

**ARTICLE 7 SPECIAL AREA STANDARDS**

**SECTION 7.010 CLASSIFICATION OF SPECIAL AREA STANDARDS**

For the purposes of this Code the following Special Area Standards are hereby established:

<u>SPECIAL AREA STANDARD</u>	<u>ABBREVIATED DESIGNATION</u>
Wetlands & Riparian Areas	WR
Planned Development Area	PD

- (1) Special Area Standards may apply within any Primary Zoning District. The Special Area Standards shall establish additional requirements, standards and procedures for the use and development of property in the Primary Zone. In cases of conflict between the standards and requirements of the Primary Zone and the Special Area Standards, the standards and requirements of the Special Area Standards shall apply.

**SECTION 7.100 WETLAND & RIPARIAN AREA STANDARDS**

**Statewide Goal 5** was adopted “To protect natural resources and conserve scenic and historic areas and open spaces.”

**Oregon Administrative Rules 660-023-0000** “Establishes procedures and criteria for inventorying and evaluating Goal 5 resources and for developing land use programs to conserve and protect significant Goal 5 resources.

**Oregon Administrative Rule 660-023-0020 Standard & Specific Rules.** The Goal 5 **Standard Rule** process consists of procedures and requirements to guide local planning for all Goal 5 resource categories. **The Economic, Social, Environmental, and Energy, ESEE decision process is a Standard Rule.**

**Oregon Administrative Rule 660-023-0020 Safe Harbor.** This division also provides **Specific Rules** for each of the fifteen Goal 5 resource categories. **The Safe Harbor Process is a Specific Rule.** “A "safe harbor" consists of an optional course of action that satisfies certain requirements under the standard process. Local governments may follow Safe Harbor requirements rather than addressing certain requirements in the Standard Goal 5 process including the ESEE Decision Process.

**The City of Adair Village has selected the Safe Harbor Methodology to protect and maintain the City’s Wetland resources.**

For the purposes of this Code the following Special Area Standards are hereby established:

**SECTION 7.110 RIPARIAN AREA STANDARDS**

**Oregon Administrative Rule 660-023-0090 Riparian Corridors**

**Riparian Areas** are those areas adjacent to a water resource that display transitions between terrestrial and aquatic zones. These areas are beneficial to a large number of organisms and provide for flood storage amelioration, erosion control and bank or slope stabilization. This is the zone where vegetative material is deposited, where significant

shading of streams can occur, where humidity is typically higher and temperatures typically cooler. Thermal regulation, erosion control, flood control, water quality improvement, and wildlife habitat are primary functions of riparian areas.

- (1) **Clarification.** The City does not have Riparian Corridors as defined in Oregon Administrative Rule 660-023-0090. However the City does have non-fish-bearing Drainage Ways that have a Riparian Area that the City has protected for many years within the provisions contained in the Adair Village Land Use Development Code.
- (2) **Definitions.** For the purposes of this Code, the following definitions apply herein:
- (a) "Drainage Way" is a route or course along which water moves or may move to drain a region, usually seasonally intermittent flows.
  - (b) "Riparian Area" is the area adjacent to a Drainage Way consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem.
  - (c) "Riparian Area Boundary" is a defined line that is upland from the Drainage Way top of bank a specified distance.
  - (d) "Top of Bank" is the top of the sloped cut channel of the Drainage Way
  - (e) "Structure" is a building or other major improvement that is built, constructed, or installed, not including minor improvements, such as fences, utility poles, flagpoles, or irrigation system components that are not customarily regulated through development ordinances.
- (3) **Required Protective Standards.** The City has adopted protective standards to protect and maintain the Riparian Areas and Wetlands associated with these Drainage Ways:
- (a) Existing Drainage Ways:
    - 1. Bowers Slough. Actually a Tributary Drainage Way to Bowers Slough that is a tributary to the Willamette River.
    - 2. A Tributary Drainage Way to Calloway Creek.
    - 3. A Tributary Drainage Way to Soap Creek that is a tributary Drainage Way to the Luckiamute River. Located in City's Industrial Park 2 miles north of the City on Camp Adair Road owned by the City of Adair Village but located in Benton County. Benton County Standards apply although implementation is the responsibility of the City.
  - (b) The minimum Riparian Area Setback distance from all Drainage Ways within the City shall be 20 feet from the top of bank.
  - (c) Where the Riparian Area includes all or portions of a wetland, the setback distance shall be from the upland border of the Wetland.

- (d) Where existing riparian vegetation extends beyond the Riparian Area Setback the setback distance shall include the border of the riparian vegetation.

