3 Playgrounds, 2 swing sets, 2 sport courts, 3 pavilion, 1 clubhouse and 1 pool.
Parking (Townhomes)	2 spaces for each unit (306), and one guest parking for every 3 units (51)	418 garage spaces and 52 guest parking spaces

Surrounding Zoning and Land Use

Most of the surrounding land use is currently undeveloped with R-2 zoning, and most land in agricultural use. There is a residential development along 1000 W and Heritage Elementary School to the north, and a single-family home located adjacent to the northwest of the project. These homes are buffered by an arterial roadway (3200 S).

In the version recommended by the Planning Commission, there is open space adjacent to a single-family lot, and a 66-foot right-of-way. The Open Space did not appear to provide a sufficient buffer for the single-family home as required below:

19.32.040 Area and Density Regulations

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.

The updated concept plan appears to meet this standard. It proposes to border the development with single family homes or open space along the vast majority of the perimeter. There are proposed townhomes along a small portion of the perimeter, but they are adjacent to vacant agricultural land.

Utilities

Nibley City Public Works Director and the City Engineer have reviewed the proposed number of units and have determined that the utility lines in the area are able to support the development. The applicant will need to have a few larger lines as shown on the R-PUD concept plan. If approved, the applicant will need to submit a more detailed utility design with preliminary plats and construction drawings. The alignment of the water and sewer line on the south side of the parcels are being realigned.

Sensitive Lands and Canal

There are no sensitive lands contained within the proposed development. There are a few canals, but most of the canals are small ditches used to water the property. There is a canal that runs along the northern boundary that is adjacent or goes through open space.

Streets and Parking

Nibley City Street Master Plan: Section of the proposed area

The applicant has turned in a proposed street layout for the development, including a network of private and public streets and has described proposed cross sections of streets. Staff has reviewed the general road layout and has found it complies with the Transportation Master Plan.

Staff had some concerns about connectivity within the development with previous versions. Namely, a connection from 900 W and 1000 W. The applicant originally proposed a couple of private roadway connections between the two roads.

The updated proposed street layout provides for better connectivity and circulation for the area. There was a concern expressed previously that the majority of the traffic would be funneled into the 1000 W 3200 S intersection, near Heritage Elementary. With the new design, much of the west bound traffic would access 3200 south via 1200 west,

which is slated to have a round-about improvement in the near term that can better accommodate the traffic at that intersection.

In addition, the updated design with a greater proportion of single-family homes provides an additional public street at approximately 1120 West, which stubs to the agricultural parcel to the north of the development, allowing for a local connection if this parcel subdivides in the future.

NCC 19.32.080 B-3-e states:

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.

The development appears to meet this standard and provides several trail and sidewalk connections, with several connections to existing and future development proposed. Staff proposes an additional pedestrian connection directly to Heritage Elementary on the northeast side of the project to provide better connectivity and safety for students connecting to the school.

An additional recommendation of Staff to improve connectivity and allow for future connections is to provide a stub road to connect to future development to the south of the project.

Traffic Study

The applicant has conducted a traffic study to help determine any other traffic needs or additional improvements to 3200 S and 1200 W, and will design any needed improvements to the preliminary plats and construction drawings. The full traffic study has been reviewed by the City Engineer and other staff.

Open Space, Trails, and Maintenance Plan

The applicant has submitted a general open space plan which includes parks, green space, trails, and buffer areas, which has been updated from the original version. They are proposing that a total of 45.7% of the net developable area be maintained as green space, exceeding the standard of NCC 19.32.050. There was a concern that, although the ordinance allows for park strips and other features in the public right-of-way can count toward the open space, there should be sufficient usable open space outside of this. The proposed concept plan indicates that open space, excluding sidewalks and

park strips, is 39.6% of total area within the development. Therefore, the standard is met without including those features.

The plan is that the majority of the green space be owned and maintained by a homeowners association, with some trails and even park space being dedicated to Nibley City. The applicant also has sufficient park space as required by [Nibley City Code 19.32.050 Open Space Amenities](#). The applicant will need to provide an additional playground and pavilion as required by the same code listed above. The City will need to consider the overall phasing of the project to ensure that park space is phased in a proportion of the development.

The applicant has indicated that the park on 1200 W could be dedicated as a public park. There are a few things to consider if that space should be a public park:

[Nibley City Code 19.32.020 Definitions and Standards:](#)

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.

The Applicant has stated that if the City Council would like that area to be a public park, that they would be open to what improvements needed to be made on the property. As the proposed is located on 1200 West, a minor arterial road, Staff proposes additional screening from traffic, such as a berm or additional trees. Public park space must be approved by the City Council. All other amenities will be maintained by a local homeowners association.

The applicant has also included all trails as shown on Nibley's Trail Master Plan (attached). The Trail Master plan shows that the 1100 W right-of-way should be turned into trail space. The applicant has shown the trail space following along 1100 W right-of-way. Staff has recommended that the single-family homes located on the very south be connected to the rest of the development with a trail along 1100 W.

Planning Commission Review

The Planning Commission recommended that the developer make a few changes from the original application. One of the Planning Commission's main concerns was traffic flow within the development. The original application had a majority of the traffic funneled onto 3200 S and 1000 W. With that concern, the roads were laid out to get most of the proposed traffic onto 1200 W. The Planning Commission also requested that the different housing types be grouped together. This caused the single-family homes to be mostly grouped in the south of the property.

The Planning Commission also recommended pulling the townhomes along 3200 S farther back to around 40 feet to provide a further buffer from 3200 S and the Heritage Elementary School.

The Planning Commission gave a positive recommendation on the application presented with a three to one vote.

