



Nibley City
Planning Commission Meeting
Thursday, November 4, 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. **Public Hearing:** Ordinance 21-21: Development Agreement for MPI Group, LLC Temporary Parking Allowance
2. **Discussion and Consideration:** Ordinance 21-21: Development Agreement for MPI Group, LLC Temporary Parking Allowance
3. **Workshop:** Accessory Dwelling Units and Two-Family Housing
4. 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
November 4, 2021**

Agenda Item #1 & #2: Malouf Parking Agreement

Description

Public Hearing: Ordinance 21-21: Development Agreement for MPI Group, LLC Temporary Parking Allowance

Discussion and Consideration: Ordinance 21-21: Development Agreement for MPI Group, LLC Temporary Parking Allowance

Department

City Planning, Public Works

Action Type

Legislative

Recommendations

Recommend Approval of Ordinance 21-21: Development Agreement for MPI Group, LLC Temporary Parking Allowance

Reviewed By

City Manager, City Planner, City Attorney

Background

Malouf, located at 1525 W 2960 S, has submitted a building permit application to remodel a significant portion of their existing building from warehouse space to office space. Per NCC 19.24.160(A), 'no building or structure shall be erected, altered or converted for or to any use

unless there shall be provided on the lot or parcel, off street vehicle parking of at least the ratio provided in the chapter. With the conversion of space and change of use, the parking demand is anticipated to increase, as the space will accommodate more employees. Per NCC 19.24.160(B), at minimum, 1.5 spaces per 2 employees working on the highest employment shift need to be provided. Malouf has indicated with this expansion, there will be 510 employees during the highest employment shift, which would require a minimum of 383 parking stalls. NCC 19.24.160(E) provides that parking areas ‘shall be paved with an asphalt or concrete surface.’ At the present time, there is not sufficient parking onsite to meet the projected demand. Malouf has plans to develop a permanent parking area immediately north of the existing building to meet this demand. However, this area is currently located within Logan City limits. In order to be permitted to build this parking area, Malouf needs to disconnect from Logan and annex into Nibley City. They have started the disconnection process with Logan City but this is anticipated to take several months to finalize.

In order to allow for the office expansion within the existing building, Malouf proposes to install a temporary gravel parking area, until the aforementioned land is available to be developed. The attached Master Plan displays the planned parking layout and the proposed temporary gravel parking areas. The proposed gravel parking area combined with the existing stalls provides for more than the required parking.

To allow Malouf to install temporary parking that does not meet the City’s minimum standard for permanent parking, a development agreement is needed which:

1. Allows for the installation of the temporary parking for up to 24 months after the execution of the agreement.
2. Provides financial assurance that the parking will be installed.

Given the unique circumstances with the property and the safeguards in place to ensure that the parking is installed, Staff recommends approving this agreement.

Agenda Item #3: ADUs and Two-Family Dwellings

Description

Workshop: Accessory Dwelling Units and Two-Family Housing

Department

City Planning

Action Type

Legislative

Recommendations

Discuss potential changes related to Accessory Dwelling Unit and Two-Family Housing Regulations

Reviewed By

City Planner, City Attorney

Background

In November 2020, Nibley City adopted an Accessory Dwelling Unit Ordinance in support of the Nibley City Moderate Income Housing Plan. Specific provisions were developed to mitigate potential impacts on surrounding properties. Under this ordinance an Accessory Dwelling Unit is defined as:

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.

Per this ordinance, an accessory dwelling unit may be either attached/internal to a single-family home or a detached building on the same lot as a single-family dwelling.

In addition to this updated provision of Nibley City Code, the following restrictions were adopted:

1. The property must be owner occupied (or be occupied by a close relative)
2. ADU must be fire, building and health codes.
3. Separate addresses and mailboxes must be places on all ADUs
4. All entrances must be located on the side or rear of the building
5. Two off-street parking spaces, in addition to those required by the primary dwelling must be provided without obstructing access to parking for the primary dwelling and be located behind the front plane of the house.
6. Only One ADU is allowed for each single-family dwelling lot.
7. Short-term rentals are prohibited (although this is proposed to be changed with short-term rental ordinance changes)
8. No ADU may be built in a wetland or flood plain
9. May not install separate water or sewer meters
10. ADUs shall be charged the base rate for water and sewer
11. ADUs are subject to impact fees but may receive a rebate if they are affordable to households below 50% AMI.
12. ADUs have a minimum square footage of 300 sq. ft. Detached ADUs have a maximum square footage of 1,200 sq. ft.
13. Detached ADUs are not permitted on lots smaller than 12,000 sq. ft.
14. The total square footage of the ADU shall not occupy more than 25% of the rear yard.

