



Nibley City
Planning Commission Meeting
Thursday, May 20, 2021
455 W. 3200 S.
Nibley, UT

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

In accordance with Utah Code Annotated 52-4-207 and Nibley City Resolution 12-04, this meeting may be conducted electronically. The anchor location for the meeting will be Nibley City Hall, 455 West 3200 South, Nibley, Utah. The public may participate in the meeting either in person or via the Zoom meeting link provided at www.nibleycity.com.

1. **Workshop:** Animal Land Use Regulations for provisions related to miniature pigs.
2. **Workshop:** Setback Requirements for Accessory Buildings
3. **Workshop:** Amendment to Prohibition on Subdivision requirement
4. **Workshop:** Open Space Plan Review
5. Staff Report and Action Items

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

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



**Nibley City Planning
Commission
Agenda Item Report
May 20, 2021**

Agenda Item #1: Miniature Pigs

Description

Workshop: Animal Land Use Regulations for provisions related to miniature pigs

Department

City Planning

Action Type

Workshop

Recommendations

Discuss potential changes to Animal Land Use Regulations for provisions related to miniature pigs

Reviewed By

City Planner

Background

Recently, a potential resident of the City expressed the desire to house two Juliana Pigs on a residential lot in Nibley City. Pigs are currently addressed within NCC 19.34: Animal Land Use Regulations. Under this provision of code, pigs are only allowed on a lot with more than $\frac{3}{4}$ acre

and only 1 pig is allowed per ½ acre. There is also no differentiation between different breeds of pigs within the Code. The petitioner has expressed that the pigs are approximately the size of an english bulldog, are very clean and have minimal impact to neighbors.

Although most communities prohibit large pigs from residential zones, some municipalities address miniature pigs differently than livestock. For example, Logan City defines potbelly pigs as ‘exotic pets,’ allowing up to 5 of such for each residence.

The purpose of this workshop is to discuss whether to consider amending Nibley City Code to treat pet miniature pigs differently than conventional livestock.

Considerations

- What is the anticipated impact of miniature pigs on residential neighborhoods (smell, noise, etc.)?
- Can anticipated impacts be reasonably mitigated?
- What are the potential benefits to the community to allowing the keeping of miniature pigs as pets?

Agenda Item #2: Accessory Building Setback Requirements

Description

Workshop: Setback Requirements for Accessory Buildings

Department

City Planning

Action Type

Workshop

Recommendations

Discuss potential changes to setback requirements for accessory buildings

Reviewed By

City Planner

Background

During the May 6 Planning Commission meeting, the Planning Commission discussed potential adjustments to setback standards to address concerns related to impact on adjacent properties. Nibley City recently adopted an ordinance that requires larger setbacks for commercial buildings when adjacent to residential development. Specifically, commercial buildings, when adjacent to residential development, must be setback 30' with an increased setback of 1 foot for every additional foot in height. These standards were meant to mitigate impacts related to commercial activity, as well as visual impacts related to the building itself.

There was general direction from the Planning Commission, that additional setback standards for accessory buildings over 20 feet in height may be appropriate. Staff recommends that for accessory buildings greater than 20 feet in height, a minimum setback of 10 feet be established. In addition, a provision that no part of the building, including roof overhangs, may encroach within 1 foot of the property line in any location. Staff also recommends to base maximum building size and height upon lot size, rather than the underlying zone.

The purpose of this workshop is to present these standards and discuss any additional amendments to accessory building setbacks prior to holding a public hearing on the proposed changes.

Agenda Item #8: Prohibition of Subdivision

Description

Workshop: Amendment to Prohibition on Subdivision requirement

Department

City Planning

Action Type

Workshop

Recommendations

Discuss potential changes to Prohibition on Subdivision requirement

Reviewed By

City Planner

Background

NCC 21.02.130 provides the following:

- A. *It is unlawful for any person to subdivide any tract or parcel of land located wholly or in part in the Nibley City limits, and no application for any subdivision for any tract or parcel of land may be approved, if any of the following apply;*
 1. *The applicant or subdivider is a member of the City Council;*
 2. *The applicant or subdivider is a spouse of a City Council member;*
 3. *A member of the City Council owns an interest of any kind in the applicant or subdivider;*
- B. *As set forth in NCC 1.10.030, the Mayor is a member of the City Council for the purpose of this Section.*
- C. *A violation of this section is a Class B Misdemeanor.*

Mayor Shaun Dustin recently requested a subdivision of a lot in the Apple Creek Subdivision. The proposed subdivision would divide Lot 35 into 2 lots. One of the lots is intended to be inhabited by Mayor Dustin. As this conflicts with NCC 21.02.130, this subdivision would not currently be legal.

