

CITY OF EMMETT, IDAHO
ZONING COMMISSION

Live Stream

www.cityofemmett.org/zoningmeeting

AGENDA

Monday, November 6, 2023, 6:00 P.M.
Emmett City Hall, 501 E. Main St.

REGULAR MEETING

1. Call to Order:
2. Roll Call: Introduction of new Commissioner, Tracy Howard
3. Pledge of Allegiance:
4. Review Agenda:
5. Approval of Minutes: October 2, 2023 Action Item
6. New Business: Action Items
7. Unfinished Business: Action Items
 - a. Continuation of workshop on updating PUD code.
8. Items from the Commission:
9. Items from the Building Official/Zoning Administrator:
10. Upcoming Meeting(s): Monday, December 4, 2023
11. Adjournment

This institution is an equal opportunity provider. Any person needing special accommodations to participate in the above noticed meeting should contact City Hall prior to the meeting at 501 East Main Street, Emmett, Idaho (208-365-6050)

Posted Thursday, November 2, 2023, at _____ am/pm by: _____

EMMETT CITY ZONING COMMISSION

October 2, 2023

The Emmett City Zoning Commission held a Regular Meeting at 501 E. Main Street, Emmett, Idaho.

Chairman Earls called the meeting to order at 6:00 p.m.

Chairman Earls led the **Pledge of Allegiance**.

Commissioners Present: Gwen Earls, Kim Butler, Brian Gregory, Austin Lindstrom

Commissioners Online: N/A

Commissioners Absent: Larry Jenkins

Staff Present: Zoning Administrator, Brian Sullivan; Recording Clerk, Shannon Ferraro, Recording Clerk, Doricela Millan-Sotelo

Staff Online: N/A

Staff Absent: City Attorney, Jake Sweeten.

Public Present: Heather Gregory, 1116 Regency Way, Emmett ID

Review of Agenda:

Chairman Earls asked if there were any questions about the agenda. There were no questions.

Approval of Minutes: Commissioner Gregory made a motion to approve the July 10th, 2023, minutes.

Commissioner Butler seconded the motion. **Motion Carried.**

Chairman Earls asked if there had been any ex-parte communication regarding the SUP, Commissioner Gregory recuses himself from this hearing.

#1 Public Hearing: Special Use Permit Application by Heather Gregory for property located at 136 E. Main St. The request is to allow a 1-bedroom residential apartment above a commercial business.

Zoning Administrator's Presentation

Zoning administrator Brian Sullivan read the staff report into the record. He presented the application for a single-family residence in a commercial zone (SUP23-001). Property is located at 136 E Main Street on parcel RPE3210013005A. The SUP consists of a residential apartment that will be built on the second floor towards the back of the building. One bedroom, one bathroom, with a kitchen. Entrance will be from the alley way. Mr. Sullivan also makes note that in Title 9 of our city zoning regulations (9-5-2) allows for single family dwellings in a commercial zone with an SUP.

Commissioner Butler asked where the residence will be parking, Mr. Sullivan answered, on the street

Applicant Presentation

Owner Heather Gregory presented this application and entertained questions from the Commission

Public input

None

Rebuttal

None

Decision of Public Hearing

Earls requested a motion, Commissioner Butler made a motion to approve application SUP 23-001, adopting the conditions of approval as stated in the staff report. Commissioner Lindstrom seconded the motion. Motion Carried.

#2 Public Hearing: Vacate application by the City of Emmett. The request is to vacate a sewer line easement located in Skyhawk Subdivision on West 4th St. VAC23-001

Zoning Administrator's Presentation

To vacate an abandoned sewer line and easement located in Skyhawk Subdivision. The developer was required as a condition of this subdivision development to upgrade this sewer line to a 21" line, and run it in the road right of way, which will be owned by the City of Emmett. The old 18" sewer line was abandoned in place, but the easement crosses several lots in the subdivision.

Applicant Presentation none

Public input none

Rebuttal none

Decision of Public Hearing:

Commissioner Gregory made a motion to recommend to the City Council approval of application VAC23-001 adopting the conditions of approval as stated in the staff report. Commissioner Lindstrom seconded the motion. Motion Carried.

