

ORDINANCE NO. 2012_____

**AN ORDINANCE OF THE NORTH OGDEN CITY COUNCIL MAKING
AMENDMENTS TO TITLE 11, CHAPTER 11 PLANNED RESIDENTIAL UNIT
DEVELOPMENTS, OF THE NORTH OGDEN CITY CODE**

WHEREAS: the North Ogden City Council has received a recommendation from the North Ogden City Planning Commission to make certain amendments to Title 11, Chapter 11 Planned Residential Unit Development, of the North Ogden City Code;

WHEREAS: the Council has held a public hearing to receive comments and has studied the changes proposed by the Planning Commission; and

WHEREAS: the Council now desires to adopt and codify the recommended amendments,

NOW THEREFORE, BE IT ORDAINED that Title 11, Chapter 11 Planned Residential Development of the North Ogden City Code is hereby amended to read as follows:

11-11-1: PURPOSE:

- A. The purpose of the planned residential unit development (PRUD) is to encourage better utilization of land, to develop a sense of community and to ensure compatibility with the surrounding neighborhoods. This is accomplished by allowing flexibility in the placement and design of buildings and infrastructure not ordinarily allowed in conventional zoning regulations. It allows flexibility in development standards for creative design and yet provides specific requirements to ensure surrounding properties and natural features are protected.
- B. A planned residential unit development is a residential development planned as a whole, single complex. It incorporates a definite development theme which includes the elements of usable open space, diversity of lot design, residential use and amenities, a well planned circulation system, and attractive entrances as part of the design. The incorporation of one or two (2) of these elements into a development does not make a PRUD. The combination of all of these elements is necessary for the development of a PRUD.

C. An increase in housing density in order to make a project more economically profitable, is not an objective of a PRUD. The developer must calculate in his or her pro forma the viability of a proposed PRUD project given the regulatory structure required by this chapter. Reductions in lot sizes may be granted, as provided herein, but only when the reduction and/or more creative configuration of the lots results in better use of the land, the creation of useable common activity areas and improved aesthetics. These benefits should reasonably promise to enhance the enjoyment of life within the PRUD to a degree that would not otherwise be achievable without the lot size concessions.

Comment [dmc1]: This provision is inserted to give staff and the Planning Commission more teeth to resist PRUD plans, the apparent purpose of which, is mainly to increase density.

11-11-2: DEFINITIONS:

As used in this chapter, the following terms shall mean:

ATTACHED DWELLING UNITS: Two (2) or more dwelling units connected by at least one wall or floor of common construction.

DEVELOPED COMMON ACTIVITY AREA: Open green space which is designed to provide activity areas for use by all residents such as playgrounds, recreational courts, picnic pavilions and gazebos. Title to developed common activity area shall be held in common or in private ownership, provided that all residents of the PRUD shall be granted access to the developed common activity area.

FACADE: All exterior walls of a building or structure.

GROSS ACREAGE: The total amount of acreage in a PRUD development.

NET ACREAGE: The total amount of acreage in a PRUD development excluding rights of way or roads and "undevelopable land" such as unmitigated natural hazard areas, wetland areas and floodplains.

OPEN GREEN SPACE: A planned open area suitable for relaxation, recreation or landscaping which may be held in common or private ownership, provided that all residents of the development shall have a right to enter and use the open space. It should be unoccupied and unobstructed by buildings and hard surfaces such as asphalt or concrete, except that such open green spaces may include walkways, patios, recreational activity areas, picnic pavilions, gazebos and water features so long as such surfaces do not exceed fifteen percent (15%) of the required open green space.

PERIPHERY: A one hundred foot (100') depth around the perimeter of the project measured inward from the property line.

11-11-3: USE REGULATIONS:

Uses in all PRUDs shall be limited to the permitted and conditional uses of the zoning district where the PRUD is located with the following exceptions:

- A. Attached dwelling units may be allowed in the R-1 and R-2 zones to provide a variety of housing options provided all other requirements of this title are met.
- B. Accessory uses to the PRUD which are located in a common main building may be permitted. Accessory uses shall be limited to personal services and recreational facilities so long as adequate parking is provided as determined by the planning commission.

11-11-4: DENSITY DETERMINATION:

- A. Developable Acreage: Density in a PRUD shall be determined by using the developable acreage of the entire proposed development. Developable acreage is land under twenty

percent (20%) slope which is capable of being improved with landscaping, recreational facilities, buildings or parking. Unmitigated natural hazard areas and wetland areas shall be "undevelopable" land. Land devoted to street usage (the right of way for public streets and the area from back of curb to back of curb for private streets) shall not be considered developable acreage and must be subtracted out of the total acreage used to determine density.