Mayor Dustin has petitioned the City to add the following sub-section to NCC 21.02.130

- D. *Exceptions to this prohibition are as follows:*
 1. *Minor subdivision or amendment to an existing subdivision for the purpose of creating a legally conforming lot for a principal residence to be occupied by the subdivider*

The purpose of this workshop is to discuss the appropriateness of this exception.

Update for May 20

The Planning Commission gave general direction not to continue this item at the May 6 meeting. However, the applicant (Mayor Shaun Dustin) requested that it be heard by the Commission and felt that the Planning Commission is compelled to do so. Under this circumstance, there are several provisions of Nibley City Code and State Law that apply. Staff consulted with the City, who provided the following background information:

Background Rules and Code:

- *State Law says planning commission shall hold a hearing on land use regulations. 10-9a-302: Planning Commission “shall review and make a recommendation to the legislative body for: ... land use regulations,” and “[b]efore making a recommendation ..., the planning commission shall hold a public hearing. 10-9a-502: Planning Commission “shall ... hold a public hearing on a proposed land use regulation” and “review and recommend*

to the legislative body a proposed land use regulation that represents the planning commission's recommendation."

- *State law says that, if a planning commission doesn't make a recommendation, "A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation if the legislative body has provided for that consideration by ordinance." 10-9a-502(2)(c). "A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation." 10-9a-302(4).*
- *State law has a bit of a contradiction, then, because it says both that the Commission "shall" hold a hearing and make a recommendation, but also assumes that there will be a situation where the Commission does not make a recommendation and the Council takes action anyway.*
- *City Code says, "All proposed amendments shall be proposed by or submitted to the planning commission for its recommendation. Such recommendations shall be forwarded to the city council for action within thirty (30) days of receipt by the planning commission. Failure of the planning commission to submit a recommendation within the prescribed time shall be deemed approval by such commission of the proposed change or amendment." 19.02.040.*
- *City code is a bit problematic, because it says the failure to make a recommendation is considered a positive recommendation, where state law says it should be deemed a negative one. City code doesn't address what happens if no hearing is held.*
- *Rules of agenda-setting and similar issues are not governed by statute. Planning Commission and City Council can adopt rules of procedure. Generally, agendas are set by request of chair/mayor or at the request of at least two members of the body. The City Council—not the Planning Commission—sets the rules and regulations to administer the land use ordinances, which include the legislative hearing process. 19.02.080(D).*

Issues:

- *How should the Planning Commission and City Council handle a potential regulation that the Planning Commission doesn't want to consider, but the Council does?*
- *How should we handle requests submitted by property owners/residents that neither the City Council or Planning Commission want to take up (example: a request that has already been considered or rejected or a request that simply has no benefit to the City)?*

Options:

- *Require public hearing for all requests (either combine the 1st reading/consideration with a public hearing, or always require a follow-up hearing). This ensures that every land use regulation has a public hearing before the planning commission, as required by law. But this doesn't solve the issue of how to handle someone's inquiry that the City really doesn't want to address. I think it would be too much to impose a requirement that the PC must always hold a hearing on every single request that is submitted to it.*
- *Have some process by which the Council can ask the Planning Commission to hold a public hearing and make a recommendation. I like this method, since it allows for collaboration between the bodies and ensures that every request that has merit to the elected officials is*

heard and considered but doesn't throw the doors open to every single code change that could be requested.