Recommended Findings

4. Proposed development during Preliminary Plat and Final Plat approval shall not substantially deviate from the concept plan
5. Require an additional stub road between 1000 and 1100 West to connect to future development to the south
6. Adding an additional pedestrian connection to the northeast directly to Heritage Elementary

Other Considerations

1. Open space construction and phasing of the project.
2. Park Space: City ownership of the park space on 1200 W

ORDINANCE 20-07

**RESIDENTIAL PLANNED UNIT DEVELOPMENT OVERLAY ZONE
APPLICATION AND DEVELOPMENT AGREEMENT FOR THE PROPOSED NIBLEY
MEADOWS RESIDENTIAL PLANNED UNIT DEVELOPMENT**

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

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

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

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

1. The attached Residential Planned Unit Development Overlay Zone Application be approved for parcels 03-018-0017, 03-050-007, and 03-050-0001
2. The attached Development Agreement be approved
3. The Overlay Zone shall not take place until the Developer and City have signed the attached Development Agreement and said Development Agreement has been properly recorded as required by Nibley City Code.
4. All ordinances, resolutions and polices of the City, or parts thereof, inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency. This repealer shall not be construed as reviving and law, order, resolution or ordinance or part thereof.

PASSED BY THE NIBLEY CITY COUNCIL THIS ____ DAY OF _____ 2020.

Shaun Dustin, Mayor

ATTEST:

David Zook, City Recorder

PROJECT NOTES:

GENERAL PROJECT DESCRIPTION: THE DEVELOPMENT WILL A INCLUDE A MIX OF SINGLE-FAMILY AND TOWNHOME DWELLINGS. THE DEVELOPMENT WILL CONTAIN MORE THAN 35% OPEN SPACE THAT WILL INCLUDE POCKET PARKS, LINEAR PARKS, AND TRAILS. A CLUBHOUSE AND VARIOUS AMENITIES WILL ALSO BE PROVIDED.

CULINARY WATER SYSTEM: WATER MAINS WILL BE INSTALLED IN ALL PUBLICLY DEDICATED RIGHTS-OF-WAY AND MAJOR PRIVATE DRIVES. WATER MAINS WILL CONNECT TO CITY SYSTEM IN 3200 SOUTH AND TO MASTER-PLANNED 10" WATER MAIN IN 3500 SOUTH (THE SOUTHERNMOST EAST-WEST ROAD).

SEWER SYSTEM: THE NORTH THIRD OF THE PROJECT WILL DRAIN TO THE EXISTING LINE IN 3200 SOUTH. THE REMAINING SOUTH TWO THIRDS OF THE PROJECT WILL DRAIN TO THE SEWER STUB ON THE WEST OF THE PROJECT CURRENTLY BEIN INSTALLED AS PART OF THE NIBLEY FARMS SUBDIVISION.

SECONDARY WATER SYSTEM: NOT PROPOSED.

SOLID WASTE: INDIVIDUAL TRASH PICKUP IS PROPOSED FOR ALL UNITS CONTAINED WITHIN THE DEVELOPMENT.

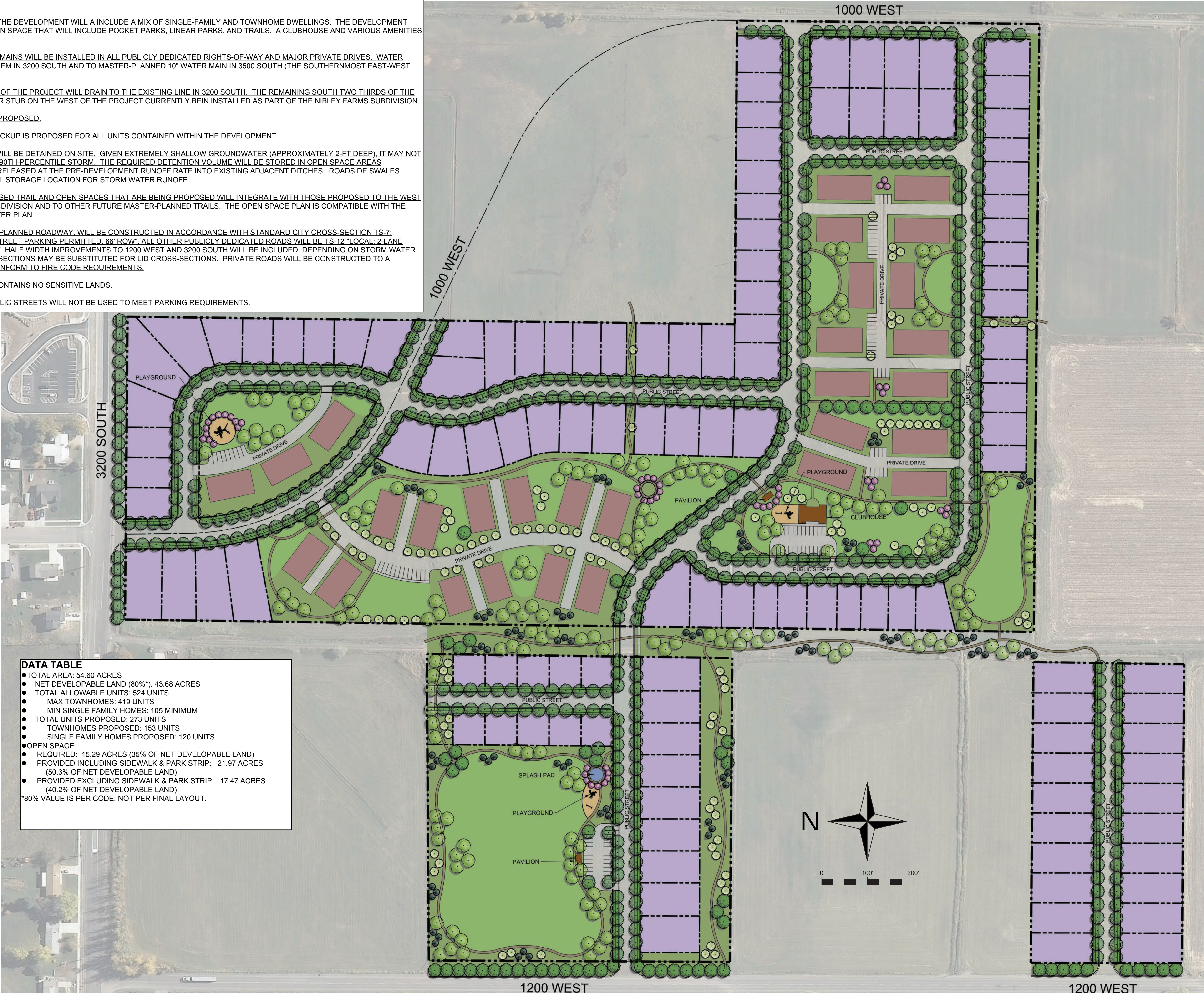
STORM WATER: THE 100-YR 24-HR WILL BE DETAINED ON SITE. GIVEN EXTREMELY SHALLOW GROUNDWATER (APPROXIMATELY 2-FT DEEP), IT MAY NOT BE FEASIBLE TO FULLY RETAIN THE 90TH-PERCENTILE STORM. THE REQUIRED DETENTION VOLUME WILL BE STORED IN OPEN SPACE AREAS THROUGHOUT THE SITE AND THEN RELEASED AT THE PRE-DEVELOPMENT RUNOFF RATE INTO EXISTING ADJACENT DITCHES. ROADSIDE SWALES COULD ALSO SERVE AS A POTENTIAL STORAGE LOCATION FOR STORM WATER RUNOFF.