15. Detached ADUs are limited to 2 stories with increased setbacks of 20 feet when they are greater than 1 story.

Per this ordinance, ADUs are considered a permitted use that require administrative approval. Since adopting this ordinance, there has not been one permit submitted for an ADU within Nibley City.

In addition to allowing for both attached (or internal) and detached ADUs with restrictions, ‘Two-family housing’ is currently listed as a permitted use within all residential zones and a conditional use within commercial and industrial zones. However, single-family lots within R-PUD overlay areas are limited to single-family dwellings. Two-family housing is defined as ‘a single building that is situated on one lot and that contains two (2) dwelling units.’ Under this definition, there is overlap with a detached or internal dwelling unit located within a single-family dwelling and a two-family dwelling. In other words, in most cases, what would be considered a detached accessory dwelling unit can also be considered a two-family dwelling.

2021 State Code Update

During the 2021 Legislative Session, HB 82 was passed which mandates Cities and Counties to permit ‘Internal Accessory Dwelling Units’ (IADU) as a permitted land use in all single-family residential zones and prohibits municipalities from establishing restrictions for IADUs with limited exceptions.

Under this bill, Internal Accessory Dwellings Units are defined as:
an accessory dwelling unit created:

- i. within a primary dwelling.
- ii. within the footprint of the primary dwelling at the time the internal accessory dwelling unit is created.

‘Primary dwelling’ means a single-family dwelling that:

- i. is detached; and
- ii. is occupied as the primary residence of the owner of record.

Under State Code IADUs must be permitted, but can be adopted with the following restrictions:

1. May be limited to long-term rentals of 30 days or longer.
2. May require that residence is occupied by owner of record.
3. May limit to one IADU per lot
4. May prohibit the installation of separate utility meter.
5. May not limit the square footage of the IADU.
6. May require IADU to comply with building, health and fire codes.
7. Require that an IADU be designed in a manner that does not change the appearance of the primary dwelling as a single-family dwelling
8. May require one additional on-site parking space
9. May prohibit an IADU within a mobile home
10. May require a business license for renting the unit

11. May prohibit the creation of IADUs within a zoning district covering 25% or less of the total area of the City.
12. May prohibit IADUs if the primary dwelling is served by a failing septic tank
13. May prohibit the creation of an IADU on lots less than 6,000 sq. ft.
14. May hold a lien against a property with IADUs if any provisions of the code are not upheld.

Recommended Code Changes

In order to align Nibley City Code with State Code and clarify our existing ordinance, in consultation with the Planning Commission, Staff recommends amending the definition of ‘Two-family housing’ to be inclusive of IADUs and amend the ADU ordinance to only apply to detached ADUs. In addition, it has been recommended to require that one of the units shall be owner-occupied, consistent with the provision for detached ADUs.

In addition to ADUs on residential lots, the existing ordinance allows for up to two ADUs attached to commercial buildings. This is essentially considered a commercial/residential mixed-use building. In order to avoid confusion with detached ADUs, Staff recommends removing the provision related to commercial ADUs and replacing this with an allowance for commercial/residential mixed use in all zones as a conditional use provided that the proposed uses are listed as an allowed use. For example, within a commercial zone, two-family housing and a bakery within the same building and would be allowed as a conditional use. However, this would not be allowed in a R-2 zone since ‘bakery’ is not allowed in a R-2 zone. A conditional use is recommended, as depending upon the mix of uses, mitigating measures may be necessary.

DEVELOPMENT AGREEMENT

This Development Agreement is between NIBLEY CITY, a Utah municipality and political subdivision (“City” or “Nibley”), and MPI GROUP, LLC, (“Developer”) a Utah Limited Liability Company, (individually or collectively, “Party” or “Parties”).