Recommendation

- *Adopt an informal appeal process. Provide that, if the Planning Commission does not act timely to hold a hearing/issue a recommendation or demonstrates that they will not hold a hearing/issue a recommendation, the Council can vote to issue a notice to the Planning Commission that (1) sets the item for a public hearing before the planning commission and (2) requests that the commission issue a recommendation. This could lead to tension, as the Council would be overriding the Commission's normal ability to decide what items are set for a hearing on the Commission's agenda, but I think this approach balances out the code's requirement that the Commission "shall" hold a hearing and "shall" make a recommendation with the code's statement that the failure of the Commission to make a recommendation shouldn't prohibit the Council from hearing and considering an item. It also doesn't throw the doors open to require the City consider every possible code change request.*

It is Staff's general opinion that it would be better use of City resources to consider the item at a public hearing to submit to City Council, rather than pursuing an informal appeal process that would be the alternative. The purpose of this workshop is to give direction about how to proceed with the request.

Agenda Item #9: Open Space Plan Review

Description

Workshop: Open Space Plan Review

Department

City Planning

Action Type

Workshop

Recommendations

Discuss revisions to Nibley City Open Space Plan

Reviewed By

City Planner

Background

Nibley City has adopted a 'Parks, Trails, Recreation & Open Space Master Plan.' Regarding Open Space, this plan provides some guidance about how to approach open space preservation, including the following:

- Allow for developers to purchase bonus density
- Bonus density in lieu of TDR credits
- Prohibit Single-family HOAs
- Establish Agricultural Protection Areas

In support of this plan, the City will pursue the formulation of a Transfer of Development Rights (TDR) ordinance. The fundamental elements of a TDR ordinance is the establishment of sending and receiving zones. Sending zones are areas that the City would prefer to be preserved as open space and which the rights to develop could be transferred to receiving zones, which are more concentrated development areas. This requires the City to articulate which areas we would like to preserve and which areas we are comfortable with higher densities than conventional development.

Although the Future Land Use Map calls out some areas for preservation of open space, the currently adopted plan shows very limited areas, although there are strong values in Nibley City for the preservation of open space.

The purpose of this workshop is to discuss which attributes the City should prioritize in the preservation of open space. Based upon this discussion, Staff will then develop potential scenarios for open space preservation for the Planning Commission to consider. This will prepare the City to develop a robust TDR ordinance.

19.24.060 Accessory Buildings in Residential Zones

1. General Requirements:
1. A permit is required for accessory buildings greater than one hundred twenty (120) square feet in industrial, commercial or neighborhood commercial zone; or two hundred (200) square feet in a residential zone. A permit may be required for accessory buildings under the size stated above if improvements of the structure require further review from Nibley City Building Inspector as stated in the adopted building code. Accessory building in excess of 15' in height must obtain a building permit.

2. All accessory buildings, regardless of size, shall comply with all the setback requirements found in NCC 19.22.010. Setbacks shall be measured from the outermost section of the building. In no case, shall any portion of the building, including overhangs, be located within 1 ft of an adjacent lot. For accessory buildings with a height greater than 20 feet, the minimum side or rear setback is 10 feet.

3. The total square footage of all accessory buildings shall not occupy more than twenty five percent (25%) of the rear yard.

4. Accessory buildings must be anchored to a concrete slab, or other methods approved by the building inspector.

5. Accessory buildings shall not be located in front of the principal building.

6. No accessory building or use shall be constructed or developed on a lot prior to construction of the principal building.
1. Size Restrictions: In order to preserve the residential character, the following shall serve as size restrictions on accessory buildings located in residential zones in Nibley City:

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

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19.22.010 Space Requirements Chart

C.	Setback accessory uses									
	Front yard	30(35) ³	30(35) ³	30(35) ³	30(35) ³	30(35) ³	30(35) ³	20	20	50
	Side yard, interior	10(3) ⁵	10(3) ⁵	10(3) ⁵	10(3) ⁵	10(3) ⁵	10(3) ⁵	0(10) ⁴	0(10) ⁴	0(10) ⁴
	Side street yard,		25(35) ³	25(35) ³	25(35) ³	25(35) ³	25(35) ³	20	20	25(35) ³
	Rear yard	1(10) ⁶	1(10) ⁶	1(10) ⁶	1(10) ⁶	1(10) ⁶	1(10) ⁶	0(10) ⁴	0(10) ⁴	1(10) ⁴
D.	Height maximum									
	Principal uses	40	40	40	40	40	40	40	35 ¹²	50(70) ¹⁰
	Accessory uses	30	30	30	30	20	20	30	20	30
E.	Fences and walls maximum height									
-	Principal uses	40	40	40	40	40	40	40		50(70)10
-	Accessory uses	30	30	30	30	20	20	30		30