PARKS & RECREATION: THE PROPOSED TRAIL AND OPEN SPACES THAT ARE BEING PROPOSED WILL INTEGRATE WITH THOSE PROPOSED TO THE WEST AS PART OF THE NIBLEY FARMS SUBDIVISION AND TO OTHER FUTURE MASTER-PLANNED TRAILS. THE OPEN SPACE PLAN IS COMPATIBLE WITH THE CITY PARKS AND OPEN SPACE MASTER PLAN.

ROADWAYS: 1000 WEST, A MASTER PLANNED ROADWAY, WILL BE CONSTRUCTED IN ACCORDANCE WITH STANDARD CITY CROSS-SECTION TS-7: "COLLECTOR: 2-LANE STREET, ON-STREET PARKING PERMITTED, 66' ROW". ALL OTHER PUBLICLY DEDICATED ROADS WILL BE TS-12 "LOCAL: 2-LANE STREET, NO BIKE FACILITY, 60' ROW". HALF WIDTH IMPROVEMENTS TO 1200 WEST AND 3200 SOUTH WILL BE INCLUDED, DEPENDING ON STORM WATER DESIGN APPROACH. THESE CROSS-SECTIONS MAY BE SUBSTITUTED FOR LID CROSS-SECTIONS. PRIVATE ROADS WILL BE CONSTRUCTED TO A MINIMUM WIDTH OF 26' AND WILL CONFORM TO FIRE CODE REQUIREMENTS.

SENSITIVE LANDS: THE PROJECT CONTAINS NO SENSITIVE LANDS.

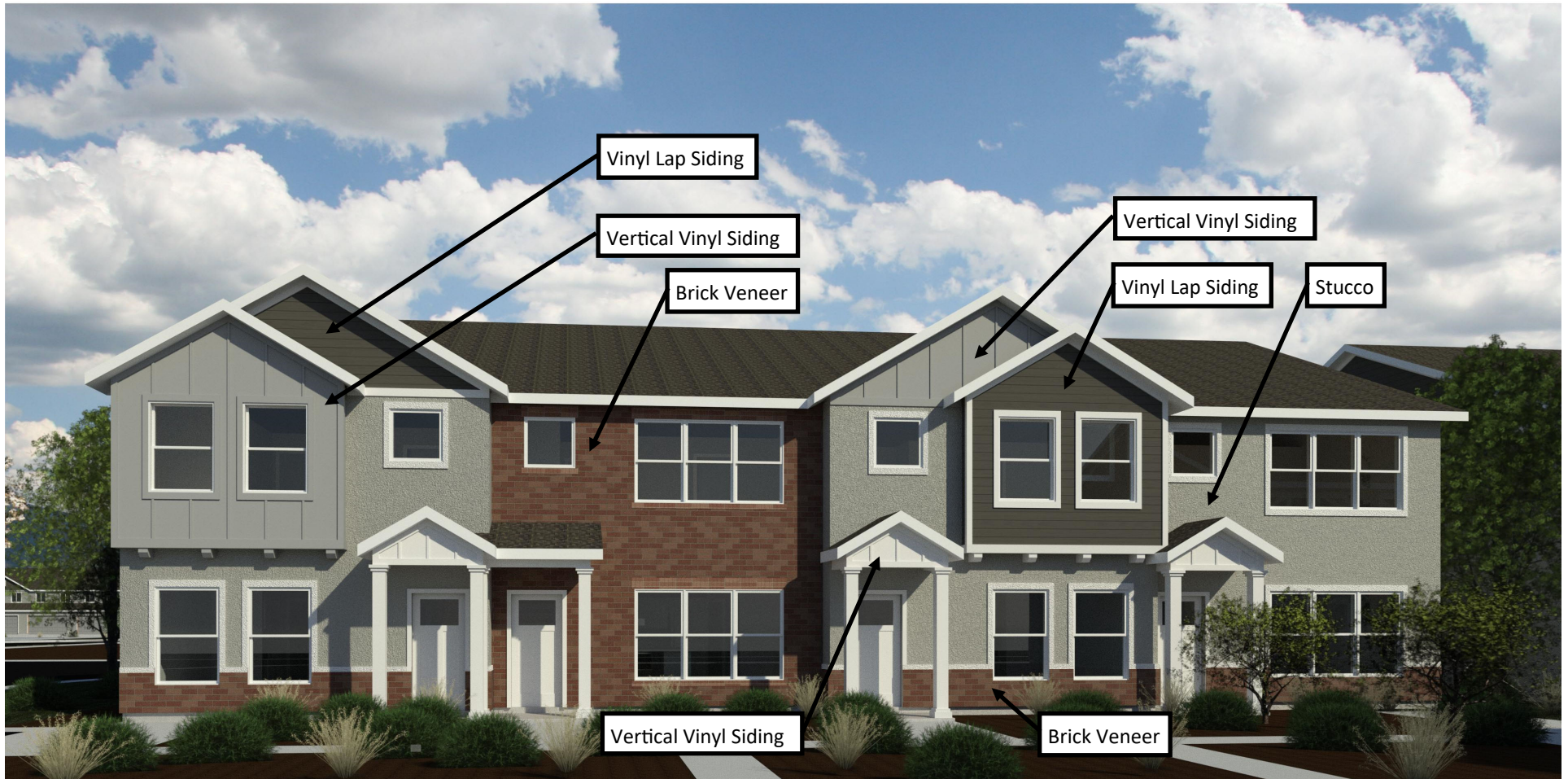
PARKING: STREET PARKING ON PUBLIC STREETS WILL NOT BE USED TO MEET PARKING REQUIREMENTS.