**(3) Allowed Activities within Riparian Areas**

The following activities and maintenance thereof are allowed within a Riparian Area upon City review and approval and provided any applicable state or federal permits are secured:

- (a) Replacement of a permanent, legal, nonconforming structure in existence on the date of adoption of this ordinance with a structure of the same footprint, or expansion of the original footprint if it does not encroach into additional Riparian Areas, and is in accordance with the provisions of **Non-Conforming Uses** specified in **Code Section 4.080**.
- (b) Expansion of existing roads and streets, including expansion of existing bridges, and culverts, provided that such practices avoid sedimentation and other discharges into the Riparian Area.
- (c) Installation of interpretive/educational displays and/or public pedestrian paths, as long as these do not present an obstruction to the Riparian Area.
- (d) New fencing may be permitted by the City Administrator where the applicant demonstrates that the following criteria are satisfied:
  - 1. The fencing does not affect the hydrology of the Riparian Area.
  - 2. The fencing does not present an obstruction that would increase flood velocity or intensity.
  - 3. Applications for new fencing within a Riparian Area shall contain a scale drawing that clearly depicts the wetland area boundary.

**(4) Restricted Activities within Riparian Areas**

To protect the City's Riparian Corridors Areas the permanent alteration of the riparian area by excavation, fill or grading or by the placement of structures or impervious surfaces or removal of riparian vegetation is not permitted unless a demonstrated need is presented and approved by the City under the **Site Plan Review** procedures of **Code Section 2.400**. The following activities require an approval:

- (a) Placement of new structures or impervious surfaces including streets, roads, bridges and paths.
- (b) Excavation, grading, fill, or removal of native vegetation.
- (c) Expansion of areas of landscaping with non-native species, such as a lawn or garden, into the wetland protection area.

- (d) Disposal or temporary storage of refuse, yard debris, or other material.
- (e) Discharge or direct runoff of contaminated water.
- (f) Placement of utilities
- (g) Removal of riparian vegetation necessary for the development of facilities note above with replacement of riparian vegetation within the Riparian Area.
- (h) The permanent alteration of the Riparian Area by placement of structures or impervious surfaces within the riparian corridor boundary may be authorized upon a demonstration that equal or better protection for identified resources will be ensured through replacement, restoration or enhanced improvements of the Riparian Areas.
- (i) Any use not specifically allowed or exempted.

**(5) Exempted Activities within Riparian Areas**

The continuation and/or maintenance of the following activities is exempted from Riparian Area protection regulations provided that compliance and approval with applicable state or federal regulations and permits is obtained:

- (a) A continuation of any use that was lawfully existing on the date of adoption of this ordinance may continue within a Riparian Area. Such use or development may continue at a similar level and manner as existed on the date of adoption of this ordinance per the standards for **Non-Conforming Uses** in **Code Section 4.080**.
- (b) The maintenance and alteration of pre-existing ornamental landscaping so long as no additional native vegetation is disturbed. The provisions of this section shall not be affected by any change in ownership of properties containing a wetland protection area.
- (c) Restoration and enhancement of native vegetation;
- (d) Cutting and removal of trees that pose a hazard to life or property due to the threat of falling;
- (e) Cutting and removal of trees to establish and maintain defensible space for fire protection.
- (f) Removal of non-native and noxious vegetation.
- (g) Maintenance and repair of existing utilities.
- (h) Normal farm practices such as grazing, plowing, planting, cultivating, harvesting, and other farm practices adjacent to the Riparian Area setback.

- (i) Maintenance of existing drainage ways, ditches, or other structures, to maintain flow at original design capacity and mitigate upstream flooding, provided that management practices avoid sedimentation and impact to native vegetation, any spoils are placed in uplands, and any applicable state permits are obtained;
- (j) Emergency stream bank stabilization to remedy immediate threats to life or property.
- (k) Riparian Area restoration and enhancement activities.

## **SECTION 7.120 WETLAND AREA STANDARDS**

### **Oregon Administrative Rules 660-023-0100 Wetland Areas**

**Wetland Areas** are defined as those areas that are inundated or saturated often enough to support a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands include swamps, bogs, marshes and similar areas.