Commented [LR1]: Addressed in 19.24.060

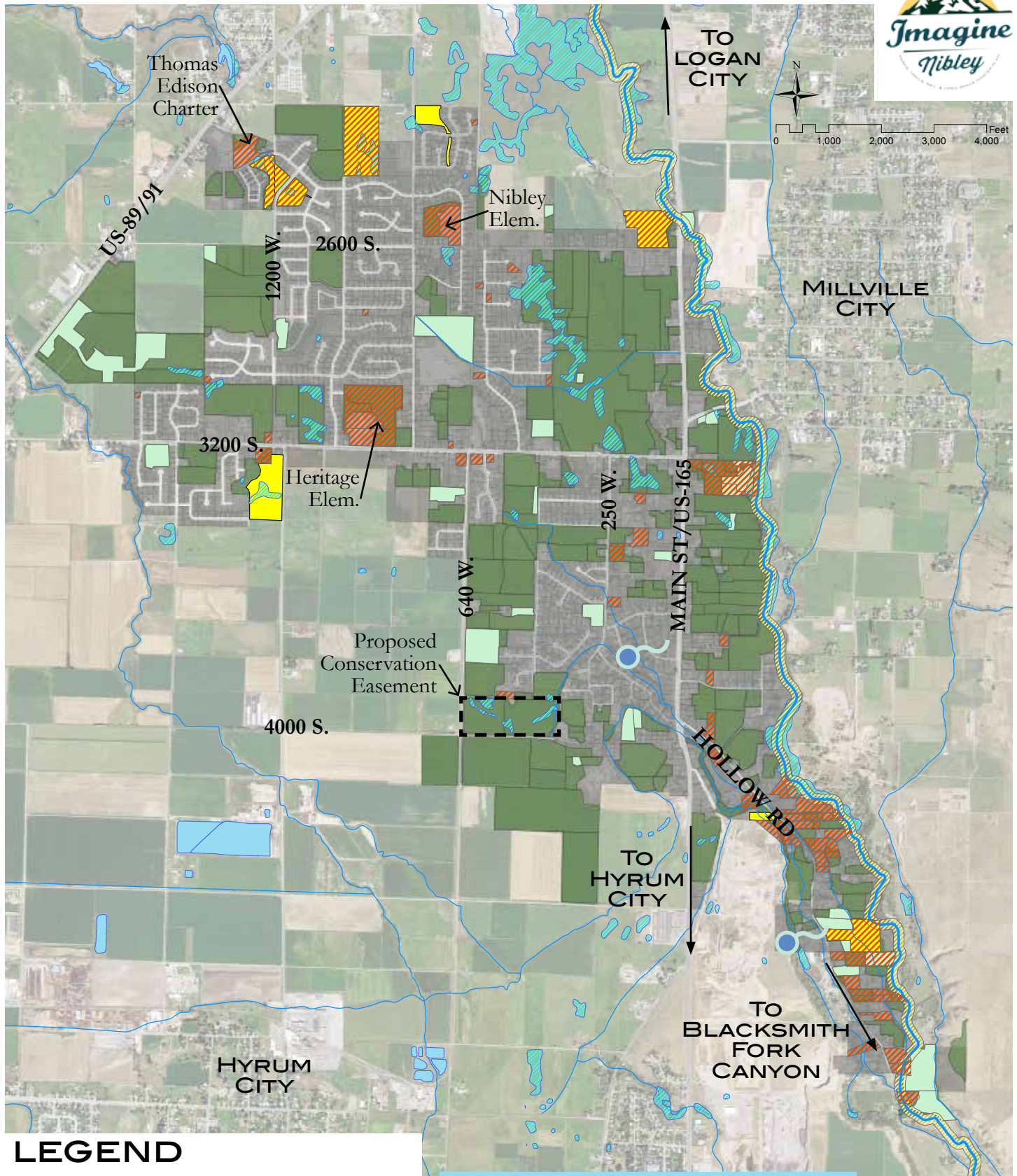
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Commented [LR2]: Addressed in 19.24.090