B. Density In A PRUD: The number of dwellings in a PRUD shall be determined by dividing the net developable square footage of the PRUD by the square footage required for each residential lot by the zone in which the PRUD is located. If the number of lots ends in a fractional amount, fractional amounts are to be disregarded.

11-11-5: MINIMUM DEVELOPMENT REQUIREMENTS:

All proposed PRUD developments shall comply with all minimum development requirements as provided in this section.

A. General Regulations:

1. A minimum of five (5) acres of land.
2. The minimum setback for all buildings (excluding fences) and parking in the periphery of the development shall be the front setback of the zone at those locations where the development abuts a street and a thirty foot (30') setback at those locations where development abuts other parcels of land. Notwithstanding the above provision, if the development has subdivided single-family lots, which abut other parcels of land, the specific zone regulations shall apply for rear yard setbacks and accessory uses of the subdivided lots. The required setback area shall be landscaped.
3. The minimum distance between main buildings in the development shall be fifteen feet (15') for single-story buildings, twenty feet (20') for two-story buildings, twenty five feet (25') for two and one-half (2¹/₂) story buildings. If the lower building is next to a taller building, then the larger separation distance will apply.
4. If fencing is proposed adjacent to a public or private street, the maximum fence height shall be forty two inches (42") for fences located in the required front yard and side yard setback facing a street as determined in the underlying zone. The width of the setbacks shall be according to the required setback of the zone in which the development is proposed. Fence heights located outside of these setbacks shall be limited to a maximum height of six feet (6'). The planning commission may vary the height or location if it determines the proposed fence design, materials and location will not create a safety hazard due to obstructed vision of approaching vehicles or pedestrians and will:
 - a. Not isolate the surrounding neighborhoods;
 - b. Be consistent with the theme of the development; and

c. Be compatible with the neighborhood.

5. If fencing isolates property between the fence and the public street, the development shall provide means to ensure continued maintenance of this area.

6. All utilities shall be placed underground, except power transmission lines capable of carrying forty six (46) kV or greater.

B. Compatibility:

1. The front of the units developed on the periphery of the project shall front onto the public streets. When units abut two (2) parallel streets, the fronts of the units shall face the public street bordering the PRUD. Units, which are on corners, may front either street. The planning commission may waive this provision due to unusual topographic features or unusual conditions; provided that such a waiver does not negatively impact the continuity of the existing streetscape.

2. The type of exterior building material and ratio of surface coverage for the proposed facade for other than single-family dwelling units shall be approved by the planning commission. The surrounding existing uses will be considered by the planning commission when approving the building materials to be used.

C. Design Theme:

1. Entrance designs to the development are required. The minimum entrance design to the development shall consist of a monument sign naming the development surrounded by a variety of ground cover, shrubs, and/or trees, which shall be approved by the planning commission.

2. Attached dwelling units shall have visual relief in facade and roofline, which adds variety and rhythm to the design and avoids monotonous straight lines.

D. Open Space And Landscaping:

1. In the multi-family R-2, R-3, and R-4 zones a minimum of fifty percent (50%) of the entire site shall be in open green space. Each phase of development shall provide its proportionate required open green space needed for that phase. In single-family zones the open space plan shall be reviewed and approved by the planning commission and city council.

2. Developments shall be designed to preserve and incorporate the natural features of the land into the development. Natural features include drainage swales, rock outcroppings, streams and concentrated native stands of large shrubs or trees.

3. Developed common activity area for single-family and attached dwelling units shall be provided as follows:

a. Developments with attached dwelling units shall provide developed common activity area at a ratio of one square foot of developed common activity area per one square foot of floor area of

living space. Each phase of development shall provide its proportionate required open green space needed for that phase. At a minimum, developed common activity area shall include either a playground with play equipment or pathways with benches and tables through a natural planted landscaped area. Common activity areas shall be configured to provide appropriate, accessible and useable spaces. Spaces that are too small, too steep, too narrow, etc., or otherwise configured in way that the space provides questionable utility for homeowners in the PRUD, shall not be credited towards the developer's open space requirement.

Comment [dmc2]: This provision is intended to address the concern about open spaces that are too small, too oddly shaped, too steep, etc. to provide functional activity area.

b. Subdivided, single-family lots shall provide developed common activity area at a ratio approved by the planning commission. At a minimum, developed common activity area shall include either a playground with play equipment or pathways with benches and tables through a natural or planted landscaped area.

c. The developer will provide to the planning commission a reasonable calculation of the monthly assessment required to adequately fund the reasonably foreseeable cost of operation, maintenance, and replacement of all common areas. A description of the common activity areas required by the city along with the estimate of the monthly assessment for all common areas shall be disclosed to all prospective buyers of building lots within the PRUD. Reasonableness shall mean that the calculation complies with the industry standard for determination of assessments for homeowners' associations.