- (1) **Wetland Protection Area** - An area of wetlands determined to be **Locally Significant** as shown on the **Adair Village Local Wetland Inventory (LWI)**. The Wetland Protection Area extends 20 feet from the mapped LWI boundary unless an onsite or off site determination or wetland delineation provides a more refined estimation of the wetland boundary.
- (2) **Allowed Activities within Wetland Protection Areas**

The following activities and maintenance thereof are allowed within a Wetland Protection Area upon City review and approval and provided any applicable state or federal permits are secured:

  - (a) Replacement of a permanent, legal, nonconforming structure in existence on the date of adoption of this ordinance with a structure of the same building footprint, or expansion of the original building footprint if it does not encroach into additional wetland areas, and in accordance with the provisions of **Non-Conforming Uses** specified in **Code Section 4.080**.
  - (b) Expansion of existing roads and streets, including expansion of existing bridges, and culverts, provided that such practices avoid sedimentation and other discharges into the wetland or waterway.
  - (c) Installation of interpretive/educational displays and/or public pedestrian paths, as long as these do not present an obstruction that would increase flood velocity or intensity.
  - (d) New fencing may be permitted by the City Administrator where the applicant demonstrates that the following criteria are satisfied:
    - 1. The fencing does not affect the hydrology of the site.
    - 2. The fencing does not present an obstruction that would increase flood velocity or intensity.

3. Fish habitat is not adversely affected by the fencing.
4. Applications for new fencing within a wetland protection area shall contain a scale drawing that clearly depicts the wetland area boundary.

**(3) Prohibited Activities within Wetland Protection Areas**

Except as exempted or allowed in this code, the following activities are prohibited within a wetland protection area:

- (a) Placement of new structures or impervious surfaces.
- (b) Excavation, grading, fill, or removal of native vegetation.
- (c) Expansion of areas of landscaping with non-native species, such as a lawn or garden, into the wetland protection area.
- (d) Disposal or temporary storage of refuse, yard debris, or other material.
- (e) Discharge or direct runoff of untreated stormwater.
- (f) Any use not specifically allowed or exempted.

**(4) Exempted Activities within Wetland Protection Areas**

The continuation and/or maintenance of the following activities is exempted from local wetland protection area regulations provided that compliance and approval with applicable state or federal regulations and permits is obtained:

- (a) A continuation of any use that was lawfully existing on the date of adoption of this ordinance may continue within a wetland protection area. Such use or development may continue at a similar level and manner as existed on the date of adoption of this ordinance per the standards for **Non-Conforming Uses** in **Code Section 4.080**.
- (b) The maintenance and alteration of pre-existing ornamental landscaping so long as no additional native vegetation is disturbed. The provisions of this section shall not be affected by any change in ownership of properties containing a wetland protection area.
- (c) Restoration and enhancement of native vegetation;
- (d) Cutting and removal of trees that pose a hazard to life or property due to the threat of falling;
- (e) Cutting and removal of trees to establish and maintain defensible space for fire protection.
- (f) Removal of non-native vegetation

- (g) Maintenance and repair of existing utilities.
  - (h) Normal farm practices such as grazing, plowing, planting, cultivating, harvesting, and other practices under the review authority of the Oregon Department of Agriculture, ODA.
  - (i) The following activities are also exempted from wetland protection area regulations, but are subject to state or federal permits:
    1. Maintenance of existing drainage ways, ditches, or other structures, to maintain flow at original design capacity and mitigate upstream flooding, provided that management practices avoid sedimentation and impact to native vegetation, any spoils are placed in uplands, and any applicable state permits are obtained;
    2. Emergency stream bank stabilization to remedy immediate threats to life or property. (DSL)
    3. Wetland restoration and enhancement activities. Department of State Lands (DSL).
- (5) Locally Significant Wetland** - Wetlands are determined to be Locally Significant Wetlands based on Oregon Administrative Rules for Identifying Significant Wetlands (OAR 141-86-300 through 141-86- 350). If the assessed wetland unit provides “diverse” wildlife habitat, “intact” fish habitat, “intact” water quality function, or “intact” hydrologic control function, then the wetland is locally significant. Locally Significant Wetlands are identified on the Adair Village Local Wetland Inventory Map dated 8/5/2011 and approved by DSL on 3/22/2012. Locally Significant Wetlands also constitute the Wetland Protection Area.

Oregon State Law requires that local wetland inventories identify wetlands that are “locally significant”. Local significance is based on criteria that assess how well each wetland performs typical functions such as Flood Control, Water Quality, Fish Habitat and Wildlife Habitat. Locally significant wetlands have one or more wetland function that is “highly” functional. Because of this high function these wetlands require protections to maintain those functions. Other wetlands should not be assumed to be implicitly “in-significant.” All wetlands are important whether mapped or not and are regulated by DSL and the Army Corps of Engineers, ACOE. The primary difference is that Locally Significant Wetlands must be addressed with both state and local requirements.

- (6) Local Wetlands Inventory (LWI)** - Maps and Reports adopted by City as the Adair Village Local Wetland Inventory and any subsequent revisions approved by the Oregon Department of State Lands. The LWI is a comprehensive survey and assessment of all wetlands within the urbanizing area. This includes both locally significant wetlands, and wetlands that are not identified as locally significant. This also includes “probable wetlands,” which are areas noted during the course of the LWI field work that appear to meet, or do meet, wetland criteria but are small or of undetermined size, and are mapped as a point rather than a polygon on the LWI map.