Nibley Meadows - Phase 1

Exterior Finish Calculation (Front Elevation)

Total Exterior Finish Area (Excluding Windows & Doors):	1,109 SF
Hard Surface Finish Area: (Stucco, Brick Veneer)	801 SF (72%)
Vinyl Siding Surface Area:	308 SF (28%)





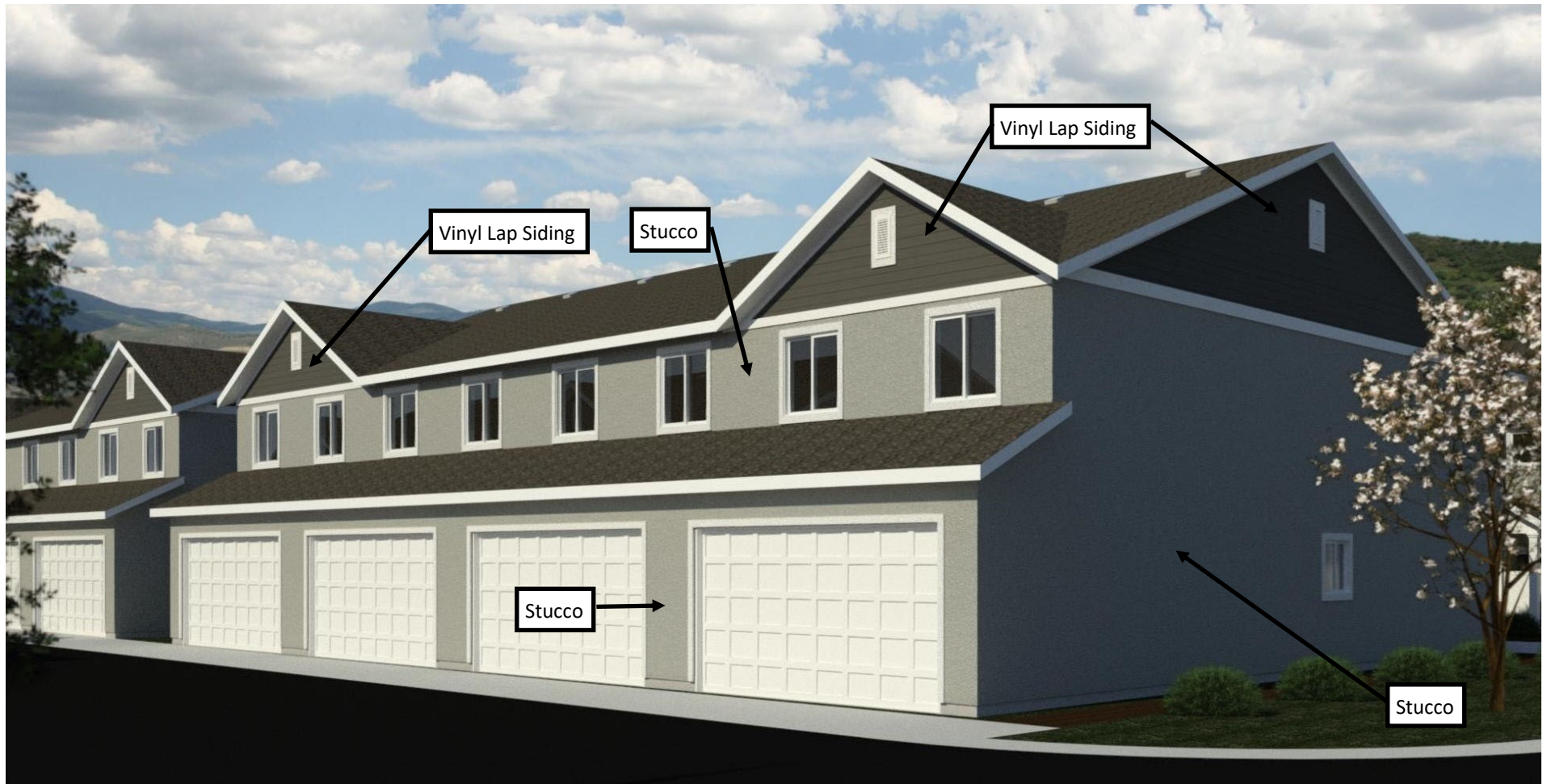
Nibley Meadows - Phase 1

Exterior Finish Calculation (Side Elevation)