Comment [D3]: This is a suggestion to address the concern about the number of lots and the cost to support common areas. There is an industry standard for these assessments and businesses that specialize in making these calculations.

4. Street trees shall be placed along all interior roads at a maximum spacing distance of forty feet (40') between each tree.

5. The development shall have a unified landscaping design of trees, shrubs, and theme lighting. Natural features, ponds, streams, fountains, waterfalls, sculptures and other design elements which create interest and visual unity and displays creativity in providing usable open space for the residents of the development are encouraged.

6. The following are guidelines for landscape design and standards. Individual projects may vary but all will be reviewed and approved by the planning commission:

a. Ten (10) 1-foot high shrubs (4 of which are a flowering shrub) for each residential building. The plant selections of shrubs and ground covers should be drought tolerant plants. Shrub areas shall be mulched to reduce watering demands.

b. Six (6) 2-inch caliper deciduous trees and one 4-foot tall evergreen tree for each residential building. The placement and types of deciduous trees shall take into consideration use of the trees for summer cooling and winter solar access. Evergreen trees should be used as windbreaks, screening and accent plants.

c. Turf area at least equal to the footprint square footage of the development.

d. The irrigation system must use secondary water and shall be designed to water plants of similar water needs and avoid wasteful watering.

- e. No more than ten percent (10%) of the entire landscaping surface area can be in rocks or other nonliving ground cover. The ten percent (10%) limitation does not include areas where the ground cover is rocks or other material and is planted with plants spaced so they will completely cover the area in five (5) years.
- f. The landscape design along streams, canals, or rivers should provide a trail access along the development.
- 7. All dumpsters shall be stored in screened enclosures, which are architecturally compatible in style and materials with the architecture of the development. Dumpsters shall be located so they are not in the required setback areas, not visible from the public street and do not restrict vehicular parking or circulation.
- 8. Storm water detention facilities are to be designed and used to detain all of the storm drainage generated by any development. All surface storm water detention facilities are to be designed and used for multiple functions. The design of the facility shall blend in with the overall theme of the open space. Factors which will be used in determining compliance may include, but not be limited to, free form design, grading and landscaping to provide gradual transitions or artistic design elements. All drainage systems shall be approved by the city engineer and must be capable of preventing unapproved runoff onto other property and of preventing structural damage in the event of a 10-year storm. The system must also drain subsurface water capable of penetrating structures in the development.

E. Parking Regulations:

- 1. Parking lots are to be screened from view by means of a three foot (3') high berm along street frontages. The berm height shall be measured from the top of curb.
- 2. Parking lots shall provide landscaping at a ratio of one square foot of landscaping per thirteen (13) square feet of hard surface. The perimeter areas must also be landscaped.
- 3. Each landscaped island and area shall have, at a minimum, a two inch (2") caliper tree (measured 6 inches above the ground) located in such a manner as to shade twenty five percent (25%) of the parking area upon maturation of the trees.
- 4. The circulation system of the development is designed to provide a circulation hierarchy. The main circulation road does not have perpendicular parking which backs out into the travel lane, but branches off into development areas which have parking areas.
- 5. If a group recreational vehicle (RV) parking area is provided for the development, it shall be a minimum of one RV space per five (5), or fraction thereof, dwelling units. The RV parking area shall not be located in the periphery of the development and shall be completely screened.
- 6. Two (2) parking stalls for each unit in the development are required. All parking stalls and accessways shall be hard surfaced with cement concrete or asphaltic concrete. Required parking for the unit shall be located within a one hundred foot (100') radius measured from any entrance

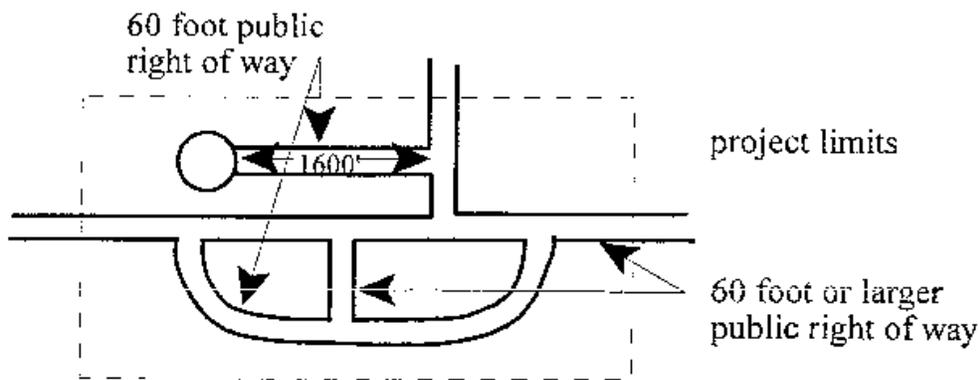
to the dwelling unit. However, no vehicular approach to a garage shall cross a property line closer than twenty six feet (26') from the garage door. There shall be at least twenty six feet (26') of approach between a garage door and the required landscape strip. Detached unit parking shall be located within a seventy five foot (75') radius measured from any entrance to the dwelling unit.