- (7) **Wetlands not subject to Goal 5 protection** – All state jurisdictional wetlands, mapped or not, are subject to the state Removal-Fill Law administered by DSL. All wetlands are “potentially jurisdictional wetlands.” Wetlands on the Local Wetland Inventory Map not identified as Locally Significant are considered “Other Potentially Jurisdictional Wetlands.” These wetlands are not subject to City wetland protection area standards, but, like all wetland areas, are subject to DSL notice/review and potentially subject to DSL and the US Army Corps of Engineers permitting.

All wetlands are under the jurisdiction of DSL and the ACOE. In the case of any proposed development within, or within 20 feet of a mapped wetland boundary, the City will submit a “Wetland Land Use Notification Form” to DSL. DSL may require that wetland delineation be completed before development continues. A delineation will provide a much more accurate wetland boundary than the mapping completed on the LWI. Removal of more than 50 cubic yards of material from an area within the mapped wetland boundary requires a joint fill/removal permit from DSL (and Army COE). Information about the permit and the permit itself can be found on the DSL Website.

#### **SECTION 7.130 WETLAND & RIPARIAN AREA ADMINISTRATION**

- (1) **Regulation.** Development within wetland or riparian areas is prohibited unless replacement or enhancement mitigation is accepted by the regulatory agencies. The Oregon Division of State Lands, DSL is the coordinating agency for wetland permits. The US Army Corp of Engineers, ACOE is the federal regulatory agency administering Section 404 of the National Clean Waters Act. The City of Adair Village shares jurisdiction over “Locally Significant Wetlands” together with DSL and the Corps. Applicable local regulations are outlined in Code Section 7.130.
- (2) **Applicant Notice.** All Applications for development of land within the City of Adair Village shall provide the City with information on the possible presence of wetlands or riparian areas on the property in conformance with **Section 2.140 (15)**. The City shall provide written notice to the Applicant that there may be a potential need for state and federal permits due to the possible presence of wetlands or riparian areas on the property.
- (3) **City Notice.** **ORS 227.350** specifies that cities shall provide notice of proposed wetlands development to the Division of State Lands, DSL.

The City shall provide notice to the DSL, the applicant and the owner of record, within 5 working days of the acceptance of any complete application for the following activities that are wholly or partially within 20 feet of areas identified as Wetlands on the Adair Village Local Wetland Inventory Map:

- (a) Subdivisions.
- (b) Building permits for new structures.



- (c) Other development permits and approvals that allow physical alteration to the land involving excavation and grading, including permits for removal or fill, or both.
  - (d) Conditional Use permits and Variances that involve physical alterations to the land or construction of new structures.
  - (e) Planned Development (PD) approvals.
- (4) The provisions of Subsection (2) of this Section does not apply if a permit from DSL or other approving agencies has been issued for the proposed activity and has been included in the Record File of an Application.
- (5) Approval of any activity described in Subsection (3) above shall include one of the following notice statements:
- (a) Issuance of a permit under **ORS 196.600 to 196.905** by the Division of State Lands required for the project before any physical alteration takes place within the Wetlands;
  - (b) Notice from the DSL or other approving agency that no permit is required; or
  - (c) Notice from the DSL that no permit is required until specific proposals to remove, fill or alter the Wetlands are submitted for City Approval.
- (6) If the DSL fails to respond to any notice provided under Subsection (2) of this section within 30 days of notice, City approval may be issued with written notice to the applicant and the owner of record that the proposed action may require state or federal permits.
- (7) The City may issue conditional local approval for property identified as having Wetlands by providing the applicant and the owner of record of the affected property a written notice of the possible presence of Wetlands and the potential need for state and federal permits. DSL shall be provided with a copy of the Notification.
- (8) Notice of activities authorized within an approved Wetland Conservation Area shall be provided to DSL within five days following local approval.
- (9) Failure by the City to provide notice as required in this section will not invalidate City approval.
- (10) **Application.** The **Special Area Standards** specified herein shall apply to the property in addition to the standards of the Primary Zone when a designated wetland or riparian area has been identified on the property.
- (11) **Development Standards.** No development shall be permitted within designated Wetland or Riparian areas unless approval has been acquired from the City, DSL, or any other regulatory agency having jurisdiction.

(12) **Variances. Code Section 2.600** includes a procedure to consider exception claims for any existing lot or parcel demonstrated to have a hardship or that has been rendered unbuildable by application of this ordinance.