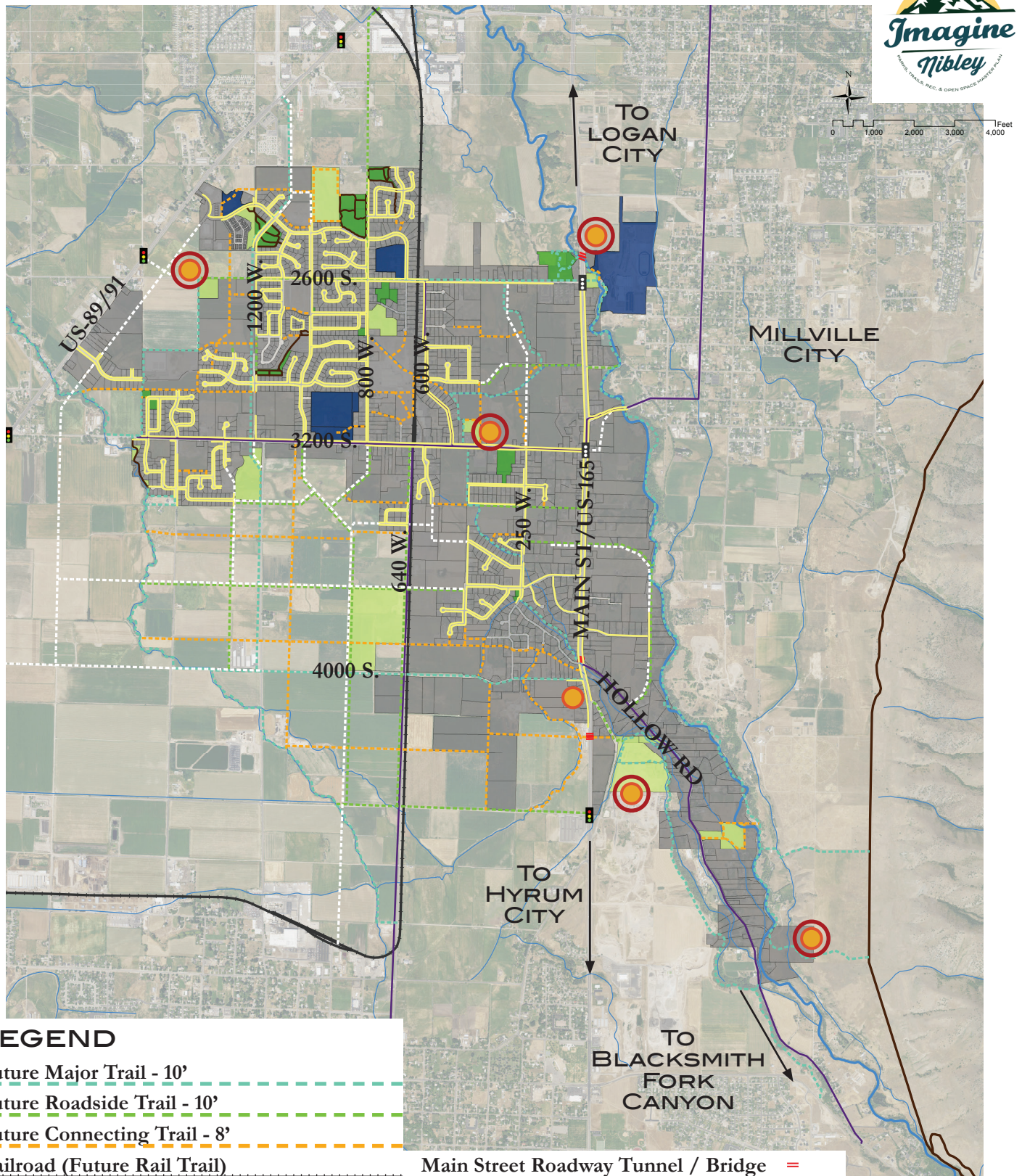
Total Exterior Finish Area (Excluding Windows & Doors):	1,137SF
Hard Surface Finish Area: (Stucco)	905 SF (80%)
Vinyl Siding Surface Area:	232 SF (20%)

Exterior Finish Calculation (Rear Elevation)

Total Exterior Finish Area (Excluding Windows & Doors):	667 SF
Hard Surface Finish Area: (Stucco)	527 SF (79%)
Vinyl Siding Surface Area:	140 SF (21%)



TRAILS MAP



LEGEND

Future Major Trail - 10'

Future Roadside Trail - 10'

Future Connecting Trail - 8'

Railroad (Future Rail Trail)

Future Roads

Existing Shared-Use Roadway

Existing Park Pathway

Existing Sidewalk

Future Trailhead

Existing Trailhead

Main Street Roadway Tunnel / Bridge

Bonneville Shoreline Trail

Blacksmith Fork River

Canal/Stream

Future Park

Existing Park

School



civilsolutionsgroupinc.