7. There shall be at least one visitor parking stall for every two (2) units or fraction thereof in multi-family unit areas of the PRUD.
8. All required parking stalls must be nontandem.
9. All parking aisles greater than one hundred fifty feet (150') in length shall have a turnaround area that meets the cul-de-sac standards contained in the North Ogden public works standards.
10. A minimum six foot (6') landscaped area, excluding sidewalk, is to be provided between the unit and any parking or access lanes.

F. Street Design: PRUDs shall be designed to meet the circulation requirements of the transportation element of the general plan, the design needs of the surrounding area, and the project. Projects which are located on or next to a collector or arterial street shall be designed and developed so the public street continues through the project in a logical, safe design. Projects which are located at the end of stubbed local public streets may be required to extend the street through the development based on the proposed circulation needs of the area as determined by the planning commission. The planning commission, upon recommendation of the city engineer, shall determine if the street should be extended as a through street or as a cul-de-sac during the concept or preliminary approval. Local streets which are internal to the development and do not provide access through the project may be designed as either public or private streets provided they meet the following criteria:

1. Public Street Requirements:

- a. Right Of Way Width: Public streets shall meet the appropriate right of way widths as required in the subdivision ordinance or the general plan based on the function of the road for either a local, collector, or arterial road.
- b. Neighborhood Local Streets: Projects may develop neighborhood local streets with a sixty foot (60') right of way (41 foot width from back of curb to back of curb) as part of a PRUD, provided the street meets one of the following criteria: (Ord. 2006-15, 12-5-2006)
 - (1) The road is a cul-de-sac which does not exceed one thousand six hundred feet (1,600') in length, or sixty (60) dwelling units, whichever is less;
 - (2) The roadway is internal to the development, intersects at each end with a roadway which has a right of way of sixty feet (60') or larger, does not provide for access through the development, and is less than seven hundred feet (700') in length or is intersected by a standard width right of way.



c. Unusual Cross Sections: In cases where unusual topography or other exceptional conditions exist which would make the installation of required public street cross sections impractical to develop, variations from the standards may be considered. The planning commission shall consider the reasons for the request, the impact to the existing land, the development, and the ability of the city to deliver services with the unusual cross section before any variation from the standard is approved.

d. Public Sidewalk: The sidewalks generally required to be installed in the public right of way may be varied in location, but at all times there shall be at least a four and one-half foot ($4\frac{1}{2}'$) wide landscape strip of land between the curb and sidewalk. The applicant may request that a public sidewalk be located independent of the public street right of way due to topography or other design considerations, provided the design has reasonable access from one end of the development to the other, allowing the public to pass through the neighborhood in a logical manner, and is within the common area of the development. A public easement for such a walkway shall be required. Because such sidewalk is established independent of the street right of way, the sidewalk shall be maintained by a homeowners' association.

2. Private Street Requirements:

a. Private streets must meet all public street standards.

b. All private roads shall be placed in a separate tract of land from the other common areas of the PRUD.

c. All private roadway tracts shall be the same width as the public rights of way.

d. Private streets will be approved only in PRUDs which:

- (1) Establish a homeowners' or property owners' association; ~~and~~
- (2) Explicitly provide that the owners' association will assume responsibility for the maintenance of all private streets; and
- (3) Obtain approval from the Planning Commission of an assessment fee analysis demonstrating a reasonable financial plan to provide for future street maintenance or replacement.

Comment [dmc4]: This is one of several amendments intended to require the developer to provide an assessment fee analysis to support maintenance, repair and replacement of promised common area amenities and to disclose the required fees to all prospective purchasers.

G. Public Trails: Development of public trails as an alternative form of travel serves important community interests of improving air quality, increasing opportunity for recreation and improved health, reducing motor vehicle congestion and preserving scarce energy resources. Development within any new subdivision of a segment of a trail system designated in the city's general plan or trails master plan shall be a required feature of new subdivision infrastructure.