(13) **Unauthorized Alterations and Enforcement**

When a Wetland or Riparian Area has been altered in violation of **Code Sections 7.110, 7.120 or 7.130**, enforcement shall be conducted as outlined in **Code Section 1.180**. In instances where violations of DSL requirements have occurred, DSL enforcement mechanisms apply. In some cases, both local and DSL enforcements may occur.

**SECTION 7.150 TRAFFIC IMPACT ANALYSIS**

(1) A traffic impact analysis shall be submitted to the City with a land use application when any of the following conditions apply:

- (a) Expected increase in trip generation of 100 or more daily trips as determined by using the most recent edition of the Institute of Transportation Engineer's Trip Generation Manual.
- (b) Potential impacts to roadways where congestion or safety problems have been previously identified in the adopted Transportation System Plan.
- (c) Changes in zoning designation.
- (d) An increase in use of adjacent roadways by vehicles exceeding 26,000 pounds gross vehicle weight.
- (e) The location of an existing or proposed access driveway does not meet minimum spacing or sight distance requirements or is located where vehicles entering or leaving the property are restricted, or such vehicles are likely to queue or hesitate at an approach or access connection, thereby creating a safety hazard.
- (f) Potential impacts to roadways identified as bicycle routes and safe routes to school.
- (g) A TIA is required by ODOT pursuant with OAR 734-051.
- (h) As deemed appropriate by the City Planning Official in consultation with the City Engineer or, if expected impacts are to County roadways, the County Engineer.

(2) **Preparation.** A traffic impact analysis (TIA) shall be prepared by a professional engineer registered in the State of Oregon. The study scope and content shall be determined in coordination with the County Engineer. Preparation of the report is the responsibility of the land owner or applicant.

- (3) Approval Criteria. When a TIA is required, a proposal is subject to the following criteria, in addition to all criteria otherwise applicable to the underlying land use proposal:
- (a) The analysis demonstrates that transportation facilities exist or are planned pursuant to the adopted Transportation System Plan to serve the proposed development or identifies mitigation measures in a manner that is satisfactory to the City Engineer and, when State highway facilities are affected, to ODOT;
  - (b) For affected non-highway facilities, the TIA demonstrates that applicable performance standards established in the adopted Transportation System Plan have been met; and
  - (c) Proposed public improvements are designed and constructed to the street standards specified in Transportation System Plan and the applicable adopted design and construction standards, pursuant to Section 8.100.
- (4) Conditions of Approval. The City may deny, approve, or approve with conditions a development proposal; approval may include conditions needed to ensure transportation safety and operations standards and to provide the necessary right-of-way and improvements to ensure consistency with the Transportation System Plan and future planned transportation system. Improvements required as a condition of development approval shall be roughly proportional to the impact of the development on transportation facilities. Findings in the development approval shall indicate how the required improvements are directly related to and are roughly proportional to the impact of development.

**SECTION 7.200 PLANNED DEVELOPMENT AREA STANDARDS - PD**

The purpose of the **Planned Development** is to provide opportunities to create more desirable working or living environments by the application of new development standards applied under an approved plan and program that is professionally prepared. The PD Standards are intended to be used to encourage the application of new techniques and new technology to community development that can achieve economies in land development while providing building groupings, open spaces and circulation systems that enhance the working or living environment of the inhabitants. A Planned Development may be residential, commercial or industrial or a mixed combination of land uses. Application procedures are as follows:

**(1) Planned Development Application & Approval Process:**

- (a) The City or a property owner may request a **Planned Development** in combination with any Primary Zone or other Area Standards in accordance with the application requirements of **Sections 2.110** through **2.140** and the **Conditional Use** procedures of **Section 2.500** and the requirements of **Sections 7.200** contained herein.
- (b) Application for approval of a **Planned Development** requires a two-stage approach:
  - 1. The Applicant shall first request a review for a **PD Conceptual Plan** and submit drawings and a written program that is presented in enough detail to clearly describe the proposed development. Fifteen (15) copies of the drawings and program shall be submitted to the City for review on 11 x 17 inch color or black & white reproducible paper for distribution and review by the City. Larger drawings may also be submitted for review and discussion

An informal Pre-application review by City Staff and members of the Planning Commission and City Council will be scheduled in conformance with **Sections 2.110** and **2.120** to determine if the requested PD conforms to the City's PD requirements and is conceptually compatible with the surrounding area and the City as a whole.

The purpose of the Review is to determine if the requested PD can conform to City standards, including:

- a. The Planned Development regulations.
- b. The Adair Village Comprehensive Plan.
- c. The Development Standards of the City.
- d. Compatibility with the surrounding area.

This preliminary process is intended to save time and expense for the Applicant and to provide the City with an understanding of the intent.