**NIBLEY CITY
R-PUD DEVELOPMENT AGREEMENT**

THIS DEVELOPMENT AGREEMENT (“Agreement”), entered into this ____ day of _____, 20____, between _____, hereinafter referred to as “Developer” and Nibley City, here in after referred to as “City”, and

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

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

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

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

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

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

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

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

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

5. Developer shall develop the park and amenities in proportional phases as required in NCC 19.32.050(A).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NIBLEY CITY

DEVELOPER

By: DAVID N. ZOOK
Its: City Manager

By:

By:

STATE OF UTAH)
 :SS
County of Cache)

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

NOTARY PUBLIC

STATE OF UTAH)
 : ss
County of Cache)

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

NOTARY PUBLIC

Exhibit A
Preliminary Plans

Agenda Item #10

Description	Workshop – Ordinance 20-13: Accessory Dwelling Unit Standards
Department	Planning
Presenter	Shaun Dustin, Mayor
Recommendation	Continue Discussion and provide direction to staff on further research or changes to the ordinance
Reviewed By	Mayor, City Manager, City Planner, Public Works Director, City Engineer, Planning Commission

Background:

Update for August 13

During the July 30 City Council meeting, some council members expressed concern about requiring the full impact fee for accessory dwelling units. This may deter potential applicants from building accessory dwelling units or from obtaining a permit to do so. Staff is currently researching the possibility of a decreased impact fee for ADUs. As ADUs are limited to 1,200 sq. ft., there appears to be legal justification for a reduction. One possible approach is to charge a portion of the impact fee equivalent to the proportion of the maximum ADU square footage compared to the average residential dwelling unit size in Nibley. Based upon Cache County assessor's data, the average square footage of a residential dwelling in Nibley is 1,679 square feet. Therefore, the impact fee could be applied at 70% of the rate of a residential dwelling.

There was also some concern about the proposed definition of 'bona fide temporary absence.' Staff is currently working on a more stringent definition. These

recommendations are currently being reviewed by the City Attorney and will be presented during the second reading.

In addition to these recommendations, the City Council requested Staff to conduct a high level feasibility analysis of detached ADUs for various property types in Nibley City. Staff had conducted this analysis of six randomly-selected residential lots within Nibley City. Based upon this analysis, it appears that detached ADUs, including required parking, are feasible in various settings throughout the City. The results of the analysis are attached to the meeting materials.

The City Council held a Workshop on June 25 to discuss the Accessory Dwelling Unit Ordinance. The following changes have been added to the draft ordinance based upon the discussion.

- Definition for 'Bona fide temporary absence' added
- Clarification that building permits are required for new or remodeled
- Construction and certificate of occupancy with inspection and certificate of occupancy is required for all ADUs
- Clarification added that impact fees and utility base rates will be charged for ADUs

During the June 18, 2020 meeting, the Planning Commission recommended approval of an ordinance establishing standards for Accessory Dwelling Units. 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.

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

Based upon discussions with the Planning Commission during workshop sessions and research on best practices, the draft ordinance includes the following provisions:

- A. ADUs are permitted in all zones
- B. Permit required for all ADUs to ensure compliance with chapter
- C. Short-term rentals are prohibited in ADUs
- D. Lot owner must live on property
- E. Must comply with all fire, building and health codes
- F. Separate addresses and mailboxes required
- G. Parking required: 2 additional to what is required for primary, that does not obstruct access to primary unit parking
- H. Limited to 1 ADU per lot for residential, 2 for commercial
- I. No ADUs on wetland or floodplain
- J. Minimum size for all ADUs: 300 sq. ft. Maximum for detached: 1,200 sq. ft.
- K. Maximum height of 2 stories or not exceed height of primary dwelling

Planning Commission Recommendation

During the June 18, 2020 meeting, the Planning Commission recommended to approve Ordinance 20-13: Accessory Dwelling Unit Standards with the following change.

- Regarding setbacks, clarify that 10 feet for side and rear yards is the 'minimum setback' for detached accessory dwelling units, not in addition to the already established setbacks for accessory structures.

ORDINANCE 20-13
ACCESSORY DWELLING UNIT STANDARDS

WHEREAS, Nibley City regulates land use within Nibley City boundaries; and

WHEREAS, Nibley City recently adopted a Moderate-income Housing Plan as an appendix to the General Plan with a stated goal to allow for and reduce regulation related to accessory dwelling units in residential zones; and

WHEREAS, Nibley City promotes the provision of a variety of affordable moderate-income housing options; and

WHEREAS, Nibley City promotes the preservation of existing neighborhoods, while providing for population growth within the City.

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

1. The attached Nibley City Code 19.24.250 and the proposed amendment to NCC 19.20.020 be adopted.
2. All ordinances, resolutions, and policies of the City, or parts thereof, inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency. This repealer shall not be construed as reviving any law, order, resolution, or ordinance, or part thereof.
3. Should any provision, clause, or paragraph of this ordinance or the application thereof to any person or circumstance be declared by a court of competent jurisdiction to be invalid, in whole or in part, such invalidity shall not affect the other provisions or applications of this ordinance or the Nibley City Municipal Code to which these amendments apply. The valid part of any provision, clause, or paragraph of this ordinance shall be given independence from the invalid provisions or applications, and to this end the parts, sections, and subsections of this ordinance, together with the regulations contained therein, are hereby declared to be severable.
4. This ordinance shall become effective upon posting as required by law.

PASSED BY THE NIBLEY CITY COUNCIL THIS _____ DAY OF _____, 2020.

Shaun Dustin, Mayor

ATTEST: _____
David Zook, City Recorder

Chapter 19.24.250

Accessory Dwelling Units

A. Purpose

1. This chapter establishes approval criteria and outlines processing procedures for accessory dwelling units.
2. The purpose of this chapter is to allow accessory dwelling units 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 Utah State Code, 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. Accessory 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 permitted use.
2. Bona fide temporary absence: A specified time in which a person is living away from the home for a period of time but intends to return to the home when the reason for the temporary absence is accomplished. Examples include military service, religious mission service or time spent at a vacation or second home.

C. Accessory Dwelling Unit Approval Required

1. All Accessory Dwelling Units shall 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, and the City may deny any land use or building approval requested by an owner of property that has an illegal accessory dwelling unit.

D. Application

1. Persons shall make application for an accessory dwelling unit on forms prepared by Nibley City. 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 dwelling unit will be located shall be provided
 - c. Parking Plans: A parking plan shall be submitted showing the location of dedicated off-street parking for the accessory dwelling unit and the primary residence.
 - 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.
3. For new or remodeled construction, a building permit is required for all accessory dwelling units.
4. Prior to approval of all accessory dwelling unit application, a certificate of occupancy will be required to ensure compliance of fire, building and health codes.