New Business: none

Unfinished Business: none

Items from the Commission: none

Items from the Building Official/ Zoning Administrator:

Next Regular Meeting – November 6, 2023

Commissioner Gregory made a **motion to adjourn**. Commissioner Butler seconded the motion. **Motion Carried.**

Meeting adjourned at 6:31 p.m.

Chairman Gwen Earls

Acting Secretary

Memo

To: City of Emmett Zoning Commission
From: Brian Sullivan
CC: Project File
Date: 2-6-23
Re: Code amendment PUD's

The following is general discussion that took place at the February 6, 2023 zoning meeting on the code revision Title 9, chapter 9, PUD's

Chairman Earls talked about open space in the revision

Administrator Sullivan discussed density and bonuses due to amenities provided.

Administrator Sullivan discussed percentage of open space and asked for input from the board.

Commissioner Gregory likes goals and objectives. Has questions on 9-9-3, and percentage of allowed different uses, between commercial, industrial, residential.

Administrator Sullivan explained the current code and what used examples of this is previously approved PUD's.

Commissioner Gregory -9-9-5, minimum area, discussed the allowance of the zoning administrator to allow a submission of an application not meeting the minimum area requirement.

Attorney Sweeten commented and what this means. The administrator can allow the submission of an application that he feels would be a great benefit to the city, but the final decision on approval or denial is from the council.

9-9-5 Open Space, common open space, consists of area exclusive of street right of way and buffers.

Common open space, active- areas for recreation. KB Homes development was used as an example of walkways connecting the different parks, this would be active open space.

Up to 15% can be waterbodies

Passive open space would be defined as buffers

20% required open space, with 15% being active open space.

Commissioner Gregory wants the open space to be 20%, with 10 or 15% being active.

Commissioner Lindstrom asked will public have the right to use ponds for fishing if this is active open space, or exclusive to residence of development.

Chairman Earls asked about setbacks and lot sizes.

Administrator Sullivan explained the setbacks and lot sizes will be the standard for the zone.

Commissioner Gregory asked about lot size, if they want to drop lot size, they must give the deficiency below city standard in open space.

Administrator Sullivan stated we are only allowing 20% of the total lots in the development to be substandard.

Commissioner Lindstrom, asked what incentives are there for a developer to come develop or build in Emmett.

3B large lot over standard, take off sf. of smaller lots, but still only 20% of lots can be substandard

In a PUD development, 6 units in a row is max allowed.

Chairman Earls, Density bonuses, would we ever go higher than 20%, draft states no higher.

Clarification on max density bonus and what gives the developer an incentive to do a PUD over a standard sub.

What benefits the city to allow a PUD. Anything that benefits the city should be looked at.

Chairman Earls doesn't feel the energy incentive is a viable incentive.

Gregory- 9-9-7, smaller lot sizes up to 20%, developer puts in solar, can get a 10% increase.

Administrator Sullivan- Eliminate #1??

Chairman Earls feels the most important thing to get from a developer is they must give something that benefits the city to get any increases in density.

Vehicular amenities- contributions to roadway improvements

Non-vehicular amenities- rapid flashers at crosswalks, bike paths, etc.

Should we leave in 5, 6, 7 about design of homes for energy efficiency

Commissioner Gregory- What is considered community housing?

Administrator Sullivan will find some definition of community housing.

Definitions vary for community housing.

Community Housing- means real property, including buildings, structures, improvements to real property and related equipment that is used or could be used to house and provide care for individuals with a developmental disability. "Community housing" includes a single-family home or multiple-unit residential housing that an individual with a developmental disability share with other inhabitants, including but not limited to family members, Care Providers or friends.

Community Housing - means community- based housing that is owned and operated by non-profit housing corporations and housing co-operatives or housing owned directly or indirectly by provincial, territorial or municipal governments or district social services administration boards and includes Social Housing;

Community Housing - means property and related equipment that are used or could be used to house persons with chronic mental illness and their care providers. "Community housing" includes single-family housing and multiple-unit residential housing.

