



NIBLEY CITY COUNCIL MEETING AGENDA

Thursday, September 8, 2022 – 6:30 p.m.

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 also participate in the meeting via the Zoom meeting link provided at www.nibleycity.com. Public comment should be submitted to cheryl@nibleycity.com by 6:30 p.m. and will be read into the public record.

1. Opening Ceremonies (Councilmember Laursen)
2. Call to Order and Roll Call (Chair)
3. Approval of the August 25, 2022 City Council Meeting Minutes and the Current Agenda (Chair)
4. Public Comment Period¹ (Chair)
5. Planning Commission Report

6. **Discussion and Consideration:** Ordinance 22-16: Exemption to Subdivision Requirements for Combining Lots and Amending Subdivision Plat Amendment Approval Authority (First Reading)
7. **Discussion and Consideration:** Ordinance 22-17: Amending Subdivision Submission Requirements (First Reading)
8. **Discussion and Consideration:** Ordinance 22-18: Amending Mixed Residential Zone R-M, Adding the Area Near 2600 S 1200 W to the Map of Eligible R-M Areas (First Reading)
9. Council and Staff Report

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.



Discussion and Consideration- Ordinance 22-16:
Exemption to Subdivision Requirements for Combining Lots
Amending Subdivision Plat Amendment Approval
Authority (First Reading)

Roberts, City Planner

Recommendation	Move to approve Ordinance 22-16: Amending NCC 21.08.030 and 21.06.060 adding an exemption to subdivision requirements for combining lots and amending subdivision plat amendment approval authority and waive the second reading.
Reviewed By	Mayor, City Manager, City Attorney, City Planner, Planning Commission

**Nibley City Council
Agenda Report for
September 8, 2022**

Agenda Item #6

Background

Utah Code 10-9a-601 was recently amended with the following provision:

(4) A legislative body may adopt a land use regulation that specifies that combining lots does not require a subdivision plat amendment.

Currently Nibley City Code does not exempt combining lots from the requirements of a subdivision amendment. Staff recommends considering this exemption since combining lots will, as a general rule, not create a condition of non-compliance with Nibley City's Land Use Ordinance. This is primarily due to the fact that lot sizes and frontages are set as minimum standards and combining lots do not decrease lot sizes or frontages. Nonetheless, Staff recommends adding a caveat to this exemption that waiving the requirement does not 'constitute a land use or zoning approval by the City, unless expressly approved as such by the City. Documents recorded as part of a lot or parcel

combination do not modify any existing easement or public right of way, nor do they waive or modify any requirement to comply with all zoning and other land use regulations.'

During the Planning Commission discussion, it was discussed to explore an addition to this ordinance to streamline a process in which unnecessary utility easements could be vacated if lots are combined. However, this was not a recommended incorporation of this ordinance. It is Staff's opinion that an easement vacation ordinance would not be necessary for the combining lots exemption (although it may be helpful for those wishing to pursue a PUE vacation). UCA 10-9a-609.5 provides a process for vacating easements that includes specific noticing and approval from the City and pertinent utility companies. Pursuing any vacations of easements in conjunction with combining lots would be the responsibility of the property owner(s).

In addition to the exemption for combining lots, the proposed ordinance modifies the approval authority for a subdivision plat to be the same approval authority as for the original subdivision, rather than the City Council in all cases. It is more appropriate to assign this authority to the same approval authority that originally approved the plat. For Minor or Standard Subdivisions, the Planning Commission would be the approval authority. The City Council would generally be the approval authority for all other plat amendments.

ORDINANCE 22-16

EXEMPTION TO SUBDIVISION REQUIREMENTS FOR COMBINING LOTS AND AMENDING SUBDIVISION PLAT AMENDMENT APPROVAL AUTHORITY

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

WHEREAS, UCA 10-9a-601 provides that a legislative body may adopt a land use regulation that specifies that combining lots does not require a subdivision plat amendment; and

WHEREAS, combining lots will, as a general rule, not create a condition of non-compliance with Nibley City's Land Use Ordinance; and

WHEREAS, it is appropriate to assign the approval authority for a subdivision plat amendment to the same approval authority that originally approved the plat.

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

1. The proposed amendments to NCC 21.08.030 and NCC 21.06.060 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 AUGUST, 2022.

Larry Jacobsen, Mayor

ATTEST: _____
Cheryl Bodily, City Recorder

21.08.030 Parcel Boundary Adjustments, Lot Line Adjustments, Combining Lots And Subdivision Amendments

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A. Lot Line and Parcel Boundary Adjustments: An agreement to adjust boundary lines between adjoining properties, where at least one of the properties being adjusted is a lot or where the properties at issue include a dwelling either in a subdivision or on unsubdivided parcels of land, may be applied for by the owners of record of said properties as set forth herein.