RECITALS

- A. Developer owns and occupies a building on Cache County parcel 03-015-0011, 1525 W 2960 S, Nibley, Utah, 84321 (the “**Building**”).
- B. Developer seeks to remodel, refurbish, and change the use of some or all of the Building (the “**Building Remodel**”).
- C. Pursuant to Nibley City Code 19.24.160(A), the Building Remodel requires Developer to update the Building and the use of the associated property to comply with current City codes and standards, including the provision of additional parking to meet City code requirements prior to completing the Building Remodel.
- D. Developer’s property associated and adjacent to the Building is currently insufficient to provide for the required additional parking.
- E. Developer has provided a concept plan to develop a parking lot (“**Parking Lot**”) that will satisfy City code requirements for the remodeled Building, but the concept plan requires Developer to acquire and/or annex additional property into Nibley.
- F. Developer desires to carry out and potentially complete the Building Remodel as soon as possible, but cannot do so prior to acquiring and/or annexing the additional property for the parking lot.
- G. Developer seeks permission to provide for temporary parking through a gravel parking lot (“**Temporary Parking**”) until Developer can complete the Parking Lot, as shown in the attached Parking Master Plan.
- H. Nibley City code does not expressly permit temporary parking lots.
- I. Nibley City desires to facilitate the Building Remodel and allow for the Temporary Parking according to the terms and provisions set forth herein.
- J. This Agreement was submitted to the Nibley Planning Commission and Nibley City Council for review and approval according to City and State code requirements for the enactment of a land use regulation, as per Utah Code § 10-9a-532.

AGREEMENT

- 1. **Temporary Parking.** Notwithstanding Nibley City code § 19.24.160 or any other provision related to the material, type, and location of designated parking surfaces and spaces, Nibley City agrees that Developer may install Temporary Parking in the form of

gravel or other similar materials as approved by Nibley City, in the general locations shown on the attached Parking Master Plan.

2. **Financial Assurance.** Developer shall provide to City a financial assurance equal to the cost of the permanent parking lot improvements. The financial assurance provided shall be in the form of a bond, letter of credit, deposit in an escrow account or other instrument mutually agreed upon in writing by both parties.
3. **Sunset Provision.**
 - a. Developer's right to use Temporary Parking shall terminate no later than twenty-four months from the date both Parties executed this Agreement or such other date as the Parties may each agree to in writing. Such date is referred to as the "Temporary Parking Termination Date."
 - b. At or prior to the Temporary Parking Termination Date, Developer shall have completed all steps necessary to acquire and/or annex the property necessary to provide for the Parking Lot and shall have completed all work to construct and install the Parking Lot.
 - c. If Developer fails to complete the Parking Lot by the Temporary Parking Termination Date or such other date as may be agreed to in writing, City shall have the right to access the property for the purpose of constructing all or the minimum portion of the permanent parking lot improvements deemed necessary by City and draw upon the financial assurance for payment to construct said improvements. Upon completion of the Parking Lot in accordance with City standards and requirements, City shall release its interests in the financial assurance.
4. **Compliance with Land Use Regulations.** Developer acknowledges that the execution of this Agreement, on its own, is not a land use approval, building permit approval, or certificate of occupancy, and that any such approvals shall be granted only upon Developer's compliance with all applicable governing laws, ordinances, codes, standards, and conditions, including those that are expressly modified or altered herein.
5. **Assignment.** Neither this Agreement nor any rights or obligations hereunder may be assigned either voluntarily or involuntarily, by operation of law or otherwise, by either Party without the prior written consent of the other Party, which shall not be unreasonably withheld.
6. **No Third Parties.** The rights, duties, and obligations of this Agreement are for the sole benefit of the Parties, and no third party, other than authorized assignees, transferees, and other successors in interest, has any rights hereunder to enforce the terms of this Agreement.
7. **Amendments.** This Agreement may not be altered, amended, modified, or otherwise changed in any respect except in a writing executed by all Parties.