Community Housing - means housing for people on a very low, low or moderate income or for people with additional needs that is delivered by non- government organizations

CHAPTER 9 PLANNED UNIT DEVELOPMENTS (PUD)

Section:

- 9-9-1: Purpose, Goals, and Objective
- 9-9-2: Provisions Governing Planned Unit Development (PUD)
- 9-9-3: Uses Permitted:
- 9-9-4: Ownership Requirements:
- 9-9-5: Minimum Area:
- 9-9-6: Utility Requirements:
- 9-9-7: Arrangement of Residential Units:
- 9-9-8: Increased Residential Density:
- 9-9-9: Procedure for Approval of a Planned Unit Development:
- 9-9-9: Contents of Application for Approval of Development Plan:
- 9-9-11: Procedure for Hearing Notice:
- 9-9-12: Recommendation by Commission:
- 9-9-13: Action by The Council:
- 9-9-14: Expiration and Extension of Approval Period:
- 9-9-15: Notification to Applicant:
- 9-9-16: Appeal of Decision Of Council:

9-9-1: PURPOSE, GOALS, AND OBJECTIVE:

- A. Purpose: The purpose of this chapter is to establish clear development standards that will achieve the city of Emmett's vision for development as presented in the Emmett comprehensive plan. The standards will be designed to create livable communities that provide exemplary open spaces and recreational opportunities, that encourage a diversification of housing types, styles and living options for a wide range of income levels and lifestyles, and thereby enhance the living experience within the city of Emmett.
- B. Goals: To provide guidance and establish expectations for development within the city of Emmett. The PUD provides clear standards and options for development within the city including lot sizing, open space and the diversification of housing types.
- C. Objective: To guide land development and construction through the planned unit development (PUD) to achieve the following:

~~It shall be the policy to guide a major development of land and construction by encouraging planned unit developments (PUD) to achieve the following:~~

1. A maximum choice of living environments by allowing a variety of housing and building types and permitting an increased density per acre and a reduction in lot dimensions, yards, building setbacks and area requirements.
2. A more useful pattern of open space and recreation areas and, if permitted as part of the project, more convenience in the location of accessory commercial uses, industrial uses and services.
3. A development pattern which preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation and prevents the disruption of natural drainage patterns.
4. A more efficient use of land than is generally achieved through conventional development resulting in substantial savings through shorter utilities and streets.
5. A development pattern in harmony with land use density, transportation and community facility objectives of the Comprehensive Plan.

9-9-2: PROVISIONS GOVERNING PLANNED UNIT DEVELOPMENT (PUD):

- A. Whenever there is a conflict or difference between the provisions of this Chapter and those of the other Chapters of this Title, the provisions of this Chapter shall prevail. Subjects not covered by this Chapter shall be governed by the respective provisions found elsewhere in this Title.
- B. In addition to the requirements of this chapter, planned unit developments shall also be subject to the requirements set forth in title 11, "Flood Control", of this code; and title 10, "Subdivisions", of this code.

9-9-3: USES PERMITTED:

All uses that may be allowed within the land use district are permitted within a PUD. Also, up to twenty percent (20%) of the gross land area may be directed to other commercial, industrial, public and quasi-public uses that are not allowed within the land use district; provided, there is a favorable finding by the City:

- A. That the uses are appropriate with the residential uses.
- B. That the uses are planned as an integral part of the PUD.
- C. That the uses be located and so designed as to provide direct access to a collector or an arterial street without creating congestion of traffic hazards.

D. That the uses are intended to serve principally the residents of the PUD.

E. That a minimum of twenty-five percent (25%) of the residential development occurs prior to the development of the related commercial or office land uses.

9-9-4: OWNERSHIP REQUIREMENTS:

An application for approval of a PUD may be filed by a property owner or a person having an existing interest in the property to be included in the PUD.

9-9-5: MINIMUM AREA:

A PUD for the following principal uses shall contain an area of not less than the following, however the zoning administrator may permit the submittal of a PUD which does not meet the minimum area requirements provided the council finds that unique or special circumstances exist with regard to the site so as to warrant the exception and that the PUD will be designed and operated in accordance with the provisions of this title:

- A. Three (3) acres for residential development.
- B. Five (5) acres for residential use with subordinate commercial or office uses.
- C. Ten (10) acres for commercial and office use.
- D. Ten (10) acres for commercial and office use with subordinate residential uses.