1. The following materials shall be submitted with a parcel boundary/lot line adjustment application:
 - a. A quitclaim deed or boundary line agreement, which complies Utah Code 10-9a to be used for recording the lot line adjustment.
 - b. For lot line adjustments, a surveyed plat, which describes the differences between the amended and the original plat, as provided in UCA 10-9a-6.
 - c. For parcel boundary adjustments, a survey, which describes the differences between the amended and the original parcels.
 - d. A site plan which shows existing and proposed property boundary lines, any existing easements, and structures on the affected properties, including dimensions and setbacks from existing and proposed lot lines.
2. The City Planner or City Engineer shall approve the application for lot line/parcel boundary adjustment if the following conditions are met:
 - a. All required materials are submitted.
 - b. No new lot or parcel results from the adjustment.
 - c. If the properties to be adjusted are in a subdivision, the lot sizes, frontages and configurations are consistent with this title and NCC 19.
 - d. No lot is made undevelopable without a variance or other special consideration.
 - e. All property owners directly affected by the adjustment give their consent.
 - f. The adjustment does not result in a remnant piece of land that did not exist previously.
 - g. The adjustment does not result in the violation of any applicable zoning ordinance, including restrictions on permissible uses or number and location of dwellings and structures.
 - h. The lot line adjustment does not substantially alter legal lots that may otherwise need further review by the Planning Commission or City Council in the form of a subdivision amendment.
 - i. Non-conforming lots: notwithstanding the conditions described above, a lot line/parcel boundary adjustment for an existing non-conforming lot which does not result in conformity with the land use ordinance may be approved if the adjustment does not result in a lower level of conformance for any established lot size, frontage or other established standards. For example, if a ½ acre lot located within a zone with a minimum lot size of 1 acre applies for a lot line adjustment which increases the size of the lot to ¾ acre via a lot line adjustment, it may be approved.
 - j. Upon approval, the applicant(s) shall execute and record the adjustment with the Cache County Recorder, in accordance with Utah State Code 10-9a.
3. Exemptions from lot line/parcel boundary adjustment application:
 - a. A parcel boundary adjustment involving parcels, which do not contain a dwelling on any affected properties may be executed and recorded with the Cache County Recorder and is not subject to City approval.
4. A complete application for parcel boundary adjustment must be reviewed by the City Planner or City Engineer within 14 days of submittal.

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B. Combining Lots or Parcels: the combination of contiguous lots or parcels that eliminates one or more boundary lines in common between the contiguous lots or parcels and that does not otherwise

adjust property boundaries are not considered lot line adjustments, parcel boundary adjustments or subdivision amendments and are not subject to the regulations of this chapter. A lot or parcel combination does not constitute a land use or zoning approval by the City, unless expressly approved as such by the City. Documents recorded as part of a lot or parcel combination do not modify any existing easement or public right of way, nor do they waive or modify any requirement to comply with all zoning and other land use regulations.

C. All other amendments to a subdivision plat not described above shall follow the process and standards within Utah State Code 10-9a as amended, and any applicable Nibley City ordinances.

21.06.060 Land Use Authority

1. The Land Use Authority shall be established according to the table below for Land Use Applications.

Subdivision Type	Approval Authority
Standard Subdivision	Planning Commission
Minor Subdivision	Planning Commission
Rural Preservation Subdivision	City Council
Cluster Subdivision	City Council
R-PUDs and other Overlay Zones Development	City Council
Annexation Petition	City Council
Annexation Policy Plan	City Council
Conditional Use Permit	Planning Commission ¹
General Plan	City Council
Ordinance Change (new or existing)	City Council
Plat Amendment	City Council <u>or Planning Commission²</u>
Proposal to Vacate, Alter or Amend a Public Street or Right-of-Way	City Council

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Subdivision Ordinance	City Council
Subdivision; Preliminary Approval	City Council
Zone Changes	City Council

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¹The planning commission may designate to city staff, its land use authority for those conditional use permit application outline in NCC 03.02.040.Sub

²The Approval Authority for a Plat Amendment shall be the same approval authority as for the original Subdivision

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Agenda Item #7

Description	Discussion and Consideration- Ordinance 22-17: Amending Subdivision Submission Requirements (First Reading)
Presenter	Levi Roberts, City Planner
Recommendation	Move to approve Ordinance 22-17: Amending NCC 21.02.060, 21.06.040, 21.06.080, and 21.08.010 regarding subdivision submission requirements and waive the second reading.
Reviewed By	Mayor, City Manager, City Attorney, City Planner, Planning Commission

Background

City Staff has received feedback from recent Subdivision applicants that, at times, the application process is unclear in regards to: the timing of the review and approval process and the required materials for the application. In addition, there are some materials and details required with each application that Staff recommends updating.

With regards to timing, there is some language in the current code that has led subdivision applicants to believe that they should be on the Planning Commission agenda if they turn in an application within 14 days of a scheduled meeting. In reality, this does not allow sufficient time for Staff to review the application, verify compliance with Nibley City Code and prepare a Staff report. In addition, applications are often not complete or are not in compliance with NCC. In most cases with subdivisions, there are multiple reviews, the timing of which is largely reliant upon the applicants' response. Staff recommends amending the ordinance with regards to timing to be more clear about the process.

In addition to this clarification, Staff recommends updating the required list of materials and elements to be included with a Final Plat or Preliminary Plat submission to be more reflective of engineering standards and best practices. The recommended amendments are attached to the meeting packet. Specific changes include:

1. Added requirements for a transportation impact study, sewer report and other reports for developments greater than 20 acres. In the past, these reports have been required at the discretion of the City engineer. But this provides a more predictable standard.
2. The addition of requiring road cross-section details

3. An added guideline to avoid providing cross-lot easements for sewer, water, or other utilities. Such can be provided in special circumstances with approval of the City Engineer

ORDINANCE 22-17

AMENDING NCC 21.02.060, 21.06.040, 21.06.080, AND 21.08.010 REGARDING SUBDIVISION SUBMISSION REQUIREMENTS

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

WHEREAS, the required list of materials and elements to be included with a Final Plat or Preliminary Plat submission should be reflective of engineering standards and best practices; and

WHEREAS, the timing of subdivision reviews should be reasonable and adequate to ensure compliance of Nibley City Code and Engineering Design Standards.