CHAPTER 6: NIBLEY CITY OPEN SPACE

OPEN SPACE MAP



LEGEND

Water Way

Existing Spring

100' Riparian Buffer

Wetlands Habitat

NWF Certified Wildlife Habitat

Water Body

Wildlife Habitat Protection Area

Vacant/Undeveloped Land

Agricultural Land

Parcel



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OPEN SPACE 2017

BACKGROUND

In its broadest sense, open space is typically defined by land that is undeveloped (has no buildings or other built structures). Open space can be either publicly or non-publicly accessible. Publicly-accessible examples include public parks, USDA forest service land, community gardens, cemeteries, schoolyards, playgrounds, public seating areas, public plazas, etc. Non-accessible options include farmland, private land encumbered by conservation easements, vacant undeveloped land, certain wildlife preserves, publicly-owned privately-leased grazing land, etc. Despite the broad definition, American citizens, with Nibley residents being no exception, consistently raise their concerns over the loss of open space.

ISSUES

1. **Conservation Subdivisions:** With regard to open space, Nibley City's greatest concern has been to ensure that, as land is developed, an appropriate portion of that land is set apart in perpetuity for public open space. Currently, the City has a Conservation Subdivision ordinance in place that has allowed developers to place conservation easements on portions of their subdivision in exchange for higher-density. However, where conservation easements have typically been placed on private property, they are not open to the public. Additionally, these conservation easements have tended to be arranged in a fashion that is disjointed or fragmented, thus diminishing the utility of the parcels in preserving working agricultural lands or viable habitat. Lastly, concerns have arisen concerning the maintenance of these conserved areas since many have been neglected or abandoned and the City does not have a reliable means for enforcing
2. **Homeowners Associations (HOA's):** In the recent past several HOAs managing amenities connected to single-family neighborhoods have lost their fiscal viability and requested that the City assume responsibility for their assets. This has generated concern at the City level about the ongoing effectiveness of HOAs as an institution capable of effectively managing the infrastructure of low-density neighborhoods.
3. **Water Courses Rights-of-way & Access:** As development has proliferated in Nibley over the past 20 years, many developments have established themselves along historic streams and canals without preserving public access along or to these waterways. Other waterways have been eliminated entirely as they have been buried and piped or otherwise diverted from their historical courses. Studies have shown that water features are often the most valued natural feature of landscapes by the general public whether in humid or arid environments. Many citizens would like to see rights-of-way along remaining water courses be protected or, where they have been lost, re-secured for the establishment of walking and biking trails. Open water courses also provide wildlife passage through developed areas. In keeping these water courses open, the wildlife within Nibley City will continue to thrive.
4. **Loss of Farmland:** Development pressure in Nibley has also caused the continued loss and fragmentation of usable farmland. A concern exists among the public that much of the City's natural beauty, charm and appeal will be lost together with the elimination of working farms.

OPEN SPACE 2027

GOALS

1. Replace current conservation subdivision ordinance with new legislation that addresses City concerns of public access, fragmentation and neglect.
2. Revisit City regulations regarding HOA's and Planned Unit Developments (PUD's).
3. Protect and/or restore access to public waterways.
4. Protect working farms within Nibley City's proposed annexation boundary.

STRATEGIES

1. **Establish an "Open Space Preservation Fund".** This ordinance would allow developers to construct more units per acre in exchange for payment into an



Example of cluster development

open space preservation fund on a “dollars per percent density increase per acre” basis. This money would then be pooled together with other capital improvements funds for the construction of larger, higher-quality neighborhood parks and trails. In this fashion, the City will be able to better funnel and focus private financial capital towards construction of the parks, trails, and recreational facilities which have been identified as most prudent through this planning process.

Alternatively, the City could establish an ordinance establishing a Transfer of Development Rights (TDR) Overlay Zone. Such an ordinance would enable the City to offer developers a transfer of development rights (as measured in housing units) from proposed parks and trails lands to nearby new developments. Whereas the ratio of proposed park land to developable land is low, a multiplier factor is often applied to the park’s potential number of housing units in order to generate more revenue for its construction. Logan City, Farmington City, and Park City have all adopted similar TDR ordinances.