9-9-5: COMMON OPEN SPACE:

Definitions:

1. OPEN SPACE: "Common open space" shall mean land area exclusive of street rights-of-way and street buffers, except for right-of-way specifically dedicated for landscaping within a subdivision. The portion of street buffers that is wider than the required minimum dimension may be counted as open space. Stormwater detention facilities must be designed in accordance with subsection 9-17-11.B of this Code in order to count toward the open space requirement. Open space may be active or passive in its intended use, and must be accessible by all residents of the subdivision.
2. OPEN SPACE, ACTIVE: Common area which includes, but is not limited to, athletic fields, buildings or structures for recreational activities including picnic areas, community garden, courses or courts, children's play area, dog play area, and pathways, excluding passive open space areas. Landscape buffer areas not required pursuant to subsection 9-17-7 of this code may be considered, in part, as active open space provided a pathway or other active

amenity is located within and incorporated into the buffer area. Up to fifteen percent (15%) of the total area of water bodies (i.e., ponds) within a development may be considered active open space provided there is a finding that the ponds employ active recreation capabilities such as fishing, rafting, canoeing, and the like.

3. OPEN SPACE, PASSIVE: Common area which includes, but is not limited to, landscaped buffer areas required pursuant to subsection 9-17-7 of this code (including the sidewalk within the buffer area), natural areas, wetland areas, ornamental gardens, decorative fountains, and water bodies, excluding active open space areas.
- A. Minimum Area: A minimum of ten percent (10%) of the gross land area developed in any residential PUD project shall be reserved for common open space and recreational facilities for the residents of users of the area being developed.
- B. Active Open Space: A minimum of fifteen percent (15%) of the common area open space be developed as active open space, as defined.
- C. Compliance: All common area open space shall be evaluated for its compliance with the following:
 1. Landscaping: Streetscape, open spaces and plazas, use of existing landscaping, pedestrian way treatment and recreational areas;
 2. Siting: Visual focal points, use of existing physical features such as topography, view, sun and wind orientation, circulation pattern, physical environment.
- D. Direct Access: A minimum of fifty percent (50%) of all lots shall be designed to be adjacent to, or at a minimum, have direct access to common area open space. The term "direct access" means all building lots are to be located a maximum of two hundred fifty feet (250') away from a pathway connecting to a common area open space lot. Building lots separated from a common area open space lot by a local roadway shall be deemed to have achieved direct access.
- E. Ownership or Dedication: The required amount of common open space land reserved under PUD shall either be held in corporate ownership by owners of the project area for the use of each owner who buys property within the development or be dedicated to the public and retained as common open space for parks, recreation and related uses. Public utility and similar easements and right of way for watercourses and other similar channels are not acceptable for common open space dedication unless such land or right of way is usable as a trail or other similar purpose and approved by the Council.
- F. Maintenance: The responsibility for the maintenance of all open spaces shall be specified by the developer before approval of the final development plan.

9-9-6: UTILITY REQUIREMENTS:

Underground utilities, including telephone and electrical systems, are required within the limits of all PUD's. Appurtenances to these systems which can be effectively screened may be exempted from this requirement if the council finds that such exemption will not violate the intent or character of the proposed PUD.

9-9-7: ARRANGEMENT OF RESIDENTIAL UNITS:

To encourage land use plans to be submitted as a planned unit development (PUD) so as to provide an enhanced integration of open space and a variety of housing options, the following design criteria shall be considered by the city:

- A. All lots within the PUD shall comply with the minimum lot size in the underlying zone as established in section 9-6-3 of this title, except that a decrease in the minimum lot size may be allowed if there is an "offsetting increase" of the same square footage in open space and a favorable finding is made by the council that the smaller lots are appropriately integrated into the overall design and that the building product type is compatible with the PUD and surrounding area.

As an incentive to submit a PUD versus a standard subdivision, the initial starting point for minimum open space, prior to any "offsetting increase" being added, shall be the area that is equal to ten percent (10%) of the site. This allowance shall only be permitted under the following criteria:

1. The total common area open space shall be equal to or greater than twenty percent (20%), inclusive of the "offsetting increase" square footage.