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E. Approval Criteria

1. Proposed accessory dwelling units in compliance with the following criteria to ensure the health and safety of occupants.
2. Owner Occupation: the owner(s) of the residence shall live either in the primary dwelling in which the accessory dwelling unit was created or the accessory dwelling unit, 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. Separate addresses and mailboxes shall be placed on all accessory dwelling units regulated by this chapter as required for public safety purposes.
5. All entrances to attached accessory dwelling units shall be located on the rear or side of the building.
6. Parking: Off-street parking for two vehicles, shall be provided for use by the tenants of the accessory dwelling unit. This parking shall be provided in addition to the required parking for the primary dwelling unit and shall not obstruct access to the parking of the primary dwelling unit. Parking surfaces shall be constructed of a hard surface, such as concrete or asphalt, or gravel.
7. One Accessory Dwelling Unit: Only one accessory dwelling unit shall be allowed for each single-family dwelling lot.

8. Detached Structures: Accessory dwelling units may be permitted in a detached structure.
9. Short Term Rental, as defined within this title, shall be a prohibited use within accessory dwelling units.
- [10. No accessory dwelling unit shall be built on a registered wetland or flood plain](#)
- [11. Installation of separate water and sewer meters for accessory dwelling units shall be prohibited.](#)
- [12. Accessory dwelling units shall be charged the base rate for water and sewer usage in accordance with the Nibley City Fee Schedule.](#)
- [13. Accessory dwelling units shall be subject to impact fees for residential buildings in accordance with the Nibley City Impact Fee Schedule.](#)

F. Size, Height and Zoning

1. Accessory dwelling units shall have the following requirements:
 - a. Shall have the minimum size of 300 sq. ft.
 - b. No detached accessory dwelling units shall be larger than 1,200 sq. ft.
 - c. Detached accessory dwelling units shall follow the sizing and setback requirements for other accessory buildings as listed in NCC 19.24. For new detached accessory dwelling unit structures, a minimum rear and side setback of 10 feet is required.
 - d. Detached accessory dwelling units shall not be permitted on lots smaller than 12,000 sq. ft.
 - e. The total square footage of all detached accessory dwelling units shall not occupy more than twenty five percent (25%) of the rear yard.
 - f. Detached accessory dwelling units shall be limited to two stories and shall not exceed the height of the primary single-family dwelling.
2. Accessory Dwelling Unit Use within Commercial, Neighborhood Commercial, and Industrial Zones
 - a. Commercial buildings within Neighborhood Commercial Zones shall be allowed to have up to two attached accessory dwelling units. Accessory dwelling units 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 Commercial Building shall supply two additional off-street parking for each accessory dwelling unit, in addition to parking required by the commercial use.
 - c. Each accessory dwelling unit shall have a separate access apart from the commercial access to the building
 - d. Each accessory dwelling unit must meet all applicable building, zoning, and fire code requirements.

G. Noncompliance

1. Owners of the property 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. Owners who fail to maintain or violate the city's ordinances regulating accessory dwelling unit 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.

19.20.020 Land Use Chart Nibley City Land Use Chart

Key

P:	Permitted Use
NP:	Not Permitted Use
C:	Conditional use
A:	
A:	Agriculture Zone
R-E:	Rural Estate Zone
R-1:	Residential Zone R-1
R-1A:	Residential Zone R-1A
R-2:	Residential Zone R-2
R-2A:	Residential Zone R-2A
P/S:	Park/School

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C:	Commercial Zone
C-N:	Neighborhood Commercial Zone
I:	Industrial Zone

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Use	A	R-E	R-1	R-1A	R-2	R-2A	P/S	C	C-N	I
Residential										
Assisted Living Facility	C	C	NP	NP	NP	NP	NP			
Artisan Shop	C	C	C	C	C	C	NP			
Bed and Breakfast Inn	C	C	C	C	NP	NP	NP			
Building moved from another site	C	C	C	C	C	C	C			
Group Living Facility ¹	C	C	C	C	C	C	NP			
Home Occupation	C	C	C	C	C	C	NP			
Home Office	P	P	P	P	P	P	NP			
Housing, Short-Term Rental	C	C	C	C	C	C	NP			
Housing, Single-Family	P	P	P	P	P	P	NP			
Housing, Two-Family	P	P	P	P	P	P	NP			
Mobile Home Park	NP	NP	NP	NP	NP	NP	NP			
Nursing Home	C	C	C	C	C	C	NP			
Temporary Office/Model Home	C	C	C	C	C	C	NP			
Accessory Dwelling Unit ²	P	P	P	P	P	P	P	P	P	P
Use	A	R-E	R-1	R-1A	R-2	R-2A	P/S	C	C-N	I
Agricultural/Animal										
Ag Implement Sales and Service	C	NP	NP	NP	NP	NP	NP	C	NP	C
Agricultural Production	P	P	P	P	P	P	P	C	C	C