- 2. After receiving approval to proceed the Applicant shall have a **Planned Development** plan prepared by a professional design team that contains

drawings and a written program for a formal public hearing and decision by the City.

### **SECTION 7.210 PD CONCEPTUAL PLAN REVIEW**

- (1) An informal review with the Applicant and City Officials will be scheduled to determine if the proposed **Planned Development** can conform to City standards and is conceptually acceptable to City.
- (2) City Staff and members of the Planning Commission and City Council shall informally review the **PD Conceptual Plan** and may recommend preliminary approval to proceed in principle, with or without modifications, or denial. Such action shall be based upon compliance with the intent of City's Comprehensive Plan and development standards and the extent of deviation from City standards proposed in the **Planned Development**.
- (3) Approval in principle of the **PD Conceptual Plan** shall be limited to the preliminary acceptability of the land uses proposed and their interrelationships and shall not be construed to endorse the precise location of uses nor engineering feasibility.
- (4) The City may recommend expansion, additions, or modifications in the proposed **Planned Development**.
- (5) The City shall determine the extent of any environmental assessment or traffic analysis to be included with the **Planned Development** application.

### **SECTION 7.220 PLANNED DEVELOPMENT APPLICATION**

- (1) After receiving approval in principle of the **PD Conceptual Plan**, the Applicant shall have a **Planned Development** Plan prepared by a professional design team in such design-related fields as Architecture, Landscape Architecture, Urban Planning, and Civil Engineering.
- (2) An application for a **Planned Development** shall request a Conditional Use Hearing in conformance with **Section 2.500**. Submittal of 15 copies of the Approval drawings and program to the City for review on 11 x 17 inch color or black & white reproducible paper for distribution and review. Larger drawings may also be submitted for the public hearing and for detailed analysis by the City. The proposed **Planned Development** shall be submitted to the City at least 30 days prior to the date of the scheduled Public Hearing.
- (3) Upon receipt of the **Planned Development**, the Planning Commission shall hold a Public Hearing in accordance with the provisions of **Section 3.510** and the Applicant shall present the proposed Plan.
- (4) A Public Hearing by the Adair Village Planning Commission shall be held in conformance with the **Conditional Use** procedures of **Section 2.500**. Following the hearing and approval of the Plan together with any Conditions of Approval

applied by the City shall be submitted to the City for inclusion in the Record File of the Application.

If the Conditions of Approval are not fully complied with and their inclusion cannot be resolved with the City Administrator, the Application shall be resubmitted to the Planning Commission as an Appeal Request.

## **SECTION 7.230 PLANNED DEVELOPMENT STANDARDS**

- (1) **Minimum Site Size.** A Planned Development shall not be established on less than 5 acres unless the City finds a smaller area is suitable by virtue of the proposed development characteristics or location.
- (2) **Comprehensive Plan Compliance & Adjacent Property Protection.**
  - (a) The **Planned Development** plan and program shall present an organized arrangement of buildings, service facilities, open spaces and improvements in compliance with the intent of the Comprehensive Plan that also protects the property rights of adjacent property owners.
  - (b) Yards and setbacks located on the periphery of a **Planned Development** shall be at least as deep as those required by the yard regulations of the underlying Zoning District unless the City finds that equal protection will be accorded through the specific design features of the approved plan.
- (3) **Lot Coverage and Building Height.** Lot coverage and building height shall be no greater than for the underlying Zoning District unless the City finds that an exception is warranted considering adjacent property protections and the amenities proposed in the total development.
- (4) **Open Space.** Open space in a **Planned Development** means the land area to be used for scenic or open recreational purposes within the development.
  - (a) Open space does not include street right-of-way, driveways, parking areas, required setbacks, or public service easements unless these areas have some special recreational design or purpose.
  - (b) Open space shall be adequate for the recreational and leisure use of the population occupying the Planned Development and shall be designed to enhance the development.
  - (c) Landscaping shall be provided and the Planned Development shall utilize and maintain the natural features of the property to the maximum extent possible
- (5) **Density.** The average density shall be no greater than for the underlying Zoning District unless the City finds that an exception is warranted considering adjacent property protections and the amenities proposed in an approved **Planned Development**.
- (6) **Subdivision Lot Sizes.** Minimum area, width, depth and frontage requirements for subdivision lots in a **Planned Development** may differ from the underlying Zone if approved in accordance with the approved **Planned Development**.