8. **Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed an original and together constitute the same contract whether each Party executes a separate counterpart.
9. **Governing Law and Venue.** This Agreement shall be governed and construed in accordance with the laws of the State of Utah. Any dispute arising out of this Agreement shall be brought and maintained in Utah State district court, Cache County.
10. **Limitation of Liability.** Neither Party shall be liable to the other Party in any action or claim for loss of profits or revenues, whether direct or indirect, or any indirect, special, consequential, or punitive damages or losses.
11. **Enforcement and Fees.** In any action or proceeding arising out of or related to this Agreement, the prevailing Party shall be entitled to its reasonable attorneys' fees and related costs, including fees and costs incurred prior to formal initiation of an action or proceeding and fees and costs incurred for collecting or attempting to collect any judgment or award.

THE UNDERSIGNED HAVE READ AND HAVE HAD THE OPPORTUNITY TO SEEK THE ADVICE OF INDEPENDENT COUNSEL WITH RESPECT TO THE FOREGOING, AND HEREBY ACKNOWLEDGE AND AGREE TO BE BOUND BY THESE TERMS.

DATED this ____ day of _____, 2021.

On Behalf of Nibley City, Utah

ATTESTED:

DATED this ____ day of _____, 2021.

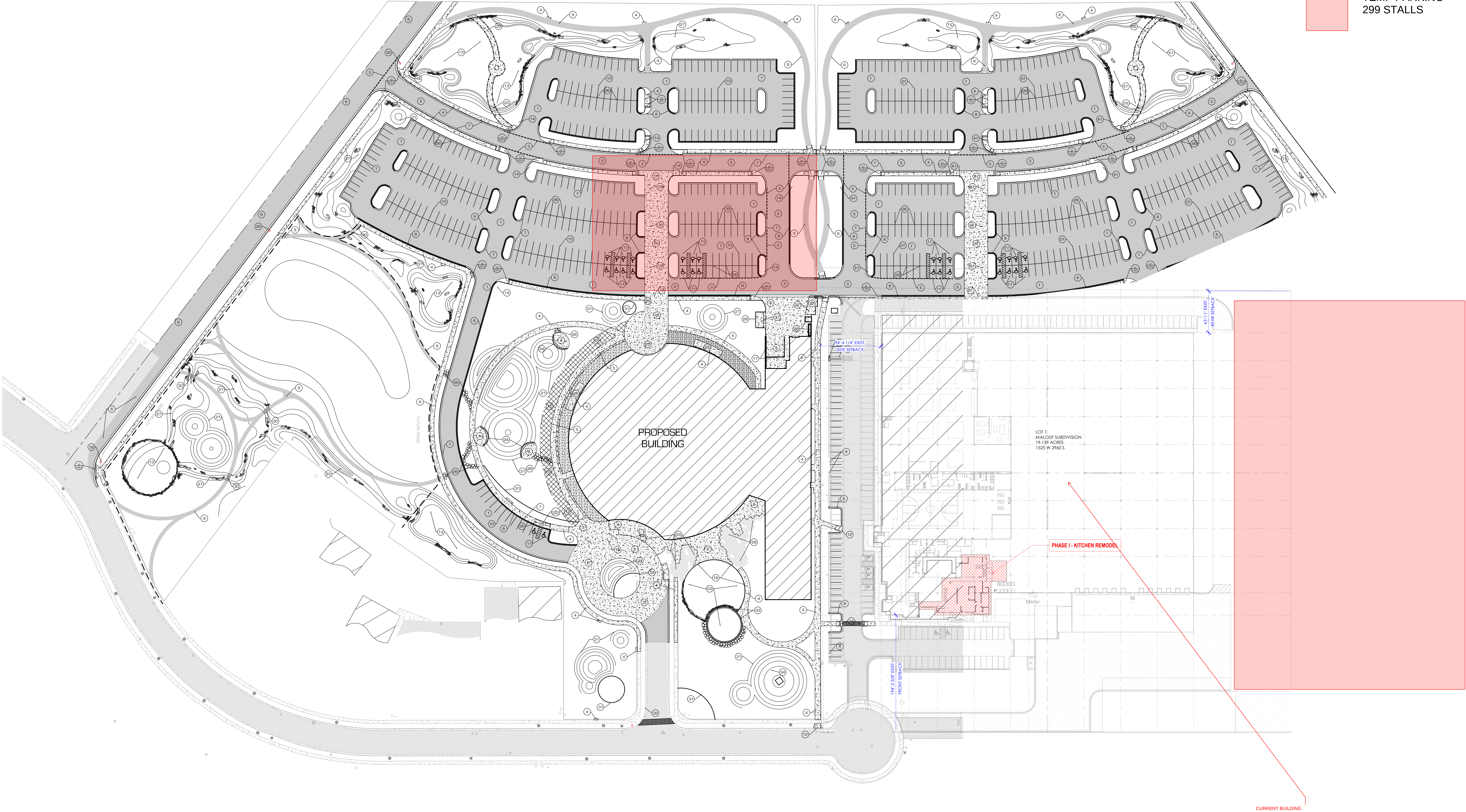
On Behalf of Developer, MPI GROUP, LLC

Name:

Title:

Exhibit 1: Parking Master Plan

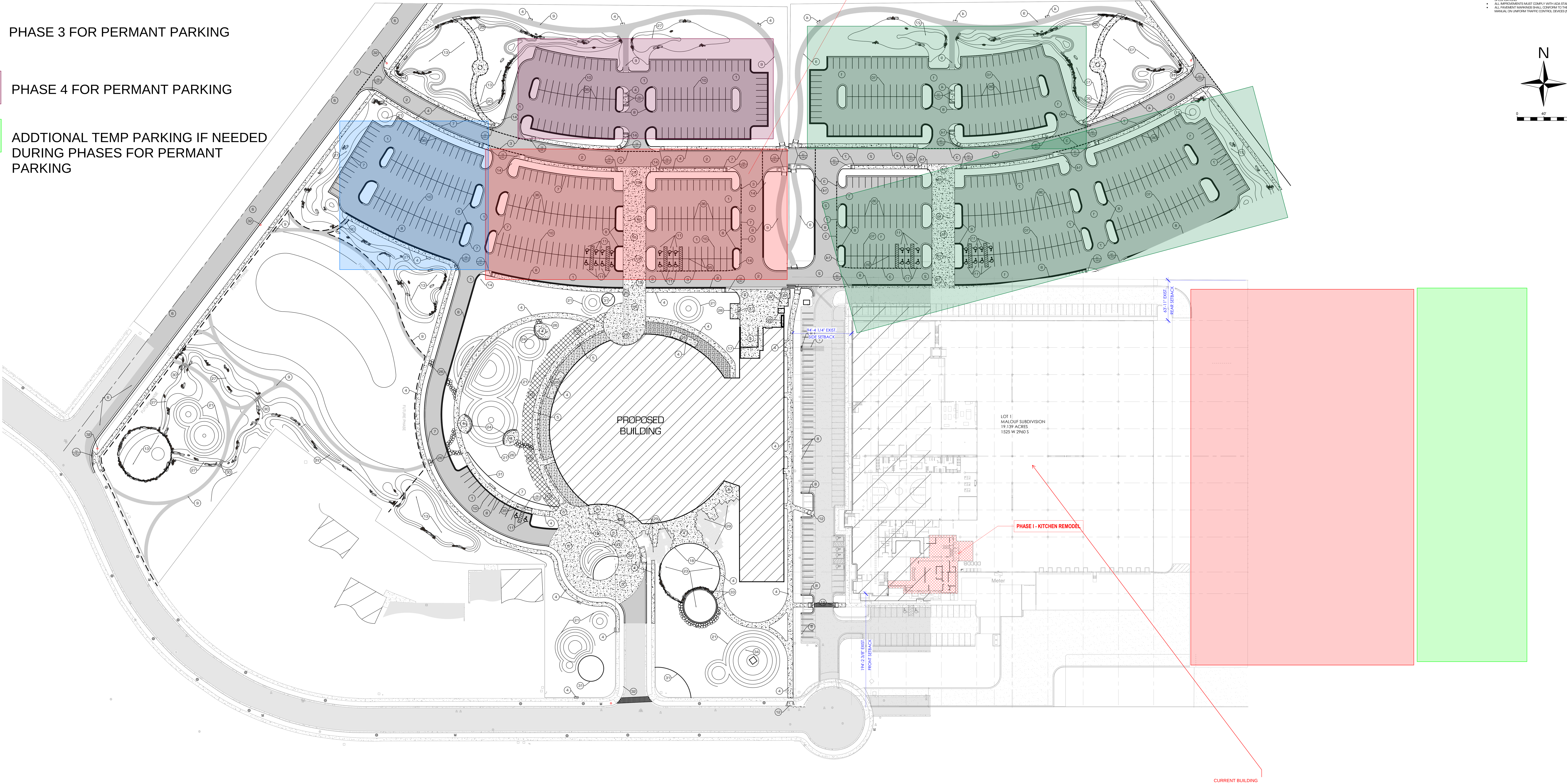
TEMP PARKING STALLS



- 1 SHEET KEY NOTES:**
PROVIDE DETAILS AND/OR CONSIDER THE FOLLOWING PER THE SPECIFICATIONS
UNLESS OTHERWISE NOTED, THE DETAILS NOTED, AND/OR AS SHOWN ON THE
CONSTRUCTION DRAWINGS
1. STANDARD DUTY ASPHALT (1 1/2" DUTY)
 2. HEAVY DUTY ASPHALT (2" DUTY)
 3. ASPHALT TYPE TRANSITION LANE
 4. CONCRETE SIDEWALK (1 1/2" DUTY) (SEE ARCHITECTURAL SITE PLAN)
 5. CONCRETE SIDEWALK (2" DUTY) (SEE ARCHITECTURAL SITE PLAN)
 6. NILEY CITY CITY PARKWAY CROSS SECTION (1 1/2" DUTY)
 7. 24" CONCRETE CURB AND GUTTER (1 1/2" DUTY)
 8. 24" OPENFACE CURB AND GUTTER (1 1/2" DUTY)
 9. ASPHALT TALL (1 1/2" DUTY) (SEE ARCHITECTURAL SITE PLAN)
 10. 4" DRAINAGE STORM
 11. 4" DRAINAGE STORM (SEE ARCHITECTURAL SITE PLAN)
 12. 4" DRAINAGE STORM (SEE ARCHITECTURAL SITE PLAN)
 13. STORM WATER POND (SEE STORM WATER PLAN)
 14. STORM POND