2. **Establish a City policy prohibiting the establishment of HOA’s for single-family developments.** Direct developers instead to consider the “Open Space Preservation Fund” or the TDR Overlay Zone Ordinance, giving them greater density in exchange for financing amenities in the locations described in this Plan.
3. **Establish a “City Waterways” ordinance that requires developers to grant public access in the form a trail along all canals, streams, and creeks.** Reasonable effort should be made to preserve springs



as possible. As mentioned previously, the City may reimburse fees to developers when the infrastructure is built.

4. **Establish “Agricultural Protection Areas” as defined by Title 17 Chapter 41 of the Utah State Administrative Code for the protection of working farms.** Such an area could be established with County cooperation between the City’s of Nibley and Hyrum to serve as a buffer. Property owners in such protection areas cannot be restricted in their right to farm by any political subdivision (counties, cities, towns, school districts, local districts, special service districts, etc.), nor can any such political subdivision modify the protected area’s zoning without consent from the landowners within the area.
5. **Establish partnerships with Land Conservancies to work towards conservation easements on key working farms.** Work with interested non-profits to establish and maintain the nature preserves proposed at Stokes Nature Center on 2600 South, Firefly Park, and the 1200 West Nature Park. Work with the same agencies for the maintenance and beautification of waterways within the City limits.

OPEN SPACE ORDINANCE SUMMARY TABLE

SUBJECT	DESCRIPTION
Allow for Developers to Purchase of Bonus Density	Establish an ordinance allowing developers to purchase density in exchange for financing the construction of amenities described in this plan by paying into an “Open Space Preservation Fund”.
Bonus Density in Lieu of TDR Credits	Establish a Transfer of Development Rights Overlay Zone from proposed park and trails lands to nearby developments. Developer purchasing of TDR credits will aid in funding parks and trails.
Prohibit Single-Family HOAs	Establish a City ordinance prohibiting the establishment of HOA’s for single-family developments, but not for multi-family which rely on them for the maintenance of their open space.
Establish Agricultural Protection Areas	Establish Agricultural Protection Areas in collaboration with adjacent municipalities to protect working farms in determined locations. Re-write ordinances in accordance with provisions of State of Utah law to accommodate this.

NATIVE PLANT PALETTE

In order to help preserve the natural environment and encourage wildlife, native plant materials should be used as much as possible. Below is a list of just a few options beneficial to this area and local wildlife.

Nature/Upland Parks

- Canopy Layer
 - Bigtooth Maple (*Acer grandidentatum*)
 - Rocky Mtn. Juniper (*Juniperus scopulorum*)
- Shrub Layer
 - Fringed Sagebrush (*Artemisia frigida*)
 - Western Sand Cherry (*Prunus besseyi*)
- Herbaceous Layer
 - Common Yarrow (*Achillea millefolium*)
 - Columbine (*Aquilegia spp.*)