- (7) **Development Standards.** The City may modify the development standards of the underlying zone to conform to the approved **Planned Development** if adjacent property rights and the health, safety and welfare of the general public are protected. Additional standards and controls may include, but are not limited to, the following:
- (a) Establishing time limits for completion of all or any portion of the project, including, but not limited to utilities, drainage facilities, streets, curbs, gutters, sidewalks, parking areas, landscaping, fencing, screening, and recreation areas.
  - (b) Requiring CC&R legal guarantees for the shared maintenance of common facilities and open space. Documents dedicating development rights and provisions for maintenance shall be approved by the City.
  - (c) Requiring contractual agreements with the City to assure development of streets, sidewalks, drainage facilities, utilities, and other improvements in conformance with City Standards.
- (8) **Phased Development.** The Applicant may request approval to develop the site in successive stages as proposed in the **Planned Development**.
- (a) Each such stage shall be a substantially complete unit of development.
  - (b) The City may require that development be done in stages if public facilities are not adequate to service the entire development initially.
- (9) **Permitted Uses in Residential Planned Developments.** The following uses and their accessory uses may be permitted in an approved **Planned Development** in a Residential District.
- (a) Residential use of land.
  - (b) Supporting commercial uses when approved by the City.
  - (c) Supporting community service uses when approved by the City.
  - (d) Proposed standards or controls shall be specified in the **Planned Development**. Where applicable the requirements may be made part of deed CC&R's.

#### **SECTION 7.240 PLANNED DEVELOPMENT ELEMENTS**

In addition to the Application requirements of **Sections 2.130 & 2.140** and the approved **PD Conceptual Plan** the Applicant shall address the following elements in the submitted **Planned Development**:

- (1) A complete site development plan in general conformance with the approved **Conceptual Plan** including a vicinity map showing location of streets and lots in the area within 300 feet of the proposed development.

- (2) Existing and proposed topographic contour map of the site to a scale commensurate with the size of the development.
- (3) Existing contiguous Land Uses.
- (4) Location, widths, and names of all existing or platted streets or other public ways, railroad and utility rights-of-way, parks, or other public open spaces and land uses within 300 feet of the development.
- (5) Existing sewers, water mains, and other underground facilities within and adjacent to the development and their certified capacities.
- (6) Existing utility locations.
- (7) Existing natural features such as trees, streams and topography.
- (8) Existing trees over six (6) inches in diameter and groves of trees shall be shown. Trees to be removed by the proposed development shall be so identified.
- (9) Proposed land use development plan including housing unit densities including number of units per acre, type of residences, neighborhood commercial facilities and community facilities such as schools or parks.
- (10) Proposed grading patterns and amended topographic map.
- (11) Proposed Preliminary architectural plans and elevations of buildings and structures, indicating the general height, bulk, appearance and number of dwelling units.
- (12) Proposed Areas to be dedicated or reserved for interior circulation, public parks, playgrounds, school sites, public buildings, or other uses dedicated or reserved to the public, if any.
- (13) Proposed location and dimensions of bikeways, pedestrian walkways, malls, trails, or easements.
- (14) Proposed Vehicular and pedestrian access and circulation patterns within and adjacent to the proposed development.
- (15) Proposed location, arrangement, number and dimensions of automobile garages and parking spaces and truck loading and unloading spaces, if any.
- (16) Proposed Open space that is to be maintained and controlled by the owners of the property or maintained and controlled by a Homeowners Association and the proposed uses thereof.
- (17) Proposed preliminary tree planting and landscaping plan.
- (18) Proposed landscaping plan showing, screening and fencing proposals and proposed preliminary tree planting.



- (19) Proposed method of solid waste disposal.
- (20) Proposed method for provisions of water supply and sewage disposal including location and capacity of proposed sanitary sewers or other disposal facilities, water mains and other underground utilities.
- (21) Proposed utilities for the project.
- (22) Proposed method of surface water drainage and proposed system for the management of storm drainage.
- (23) Street and open space lighting proposals.
- (24) Proposed stages, if any, of development construction. Such stages shall be clearly marked on the **Submitted Plans**.
- (25) Proposed Subdivision.
  - (a) A Subdivision Tentative Plan in conformance with **Section 2.300** may be presented for approval as part of the **Planned Development** request or may be submitted at a later date for approval.

## **SECTION 7.250 PLANNED DEVELOPMENT PROGRAM**

- (1) **Program Elements.**
  - (a) Narrative statement of the intent, purpose and proposed amenities to be provided in the proposed Planned Development.
  - (b) Proposed members of the Professional Design Team.
  - (c) Proposed ownership pattern.
  - (d) Operation and maintenance proposal, such as condominium, co-op, or Homeowners Association.
  - (e) A development schedule including expected starting and completion dates indicating when roads, utilities and drainage facilities intended to serve the development are to be installed. If the development is to be constructed in stages, the intended schedule of events. Such stages shall be clearly marked on the proposed **Planned Development**.
  - (f) Method of public improvements financing, if any.
  - (g) Tables showing the total number of acres and the percentage of the total area that is proposed for each type of use including dwelling types, off-street parking, streets, parks, playgrounds, schools, and open spaces as shown on the proposed development plan.