1. Trails shall be developed according to standards established by the city and shall be of sufficient width and design to safely accommodate two-way bicycle and pedestrian traffic into, out of and within the development.
2. Voluntary dedication of area within a development, in excess of the minimum required to meet the alternative travel needs of the development itself, may be accepted by the city for use as part of a public trail system. Any additional area so dedicated shall be counted as part of the open space requirement of the PRUD. Furthermore, the planning commission, in its discretion may allow a reduction in the overall open space requirement of the PRUD in exchange for voluntary dedication of excess trail right of way by a developer where it is in the best interest of the city.
3. The planning commission shall also have discretion to include excess area dedicated to public trail right of way as part of the calculation of any setback requirement.
4. After final acceptance of public trail infrastructure by the city, the city shall become responsible for trail maintenance.

11-11-6: SUBMISSION AND REVIEW PROCESS:

The PRUD approval process consists of three (3) basic review steps. The first step is submission and review of a conceptual sketch plan. The purpose of this step is to evaluate the appropriateness of the development as a PRUD based on the consideration of the existing features of the proposed site and the relationship to adjacent properties. The second step is submission and review of a preliminary development plan and conditional use permit based on the conceptual sketch plan. The purpose of this step is to determine if the preliminary plan/conditional use permit shall be granted. The third step is submission and review of a final development plan. The purpose of this step is to review compliance with the conditional use permit. For purposes of recordation, the PRUD shall be recorded as a subdivision. Upon compliance with final approval, a final plat shall be recorded.

A. Conceptual Sketch Plan Review Process: Prior to the submission of a PRUD proposal, the applicant shall meet with the community development director to discuss the proposal and its appropriateness for development as a PRUD. Upon completion of the preapplication meeting with the community development director, the applicant may choose to present the conceptual sketch plan to the planning commission. The purpose of this presentation is to provide the applicant with an opportunity to present why the PRUD proposal is appropriate for the site. The planning commission may comment as to the potential suitability of the site for a PRUD and present any concerns or comments they may have for the applicant relative to the proposed PRUD. If the applicant chooses to not present the conceptual sketch plan, it shall be done as part of the preliminary plan approval. For sites located in a hillside protection zone, the standards specified in section 12-3-9 of this code shall be followed.

B. Preliminary Development Plan/Conditional Use Permit Submission: An application for a PRUD preliminary plan/conditional use permit shall be presented to the planning commission and shall include the following information:

1. Topographic maps of the entire site, including contour intervals of no greater than ten feet (10');
2. A tabulation of the total acreage of the site and the percentages to be designated for parking, streets and travelways, various types of residential units, other buildings and structures, open space and waterways, along with other relevant aspects of the site;
3. The proposed circulation patterns, including private and public streets, and any other path system;
4. The proposed location of all parking and ingress and egress;
5. The proposed location of parks, common open spaces, playgrounds, school sites, recreation facilities, and other similar types of improvements;
6. The proposed location of all dwellings by type and number of dwelling units per building, along with other buildings (e.g., recreational buildings or clubhouses) or structures (e.g., fencing, lighting, and signage);
7. The proposed location of each phase, if the project is to be done in phases;
8. A table of densities for each development phase with an overall density for the development;
9. A general landscape plan showing the areas to be landscaped and the retention of existing plant materials and landscape features, along with the use of plant materials for buffers and screening;
10. Preliminary building elevations with notation of building materials of all building types proposed within the development, excluding detached single-unit dwellings;
11. A preliminary subdivision design, showing a general layout and buildable area;

12. A preliminary utility plan showing the manner in which adequate sewage disposal, subsurface drainage, storm drainage, and water will be provided to the site. Also show where these services will be extended;
13. If located in a hillside protection zone, all necessary reports or information required for compliance with section 12-3-9 of this code; and
14. Other information as may be necessary to determine whether the proposed PRUD is desirable and in accordance with the applicable standards.

C. Preliminary Development Plan Review Process: The planning commission, subject to the requirements of this chapter, may approve, deny, or approve with conditions, the preliminary development plan for the proposed PRUD. Approval of a preliminary development plan shall result in the issuance of a conditional use permit. During the preliminary review process, notice shall be given to the public of the PRUD proposal in accordance with state law for conditional use permits. In reviewing the conditional use permit for the proposed PRUD, the planning commission shall determine if the PRUD:

1. Encourages better utilization of the land, develops a sense of community and is compatible with the neighborhood;
2. Meets the minimum requirements of this title;
3. Provides an adequate traffic circulation system and whether streets should be designed as public or private; and
4. Meets the general intent and purpose of this title and the general plan.

D. City Council Review And Comment: The preliminary development plan approved by the planning commission shall be sent to the city council for review and comment. The planning commission shall consider any city council comments prior to granting final development plan approval.