 15. STORM POND (SEE ARCHITECTURAL SITE PLAN)
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- GENERAL NOTES:**
• SEE ARCHITECTURAL SITE PLAN FOR ALL CONCRETE CURBING & FINISHES
• SEE LANDSCAPE PLANS FOR LANDSCAPE SPECIFICATIONS & PLANTING
• ALL WORK TO COMPLY WITH GOVERNING AGENCIES STANDARDS & SPECIFICATIONS
• ALL IMPROVEMENTS MUST COMPLY WITH ADA STANDARDS
• ALL IMPROVEMENTS SHALL CONFORM TO THE LATEST EDITION OF THE
MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD)

PHASE PLAN

- TEMP PARKING WHILE OTHER IS UNDERCONSTRUCTION FOR PERMANT PARKING
- PHASE 1 FOR PERMANT PARKING
- PHASE 2 FOR PERMANT PARKING
- PHASE 3 FOR PERMANT PARKING
- PHASE 4 FOR PERMANT PARKING
- ADDITIONAL TEMP PARKING IF NEEDED DURING PHASES FOR PERMANT PARKING



① SHEET KEY NOTES:
PROVIDE DETAILS AND/OR CONSIDER THE FOLLOWING PER THE SPECIFICATIONS AND/OR REFERENCED. THE DETAILS NOTED, AND/OR AS SHOWN ON THE CONSTRUCTION DRAWINGS.