2. A favorable finding by the council must be obtained assuring that character, identity and architectural and siting variation are incorporated into the development and that these factors make up a substantial contribution to the objectives of the PUD. These design elements are as follows:

a. Landscaping, streetscape, open spaces and plazas, use of existing landscaping, pedestrian way treatment and recreational areas;

b. Siting, visual focal points, use of existing physical features such as topography, view, sun and wind orientation, circulation pattern, physical environment, variation in building setbacks and building grouping (such as clustering); and

c. Design features, street sections, architectural styles, harmonious use of materials, parking areas broken by landscaping features and varied use of housing types.

3. Setbacks for modified lots sizes shall conform with the closest compatible base zone under section 9-6-3 of this title.

B. An area equal to the square footage utilized to create lots that are larger than the minimum lot size may be credited toward the creation of lots which are proportionally smaller than the minimum lot size in the underlying zone established in section 9-6-3 of this title, provided:

1. There is a favorable finding by the council that the smaller lots are appropriately integrated into the overall design and that the building product type is compatible with the PUD and surrounding area.

2. The number of lots below the minimum lot size do not exceed twenty percent (20%) of the total number of lots within the development.

C. PUDs located within one-fourth (1/4) mile of an arterial roadway, as identified on the transportation and pathway network plan in the Elevate Emmett comprehensive plan, may be permitted to design and construct up to fifteen percent (15%) of the units within the development as multi-family/attached units with the following specifications:

1. A favorable finding is made by the council that the attached units are appropriately integrated into the overall design and that the building product type is compatible with the PUD and surrounding area.

2. A maximum of six (6) units can be attached in a single housing group.

3. All attached units shall be located adjacent to common area open space.

4. Attached units shall be located within the portion of the development site that is in closest proximity to the arterial.

5. Design review approval is required for all attached units.

6. Height, area, and setback regulations for attached units shall be as established in section 9-6-3:

9-9-78: INCREASED RESIDENTIAL DENSITY:

To provide for an incentive for quality PUD, the Council may authorize increased residential density.

1. DENSITY BONUS:

A. The following maximum increases in density may be granted only if one of the following conditions are met, and if no other density increase has been granted:

1. Ten percent (10%): Solar, wind, geothermal or other alternative renewable energy source will provide at least fifty percent (50%) of the total energy needs of the PUD.

2. Ten percent (10%): At least twenty five percent (25%) of the property included in the PUD is located in the floodplain and no development occurs within the floodplain.

3. Ten percent (10%): The developer of the PUD provides or contributes to significant off-site infrastructure benefitting the city (e.g., water tank, fire station).

4. Twenty percent (20%): The developer of the PUD provides or contributes to significant multi-modal infrastructure providing both vehicular and nonvehicular amenities benefitting the city and Wood River Valley.

5. Ten percent (10%): The nonresidential or mixed-use PUD complies with leadership in energy and environmental design (LEED) standards for silver certification. The bonus unit(s) shall not be constructed until a later phase, after actual certification for prior phase(s) is achieved.

x 6. Fifteen percent (15%): The nonresidential or mixed use PUD complies with leadership in energy and environmental design (LEED) standards for gold certification. The bonus unit(s) shall not be constructed until a later phase, after actual certification for prior phase(s) is achieved.

x 7. Twenty percent (20%): The nonresidential or mixed use PUD complies with leadership in energy and environmental design (LEED) standards for platinum certification. The bonus unit(s) shall not be constructed until a later phase, after actual certification for prior phase(s) is achieved.

? x 8. Twenty-five percent (25%): The PUD provides or contributes deed-covenanted community housing units within the PUD. The number of community housing units so provided shall be determined by the Council and Commission. The density of bonus of twenty-five percent (25%) may be increased by the Council and Commission if an increase in the density bonus serves a compelling housing need in the City, as determined by the Council and Commission.

B. Density bonuses for project amenities and benefits to the community other than those listed here may be granted by unanimous vote of the council, following a recommendation by the commission, in order to carry out the purpose and intent of this chapter and the land use policies of the city.

9-9-89: PROCEDURE FOR APPROVAL OF A PLANNED UNIT DEVELOPMENT:

When the PUD also qualifies as a subdivision, the processing of the special use permit and subdivision application shall occur at the same time. The granting of a special use permit for a PUD shall require a pre-application or concept plan, the submission of a development plan, review by the Commission and approval by the Council of a final development plan as specified within this Title.