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

1. The proposed amendments to NCC 21.02.060, 21.06.040, 21.06.080 and NCC 21.08.010 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 25 DAY OF AUGUST, 2022.

Larry Jacobsen, Mayor

ATTEST: _____
Cheryl Bodily, City Recorder

21.02.060 Complete Submittal Required

- A. No application for a subdivision shall be reviewed by the City Planning Commission or City Council or be entitled to substantive review and approval until the applicant has submitted all documents required by this Title and Nibley City Code. The City shall inform applicants of the information needed to provide a complete application. Once a complete application has been received, the application shall be reviewed by the City Engineer, City Planner, Public Works Director, and all any other applicable departments or special service districts for conformance to NCC. When the application has been determined to be complete and in compliance with NCC, the application will be placed on the next Planning Commission meeting which is at least (14) days from the date of compliance determination. The application will then be reviewed/approved by the applicable recommending/approval authorities as outlined in this Chapter.

Commented [DF1]: Is 14 days the minimum? If they were done 7 days before the meeting would that be enough time to still get them on?

21.06.040 Submission Of Preliminary Plat

- A. The subdivider shall submit the following in a readable, electronic format with each Preliminary Plat application:
1. The proposed preliminary plat conforming to all development standards of NCC and Nibley City Engineering Design Standards.
 2. A title report, provided by a title company, for the property proposed to be subdivided, dated within thirty (30) days of the submittal of the preliminary plat.
 3. Except as outlined in NCC 21.10.040, prior to approval of the preliminary plat, the subdivider shall provide the City with signed documentation that any affected canal company has had the chance to review plans related to the alteration of affected canals, and further, that the canal company understands they have thirty (30) days from the date of notification to bring any concerns to the City.
 4. The following are required for all phased developments, developments larger than 20 acres, or as specifically required by City Staff:
 - a. Preliminary Maintenance and Landscape Plans
 - b. Traffic Impact Study
 - c. Geotechnical Report
 - d. Preliminary Stormwater / Drainage Report
 - e. Preliminary Sewer Report
 - f. Preliminary Water Report
0. The preliminary water report will be provided by the City's water modeling consultant at a cost to the developer.

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Deleted: <#>three (3) paper copies and one (1) electronic copy, in a format that is readable, of the proposed preliminary

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The preliminary plat shall conform to the development standards outlined in NCC 21.08.010, 21.06.50 PublicNotice and Hearing Required.¶

Commented [DF3]: What happens if they don't. Does the pre plat approval automatically go away. I recommend that it should. Often there won't be any changes at all but this removes standing if there are changes to our codes.

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21.06.080 Final Plat Approval

- A. [Within one year of receiving approval of the preliminary plat by the City, developers shall present the entire subdivision or first phase or phases for final approval by the specified Land Use Authority. If the first phase of the subdivision is not submitted within one year of preliminary plat approval, the approval of the preliminary plat shall be null and void and the applicant must submit a new preliminary plat application for consideration.
- B. The application for final approval shall consist of the following:
1. Final plats for the entire subdivision or for the proposed phases, prepared according to this ordinance and to the Nibley City Design Standards and Specifications;

2. A stamped report, prepared by a Utah Licensed Professional Engineer or Professional geologist, establishing the ordinary high groundwater elevation and finished floor elevations for the subdivision.
 - a. No finished floor elevations, including basement floor elevations, shall be permitted below the aforementioned groundwater elevation.
 - b. The groundwater elevation and finished floor elevation limitations shall be recorded as a boxed note (min 14 pt font) on the recorded mylar
 - c. The report shall be attached to the Development Agreement.
 - d. An applicant is not required to submit a groundwater report or finished floor elevations of any permitted building if the applicant records on the final plat that no finished floor shall be built at an elevation lower than six inches (6") above finished curb or centerline of the street, whichever is higher, unless an individual lot owner is able to provide a stamped report meeting the qualifications as listed within this section for their lot, and unless that report is reviewed and approved by the City Engineer
3. Construction drawings for the subdivision, prepared by licensed professionals according to this ordinance and to the Nibley City Design Standards and Specifications;
4. Final reports for which preliminary reports were required with the preliminary plat.
5. and one (1) electronic copy of the final plats, construction drawings, and reports; and
6. A draft Development Agreement, prepared by Nibley City, outlining the roles and responsibilities of both the subdivider and Nibley City. The Development Agreement shall be approved by the City as part of the final approval.