Stream Restoration/Wetlands

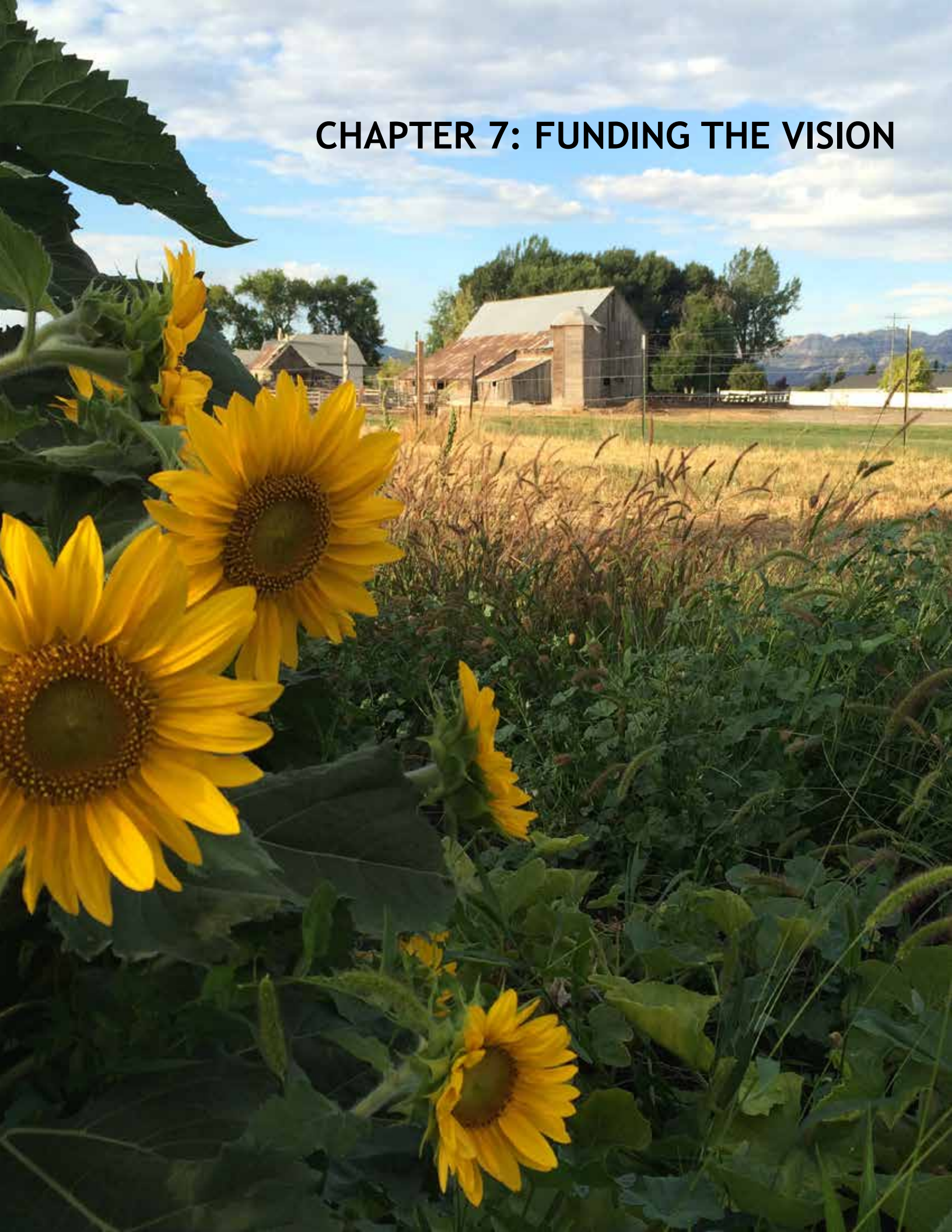
- Canopy Layer
 - River Birch (*Betula nigra*)
 - New Mexico Privet (*Firestiera neomexicana*)
 - Narrowleaf Cottonwood (*Populus angustifolia*)
- Shrub Layer
 - Redtwig Dogwood (*Cornus sericea*)
 - Creeping Oregon Grape (*Mahonia repens*)
 - Coyote Willow (*Salix exigua*)

Wildlife Habitats

- Shrub Layer
 - Fernbush (*Chamaebatiaria millefolium*)
 - Apache Plume (*Fallugia paradoxa*)
 - Golden Currant (*Ribes aureum*)
 - Woods Shrub Rose (*Rosa woodsii*)
- Herbaceous Layer
 - Butterfly Weed (*Asclepias tuberosa*)
 - Purple Coneflower (*Echinacea spp.*)
 - Blanketflower (*Gaillardia aristata*)
- Surface Layer
 - Desert Four O'Clock (*Mirabilis multiflora*)
 - California fuchsia (*Epilobium canum*)



CHAPTER 7: FUNDING THE VISION





Future Land Use

Update 3-25-2021

Legend

- Nibley Municipal Boundary 2020
- Annexation Declaration Boundary

Future Land Use

- Parks, Open Space, and Trails
- Agriculture
- Open Space, Agriculture, and Low Density Residential
- Low Density Residential
- Medium Density Residential
- High Density Residential
- Commercial and Medium to High Density Residential
- Commercial
- Industrial
- Municipal, Schools, and Churches
- Town Center



0 1,400 2,800 4,200 Feet



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