9-9-910: CONTENTS OF APPLICATION FOR APPROVAL OF DEVELOPMENT PLAN:

An application for PUD shall be filed with the Administrator by a property owner or person having existing interest in the property for which the PUD

is proposed. At a minimum, the application shall contain the following information filed in triplicate:

- A. Name, address and phone number of applicant.
- B. Name, address and phone number of registered surveyor, registered engineer and/or urban planner if they are assisting in the preparation of the development plan.
- C. Legal description of property.
- D. Description of existing use.
- E. Zoning districts.
- F. A vicinity map at a scale approved by the City, showing property lines, streets, existing and proposed zoning and such other items as the City may require to show the relationship of the PUD to the Comprehensive Plan and to existing schools and other community facilities and services.
- G. A development plan at a scale approved by the City showing topography at two foot (2') intervals; location and type of residential, commercial and industrial land uses; layout, dimensions and names of existing and proposed streets; rights of way; utility easements; parks and community green spaces; layout and dimensions of lots and building setback lines; improvement drawings showing water, sewer, drainage, electricity, telephone and natural gas and such other characteristics as the City deems necessary.
- H. Proposed schedule for the development of the site.
- I. Evidence that the application has sufficient control over the land in question to initiate the proposed development plan.
- J. A survey of the proposed development site, showing the dimensions and bearings of the property lines, area in acres, topography, existing features of the development site; including major wooded areas, structures, streets, easements, utility lines and land uses.
- K. The location and sizes of lots, location and proposed density of dwelling units, nonresidential building intensity and land use considered suitable for adjacent properties.
- L. A schedule for the development of units to be constructed in progression and a description of the design principles for buildings and streetscapes; tabulation of the number of acres in the proposed project for various uses; the number of housing units proposed by type; estimated residential population by type of housing; estimated nonresidential population; anticipated timing for each unit and standards for height, open space, building density, parking areas, population density and public improvements proposed for each unit of the development whenever the applicant proposes an exception from standard zoning districts or other ordinances governing development.

M. Engineering feasibility studies and plans showing, as necessary, water, sewer, drainage, electricity, telephone and natural gas installations; waste disposal facilities; street improvements and nature and extent of earthwork required for site preparation and development.

~~N. For any PUD containing 100 or more dwelling units, a plan of construction costs and planned financing for each public facility within the PUD by phase, including:~~

~~— 1. Total construction costs and share of costs borne by the owner and partners;~~

~~— 2. Funding sources by category, including fees, contribution(s) of owner and partners;~~

~~— 3. Annual cash uses, including facility construction and/or expansion, additional land acquisition, debt retirement, and interest; and~~

~~— 4. Total required funding.~~

~~N.O. Conceptual architectural drawings showing street side elevations of principal buildings. Preliminary building plans, including floor plans and exterior elevations.~~

~~O.P. Preliminary landscaping plans showing proposed landscaping of the project and existing location and size of mature trees and established shrub masses.~~

~~P.Q. Exterior lighting plan showing compliance with ECC 9-20, Dark Sky Regulations.~~

Q. Deed restrictions, protective covenants and other legal statements or devices to be used to control the use, development and maintenance of the land, and the improvements thereon, including those areas which are to be commonly owned and maintained.

R.S. Studies may be reasonably required prior to or during the review process by the administrator, commission or council of the social, economic, fiscal, traffic or environmental effects of the proposed development. Traffic studies shall identify transportation demands created by the proposed development; the developer shall propose methods of managing those demands.

S.T. Additional information as reasonably required at the discretion of the commission or council, prior to or during the review process.

T.U. Explanation and analysis of waivers or modifications requested.

The application for PUD shall be accompanied by a written statement by the developer setting forth the reason why, in his opinion, the PUD would be in the public interest.

9-9-1011: PROCEDURE FOR HEARING NOTICE:

The same provision for public hearing and legal notification as required for special use permits shall be followed for the PUD.

- A. A PUD permit application may be submitted and reviewed concurrently with other applications affecting the same piece of property with the approval of the administrator. Concurrent submissions shall be voted on separately.