21.08.010 Preliminary Plat

- A. As part of the submittal of the preliminary plat, subdividers shall provide Nibley City with the following information:
- B. Description: The preliminary plat shall be drawn to a scale not smaller than one hundred feet to the inch (1"=100') on standard twenty-four inch by thirty-six inch (24"x36") paper and shall include the following information in the title block:
 1. The proposed name of the subdivision.
 2. The boundaries of the proposed subdivision, including sufficient information to locate the project, and the total acreage of the project.
 3. A legal description of the property.
 4. The names and addresses of the owner, subdivider if other than owner, and the engineer or surveyor of the subdivision.
 5. Date of preparation.
 6. Scale
- C. Existing Conditions: The plat shall show:
 1. The location of the nearest benchmark and property monuments.
 2. All property contiguous to the proposed subdivision under the control of the subdivider, even if only a portion is being subdivided.
 3. The location, width and names of all existing streets, railroads, open spaces, sewers, water mains, culverts or other utility lines and rights-of-way, and permanent buildings and structures located within the tract and within one hundred and fifty feet (150') of the outermost boundary of the subdivision.
 4. The location of all wells, proposed, active and abandoned, and of all reservoirs within the tract.
 5. Existing sewer lines, water mains, land drains, culverts or other underground facilities within the tract and to a distance of at least one hundred feet (100') beyond the tract boundaries, indicating pipe sizes, grades, manholes and exact location.

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6. Existing irrigation ditches and canals, their owners, and any easement or prescriptive right-of-way.

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7. Existing natural drainage channels and open waterways.

8. Proposed realignments for any existing facility.

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9. Identification of known natural features including, but not limited to, wetlands as identified by the US Army Corps of Engineers, areas which would be covered in the event of a 100-year storm event, all water bodies, floodways and drainage ways, slopes exceeding twenty percent (20%) and any other natural features as may be required by the Planning Commission or City Council for the subdivision, including the acreage in each required feature.

10. Boundary lines of adjacent tracts of land, showing ownership where possible.

11. Contour map at vertical intervals of not more than five feet (5') where the slope is greater than ten percent (10%) and not more than two feet (2') where the slope is less than ten percent (10%).

12. A plan outlining how the subdivider intends to phase construction of the project, if phasing is intended.

D. Proposed Development: In addition to the above-listed items, the preliminary plat shall show:

1. The layout of streets, showing location, widths and other dimensions of proposed streets, crosswalks, alleys and easements.

2. Cross-sections depicting in detail the widths, elevations, and typical slopes of all road types (out to the limits of the property line or PUE if applicable), trails, irrigation facilities, natural channels, and other unique areas within the area to be platted that require information to clearly depict what is being proposed.

3. The layout, numbers and typical dimensions of lots.

4. Open space intended to be dedicated for public use or set aside for the private use of property owners in the subdivision.

5. Building setback lines, including dimensions of said lines.

6. Easements, including dimensions, for water, sewer, drainage, utility lines and other purposes as required by the Planning Commission or by City law.

a. Cross-lot easements for water, sewer, drainage, or other utility lines shall be avoided as much as possible and required specific approval by the City Engineer prior to presentation to the Planning Commission and City Council.

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7. A tentative plan or method for the subdivision's groundwater, fire hydrant, sewer and stormwater drainage facilities.

8. Where the plan submitted covers only part of the subdivider's tract, the preliminary plat shall include a sketch of the prospective future street system which shall be considered in light of the future street system of the larger area.

E. Approval Of Preliminary Plat:

1. Conditions Of Approval: The Approval Authority shall approve only those preliminary plats that satisfy the standards and criteria specified in this title, Zoning Title 19 of the Nibley City Code and all other applicable City ordinances and standards.

2. Environmental Impact Analysis: The Planning Commission shall determine from the preliminary plat the possible need for environmental impact analysis.

3. Approval Or Disapproval By the Approval Authority: The Approval Authority shall, approve the preliminary subdivision plan if it finds that the subdivision complies with City ordinances and standards. The Approval Authority may conditionally approve a preliminary subdivision plat imposing such conditions as required in order to bring the subdivision plat into compliance with the requirements of City ordinances. In the event the Approval Authority disapproves the preliminary plat, they shall state in writing each reason for the disapproval.

Agenda Item #8

Description	Discussion and Consideration- Ordinance 22-18: Amendments to Mixed Residential Zone R-M, Adding the Area Near 2600 South and 1200 West to the Map of Eligible R-M Areas (First Reading)
Presenter	Levi Roberts, City Planner
Recommendation	Move to approve Ordinance 22-18: Amendments to Mixed Residential Zone R-M, Adding the Area Near 2600 South and 1200 West to the Map of Eligible R-M Areas for first reading with the following amendments. (amendments have been incorporated into Draft Ordinance) • Change the maximum density to 13 units per net developable acre • Change the maximum height limit to 50 ft • Specify that open space within required front yard setback areas of all buildings are not counted toward required open space
Reviewed By	Mayor, City Manager, City Attorney, City Planner, Planning Commission

Background

Representatives of Wesley Nelson Farms, Inc and Nibley Development, LLC, owners of a 54-acre property near 2600 South 1200 West recently held a workshop with the City Council to discuss their development plans for the property and an appropriate process to consider. This workshop was followed up with a sub-committee meeting attended by 2 City Council members, 2 Planning Commissioners, members of Staff, and property owner representatives. The subcommittee determined that the next step in the process was for the Planning Commission to discuss potential changes to the ordinance that would accommodate the development. The property owners have discussed the desire to develop an 18 acre portion on the east side of the property with a mix of townhome and small lot single-family homes with most of the remainder of the property, along Hwy 89/91 to be reserved for commercial use. A concept plan has been provided for this residential portion.