- (h) Tables showing the density of the proposed residential developments showing density by dwelling types including a comparison with the specified Code densities and an overall density for the proposed Planned Development.
  - 1. Drafts of appropriate restrictive covenants and drafts of documents providing for the maintenance of any common open space, or required dedications or reservations of public open spaces and of any dedications of development rights.

## **SECTION 7.260            APPROVAL**

- (1) A Public Hearing by the Adair Village Planning Commission shall be held in conformance with the **Conditional Use** procedures of **Section 2.500**. Following the hearing and approval of the **Planned Development**, the Plan shall be resubmitted to the City containing any Conditions of Approval applied by the City.
- (2) Approval of the **Planned Development** includes approval of all attached drawings, the program and other submitted elements and all Conditions of Approval.

The approved plan together with any Conditions of Approval shall be titled "**Approved Planned Development for (Name of the Development)**" and shall be submitted for verification and acceptance by the City Administrator. Approval shall be noted and dated on the cover of the "**Approved Planned Development for (Name of the Development)**" and filed in the Record File of the Application. If the Conditions of Approval have not been fully complied with and their inclusion cannot be resolved with the City Administrator, the Application shall be resubmitted to the Planning commission for clarification.

- (3) The Subdivision procedures set forth in **Section 2.320** shall be followed and included in the **Record File** if the property is to be divided or streets are to be dedicated unless private street exceptions have been approved by the City.
- (4) All public site dedications, development rights to open spaces or other dedications for the entire site or approved staged portion shall be certified and placed in the **Record File** prior to the issuance of any building permit.
- (5) Final copies of all approved articles governing operation and maintenance shall be placed in the **Record File** prior to the issuance of any building permit.
- (6) The **Approved Planned Development** shall be noted on the official zoning map. All building permits shall be issued only in conformance with the **Approved Planned Development** recorded in the **Record File**.

## **SECTION 7.270            AGREEMENT & SECURITY**

In accordance with **Sections 8.510, 8.520 and 8.600** the owner of the Approved Planned Development shall file with the City an Agreement and Security between the

Owner and the City to assure full and faithful performance of the Approved Planned Development.

Such assurance of full and faithful performance shall be for a sum approved by the City as sufficient to cover all costs to complete the work and recover the City's full cost and expenses, together with court costs and attorney fees. The agreement shall also provide for reimbursement of the City's cost of inspection in accordance with **Section 8.100 (5)**.

If the Owner fails to carry out the provisions of the Agreement within the period specified and the City has costs or expenses resulting from such failure, the City shall call on the Security for reimbursement. If the Security exceeds the cost and expense incurred by the City, the City shall release the remainder. If the Security is less than the cost and expense incurred by the City, the Owner shall be liable to the City for the difference.

### **SECTION 7.280 CHANGES IN APPROVED DEVELOP PLAN**

- (1) **Major Changes:** Major changes in the Approved Planned Development after it has been adopted shall be considered a new petition and shall comply with the procedures for adoption.
- (2) **Minor Changes:** Minor changes in the Approved Planned Development may be approved by the City Administrator, provided that such changes:
  - (a) Do not change the character of the development or the density.
  - (b) Do not change the boundaries of the PD Area.
  - (c) Do not change any use, such as residential to commercial.
  - (d) Do not change the development configuration or the total amount of land devoted to a specific land use.
  - (e) Do not relax dimensional standards or other specific requirements established by the City as a Condition of Approval.
- (3) **Expiration:** If substantial construction or development has not taken place within the time requested in the Application or within two (2) years of the date of final acceptance of the **Approved Development Plan**, the City Administrator shall review the status with the owner and make a report on the findings to the Planning Commission with a recommendation on a time extension.
  - (a) Upon abandonment of a particular Planned Development, or if its development has not been substantially completed within the time specified in the Approved Planned Development, the City may schedule public hearings to remove the Approved Planned Development designation unless a request to extend the time limit is approved.
  - (b) The procedure for removal of an Approved Planned Development is essentially the same as for adoption. The decision shall be reviewed at a

public hearing of the Planning Commission to determine whether or not continuation in whole or in part is in the public interest. The Planning Commission may maintain the Approved Planned Development, revoke the Approved Planned Development approval, or grant a time extension if it appears justifiable. If the Approved Planned Development is repealed, further use of the property and future structures thereon shall be in accordance with the existing Zoning.