E. Final Development Submission: The final development plan, based on the conceptual sketch and preliminary plans, shall be presented to the planning commission and include the following information:

1. All of those items required by the planning commission as part of the approval of preliminary development plan and conditional use permit;
2. A complete and accurate legal description of all property proposed for development;
3. A detailed site plan showing the precise location of all buildings and structures, the location of developed common activity area and recreational uses, waterways, detailed circulation patterns, including proposed ownership of common areas, streets and trails, along with other relevant aspects of the site;

4. Parking layout showing the location of individual stalls and all areas of ingress and egress;
5. Design of entryways, along with elevations of proposed signs;
6. A detailed landscape plan showing the location, types and sizes of all plant materials, sprinkling or irrigation systems, screening, and fencing;
7. Final elevations of all buildings proposed within the development with notation of building materials, excluding detached single-unit dwellings;
8. A final plat of the PRUD, along with all covenants, conditions and restrictions which the city deems necessary to provide adequate guarantees for retention and maintenance of the development as approved;
9. Detailed engineering plans including site grading, street improvements, drainage, and public utility locations; and
10. A time schedule for the completion of landscaping and amenities (e.g., common buildings, playground equipment, recreational facilities, trails and entry signs).

F. Final Development Plan Review Process: The planning commission, subject to the requirements of this chapter, may approve, deny, or approve with conditions the final development plan for the proposed PRUD and the accompanying conditional use permit. The planning commission review of the final development plan shall include the following:

1. Whether or not the issues addressed by the planning commission during the conceptual, preliminary processes and the conditions established by the conditional use permit have been adequately addressed in the final development plan;
2. Any additional changes from the preliminary development plan proposed by the developer; and
3. Any additional information relevant to the success of the proposed development.

11-11-7: APPLICABILITY OF SUBDIVISION ORDINANCE:

A. A PRUD shall comply with the provisions of title 12 of this code, or any successor title, except as follows:

1. A PRUD need not comply with those requirements of the subdivision ordinance, which are specifically waived by the city council under the provisions of this chapter;
2. The procedures for preliminary and final plan approval required under the subdivision ordinance shall be fulfilled upon approval of the preliminary development plan and final development plan in this chapter.

B. A PRUD for which all of the real property is intended to be maintained as one lot, held in single ownership, shall require the filing of a plat as a single lot subdivision as part of the final development plan approval process, in order to provide for the dedication of public property, the recording of covenants, conditions and restrictions, notice to third parties of the requirements imposed under this chapter, and the elimination of existing lot lines. (Ord. 2006-15, 12-5-2006)

11-11-8: FINAL PLAT RECORDATION:

A. Requirements: For purposes of recordation, the final approved plat shall be recorded as a subdivision and be included in the subdivision plat records of the Weber County recorder's office. Recordation by the city shall only take place after all of the necessary signatures are obtained, all approvals given, and all bonds and fees are posted with the city public works department.

B. Covenants, Conditions And Restrictions:

1. ~~The city may~~ shall require the applicant to submit for recording covenants, conditions and restrictions which will provide adequate guarantees for the permanent retention and maintenance of open space area, landscaping, natural features, private streets, other privately owned infrastructure and architectural design standards. The covenants, conditions and restrictions shall include, at a minimum, provisions for:

Comment [dmc5]: These are additional amendments to assure: (a) that there is a sound basis to make assessments to care for common areas and infrastructure; and (b) that there is full disclosure to prospective buyers.

a. The establishment of a homeowners' association, unless the property will continue to be held in single ownership by either a corporation, partnership or an individual and restrictions are recorded requiring establishment of a homeowners' association in the event that the unity of title is not maintained; ~~and~~

b. A notice to subsequent owners of the need to obtain city approval of changes to the PRUD, which may require either an amendment to the final development plan or to the conditional use permit;

c. A homeowner's assessment fee based upon an analysis approved by the Planning Commission that demonstrates the ability to provide for future maintenance, repair and replacement of open space area, landscaping, natural features, private streets and other privately owned infrastructure which shall be disclosed to the purchaser of any lot or home within the PRUD prior to closing of the purchase; and

d. A provision granting the city the consent of the homeowner's association and each of its members, after providing notice to each property owner and holding a public hearing, to create a special assessment area comprised of all homes and lots within the PRUD, to finance the cost of reasonably necessary maintenance, repair or replacement of commonly owned essential public infrastructure such as streets, sidewalks, street lighting, water systems, etc. in the event of dissolution or default by the homeowners association;

Comment [dmc6]: This creates a remedy for the city to remedy deteriorated public infrastructure that the HOA has failed to maintain. It does require the city to finance the cost of repair/replacement; although the homeowners will ultimately foot the bill. It could lead to "dependence" on the city by the HOA if they know the city will bail them out if they are negligent in their budgeting and levying of assessments.

e. A provision defining “default” by the homeowners association which shall include, at minimum, the failure of the homeowners association, after receiving six (6) months notice of default from the city, to take reasonable steps to remedy its failure to levy, collect and budget assessments sufficient to provide for reasonably necessary maintenance, repair or replacement of commonly owned essential public infrastructure which has become unsafe, unsound or functionally obsolete as determined by the city engineer.