The City previously considered a change to the R-PUD ordinance to lower the minimum acreage requirement. However, the City Council with a recommendation from Planning Commission denied this requested change. One of the reasons expressed for this denial was that the R-PUD was meant to be for larger-scale developments that have

adequate open space, amenities, and variety of housing. Another potential zoning designation that would allow for the residential development is the R-M (mixed-residential) zone. This zone was created at the time the City was pursuing an option for a developer of the Campbell property north of Clear Creek Subdivision to develop. In general, the ordinance has many of the same standards as the R-PUD ordinance, but allows a higher density (20 units/gross acre compared to 10 units/net developable acre) and allows approval through an administrative process. The zone is currently only allowed to be applied at the 40 acre Campbell property, which has since been annexed into Logan.

Based upon feedback from the Planning Commission, the following amendments to the R-M zone standards are proposed:

- Lower the maximum density of the R-M zone from 20 units/gross acre to 13 units/net developable acre in keeping with the scale of development in the City.
- Stronger guidelines to ensure that open space is more contiguous and integrated with adjacent open space, including raising the minimum park area from 0.25 acre to 0.5 acre and a requirement that 50% of the open space must be contiguous with 25% bordering a ROW, easement, park or trail. In addition, the Planning Commission recommends that areas within building front yard setbacks are not counted toward required open space, since these areas have minimal usable benefit and are already required by the setback standard. These standards will help ensure that open space is more usable and integrated.
- A requirement that the development must incorporate at least 2 housing types and that no more than 80% of the development be composed of only one housing type. This is intended to ensure that developments within an R-M zone contribute to providing a variety of housing types in the City.

In addition to these amendments, it is proposed to add the 18-acre property located near 2600 S 1200 W to the map of eligible areas to be zoned R-M. On the Future Land Use Map, this area is noted as 'Commercial and Medium to High Density Residential.' It is Staff's opinion that The R-M zone is in support of this future land use designation. Furthermore, this location has good transportation access with proximity to Hwy 89/91, 1200 W and 2600 S to distribute traffic.

19.04.010 Definitions

HOUSING, MULTI-FAMILY: A single building that contains ~~two~~ (2) or more separate dwelling units. Entrances to the dwelling units may be separate or combined. The units may be rented or owned as in a condominium. ~~For buildings with two or more dwelling units, the limitations related to owner occupation and that such buildings must be situated on one lot do not apply. Buildings containing two or more dwelling units on more than one lot and buildings containing two or more dwelling units that are not owner-occupied shall be considered multi-family housing.~~

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19.12.040 Mixed Residential Zone R-M

1. Purpose: The purpose of the Mixed Residential Zone is to provide a variety of housing types to accommodate the diverse housing preferences of the community's existing and future residents that are supported by an appropriate provision of jobs, retail, services, open space and amenities.
2. Definitions: Refer to NCC 19.04 and 19.32.020
3. Use Regulations: See NCC 19.20. Allowed uses in this zone may be provided either separately from or within the same building or lot as other allowed uses, if approved pursuant to an authorized site plan.
4. Space Requirements:

	Single-Family Housing	Multi-Family Housing
Minimum Lot Size (sq. ft.)	4,500	-
Maximum Height	40'	50'
Minimum Frontage	50'	-
Front Yard	20'	20'
Front Porches	10'	10'
Side Yard	5'	10'
Side Year Porches, Deck Overhangs	5'	5'
Side Yard Adjacent to Streets	20'	20'
Rear Yard	15'	15'

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Accessory-Use Setbacks	Single-Family Housing	Multi-Family Housing

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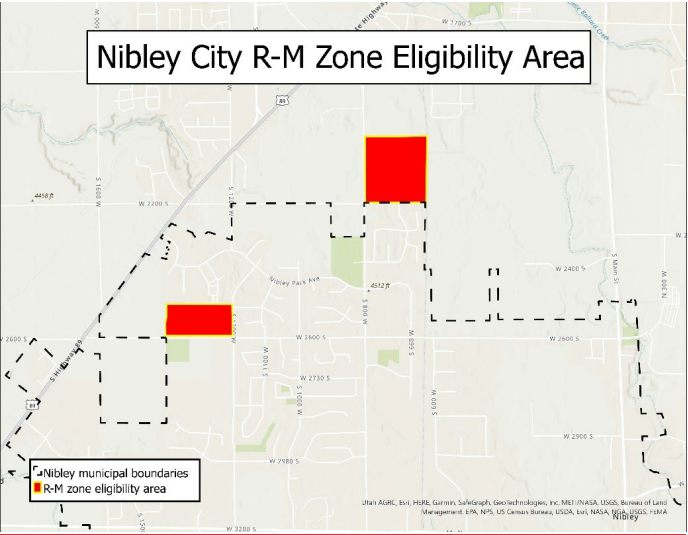
Front Yard	20'	20'
Side Yard	3'	3'
Side Yard Street	20'	20'
Rear Yard	1'	1'
Maximum Height	15'	15'

a. Setback and frontage requirements shall apply to each building, and not each dwelling unit

5. Animal And Fowl Unit Regulations: See NCC 19.34.

6. R-M Application Map

An R-M Zone designation shall only be applied for in the following areas which includes parcels with Tax ID numbers 03-001-0013 and 03-001-0010, as of April 15, 2021 and 03-007-0031 as of August 22, 2022.



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7. Density & Unit Type Regulations

a. The maximum density of a residential development within the R-M zone shall be 13 units per net developable acre.