1. STANDARD CITY DESIGN (1/1/2011)
2. MOUNTAIN CITY DESIGN (1/1/2011)
3. ASPHALT TYPE TRANSITION LANE
4. CONCRETE SIDEWALK PLACEMENT (1/1/2011) SEE ARCHITECTURAL SITE PLAN
5. CONCRETE SIDEWALK PLACEMENT (1/1/2011) SEE ARCHITECTURAL SITE PLAN
6. MOUNTAIN CITY DESIGN (1/1/2011) SEE ARCHITECTURAL SITE PLAN
7. 24" CONC. SIDEWALK (1/1/2011) SEE ARCHITECTURAL SITE PLAN
8. 24" CONC. SIDEWALK (1/1/2011) SEE ARCHITECTURAL SITE PLAN
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36. 24" CONC. SIDEWALK (1/1/2011) SEE ARCHITECTURAL SITE PLAN
37. 24" CONC. SIDEWALK (1/1/2011) SEE ARCHITECTURAL SITE PLAN

GENERAL NOTES:

- SEE ARCHITECTURAL SITE PLAN FOR ALL CONCRETE COLUMN & FINISHES
- SEE LANDSCAPE PLANS FOR LANDSCAPE SPECIFICATIONS & PLANTING
- ALL WORK TO COMPLY WITH GOVERNING AGENCIES STANDARDS & SPECIFICATIONS
- ALL IMPROVEMENTS MUST COMPLY WITH ADA STANDARDS
- ALL EXISTING IMPROVEMENTS SHALL CONFORM TO THE LATEST EDITION OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD)

19.04.010 Definitions

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, in a detached building. Accessory dwelling units shall be developed in accordance with the standards set forth in NCC 19.24.250 and only in those zoning districts where the use is listed as a permitted use.

BONA FIDE TEMPORARY ABSENCE: A specified time during which a property is not owner occupied. Such time shall be no more than 90 days within any 180 day period. Longer absences are allowed for military, humanitarian, or religious service.

HOUSING, TWO-FAMILY: A single building that is situated on one lot and that contains two (2) dwelling units. An internal accessory dwelling unit (IADU) as defined by Utah Code shall be considered two-family housing.

OWNER OCCUPIED: The owner(s) of the property or an individual related to an owner of the property within and including two degrees of consanguinity residing on the property.

RESIDENTIAL/COMMERCIAL MIXED-USE: The use of both residential use(s) and commercial use(s) on the same lot or parcel. The mix of uses shall be limited to those in NCC 19.20.020. Residential and Commercial Uses shall have separate accesses and meet all requirements of the zone and use, as provided by Nibley City Code.

19.20.020 Land Use Chart

Nibley City Land Use Chart

Key

P:	Permitted Use
NP:	Not Permitted Use
C:	Conditional use
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

Commented [LR1]: Add each definition to appropriate location within alphabetical list.

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R-2A:	Residential Zone R-2A
R-M:	Mixed Residential Zone
P/S:	Park/School
C:	Commercial Zone
C-N:	Neighborhood Commercial Zone
I:	Industrial Zone

Use	A	R-E	R-1	R-1A	R-2	R-2A	R-M	P/S	C	C-N	I
Residential											
Assisted Living Facility	C	C	NP	NP	NP	NP	P	NP	C	C	NP
Artisan Shop	C	C	C	C	C	C	C	NP	C	C	C
Bed and Breakfast Inn	C	C	C	C	NP	NP	P	NP	C	C	NP
Building moved from another site	C	C	C	C	C	C	C	C	C	C	C
Residential/Commercial Mixed Use ⁶	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>NP</u>	<u>C</u>	<u>C</u>	<u>C</u>
Group Living Facility ¹	C	C	C	C	C	C	C	NP	NP	NP	NP
Home Occupation	C	C	C	C	C	C	C	NP	NP	NP	NP
Home Office	P	P	P	P	P	P	P	NP	NP	NP	NP
Housing, Short-Term Rental ⁴	<u>CP</u>	<u>CP</u>	<u>CP</u>	<u>CP</u>	<u>CP</u>	<u>CP</u>	<u>CP</u>	NP	<u>NPP</u>	<u>NPP</u>	<u>NP</u>
Housing, Single-Family	P	P	P	P	P	P	P	NP	C	C	C
Housing, Multi-Family	NP	NP	NP	NP	NP	NP	P	NP	NP	<u>NP</u>	<u>NP</u>
Housing, Two-Family ⁵	P	P	P	P	P	P	NP	NP	C	C	C

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Commented [LR2]: Part of pending short-term rental ordinance.