2. Each phase submitted for review shall include covenants, conditions and restrictions for approval;

3. ~~Where covenants, conditions and restrictions are imposed upon a PRUD, two~~ Two (2) copies of the declaration of covenants, conditions and restrictions shall be submitted to the city signed and prepared for recording at the Weber County recorder's office prior to approval of a final plat. Prior to recordation, the covenants, conditions and restrictions shall be reviewed and approved for compliance with this chapter by the Director of Community and Economic Development and City Attorney.

Comment [dmc7]: This provision expressly requires two different city officials to review cc&r's for compliance with this chapter before they can be recorded.

11-11-9: CONDITIONAL USE PERMIT AND FINAL PLAN:

A conditional use permit that stipulates all of the required conditions of development shall be maintained with the approved final site plan.

11-11-10: AMENDMENTS:

A. Substantial Changes: Any changes in the proposed final development plan which involves a substantial change to the conditional use permit issued in the preliminary plan review process shall be approved by amendment to the conditional use permit after notice as required by state law for issuance of a conditional use permit.

B. Minor Changes: All development shall conform to the final plan. Minor changes in the location, siting or character of buildings and structures may be authorized by the city planner if required by engineering or other circumstances not foreseen at the time the final development plan was approved. No change authorized under this section may cause any of the following:

1. A change in the use or character of the development;
2. An increase in the overall density or intensity of use;
3. An increase in overall coverage of structures in designated common areas;
4. A reduction or change in character of approved open space;
5. A reduction of required off street parking;
6. A detrimental alteration to the pedestrian, vehicular and bicycle, circulation and utility networks;

7. A reduction in required street pavement widths; and

8. Any substantial changes to the conditional use permit.

C. Major Changes: Any major changes in use or rearrangement of lots, blocks, building tracts or grouping, or any changes in the provision of open space and significant changes as noted in subsection A of this section, must be approved by the planning commission as an amendment to the conditional use permit. In case of amendments after final approval, such amendments may be made only if they are shown to be required by changes in conditions that have occurred since the final development plan was approved. Any major changes must be recorded as amendments and be reviewed and approved in accordance with procedures established for final development plan review.

D. In order to receive approval for substantial or major changes to the plat or final development plan, the developer shall have the burden of showing that economic factors that were not foreseeable at the time of the original approval make the PRUD economically unviable without the requested changes.

Comment [dmc8]: This provision creates a high standard for a developer to dumb down the amenities promised in a PRUD by having the burden to prove that without the reduction the project is no longer economically viable.

11-11-11: TIME LIMITATIONS:

A. Final Development Plan: A final development plan shall be submitted for approval within twelve (12) months of the issuance of the conditional use permit for the PRUD and approval of the preliminary development plan as part of the permit. Failure to submit a final development plan within the specified time period shall result in the automatic revocation of the conditional use permit, and the preliminary development plan shall be null and void. However, a onetime extension of six (6) months may be granted by the planning commission for a showing of good cause, if such request is made prior to the expiration of the final development plan.

B. Recording Subdivision Plat: If the PRUD is a multi-lot subdivision, a final subdivision plat shall be recorded prior to the time any construction permits are issued. A final plat must be recorded within six (6) months after approval of the final development plan. Failure to record the subdivision plat within the specified time period shall result in the final development plan becoming null and void, and the conditional use permit shall be revoked. If phased development for the PRUD was approved by the city council, the above time limitation shall apply only to the recording of a final subdivision plat for the first phase.

C. Conditional Use Revocation: Any property for which a conditional use permit has been revoked or a plan determined to be null and void for failure to comply with the above time limitations shall thereafter be subject to the zoning and subdivision ordinances otherwise applicable to said property.

11-11-12: CONSTRUCTION PARAMETERS:

A. Financial Sureties: Prior to the recording of a PRUD subdivision plat and prior to the issuance of any building permit on property covered by a PRUD final development plan, an escrow account acceptable to the city, sufficient in amount to cover the cost of all infrastructure, amenities and required landscaping in common ownership or the public right of way, and the stipulations and requirements of the planning commission shall be required. The escrow account shall be a guarantee that the proper installation of all required improvements, including amenities, shall be completed within two (2) years of recordation of the approved final plat. This escrow account shall also assure that the improvements shall remain free from defects for twelve (12) months following completion of all improvements, and shall not be released until the improvements are accepted by the city. Said ~~bond~~ escrow shall be in the form prescribed by the subdivision ordinance of the city, and in an amount of one hundred ten percent (110%) of the estimated cost of such improvements as approved by the city engineer. The account shall be established in a bank that has a branch located in Weber County, Utah.