- b. A proposed Multi-family housing development 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.
- c. The City may approve single family homes that do not meet the required setbacks and lot size, i.e. patio homes. These homes shall be considered ‘multi-family housing’ and shall assume the associated open space requirements of such.
- d. Developments within the R-M shall include a minimum of two housing types, including single-family housing, two-family housing, townhome, condominium/apartment. No more than 80% of units within a development may be one housing type.
8. Open Space and Amenities
- a. At least 50% of Open Space Land must be contiguous within the development and 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.
- b. Areas in front of buildings within the minimum front yard setback area for all housing shall not be counted toward open space land.
- c. Each residential development within an R-M zone shall provide the following types and amounts of open space and amenities:

Commented [LR5]: Added based upon P&Z recommendation.

Minimum Open Space Requirement	
Dwelling Type	Percentage of Net Developable Acres Required to be Used for Amenities and Open Space
Single Family	20%
Multi Family or mix of Single Family and Multifamily	35%

d.

Minimum Amenity							
Number of Units	Park Area	Public Restroom	Pavilion	Swing Set	Playground	Clubhouse, Pool, or Splashpad	Sport Court/Fields
Less Than 100	1.5 Acres	—	—	—	1	—	—

100-150	2.5 Acres	–	–	1	1	–	–
151-200	3.5 Acres	–	–	1	2	–	1
201-250	4.5 Acres	1	1	1	2	–	1
251-300	5.5 Acres	1	1	1	2	1 of the above options	1
301-400	6.5 Acres	1	2	2	3	2 of the above options (At least one pool or Splashpad)	2
401-500	7.5 Acres	2	2	2	3	2 of the above options (At least one pool or Splashpad)	2
501+	*	*	*	*	*	*	*

- i. This chart does not include all potential amenities. The applicant may apply for other amenities that would benefit the development and are in support of Nibley City's Parks and Recreation goals. Any proposed amenities not listed, must be approved by the City Council. The City Council may also allow a substitution of amenities on the table above. These substitutions may only be approved if the cost, value and use of the amenity matches or is greater than the required amenity. The burden shall be on the developer to provide justification and is subject to review and acceptance by staff prior to Council consideration. An applicant may include additional amenities beyond the requirements of this section.
- ii. Development over 500 units must supply adequate and proportional amenities based on the table above.
- iii. Development may be phased according to NCC 21.02.080 and the Development Agreement. The City Council may extend phasing deadlines within the development agreement based on the size of the project and proposed amenities. Public, Common or Owners' Association-owned amenities shall be fully

developed and operational in conjunction with each phase of the subdivision as a percentage of the total developed value of the subdivision (for example, if 25% of the dollar value of the development is being constructed, then a minimum of 25% of the dollar value of the built-out amenities must be developed). The determination of value, construction sequencing, and acceptance criteria shall be specified in the Development Agreement. An applicant may also provide an escrow or bond for improvements according to Nibley City Standards. Until improvements are accepted by the City for the attendant phase, no permits shall be issued for subsequent phases.

- iv. All amenities designed and designated to be transferred to City ownership and maintenance must meet Nibley City Design Standards. The City must review and approve any improvements that will be owned and maintained by the City as part of the construction drawing review.
 - v. Public and Private Park space may be combined or spread throughout the development. Each Park shall be a minimum of 0.5 acres. Each dwelling unit shall be within a quarter mile of a park within the development, unless otherwise approved by the City Council. Parks may be public or private. Each public park development and placement within an R-M development shall be agreed upon by the applicant and the City Council. Park space may not include alleyways, back yards, gangways, front yards, forecourts, private patios, porches, driveways, etc.; unless proper amenities and access are provided.
 - vi. All amenities shall meet any federal, state, city, or other standards that apply.
 - vii. Sports Courts/Fields: include a facility/amenity that is built for one of the following: Tennis Court, Pickleball Court, Basketball Courts, Soccer field, Volleyball pit, Baseball field, Softball field, wallball, golf course, disc golf course, or others as approved by the City Council.
 - viii. Picnic Area: Two or more picnic tables for use by 10 or more persons.
 - ix. Pavilion: A covered picnic area. Each Pavilion must be designed for use of a minimum ten or more people.
 - x. Club House: A building available to community members to house a club or social organization not conducted for private profit. Club Houses shall be owned and maintained by a homeowner's association. A club house shall be at least 1000 sq. ft. in size.
 - xi. Playground: an area provided for children to play on. Each Playground must be designed for children twelve and younger. A playground must include features to appeal to children within the above age group including some of the following: slides, monkey bars, ladders, tunnels, climbers, bridges, ramps, platforms, etc. All playground equipment must be of commercial grade. Each playground must include a minimum of 8 features.
 - xii. Pool: A recreation facility designed and intended for water contact activities. No pool shall be less than 800 sq. ft.
 - xiii. Public Restroom: a room or small building with toilets and sinks that is available for use by the general public. One (1) public restroom shall contain at minimum 2 individual rooms with toilets and sinks (male/female or unisex). Larger restroom facilities may be required depending on the amount of activity projected at a particular open space/park area. All restroom facilities shall be built in compliance with the Americans with Disabilities Act (ADA).
 - xiv. Splashpad: A recreation facility with sprinklers, fountains, nozzles and other devices or structures that spray water. Splashpads shall contain some above ground features.
- e. Maintenance of Amenities