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Animal Crematorium	NP	NP	NP	NP	NP	NP	NP	C	NP	C
Arboretum/Nature Center	C	C	C	C	C	C	C	C	C	C
Farmers' Market	C	C	C	NP	NP	NP	C	C	C	C
Florist/Garden Center	C	C	NP	NP	NP	NP	NP	C	P	C
Veterinary Clinic, Large Animal	P	NP	NP	NP	NP	NP	NP	C	NP	C
Veterinary Clinic, Small Animal	P	NP	NP	NP	NP	NP	NP	C	C	C
Use	A	R-E	R-1	R-1A	R-2	R-2A	P/S	C	C-N	I
Public, Institutional, and Civic Uses										
Bus/Transit Terminal	NP	NP	NP	NP	NP	NP	P	C	C	C
Cemetery	C	C	C	C	C	C	P	NP	NP	NP
Church/Places of Worship	C	C	C	C	C	C	C	C	C	C
Club/Service Organization/Lodge	NP	NP	NP	NP	NP	NP	C	C	NP	C
College/University	C	NP	NP	NP	NP	NP	P	C	NP	C
Government Services	P	NP	NP	NP	NP	NP	P	P	NP	P
Hospital	NP	NP	NP	NP	NP	NP	NP	C	NP	C
Public Park	P	P	P	P	P	P	P	P	P	P
Private Park	P	P	P	P	P	P	P	P	P	P
Utility Substation	C	C	C	C	C	C	C	C	C	C
School	C	C	C	C	C	C	P	P	C	P
Use	A	R-E	R-1	R-1A	R-2	R-2A	P/S	C	C-N	I
Commercial										

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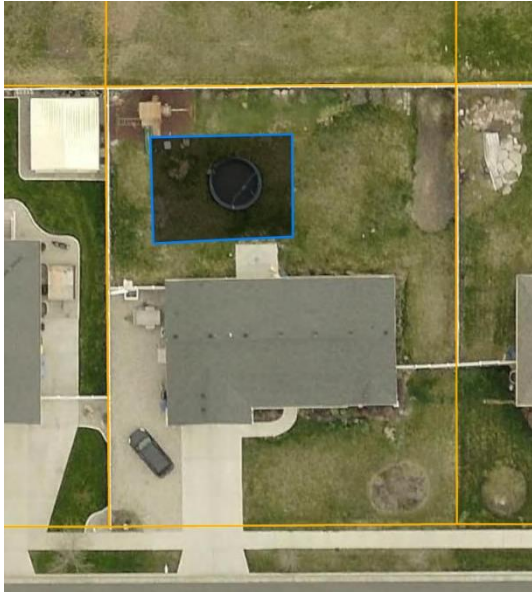
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Sign Shop	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Sports Facilities	NP	NP	NP	NP	NP	NP	C	C	NP	C
Storage Facility	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Warehousing	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Warehousing, Residential Storage	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Welding/Machine Shop	NP	NP	NP	NP	NP	NP	NP	NP	NP	C

Notes

1. Group living facilities are governed by NCC 19.42
2. Any land use not listed is not permitted
3. [Accessory dwelling units are governed by NCC 19.24.250](#)

ADU Illustrative Sample Feasibility Analysis



Example 1: Country Cove Estates: 0.3 acres (~13,000 sq. ft)

ADU: 1,200 sq ft feasible

Can use existing additional parking space



Example 2: Elkhorn Ranch: 0.52 acres (~22,500 sq/ ft)

ADU: 1,200 sq ft

Can use existing additional parking space



Example 3: Nibley Garden Estates: 0.28 acre (~12,000 sq. ft.)

ADU: 500 sq ft (larger possible with modifications)

Sufficient parking with existing lay-out



Example 4: Quarter Circle: 0.76 acre

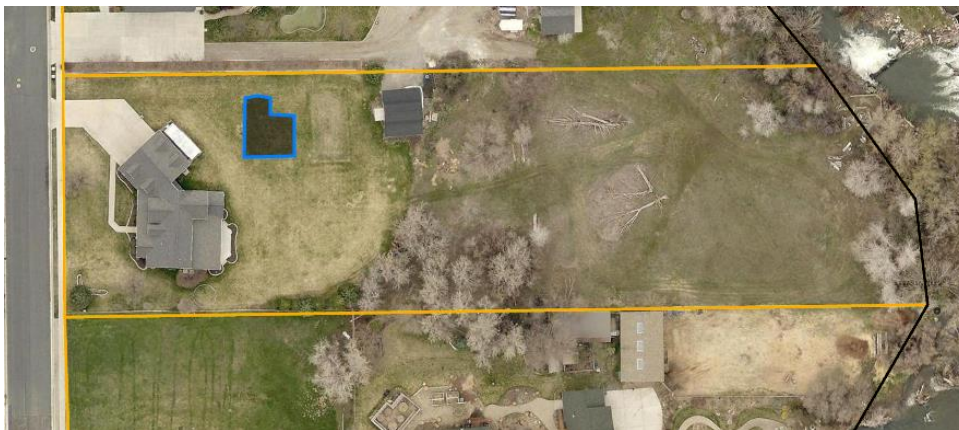
ADU: 1,200 sq ft

New parking needed, but feasible



Example 5: Hollow Rd: 1.13 acres

Legally non-conforming lot. Detached ADU not allowed.



Example 6: Brook Field Meadows: 2 acres

ADU: 1,200 sq ft

New parking needed, but feasible

Background and Discussion

In consideration of the proposed accessory dwelling unit (ADU) standards and to better understand the feasibility of constructing detached ADUs, Nibley City Staff performed a high-level analysis of six residential properties within Nibley City. The six properties were chosen at random. The objective of the analysis was to determine if a detached ADU could feasibly and legally be built on each property given the space and regulatory constraints of each property. It appears that five of the six lots could feasibly accommodate the

construction of a detached ADU. Only Example 5 could not build a detached ADU, primarily because it is a legal, nonconforming lot, which does not allow for the construction of accessory structures. In all but one of the feasible lots (Example 3), the proposed maximum square footage for accessory dwelling units (1,200 sq ft) could conceivably be constructed without violating proposed setback or space requirements. In three of the examples, additional parking would not be needed to meet the proposed minimum parking requirement. Two of the examples would need to add additional parking, but it appears that they could accommodate the parking in the side yard, adjacent and connected to existing driveways.

Although conditions vary across the City, it appears that detached accessory dwelling units could feasibly be constructed in various settings, given the constraints of the proposed ordinance.