Comment [D9]: This change is to correct a potential problem of interpretation. The City does not want to allow a "bond" as a form of guarantee for PRUD improvements. Bonds are complicated and the city is as likely to end up with a legal battle with the bonding company as with any kind of satisfactory remedy. "Escrow" is the best form of security for the city.

B. Infrastructure: All street improvements, sidewalks, curbs and gutters, water lines, sewer lines, and all other such surface and underground improvements shall be completed prior to occupancy.

Comment [D10]: To facilitate possible enforcement by the city, it is best to have the escrow in a bank with a local branch.

C. Amenities And Landscaping: Notwithstanding the provision above, all amenities shall be completed prior to occupancy unless inclement weather prevents their completion, in which case one extension of six (6) months for amenities and landscaping may be granted. If not completed at the end of the six (6) month period, the city will review the progress and may proceed to use the bond funds to make the improvements in accordance with the approved plan.

D. Property Ownership: Plans submitted for preliminary and final development review may be filed jointly by multiple owners provided all owners have signed the proposed plans. The applicant shall submit a title report demonstrating compliance with this section. The area proposed for a PRUD shall be in single ownership or corporate ownership prior to recording of the final plat or in order to provide for full supervision and control of said development, and to ensure conformance with the provisions of this chapter.

E. Phasing: If the sequence of construction of various portions of the final development plan is to occur in stages, then the open space or recreational facilities shall be developed in proportion to the number of dwelling units intended to be developed during any given stage of construction. A phasing plan, including size and order of phases, shall be approved by the planning commission. Such phasing plans shall have the written approval of all property owners. In addition, the approved phasing shall be submitted to the city recorder for recordation with the county recorder's office as a covenant to run with the land.

11-11-13: FAILURE TO COMPLY; CERTIFICATE OF OCCUPANCY:

In case of the failure or neglect to comply with any and all of the provisions of this chapter, and the conditions and stipulations herein established, and as specifically made applicable to a PRUD, the building inspector shall not authorize occupancy of any structure. Such failure or

neglect shall be cause for termination of the approval of the project. Such failure or neglect to comply with the requirements and to maintain the buildings and premises in accordance with the conditions of approval thereafter shall also be deemed to be a violation of this chapter.

11-11-14: ISSUANCE OF BUILDING PERMITS:

The building inspector shall not issue a permit for any proposed building, structure, or use within the project unless such building, structure or use is in accordance with the approved plan and any conditions imposed in conjunction with its approval.

11-11-15: REVOCATION OF CONDITIONAL USE PERMIT; APPEAL:

A conditional use permit may be revoked if any of the conditions or terms are violated; however, the holder of the permit shall first be afforded an opportunity to be heard before the planning commission and show cause why the permit should not be revoked. A violation of a condition or term of a permit shall constitute a violation of this chapter, and the revocation of a permit shall not prohibit prosecution or any other legal action taken on account of the violation. The decision of the planning commission to revoke a conditional use permit may be appealed to the city council, in writing, within fourteen (14) days of the commission's decision.

This ordinance shall take effect upon the first publication and filing of a copy thereof in the office of the City Recorder.

Dated this ___ day of _____ 2012

BY THE CITY COUNCIL:

Richard Harris, Mayor

CITY COUNCIL VOTE AS RECORDED:

	<u>Aye</u>	<u>Nay</u>
Council Member Bailey:	___	___
Council Member Bigler:	___	___
Council Member Fawson:	___	___
Council Member Hulme:	___	___
Council Member Stoker:	___	___
(In the event of a tie vote of the Council):		
Mayor Harris:	___	___

ATTEST:

Annette Spendlove,MMC
City Recorder

d. A provision granting the city the consent of the homeowner’s association and each of its members, after providing notice to each property owner and holding a public hearing, to create a special assessment area comprised of all homes and lots within the PRUD, to finance the cost of reasonably necessary maintenance, repair or replacement of commonly owned essential public infrastructure such as streets, sidewalks, street lighting, water systems, etc. in the event of dissolution or default by the homeowners association;
e. A provision defining “default” by the homeowners association which shall include, at minimum, the failure of the homeowners association, after receiving six (6) months notice of default from the city, to take reasonable steps to remedy its failure to levy, collect and budget assessments sufficient to provide for reasonably necessary maintenance, repair or replacement of commonly owned essential public infrastructure which has become unsafe, unsound or functionally obsolete as determined by the city engineer.