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- i. All R-M developments must establish and maintain in perpetuity by the property owner or an Owners Association if there are open space and amenity under common ownership, or as otherwise required by federal, state or Nibley City law. The Developer shall be a member of said Owners Association while the subdivision is being developed.
- ii. Costs: Unless otherwise agreed to by the City, at the City's discretion and on such terms and conditions as the City may agree to, the cost and responsibility of maintaining amenities shall be borne by the fee owner of the property or Owners Association.
- iii. Preliminary Maintenance Plan: A Preliminary Maintenance Plan shall be submitted with the preliminary plat or concept site plan for proposed maintenance of amenities within the development. This plan shall outline the following:
 1. The proposed ownership and responsibility for maintenance of the amenities;
 2. The proposed use of the amenities' and how each parcel of amenities meets the standards listed in this Chapter;
 3. The size of each amenities parcel; and
 4. The proposed concept plan for landscaping of the amenities.
- iv. Final Maintenance Plan: The developer shall submit a plan outlining maintenance and operations of the amenities and providing for and addressing the means for the permanent maintenance of the amenities within the proposed R-M application for the subdivision or development. The developer shall provide a final maintenance plan with the final plat or site plan and the plan shall contain the following:
 1. Documents and plans as listed in for the Preliminary Maintenance Plan.
 2. A description of the use of the amenities and how that use complies with this Chapter;
 3. The establishment of necessary regular and periodic operation and maintenance responsibilities for the various kinds of amenities (e.g., lawns, playing fields, meadow, pasture, wetlands, stream corridors, hillsides, clubhouse, pool, woodlands, etc.) and any private streets and other accesses;
 4. The estimated staffing needs, insurance requirements, and associated costs.
 5. The landscaping plans for parcels that will be owned by an Owners Association or by the City.
- v. Approval: The Final Maintenance Plan must be approved by the City Council prior to or concurrent with final plat approval for the subdivision. The Final Maintenance Plan shall be recorded against the property within the subdivision before any property or lots are sold or transferred and shall include provisions for the City's corrective action rights as set forth herein. Any changes or amendments to the Final Maintenance Plan must be approved by the City Council.
- vi. The developer shall offer an approved letter of credit, bond or escrow for all proposed improvements as set forth in NCC 21.14.
- vii. Failure to Maintain: The City may assume responsibility for the maintenance and operation of any portion of any amenity or common facility within an R-M development in the event the party responsible for maintaining or operating the amenity fails to do so in accordance with the terms of this Ordinance, the approved Maintenance Agreement, any Conditional Use Permits, Business Licenses or any other agreements between the City and the developer, owners, or

other parties responsible for maintaining or operating amenities. If the City assumes responsibility under this paragraph, any remaining development escrow or bond funds may be forfeited, costs, fees, and liens for maintenance costs shall be assessed as described herein, and any permits, licenses or operating agreements may be revoked or suspended by the City in the City's sole discretion. Owners shall not impede the City in its efforts to maintain the amenities.

- viii. Corrective Action: The City may enter onto any amenity provided as part of an R-M development and take such corrective action, including extended maintenance, repairs, modifications, or the execution of additional agreements, as the City determines is necessary for the amenity to satisfy the terms of this Ordinance, the approved Maintenance Agreement, any Conditional Use Permits, Business Licenses or any other agreements between the City and the developer, owners, or other parties responsible for maintaining or operating amenities. The costs of such corrective action shall be charged to the owners and may include administrative costs, legal costs, and penalties. Such costs shall become a lien on said properties. Notice of such lien shall be filed by the City in the county recorder's office. The maintenance plan and all other documents creating or establishing any Association or conservation organization for the property shall reference the City's corrective action authority set forth herein and shall be recorded against the property before any property or lots are sold or transferred.
 - ix. Implementation and Maintenance: The developer of the subdivision shall fund implementation and maintenance of the amenities until such time as the control of the amenity is transferred to the owner listed in the maintenance plan. The developer shall address the implementation, development, maintenance and transfer procedures in the sensitive area designation plan map or master development plan, as applicable.
 - x. Maintenance Access: The developer of the subdivision shall provide sufficient maintenance access from a dedicated right-of-way to all amenities and constrained and sensitive lands within the R-M DEVELOPMENT to allow the owner of the property to have sufficient access.
9. Multifamily Housing Architectural Design Standards
- a. 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.
 - b. 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.
 - c. 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, vinyl siding with a minimum of 40-year warranty, 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.
 - d. 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
- e. 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.
 - f. Variation. Multi-family housing 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:
 - i. Change in building materials;
 - ii. Building projections measuring at least twelve (12) inches in depth based on the scale of the proposed building;
 - iii. Awnings and lighting, or another architectural variation as approved on a case-by-case basis that creates visual interest.
 - g. Garages. Multi-family housing shall be designed oriented toward exterior public roads with rear loading garages or parking accessed by a paved parking area or alleyway, except along Highway 165 and 89/91, as approved. Rear loading garages are highly encouraged for buildings located on interior project roads with units oriented toward a road or common courtyard area. Front loading garages may be allowed for buildings that do not have any portion of the building adjacent to a current or planned public road or street outside of the development.
10. Site Design Standards.
- a. Natural features. R-M developments shall respect and maintain natural features such as existing trees, hills, drainages, wetlands, bodies of water, or other natural features or constrained and sensitive land. The City may require the developer to identify, delineate, and describe how the development will appropriately address and obtain any required authorizations related to such features.
 - b. A landscaping plan for the front yards shall be included. The landscaping plan shall include at least one (1) tree for every dwelling unit, and two (2) shrub of five (1) gallon size for each dwelling units. Coniferous trees shall be at least six (6) feet in height and the deciduous trees shall be at least one and a half (1.5) inches in caliper.
11. Connectivity. R-M developments shall provide connectivity with the surrounding area and throughout the development. All improvements shall consider vehicle, bicycle, and pedestrian access.
- a. Street Design: All street designs shall comply with the General Plan and Transportation Master Plan including Nibley City's street standards and connectivity requirements. Each development shall provide at least two working access points that provide access to an existing street right-of-way. Additional access points may be required in order to facilitate an adequate and convenient circulation system within the City. Such additional access points will be located where they will implement the City's Transportation Master Plan, connect to existing street rights of way, or provide access for the logical development of adjacent, undeveloped properties.
 - b. All streets are encouraged to incorporate traffic calming and beautification methods as listed in Nibley City design standards and Transportation Master Plan. This included islands, bulb-outs, roundabouts, etc. Each traffic calming measure shall be approved by the City Engineer.
 - c. All Streets shall be dedicated public streets built to Nibley City Code and standards. Private drives shall only be built to access parking courts or garages that are located directly behind each unit.
 - d. Private Drives/Alleyways provide vehicular access to parking and dwelling units but do not provide primary pedestrian access to units. Private Drives are intended to be used