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Mobile Home Park	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	C
Nursing Home	C	C	C	C	C	C	C	NP	C	C	NP
Temporary Office/Model Home	C	C	C	C	C	C	C	NP	C	C	C
Accessory Dwelling Unit ³	P	P	P	P	P	P	P	P	P	P	P

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

4. Short-term rental housing is governed by NCC 19.24.260

5. For Two-family housing, one of the units shall be owner-occupied, except for bona fide temporary absences

6. Residential/Commercial Mixed-Use is limited to uses allowed in this section for each zone

Commented [LR3]: Part of pending short-term rental ordinance.

19.24.250 Accessory Dwelling Unit Standards

A. Purpose

1. This chapter establishes approval criteria and outlines processing procedures for accessory dwelling units.
2. The purpose of this chapter is to provide opportunities to develop affordable moderate-income housing by allowing 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. Definitions
- ~~3. 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.~~
- ~~4. Bona fide temporary absence: A specified time during which a property is not owner occupied. Such time shall be no more than 90 days within any 180 day period. Longer absences are allowed for military, humanitarian, or religious service.~~
- ~~5. Owner Occupied: The owner(s) of the property or an individual related to an owner of the property within and including two degrees of consanguinity residing on the property in either the primary dwelling or the accessory dwelling unit.~~

B. 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.

C. 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 the property will be owner-occupied except for bona fide temporary absences
 - b. Floor Plan: A floor plan ~~showing the floor in which of~~ 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. A building permit is required for all new or remodeled accessory dwelling units.
4. A certificate of occupancy is required prior to occupancy of any accessory dwelling unit to ensure compliance with fire, building and health codes.
5. Notification must be sent to abutting property owners with an opportunity to comment to Nibley City Staff within a period of fourteen (14) days from the date of notification.

D. 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 property shall be owner occupied 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.~~
- ~~6.5. 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 and shall be located behind the front plane of the primary dwelling. Parking surfaces shall be constructed of a hard surface, such as concrete or asphalt, or gravel.
- ~~7.6. 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.~~
- ~~10.7. No accessory dwelling unit shall be built on a registered wetland or flood plain.~~
- ~~11.8. Installation of separate water and sewer meters for accessory dwelling units shall be prohibited.~~
- ~~12.9. Accessory dwelling units shall be charged the base rate for water and sewer usage in accordance with the Nibley City Fee Schedule.~~
- ~~13.10. Impact Fees:~~ Accessory dwelling units shall be subject to impact fees for residential buildings in accordance with the Nibley City Impact Fee Schedule.

Commented [LR4]: This is redundant to the definition above.

Commented [LR5]: Part of pending short-term rental ordinance.

- a. Owners may petition the City for a rebate of impact fees for accessory dwelling units which provide rent that is considered affordable, as described below. The maximum rebate amount shall be set at 20% annually of the total collected impact fee for a period of five (5) years. City Staff shall determine if documentation of rent collected is acceptable. If documentation is not provided within 30 days of each anniversary of the issuance of the certificate of occupancy, the rebate shall be forfeited for that year. The rebate shall be non-transferrable.

- 1) The unit's rent is considered affordable to a household of four (4) earning 50% of the area median income of the Logan, UT-ID Metropolitan Statistical Area (MSA), according to income limits set by the US Department of Housing and Urban Development (HUD) for a period of five (5) years.

- 2) The rent limit shall be set using the following calculation: HUD annual 4-person 50% AMI Income Limit * 0.3 (30 %) – \$150 (for utility expenses)

E. Size, Height and Zoning

1. Accessory dwelling units shall have the following requirements:

- a. Shall have the minimum ~~floor area~~size of 300 sq. ft. and a maximum floor area of 1,200 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 one-story detached accessory dwelling unit structures, a minimum rear and side setback of 10 feet is required. For new two-story detached accessory dwelling unit structures, a minimum rear and side setback of 20 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.g. Each accessory dwelling unit must meet all applicable building, zoning, and fire code requirements.~~

Commented [LR6]: This is provided for in the definitions and land-use chart as commercial/residential mixed use.