9-9-4112: RECOMMENDATION BY COMMISSION:

Within ten (10) days after the first public hearing, the Commission shall, in writing, recommend to the Council that the development plan be approved as presented, approved with supplementary conditions, or disapproved. The Commission shall then transmit all papers constituting the record and the recommendations to the Council.

The Commission shall find that the facts submitted with the application and presented to them establish that:

- A. The proposed development can be initiated a reasonable time frame.
- B. Each individual unit of the development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained; the uses proposed will not be detrimental to present and potential uses, but will have a beneficial effect which would not be achieved under standard district regulations.
- C. The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and increased densities will not generate traffic in such amounts as to overload the street network outside the PUD.
- D. Any proposed commercial development can be justified at the location proposed.
- E. Any exception from standard district requirements if warranted by the design and other amenities incorporated in the development plan, in accordance with the PUD and the adopted policy of the Council.
- F. The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development.
- G. The PUD is in general conformance with the Comprehensive Plan.
- H. The existing and proposed utility services are adequate for the population densities and nonresidential uses proposed.

9-9-4213: ACTION BY THE COUNCIL:

The City Council shall consider the recommendation of the Commission and, after receiving public testimony, the Council may delay their decision pending submission of additional information or approve, conditionally approve, or disapprove the application as presented. Upon granting or denying the application, the Council shall specify:

- A. The ordinance and standards used in evaluating the application.
- B. The reasons for approval or denial.

C. The actions, if any, that the applicant could take to obtain a permit.

If the application is either approved or approved with conditions, the Council shall direct the Administrator to issue zoning permits only in accordance with the approved development plan and the supplementary conditions attached thereto.

9-9-1314: EXPIRATION AND EXTENSION OF APPROVAL PERIOD:

- A. Expiration: The proposed development can be initiated within one (1) year of the date of approval;
- B. Phased Construction: If a project is to be phased, construction of the second and succeeding phases shall be contingent upon completion of the preceding phase unless the requirement is waived by the council. Further, if construction on any PUD or phase of any PUD ceases or is not diligently pursued for a period of one (1) year without the prior consent of the council, the PUD permit shall at that time become null and void.
- C. Extension: For good cause shown by the applicant in writing prior to the expiration of the one year period, or prior to time limits imposed by the development schedule, the council may grant an extension of time limitation.
 - 1. A maximum twelve (12) month extension of the time limit of an approved final development plan may be granted by the city council, at its sole discretion, if the following findings are made:
 - a. No outstanding city code violations exist on the subject property. If such violation exists, they may be conditioned by the city council to be cured as a condition of the extension of time;
 - b. The final development plan, as previously approved, remains in the best interests of the health, safety, and general welfare of the city;
 - c. There have been no significant changes to this code between the date of final development plan approval and the application date of the time extension request that would require substantial modifications to the project;
 - d. There are no hazardous situations which have developed or have been discovered on the project site;
 - e. The public facilities and services required for the project remain adequate;
 - f. The applicant has provided a viable and acceptable plan which demonstrates how the completion of the final development plan will commence within the year; and

- g. The applicant has provided a schedule that depicts the anticipated progress for completion of the final development plan within the year.
 2. The city council reserves the right to revoke the extension of time approval if it finds that any of the criteria herein are not met.
 3. This section does not limit the number of extensions the city council may grant to an applicant so long as the criteria set forth in subsection C1 of this section are met. Nothing in this section requires the city council to grant any extension of an approval period.
- D. ~~The approval of a development plan for a PUD shall be for a period not to exceed five (5) years to allow for preparation and recording of the required subdivision plat and the development of the project. If no construction has begun within two (2) years after approval is granted, the approved development plan shall be void. An extension of the time limit or modification of the approved development plan may be approved if the City finds that such extension or modification is not in conflict with the public interest.~~

9-9-1415: NOTIFICATION TO APPLICANT:

Within ten (10) days after a decision has been rendered by the Council, the Administrator shall provide the applicant with written notice of the action on the request. The PUD permit will not be issued until all conditions have been satisfied and the appeal period has expired.

9-9-1516: APPEAL OF DECISION OF COUNCIL:

The applicant or citizen shall have twenty (20) days from the date of the mailing of the notice of the decision of the Council within which to appeal said decision to a court of competent jurisdiction. (Ord. 804, 11-28-89)