primarily for vehicular circulation and dwelling access and should be visually distinct from streets.

- i. Private drives shall be a minimum width of 20 ft.
 - ii. All private drives shall be perpendicular, within 10 degrees, to the street they connect to.
 - iii. Driveways that access a single dwelling unit are not considered private drives or an alleyway
 - iv. The maintenance of all private drives, including snow clearing, shall be addressed as part of the maintenance plan
 - e. Developments shall provide a pedestrian access to the development border at intervals at a minimum of 660 feet unless expressly prohibited by conflicting with previously developed subdivisions or land use as determined by the land use authority. These access points shall be aligned with other trail systems, street right-of-way, or amenities and shall match the layout and size of the connection. A connection shall contain a minimum of eight ft (8') trail or sidewalks on public streets that meet Nibley City standards.
 - f. No dwelling units in an R-M development shall have driveway access to any arterial roadway as listed in Nibley's Transportation Master Plan. Multi-family housing units may face and have frontage along arterial roadways but must have rear loading garages. Public and private parks, open space or Buffering as defined within this chapter may also be along arterial roads.
12. Pedestrian circulation. R-M development shall provide a circulation map and show the following improvements to for pedestrian circulation and safety.
 - a. Pedestrian walkways that interconnect the adjacent street(s), amenities, parking areas, building entries, adjacent sites and adjacent master planned trails where applicable. Each building located along a public road must provide a sidewalk connection from the building entrance to the public sidewalk.
 - b. Walkways shall be hard surfaced with concrete.
 - c. Crosswalks shall be placed where pedestrian walkways cross streets and internal roads and shall be painted or made of concrete.
 - i. The development shall provide connections to the Nibley City trail system. These trails must be dedicated to the City and built to Nibley City standards as listed in the Trails Master Plan and Nibley City Design Standards.
13. Parking: Multi-family housing shall provide 2 primary parking spaces for each unit with 2 or bedrooms and 1.5 spaces for 1 bedroom or studio units. Primary parking must be contained in a garage, carports, driveway, or parking court. An R-M development shall provide one guest parking spot for every three units. Guest parking may be provided in parking courts or lots maintained by the property owner or owner association.
 - a. Individual parking courts or lots shall include landscaping with grass, trees or xeriscape plants separating parking areas of no more than 20 parking spaces Each parking area of 20 or less spaces shall be physically and visually separated by a landscape area a minimum of 10 feet in width.
 - b. Parking courts or lots shall be located in the interior of the development and located between or in the rear of buildings for multi-family developments.
 - c. Parking Courts or lots shall be paved and built to Nibley City parking lot standards.
 - d. Interior parking structures or garages are encouraged and shall meet Nibley City Design Standards
14. Landscaping: All portions of the lot not improved with structures or other impervious surfaces shall be maintained with suitable landscaping of plants, trees, shrubs, grasses, or similar landscaping materials.
 - a. Landscaping shall also be installed in all park strips to the same standards as other onsite landscaping. Asphalt, concrete, bricks, pavers, railroad ties, and other nonvegetative

material are not allowed in the park strip area between the curb and sidewalk.

Xeriscaping is permitted. The developer should plant street trees of an approved species and size along all streets. Trees should be planted at intervals of every 50 feet and must meet Nibley City Standards.

- b. Buffering: R-M developments shall provide buffering along Highway 89/91 or Highway 165, or along the boundary of an R-M development that is adjacent to commercial, or industrial zones. Buffering landscaping is not required if commercial or industrial zones are separated by a public street from the R-M development. Buffering shall meet the standards within this ordinance.
- c. Natural Landscape: All open space land dedicated to natural use must maintain its natural landscaping and plant life.

15. Fences:

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

16. Approval Process:

Subdivisions within the R-M zone must complete the approval process of NCC 21.06 to ensure compliance with this section. All multifamily development that does not require a subdivision must complete the Site Plan Review Process of NCC 19.14.050.